

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 227

H.P. 153

House of Representatives, February 1, 2011

An Act Relating to the Establishment of Casinos

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative VALENTINO of Saco.
Cosponsored by Representative HOGAN of Old Orchard Beach and
Representatives: DION of Portland, LONGSTAFF of Waterville, MAZUREK of Rockland,
PILON of Saco, RUSSELL of Portland, Senator: BARTLETT of Cumberland.

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

2 **Sec. 1. 8 MRSA §1001, sub-§5-C** is enacted to read:

3 **5-C. Casino.** "Casino" means a facility that offers entertainment to the public in the
4 form of various types of gambling activities, including, but not limited to, slot machines,
5 card games, roulette and other games of chance on which patrons wager something of
6 value with the hope of winning something of value in return.

7 **Sec. 2. 8 MRSA §1001, sub-§5-D** is enacted to read:

8 **5-D. Casino operator.** "Casino operator" means an entity or entities contracted by
9 the State as an agent of the State for the purpose of operating a casino.

10 **Sec. 3. 8 MRSA §1001, sub-§29-C** is enacted to read:

11 **29-C. Net table game revenue.** "Net table game revenue" means money, tokens,
12 credits or similar objects or things of value used to play a table game minus money,
13 credits or prizes paid out to winners.

14 **Sec. 4. 8 MRSA §1001, sub-§43-C** is enacted to read:

15 **43-C. Table game.** "Table game" means a card game, dice game or other game of
16 chance, including, but not limited to, blackjack, poker, dice, craps, roulette, baccarat,
17 money wheels, wheel of fortune or any electronic facsimile of such a game located in a
18 casino. Table games are governed under this chapter and excluded from the definition of
19 "game of chance" in Title 17, section 1831, subsection 5.

20 **Sec. 5. 8 MRSA §1002, sub-§2**, as enacted by PL 2003, c. 687, Pt. A, §5 and
21 affected by Pt. B, §11, is repealed and the following enacted in its place:

22 **2. Members.** The board consists of 7 members appointed by the Governor.

23 A. Two of the board members must have training or experience in at least one of the
24 following fields:

25 (1) The gambling industry; and

26 (2) The harness racing industry.

27 B. Training or experience in the following fields must be represented to the greatest
28 extent possible:

29 (1) Substance abuse and gambling addiction services;

30 (2) Computer science or electronic monitoring and oversight of gambling;

31 (3) Corporate finance or accounting;

32 (4) Nonprofit gaming by veterans service organizations; and

33 (5) Law enforcement.

1 A member may not simultaneously serve on the board and any other board or commission
2 established by the State.

3 **Sec. 6. 8 MRSA §1003, sub-§1, ¶A**, as amended by IB 2009, c. 2, §18, is further
4 amended to read:

5 A. Regulate, supervise and exercise general control over casinos and the ownership
6 and operation of slot machines and table games, the distribution of slot machines and
7 table games and slot machine facilities and casinos;

8 **Sec. 7. 8 MRSA §1003, sub-§2, ¶H**, as enacted by PL 2003, c. 687, Pt. A, §5
9 and affected by Pt. B, §11, is amended to read:

10 H. Pursuant to subchapter 5, cause the department to investigate all complaints made
11 to the board regarding casinos and ownership, distribution or operation of slot
12 machines and all violations of this chapter or rules adopted under this chapter;

13 **Sec. 8. 8 MRSA §1003, sub-§2, ¶I**, as amended by IB 2009, c. 2, §19, is further
14 amended to read:

15 I. Adopt rules to prevent undesirable conduct relating to the casinos and ownership,
16 distribution and operation of slot machines and table games and slot machine
17 facilities and casinos, including, but not limited to, the following:

18 (1) The practice of any fraud or deception upon a casino patron, a player of a slot
19 machine or table game or a licensee;

20 (2) The presence or location of a slot machine ~~or~~ table game or gambling
21 activity in or at premises that may be unsafe due to fire hazard or other public
22 safety conditions;

