

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1361

S.P. 449

In Senate, March 18, 2003

**An Act To Support Harness Horse Racing in Maine, Equine  
Agriculture in Maine, Maine Agricultural Fairs and the General  
Fund of the State**

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator GAGNON of Kennebec.

Under suspension of the rules, cosponsored by Representative CLARK of Millinocket and Senators: CATHCART of Penobscot, President DAGGETT of Kennebec, HATCH of Somerset, MITCHELL of Penobscot, Representatives: BOWLES of Sanford, BRUNO of Raymond, BRYANT-DESCHENES of Turner, Speaker COLWELL of Gardiner, DUNLAP of Old Town, DUPLESSIE of Westbrook, GERZOFSKY of Brunswick, JENNINGS of Leeds, LEWIN of Eliot, McGOWAN of Pittsfield, PERRY of Bangor, RICHARDSON of Brunswick, TARDY of Newport, USHER of Westbrook.

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

4 **Sec. 1. 5 MRSA §1591** is enacted to read:

6 **§1591. Working capital advances**

8 The State Controller is authorized to advance to the Maine  
10 State Lottery Commission up to \$750,000 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 \$750,000 received by the  
22 State under Title 17, section 383, subsection 1, paragraph A.

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 the money received under Title 17, section  
34 383, subsection 1, paragraph D.

36 **2. Disbursement; purses at fairs.** As long as those  
38 agricultural fairs that are licensed to and do accept pari-mutuel  
40 wagers on horse races are entitled to distributions from the fund  
42 created by Title 8, section 297, 60% of the funds received by the  
44 Treasurer of State for deposit to the Agricultural Fair Support  
46 Fund must immediately upon receipt be transferred to the fund  
48 created by Title 8, section 297.

**3. Disbursement; fair premiums.** 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 after all  
disbursements authorized under subsection 2 have been made must  
be distributed by the Treasurer of State among all entities  
licensed as agricultural fairs by the department. These funds  
must be distributed in the same proportion as funds distributed  
for premium reimbursement and may be used by each fair in its  
discretion.

**Sec. 3. 8 MRSA §271, sub-§§10 to 12** are enacted to read:

**10. Transfer of commercial track license.** Notwithstanding  
the provisions of subsection 1 and subject to the approval of the  
commission, a license to operate a commercial track and any dates  
assigned to that commercial track may be assigned to any other  
racetrack as long as the racetrack, following the assignment,

2 meets the definition of a commercial track set forth in section  
3 275-A.

4 11. Change in ownership of commercial track licensee.  
5 Notwithstanding the provisions of subsection 1, a voluntary  
6 change in the ownership, legal or equitable, of more than 50% of  
7 a business entity licensed to operate a commercial track does not  
8 effect a revocation of that license as long as the transfer is  
9 approved in advance by the commission, and an involuntary  
10 transfer of more than 50% of the stock of such a business entity  
11 does not effect a revocation of such a license as long as the  
12 transfer is approved by the commission within 180 days of the  
13 involuntary transfer.

14 12. Change in ownership of off-track betting facility.  
15 Notwithstanding anything to the contrary, a voluntary change in  
16 the ownership, legal or equitable, of more than 50% of a business  
17 entity licensed to operate as an off-track betting facility does  
18 not effect a revocation of that license as long as the transfer  
19 is approved in advance by the commission, and an involuntary  
20 transfer of more than 50% of the stock of such a business entity  
21 does not effect a revocation of such a license as long as the  
22 transfer is approved by the commission within 180 days of the  
23 involuntary transfer.

24  
25 **Sec. 4. 8 MRSA §275-A, sub-§1, ¶¶A and B,** as repealed and  
26 replaced by PL 1999, c. 482, §2 and affected by §10, are amended  
27 to read:

28  
29 A. If the population of the region is 300,000 or more, based  
30 on the 1990 U.S. Census, conducted racing on more than 100  
31 days in each of the previous 2 calendar years, except that,  
32 if a racetrack that qualifies as a commercial track under  
33 this paragraph ceases operation, a separate racetrack  
34 operated by the owner or operator of the racetrack that,  
35 ceased operation qualifies as a commercial track and for all  
36 purposes is considered the same track as the track it  
37 replaces if the population of the region of that separate  
38 racetrack is 300,000 or more, based on the 1990 United  
39 States Census, and the sum of the live race days conducted  
40 at the track that ceased operation and the separate  
41 racetrack equals at least 100 in each of the 2 preceding  
42 calendar years; or

43  
44 B. If the population of the region is less than 300,000,  
45 based on the 1990 U.S. Census, conducted racing on more than  
46 25 days in each of the previous 2 calendar years, except  
47 that, if a racetrack that qualifies a commercial track under  
48 this paragraph ceases operation, a separate racetrack  
49 operated by the owner or operator of the racetrack that  
50

2 ceased operation qualifies as a commercial track and for all  
3 purposes is considered the same track as the track it  
4 replaces if the population of the region of that separate  
5 racetrack is less than 300,000, based on the 1990 United  
6 States Census, and the sum of the live race days conducted  
7 at the racetrack that ceased operation and the separate  
8 racetrack equals at least 26 in each of the 2 preceding  
9 calendar years.

