

HB 728-FN - AS INTRODUCED

2025 SESSION

25-0720

02/08

HOUSE BILL

728-FN

AN ACT authorizing video lottery terminals at charity gaming facilities and repealing historic horse racing licensing.

SPONSORS: Rep. Doucette, Rock. 25

COMMITTEE: Ways and Means

ANALYSIS

This bill authorizes and regulates video lottery terminals, and repeals the authorization of historic horse racing.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT authorizing video lottery terminals at charity gaming facilities and repealing historic horse racing licensing.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Video Lottery Terminals. Amend RSA by inserting after chapter 287-I the
2 following new chapter:

3 CHAPTER 287-J

4 VIDEO LOTTERY TERMINALS

5 287-J:1 Definitions.

6 In this chapter:

7 I. "Class III gaming machine" or "video lottery terminal" means any mechanical, electrical,
8 or computerized contrivance, terminal, machine, or other device which, upon insertion of a coin, bill,
9 ticket, token, or similar object therein, or upon payment of any consideration whatsoever, including
10 the use of any electronic payment system, is available to play or operate, the play or operation of
11 which, whether by reason of skill or application of the element of chance or both, may deliver or
12 entitle the person or persons playing or operating the contrivance, terminal, machine, or other device
13 to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive
14 merchandise or anything of value whatsoever, whether the payoff is made automatically from the
15 machine or manually. The term "class III gaming machine" or "video lottery terminal" shall not
16 include any mechanical, electrical, or computerized contrivance, terminal, machine, or other device
17 which otherwise satisfies this definition, but which is operated through or utilizes the Internet or is
18 played on or with assistance from the Internet.

19 II. "Video lottery terminal revenue" means the total of cash or cash equivalent wagers
20 received by a video lottery terminal minus the total of:

21 (a) Cash or cash equivalents paid out to players as a result of playing a video lottery
22 terminal, whether paid manually or paid out by the video lottery terminal;

23 (b) Cash or cash equivalents paid to purchase annuities to fund prizes payable to players
24 over a period of time as a result of playing a video lottery terminal; and

25 (c) The value of any personal property distributed to a player as a result of or in relation
26 to playing a video lottery terminal, whether as a prize or otherwise related to video lottery terminal
27 play. The term does not include counterfeit cash or tokens; coins or currency of other countries
28 received in a video lottery terminal; or cash taken in a fraudulent act perpetrated against a licensee
29 for which the licensee is not reimbursed. For the purpose of this definition, the term "cash
30 equivalent" means an asset that is readily convertible to United States currency and coin.

1 III. The phrase “enclosure of the facility” means all real or personal property used by the
2 licensee in the placement and operation of video lottery terminals, including without limitation, the
3 restaurants, bars, hotels, entertainment amenities, parking lots and buildings at the charitable
4 gaming facility.

5 287-J:2 License Required.

6 I. An eligible game operator employer licensed under RSA 287-D may offer video lottery
7 terminals provided such terminals are placed and operated within the enclosure of the facility at
8 which the licensee holds its licensed activities under RSA 287-D.

9 II. In order to be eligible to offer video lottery terminals, the game operator employer shall
10 have been licensed or eligible for licensure to sell pari-mutuel pools on historic horse races under
11 RSA 287-D and under RSA 284:22-b as of the effective date of this chapter. A license shall not be
12 transferred or sold.

13 287-J:3 Wagers.

14 A wager on a video lottery terminal may take place provided that:

15 I. The terminals have been tested by an independent testing laboratory, approved by the
16 lottery commission, to ensure integrity and proper working order.

17 II. Each licensee shall submit a responsible gaming plan to the lottery commission for
18 review annually. Such plan shall include identification of postings and materials related to problem
19 gaming to be made available to patrons expressing concerns about problem gaming, house imposed
20 player limits, and self-exclusion plans.

21 287-J:4 Rulemaking.

22 I. The lottery commission shall adopt rules under RSA 541-A governing video lottery
23 terminals. The commission may adopt emergency rules pursuant to RSA 541-A:28, provided that,
24 notwithstanding RSA 541-A:28, II, such emergency rules governing this chapter shall expire no later
25 than 2 years following the publication of the emergency rule. The commission’s authority to adopt
26 emergency rules under this section shall expire 2 years after the effective date of this section. The
27 commission shall begin publishing emergency rules governing video lottery terminals no later than
28 45 days after the effective date of this section.

