

MAINE STATE LEGISLATURE

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LEGAL AND VETERANS AFFAIRS

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**STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 624, L.D. 1827, Bill, "An Act to Authorize the Operation of Video Gaming Terminals by Certain Nonprofit Organizations"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 8 MRSA §372, sub-§2, ¶I, as repealed and replaced by PL 1993, c. 349, §23, is amended to read: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; and

Sec. 2. 8 MRSA §372, sub-§2, ¶J, as enacted by PL 1991, c. 780, Pt. Y, §112, is amended to read:

J. Assign duties as necessary to a designee; and

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

K. Carry out the duties assigned to the director under Title 17, chapter 16, including developing and maintaining a central computer system to monitor licensed video gaming terminals and coordinating and cooperating with the Chief of the State Police in implementing and enforcing that chapter.

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

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

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

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

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

22 **6. Engaged in reckless or negligent conduct.** "Engaged in
24 reckless or negligent conduct" means that the applicant, either
26 consciously disregarding or failing to be aware of a risk that
28 the applicant's conduct would cause such a result, engaged in
30 conduct that in fact created a substantial risk of death, serious
32 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
 gross deviation from the standard of conduct that a reasonable
 and prudent person would observe in the same situation.

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

40 **8. Fugitive from justice.** "Fugitive from justice" means a
42 person described in Title 15, section 201, subsection 4 or 18
44 United States Code, Section 921, Subsection (a), Paragraph 15 or
 a person subject to an outstanding warrant of arrest in this
 State or any other jurisdiction for a crime punishable by
 imprisonment for one year or longer.

46 **9. Illegal gaming machine.** "Illegal gaming machine" or
48 "illegal machine" means a machine as defined in section 330 that:

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2 A. Is required to be licensed under this chapter, but is
not so licensed;

4 B. Is required to be licensed under chapter 14, but is not
so licensed; or

6 C. Is licensed under either chapter 14 or this chapter, but
8 is being operated in a manner that violates the license.

10 10. Licensee. "Licensee" means a person licensed by the
12 Chief of the State Police to operate a video gaming terminal.

14 11. Net terminal income. "Net terminal income" means money
inserted into a video gaming terminal minus credits paid out in
16 cash.

18 12. Operate. "Operate" means to offer for use.

20 13. Payback value. "Payback value" means the value of
credits granted to players by a video gaming terminal compared to
22 the value of money inserted into the terminal by players,
calculated on an annual basis.

24 14. Person. "Person" means an individual, corporation,
26 association or partnership.

28 15. Uniform location agreement. "Uniform location
agreement" means a written agreement between a licensee and a
30 video gaming terminal distributor that governs the terms and
conditions of the placement of video gaming terminals on the
32 premises of the licensee and that is on a form developed by the
Chief of the State Police.

34 16. Video gaming terminal. "Video gaming terminal" means a
machine that, upon insertion of coin or currency, is available to
36 play or simulate the play of a video game authorized by the Chief
of the State Police, including but not limited to poker, keno,
38 blackjack and line games utilizing a video display and
microprocessor, in which by chance the player may receive free
40 games or credits that may be redeemed for cash.

42 17. Video gaming terminal distributor. "Video gaming
terminal distributor" means a person who owns video gaming
44 terminals and who distributes or places video gaming terminals or
associated equipment for use in this State.

46 18. Video gaming terminal manufacturer. "Video gaming
terminal manufacturer" means a person who assembles or produces
48 video gaming terminals or associated equipment for sale or use in
50 this State.

2 19. Video gaming terminal wholesaler. "Video gaming
4 terminal wholesaler" means a person who sells video gaming
 terminals or associated equipment for distribution in this State.

6 **§362. License required**

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

14 **§363. Administration and enforcement**

16 The Chief of the State Police and the director shall
18 administer and enforce the provisions of this chapter as
 specified in this chapter.

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

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

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

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

32 C. Adopt rules necessary to administer and enforce this
34 chapter, including the power to jointly adopt rules with the
 State Lottery Commission. These rules are routine technical
 rules pursuant to Title 5, chapter 375, subchapter II-A;

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

40 E. Approve or disapprove terms and conditions of uniform
42 location agreements.

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

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

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2 B. Adopt rules, which are routine technical rules pursuant
4 to Title 5, chapter 375, subchapter II-A, to prevent
6 undesirable conduct relating to the operation of video
8 gaming terminals, including the following:

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

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

20 (3) The use of obscene advertising;

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

26 (5) The infiltration of organized crime into the
28 operation of video gaming terminals or into the
30 distribution of the terminals;

32 (6) The presence of disorderly persons in a location
34 where video gaming terminals are in use; and

36 (7) The use of the word "casino" to describe any video
38 gaming terminal licensed under this chapter or as the
40 name or any part of the name of the licensed premises
42 or of a portion of the premises where the video gaming
44 terminal is located;

46 C. Direct the director to disable any video gaming terminal
48 if the Chief of the State Police has reason to believe that:

50 (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;

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

(4) The licensee is guilty of criminal conduct; and

D. In accordance with the Maine Administrative Procedure
Act develop industry standards for uniform location
agreements to be used as the basis of agreements between
distributors and licensees.