10 **Sec. 5. 8 MRSA §§296 and 297** are enacted to read:

12 **§296. Fund for commercial tracks**

14 **1. Fund created.** A fund is established to which the  
15 Treasurer of State shall credit all payments received pursuant to  
16 Title 17, section 383, subsection 1, paragraph E for distribution  
17 in accordance with this section.

18 **2. Distribution.** On May 30th, September 30th and January  
19 30th, all amounts credited to the fund established by this  
20 section as of the last day of the preceding month and not  
21 distributed before that day must be distributed to each  
22 commercial track, as defined in section 275-A, subsection 1, that  
23 was not licensed to or in fact did not operate video lottery  
24 terminals, as defined in Title 17, section 361, subsection 19,  
25 during all or any part of the year at a time when some other  
26 entity did operate video lottery terminals, with each commercial  
27 track receiving that amount of the money available for  
28 distribution determined by multiplying that amount times a  
29 fraction, the numerator of which is the total number of live race  
30 days conducted by the commercial track during the preceding time  
31 period and the denominator of which is the total number of race  
32 days conducted by all commercial tracks during that time period.  
33 The payment in January must be adjusted so that for the prior 3  
34 time periods each commercial track receives that fraction of the  
35 total money distributed over the full year from the fund  
36 established by this section, the amount determined by multiplying  
37 the total amount of money times a fraction, the numerator of  
38 which is the number of live race days conducted by the commercial  
39 track during the calendar year and the denominator of which is  
40 the total number of race days conducted by all such commercial  
41 tracks during that calendar year.

44 **§297. Fund to supplement harness racing purses**

46 **1. Fund created.** A fund is established to which the  
47 Secretary of State shall credit all payments received pursuant to  
48 Title 17, section 383, subsection 1, paragraph B for distribution  
49 in accordance with this section.

2        **2. Distribution.** On May 30th, September 30th and January  
3 30th, all amounts credited to the fund established by this  
4 section as of the last day of the preceding month and not  
5 distributed before that day must be distributed to each  
6 commercial track, as defined in section 275-A, subsection 1, and  
7 to each agricultural fair association that during the preceding  
8 trimester has conducted live racing with pari-mutuel wagering on  
9 dates assigned by the commissioner pursuant to Title 7, section  
10 65, with each commercial track and each agricultural fair  
11 association receiving that amount of the money available for  
12 distribution determined by multiplying that amount times a  
13 fraction, the numerator of which is the total number of live race  
14 dashes conducted by the commercial track or agricultural fair  
15 association during the preceding time period and the denominator  
16 of which is the total number of race dashes conducted by all  
17 commercial tracks and agricultural fair associations during that  
18 time period. The payment in January must be adjusted so that for  
19 the prior 3 time periods each commercial track or agricultural  
20 fair association entitled to a distribution receives that  
21 fraction of the total money distributed over the full year from  
22 the fund established by this section, the amount determined by  
23 multiplying the total amount of money times a fraction, the  
24 numerator of which is the number of live race dashes conducted by  
25 the commercial track or agricultural fair association during the  
26 calendar year that qualify for a distribution and the denominator  
27 of which is the total number of race dashes conducted during that  
28 calendar year by all such fairs on dates assigned by the  
29 commissioner pursuant to Title 7, section 65 and by all  
30 commercial tracks during that calendar year. The funds  
31 distributed pursuant to this section must be used to supplement  
32 harness racing purses.

33            **Sec. 6. 17 MRSA §348** is enacted to read:

34            **§348. Video lottery terminals exempted**

35            Except as expressly provided in chapter 16, this chapter  
36 does not apply to video lottery terminals as defined in section  
37 361.

38            **Sec. 7. 17 MRSA c. 16** is enacted to read:

39                            **CHAPTER 16**

40                            **VIDEO LOTTERY TERMINALS**

41                            **SUBCHAPTER 1**

42                            **GENERAL PROVISIONS**

43            **§361. Definitions**

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

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

11           2. Commission. "Commission" means the Maine State Lottery  
12           Commission.

13  
14           3. Director. "Director" means the Director of the Bureau  
15           of Alcoholic Beverages and Lottery Operations within the  
16           Department of Administrative and Financial Services.

17  
18           4. Drug abuser. "Drug abuser" has the same meaning as in  
19           Title 5, section 20003, subsection 10.

20  
21           5. Drug addict. "Drug addict" has the same meaning as in  
22           Title 5, section 20003, subsection 11.

23  
24           6. Drug-dependent person. "Drug-dependent person" has the  
25           same meaning as in Title 5, section 20003, subsection 12.

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

31  
32           8. Fugitive from justice. "Fugitive from justice" has the  
33           same meaning as in Title 15, section 201, subsection 4.

34  
35           9. Gross terminal income. "Gross terminal income" means  
36           money or credits inserted into a video lottery terminal minus  
37           money or credits or prizes paid out to winners.

38  
39           10. Licensee. "Licensee" means an entity licensed by the  
40           commission to operate a video lottery terminal in accordance with  
41           section 371.

