

# MAINE STATE LEGISLATURE

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June 19, 1974

Christo Anton, Director

State Lottery Commission

Harrison B. Wetherill, Jr., Assistant

Attorney General

Payment of \$20 prizes by Lottery Ticket Sales Agents

I have received your memorandum concerning your proposed manner of payment of \$20 prizes. You intend to provide that \$20 prizes might be claimed at any authorized sales agency for immediate payment and you have asked whether payment of these prizes by the sales agents would be legal. The answer is yes.

The ordinary procedures governing departmental collections are set out in 5 M.R.S.A. § 131; however, with respect to the lottery, these procedures have been altered by 8 M.R.S.A., Chapter 14.

The lottery is unique among governmental agencies in that fundamental to its primary goal of revenue collecting is the need to pay out sums of money, in the form of prizes, on a regular basis. The Legislature has provided the Lottery Commission and the Director of Lotteries with great flexibility and discretion in determining the manner of payment of prizes and this discretion includes the ability to pay out prizes at the points of sale prior to deposit of ticket sales receipts into the Lottery Fund.

8 M.R.S.A. § 365 creates and establishes a separate fund to be known as the "State Lottery Fund" and states that the fund shall consist of, among other things, "all revenue" received from the sale of lottery tickets. Use here of the term "all revenue", as opposed to use of the term "all moneys" found elsewhere in chapter 14, indicates that the Legislature had in mind that certain deductions might be made from the gross ticket sales receipts prior to deposit of the net revenues from such sales in the Lottery Fund.

Under 8 M.R.S.A. § 362, dealing with the deposit of ticket sales receipts, the Director is specifically authorized to allow sales agents to deduct their commissions from ticket sales receipts prior to deposit of the receipts in the Lottery Fund. Following this authorization for a specific deduction, § 362 goes further and authorizes the Director to "make such arrangements for any person, including a bank, to perform such functions, activities or services in connection with the operation of the lottery as he may deem advisable pursuant to [chapter 14] and the rules and regulations of the Commission, and such functions, activities and services shall constitute lawful functions, activities and services of such person." (Material in brackets supplies.) Under this additional authority the Director

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may authorize sales agents to deduct prize payments as well as commissions from ticket sales receipts if the Director deems this to be advisable pursuant to Chapter 14 and if the Commission has adopted rules to this effect pursuant to 8 M.R.S.A. § 353; which provision authorizes the Commission to promulgate rules on "the manner of payment of prizes to the holders of winning tickets or shares."

That the Legislature intended for the Director to exercise broad control over prize moneys and their manner of distribution, subject to the rules promulgated to the Commission, is further indicated by 8 M.R.S.A. § 361 under which "unclaimed prize money for the prize on a winning ticket or share shall be retained by the director for the person entitled thereto for one year after the drawing in which the prize was won." (Emphasis supplied.)

HARRISON B. WETHERILL, JR.  
Assistant Attorney General

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AN ORIGINAL OPINION