

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1642

S.P. 532

In Senate, April 25, 2019

An Act Regarding the Regulation of Sports Wagering

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator POULIOT of Kennebec.

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

2 **Sec. 1. 8 MRSA §1003, sub-§5**, as repealed and replaced by PL 2017, c. 475, Pt.
3 A, §11, is amended to read:

4 **5. Additional duties of the director.** The director also serves as the director of the
5 Gambling Control Unit, established as a bureau within the Department of Public Safety
6 under Title 25, section 2902, subsection 12. As director of the unit, the director shall
7 administer and enforce the laws governing fantasy contests under chapter 33, sports
8 wagering under chapter 35 and beano and games of chance under Title 17, chapters 13-A
9 and 62, respectively.

10 **Sec. 2. 8 MRSA §1104, sub-§2**, as enacted by PL 2017, c. 303, §2, is amended to
11 read:

12 **2. Certain leagues and contests prohibited.** A fantasy contest operator may not
13 offer a fantasy contest based on the performances of participants in ~~collegiate or~~ high
14 school athletic events or other athletic events ~~involving~~ in which the majority of
15 participants are under 18 years of age.

16 **Sec. 3. 8 MRSA c. 35** is enacted to read:

17 **CHAPTER 35**

18 **REGULATION OF SPORTS WAGERING**

19 **§1201. Authorization of sports wagering**

20 Notwithstanding any provision of law to the contrary, the operation of sports
21 wagering and ancillary activities are lawful when conducted in accordance with the
22 provisions of this chapter and the rules of the director.

23 **§1202. Definitions**

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

26 **1. Adjusted gross sports wagering receipts.** "Adjusted gross sports wagering
27 receipts" means an operator's gross receipts from sports wagering, excluding free bets,
28 less the total of all winnings paid to patrons, which includes the cash equivalent of any
29 merchandise or thing of value awarded as a prize, and less all excise taxes paid pursuant
30 to federal law.

31 **2. Collegiate sports or athletic event.** "Collegiate sports or athletic event" means a
32 sports or athletic event offered or sponsored by, or played in connection with, a public or
33 private institution that offers postsecondary educational services.

34 **3. Director.** "Director" means the director of the Gambling Control Unit within the
35 Department of Public Safety.

1 **4. Government.** "Government" means any governmental unit of a national, state or
2 local body exercising governmental functions, other than the United States Government.

3 **5. License.** "License" means an operator license under section 1205 to conduct
4 sports wagering.

5 **6. National criminal history background check system.** "National criminal
6 history background check system" means the criminal history background check system
7 maintained by the Federal Bureau of Investigation.

8 **7. Operator.** "Operator" means a qualified gaming entity that is licensed to offer
9 sports wagering.

10 **8. Professional sports or athletic event.** "Professional sports or athletic event"
11 means an event at which 2 or more persons participate in sports or athletic contests and
12 receive compensation in excess of actual expenses for their participation in the event.

13 **9. Qualified gaming entity.** "Qualified gaming entity" means a gaming entity that
14 offers sports wagering through mobile applications or digital platforms in any jurisdiction
15 in the United States pursuant to a state regulatory structure.

16 **10. Sports event or sporting event.** "Sports event" or "sporting event" means any
17 professional sports or athletic event, collegiate sports or athletic event, motor race event,
18 electronic sports event, competitive video game event or any other special event for
19 which sports wagering is authorized by the director under this chapter.

20 **11. Sports wagering.** "Sports wagering" means the business of accepting wagers on
21 sporting events or portions of sporting events, other events, the individual performance
22 statistics of athletes in a sporting event or other events or a combination of any of the
23 same by any system or method of wagering approved by the director, including, but not
24 limited to, via mobile applications and digital platforms that use communications
25 technology to accept wagers. "Sports wagering" includes, but is not limited to, single-
26 game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-
27 game wagering, in-play bets, proposition bets and straight bets. "Sports wagering" does
28 not include fantasy contests as defined in section 1101, subsection 4.

