

MAINE STATE LEGISLATURE

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ELECTIONS — 2000
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MAINE CITIZEN'S GUIDE TO THE REFERENDUM ELECTION

Tuesday, November 7, 2000

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AUGUSTA MAINE



In Accordance with
the May 17, 2000
Proclamations of the Governor
and the Act and Resolutions Passed
by the 119th Legislature at the
Second Regular Session

Dan A. Gwadosky
Secretary of State

Appropriation 010-29A-4213-012

OCT 17 2000



**State of Maine
Office of the Secretary of State
Augusta, Maine 04333**

Dear Fellow Citizen,

All eligible Maine residents may vote in the referendum election on November 7, 2000. The information in this booklet is intended to help you learn about the issues so that you can make your own, well-informed decisions about how to vote. Referendum elections are an important part of the heritage of public participation in Maine, so I hope you will help keep our democracy strong by voting.

For information about how or where you vote, you may contact your local municipal clerk or call Maine's Division of Elections at 287-4186.

Now, enclosed in this booklet you will find:

- ✓ Each of the 6 referendum questions.
- ✓ The legislation each question represents.
- ✓ A summary of the intent and content of the legislation.
- ✓ An explanation of the significance of a "yes" or "no" vote.

The Department of the Secretary of State and the Attorney General have worked together to prepare this booklet for you. We hope you find it helpful and that you will vote in the November 7, 2000, referendum election.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan A. Gwadosky", is written over a horizontal line.

Dan A. Gwadosky
Secretary of State

STATE OF MAINE
Referendum Election, November 7, 2000
LISTING OF REFERENDUM QUESTIONS

Question 1: Citizen Initiative

Should a terminally ill adult who is of sound mind be allowed to ask for and receive a doctor's help to die?

Question 2: Citizen Initiative

Do you favor requiring landowners to obtain a permit for all clear-cuts and defining cutting levels for lands subject to the Tree Growth Tax Law?

Question 3: Citizen Initiative

Do you want to allow video lottery machines at certain horse racing tracks if 40% of the profits are used for property tax relief?

Question 4: Constitutional Amendment

Do you favor amending the Constitution of Maine to allow the Legislature to provide for the assessment of land used for commercial fishing activities based on the current use of that property?

Question 5: Constitutional Amendment

Do you favor amending the Constitution of Maine to end discrimination against persons under guardianship for mental illness for the purpose of voting?

Question 6: Referendum

Do you favor ratifying the action of the 119th Legislature whereby it passed an act extending to all citizens regardless of their sexual orientation the same basic rights to protection against discrimination now guaranteed to citizens on the basis of race, color, religion, sex or national origin in the areas of employment, housing, public accommodation and credit and where the act expressly states that nothing in the act confers legislative approval of, or special rights to, any person or group of persons?

Question 1: Citizen Initiative

Should a terminally ill adult who is of sound mind be allowed to ask for and receive a doctor's help to die?

STATE OF MAINE

"The Maine Death with Dignity Act"

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

Sec. 1. 18-A MRSA art. V, Part 9 is enacted to read:

PART 9

MAINE DEATH WITH DIGNITY ACT

§5-901. Short title

This Part may be known and cited as the "Maine Death with Dignity Act."

§5-902. Definitions

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

(a) "Adult" means a person who is 18 years of age or older.

(b) "Attending physician" means a physician who has primary responsibility for the care of a patient and treatment of that patient's terminal disease.

(c) "Capable" means not incapable.

(d) "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's disease. The consulting physician may not be a partner or similar business associate of the attending physician and may not have an office in the same building as the attending physician.

(e) "Counseling" means a consultation between a counselor and a patient to carry out the purposes set forth in section 5-907.

(f) "Counselor" means a psychiatrist licensed under Title 32, chapter 48 or a psychologist licensed under Title 32, chapter 56.

(g) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by the laws of this State, to administer health care in the ordinary course of business or the practice of a profession and includes a health care facility.

(h) "Incapable" means that, in the opinion of the patient's attending physician or consulting physician, a patient lacks the ability to make and communicate health care decisions to health care providers.

(i) "Informed decision" means a decision that is made by a qualified patient to request and obtain a prescription to end that patient's life in a humane and dignified manner and that is based on the patient's appreciation of the relevant facts after being fully informed by the attending physician of:

(1) The patient's medical diagnosis;

(2) The patient's prognosis;

(3) The potential risks associated with taking the medication that is prescribed;

(4) The probable results of taking the prescribed medication; and

(5) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain control.

(j) "Medically confirmed" means that the medical opinion of the attending physician is confirmed by a consulting physician who has examined the patient and the patient's relevant medical records.

(k) "Next of kin" includes a family member or an adult who has exhibited special concern for the patient and who is familiar with the patient's personal values.

(l) "Palliative care specialist" means a person who is recognized to have expertise in palliative care. A palliative care specialist may be, but is not limited to, a hospice worker, nurse, nurse practitioner or physician.

(m) "Patient" means a person who is under the care of a physician.

(n) "Personally communicated request" means a request that the patient makes directly in a face-to-face meeting with the attending physician. A "personally communicated request" may be made orally, by sign language or by some other method of communication, including a method using an interpreter, that clearly and unambiguously communicates the patient's intentions.

(o) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine by the Board of Licensure in Medicine or the Board of Osteopathic Licensure.

(p) "Qualified patient" means a capable adult who is a resident of this State and who has satisfied the requirements of this Act in order to obtain a prescription for medication to end that person's life in a humane and dignified manner.

(q) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within 6 months.

§5-903. Written request for medication

(a) A patient who is an adult, is capable, is a resident of this State and is determined by the attending physician and the consulting physician to be suffering from a terminal disease and who has voluntarily expressed the wish to die may make a written request for medication for the purpose of ending that patient's life in a humane and dignified manner in accordance with this Act.

(b) A valid request for medication under this Act must be in the form described in section 5-921, signed and dated by the patient and witnessed by at least 2 individuals who, in the presence of the patient, attest that to the best of their knowledge and belief the patient is capable, is acting voluntarily and is not coerced to sign the request.

(1) A witness may not be a person who is:

(i) A relative of the patient by blood, marriage or adoption;

(ii) At the time the request is signed, entitled to any portion of the estate of the qualified patient upon that patient's death, under a will or by operation of law; or

(iii) An owner, operator or employee of a health care facility where the qualified patient is receiving medical treatment or is a resident.

(2) The patient's attending physician at the time the request is signed may not be a witness.

(3) If the patient is a resident in a long-term care facility at the time the written request is made, one of the witnesses must be an individual designated by the facility and must have the qualifications specified by the Department of Human Services by a routine technical rule, as defined in Title 5, chapter 375, subchapter II-A.

(4) If the patient is physically unable to make a written request, the attending physician shall enter that fact in the patient's medical record. The patient may then comply with the requirement of a written request by making a separate personally communicated request:

(i) To the attending physician;

(ii) Before 2 witnesses qualified to witness a written request; and

(iii) That is recorded verbatim and transcribed into written form and entered in the patient's medical record.

