

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

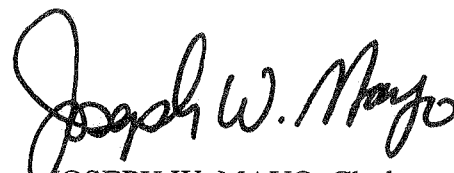
No. 1676

H.P. 1185

House of Representatives, March 26, 1997

An Act to Preserve Live Harness Racing in the State.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative SPEAR of Nobleboro.
Cosponsored by Senator NUTTING of Androscoggin and
Representatives: CHICK of Lebanon, LABRECQUE of Gorham, SAVAGE of Union, TRUE
of Fryeburg, VIGUE of Winslow.

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

2
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 17, chapter 16. Funds
18 advanced for this purpose must be returned to the General Fund
20 unappropriated surplus from the first \$250,000 received by the
22 State under Title 17, section 383.

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

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

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

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

44 **A.** Forty-eight percent of these funds must be divided
46 equally among all entities licensed as agricultural fairs by
48 the department that during the previous year were licensed
50 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
 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 proportion as money
 distributed under section 62, except that no portion of the
 money may be allocated for administrative expenses.

Sec. 3. 8 MRSA §275-N, as repealed and replaced by PL 1995,
c. 408, §14, is amended to read:

2 **§275-N. Limitations on off-track betting facilities**

4 The commission may not allow interstate simulcasting or
6 license any off-track betting facility for any calendar year
8 unless during the preceding calendar year there were at least
10 150 race dates on which live racing was actually conducted at the
12 commercial tracks. Pari-mutuel facilities may not be licensed to
14 operate video lottery terminals under Title 17, chapter 16 for
16 any year during which the total number of race dates actually
18 raced the previous year at licensed commercial racetracks, as
20 defined in section 275-A, is less than 150. Interstate
22 simulcasting must always be allowed at any commercial track that
24 conducted at least 136 race dates during the immediately
26 preceding calendar year or at an existing commercial track as
28 defined in section 275-A, subsection 1, paragraph B at which at
30 least 35 race dates were conducted during the immediately
32 preceding year. For the purposes of this section, any race date
34 that the commission determines was canceled due to a natural or
36 other disaster must be counted as a race date.

38 Beginning with licenses issued for calendar year 1996,
40 notwithstanding any other provision of this chapter, every
42 commercial track that is licensed for a specific calendar year
44 must be assigned all of the race dates that it requests for that
46 year if it conducted live racing on those dates during the
48 immediately preceding calendar year. For the purposes of this
50 section, a race date is the same from year to year if it is the
 closest calendar date that falls on the same day of the week.

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

§348. Applicability

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

Sec. 5. 17 MRSA c. 16 is enacted to read:

CHAPTER 16

VIDEO LOTTERY TERMINALS

SUBCHAPTER I

GENERAL PROVISIONS

§361. Definitions

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

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

14 2. Commission. "Commission" means the State Harness Racing
16 Commission.

18 3. Commission chair. "Commission chair" means the chair of
20 the State Harness Racing Commission.

22 4. Department. "Department" means the Department of
24 Agriculture, Food and Rural Resources.

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

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

38 7. Licensee. "Licensee" means a person licensed by the
40 State Harness Racing Commission to operate a video lottery
42 terminal.

44 8. Net terminal income. "Net terminal income" means money
46 inserted into a video lottery terminal minus credits paid out in
48 cash.

50 9. Operate. "Operate" means to offer for public use.

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

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

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

13. Reckless or negligent conduct. "Reckless or negligent
 conduct" means that the applicant, either consciously
 disregarding or failing to be aware of a risk that the

2 applicant's conduct would cause such a result, engaged in conduct
4 that in fact created a substantial risk of death, serious bodily
6 injury or bodily injury to another human being and the
8 applicant's disregard or failure to be aware of that risk, when
10 viewed in light of the nature and purpose of the applicant's
12 conduct and the circumstances known to the applicant, involved a
14 deviation from the standard of conduct that a reasonable and
16 prudent person would observe in the same situation.

