

# MAINE STATE LEGISLATURE

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L.D. 1135

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STATE OF MAINE  
SENATE  
115TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" 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 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.

**COMMITTEE AMENDMENT**

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

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

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 authority is withdrawn or limited by law; and

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

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

36 Sec. 4. 8 MRS A §374, sub-§1, ¶¶K and L, as enacted by PL 1987,  
 38 c. 505, §2, are amended to read:

40 K. The manner and amount of compensation to be paid  
 42 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

44 L. The apportionment of the total annual revenue accruing  
 46 from the sale of lottery tickets or shares and from all  
 48 other sources for the payment of prizes to the holders of  
 50 winning tickets or shares; for the payment of costs incurred  
 in the operation and administration of the lotteries,  
 including the expenses of the commission 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 money appropriated to the State Lottery Fund; and for transfer to the General Fund for distribution pursuant to section 387-; and

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

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

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

**§348. Applicability**

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

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

**CHAPTER 16**

**VIDEO LOTTERY TERMINALS**

**SUBCHAPTER I**

**GENERAL PROVISIONS**

**§361. Definitions**

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

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

2. Director. "Director" means the Director of the Bureau of Alcoholic Beverages and Lottery Operations in the Department of Administrative and Financial Services.

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

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

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

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

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

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

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

10. Operate. "Operate" means to offer for public use.

11. Payback value. "Payback value" means the value of 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.

12. Person. "Person" means an individual, corporation, association or partnership.

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

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

15. Uniform location agreement. "Uniform location agreement" means a written agreement between a licensee and a

2 video lottery terminal distributor that governs the terms and  
3 conditions of the placement of video lottery terminals on the  
4 premises of the licensee and that is on a form developed by the  
5 Chief of the State Police.

6 16. Video lottery terminal. "Video lottery terminal" means  
7 a machine that, upon insertion of coin or currency, is available  
8 to play or simulate the play of a video game authorized by the  
9 Chief of the State Police, including but not limited to poker,  
10 keno and blackjack, utilizing a video display and microprocessor  
11 in which by chance the player may receive free games or credits  
12 that may be redeemed for cash. "Video lottery terminal" does not  
13 include a machine that directly dispenses coins, cash or tokens.

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

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

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

25 **§362. License required**

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

32 **§363. Administration and enforcement**

33 The Chief of the State Police and the director shall  
34 administer and enforce the provisions of this chapter as  
35 specified in this chapter.

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

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

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

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

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

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

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

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

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

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

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

22 (3) The use of obscene advertising;

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

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

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

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

35 C. Direct the director to disable any video lottery  
36 terminal if the Chief of the State Police has reason to  
37 believe that:

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- (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 director**

**1. Powers.** In addition to powers conferred by any other provision of law, the director may:

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

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

**2. Duties.** The director shall:

A. Develop, install and test a central computer system with polling to all licensed video lottery terminals to provide auditing program information. The communications system may not limit participation to only one manufacturer of video lottery terminals by either the cost in implementing the necessary program modifications to communicate or the inability to communicate with the central communications system;

B. Maintain and monitor the central computer system to 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



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- 2 violation of this chapter or the rules adopted under this  
3 chapter;
- 4 D. Cause the central computer system to disable a video  
5 lottery terminal as directed by the Chief of the State  
6 Police in accordance with section 364;
- 8 E. Collect funds due the State under section 383 and  
9 deposit them in the Video Lottery Fund established in  
10 section 384;
- 12 F. Immediately notify the Chief of the State Police of the  
13 failure of any distributor to comply with section 383;
- 14 G. Certify monthly to the Treasurer of State, the State  
15 Lottery Commission and the Commissioner of Administrative  
16 and Financial Services full and complete statement of all  
17 video lottery terminal revenue, credits disbursed by  
18 licensees, administrative expenses and the allocation of net  
19 terminal income for the preceding month;
- 22 H. Submit an annual report to the Governor and the joint  
23 standing committee of the Legislature having jurisdiction  
24 over legal affairs of video lottery terminal revenue,  
25 credits disbursed by licensees, administrative expenses and  
26 the allocation of net terminal income for the preceding year;
- 28 I. Prepare and submit to the Commissioner of Administrative  
29 and Financial Services a budget for the program's  
30 administration; and
- 32 J. Cooperate with the Chief of the State Police in  
33 implementing and enforcing the provisions of this chapter.