§5-904. Attending physician's responsibilities

The attending physician shall:

(a) Make the initial determination of whether a patient has a terminal disease, is capable and has voluntarily requested medication under section 5-903;

(b) Inform the patient of:

(1) The patient's medical diagnosis;

(2) The patient's prognosis;

(3) The potential risks associated with taking the medication prescribed;

(4) The probable result of taking the medication prescribed; and

(5) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain control;

(c) Refer the patient to a consulting physician for medical confirmation of the diagnosis and for a determination that the patient is capable and acting voluntarily;

(d) Refer the patient to a palliative care specialist pursuant to section 5-906;

(e) Refer the patient for counseling pursuant to section 5-907;

(f) Request that the patient notify the next of kin. If requested by the patient, the physician shall provide assistance in arranging notification of or contact with the patient's next of kin;

(g) Inform the patient of the opportunity to revoke the request for a prescription for medication under this Act at any time and in any manner and offer the patient an opportunity to revoke the request at the end of the 15-day waiting period pursuant to section 5-912;

(h) Verify, immediately before writing the prescription for medication under this Act, that the patient is making an informed decision;

(i) Fulfill the medical record documentation requirements of section 5-913; and

(j) Ensure that all appropriate steps are carried out in accordance with this Act before writing a prescription for medication to enable a qualified patient to end that patient's life in a humane and dignified manner.

§5-905. Consulting physician confirmation

A patient is qualified under this Act if a consulting physician examines the patient and the patient's relevant medical records and confirms, in writing, the attending physician's diagnosis that the patient is suffering from a terminal disease and verifies that the patient is capable, is acting voluntarily and has made an informed decision. The consulting physician shall inquire whether the patient wishes to notify the next of kin if the patient has not already done so. If requested by the patient, the consulting physician shall provide assistance in arranging notification of or contact with the patient's next of kin.

§5-906. Palliative care specialist's responsibilities

The palliative care specialist shall determine whether high-quality palliative care has been made available to the patient. The palliative care specialist shall further make all appropriate recommendations and referrals necessary to overcome any deficiencies in the current level of palliative care provided to the patient. Nothing in this section may be construed to limit or restrict in any way a capable patient's right to refuse palliative care or any other type of medical care.

§5-907. Counseling referral

The attending physician and the consulting physician shall refer the patient for counseling. The counselor shall determine whether the patient is suffering from a psychiatric or psychological disorder or depression that causes impaired judgment. Counseling must also include discussion about choosing to die.

Medication to end a patient's life in a humane and dignified manner may not be prescribed until the counselor determines that the patient is not suffering from a psychiatric or psychological disorder or depression that causes impaired judgment.

The counselor shall inquire whether the patient wishes to notify the next of kin if the patient has not already done so. If requested by the patient, the counselor shall provide assistance in arranging notification of or contact with the patient's next of kin.

§5-908. Informed decision

A person may not receive a prescription for medication to end that person's life in a humane and dignified manner unless that person has made an informed decision as defined in section 5-902, subsection (i). Before prescribing medication under this Act, the attending physician shall verify that the patient is making an informed decision.

§5-909. Family notification

The attending physician, consulting physician and counselor shall ask the patient to notify the next of kin of the patient's request for medication pursuant to this Act. If requested by the patient, the attending physician, consulting physician or counselor shall provide assistance in arranging notification of or contact with the patient's next of kin. A patient who declines or is unable to notify the next of kin may not be denied the request for medication for that reason.

§5-910. Requests

To receive a prescription for medication to end the patient's life in a humane and dignified manner, a qualified patient must personally communicate a request and repeat the personally communicated request to the attending physician no sooner than 15 days after the initial request. Before the 2nd personally communicated request is made, the patient must make the request in writing as described in section 5-903. When the qualified patient makes the 2nd personally communicated request, the attending physician shall offer the patient an opportunity to revoke the request.

§5-911. Right to revoke request

A patient may revoke a request for medication under this Act at any time and in any manner without regard to the patient's mental state. A prescription for medication under this Act may not be written without the attending physician offering the qualified patient an opportunity to revoke the request.

§5-912. Waiting period

No fewer than 15 days may elapse between the patient's initial personally communicated request and the writing of a prescription under this Act. No fewer than 48 hours may elapse between the patient's written request and the writing of a prescription under this Act.

§5-913. Medical record filing requirements

The following information must be filed or noted on a chart in the patient's medical record:

(a) All personally communicated requests by a patient for medication to end the patient's life in a humane and dignified manner;

(b) All written requests by a patient for medication to end the patient's life in a humane and dignified manner;

(c) The attending physician's diagnosis and prognosis and that physician's determination that the patient is capable, is acting voluntarily and is making an informed decision;

(d) The consulting physician's diagnosis and prognosis and that physician's determination that the patient is capable, is acting voluntarily and is making an informed decision;

(e) A report of the determinations made during counseling;

(f) The attending physician's offer to the patient to revoke the request at the time of the patient's 2nd personally communicated request pursuant to section 5-910; and

(g) A note by the attending physician stating that requirements under this Act have been met and indicating the steps taken to carry out the request and the medication prescribed.

§5-914. Residency requirement

Only persons who have been residents of this State for at least 6 months immediately preceding the request may make and be granted requests under this Act.

§5-915. Reporting requirements

(a) The Department of Human Services, Bureau of Health shall annually review records maintained pursuant to this Act.

(b) The Department of Human Services, Bureau of Health shall adopt rules to facilitate the collection of information in compliance with this Act. The information is not a public record and is not available to the public.

(c) The Department of Human Services, Bureau of Health shall make available to the public an annual statistical report of information collected under subsection (b).

§5-916. Effect on construction of wills, contracts and laws

(a) A provision in a contract, will or other agreement, whether written or oral, to the extent the provision affects the decision of a person to make or revoke a request for medication to end the person's life in a humane and dignified manner, is not valid.

(b) An obligation owing under any existing contract is not conditional to or affected by the making or revoking of a request for medication under this Act to end the person's life in a humane and dignified manner.

§5-917. Insurance or annuity policies

Benefits payable under a life, health or accident insurance or annuity policy are not affected by making or revoking a request under this Act for medication to end the patient's life in a humane and dignified manner. A qualified patient's act of ingesting medication to end that patient's life in a humane and dignified manner may not have an effect upon benefits payable under a life, health or accident insurance or annuity policy.

§5-918. Construction

(a) This Act may not be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing or active euthanasia. Actions taken in accordance with this Act do not, for any purpose, constitute suicide, assisted suicide, mercy killing or homicide.

(b) This Act may not be construed to authorize any person to assist in the administration of medication prescribed under the provisions of this Act.

§5-919. Immunities

Except as provided in section 5-920, the following immunities apply.

(a) This Act may not be construed to repeal the State prohibition against assisting a suicide except that a person or entity may not be subject to civil or criminal liability or professional disciplinary action for participating in good-faith compliance with this Act. The requirement of good faith is an additional requirement and not a substitute for the reasonable standard of care otherwise imposed upon healthcare providers in the exercise of their professions.

(b) A professional organization or association or health care provider may not subject a person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership or any other penalty for participating or refusing to participate in good faith in any act under this Act.

(c) A request by a patient for medication or provision of medication by an attending physician in accordance with the provisions of this Act does not provide the sole basis for the appointment of a guardian or conservator. The provision of medication to a qualified patient does not constitute neglect on the part of an attending physician.

(d) A health care provider is not under a duty, whether by contract, by law or by any other legal requirement, to provide medication to end the patient's life in a humane and dignified manner. If a health care provider is unable or unwilling to carry out a patient's request under this Act and the patient transfers that patient's care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the patient's relevant medical records to the new health care provider.

(e) A pharmacist is not under a duty, whether by contract, by law or by any other legal requirement, to fill a prescription written in accordance with this Act that the pharmacist knows or has reason to know is intended to be ingested by a qualified patient to end that patient's life in a humane and dignified manner. If a pharmacist is unable or unwilling to fill a prescription under this Act, the pharmacist shall make that inability or refusal known to the patient, who may then seek another pharmacist to fill the prescription.

