

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**  
**No. 2986** Session of  
2002

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INTRODUCED BY PALLONE, NOVEMBER 19, 2002

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REFERRED TO COMMITTEE ON FINANCE, NOVEMBER 19, 2002

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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  
17 states with approved gaming devices at licensed racetrack  
18 facilities.

19 (4) This act establishes a racetrack video lottery

1 system to be operated by the State Lottery and sustains and  
2 improves this Commonwealth's horse racing industry.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

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

8 Section 2. Definitions.

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

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

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

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

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

23 "Fund." The State Lottery Fund.

24 "Gross income." The total amount of cash, vouchers or tokens  
25 inserted into the racetrack video lottery machines operated by a  
26 licensee, minus the total value of coins and tokens won by a  
27 player and game credits which are cleared from the video lottery  
28 terminals in exchange for winning redemption tickets.

29 "Licensed corporation." A corporation that has obtained a  
30 license from either the State Horse Racing Commission or the

1 State Harness Racing Commission to conduct thoroughbred or  
2 harness horse race meetings respectively with pari-mutuel  
3 wagering.

4 "Licensee." A licensed corporation that has obtained a  
5 racetrack video lottery license from the Division of the State  
6 Lottery under this act.

7 "Racetrack." The physical facility where a licensed  
8 corporation conducts thoroughbred or harness race meetings  
9 respectively with pari-mutuel wagering.

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

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

25 "Secretary." The Secretary of Revenue of the Commonwealth.  
26 Section 3. Racetrack video lottery system.

27 A racetrack video lottery system is hereby established and  
28 shall be administered by the division in accordance with this  
29 act.

30 Section 4. Division of the State Lottery powers.

1 (a) General powers.--

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

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

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

14 (1) Investigate, evaluate and decide upon applications  
15 for all racetrack video lottery licenses provided for in this  
16 act.

17 (2) Issue licenses pursuant to the provisions of section  
18 6.

19 (3) Promulgate regulations as the division deems  
20 necessary to carry out the policy and purposes of this act  
21 and to enhance the credibility and integrity of racetrack  
22 video lottery machines in this Commonwealth. Notwithstanding  
23 any other provision of law to the contrary and in order to  
24 facilitate the prompt implementation of this act, regulations  
25 promulgated by the division during the first year of its  
26 existence shall not be subject to notice of proposed  
27 rulemaking pursuant to section 204 of the act of July 31,  
28 1968 (P.L.769, No.240), referred to as the Commonwealth  
29 Documents Law. Regulations adopted after the one-year period  
30 shall be promulgated, adopted and published as provided by

1 law.

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

8 (5) Levy and collect an annual fee from each licensee of  
9 \$150 per racetrack video lottery machine in operation as of  
10 September 1 of each calendar year beginning with September 1  
11 after the effective date of this act. This fee shall be  
12 deposited into the fund. The annual fee of \$150 per machine  
13 shall be used to cover the administrative cost of the  
14 racetrack video lottery system. If the amount collected does  
15 not cover the administrative cost in any given year, the  
16 department may increase the amount to cover the increased  
17 cost. The increased amount shall be published as a notice in  
18 the Pennsylvanian Bulletin.

19 (6) Provide for the assessment and collection of fines  
20 and penalties for violations of this act. All fines and  
21 penalties shall be credited for deposit to the fund.

22 (7) Revoke or suspend any license provided for in this  
23 act if the division finds by a preponderance of the evidence  
24 that a licensee under this act, its officers, employees or  
25 agents do not comply with the provisions of this act or the  
26 rules and regulations of the division and that it would be in  
27 the public interest, convenience or necessity to revoke or  
28 suspend the license. None of the licenses provided for in  
29 this act shall be transferable or assignable in any manner.

30 (8) Restrict access to confidential information obtained

1 under this act and ensure that the confidentiality of  
2 information is maintained and protected.

3 (9) Prescribe financial reporting and internal control  
4 requirements for the operations of licensees that relate to  
5 racetrack video lottery machines.

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

9 (11) Require audits of the financial statements of the  
10 operations of licensees that relate to racetrack video  
11 lottery machines.

12 (12) Require periodic financial reports from licensees  
13 consistent with standards and intervals prescribed by the  
14 division.

15 (13) Prescribe the procedures to be followed by  
16 licensees for cash transactions affecting racetrack video  
17 lottery machines.

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

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

25 (16) Prohibit the offering of free alcohol or free malt  
26 or free brewed beverages to patrons operating or using  
27 racetrack video lottery machines.

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

30 (18) Establish procedures for the inspection and

1 certification of each racetrack video lottery machine prior  
2 to being placed into use at the racetrack by a licensee to  
3 insure that no racetrack video lottery machine may be set to  
4 pay out less than 85% of all wagers on an average annual  
5 basis unless specifically approved otherwise by the division.

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

8 Section 5. Advisory committee.

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

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

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

19 (2) the chairperson of the State Horse Racing  
20 Commission;

21 (3) the chairperson of the State Harness Racing  
22 Commission; and

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

28 (c) Terms.--The Governor shall appoint the initial members  
29 of the committee under subsection (b)(4) within 60 days of the  
30 effective date of this act. The members appointed by the

1 Governor shall serve three-year terms, except that the initial  
2 appointees shall have staggered terms so that one member shall  
3 be appointed for a one-year term, two members shall be appointed  
4 for a two-year term and two members shall be appointed for a  
5 three-year term.