23 (3) The infiltration of organized crime into the ownership, distribution or
24 operation of slot machines or table games and slot machine facilities or casinos;
25 and

26 (4) The presence of disorderly persons ~~in a location where~~ at casinos and slot
27 ~~machines are in use~~ machine facilities;

28 **Sec. 9. 8 MRSA §1003, sub-§2, ¶J**, as enacted by PL 2003, c. 687, Pt. A, §5 and
29 affected by Pt. B, §11, is amended to read:

30 J. Maintain a central site system of monitoring in real time ~~at~~ both slot machines
31 licensed in accordance with this chapter using an on-line inquiry and the operation of
32 other gambling activities at casinos using on-site monitoring;

33 **Sec. 10. 8 MRSA §1003, sub-§2, ¶L**, as enacted by PL 2003, c. 687, Pt. A, §5
34 and affected by Pt. B, §11, is amended to read:

35 L. Ensure that the slot machine operator or casino operator does not have access to
36 any system that is capable of programming slot machines;

37 **Sec. 11. 8 MRSA §1003, sub-§2, ¶O**, as enacted by PL 2003, c. 687, Pt. A, §5
38 and affected by Pt. B, §11, is amended to read:

1 O. Cause the central site monitoring system to disable a slot machine operated at a
2 slot machine facility and cause the department to seize the proceeds of that slot
3 machine if the funds from that slot machine have not been distributed, deposited or
4 allocated in accordance with section 1036;

5 **Sec. 12. 8 MRSA §1003, sub-§2, ¶Q**, as amended by IB 2009, c. 2, §20, is
6 further amended to read:

7 Q. Certify monthly to the department a full and complete statement of all gambling
8 revenue from casinos, slot machine and table game revenue, credits disbursed by
9 licensees, administrative expenses and the allocation of slot machine and table game
10 income for the preceding month;

11 **Sec. 13. 8 MRSA §1003, sub-§2, ¶R**, as amended by IB 2009, c. 2, §21, is
12 further amended to read:

13 R. Submit by March 15th an annual report to the Governor and the joint standing
14 committee of the Legislature having jurisdiction over gambling affairs on casino
15 revenue, slot machine and table game revenue, credits disbursed by slot machine
16 operators and table game operators, administrative expenses and the allocation of slot
17 machine and table game income for the preceding year;

18 **Sec. 14. 8 MRSA §1003, sub-§3, ¶G**, as amended by IB 2009, c. 2, §23, is
19 further amended to read:

20 G. Minimum procedures for the exercise of effective control over the internal fiscal
21 affairs of casino operators, slot machine operators, casino operators, slot machine
22 distributors, table game distributors, gambling services vendors and nongambling
23 services vendors, including provisions for the safeguarding of assets and revenues,
24 the recording of cash and evidence of indebtedness and the maintenance of reliable
25 records, accounts and reports of transactions, operations and events, including reports
26 to the board;

27 **Sec. 15. 8 MRSA §1003, sub-§3, ¶H**, as amended by IB 2009, c. 2, §24, is
28 further amended to read:

29 H. Procedures for the annual audit of the books and records of casino operators, slot
30 machine operators, casino operators, slot machine distributors, table game
31 distributors and gambling services vendors;

32 **Sec. 16. 8 MRSA §1003, sub-§3, ¶I**, as amended by IB 2009, c. 2, §25, is further
33 amended to read:

34 I. Establishment of a list of persons who are to be excluded or removed from any
35 casino or slot machine facility or casino, including those persons who voluntarily
36 request that their names be included on the list of excluded persons. These rules must
37 define the standards for exclusion and removal and include standards regarding
38 persons who are career or professional offenders, as defined by rules of the board,
39 whose presence in a casino or slot machine facility or casino would, in the opinion of
40 the board, be inimical to the interest of the State;

1 **Sec. 17. 8 MRSA §1004, sub-§1, ¶D**, as enacted by PL 2003, c. 687, Pt. A, §5
2 and affected by Pt. B, §11, is amended to read:

3 D. Allow the slot machine operator or casino operator to install independent player
4 tracking systems to include cashless technology as approved by the board;

5 **Sec. 18. 8 MRSA §1011**, as amended by IB 2009, c. 2, §29, is further amended to
6 read:

7 **§1011. License to operate**

8 The board shall exercise authority over the operation of casinos as governed by
9 subchapter 7 and the licensing of all persons participating in the operation, distribution
10 and maintenance of slot machines and table games and slot machine facilities and casinos
11 and over the registration of slot machines and table games.