§5-920. Liabilities

(a) A person who, without authorization of the patient, willfully alters or forges a request for medication or conceals or destroys a revocation of that request with the intent or effect of causing the patient's death commits a Class A crime.

(b) A person who coerces or exerts undue influence on a patient to request medication for the purpose of ending the patient's life or to destroy a revocation of such a request commits a Class A crime.

(c) This Act does not limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person or entity.

(d) The penalties in this Act do not preclude criminal penalties applicable under other law for conduct that is inconsistent with the provisions of this Act.

§5-921. Form of request

A request for medication as authorized by this Act must be substantially in the following form.

REQUEST FOR MEDICATION

TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

I....., am an adult of sound mind.

I am suffering from....., which my attending physician has determined is a terminal disease and which has been medically confirmed by a consulting physician.

I have been fully informed of my diagnosis and prognosis, the nature of the medication to be prescribed and its potential associated risks, the expected result of taking the medication and the feasible alternatives to ending my life in a humane and dignified manner, including comfort care, hospice care and pain control.

I request that my attending physician prescribe medication that will end my life in a humane and dignified manner.

INITIAL ONE:

... I have informed my family or next of kin of my decision and have taken their opinions into consideration.

... I have decided not to inform my family or next of kin of my decision.

... I have no family or next of kin to inform of my decision.

I understand that I have the right to revoke this request at any time. I understand the full importance of this request, and I expect to die when I take the medication to be prescribed.

I make this request voluntarily and without reservation.

Signed:.....

Dated:.....

DECLARATION OF WITNESSES

We declare that the person signing this request:

(A) Is personally known to us or has provided proof of identity;

(B) Signed this request in our presence;

(C) Appears to be of sound mind and not to be under duress or fraudulent or undue influence; and

(D) Is not a patient for whom either of us is the attending physician.

.....Witness 1.....Date

.....Witness 2.....Date

Note: Neither witness may be a relative by blood, marriage or adoption of the person signing this request, may be entitled to any portion of the person's estate upon death or may own, operate or be employed at a health care facility where the person is a patient or resident. If the patient is an inpatient at a health care facility, one of the witnesses must be an individual designated by the facility.

SUMMARY

This initiated bill creates the Maine Death with Dignity Act. It allows a mentally competent adult who is suffering from a terminal illness to request and obtain medication from a physician to end that patient's own life in a humane and dignified manner, with safeguards to ensure that the patient's request is voluntary and based on an informed decision.

State of Maine



WHEREAS, written petitions bearing the signatures of 48,566 electors of this State, which number is in excess of ten percent of the total vote cast in the last gubernatorial election preceding the filing of such petitions, as required by Article IV, Part Third, Section 18, of the Constitution of Maine, were addressed to the Legislature of the State of Maine and were filed in the office of the Secretary of State on or before the twenty-fifth day after the convening of the One Hundred and Nineteenth Legislature in the Second Regular Session, requesting that the Legislature consider an act entitled "Maine Death with Dignity Act"; and

WHEREAS, the Secretary of State duly certified the initiative petition to be valid and submitted the measure to the Legislature in accordance with the provisions of Article IV, Part Third, Section 18, of the Constitution of Maine; and

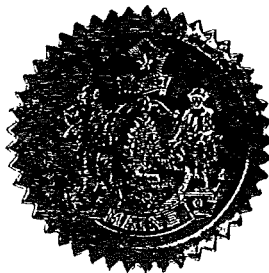
WHEREAS, the initiated act, known as Legislative Document 2348 was referred to the Joint Standing Committee on Judiciary for public hearing held on February 16, 2000; and

WHEREAS, on March 15, 2000, the Maine House of Representatives accepted the Unanimous Ought Not to Pass Report and on March 15, 2000, the Maine Senate accepted the Unanimous Ought Not to Pass Report and thus the legislation failed enactment; and

WHEREAS, Article IV, Part Third, Section 18, of the Maine Constitution provides that the Governor shall, by proclamation, order an initiated bill proposed to, but not enacted by, the Legislature without change to the people for referendum in November within 10 days following the recess of the Legislature to which the measure was proposed; and

WHEREAS, under the provisions of Article IV, Part Third, Section 18, an election must be held in November of the year in which the petition is filed by proclamation;

NOW THEREFORE, I, ANGUS S. KING, Jr., Governor of the State of Maine, acting under the provisions of Article IV, Part Third, Section 18 of the Constitution of Maine, do hereby proclaim that an election shall be called for Tuesday, November 7, 2000, so that "Maine Death with Dignity Act" be submitted to the people of this State for a referendum vote.



IN TESTIMONY WHEREOF, I have caused the Great Seal of the State to be hereunto affixed. Given under my hand at Augusta this Seventeenth day of May in the year Two Thousand.

Angus S. King, Jr.
Angus S. King, Jr.
Governor

Dan A. Gwadosky
Dan A. Gwadosky
Secretary of State

INTENT AND CONTENT

This initiative would enact a new statute, entitled the Maine Death with Dignity Act. Under the Act, a person who is terminally ill, over the age of 18, a resident of this state for at least 6 months and capable of making his or her own decisions about health care, may request medication to end their life in a humane and dignified manner. The request must be personally communicated to the person's attending physician on two occasions not less than 15 days apart. It also must be conveyed in written form, witnessed by two individuals who are not related to the patient, and who have no interest in the patient's estate. The Act requires the attending physician to first counsel the person regarding alternatives such as comfort care, hospice care and pain control, and a consulting physician must confirm the diagnosis of terminal illness as well as the determination that the person is capable of making the decision, is acting voluntarily and is making a decision to end their life in this manner after being fully informed by the physician of all relevant facts. Before obtaining the requested medication, the person also must be referred to a specialist on palliative care as well as to a counselor to determine whether the person is suffering from a psychiatric or psychological disorder or depression that causes impaired judgment. A request for medication to end the person's life may be revoked at any time, and the person must be so advised. The Act also provides that a decision to end one's life in this manner will not affect benefits payable under a life, health or accident insurance or annuity policy.

A person who participates in good faith compliance with this Act would not be subject to civil or criminal liability or professional disciplinary action. The Act does not impose any obligation on a health care provider or pharmacist to provide medication to end the patient's life if they are unable or unwilling to do so, and the Act does not authorize any person to assist in the administering of any medication prescribed under the Act.

If approved, this Act would take effect 30 days after the proclamation of the vote.

A "YES" vote is in favor of the initiative and approves the legislation.

A "NO" vote is in opposition to the initiative and disapproves the legislation.

Question 2: Citizen Initiative

Do you favor requiring landowners to obtain a permit for all clear-cuts and defining cutting levels for lands subject to the Tree Growth Tax Law?

STATE OF MAINE

"An Act Regarding Forest Practices"

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

Sec. 1. 12 MRSA §§869, sub-§§13 to 15 are enacted to read:

13. Reasonable cutting levels. In accordance with the Governor's Maine Council on Sustainable Forest Management report of July 1996, total cutting activities and cutting activities for each species group may not exceed sustainable cutting levels for any rolling 10-year average. This means that the yearly allowable cut levels may not be greater than the average annual growth during the past 10 years. This subsection applies only to landowners who are enrolled under the Maine Tree Growth Tax Law.

14. Clear-cutting permit required. A landowner shall obtain a permit from the Maine Forest Service prior to undertaking cutting activities that will result in a clear-cut. Prior to issuing a permit for a clear-cut, the Maine Forest Service shall determine that the clear-cut is silviculturally justified, that there are no reasonable alternatives to the proposed clear-cut and that no undue adverse ecological damage will result from the clear-cut or the clear-cutting activities. There must be public notice of any permit application and an opportunity to appeal any decision by the Maine Forest Service on permitting.

