

MAINE STATE LEGISLATURE

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**MAJORITY
LEGAL AND VETERANS AFFAIRS**

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1185, L.D. 1676, Bill, "An Act to Preserve Live Harness Racing in the State"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 7 MRSA §76 is enacted to read:

§76. Agricultural Fair Support Fund

1. Fund created. The Treasurer of State shall establish an account to be known as the "Agricultural Fair Support Fund" and shall credit to it all money received for that purpose under Title 17, section 383, subsection 1, paragraph F.

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

A. Forty-eight percent of these funds must be divided equally among all entities licensed as agricultural fairs by the department that during the previous year were licensed to and did accept pari-mutuel wagers on harness horse races. 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

COMMITTEE AMENDMENT

2 that during the prior year did not accept pari-mutuel wagers
3 on horse races. The funds must be used by the fairs to
4 improve their fair facilities.

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

10 Sec. 2. 8 MRSA §275-N, as amended by PL 1997, c. 528, §33, is
11 further amended to read:

12 **§275-N. Limitations on off-track betting facilities**

13 The commission may not allow interstate simulcasting or
14 license any off-track betting facility for any calendar year
15 unless during the preceding calendar year there were at least
16 150 race dates on which live racing was actually conducted at the
17 commercial tracks. Pari-mutuel facilities may not be licensed to
18 operate video gaming terminals under Title 17, chapter 16 for any
19 year during which the total number of race dates actually raced
20 the previous year at licensed commercial racetracks, as defined
21 in section 275-A, is less than 150. Interstate simulcasting must
22 always be allowed at any commercial track that conducted at least
23 136 race dates during the immediately preceding calendar year or
24 at an existing commercial track as defined in section 275-A,
25 subsection 1, paragraph B at which at least 35 race dates were
26 conducted during the immediately preceding year. For the
27 purposes of this section, any race date that the commission
28 determines was canceled due to a natural or other disaster must
29 be counted as a race date.

30 Sec. 3. 8 MRSA §279-B, sub-§3 is enacted to read:

31 **3. Notification.** The commission shall notify the Chief of
32 the State Police of the revocation or suspension by the
33 commission or the Administrative Court of a license to operate a
34 commercial racetrack or an off-track betting parlor.

35 Sec. 4. 8 MRSA §372, sub-§2, ¶I, as repealed and replaced by PL
36 1993, c. 349, §23, is amended to read:

37 I. Carry on a continuous study and investigation of the
38 lotteries throughout the State and the operation and
39 administration of similar laws that may be in effect in
40 other states or countries; and

41 Sec. 5. 8 MRSA §372, sub-§2, ¶J, as enacted by PL 1991, c. 780,
42 Pt. Y, §112, is amended to read:

J. Assign duties as necessary to a designee; and

Sec. 6. 8 MRSA §372, sub-§2, ¶K is enacted to read:

K. Carry out the duties assigned to the director under Title 17, chapter 16, including developing and maintaining a central computer system to monitor licensed video gaming terminals and coordinating and cooperating with the Chief of the State Police in implementing and enforcing that chapter.

Sec. 7. 8 MRSA §374, sub-§1, ¶L, as amended by PL 1997, c. 301, §1, is further amended to read:

L. The apportionment of the total annual revenue accruing from the sale of lottery tickets or shares and from all other sources for the payment of prizes to the holders of winning tickets or shares; for the payment of costs incurred in the operation and administration of the lotteries, including the expenses of the commission and the costs resulting from any contract or contracts entered into for promotional, advertising, consulting or operational services or for the purchase or lease of lottery equipment and materials; for the repayment of the money appropriated to the State Lottery Fund; and for transfer to the General Fund for distribution pursuant to section 387; and

Sec. 8. 8 MRSA §374, sub-§1, ¶M, as enacted by PL 1997, c. 301, §2, is amended to read:

M. The imprinting on all lottery tickets sold in the State of the overall odds of winning a prize for each game; and

Sec. 9. 8 MRSA §374, sub-§1, ¶N is enacted to read:

N. Rules to administer and enforce Title 17, chapter 16, which may be adopted jointly with the Chief of the State Police. These rules are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 10. 17 MRSA §348 is enacted to read:

§348. Applicability

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

Sec. 11. 17 MRSA c. 16 is enacted to read:

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CHAPTER 16

VIDEO GAMING 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 gaming terminal, including but not limited to integrated circuit chips, printed wired assemblies, printed wired boards, printing mechanisms, video display monitors and metering devices.

2. Director. "Director" means the Director of the Bureau of Alcoholic Beverages and Lottery Operations in the Department of Administrative and Financial Services.

3. Drug abuser. "Drug abuser" has the same meaning as set forth in Title 5, section 20003, subsection 10.

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

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

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

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

2 8. Fugitive from justice. "Fugitive from justice" means a
3 person described in Title 15, section 201, subsection 4 or 18
4 United States Code, Section 921, Subsection (a), Paragraph 15 or
5 a person subject to an outstanding warrant of arrest in this
6 State or any other jurisdiction for a crime punishable by
7 imprisonment for one year or longer.

8
9 9. Illegal gaming machine. "Illegal gaming machine" or
10 "illegal machine" means a machine as defined in section 330 that:

11 A. Is required to be licensed under this chapter, but is
12 not so licensed;

13 B. Is required to be licensed under chapter 14, but is not
14 so licensed; or

15 C. Is licensed under either chapter 14 or this chapter, but
16 is being operated in a manner that violates the license.

17
18 10. Licensee. "Licensee" means a person licensed by the
19 Chief of the State Police to operate a video gaming terminal.

20
21 11. Net terminal income. "Net terminal income" means money
22 inserted into a video gaming terminal minus credits paid out in
23 cash.

24 12. Operate. "Operate" means to offer for use.

25 13. Payback value. "Payback value" means the value of
26 credits granted to players by a video gaming terminal compared to
27 the value of money inserted into the terminal by players,
28 calculated on an annual basis.

29 14. Person. "Person" means an individual, corporation,
30 association or partnership.

31 15. Uniform location agreement. "Uniform location
32 agreement" means a written agreement between a licensee and a
33 video gaming terminal distributor that governs the terms and
34 conditions of the placement of video gaming terminals on the
35 premises of the licensee and that is on a form developed by the
36 Chief of the State Police.

37 16. Video gaming terminal. "Video gaming terminal" means a
38 machine that, upon insertion of coin or currency, is available to
39 play or simulate the play of a video game authorized by the Chief
40 of the State Police, including but not limited to poker, keno,
41 blackjack and line games utilizing a video display and
42 audio.

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microprocessor, in which by chance the player may receive free games or credits that may be redeemed for cash.

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

18. Video gaming terminal manufacturer. "Video gaming terminal manufacturer" means a person who assembles or produces video gaming terminals or associated equipment for sale or use in this State.