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

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

40 **SUBCHAPTER II**

42 **LICENSING**

44 **§371. License to operate**

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

2        2. Qualifications for individual license. An individual  
3 may be issued a license to operate a video lottery terminal if  
4 the individual is eligible for a license under subsection 1 and  
5 the individual:

6            A. Is of good moral character, determined pursuant to  
7 subsection 4;

10           B. Is current in payment of all taxes, interest and  
11 penalties owed to the State or to a municipality, excluding  
12 items under formal dispute or appeal pursuant to applicable  
13 statutes or ordinances;

14           C. Has not been convicted of a crime punishable by one year  
15 or more of imprisonment in any jurisdiction unless at least  
16 10 years have passed since satisfactory completion of the  
17 sentence or probation imposed by the court for the crime;

18           D. Has not been convicted of a violation of this chapter or  
19 chapter 14;

20           E. Is not a fugitive from justice, a drug abuser, a drug  
21 addict, a drug-dependent person, an illegal alien, or a  
22 person who was dishonorably discharged from the military  
23 forces within 5 years prior to the date of application;

24           F. Has completed the application form and complied with the  
25 requirements of section 374;

26           G. Has sufficient financial assets to meet the financial  
27 obligations imposed by this chapter and a method acceptable  
28 to the Chief of the State Police for meeting those  
29 obligations; and

30           H. Has not knowingly made a false statement of material  
31 fact to the Chief of the State Police in applying for a  
32 license under this chapter or chapter 14.

33        3. Qualifications for partnership, corporation or  
34 association license. A partnership may be licensed to operate a  
35 video lottery terminal if the partnership is eligible for a  
36 license under subsection 1 and the partnership was organized in  
37 this State, the partnership meets the qualifications of  
38 subsection 2, paragraphs B to G and each partner of the  
39 partnership meets all the requirements of subsection 2. A  
40 corporation or association may be licensed to operate a video  
41 lottery terminal if the association or corporation is eligible  
42 for a license under subsection 1 and the corporation or  
43 association was organized in this State, the corporation or  
44 association

2 association meets the qualifications of subsection 2, paragraphs  
3 B to G and each officer, director and owner of any interest of  
4 the corporation or association meets all the requirements of  
5 subsection 2.

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

11 A. Information of record relative to incidents of abuse by  
12 the applicant of family or household members, provided  
13 pursuant to Title 19, section 770, subsection 1;

14 B. Information of record relative to convictions of the  
15 applicant for crimes punishable by imprisonment for less  
16 than one year or adjudications of the applicant for juvenile  
17 offenses involving conduct that, if committed by an adult,  
18 are punishable by imprisonment for less than one year;

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

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

23 E. Information of record regarding charges against the  
24 applicant for any crime in any jurisdiction.

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

31 6. Placement of terminals. No more than 3 video lottery  
32 terminals may be placed on each premise for which a license to  
33 operate a video lottery terminal is issued. A terminal may not  
34 be placed in any location other than the premises of the  
35 licensee. A terminal must be placed in an area of the premises  
36 separated by a physical barrier from any part of the premises not  
37 dedicated to the operation of video lottery terminals. This area  
38 must be clearly labelled as an area that persons under the age of  
39 21 may not enter. The area must be located and designed to  
40 permit the licensee or an agent of the licensee to see and  
41 control the area at all times to ensure compliance with the  
42 provisions of this chapter.

2           7. Uniform location agreement. Each video lottery terminal  
3           must be subject to a uniform location agreement between the  
4           distributor and the licensee. A copy of the agreement must be  
5           submitted to the Chief of the State Police.

