

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

Legislative Document

No. 1891

H.P. 1389

House of Representatives, April 3, 1996

An Act to Clarify the Gambling Laws of Maine.

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative BUCK of Yarmouth. (GOVERNOR'S BILL)
Cosponsored by Representatives: CHIZMAR of Lisbon, CLUKEY of Houlton, Senators:
CLEVELAND of Androscoggin, MILLS of Somerset, STEVENS of Androscoggin.

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

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4 **Sec. 1. 17 MRSA §330, sub-§2**, as repealed and replaced by PL 1977, c. 350, §1, is repealed and the following enacted in its place:

6 **2. Game of chance.** "Game of chance" means any game,
8 contest, scheme or device in which:

10 A. A person stakes or risks something of value for the opportunity to win something of value;

12 B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and

14 C. Chance enters as an element that influences the outcome in a manner that can not be eliminated through the application of skill.

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20 For the purposes of this subsection, "an event the result of which is determined by chance" includes but is not limited to a shuffle of a deck or decks of cards, a roll of a die or dice or a random drawing or generation of an object or objects that may include, but are not limited to, a card or cards, a die or dice, a number or numbers or simulations of any of these. A shuffle of a deck or decks of cards, a roll of a die or dice, a random drawing or generation of an object or objects or some other event the result of which is determined by chance that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance. For purposes of this chapter, beano and bingo are not games of chance.

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32 **Sec. 2. 17 MRSA §330, sub-§2-A**, as enacted by PL 1983, c. 225, §1, is repealed and the following enacted in its place:

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36 **2-A. Game of skill.** "Game of skill" means any game,
38 contest, scheme or device in which a person stakes or risks something of value for the opportunity to win something of value and that is not a game of chance.

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44 **Sec. 3. 17 MRSA §343**, as amended by PL 1983, c. 705, §8, is further amended by adding at the end a new paragraph to read:

46 The Chief of the State Police shall provide a mechanism for individuals and businesses to request a determination from the State Police as to whether a particular game, contest, scheme or device qualifies as a game of chance or a game of skill.

2 the Bureau of Alcoholic Beverages and Lottery Operations to the
3 General Fund from a reduction in lottery instant game ticket
4 sales. Beginning in fiscal year 1996-97, the potential annual
5 losses that will be avoided are estimated to be \$75,000 of
6 dedicated revenue and as much as \$8,000,000 of net transfers to
7 the General Fund. A potential fiscal year 1995-96 reduction in
8 transfers to the General Fund will also be avoided. The amount
9 avoided will depend on how early and widespread the video games
10 are distributed and can not be determined at this time.

11 The additional costs associated with providing a
12 predetermination mechanism can be absorbed by the Department of
13 Public Safety utilizing existing budgeted resources.

16 SUMMARY

17 This bill clarifies the definitions of "game of chance" and
18 "game of skill" in Maine's gambling laws. The bill is intended
19 to reverse the outcome of the Maine Superior Court case,
20 Sylvester v. State of Maine, Superior Court Docket Nos. CV-93-686
21 and 94-412 (York County, December 19, 1995) in which the court
22 ruled that a tournament video machine was a game of skill under
23 the Maine Revised Statutes, Title 17, section 330, subsection
24 2-A. This bill clarifies that the Legislature intends that
25 tournament video machines and similar games, contests, schemes or
26 devices are games of chance prohibited by the laws of Maine.

27
28 Currently, the defining element of a game or contest of
29 chance is that the outcome depends in a material degree on an
30 element of chance. Under this bill, the defining element is
31 whether chance influences the outcome in a way that can not be
32 overcome by the application of skill. The bill clarifies that
33 the flip of a coin or other event involving chance may be used to
34 establish the order of play among contestants without causing a
35 game to be considered a game of chance.

36
37 This bill also establishes a mechanism for individuals and
38 businesses to request a predetermination of whether a game,
39 contest, scheme or device is a game of skill or a game of chance,
40 in order to assist private citizens to comply with the law.

41
42 Finally, the bill calls for the Chief of the State Police to
43 notify licensees, incorporated civic organizations and the Maine
44 Gaming Association of the passage of the bill and the
45 availability of the predetermination mechanism.