12 **1. Operator license required for slot machine facility.** A person may not operate
13 any slot machine in a slot machine facility in the State unless the person has been issued a
14 license to operate slot machines by the board. A slot machine operator license authorizes
15 a licensee to own or lease slot machines operated at a licensed gambling facility.

16 **1-A. Operator license required for casino.** A person may not operate both slot
17 machines and table games in the State unless the person has been issued a casino operator
18 license by the board. A casino operator license authorizes a licensee to own or lease slot
19 machines and table games operated at a casino.

20 **2. Persons eligible for slot machine operator license.** The board may accept
21 applications for a license to operate slot machines at a slot machine facility from any
22 person who is licensed to operate a commercial track that satisfies the following criteria:

23 A. The commercial track is located at or within a 5-mile radius of the center of a
24 commercial track that conducted harness racing with pari-mutuel wagering on more
25 than 25 days during calendar year 2002; and

26 B. The operation of slot machines at the commercial track is approved by the voters
27 of the municipality in which the commercial track to be licensed is located by
28 referendum election held at any time after December 31, 2002 and before December
29 31, 2003.

30 **2-A. Person eligible for casino operator license.** The board may accept an
31 application for a casino operator license to operate slot machines and table games at a
32 casino from any person if that person and casino satisfy the following criteria:

33 A. The casino is located on a parcel of land that is:

34 (1) No less than 50 acres in size; and

35 (2) Located not more than:

36 (a) Thirty miles from a Level I or Level II trauma center verified as such by
37 the American College of Surgeons or successor organization;

38 (b) Fifteen miles from the main office of a county sheriff;

- 1 (c) Twenty-five miles from the main office of a state police field troop;
- 2 (d) Thirty miles from an interchange of the interstate highway system;
- 3 (e) Ten miles from a fire station;
- 4 (f) Ten miles from a facility at which harness racing was conducted pursuant
- 5 to a license from the State Harness Racing Commission for the 2009 racing
- 6 year; and
- 7 (g) One-half mile from a state highway as defined in Title 23, section 1903,
- 8 subsection 15.

9 For the purposes of this paragraph, distances are determined by measuring along the
10 most commonly used roadway, as determined by the Department of Transportation;

11 B. The criteria adopted through rulemaking by the board regarding the licensing of
12 the operation of slot machines and table games;

13 C. The operation of a casino is approved by the voters of the municipality in which
14 the casino to be licensed is located in a referendum election or by a vote of the
15 municipal officers in the municipality in which the casino is to be licensed and
16 located held at any time after October 1, 2009 and on or before December 31, 2011;

17 D. The person owns a facility that is within 10 miles of the proposed casino at which
18 harness racing was conducted pursuant to a license from the State Harness Racing
19 Commission for the 2009 racing year; and

20 E. The slot machines and table games are located and operated in the casino.

21 **3. Requirements for license; continued commercial track licensure.** The board
22 may not issue a license to operate a slot machine facility or a casino to any person unless
23 that person demonstrates compliance with the qualifications set forth in sections 1016 and
24 1019. To maintain eligibility for a slot machine operator license, a licensed commercial
25 track must at all times maintain a license to operate a commercial track, without lapse,
26 suspension or revocation, and a licensed commercial track is not eligible for a license to
27 operate table games but may apply for a license to operate slot machines as long as the
28 licensed commercial track satisfies the requirements of this chapter.

