

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## An Act Regarding Gaming by Charitable Organizations

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

**Sec. 1. 17 MRSA c. 14**, as amended, is repealed.

**Sec. 2. 17 MRSA c. 62** is enacted to read:

### CHAPTER 62

### GAMES OF CHANCE

#### **§ 1831. Definitions**

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

**1. Agricultural society.** "Agricultural society" or "fair" means a nonprofit agricultural fair society eligible for a stipend under Title 7, chapter 4.

**2. Chief of State Police.** "Chief of the State Police" or "chief" means the Chief of the State Police or the chief's designee.

**3. Distributor.** "Distributor" means a person, firm, corporation, association or organization that sells, markets or otherwise distributes sealed tickets, gambling apparatus or any other implements of gambling that may be used in the conduct of a game of chance.

**4. Electronic video machine.** "Electronic video machine" means a machine, however operated, that has a video screen featuring an electronically simulated game and delivers or entitles the person playing or operating it to receive the privilege of playing the electronic video machine without charge, but does not deliver or entitle the person playing or operating the electronic video machine to receive cash, premiums, merchandise, tickets or something of value other than the privilege of playing the electronic video machine without charge. A machine that has a video screen featuring an electronically simulated slot machine as a game is not an electronic video machine, but is a machine as defined in subsection 9.

**5. Game of chance.** "Game of chance" means a game, contest, scheme or device in which:

A. A person stakes or risks something of value for the opportunity to win something of value;

B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and

C. Chance enters as an element that influences the outcome in a manner that cannot be eliminated through the application of skill.

For the purposes of this subsection, "an event the result of which is determined by chance" includes but is not limited to a shuffle of a deck of cards, a roll of a die or dice or a random drawing or generation of an object that may include, but is not limited to, a card, a die, a number or simulations of any of these. A shuffle of a deck of cards, a roll of a die, a random drawing or generation of an object or some other event the result of which is determined by chance that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance. For purposes of this chapter, beano and bingo are not games of chance.

**6. Game of skill.** "Game of skill" means any game, contest, scheme or device in which a person stakes or risks something of value for the opportunity to win something of value and that is not a game of chance.

**7. Gross revenue.** "Gross revenue" means the total amount wagered in a game of chance less the prizes awarded.

**8. Licensee.** "Licensee" means a firm, corporation, association or organization licensed by the Chief of the State Police to operate a game of chance.

**9. Machine.** "Machine" means any machine, including electronic devices, however operated, the internal mechanism or components of which when set in motion or activated and by the application of the element of chance may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tickets or something of value as defined in subsection 17.

**10. Member.** "Member" means a bona fide member of a firm, corporation, association, organization, department or class or a combination thereof who has been duly admitted as a member according to the laws, rules, regulations, ordinances or bylaws governing membership in the firm, corporation, association, organization, department, class or combination thereof.

**11. Net revenue.** "Net revenue" means gross revenue less allowable expenses as described in section 1837.

**12. Printer.** "Printer" means a person, firm, corporation, association or organization that reproduces in printed form, for sale or distribution, materials to be used in the conduct of a game of chance.

**13. Raffle.** "Raffle" means a game of chance in which:

A. A person pays or agrees to pay something of value for a chance, represented and differentiated by a number, to win a prize;

B. One or more of the chances is to be designated the winning chance; and

C. The winning chance is to be determined as a result of a drawing from a container holding numbers representative of all chances sold.

**14. Roulette.** "Roulette" means a game of chance in which players bet on the compartment of a revolving wheel into which a small ball will come to rest.

**15. Slot machine.** "Slot machine" means any mechanical, electrical or electronic device, contrivance or machine or other device, contrivance or machine that is available to play upon insertion of money or a token, credit or similar object or something of value, the play of which by the element of chance may deliver or entitle the person playing the device, contrivance or machine to receive cash, tokens or credits to be exchanged for cash, merchandise or anything of value, whether the payoff is made automatically from the device, contrivance or machine or in any other manner, and includes progressive electronic gaming devices with a payoff that increases as the electronic gaming device is played.

**16. Social gambling.** "Social gambling" means a contest of chance in which the only participants are players and from which no person or organization receives or becomes entitled to receive something of value or any profit whatsoever, directly or indirectly, other than as a player, from any source, fee, remuneration connected with gambling or such activity as arrangements or facilitation of the game, permitting the use of premises or selling or supplying for-profit refreshments, food, drink service or entertainment to participants, players or spectators.

**17. Something of value.** "Something of value" means:

A. Any money or property;

B. Any token, object or article exchangeable for money, property, amusement or entertainment; or

C. Any form of credit or promise directly or indirectly contemplating transfer of money or property, or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

**18. Tokens.** "Tokens" means distinctive objects, chips, tickets or other devices of no intrinsic value used as a substitute for cash in accounting for revenue from a game of chance.

## **§ 1832. Licenses**

**1. License required.** A person, firm, corporation, association or organization may not hold, conduct or operate a game of chance without a license issued by the Chief of the State Police in accordance with this section. A license is not required when a game of chance constitutes social gambling.

