

MAINE STATE LEGISLATURE

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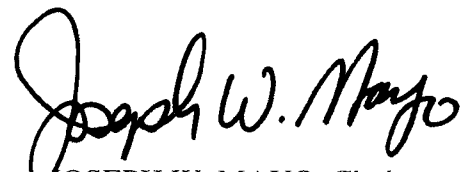
House of Representatives, April 5, 1999

An Act to Improve Harness Racing in the State.

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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


JOSEPH W. MAYO, Clerk

Presented by Representative TESSIER of Fairfield.

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

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

6 **§1590. Working capital advances**

8 The State Controller is authorized to advance to the State
10 Harness Racing Commission up to \$250,000 from the General Fund
12 unappropriated surplus for any necessary start-up costs
14 associated with the implementation of a system of video lottery
16 terminals in the State pursuant to Title 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. This section is repealed on
24 January 1, 2002.

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
24 shall credit to it all money received for that purpose under
26 Title 17, section 383, subsection 1, paragraph C.

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

36 **A.** Sixty-two percent of these funds must be divided equally
38 among all entities licensed as agricultural fairs by the
40 department that during the previous year were licensed to
42 and did accept pari-mutuel wagers on harness horse races.
44 The funds must be used by the fairs to improve their
46 facilities.

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

C. Ten percent of these funds must be divided among all
entities licensed as agricultural fairs 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.

3. Repeal. This section is repealed on January 1, 2002.

1 maintenance of a video lottery terminal, including, but not
2 limited to, integrated circuit chips, printed wired assemblies,
3 printed wired boards, printing mechanisms, video display monitors
4 and metering devices.

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

8
10 3. Commission chair. "Commission chair" means the chair of
the State Harness Racing Commission.

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

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

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

22
24 7. Licensee. "Licensee" means a person licensed by the
State Harness Racing Commission to operate a video lottery
terminal.

26
28 8. Net terminal income. "Net terminal income" means money
inserted into a video lottery terminal minus credits paid out in
cash.

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

32
34 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.

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

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

44
46 13. Reckless or negligent conduct. "Reckless or negligent
conduct" means that the applicant, either consciously
48 disregarding or failing to be aware of a risk that the
applicant's conduct would cause, engaged in conduct that in fact
50 created a substantial risk of death, serious bodily injury or
bodily injury to another human being and the applicant's

2 disregard or failure to be aware of that risk, when viewed in
4 light of the nature and purpose of the applicant's conduct and
6 the circumstances known to the applicant, involved a deviation
8 from the standard of conduct that a reasonable and prudent person
10 would observe in the same situation.

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

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

36 16. Video lottery terminal manufacturer. "Video lottery
38 terminal manufacturer" or "manufacturer" means a person who
40 manufactures video lottery terminals or associated equipment for
42 distribution in this State.

44 17. Video lottery terminal wholesaler. "Video lottery
46 terminal wholesaler" or "wholesaler" means a person who sells or
48 leases video lottery terminals or associated equipment in this
50 State.

§362. License required

A person may not manufacture, distribute, sell, operate or
place a video lottery terminal for use in this State unless the
person is licensed to do so by the 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.

§363. Administration and enforcement

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

§364. Powers and duties of the department

1. Powers. The department may:

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

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

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

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

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

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

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

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

48 (3) The terminal does not meet the registration
50 requirements of section 372;

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

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

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

F. Submit monthly to the Treasurer of State and the

2 Commissioner of Administrative and Financial Services a
3 certified and complete statement of all video lottery
4 terminal revenue, credits disbursed by licensees,
5 administrative expenses and the allocation of net terminal
6 income for the preceding month; and

7
8 G. Submit by February 15th an annual report to the Governor
9 and the joint standing committee of the Legislature having
10 jurisdiction over legal affairs of video lottery terminal
11 revenue, credits disbursed by licensees, administrative
12 expenses and the allocation of net terminal income for the
13 preceding year.

14 **§365. Rulemaking**

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

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

18
19 Except as expressly provided in this chapter, chapter 14
20 does not apply to video lottery terminals.

21
22
23 **SUBCHAPTER II**

24
25 **LICENSING**

26
27 **§371. License to operate**

28
29 1. Eligible persons. The commission may issue a license to
30 operate video lottery terminals to any person who is licensed to
31 operate a commercial racetrack or an off-track betting facility.
32 The license must specify the maximum number of video lottery
33 terminals that the licensee may operate on its premises.
34 Licensees may operate video lottery terminals only on days and at
35 locations for which they are licensed to accept pari-mutuel
36 wagers.

37
38 2. Limitation on number of video lottery terminals. At the
39 time of renewal of a licensee's license pursuant to section 375,
40 subsection 2, the licensee may obtain a license to own, lease or
41 operate an additional 50 video lottery terminals, as long as the
42 total number of video lottery terminals owned, leased or operated
43 by the licensee does not exceed 200.