42  
43           11. Net terminal income. "Net terminal income" means money  
44           remaining after disbursement of video lottery credits and  
45           deductions of administrative expenses.

46  
47           12. Off-track betting facility. "Off-track betting  
48           facility" has the same meaning as in Title 8, section 275-A.

49  
50

2           **13. Operate.** "Operate" means to offer for public use.

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

8           **15. Person.** "Person" means an individual, corporation,  
10           association or partnership.

12           **16. Racing commission.** "Racing commission" means the State  
14           Harness Racing Commission.

16           **17. Reckless or negligent conduct.** "Reckless or negligent  
18           conduct" means that an applicant for a license pursuant to  
section 374, 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 deviation from the standard of conduct that  
a reasonable and prudent person would observe in the same  
situation.

26           **18. Uniform location agreement.** "Uniform location  
28           agreement" means a written agreement between a licensee and a  
video lottery terminal distributor that governs the terms and  
conditions of the placement of video lottery terminals on the  
premises of the licensee and that is on a form developed by the  
Chief of the State Police.

34           **19. Video lottery terminal.** "Video lottery terminal" means  
36           any mechanical, electrical or electronic device, contrivance or  
machine or other device, contrivance or machine that, upon  
insertion of a coin, token, credit or similar object or thing of  
value, is available to play or operate, the play or operation of  
which by the element of chance may deliver or entitle the person  
playing or operating the device, contrivance or machine to  
receive cash, tokens or credits to be exchanged for cash,  
merchandise or anything of value, whether the payoff is made  
automatically from the device, contrivance or machine or in any  
other manner.

46           **20. Video lottery terminal distributor.** "Video lottery  
48           terminal distributor" means a person who is licensed to own video  
lottery terminals and who is licensed to distribute or place  
video lottery terminals or associated equipment for use in the  
50           State.



2           21. Video lottery terminal manufacturer. "Video lottery  
4           terminal manufacturer" means a person who is licensed to assemble  
          or produce video lottery terminals or associated equipment for  
          use in the State.

6  
8           22. Video lottery terminal wholesaler. "Video lottery  
          terminal wholesaler" means a person who is licensed to sell video  
10           lottery terminals or associated equipment for distribution in  
          this State.

12           **§362. License required**

14           A person may manufacture, distribute, sell, operate or place  
16           a video lottery terminal for use in this State if the person is  
          licensed to do so by the commission under section 373, but not  
18           otherwise. A person may not place for public use or operate a  
          video lottery terminal in this State unless the video lottery  
          terminal is registered with the commission.

20           **§363. Administration and enforcement**

22           The Chief of the State Police and the commission shall  
24           enforce and administer the provisions of this chapter.

26           **§364. Powers and duties of Chief of State Police**

28           1. Powers. In addition to powers conferred by any other  
          provision of law, the Chief of the State Police may:

30           A. Regulate, supervise and exercise general control over  
32           the operation of video lottery terminals;

34           B. Investigate the direct or indirect ownership or control  
          of any licensee under this chapter;

36           C. Adopt rules necessary to administer and enforce this  
38           chapter and may also jointly adopt rules with the  
          commission. These rules are routine technical rules as  
40           defined in Title 5, chapter 375, subchapter 2-A;

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

46           E. Approve or disapprove terms and conditions of uniform  
          location agreements under section 371, subsection 6.

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

50

2 A. Investigate or cause to be investigated all complaints  
3 made to the State Police and all violations of this chapter  
4 or the rules adopted under this chapter;

5 B. Adopt rules, which are routine technical rules as  
6 defined in Title 5, chapter 375, subchapter 2-A, to prevent  
7 undesirable conduct relating to the operation of video  
8 lottery terminals, including the following:

10 (1) The practice of any fraud or deception upon a  
11 player of a video lottery terminal;

12 (2) The presence of a video lottery terminal in or at  
13 premises that may be unsafe due to fire hazard or other  
14 such conditions;

15 (3) The use of obscene advertising;

16 (4) The solicitation on a public way of persons to  
17 play video lottery terminals;

18 (5) The infiltration of organized crime into the  
19 operation of video lottery terminals or into the  
20 distribution of the terminals;

21 (6) The presence of disorderly persons in a location  
22 where video lottery terminals are in use; and

23 (7) In promoting, advertising or otherwise marketing  
24 the operation of video terminals, the use of any words  
25 that describe or characterize such operations in a  
26 manner not otherwise presently legal in the State;

27 C. Direct the director to disable any video lottery  
28 terminal if the Chief of the State Police has reason to  
29 believe that:

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

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

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

37 (4) A licensee is guilty of criminal conduct; and

2 D. In accordance with the Maine Administrative Procedure  
3 Act, develop industry standards for uniform location  
4 agreements to be used as the basis of agreements between  
5 video lottery terminal distributors and licensees under this  
6 chapter.