**2. Eligible organizations.** Notwithstanding other provisions of law, the Chief of the State Police may issue a license to operate a game of chance to an organization that submits a completed application as described in subsection 4 and has been founded, chartered or organized in this State for a period of not less than 2 consecutive years prior to applying for a license and is:

A. An agricultural society;

B. A bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic or religious organization;

C. A volunteer fire department; or

D. An auxiliary of any of the organizations in paragraphs A to C.

**3. Municipal approval required.** An eligible organization described in subsection 2 intending to apply for a license to conduct a game of chance is required to receive written approval from the local governing authority where the game of chance is to be operated or conducted. This written approval must be submitted with the application to the Chief of the State Police as described in subsection 4.

**4. Application.** An eligible organization described in subsection 2 wishing to operate or conduct a game of chance shall submit an application to the Chief of the State Police. The application must be in a form provided by the Chief of the State Police and must be signed by a duly authorized officer of the eligible organization. The application must include the full name and address of the organization, a full description of the game of chance, the location where the game is to be conducted and any other information determined necessary by the Chief of the State Police for the issuance of a license to operate a game of chance, including but not limited to membership lists, bylaws and documentation showing the organization's nonprofit status or charitable designation.

**5. Multiple licenses.** The Chief of the State Police may issue more than one license to conduct or operate a game of chance simultaneously to an eligible organization described in subsection 2. Each game of chance must have a separate license, the nature of which must be specified on the license.

**6. Agricultural fairs.** Notwithstanding any provision in this chapter to the contrary, in addition to games of chance, the Chief of the State Police may issue a license to conduct or operate games of chance known as "penny falls" or "quarter falls" at any agricultural fair, as long as the revenue from those games is retained by the licensed agricultural society.

**7. Electronic video machines.** The Chief of the State Police may issue a game of chance license to operate an electronic video machine to any eligible organization described in subsection 2.

A. An electronic video machine licensed under this section may only be operated for the exclusive benefit of the licensee, except that up to 50% of the gross proceeds from the operation of the machine may be paid to the distributor as a rental fee and for service and repair of the machine. Notwithstanding other provisions of this chapter, a licensee may rent an electronic video machine from a distributor.

B. No more than 5 electronic video machines may be operated on the licensee's premises. A separate games of chance license is required for the operation of each electronic video machine.

C. A licensee may operate an electronic video machine only on the licensee's premises.

D. Two or more licensees may not share the use of any premises for the operation of electronic video machines.

E. A distributor or employee of the distributor may not be a member of the licensed organization.

F. An electronic video machine licensed under this subsection may not be operated in a manner that meets the definition of illegal gambling machine as described in Title 17-A, section 952, subsection 5-A.

## **§ 1833. Fees**

**1. Original application fee.** The original application for a license to operate a game of chance must be accompanied by a fee of \$7.50. This is not a fee for a license and is not refundable.

**2. Operation of games of chance.** Except for electronic video games and games of cards as provided in this section, the fee for a license to operate a game of chance is \$15 for each week computed on a Monday to Sunday basis or for a portion of a week. The fee for a license issued for a calendar month is \$60 and the fee for licenses issued for a calendar year is \$700.

The Chief of the State Police may issue any combination of weekly or monthly licenses for the operation of games of chance. Except for games of cards as provided in subsection 4, licenses to conduct any authorized game of chance may be issued for a period not to exceed 6 months on one application.

**3. Operation of electronic video machines.** The fee for a game of chance license to operate an electronic video machine in accordance with section 1832, subsection 7 is \$15 for each week computed on a Monday to Sunday basis or for a portion of a week. The fee for a license issued for a calendar month is \$60.

The Chief of the State Police may issue any combination of weekly or monthly licenses for the operation of electronic video machines. A license or combination of licenses to operate an authorized electronic video machine may not exceed a period of 6 months.

**4. Games of cards.** The fee for a license issued to an organization to operate a game of cards, when the organization charges no more than a \$5 daily entry fee for participation in the games of cards and when no money or valuable thing other than the \$5 daily entry fee is gambled by any person in connection with the game of cards, is \$30 for each calendar year or portion of a calendar year. For card games that are played by placing the maximum bet of \$1 per hand or deal, the license fee is the same as provided in subsection 2.

**5. Distributors.** The fee for a license issued to a distributor is \$625 for each calendar year or portion of a calendar year.

**6. Printers.** The fee for a license issued to a printer is \$15 for each calendar year or portion of a calendar year.

**7. Application.** Licenses to operate any authorized game of chance may be issued for a period not to exceed 6 months on one application.

All fees required by this section must accompany the application for any license issued by authority of this chapter.

Fees submitted as license fees must be refunded if the license is not issued. Rebates may not be given for any unused license or portion of an unused license. If any license is suspended or revoked as provided by this chapter, fees paid for that license may not be refunded.

## **§ 1834. Conduct games of chance**

**1. Wagers or entry fees; exceptions.** The following limits apply to games of chance.

A. The maximum bet for a licensed game of chance including card games in which bets are placed per hand or per deal is \$1.

