

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date 3/6/75

To Colonel Donald E. Nichols, Chief Dept. Maine State Police
From Michael D. Seitzinger, Ass't A.G. Dept. Attorney General
Subject Licensing of Certain Gambling Machines

I refer to your memorandum of February 26, 1975, inquiring whether a gaming machine would be a slot machine, and therefore be ineligible for licensing under 17 M.R.S.A. §332, when the machine possesses the following characteristics:

1. The internal mechanism of the machine, whether mechanical or electrical or both, determines that a player is entitled to a prize.
2. The machine is controlled by a member of the licensee either directly, remotely or electrically. The member of the licensee who is controlling the machine would start the machine by placing on the machine the number of games a player has indicated he wished to play.
3. When the machine has indicated that a player is a winner, the prize (cash or premiums) is not dispensed by the machine, but is delivered to the winner by the person controlling the game.

17 M.R.S.A. §332 provides that "(n)o license shall be issued for the conduct or operation of any slot machine. . ." 17 M.R.S.A. §330, sub-§6, defines a "slot machine" as

"any machine which operates by inserting a coin, token or similar object, setting [sic] internal mechanism of the machine in motion, 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 or tickets." (Emphasis supplied)

Whether the type of machine which you describe falls within the statutory definition of "slot machine" depends upon whether operation of the machine commences with the insertion of a coin (or token or similar object) into the machine. The language of §330, sub-§6, clearly encompasses only those machines which are activated by the insertion of a coin into the machine itself or

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into an extension of the machine (for example, a device located at a distance from the machine but which is wired to the machine). Consequently, if the machine which you describe were a coin-activated machine it would be a slot machine and would be ineligible for licensing.

It might be argued that the definition of slot machine should be given a broad interpretation and should apply to any gaming machine, whether or not coin-activated. However, it seems unlikely that the legislature intended that the definition have such a broad scope. By using the word "slot", rather than a term of broader reach such as "gaming" or "gambling", to describe the type of prohibited machine, the legislature arguably manifested its intent to exclude only coin-activated machines from the licensing authorization of §332.

Arguably, also, if the legislature had intended to ban licensing of machines which are not coin-activated, it would have done so by express language, as the United States Congress did in its 1958 amendment (Pub. L. 85-859) to 26 U.S.C. §4462. (The persuasiveness of this argument is enhanced by the marked similarity between 17 M.R.S.A. §330, sub-§6, and 26 U.S.C. §4462(a)(1).)

In conclusion, therefore, if the member of the licensed organization who is controlling the machine activates the machine by the insertion of a coin, token, or similar object--either directly, by inserting the coin into the machine itself, or remotely, by inserting the coin into a device which might be wired to the machine--the machine which you describe would be a "slot machine" and would not be eligible to be licensed for gambling purposes. If, on the other hand, the machine were not activated by insertion of a coin, token, or similar object, the machine would be eligible for licensing.

Michael D. Seitzinger
Assistant Attorney General

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