

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2001 Session of
2001

INTRODUCED BY PETRONE, TULLI, LUCYK, M. WRIGHT, SOLOBAY,
J. TAYLOR, J. WILLIAMS, WASHINGTON, DeWEESE, MELIO, LaGROTTA,
TRELLO, TRICH, LESCOVITZ, STEELMAN, ROONEY, SANTONI,
CORRIGAN, COLAFELLA, PRESTON, TANGRETTI, CALTAGIRONE, DeLUCA,
JAMES, PALLONE, HARHAI, RUFFING, LAUGHLIN, DALEY, BEBKO-
JONES, WALKO, COSTA, READSHAW, WOJNAROSKI, BELFANTI, SHANER,
C. WILLIAMS, FRANKEL, ROBERTS, HORSEY, YOUNGBLOOD, PISTELLA,
DERMODY, G. WRIGHT AND LEVDANSKY, OCTOBER 9, 2001

REFERRED TO COMMITTEE ON FINANCE, OCTOBER 9, 2001

AN ACT

1 Authorizing a video lottery system at certain racetracks;
2 providing for disbursements of revenues; imposing duties on
3 the Division of the State Lottery; establishing an advisory
4 committee; imposing a video lottery tax; and making an
5 appropriation.

6 The General Assembly finds as follows:

7 (1) The Commonwealth's horse racing industry is
8 responsible for the preservation of 500,000 acres of open
9 space land, which is devoted to the breeding, training,
10 feeding and care of 30,000 horses Statewide.

11 (2) This industry is also responsible for the creation
12 of more than 35,000 jobs, of which 10,000 are in agriculture.
13 Each year the racing industry contributes at least
14 \$750,000,000 to the value of goods and services and
15 \$576,000,000 in personal income.

16 (3) The industry is adversely affected by neighboring

1 states with approved gaming devices at licensed racetrack
2 facilities.

3 (4) This act establishes a racetrack video lottery
4 system to be operated by the State Lottery and sustains and
5 improves this Commonwealth's horse racing industry.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Horse Racing
10 Industry Improvement Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Applicant." A licensed corporation which applies for a
16 racetrack video lottery license under this act.

17 "Associated equipment." Any equipment or mechanical,
18 electromechanical or electronic contrivance, component or
19 machine used in connection with gaming, including links which
20 connect to progressive slot machines, equipment which affects
21 the proper reporting of gross revenue, computerized systems for
22 monitoring gaming devices and devices for weighing or counting
23 money.

24 "Department." The Department of Revenue of the Commonwealth.

25 "Division." The Division of the State Lottery.

26 "Fund." The State Lottery Fund.

27 "Gross income." The total amount of cash, vouchers or tokens
28 inserted into the racetrack video lottery machines operated by a
29 licensee, minus the total value of coins and tokens won by a
30 player and game credits which are cleared from the video lottery

1 terminals in exchange for winning redemption tickets.

2 "Licensed corporation." A corporation that has obtained a
3 license from either the State Horse Racing Commission or the
4 State Harness Racing Commission to conduct thoroughbred or
5 harness horse race meetings respectively with pari-mutuel
6 wagering.

7 "Licensee." A licensed corporation that has obtained a
8 racetrack video lottery license from the Division of the State
9 Lottery under this act.

10 "Racetrack." The physical facility where a licensed
11 corporation conducts thoroughbred or harness race meetings
12 respectively with pari-mutuel wagering.

13 "Racetrack video lottery license" or "license." A license
14 authorizing a licensed corporation to place and operate
15 racetrack video lottery machines at its racetrack pursuant to
16 this act.

17 "Racetrack video lottery machine." A machine in which coins,
18 credits or tokens are deposited in order to play any game of
19 chance in which the results, including options available to the
20 player, randomly and immediately are determined by the machine.
21 The machine may use spinning wheels or video displays or both,
22 and may or may not dispense coins or tokens directly to winning
23 players. A machine shall be considered a racetrack video lottery
24 machine notwithstanding the use of an electronic credit system
25 making the deposit of bills, coins or tokens unnecessary. The
26 term includes, but is not limited to, a device commonly referred
27 to as a "slot machine."