29 II. A game operator employer eligible to offer video lottery terminals shall be permitted to
30 place and operate video lottery terminals upon approval by the commission of a comprehensive set of
31 internal controls for the operation of such terminals. Internal controls for the operation of video
32 lottery terminals approved in another jurisdiction in the United States that licenses and regulates
33 such terminals shall satisfy this paragraph.

34 III. The following shall apply:

35 (a) No video lottery terminal shall be operated except within the enclosure of the facility
36 of an eligible licensee during the facility's hours of play of charitable games.

(b) No person, association, corporation, or any other type of entity shall place and operate video lottery terminals without a license from the lottery commission.

287-J:5 Tax.

I. Each person, association, or corporation licensed to conduct wagering on video lottery terminals shall collect a sum equal to 30 percent of video lottery terminal revenues. Each licensee that conducts wagering on video lottery terminals shall distribute the amount collected under this paragraph as follows:

(a) 35 percent of the amount collected to charitable organizations with whom the licensee contracts on each licensed game date;

(b) 1/4 of one percent of the amount collected to the lottery commission for payment for problem gaming services;

(c) 4 3/4 percent of the amount collected to the group II retirement system under RSA 100-A; and

(d) The remainder of the amount collected to the lottery commission for use according to the special fund established under RSA 284:21-j.

II. Charitable organizations from within the executive council district where the licensee is located shall be given preference, and no charitable organization shall be eligible for more than 10 dates of revenue under this section within a 12 month period. Each licensee operating video lottery terminals shall contract with 2 licensed charitable organizations for each game date. The cash value of free bets and promotional credits shall be exempted from the calculation of revenue.

287-J:6 Unclaimed Ticket Money.

I. On or before January 31 of each year every person, association, or corporation conducting video lottery terminal wagering hereunder shall pay to the state treasurer all moneys collected during the previous year of wagering vouchers which have not been redeemed. The books or records of said person, association, or corporation, which clearly show the wagering vouchers entitled to reimbursement shall be forwarded to the lottery commission.

II. The state treasurer shall pay the amount due on any wagering voucher to the holder thereof from funds not otherwise appropriated upon an order from the lottery commission. Video lottery terminal vouchers which remain unclaimed after 11 months shall not be paid.

287-J:7 Penalty.

I. Except in cases where a stricter criminal penalty is provided, any person, association, corporation or any other type of entity that places, operates, supervises, manages, finances or owns a video lottery terminal without a license duly issued by the lottery commission shall be guilty of a misdemeanor, if a natural person, or guilty of a felony if any other person.

II. The lottery commission, with the assistance of the attorney general and the chief of police of any city or town where video lottery terminals are operated, shall administer and enforce the provisions of this chapter. In addition, the investigation and compliance division of the lottery

commission may exercise all of its powers under RSA 284:3-a in furtherance of the enforcement of this chapter. Notwithstanding any other provision of law to the contrary, and in addition to any penalty under RSA 287-D, a violation of this chapter related to the placement and operation of video lottery terminals without a license shall be subject to the civil penalty provided for in RSA 284:3-a, IV. Each video lottery terminal placed, operated, supervised, managed, financed or owned by an unlicensed person and each day on which an unlicensed person engages in such conduct shall constitute a separate violation. Further, any video lottery terminal possessed by an unlicensed person shall be forfeited and may be seized by the commission, the attorney general and the chief of police for the city or town where the terminals are placed or operated acting pursuant to this chapter.