7 **§365. Powers and duties of director**

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

12 A. Propose to the commission rules for adoption necessary  
13 to administer and enforce this chapter, including rules to  
14 be adopted jointly with the Chief of the State Police.  
15 These rules are routine technical rules as defined in Title  
16 5, chapter 375, subchapter 2-A; and

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

28 **2. Duties.** The director shall:

30 A. Develop, install and test a central computer system with  
31 dial-up polling to all video lottery terminals licensed  
32 under section 372 to provide auditing program information.  
33 The system must use continuous on-line polling. The central  
34 computer system may not limit participation to only one  
35 manufacturer of video lottery terminals by either the cost  
36 in implementing the necessary program modifications to  
37 communicate or the inability to communicate with the central  
38 computer system;

40 B. Maintain and monitor the central computer system under  
41 paragraph A to ensure compliance with this chapter;

44 C. Attempt to determine the cause of any video lottery  
45 terminal malfunction detected by the central computer system  
46 under paragraph A and notify the Chief of the State Police  
47 of any suspected tampering with a video lottery terminal or  
48 any other violation of this chapter or the rules adopted  
49 under this chapter;

50

2 D. Disable a video lottery terminal through the central  
3 computer system under paragraph A as directed by the Chief  
4 of the State Police in accordance with section 364;

6 E. Collect funds due the State under section 383;

8 F. Immediately notify the Chief of State Police of the  
9 failure of any video lottery terminal distributor to comply  
10 with section 383;

12 G. Certify monthly to the Treasurer of State, the  
13 commission and the Commissioner of Administrative and  
14 Financial Services a full and complete statement of all  
15 video lottery terminal revenue, credits disbursed by  
16 licensees under this chapter and administrative expenses and  
17 the allocation of net terminal income for the preceding  
18 month;

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

26 I. Prepare and submit to the Commissioner of Administrative  
27 and Financial Services a budget for the administration of  
28 this chapter;

30 J. Cooperate with the Chief of the State Police in  
31 implementing and enforcing the provisions of this chapter;  
32 and

34 K. Cooperate with the racing commission in implementing and  
35 enforcing the provisions of this chapter.

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

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

42 **SUBCHAPTER 2**

44 **LICENSING**

46 **§371. License to operate**

48 **1. Eligible persons.** The commission may issue a license to  
50 operate video lottery terminals to any person who is licensed to

2 operate a commercial track, within the meaning of Title 8,  
3 section 275-A, and may issue a license to any person who, prior  
4 to January 1, 2003, has been licensed to operate an off-track  
5 betting facility.

6 **2. Terminals.** The license under subsection 1 must specify  
7 the maximum number of video lottery terminals that the licensee  
8 may operate on its premises. In the case of a commercial track  
9 within the meaning of Title 8, section 275-A, subsection 1,  
10 paragraph A, that number must be 1,500 unless the commission  
11 finds that the commercial track will not, in a reasonable period  
12 of time and in the licensee's opinion, be able to accommodate  
13 1,500 video lottery terminals. In the case of a commercial track  
14 within the meaning of Title 8, section 275-A, subsection 1,  
15 paragraph B, that number must be 1,000 unless the commission  
16 finds that the commercial track will not, in a reasonable period  
17 of time and in the licensee's opinion, be able to accommodate  
18 1,000 video lottery terminals. In the case of an off-track  
19 betting facility, the number must be 200, unless the commission  
20 finds that the off-track betting facility will not, in the  
21 licensee's opinion, be able to accommodate 200 video lottery  
22 terminals. Except as expressly provided otherwise in this  
23 chapter, the number of video lottery terminals may be increased  
24 upon subsequent application to the commission, which shall  
25 consider, among other relevant criteria, the relative market  
26 success of the licensee and the usage history of the licensee's  
27 existing video lottery terminals.

28 **3. Conditions on increase.** An off-track betting facility  
29 may not increase the number of terminals over 200 unless either:

30 **A.** The licensee under subsection 1 has obtained the prior  
31 consent of all commercial tracks located within 60 miles of  
32 the off-track betting facility;

33 **B.** The licensee under subsection 1 will not, after the  
34 increase, have more than 20% of the number of video lottery  
35 terminals of the commercial racetrack located nearest to  
36 that licensee if that track is a commercial track under  
37 Title 8, section 275-A, subsection 1, paragraph B; or

38 **C.** The licensee under subsection 1 will may not, after the  
39 increase, have more than 14% of the number of terminals of  
40 the commercial track located nearest to that licensee if  
41 that track is a commercial track under Title 8, section  
42 275-A, subsection 1, paragraph A.