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

§362. License required

A person may not manufacture, distribute, sell, operate or place a video gaming 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 use or operate a video gaming terminal in this State unless the machine is licensed by the Chief of the State Police.

§363. Administration and enforcement

The Chief of the State Police and the director shall administer and enforce the provisions of this chapter as specified in 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 gaming terminals;

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

C. Adopt rules necessary to administer and enforce this chapter, including the power to jointly adopt rules with the State Lottery Commission. These rules are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A;

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

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

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

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

14 B. Adopt rules, which are routine technical rules pursuant
15 to Title 5, chapter 375, subchapter II-A, to prevent
16 undesirable conduct relating to the operation of video
17 gaming terminals, including the following:

18 (1) The practice of any fraud or deception upon a
19 player of a video gaming terminal;

22 (2) The presence of a video gaming terminal in or at
23 premises that may be unsafe due to fire hazard or other
24 such conditions;

26 (3) The use of obscene advertising;

28 (4) The solicitation on a public way of persons to
29 play video gaming terminals;

32 (5) The infiltration of organized crime into the
33 operation of video gaming terminals or into the
34 distribution of the terminals;

36 (6) The presence of disorderly persons in a location
37 where video gaming terminals are in use; and

38 (7) The use of the word "casino" to describe any video
39 gaming terminal licensed under this chapter or as the
40 name or any part of the name of the licensed premises
41 or of a portion of the premises where the video gaming
42 terminal is located;

44 C. Direct the director to disable any video gaming terminal
45 if the Chief of the State Police has reason to believe that:

46 (1) A person has illegally tampered with the terminal;
47
48

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

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

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

D. In accordance with the Maine Administrative Procedure Act develop industry standards for uniform location agreements to be used as the basis of agreements between distributors and licensees.

§365. Powers and duties of director

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

A. Propose to the State Lottery Commission for adoption rules necessary to administer and enforce this chapter, including rules to be adopted jointly with the Chief of the State Police. These rules are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A; and

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

2. Duties. The director shall:

A. Develop, install and test a central computer system with continuous on-line polling to all licensed video gaming terminals to provide auditing program information. The communications system may not limit participation to only one manufacturer of video gaming terminals by either the cost in implementing the necessary program modifications to communicate or the inability to communicate with the central communications system;

B. Maintain and monitor the central computer system to ensure compliance with this chapter;

2 C. Attempt to determine the cause of any video gaming
4 terminal malfunction detected by the central computer system
6 and notify the Chief of the State Police of any suspected
tampering with a video gaming terminal or any other
violation of this chapter or the rules adopted under this
chapter;

8 D. Cause the central computer system to disable a video
10 gaming terminal as directed by the Chief of the State Police
in accordance with section 364;

12 E. Collect funds due the State under section 383 and
14 deposit them in the Video Gaming Fund established in section
384;

16 F. Immediately notify the Chief of the State Police of the
18 failure of any distributor to comply with section 383;

20 G. Certify monthly to the Treasurer of State, the State
22 Lottery Commission and the Commissioner of Administrative
24 and Financial Services a full and complete statement of all
video gaming terminal revenue, credits disbursed by
licensees, administrative expenses and the allocation of net
terminal income for the preceding month;

26 H. Submit by January 15th an annual report to the Governor
28 and the joint standing committee of the Legislature having
30 jurisdiction over gaming matters. The report must include
information on video gaming terminal revenue, credits
disbursed by licensees, administrative expenses and the
allocation of net terminal income for the preceding year;

32 I. Prepare and submit to the Commissioner of Administrative
34 and Financial Services a budget for the program's
36 administration; and

38 J. Cooperate with the Chief of the State Police in
implementing and enforcing the provisions of this chapter.

40 **§366. Applicability of chapter 14**

42 Except as expressly provided in this chapter, chapter 14
44 does not apply to video gaming terminals.

46 **SUBCHAPTER II**

48 **LICENSING**

§371. License to operate

1. Eligible entities. The Chief of the State Police may issue a license to operate video gaming terminals to a person who is licensed under Title 8, chapter 11 to operate a commercial racetrack or an off-track betting facility. The license must specify the maximum number of video gaming terminals that the licensee may operate on its premises. Licensees may operate video gaming terminals only on days and at locations for which they are licensed to accept pari-mutuel wagers.

2. Qualifications for license. A person may be issued a license to operate a video gaming terminal if the person is eligible for a license under subsection 1, has sufficient financial assets to meet the financial obligations imposed by this chapter and a method acceptable to the Chief of the State Police for meeting those obligations and the individual and each officer, director or partner of the corporation, association or partnership:

A. Has not been convicted in Maine or any other jurisdiction of a misdemeanor crime of domestic violence, within the meaning of 18 United States Code, Section 921, Subsection (a), Paragraph (33);

B. Does not have a formal charging instrument pending in Maine or any other jurisdiction for a misdemeanor crime of domestic violence, within the meaning of 18 United States Code, Section 921, Subsection (a), Paragraph (33);

C. Has not been convicted in Maine or any other jurisdiction within the past 3 years of 3 or more crimes punishable by imprisonment for less than one year, if those convictions arose from different criminal episodes;

D. Has not engaged within the past 3 years in reckless or negligent conduct that is substantiated by information of record by a governmental entity;

E. Is current in payment of all taxes, interest and penalties owed to the State or to a municipality, excluding items under formal dispute or appeal pursuant to applicable statutes or ordinances;

F. Has not been involved in any criminal activity and has not been convicted 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;

2 G. Has not been convicted of a violation of this chapter or
chapter 14 or of equivalent laws in any other state;

4 H. Has not been adjudicated within the past 3 years of
having committed a juvenile offense involving conduct that,
6 if committed by an adult, would cause the Chief of the State
Police to refuse to approve a license application under this
8 section;

10 I. Is not a fugitive from justice, a drug abuser, a drug
addict, a drug-dependent person, an illegal alien or a
12 person who was discharged from the Armed Forces under
dishonorable conditions within 3 years prior to the date of
14 application;

16 J. Has completed the application form and complied with the
requirements of section 375; and

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

22 3. Local approval of application for license. The Chief of
24 the State Police may not issue a license to operate a video
gaming terminal until the initial application for the license is
26 first approved by the municipal officers of the municipality in
which the applicant's premises are located or, if the premises
28 are located in an unincorporated place, until the application is
approved by the county commissioners of the county in which the
30 unincorporated place is located. This local approval requirement
does not apply to persons who were licensed to operate a
32 commercial racetrack or off-track betting parlor on the effective
date of this chapter and whose license has not lapsed from that
34 date until the date of application under this chapter.