10 14. Uniform location agreement. "Uniform location
12 agreement" means a written agreement between a licensee and a
14 video lottery terminal distributor that governs the terms and
16 conditions of the placement of video lottery terminals on the
18 premises of the licensee.

16 15. Video lottery terminal. "Video lottery terminal" means
18 a machine that, upon insertion of coin or currency, is available
20 to play or simulate the play of a video game authorized by the
22 commission, including but not limited to poker, keno, blackjack
24 and line games utilizing a video display and microprocessor in
26 which by chance the player may receive free games or credits that
28 may be redeemed for cash. "Video lottery terminal" does not
30 include a machine that directly dispenses coins, cash or tokens.

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

30 17. Video lottery terminal manufacturer. "Video lottery
32 terminal manufacturer" means a person who manufactures video
34 lottery terminals or associated equipment for distribution in
36 this State.

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

40 **§362. License required**

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

2 **§363. Administration and enforcement**

4 The department shall administer and the commission shall
6 enforce the provisions of this chapter as specified in this
8 chapter.

10 **§364. Powers and duties of the department**

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

16 A. Adopt rules necessary to administer and enforce this
18 chapter, including rules necessary to ensure compliance with
20 the requirements of this chapter;

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

30 C. Subject to any applicable laws relating to public
32 contracts, enter into a contract for performance of the
34 department's duties under this chapter. All contracts must
36 be awarded in accordance with rules adopted by the
38 Department of Administrative and Financial Services pursuant
40 to Title 5, chapters 141 to 145 and Title 5, sections 1812
42 and 1813. A contract awarded or entered into by the
44 department may not be assigned by the holder of the
46 contract, except by specific approval of the department.

48 2. Duties. The department or the commission shall:

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

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

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

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

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

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

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

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

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

22 G. Submit by February 15th an annual report to the Governor
 and the joint standing committee of the Legislature having
24 jurisdiction over legal affairs of video lottery terminal
 revenue, credits disbursed by licensees, administrative
26 expenses and the allocation of net terminal income for the
 preceding year.

28 **§365. Rulemaking**

30 Rules adopted pursuant to this chapter are routine technical
32 rules as defined by Title 5, chapter 375, subchapter II-A.

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

36 Except as expressly provided in this chapter, chapter 14
38 does not apply to video lottery terminals.

40 **SUBCHAPTER II**

42 **LICENSING**

44 **§371. License to operate**

46 1. Eligible persons. The commission may issue a license to
 operate video lottery terminals to any person who is licensed to
 operate a commercial racetrack or an off-track betting facility.
48 The license must specify the maximum number of video lottery
 terminals that the licensee may operate on its premises.

2 Licensees may operate video lottery terminals only on days and at
4 locations for which they are licensed to accept pari-mutuel
6 wagers.

8 2. Placement of terminals. Licensees shall install at
10 least 90% of their video lottery terminals in rooms that are
12 segregated for that purpose. Children under 18 years of age must
14 be excluded from those segregated rooms. Pari-mutuel wagers may
16 be accepted in the segregated rooms.

18 3. Uniform location agreement. Each video lottery terminal
20 is subject to a uniform location agreement between the
22 distributor and the licensee. A copy of the agreement must be
24 submitted to the commission. The uniform location agreement is
26 the complete and sole agreement between the licensee and the
28 distributor regarding video lottery terminals. No other
30 agreement between the licensee and the distributor is legally
32 binding.

33 §372. Registration of terminals

34 1. Registration required. A video lottery terminal may not
36 be placed for public use or operated in this State unless the
38 terminal is registered with the commission, the operator is
40 licensed by the commission and the distributor of the machine is
42 licensed either under section 371 or 373. The registration must
44 be prominently displayed on the terminal.