43 **4. Restrictions on terminals for commercial tracks and**  
44 **off-track betting facilities in close proximity.** Notwithstanding  
45 subsection 3, if a commercial track is or comes to be located  
46 within 60 miles of an off-track betting facility, the licensee  
47 may not increase the number of terminals over 200 unless either:  
48 the licensee under subsection 1 has obtained the prior  
49 consent of all commercial tracks located within 60 miles of  
50 the off-track betting facility;

2 within 15 miles of an off-track betting facility, except as a  
4 result of the relocation of the off-track betting facility, then  
6 the total number of video lottery terminals that may be located  
8 at those facilities at those facilities must be the same number  
10 that would be located at those facilities if the licensees under  
12 this chapter were not in such proximity and, unless the licensees  
14 agree otherwise, the video lottery terminals must be apportioned  
16 between the licensees as follows:

18 A. If the commercial track is located within 15 miles of  
20 but more than 10 miles from the off-track betting facility,  
22 the off-track betting facility must be allocated 20% of the  
24 total number of video lottery terminals allocated to both  
26 facilities;

28 B. If the commercial track is located within 10 miles of  
30 but more than 5 miles from the off-track betting facility,  
32 the off-track betting facility must be allocated 25% of the  
34 total number of video lottery terminals allocated to both  
36 facilities; or

38 C. If the commercial track is located within 5 miles of the  
40 off-track betting facility, the off-track betting facility  
42 must be allocated 33% of the total number of video lottery  
44 terminals allocated to both facilities.

46 A licensee may operate video lottery terminals on any day during  
48 the calendar year but, in the case of a commercial track, only at  
50 the commercial track itself except as expressly provided in  
52 subsection 8 and, in the case of an off-track betting facility,  
54 only at the off-track betting facility itself.

56 **5. Terminals located; prohibit persons under 18 years of**  
58 **age.** A licensee under this chapter shall prohibit persons under  
60 21 years of age from any area in which a video lottery terminal  
62 is located, except that persons 18 to 20 years of age may be  
64 present if directly employed by the licensee or a video lottery  
66 terminal distributor.

68 **6. Uniform location agreement.** Each video lottery terminal  
70 is subject to a uniform location agreement between the video  
72 lottery terminal distributor and the licensee under this  
74 chapter. A copy of the agreement must be submitted to the  
76 commission. The uniform location agreement is the complete and  
78 sole agreement between the licensee and the video lottery  
80 terminal distributor regarding video lottery terminals. No other  
82 agreement between the licensee and the video lottery terminal  
84 distributor is legally binding.

2 7. Disclosure of other contracts and agreements. A video  
lottery terminal distributor shall disclose to the Chief of the  
4 State Police any other contracts or agreements that the video  
lottery terminal distributor or a subsidiary of the video lottery  
terminal distributor has made with a licensee under this chapter.

6  
8 8. Restriction against proliferation. A license may not be  
issued under subsection 1 to any commercial track located within  
10 100 miles of any existing commercial track or to any off-track  
betting facility not licensed to accept pari-mutuel wagers on  
12 January 1, 2002. A license may be issued under subsection 1 to  
the owner of a commercial track to operate video lottery  
14 terminals at a single off-track betting facility licensed in  
accordance with Title 8, section 275-D and opened by the  
commercial track after January 1, 2002. Any off-track betting  
16 facility may relocate its facility to a different location within  
10 miles of its existing location as long as:

18  
20 A. Consent to that relocation has been obtained from the  
off-track betting facility located closest to the proposed  
22 location and from any commercial track located within 50  
miles of the off-track betting facility; and

24 B. In the event the off-track betting facility is relocated  
to a different municipality, the licensee has received the  
26 approval of the municipality in which the new facility is to  
be located.

28  
30 **§372. Licensing of video lottery terminals**

32 1. License required. A video lottery terminal may not be  
distributed for public use or operated in this State unless the  
34 video lottery terminal is licensed by the Chief of the State  
Police, the operator is licensed by the Chief of the State Police  
and the owner of the video lottery terminal is licensed under  
36 either section 371 or section 373. The video lottery terminal  
license must be prominently displayed on the video lottery  
38 terminal. Language describing the odds of winning the game and  
warning of the danger of compulsive gambling must also be  
40 prominently displayed on the video lottery terminal.

42 2. Requirements for license. To be licensed under  
subsection 1, a video lottery terminal:

44  
46 A. May offer only games permitted by the Chief of the State  
Police;

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

50

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

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

8 E. Must have nonresettable meters housed in a readily  
9 accessible locked video lottery terminal area that keep a  
10 permanent record of all cash inserted into the video lottery  
11 terminal, credits or cash awarded by the video lottery  
12 terminal, credits played for video games and credits  
13 distributed by tickets made by the video lottery terminal's  
14 printer;

15 F. Must be capable of printing a ticket voucher stating the  
16 value of the credits for the player at the end of play; the  
17 time of day in 24-hour format showing hours and minutes; the  
18 date; the video lottery terminal's serial number; the  
19 sequential number of the ticket vouchers; and an encrypted  
20 validation number from which the validity of the credits may  
21 be determined;

22 G. Must have accounting software that keeps an electronic  
23 record of information that includes, but is not limited to:  
24 total cash inserted into the video lottery terminal; total  
25 cash awarded; total credits played for video games and total  
26 credits distributed by tickets made by the video lottery  
27 terminal's printer; and the payback percentage of each video  
28 game; and

29 H. Must be linked to the central computer system developed  
30 under section 365 to provide auditing program information  
31 within the time periods prescribed in that section.

32  
33 **3. Payback value.** The payback value of a video lottery  
34 terminal may not be less than 85% on an average annual basis.

