

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 1242

H. P. 945

House of Representatives, March 1, 1973

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Genest of Waterville.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT Providing for a State Lottery.**

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

**Sec. 1. R. S., T. 8, c. 14, additional.** Title 8 of the Revised Statutes is amended by adding a new chapter 14, to read as follows:

**CHAPTER 14  
LOTTERY**

**§ 351. Division of State Lottery**

There is established in the Department of Finance and Administration a Division of State Lottery, which shall include a State Lottery Commission and a director.

**§ 352. State Lottery Commission**

The commission shall consist of 5 members, all of whom shall be citizens and residents of this State and all of whom shall be appointed by the Governor with the advice and consent of the Council. No more than 3 of the 5 members shall be members of the same political party. The members shall be appointed for terms of 5 years, except that of the members first appointed, one shall be appointed for a term of 1 year, one for a term of 2 years, one for a term of 3 years, one for a term of 4 years, and one for a term of 5 years. The term of each of the members first appointed shall be designated by the Governor. The members shall annually elect one of them as chairman of the commission.

Any vacancy in the commission, occurring for any reason other than the expiration of term, shall be filled for the unexpired term in the same manner as the original appointment.

Any member of the commission may be removed from office by the Governor, for cause, upon notice and opportunity to be heard at a public hearing.

The members of the commission shall receive no salaries but shall be allowed reasonable expenses in the performance of their official duties not exceeding \$5,000 per year in the case of the chairman, and \$3,500 in the case of each of the other commissioners.

#### § 353. Director of Lottery Division

The division shall be under the immediate supervision and direction of a director, who shall be a person qualified by training and experience to direct the work of such division. The director shall be appointed by the Governor, with the advice and consent of the Council, and shall serve at the pleasure of the Governor. Any vacancy occurring in the office of the director shall be filled in the same manner as the original appointment.

The director of said division shall devote his entire time and attention to the duties of his office and shall not be engaged in any other profession or occupation. He shall receive such salary as provided by law.

#### § 354. Commission; powers and duties

The commission shall meet with the director, not less than once each month, for the purpose of promulgating and amending rules relating to the lottery, to make recommendations and set policy of the division, to approve or reject reports of the director and to transact other business that may be properly brought before said commission.

1. Rules. The rules promulgated by the commission shall include but not be limited to:

- A. The type of lottery to be conducted;
- B. The price of tickets or shares in the lottery;
- C. The number and size of the prizes on the winning tickets or shares;
- D. The manner of selecting the winning tickets or shares;
- E. The manner of payment of prizes to the holders of winning tickets or shares;
- F. The frequency of the drawings or selections of winning tickets or shares;
- G. The number or types of locations at which tickets or shares may be sold;
- H. The method to be used in selling tickets or shares;
- I. The licensing of agents to sell tickets or shares but a person under the age of 18 shall not be licensed as an agent;
- J. The license fee to be charged to agents, except that such fee shall not exceed \$10;

K. The manner and amount of compensation to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the general public;

L. The apportionment of the total annual revenue accruing from the sale of lottery tickets or shares and from all other sources for the payment of prizes to the holders of winning tickets or shares, for the payment of costs incurred in the operation and administration of the lottery, including the expense of the division and the costs resulting from any contract or contracts entered into for promotional, advertising, consulting or operational services or for the purchase or lease of lottery equipment and materials, for the repayment of the moneys appropriated to the State Lottery Fund and for transfer to the General Fund for distribution pursuant to section 367, subsection 1, paragraph D.

No action of the commission shall be binding unless taken at a meeting at which at least 3 of the 5 members are present and shall vote in favor thereof. The minutes of every meeting of the commission, including any rules and regulations promulgated by the commission or any amendments, revisions, supplements or repeal thereof, shall be forthwith transmitted, by and under the certification of the secretary thereof, to the Governor.

§ 355. Director; powers and duties

1. Duties. The director shall have the power, and it shall be his duty to:

A. Supervise and administer the operation of the lottery in accordance with this chapter and with the rules and regulations of the commission;

B. Subject to the approval of the commission, appoint such deputy directors as may be required to carry out the functions and duties of the division;

C. Subject to the approval of the commission, appoint such professional, technical and clerical assistants and employees as may be necessary to perform the duties imposed upon the division by this chapter;

D. Act as executive secretary of the commission;

E. In accordance with this chapter and the rules and regulations of the commission, license as agents to sell lottery tickets such persons, as in his opinion, who will best serve the public convenience and promote the sale of tickets or shares. The director may require a bond from every licensed agent, in such amount as provided in the rules and regulations of the commission. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the rules and regulations of the commission;

F. Confer regularly as necessary or desirable and not less than once each month with the commission on the operation and administration of the lottery; shall make available for inspection by the commission, upon request, all books, records, files and other information and documents of the division; shall advise the commission and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery;

G. Recommend to the commission that it suspend or revoke any license issued pursuant to this chapter or the rules and regulations promulgated thereunder;

H. Subject to the approval of the commission and to any applicable laws relating to public contracts, enter into contracts for the operation of the lottery, or any part thereof, and into contracts for the promotion of the lottery. All contracts shall be awarded to the lowest responsible bidder and shall be let for a period not to exceed 3 years. No contract awarded or entered into by the director may be assigned by the holder thereof except by specific approval of the commission;

I. Certify monthly to the Treasurer of State, the commission and to the Governor and Council a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month; submit an annual report which shall include a full and complete statement of lottery revenues, prize disbursements and expenses, to the Governor and the State Legislature together with recommendations for changes in this chapter;

J. Carry on a continuous study and investigation of the lottery throughout the State, and the operation and administration of similar laws which may be in effect in other states or countries.

