

## **Short Ballot Title**

An Initiative Seeking To Legalize Video Lottery Gaming Machines At Horse Race Tracks Within Idaho.

## **Long Ballot Title**

An initiative: defining and enabling Video Lottery Terminal Gaming ("VLT Gaming"); enacting chapter 79, title 67 of the Idaho Code providing findings and purposes and establishing public policy regarding VLT Gaming; defining Video Lottery Terminals ("VLT's") as lottery machines which perform only certain defined functions; defining technical and operational requirements of VLT's; establishing a 20% annual tax ("VLT Tax") on net proceeds derived from VLT Gaming; providing for regulation of VLT's AND VLT Gaming by the Idaho State Lottery Commission; providing for the collection, allocation and distribution of VLT Tax revenues to: horse racing tracks situated in Idaho at which live horse racing and pari-mutuel wagering are conducted ("Racing Facilities"); county fair boards; counties where Racing Facilities are located; enhance and/or supplement purses for Idaho bred horse races; and funds to be created to assist in the payment of senior citizen's prescriptions and healthcare and to provide student scholarships; and containing a severability clause.

## **Text of Initiative**

Be it enacted by the People of the State of Idaho:

Section 1. Title.

This Act shall be known as the "Idaho Pari-mutuel Live Horse Racing Rural Economic Revitalization and Video Lottery Terminal Act".

Section 2. Chapter 79, Title 67, Idaho Code, is hereby enacted, to be known and designated as Sections 67-7901 through 67-7918, Idaho Code, and to read as follows:

67-7901. FINDINGS AND PURPOSES.

The people of the State of Idaho recognize and declare the following:

(1) The conduct of horse racing at horse racing tracks situated in Idaho at which pari-mutuel wagering is permitted ("Racing Facilities") licensed by the Idaho State Racing Commission has historically made significant contributions to the economic development of the state generally and specifically to the rural counties where the agricultural and horse breeding industries are prevalent.

(2) Recent legalization of forms of gaming, other than pari-mutuel wagering on horse races, such as lotteries and gaming at river boat and land-based casinos, in neighboring states has, and will continue to have, a substantial negative and detrimental effect upon rural Idaho live horse racing, as well as the thoroughbred, quarter horse and Idaho bred horse industries in general.

(3) Recent legalization of Indian gaming has, in addition, had a negative and detrimental effect on rural Idaho live horse racing AND the thoroughbred, quarter horse and Idaho bred horse industries in general.

(4) The growing national trend to legalize slot machine or VLT Gaming at Racing Facilities in neighboring states has had and will continue to have a substantial negative and detrimental effect upon the rural Idaho live horse racing and related industries.

(5) Idaho live horse racing (and related industries) in rural counties suffers significant economic disadvantage and its continuing existence is threatened.

(6) Unlike non rural counties which have the ability to attract and support new businesses and alternative revenue sources, rural counties are heavily reliant on available revenue sources from live horse racing and related agricultural and equine industries which are in dire need of revitalization.

(7) Authorization to purchase, own and operate VLT's at racing facilities to persons holding a license issued by the Idaho State Racing Commission to conduct live horse racing and pari-mutuel wagering activities will help to (A) revitalize and rehabilitate the horse racing associations, the rural live horse racing AND the thoroughbred and quarter horse industries in general located in the state, and (B) stimulate economic and tourism development in general as well as create additional revenues for the rural counties where those Racing Facilities are located.

(8) Imposition and collection of a reasonable tax on the net proceeds derived from VLT Gaming conducted at Racing Facilities can be distributed for the benefit of: (i) Racing Facilities; (ii) county fair boards; (iii) counties in which Racing Facilities are located; (iv) enhancing and supplementing purses for Idaho bred horse races and breeders' incentives programs; and (v) senior citizens in the form of payment assistance for prescriptions and healthcare and students in the form of scholarships.

67-7902. DEFINITIONS. When used in this Chapter, the following terms shall have these meanings:

(1) "Association" means a Person, county fair board or other legal entity licensed by the Idaho State Racing Commission to conduct live racing and pari-mutuel wagering at a Racing Facility.

(2) "Commission" means Idaho State Lottery Commission, created and authorized by chapter 74, title 67, Idaho Code.

(3) "Designated VLT area" means that portion of the physical area of an Eligible Racing Facility in which VLT Gaming Operations are or may be conducted by a Licensee in accordance with the provisions of this chapter.

(4) "Director" means the director of the Commission, as defined in section 67-7404, Idaho Code.

(5) "Distributor" means a Person engaged in the business of acquiring (by purchase or otherwise) of VLT's and/or related equipment and supplies (and/or parts of portions thereof) and selling or otherwise providing the same to Licensees for use in the conduct of VLT Gaming Operations in Idaho.