28 "Secretary." The Secretary of Revenue of the Commonwealth.
29 Section 3. Racetrack video lottery system.

30 A racetrack video lottery system is hereby established and

1 shall be administered by the division in accordance with this
2 act.

3 Section 4. Division of the State Lottery powers.

4 (a) General powers.--

5 (1) The division shall establish, administer and ensure
6 the integrity of racetrack video lottery machines and shall
7 have jurisdiction over the location and operation of
8 racetrack video lottery machines.

9 (2) The secretary shall employ an executive director,
10 deputies, secretaries, officers and representatives as it may
11 deem necessary, who shall serve at the secretary's pleasure.
12 The secretary shall also employ other employees as the
13 secretary sees fit and whose duties and compensation shall be
14 prescribed by the secretary.

15 (b) Specific powers.--The division shall have the following
16 specific powers and duties:

17 (1) Investigate, evaluate and decide upon applications
18 for all racetrack video lottery licenses provided for in this
19 act.

20 (2) Issue licenses pursuant to the provisions of section
21 6.

22 (3) Promulgate regulations as the division deems
23 necessary to carry out the policy and purposes of this act
24 and to enhance the credibility and integrity of racetrack
25 video lottery machines in this Commonwealth. Notwithstanding
26 any other provision of law to the contrary and in order to
27 facilitate the prompt implementation of this act, regulations
28 promulgated by the division during the first year of its
29 existence shall not be subject to notice of proposed
30 rulemaking pursuant to section 204 of the act of July 31,

1 1968 (P.L.769, No.240), referred to as the Commonwealth
2 Documents Law. Regulations adopted after the one-year period
3 shall be promulgated, adopted and published as provided by
4 law.

5 (4) The division or designated officers, employees or
6 agents of the secretary shall have the power to administer
7 oaths, examine witnesses and may issue subpoenas to compel
8 attendance of witnesses and production of all relevant and
9 material reports, books, papers, documents and other evidence
10 relating to the administration and enforcement of this act.

11 (5) Levy and collect an annual fee from each licensee of
12 \$150 per racetrack video lottery machine in operation as of
13 September 1 of each calendar year beginning with September 1
14 after the effective date of this act. This fee shall be
15 deposited into the fund. The annual fee of \$150 per machine
16 shall be used to cover the administrative cost of the
17 racetrack video lottery system. If the amount collected does
18 not cover the administrative cost in any given year, the
19 department may increase the amount to cover the increased
20 cost. The increased amount shall be published as a notice in
21 the Pennsylvanian Bulletin.

22 (6) Provide for the assessment and collection of fines
23 and penalties for violations of this act. All fines and
24 penalties shall be credited for deposit to the fund.

25 (7) Revoke or suspend any license provided for in this
26 act if the division finds by a preponderance of the evidence
27 that a licensee under this act, its officers, employees or
28 agents do not comply with the provisions of this act or the
29 rules and regulations of the division and that it would be in
30 the public interest, convenience or necessity to revoke or

1 suspend the license. None of the licenses provided for in
2 this act shall be transferable or assignable in any manner.

3 (8) Restrict access to confidential information obtained
4 under this act and ensure that the confidentiality of
5 information is maintained and protected.

6 (9) Prescribe financial reporting and internal control
7 requirements for the operations of licensees that relate to
8 racetrack video lottery machines.

9 (10) Prescribe the manner in which gross revenue must be
10 computed and reported by the licensee that relate to
11 racetrack video lottery machines.

12 (11) Require audits of the financial statements of the
13 operations of licensees that relate to racetrack video
14 lottery machines.

15 (12) Require periodic financial reports from licensees
16 consistent with standards and intervals prescribed by the
17 division.

18 (13) Prescribe the procedures to be followed by
19 licensees for cash transactions affecting racetrack video
20 lottery machines.

21 (14) Prescribe criteria and conditions for the operation
22 of the racetrack video lottery system.

23 (15) Enforce the prescribed hours for the operation of
24 racetrack video lottery machines, so that licensees may
25 operate racetrack video lottery machines on any day, except
26 Christmas day, between the hours of 10 a.m. on one day until
27 2 a.m. the next day.

