

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1455

H. P. 1175

House of Representatives, March 31, 1977

Referred to the Committee on Legal Affairs. Sent up for concurrence and 1,800 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Biron of Lewiston.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT to Establish a State Gambling Commission and to Permit
Gambling within Certain Areas of the State.**

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

Sec. 1. 8 MRSA c. 16 is enacted to read:

CHAPTER 16

GAMBLING

§ 401. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Chairman. "Chairman" means the Chairman of the State Gambling Commission.

2. Commission. "Commission" means the State Gambling Commission.

3. Director. "Director" means the Director of the State Gambling Commission.

4. Gambling. "Gambling" means the staking or risking of something of value by a person upon the outcome of a contest of chance, future contingent event or game not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling shall not include social gambling as defined by Title 17-A, section 952, or any game or lottery scheme operated or authorized by the State or any charitable or educational organization, nor shall it include any bona fide business transactions valid under the law of

contracts, including, but not limited to, contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including, but not limited to, contracts of indemnity or guarantee and life, health or accident insurance.

5. **Gambling device.** "Gambling device" means any device, machine, paraphernalia or equipment that is used or usable in the playing of gambling between persons or gambling by a person involving the playing of a machine, except that any paraphernalia used in the playing of beano or bingo as defined in Title 17, section 311 and lottery tickets and other items used in the playing phase of lottery schemes shall not be considered gambling devices within this definition.

6. **Game.** "Game" means any contest of chance or any banking or percent game played with cards, dice or any mechanical device or machine for money, property, checks, credit or any representative of value, but shall not include social gambling as defined in Title 17-A, section 952 or games operated by the State or any charitable or educational organization.

7. **Horserace book.** "Horserace book" means the making or taking of what is commonly known as a book, upon the running, pacing or trotting, either within or without this State, of any horse, mare or gelding or the conduct commonly known as bookmaking or the betting upon the event of any horserace either within or without this State. This definition shall not include the system of pari-mutuel wagering at race meetings authorized by the laws of this State.

8. **Slot machine.** "Slot machine" means any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the persons playing or operating the machine to receive cash, premiums, merchandise, tokens or anything of value whatsoever, whether the payoff is automatically from the machine or in any other manner whatsoever.

9. **Sports pool.** "Sports pool" means the business of accepting wagers on sporting events by any system or method of wagering other than the system known as the pari-mutuel method of wagering.

§ 402. State Gambling Commission

There is established a State Gambling Commission which 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, subject to review by the Joint Standing Committee on State Government and to review by the Legislature. 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 one 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 commission shall annually elect one of its members as chairman.

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, if he misses 3 consecutive regular monthly meetings or 6 regular commission meetings in any one fiscal year or for cause, upon notice and opportunity to be heard at a public meeting.

The members of the commission shall receive no salaries, but shall be allowed reasonable expenses in the performance of their official duties not exceeding \$7,500 per year in the case of the chairman, and \$5,000 in the case of each of the other commissioners. Reasonable expenses shall include a per diem rate of \$25 per commission meeting, not to exceed 20 meetings in any one fiscal year, as well as reasonable expenses for travel to and from commission meetings.

§ 403. Director of State Gambling Commission

The commission shall be under the immediate supervision and direction of a director, who shall be a person qualified by training and experience to oversee state gambling activities. The director shall be appointed by the Governor to serve a term of 7 years, subject to removal for cause by the Governor. Any vacancy occurring in the office of the director shall be filled in the same manner as the original appointment.

The director shall devote his entire time and attention to the duties of his office. He shall receive an annual salary of \$30,000.

§ 404. Commission; powers and duties

1. Meetings. The commission shall meet with the director, not less than once each month, for the purpose of promulgating and amending rules and regulations relating to gambling; to make recommendations and set policy for gambling in the State; to approve or reject reports of the director; to transact other business that may be properly brought before the commission; and:

A. Issue, suspend, revoke, cancel or otherwise regulate state gambling licenses;

B. Issue, suspend, revoke, cancel or otherwise regulate licenses for the manufacture, sale and distribution of gambling devices or equipment in the State; and

C. Investigate the qualifications of each applicant for licenses under this chapter and to continue to observe and monitor the conduct of all licensees.

2. Inspection and seizure powers. The commission and their agents, inspectors and employees have the authority:

A. To inspect and examine all premises wherein gambling is conducted or gambling devices or equipment are manufactured, sold or distributed;

- B. To inspect all equipment and supplies in, upon or about these premises;
- C. Summarily to seize and remove from these premises and impound any equipment or supplies for the purpose of examination and inspection; and
- D. To demand access to and inspect, examine and audit all papers, books and records of applicants and licensees respecting the gross income produced by any gambling business, and require verification of income, and all other matters affecting the enforcement of the policy of or any of the provisions of this chapter.

3. Certain commission personnel to have peace officer powers in certain instances. For the purpose of the administration of this chapter only, the commission, and the director, supervisory and investigative personnel of the commission, shall be invested with the powers of a peace officer of the State.

