

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1218

H.P. 868

House of Representatives, April 5, 1995

An Act to Amend the Laws Relating to Harness Racing.

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative KERR of Old Orchard Beach.
Cosponsored by Representatives: AHEARNE of Madawaska, BOUFFARD of Lewiston,
DEXTER of Kingfield, DiPIETRO of South Portland, HICHBORN of LaGrange, KILKELLY
of Wiscasset, POULIOT of Lewiston, TYLER of Windham, WINN of Glenburn, Senators:
CAREY of Kennebec, O'DEA of Penobscot, PARADIS of Aroostook, PENDEXTER of
Cumberland.

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

4 Sec. 1. 5 MRSA §1590 is enacted to read:

6 **§1590. Working capital advances**

8 The State Controller is authorized to advance to the State
10 Harness Racing Commission up to \$250,000 from the General Fund
12 unappropriated surplus for any necessary start-up costs
14 associated with the implementation of a system of video lottery
16 terminals in the State pursuant to Title 8, section 372,
18 subsection 2 and Title 17, chapter 16. Funds advanced for this
20 purpose must be returned to the General Fund unappropriated
22 surplus from the first \$250,000 received by the State under Title
24 17, section 383.

26 Sec. 2. 7 MRSA §76 is enacted to read:

28 **§76. Agricultural Fair Support Fund**

30 **1. Fund created.** The Treasurer of State shall establish an
32 account to be known as the Agricultural Fair Support Fund and
34 shall credit to it all money received for that purpose under
36 Title 8, section 383, subsection 1, paragraph F.

38 **2. Disbursement.** No later than January 31st of each year
40 all funds held as of the end of the previous calendar year in the
42 Agricultural Fair Support Fund must be distributed by the
44 Treasurer of State as follows.

46 **A.** Forty-eight percent of these funds must be divided
48 equally among all entities licensed as agricultural fairs by
50 the department that during the previous year were licensed
to and did accept pari-mutuel wagers on harness horse
racers. The funds must be used by the fairs to improve their
fair facilities.

B. Forty-two percent must be divided equally among all
entities licensed as agricultural fairs by the department
that during the prior year did not accept pari-mutuel wagers
on horse races. The funds must be used by the fairs to
improve their fair facilities.

C. Ten percent must be distributed among entities licensed
by the department in the same propotion as money distributed
under section 62, except that no portion of the money may be
allocated for administrative expenses.

52 Sec. 3. 8 MRSA §264, last ¶, as enacted by PL 1991, c. 579, §6,
54 is repealed.

2 **Sec. 4. 8 MRSA §275-N**, as enacted by PL 1993, c. 707, Pt. U,
§2, is amended to read:

4 **§275-N. Limitations on off-track betting facilities**

6 During any fiscal year, an off-track betting facility may
8 not be licensed for operation unless at least one commercial
track is licensed and has been awarded at least 120 race dates
10 under the provisions of section 271. Pari-mutuel facilities may
12 not be licensed to operate video lottery terminals under chapter
14 16 for any year during which the total number of race dates
assigned under section 271 is less than 300 nor in any year
immediately following a year in which the total number of days
actually raced is less than 220.

16 **Sec. 5. 17 MRSA §348** is enacted to read:

18 **§348. Applicability**

20 Except as expressly provided in chapter 16, this chapter
22 does not apply to video lottery terminals.

24 **Sec. 6. 17 MRSA c. 16** is enacted to read:

26 **CHAPTER 16**

28 **VIDEO LOTTERY TERMINALS**

30 **SUBCHAPTER I**

32 **GENERAL PROVISIONS**

34 **§361. Definitions**

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

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

46 2. Commission. "Commission" means the State Harness Racing
48 Commission.

50 3. Commission chair. "Commission chair" means the chair of
the State Harness Racing Commission.

2 **4. Formal charging instrument.** "Formal charging
4 instrument" means a complaint, indictment, information, juvenile
 petition or other formal written accusation against a person for
6 some criminal or juvenile offense.

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

10 **6. Licensee.** "Licensee" means a person licensed by the
12 State Harness Racing Commission to operate a video lottery
 terminal.