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8           §372. Licensing of terminals

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

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15           2. Requirements for license. To be licensed, a video  
16           lottery terminal:

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

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

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

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

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

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

39           G. Must have accounting software that keeps an electronic  
40           record of information that includes, but is not limited to,  
41           the following: total cash inserted into the terminal; total  
42           credits awarded by the terminal, total credits played for  
43           the terminal; and total credits played for the terminal.  
44           the terminal.

2 video games and total credits distributed by tickets made by  
3 the terminal's printer; and the payback percentage of each  
4 video game; and

5 H. Must be linked to the central communications system  
6 developed under sections 364 and 365 to provide auditing  
7 program information.

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

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16 4. Examination of prototypes. The Chief of the State  
17 Police and the Attorney General shall examine prototypes of video  
18 lottery terminals and associated equipment of manufacturers  
19 seeking a license as required in this chapter. The Chief of the  
20 State Police shall require the manufacturer seeking the  
21 examination and approval of the video lottery terminal or  
22 associated equipment to pay the anticipated actual cost of the  
23 examination before the examination occurs. After the examination  
24 occurs, the Chief of the State Police shall refund overpayments  
25 or charge and collect amounts sufficient to reimburse the Chief  
26 of the State Police for underpayments of actual cost. The Chief  
27 of the State Police may contract for the examinations of video  
28 lottery terminals and associated equipment as required by this  
29 section.

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

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

39 §373. Licensing of manufacturer, distributor, wholesaler

40  
41 1. Qualifications. To be licensed as a video lottery  
42 terminal manufacturer, distributor or wholesaler, a person must  
43 meet the qualifications set forth in section 371, excluding  
44 subsection 1. A video terminal distributor must also be a  
45 resident of the State for at least 2 years before application and  
46 at least 50% of the ownership interest in the distributor must be  
47 held by individuals who have been residents of the State for at  
48 least 2 years before application. Any individual applying for a  
49 license, any partner of a partnership, or any officer, director  
50 or manager of a corporation, shall be a resident of the State for

2 or holder of any ownership interest of a corporation or  
3 association applying for a license as a manufacturer, distributor  
4 or wholesaler must submit to a background investigation by the  
5 Chief of the State Police to verify the applicant's compliance  
6 with the requirements of section 371, excluding subsection 1.

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

13 §374. Applications

14 1. Form. An application for a license required under this  
15 chapter must be on the form provided by the Chief of the State  
16 Police. The application must be signed by the individual  
17 applicant or by a duly authorized officer of the partnership,  
18 corporation or association applying for the license. The  
19 application must contain the following information regarding the  
20 individual applicant and each officer, director, partner or owner  
21 of any interest in a corporation, partnership or association  
22 applying for a license:

23 A. Full name;

24 B. Full current address and addresses for the prior 5 years;

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

27 D. Answers to the following questions posed in  
28 substantially the following form:

29 (1) "Is there a formal charging instrument now pending  
30 against you in this or any other jurisdiction for a  
31 crime that is punishable by imprisonment for one year  
32 or more?"

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

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

- 2                   (4) "Are you a fugitive from justice?"
- 4                   (5) "Are you a drug abuser, drug addict or  
6                   drug-dependent person?"
- 8                   (6) "Have you been dishonorably discharged from the  
10                   military forces within the past 5 years?"
- 12                   (7) "Are you an illegal alien?"
- 14                   (8) "To your knowledge, have you been the subject of  
16                   an investigation by any law enforcement agency within  
18                   the past 5 years regarding the alleged abuse by you of  
20                   family or household members?"
- 22                   (9) "Have you been convicted within the past 5 years  
24                   of crimes punishable by imprisonment of less than one  
26                   year?"
- 28                   (10) "Have you been adjudged within the past 5 years  
30                   to have committed juvenile offenses involving conduct  
32                   that, if committed by an adult, would be punishable by  
34                   imprisonment of less than one year?"
- 36                   (11) "To your knowledge, have you engaged within the  
38                   past 5 years in reckless or negligent conduct that has  
40                   been the subject of an investigation by a governmental  
42                   entity?"