36 4. Hearing process. The municipal officers or, in the case
of an unincorporated place, the county commissioners of the
38 county in which the unincorporated place is located may hold a
public hearing for the consideration of the applications for new
40 video gaming terminal licenses. The municipal officers or county
commissioners may hold a public hearing for the consideration of
42 requests for renewal of licenses.

44 A. The Chief of the State Police shall prepare and supply
application forms.

46 B. The municipal officers or the county commissioners shall
48 provide, at the applicant's prepaid expense, public notice
of a hearing held under this section by causing a notice
50 stating the time and place of hearing to appear at least 6

2 consecutive days before the date of the hearing in a daily
3 newspaper having general circulation in the municipality
4 where the premises are located or 2 consecutive weeks before
5 the date of the hearing in a weekly newspaper having general
6 circulation in the municipality where the premises are
7 located.

8 C. In granting or denying an application, the municipal
9 officers or the county commissioners shall indicate the
10 reasons for their decision and provide a copy to the
11 applicant.

12 **§372. Placement and ownership of terminals**

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15 **1. Number of terminals; location.** No more than 250 video
16 gaming terminals may be placed on the premises of a licensed
17 commercial racetrack and no more than 50 video gaming terminals
18 may be placed on the premises of an off-track betting parlor. A
19 terminal may not be placed in any location other than the
20 premises of the licensee. A licensee must own or control the
21 premises on which a video gaming terminal is located. The
22 terminal area must be designed to permit the licensee or an agent
23 of the licensee to see and control the area at all times to
24 ensure compliance with the provisions of this chapter.

25
26 **2. Uniform location agreement.** Each location must be
27 subject to a uniform location agreement between the distributor
28 and the licensee. A copy of the agreement must be submitted to
29 the Chief of the State Police. The Chief of the State Police may
30 approve or disapprove any uniform location agreement. If the
31 uniform location agreement is disapproved, the Chief of the State
32 Police must provide written reasons for the denial. The uniform
33 location agreement is the complete and sole agreement between the
34 licensee and the distributor regarding video gaming terminals.
35 No other agreement between the licensee and the distributor is
36 legally binding.

37
38 **3. Appeal to commissioner.** Any distributor or licensee
39 denied approval of a uniform location agreement may appeal the
40 decision of the Chief of the State Police to the Commissioner of
41 Public Safety. The commissioner shall hold a hearing to include
42 the distributor, the licensee and the Chief of the State Police
43 or the chief's designee before rendering a decision on the
44 appeal. The commissioner shall render a decision within 30 days
45 of the hearing.

46
47 **4. Disclosure of other contracts and agreements.** A
48 distributor shall disclose to the Chief of the State Police any
49 other contracts or agreements that the distributor or a
50 subsidiary of the distributor has made with a licensee.

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2 5. Incentives prohibited. A distributor may not offer an
 4 incentive to a licensee to accept placement of a video gaming
 6 terminal on the premises of the licensee and a licensee may not
 8 solicit such an incentive. For purposes of this subsection,
 10 "incentive" means any consideration, including merchandise, a
 12 premium or bonus in cash or an advance payment of the licensee's
 share of net terminal income. "Incentive" does not include the
 licensee's share of net terminal income provided for in section
 383. A person who violates this subsection is guilty of a Class
 C crime and that person's license, if any, is revoked and the
 right to apply for a license under this chapter is precluded.

14 6. Ownership of terminals. A person may not place or
 16 operate a video gaming terminal for use in this State if the
 18 terminal is owned by a person other than a video gaming terminal
 20 distributor licensed under this chapter. A video gaming terminal
 distributor may not own more than 300 video gaming terminals
 licensed in this State or more than 15% of the total number of
 video gaming terminals licensed in this State, whichever is
 lesser.

§373. Licensing of terminals

24 1. License required. A video gaming terminal may not be
 26 placed for public use or operated in this State unless the
 28 terminal is licensed by the Chief of the State Police. The
 30 terminal license must be prominently displayed on the terminal.
 Language describing the odds of winning the game and warning of
 the danger of compulsive gambling must also be prominently
 displayed on the terminal.

32 2. Requirements for license. To be licensed, a video
 34 gaming terminal:

36 A. May offer only games permitted by the Chief of the State
 Police;

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

42 C. May not directly dispense coins, cash or tokens;

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

48 E. Must be designed to suspend operation until reset if a
 50 person attempts, by physical or other tampering, to obtain
 credits without paying;

2 F. Must have nonresettable meters housed in a readily
4 accessible locked terminal area that keep a permanent record
6 of all cash inserted into the terminal, credits awarded by
the terminal, credits played for video games and credits
distributed by tickets made by the terminal's printer;

8 G. Must be capable of printing a ticket voucher stating the
10 value of the credits for the player at the end of play; the
12 time of day in 24-hour format showing hours and minutes; the
14 date; the terminal's serial number; the sequential number of
the ticket vouchers; and an encrypted validation number from
which the validity of the credits may be determined;

16 H. Must have accounting software that keeps an electronic
18 record of information that includes, but is not limited to,
20 the following: total cash inserted into the terminal; total
22 credits awarded by the terminal, total credits played for
video games and total credits distributed by tickets made by
the terminal's printer; and the payback percentage of each
video game; and

24 I. Must be linked to the central communications system
26 developed under sections 364 and 365 to provide auditing
program information.

28 3. Amount of play; payback value. A video gaming terminal
30 may be played for a maximum of \$2 in a single game. A video
32 gaming terminal may not accept more than \$10 at a time. The
maximum prize awarded may not exceed the value of \$1,000. The
payback value of each type of game offered by each terminal must
be at least 90%.

34 4. Examination of prototypes. The Chief of the State
36 Police and the Attorney General shall examine prototypes of video
38 gaming terminals and associated equipment of manufacturers
40 seeking a license as required in this chapter. The Chief of the
42 State Police shall require the manufacturer seeking the
44 examination and approval of the video gaming terminal or
46 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
gaming terminals and associated equipment as required by this
section.

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2 5. Illegal gaming machine. An illegal gaming machine is
3 subject to seizure and forfeiture to the State pursuant to
4 sections 395 and 396.

6 §374. Licensing of manufacturer, distributor, wholesaler

8 1. Qualifications. To be licensed as a video gaming
9 terminal manufacturer, distributor or wholesaler, a person must
10 meet the qualifications set forth in section 371, subsection 2.
11 Employees of video gaming terminal distributors involved in
12 distribution, maintenance and service of video gaming terminals
13 must meet the qualifications set forth in section 371, subsection
14 2, paragraphs A, B, C, D, F, G, H and I.

16 2. Levels of license; prohibition against multiple
17 licenses. A person licensed as a video gaming terminal
18 manufacturer or wholesaler has a Level 1 license. A person
19 licensed as a video gaming terminal distributor has a Level 2
20 license. A licensee has a Level 3 license. A person may not
21 hold more than one level of license.