(6) "Electronic cards" includes cards which employ an affixed magnetic storage medium and/or a "smart card" and/or cards containing an integrated circuit chip, but excludes credit cards issued by any Person other than a Licensee.

(7) "Eligible Applicant" means a Person who as actually operated for not less than three of the last five years prior to 2004 at a Racing Facility situated in a Rural County, live race horse meets (at which pari-mutuel wagering has been permitted) either (a) as licensee pursuant to a license issued by the Idaho State Racing Commission to conduct live horse race meets (at which pari-mutuel wagering has been permitted) and/or (b) pursuant to a contract, agreement or other arrangement with the holder of a license issued by the Idaho State Racing Commission to conduct live horse race meets (at which pari-mutuel wagering has been permitted). The holder of a license issued by the Idaho State Racing Commission to conduct live horse race meets (at which pari-mutuel wagering has been permitted) who or which has engaged, permitted and/or authorized another Person (other than its officers, directors or employees), by contract, agreement or other arrangement to actually operate live horse race meets shall not be or be deemed to be an Eligible Applicant.

(8) "Eligible Racing Facility" means any of the following: (a) a Racing Facility situated in a Rural County at which live horse race meets (at which pari-mutuel wagering has been permitted) have been operated by an Eligible Applicant for not less than three of the last five years prior to 2004, including, contiguous improved or unimproved real property and (b) a Racing Facility (i) constructed, in whole or in part, subsequent to January 1, 2004 ("New Racing Facility"), (ii) situated in a Rural County at which live horse race meets (at which pari-mutuel wagering has been permitted) have been operated by an Eligible Applicant for not less than three of the last five years prior to 2004 ("Existing Eligible Applicant") and (iii) such New Racing Facility is operated by the Existing Eligible Applicant.

(9) "GLI" means Gaming Laboratories, Inc., a testing and certification company.

(10) "License" means the authorization issued to an Eligible Applicant by the Commission pursuant to the provisions of this chapter (including section 67-7917) to: (a) acquire (by purchase, lease or otherwise) and own VLT's certified by GLI, and (b) install, maintain and operate VLT's and conduct VLT Gaming Operations at an Eligible Racing Facility.

(11) "Licensee" means an Eligible Applicant issued a License by the Commission under this chapter (including section 67-7917).

(12) "Manufacturer" means any Person (a) who or which manufactures, fabricates, assembles and/or programs VLT's including parts or portions thereof (collectively "VLT Equipment"), (b) whose VLT Equipment is GLI certified and (c) either (i) has applied for and been issued a permit by the Commission to sell, lease or otherwise provide VLT Equipment to Licensees or Permittees, or (ii) has been, and is currently licensed in any other State to sell,

lease or otherwise provide VLT Equipment to Persons authorized to conduct VLT Gaming Operations in such other State.

(13) "Net VLT Proceeds" means the total of all cash and property received by a Licensee from VLT Gaming Operations minus the amount of the Payout.

(14) "Payout" means premiums, merchandise, prizes, promotional complementaries or anything of value provided via a voucher and/or Electronic Card which the player of a VLT may be entitled to receive as a result of the playing of the VLT.

(15) "Permit" means any authorization (other than a License) issued to a Manufacturer, Distributor, supplier, Service Technician or any person (other than a Licensee or its Principals) by the Commission under the provisions of this chapter (including section 67-7917) to participate, in VLT Gaming Operations and/or the provision, repair, maintenance and servicing of VLT's and related equipment and supplies.

(16) "Permittee" means a Person (other than a Licensee) issued a Permit by the Commission under the provisions of this chapter (including section 67-7917).

(17) "Person(s)" means individuals, partnerships, limited liability companies, corporations and other legal entities and associations.

(18) "Principal" means any Person who (a) holds or controls directly or indirectly ten (10%) percent or more ownership or economic interest in an applicant for, or holder of, a License or Permit, or (b) receives ten (10%) percent or more revenue interest in the form of a commission, finder's fee, loan fee or interest, or any other compensation arising out of or relating to VLT Gaming Operations.

(19) "Racing Facility" means a race track and related facilities (including, without limitation, clubhouse and grand stand) situated in the State of Idaho at which live race meets an pari-mutuel wagering are conducted or, if constructed in whole or in part subsequent to January 1, 2004, will be conducted.

(20) "Rural County" means a county having a population of less than 20,000 as determined in the 2000 US Census.

(21) "Service technician" means any Person (other than a Licensee or Manufacturer and/or their respective employees) who (a) is trained by a Manufacturer, Distributor, other qualified entity, or has been certified in a training program approved by the Commission, to perform one or more of the following functions with respect to a VLT: (i) clearing paper or money jams, (ii) changing paper contained within the VLT, (iii) retrieving money from a VLT, or (iv) performing any repairs, parts replacements, maintenance, cleaning, and other servicing to VLT's, and (b) holds a Permit issued by the Commission under the provisions of this chapter (including section 67-7917) to perform those functions for a Licensee or Permittee.

