

MAINE STATE LEGISLATURE

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L.D. 1135

(Filing No. S-351)

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STATE OF MAINE
SENATE
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 423, L.D. 1135, Bill, "An Act Concerning the Regulation of Electronic Video Credit Machines by the State Police"

Amend the bill by striking out all of the title and substituting the following:

'An Act Allowing the Operation of Video Lottery Terminals'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 8 MRSA §372, sub-§2, ¶H, as enacted by PL 1987, c. 505, §2, is amended to read:

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

Sec. 2. 8 MRSA §372, sub-§2, ¶I, as amended by PL 1989, c. 879, §1 and affected by §4, is further amended to read:

I. Carry on a continuous study and investigation of the lotteries throughout the State and the operation and administration of similar laws that may be in effect in other states or countries. The director, subject to the prior approval of the commission, may enter into a written agreement with the Multi-State Lottery Association, known as Lotto*America, for the operation, marketing and promotion of a joint lottery or joint lottery games with other states.

2 Before the director may enter into a final agreement with
3 Lotto*America under this paragraph, a hearing open to the
4 public must be held. The hearing is not subject to the
5 requirements of the Maine Administrative Procedure Act,
6 Title 5, chapter 375. The director shall provide at least
7 30 days' public notice before the hearing may be held.
8 Notice must be given by publication at least twice in a
9 newspaper of general circulation in the State. If a final
10 agreement with Lotto*America is entered into, the director
11 shall submit monthly financial reports to the joint standing
12 committee of the Legislature having jurisdiction over
13 appropriations and financial affairs. These reports must
14 include statements of net profits to the General Fund and
15 the costs to the State for operating, marketing and
16 promoting Lotto*America.

18 Any final agreement entered into with Lotto*America must
19 provide that the director has the authority to terminate the
20 agreement upon the provision of reasonable notice, not to
21 exceed 6 months. The final agreement must further provide
22 that the director may terminate the agreement at any time,
23 without prior notice, in the event that the director's
24 authority is withdrawn or limited by law; and

26 Sec. 3. 8 MRSA §372, sub-§2, ¶J is enacted to read:

28 J. Carry out the duties assigned to the State Lottery
29 Director under Title 17, chapter 16, including development
30 and maintenance of a central computer system to monitor
31 licensed video lottery terminals and coordinating and
32 cooperating with the Chief of the State Police in
33 implementing and enforcing that chapter.

34 Sec. 4. 8 MRSA §374, sub-§1, ¶¶K and L, as enacted by PL 1987,
35 c. 505, §2, are amended to read:

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

42 L. The apportionment of the total annual revenue accruing
43 from the sale of lottery tickets or shares and from all
44 other sources for the payment of prizes to the holders of
45 winning tickets or shares; for the payment of costs incurred
46 in the operation and administration of the lotteries,
47 including the expenses of the commission and the costs
48 resulting from any contract or contracts entered into for
49 promotional, advertising, consulting or operational services
50 or for the purchase or lease of lottery equipment and
51 materials; for the repayment of the money appropriated to

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COMMITTEE AMENDMENT "A" to S.P. 423, L.D. 1135

2 the State Lottery Fund; and for transfer to the General Fund
for distribution pursuant to section 387-; and

4 Sec. 5. 8 MRSA §374, sub-§1, ¶M is enacted to read:

6 M. Rules to administer and enforce Title 17, chapter 16,
8 which may be adopted jointly with the Chief of the State
Police.

10 Sec. 6. 17 MRSA §348 is enacted to read:

12 §348. Applicability

14 Except as expressly provided in chapter 16, this chapter
16 does not apply to video lottery terminals.

18 Sec. 7. 17 MRSA c. 16 is enacted to read:

20 CHAPTER 16

22 VIDEO LOTTERY TERMINALS

24 SUBCHAPTER I

26 GENERAL PROVISIONS

28 §361. Definitions

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

32 1. Associated equipment. "Associated equipment" means any
34 proprietary device, machine or part used in the manufacture or
maintenance of a video lottery terminal, including but not
36 limited to integrated circuit chips, printed wired assemblies,
printed wired boards, printing mechanisms, video display monitors
and metering devices.

38 2. Drug abuser. "Drug abuser" has the same meaning as set
40 forth in Title 5, section 20003, subsection 10.

42 3. Drug addict. "Drug addict" has the same meaning as set
44 forth in Title 5, section 20003, subsection 11.

46 4. Drug-dependent person. "Drug-dependent person" has the
same meaning as set forth in Title 5, section 20003, subsection
48 12.

50 5. Formal charging instrument. "Formal charging
instrument" means a complaint, indictment, information, juvenile
petition or other formal written accusation against a person for
52 some criminal or juvenile offense.

2 6. Fugitive from justice. "Fugitive from justice" has the
same meaning as set forth in Title 15, section 201, subsection 4.

4 7. Licensee. "Licensee" means a person licensed by the
6 Chief of the State Police to operate a video lottery terminal.

8 8. Net terminal income. "Net terminal income" means money
10 inserted into a video lottery terminal minus credits paid out in
cash.

12 9. Operate. "Operate" means to offer for public use.

14 10. Payback value. "Payback value" means the value of
16 credits granted to players by a video lottery terminal compared
to the value of money inserted into the terminal by players,
calculated on an annual basis.

18 11. Person. "Person" means an individual, corporation,
20 association or partnership.