29 **12. Sports wagering account.** "Sports wagering account" means a financial record
30 established by an operator for an individual patron into which the patron may deposit and
31 from which the patron may withdraw funds for sports wagering and other authorized
32 purchases, and to which the operator may credit winnings or other amounts due to that
33 patron or authorized by that patron. A sports wagering account may be established
34 electronically through any approved mobile application or digital platform.

35 **13. Sports wagering agreement.** "Sports wagering agreement" means a written
36 agreement between the director and one or more other governments whereby persons who
37 are physically located in a signatory jurisdiction may participate in sports wagering
38 conducted by one or more operators licensed by the signatory governments.

39 **14. Sports wagering license.** "Sports wagering license" means authorization
40 granted under this chapter by the director to a qualified gaming entity that permits the

1 qualified gaming entity to operate sports wagering through any authorized platform. This
2 term is synonymous with "operator license."

3 15. Wager. "Wager" means a sum of money or thing of value risked on an uncertain
4 occurrence.

5 **§1203. Powers and duties of director**

6 **1. Powers and duties.** In administering and enforcing this chapter, the director:

7 A. Has the power to regulate the conduct of sports wagering;

8 B. Shall examine the rules and regulations implemented in other states where sports
9 wagering is conducted and shall, as far as practicable, adopt a similar regulatory
10 structure through adoption of rules;

11 C. May adopt rules necessary for the successful implementation, administration and
12 enforcement of this chapter, including, but not limited to, rules governing the
13 acceptance of wagers on a sports event, other event or a series of sports events;
14 maximum wagers that may be accepted by an operator from any one patron on any
15 one event; type of wagering receipts that may be used; method of issuing receipts;
16 method of accounting to be used by operators; types of records that must be kept;
17 type of system for wagering; protections for patrons placing wagers; and promotion
18 of social responsibility, responsible gaming and inclusion of the statement, "If you or
19 someone you know has a gambling problem and wants help, call 1-800-GAMBLER,"
20 on any mobile application or digital platform used to place wagers. Rules adopted
21 under this paragraph are routine technical rules as defined in Title 5, chapter 375,
22 subchapter 2-A;

23 D. May adopt emergency rules in accordance with Title 5, section 8054;

24 E. Shall determine the eligibility of a person to hold or continue to hold a license,
25 shall issue all licenses and shall maintain a record of all licenses issued under this
26 chapter. The director may accept applications, evaluate qualifications of applicants
27 and undertake an initial review of licenses prior to adoption of emergency rules
28 pursuant to paragraph D;

29 F. Shall levy and collect all fees, civil penalties and tax on adjusted gross sports
30 wagering receipts imposed by this chapter, except as otherwise provided under this
31 chapter;

32 G. May sue to enforce any provision of this chapter or any rule of the director by
33 civil action or petition for injunctive relief;

34 H. May hold hearings, administer oaths and issue subpoenas or subpoenas duces
35 tecum in the manner provided by applicable law; and

36 I. May exercise any other powers necessary to effectuate the provisions of this
37 chapter and the rules of the director.

1 **§1204. Licenses required**

2 **1. Licenses.** A person or entity may not engage in any activity in connection with
3 sports wagering in this State unless all necessary licenses have been obtained in
4 accordance with this chapter and rules adopted pursuant to this chapter.

5 **2. Qualifications and control.** The director may not grant a license until the
6 director determines that each person that has control of the applicant meets all
7 qualifications for licensure. The following persons are considered to have control of an
8 applicant:

9 A. Each corporate holding company, parent company, subsidiary company and
10 person that owns 10% or more of the corporate applicant and that has the ability to
11 control the activities of the corporate applicant or elect a majority of the board of
12 directors of that corporate applicant, except for a bank or other licensed lending
13 institution that holds a mortgage or other lien acquired in the ordinary course of
14 business;

15 B. Each person associated with a noncorporate applicant that directly or indirectly
16 holds a beneficial or proprietary interest in the noncorporate applicant's business
17 operation or that the director otherwise determines has the ability to control the
18 noncorporate applicant; and

19 C. Key personnel of an applicant, including any executive, employee or agent,
20 having the power to exercise significant influence over decisions concerning any part
21 of the applicant's business operation.