15. Rules. A Maine Council on Sustainable Forest Management appointed by the Governor shall establish rules, which are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A, implementing subsections 13 and 14 through the public hearing process. In addition to the Director of the Maine Forest Service and the director of Baxter Park's scientific forestry management unit, the council consists of one representative from each of the following categories:

- A. Independent logger;
- B. Professional forester;
- C. Forest ecologist;
- D. Conservation biologist;
- E. Soil scientist;
- F. Professor of silviculture; and
- G. Freshwater ecologist.

All rules must be consistent with and guided by current scientific research. Rules must be established no later than 6 months after the effective date of this subsection.

SUMMARY

This initiated bill sets limits on timber harvesting on land subject to the Maine Tree Growth Tax Law and requires that a landowner obtain a permit from the Maine Forest Service prior to undertaking harvesting activities that will result in a clear-cut. Total cutting activities and cutting activities for each species group may not exceed sustainable cutting levels for any rolling 10-year average. The yearly allowable cut levels may not be greater than the average annual growth during the past 10 years. Prior to issuing a permit for a clear-cut, the Maine Forest Service must determine that the clear-cut is silviculturally justified, that there are no reasonable alternatives to the proposed clear-cut and that no undue adverse ecological damage will result from the clear-cut or the clear-cutting activities.

State of Maine



WHEREAS, written petitions bearing the signatures of 43,745 electors of this State, which number is in excess of ten percent of the total vote cast in the last gubernatorial election preceding the filing of such petitions, as required by Article IV, Part Third, Section 18, of the Constitution of Maine, were addressed to the Legislature of the State of Maine and were filed in the office of the Secretary of State on or before the twenty-fifth day after the convening of the One Hundred and Nineteenth Legislature in the Second Regular Session, requesting that the Legislature consider an act entitled "An Act Regarding Forest Practices"; and

WHEREAS, the Secretary of State duly certified the initiative petition to be valid and submitted the measure to the Legislature in accordance with the provisions of Article IV, Part Third, Section 18, of the Constitution of Maine; and

WHEREAS, the initiated act, known as Legislative Document 2594 was referred to the Joint Standing Committee on Agriculture, Conservation and Forestry for public hearing held on March 13, 2000; and

WHEREAS, on April 11, 2000, the Maine House of Representatives accepted the Majority Ought Not to Pass Report and on April 11, 2000, the Maine Senate accepted the Majority Ought Not to Pass Report and thus the legislation failed enactment; and

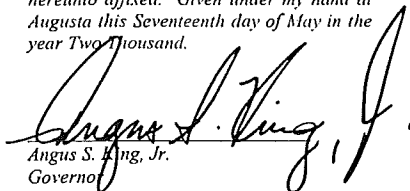
WHEREAS, Article IV, Part Third, Section 18, of the Maine Constitution provides that the Governor shall, by proclamation, order an initiated bill proposed to, but not enacted by, the Legislature without change to the people for referendum in November within 10 days following the recess of the Legislature to which the measure was proposed; and

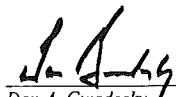
WHEREAS, under the provisions of Article IV, Part Third, Section 18, an election must be held in November of the year in which the petition is filed by proclamation;

NOW THEREFORE, I, ANGUS S. KING, Jr., Governor of the State of Maine, acting under the provisions of Article IV, Part Third, Section 18 of the Constitution of Maine, do hereby proclaim that an election shall be called for Tuesday, November 7, 2000, so that "An Act Regarding Forest Practices" be submitted to the people of this State for a referendum vote.



IN TESTIMONY WHEREOF, I have caused the Great Seal of the State to be hereunto affixed. Given under my hand at Augusta this Seventeenth day of May in the year Two Thousand.


Angus S. King, Jr.
Governor


Dan A. Gwadosky
Secretary of State

INTENT AND CONTENT

This initiative amends the existing Forest Practices Act by adding provisions that will require owners of timberland to obtain a permit from the Maine Forest Service prior to undertaking any cutting that would result in a clear-cut, which is a term defined in existing law. Permits would be issued based on a finding that the clear-cut is silviculturally justified, that there are no reasonable alternatives to the proposed clear-cut and that the clear-cutting activity will not cause any undue adverse ecological damage.

The Act also prohibits landowners enrolled under the Maine Tree Growth Tax Law from cutting trees on their land at a rate that exceeds the average annual growth rate of each species during the past ten years.

Finally, the Act authorizes the appointment by the Governor of a Maine Council on Sustainable Forest Management to establish rules, within six months, governing the issuance of permits for clear-cutting and implementation of the new restrictions on timber cutting by landowners enrolled under the Maine Tree Growth Tax Law.

If approved, this Act would take effect 30 days after the proclamation of the vote.

A “YES” vote is in favor of the initiative and approves the legislation.

A “NO” vote is in opposition to the initiative and disapproves the legislation.

Question 3: Citizen Initiative

Do you want to allow video lottery machines at certain horse racing tracks if 40% of the profits are used for property tax relief?

STATE OF MAINE

"An Act to Allow Video Lottery Terminals"

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

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

§348. Video lottery terminals exempted

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

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

CHAPTER 16

VIDEO LOTTERY TERMINALS

SUBCHAPTER I

GENERAL PROVISIONS

§361. Definitions

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

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

2. Formal charging instrument. "Formal charging instrument" means a complaint, an indictment, information, a juvenile petition or other formal written accusation against a 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.

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

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

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

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

11. Uniform location agreement. "Uniform location 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 premises of the licensee.

12. Video lottery terminal. "Video lottery terminal" means any mechanical, electrical, electronic or other device, 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 element of chance may deliver, or entitle the person playing or operating the device to receive, cash, tokens to be exchanged for cash, merchandise or any other thing of value, whether the payoff is made automatically from the device or in any other manner.

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

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

§362. License required

A person may not manufacture, distribute, sell, operate or 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 person may not place for public use or operate a video lottery terminal in this State unless the machine is registered with the Chief of the State Police.

§363. Administration and enforcement

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

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

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

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

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

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

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

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

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

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

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

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

(3) The use of obscene advertising;

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

(5) The use of the word "casino" to describe any video lottery terminal licensed under this chapter or as the name or any part of the name of the licensed premises or of a portion of the premises where the video lottery terminal is located;

C. Disable any video lottery terminal if the Chief of the State Police has reason to believe that:

(1) A person has illegally tampered with the video lottery terminal;

(2) The funds from the video lottery terminal have not been distributed, deposited or allocated in accordance with section 382;

(3) The video lottery terminal does not meet the licensure requirements of this chapter; or

(4) The licensee is guilty of criminal conduct; and

D. Prepare and submit to the Commissioner of Administrative and Financial Services a budget for the administration of this chapter.

§365. Commissioner of Administrative and Financial Services

1. Powers. In addition to powers conferred by any other provision of law, the Commissioner of Administrative and Financial Services may:

A. Collect funds due the State under section 382 and distribute them in accordance with this chapter; and

B. By January 31st, submit to the Governor and the joint standing committee of the Legislature having jurisdiction over legal affairs an annual report of video lottery terminal revenue, credits disbursed by licensees, administrative expenses and the allocation of net video lottery terminal income for the preceding year.

§366. Applicability

Except as expressly provided in this chapter, chapter 14 does not apply to a video lottery terminal as defined in section 361.