22 12. Reckless or negligent conduct. "Reckless or negligent
conduct" means that the applicant, either consciously
24 disregarding or failing to be aware of a risk that the
applicant's conduct would cause such a result, engaged in conduct
26 that in fact created a substantial risk of death, serious bodily
injury or bodily injury to another human being and the
28 applicant's disregard or failure to be aware of that risk, when
viewed in light of the nature and purpose of the applicant's
30 conduct and the circumstances known to the applicant, involved a
deviation from the standard of conduct that a reasonable and
32 prudent person would observe in the same situation.

34 13. Resident. "Resident" in reference to an individual has
the same meaning as "resident individual" in Title 36, section
36 5102, subsection 5. "Resident" in reference to a corporation or
association means an organization that was organized in this
38 State.

40 14. Uniform location agreement. "Uniform location
agreement" means a written agreement between a licensee and a
42 video lottery terminal distributor that governs the terms and
conditions of the placement of video lottery terminals on the
44 premises of the licensee and that is on a form developed by the
Chief of the State Police.

46 15. Video lottery terminal. "Video lottery terminal" means
48 a machine that, upon insertion of coin or currency, is available
to play or simulate the play of a video game authorized by the
50 Chief of the State Police, including but not limited to poker,
keno and blackjack, utilizing a video display and microprocessor
52 in which by chance the player may receive free games or credits

that may be redeemed for cash. "Video lottery terminal" does not include a machine that directly dispenses coins, cash or tokens.

16. Video lottery terminal distributor. "Video lottery terminal distributor" means a person who owns video lottery terminals and who distributes or places video lottery terminals or associated equipment for use in this State.

17. Video lottery terminal manufacturer. "Video lottery terminal manufacturer" means a person who assembles or produces video lottery terminals or associated equipment for sale or use in this State.

18. Video lottery terminal wholesaler. "Video lottery terminal wholesaler" means a person who sells video lottery terminals or associated equipment for distribution in this State.

§362. License required

A person may not manufacture, distribute, sell, operate or place a video lottery terminal for use in this State unless the person is licensed to do so by the Chief of the State Police. A person may not place for public use or operate a video lottery terminal in this State unless the machine is licensed by the Chief of the State Police.

§363. Administration and enforcement

The Chief of the State Police and the State Lottery Director shall administer and enforce the provisions of this chapter as specified in this chapter.

§364. Powers and duties of the Chief of the State Police

1. Powers. In addition to powers conferred by any other provision of law, the Chief of the State Police may:

A. Regulate, supervise and exercise general control over the operation of video lottery terminals;

B. Investigate the direct or indirect ownership or control of any licensee;

C. Adopt rules necessary to administer and enforce this chapter, including the power to jointly adopt rules with the State Lottery Commission; and

D. In any investigation conducted under this chapter, issue subpoenas to compel the attendance of witnesses and the production of evidence relevant to any fact at issue.

2. Duties. The Chief of the State Police shall:

A. Investigate or cause to be investigated all complaints made to the State Police and all violations of this chapter or the rules adopted under this chapter;

B. Adopt rules to prevent undesirable conduct relating to the operation of video lottery terminals, including the following:

(1) The practice of any fraud or deception upon a player of a video lottery terminal;

(2) The presence of a video lottery terminal in or at premises that may be unsafe due to fire hazard or other such conditions;

(3) The use of obscene advertising;

(4) The solicitation on a public way of persons to play video lottery terminals;

(5) The infiltration of organized crime into the operation of video lottery terminals or into the distributing of the terminals;

(6) The presence of disorderly persons in a location where video lottery terminals are in use; or

(7) The use of the word "casino" to describe any video lottery terminal licensed under this chapter or as the name or any part of the name of the licensed premises or of a portion of the premises where the video lottery terminal is located; and

C. Direct the State Lottery Director to disable any video lottery terminal if the Chief of the State Police has reason to believe that:

(1) A person has illegally tampered with the terminal;

(2) The funds from the terminal have not been distributed, deposited or allocated in accordance with section 383; or

(3) The terminal does not meet the licensure requirements of this chapter.

§365. Powers and duties of State Lottery Director

1. Powers. In addition to powers conferred by any other provision of law, the State Lottery Director may:

2 A. Propose to the State Lottery Commission for adoption
4 rules necessary to administer and enforce this chapter,
6 including rules to be adopted jointly with the Chief of the
8 State Police; and

10 B. Subject to approval of the State Lottery Commission and
12 to any applicable laws relating to public contracts, enter
14 into a contract for performance of the director's duties
16 under this chapter. All contracts must be awarded in
18 accordance with rules adopted by the Department of
20 Administration pursuant to Title 5, chapters 141 to 145 and
22 Title 5, sections 1812 and 1813. A contract awarded or
24 entered into by the director may not be assigned by the
26 holder of the contract, except by specific approval of the
28 commission.

30 2. Duties. The State Lottery Director shall:

32 A. Develop, install and test an on-line real-time central
34 computer system with continuous polling to all licensed
36 video lottery terminal locations and terminals to provide
38 auditing program information. The communications system may
40 not limit participation to only one manufacturer of video
42 lottery terminals by either the cost in implementing the
44 necessary program modifications to communicate or the
46 inability to communicate with the central communications
48 system;

50 B. Maintain and monitor the central computer system to
52 ensure compliance with this chapter;

C. Attempt to determine the cause of any video lottery
terminal malfunction detected by the central computer system
and notify the Chief of the State Police of any suspected
tampering with a video lottery terminal or any other
violation of this chapter or the rules adopted under this
chapter;

D. Cause the central computer system to disable a video
lottery terminal as directed by the Chief of the State
Police in accordance with section 364;