28 (16) Prohibit the offering of free alcohol or free malt
29 or free brewed beverages to patrons operating or using
30 racetrack video lottery machines.

1 (17) Prohibit wagering by persons under 21 years of age
2 on racetrack video lottery machines.

3 (18) Establish procedures for the inspection and
4 certification of each racetrack video lottery machine prior
5 to being placed into use at the racetrack by a licensee to
6 insure that no racetrack video lottery machine may be set to
7 pay out less than 85% of all wagers on an average annual
8 basis unless specifically approved otherwise by the division.

9 (19) Prescribe any rule or regulation necessary to
10 administer the provisions of this act.

11 Section 5. Advisory committee.

12 (a) Establishment.--There is hereby established an advisory
13 committee within the department, to be known as the Racetrack
14 Video Lottery Advisory Committee. The committee shall assist the
15 department in developing and discussing proposed regulation,
16 final regulation or policy guidance and to provide continuing
17 advice on implementing and administering the provisions of this
18 act.

19 (b) Membership.--The advisory committee shall consist of the
20 following members:

21 (1) the Secretary of Agriculture or his designee;

22 (2) the chairperson of the State Horse Racing
23 Commission;

24 (3) the chairperson of the State Harness Racing
25 Commission; and

26 (4) five members appointed by the Governor with the
27 advice and consent of the Senate who shall be representative
28 of the interests affected by the provisions of this act. The
29 Secretary of Revenue shall serve as an ex officio member of
30 the committee.

1 (c) Terms.--The Governor shall appoint the initial members
2 of the committee under subsection (b)(4) within 60 days of the
3 effective date of this act. The members appointed by the
4 Governor shall serve three-year terms, except that the initial
5 appointees shall have staggered terms so that one member shall
6 be appointed for a one-year term, two members shall be appointed
7 for a two-year term and two members shall be appointed for a
8 three-year term.

9 (d) Chairperson.--A chairperson shall be chosen by a
10 majority vote of the committee members present at a regularly
11 scheduled meeting. A person employed by the Commonwealth may not
12 chair the committee.

13 (e) Expenses.--Members of the committee shall be reimbursed
14 for their travel expenses to attend committee meetings.
15 Employees of the Commonwealth shall only be entitled to the
16 compensation and expenses they receive as public employees.

17 (f) Support.--The department shall provide the appropriate
18 administrative and technical support needed by the committee in
19 order to accomplish its objectives.

20 Section 6. Issuance of racetrack video lottery licenses.

21 (a) Authorization.--The division may issue a racetrack video
22 lottery license to a licensed corporation that desires to
23 operate racetrack video lottery machines at its racetrack if
24 that licensed corporation makes application to the division and
25 meets all of the following:

26 (1) The licensed corporation maintains its license to
27 conduct racing in good standing with the appropriate
28 commission.

29 (2) The licensed corporation continues to provide for
30 live horse racing as provided for in the act of December 17,

1 1981 (P.L.435, No.135), known as the Race Horse Industry
2 Reform Act.

3 (3) The licensed corporation has a written live racing
4 agreement with a horsemen's organization representing a
5 majority of owners and trainers at the racetrack where the
6 licensed corporation conducts racing dates.

7 (4) Provides evidence satisfactory to the division that
8 a local option election was conducted under section 9 and
9 resulted in an affirmative vote for the county and licensed
10 corporation.

11 (5) The licensed corporation abides by all of the
12 provisions and regulations of this act.

13 (b) Limitation.--The division may determine the number of
14 racetrack video lottery machines that may be operated by a
15 licensee, provided that the number does not exceed 2,000 at any
16 one racetrack.

17 (c) Restriction.--No applicant that has been convicted in
18 any jurisdiction of a felony, crime of moral turpitude or
19 gambling offense may be issued a racetrack video lottery license
20 under this act.

21 (d) Suspension.--The division shall suspend the racetrack
22 video lottery license of any licensee who fails to satisfy the
23 requirements of subsection (a)(2) and (3) during the term of the
24 racetrack video lottery license until those requirements are
25 satisfied.