22 **3. Application.** An applicant for a license issued under this chapter shall submit an
23 application to the director in the form the director requires and submit fingerprints for a
24 criminal history background check to the national criminal history background check
25 system conducted by the Maine State Police and the Federal Bureau of Investigation,
26 except that a person who has submitted to a criminal history background check in this
27 State or any other state within the previous 12 months is not required to submit to another
28 criminal history background check if the person submits the results of the previous
29 criminal history background check. The fingerprints must be furnished by all persons
30 required to be named in the application and must be accompanied by a signed
31 authorization for the release of information by the Maine State Police and the Federal
32 Bureau of Investigation. An applicant convicted of any disqualifying offense may not be
33 licensed.

34 **4. Material change to application.** A person licensed under this chapter shall give
35 the director written notice within 30 days of any material change to any information
36 provided in the licensee's application for a license or renewal.

37 **5. Gambling Control Unit employees prohibited.** A Gambling Control Unit
38 employee may not be an applicant for a license issued under this chapter.

39 **§1205. Operator license; temporary license; audits**

40 **1. Operation upon approval.** A qualified gaming entity may operate sports
41 wagering upon the approval of the director.

1 **2. Authority to conduct sports wagering.** An operator license granted by the
2 director pursuant to this section grants a licensee lawful authority to conduct sports
3 wagering within the terms and conditions of the license and any rules adopted under this
4 chapter.

5 **3. Issuance of license.** The director shall issue a license to operate sports wagering
6 to a qualified gaming entity that meets the requirements of this section.

7 **4. Temporary license.** A qualified gaming entity may submit a request to the
8 director for the immediate commencement of sports wagering operations. Such a request
9 must include the initial license fee of \$10,000 payable to the director. Upon receiving a
10 request for a temporary license, the director shall review the request. If the director
11 determines that the entity requesting the temporary license is a qualified gaming entity,
12 has paid the initial license fee and is in compliance with this subsection, the director shall
13 authorize the qualified gaming entity to conduct sports wagering for 2 years under a
14 temporary license or until a final determination on the operator's license application is
15 made. Sports wagering conducted under authority of a temporary license must comply
16 with the operator's house rules adopted pursuant to section 1207.

17 **5. Grant of license; term.** Upon application by a qualified gaming entity and
18 payment of an application fee of \$10,000 payable to the director, the director shall grant
19 an operator license that provides for the right to conduct sports wagering if the applicant
20 meets the requirements for licensure under the provisions of this chapter and the rules
21 adopted under this chapter and pays the initial license fee of \$10,000 payable to the
22 director. A license must be issued for a 5-year period and may be renewed for 5-year
23 periods upon payment of a renewal fee of \$10,000 payable to the director, as long as the
24 operator continues to meet all qualification requirements.

25 **6. Mobile applications and digital platforms.** An operator license authorizes the
26 operation of sports wagering through any mobile application or digital platforms
27 approved by the director.

28 **7. Expiration date and renewal.** An operator shall submit to the director such
29 documentation or information as the director may require demonstrating that the operator
30 continues to meet the requirements of this chapter and rules adopted under this chapter.
31 Required documentation or information must be submitted no later than 5 years after
32 issuance of an operator license and every 5 years thereafter or within shorter time periods
33 based on circumstances specified by the director.

34 **8. Audits.** Upon application for a license and annually thereafter, an operator shall
35 submit to the director an annual audit of the financial transactions and condition of the
36 licensee's total operations prepared by a certified public accountant in accordance with
37 generally accepted accounting principles and applicable federal and state laws. The audit
38 must be submitted by an operator by July 1st of the following year.

39 **§1206. License prohibitions**

40 **1. Grounds for denial.** The director may not grant a license, pursuant to the
41 provisions of this chapter, if the applicant:

- 1 A. Has knowingly made a false statement of a material fact to the director;
2 B. Has had a license revoked by any government authority responsible for regulation
3 of gaming activities; or
4 C. Has been convicted of a crime of moral turpitude, a gambling-related offense or a
5 theft or fraud offense or has otherwise demonstrated, either by a police record or
6 other satisfactory evidence, a lack of respect for law and order.