B. Licensed card games that award part or all of the entry fees paid to participate in the game as prize money and in which no money or thing of value is wagered except for the entry fee are limited to a \$5 entry fee and no more than 40 players at any one time at any one location.

C. If the licensee operates games of chance for less than 3 total days in a calendar year and contributes 100% of the gross revenue from those games of chance to charity, the amount wagered must be limited to:

(1) A \$1 daily entry fee;

(2) Fifty cents per game; or

(3) Twenty-five cents per card received.

Prior to play of the game, the licensee shall determine which of the limits in subparagraphs (1), (2) and (3) is to be used and shall post the limit.

**2. Games conducted by members and bartenders of licensee only.** A game of chance licensed pursuant to this section must be operated and conducted for the exclusive benefit of the licensee and must be operated and conducted only by duly authorized members of the licensee or by persons employed by the licensee as bartenders, except that nonmembers employed by the licensee as bartenders may not operate or conduct any game of chance permitted under subsection 5, paragraph B. The requirements of this subsection do not apply to any agricultural society licensed to operate a game of chance.

**3. Games conducted at agricultural fair by members of the agricultural society or a bona fide nonprofit.** Games of chance operated and conducted solely by members of an agricultural society or games of chance operated and conducted by members of bona fide nonprofit organizations on the grounds of the agricultural society and during the annual fair of the agricultural society may use cash, tickets, tokens or other devices approved by the Chief of the State Police by rule.

Notwithstanding any other provision of this section, the tickets, tokens or other devices approved by the Chief of the State Police must be unique to the agricultural society and may be in denominations of 25¢, 50¢ or \$1. The tickets, tokens or devices approved by the Chief of the State Police may be sold and redeemed only by a person who has been a member or active volunteer of the agricultural society for at least 2 fair seasons. The agricultural society has the burden of proof for demonstrating the qualification of members or active volunteers.

An agricultural society that uses tokens shall provide records and reports as required by section 1838.

**4. Persons under 16 years of age; exception.** Except as provided in this subsection, a licensee, game owner or operator may not permit persons under 16 years of age to take part in a game of chance, and a person under 16 years of age may not sell chances, except in relation to charitable, religious or recognized youth associations. Notwithstanding any rule to the contrary, upon receiving an application on a form provided by the Chief of the State Police and a determination by the chief that a game of chance licensed to be conducted at a festival-style event is designed to attract players under 16 years of age and awards a nonmonetary prize valued at less than \$10 for every chance played, the chief may permit:

- A. Persons under 16 years of age to conduct or operate the game of chance; and
- B. Persons under 16 years of age to play the game of chance without being accompanied by an adult.

Nothing in this subsection may be construed to permit games of chance to be operated without a license.

**5. Location.** A license issued pursuant to this section must specify the location where the organization may operate the licensed game of chance. A licensee may not operate games of chance in more than one location at the same time.

- A. An agricultural society or a bona fide nonprofit organization may operate a game of chance on the grounds of an agricultural society and during the annual fair of the agricultural society.
- B. No more than one licensee may operate a game of chance at a time at a location where the general public has access. In any room where a licensed game of chance is being conducted, there must be at least one member of the licensee present in that room for every 2 nonmembers who are present. That member must have been a member of the licensee for at least one year. A member of the licensee, either directly or through another member or guest, may not stake or risk something of value in the licensee's game of chance unless the member has been a member of the licensee for at least 14 days not including the day of admission into membership.

A bona fide nonprofit organization may operate a licensed game of chance to which the general public has access once every 3 months for a period not to exceed 3 consecutive days. The licensed game of chance may be operated at any location described in the license and may be conducted only by members of the licensee.

**6. Door prizes.** Distribution of tickets to an event upon which appear details concerning any prize to be given away as a result of a drawing is to be considered a game of chance within the meaning of this chapter; a distribution of tickets containing only the words "Door Prize," without further description, is excluded from the provisions of this chapter, as long as no promotional materials or presentations, written or oral, describe the door prize.

**7. "Donation" not to provide an exclusion.** The word "donation" printed on a ticket does not exclude the sponsoring organization from complying with this chapter.

### **§ 1835. Tournament games**

The Chief of the State Police may issue a license to conduct tournament games as provided in this section to an organization eligible to conduct beano games under chapter 13-A and games of chance under this chapter. For purposes of this section, "tournament game" means a game of chance played using a deck of cards with rules similar to poker or other card games. The Chief of the State Police may not issue a tournament game license to an organization more than once per month.

**1. Local governing authority approval.** An organization that intends to apply for a tournament game license must first receive approval from the local governing authority where the games are to be conducted. Proof of approval from the local governing authority must be provided to the Chief of the State Police upon application for a tournament game license.

**2. License application.** An organization must submit a license application to the Chief of the State Police on a form provided by the Chief of the State Police. The license application must specify one or more charitable organizations that the proceeds of the tournament are intended to benefit. For the purposes of this section, "charitable organization" means any person or entity, including any person or entity in a foreign state, that is or purports to be organized or operated for any charitable purpose or that solicits, accepts or obtains contributions from the public for any charitable, educational, humane or patriotic purpose.