2 Racing and Charitable Gaming; Lottery Commission. Amend RSA 284:6-a, VI-VII to read as follows:

VI. The lottery commission shall not authorize the use of any electronic gaming device in connection with the acceptance of wagers on running or harness horse racing, whether live[.] **or** simulcast[~~-or historic~~], the type of which was not in use prior to January 1, 2011, unless specific authorization for such electronic gaming device is enacted by the general court. Electronic gaming devices shall mean and include all electro-mechanical instruments and devices used for the purposes of gaming, other than wagering on live[.] **or** simulcast[~~-or historic~~] horse racing, whether in physical presence or through the Internet, and such shall include, but not be limited to, video slot machines and other gambling devices which function or are designed to function to emulate a video slot machine. This section shall not be interpreted to prohibit licensees under RSA 284 from replacing equipment used in the conduct of wagering on live or simulcast horse racing, which type of equipment was in service prior to January 1, 2011, with updated or new equipment which are the functional equivalent of the machines which are being replaced, provided the equipment is not an electronic gaming device as described in the previous sentence. This section shall not be interpreted as prohibiting licensees from accepting account wagers in compliance with applicable rules and regulations.

~~[VII. Notwithstanding paragraph VI, the lottery commission shall authorize wagers on historic horse races, whether on an electronic gaming device or otherwise, so long as such wagers meet the requirements of this chapter. Historic horse racing machines shall be programmed and operated for pari-mutuel wagering only.]~~

3 Unclaimed Ticket Money. Amend RSA 284:31 to read as follows:

284:31 Unclaimed Ticket Money. Every person, association, or corporation conducting a race or race meet, whether live racing[.] **or** simulcast racing[~~-or historic horse racing~~] hereunder shall pay to the state treasurer all moneys collected during the previous year of pari-mutuel pool tickets and vouchers which have not been redeemed. Such moneys shall become a part of the special fund established in RSA 284:21-j. The state treasurer shall pay the amount due on any ticket or voucher

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1 to the holder thereof from funds not otherwise appropriated upon an order from the lottery
2 commission. Pari-mutuel tickets and vouchers which remain unclaimed after 12 months shall not be
3 paid. On or before July 1 of every year, said person, association or corporation shall submit to the
4 treasurer a check for any unclaimed money during the previous fiscal year, along with a gaming
5 operator's written report for the previous fiscal year's unclaimed money, which shall itemize both the
6 unclaimed tickets and vouchers and the unclaimed amounts therefrom. A copy of the report shall be
7 forwarded to the lottery commission. For the first biennial year after the effective date of this
8 section, the report shall cover both years of the previous biennium.

9 4 Trespassing; Rights of Licensee. Amend RSA 284:39, I to read as follows:

10 I. Any licensee under this chapter may refuse admission to, or eject from, the grounds or the
11 enclosure of the racetrack or facility where a licensed live race or race meet or is being held or where
12 licensed simulcasting [~~or historic horse racing~~] is held, any person or persons whose presence or
13 conduct, in the sole judgment of the licensee, is inconsistent with the orderly and proper conduct of
14 the [~~historic horse racing,~~] live or simulcast race meet, or is detrimental to the sport of racing,
15 whether or not such presence or offensive conduct is associated with gambling.

16 5 Repeal. The following are repealed:

17 I. RSA 284:21-h, VIII, relative to authorization of wagers on historic horse races.

18 II. RSA 284:22-b, relative to pari-mutuel pools on historic horse races.

19 III. RSA 284:23, I(d), relative to historic horse racing taxes.

20 6 Effective Date.

21 I. Section 1 of this act shall take effect upon its passage.

22 II. The remainder of this act shall take effect January 1, 2028.

HB 728-FN- FISCAL NOTE
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FISCAL IMPACT:

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$2,762,973	\$33,155,689	Indeterminable Increase
Revenue Fund(s)	Restricted Revenue for Problem Gaming Services and New Hampshire Retirement System, and Lottery Fund/Education Trust Fund - Lottery revenue is credited to the lottery fund, with net revenues after expenditures being credited to the state education trust fund.			
Expenditures*	\$0	Lottery: FY 26 - \$147,000 FY 27 - \$301,000 FY 28 - \$311,000/ Indeterminable impact related to penalties		
Funding Source(s)	Lottery Fund/Education Trust Fund - Lottery revenue is credited to the lottery fund, with net revenues after expenditures being credited to the state education trust fund.			
Appropriations*	\$0	\$0	\$0	\$0
Funding Source(s)	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	Indeterminable			
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	Indeterminable			

METHODOLOGY:

The Lottery Commission states this bill:

- Authorizes video lottery terminals (VLT)
- Limits those who may operate VLTs to game operator licensed under RSA 287-D and RSA 284:22-b, as of the bill's effective date (upon passage)