E. Collect funds due the State under section 383 and
deposit them in the Video Lottery Fund established in
section 384;

F. Immediately notify the Chief of the State Police of the
failure of any distributor to comply with section 383;

G. Certify monthly to the Treasurer of State, the State
Lottery Commission and the Commissioner of Finance a full

2 and complete statement of all video lottery terminal
3 revenue, credits disbursed by licensees, administrative
4 expenses and the allocation of net terminal income for the
5 preceding month;

6 H. Submit an annual report to the Governor and the joint
7 standing committee of the Legislature having jurisdiction
8 over legal affairs of video lottery terminal revenue,
9 credits disbursed by licensees, administrative expenses and
10 the allocation of net terminal income for the preceding year;

11 I. Prepare and submit to the Commissioner of Finance a
12 budget for the program's administration; and

13 J. Cooperate with the Chief of the State Police in
14 implementing and enforcing the provisions of this chapter.

15 **§366. Applicability of chapter 14**

16 Except as expressly provided in this chapter, chapter 14
17 does not apply to video lottery terminals.

18 **SUBCHAPTER II**

19 **LICENSING**

20 **§371. License to operate**

21 1. Eligible persons. The Chief of the State Police may
22 issue a license to operate a video lottery terminal to a person
23 licensed to sell liquor for consumption on the premises where
24 sold.

25 2. Qualifications for individual license. An individual
26 may be issued a license to operate a video lottery terminal if
27 the individual is eligible for a license under subsection 1 and
28 the individual:

29 A. Is of good moral character, determined pursuant to
30 subsection 4;

31 B. Is current in payment of all taxes, interest and
32 penalties owed to the State or to a municipality, excluding
33 items under formal dispute or appeal pursuant to applicable
34 statutes or ordinances;

35 C. Has not been convicted of a crime punishable by one year
36 or more of imprisonment in any jurisdiction unless at least
37 10 years have passed since satisfactory completion of the
38 sentence or probation imposed by the court for the crime;

- 2 D. Has not been convicted of a violation of this chapter or
 chapter 14;
- 4 E. Is not a fugitive from justice, a drug abuser, a drug
 addict, a drug-dependent person, an illegal alien, or a
6 person who was dishonorably discharged from the military
 forces within 5 years prior to the date of application;
- 8 F. Has completed the application form and complied with the
10 requirements of section 374;
- 12 G. Has sufficient financial assets to meet the financial
 obligations imposed by this chapter and a method acceptable
14 to the Chief of the State Police for meeting those
 obligations; and
- 16 H. Has not knowingly made a false statement of material
18 fact to the Chief of the State Police in applying for a
 license under this chapter or chapter 14.

20 3. Qualifications for partnership, corporation or
22 association license. A partnership may be licensed to operate a
24 video lottery terminal if the partnership is eligible for a
26 license under subsection 1 and the partnership was organized in
28 this State, the partnership meets the qualifications of
30 subsection 2, paragraphs B to G and each partner of the
32 partnership meets all the requirements of subsection 2. A
34 corporation or association may be licensed to operate a video
 lottery terminal if the association or corporation is eligible
 for a license under subsection 1 and the corporation or
 association was organized in this State, the corporation or
 association meets the qualifications of subsection 2, paragraphs
 B to G and each officer, director and owner of any interest of
 the corporation or association meets all the requirements of
 subsection 2.

36 4. Determination of good moral character. The Chief of the
38 State Police shall make a determination of moral character solely
40 on the basis of information recorded by governmental entities
 within 5 years of receipt of the application, including, but not
 limited to, the following matters:

- 42 A. Information of record relative to incidents of abuse by
44 the applicant of family or household members, provided
46 pursuant to Title 19, section 770, subsection 1;
- 48 B. Information of record relative to convictions of the
50 applicant for crimes punishable by imprisonment for less
52 than one year or adjudications of the applicant for juvenile
 offenses involving conduct that, if committed by an adult,
 are punishable by imprisonment for less than one year;

2 C. Information of record indicating that the applicant has
engaged in reckless or negligent conduct;

4 D. Information of record relative to adjudications of the
applicant for civil violations; and

6 E. Information of record regarding charges against the
8 applicant for any crime in any jurisdiction.

10 5. Municipal permit required. The Chief of the State
12 Police may not issue a license to operate a video lottery
14 terminal to any person who has not obtained a special
entertainment permit for video lottery terminals, pursuant to
Title 28-A, section 1054, from the municipality in which the
video lottery terminal will be located.

16 6. Placement of terminals. No more than 3 video lottery
18 terminals may be placed on the premises of a licensee. A
20 terminal may not be placed in any location other than the
22 premises of the licensee. A terminal must be placed in an area
24 of the premises separated by a physical barrier from any part of
the premises not dedicated to the operation of video lottery
terminals. This area must be clearly labelled as an area that
persons under the age of 21 may not enter. The area must be
26 located and designed to permit the licensee or an agent of the
licensee to see and control the area at all times to ensure
compliance with the provisions of this chapter.

28 7. Uniform location agreement. Each video lottery terminal
30 must be subject to a uniform location agreement between the
32 distributor and the licensee. A copy of the agreement must be
submitted to the Chief of the State Police.

34 **§372. Licensing of terminals**

36 1. License required. A video lottery terminal may not be
38 placed for public use or operated in this State unless the
40 terminal is licensed by the Chief of the State Police. The
terminal license must be prominently displayed on the terminal.