14 **7. Net terminal income.** "Net terminal income" means money
16 inserted into a video lottery terminal minus credits paid out in
 cash.

18 **8. Operate.** "Operate" means to offer for public use.

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

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

30 **11. Person.** "Person" means an individual, corporation,
 association or partnership.

32 **12. Reckless or negligent conduct.** "Reckless or negligent
34 conduct" means that the applicant, either consciously
 disregarding or failing to be aware of a risk that the
36 applicant's conduct would cause such a result, engaged in conduct
 that in fact created a substantial risk of death, serious bodily
38 injury or bodily injury to another human being and the
 applicant's disregard or failure to be aware of that risk, when
40 viewed in light of the nature and purpose of the applicant's
 conduct and the circumstances known to the applicant, involved a
42 deviation from the standard of conduct that a reasonable and
 prudent person would observe in the same situation.

44 **13. Uniform location agreement.** "Uniform location
46 agreement" means a written agreement between a licensee and a
 video lottery terminal distributor that governs the terms and
48 conditions of the placement of video lottery terminals on the
 premises of the licensee.

2 14. Video lottery terminal. "Video lottery terminal" means
3 a machine that, upon insertion of coin or currency, is available
4 to play or simulate the play of a video game authorized by the
5 commission, including but not limited to poker, keno, blackjack
6 and line games utilizing a video display and microprocessor in
7 which by chance the player may receive free games or credits that
8 may be redeemed for cash. "Video lottery terminal" does not
include a machine that directly dispenses coins, cash or tokens.

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

14 16. Video lottery terminal manufacturer. "Video lottery
15 terminal manufacturer" means a person who manufactures video
16 lottery terminals or associated equipment for distribution in
17 this State.

18 17. Video lottery terminal wholesaler. "Video lottery
19 terminal wholesaler," or "wholesaler," means a person who sells
20 video lottery terminals or associated equipment for distribution
21 in this State.

22 **§362. License required**

23 A person may not manufacture, distribute, sell, operate or
24 place a video lottery terminal for use in this State unless the
25 person is licensed to do so by the commission. A person may not
26 place for public use or operate a video lottery terminal in this
27 State unless the machine is registered with the commission.

28 **§363. Administration and enforcement**

29 The commission shall administer and enforce the provisions
30 of this chapter as specified in this chapter.

31 **§364. Powers and duties of commission**

32 1. Powers. In addition to powers conferred by any other
33 provision of law, the commission may:

34 A. Adopt rules necessary to administer and enforce this
35 chapter, including rules necessary to ensure compliance with
36 the requirements of this chapter;

37 B. In any investigation conducted under this chapter, issue
38 to persons licensed under this chapter subpoenas to compel
39 the attendance of witnesses and the production of evidence
40 relevant to any fact at issue; and

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

12 **2. Duties.** The commission shall:

14 A. Investigate or cause to be investigated all complaints
16 of violations of this chapter or the rules adopted under
 this chapter;

18 B. Disable or cause to be disabled any video lottery
 terminal if the commission determines that:

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

22 (2) The funds from the terminal have not been
24 distributed, deposited or allocated in accordance with
 section 383; and

26 (3) The terminal does not meet the registration
28 requirements of this chapter;

30 C. Develop, install and test an on-line real-time central
32 computer system with continuous polling to all licensed
 video lottery terminal locations and terminals to provide
 auditing program information;

34 D. Maintain and monitor the central computer system to
36 ensure compliance with this chapter;

38 E. Attempt to determine the cause of any video lottery
40 terminal malfunction detected by the central computer system
42 and investigate any suspected tampering with a video lottery
 terminal or any other violation of this chapter or the rules
 adopted under this chapter;

44 F. Certify monthly to the Treasurer of State and the
46 Commissioner of Administrative and Financial Services a full
48 and complete statement of all video lottery terminal
 revenue, credits disbursed by licensees, administrative
 expenses and the allocation of net terminal income for the
 preceding month;

50

2 the complete and sole agreement between the licensee and the
3 distributor regarding video lottery terminals. No other
4 agreement between the licensee and the distributor is legally
5 binding.