§365. Powers and duties of director

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

4 A. Propose to the State Lottery Commission for adoption
5 rules necessary to administer and enforce this chapter,
6 including rules to be adopted jointly with the Chief of the
7 State Police. These rules are routine technical rules
8 pursuant to Title 5, chapter 375, subchapter II-A; and

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

19 2. Duties. The director shall:

20 A. Develop, install and test a central computer system with
21 continuous on-line polling to all licensed video gaming
22 terminals to provide auditing program information. The
23 communications system may not limit participation to only
24 one manufacturer of video gaming terminals by either the
25 cost in implementing the necessary program modifications to
26 communicate or the inability to communicate with the central
27 communications system;

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

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

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

39 E. Collect funds due the State under section 383 and
40 deposit them in the Video Gaming Fund established in section
41 384;

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

4 G. Certify monthly to the Treasurer of State, the State
Lottery Commission and the Commissioner of Administrative
6 and Financial Services a full and complete statement of all
8 video gaming terminal revenue, credits disbursed by
licensees, administrative expenses and the allocation of net
10 terminal income for the preceding month;

12 H. Submit by January 15th an annual report to the Governor
and the joint standing committee of the Legislature having
14 jurisdiction over gaming matters. The report must include
information on video gaming terminal revenue, credits
16 disbursed by licensees, administrative expenses and the
allocation of net terminal income for the preceding year;

18 I. Prepare and submit to the Commissioner of Administrative
and Financial Services a budget for the program's
20 administration; and

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

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

26 Except as expressly provided in this chapter, chapter 14
28 does not apply to video gaming terminals. Section 335 relating
to use of proceeds applies to the use of net terminal income by
30 licensees under this chapter.

32 **SUBCHAPTER II**

34 **LICENSING**

36 **§371. License to operate**

38 1. Eligible entities. The Chief of the State Police may
issue a license to operate video gaming terminals to a person who:

40 A. Is eligible for a license to conduct games of chance
42 pursuant to section 332;

44 B. Is exempt from federal taxation under the Internal
Revenue Code, section 501(c)(3), (501(c)(4), 501(c)(8),
46 501(c)(10) or 501(c)(19); and

48 C. Owns or leases the premises upon which the video gaming
terminals will be located and uses those premises to fulfill
50 the primary charitable or nonprofit purpose of the
organization. If the premises are leased, the lease must
52 run for a term longer than the license term.

2 Notwithstanding paragraph B, an organization that holds a license
4 under section 332 to operate an electronic video machine on the
6 effective date of this chapter is eligible to apply for a license
8 under this section to operate video gaming terminals for up to 18
10 months, provided the organization applies for federal tax status
12 as specified in paragraph B. If the Chief of the State Police
14 determines that the organization is making a good faith effort to
16 secure the required tax status and is likely to be given such
status, the Chief of the State Police may extend the term of the
license for an additional 6 months to allow the United States
Internal Revenue Service time to complete processing the
application for tax status. If the organization applied for such
status and was rejected within 3 years of the effective date of
this section, that organization is not eligible under this
subsection.

18 2. Qualifications for license. A person may be issued a
20 license to operate a video gaming terminal if the person is
22 eligible for a license under subsection 1, has sufficient
24 financial assets to meet the financial obligations imposed by
26 this chapter and a method acceptable to the Chief of the State
Police for meeting those obligations and the individual and each
officer, director or partner of the corporation, association or
partnership:

28 A. Has not been convicted in Maine or any other
30 jurisdiction of a misdemeanor crime of domestic violence,
within the meaning of 18 United States Code, Section 921,
Subsection (a), Paragraph (33);

32 B. Does not have a formal charging instrument pending in
34 Maine or any other jurisdiction for a misdemeanor crime of
domestic violence, within the meaning of 18 United States
Code, Section 921, Subsection (a), Paragraph (33);