**3. License.** The license fee for a tournament game license is \$5 per tournament player.

**4. Tournament.** The organization licensed to conduct a tournament game under this section shall display the rules of the game and the license issued to conduct the tournament. The maximum number of players allowed is 100. Winners are determined by a process of elimination. The use of currency is prohibited as part of tournament play. The maximum entry fee to play in the tournament is \$100, except the organization may add \$5 to the entry fee to defray the cost of the license application. Only one entry fee is permitted per person. A tournament must be completed within 48 hours. Other games of chance are prohibited, except for lucky seven or similar sealed tickets.



**5. Proceeds.** Seventy-five percent of the entry fees under subsection 4 must be paid as prizes to the winners of the tournament. Of the money remaining after the payment of prizes, 75% must be distributed to the charitable organization or organizations listed on the license application pursuant to this section.

**6. Cost of administration; surplus.** The Chief of the State Police may retain, from license fees collected in accordance with subsection 3, only an amount necessary to defray the costs of administering this section. All fees collected in excess of the amount necessary to defray the costs of administration must be allocated as follows:

- A. Forty percent to the Fractionation Development Center; and
- B. Sixty percent to the General Fund.

### **§ 1836. Raffles**

**1. Raffles with prizes of \$10,000 or less.** Notwithstanding section 1832, subsection 1, a license to conduct or operate a raffle in which the holder of the winning chance does not receive something of value worth more than \$10,000 is not required of the following:

- A. Any agricultural society or any bona fide nonprofit organization that is either charitable, educational, political, civic, recreational, fraternal, patriotic or religious or any auxiliary of such an organization;
- B. Any volunteer police force, fire department or ambulance corps;
- C. Any class or organization of an elementary, secondary or postsecondary educational institution operated or accredited by the State; or
- D. Any state agency that conducts or operates a raffle for a donated item to benefit fish and wildlife conservation projects.

Any exempt organization, department or class or combination listed in paragraph A, B, C or D may sponsor, operate and conduct a raffle without a license only for the exclusive benefit of that organization, department or class or combination, and that raffle may be conducted only by duly authorized members of the sponsoring organization, department or class or combination.

A state agency may not conduct or operate more than 2 raffles per year pursuant to paragraph D.

**2. Special raffles; prizes more than \$10,000 but not more than \$25,000.** The following provisions apply to special raffles licensed under this subsection.

A. Except as provided in subsection 3, the Chief of the State Police may issue one special raffle license per year to any organization, department or class eligible to hold a raffle under subsection 1. The special raffle license entitles the licensee to hold one raffle in which the holder of a winning chance receives something of value worth more than \$10,000 but not more than \$25,000. Section 1834, subsection 1 does not apply to raffles licensed under this section.

B. The Chief of the State Police may not issue a license under this subsection to hold a raffle in which the holder of a winning chance receives a cash prize worth more than \$10,000.

C. All tickets sold pursuant to a special raffle license must be purchased from a licensed distributor or licensed printer. Tickets must be sequentially numbered and have printed on their faces the following information: the name of the special raffle licensee; a description of the prize or prizes; the price of the ticket; and the date, time and place of the drawing. Any organization, department or class listed in subsection 1 that conducts a raffle under this section shall retain all unsold raffle tickets for 6 months after the raffle drawing and make those tickets available for inspection at the request of the Chief of the State Police.

**3. Special raffles; prizes more than \$10,000 but not more than \$75,000.** The following provisions apply to special raffles licensed under this subsection.

A. The Chief of the State Police may issue one special raffle license per year to any organization, department or class eligible to hold a raffle under subsection 1. The special raffle license entitles the licensee to hold one raffle in which the holder of a winning chance receives something of value worth more than \$10,000 but not more than \$75,000. A raffle licensed under this paragraph may be structured as a progressive raffle that is divided into a maximum of 12 multiple drawings with previous entries rolled into subsequent drawing pots and with the final drawing to be held within 12 months of the first. Drawings must be used to randomly select a smaller group to be eligible for the final prize to be awarded after the final drawing. Section 1834, subsection 1 does not apply to raffles licensed under this section.

B. The Chief of the State Police may not issue a license under this subsection to hold a raffle in which the holder of a winning chance receives a cash prize worth more than \$10,000.

C. All tickets sold pursuant to a special raffle license must be purchased from a licensed distributor or licensed printer. Tickets must be sequentially numbered and have printed on their faces the following information: the name of the special raffle licensee; a description of the prize or prizes; the price of the ticket; and the date, time and place of the drawing. Any organization, department or class listed in subsection 1 that conducts a raffle under this section shall retain all unsold raffle tickets for 6 months after the raffle drawing and make those tickets available for inspection at the request of the Chief of the State Police.

