

MAINE STATE LEGISLATURE

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(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1714

H.P. 1256 House of Representatives, May 29, 1987
Referred to the Committee on Legal Affairs. Sent up for
concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative ARMSTRONG of Wilton.

Cosponsored by Representative MURPHY of Kennebunk.

STATE OF MAINE

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

AN ACT to Clarify the Organizational Status
of the Bureau of Lottery within the
Department of Finance.

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

Sec. 1. 8 MRSA c. 14, as amended, is repealed.

Sec. 2. 8 MRSA c. 14-A is enacted to read:

CHAPTER 14-A

LOTTERY

§371. Definitions

1 As used in this chapter, unless the context indi-
2 cates otherwise, the following terms have the follow-
3 ing meanings.

4 1. Bureau. "Bureau" means the Bureau of Lottery
5 within the Department of Finance to carry out the
6 purposes of this chapter.

7 2. Commission. "Commission" means the State
8 Lottery Commission.

9 3. Commissioner. "Commissioner" means the Com-
10 missioner of Finance.

11 4. Director. "Director" means the State Lottery
12 Director.

13 5. Person. "Person" means an individual, asso-
14 ciation, corporation, club, trust, estate, society,
15 company, receiver, trustee, assignee, referee or oth-
16 er person acting in a fiduciary or representative ca-
17 capacity, whether appointed by a court or otherwise,
18 and any combination of individuals. "Person" means
19 all departments, commissions, agencies and instrumen-
20 talities of the State, including counties and municip-
21 alities and agencies and instrumentalities thereof.

22 §372. Director

23 The executive head of the bureau shall be the di-
24 rector.

25 1. Appointment; qualifications. The director
26 must be a person qualified by training and experience
27 to direct the state lotteries. The director shall be
28 appointed by the commissioner, to be under his imme-
29 diat supervision, direction and control, and shall
30 serve at the pleasure of the commissioner. Any va-
31 cancy occurring in the office of the director shall
32 be filled in the same manner as the original appoint-
33 ment. The director shall devote his entire time and
34 attention to the duties of his office.

35 2. Powers and duties. The director shall have
36 the following powers and duties:

- 1 A. Supervise the operation of lotteries in ac-
2 cordance with this chapter and with the rules
3 promulgated under this chapter;
- 4 B. Act as the chief administrative officer, hav-
5 ing general charge of the office and records and
6 to employ such personnel as may be necessary to
7 fulfill the purposes of this chapter. The per-
8 sonnel shall be employed with the approval of the
9 commissioner and subject to the Civil Service
10 Law, except for the deputy director who shall be
11 appointed by and serve at the pleasure of the di-
12 rector;
- 13 C. Act as executive secretary of the commission;
- 14 D. In accordance with this chapter and the rules
15 promulgated under this chapter, license as agents
16 to sell lottery tickets such persons who, in his
17 opinion, will best serve the public convenience
18 and promote the sale of tickets or shares. The
19 director may require a bond from every licensed
20 agent in such amount as provided by rule. Every
21 licensed agent shall prominently display his li-
22 cence, or a copy of his license, as provided by
23 rule;
- 24 E. Confer regularly as necessary or desirable
25 and not less than once each month with the com-
26 missioner on the operation and administration of
27 the lotteries; make available for inspection by
28 the commissioner, upon request, all books,
29 records, files and other information and docu-
30 ments of the commission; advise the commissioner
31 and recommend such matters as he deems necessary
32 and advisable to improve the operation and admin-
33 istration of the lotteries;
- 34 F. Recommend to the commission that it suspend
35 or revoke, in accordance with section 376, any
36 license issued pursuant to this chapter or the
37 rules promulgated under this chapter;
- 38 G. Subject to the approval of the commissioner
39 and to any applicable laws relating to public
40 contracts, enter into contracts for the operation
41 of the lotteries, or any part of the lotteries,

1 and into contracts for the promotion of the lot-
2 teries. All contracts shall be awarded to the
3 lowest responsible bidder and shall be let for a
4 period not to exceed 3 years. No contract
5 awarded or entered into by the director may be
6 assigned by the holder of the contract, except by
7 specific approval of the commissioner;

8 H. Certify monthly to the Treasurer of State,
9 the commission and the commissioner a full and
10 complete statement of lottery revenues, prize
11 disbursements and other expenses for the preced-
12 ing month; submit an annual report, through the
13 commissioner and with his approval, which shall
14 include a full and complete statement of lottery
15 revenues, prize disbursements and expenses, to
16 the Governor and the Legislature, together with
17 recommendations for changes in this chapter; and

18 I. Carry on a continuous study and investigation
19 of the lotteries throughout the State and the op-
20 eration and administration of similar laws which
21 may be in effect in other states or countries.

22 §373. State Lottery Commission

23 The State Lottery Commission, established by Ti-
24 tle 5, section 12004, subsection 8, shall consist of
25 5 members, all of whom must be citizens and residents
26 of this State and shall be appointed by the Governor,
27 and shall be subject to review by the joint standing
28 committee of the Legislature having jurisdiction over
29 legal affairs and confirmation by the Senate. No
30 more than 3 of the 5 members may be members of the
31 same political party. The members shall annually
32 elect one of them as chairman of the commission.