6 **§372. Registration of terminals**

8 **1. Registration required.** A video lottery terminal may not
9 be placed for public use or operated in this State unless the
10 terminal is registered with the commission, the operator is
11 licensed by the commission and the distributor of the machine is
12 licensed either under section 371 or 373. The registration must
13 be prominently displayed on the terminal. Language describing
14 the odds of winning the game and warning of the danger of
15 compulsive gambling must also be prominently displayed on the
16 terminal.

18 **2. Requirements for registration.** To be registered, a
19 video lottery terminal:

20 A. May only offer games permitted by the commission;

22

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

26 C. Must have one or more mechanisms that accept coin or
27 cash in the form of bills and that are designed to prevent a
28 person from obtaining credits without paying;

30 D. Must be designed to suspend operation until reset if a
31 person attempts, by physical or other tampering, to obtain
32 credits without paying;

34 E. Must have nonresettable meters housed in a readily
35 accessible locked terminal area that keep a permanent record
36 of all cash inserted into the terminal, credits awarded by
37 the terminal, credits played for video games and credits
38 distributed by tickets made by the terminal's printer;

40 F. Must be capable of distributing tokens or printing a
41 ticket voucher stating the value of the credits for the
42 player at the end of play; the time of day in 24-hour format
43 showing hours and minutes; the date; the terminal's serial
44 number; the sequential number of the ticket vouchers; and an
45 encrypted validation number from which the validity of the
46 credits may be determined;

48 G. Must have accounting software that keeps an electronic
49 record of information that includes, but is not limited to,
50 the following: total cash inserted into the terminal; total

2 credits or tokens awarded by the terminal, total credits
4 played for video games and total credits distributed by
6 tickets made by the terminal's printer; and the payback
8 percentage of each video game; and

10 H. Must be linked to the on-line central communications
12 system developed under section 365 to provide continuous
14 auditing program information.

16 **3. Payback value.** The payback value of each type of game
18 offered by each terminal must be at least 80%.

20 **4. Examination of prototypes.** The commission shall examine
22 prototypes of video lottery terminals and associated equipment of
24 manufacturers seeking a license as required in this chapter. The
26 commission shall require the manufacturer seeking the examination
28 and approval of the video lottery terminal or associated
30 equipment to pay the anticipated actual cost of the examination
32 before the examination occurs. After the examination occurs, the
34 commission shall refund overpayments or charge and collect
36 amounts sufficient to reimburse the commission for underpayments
38 of actual cost. The commission may contract for the examinations
40 of video lottery terminals and associated equipment as required
42 by this section.

26 **§373. Licensing of manufacturer, distributor, wholesaler**

28 **1. Qualifications.** A person may be licensed by the
30 commission as a video lottery terminal manufacturer, distributor
32 or wholesaler if the person meets the following qualifications:

34 A. Is of good moral character;

36 B. Has not been convicted of a crime punishable by one year
38 or more of imprisonment in any jurisdiction, unless at least
40 10 years have passed since satisfactory completion of the
42 sentence or probation imposed by the court for the crime;

44 C. Has not been convicted of a violation of this chapter or
46 chapter 14;

48 D. Is not a fugitive from justice, a drug abuser, a drug
50 addict, a drug-dependent person, an illegal alien or a
52 person who was dishonorably discharged from the military
54 forces within 5 years prior to the date of application;

56 E. Has completed the application form and complied with the
58 requirements of section 374;

2 F. Has sufficient financial assets to meet any financial
 obligations imposed by this chapter; and

4 G. Has not knowingly made a false statement of material
 fact in applying for a license under this chapter or chapter
6 14.

8 2. Requirement for license. A person may not manufacture
 for distribution in or to the State and may not distribute in the
10 State or own in the State any video lottery terminal unless the
 person is licensed under this section or section 371.