- Requires game operators to distribute 30% of total revenue as follows:
 - 35% (10.5% of total revenue) to charitable organizations;
 - 0.25% (0.075% of total revenue) to Lottery Commission for problem gaming services;
 - 4.75% (1.425% of total revenue) to the Group II retirement system; and
 - The remainder (18% of total revenue) to the Lottery Commission
- Exempts the cash value of free play and promotional credits from the calculation of revenue.
- Requires the game operator to pay the State Treasurer the value of any unclaimed vouchers from prior year. The state would retain any vouchers that were not claimed within the following 11 months.
- Effective January 1, 2028, repeals historic horse racing (HHR).

The Lottery Commission has provided the following assumptions relative to this bill:

- In FY 2024, total revenue from HHR was \$143,381,237. From this, the Lottery Commission received \$23,299,451 (equal to 16.25% of total revenue).
- At the close of FY 2024, there were approximately 1,997 active HHR terminals in New Hampshire. Several new/expanded facilities are expected to begin operations before the end FY 2025, which is expected to increase the total number of terminals to approximately 4,300.
- In FY 2024, the average daily gaming revenue per machine per day was approximately \$200. Revenue trended upward throughout the fiscal year reaching approximately \$230/machine/day in the last quarter of the year. The Lottery Commission assumes that revenue per machine per day will remain at about \$230 on its HHR terminals.
- In FY 2024, VLT revenue in Maine reached an average of about \$239 per machine per day, and in Massachusetts it averaged approximately \$424 per machine per day.
- VLTs are more popular with players than HHR which would likely result in an increase in the revenue generated per machine. Based on this fact and the VLT revenue realized by neighboring states, the Lottery Commission estimates VLTs in New Hampshire will generate approximately \$300 per machine per day.
- The Lottery Commission estimates that VLTs will be phased in over the course of the final three months of FY 2026 and all HHR terminals will be replaced by VLTs by June 2026.

Based on the assumptions stated above, this bill will have the following revenue impact:

Current Law – HHR Revenue Estimate	
# Terminals	4,300

Terminal Revenue Per Day	\$230
# Days	<u>365</u>
Gross Revenue	\$360,985,000
Amount to Game Operator - 75%	\$270,738,750
Amount to Lottery Commission - 16.25%	\$58,660,063
Amount to Charities - 8.75%	\$31,586,188

Proposed – VLT Revenue Estimate	
# Terminals	4,300
Terminal Revenue Per Day	\$300
# Days	<u>365</u>
Gross Revenue	\$470,850,000
Amount to Game Operator - 70.0%	\$329,595,000
Amount to Lottery Commission - 18%	\$84,753,000
Amount to Charities - 10.5%	\$49,439,250
Amount to Problem Gaming Services - 0.075%	\$353,138
Amount to Group II Retirement - 1.425%	\$6,709,613

Revenue Increase	
Gross Revenue	\$109,865,000
Amount to Game Operator	\$58,856,250
Amount to Lottery Commission	\$26,092,938
Amount to Charities	\$17,853,063
Amount to Problem Gaming Services	\$353,138
Amount to Group II Retirement	\$6,709,613

This bill is estimated to increase Lottery Fund revenue by approximately \$2,174,411 in FY 2026 (one month of operation) and \$26,092,938 in FY 2027. This bill will also increase revenue designated for problem gaming services by \$29,428 in FY 2026 and \$353,138 in FY 2027. Lastly, this bill will increase revenue to the New Hampshire Retirement System in the amount of \$559,134 in FY 2026 and \$6,709,613 in FY 2027, to which are assumed would be applied to the Group II unfunded liability, reducing employer contribution rates in future years. The Lottery Commission has not provided gaming revenue estimates beyond FY 2027.

The Lottery Commission states to effectively implement the proposed legislation and oversee gaming operations, an additional Gaming Investigator, Auditor, and Controller will be needed. Assuming a hire date of January 1, 2026, to allow a 3-month training period before game operators are expected to begin replacing HHR terminals on a large scale, the Commission estimates its expenditures would increase by \$147,000 in FY 2026, \$301,000 in FY 2027, and \$311,000 in FY 2028.

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

AGENCIES CONTACTED:

Lottery Commission, Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association