36 C. Has not been convicted in Maine or any other
38 jurisdiction within the past 3 years of 3 or more crimes
40 punishable by imprisonment for less than one year, if those
convictions arose from different criminal episodes;

42 D. Has not engaged within the past 3 years in reckless or
44 negligent conduct that is substantiated by information of
record by a governmental entity;

46 E. Is current in payment of all taxes, interest and
48 penalties owed to the State or to a municipality, excluding
items under formal dispute or appeal pursuant to applicable
statutes or ordinances;

50

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2 F. Has not been involved in any criminal activity and has
3 not been convicted of a crime punishable by one year or more
4 of imprisonment in any jurisdiction unless at least 10 years
5 have passed since satisfactory completion of the sentence or
6 probation imposed by the court for the crime;

7 G. Has not been convicted of a violation of this chapter or
8 chapter 14 or of equivalent laws in any other state;

9 H. Has not been adjudicated within the past 3 years of
10 having committed a juvenile offense involving conduct that,
11 if committed by an adult, would cause the Chief of the State
12 Police to refuse to approve a license application under this
13 section;

14 I. Is not a fugitive from justice, a drug abuser, a drug
15 addict, a drug-dependent person, an illegal alien or a
16 person who was discharged from the Armed Forces under
17 dishonorable conditions within 3 years prior to the date of
18 application;

19 J. Has completed the application form and complied with the
20 requirements of section 375; and

21 K. Has not knowingly made a false statement of material
22 fact to the Chief of the State Police in applying for a
23 license under this chapter or chapter 14.

24 **3. Local approval of application for license.** The Chief of
25 the State Police may not issue a license to operate a video
26 gaming terminal until the initial application for the license is
27 first approved by the municipal officers of the municipality in
28 which the applicant's premises are located or, if the premises
29 are located in an unincorporated place, until the application is
30 approved by the county commissioners of the county in which the
31 unincorporated place is located.

32 **4. Hearing process.** The municipal officers or, in the case
33 of an unincorporated place, the county commissioners of the
34 county in which the unincorporated place is located may hold a
35 public hearing for the consideration of the applications for new
36 video gaming terminal licenses. The municipal officers or county
37 commissioners may hold a public hearing for the consideration of
38 requests for renewal of licenses.

39 A. The Chief of the State Police shall prepare and supply
40 application forms.

41 B. The municipal officers or the county commissioners shall
42 provide, at the applicant's prepaid expense, public notice
43

2 of a hearing held under this section by causing a notice
4 stating the time and place of hearing to appear at least 6
6 consecutive days before the date of the hearing in a daily
8 newspaper having general circulation in the municipality
where the premises are located or 2 consecutive weeks before
the date of the hearing in a weekly newspaper having general
circulation in the municipality where the premises are
located.

10 C. In granting or denying an application, the municipal
12 officers or the county commissioners shall indicate the
14 reasons for their decision and provide a copy to the
applicant.

16 **§372. Placement and ownership of terminals**

18 1. Number of terminals; location. No more than 5 video
20 gaming terminals may be placed on the premises of a licensee. A
22 terminal may not be placed in any location other than the
24 premises of the licensee. A licensee must own or control the
premises on which a video gaming terminal is located. The
terminal area must be 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.

26 2. Uniform location agreement. Each location must be
28 subject to a uniform location agreement between the distributor
30 and the licensee. A copy of the agreement must be submitted to
32 the Chief of the State Police. The Chief of the State Police may
34 approve or disapprove any uniform location agreement. If the
36 uniform location agreement is disapproved, the Chief of the State
Police must provide written reasons for the denial. The uniform
location agreement is the complete and sole agreement between the
licensee and the distributor regarding video gaming terminals.
No other agreement between the licensee and the distributor is
legally binding.

38 3. Appeal to commissioner. Any distributor or licensee
40 denied approval of a uniform location agreement may appeal the
42 decision of the Chief of the State Police to the Commissioner of
44 Public Safety. The commissioner shall hold a hearing to include
the distributor, the licensee and the Chief of the State Police
or the chief's designee before rendering a decision on the
appeal. The commissioner shall render a decision within 30 days
of the hearing.

46 4. Disclosure of other contracts and agreements. A
48 distributor shall disclose to the Chief of the State Police any
50 other contracts or agreements that the distributor or a
subsidiary of the distributor has made with a licensee.