(22) "VLT" means a lottery machine that performs only the following functions: (a) accepts paper currency or vouchers to enable a player to participate in one or more games; (b) dispenses, at the player's request, a voucher and/or Electronic Card that has printed, physically or electronically imprinted upon it the game identifier and the player's credit balance;

(c) shows on a video screen or other electronic display, rather than on a paper ticket, the results of each game played; (d) shows on a video screen or other electronic display, in an area separate from the game results, the player's credit balance; (e) houses a game platform that is connected to a central system; (f) contains within the common central system pools of electronic scratch-off tickets and (i) such pools are defined by game type, denomination, and the amount bet, (ii) each pool, regardless of where its electronic tickets are assigned, has its own hold or par, and (iii) a player plays against other players through the VLT and its designated pool; and (g) a central computer system maintains the integrity of the operations of the individual VLT.

(23) "VLT Gaming Operations" means the use, operation, offering, or conduct of VLT gaming by a Licensee in accordance with the provisions of this chapter.

(24) "VLT Fund" means the Idaho Pari-mutuel Live Racing Entity Video Lottery Terminal Fund to be created by the state treasurer in which all state taxes generated pursuant to section 67-7906, Idaho Code, and all fees, fines, revenues and other monies collected by the Commission shall be deposited.

67-7903. POWER OF IDAHO STATE RACING COMMISSION. Nothing in this Chapter shall be construed to abrogate, limit, or affect in any way the powers granted to the Idaho State Racing Commission in chapter 25, title 54, Idaho Code.

67-7904. REQUIREMENTS FOR VIDEO LOTTERY TERMINALS. No VLT shall be installed and/or operated in this State by a Licensee or otherwise unless such VLT shall:

(1) Be of a class of VLTs which either (a) have been inspected by the Commission or its designee for GLI certification and compliance with the provisions of this chapter and the rules and regulations adopted, from time to time, by the Commission under the authority granted in this chapter or (b) are manufactured or assembled by a Manufacturer;

(2) Have a serial number or other identification number permanently affixed thereto by the manufacturer;

(3) Be connected to a central computer; which central computer may be located on the premises of the Eligible Racing Facility, but in all cases shall be owned and operated by the State of Idaho and maintained as directed by the Commission;

(4) Be capable of being continuously monitored, polled and read by the central computer; and

(5) Contain an erasable, programmable, read-only memory chip ("EPROM") approved and owned by the State of Idaho containing proprietary data, software and firmware required to operate and to secure the operation of the VLT.

67-7905. LICENSING; PERMITTING; AND OPERATIONS. No Person shall acquire, own, operate, provide, distribute, repair or maintain VLTs and/or conduct VLT Gaming Operations unless and until such Person shall be issued a License or Permit, as the case may be, to engage in such activity, by the Commission under the provisions of this chapter (including section 67-7917) or be exempt from permitting as herein provided.

(1) Except as otherwise provided in section 67-7917, upon (a) receipt by the Commission of a sworn application of an Eligible Applicant ("License Application") and (b) a finding by the Commission, after investigation, that (i) the License Application is complete, (ii) the Eligible Applicant is suitable; and (iii) the Eligible Applicant holds (or is entitled to exercise the benefits of) a license issued by the Idaho State Racing Commission to conduct live racing and pari-mutuel wagering operations at an Eligible Racing Facility, the Commission shall issue a License to the Eligible Applicant. The License (including one issued pursuant to section 67-7917) shall entitle the Licensee to acquire (by purchase, lease or otherwise) own, install, operate, repair and maintain VLTs certified by GLI and to conduct VLT Gaming Operations at any Eligible Racing Facility subject to the requirements of this chapter and rules and regulations adopted, from time to time, by the Commission pursuant to the authority granted herein.

(2) Each License issued pursuant to section 67-7905(1) shall require, as a condition to the Licensee conducting VLT Gaming Operations, that the Licensee:

(a) Maintain continuous suitability;

(b) Permit the Commission (including the director and/or any agent thereof) unrestricted access to the VLT Designated Area at the Eligible Racing Facility and the right of inspection of all VLTs and related VLT Equipment therein situated; and

(c) Make the payments to the VLT Fund required to be made pursuant to section 67-7906; which payments shall be disbursed in accordance with the provisions of section 67-7914.

(3) Except as provided in section 67-7917 upon: (a) receipt by the Commission of a sworn application for a Permit submitted by a Manufacturer, Distributor, or Service Technician ("Permit Application"), as the case may be, and (b) a finding by the Commission, after investigation, that (i) the Permit Application is complete, and (ii) the applicant is suitable, the Commission shall issue the appropriate Permit to the applicant. The Permit (including one issued pursuant to section 67-7917) shall entitle the Permittee to engage in the activity described in the Permit Application and the Permit subject to the requirements of this chapter and rules and regulations adopted, from time to time, by the Commission pursuant to the authority granted herein. Each Permit issued pursuant to section 67-7905(3) shall require, as a condition to the Permittee conducting the permitted activity, that the Permittee maintain continuous suitability.