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

37 The members of the commission shall receive no
38 salaries and shall be compensated as provided in Ti-
39 tle 5, chapter 379. In addition, the commission mem-
40 bers shall not be compensated for more than 20 meet-
41 ings per year.

1 §374. Commission; powers and duties

2 The commission shall meet with the director, not
3 less than once each month, to promulgate and amend
4 rules, subject to the approval of the commissioner,
5 relating to the lotteries; to make recommendations
6 and set policy for state lotteries and to transact
7 other business that may be properly brought before
8 the commission. Rules adopted by the commission
9 shall be adopted in a manner consistent with the
10 Maine Administrative Procedure Act, Title 5, chapter
11 375.

12 1. Rules. The rules promulgated by the commis-
13 sion shall include, but not be limited to:

14 A. The types of lotteries to be conducted;

15 B. The price of tickets or shares in the lotter-
16 ies;

17 C. The number and size of the prizes on the
18 winning tickets or shares;

19 D. The manner of selecting the winning tickets
20 or shares;

21 E. The manner of payment of prizes to the hold-
22 ers of winning tickets or shares;

23 F. The frequency of the drawings or selections
24 of winning tickets or shares;

25 G. The number or types of locations at which
26 tickets or shares may be sold;

27 H. The method to be used in selling tickets or
28 shares;

29 I. The licensing of agents to sell tickets or
30 shares, but a person under the age of 18 shall
31 not be licensed as an agent;

32 J. The license fee to be charged to agents;

33 K. The manner and amount of compensation to be
34 paid licensed sales agents necessary to provide

1 for the adequate availability of tickets or
2 shares to prospective buyers and for the convenience of the general public; and

4 L. The apportionment of the total annual revenue
5 accruing from the sale of lottery tickets or
6 shares and from all other sources for the payment
7 of prizes to the holders of winning tickets or
8 shares; for the payment of costs incurred in the
9 operation and administration of the lotteries,
10 including the expenses of the commission and the
11 costs resulting from any contract or contracts
12 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 money appropriated to the State Lottery Fund; and for transfer to the General Fund for distribution pursuant to
13 section 387.

19 2. Meeting requirements. No action of the commission is binding unless taken at a meeting at which
20 at least 3 of the 5 members are present and vote in
21 favor of the action. The minutes of every meeting of
22 the commission, including any rules promulgated by
23 the commission or any amendments, revisions, supplements or repeals, shall be immediately transmitted,
24 by and under the certification of the secretary, to
25 the commissioner for his approval or disapproval and
26 to the Governor.

29 3. Limitation of authority. The commission and
30 the bureau shall have no authority to regulate, control or otherwise supervise the operation or conduct
31 of the amusement commonly known as "beano" or
32 "bingo," as defined in Title 17, section 311.

34 §375. Lottery sales agent; licensing

35 1. Factors. A license as an agent to sell lottery tickets or shares may be issued by the director
36 to any qualified person. Before issuing the license,
37 the director shall consider such factors as:

39 A. The financial responsibility and security of
40 the person and his business or activity;

1 B. The accessibility of his place of business or
2 activity to the public;

3 C. The sufficiency of existing licensees to
4 serve the public convenience; and

5 D. The volume of expected sales.

6 §376. Suspension and revocation of licenses

7 1. The commission may suspend or revoke, after
8 notice and hearing, any license issued pursuant to
9 this chapter. The license may be temporarily sus-
10 pended by the commission without prior notice, pend-
11 ing any prosecution, investigation or hearing. A li-
12 cence may be suspended or revoked by the commission
13 for just cause, including one or more of the follow-
14 ing reasons:

15 A. Failure to account for tickets received or
16 the proceeds of the sale of tickets or to file a
17 bond, if required by the commission, or to comply
18 with instructions of the commission concerning
19 the licensed activity;

20 B. Conviction of any criminal offense;

21 C. Failure to file any return or report, to keep
22 records or to pay any tax;

23 D. Engaging in fraud, deceit, misrepresentation
24 or conduct prejudicial to public confidence;

25 E. Insufficiency of the number of tickets sold
26 by the sales agent; or

27 F. A material change, since issuance of the li-
28 cence, with respect to any of the matters re-
29 quired to be considered by the director under
30 section 375.

31 2. Suspension; state license. Except in the
32 case of suspension or revocation for the reasons set
33 forth in section 412, subsection 1, paragraph E or F,
34 any suspension or revocation of a tri-state license
35 issued under chapter 16 shall automatically result in
36 suspension of the state license.

1 §377. Authority to act

2 Notwithstanding any other provision of law, any
3 person licensed as provided in this chapter may act
4 as a lottery sales agent.

5 §378. Assignment of prizes

6 No right of any person to a prize drawn may be
7 assignable, except that payment of any prize drawn
8 may be paid to the estate of a deceased prize winner,
9 and except that any person pursuant to an appropriate
10 judicial order may be paid the prize to which the
11 winner is entitled. The bureau shall be discharged
12 of all further liability upon payment of a prize pur-
13 suant to this section.