35  
36  
37 **4. Examination of prototypes.** The Chief of the State  
38 Police and the Attorney General shall examine prototypes of video  
39 lottery terminals and associated equipment of manufacturers  
40 seeking a license as required in this chapter. The Chief of the  
41 State Police shall require the manufacturer seeking examination  
42 and approval of the video lottery terminal or associated  
43 equipment to pay the anticipated actual cost of the examination  
44 before the examination occurs. After the examination occurs, the  
45 Chief of the State Police shall refund overpayments or charges  
46 and collect amounts sufficient to reimburse the Chief of the  
47 State Police for underpayments of actual cost. The Chief of the  
48 State Police shall require the manufacturer seeking examination  
49 and approval of the video lottery terminal or associated  
50 equipment to pay the anticipated actual cost of the examination



2 State Police may contract for the examinations of video lottery  
3 terminals and associated equipment as required by this section.

4 5. Unlicensed video lottery terminal subject to  
5 confiscation. Any video lottery terminal that is not licensed as  
6 required by subsection 1 is contraband and a public nuisance and  
7 is subject to confiscation by any law enforcement officer.

8  
9  
10 6. Ownership of video lottery terminals. An entity may not  
11 place or operate a video lottery terminal for use in this State  
12 if the video lottery terminal is owned by any other entity, other  
13 than a video lottery terminal distributor licensed under this  
14 chapter.

15 §373. Licensing of video lottery terminal manufacturer, video  
16 lottery terminal distributor, video lottery terminal  
17 wholesaler or video lottery terminal operator

18  
19 1. Qualifications. A person may be licensed by the  
20 commission as a video lottery terminal manufacturer, video  
21 lottery terminal distributor, video lottery terminal wholesaler  
22 or video lottery terminal operator if the person:

23  
24 A. Is of good moral character;

25  
26 B. Has not been convicted of a crime punishable by one year  
27 or more of imprisonment in any jurisdiction, unless at least  
28 10 years have passed since satisfactory completion of the  
29 sentence or probation imposed by the court for the crime;

30  
31 C. Has not been convicted of a violation of this chapter or  
32 chapter 14;

33  
34 D. Is not a fugitive from justice, a drug abuser, a drug  
35 addict, a drug-dependent person, an illegal alien or person  
36 who was dishonorably discharged from the United States Armed  
37 Forces within 5 years prior to the date of application;

38  
39 E. Has completed the application form and complied with the  
40 requirements of section 374;

41  
42 F. Has sufficient financial assets to meet any financial  
43 obligations imposed by this chapter; and

44  
45 G. Has not knowingly made a false statement of material  
46 fact in applying for a license under this chapter or chapter  
47 14.

48  
49 2. Requirement for license. A person may not manufacture  
50 for distribution in or to the State and may not distribute in the

2 State any video lottery terminal unless the person is licensed  
3 under this section or section 371.

4 **§374. Applications**

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

14 A. Full name;

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

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

20 D. Answers to the following questions posed in  
21 substantially the following form.

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

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

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

38 (4) Are you a fugitive from justice?

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

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

46 (7) Are you an illegal alien?

48 (8) To your knowledge, have you been the subject of an  
49 investigation by any law enforcement agency within the  
50 past 5 years?

2 past 5 years regarding the alleged abuse by you of  
3 family or household members?

4 (9) Have you been convicted within the past 5 years of  
5 crimes punishable by imprisonment of less than one year?

6 (10) Have you been adjudged within the past 5 years to  
7 have committed juvenile offenses involving conduct  
8 that, if committed by an adult, would be punishable by  
9 imprisonment of less than one year?

10 (11) To your knowledge, have you engaged within the  
11 past 5 years in reckless or negligent conduct that has  
12 been the subject of an investigation by a governmental  
13 entity?

14 **2. Signature as certification.** An applicant, by affixing  
15 the applicant's signature to the application under subsection 1,  
16 certifies:

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 by the Chief  
25 of the State Police, along with other information, in  
26 judging good moral character and that an affirmative answer  
27 to one or more of those questions may be cause for refusal  
28 to issue a license; and

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

33 **3. Consent to review records.** At the request of the Chief  
34 of the State Police, an applicant under this section shall take  
35 whatever action is necessary to permit the Chief of the State  
36 Police to examine all accounts and records in the applicant's  
37 possession, under the applicant's control or under the control of  
38 3rd parties but accessible by consent of the applicant and shall  
39 authorize all 3rd parties in possession or in control of those  
40 accounts or records to allow the Chief of the State Police or a  
41 designee to examine the accounts and records as the Chief of the  
42 State Police determines necessary to ascertain:

2           A. Whether the information supplied on the application or  
4           any documents made a part of the application is true and  
              correct;

6           B. Whether each of the requirements of this section has  
              been met; and

8           C. Whether the applicant meets the requirements for  
10           licensure under this chapter.

12           The consent to review records includes taking whatever action is  
14           necessary to permit the Chief of the State Police or a designee  
16           to have access to confidential records held by banks, courts, law  
              enforcement agencies and the United States Armed Forces for  
              purposes stated in this subsection.