34                   2. Signature as certification. The applicant, by affixing  
36                   the applicant's signature to the application, certifies the  
38                   following:

- 40                   A. That the statements made in the application and any  
42                   documents made a part of the application are true and  
44                   correct;
- 46                   B. That the applicant understands that an affirmative  
48                   answer to one or more of the questions in subsection 1,  
                    paragraph D, subparagraphs (3) to (7) is cause for refusal;
- C. That the applicant understands that the answers to  
                    questions in subsection 1, paragraph D are used by the Chief  
                    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

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

6  
8           3. Consent to review records. At the request of the Chief  
          of the State Police, the applicant shall take whatever action is  
10           necessary to permit the Chief of the State Police to examine  
          accounts and records in the applicant's possession, under the  
12           applicant's control or under the control of 3rd persons but  
          accessible by consent of the applicant, and must authorize all  
14           3rd parties in possession or in control of those accounts or  
          records to allow the Chief of the State Police or a designee to  
16           examine the accounts and records as the Chief of the State Police  
          determines necessary to ascertain:

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

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

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

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

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

42           §375. Fees; term of license; transferability

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

46           A. A license for a video lottery terminal manufacturer is  
48           \$5,000;

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



2 C. A license for a video lottery terminal distributor is  
3 \$1,000; and

4 D. A license to operate a video lottery terminal is \$100  
5 per terminal.

6  
7 In addition to the annual license fee, the Chief of the State  
8 Police may charge a one-time application fee for a license  
9 described in paragraph A, B or C in an amount equal to the actual  
10 cost of processing the application and performing any background  
11 investigations, but not to exceed \$500. All fees collected  
12 pursuant to this section must be deposited directly to the  
13 General Fund.

14  
15 2. Term of license. All licenses issued by the Chief of  
16 the State Police under this chapter are effective for one year  
17 and are renewable annually, unless sooner revoked pursuant to  
18 section 376.

19  
20 3. Nontransferable. A license issued under this chapter is  
21 not transferable or assignable.

22  
23 §376. Actions relating to licenses

24  
25 1. Suspension or revocation of license; refusal to renew.  
26 The Chief of the State Police may refuse to renew a license after  
27 a hearing in accordance with the Maine Administrative Procedure  
28 Act. The Administrative Court may suspend or revoke a license  
29 issued under this chapter. The Chief of the State Police may  
30 refuse to renew a license and the Administrative Court may revoke  
31 or suspend a license for just cause, including any of the  
32 following:

33  
34 A. The person made or caused to be made a false statement  
35 of material fact in obtaining a license under this chapter  
36 or in connection with service rendered within the scope of  
37 the license issued;

38  
39 B. The person or the person's agent violated any provision  
40 of this chapter or any rule adopted under this chapter; or

41  
42 C. The holder of a license under this chapter becomes  
43 ineligible to hold that license.

44  
45 2. Ineligibility period following refusal to issue or renew  
46 or revocation of license. A person may not apply to the Chief of  
47 the State Police for any license under this chapter less than 2  
48 years after the Chief of the State Police refused to issue or

2 renew a license under this chapter or less than 2 years after the  
3 Administrative Court revoked a license issued to the person under  
4 this chapter.

6 SUBCHAPTER III

8 TERMINAL OPERATION; ALLOCATION OF FUNDS

10 §381. Limits on terminal use

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

16 2. Age of player. A licensee may not permit a person under  
17 21 years of age to play a video lottery terminal.

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

24 §382. Payment of credits by licensee

26 A licensee shall redeem credits for players who earn credits  
27 on terminals located on the premises of that licensee, in  
28 accordance with rules adopted jointly by the Chief of the State  
29 Police and the director. If a person receives a credit  
30 redeemable for more than \$500, the licensee shall require the  
31 person to complete a form listing the person's name, address and  
32 social security number. The licensee shall promptly send the  
33 form to the Bureau of Taxation.

34 §383. Allocation of funds

36 1. Distributor responsible. A video lottery terminal  
37 distributor shall collect and allocate funds from video lottery  
38 terminals owned by the distributor in accordance with this  
39 section.