22 3. Limited multiple licenses. Notwithstanding subsection
23 2, an entity that is licensed under Title 8 to accept pari-mutuel
24 wagers on horse races and that holds a Level 3 license may
25 receive a Level 2 license, which must be limited to allow the
26 licensee to negotiate as a distributor directly with a
27 manufacturer or wholesaler for the acquisition of video gaming
28 terminals to be placed only at that licensee's facility. A
29 contract between a licensee and the manufacturer or wholesaler
30 may not provide for payments to the manufacturer or wholesaler
31 based on the funds generated by the video gaming terminals.

32 4. Limitation on ownership. A partnership, corporation,
33 person, individual partner or shareholder of more than 5% of a
34 corporation or an immediate family member of a person, individual
35 partner or shareholder of more than 5% of a corporation may not
36 have ownership interests in more than one distributor. For the
37 purposes of this subsection, "immediate family" means a spouse,
38 child, parent, stepchild or stepparent.

40 §375. Applications; investigation

42 1. Form. An application for a license required under this
43 chapter must be on the form provided by the Chief of the State
44 Police. The application must be signed by the individual
45 applicant or by a duly authorized officer of the partnership,
46 corporation or association applying for the license. The
47 application must contain, but is not limited to, the following
48 information regarding the individual applicant and each officer,

director, partner or owner of any interest in a corporation, partnership or association 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 or for a misdemeanor crime of domestic violence?"

(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 or would constitute a misdemeanor crime of domestic violence?"

(3) "Have you ever been convicted of a crime described in subparagraph (1) or 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 discharged from the Armed Services under dishonorable circumstances within the past 5 years?"

(7) "Are you an illegal alien?"

(8) "Have you been convicted within the past 3 years of 3 or more crimes punishable by imprisonment of less than one year?"

(9) "Have you been adjudged within the past 3 years to have committed 3 or more juvenile offenses involving conduct that, if committed by an adult, would be punishable by imprisonment of less than one year?"

(10) "To your knowledge, have you engaged within the past 3 years in reckless or negligent conduct that is substantiated by the records of a governmental entity?"

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 is cause for refusal; and

C. 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 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 all accounts and records in the applicant's possession, under the applicant's control or under the control of 3rd parties but accessible by consent of the applicant, and must 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 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 is 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.

This requirement 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.

4. Investigations; national criminal history record check. Any individual applying for a license, any partner of a

2 partnership or any officer, director or holder of any ownership
 4 interest of a corporation or association applying for a license
 6 as a licensee, manufacturer, distributor or wholesaler must
 8 submit to a background investigation by the Chief of the State
 10 Police to verify the applicant's compliance with the requirements
 12 of section 371, subsection 2. In order to determine the
eligibility of an applicant for a license under this chapter, the
Chief of the State Police shall require the applicant to furnish
a full set of fingerprints to enable a criminal background
investigation to be conducted. The Chief of the State Police
shall submit the fingerprints to the Federal Bureau of
Investigation for a national criminal history record check.

14 5. Notification of municipal officers. An applicant for a
 16 license to operate a video gaming terminal must send a copy of
 18 the application to the officers of the municipality in which the
 20 terminal will be operated. The applicant must certify in the
application that the copy has been sent and must list the names
and addresses of the persons to whom the copy was sent.

22 **§376. Fees; term of license; transferability**

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

26 A. A license for a video gaming terminal manufacturer is a
 28 Level 1 license and the fee for a video gaming terminal
manufacturer license is \$5,000;

30 B. A license for a video gaming terminal wholesaler is a
 32 Level 1 license and the fee for a video gaming terminal
wholesaler license is \$5,000;

34 C. A license for a video gaming terminal distributor is a
 36 Level 2 license and the fee for a video gaming terminal
distributor license is \$2,500; and

38 D. A license to operate a video gaming terminal is a Level
 40 3 license and the fee for a video gaming terminal operator
is \$100 per terminal.

42 In addition to the annual license fee, the Chief of the State
 44 Police may charge a one-time application fee for a license issued
 46 under this chapter 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 deposited directly to the Video Gaming Fund.

48 2. Term of license. All licenses issued by the Chief of
 50 the State Police under this chapter are effective for one year

and are renewable annually, unless sooner revoked pursuant to section 377.

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

§377. Actions relating to licenses

1. Refusal to renew license. The Chief of the State Police may refuse to renew a license for just cause, after a hearing in accordance with the Maine Administrative Procedure Act.

2. Suspension of license by the Chief of the State Police. The Chief of the State Police may suspend a license issued under this chapter, for just cause, for a period of up to 180 days. The license may be suspended under this subsection only if 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 licensee in writing of the suspension and the date the suspension is to take effect. If the licensee wishes to have a hearing, the licensee must notify the Administrative Court in writing within 20 days of the date of the suspension. If a hearing is requested, the license remains suspended pending the outcome of the hearing.

3. Suspension or revocation of license by the Administrative Court. The Administrative Court may suspend or revoke a license issued under this chapter for just cause.

4. Just cause. As used in this section, "just cause" includes:

A. Making or causing 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. Violating or having an agent who violated any provision of this chapter or any rule adopted under this chapter; or

C. Becoming ineligible to hold that license.

5. Ineligibility period following refusal to issue or renew license or revocation of license. A person may not apply to the Chief of the State Police for any license under this chapter 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

TERMINAL OPERATION; ALLOCATION OF FUNDS

§381. Limits on terminal use

1. Days of play. A licensee may not allow a person to play a video gaming terminal on any day other than a day for which the facility is licensed to accept pari-mutuel wagers.

2. Age of player. A licensee may not permit a person under 18 years of age to play a video gaming 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 gaming terminals on the licensee's premises.

§382. Payment of credits by licensee

A licensee shall redeem credits for players who earn credits on terminals located on the premises of that licensee in accordance with rules adopted jointly by the Chief of the State Police and the director. If a person receives a credit redeemable for more than the amount required by federal law to be reported to the United States Internal Revenue Service, the licensee shall require the person to complete a form listing the person's name, address and social security number. The licensee shall promptly send the form to the Bureau of Revenue Services.

§383. Allocation of funds

1. Distributor responsible. A video gaming terminal distributor shall collect and allocate funds from video gaming terminals owned by the distributor in accordance with this section.