26 Section 7. Application.

27 (a) General rule.--Any licensed corporation which meets the
28 requirements of section 6 that desires to install racetrack
29 video lottery machines and operate or alter the number of or
30 location of racetrack video lottery machines within its

1 racetrack must file an application form with the division.

2 (b) Form.--The division shall develop an application form
3 that collects such information as deemed necessary by the
4 division.

5 Section 8. Accounting controls and audits.

6 (a) Approval.--A licensed corporation which desires to
7 install and operate racetrack video lottery machines at its
8 racetrack must first obtain approval of its internal control
9 systems and audits from the division.

10 (b) Minimum requirements.--At a minimum, the internal
11 controls and audits shall consist of:

12 (1) The safeguarding of its assets and revenues,
13 especially the recording of cash and evidences of
14 indebtedness related to the racetrack video lottery machines.

15 (2) The provision of reliable records, accounts and
16 reports of transactions, operations and events, including
17 reports to the division that relate to the racetrack video
18 lottery machines.

19 (3) The ensuring that each racetrack video lottery
20 machine within each racetrack facility is directly connected
21 to the racetrack's central computerized system and can
22 provide details of all transactions, including, but not
23 limited to, coin in, coin out, jackpots, machine door
24 openings and power failures.

25 (4) A procedure whereby assets that relate to racetrack
26 video lottery machine operations are safeguarded.

27 (5) Financial records that relate to racetrack video
28 lottery machine operations are accurate and reliable.

29 (6) Transactions that relate to racetrack video lottery
30 machine operations are performed only in accordance with the

1 management's general or specific authorization.

2 (7) Transactions that relate to racetrack video lottery
3 machine operations are recorded adequately to permit proper
4 and timely reporting of gaming revenue and of fees and taxes
5 and to maintain accountability for assets.

6 (8) Access to assets that relate to racetrack video
7 lottery machine operations is permitted only in accordance
8 with management's specific authorization.

9 (9) Recorded accountability for assets that relate to
10 racetrack video lottery machine operations is compared with
11 actual assets at reasonable intervals and appropriate action
12 is taken with respect to any discrepancies.

13 (10) Functions, duties and responsibilities that relate
14 to racetrack video lottery machine operations are
15 appropriately segregated and performed in accordance with
16 sound practices by competent, qualified personnel.

17 (c) Internal control.--A licensed corporation which seeks to
18 operate racetrack video lottery machines at its racetrack shall
19 describe, in the manner the division may approve or require, its
20 administrative and accounting procedures that relate to
21 racetrack video lottery machine operations in detail in a
22 written system of internal control and shall submit a copy of
23 its written racetrack video lottery system to the division. Each
24 written video lottery system shall include:

25 (1) An organizational chart depicting appropriate
26 segregation of functions and responsibilities.

27 (2) A description of the duties and responsibilities of
28 each position shown on the organizational chart.

29 (3) A detailed narrative description of the
30 administrative and accounting procedures designed to satisfy

1 the requirements of subsection (a).

2 (4) A written statement signed by the chief financial
3 officer of the licensed corporation and the chief executive
4 officer of the licensed corporation attesting that the system
5 satisfies the requirements of this section.

6 (5) Any other item that the division may require.

7 Section 9. Local option election.

8 (a) Condition of application submission.--A licensed
9 corporation that desires to submit an application to the
10 division for a racetrack video lottery license must first obtain
11 an affirmative vote from a ballot question in accordance with
12 this section.

13 (b) Procedure.--

14 (1) The placement of racetrack video lottery machines in
15 the facility of a licensed corporation shall be submitted as
16 a ballot question to the qualified electors of the county in
17 which the facility is located upon petition signed by at
18 least 500 qualified electors of the county, and filed with
19 the county election board by the licensed corporation in
20 accordance with the act of June 3, 1937 (P.L.1333, No.320),
21 known as the Pennsylvania Election Code.

22 (2) The question shall be placed upon the ballot of that
23 county for the next regularly scheduled election as a "yes"
24 or "no" question in the following form:

25 Do you favor the Division of the State Lottery
26 issuing a license for the operation of racetrack
27 video lottery machines, commonly referred to as "slot
28 machines," within this county at the (name of the
29 racetrack owned by the licensed corporation that
30 submitted the petition) where pari-mutuel wagering is

1 authorized under Pennsylvania law?