42 2. Allocation of net machine income. The distributor shall  
43 allocate net machine income among the State, the video lottery  
44 terminal distributor and the licensee as follows.

46 A. Until June 30, 1993, the State's percentage of net  
47 machine income is 40%, the distributor's percentage of net  
48 machine income is 35% and the licensee's percentage of net  
machine income is 25%.

2 B. From July 1, 1993 to June 30, 1994, the State's  
4 percentage of net machine income is 45%, the distributor's  
percentage of net machine income is 30% and the licensee's  
6 percentage of net machine income is 25%.

8 C. On and after July 1, 1994, the State's percentage of net  
machine income is 50%, the distributor's percentage of net  
10 machine income is 25% and the licensee's percentage of net  
machine income is 25%.

12 3. Priority of payment to State. If funds collected from a  
14 video lottery terminal are not sufficient to pay the amounts due  
the State, the distributor and the licensee, the distributor  
16 shall reduce the amount allocated to the distributor, the  
licensee or both. The distributor may not reduce the amount  
18 allocated to the State.

20 4. Deposit of state funds. Each distributor shall maintain  
a bank account accessible by the State for the deposit of funds  
22 owed to the State under this chapter. The distributor shall  
deposit in that account the State's share of the net terminal  
24 income attributable to terminals owned by the distributor during  
the first 15 days of each month not later than the 22nd day of  
26 the month. The distributor shall deposit in that account the  
State's share of net terminal income attributable to terminals  
28 owned by the distributor between the 16th and the last day of  
each month not later than the 7th day of the next month. If the  
30 day on which funds must be deposited is not a business day, the  
funds must be deposited on the next business day after that date.

32 5. Failure to deposit funds. A distributor who fails to  
34 comply with this section commits a Class C crime. The license of  
that person may be revoked by the Administrative Court and the  
36 terminals to which the undeposited funds are attributable may be  
disabled by the director at the direction of the Chief of the  
38 State Police.

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

44 §384. Video Lottery Fund

46 1. Fund created. There is created and established a  
separate fund to be known as the "Video Lottery Fund" to be  
48 deposited in such depositories as the Treasurer of State may  
select. The fund consists of all revenue payable to the State  
pursuant to section 383 and all other money credited or

2 transferred to the fund from any other fund or source pursuant to  
3 law.

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

6 A. For expenses incurred in implementing or enforcing this  
7 chapter; and

8 B. For payment to the General Fund.

9 3. Committee review of allocation. The director shall  
10 submit to the joint standing committee of the Legislature having  
11 jurisdiction over legal affairs for review all proposals for  
12 allocations from the Video Lottery Fund. The proposed  
13 allocations for each fiscal year must be submitted by the first  
14 of January preceding the start of the fiscal year.

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

16 Section 335 applies to the use of proceeds from video  
17 lottery terminals by any organization eligible to receive a  
18 license under section 332, except that the organization is not  
19 prohibited from using the proceeds to pay salaries, wages or  
20 remuneration to its employees. An organization eligible to  
21 receive a license under section 332 must file with the Chief of  
22 the State Police a disposition of funds form prescribed by the  
23 Chief of the State Police detailing the disposition of proceeds  
24 received from video lottery terminals. Every statement on the  
25 form must be made under oath by an officer of the organization.

26 **SUBCHAPTER IV**

27 **ENFORCEMENT AND PENALTIES**

28 **§391. Reports; records**

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

34 2. Location. A license holder shall maintain all records  
35 required by this chapter or by rules adopted under this chapter  
36 at the primary business office within this State of the license  
37 holder or on the premises where the video lottery terminal is  
38 operated. In the case of a video lottery terminal manufacturer  
39 or wholesaler, the records must be maintained at the primary  
40 business office of the manufacturer or wholesaler. The primary  
41 business office of the manufacturer or wholesaler. The primary  
42 business office of the manufacturer or wholesaler. The primary  
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49 business office of the manufacturer or wholesaler. The primary  
50 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 director or the designee of either of them and a license holder may not refuse the Chief of the State Police, the 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 before the Superior Court to show cause why that witness should not be adjudged in contempt. The court shall, in a summary manner, hear the evidence and, if it is such as to warrant the court to do so, punish the witness in the same manner and to the same extent as for contempt committed before the Superior Court or with reference to the process of the Superior Court.