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

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

22                   A. A license for a video lottery terminal manufacturer is  
24                   \$2,000;

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

28                   C. A license for a video lottery terminal distributor is  
30                   \$2,000; and

32                   D. A license for an operator of a video lottery terminal  
34                   who under that license may also act as a video lottery  
                      terminal wholesaler or distributor is \$2000.

36           In addition to the video lottery terminal biennial license fee,  
38           the commission may charge a one-time application fee for a  
40           license listed in paragraph A, B, C or D in an amount equal to  
42           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 General Fund.

44           2. Term of license. All licenses issued by the commission  
46           under this chapter are effective for 2 years and are renewable  
              biennially, unless revoked pursuant to section 376.

48           3. Transferable. A license issued under this chapter is  
50           transferable or assignable as long as the commission finds that  
              the transferee or assignee satisfies all requirements for the  
              issuance of the license transferred or assigned.

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

4           **1. Suspension or revocation of license; refusal to renew.**

6       The commission may refuse to renew a license after a hearing in  
8       accordance with the Maine Administrative Procedure Act. The  
10       Chief of the State Police may suspend a license issued under this  
12       chapter for a period of up to 90 days. The commission may refuse  
14       to renew or may suspend a license and the District Court may  
16       revoke or suspend a license for just cause, as follows:

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

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

30           C. The holder of a license under this chapter becomes  
32           ineligible to hold that license.

34       The Chief of the State Police may not suspend a license unless  
36       the Chief of the State Police receives a written statement made  
38       under oath from a law enforcement officer establishing probable  
40       cause for the suspension. The Chief of the State Police shall  
42       immediately notify the licensee in writing of the suspension and  
44       the date the suspension is to take effect. If the licensee  
46       wishes to have a hearing, the licensee must notify the District  
48       Court in writing within 20 days of the date of the suspension and  
the hearing must be conducted expeditiously. If a hearing is  
requested, the license remains in effect pending the outcome of  
the hearing.

36           **2. Ineligibility period following refusal to issue or renew**  
38           **license or revocation of license.** A person may not apply to the  
40           commission for any license under this chapter less than 2 years  
42           after the commission refused to issue or renew a license under  
44           this chapter or less than 2 years after the District Court  
46           revoked a license issued to the person under this chapter.

42                               **SUBCHAPTER 3**

44                               **VIDEO LOTTERY TERMINAL**  
46                               **OPERATION; ALLOCATION OF FUNDS**

48       **§381. Limits on video lottery terminal use**

2 1. Hours of play. A video lottery terminal may not be  
operated or available for play between the hours of 2:00 a.m. and  
4 noon on Sundays or between the hours of 2:00 a.m. and 8:00 a.m.  
on any day other than Sunday.

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

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

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

A licensee shall redeem credits for players who earn credits  
20 on a video lottery terminal located on the premises of that  
licensee in accordance with rules adopted by the commission.  
22

24 **§383. Allocation of funds**

26 1. Distribution from commercial track. A video lottery  
terminal distributor shall collect and distribute gross terminal  
28 income from video lottery terminals owned by the video lottery  
terminal distributor and located at a commercial track as follows.

30 A. Twenty-eight percent of the gross terminal income must  
32 be deposited to the General Fund.

34 B. Ten percent of the total gross terminal income must be  
sent to the racing commission to be used to supplement  
36 harness racing purses and must be disbursed for that purpose  
at the times and in the manner prescribed in Title 8,  
38 section 297.

40 C. Three percent of the total gross terminal income must be  
sent to the racing commission and credited by the racing  
42 commission to the Sire Stakes Fund created in Title 8,  
section 281.

44 D. Four percent of the total gross terminal income must be  
46 forwarded by the racing commission to the Treasurer of  
State, who shall credit the money to the Agricultural Fair  
48 Support Fund established in Title 7, section 76.

2 E. One percent of the total gross terminal income must be  
4 dedicated to the prevention and treatment of addictive  
6 gambling.

8 F. If one or more commercial tracks located in the State  
10 are not both licensed to and in fact operate video lottery  
12 terminals, 4% of total gross terminal income must be sent to  
14 the Treasurer of State and credited by the Treasurer of  
16 State to the fund created in Title 8, section 296.

18 G. Three percent of the total gross terminal income must be  
20 paid directly to the municipality in which the facility is  
22 located and retained by that municipality as supplemental  
24 revenues or, if the facility is located in an unorganized  
26 area, to the Treasurer of State and applied to the General  
28 Fund; except that, if all commercial tracks located in the  
30 State are licensed to and do operate video lottery  
32 terminals, 5% of the total gross terminal income must be  
34 paid to the municipality in which the facility is located  
36 and retained by that municipality as supplemental revenues  
38 or, if the facility is located in an unorganized area, to  
40 the Treasurer of State and applied to the General Fund.

42 2. Payment of expenses. The balance of the gross terminal  
44 income after distribution pursuant to subsection 1 must be  
46 retained by the licensee under this chapter from which the  
48 licensee is required to pay the video lottery terminal  
50 distributor all fees charged by the distributor and all other  
expenses associated with the operation of the video lottery  
terminals and any other taxes assessed against the licensee.

