

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

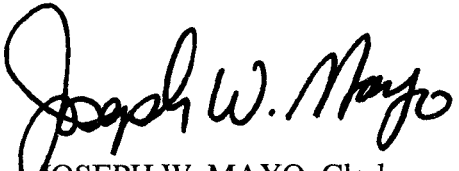
No. 2061

H.P. 1438

House of Representatives, March 25, 1999

An Act to Enhance Harness Racing in the State.

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


JOSEPH W. MAYO, Clerk

Presented by Representative TESSIER of Fairfield.

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

2
3 **Sec. 1. 5 MRSA §1590** is enacted to read:

4 **§1590. Working capital advances**

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

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

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

20 **1. Fund created.** The Treasurer of State shall establish an
22 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.

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

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

36 **B.** Forty-two percent of these funds must be divided equally
38 among all entities licensed as agricultural fairs by the
department that during the previous year did not accept
40 pari-mutuel wagers on harness horse races. The funds must
be used by the fairs to improve their facilities.

42 **C.** Ten percent of these funds must be divided among all
44 entities licensed as agricultural fairs by the department in
the same proportion as money distributed under section 62,
46 except that no portion of the money may be allocated for
administrative expenses.

48 **Sec. 3. 8 MRSA §275-N**, as amended by PL 1997, c. 528, §33, is
50 further 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 was were at least
10 150 race dates on which live racing was actually conducted at the
12 commercial tracks. If, during the previous year, the total
14 number of race dates of races that actually took place at
16 licensed commercial tracks, as defined in section 275-A, is less
18 than 150, then a pari-mutuel facility may not be licensed to
20 operate video lottery terminals under Title 17, chapter 16 for
22 the following year. Interstate simulcasting must always be
24 allowed at any commercial track that conducted at least 136 race
26 dates during the immediately preceding calendar year or at an
28 existing commercial track as defined in section 275-A, subsection
30 1, paragraph B at which at least 35 race dates were conducted
32 during the immediately preceding year. For the purposes of this
34 section, any race date that the commission determines was
36 canceled due to a natural or other disaster must be counted as a
38 race date.

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

42 **§348. Applicability**

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

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

50 **CHAPTER 16**

VIDEO LOTTERY TERMINALS

SUBCHAPTER I

GENERAL PROVISIONS

§361. Definitions

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

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

2 **2. Commission.** "Commission" means the State Harness Racing
Commission.

4 **3. Commission chair.** "Commission chair" means the Chair of
6 the State Harness Racing Commission.

8 **4. Department.** "Department" means the Department of
10 Agriculture, Food and Rural Resources.

12 **5. Formal charging instrument.** "Formal charging
14 instrument" means a complaint, indictment, information, juvenile
petition or other formal written accusation against a person for
a criminal or juvenile offense.

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

20 **7. Licensee.** "Licensee" means a person licensed by the
State Harness Racing Commission to operate a video lottery
terminal.

22 **8. Net terminal income.** "Net terminal income" means money
24 inserted into a video lottery terminal minus credits paid out in
cash.

26 **9. Operate.** "Operate" means to offer for public use.

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

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

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

40 **13. Reckless or negligent conduct.** "Reckless or negligent
42 conduct" means that the applicant, either consciously
disregarding or failing to be aware of a risk that the
44 applicant's conduct would cause, engaged in conduct that in fact
created a substantial risk of death, serious bodily injury or
46 bodily injury to another human being and the applicant's
disregard or failure to be aware of that risk, when viewed in
48 light of the nature and purpose of the applicant's conduct and
the circumstances known to the applicant, involved a deviation

2 from the standard of conduct that a reasonable and prudent person
3 would observe in the same situation.

4 14. Uniform location agreement. "Uniform location
5 agreement" means a written agreement between a licensee and a
6 video lottery terminal distributor that governs the terms and
7 conditions of the placement of video lottery terminals on the
8 premises of the licensee.

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

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

24 17. Video lottery terminal manufacturer. "Video lottery
25 terminal manufacturer" or "manufacturer" means a person who
26 manufactures video lottery terminals or associated equipment for
27 distribution in this State.

30 18. Video lottery terminal wholesaler. "Video lottery
31 terminal wholesaler" or "wholesaler" means a person who sells
32 video lottery terminals or associated equipment in this State.