42 2. Requirements for license. To be licensed, a video
44 lottery terminal:

46 A. May only offer games permitted by the Chief of the State
Police;

48 B. May not have any means of manipulation that affect the
50 random probabilities of winning a game;

2 C. Must have one or more mechanisms that accept coin or
cash in the form of bills and that are designed to prevent a
4 person from obtaining credits without paying;

6 D. Must be designed to suspend operation until reset if a
person attempts, by physical or other tampering, to obtain
8 credits without paying;

10 E. Must have nonresettable meters housed in a readily
accessible locked terminal area that keep a permanent record
12 of all cash inserted into the terminal, credits awarded by
the terminal, credits played for video games and credits
14 distributed by tickets made by the terminal's printer;

16 F. Must be capable of printing a ticket voucher stating the
value of the credits for the player at the completion of
18 each video game; the time of day in 24-hour format showing
hours and minutes; the date; the terminal's serial number;
20 the sequential number of the ticket vouchers; and an
encrypted validation number from which the validity of the
22 credits may be determined;

24 G. Must have accounting software that keeps an electronic
record of information that includes, but is not limited to,
26 the following: total cash inserted into the terminal; total
credits awarded by the terminal, total credits played for
28 video games and total credits distributed by tickets made by
the terminal's printer; and the payback percentage of each
30 video game; and

32 H. Must be linked to the on-line central communications
system developed under sections 364 and 365 to provide
34 continuous auditing program information.

36 3. Amount of play; payback value. A video lottery
terminal may be played for a minimum of 25¢ and a maximum of \$2
38 in a single game. The maximum prize awarded may not exceed the
value of \$1,000. The payback value of each type of game offered
40 by each terminal must be at least 80%.

42 4. Examination of prototypes. The Chief of the State
Police and the Attorney General shall examine prototypes of video
44 lottery terminals and associated equipment of manufacturers
seeking a license as required in this chapter. The Chief of the
46 State Police shall require the manufacturer seeking the
examination and approval of the video lottery terminal or
48 associated equipment to pay the anticipated actual cost of the
examination before the examination occurs. After the examination
50 occurs, the Chief of the State Police shall refund overpayments
or charge and collect amounts sufficient to reimburse the Chief
52 of the State Police for underpayments of actual cost. The Chief
of the State Police may contract for the examinations of video

lottery terminals and associated equipment as required by this section.

5. Unlicensed terminal subject to confiscation. Any terminal that is not licensed as required by this section is contraband and a public nuisance and is subject to confiscation by any law enforcement officer.

6. Ownership of terminals. A person may not place or operate a video lottery terminal for public use in this State if the terminal is owned by a person other than a video lottery terminal distributor licensed under this chapter.

7. Transition computer link. Notwithstanding subsection 2, paragraph H, a terminal that is not linked to the on-line computer system developed under sections 364 and 365 may be licensed and operated during the transition period, provided the terminal is linked to the central computer system with dial-up polling pending conversion to continuous polling. For purposes of this section, the transition period is the 6-month period beginning on the date on which a licensed terminal is first operated in the State.

§373. Licensing of manufacturer, distributor, wholesaler

1. Qualifications. To be licensed as a video lottery terminal manufacturer, distributor or wholesaler, a person must meet the qualifications set forth in section 371, excluding subsection 1. A video terminal distributor must also be a resident of the State for at least 2 years before application and at least 50% of the ownership interest in the distributor must be held by individuals who have been residents of the State for at least 2 years before application. Any individual applying for a license, any partner of a partnership, or any officer, director or holder of any ownership interest of a corporation or association applying for a license as a manufacturer, distributor or wholesaler must submit to a background investigation by the Chief of the State Police to verify the applicant's compliance with the requirements of section 371, excluding subsection 1.

2. Levels of license; prohibition against multiple licenses. A person licensed as a video lottery terminal manufacturer or wholesaler has a Level 1 license. A person licensed as a video lottery terminal distributor has a Level 2 license. A licensee has a Level 3 license. A person may not hold more than one level of license.

§374. Applications

1. Form. An application for a license required under this chapter must be on the form provided by the Chief of the State Police. The application must be signed by the individual

2 applicant or by a duly authorized officer of the partnership,
3 corporation or association applying for the license. The
4 application must contain the following information regarding the
5 individual applicant and each officer, director, partner or owner
6 of any interest in a corporation, partnership or association
7 applying for a license:

8 A. Full name:

10 B. Full current address and addresses for the prior 5 years:

12 C. A record of previous issuances of, refusals to issue and
13 revocations of a license under this chapter; and

14 D. Answers to the following questions posed in
15 substantially the following form:

18 (1) "Is there a formal charging instrument now pending
19 against you in this or any other jurisdiction for a
20 crime that is punishable by imprisonment for one year
21 or more?"

22 (2) "Is there a formal charging instrument now pending
23 against you in this or any other jurisdiction for a
24 juvenile offense that involves conduct that, if
25 committed by an adult, would be punishable by
26 imprisonment for one year or more?"

28 (3) "Have you ever been convicted of a crime described
29 in subparagraph (1) or adjudicated as having committed
30 a juvenile offense as described in subparagraph (2)?"

32 (4) "Are you a fugitive from justice?"

34 (5) "Are you a drug abuser, drug addict or
35 drug-dependent person?"

38 (6) "Have you been dishonorably discharged from the
39 military forces within the past 5 years?"

40 (7) "Are you an illegal alien?"

42 (8) "To your knowledge, have you been the subject of
43 an investigation by any law enforcement agency within
44 the past 5 years regarding the alleged abuse by you of
45 family or household members?"

48 (9) "Have you been convicted within the past 5 years
49 of crimes punishable by imprisonment of less than one
50 year?"

2 (10) "Have you been adjudged within the past 5 years
4 to have committed juvenile offenses involving conduct
 that, if committed by an adult, would be punishable by
 imprisonment of less than one year?"