SUBCHAPTER II

LICENSING

§371. License to operate

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

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

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

4. Uniform location agreement. Each video lottery terminal must be subject to a uniform location agreement between the distributor and the licensee. A

copy of the agreement must be submitted to the Chief of the State Police. The uniform location agreement is the complete and sole agreement between the licensee and the distributor regarding video lottery terminals. No other 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. Requirements for registration. To be registered, a video lottery terminal:

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

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

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

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

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

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

4. Examination of prototypes. The Chief of the State Police and the Attorney General shall examine prototypes of video lottery terminals and associated equipment of manufacturers seeking a license as required in this chapter. The Chief of the State Police shall require the manufacturer seeking the examination and approval of a video lottery terminal or associated equipment to pay the anticipated actual cost of the

examination before the examination occurs. After the examination occurs, the Chief of the State Police shall refund overpayments or charge and collect amounts sufficient to reimburse the Chief of the State Police for underpayments of actual cost. The Chief of the State Police may contract for the examinations of video lottery terminals and associated equipment as required by this section.

§373. Licensing of manufacturer, distributor or wholesaler

1. Qualifications. A person applying for a license under this section may be licensed by the Chief of the State Police as a video lottery terminal manufacturer, distributor or wholesaler if the chief is satisfied that the applicant and any of its officers, directors, partners or owners of interest in that association or corporation, other than persons whose interest arises solely from their ownership of publicly traded shares;

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

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

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

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

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

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

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

§374. Application

1. Form. An application for a license required under this chapter, except section 371, must be on a form provided by the Chief of the State Police. The application must be signed by the individual applicant or by a duly authorized officer or agent of the association or corporation applying for the license. The application must

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

A. Full name;

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

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

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

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

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

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

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

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

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

(7) "Are you an illegal alien?"

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

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

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

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

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

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

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

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

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

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

§375. Fee; term of license; transferability

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

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

B. A license for a video lottery terminal wholesaler is \$1,000;

C. A license for a video lottery terminal distributor is \$1,000; and

D. A license for an operator of a video lottery terminal who, under that license, also acts as a video lottery terminal manufacturer, wholesaler or distributor is \$1,000.

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

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

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

§376. Actions relating to license

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

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

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

C. The license holder under this chapter becomes ineligible to hold that license.

The Chief of the State Police may not suspend a license unless the Chief of the State Police receives a written statement made under oath from a law enforcement officer establishing probable cause for the suspension. The Chief of the State Police shall immediately notify the license holder in writing of the suspension and the date the suspension is to take effect. If the license holder wishes to have a hearing, the license holder must notify the Administrative Court in writing within 20 days of the date of the suspension. If a hearing is requested, the license remains in effect pending the outcome of the hearing.

2. Period of ineligibility following refusal to issue or renew or revocation of license. A person may not apply to the Chief of the State Police for any license under this chapter, except section 371, less than 2 years after the Chief of the State Police refused to issue or renew a license under this chapter or less than 2 years after the Administrative Court revoked a license issued to the person under this chapter.

SUBCHAPTER III

VIDEO LOTTERY TERMINAL OPERATION; ALLOCATION OF FUNDS

§381. Limits on video lottery terminal use

1. Hours of play. A licensee may permit a person to operate a video lottery terminal only between the hours of noon and one hour after midnight.

2. Age of player. A licensee may not permit a person under 21 years of age to play a video lottery terminal.

3. Time and money limits imposed by licensee. A licensee may impose a daily limit on the amount of time or money spent by an individual playing the video lottery terminals on the licensee's premises.

§382. Allocation of funds

1. Video lottery terminal distributor responsible. A video lottery terminal distributor shall collect and distribute net video lottery terminal income from video lottery terminals owned by the distributor and located at the licensee's premises as follows:

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

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

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

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

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

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

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

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

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

SUBCHAPTER IV

ENFORCEMENT AND PENALTIES

§391. Reports; records

1. Reports; records. The Chief of the State Police shall require from any licensed video lottery terminal distributor, manufacturer, wholesaler or licensee whatever records and reports the chief considers necessary for the administration and enforcement of this chapter.

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

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

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

§393. Contempt

If a witness refuses to obey a subpoena issued by the Chief of the State Police or to give any evidence relevant to proper inquiry by the chief, the Attorney General may petition the Superior Court in the county where the refusal occurred to find the witness in contempt. The Attorney General shall cause to be served on the witness an order requiring that witness to appear before the Superior Court to show cause why that witness should not be adjudged in contempt. The court shall hear the evidence submitted by the witness and the Attorney General and, if it is 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 before the Superior Court or with reference to the process of the Superior Court.

§394. Violations

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

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

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

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

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

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

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

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

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

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

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

SUMMARY

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

State of Maine



WHEREAS, written petitions bearing the signatures of 44,157 electors of this State, which number is in excess of ten percent of the total vote cast in the last gubernatorial election preceding the filing of such petitions, as required by Article IV, Part Third, Section 18, of the Constitution of Maine, were addressed to the Legislature of the State of Maine and were filed in the office of the Secretary of State on or before the twenty-fifth day after the convening of the One Hundred and Nineteenth Legislature in the Second Regular Session, requesting that the Legislature consider an act entitled "An Act to Allow Video Lottery Terminals"; and

WHEREAS, the Secretary of State duly certified the initiative petition to be valid and submitted the measure to the Legislature in accordance with the provisions of Article IV, Part Third, Section 18, of the Constitution of Maine; and

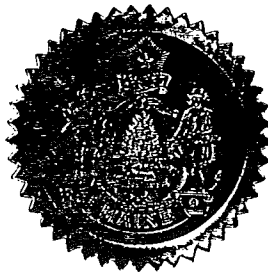
WHEREAS, the initiated act, known as Legislative Document 2349 was referred to the Joint Standing Committee on Legal and Veterans Affairs for public hearing held on January 25, 2000; and

WHEREAS, on February 18, 2000, the Maine House of Representatives accepted the Unanimous Ought Not to Pass Report and on February 18, 2000, the Maine Senate accepted the Unanimous Ought Not to Pass Report and thus the legislation failed enactment; and

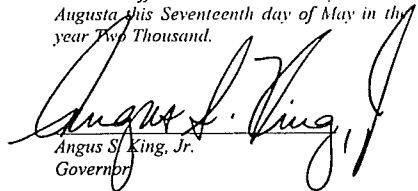
WHEREAS, Article IV, Part Third, Section 18, of the Maine Constitution provides that the Governor shall, by proclamation, order an initiated bill proposed to, but not enacted by, the Legislature without change to the people for referendum in November within 10 days following the recess of the Legislature to which the measure was proposed; and

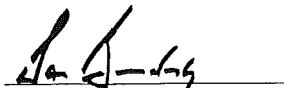
WHEREAS, under the provisions of Article IV, Part Third, Section 18, an election must be held in November of the year in which the petition is filed by proclamation;

NOW THEREFORE, I, ANGUS S. KING, Jr., Governor of the State of Maine, acting under the provisions of Article IV, Part Third, Section 18 of the Constitution of Maine, do hereby proclaim that an election shall be called for Tuesday, November 7, 2000, so that "An Act to Allow Video Lottery Terminals" be submitted to the people of this State for a referendum vote.



IN TESTIMONY WHEREOF, I have caused the Great Seal of the State to be hereunto affixed. Given under my hand at Augusta this Seventeenth day of May in the year Two Thousand.