12 §374. Applications

14 1. Form. An application for a license required under this
16 chapter, except for a license to operate under section 371, must
 be on the form provided by the commission. The application must
18 contain, but is not limited to, the following information
 regarding the individual applicant and each officer, director,
20 partner or owner of any interest in a corporation, partnership or
 association applying for a license:

22 A. Full name;

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

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

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

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

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

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

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

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

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

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

8
10 **2. Signature as certification.** The applicant, by affixing
the applicant's signature to the application, certifies the
following:

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

14 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;

16 C. That the applicant understands that the answers to
questions in subsection 1, paragraph D are used in judging
good moral character and an affirmative answer to one or
more of those questions may be cause for refusal to issue a
license; and

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

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32 **§375. Fees; term of license; transferability**

34 1. Fees. The annual fee for a license issued under this
chapter is as follows:

36 A. A license for a video lottery terminal manufacturer is
\$5,000;

38 B. A license for a video lottery terminal wholesaler is
\$5,000; and

40 C. A license for a video lottery terminal distributor is
\$5,000.

42
44
46 In addition to the annual license fee, the commission 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

2 fees collected pursuant to this section must be deposited
3 directly to the General Fund.

4 2. Term of license. All licenses issued by the commission
5 under this chapter are effective for one year and are renewable
6 annually, unless sooner revoked pursuant to section 376.

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

9
10 **§376. Actions relating to licenses**

11 1. Suspension or revocation of license; refusal to renew.
12 The commission may refuse to renew a license issued under this
13 chapter after a hearing in accordance with the Maine
14 Administrative Procedure Act. For a violation of any provision
15 of this chapter or any rule adopted pursuant to this chapter, the
16 commission may suspend a license issued under this chapter for a
17 period of up to 180 days. The Administrative Court may suspend
18 or revoke a license issued under this chapter for the following
19 reasons:

20
21 A. The person made or caused to be made a false statement
22 of material fact in obtaining a license under this chapter
23 or in connection with service rendered within the scope of
24 the license issued;

25 B. The person or the person's agent violated any provision
26 of this chapter or any rule adopted under this chapter; or

27 C. The holder of a license under this chapter becomes
28 ineligible to hold that license.

29
30
31 The commission may not suspend a license unless the commission
32 receives a written statement made under oath from a law
33 enforcement officer establishing probable cause for the
34 suspension. The commission shall immediately notify the licensee
35 in writing of the suspension and the date the suspension is to
36 take effect. If the licensee wishes to have a hearing, the
37 licensee must notify the Administrative Court in writing within
38 20 days of the date of the suspension. If a hearing is
39 requested, the license remains in effect pending the outcome of
40 the hearing.

41
42 2. Ineligibility period following refusal to issue or renew
43 or revocation of license. A person may not apply to the
44 commission for any license under this chapter, except a license
45 to operate under section 371, within 2 years after the commission
46 refused to issue or renew a license under this chapter or within
47

2 2 years after the Administrative Court revoked a license issued
2 to the person under this chapter.

4 **SUBCHAPTER III**

6 **TERMINAL OPERATION; ALLOCATION OF FUNDS**

8
10 **§381. Limits on terminal use**

12 1. Hours of play. A licensee that is licensed to serve
14 alcohol may not permit a person to play a video lottery terminal
16 at any time other than during the legal hours for the on-premises
consumption of liquor. A licensee that is not licensed to serve
liquor may permit a person to play a video lottery terminal only
between noon and 11 p.m.

18 2. Age of player. A licensee may not permit a person under
20 18 years of age to play a video lottery terminal.

22 3. Time and money limits imposed by licensee. A licensee
24 may impose a daily limit on the amount of time or money spent by
26 an individual playing the video lottery terminals on the
licensee's premises. Failure to do so is not grounds for
liability in a civil or criminal proceeding and is not admissable
in any such proceeding.

28 **§382. Payment of credits by licensee**

30 A licensee shall redeem credits for players who earn credits
32 on terminals located on the premises of that licensee, in
accordance with rules adopted by the commission.