(4) All Licenses and Permits shall be issued for a period of five years and shall be renewed for succeeding five-year periods upon the submission by the Licensee or Permittee of a completed, sworn application ("Renewal Application"), and a finding by the Commission of continued suitability, in both cases, pursuant to sections 67-7905(1) or (3), as the case may be. Provided that the Licensee or Permittee shall file a completed Renewal Application prior to expiration of its current License or Permit, the term of its current License or Permit shall be deemed extended until the later of the disposition by the Commission of such Renewal Application and any judicial review of such disposition.

(5) Licenses and Permits shall not be transferable without the prior approval of the Commission upon joint application of the transferor and transferee. The Commission shall have the authority to provide by rule or regulation the percentage change in ownership of a Licensee or Permittee that shall be deemed to constitute a transfer of the License or Permit held by such Licensee or Permittee requiring the prior approval of the Commission under this section.

(6) Prior to the consummation of a transfer of a License, Permit or interest in a Licensee or Permittee requiring the prior approval of the Commission pursuant to section 67-7905(5) hereof (a) the proposed transferee ("Proposed Transferee") shall file a completed and sworn License Application or Permit Application, as the case may be, and (b) the Commission shall promptly conduct a suitability investigation of the Proposed Transferee and promptly advise the Proposed Transferee and the proposed transferor of the results thereof. If the Commission finds that the Proposed Transferee is suitable, the Commission shall promptly issue its written approval of the proposed transfer as provided for in section 67-7905(5). A determination by the Commission that a Proposed Transferee is not suitable shall have no effect on the status or continuity of a License or Permit to the suitability of a Licensee or Permittee provided the proposed transfer is not consummated. The Proposed Transferee shall reimburse the Commission for all costs and expenses incurred by the Commission in connection with any such suitability investigation.

(7) If the central computer required pursuant to Section 67-7904(3) is located on the premises of the Eligible Racing Facility, the Licensee operating such Eligible Racing Facility shall:

(a) Provide, at no cost or expense to the Commission, sufficient space and facilities at the Eligible Racing Facility for the installation and operation of the central computer and the staff of the Commission engaged to operate such central computer;

(b) Furnish and install the central computer and software; the cost of which central computer and software ("Central Computer Cost") shall, subject to section 67-7905(7)(c), be advanced by the Licensee; and

(c) Recover the Central Computer Cost in three equal annual installments during each of the first three consecutive years of VLT Gaming Operations at such Eligible Racing Facility solely and exclusively out of the payments required to be made by the Licensee under section 67-7906.

67-7906. STATE TAX; LEVY. There is hereby levied an annual state license tax of twenty (20%) percent upon net VLT Proceeds (the "License Tax"). The License Tax shall be (a) paid daily in arrears; (b) shall be paid into the VLT Fund; and (c) shall be disbursed from the VLT Fund pursuant to section 67-7914. There shall be no other state, county or local license tax, fee, levy or other charge assessed against VLT Gaming Operations and/or Net VLT Proceeds for licensure.

#### 67-7907. SUITABILITY GENERALLY.

(1) Except as otherwise provided in section 67-7917, no applicant shall be granted a License or Permit under the provisions of this chapter unless the applicant has demonstrated

to the Commission that the applicant is a "suitable" recipient of a License or Permit for which the applicant has applied.

(2) For purposes of this chapter, an applicant for a License or Permit is "suitable" and/or has met "suitability" standards if the applicant has satisfied the requirements established by this chapter and by the Commission by rules and regulations adopted pursuant to this chapter, including the requirement that the applicant:

(a) has satisfied the suitability standards provided in section 67-7908;

(b) is capable, by virtue of training, education, business experience and/or a combination of the same, of conducting the activity for which the License or Permit is sought;

(c) has demonstrated that the applicant has, or can acquire from others, sufficient funds to renovate and/or construct a Designated VLT Area at or adjacent to the Eligible Racing Facility; acquire and install VLTs and related VLT Equipment and commence and continue VLT Gaming Operations; and

(d) has demonstrated that applicant's Principals are suitable.

(3) A Person (i) whose application for a License or Permit has been denied, or (ii) whose License or Permit has been issued subject to a condition, or (iii) whose License or Permit has been suspended or revoked, or (iv) against whom a fine has been levied, or (v) who has, as a Principal, been determined by the Commission (prior to a hearing) to be "unsuitable", shall have the right to a hearing before the Commission with respect to any such denial, condition, suspension, revocation, levy or determination; and such findings, decision and hearing shall be subject to the rules and procedures of the Idaho Administrative Practices Act, section 67-5201, et seq, including any right to judicial review following such hearing.