Angus S. King, Jr.
Governor


Dan A. Gwadosky
Secretary of State

INTENT AND CONTENT

This Act establishes a regulatory program to be administered by the State Police for the use of video lottery terminals at any commercial harness horse racing track that has operated live racing on more than 100 days in each of the previous two calendar years. It directs the Chief of the State Police to issue a license for the operation of video lottery terminals to the owner or operator of any commercial track meeting these requirements. At present, there is only one such facility in the state. Once an operating license is issued to such a facility, no other commercial track within 150 miles of that facility may be licensed. The Act also authorizes the Chief of the State Police to license manufacturers, distributors and wholesalers of video lottery terminals, and the Chief is directed to approve an application for a distributor license submitted by any commercial harness horse racing track that is licensed to operate a pari-mutuel facility and was awarded at least 100 race dates to conduct harness racing by the Maine Harness Racing Commission in 1998. There is only one facility in the state that meets this description.

The Act grants authority to the Chief of the State Police to adopt rules to prevent undesirable conduct relating to the operation of video lottery terminals and to disable terminals under certain circumstances. The Act makes it a class D crime for a licensee to knowingly permit use of video lottery terminals by anyone who is under age 21 or visibly intoxicated, or to extend credit to a person in order to permit them to play. Tampering with a terminal with intent to interfere with its operation or to manipulate the outcome is a class C crime.

On an annual basis, the net proceeds from the operation of video lottery terminals would be allocated as follows: 40% to the State Treasurer for distribution through municipal revenue sharing; 26% to the licensed distributor of the terminals; 5% to the licensee to supplement harness racing purses; 3% to the State Police to cover administrative costs; 2% to agricultural fairs authorized to accept wagers on harness racing; and 1% to supplement the purses in sire stakes races. The balance of 23% of the net revenues would be retained by the licensed operator.

If approved, this Act would take effect 30 days after the proclamation of the vote.

A "YES" vote is in favor of the initiative and approves the legislation.

A "NO" vote is in opposition to the initiative and disapproves the legislation.

Question 4: Constitutional Amendment

Do you favor amending the Constitution of Maine to allow the Legislature to provide for the assessment of land used for commercial fishing activities based on the current use of that property?

STATE OF MAINE

Chapter 4 Constitutional Resolutions of 1999 Approved April 4, 2000

“RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow the Legislature to Provide for Assessment of Property Used for Commercial Fishing at Current Use”

Constitutional amendment. Resolved: Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

Constitution, Art. IX, §8, sub-§2 is amended to read:

2. Assessment of certain lands based on current use; penalty on change to higher use. The Legislature shall have power to provide for the assessment of the following types of real estate whenever situated in accordance with a valuation based upon the current use thereof and in accordance with such conditions as the Legislature may enact:

- A. Farms and agricultural lands, timberlands and woodlands;
- B. Open space lands which are used for recreation or the enjoyment of scenic natural beauty; ~~and~~
- C. Lands used for game management or wildlife sanctuaries; and
- D. Waterfront land used for commercial fishing activities.

In implementing paragraphs A, B ~~and~~, C and D, the Legislature shall provide that any change of use higher than those set forth in paragraphs A, B ~~and~~, C and D, except when the change is occasioned by a transfer resulting from the exercise or threatened exercise of the power of eminent domain, shall result in the imposition of a minimum penalty equal to the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest, upon such reasonable and equitable basis as the Legislature shall determine. Any statutory or constitutional penalty imposed as a result of a change of use, whether imposed before or after the approval of this subsection, shall be determined without regard to the presence of minerals, provided that, when payment of the penalty is made or demanded, whichever occurs first, there is in effect a state excise tax which applies or would apply to the mining of those minerals.

; and be it further

Constitutional referendum procedure; form of question; effective date.

Resolved: That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a general election, at the next general election in the month of November following passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

“Do you favor amending the Constitution of Maine to allow the Legislature to provide for the assessment of land used for commercial fishing activities based on the current use of that property?”

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within the corresponding square below the word “Yes” or “No.” The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution on the date of the proclamation; and be it further

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purpose of this referendum.

INTENT AND CONTENT

This proposal would authorize an amendment to the Constitution of Maine to allow the Legislature to provide for the property tax assessment of waterfront land used for commercial fishing activities, based upon the value of its current use. The Constitution already authorizes this alternative method of property tax assessment for certain farmlands, woodlands, wildlife sanctuaries, and lands used for open space and recreation or the enjoyment of scenic natural beauty.

A “YES” vote approves the constitutional amendment.

A “NO” vote disapproves the constitutional amendment.

Question 5: Constitutional Amendment

Do you favor amending the Constitution of Maine to end discrimination against persons under guardianship for mental illness for the purpose of voting?

STATE OF MAINE

Chapter 3 Constitutional Resolutions of 1999 Approved April 4, 2000

“RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow Persons with Mental Illness to Vote”

Constitutional amendment. Resolved: Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

Constitution, Art. II, §1 is amended to read:

Section 1. Qualifications of electors; written ballot; military service members; students. Every citizen of the United States of the age of 18 years and upwards, ~~excepting persons under guardianship for reasons of mental illness,~~ having his or her residence established in this State, shall be an elector for Governor, Senators and Representatives, in the city, town or plantation where his or her residence has been established, if he or she continues to reside in this State; and the elections shall be by written ballot. But persons in the military, naval or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack or military place, in any city, town or plantation; nor shall the residence of a student at any seminary of learning entitle the student to the right of suffrage in the city, town or plantation where such seminary is established. No person, however, shall be deemed to have lost residence by reason of the person's absence from the state in the military service of the United States, or of this State.

Indians. Every Indian, residing on tribal reservations and otherwise qualified, shall be an elector in all county, state and national elections.

; and be it further

Constitutional referendum procedure; form of question; effective date. Resolved: That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a general election, at the next general election in the month of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

“Do you favor amending the Constitution of Maine to end discrimination against persons under guardianship for mental illness for the purpose of voting?”

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within the corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution on the date of the proclamation; and be it further

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purpose of this referendum.

INTENT AND CONTENT

This proposal would authorize an amendment to the Constitution of Maine to remove the current prohibition on voting by persons who are under guardianship for reasons of mental illness. To qualify to vote in Maine, a person needs to be at least 18 years of age, to be a citizen of the United States, and to have an established residence in this state. If ratified, this amendment would remove the only restriction to voting that goes beyond these basic qualifications.

A "YES" vote approves the constitutional amendment.

A "NO" vote disapproves the constitutional amendment.

Question 6: Referendum Question

Do you favor ratifying the action of the 119th Legislature whereby it passed an act extending to all citizens regardless of their sexual orientation the same basic rights to protection against discrimination now guaranteed to citizens on the basis of race, color, religion, sex or national origin in the areas of employment, housing, public accommodation and credit and where the act expressly states that nothing in the act confers legislative approval of, or special rights to, any person or group of persons?

STATE OF MAINE

Chapter 629 Public Laws of 1999 Approved April 7, 2000

“An Act to Ensure Civil Rights and Prevent Discrimination”

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

Sec. 1. 5 MRSA §4552, as amended by PL 1993, c. 327, §1, is further amended to read:

§4552. Policy

To protect the public health, safety and welfare, it is declared to be the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of these practices, so that corrective measures may, where possible, be promptly recommended and implemented, and to prevent discrimination in employment, housing or access to public accommodations on account of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin; and in employment, discrimination on account of age or because of the previous assertion of a claim or right under former Title 39 or Title 39-A and in housing because of familial status; and to prevent discrimination in the extension of credit on account of age, race, color, sex, sexual orientation, marital status, religion, ancestry or national origin; and to prevent discrimination in education on account of sex or physical or mental disability.

Nothing in this chapter confers legislative approval of, or special rights to, any person or group of persons.

Sec. 2. 5 MRSA §4553, sub-§9-C is enacted to read:

9-C. Sexual orientation. “Sexual orientation” means having an orientation for heterosexuality, homosexuality or bisexuality, having a history of that orientation or being identified with that orientation. “Sexual orientation” refers to a person’s actual or perceived status, condition or gender expression. This chapter is intended to ensure specific defined rights, and not to endorse or extend to any form of sexual behavior, and does not include sexual attraction to a minor by an adult.

