

MAINE STATE LEGISLATURE

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EMERGENCY
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 337

H. P. 293

House of Representatives, January 20, 1981

On Motion of Representative Kany of Waterville, referred to the Committee on Legal Affairs. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Jalbert of Lewiston.

Cosponsor: Senator Usher of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Revise the Maine State Lottery.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is necessary to make certain revisions in the Maine State Lottery in order to provide for more effective administration of the state lottery; and

Whereas, the revisions must be made as soon as possible to ensure that the lottery functions in the most efficient manner possible; and

Whereas, these changes should be implemented prior to the beginning of the next fiscal year, which is July 1, 1981; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 1 MRSA § 2501, sub-§ 8 is enacted to read:

8. Title 8.

A. Title 8, chapter 14 is repealed on June 30, 1983.

Sec. 2. 8 MRSA § 351, as last amended by PL 1975, c. 771, § 105, is repealed.

Sec. 3. 8 MRSA § 351-A is enacted to read:

§ 351-A. Definitions

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

1. Bureau. "Bureau" means the State Lotteries Bureau.

2. Director. "Director" means the Director of the State Lotteries Bureau.

Sec. 4. 8 MRSA §§ 352 to 354, as amended, are repealed.

Sec. 5. 8 MRSA §§ 352-A to 353-A are enacted to read:

§ 353-A. State Lotteries Bureau; director

1. Creation. The bureau is created to be known as the State Lotteries Bureau. The bureau shall be an independent agency under the immediate supervision and direction of the director.

2. Director. The director shall be a person qualified by training and experience to direct the bureau. He shall be appointed by the Governor and shall serve during the pleasure of the Governor. He shall devote his entire time and attention to the duties of his office. Any vacancy occurring in the office of the director shall be filled in the same manner as the original appointment.

§ 353-A. Duties of the director

The director has the following powers and duties.

1. Rules. He shall promulgate rules relating to the lotteries, in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375. The rules promulgated by the director include, but are not limited to:

A. The types of lotteries to be conducted;

B. The price of tickets or shares in the lotteries;

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 of 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;

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; and

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 lotteries, including the expense of the bureau 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 366, subsection 1, paragraph C.

Any rules and regulations promulgated by the director or any amendments, revisions, supplements or repeal thereof, shall be forthwith transmitted, by and under the certification of the director, to the Governor.

2. Supervision. He shall supervise the operation of lotteries in accordance with this chapter and with the rules and regulations promulgated by the director.

3. Administration; personnel. He shall act as the chief administrative officer, having general charge of the office and records and to employ such personnel as may be necessary to fulfill the purposes of this chapter. The personnel shall be employed subject to the Personnel Law, except for the deputy director who shall be appointed by and serve at the pleasure of the director.

4. Licensing agents. In accordance with this chapter and the rules and regulations promulgated by the director, he shall license as agents to sell lottery tickets, persons who, in his opinion, 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 promulgated by him. Every licenced agent shall prominently display his license, or a copy thereof, as provided by rule or regulation.

5. Suspension or revocation of licenses. He may suspend or revoke, in a manner consistent with the Maine Administrative Procedure Act, any license issued pursuant to this chapter or the rules and regulations promulgated thereunder.

6. Contracts. Subject to any applicable laws relating to public contracts, he may enter into contracts for the operation of the lotteries, or any part thereof, and into contracts for the promotion of the lotteries. 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 director.

7. **Statement of Treasurer of State and Governor.** He shall certify to the Treasurer of State, the Governor and the Commissioner of Finance and Administration a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month; submit an annual report which includes 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.

8. **Study and investigation.** He shall carry on a continuous study and investigation of the lotteries throughout the State, and the operation and administration of similar laws which may be in effect in other states or countries.

The director has no authority to regulate, control or otherwise supervise the operation or conduct of the amusement commonly known as "Beano" or "Bingo," as defined in Title 17, section 311.

Sec. 6. 8 MRSAs §§ 358 to 360, as enacted by PL 1973, c. 570, § 1, are amended to read:

§ 358. Sales above fixed price; unlicensed sales; gifts

No person shall may sell a ticket or share at a price greater than that fixed by rule or regulation of the ~~commission~~ director. No person other than a licensed lottery sales agent shall may sell lottery tickets or shares, except that nothing in this section shall may 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 is guilty of a ~~misdemeanor~~ Class E crime.

§ 359. Sales to person under 18 years; gifts

No ticket or share shall may 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 is, upon conviction, be guilty of a ~~misdemeanor~~ Class E crime.

§ 360. Persons prohibited from purchasing tickets or shares

No ticket or share shall may be purchased by, and no prize shall may be paid to any of the following persons: Any officer or employee of the ~~commission~~ bureau 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.

Sec. 7. 8 MRSAs § 362, last sentence, as enacted by PL 1973, c. 570, § 1, is amended to read:

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~~ director, and such functions, activities or services shall constitute lawful functions, activities and services of such person.

Sec. 8. 8 MRSA § 363, as enacted by PL 1973, c. 570, § 1, is amended to read:

§ 363. 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~~ applies to the sale of tickets or shares performed pursuant to this chapter.

Sec. 9. 8 MRSA § 368 is enacted to read:

§ 368. Legislative review

This chapter is subject to repeal under Title 1, section 2501. The legislative committee having jurisdiction over the review provided for in Title 1, section 2501, shall be the first Statutory Committee on State Government.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purposes of this bill are:

1. To revise the State Lottery Commission to be the State Lotteries Bureau which will be an independent state agency under the supervision of a director;
2. To provide for "sunset" of the State lottery on June 30, 1983; and
3. To consolidate the administrative powers of the bureau under the director of the bureau.