**§394. Violations**

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

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

**B. Permitting a person to play a video lottery terminal licensed pursuant to this chapter at a time other than**

2 during the legal hours for the on-premises consumption of  
3 liquor.

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

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

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

11 C. Manufacturing, distributing, selling, operating or  
12 placing a video lottery terminal for use in this State  
13 without a license; or

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

16 3. Class D crimes by any person. A person who violates any  
17 provision of this chapter or any rule adopted under this chapter  
18 for which a specific penalty is not provided commits a Class D  
19 crime.

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

21 4. Notice of violation of video lottery law. A liquor  
22 enforcement officer who notices a violation of any provision of  
23 Title 17, chapter 16 shall promptly notify the Chief of the State  
24 Police of the violation.

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

26 **§807. Notice to Chief of the State Police**

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

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

33 C. A municipality may not combine a permit to operate a  
34 video lottery terminal, as defined in Title 17, section 361,  
35 with any other permit. The fee for a permit to operate a  
36 video lottery terminal may not be higher than the fee for  
37 any other special entertainment permit issued by the  
38 municipality.

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2           **Sec. 11. Property tax program benefit.** Notwithstanding any law  
to the contrary, the benefit payable to a claimant under the  
4           Maine Revised Statutes, Title 36, chapter 907 in fiscal year  
1992-93 is increased by 20%, except that a nonelderly claimant  
6           may not receive a total benefit greater than the maximum payment  
established in Title 36, section 6207, subsection 1.

8  
10           **Sec. 12. Working capital advance.** The State Controller is  
authorized to advance to the Department of Administrative and  
12           Financial Services, Bureau of Alcoholic Beverages and Lottery  
Operations, Video Lottery Fund, \$250,000 from the General Fund  
14           unappropriated surplus, to be used for any necessary start-up  
costs associated with the implementation of a system of video  
16           lottery terminals in the State pursuant to the Maine Revised  
Statutes, Title 8, section 372, subsection 2 and Title 17,  
18           chapter 16 after July 1, 1992. Funds advanced for this purpose  
must be returned to the General Fund unappropriated surplus no  
later than June 30, 1993.

20           **Sec. 13. Costs not funded.** Notwithstanding the Maine Revised  
22           Statutes, Title 30-A, section 5684, any requirements of this Act  
that result in additional costs to local or county government are  
24           not state mandates subject to that section and the State is not  
required to fund those costs.

26           **Sec. 14. Appropriation.** The following funds are appropriated  
28           from the General Fund to carry out the purposes of this Act.

30		1992-93
32	<b>PUBLIC SAFETY, DEPARTMENT OF</b>	
34	<b>State Police</b>	
36	<b>Licensing Division</b>	
38	Positions - Legislative Count	(5.0)
	Personal Services	\$234,612
40	All Other	30,000
	Capital Expenditures	57,836
42		<hr/>
	TOTAL	\$322,448
44		
46	Provides funds for 3	
	Detective positions and 2	
48	Clerk Typist II positions,	
	effective July 1, 1992, to	
	perform the background check	

2 and . licensing of video  
 lottery terminal  
 4 manufacturers, wholesalers,  
 distributors and operators.  
 6 General Fund revenues from  
 license fees are projected to  
 be \$514,000 in fiscal year  
 8 1992-93.

10 **Liquor Enforcement**

12	Positions - Legislative Count	(2.0)
	Personal Services	\$73,429
14	All Other	12,405
	Capital Expenditures	36,554
16		
	<b>TOTAL</b>	<b>\$122,388</b>

18 Provides funds for 2 additional Liquor  
 20 Enforcement Officer positions, beginning  
 July 1, 1992, to perform the necessary  
 22 oversight of video lottery terminal  
 licensees.