#### 67-7908. SUITABILITY STANDARDS, DISQUALIFICATION AND DIVESTITURE.

(1) For the purposes of this chapter, an applicant for a License, Permit or approval is "suitable" if the applicant is:

(a) A person of good character, honesty, and integrity;

(b) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a present threat to the public interest of this State or to the effective regulation and control of VLT Gaming Operations or create or enhance the dangers of unsuitable unfair, or illegal practices, methods, and activities in connection with VLT Gaming Operations and the business and financial affairs of the applicant incident thereto:

(c) Capable of conducting and likely to conduct the activities for which the applicant has requested licensing, permitting or approval in accordance with the provisions of this chapter and/or the rules and regulations adopted, from time to time, by the Commission; and

(d) Not disqualified pursuant to the provisions of section 67-7908(2).

(2) The Commission shall have the right to deny, suspend, condition, or revoke a License, Permit or approval of any applicant for a License, Permit or approval upon a specific finding by the Commission that the applicant is "unsuitable" on the basis of the following criteria:

(a) Except as set forth in section 67-7908(3), the conviction of, or plea of guilty by, the applicant with respect to any of the following less than ten (10) years prior to the date of the application for License, Permit or requested approval: (i) Any offense punishable by imprisonment of more than one year; (ii) Theft or attempted theft, illegal possession of stolen property, or any offense or attempt involving the misappropriation of property or funds; (iii) Any offense involving fraud or attempted fraud; and (iv) Illegal gambling as defined by the laws or ordinances of any municipality, any parish or county, any state, or of the United States;

(b) There is a current prosecution or pending charge against the applicant in any federal or state jurisdiction for an offense described in section 67-7908(2)(a);

(c) The applicant is not current in filing all applicable personal income tax returns and in the payment of all income taxes, penalties and interest owed to the State of Idaho, any political subdivision of Idaho, excluding items currently being disputed by the applicant;

(d) The repeated failure by the applicant to provide information and documentation reasonably requested by the Commission in order to determine suitability as defined in this chapter; provided however that such failure shall not be considered by the Commission during the period of any judicial challenge by the applicant with respect to the information requested and/or the confidentiality to be afforded to the same by the Commission;

(3)(a) A conviction of, or plea of guilty by, an applicant of one or more of the offenses described in section 67-7908(2)(a) shall not serve as the basis of a finding of "unsuitability" pursuant to the provisions of section 67-7908(2)(a)(I)-(IV), if: (i) Ten or more years has elapsed between the date of successful completion or service of any sentence, deferred adjudication, or period of probation or parole and the date of the application; or (ii) Five or more years has elapsed between the successful completion of any sentence, deferred adjudication, or period of probation or parole for the conviction of an offense enumerated in section 67-7908(2)(a) which was a misdemeanor offense and the date of the application;

(b) Subject to section 67-7908(3)(a): (i) the Commission may consider the seriousness and circumstances of any offense, arrest, or conviction in determining suitability in accordance with section 67-7907; and (ii) evidence of, or relating to, an arrest, summons, charge, or indictment of an applicant, or the dismissal thereof, may be considered by the Commission even if the arrest, summons, charge, or indictment results in acquittal, deferred adjudication, probation, parole, or pardon.

(4) Any Person whose License or Permit has been revoked or who has been found "unsuitable" in this state is not eligible to obtain any License or Permit pursuant to the provisions of this chapter for a period of five years from the date the revocation or finding of unsuitability becomes final beyond right of judicial review.

(5) In the event of a current prosecution of an offense as provided in section 67-7908(2)(b), the Commission, where applicable, shall have the discretion to defer a

determination on an applicant's suitability pending the outcome of the proceedings provided that if a decision is deferred pending such outcome the Commission, where applicable, may take such action as is necessary to protect the public interest.

(6) If the Commission finds that a Principal of a Licensee or Permittee or its parent entity is not suitable, and if as a result, the Licensee or Permittee is no longer entitled to engage in the activity licensed or permitted, then and in that event the Commission shall, subject to the exercise of the Principal's hearing and review rights under section 67-7907(3), propose action necessary to protect the public interest. Where possible, in lieu of an order of revocation or suspension of a License or Permit, the Commission shall issue an order of disqualification naming the unsuitable Principal and declaring that such Principal may not: (a) directly or indirectly exercise significant influence over the Licensee or Permittee; (b) directly or indirectly receive dividends or interest on securities of the Licensee or Permittee; (c) directly or indirectly receive remuneration or other economic benefit from the Licensee or Permittee; or (d) continue owning or holding, directly or indirectly, securities of the Licensee or Permittee or remain as a manager, officer, director, or partner of the Licensee or Permittee; and declaring that such Principal shall, within thirty (30) days of the disqualifying order, transfer all securities of the Licensee or Permittee owned by the Principal to the trustee of a blind trust as to which the trustee shall be appointed or approved by the Commission, which approval shall not be unreasonably withheld or delayed. The trustee of the blind trust shall have the sole and exclusive rights to exercise any right conferred by or incidental to the securities so transferred to and held in the blind trust, except that upon receipt of instruction from the Principal beneficiary, the trustee shall sell so much of the securities of the Licensee or Permittee held in the blind trust as instructed and remit the net proceeds of the sale to the Principal beneficiary together with any dividends, interest, remuneration or other economic benefit associated therewith.