**4. Special raffle licenses.** The holder of a special raffle license issued under subsection 2 may conduct or operate one raffle per year in which the holder of a winning chance receives something of value worth more than \$10,000 but not more than \$25,000. The holder of a special raffle license issued under subsection 3 may conduct or operate one raffle per year in which the holder of a winning chance

receives something of value worth more than \$10,000 but not more than \$75,000. The holder of a special raffle license issued under subsection 2 or 3 may not conduct or operate a raffle in which the holder of a winning chance receives a cash prize worth more than \$10,000.

**5. Charitable organizations; livestock raffling.** A license is required before a charitable organization may raffle livestock for fund-raising purposes under Title 7, section 3972, subsection 4. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee shall make forms available for charitable organizations to apply for licenses for one-year or 3-year periods. If the commissioner or the commissioner's designee is satisfied that the charitable organization has not violated or will not violate the restrictions of Title 7, section 3972, a license must be issued.

## **§ 1837. Revenue and expenses**

**1. Compensation.** Those who conduct games of chance may not be paid for such services except according to this subsection.

A. An organization including a fair licensed to operate beano, bingo or lucky seven games may use up to 20% of the gross revenue to compensate those who conduct the games.

B. Each person who conducts a game of chance licensed to an agricultural society may be paid at a rate that does not exceed 3 times the State's minimum wage as established in Title 26, section 664, subsection 1, unless the game is one for which the limit in paragraph A applies.

**2. Exception.** Notwithstanding subsection 1, a licensee may use the proceeds of a game of chance to:

A. Defray the expenses or part of the expenses that further the purpose for which the organization is formed, except that the proceeds may not be:

(1) Used to purchase alcohol or to defray the cost of activities where alcohol is served; or

(2) Paid directly to organization members except as specifically allowed in this section; and

B. Defray the expenses or part of the expenses of a member, auxiliary member, officer or employee of the organization for a serious illness, injury or casualty loss if the licensee makes an application pursuant to this section and the application is approved by the licensing division within the Bureau of State Police. An application must be made in the form and contain the information the licensing division requires.

(1) In the case of serious illness or injury, the licensing division may require certification by a licensed physician in support of the application.

(2) In the case of a casualty loss, the licensing division may require statements or reports from a law enforcement agency, rescue or other emergency services personnel or an insurance agency to support the application.

(3) The licensing division may deny an application if it appears that the person who would receive the proceeds has adequate means of financial support, including, but not limited to, insurance or workers' compensation benefits.

**3. Rules.** The Chief of the State Police shall adopt rules in accordance with Title 5, chapter 375 to carry out this section.

**4. Posting.** An organization licensed to conduct a game of chance pursuant to section 1832 shall post in a conspicuous place in the room or hall where games of chance are conducted a sign that states the net revenue earned from the operation of the game in dollars and cents, the amount of charitable donations from that net revenue in dollars and cents, what percentage in dollars and cents of the net revenue that amount represents in donations to nonprofit activities and what percentage of the net revenue was distributed from licensed games for the previous calendar year and has been distributed in the current calendar year. For the purposes of this subsection, "calendar year" means January to December.

### **§ 1838. Licensee records and reports**

**1. Records required.** Each licensee shall keep a record of all financial transactions involving games of chance operated under each license granted to the licensee. The treasurer of the licensee or another officer designated by the treasurer is responsible for maintaining those records. The records must include an exact account of all revenue from the games, an itemization of all expenses, including, but not limited to, the cost of prizes, printing, licenses and administration, and the disposition of all proceeds, including, but not limited to, all gifts, grants and payments to any person, firm, corporation, association or organization for any purpose whatsoever. All financial records involving games of chance must be separate and distinguishable from other records of the organization. Revenue from more than one game of chance may be entered into one account.

**2. Records required for licensee employing tokens.** If a licensee employs tokens to account for revenue from games of chance and if the licensee maintains direct control over the sale and redemption of the tokens and keeps accurate records of all tokens used, then the chief may by rule alter or reduce the record-keeping requirements of subsection 1 to the extent that a licensee's use of tokens renders those records unnecessary for adequate control of the licensee's games.

**3. Disposition of funds reports.** Within 10 business days after the last day of any period during which a licensed game of chance is conducted with other than an annual license or within 10 business days after the end of each calendar month during which a licensed game of chance is conducted with an annual license, the licensee shall file with the Chief of the State Police a disposition of funds form

prescribed and furnished by the Chief of the State Police, detailing for the period the total receipts and expenditures of the game and the disposition of funds. Every statement must be made under oath by an officer of the licensee or by the member in charge of the conduct of the game.

**4. Disposition of funds reports from licensee using tokens.** If tokens are employed to account for revenue from games of chance, then the licensee shall report the number of tokens sold, the number redeemed and the disposition of funds from the proceeds of sale in addition to such other information as the chief may require under subsection 3.

**5. Records maintained for 3 years.** Every licensee that has conducted a game of chance shall maintain and keep for a period of 3 years reports as may be necessary to substantiate the records and reports required by this section or by the rules adopted under this chapter.