2. Allocation of net terminal income. Funds must be allocated as follows:

A. Forty percent must be sent to the Treasurer of State for deposit in the Video Gaming Fund created in section 384;

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

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

2 D. Nine percent must be sent to the State Harness Racing
3 Commission to be used to supplement harness racing purses
4 and, at the times and in the manner prescribed in Title 8,
5 section 290, must be distributed by the commission to
6 persons licensed under Title 8, chapter 11 to conduct
7 pari-mutuel races;

8 E. One percent must be sent to the State Harness Racing
9 Commission and credited by the commission to the Sire Stakes
10 Fund created in Title 8, section 281;

11 F. Two percent must be paid to the State Harness Racing
12 Commission and credited by the commission to the
13 Agricultural Fair Support Fund provided for in Title 7,
14 section 76; and

15 G. Two percent must be paid to the State Harness Racing
16 Commission and credited by the commission to the Harness
17 Racing Promotional Fund created in Title 8, section 285.

18 3. Priority of payment to State. If funds collected from a
19 video gaming terminal are not sufficient to pay the amounts due
20 the State, the distributor and the licensee, the distributor
21 shall reduce the amount allocated to the distributor, the
22 licensee or both. The distributor may not reduce the amount
23 allocated to the State.

24 4. Deposit of state funds. Each distributor shall maintain
25 a bank account accessible by the State for the deposit of funds
26 owed to the State under this chapter. The distributor shall
27 deposit in that account the State's share of the net terminal
28 income attributable to terminals owned by the distributor during
29 the first 15 days of each month not later than the 22nd day of
30 the month. The distributor shall deposit in that account the
31 State's share of net terminal income attributable to terminals
32 owned by the distributor between the 16th and the last day of
33 each month not later than the 7th day of the next month. If the
34 day on which funds must be deposited is not a business day, the
35 funds must be deposited on the next business day after that date.

36 5. Use of state share. At the end of each fiscal year
37 beginning after June 30, 1998, the Treasurer of State shall
38 transfer to the Local Government Fund created in Title 30-A,
39 section 5681 an amount equal to 15% of the state share of net
40 terminal income derived from video gaming terminals during that
41 fiscal year, net of state administrative costs. The State shall
42 spend 5% of the state share of net terminal income, net of state
43 administrative costs, for the treatment of compulsive gambling to
44 be offered by the Department of Mental Health, Mental Retardation
45 and Substance Abuse Services. Thirty days after the end of each
46 year.

2 fiscal year, the Treasurer of State shall transfer to the General
3 Fund all unexpended amounts of the previous fiscal year's
4 revenues to the Local Government Fund, except those needed to
5 fund 2 months of expenses for administering this chapter.

6 6. Failure to deposit funds. A distributor who willfully
7 fails to comply with this section commits a Class C crime. The
8 license of that person may be revoked by the Administrative Court
9 and the video gaming terminals to which the undeposited funds are
10 attributable may be disabled by the director at the direction of
11 the Chief of the State Police.

12 7. Late payments. All payments not remitted when due must
13 be paid together with a penalty assessment on the unpaid balance
14 at a rate of 1.5% per month.

15 **§384. Video Gaming Fund**

16
17 1. Fund created. There is created and established a
18 separate fund to be known as the Video Gaming Fund and to be
19 deposited in depositories the Treasurer of State selects. The
20 fund consists of all revenue payable to the State pursuant to
21 sections 376 and 383 and all other money credited or transferred
22 to the fund from any other fund or source pursuant to law.
23

24
25 2. Use of money. The money in the Video Gaming Fund may be
26 appropriated or allocated only:

27
28 A. For expenses incurred in implementing or enforcing this
29 chapter;
30

31
32 B. For payment to the Local Government Fund pursuant to
33 section 383; and
34

35 C. For payment to the General Fund.
36

37
38 3. Committee review of allocation. The Commissioner of
39 Administrative and Financial Services and the Commissioner of
40 Public Safety shall submit to the joint standing committee of the
41 Legislature having jurisdiction over gaming matters for review
42 all proposals for allocations from the Video Gaming Fund. The
43 proposed allocations for each fiscal year must be submitted by
44 January 1st preceding the start of the fiscal year.

45 **SUBCHAPTER IV**

46 **ENFORCEMENT AND PENALTIES**

47 **§391. Reports; records**

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49
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1. Reports; records. The Chief of the State Police or the director shall require from any licensed distributor, manufacturer, wholesaler or licensee whatever records and reports the chief or the director 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 the video gaming terminal is operated. In the case of a video gaming 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. All records must be open to inspection by the Chief of the State Police, the director or the designee of either of them and a license holder may not refuse the Chief of the State Police, the director or the designee of either of them 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 revocation of the license.

§392. Access to premises, equipment, records

A person holding a license under this chapter shall permit the Chief of the State Police or the chief's designee to inspect any equipment, prizes, records or items and materials used or to be used in the operation of any video gaming 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 the chief's 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, in a summary manner, hear the evidence and, if it is such as to warrant the court to do so, punish the witness in the same manner and to the

2 same extent as for contempt committed before the Superior Court
3 or with reference to the process of the Superior Court.

4 **§394. Violations**

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

8 A. Permitting a person under 18 years of age to play a
9 video gaming terminal licensed pursuant to this chapter;

10 B. Permitting a person to play a video gaming terminal
11 licensed pursuant to this chapter at a time other than a day
12 for which the licensee is licensed to accept pari-mutuel
13 wagers;

14 C. Extending credit to a person in order for the person to
15 play a video gaming terminal;

16 D. Permitting a person to use a credit card as a method of
17 payment for playing a video gaming terminal; and

18 E. Permitting a visibly intoxicated person to play a video
19 gaming terminal.

20 **2. Class C crimes by any person.** A person who performs any
21 of the following acts commits a Class C crime:

22 A. Tampering with a video gaming terminal with intent to
23 interfere with the proper operation of that terminal;

24 B. Manipulating or intending to manipulate the outcome,
25 payoff or operation of a video gaming terminal by physical
26 tampering or any other means;

27 C. Manufacturing, distributing, selling, operating or
28 placing a video gaming terminal for use in this State
29 without a license or manufacturing, distributing, selling,
30 operating or placing an illegal terminal for use in this
31 State; and

32 D. Placing for public use or operating an unlicensed video
33 gaming terminal in this State.

34 **3. Class D crimes by any person.** A person who violates any
35 provision of this chapter or any rule adopted under this chapter
36 for which a specific penalty is not provided commits a Class D
37 crime.

§395. Seizure and forfeiture of illegal gaming machines

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1. Forfeiture. An illegal gaming machine, including any monetary contents, is subject to forfeiture to the State.

2. Court jurisdiction. An illegal gaming machine and any monetary contents may be declared forfeited by any court that has jurisdiction over the illegal machine or final jurisdiction over any related criminal proceeding brought under this chapter or by the Superior Court for Kennebec County. Property subject to forfeiture may be kept or stored at any location within the territorial boundaries of the State and is subject to the authority of any court in which a petition seeking the forfeiture of that property is filed.

3. Procedure. Forfeitures under this section must be accomplished by the following procedure.

A. A district attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture of an illegal gaming machine and any monetary contents. The petition must be filed in the court having jurisdiction over the property.