3. Failure to deposit funds. A video lottery terminal  
distributor who willfully refuses to comply with this section  
commits a Class D crime. The license of that person may be  
revoked by the District Court and the video lottery terminals of  
that video lottery terminal distributor must be disabled and may  
be confiscated by the commission.

4. Late payments. The commission may adopt rules  
establishing the dates on which payments required by this section  
are due. All payments not remitted when due must be paid  
together with a penalty assessment of 2% of the amount owed and  
interest on the unpaid balance at a rate of 1.5% per month.

#### SUBCHAPTER 4

#### ENFORCEMENT AND PENALTIES

#### §391. Reports; records

2           **1. Reports; records.** The commission chair shall require  
4           from any licensed video lottery terminal distributor, video  
6           lottery terminal manufacturer, video lottery terminal wholesaler  
8           or licensee under this chapter whatever records and reports the  
          commission chair considers necessary for the administration and  
          enforcement of this chapter.

10           **2. Location.** A licensee under this chapter shall maintain  
12           all records required by this chapter or by rules adopted under  
14           this chapter at the primary business office within this State of  
16           the licensee or on the premises where the video lottery terminal  
18           is operated. In the case of a video lottery terminal  
20           manufacturer or video lottery terminal wholesaler, the records  
22           must be maintained at the primary business office of the video  
24           lottery terminal manufacturer or video lottery terminal  
26           wholesaler. The primary business office must be designated by  
          the licensee in the license application. All records must be  
          open to inspection and audit by the Chief of the State Police or  
          the chief's designee or the director or the director's designee,  
          and a licensee may not refuse the Chief of the State Police or  
          the chief's designee or the director or the director's designee  
          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.

28           **§392. Access to premises, equipment and records**

30           A licensee under this chapter shall permit the Chief of the  
32           State Police or the chief's designee to inspect any equipment,  
34           prizes, records or items and materials used or to be used in the  
36           operation of any video lottery terminal manufactured, owned,  
38           distributed or operated by that person. A licensee under this  
40           chapter shall consent in writing to the examination of all  
          accounts, bank accounts and records in the licensee's possession  
          or under the licensee'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.

42           **§393. Contempt**

44           If a witness refuses to obey a subpoena issued by the Chief  
46           of the State Police or the commission to give any evidence to  
48           proper inquiry by the chief or the commission, the Attorney  
50           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



2 show cause why that witness should not be adjudged in contempt.  
3 The court shall, in a summary manner, hear the evidence and, if  
4 the evidence warrants the court to do so, punish the witness in  
5 the same manner and to the same extent as for contempt before the  
6 Superior Court or with reference to the process of the Superior  
7 Court.

8 **§394. Violations**

10 1. Crimes by licensees. A licensee under this chapter  
11 commits a Class D crime when that licensee:

12 A. Knowingly permits a person under 21 years of age to play  
13 a video lottery terminal; or

14 B. Knowingly permits a person to play a video lottery  
15 terminal at a time other than during the hours for which  
16 play is permitted under section 381.

17 2. Class C crimes by any person. A person commits a Class  
18 C crime if that person:

19 A. Tampers with a video lottery terminal with intent to  
20 interfere with the proper operation of that terminal;

21 B. Manipulates or intends to manipulate the outcome,  
22 payback or operation of a video lottery terminal by physical  
23 tampering or any other means;

24 C. Manufactures, distributes, sells, operates or places a  
25 video lottery terminal for use in this State without a  
26 license; and

27 D. Places for public use or operates an unlicensed video  
28 lottery terminal in this State.

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

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

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

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

6           **§396. Rules**

8           Rules adopted pursuant to this chapter are routine technical  
10           rules pursuant to Title 5, chapter 375, subchapter 2-A.

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

14           **4. Notice of violation of video lottery law.** A liquor  
16           enforcement officer who has cited a licensee with a violation of  
18           any provision of Title 17, chapter 16 shall promptly notify the  
          State Harness Racing Commission and the Maine State Lottery  
          Commission of the violation.

20           **Sec. 9. 36 MRSA §6652, sub-§1-B, ¶¶A and B,** as enacted by PL  
1997, c. 24, Pt. C, §14, are amended to read:

22           A. Office furniture, including without limitation tables,  
24           chairs, desks, bookcases, filing cabinets and modular office  
          partitions; and

26           B. Lamps and lighting fixtures; and

28           **Sec. 10. 36 MRSA §6652, sub-§1-B, ¶C is enacted to read:**

30           C. Video lottery terminals, as defined in Title 17, section  
32           361, subsection 19.

34   **SUMMARY**

36           This bill allows limited numbers of video lottery terminals  
38           to be placed at licensed commercial racetracks and licensed  
40           off-track wagering facilities in the State. Terminal revenues  
42           would support the State's General Fund, harness racing purses,  
44           the Agricultural Fair Support Fund, the local municipalities  
          where the terminals are located, the licensee and the prevention  
          and treatment of problem gambling. Broad enforcement and  
          rule-making authority are assigned to the Maine State Lottery  
          Commission and the Maine State Police.