**6. Location.** All records maintained by a licensee pursuant to this section and pursuant to the rules adopted under this chapter must be kept and maintained on the premises where the game of chance has been conducted or at the primary business office of the licensee, which must be designated by the licensee in the license application. These records must be open to inspection by the Chief of the State Police or the chief's representative, and a licensee may not refuse the Chief of the State Police or the chief's representative permission to inspect or audit the records. Refusal to permit inspection or audit of the records does not constitute a crime under this chapter but constitutes grounds for revocation of license.

### **§ 1839. Distributors and printers; records and reports**

**1. Printers licensed.** A printer in the State may not print materials to be used in the conduct of a licensed game of chance unless licensed by the Chief of the State Police. A printer licensed under this section may act as a distributor without having to be licensed as a distributor as long as neither the printer nor anyone on the printer's behalf acts as a seller for services connected with a game of chance outside of the confines of the printer's premises described in that printer's license. If that printer or someone else acts as a seller for the printer's services in connection with a game of chance outside of the premises described on that printer's license, either that printer or any person or persons acting on that printer's behalf must be licensed as a distributor under subsection 2.

The applicant for a printer's license, or, if the applicant is a firm, corporation, association or other organization, its resident manager, superintendent or official representative shall file an application with the Chief of the State Police on a form provided by the Chief of the State Police. The Chief of the State Police shall furnish to each applicant a current copy of this chapter and the rules adopted under section 1842 and to each licensee a copy of any changes or additions to this chapter and the rules adopted under section 1842.

**2. Distributors licensed.** A distributor may not sell, lease, market or otherwise distribute gambling apparatus or implements unless licensed by the Chief of the State Police, except that a license is not required for the sale, marketing or distribution of raffle tickets when the holder of the winning chance receives something of value worth less than \$10,000.

A nonresident manufacturer or distributor of gambling apparatus or implements doing business in the State must have an agent in this State who is licensed as a distributor. A distributor may not sell, market or otherwise distribute gambling apparatus or implements to a person or organization, except to persons or organizations licensed to operate or conduct games of chance under section 1832, licensed to conduct a special raffle under section 1836, subsection 2 or 3 or eligible to conduct a raffle pursuant to section 1836, subsection 1. A distributor may not lease or loan or otherwise distribute free of charge any gambling apparatus or implements to an organization eligible to operate a game of chance, except that a distributor may lease gambling apparatus or implements to an agricultural society licensed to operate games of chance on the grounds of the agricultural society and during the annual fair of the agricultural society as long as the distributor does not charge the agricultural society an amount in excess of 50% of the gross revenue from any licensed game of chance.

A licensee shall acquire gambling apparatus and implements from a distributor licensed under this section, unless the gambling apparatus or implements are printed, manufactured or constructed by the licensed organization. At no time may any licensee print, manufacture or construct any gambling apparatus or implements for distribution to any other licensee. The applicant for a distributor's license, or, if the applicant is a firm, corporation, association or other organization, its resident manager, superintendent or official representative shall file an application with the Chief of the State Police on a form provided by the Chief of the State Police. The Chief of the State Police shall furnish to each applicant a current copy of this chapter and the rules adopted under section 1842 and to each licensee a copy of any changes or additions to this chapter and the rules adopted under section 1842.

**3. Sales agreements.** A distributor shall forward to the Chief of the State Police, prior to delivery of any gambling machine to the purchaser, a copy of all sales agreements, sales contracts or any other agreements involving the sale of any gambling machine. The terms of the sales contract must include, but are not limited to, the name of seller, name of purchaser, address of seller, address of purchaser, description of the gambling machine including serial number and model name and number, total sale price, any arrangement or terms for payments and the date of final payment.

Any change, modification or alteration of these agreements must be reported to the Chief of the State Police by the purchaser within 6 days of the change, modification or alteration.

**4. Service agreements.** With the sale of any gambling machine involving a service agreement, the distributor shall forward to the Chief of the State Police a copy of the agreement prior to delivery of the machine. The terms of the service agreements must include, but are not limited to, the name of seller, name of purchaser, address of seller, address of purchaser, description of machine to be serviced including serial number and model name and number and all prices and payments for that service.

Any change, modification or alteration of the agreement must be reported to the Chief of the State Police by the purchaser within 6 days of the change, modification or alteration.

**5. Agricultural societies; lease agreements.** When a gambling apparatus or implement is leased as provided in subsection 2 to an agricultural society, the distributor shall forward to the Chief of the State Police a copy of the lease agreement prior to delivery of the gambling apparatus or implement. The terms of the lease must include, but are not limited to, the name of the lessor; address of the lessor; name of the lessee; address of the lessee; description of the gambling apparatus or implement; serial number, model name or number of the gambling apparatus or implement; and all prices and payments for the lease. Each lease must be for a specific period of time no longer than the duration of the annual fair of that lessee, and each gambling apparatus must have its own separate lease. Gambling apparatus or implements leased under this section:

A. May be operated only for the exclusive benefit of the agricultural society, except that the agricultural society may pay a distributor up to 50% of gross gaming revenue in accordance with subsection 2; and