67-7909. STATE LOTTERY COMMISSION; POWERS AND DUTIES RELATIVE TO VLT GAMING OPERATIONS. In addition to those powers granted and duties imposed on the state lottery commission in chapter 74, title 67, Idaho Code, with respect to VLT Gaming Operations:

(1) The commission shall, within six months following the Effective Date of this act, adopt, pursuant to chapter 25, title 54, Idaho Code and the Idaho Administrative Procedure Act, 52.01.01 et seq., all rules and regulations (collectively "Rules and Regulations") necessary to implement, administer, and regulate VLTs and VLT Gaming Operations as authorized in this chapter.

(2) Such Rules and Regulations shall include:

(a) Procedures for applying for, assigning, transferring and/or renewing a License or Permit;

(b) Designation of any technical qualifications (other than suitability as provided for in this chapter) which must be possessed by a Manufacturer, Distributor or Service Technician in order to be eligible to receive and retain a Permit;

(c) A determination of the percentage change in ownership of a Licensee or Permittee that shall be deemed to constitute a transfer of the License or Permit held by such Licensee or Permittee requiring the prior approval of the Commission under section 67-7905(6);

(d) A determination of the types of GLI certified VLTs which may be installed and operated and the types of video lottery games which may be permitted to be played thereon;

(e) Procedures for the counting, collection and deposit of Net VLT Proceeds into a Licensee's restricted bank account subject to a sweep by the Commission for the prior day's License Tax;

(f) Methods and rules permitting VLTs to be linked for the offering of progressive payouts;

(g) Procedures for (i) the accumulation and provision by Licensees and Permittees of specified records, data, information and reports, including financial and income records and reports (collectively "Financial and Operation Materials") and (ii) the retention of Financial and Operational Materials by past and present Licensees and Permittees, necessary to enable the Commission to properly implement and enforce the provisions of this chapter;

(h) Requirements establishing minimum physical security standards be observed in Designated VLT areas;

(i) Requirements establishing standards of maintenance of VLTs and related VLT Equipment; and

(j) Provisions for the revocation and/or suspension of Licenses and Permits, upon post issuance findings of "unsuitability", subject to the rights of Licensees, Permittees and Principals under section 67-7907(3);

(3) The Commission may:

(a) Conduct any investigation which the Commission determines necessary to fulfill its responsibilities under the provisions of this chapter;

(b) Inspect and examine all premises in which Designated VLT Areas are situated and/or where VLTs are manufactured, sold, or repaired;

(c) Inspect VLTs and related VLT Equipment and supplies;

(d) Summarily seize and remove VLTs and related VLT Equipment and supplies from any location where such VLTs and/or VLT Equipment and supplies are not or have not been approved, operated, or maintained pursuant to this chapter and/or the owners or operators thereof do not hold valid Licenses and/or Permits required by this chapter;

(e) Deny, revoke, condition, or suspend the License or Permit of any person who violates any provision of this chapter or any of the Rules or Regulations adopted pursuant to the authority granted in this chapter.

(f) Take steps necessary to collect fees owed to the Commission or the VLT Fund, including commencing and prosecuting appropriate legal actions; and

(g) Delegate to the Director and/or cause the Director to perform or exercise any or all of the rights and duties of the Commission set forth in section 67-7909(4)(a), (b), (c), (d) and (f).

67-7910. DIRECTOR; POWERS AND DUTIES. The director shall, upon and subject to the direction of the Commission:

(1) Investigate any applicant, Licensee, Permittee or Principal for "suitability" and/or violations of the Rules and Regulations and undertake any other investigation, inspection or enforcement action necessary to the thorough and efficient implementation of this chapter;

(2) Establish, maintain, and operate the mechanism and equipment necessary to conduct remote polling, monitoring or reading of VLTs and VLT Gaming Operations;

(3) Examine VLTs and related VLT Equipment and/or records related thereto and to VLT Gaming Operations;

(4) Report to the Commission any violation of law or Rules or Regulations discovered by the Director; and

(5) Engage, train, supervise and direct such staff as the Director and the Commission shall deem necessary or appropriate to enable the Director to perform his duties and obligations under this chapter.

67-7911. GAMING DEVICE LIMITATIONS. Except as otherwise provided by law, no gaming devices other than VLTs and authorized pari-mutuel wagering devices and equipment shall be present and/or installed and/or operated in any Designated VLT Area.