Sec. 3. 5 MRSA §4553, sub-§9-D is enacted to read:

9-D. Religious entity. “Religious entity” means:

A. A religious corporation, association or society;

B. A college, school, university or other educational institution, not otherwise a religious entity, if it is in whole or substantial part funded, controlled, managed or owned by a religious corporation, association or society; or

C. A nonprofit organization that is operated for charitable purposes if it is in whole or substantial part funded, controlled, managed or owned by a religious corporation, association or society.

Sec. 4. 5 MRSA §4553, sub-§10, ¶E, as amended by PL 1983, c. 578, §2, is further amended to read:

E. In determining whether any a person is acting as an agent or employee of another person so as to make such the other person responsible for his that person’s acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall is not be controlling; and

Sec. 5. 5 MRSA §4553, sub-§10, ¶F, as enacted by PL 1983, c. 578, §2, is amended to read:

F. Unlawful educational discrimination as defined and limited by subchapter V-B; and

Sec. 6. 5 MRSA §4553, sub-§10, ¶G is enacted to read:

G. Discrimination in employment, housing, public accommodation and credit as defined in subchapters III, IV, V and V-A, on the basis of sexual orientation, except that a religious entity is exempt from these provisions with respect to discrimination based on sexual orientation.

Sec. 7. 5 MRSA §4554, sub-§§4, 5 and 6 are enacted to read:

4. Contracts. The exemption provision of section 4553, subsection 10, paragraph G does not prohibit a state agency from including provisions in a contract with any entity, including a religious entity, that may require nondiscrimination on the basis of sexual orientation otherwise consistent with this chapter with respect to and as a condition to continuation of such a contract; nor does this Act require any religious entity to enter into any contract. With respect to a contract with any religious entity, the employment defenses provided in section 4573-A, subsection 2 are applicable to any dispute arising under such a nondiscrimination clause to the extent related to alleged employment discrimination based on sexual orientation.

5. Educational policy. This Act does not mandate any public or private educational institution to promote any form of sexuality or sexual orientation or to include such matters in its curriculum.

6. Affirmative action. The provisions of this Act relating to sexual orientation are not intended to modify federal or state requirements for affirmative action in effect as of the effective date of this subsection, nor intended to create any new obligations with respect to affirmative action or numerical goals or quotas.

Sec. 8. 5 MRSA §4571, as amended by PL 1991, c. 99, §6, is further amended to read:

§4571. Right to freedom from discrimination in employment

The opportunity for an individual to secure employment without discrimination because of race, color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin is recognized and declared to be a civil right.

Sec. 9. 5 MRSA §4572, sub-§1, ¶¶A, B and C, as amended by PL 1991, c. 885, Pt. E, §7 and affected by §47, are further amended to read:

A. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of the applicant's previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the applicant that are protected under Title 26, chapter 7, subchapter V-B; or, because of those reasons, to discharge an employee or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment or any other matter directly or indirectly related to employment; or, in recruiting of individuals for employment or in hiring them, to utilize any employment agency that the employer knows or has reasonable cause to know discriminates against individuals because of their race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of their previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter V-B;

(1) This paragraph does not apply to discrimination governed by Title 39-A, section 353;

B. For any employment agency to fail or refuse to classify properly, refer for employment or otherwise discriminate against any individual because of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of the individual's previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the individual that are protected under Title 26, chapter 7, subchapter V-B; or to comply with an employer's request for the referral of job applicants if a request indicates either directly or indirectly that the employer will not afford full and equal employment opportunities to individuals regardless of their race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter V-B;

C. For any labor organization to exclude from apprenticeship or membership or to deny full and equal membership rights to any applicant for membership because of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of the applicant's previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the applicant that are protected under Title 26, chapter 7, subchapter V-B; or, because of those reasons, to deny a member full and equal membership rights, expel from membership, penalize or otherwise discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, representation, grievances or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of that labor organization or by a collective labor agreement or other contract; to fail or refuse to classify properly or refer for employment or otherwise discriminate against any member because of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of the member's previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the member that are protected under Title 26, chapter 7, subchapter V-B; or to cause or attempt to cause an employer to discriminate against an individual in violation of this section, except that it is lawful for labor organizations and employers to adopt a maximum age limitation in apprenticeship programs, if the employer or labor organization obtains prior approval from the Maine Human Rights Commission of any maximum age limitation employed in an apprenticeship program. The commission shall approve the age limitation if a reasonable relationship exists between the maximum age limitation employed and a legitimate expectation of the employer in receiving a reasonable return upon the employer's investment in an apprenticeship program. The employer or labor organization bears the burden of demonstrating that such a relationship exists;

Sec. 10. 5 MRSA §4572, sub-§1, ¶D, as amended by PL 1995, c. 393, §12, is further amended to read:

D. For any employer, employment agency or labor organization, prior to employment or admission to membership of any individual, to:

(1) Elicit or attempt to elicit information directly or indirectly pertaining to race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter V-B;

(2) Make or keep a record of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter V-B, except under physical or mental disability when an employer requires a physical or mental examination prior to employment, a privileged record of

that examination is permissible if made and kept in compliance with this Act;

(3) Use any form of application for employment, or personnel or membership blank containing questions or entries directly or indirectly pertaining to race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter V-B. This section does not prohibit any officially recognized government agency from keeping records permitted to be kept under this Act in order to provide free services to individuals requesting rehabilitation or employment assistance;

(4) Print, publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter V-B; or

(5) Establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, the previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter V-B, of that group; or

Sec. 11. 5 MRSA §4573, as amended by PL 1995, c. 393, §§15 to 20, is further amended by adding at the end a new paragraph to read:

The provisions of this subchapter relating to sexual orientation do not require or prohibit the provision of employee benefits to an individual for the benefit of that individual's partner.

Sec. 12. 5 MRSA §4573-A, sub-§2, as enacted by PL 1995, c. 393, §21, is amended to read:

2. Religious defenses. This subchapter does not prohibit a religious corporation, association, educational institution or society from giving preference in employment to ~~individuals~~ an individual of its same religion to perform work connected with the carrying on by the corporation, association, educational institution or society of its activities. Under this subchapter, a religious organization may require that all applicants and employees conform to the religious tenets of that organization.

Sec. 13. 5 MRSA §4581, first ¶, as amended by PL 1991, c. 99, §12, is further amended to read:

The opportunity for an individual to secure decent housing in accordance with the individual's ability to pay, and without discrimination because of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status is hereby recognized as and declared to be a civil right.