B. The proceeding is an in rem civil action, in which the State has the burden of proving all material facts by a preponderance of the evidence.

C. The court shall order the State to give notice of the pendency of the action and the right to be heard by certified or registered mail or hand delivered by a deputy sheriff to any person who appears to have an interest in the illegal machine and any monetary contents. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Department of the Secretary of State, Bureau of Motor Vehicles.

D. The court shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition after an answer is filed by a person served with notice under paragraph C. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law.

E. Based on the findings and conclusions, the court shall issue a final order from which the parties have a right of appeal. The final order must provide for disposition of the illegal gaming machine and any monetary contents by the State. Any revenue generated by the disposition of the illegal machine and any monetary contents of the machine

2 must be used to pay the reasonable expenses of the
3 forfeiture proceedings, seizure, storage, maintenance of
4 custody, advertising and notice. The balance, if any, must
5 be deposited in the General Fund.

6 4. Records. Any law enforcement officer, department or
7 agency having custody of an illegal gaming machine or any
8 monetary contents of an illegal gaming machine, or having
9 disposed of the illegal gaming machine or any monetary contents,
10 shall keep and maintain during the pendency of the action full
11 and complete records in accordance with this subsection. Upon
12 issuance by the court of a final order ordering the disposition,
13 destruction or return of the illegal machine or the monetary
14 contents, the officer, department or agency shall transmit a copy
15 of those records to the Department of Public Safety for inclusion
16 into a centralized record.

17 A. The records must show:

- 18 (1) From whom the illegal machine and any monetary
- 19 contents were received;
- 20 (2) Under what authority the illegal machine and any
- 21 monetary contents are held, received or disposed of;
- 22 (3) To whom the illegal machine and any monetary
- 23 contents are delivered;
- 24 (4) The date and manner of destruction or disposition
- 25 of the illegal machine; and
- 26 (5) The exact kinds, quantities and forms of illegal
- 27 gaming machines and the exact amount of any monetary
- 28 contents of any machine held in custody or disposed of.

29 B. The records must be open to inspections by all federal

30 and state officers authorized by the laws of the United

31 States, a state or territory of the United States or a

32 foreign nation to investigate or prosecute gambling laws.

33 C. The Department of Public Safety is responsible for

34 maintaining a centralized record of illegal machines

35 seized. At least quarterly, the department shall provide a

36 report of the disposition of property previously held by the

37 department to the Commissioner of Administrative and

38 Financial Services and the legislative Office of Fiscal and

39 Program Review. These records must include an estimate of

40 the fair market value of items seized.

COMMITTEE AMENDMENT

2 5. Report to the court. Persons making final disposition
3 or destruction of an illegal gaming machine or its monetary
4 contents under court order shall report, under oath, to the court
5 the exact circumstances of the destruction or disposition.

6 6. Seizure. An illegal gaming machine together with any
7 monetary contents is contraband and may be seized by any law
8 enforcement officer pursuant to subsection 7 or 8.

10 7. Process for seizure. At the request of the State ex
11 parte, the court may issue any preliminary order or process
12 necessary to seize or secure the property for which forfeiture is
13 sought and provide for its custody.

14 A. Process for seizure of the property may issue only upon
15 a showing of probable cause. The application for process
16 for seizure of the property and the issuance, execution and
17 return of the process are subject to the provisions of
18 applicable state law.

19 B. Any property subject to forfeiture under this section
20 may be seized upon process.

21 8. Seizure without process. Seizure without process may be
22 made when seizure is incident to a legal search or inspection if
23 the law enforcement officer has probable cause to believe the
24 property seized is an illegal gaming machine.

25 **§396. Criminal forfeiture**

26 1. Forfeiture upon conviction of violation.
27 Notwithstanding any other provision of law, a person convicted of
28 a violation of this chapter forfeits to the State all rights,
29 privileges, interests and claims to property that is subject to
30 forfeiture pursuant to section 395. All rights, privileges,
31 interest and title in property subject to forfeiture under this
32 section vest in the State upon the commission of the act giving
33 rise to forfeiture pursuant to section 395.

34 2. Proceeding by indictment. Property subject to
35 forfeiture that is not yet the subject of a final order pursuant
36 to section 395 may be proceeded against by indictment or
37 superseding indictment of the grand jury in any related criminal
38 proceeding in which one or more persons with an interest in the
39 property have been simultaneously indicted for one or more
40 violations of this chapter. At any time prior to trial, the
41 State, with the consent of the court and any defendant with an
42 interest in the property, may file an ancillary charging
43 instrument or information alleging that that property is subject
44 to criminal forfeiture. Upon commencement of a criminal
45 proceeding, the State may file an ancillary charging instrument
46 or information alleging that that property is subject to criminal
47 forfeiture. Upon commencement of a criminal proceeding, the
48 State may file an ancillary charging instrument or information
49 alleging that that property is subject to criminal forfeiture.
50 Upon commencement of a criminal proceeding, the State may

2 forfeiture by indictment or information of any property that may
3 be the subject of any pending civil action commenced pursuant to
4 section 395, the civil action must be immediately stayed and
5 subrogated to the criminal forfeiture action. Discovery in the
6 criminal action must be as provided by the Maine Rules of
7 Criminal Procedure.

8 3. Seizure upon finding of probable cause. Property subject
9 to forfeiture that has not already been seized but has been
10 indicted by the grand jury pursuant to this section may also be
11 ordered seized based upon the grand jury's finding of probable
12 cause pursuant to section 395.

14 4. Trial against property. Trial against property charged
15 by indictment or information may be by jury and must be held in a
16 single proceeding together with the trial of the related criminal
17 violation. Forfeiture of the property must be proved by the
18 State by a preponderance of the evidence. The court, in its
19 discretion, may allow any defendant with an interest in property
20 indicted pursuant to this section to waive the right to trial by
21 jury as against the property while preserving the right to trial
22 by jury of any crime alleged. At trial by jury, the court, upon
23 motion of a defendant or the State, may separate the trial of the
24 matter against the defendant from the trial of the matter against
25 the property subject to criminal forfeiture. If the court
26 bifurcates the jury trial, the court shall first instruct and
27 submit to the jury the issue of the guilt or innocence of
28 defendants to be determined by proof beyond a reasonable doubt
29 and shall restrict argument of counsel to those issues. After a
30 verdict upon the guilt or innocence of all defendants, the court
31 shall instruct and submit to the jury the issue of the forfeiture
32 of the property to be determined by proof by a preponderance of
33 the evidence and the court shall restrict argument to those
34 issues. A special verdict must be returned as to the extent of
35 the interest in property subject to forfeiture, if any.