6 (11) "To your knowledge, have you engaged within the
8 past 5 years in reckless or negligent conduct that has
 been the subject of an investigation by a governmental
 entity?"

10 2. Signature as certification. The applicant, by affixing
12 the applicant's signature to the application, certifies the
 following:

14 A. That the statements made in the application and any
16 documents made a part of the application are true and
 correct;

18 B. That the applicant understands that an affirmative
20 answer to one or more of the questions in subsection 1,
22 paragraph D, subparagraphs (3) to (7) is cause for refusal;

24 C. That the applicant understands that the answers to
26 questions in subsection 1, paragraph D are used by the Chief
28 of the State Police, along with other information, in
 judging good moral character and an affirmative answer to
 one or more of those questions may be cause for refusal to
 issue a license; and

30 D. That the applicant understands that knowingly making any
32 false statement in the application or any document made a
34 part of the application is grounds for a refusal to issue a
 license or revocation or suspension of a license.

36 3. Consent to review records. At the request of the Chief
38 of the State Police, the applicant shall take whatever action is
40 necessary to permit the Chief of the State Police to examine
42 accounts and records in the applicant's possession, under the
44 applicant's control or under the control of 3rd persons but
 accessible by consent of the applicant, and must authorize all
 3rd parties in possession or in control of those accounts or
 records to allow the Chief of the State Police or a designee to
 examine the accounts and records as the Chief of the State Police
 determines necessary to ascertain:

46 A. Whether the information supplied on the application or
48 any documents made a part of the application is true and
 correct;

50 B. Whether each of the requirements of this section has
52 been met; or

2 C. Whether the applicant meets the requirements for
licensure under this chapter.

4 This requirement includes taking whatever action is necessary to
6 permit the Chief of the State Police or a designee to have access
8 to confidential records held by banks, the courts, law
enforcement agencies and the military for the purposes stated in
this subsection.

10 4. Notification of municipal officers. An applicant for a
12 license to operate a video lottery terminal must send a copy of
14 the application to the officers of the municipality in which the
16 terminal will be operated. The applicant must certify in the
18 application that the copy has been sent and must list the names
20 and addresses of the persons to whom the copy was sent.

22 §375. Fees; term of license; transferability

24 1. Fees. The annual fee for a license issued under this
26 chapter is as follows:

28 A. A license for a video lottery terminal manufacturer is
30 \$5,000;

32 B. A license for a video lottery terminal wholesaler is
34 \$5,000;

36 C. A license for a video lottery terminal distributor is
38 \$1,000; and

40 D. A license to operate a video lottery terminal is \$100
42 per terminal.

44 In addition to the annual license fee, the Chief of the State
46 Police may charge a one-time application fee for a license
48 described in paragraph A, B or C in an amount equal to the actual
cost of processing the application and performing any background
investigations, but not to exceed \$500. All fees collected
pursuant to this section must be deposited directly to the
General Fund.

2. Term of license. All licenses issued by the Chief of
the State Police under this chapter are effective for one year
and are renewable annually, unless sooner revoked pursuant to
section 376.

3. Nontransferable. A license issued under this chapter is
not transferable or assignable.

§376. Actions relating to licenses

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1. Suspension or revocation of license; refusal to renew.
The Chief of the State Police may refuse to renew a license after a hearing in accordance with the Maine Administrative Procedure Act. The Administrative Court may suspend or revoke a license issued under this chapter. The Chief of the State Police may refuse to renew a license and the Administrative Court may revoke or suspend a license for just cause, including any of the following:

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A. The person made or caused to be made a false statement of material fact in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;

B. The person or the person's agent violated any provision of this chapter or any rule adopted under this chapter; or

C. The holder of a license under this chapter becomes ineligible to hold that license.

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2. Ineligibility period following refusal to issue or renew or revocation of license. A person may not apply to the Chief of the State Police for any license under this chapter less than 2 years after the Chief of the State Police refused to issue or renew a license under this chapter or less than 2 years after the Administrative Court revoked a license issued to the person under this chapter.

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SUBCHAPTER III

32

TERMINAL OPERATION; ALLOCATION OF FUNDS

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§381. Limits on terminal use

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1. Hours of play. A licensee may not permit a person to play a video lottery terminal at any time other than during legal hours for the on-premises consumption of liquor.

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2. Age of player. A licensee may not permit a person under 21 years of age to play a video lottery terminal.

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3. Time and money limits imposed by licensee. A licensee may impose a daily limit on the amount of time or money spent by an individual playing the video lottery terminals on the licensee's premises.

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3 §382. Payment of credits by licensee

4 A licensee shall redeem credits for players who earn credits
5 on terminals located on the premises of that licensee, in
6 accordance with rules adopted jointly by the Chief of the State
7 Police and the State Lottery Director. If a person receives a
8 credit redeemable for more than \$500, the licensee shall require
9 the person to complete a form listing the person's name, address
10 and social security number. The licensee shall promptly send the
11 form to the Bureau of Taxation.

12 §383. Allocation of funds

13
14 1. Distributor responsible. A video lottery terminal
15 distributor shall collect and allocate funds from video lottery
16 terminals owned by the distributor in accordance with this
17 section.

18
19 2. Allocation of net terminal income. The distributor
20 shall allocate 33.34% of net terminal income to the State, 33.33%
21 of net terminal income to the licensee on whose premises the
22 terminal is located and 33.33% of net terminal income to the
23 distributor.

24
25 3. Priority of payment to State. If funds collected from a
26 video lottery terminal are not sufficient to pay the amounts due
27 the State, the distributor and the licensee, the distributor
28 shall reduce the amount allocated to the distributor, the
29 licensee or both. The distributor may not reduce the amount
30 allocated to the State.