2 5. Incentives prohibited. A distributor may not offer an
3 incentive to a licensee to accept placement of a video gaming
4 terminal on the premises of the licensee and a licensee may not
5 solicit such an incentive. For purposes of this subsection,
6 "incentive" means any consideration, including merchandise, a
7 premium or bonus in cash or an advance payment of the licensee's
8 share of net terminal income. "Incentive" does not include the
9 licensee's share of net terminal income provided for in section
10 383. A person who violates this subsection is guilty of a Class
11 C crime and that person's license, if any, is revoked and the
12 right to apply for a license under this chapter is precluded.

14 6. Ownership of terminals. A person may not place or
15 operate a video gaming terminal for use in this State if the
16 terminal is owned by a person other than a video gaming terminal
17 distributor licensed under this chapter. A video gaming terminal
18 distributor may not own more than 300 video gaming terminals
19 licensed in this State or more than 15% of the total number of
20 video gaming terminals licensed in this State, whichever is
21 lesser.

22 §373. Licensing of terminals

24 1. License required. A video gaming terminal may not be
25 placed for public use or operated in this State unless the
26 terminal is licensed by the Chief of the State Police. The
27 terminal license must be prominently displayed on the terminal.
28 Language describing the odds of winning the game and warning of
29 the danger of compulsive gambling must also be prominently
30 displayed on the terminal.

32 2. Requirements for license. To be licensed, a video
33 gaming terminal:

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

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

38 C. May not directly dispense coins, cash or tokens;

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

42 E. Must be designed to suspend operation until reset if a
43 person attempts, by physical or other tampering, to obtain
44 credits without paying;

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

8 G. Must be capable of printing a ticket voucher stating the
10 value of the credits for the player at the end of play; the
12 time of day in 24-hour format showing hours and minutes; the
 date; the terminal's serial number; the sequential number of
 the ticket vouchers; and an encrypted validation number from
 which the validity of the credits may be determined;

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

22 I. Must be linked to the central communications system
24 developed under sections 364 and 365 to provide auditing
 program information.

26 3. Amount of play; payback value. A video gaming terminal
28 may be played for a maximum of \$2 in a single game. A video
30 gaming terminal may not accept more than \$10 at a time. The
32 maximum prize awarded may not exceed the value of \$1,000. The
 payback value of each type of game offered by each terminal must
 be at least 90%.

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

2 5. Illegal gaming machine. An illegal gaming machine is
3 subject to seizure and forfeiture to the State pursuant to
4 sections 395 and 396.

6 §374. Licensing of manufacturer, distributor, wholesaler

8 1. Qualifications. To be licensed as a video gaming
9 terminal manufacturer, distributor or wholesaler, a person must
10 meet the qualifications set forth in section 371, subsection 2.
11 Employees of video gaming terminal distributors involved in
12 distribution, maintenance and service of video gaming terminals
13 must meet the qualifications set forth in section 371, subsection
14 2, paragraphs A, B, C, D, F, G, H and I.

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

22 3. Limitation on ownership. A partnership, corporation,
23 person, individual partner or shareholder of more than 5% of a
24 corporation or an immediate family member of a person, individual
25 partner or shareholder of more than 5% of a corporation may not
26 have ownership interests in more than one distributor. For the
27 purposes of this subsection, "immediate family" means a spouse,
28 child, parent, stepchild or stepparent.

30 §375. Applications; investigation

32 1. Form. An application for a license required under this
33 chapter must be on the form provided by the Chief of the State
34 Police. The application must be signed by the individual
35 applicant or by a duly authorized officer of the partnership,
36 corporation or association applying for the license. The
37 application must contain, but is not limited to, the following
38 information regarding the individual applicant and each officer,
39 director, partner or owner of any interest in a corporation,
40 partnership or association applying for a license:

42 A. Full name;

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

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

48 D. Answers to the following questions posed in
50 substantially the following form:

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2 (1) "Is there a formal charging instrument now pending
4 against you in this or any other jurisdiction for a
6 crime that is punishable by imprisonment for one year
 or more or for a misdemeanor crime of domestic
 violence?"

8 (2) "Is there a formal charging instrument now pending
10 against you in this or any other jurisdiction for a
12 juvenile offense that involves conduct that, if
14 committed by an adult, would be punishable by
 imprisonment for one year or more or would constitute a
 misdemeanor crime of domestic violence?"

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

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

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

24 (6) "Have you been discharged from the Armed Services
26 under dishonorable circumstances within the past 5
 years?"

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

30 (8) "Have you been convicted within the past 3 years
32 of 3 or more crimes punishable by imprisonment of less
 than one year?"

34 (9) "Have you been adjudged within the past 3 years to
36 have committed 3 or more juvenile offenses involving
 conduct that, if committed by an adult, would be
 punishable by imprisonment of less than one year?"