B. Must bear the name and address of the distributor.

**6. Reports.** At the end of each calendar month, a distributor or printer shall file with the Chief of the State Police a report indicating:

A. The names and addresses of all persons or organizations to which the distributor or printer has distributed equipment and the dates of the distribution;

B. A description of the equipment distributed, including serial number and model name and number; and

C. The quantities of any equipment distributed.

**7. Retention and inspection of records.** A distributor or printer shall maintain and keep for a period of 3 years, on the premises of the distributor or printer, any records that may be necessary to substantiate the reports required by this section or by the rules adopted under this chapter. The records must be open to inspection, and a licensee may not refuse the Chief of the State Police or the chief's representative permission to inspect or audit the records. Refusal to permit inspection or audit of the records does not constitute a crime under this chapter but constitutes grounds for revocation of license.

The Chief of the State Police shall require from any licensed printer or distributor, or from any organization authorized to operate a game of chance, whatever reports determined necessary by the chief for the purpose of the administration and enforcement of this chapter.

## **§ 1840. Prohibited acts**

**1. Schemes prohibited.** A license may not be issued under this chapter for the conduct or operation of a machine, a slot machine, roulette or games commonly known as policy or numbers, except that a license may be issued for an electronic video machine. An electronic video machine that constitutes a game of chance is fully governed by this chapter.

**2. Prohibited games.** The following games are prohibited:

A. A game that uses objects that are constructed, designed or altered to be other than what they appear to be and to respond in a way other than that in which the average player would assume that they would respond, unless that construction, design or alteration is permitted in the rules governing that game and the construction, design or alteration meets the requirements of those rules;

B. A game in which the operator either partially or entirely controls the outcome of the game by the operator's manner of operating or conducting the game;

C. A game in which the outcome depends upon the word of the operator against the word of the player; and

D. A game of skill that includes any mechanical or physical device that directly or indirectly impedes, impairs or thwarts the skill of the player.

**3. Glass prohibited.** The use of glass is prohibited in games of skill pursuant to Title 32, section 1873.

## **§ 1841. Investigations and actions on licenses; evidence**

**1. Investigation.** The Chief of the State Police shall investigate or cause to be investigated all complaints made to the chief and all violations of this chapter or the rules adopted pursuant to section 1842.

**2. Refusal to issue, modify or renew; modification; suspension; revocation.** It is grounds for an action to refuse to issue, modify or renew or to modify, suspend or revoke the license of a distributor or printer licensed under this chapter if:

A. The distributor or printer or its resident manager, superintendent or official representative made or caused to be made a false statement of material fact in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;

B. The distributor or printer or its resident manager, superintendent or official representative violated any provision of this chapter or any rule adopted by the Chief of the State Police under section 1842.

(1) Except as provided in subparagraph (2), the Chief of the State Police shall give written notice of any violation to the distributor or printer who then has 14 days to comply. Failure to comply within the 14-day period is grounds for an action under this section.

(2) If a distributor or printer violates section 1839, subsection 1 or 2, the Chief of the State Police is not required to give the notice or allow the compliance period provided in subparagraph (1); and

C. The distributor or printer or its resident manager, superintendent or official representative has been:



(1) Convicted of a crime under this chapter or Title 17-A, chapter 39; or

(2) Convicted within the prior 10 years of any crime for which imprisonment for more than one year may be imposed.

**3. Chief of the State Police.** The Chief of the State Police may:

A. Investigate all aspects of this chapter including the direct and indirect ownership or control of any licenses;

B. Suspend, revoke or refuse to issue a license, after notice and the opportunity for a hearing, if the applicant, applicant's agent or employee, licensee or licensee's agent or employee violates a provision of this chapter or Title 17-A, chapter 39 or fails to meet the statutory requirements for licensure pursuant to this chapter;

C. Immediately suspend or revoke a license if there is probable cause to believe that the licensee or the licensee's agent or employee violated section 1832, subsection 7, paragraph C; section 1840, subsection 2; or a provision of Title 17-A, chapter 39; and

D. Issue a subpoena in the name of the State Police in accordance with Title 5, section 9060, except that this authority applies to any stage of an investigation under this chapter and is not limited to an adjudicatory hearing. This authority may not be used in the absence of reasonable cause to believe a violation has occurred. If a witness refuses to obey a subpoena or to give any evidence relevant to proper inquiry by the chief, the Attorney General may petition the Superior Court in the county where the refusal occurred to find the witness in contempt. The Attorney General shall cause to be served on that witness an order requiring the witness to appear before the Superior Court to show cause why the witness should not be adjudged in contempt. The court shall, in a summary manner, hear the evidence and, if it is such as to warrant the court in doing so, punish that witness in the same manner and to the same extent as for contempt committed before the Superior Court or with reference to the process of the Superior Court.