31
32 4. Deposit of state funds. Each distributor shall maintain
33 a bank account accessible by the State for the deposit of funds
34 owed to the State under this chapter. The distributor shall
35 deposit in that account the State's share of the net terminal
36 income attributable to terminals owned by the distributor during
37 the first 15 days of each month not later than the 22nd day of
38 the month. The distributor shall deposit in that account the
39 State's share of net terminal income attributable to terminals
40 owned by the distributor between the 16th and the last day of
41 each month not later than the 7th day of the next month. If the
42 day on which funds must be deposited is not a business day, the
43 funds must be deposited on the next business day after that date.

44
45 5. Use of state share. The Treasurer of State shall
46 transfer annually to the Local Government Fund created in Title
47 30-A, section 5681 an amount equal to 25% of the state share of
48 net terminal income derived from video lottery terminals during
49 the preceding 12-month period, net of state administrative costs.

50
51 6. Failure to deposit funds. A distributor who fails to
52 comply with this section commits a Class C crime. The license of

2 that person may be revoked by the Administrative Court and the
3 terminals to which the undeposited funds are attributable may be
4 disabled by the State Lottery Director at the direction of the
5 Chief of the State Police.

6 7. Late payments. All payments not remitted when due must
7 be paid together with a penalty assessment on the unpaid balance
8 at a rate of 1.5% per month.

10 **§384. Video Lottery Fund**

12 1. Fund created. There is created and established a
13 separate fund to be known as the "Video Lottery Fund" to be
14 deposited in such depositories as the Treasurer of State may
15 select. The fund consists of all revenue payable to the State
16 pursuant to section 383 and all other money credited or
17 transferred to the fund from any other fund or source pursuant to
18 law.

20 2. Use of money. The money in the Video Lottery Fund may
21 be appropriated or allocated only:

22 A. For expenses incurred in implementing or enforcing this
23 chapter;

24 B. For payment to the Local Government Fund pursuant to
25 section 383; and

26 C. For payment to the General Fund.

27 3. Committee review of allocation. The State Lottery
28 Director shall submit to the joint standing committee of the
29 Legislature having jurisdiction over legal affairs for review all
30 proposals for allocations from the Video Lottery Fund. The
31 proposed allocations for each fiscal year must be submitted by
32 the first of January preceding the start of the fiscal year.

33 **§385. Use of proceeds by nonprofit organizations**

34 Section 335 applies to the use of proceeds from video
35 lottery terminals by any organization eligible to receive a
36 license under section 332, except that the organization is not
37 prohibited from using the proceeds to pay salaries, wages or
38 remuneration to its employees. An organization eligible to
39 receive a license under section 332 must file with the Chief of
40 the State Police a disposition of funds form prescribed by the
41 Chief of the State Police detailing the disposition of proceeds
42 received from video lottery terminals. Every statement on the
43 form must be made under oath by an officer of the organization.

SUBCHAPTER IV

ENFORCEMENT AND PENALTIES

§391. Reports; records

1. Reports; records. The Chief of the State Police or the State Lottery Director shall require from any licensed distributor, manufacturer, wholesaler or licensee whatever records and reports the chief or the director considers necessary for the administration and enforcement of this chapter.

2. Location. A license holder shall maintain all records required by this chapter or by rules adopted under this chapter at the primary business office within this State of the license holder or on the premises where the video lottery terminal is operated. In the case of a video lottery terminal manufacturer or wholesaler, the records must be maintained at the primary business office of the manufacturer or wholesaler. The primary business office must be designated by the license holder in the license application. All records must be open to inspection by the Chief of the State Police, the State Lottery Director or the designee of either of them and a license holder may not refuse the Chief of the State Police, the State Lottery Director or the designee of either of them the right to inspect or audit the records. Refusal to permit inspection or audit of the records is not a crime under this chapter, but does constitute grounds for revocation of the license.

§392. Access to premises, equipment, records

A person holding a license under this chapter shall permit the Chief of the State Police or the chief's designee to inspect any equipment, prizes, records or items and materials used or to be used in the operation of any video lottery terminal manufactured, owned, distributed or operated by that person. A person holding a license under this chapter shall consent in writing to the examination of all accounts, bank accounts and records in the license holder's possession or under the license holder's control and shall authorize all 3rd parties in possession or in control of those accounts or records to allow the Chief of the State Police or the chief's designee to examine the accounts and records as the chief determines necessary.

§393. Contempt

If a witness refuses to obey a subpoena issued by the Chief of the State Police or to give any evidence relevant to proper inquiry by the chief, the Attorney General may petition the Superior Court in the county where the refusal occurred to find the witness in contempt. The Attorney General shall cause to be served on the witness an order requiring that witness to appear

2 before the Superior Court to show cause why that witness should
3 not be adjudged in contempt. The court shall, in a summary
4 manner, hear the evidence and, if it is such as to warrant the
5 court to do so, punish the witness in the same manner and to the
6 same extent as for contempt committed before the Superior Court
7 or with reference to the process of the Superior Court.

8 **§394. Violations**

10 1. Crimes by licensees. A licensee who performs any of the
11 following acts commits a Class D crime:

12 A. Permitting a person under 21 years of age to play a
13 video lottery terminal licensed pursuant to this chapter; or

14 B. Permitting a person to play a video lottery terminal
15 licensed pursuant to this chapter at a time other than
16 during the legal hours for the on-premises consumption of
17 liquor.