38 (10) "To your knowledge, have you engaged within the
40 past 3 years in reckless or negligent conduct that is
42 substantiated by the records of a governmental entity?"

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

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

2 B. That the applicant understands that an affirmative
3 answer to one or more of the questions in subsection 1,
4 paragraph D is cause for refusal; and

6 C. That the applicant understands that knowingly making any
7 false statement in the application or any document made a
8 part of the application is grounds for a refusal to issue a
9 license or for revocation or suspension of a license.

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

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

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

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

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

36 **4. Investigations; national criminal history record check.**
37 Any individual applying for a license, any partner of a
38 partnership or any officer, director or holder of any ownership
39 interest of a corporation or association applying for a license
40 as a licensee, manufacturer, distributor or wholesaler must
41 submit to a background investigation by the Chief of the State
42 Police to verify the applicant's compliance with the requirements
43 of section 371, subsection 2. In order to determine the
44 eligibility of an applicant for a license under this chapter, the
45 Chief of the State Police shall require the applicant to furnish
46 a full set of fingerprints to enable a criminal background
47 investigation to be conducted. The Chief of the State Police
48 shall submit the fingerprints to the Federal Bureau of
49 Investigation for a national criminal history record check.

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

8
10 **§376. Fees; term of license; transferability**

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

14 A. A license for a video gaming terminal manufacturer is a
16 Level 1 license and the fee for a video gaming terminal
 manufacturer license is \$5,000;

18 B. A license for a video gaming terminal wholesaler is a
20 Level 1 license and the fee for a video gaming terminal
 wholesaler license is \$5,000;

22 C. A license for a video gaming terminal distributor is a
24 Level 2 license and the fee for a video gaming terminal
 distributor license is \$2,500; and

26 D. A license to operate a video gaming terminal is a Level
28 3 license and the fee for a video gaming terminal operator
 is \$100 per terminal.

30 In addition to the annual license fee, the Chief of the State
32 Police may charge a one-time application fee for a license issued
34 under this chapter in an amount equal to the actual cost of
 processing the application and performing any background
 investigations. All fees collected pursuant to this section must
 be deposited directly to the Video Gaming Fund.

36 2. Term of license. All licenses issued by the Chief of
38 the State Police under this chapter are effective for one year
40 and are renewable annually, unless sooner revoked pursuant to
 section 377.

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

46 **§377. Actions relating to licenses**

48 1. Refusal to renew license. The Chief of the State Police
50 may refuse to renew a license for just cause, after a hearing in
 accordance with the Maine Administrative Procedure Act.

2. Suspension of license by the Chief of the State Police.

2 The Chief of the State Police may suspend a license issued under
3 this chapter, for just cause, for a period of up to 180 days.
4 The license may be suspended under this subsection only if the
5 Chief of the State Police receives a written statement made under
6 oath from a law enforcement officer establishing probable cause
7 for the suspension. The Chief of the State Police shall
8 immediately notify the licensee in writing of the suspension and
9 the date the suspension is to take effect. If the licensee
10 wishes to have a hearing, the licensee must notify the
11 Administrative Court in writing within 20 days of the date of the
12 suspension. If a hearing is requested, the license remains
13 suspended pending the outcome of the hearing.

14 **3. Suspension or revocation of license by the**
15 **Administrative Court.** The Administrative Court may suspend or
16 revoke a license issued under this chapter for just cause.

17 **4. Just cause.** As used in this section, "just cause"
18 includes:

19 A. Making or causing to be made a false statement of
20 material fact in obtaining a license under this chapter or
21 in connection with service rendered within the scope of the
22 license issued;

23 B. Violating or having an agent who violated any provision
24 of this chapter or any rule adopted under this chapter; or

25 C. Becoming ineligible to hold that license.

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

33 **SUBCHAPTER III**

34 **TERMINAL OPERATION; ALLOCATION OF FUNDS**

35 **§381. Limits on terminal use**

36 **1. Hours of play.** A licensee may not permit a person to
37 play a video gaming terminal at any time other than a time when
38 the sale of liquor is permissible under Title 28-A, section 4,
39 subsection 1.

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

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

8 4. Play by members and guests; public events. Except as
10 provided in this subsection, only persons who are members of the
licensee organization or guests of those members may play a video
12 gaming terminal on the premises of the licensee. The licensee
may obtain a license to offer the video gaming terminals for
14 public use once every 6 months for a period not to exceed 3
consecutive days.