7 **2. Denial of license; reprimand, suspension and revocation.** The director may
8 deny a license to any applicant, reprimand any licensee or suspend or revoke a license:

9 A. If the applicant or licensee has not demonstrated to the satisfaction of the director
10 financial responsibility sufficient to adequately meet the requirements of the licensed
11 business or proposed business;

12 B. If the applicant or licensee is not the true owner of the licensed business or
13 proposed business or is not the sole owner and has not disclosed the existence or
14 identity of other persons that have an ownership interest in the applicant; or

15 C. If an applicant has not met the requirements of this section or any other provision
16 of this chapter.

17 **§1207. Sports wagering house rules**

18 **1. Adoption of house rules.** An operator shall adopt comprehensive house rules for
19 game play governing sports wagering transactions with its patrons. The rules must
20 specify the amounts to be paid on winning wagers, the circumstances under which the
21 operator will void a bet, treatment of errors, late bets and related contingencies and the
22 effect of schedule changes. House rules must be approved by the director prior to
23 implementation.

24 **2. Posting of house rules.** The house rules, together with any other information the
25 director determines to be appropriate, must be included in the terms and conditions of the
26 sports wagering system. Copies must be made readily available to patrons.

27 **§1208. Operator duties**

28 **1. Duties.** An operator shall:

29 A. Employ a monitoring system using software to identify unusual irregularities in
30 volume or odds swings that could signal suspicious activity that requires further
31 investigation; such activity must be immediately reported to and investigated by the
32 director. System requirements and specifications must be in accordance with
33 industry standards;

34 B. Promptly report to the director any facts or circumstances related to the operation
35 of a licensee that constitute a violation of state or federal law and immediately report
36 any suspicious betting over a threshold set by the operator that has been approved by
37 the director to the appropriate state or federal authorities;

38 C. Conduct all sports wagering activities and functions in a manner that does not
39 pose a threat to the public health, safety or welfare of the citizens of this State;

- 1 D. Keep current in all payments and obligations to the director;
- 2 E. Prevent any person from tampering with or interfering with the operation of any
- 3 sports wagering;
- 4 F. Ensure that sports wagering occurs using only a mobile application or digital
- 5 platform approved by the director that uses communications technology to accept
- 6 wagers originating in this State or in a state or jurisdiction with which the director has
- 7 entered into a sports wagering agreement;
- 8 G. Maintain sufficient cash and other supplies to conduct sports wagering at all
- 9 times; and
- 10 H. Maintain daily records showing the gross sports wagering receipts and adjusted
- 11 gross sports wagering receipts of the licensee and timely file with the director any
- 12 additional reports required by rule or by other provisions of this chapter.

13 **§1209. Displaying betting limits**

14 An operator shall conspicuously display the minimum and maximum wagers

15 permitted on any mobile application or digital platform used to place wagers and shall

16 comply with these minimum and maximum wagers.

17 **§1210. Sports wagering agreements**

18 **1. Authorization to enter into sports wagering agreements.** On behalf of this

19 State, the director is authorized to:

- 20 A. Enter into sports wagering agreements; and
- 21 B. Take all necessary actions to ensure that any sports wagering agreement entered
- 22 into pursuant to this section becomes effective.

23 **2. Rules relating to sports wagering agreements.** The director may adopt rules to

24 implement this section. The rules adopted by the director pursuant to this section may

25 include provisions prescribing:

- 26 A. The form, length and terms of an agreement entered into by the director and
- 27 another government, including, but not limited to, provisions relating to how taxes
- 28 are to be treated by this State and another government, revenues are to be shared and
- 29 distributed and disputes with patrons are to be resolved;
- 30 B. The information to be furnished to the director by a government that proposes to
- 31 enter into an agreement with this State pursuant to this section;
- 32 C. The information to be furnished to the director to enable the director to carry out
- 33 the purposes of this section;
- 34 D. The manner and procedure for hearings conducted by the director pursuant to this
- 35 section, including any special rules or notices; and
- 36 E. The information required to be furnished to the director to support any
- 37 recommendations made to the director pursuant to this section.