36 5. Person interested in forfeited property. A person not
37 charged in the indictment may not intervene in the criminal
38 action. Following the entry of a verdict of forfeiture of
39 property pursuant to this section or the entry of a guilty plea
40 in open court on the record, the State shall provide written
41 notice of its intent to dispose of the property to any person
42 known to have alleged an interest in the property. The notice
43 may be by certified, return receipt mail or as otherwise ordered
44 by the court. Receipt by a person then licensed to operate a
45 motor vehicle in the State is presumed when notice is mailed to
46 the last known address of that person on file with the Department
47 of the Secretary of State, Bureau of Motor Vehicles. A person
48 other than the defendant asserting a legal interest in the
49 property within 30 days of the date of receipt of the notice may
50 waive the right to be heard on the issue of the property.

petition the court for a hearing to adjudicate the validity of any alleged interest in the property. The hearing must be held before the court without jury. The request for the hearing must be signed by the petitioner under penalty of perjury and must state the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim and the relief sought. Upon the filing of any petition for hearing, the court shall schedule the hearing as soon as practicable, but in no event later than 6 months after the petition is filed or after the sentencing of any defendant convicted upon the same indictment. The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that:

A. The petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; and

B. The petitioner is a bona fide purchaser for value of the right, title or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section.

6. Title to property following forfeiture. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State has clear title to property that is the subject of the indictment or information and order of forfeiture and may order all or a portion of the property forfeited to the State to be disposed of pursuant to section 395.

§397. Payment to the Attorney General

As provided in Title 5, section 203, the Bureau of the State Police shall pay the Attorney General from the Video Gaming Fund for legal services provided pursuant to this chapter.

§398. Implementation

A video gaming terminal may not be operated under this chapter before April 1, 1999.

2 §399. Rules

4 Rules adopted pursuant to this chapter are routine technical
6 rules pursuant to Title 5, chapter 375, subchapter II-A.

8 **Sec. 12. 25 MRSA §3902, sub-§4** is enacted to read:

10 4. Notice of violation of video gaming terminal laws. A
12 liquor enforcement officer who notices a potential violation of
14 any provision of Title 17, chapter 16 shall promptly notify the
16 Chief of the State Police of the potential violation.

18 **Sec. 13. 28-A MRSA §1054, sub-§11, ¶C** is enacted to read:

20 C. A municipality may not combine a permit to operate a
22 video gaming terminal, as defined in Title 17, section 361,
24 with any other permit. The fee for a permit to operate a
26 video gaming terminal may not be higher than the fee for any
28 other special entertainment permit issued by the
30 municipality.

32 **Sec. 14. Working capital advances.** The State Controller is
34 authorized to advance from the General Fund Unappropriated
36 Surplus the following amounts to be used for any necessary
38 start-up costs associated with the implementation of a system of
40 video gaming terminals in the State pursuant to the Maine Revised
42 Statutes, Title 8, section 372, subsection 2 and Title 17,
44 chapter 16: \$283,500 to the Department of Administrative and
46 Financial Services, Bureau of Alcoholic Beverages and Lottery
48 Operations, Video Gaming Fund; and \$303,754 to the Department of
50 Public Safety, Bureau of State Police. Funds advanced for this
purpose must be returned to the General Fund Unappropriated
Surplus from the first \$587,254 received by the State under Title
17, section 383 after the reductions for the Local Government
Fund and for treatment of compulsive gambling required by Title
17, section 383, subsection 5.

Sec. 15. Allocation. The following funds are allocated from
the Video Gaming Fund to carry out the purposes of this Act.

1998-99

ADMINISTRATIVE AND FINANCIAL SERVICES,
DEPARTMENT OF

Bureau of Alcoholic Beverages
and Lottery Operations-
Video Gaming Terminals

R.S.

COMMITTEE AMENDMENT "A" to H.P. 1185, L.D. 1676

2	Positions - Legislative Count	(1,000)
	Personal Services	\$7,425
	All Other	276,075

4

6 Provides funds for one Clerk IV position and other costs necessary for administering the revenues collected for the Video Gaming Fund

8 from licensed video gaming terminals.

10 **DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

12 **TOTAL** \$283,500

14 **PUBLIC SAFETY, DEPARTMENT OF**

16 **State Police Gaming**

18	Positions - Legislative Count	(3,000)
	Personal Services	\$179,349
20	All Other	81,005
	Capital Expenditures	43,400

22

24 Provides funds for one State Police Lieutenant position, one State Police Detective position, one Clerk Typist III

26 position and general operating expenses required to carry out the enforcement

28 activities of this Act.

30 **DEPARTMENT OF PUBLIC SAFETY**

32 **TOTAL** \$303,754

34 **TOTAL ALLOCATIONS** \$587,254

36 **Sec. 16. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

38 **1998-99**

40 **AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

42 **Harness Racing Commission**

44	All Other	\$269,325
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46

48 Provides funds to supplement harness racing purses.

COMMITTEE AMENDMENT

Harness Racing Commission

2

All Other \$23,704

4

Provides funds for the Sire Stakes Fund.

6

Harness Racing Commission

8

All Other \$63,000

10

Provides funds for the Agricultural Fair Support Fund.

12

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

16

TOTAL \$356,029

HARNESS RACING PROMOTIONAL BOARD

Harness Racing Promotional Fund

22

All Other \$61,031

24

Provides funds for the Harness Racing Promotional Fund.

26

HARNESS RACING PROMOTIONAL BOARD

28

TOTAL \$61,031

MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES, DEPARTMENT OF

Compulsive Gambling Programs

36

All Other \$45,512

38

Provides funds for compulsive gambling programs.

40

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

44

TOTAL \$45,512

46

TREASURER, OFFICE OF THE

48

State-Municipal Revenue Sharing

50

COMMITTEE AMENDMENT "A" to H.P. 1185, L.D. 1676

2 All Other \$136,537

4 Allocates additional funds to the
6 state-municipal revenue sharing program
6 resulting from the Local Government Fund's
6 share of video gaming machine revenue.

8 **OFFICE OF THE TREASURER**
8 **TOTAL**

8 \$136,537

10 **TOTAL ALLOCATIONS**

10 \$599,109'

12 Further amend the bill by inserting at the end before the
14 summary the following:

16 **FISCAL NOTE**

18 **1998-99**

20 **APPROPRIATIONS/ALLOCATIONS**

22 Other Funds \$1,186,363

24 **REVENUES**

26 General Fund \$716,384
28 Other Funds 1,186,363

30
32 The State's share of the net terminal income from video
34 gaming machines to be deposited into the Video Gaming Fund is
36 estimated to be \$1,260,000 in fiscal year 1998-99, \$5,376,000 in
38 fiscal year 1999-2000 and \$5,712,000 in fiscal year 2000-01.
40 After funding the administrative and enforcement expenses,
42 providing funds for municipal revenue sharing and for compulsive
44 gambling treatment, transferring funds as dedicated revenue for
specific purposes and accounting for reductions in General Fund
revenue from pari-mutuel wagers, this bill will generate net
additional General Fund revenue of \$716,384 in fiscal year
1998-99, \$3,127,282 in fiscal year 1999-2000 and \$3,330,831 in
fiscal year 2000-01.