29 **4. Requirement for license; agreement with municipality where slot machines**
30 **are located.** A slot machine operator at a slot machine facility shall enter into an
31 agreement with the municipality where the slot machine operator's slot machines are
32 located that provides for revenue sharing or other compensation, including, but not
33 limited to, a provision requiring the preparation, in conjunction with the municipality, of
34 a security plan for the premises on which the slot machines are located. The revenue-
35 sharing agreement must provide for a minimum payment to the municipality of 3% of the
36 net slot machine income derived from the machines located in the municipality.

37 **5. Renewal.** Licenses to operate slot machine facilities or a casino may be renewed
38 upon application for renewal in accordance with this subchapter, subject to board rules.

39 **Sec. 19. 8 MRSA §1020, sub-§3,** as amended by IB 2009, c. 2, §37, is further
40 amended to read:

1 **3. Limits on total slot machines.** The board shall determine the number of slot
2 machines to be registered in the State. The board shall make this determination based
3 upon the minimum net slot machine income, when distributed pursuant to section 1036,
4 necessary to maintain the harness horse racing industry in this State and the total number
5 of facilities licensed to operate slot machines in the State, except that:

6 A. The total number of slot machines registered in the State may not exceed ~~3,000~~
7 5,000; and

8 B. A slot machine operator or a casino operator may not operate more than ~~1,500~~
9 1,000 slot machines at any one commercial track slot machine facility or casino and a
10 casino operator may not operate more than 1,500 slot machines at a casino.

11 **Sec. 20. 8 MRSA c. 31, sub-c. 7** is enacted to read:

12 **SUBCHAPTER 7**

13 **CASINOS**

14 **§1071. Casinos to be managed by the board**

15 Notwithstanding Title 17-A, chapter 39, the board is responsible for the management
16 and operation of up to 3 casinos in the State through state-contracted casino operators in
17 accordance with this section.

18 **1. Request for proposals to operate casinos.** Notwithstanding Title 5, section
19 1825-B, subsection 1, the board shall issue a request for proposals to operate up to 3
20 casinos in the State in accordance with the competitive bidding process established by
21 Title 5, chapter 155, subchapter 1-A.

22 **2. Minimum proposal requirement; municipal approval; preferences.** The board
23 may not consider a proposal for a casino under subsection 1 in a region established in
24 accordance with section 1073 unless a minimum of 2 separate proposals have been
25 submitted to operate a casino in that region and the proposal includes certification of
26 approval for a casino by the governing body of the municipality, or the county for an
27 unincorporated place, where the casino is proposed to be located. When considering
28 proposals to operate a casino, the board shall give preference to:

29 A. An entity that is working with or on behalf of a federally recognized Indian tribe
30 with reservation or trust land in the State;

31 B. An entity that is proposing to locate the casino in a region of proportionately high
32 unemployment; and

33 C. An existing commercial track licensed to accept pari-mutuel wagers on harness
34 racing.

35 **3. Profit-sharing formula required.** The board shall require in the request for
36 proposals to operate a casino under subsection 1 a profit-sharing formula that
37 demonstrates the revenue to be divided between the General Fund and the casino
38 operator.

1 **4. Minimum investment.** An entity submitting a competitive bid to operate a casino
2 under subsection 1 must demonstrate willingness to make a minimum investment of land,
3 buildings and infrastructure at the location of the proposed casino.

4 **5. Privilege fee; term of contract.** An entity that successfully bids for a casino
5 contract pursuant to subsection 1 shall pay a minimum privilege fee of \$5,000,000 to the
6 board to be deposited to the General Fund. The term of the contract between the State
7 and a casino operator may not exceed 20 years.

8 **6. Existing slot machine facility; right of refusal.** Notwithstanding subsection 1
9 and in addition to the 3 casinos that are authorized and subject to the competitive bidding
10 process, the board may enter into a contract with an existing slot machine operator
11 licensed to operate slot machines on January 1, 2011 to operate a casino at an existing
12 slot machine facility location. If the slot machine operator opts to have an interest in a
13 casino, the board shall negotiate a contract with the operator that must include a
14 minimum privilege fee of \$3,000,000 payable to the board to be deposited to the General
15 Fund. The contract must provide for the distribution of slot machine income as described
16 in section 1036 and provide that net table game revenue be deposited to the General Fund
17 in accordance with the percentage established by the contract.