2 (3) The results of the ballot question shall be
3 certified by the county election board to the licensed
4 corporation that submitted the petition.

5 (c) Certification to be submitted with application.--An
6 application to the division for a license shall not be deemed
7 complete and may not be approved by the division unless the
8 certification from the respective county election board
9 identified in subsection (b) is included with the application
10 and the result of the ballot question is in the affirmative.

11 (d) Effect of affirmative vote.--If the majority of
12 qualified electors voting in the county in which a ballot
13 question was presented in accordance with this section vote in
14 the affirmative, then no similar ballot question for that
15 licensed corporation or any other licensed corporation may be
16 presented in that county for a period of five years from the
17 date of the election, unless a petition of qualified electors in
18 that county is filed after the election with the county board of
19 elections, which petition contains at least 5% of the signatures
20 of the qualified electors in that county.

21 (e) Effect of negative vote.--If the majority of qualified
22 electors voting in the county in which a ballot question was
23 presented in accordance with this section vote in the negative,
24 then no similar ballot question for that licensed corporation or
25 any other licensed corporation may be presented in that county
26 for a period of two years from the date of the election.

27 Section 10. Allocation of gross revenue to pari-mutuel purses.

28 A racetrack video lottery licensee shall use at least 40% of
29 the gross revenue arising from the operation of the racetrack
30 video lottery machines to increase the purses of pari-mutuel

1 municipality to the total acreage in all municipalities
2 occupied by the racetrack.

3 (3) Ten percent shall be distributed equally among the
4 school districts hosting a racetrack which operates racetrack
5 video lottery machines based upon the licensed corporation's
6 percentage of contribution to the fund. If the racetrack is
7 located in two or more school districts, the amount available
8 shall be distributed on a pro rata basis determined by the
9 percentage of acreage located in each school district to the
10 total acreage in all school districts occupied by the
11 racetrack.

12 (4) Five percent shall be transferred to the Breeder's
13 Fund.

14 (5) Five percent shall be transferred to the Sire Stakes
15 Fund.

16 (6) The balance shall remain in the State Lottery Fund.

17 (d) Tax reconciliation.--If the amount of tax required to be
18 reported and paid pursuant to this section is later determined
19 to be greater or less than the amount actually reported and paid
20 by the licensed corporation, the division shall:

21 (1) assess and collect the additional tax determined to
22 be due with interest thereon until paid; or

23 (2) provide for a refund of any overpayment, with
24 interest thereon, to the licensed corporation.

25 Section 12. Declaration of exemption from Federal laws
26 prohibiting gambling devices.

27 (a) Declaration.--Pursuant to section 2 of the act of
28 January 2, 1951 (64 Stat. 1135, 15 U.S.C. § 1172), the
29 Commonwealth declares that it is exempt from section 1134 of
30 that act.

1 (b) Legal shipments.--All shipments of racetrack video
2 lottery machines into this Commonwealth, the registering,
3 recording and labeling of which has been effected by the
4 supplier of the racetrack video lottery machines, in accordance
5 with sections 5 and 7 of the act of January 2, 1951 (64 Stat.
6 1135, 15 U.S.C. §§ 1175 and 1177), shall be deemed legal
7 shipments of gambling devices into this Commonwealth.

8 Section 13. Annual report.

9 The division shall, within 18 months of the effective date of
10 this act and each year thereafter, submit a report to the
11 Governor and General Assembly, which reports on the general
12 operation of the division under this act and all taxes, fees,
13 fines and other revenues collected and disbursed. The number and
14 result of hearings conducted under this act and any other
15 information that the division deems necessary or appropriate.

16 Section 14. Appropriation.

17 The sum of \$1,500,000, or as much thereof as may be
18 necessary, is hereby appropriated to the Department of Revenue
19 for the establishment of the racetrack video lottery system
20 within the Division of the State Lottery. The department shall
21 reimburse the General Fund from the revenue generated within the
22 first year of the operations of racetrack video lottery
23 machines.

24 Section 15. Effective date.

25 This act shall take effect in 60 days.