46 The components of these revenue estimates include projected
48 decreases in General Fund revenue from pari-mutuel wagers of
50 \$11,813, \$50,400 and \$53,550 in fiscal years 1998-99, 1999-2000
and 2000-01, respectively. These estimates also include Video
Gaming Fund revenue from license fees of \$237,500 in fiscal year
1998-99 and \$117,500 annually beginning in fiscal year

1999-2000. In addition to these revenues, a substantial but undeterminable amount of additional income tax revenue will result from the amounts distributed to machine distributors and operators and the expanded employment opportunities.

The bill authorizes a total working capital advance of \$587,254 to the Departments of Administrative and Financial Services and Public Safety from the General Fund Unappropriated Surplus. These advances must be repaid from the first \$587,254 collected by the State from video gaming machines after reductions for the Local Government Fund and compulsive gambling programs.

As a result of additional revenues generated by the Video Gaming Fund, the Local Government Fund will receive an additional \$136,537 in fiscal year 1998-99 for municipal revenue sharing. The estimated future increases in fiscal years 1999-2000 and 2000-01 will be approximately \$595,815 and \$634,571, respectively.

As an additional result of revenues generated by the Video Gaming Fund, the Department of Mental Health, Mental Retardation and Substance Abuse Services will require an initial Other Special Revenue allocation of \$45,512 in fiscal year 1998-99 to authorize expenditure of the net income designated for the treatment of compulsive gambling. The estimated future amounts set aside for this purpose in fiscal years 1999-2000 and 2000-01 will be approximately \$198,605 and \$211,524, respectively.

The Bureau of State Police within the Department of Public Safety will require an initial Other Special Revenue allocation from the Video Gaming Fund of \$303,754 in fiscal year 1998-99 for the costs of enforcing the use of licensed video gaming terminals. The estimated future costs in fiscal years 1999-2000 and 2000-01 will be approximately \$311,797 and \$313,824, respectively.

The Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services will require an initial Other Special Revenue allocation from the Video Gaming Fund of \$283,500 in fiscal year 1998-99 for the costs of administering the revenues collected for the Video Gaming Fund from licensed video gaming terminals. The estimated future costs in fiscal years 1999-2000 and 2000-01 will be approximately \$1,209,600 and \$1,285,200, respectively.

As another result of additional revenues generated by the Video Gaming Fund, the Harness Racing Commission within the Department of Agriculture, Food and Rural Resources will require net additional Other Special Revenue allocations totalling \$356,029 in fiscal year 1998-99 for the purpose of supplementing

2 harness racing purses, providing additional funds for the Sire
3 Stakes Fund and providing funds for the Agricultural Fair Support
4 Fund. The estimated future net amounts set aside for these
5 purposes in fiscal years 1999-2000 and 2000-01 will be
6 approximately \$1,519,056 and \$1,613,997, respectively.

7 As a final result of additional revenues generated by the
8 Video Gaming Fund, the Harness Racing Promotional Board will
9 require a net additional Other Special Revenue allocation of
10 \$61,031 in fiscal year 1998-99 for the Harness Racing Promotional
11 Fund. The estimated future net amounts set aside for this
12 purpose in fiscal years 1999-2000 and 2000-01 will be
13 approximately \$260,400 and \$276,675, respectively.

14 The Department of the Attorney General will incur some minor
15 additional costs to provide additional legal services to the
16 Bureau of State Police for its efforts to enforce the regulation
17 of licensed video gaming terminals. These costs can be absorbed
18 within the department's existing budgeted resources.

19 This bill may increase prosecutions for Class C crimes.
20 Sentences of more than 9 months imposed for Class C crimes must
21 be served in state correctional institutions. The cost to the
22 State per sentence is \$59,803 based upon an average length of
23 stay of 2 years and 3 months. The State also must reimburse
24 counties for sentences served in county jails of 9 months or less
25 for Class C crimes.

26 This bill may also increase prosecutions for Class D
27 crimes. If a jail sentence is imposed, the additional costs to
28 the counties are estimated to be \$86.45 per day per prisoner.
29 These costs are not reimbursed by the State. The number of
30 prosecutions that may result in a jail sentence and the resulting
31 costs to the county jail system are expected to be insignificant.

32 The Judicial Department may require additional General Fund
33 appropriations to cover indigent defense costs related to these
34 new cases. The amounts can not be estimated at this time. The
35 additional workload and administrative costs associated with the
36 minimal number of new cases filed in the court system can be
37 absorbed within the budgeted resources of the Judicial
38 Department. The collection of additional fines may also increase
39 General Fund revenue by minor amounts.'

44 45 46 SUMMARY

47 This amendment replaces the bill. It allows operation of
48 video gaming terminals at licensed commercial racetracks and
49 off-track betting parlors. Video gaming terminals and terminal
50

COMMITTEE AMENDMENT "A" to H.P. 1185, L.D. 1676

manufacturers, distributors, wholesalers and operators must be licensed by the Chief of the State Police, following background investigations of the applicants and their major business partners.

The license specifies the number of terminals allowed on a single location, and the maximum number of terminals allowed is 250 at a commercial racetrack and 50 at an off-track betting parlor. Terminals must be connected to a computer system operated by the Director of the State Lottery and providing for continuous on-line monitoring of video gaming machine activity. Persons under 18 are not allowed to use the machines. The maximum dollar amount for each play is \$2 and the maximum payout is \$1,000. Each game on each machine must return at least 90% of wagers to players, calculated on an annual basis.

A single distributor may not own more than 300 machines or 15% of the total number of machines in the State, whichever is less. A person may not hold more than one type of license, e.g., a distributor may not also be a licensee or a manufacturer, except that a licensee may hold a distributor license solely for the purpose of obtaining terminals from the manufacturer or wholesaler for placement on that licensee's premises.

Net terminal income, which is income after payback to players, is divided as follows: 40% to the State for payment of administrative expenses, municipal revenue sharing, compulsive gambling treatment and General Fund revenue; 22% to the distributor; 24% to the licensee; 9% to the State Harness Racing Commission to used for purse supplements; 1% to the Sire Stakes Fund; 2% to the Agricultural Fair Support Fund to be divided among all fairs as specified in the bill; and 2% to the Harness Racing Promotional Fund.

Licenses are issued for one year. Applicants for an initial license must pay the actual costs of processing the application and performing the background investigation. Terminal operation may not begin before April 1, 1999.

The amendment also adds allocation sections and a fiscal note to the bill.