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

10 (e) Expenses.--Members of the committee shall be reimbursed  
11 for their travel expenses to attend committee meetings.

12 Employees of the Commonwealth shall only be entitled to the  
13 compensation and expenses they receive as public employees.

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

17 Section 6. Issuance of racetrack video lottery licenses.

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

23 (1) The licensed corporation maintains its license to  
24 conduct racing in good standing with the appropriate  
25 commission.

26 (2) The licensed corporation continues to provide for  
27 live horse racing as provided for in the act of December 17,  
28 1981 (P.L.435, No.135), known as the Race Horse Industry  
29 Reform Act.

30 (3) The licensed corporation has a written live racing



1 agreement with a horsemen's organization representing a  
2 majority of owners and trainers at the racetrack where the  
3 licensed corporation conducts racing dates.

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

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

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

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

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

## 23 Section 7. Application.

24 (a) General rule.--Any licensed corporation which meets the  
25 requirements of section 6 that desires to install racetrack  
26 video lottery machines and operate or alter the number of or  
27 location of racetrack video lottery machines within its  
28 racetrack must file an application form with the division.

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

1 division.

2 Section 8. Accounting controls and audits.

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

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

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

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

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

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

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

26 (6) Transactions that relate to racetrack video lottery  
27 machine operations are performed only in accordance with the  
28 management's general or specific authorization.

29 (7) Transactions that relate to racetrack video lottery  
30 machine operations are recorded adequately to permit proper

1 and timely reporting of gaming revenue and of fees and taxes  
2 and to maintain accountability for assets.

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

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

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

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

22 (1) An organizational chart depicting appropriate  
23 segregation of functions and responsibilities.

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

26 (3) A detailed narrative description of the  
27 administrative and accounting procedures designed to satisfy  
28 the requirements of subsection (a).

29 (4) A written statement signed by the chief financial  
30 officer of the licensed corporation and the chief executive

1 officer of the licensed corporation attesting that the system  
2 satisfies the requirements of this section.

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

4 Section 9. Local option election.

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

10 (b) Procedure.--

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

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

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

29 (3) The results of the ballot question shall be  
30 certified by the county election board to the licensed

1 corporation that submitted the petition.

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

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

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

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

25 A racetrack video lottery licensee shall use at least 40% of  
26 the gross revenue arising from the operation of the racetrack  
27 video lottery machines to increase the purses of pari-mutuel  
28 wagering.

29 Section 11. Racetrack video lottery tax and distributions of  
30 tax.

1 (a) Imposition of tax.--Each racetrack video lottery  
2 licensee shall pay a tax in the amount of 60% of the gross  
3 income arising from the operation of the video lottery machines.

4 (b) Payment and credit.--The tax imposed by this section  
5 shall be paid by the licensed corporation through the department  
6 for credit to the fund monthly on or before the 20th day of the  
7 month next succeeding the month in which the tax accrues.

8 (c) Distribution.--The division shall distribute money from  
9 the fund together with the interest earned thereon at least once  
10 annually on September 1, 2003, and each September 1 thereafter  
11 to the State Treasurer for deposit in the following manner: No  
12 more than 10% of the money may be used for the administrative  
13 expenses of the system as incurred by the division and the  
14 balance of the money shall be distributed annually to the school  
15 districts of this Commonwealth in proportion to the number of  
16 children who are at least five years of age but not yet 18 years  
17 of age as determined by the last school census conducted under  
18 section 1351 of the act of March 10, 1949 (P.L.30, No.14), known  
19 as the Public School Code of 1949. Upon receipt of its  
20 distribution, each school district shall adjust its real  
21 property tax millage for the next following fiscal year so that  
22 the revenue which was to have been received from the real  
23 property tax is reduced by the amount of the distribution under  
24 this subsection.

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

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

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

3   Section 12. Declaration of exemption from Federal laws  
4           prohibiting gambling devices.

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

9           (b) Legal shipments.--All shipments of racetrack video  
10   lottery machines into this Commonwealth, the registering,  
11   recording and labeling of which has been effected by the  
12   supplier of the racetrack video lottery machines, in accordance  
13   with sections 5 and 7 of the act of January 2, 1951 (64 Stat.  
14   1135, 15 U.S.C. §§ 1175 and 1177), shall be deemed legal  
15   shipments of gambling devices into this Commonwealth.

16   Section 13. Annual report.

17           The division shall, within 18 months of the effective date of  
18   this act and each year thereafter, submit a report to the  
19   Governor and General Assembly, which reports on the general  
20   operation of the division under this act and all taxes, fees,  
21   fines and other revenues collected and disbursed. The number and  
22   result of hearings conducted under this act and any other  
23   information that the division deems necessary or appropriate.

24   Section 14. Appropriation.

25           The sum of \$1,500,000, or as much thereof as may be  
26   necessary, is hereby appropriated to the Department of Revenue  
27   for the establishment of the racetrack video lottery system  
28   within the Division of the State Lottery. The department shall  
29   reimburse the General Fund from the revenue generated within the  
30   first year of the operations of racetrack video lottery

- 1 machines.
- 2 Section 15. Effective date.
- 3 This act shall take effect in 60 days.