18 2. Class C crimes by any person. A person who performs any
19 of the following acts commits a Class C crime:

20 A. Tampering with a video lottery terminal with intent to
21 interfere with the proper operation of that terminal;

22 B. Manipulating or intending to manipulate the outcome,
23 payoff or operation of a video lottery terminal by physical
24 tampering or any other means;

25 C. Manufacturing, distributing, selling, operating or
26 placing a video lottery terminal for use in this State
27 without a license; or

28 D. Placing for public use or operating an unlicensed video
29 lottery terminal in this State.

30 3. Class D crimes by any person. A person who violates any
31 provision of this chapter or any rule adopted under this chapter
32 for which a specific penalty is not provided commits a Class D
33 crime.

34 Sec. 8. 25 MRSA §3902, sub-§4 is enacted to read:

35 4. Notice of violation of video lottery law. A liquor
36 enforcement officer who notices a violation of any provision of
37 Title 17, chapter 16 shall promptly notify the Chief of the State
38 Police of the violation.

Sec. 9. 28-A MRSA §807 is enacted to read:

§807. Notice to Chief of the State Police

The commission shall notify the Chief of the State Police of the suspension or revocation of any license issued under this chapter. The commission shall also notify the Chief of the State Police of any investigation of a violation of any provision of this Title.

Sec. 10. 28-A MRSA §1054, sub-§11, ¶C is enacted to read:

C. A municipality may not combine a permit to operate a video lottery terminal, as defined in Title 17, section 36L, with any other permit. The fee for a permit to operate a video lottery terminal may not be higher than the fee for any other special entertainment permit issued by the municipality.

Sec. 11. Working capital advance. The State Controller is authorized to advance to the Department of Finance, Bureau of the Lottery, Video Lottery Fund, \$250,000 from the General Fund Unappropriated Surplus, to be used for any necessary start-up costs associated with the implementation of a system of video lottery terminals in the State pursuant to the Maine Revised Statutes, Title 8, section 372, subsection 2 and Title 17, chapter 16. Funds advanced for this purpose must be returned to the General Fund Unappropriated Surplus no later than June 30, 1992.

Sec. 12. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1991-92	1992-93
PUBLIC SAFETY, DEPARTMENT OF		
State Police		
Licensing Division		
Positions	(5.0)	(5.0)
Personal Services	\$166,534	\$234,612
All Other	29,648	28,170
Capital Expenditures	57,836	0
TOTAL	\$254,018	\$262,782

Provides funds for 3 detective positions and 2 clerical positions, effective

2 October 1, 1991, to perform
 3 the background check and
 4 licensing of video lottery
 5 terminal manufacturers,
 6 wholesalers, distributors and
 7 operators. General Fund
 8 revenues from license fees
 9 are projected to be \$307,000
 10 in fiscal year 1991-92 and
 11 \$440,000 in fiscal year
 12 1992-93.

13 **Liquor Enforcement**

14	Positions	(2.0)	(2.0)
15	Personal Services	\$36,715	\$73,429
16	All Other	12,405	8,530
17	Capital Expenditures	36,554	0
18			
19	TOTAL	<u>\$85,674</u>	<u>\$81,959</u>

22 Provides funds for 2
 23 additional liquor enforcement
 24 officers, beginning January
 25 1, 1992, to perform the
 26 necessary oversight of video
 27 lottery terminal licensees.

28 **DEPARTMENT OF PUBLIC SAFETY**

29	TOTAL	<u>\$339,692</u>	<u>\$344,741</u>
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32 **Sec. 13. Allocation of funds.** In order to provide for the
 33 necessary expenses of operation and administration of the
 34 Department of Finance, Bureau of the Lottery, Video Lottery
 35 Terminals, the following amounts, or as much as may be necessary,
 36 are allocated from the revenues derived from operations of the
 37 Video Lottery Fund.

38 **1991-92** **1992-93**

39 **FINANCE, DEPARTMENT OF**

40 **Bureau of the Lottery -**
 41 **Video Lottery Terminals**

42	Positions - Other Count	(2.0)	(2.0)
43	Personal Services	\$41,679	\$64,553
44	All Other	775,262	3,281,948

45 Provides funds for a project
 46 coordinator position
 47 effective October 1, 1991 and
 48

2 an Accountant II position
effective January 1, 1992 to
4 fulfill the mandated
responsibilities of the
lottery, as well as contract
6 telecommunications costs and
legal services provided by
8 the Attorney General.

10 DEPARTMENT OF FINANCE
TOTAL

\$816,941 \$3,346,501

12
14 Sec. 14. Allotments required. Upon receipt of allotments duly
approved by the Governor, based upon work programs submitted to
the State Budget Officer, the State Controller shall authorize
16 expenditures from these allocations on the basis of these
allotments and not otherwise.

18
20 Sec. 15. Adjustments to allocations. Allocations may be
increased or adjusted by the State Budget Officer with the
approval of the Governor to cover specifically those adjustments
22 determined to be necessary under any salary plan approved by the
Legislature, and those reclassifications or range changes that
24 have been approved by the Department of Administration and
submitted for legislative review prior to the effective date of
26 this Act.

28 FISCAL NOTE

30 1991-92 1992-93

32 APPROPRIATIONS/ALLOCATIONS

34 General Fund \$339,692 \$344,741
36 Other Funds 816,941 3,346,501

38 REVENUES

40 General Fund \$2,024,422 \$11,764,603
Other Funds 1,384,808 5,724,411

42 This bill will require General Fund appropriations of
\$339,692 and \$344,741 respectively in fiscal years 1991-92 and
44 1992-93 and allocations from the Video Lottery Fund established
by this bill of \$816,941 and \$3,346,501 in the same 2 fiscal
46 years. Revenues to the General Fund are estimated to be
\$2,024,422 in fiscal year 1991-92 and \$11,764,603 in fiscal year
48 1992-93. Estimated revenues of \$1,384,808 and \$5,724,411 for the
2 fiscal years will accrue to the Local Government Fund as
50 provided in this bill.