**4. Licensing actions after notice and opportunity for hearing.** The Chief of the State Police shall notify the applicant or licensee in writing, before a license is denied, suspended or revoked pursuant to subsection 3, paragraph B, of the intended denial or commencement date of the suspension or revocation, which may not be made any sooner than 96 hours after the licensee's receipt of the notice, of the duration of the suspension or revocation and of the right to a hearing pursuant to this subsection. The applicant or licensee has the right to request a hearing before the Commissioner of Public Safety or the commissioner's designee. Upon the applicant's or licensee's request for a hearing, the Commissioner of Public Safety shall provide a hearing. The hearing must comply with the Maine Administrative Procedure Act. The purpose of the hearing is to determine whether a preponderance of the evidence establishes that the applicant, applicant's agent or employee or the licensee or licensee's agent or employee violated a provision of this chapter or Title 17-A, chapter 39. A request for a hearing may not be made any later than 10 days after the applicant or licensee is notified of the proposed denial, suspension or revocation.

The suspension or revocation must be stayed pending the hearing; the hearing may not be held any later than 30 days after the date the commissioner receives the request unless otherwise agreed by the parties or continued upon request of a party for cause shown.

**5. Immediate suspension or revocation.** A licensee whose license is immediately suspended or revoked by the Chief of the State Police pursuant to subsection 3, paragraph C must be notified in writing of the duration of the suspension or revocation and the licensee's right to request a hearing before the Commissioner of Public Safety or the commissioner's designee. Upon the licensee's request for a hearing, the Commissioner of Public Safety shall provide a hearing. The hearing must comply with the Maine Administrative Procedure Act. The purpose of the hearing is to determine whether a preponderance of the evidence establishes that the licensee or the licensee's agent or employee violated section 1832, subsection 7, paragraph C; section 1840, subsection 2; or a provision of Title 17-A, chapter 39. A request for a hearing may not be made any later than 48 hours after the licensee is notified of the suspension or revocation. A hearing may not be held any later than 10 days after the date the commissioner receives the request.

**6. Access to premises.** A person, firm, corporation, association or organization making application to the Chief of the State Police to conduct or operate a game of chance or any such person, firm, corporation, association or organization authorized under this chapter to conduct or operate a game of chance shall permit inspection of any equipment, prizes, records or items and materials used or to be used in the conduct or operation of a game of chance by the Chief of the State Police or the chief's authorized representative.

A firm, corporation, association or organization licensed to conduct or operate a game of chance shall permit at any time the Department of Public Safety or the city or town fire inspectors of the municipality in which the licensed game is being conducted to enter and inspect the licensed premises.

## **§ 1842. Rules**

The Chief of the State Police has the power to adopt routine technical rules, not inconsistent with law, necessary for the administration and enforcement of this chapter and for the licensing, conduct and operation of games of chance. The Chief of the State Police has the power and authority to regulate, supervise and exercise general control over the operation of such games. In establishing such rules, the Chief of the State Police must, in addition to the standards set forth in other provisions of this chapter, set forth conduct, conditions and activity considered undesirable, including:

- 1. Fraud.** The practice of any fraud or deception upon a participant in a game of chance;
- 2. Unsafe premises.** The conduct of a game of chance in or at premises that may be unsafe due to fire hazard or other such conditions;
- 3. Advertising and solicitation.** Advertising that is obscene or solicitation on a public way of persons to participate in a game of chance;

**4. Organized crime.** Infiltration of organized crime into the operation of games of chance or into the printing or distributing of gambling materials;

**5. Disorderly persons.** Presence of disorderly persons in a location where a game of chance is being conducted;

**6. Leasing of equipment.** Use of equipment not owned by a licensee used in the operation of games of chance; and

**7. Bona fide nonprofit organization.** The establishment of organizations that exist primarily to operate games of chance and do not have a bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious or public safety purpose.

The Chief of the State Police shall provide a mechanism for individuals and businesses to request a determination from the State Police as to whether a particular game, contest, scheme or device qualifies as a game of chance or a game of skill.

### **§ 1843. Violations**

A person who violates this chapter or rules adopted in accordance with this chapter commits a Class D crime.

### **§ 1844. Administration expenses**

Fees received in accordance with this chapter must be used to administer and enforce the provisions of this chapter.

### **§ 1845. Vending machines**

Nothing in this chapter applies to vending machines the primary purpose of which is to dispense beverages, candy, fruit or other food items when a coin or bills are inserted into the machine.

**Sec. 3. Revisor's review; cross-references.** The Revisor of Statutes shall review the Maine Revised Statutes and include in the errors and inconsistencies bill submitted to the Second Regular Session of the 124th Legislature pursuant to Title 1, section 94 any sections necessary to correct and update any cross-references in the statutes to provisions of law repealed in this Act.

## **SUMMARY**

This bill repeals the existing chapter of the Maine Revised Statutes, Title 17 on games of chance and replaces it with a new chapter. The provisions governing games of chance are the same but structured differently with the intent of clarifying the provisions within the chapter. This bill makes changes to cross-references in order to comply with the new section numbers assigned to the games of chance provisions. The only substantive change made by the bill is to the definition of "slot machine," which is amended by the bill to be consistent with other references to slot machines in the law and to recognize the electronic nature of modern slot machines.