34 **§362. License required**

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

42 **§363. Administration and enforcement**

44 The department shall administer and the commission shall
45 enforce the provisions of this chapter as specified in this
46 chapter.

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

50 1. Powers. The department may:

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

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

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

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

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

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

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

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

36 (3) The terminal does not meet the registration
38 requirements of section 372;

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

44 D. Maintain and monitor the on-line real-time central
 computer system to ensure compliance with this chapter;

46 E. Attempt to determine the cause of any video lottery
48 terminal malfunction detected by the on-line real-time
 central computer system and investigate any suspected
50 tampering with a video lottery terminal or any other

2 violation of this chapter or the rules adopted under this
3 chapter;

4 F. Submit monthly to the Treasurer of State and the
5 Commissioner of Administrative and Financial Services a
6 certified and complete statement of all video lottery
7 terminal revenue, credits disbursed by licensees,
8 administrative expenses and the allocation of net terminal
9 income for the preceding month; and

10
11 G. Submit by February 15th an annual report to the Governor
12 and the joint standing committee of the Legislature having
13 jurisdiction over legal affairs of video lottery terminal
14 revenue, credits disbursed by licensees, administrative
15 expenses and the allocation of net terminal income for the
16 preceding year.

17 **§365. Rulemaking**

18
19 Rules adopted pursuant to this chapter are routine technical
20 rules as defined by Title 5, chapter 375, subchapter II-A.

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

22
23 Except as expressly provided in this chapter, chapter 14
24 does not apply to video lottery terminals.

25
26
27 **SUBCHAPTER II**

28
29 **LICENSING**

30
31 **§371. License to operate**

32
33 1. Eligible persons. The commission may issue a license to
34 operate video lottery terminals to any person who is licensed to
35 operate a commercial racetrack or an off-track betting facility.
36 The license must specify the maximum number of video lottery
37 terminals that the licensee may operate on its premises.
38 Licensees may operate video lottery terminals only on days and at
39 locations for which they are licensed to accept pari-mutuel
40 wagers.

41
42 2. Placement of terminals. Licensees shall install at
43 least 90% of their video lottery terminals in rooms that are
44 segregated for that purpose. Children under 18 years of age must
45 be excluded from those segregated rooms. Pari-mutuel wagers may
46 be accepted in the segregated rooms.

47
48 3. Uniform location agreement. Each video lottery terminal
49 is subject to a uniform location agreement between the
50

2 distributor and the licensee. A copy of the agreement must be
3 submitted to the commission. The uniform location agreement is
4 the complete and sole agreement between the licensee and the
5 distributor regarding video lottery terminals. Any other
6 agreement between the licensee and the distributor is not legally
7 binding.

8 **§372. Registration of terminals**

10 1. Registration required. A video lottery terminal may not
11 be placed for public use or operated in this State unless the
12 terminal is registered with the commission, the operator is
13 licensed by the commission and the distributor of the machine is
14 licensed either under section 371 or 373. The registration must
15 be prominently displayed on the terminal.

16 2. Requirements for registration. To be registered, a
17 video lottery terminal:

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

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

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

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

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

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

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

2 played for video games and total credits distributed by
3 tickets made by the terminal's printer; and the payback
4 percentage of each video game; and

6 H. Must be linked to the on-line real-time central computer
7 system developed under section 364 to provide continuous
8 auditing program information.

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

12 4. Examination of prototypes. The commission shall examine
13 prototypes of video lottery terminals and associated equipment of
14 manufacturers seeking a license required under this chapter. The
15 commission shall require the manufacturer seeking the examination
16 and approval of the video lottery terminal or associated
17 equipment to pay the anticipated actual cost of the examination
18 before the examination occurs. After the examination occurs, the
19 commission shall refund overpayments or charge and collect
20 amounts sufficient to reimburse the commission for underpayments
21 of actual cost. The commission may contract for the examinations
22 of video lottery terminals and associated equipment required
23 under this subsection.