14 §379. Sales above fixed price; unlicensed sales;
15 gifts

16 No person may sell a ticket or share at a price
17 greater than that fixed by rule of the commission.
18 No person other than a licensed lottery sales agent
19 may sell lottery tickets or shares, except that noth-
20 ing in this section prevents any person from giving
21 lottery tickets or shares to another as a gift.

22 Any person who violates this section commits a
23 civil violation for which a forfeiture of not more
24 than \$200 may be adjudged.

25 §380. Sales to persons under 18 years; gifts

26 No ticket or share may be sold to any person un-
27 der the age of 18 years, but this shall not be deemed
28 to prohibit the purchase of a ticket or share for the
29 purpose of making a gift by a person 18 years of age
30 or older to a person less than that age. Any licens-
31 ee who knowingly sells or offers to sell a lottery
32 ticket or share to any person under the age of 18
33 commits a civil violation for which a forfeiture of
34 not more than \$200 may be adjudged.

35 §381. Persons prohibited from purchasing tickets or
36 shares

1 No ticket or share may be purchased by, and no
2 prize may be paid to, any of the following persons:
3 Any officer or employee of the commission or bureau
4 or any spouse, child, brother, sister or parent re-
5 siding as a member of the same household in the principal
6 place of abode of any of these persons.

7 §382. Unclaimed prize money

8 Unclaimed prize money for the prize on a winning
9 ticket or share shall be retained by the director for
10 the person entitled to it for one year after the
11 drawing in which the prize was won. If no claim is
12 made for the money within that year, the prize money
13 shall be reallocated as prizes in the form of special
14 promotions.

15 §383. Deposit of receipts; reports

16 The director may require any lottery sales agents
17 to deposit to the credit of the State Lottery Fund in
18 banks designated by the Treasurer of State all money
19 received by the agents from the sale of lottery tick-
20 ets or shares, less the amount, if any, retained as
21 compensation for the sale of tickets or shares and to
22 file with the director or his designated agents re-
23 ports of their receipts and transactions in the sale
24 of lottery tickets in such form and containing such
25 information as he may require. The director may make
26 such arrangements for any person, including a bank,
27 to perform the functions, activities or services in
28 connection with the operation of the lottery as he
29 may deem advisable pursuant to this chapter and the
30 rules of the commission and those functions, activi-
31 ties or services shall constitute lawful functions,
32 activities and services of that person.

33 §384. Other laws; applicability

34 No other law providing any penalty or disability
35 for the sale of lottery tickets or any acts done in
36 connection with a lottery applies to the sale of
37 tickets or shares performed pursuant to this chapter.

38 §385. Persons under 18 years; payment of prizes

1 If the person entitled to a prize or any winning
2 ticket is under the age of 18 years and the prize is
3 less than \$5,000, the director may direct payment of
4 the prize by delivery of a check or draft payable to
5 the order of the minor to an adult member of the
6 minor's family or a guardian of the minor. If the
7 person entitled to a prize or any ticket is under the
8 age of 18 years and the prize is \$5,000 or more, the
9 director may direct payment to the minor by deposit-
10 ing the amount of the prize in any bank to the credit
11 of an adult member of the minor's family or guardian
12 as custodian for the minor. The person named as cus-
13 todian has the same duties and powers as a person
14 designated as a custodian in a manner prescribed by
15 the "Maine Uniform Gifts to Minors Act." For pur-
16 poses of this section, the terms "adult member of a
17 minor's family," "guardian of a minor" and "bank"
18 shall have the same meanings as set out in that Act.
19 The director shall be relieved of all further liabil-
20 ity upon payment of a prize to a minor pursuant to
21 this section.

22 §386. State Lottery Fund; creation

23 There is created and established a separate fund
24 to be known as the "State Lottery Fund," to be depos-
25 ited in such depositories as the Treasurer of State
26 may select. These funds shall consist of all revenue
27 received from the sale of lottery tickets or shares,
28 agents' license fees and all other money credited or
29 transferred to that fund from any other fund or
30 source pursuant to law.

31 §387. State Lottery Fund; appropriation of money

32 1. Appropriation. The money in the State Lot-
33 tery Fund shall be appropriated only:

34 A. For the payment of prizes to the holders of
35 winning lottery tickets or shares;

36 B. For the expense of the division in its opera-
37 tion of the lottery; and

38 C. For payment to the General Fund.

1 2. Apportionment. The money in the State Lot-
2 tery Fund shall be apportioned so that not less than
3 45% of the total ticket sales received in the lottery
4 will be disbursed as prizes to holders of winning
5 tickets. All other money, less reasonable costs for
6 the proper administration of the State Lottery Fund,
7 shall be the State's share.

8 \$388. Maine state income tax; prizes exempt

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

11 STATEMENT OF FACT

12 This bill clarifies operating authority and orga-
13 nizational integration for the lottery in the Depart-
14 ment of Finance. It further modifies specific rules
15 as to suspension of licenses and penalties for cer-
16 tain sales violations.

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