16 **§382. Payment of credits by licensee**

18 A licensee shall redeem credits for players who earn credits
20 on terminals located on the premises of that licensee in
accordance with rules adopted jointly by the Chief of the State
22 Police and the director. If a person receives a credit
redeemable for more than the amount required by federal law to be
24 reported to the United States Internal Revenue Service, the
licensee shall require the person to complete a form listing the
26 person's name, address and social security number. The licensee
shall promptly send the form to the Bureau of Revenue Services.

28 **§383. Allocation of funds**

30 1. Distributor responsible. A video gaming terminal
32 distributor shall collect and allocate funds from video gaming
terminals owned by the distributor in accordance with this
34 section.

36 2. Allocation of net terminal income. Funds must be
allocated as follows:

38 A. Thirty-three and one-third percent must be sent to the
40 Treasurer of State for deposit in the Video Gaming Fund
created in section 384;

42 B. Thirty-three and one-third percent must be paid to the
44 distributor that owns the machine; and

46 C. Thirty-three and one-third percent must be paid to the
48 licensee.

50 3. Priority of payment to State. If funds collected from a
video gaming terminal are not sufficient to pay the amounts due

2 the State, the distributor and the licensee, the distributor
4 shall reduce the amount allocated to the distributor, the
6 licensee or both. The distributor may not reduce the amount
8 allocated to the State.

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

34 5. Use of state share. At the end of each fiscal year
36 beginning after June 30, 1998, the Treasurer of State shall
38 transfer to the Local Government Fund created in Title 30-A,
40 section 5681 an amount equal to 15% of the state share of net
42 terminal income derived from video gaming terminals during that
44 fiscal year, net of state administrative costs. The State shall
46 spend 5% of the state share of net terminal income, net of state
48 administrative costs, for the treatment of compulsive gambling to
50 be offered by the Department of Mental Health, Mental Retardation
and Substance Abuse Services. Thirty days after the end of each
fiscal year, the Treasurer of State shall transfer to the General
Fund all unexpended amounts of the previous fiscal year's
revenues to the Local Government Fund, except those needed to
fund 2 months of expenses for administering this chapter.

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

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

§384. Video Gaming Fund

1. Fund created. There is created and established a
separate fund to be known as the Video Gaming Fund and to be
deposited in depositories the Treasurer of State selects. The
fund consists of all revenue payable to the State pursuant to

2 sections 376 and 383 and all other money credited or transferred
3 to the fund from any other fund or source pursuant to law.

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

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

10 B. For payment to the Local Government Fund pursuant to
11 section 383; and

12 C. For payment to the General Fund.

14 3. Committee review of allocation. The Commissioner of
16 Administrative and Financial Services and the Commissioner of
17 Public Safety shall submit to the joint standing committee of the
18 Legislature having jurisdiction over gaming matters for review
19 all proposals for allocations from the Video Gaming Fund. The
20 proposed allocations for each fiscal year must be submitted by
21 January 1st preceding the start of the fiscal year.

22 SUBCHAPTER IV

24 ENFORCEMENT AND PENALTIES

26 §391. Reports; records

28 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
36 required by this chapter or by rules adopted under this chapter
37 at the primary business office within this State of the license
38 holder or on the premises where the video gaming terminal is
39 operated. In the case of a video gaming terminal manufacturer or
40 wholesaler, the records must be maintained at the primary
41 business office of the manufacturer or wholesaler. The primary
42 business office must be designated by the license holder in the
43 license application. All records must be open to inspection by
44 the Chief of the State Police, the director or the designee of
45 either of them and a license holder may not refuse the Chief of
46 the State Police, the director or the designee of either of them
47 the right to inspect or audit the records. Refusal to permit
48 inspection or audit of the records is not a crime under this
49 chapter but does constitute grounds for revocation of the license.
50

§392. Access to premises, equipment, records

2
4 A person holding a license under this chapter shall permit
6 the Chief of the State Police or the chief's designee to inspect
8 any equipment, prizes, records or items and materials used or to
10 be used in the operation of any video gaming terminal
12 manufactured, owned, distributed or operated by that person. A
14 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.

16 **§393. Contempt**

18 If a witness refuses to obey a subpoena issued by the Chief
20 of the State Police or to give any evidence relevant to proper
22 inquiry by the chief, the Attorney General may petition the
24 Superior Court in the county where the refusal occurred to find
26 the witness in contempt. The Attorney General shall cause to be
28 served on the witness an order requiring that witness to appear
30 before the Superior Court to show cause why that witness should
32 not be adjudged in contempt. The court shall, in a summary
34 manner, hear the evidence and, if it is such as to warrant the
36 court to do so, punish the witness in the same manner and to the
38 same extent as for contempt committed before the Superior Court
40 or with reference to the process of the Superior Court.