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

26 1. Qualifications. A person may be licensed by the
27 commission as a video lottery terminal distributor, manufacturer
28 or wholesaler if the person:

30 A. Is of good moral character;

32 B. Has not been convicted of a crime punishable by one year
33 or more of imprisonment in any jurisdiction, unless at least
34 10 years have passed since satisfactory completion of the
35 sentence or probation imposed by the court for the crime;

37 C. Has not been convicted of a violation of this chapter or
38 chapter 14;

40 D. Is not a fugitive from justice, a drug abuser, a drug
41 addict, a drug-dependent person, an illegal alien or a
42 person who was dishonorably discharged from the United
43 States Armed Forces within 5 years prior to the date of
44 application;

46 E. Has completed the application form and complied with the
47 requirements of section 374;
48

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

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

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

14 **§374. Application for license**

16 1. Form. An application for a license required under this
18 chapter, except for a license to operate under section 371, must
20 be on the form provided by the commission. The application must
22 contain, but is not limited to, the following 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:

24 A. The applicant's full name:

26 B. The applicant's full current address and addresses for
the previous 5 years:

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

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

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

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

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

50 (4) Are you a fugitive from justice?

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

4 (6) Have you been dishonorably discharged from the
United States Armed Forces within the past 5 years?

6 (7) Are you an illegal alien?

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

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

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

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

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

20
22 §375. Fees; term of license; nontransferability

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

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

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

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

32
34 In addition to the annual license fee, the commission may charge
a one-time application fee for a license listed in paragraph A, B
or C in an amount equal to the actual cost of processing the
application and performing any background investigations. All

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

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

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

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

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

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

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

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

34 2. Ineligibility period following refusal to issue or renew
35 or revocation or suspension of license. A person may not apply
36 to the commission for any license under this chapter, except a
37 license to operate under section 371, within 2 years after the
38 commission refused to issue or renew a license under this chapter
39 or within 2 years after the Administrative Court revoked a
40 license issued to the person under this chapter.

42 **SUBCHAPTER III**

44 **TERMINAL OPERATION; ALLOCATION OF FUNDS**

46 **§381. Limits on terminal use**

48 1. Hours of play. A licensee that is licensed to accept
49 pari-mutuel wagers may operate video lottery terminals from 12
50

2 noon to 12 midnight Monday through Saturday and from 1:00 p.m. to
3 12 midnight on Sunday.

4 2. Age of player. A licensee may not permit a person under
5 21 years of age to play a video lottery terminal.

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

14 **§382. Redemption of credits by licensee**

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

20 **§383. Allocation of funds**

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

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

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

30 C. Twenty-two percent must be paid to the distributor that
31 owns the terminal;

32 D. Nine percent must be sent to the commission to be used
33 to supplement harness racing purses and, at the times and in
34 the manner prescribed in Title 8, section 290, must be
35 distributed by the commission to persons licensed under
36 Title 8, chapter 11 to conduct harness horse races;

37 E. Two percent must be paid to the commission and forwarded
38 by the commission to the Treasurer of State, who shall
39 credit the money to the Agricultural Fair Support Fund
40 established in Title 7, section 76; and

41 F. Two percent must be paid to the commission and credited
42 by the commission to the Harness Racing Promotional Fund
43 created in Title 8, section 285, subsection 10.

2 If a witness refuses to obey a subpoena issued by the
3 commission, the Attorney General may petition the Superior Court
4 in the county where the refusal occurred to find the witness in
5 contempt. The Attorney General shall serve on the witness an
6 order requiring that witness to appear before the Superior Court
7 to show cause why that witness should not be adjudged in
8 contempt. The court shall, in a summary manner, hear the
9 evidence and, if it warrants the court to do so, punish the
10 witness in the same manner and to the same extent as for contempt
11 committed before the Superior Court or with reference to the
12 process of the Superior Court.

13 **§394. Violations**

14 1. Class D crimes by licensee. A licensee commits a Class
15 D crime if that licensee:

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

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

23 2. Class C crimes by person. A person commits a Class C
24 crime if that person:

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

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

30 **§395. Fines, suspensions and revocations**

31 To enforce the provisions of this chapter and the rules
32 referred to in section 364, subsection 1, paragraph A, the
33 commission is authorized to establish a schedule of fines not to
34 exceed \$1,000 for each violation of this chapter or of any rules
35 adopted by the department. The commission is authorized to levy
36 a fine, after notice and hearing, for each violation of this
37 chapter or the rules adopted by the department.

38 The commission is further authorized to establish a schedule
39 of suspensions of licenses and may levy suspensions for each
40 violation of this chapter or the rules adopted by the department.