18 **§1072. Casino operator to have interest in only one casino**

19 A casino operator may not have an interest in more than one casino in the State. This
20 section does not preclude the slot machine operator of a slot machine facility licensed as
21 of January 1, 2011 from having an interest in a casino.

22 **§1073. Location of casinos**

23 The board shall establish by rule 4 regions for the location of casinos. Each region
24 must have a population center that can economically sustain a casino. A casino must be
25 located at least 75 miles from another casino or slot machine facility. If a slot machine
26 operator enters into a contract with the board to operate a casino under section 1071,
27 subsection 6, the location of the slot machine facility must be considered one of the 4
28 regions. Rules adopted pursuant to this section are major substantive rules as defined in
29 Title 5, chapter 375, subchapter 2-A.

30 **§1074. State share of gaming revenue**

31 A casino operated in the State shall distribute to the board the state share of net slot
32 machine income and net table game revenue pursuant to contract under section 1071,
33 subsection 6 to be deposited in equal proportions to the funds created by sections 1075,
34 1076 and 1077.

35 **§1075. General purpose aid to education fund**

36 A fund is established within the Department of Education to supplement and not
37 supplant the state share of essential programs and services as required by Title 20-A,
38 section 15671 to which the board shall credit a portion of the state share of net slot
39 machine income and net table game revenue in accordance with section 1074.

1 **§1076. Veterans tax exemption reimbursement fund**

2 A fund is established within the Department of Administrative and Financial
3 Services, Bureau of Revenue Services to reimburse municipalities for property tax
4 exemptions granted to veterans in accordance with Title 36, chapter 105, subchapter 4 to
5 which the board shall credit a portion of the state share of net slot machine income and
6 net table game revenue in accordance with section 1074.

7 **§1077. Homestead exemption reimbursement fund**

8 A fund is established within the Department of Administrative and Financial
9 Services, Bureau of Revenue Services to reimburse municipalities for resident homestead
10 property tax exemptions in accordance with Title 36, chapter 105, subchapter 4-B to
11 which the board shall credit a portion of the state share of net slot machine income and
12 net table game revenue in accordance with section 1074.

13 **Sec. 21. Report; legislation.** By March 1, 2012 the Department of Public Safety,
14 Gambling Control Board shall submit a report to the joint standing committee of the
15 Legislature having jurisdiction over gambling matters describing the potential locations
16 for casinos and the contents of the request for proposals to be submitted to potential
17 casino operators. The board shall include with the report proposed legislation for the
18 administration of oversight of casinos in the State.

19 **Sec. 22. Transition clause.** Notwithstanding the Maine Revised Statutes, Title 8,
20 section 1002, subsection 2, members serving on the Gambling Control Board on the
21 effective date of this Act continue to serve for the remainder of the terms for which they
22 were appointed. After the expiration of the terms of members serving on the effective
23 date of this Act, the appointment of members to fill vacancies on the Gambling Control
24 Board must be made consistent with the provisions of Title 8, section 1002, subsection 2
25 as repealed and replaced by this Act.

26 **SUMMARY**

27 This bill authorizes the establishment of 3 casinos in the State subject to a
28 competitive bidding process. A successful bidder would win the right to enter into a
29 contract with the State to operate a casino for up to 20 years. A successful bidder is
30 subject to a privilege fee of \$5,000,000 to operate a casino. An existing slot machine
31 operator would also be authorized to enter into a contract with the State to operate a
32 casino at the existing slot machine facility without being subject to the competitive
33 bidding process. The privilege fee for a casino that was an existing slot machine facility
34 is \$3,000,000. As determined by a contract with the State, the state share of net gaming
35 revenue from the casinos would be divided equally among 3 funds that reimburse
36 municipalities for education, veterans property tax exemptions and homestead property
37 tax exemptions.