4. Witnesses. The commission or any members thereof, shall have full power and authority to issue subpoenas and compel the attendance of witnesses at any place within this State, to administer oaths and to require testimony under oath. Any process or notice may be served in the manner provided for service of process and notice in civil actions. Any person making false oath in any manner before the commission shall be guilty of perjury.

§ 405. Director; powers and duties

- 1. Duties. The director shall have the power, and it shall be his duty to:
 - A. Supervise the operation of gambling in accordance with this chapter and with the rules and regulations of the commission;
 - B. Act as the chief administrative officer, having general charge of the office and records and to employ, with the approval of the commission, subject to the Personnel Law, all personnel necessary to fulfill the purposes of this chapter; and
 - C. Act as executive secretary to the commission.

§ 406. License required

- 1. Prohibition. No person shall, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others:
 - A. Deal, operate, carry on, conduct, maintain or expose for play in the State, any game or slot machine as defined in this chapter, or operate, carry on, conduct or maintain any horserace book or sports pool;
 - B. Provide or maintain any information service, the primary purpose of which is to aid the placing or making of wagers on events of any kind; or
 - C. Receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any game, slot machine, horserace book or sports pool, without first having procured, and thereafter maintaining in full force and effect, all federal, state, county and municipal gambling licenses required by statute or ordinance.

§ 407. License fees

The commission shall charge and collect fees for licenses issued pursuant to this chapter, as it may deem necessary to cover the costs of regulation and administration pursuant to this chapter.

§ 408. Gambling zones

The commission shall have the authority, following application by the county commissioners of any county, to designate that county as a gambling zone. All gambling conducted pursuant to this chapter, shall be restricted to those counties which have been designated by the commission as gambling zones.

The county commissioners of any county making application to the commission pursuant to this section shall, prior to the application, conduct a referendum vote within that county. The county commissioners of the various counties are authorized to expend funds necessary in implementing a referendum.

The county commissioners shall cause the preparation of the required ballots on which they shall state the subject matter in the following question:

“Shall the county commissioners of (name of county) make application to the State Gambling Commission for designation of (name of county) as a gambling zone?”

The voters shall indicate by a cross or check mark placed against the word “Yes” or “No” their opinion of the same.

The county commissioners of any county shall not make application to the commission pursuant to this section, until and unless a majority of the legal voters voting in the referendum held in that county, approve the application.

§ 409. Taxation

All revenues derived from gambling activities conducted under this chapter shall be subject to the tax established in Title 36, chapter 367.

Sec. 2. 30 MRSA § 5055, sub-§ 5, 1st ¶, as amended by PL 1971, c. 605, § 1, is further amended to read:

An amount equal to 4% of the receipts from the taxes imposed under Title 36, Parts 3 and 8, and credited to the General Fund and an amount equal to 100% of the receipts from the taxes imposed under Title 36, chapter 367 and credited to the General Fund shall be transferred by the Treasurer of State to the Local Government Fund on the first day of each month, beginning July 1, 1973.

Sec. 3. 36 MRSA c. 367 is enacted to read:

**CHAPTER 367
GAMBLING TAXES**

§ 2801. Taxes on gambling within gambling zone

A tax is imposed at the rate of 10% on all gross revenues derived by any holder of a gambling license under Title 8, chapter 16, from gambling activ-

ities conducted within a gambling zone established under Title 8, section 408. Holders of gambling licenses shall pay this tax at the time and in the manner provided for payment of the state sales tax, with any exceptions deemed necessary by regulation of the State Tax Assessor.

The tax established under this section shall be in lieu of any other state sales or use tax upon gambling.

For the purpose of this section, "gross revenue" means the total of all sums received as winnings, less only the total of all sums paid out as losses by a licensee under a state gambling license.

Sec. 4. Appropriation. There is appropriated from the General Fund to the State Gambling Commission the sum of \$210,625 to carry out the purposes of this Act stated in section 1. The breakdown shall be as follows:

	1977-78	1978-79
STATE GAMBLING COMMISSION		
Personal Services	(5) \$77,625	(5) \$ 95,500
All Other	7,500	10,000
Capital Expenditures	10,000	10,000
Total	<u>\$95,125</u>	<u>\$115,500</u>

Statutory referendum procedure; form of question; effective date. This Act shall be submitted to the legal voters of the State of Maine at a special statewide election to be held on the Tuesday following the first Monday of November following passage of this Act. The city aldermen, town selectmen and plantation assessors of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Shall 'AN ACT to Establish a State Gambling Commission and to Permit Gambling within Certain Areas of the State,' as passed by the First Regular Session of the 108th Legislature, be accepted?"

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within a corresponding square below the words "Yes" or "No." The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns, and, if it appears that a majority of the legal votes are in favor of the Act, the Governor shall proclaim that fact without delay, and the Act shall become effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purpose of this referendum.

STATEMENT OF FACT

This bill would create a gambling commission with the authority to regulate and permit gambling within certain areas of the State.

Forty million people live within 800 miles of Maine. Many of these people currently travel to Las Vegas or other cities where gambling is lawful to spend millions of dollars which could be spent in Maine. This bill will provide a new and abundant source of income for the State.