67-7912. PROHIBITED RELATIONSHIPS.

(1) In addition to any prohibition found in chapter 7, title 59, Idaho Code, no person employed by or performing any function on behalf of the Commission or the Director may:

(a) Be an officer, director, owner, or employee of any Person holding a License or Permit issued by the Commission; and

(b) Have or hold any interest, direct or indirect, in, or engage in any commercial transaction or enter into any business relationship with, any Person holding a License or Permit issued by the Commission;

(2) No elected public official as defined in section 59-703, Idaho Code shall engage in any business activity with a Licensee or Permittee except as a patron. As used in this paragraph 2, the term "business activity" shall specifically include but not be limited to contracts: (i) For the sale or purchase of goods, merchandise, and services; (ii) To provide or receive legal services, advertising, public relations, or any other business or personal services; (iii) For the listing, purchase, or sale of immovable property or options or other rights relating

thereto; and (iv) Modifying ownership or possessory interests in stocks, bonds, securities, or any financial instruments; and

(3) The procedures provided for in chapter 7, title 59, Idaho Code shall apply to the administration and enforcement of the provisions of sections 67-7912(1) and (2);

(4) No Person permitted by the Commission as a Manufacturer or Distributor may participate in the design, development, ownership, sale, lease, license or operation of any computer program, firmware, software, or any other mechanism which is or may be used for the polling or reading of VLTs or VLT Gaming Operations or for the remote shutdown of those operations as provided for in section 67-7904(4).

#### 67-7913. ILLEGAL LOTTERY DEVICES.

Notwithstanding any provision of the law to the contrary, no VLT described in section 67-7902(22) and purchased, owned or operated according to the provisions of this chapter shall be considered an illegal lottery device for purposes of chapter 38, title 18, Idaho Code or section 20, article III of the Idaho Constitution.

#### 67-7914. COLLECTION AND DISPOSITION OF FEES; TAXES.

(1) The Director shall collect all fees, fines, and state taxes imposed or assessed under the provision of this chapter and under the Rules and Regulations, including, without limitation the License Tax.

(2) All fees, fines, revenues, state taxes, and other monies collected by the Director, including without limitation the License Tax shall be forwarded upon receipt to the State Treasurer for immediate deposit into the State Treasury.

(3)(a) After complying with the provisions of paragraphs (1) and (2) of this subsection, the State Treasurer shall, each fiscal year, credit the License Tax generated pursuant to section 67-7906 and all fees, fines, revenues and other monies collected by the Commission and/or the Director, to the VLT Fund.

(b) Monies in the VLT Fund shall be withdrawn only pursuant to (i) the provisions of paragraph 4 of section 67-7914 or (ii) appropriation by the State legislature for use solely for the expenses of the Commission and the Director which are necessary to carry out the provisions of this chapter.

(c) Monies in the VLT Fund shall, until disbursed as herein provided, be invested by the State Treasurer in the same manner as monies in the State General Fund. Interest earned on investment of monies from the VLT Fund shall be credited to the VLT Fund. Unexpended and unallocated monies in the VLT Fund at the end of each fiscal year shall remain in the VLT Fund for investment and application as provided in this section 67-7914.

(4) Monies remaining in the VLT Fund (including proceeds of investment made pursuant to paragraph (3)(c)) after complying with the provisions of sections 67-7914(3)(b) shall be disbursed by the State Treasurer from time to time and at one or more times during each year, as designated by the Commission, in the following manner and for the following purposes:

(i) thirty-five (35%) percent to Racing Facilities situated In Idaho to be used exclusively for purse enhancement; such amount to be allocated among such Racing Facilities proportionate to the number of days raced by each during the year of distribution;

(ii) five (5%) percent to the county fair boards for Rural Counties in which an Eligible Racing Facility is situated so long as the Eligible Applicant (who conducted live race meets during 2003), either as Licensee and/or pursuant to contract, agreement or otherwise, conducts live race meets (at which pari-mutuel wagering is permitted) at such Eligible Racing Facility on substantially the same terms and conditions as existed during 2003;

(iii) five (5%) percent to be divided among all county fair boards (other than county fair boards actually receiving payment pursuant to paragraph 67-7914(4)(ii)); such amount to be allocated among such county fair boards proportionate to the number of days raced during the year of distribution;

(iv) ten (10%) percent shall be paid for deposit in the Idaho State Racing Commission account in the state regulatory fund of which five (5%) percent shall be distributed for oversight functions and the other five (5%) percent shall be distributed as follows: two and one-half (2.50%) percent shall be distributed as purse supplements for Idaho bred horse races conducted pursuant to section 54-2510 in proportion to the number of Idaho bred races during the year of distribution; and two and one-half (2.50%) percent shall be distributed to Idaho breeders' incentives programs;