#### § 356. Lottery sales agent; licensing

1. Factors. No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business exclusively as a lottery sales agent. Before issuing such license, the director shall consider such factors as:

- A. The financial responsibility and security of the person and his business or activity;
- B. The accessibility of his place of business or activity to the public;
- C. The sufficiency of existing licensees to serve the public convenience; and
- D. The volume of expected sales.

For the purpose of this chapter, the term "person" shall be construed to mean and include an individual, association, corporation, club, trust, estate, society, company, receiver, trustee, assignee, referee or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall be construed to mean all departments, commissions, agencies and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

#### § 357. — authority to act

Notwithstanding any other provision of law, any person licensed as provided in this chapter is authorized and empowered to act as a lottery sales agent.

**§ 358. Assignment of prizes**

No right of any person to a prize drawn shall be assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and except that any person pursuant to an appropriate judicial order may be paid the prize to which the winner is entitled. The director shall be discharged of all further liability upon payment of a prize pursuant to this section.

**§ 359. Sales above fixed price; unlicensed sales; gifts**

No person shall sell a ticket or share at a price greater than that fixed by rule or regulation of the commission. No person other than a licensed lottery sales agent shall sell lottery tickets or shares, except that nothing in this section shall be construed to prevent any person from giving lottery tickets or shares to another as a gift.

Any person convicted of violating this section shall be guilty of a misdemeanor.

**§ 360. Sales to person under 18 years; gifts**

No ticket or share shall be sold to any person under the age of 18 years, but this shall not be deemed to prohibit the purchase of a ticket or share for the purpose of making a gift by a person 18 years of age or older to a person less than that age. Any licensee who knowingly sells or offers to sell a lottery ticket or share to any person under the age of 18, shall, upon conviction, be guilty of a misdemeanor.

**§ 361. Persons prohibited from purchasing tickets or shares**

No ticket or share shall be purchased by, and no prize shall be paid to any of the following persons: Any officer or employee of the division or to any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any of the foregoing persons.

**§ 362. Unclaimed prize money**

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. If no claim is made for said money within such year, the prize money shall be allocated to the municipalities pursuant to section 367.

**§ 363. Deposit of receipts; reports**

The director may, in his discretion, require any and all lottery sales agents to deposit to the credit of the State Lottery Fund in banks designated by the Treasurer of State all moneys received by such agents from the sale of lottery tickets or shares, less the amount, if any, retained as compensation for the sale of tickets or shares, and to file with the director or his designated agents reports of their receipts and transactions in the sale of lottery tickets in such form and containing such information as he may require. The director may 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 this chapter and the rules and regulations of the commission, and such functions, activities or services shall constitute lawful functions, activities and services of such person.

§ 364. Other laws; applicability

No other law providing any penalty or disability for the sale of lottery tickets or any acts done in connection with a lottery shall apply to the sale of tickets or shares performed pursuant to this chapter.

§ 365. Persons under 18 years; payment of prizes

If the person entitled to a prize or any winning ticket is under the age of 18 years, and such prize is less than \$5,000, the director may direct payment of the prize by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of such minor. If the person entitled to a prize or any ticket is under the age of 18 years, and such prize is \$5,000 or more, the director may direct payment to such minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or guardian of the minor as custodian for such minor. The person so named as custodian shall have the same duties and powers as a person designated as a custodian in a manner prescribed by the "Maine Uniform Gifts to Minors Act," and for purposes of this section the terms "adult member of a minor's family," "guardian of a minor" and "bank" shall have the same meaning as in said Act. The director shall be relieved of all further liability upon payment of a prize to a minor pursuant to this section.

§ 366. State Lottery Fund; creation

There is created and established in the Department of Finance and Administration, a separate fund to be known as the "State Lottery Fund," to be deposited in such depositories as the Treasurer of State may select. Such funds shall consist of all revenue received from the sale of lottery tickets or shares, agents' license fees and all other moneys credited or transferred thereto from any other fund or source pursuant to law.

§ 367. State Lottery Fund; appropriation of moneys

1. Appropriation. The moneys in said State Lottery Fund shall be appropriated only:

- A. For the repayment to the General Fund of the amount appropriated to set up and implement this chapter;
- B. For the payment of prizes to the holders of winning lottery tickets or shares;
- C. For the expense of the division in its operation of the lottery; and
- D. For distribution to municipalities and school administrative districts on a per pupil basis to be used to assist in the financing of elementary and secondary public schools.

Not less than 45% of the total moneys received in the lottery will be disbursed as prizes to the holders of winning tickets. The remaining 55% shall be the State's share and be distributed as provided for in this section.

§ 368. Maine state income tax; prizes exempt

The prizes received pursuant to this chapter shall be exempt from the Maine State income tax.

**Sec. 2. Appropriation.** There is appropriated from the General Fund to the Department of Finance and Administration the sum of \$500,000 for the purpose of implementing this Act. This appropriation shall be returned to the General Fund pursuant to the Revised Statutes, Title 8, section 366.

### STATEMENT OF FACT

The purpose of this bill is to provide for a state-wide lottery for the State of Maine with net proceeds to be used to further assist the municipalities, on a per pupil basis, with the cost of secondary and elementary education.

A conservative estimate by ESCO Research, Inc., figures the net revenue from a state lottery to be \$1.9 million annually, or about \$5 per capita per year, (gross income). The New Jersey Lottery grossed \$150 million in its first year of operation and netted approximately \$70 million (over \$20 per year per capita).

In the opinion of Mathematica, Inc., a professional marketing firm, based on their experience with state lotteries in New Hampshire, Connecticut, New Jersey and Pennsylvania and the results of surveys, the conduct of lotteries by those states have resulted in no social problems of consequence.