1 **3. Required provisions.** The director may not enter into any sports wagering
2 agreement pursuant to this section unless the agreement includes provisions that:

3 A. Account for the sharing of revenues by this State and any signatory government;

4 B. Permit the effective regulation of sports wagering by this State, including
5 provisions relating to licensing of persons, technical standards, resolution of disputes
6 by patrons, requirements for financial resources, enforcement, accounting and
7 maintenance of records;

8 C. Require each signatory government to prohibit operators of sports wagering from
9 engaging in any activity permitted by the sports wagering agreement unless they are
10 licensed in this State or by a signatory government with similar requirements
11 approved by the director;

12 D. Prohibit any signatory government from deviating from the requirements of the
13 sports wagering agreement unless all signatory governments agree to such deviation;

14 E. Prohibit any subordinate or side agreement among any subset of signatory
15 governments unless the agreement relates exclusively to the sharing of revenues; and

16 F. Require a signatory government to establish and maintain regulatory requirements
17 governing sports wagering that are consistent with the requirements of this State in all
18 material respects if the sports wagering agreement allows persons physically located
19 in this State to participate in sports wagering conducted by a signatory government or
20 an operator licensed by a signatory government.

21 **§1211. Acceptance of wagers; excluded persons**

22 **1. Accepting wagers.** An operator shall accept wagers on sports events by means of
23 electronic devices using a mobile application or digital platform approved by the director.
24 A person placing a wager must be 18 years of age or older.

25 **2. Mobile applications and digital platforms.** An operator may accept wagers
26 from a patron physically located in this State, through the patron's sports wagering
27 account, using a mobile application or digital platform approved by the director. The
28 branding for each mobile application or digital platform must be determined by the
29 operator.

30 **3. Physical location of patron; pooling of wagers.** An operator may accept wagers
31 from a patron physically located in a state or jurisdiction with which the director has
32 entered into a sports wagering agreement, through the patron's sports wagering account,
33 using a mobile application or digital platform, as long as the application or platform is
34 approved by the director and all other requirements of the agreement are satisfied. An
35 operator may pool such wagers with wagers received from patrons physically located in
36 this State.

37 **4. Wagers with other operators.** An operator may accept wagers placed by other
38 operators, and may place wagers with other operators, as long as an operator that places a
39 wager with another operator informs the operator accepting the wager that the wager is
40 being placed by an operator and discloses the wagering operator's identity.

1 **5. Excluded persons.** The director or an operator may ban a person from
2 participating in the play or operation of sports wagering. A log of all excluded persons
3 must be kept by the director and each operator, and a person on the director's exclusion
4 list or an operator's exclusion list may not engage in sports wagering under this chapter.

5 **6. Employees prohibited from wagering.** An employee of an operator may not
6 place a wager on any sports event through a mobile application or digital platform of that
7 employee's employer.

8 **7. Other wagering prohibitions.** An employee of an operator may not knowingly
9 wager or be paid any prize from any wager placed with that operator or at any facility or
10 through any mobile application or digital platform outside this State that is directly or
11 indirectly owned or operated by that operator.

12 **§1212. Sports wagering revenues; accounting for State's share of revenue imposed**
13 **for privilege of offering sports wagering; limitation of other taxes**

14 **1. Imposition and rate of assessment.** For the privilege of holding a license to
15 operate sports wagering under this chapter, a tax of 10% of the licensee's adjusted gross
16 sports wagering receipts is levied on the licensee. The accrual method of accounting
17 must be used for purposes of calculating the amount of the tax owed by the licensee.

18 **2. Operator returns and payment of tax.** The following provisions govern
19 operator returns and payment of tax pursuant to subsection 1.