24 **DEPARTMENT OF PUBLIC SAFETY**  
 26 **TOTAL** \$444,836

28 **Sec. 15. Allocation.** In order to provide for the necessary  
 expenses of operation and administration of the Department of  
 30 Administrative and Financial Services, Video Lottery Operations,  
 the following amounts, or as much as may be necessary, are  
 32 allocated from the revenues derived from operations of the Video  
 Lottery Fund.

34 **1992-93**

36 **ADMINISTRATIVE AND FINANCIAL**  
 38 **SERVICES, DEPARTMENT OF**

40 **Lottery Operations -**  
**Video Lottery Terminals**

42	Positions - Legislative Count	(2.0)
44	Personal Services	\$64,553
	All Other	1,075,800

46 Provides funds for a Project  
 48 Coordinator position and an  
 Accountant II position to  
 50 fulfill the mandated



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

responsibilities of the  
lottery, as well as  
contracted telecommunications  
costs, cost of legal services  
provided by the Attorney  
General and other operating  
and administrative expenses.

DEPARTMENT OF ADMINISTRATIVE  
AND FINANCIAL SERVICES  
TOTAL \$1,140,353

FISCAL NOTE

1992-93

APPROPRIATIONS/ALLOCATIONS

General Fund \$444,836  
Other Funds 1,140,353

REVENUES

General Fund \$10,944,647

This bill includes General Fund appropriations of \$444,836 and allocations from the Video Lottery Fund of \$1,140,353 in fiscal year 1992-93. The net increase of General Fund revenue is estimated to be \$10,944,647 in fiscal year 1992-93, which includes a projected decrease in General Fund revenue from current lottery operations of \$2,505,000. Lottery revenues may recover slowly in subsequent years.

In addition to the above revenues, a substantial but undeterminable amount of additional income tax revenue will result from proceeds received by machine distributors and operators and expanded employment opportunities.

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

The bill authorizes a \$250,000 working capital advance from the General Fund unappropriated surplus to the Bureau of the Lottery in fiscal year 1992-93. This advance must be repaid by the end of fiscal year 1992-93. This advance may reduce General Fund revenue from interest income by an undetermined amount.

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

6 Sentences imposed for a Class C crime must be served in a  
8 state correctional institution. The cost per sentence is \$40,640  
based upon an average length of stay of one year and 9 months.

10 Sentences imposed for a Class D offense must be served in a  
12 county jail facility. The projected cost to a county for each  
person sentenced under the new Class D crime is approximately  
14 \$7,140 and is based upon an average length of stay of about 119  
days.

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

20  
22 **STATEMENT OF FACT**

24 The amendment makes the following changes in the bill:

26 1. Increases the State's share of net terminal income from  
25% to 40% in the first fiscal year, 45% in the 2nd year and 50%  
28 in the 3rd and subsequent years;

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

34 3. Requires all terminals to be linked to a central  
36 computer system providing information to the State, to be  
developed and monitored by the Director of the Bureau of  
38 Alcoholic Beverages and Lottery Operations, except that terminals  
may be linked to a dial-up system for the first 6 months  
40 terminals are in operation;

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

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

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

2           7. Requires terminals to be placed in an area physically  
4 separated from other areas of the premises and requires the area  
6 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           8. Clarifies that the payback value of at least 80% must be  
10 achieved for each type of game offered by each terminal;

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

16           10. Authorizes the Chief of the State Police to issue  
18 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;

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

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

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

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

38           15. Permits the Chief of the State Police to have a  
40 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; and

42           16. Distributes revenue raised by the video lottery  
44 terminals in the first fiscal year to persons entitled to a  
benefit under the Maine Residents Property Tax Program.

46           The Department of Corrections has prepared the following  
48 correctional impact statement on the original bill pursuant to  
the Maine Revised Statutes, Title 34-A, section 1402: "L.D.  
50 1135, 'An Act Allowing the Operation of Video Lottery Terminals'

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

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."

Reported by the majority for the Committee on Appropriations and Financial Affairs. Reproduced and Distributed Pursuant to Senate Rule 12.  
(3/29/92) (Filing No. S-745)