2 Included in the revenue figures is a projected decrease in
General Fund revenue from current lottery operations of
4 \$2,437,000 and \$5,848,630 in fiscal years 1991-92 and 1992-93
respectively. Lottery revenues are expected to recover slowly in
subsequent years.

6
8 In addition to these revenues, a substantial but
undeterminable amount of additional income tax revenue will
10 result from the estimated \$12,700,000 and \$52,500,000 that will
be distributed to machine distributors and operators and the
expanded employment opportunities.

12
14 Sales tax revenues may be affected both positively, with the
sale or lease of up to 3,500 terminals, and negatively since the
16 dollars spent on the video lottery may have been spent on other
taxable purchases.

18 The bill authorizes a \$250,000 working capital advance from
the General Fund Unappropriated Surplus to the Bureau of the
20 Lottery. This advance must be repaid by the end of fiscal year
1991-92.

22
24 The bill establishes Class C and Class D crimes for
violating various provisions of the bill. The additional work
load and administrative costs associated with a minimal number of
26 new cases will be absorbed within the budgeted resources of the
Judicial Department.

28
30 The appointment of court-appointed counsel for indigent
defendants who are charged with these crimes will result in costs
to the Judicial Department. A General Fund appropriation to the
32 Judicial Department may be necessary for the indigent defense
program once the cumulative effect of all legislation for which
34 court-appointed counsel for indigent defendants must be provided
is known. The Governor's proposed adjusted current services
36 budget affects the indigent defense program by discontinuing
appointment of counsel for certain crimes.

38
40 Sentences imposed for Class C offenses must be served in a
state correctional institution. The projected cost to the State
42 for each person sentenced for a Class C offense is approximately
\$36,900 and is based upon an average length of the sentence of
44 one year and 9 months. This amount does not include additional
capital expenditures to meet demand for bed space.

46 Sentences imposed for a Class D offense must be served in a
county jail facility. The projected cost to a county for each
48 person sentenced under the new Class D crime is approximately
\$6,780 and is based upon an average length of stay of about 119
50 days.

The bill establishes fees and penalties that may result in an insignificant amount of additional General Fund revenue.'

STATEMENT OF FACT

The amendment makes the following changes in the bill:

1. Increases the State's share of net terminal income from 25% to 33.34%;

2. Clarifies the roles of the Chief of the State Police and the State Lottery Director in enforcing and implementing the Maine Revised Statutes, Title 17, chapter 16;

3. Requires all terminals to be linked to an on-line central computer system providing continuous information to the State, to be developed and monitored by the State Lottery Director, except that terminals may be linked to a dial-up system for the first 6 months terminals are in operation;

4. Specifies that only licensed distributors may own video lottery terminals operated for public use in the State;

5. Specifies what type of information must be provided and considered in the license application process;

6. Requires owners of any interest in a corporation or association to meet the qualifications of the law and to file information, rather than just 10% owners;

7. Requires terminals to be placed in an area physically separated from other areas of the premises and requires the area to be clearly labelled as an area not open to persons under 21 years of age and to be under observation of the licensee or the licensee's agent at all times;

8. Clarifies that the payback value of at least 80% must be achieved for each type of game offered by each terminal;

9. Requires applicants to give the Chief of the State Police consent to review accounts and records, including confidential information, to assure compliance with the law;

10. Authorizes the Chief of the State Police to issue subpoenas to compel attendance of witnesses and the production of evidence in investigations, and authorizes the chief to seek assistance of the Attorney General in bringing contempt charges against a person who refuses to comply with a subpoena;

11. Establishes an account for the deposit of the State's share of funds under the law and provides criminal penalties for failure to deposit funds due the State;

12. Makes distributing or operating an unlicensed terminal and manufacturing, distributing or operating terminals without a license a Class C crime, and makes violation of any other provision of the law for which no other penalty is specified a Class D crime.

13. Prohibits a person from reapplying for a license less than 2 years after denial or revocation of a license;

14. Requires a liquor licensee to obtain a municipal special entertainment permit specifically issued for video lottery terminals; and

15. Permits the Chief of the State Police to have a terminal taken off the computer system and disabled if there are certain violations of Title 17, chapter 16 or if the chief suspects that the terminal has been tampered with.

The Department of Corrections has prepared the following correctional impact statement pursuant to the Maine Revised Statutes, Title 34-A, section 1402: "L.D. 1135, 'An Act Allowing the Operation of Video Lottery Terminals' would create 5 new criminal violations: crimes by any person (3 Class C) and crimes by licensees (2 Class D).

Class C: A sentence imposed for a Class C offense, unless 9 months or less, must be served in a state correctional facility. Because this would be a new offense, there is no basis to predict its specific impact on the correctional system. However, looking at sentences served for Class C offenses in correctional facilities, the average length of stay was found to be one year and 9 months. The average cost per day in a correctional facility is \$58. Based on this data, the projected cost to the State for each person sentenced under this new Class C crime would be about \$36,900.

Class D: A sentence imposed for a Class D offense must be served in a county jail facility. Because this would be a new offense, there is no basis to predict its specific impact on the county jail system. However, looking at sentences served for Class D offenses in county jails, the average length of stay was found to be about 119 days. The average cost per day in a county jail is \$57. Based on this data, the projected cost to a county for each person sentenced under this new Class D crime would be about \$6,780."