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

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

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

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

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

E. Must have nonresettable meters housed in a readily
accessible locked terminal area that keep a permanent record
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;

2 F. Must be capable of distributing tokens or printing a
4 ticket voucher stating the value of the credits for the
6 player at the end of play; the time of day in 24-hour format
8 showing hours and minutes; the 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;

10 G. Must have accounting software that keeps an electronic
12 record of information that includes, but is not limited to,
14 the following: total cash inserted into the terminal, total
16 credits or tokens 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

18 H. Must be linked to the on-line central communications
20 system developed under section 364 to provide continuous
 auditing program information.

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

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

38 §373. Licensing of manufacturer, distributor, wholesaler

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

44 A. Is of good moral character;

46 B. Has not been convicted of a crime punishable by one year
48 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 C. Has not been convicted of a violation of this chapter or
3 chapter 14;

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

8 E. Has completed the application form and complied with the
9 requirements of section 374;

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

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

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

19 §374. Applications

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

27 A. Full name;

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

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

31 D. Answers to the following questions posed in
32 substantially the following form.

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

37 (2) "Is there a formal charging instrument now pending
38 against you in this or any other jurisdiction for a

2 juvenile offense that involves conduct that, if
3 committed by an adult, would be punishable by
4 imprisonment for one year or more?"

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

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

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

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

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

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

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

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

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

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

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

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

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

2 B. A license for a video lottery terminal wholesaler is
3 \$5,000; and

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

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7 In addition to the annual license fee, the commission may charge
8 a one-time application fee for a license listed in paragraph A, B
9 or C in an amount equal to the actual cost of processing the
10 application and performing any background investigations. All
11 fees collected pursuant to this section must be deposited
12 directly to the General Fund.

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

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

19
20 §376. Actions relating to licenses

21 1. Suspension or revocation of license; refusal to renew.
22 The commission may refuse to renew a license issued under this
23 chapter after a hearing in accordance with the Maine
24 Administrative Procedure Act. For a violation of any provision
25 of this chapter or any rule adopted pursuant to this chapter, the
26 commission may suspend a license issued under this chapter for a
27 period of up to 180 days. The Administrative Court may suspend
28 or revoke a license issued under this chapter for the following
29 reasons:

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

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

37 C. The holder of a license under this chapter becomes
38 ineligible to hold that license.

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

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SUBCHAPTER III

TERMINAL OPERATION; ALLOCATION OF FUNDS

§381. Limits on terminal use

1. Hours of play. A licensee that is licensed to accept pari-mutuel wagers may operate video lottery terminals from 12 noon to 12 midnight Monday through Saturday and from 1:00 p.m. to 12 midnight on Sunday.

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

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

§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 by the commission.

§383. Allocation of funds

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

A. Forty percent must be sent to the commission of which 10% must be retained for administrative expenses and 30% must be deposited to the local government;

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

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

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

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§392. Access to premises, equipment, records

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

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§393. Contempt

If a witness refuses to obey a subpoena issued by the commission, 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 same extent as for contempt committed before the Superior Court or with reference to the process of the Superior Court.

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§394. Violations

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

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

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

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

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

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

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§395. Fines, suspensions and revocations

To enforce the provisions of this chapter and the rules referred to in section 364, subsection 1, paragraph A, the

2 commission is authorized to establish a schedule of fines not to
3 exceed \$1,000 for each violation of this chapter of the rules.
4 The commission is authorized to levy a fine, after notice and
5 hearing, for each violation of this chapter or the rules.

6 The commission is further authorized to establish a schedule
7 of suspensions of licenses and may levy suspensions for each
8 violation of this chapter or the rules.

10 Any person aggrieved by any fine or suspension imposed by
11 the commission may seek judicial review pursuant to the Maine
12 Administrative Procedure Act.

14 **§396. Implementation**

16 A video lottery terminal may not be operated under this
17 chapter before October 1, 1997.

18 **Sec. 6. 25 MRSA §3902, sub-§4** is enacted to read:

20 **4. Notice of violation of video lottery law.** A liquor
22 enforcement officer who notices a violation of any provision of
23 Title 17, chapter 16 shall promptly notify the State Harness
24 Racing Commission of the violation.

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SUMMARY

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