30 **§394. Violations**

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

36 A. Permitting a person under 21 years of age to play a
38 video gaming terminal licensed pursuant to this chapter;

40 B. Permitting a person to play a video gaming terminal
42 licensed pursuant to this chapter at a time other than a
44 time when the sale of liquor is permissible under Title
46 28-A, section 4, subsection 1;

48 C. Extending credit to a person in order for the person to
play a video gaming terminal;

D. Permitting a person to use a credit card as a method of
payment for playing a video gaming terminal; and

2 E. Permitting a visibly intoxicated person to play a video
lottery terminal.

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

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

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

14 C. Manufacturing, distributing, selling, operating or
placing a video gaming terminal for use in this State
16 without a license or manufacturing, distributing, selling,
operating or placing an illegal terminal for use in this
18 State; and

20 D. Placing for public use or operating an unlicensed video
gaming terminal in this State.

22
24 **3. Class D crimes by any person.** A person who violates any
provision of this chapter or any rule adopted under this chapter
26 for which a specific penalty is not provided commits a Class D
crime.

28 **§395. Seizure and forfeiture of illegal gaming machines**

30 **1. Forfeiture.** An illegal gaming machine, including any
monetary contents, is subject to forfeiture to the State.

32
34 **2. Court jurisdiction.** An illegal gaming machine and any
monetary contents may be declared forfeited by any court that has
36 jurisdiction over the illegal machine or final jurisdiction over
any related criminal proceeding brought under this chapter or by
38 the Superior Court for Kennebec County. Property subject to
forfeiture may be kept or stored at any location within the
40 territorial boundaries of the State and is subject to the
authority of any court in which a petition seeking the forfeiture
of that property is filed.

42
44 **3. Procedure.** Forfeitures under this section must be
accomplished by the following procedure.

46 A. A district attorney or the Attorney General may petition
the Superior Court in the name of the State in the nature of
48 a proceeding in rem to order forfeiture of an illegal gaming
machine and any monetary contents. The petition must be
50 filed in the court having jurisdiction over the property.

2 B. The proceeding is an in rem civil action, in which the
4 State has the burden of proving all material facts by a
 preponderance of the evidence.

6 C. The court shall order the State to give notice of the
8 pendency of the action and the right to be heard by
10 certified or registered mail or hand delivered by a deputy
12 sheriff to any person who appears to have an interest in the
14 illegal machine and any monetary contents. Receipt by a
 person then licensed to operate a motor vehicle in the State
 is presumed when notice is mailed to the last known address
 of that person on file with the Department of the Secretary
 of State, Bureau of Motor Vehicles.

16 D. The court shall promptly, but not less than 2 weeks
18 after notice, hold a hearing on the petition after an answer
20 is filed by a person served with notice under paragraph C.
 At the hearing, the court shall hear evidence and make
 findings of fact and enter conclusions of law.

22 E. Based on the findings and conclusions, the court shall
24 issue a final order from which the parties have a right of
26 appeal. The final order must provide for disposition of the
28 illegal gaming machine and any monetary contents by the
30 State. Any revenue generated by the disposition of the
32 illegal machine and any monetary contents of the machine
 must be used to pay the reasonable expenses of the
 forfeiture proceedings, seizure, storage, maintenance of
 custody, advertising and notice. The balance, if any, must
 be deposited in the General Fund.

34 4. Records. Any law enforcement officer, department or
36 agency having custody of an illegal gaming machine or any
38 monetary contents of an illegal gaming machine, or having
40 disposed of the illegal gaming machine or any monetary contents,
42 shall keep and maintain during the pendency of the action full
44 and complete records in accordance with this subsection. Upon
 issuance by the court of a final order ordering the disposition,
 destruction or return of the illegal machine or the monetary
 contents, the officer, department or agency shall transmit a copy
 of those records to the Department of Public Safety for inclusion
 into a centralized record.

46 A. The records must show:

48 (1) From whom the illegal machine and any monetary
 contents were received;

2 (2) Under what authority the illegal machine and any
monetary contents are held, received or disposed of;

4 (3) To whom the illegal machine and any monetary
contents are delivered;

6 (4) The date and manner of destruction or disposition
8 of the illegal machine; and

10 (5) The exact kinds, quantities and forms of illegal
12 gaming machines and the exact amount of any monetary
contents of any machine held in custody or disposed of.