20 **A. The tax levied and collected pursuant to subsection 1 is due and payable to the**
21 **director in monthly installments on or before the 15th calendar day following the**
22 **calendar month in which the adjusted gross sports wagering receipts were received.**

23 **B. An operator shall complete and submit the return for the preceding month by**
24 **electronic communication to the director, on or before the 15th calendar day, in the**
25 **form prescribed by the director that provides:**

26 **(1) The gross sports wagering receipts and adjusted gross sports wagering**
27 **receipts during that month;**

28 **(2) The tax amount for which the operator is liable; and**

29 **(3) Any additional information necessary in the computation and collection of**
30 **the tax on adjusted gross sports wagering receipts required by the director.**

31 **C. The tax amount shown to be due must be remitted by electronic funds transfer**
32 **simultaneously with the filing of the return.**

33 **D. When adjusted gross sports wagering receipts for a month is a negative number**
34 **because the winnings paid to a licensee's sports wagering patrons exceed the**
35 **licensee's gross sports wagering receipts, the director shall allow the licensee to carry**
36 **over the negative amount to returns filed for subsequent months. The negative**
37 **amount of adjusted gross sports wagering receipts may not be carried back to an**
38 **earlier month and money previously received by the director may not be refunded,**
39 **except if the licensee surrenders its license and the licensee's last return reported**
40 **negative adjusted gross sports wagering receipts.**

1 3. No other taxes. The tax on adjusted gross sports wagering receipts imposed by
2 this section is in lieu of all other state and local taxes and fees imposed on the operation
3 of or the proceeds from the operation of sports wagering.

4 **§1213. Civil violation**

5 Except as provided in section 1214, a person that violates the provisions of this
6 chapter commits a civil violation for which the director may impose a fine of not more
7 than \$50,000 for each violation. The director may impose a fine on any person that
8 violates this chapter and is not limited to persons licensed under this chapter.

9 **§1214. Crimes and penalties related to unauthorized sports wagering**

10 **1. Violation of this chapter.** A person, other than a licensee under this chapter, that
11 engages in or facilitates sports wagering commits a Class E crime and notwithstanding
12 Title 17-A, section 1301 is subject to a fine of not more than \$10,000 and a term of
13 imprisonment of not more than 90 days.

14 **2. Second violation.** A person convicted of a 2nd violation of subsection 1 commits
15 a Class D crime and notwithstanding Title 17-A, section 1301 is subject to a fine of not
16 more than \$50,000 and a term of imprisonment of not more than 6 months.

17 **3. Third violation.** A person convicted of a 3rd or subsequent violation of
18 subsection 1 commits a Class C crime and notwithstanding Title 17-A, section 1301 is
19 subject to a fine of not less than \$25,000 and not more than \$100,000 and a term of
20 imprisonment of not less than one year and not more than 5 years.

21 **§1215. Applicability of other laws**

22 The provisions of Title 17, chapter 62 and Title 17-A, chapter 39 do not apply to
23 sports wagering conducted in accordance with this chapter and the rules adopted pursuant
24 to this chapter.

25 **SUMMARY**

26 This bill authorizes sports wagering regulated by the Department of Public Safety,
27 Gambling Control Unit. The bill requires a person or entity offering sports wagering to
28 hold an operator license. A gaming entity that offers sports wagering through mobile
29 applications or digital platforms in any jurisdiction in the United States pursuant to a state
30 regulatory structure and that meets certain requirements is eligible to receive an operator
31 license. An operator license authorizes the operation of sports wagering through a mobile
32 application or digital platform approved by the Gambling Control Unit. For the privilege
33 of holding a license to operate sports wagering, the bill levies a tax of 10% of the
34 licensee's adjusted gross sports wagering receipts from the operation of sports wagering.
35 The bill allows the director of the Gambling Control Unit to enter into a sports wagering
36 agreement between the director and one or more other governments whereby persons who
37 are physically located in a signatory jurisdiction may participate in sports wagering
38 conducted by one or more operators licensed by the signatory governments. The bill also

- 1 allows a fantasy contest operator to offer a fantasy contest based on the performances of
- 2 participants in collegiate athletic events.