(v) fifteen (15%) percent to the general fund of Rural Counties in which an Eligible Racing Facility is situated and operated during the year of distribution; such amount to be allocated among such Rural Counties proportionate to the number of days raced in each Rural County during the year of distribution;

(vi) ten (10%) percent to the indigent fund of Rural Counties in which an Eligible Racing Facility is situated and operated during the year of distribution; such amount to be allocated among such Rural Counties proportionate to the number of days raced in each Rural County during the year of distribution; and

(vii) ten (10%) percent to be held in an interest bearing trust account pending the creation of a dedicated fund for payment assistance for senior citizen prescriptions and senior health care at which time all such monies will be paid into such fund; and

(viii) ten (10%) percent to be held in an interest bearing trust account pending the creation of a dedicated fund for scholarships for Idaho students at which time all such monies will be paid into such fund.

#### 67-7915. PROHIBITING MINORS FROM PLAYING VIDEO LOTTERY TERMINALS; PENALTIES; REVOCATION OF LICENSE.

(1) No Licensee, Permittee or any agent or employee of either, shall allow a person under the age of eighteen to play or operate a VLT.

(2) Each Licensee shall report and remit to the Director quarterly in arrears all winnings withheld from customers who are determined to be under the age of eighteen.

(3) The Commission may fine and/or revoke and/or suspend the License or Permit of any Person, who is found by the Commission to have willfully committed a violation of section 67-7915(1).

#### 67-7916. UNAUTHORIZED VIDEO LOTTERY TERMINALS; SKIMMING OF VIDEO LOTTERY TEMRINAL PROCEEDS; PENALTIES.

(1) Except as otherwise permitted by law, any Person who possesses or operates a VLT without holding a current valid License or Permit required by this chapter or at any location other than an Eligible Racing Facility shall be subject to a fine of not more than ten thousand dollars per violation.

(2) Any Person who intentionally excludes, or takes any action in an attempt to exclude anything of value from the deposit, counting, collection, or computation of revenues derived from VLT Gaming Operations shall be subject to a fine of not more than ten thousand dollars per violation.

(3) Any VLT used or offered for play in violation of the provisions of this chapter, except as otherwise permitted by law, shall be considered a gambling device for purposes of chapter 38, title 18, Idaho Code.

#### 67-7917. IMMEDIATE PERMIT/LICENSE ISSUANCE.

(1) Subject to section 67-7917(3), any Person licensed by the Idaho State Racing Commission to conduct live racing meets (at which pari-mutuel wagering is permitted) at a Racing Facility and who or which is qualified under this chapter (other than with respect to a finding of suitability by the Commission) shall be entitled, upon submission of written request therefor, to the immediate issuance of a conditional, temporary one-year Permit. Any such conditional, temporary Permit shall be conditioned upon a final determination by the Commission that the Permittee (and its Principals) is unsuitable under this chapter.

(2) Subject to section 67-7917(3), each Eligible Applicant shall be entitled to the immediate issuance of a License (without requirement of a finding of suitability of such Eligible Applicant or its Principals as otherwise required by sections 67-7907 and 67-7908) upon written request therefor accompanied by evidence that such Eligible Applicant is authorized (either as, or by, a Racing Licensee, as defined) to conduct live race meets (at which pari-mutuel wagering is permitted) at an Eligible Racing Facility. The term "Racing Licensee" shall mean a Person licensed by the Idaho State Racing Commission to conduct live race meets (at which pari-mutuel wagering is permitted) at an Eligible Racing Facility.

(3) A request for a Permit or License pursuant to section 67-7917(1) or (2) of this chapter may be made at any time after passage of this Act; and if made prior to the effective date of the Act as established by section 34-1813, Idaho Code any such request shall be deemed filed on the effective date of this Act.

(4) Upon the latter to occur of (a) the effective date of this Act or (b) the transmittal of a written request pursuant to section 67-7917(1) or (2), the Person, under section 67-7917(1) or Eligible Applicant, under section 67-7917(2), as the case may be, shall be deemed to have been issued a License or Permit by the Commission and shall be entitled to exercise all of the rights, benefits and privileges of a Permittee or Licensee until such time, if any, as the Commission shall issue an order that such exercise is in violation of this chapter and a court of competent jurisdiction shall have issued an order, final beyond right of review, concurring with such order of the Commission. In the exercise of its rights, benefits and privileges as a Permittee or Licensee, such Permittee or Licensee shall comply in all respect with the Rules and Regulations adopted, from time to time by the Commission.

#### 67-7918. EFFECTIVE DATE; SEVERABILITY.

##### (a) Effective Date.

Notwithstanding any other provision of Idaho law, this act shall be in full force and effect after voter approval by a majority and the governor's proclamation, declaring such measure as approved pursuant to section 34-1813, Idaho Code.

##### (b) Severability.

If any of the provisions of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.