Sec. 14. 5 MRSA §4582, 2nd, 3rd and 4th ¶¶, as amended by PL 1991, c. 99, §14, are further amended to read:

For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation, or any agent of these to make or cause to be made any written or oral inquiry concerning the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of any prospective purchaser, occupant or tenant of the housing accommodation; or to refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual housing accommodation because of the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of the individual; or to issue any advertisement relating to the sale, rental or lease of the housing accommodation ~~which~~ that indicates any preference, limitation, specification or discrimination based upon race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status; or to discriminate against any individual because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status in the price, terms, conditions or privileges of the sale, rental or lease of any housing accommodations or in the furnishing of facilities or services in connection with any housing accommodations; or to evict or attempt to evict any tenant of any housing accommodation because of the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of the tenant;

For any real estate broker or real estate sales person, or agent of one of them, to fail or refuse to show any applicant for a housing accommodation any accommodation listed for sale, lease or rental, because of the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of the applicant or of any intended occupant of the accommodation, or to misrepresent, for the purpose of discriminating because of the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of the applicant or intended occupant, the availability or asking price of a housing accommodation listed for sale, lease or rental; or for any reason to fail to communicate to the person having the right to sell or lease the housing accommodation any offer for the same made by any applicant; or in any other manner to discriminate against any applicant for housing because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of the applicant or of any intended occupant of the housing accommodation, or to make or cause to be made any written or oral inquiry or record concerning the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of any applicant or intended occupant, or to accept for listing any housing accommodation when the person having the right to sell or lease the same has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of their race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status, or when the

broker knows or has reason to know that the person having the right to sell or lease the housing accommodation has made a practice of discrimination since July 1, 1972;

For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of the person, to make or cause to be made any oral or written inquiry concerning the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of any individual seeking financial assistance, or of existing or prospective occupants or tenants of housing accommodations; or to discriminate in the granting of financial assistance, or in the terms, conditions or privileges relating to the obtaining or use of any financial assistance, against any applicant because of the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of the applicant or of the existing or prospective occupants or tenants;

Sec. 15. 5 MRSA §4583, as amended by PL 1991, c. 99, §19, is further amended to read:

§4583. Application

Nothing in this Act may be construed to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting or in the furnishings of facilities or services in connection with the facilities ~~which~~ that are not based on the race, color, sex, sexual orientation, physical or mental disability, religion, country of ancestral origin, familial status or the receipt of public assistance payments of any prospective or actual purchaser, lessee, tenant or occupant. Nothing in this Act may be construed to prohibit or limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations, to set standards and preferences, terms, conditions, limitations or specifications for the granting of loans or financial assistance ~~which~~ that are not based on the race, color, sex, sexual orientation, physical or mental disability, religion, country of ancestral origin, familial status or the receipt of public assistance payments of the applicant for a loan or financial assistance or of any existing or prospective owner, lessee, tenant or occupant of housing accommodation.

Sec. 16. 5 MRSA §4591, as amended by PL 1991, c. 99, §20, is further amended to read:

§4591. Equal access to public accommodations

The opportunity for every individual to have equal access to places of public accommodation without discrimination because of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin is recognized as and declared to be a civil right.

Sec. 17. 5 MRSA §4592, sub-§§1 and 2, as amended by PL 1995, c. 393, §22, are further amended to read:

1. Denial of public accommodations. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to directly or indirectly refuse, discriminate against or in any manner withhold from or deny the full and equal enjoyment to any person, on account of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin, any of the accommodations, advantages, facilities, goods, services or privileges of public accommodation, or in any manner discriminate against any person in the price, terms or conditions upon which access to accommodation, advantages, facilities, goods, services and privileges may depend.

For purposes of this subsection, unlawful discrimination also includes, but is not limited to:

A. The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages or accommodations, unless the criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages or accommodations being offered;

B. A failure to make reasonable modifications in policies, practices or procedures, when modifications are necessary to afford the goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless, in the case of a private entity, the private entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages or accommodations;

C. A failure to take steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless, in the case of a private entity, the private entity can demonstrate that taking those steps would fundamentally alter the nature of the good, service, facility, privilege, advantage or accommodation being offered or would result in an undue burden;

D. A private entity's failure to remove architectural barriers and communication barriers that are structural in nature in existing facilities and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals, not including barriers that can be removed only through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift, where the removal is readily achievable;

When the entity can demonstrate that the removal of a barrier under this paragraph is not readily achievable, a failure to make the goods, services, facilities, privileges, advantages or accommodations available through alternative methods if alternative methods are readily achievable; and

E. A qualified individual with a disability, by reason of that disability, being excluded from participation in or being denied the benefits of the services,

programs or activities of a public entity, or being subjected to discrimination by any such entity;

2. Communication, notice or advertisement. For any person to directly or indirectly publish, display or communicate any notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any place of public accommodation are refused, withheld from or denied to any person on account of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin, or that the patronage or custom of any person belonging to or purporting to be of any particular race or color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele is restricted to any particular race or color, sexual orientation, physical or mental disability, religion, ancestry or national origin. The production of any communication, notice or advertisement purporting to relate to any place of accommodation is presumptive evidence in any action that the action was authorized by its owner, manager or proprietor;

Sec. 18. 5 MRSA §4595, as repealed and replaced by PL 1975, c. 770, §40, is amended to read:

§4595. Right to freedom from discrimination solely on the basis of age, race, color, sex, sexual orientation, marital status, ancestry, religion or national origin in any credit transaction

The opportunity for every individual to be extended credit without discrimination solely because of any one or more of the following factors: ~~Age~~ age; race; color; sex; sexual orientation; marital status; ancestry; religion or national origin is recognized as and declared to be a civil right.

Sec. 19. 5 MRSA §4596, as repealed and replaced by PL 1975, c. 770, §41, is amended to read:

§4596. Unlawful credit extension discrimination

It shall be unlawful credit discrimination for any creditor to refuse the extension of credit to any person solely on the basis of any one or more of the following factors: ~~Age~~ age; race; color; sex; sexual orientation; marital status; ancestry; religion or national origin in any credit transaction. It ~~shall~~ is not be unlawful credit discrimination to comply with the terms and conditions of any bona fide group credit life, accident and health insurance plan, for a financial institution extending credit to a married person to require both the husband and the wife to sign a note and a mortgage and to deny credit to persons under the age of 18 or to consider a person's age in determining the terms upon which credit will be extended.

Sec. 20. 5 MRSA §4612, sub-§4, ¶A, as amended by PL 1993, c. 303, §2, is further amended to read:

A. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a racial, color, sex, sexual orientation, physical or mental disability, religious, nationality group or age group if relief is not

immediately granted, or if conciliation efforts under subsection 3 have not succeeded, the commission may file in the Superior Court a civil action seeking such relief as is appropriate, including temporary restraining orders.

Sec. 21. Statutory referendum procedure; submission at general election; form of question; effective date. This Act must be submitted to the legal voters of the State of Maine at the next general election in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor ratifying the action of the 119th Legislature whereby it passed an act extending to all citizens regardless of their sexual orientation the same basic rights to protection against discrimination now guaranteed to citizens on the basis of race, color, religion, sex or national origin in the areas of employment, housing, public accommodation and credit and where the act expressly states that nothing in the act confers legislative approval of, or special rights to, any person or group of persons?"

The legal voters of each city, town and plantation shall vote by ballot on this question and shall designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal votes are cast in favor of the Act, the Governor shall proclaim that fact without delay, and the Act takes effect 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purpose of this referendum.

INTENT AND CONTENT

The legislation quoted above amends the Maine Human Rights Act to make it unlawful to discriminate against individuals based on their sexual orientation in decisions regarding employment, housing, access to public accommodations and the extension of credit. The legislation includes express language stating that it does not confer special rights to any person or group of persons and that it is not intended to add to or change any existing affirmative action requirements. The legislation also specifies that it does not require or prohibit the provision of employee benefits to an individual for the benefit of that individual's partner. Religious entities, including educational institutions and nonprofit organizations that are in whole or substantial part funded, controlled or managed by a religious corporation, are exempt from the new provisions of the Maine Human Rights Act relating to sexual orientation.

This legislation was approved by the Legislature and signed by the Governor in April, 2000, subject to ratification by a majority of the voters at the next general election.

vote. If approved, this Act would take effect 30 days after the proclamation of the

A “YES” vote is in favor of the legislation and approves its enactment.

A “NO” vote opposes the legislation and disapproves its enactment.