44
45 3. Placement of terminals. Licensees shall install at
46 least 90% of their video lottery terminals in rooms that are
47 segregated for that purpose. Children under 18 years of age must
48 be excluded from those segregated rooms. Pari-mutuel wagers may
49 be accepted in the segregated rooms.
50

2 4. Lease or purchase of video lottery terminals; uniform
4 location agreement. All video lottery machines must be owned or
6 leased by the licensee and be obtained from manufacturers or
8 wholesalers licensed under section 373. Any video lottery
10 licensee must file with the commission a copy of any current or
12 proposed agreement or disclose any other relationship between the
14 licensee, its parents, subsidiaries, related entities, directors,
16 officers or key employees for the sale, lease, maintenance,
18 repair or other assignment to the agent's facility of video
20 lottery machines, or any other relationship with any vendor,
22 manufacturer or other party that stands to benefit financially
24 from the possession or use of video lottery machines by that
26 licensee. The agreement filed with the commission must include a
28 uniform location agreement as defined in section 361, subsection
30 14. Failure to file such information constitutes grounds for the
32 revocation or suspension of a license.

34 §372. Registration of terminals

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

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

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 tokens,
coins 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 or tokens 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 coins or tokens, or of
4 printing a ticket voucher stating the value of the credits
6 for the player at the end of play; the time of day in
8 24-hour format 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 or tokens inserted into the
16 terminal; total 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 real-time central computer
20 system developed under section 364 to provide continuous
 auditing program information.

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

26 4. Examination of prototypes. The commission shall examine
28 prototypes of video lottery terminals and associated equipment of
30 manufacturers seeking a license required under this chapter. The
32 commission shall require the manufacturer seeking the examination
34 and approval of the video lottery terminal or associated
36 equipment to pay the anticipated actual cost of the examination
 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 required
 under this subsection.

38 §373. Licensing of manufacturer, wholesaler

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

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

10
11 E. Has completed the application form and complied with the
12 requirements of section 374;

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

15 G. Has not knowingly made a false statement of material
16 fact in applying for a license under this chapter or chapter
17 14.

18
19
20 2. Requirement for license. A person may not manufacture
21 for distribution in or to the State and may not distribute in the
22 State or own in the State any video lottery terminal unless the
23 person is licensed under this section or section 371.

24
25 **§374. Application for license**

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

34
35 A. The applicant's full name;

36 B. The applicant's full current address and addresses for
37 the previous 5 years;

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

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

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

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

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

12 (4) Are you a fugitive from justice?

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

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

20 (7) Are you an illegal alien?

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

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

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

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

42 D. That the applicant understands that knowingly making any
44 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.

46 **§375. Fees; term of license; nontransferability**

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

2 A. A license for a video lottery terminal manufacturer is
4 \$5,000; and

6 B. A license for a video lottery terminal wholesaler is
8 \$5,000.

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

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

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

32 4. Change of ownership. Change of ownership occurring
34 after the commission has issued a license automatically
36 terminates the license 90 days thereafter unless the commission
38 has determined after application to issue a license to the new
40 owner or owners because the new owner or owners have met the
42 requirements of section 371 and satisfied the standards contained
44 in section 373. For purposes of this subsection, "a change of
46 ownership" occurs if more than 30% of the legal or beneficial
48 interests in such a person is transferred, whether by direct or
50 indirect means.

§376. Actions relating to licenses

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

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

27 B. The person or the person's agent violated any provision

of this chapter or any rule adopted under this chapter; or

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

2. Ineligibility period following refusal to issue or renew or revocation or suspension of license. A person may not apply to the commission for any license under this chapter, except a license to operate under section 371, within 2 years after the commission refused to issue or renew a license under this chapter or within 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. 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 18 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 of the licensee to do so is not grounds for liability in a civil or criminal proceeding and is not admissible in any such proceeding.

§382. Redemption 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. Licensee responsible. A licensee shall collect and distribute its net terminal income from video lottery terminals owned or leased by the licensee and located at the licensee's premises as follows:

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

2 required by this chapter or by rules adopted under this chapter
3 at the primary business office of the license holder within this
4 State or on the premises where the video lottery terminal is
5 operated. In the case of a video lottery terminal manufacturer
6 or wholesaler, the records must be maintained at the primary
7 business office of the manufacturer or wholesaler. The primary
8 business office must be designated by the license holder in the
9 license application. All records must be open to inspection by
10 the commission.

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

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

17 **§393. Contempt**

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

29 **§394. Violations**

30 **1. Class D crimes by licensee.** A licensee commits a Class
31 D crime if that licensee:

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

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

39 **2. Class C crimes by person.** A person commits a Class C
40 crime if that person:

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

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

6 **§395. Fines and suspensions**

8 To enforce the provisions of this chapter and the rules
9 referred to in section 364, subsection 1, paragraph A, the
10 commission is authorized to establish a schedule of fines not to
11 exceed \$1,000 for each violation of this chapter or of any rules
12 adopted by the department. The commission is authorized to levy
13 a fine, after notice and hearing, for each violation of this
14 chapter or the rules adopted by the department.

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

20 Any person aggrieved by a fine or suspension imposed by the
21 commission may seek judicial review pursuant to the Maine
22 Administrative Procedure Act.

24 **§396. Implementation**

26 A video lottery terminal may not be operated under this
27 chapter before January 1, 2000.

28 **§397. Repeal**

30 This chapter is repealed on January 1, 2002.

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

34 **4. Notice of violation of video lottery law.** A liquor
35 enforcement officer who observes a violation of Title 17, chapter
36 16 shall promptly notify the State Harness Racing Commission of
37 the violation. This section is repealed on January 1, 2002.
38

40

42

SUMMARY

44 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%.