34 **§383. Allocation of funds**

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

40 A. Forty percent must be sent to the commission of which
42 10% must be retained for administrative expenses and 30%
44 must be deposited to the General Fund;

46 B. Twenty-two percent must be paid to the distributor that
owns the machine;

48 C. Twenty-four percent must be paid to the licensee;

2 D. Nine percent must be sent to the commission to be used
4 to supplement harness racing purses and, at the times and in
6 the manner prescribed in section 275-I, subsection 3, must
8 be distributed by the commission to persons licensed under
10 Title 8, chapter 11 to conduct pari-mutuel races;

12 E. One percent must be sent to the commission and credited
14 by the commission to the Sire Stakes Fund created in Title
16 8, section 281;

18 F. Two percent must be paid to the commission and forwarded
20 by the commission to the Treasurer of State, who shall
22 credit the money to the Agricultural Fair Support Fund
24 provided for in Title 7, section 76; and

26 G. Two percent must be paid to the commission and
28 distributed in accordance with Title 8, section 275-J,
30 subsection 3.

32 2. Failure to deposit funds. A distributor who willfully
34 refuses to comply with this section commits a Class D crime. The
36 license of that person may be revoked by the Administrative Court
38 and the terminals to which the undeposited funds are attributable
40 may be disabled by the commission.

42 3. Late payments. All payments not remitted when due must
44 be paid together with a penalty assessment on the unpaid balance
46 at a rate of 1.5% per month.

48 **SUBCHAPTER IV**

50 **ENFORCEMENT AND PENALTIES**

§391. Reports; records

1 1. Reports; records. The commission chair shall require
3 from any licensed distributor, manufacturer, wholesaler or
5 licensee whatever records and reports the commission chair
7 considers necessary for the administration and enforcement of
9 this chapter.

11 2. Location. A license holder shall maintain all records
13 required by this chapter or by rules adopted under this chapter
15 at the primary business office within this State of the license
17 holder or on the premises where the video lottery terminal is
19 operated. In the case of a video lottery terminal manufacturer
21 or wholesaler, the records must be maintained at the primary
23 business office of the manufacturer or wholesaler. The primary
25 business office must be designated by the license holder in the

2 license application. All records must be open to inspection by
3 the commission.

4 **§392. Access to premises, equipment, records**

6 A person holding a license under this chapter shall permit
7 the commission or the commission's designee to inspect any
8 equipment, prizes, records or items and materials used or to be
9 used in the operation of any video lottery terminal manufactured,
10 owned, distributed or operated by that person.

12 **§393. Contempt**

14 If a witness refuses to obey a subpoena issued by the
15 commission, the Attorney General may petition the Superior Court
16 in the county where the refusal occurred to find the witness in
17 contempt. The Attorney General shall cause to be served on the
18 witness an order requiring that witness to appear before the
19 Superior Court to show cause why that witness should not be
20 adjudged in contempt. The court shall, in a summary manner, hear
21 the evidence and, if it is such as to warrant the court to do so,
22 punish the witness in the same manner and to the same extent as
23 for contempt committed before the Superior Court or with
24 reference to the process of the Superior Court.

26 **§394. Violations**

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

30 A. Knowingly permitting a person under 18 years of age to
31 play a video lottery terminal licensed pursuant to this
32 chapter;

33 B. Knowingly permitting a person to play a video lottery
34 terminal licensed pursuant to this chapter at a time other
35 than during the hours for which play is permitted in
36 accordance with section 381; or

37 C. Permitting a visibly intoxicated person to play a video
38 lottery terminal.

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

41 A. Tampering with a video lottery terminal with intent to
42 interfere with the proper operation of that terminal; and

43

2 B. Manipulating or intending to manipulate the outcome,
3 payoff or operation of a video lottery terminal by physical
4 tampering or any other means.

6 **§395. Implementation**

8 A video lottery terminal may not be operated under this
9 chapter before August 1, 1995.

10 **Sec. 7. 25 MRSA §3902, sub-§4** is enacted to read:

12 **4. Notice of violation of video lottery law.** A liquor
13 enforcement officer who notices a violation of any provision of
14 Title 17, chapter 16 shall promptly notify the State Harness
15 Racing Commission of the violation.

18 **STATEMENT OF FACT**

20 This bill authorizes the operation at existing regulated
21 pari-mutuel facilities of video lottery terminals and establishes
22 the State's share of net terminal income at 40%.