14 B. The records must be open to inspections by all federal
16 and state officers authorized by the laws of the United
States, a state or territory of the United States or a
18 foreign nation to investigate or prosecute gambling laws.

20 C. The Department of Public Safety is responsible for
22 maintaining a centralized record of illegal machines
seized. At least quarterly, the department shall provide a
24 report of the disposition of property previously held by the
department to the Commissioner of Administrative and
26 Financial Services and the legislative Office of Fiscal and
Program Review. These records must include an estimate of
the fair market value of items seized.

28 5. Report to the court. Persons making final disposition
30 or destruction of an illegal gaming machine or its monetary
contents under court order shall report, under oath, to the court
32 the exact circumstances of the destruction or disposition.

34 6. Seizure. An illegal gaming machine together with any
monetary contents is contraband and may be seized by any law
36 enforcement officer pursuant to subsection 7 or 8.

38 7. Process for seizure. At the request of the State ex
40 parte, the court may issue any preliminary order or process
necessary to seize or secure the property for which forfeiture is
sought and provide for its custody.

42 A. Process for seizure of the property may issue only upon
44 a showing of probable cause. The application for process
for seizure of the property and the issuance, execution and
46 return of the process are subject to the provisions of
applicable state law.

48 B. Any property subject to forfeiture under this section
50 may be seized upon process.

2 8. Seizure without process. Seizure without process may be
3 made when seizure is incident to a legal search or inspection if
4 the law enforcement officer has probable cause to believe the
5 property seized is an illegal gaming machine.

6 §396. Criminal forfeiture

8 1. Forfeiture upon conviction of violation.
9 Notwithstanding any other provision of law, a person convicted of
10 a violation of this chapter forfeits to the State all rights,
11 privileges, interests and claims to property that is subject to
12 forfeiture pursuant to section 395. All rights, privileges,
13 interest and title in property subject to forfeiture under this
14 section vest in the State upon the commission of the act giving
15 rise to forfeiture pursuant to section 395.

16 2. Proceeding by indictment. Property subject to
17 forfeiture that is not yet the subject of a final order pursuant
18 to section 395 may be proceeded against by indictment or
19 superseding indictment of the grand jury in any related criminal
20 proceeding in which one or more persons with an interest in the
21 property have been simultaneously indicted for one or more
22 violations of this chapter. At any time prior to trial, the
23 State, with the consent of the court and any defendant with an
24 interest in the property, may file an ancillary charging
25 instrument or information alleging that that property is subject
26 to criminal forfeiture. Upon commencement of a criminal
27 forfeiture by indictment or information of any property that may
28 be the subject of any pending civil action commenced pursuant to
29 section 395, the civil action must be immediately stayed and
30 subrogated to the criminal forfeiture action. Discovery in the
31 criminal action must be as provided by the Maine Rules of
32 Criminal Procedure.

34 3. Seizure upon finding of probable cause. Property subject
35 to forfeiture that has not already been seized but has been
36 indicted by the grand jury pursuant to this section may also be
37 ordered seized based upon the grand jury's finding of probable
38 cause pursuant to section 395.

40 4. Trial against property. Trial against property charged
41 by indictment or information may be by jury and must be held in a
42 single proceeding together with the trial of the related criminal
43 violation. Forfeiture of the property must be proved by the
44 State by a preponderance of the evidence. The court, in its
45 discretion, may allow any defendant with an interest in property
46 indicted pursuant to this section to waive the right to trial by
47 jury as against the property while preserving the right to trial
48 by jury of any crime alleged. At trial by jury, the court, upon
49 motion of a defendant or the State, may separate the trial of the
50 property from the trial of the defendant.

2 matter against the defendant from the trial of the matter against
3 the property subject to criminal forfeiture. If the court
4 bifurcates the jury trial, the court shall first instruct and
5 submit to the jury the issue of the guilt or innocence of
6 defendants to be determined by proof beyond a reasonable doubt
7 and shall restrict argument of counsel to those issues. After a
8 verdict upon the guilt or innocence of all defendants, the court
9 shall instruct and submit to the jury the issue of the forfeiture
10 of the property to be determined by proof by a preponderance of
11 the evidence and the court shall restrict argument to those
12 issues. A special verdict must be returned as to the extent of
13 the interest in property subject to forfeiture, if any.

14 5. Person interested in forfeited property. A person not
15 charged in the indictment may not intervene in the criminal
16 action. Following the entry of a verdict of forfeiture of
17 property pursuant to this section or the entry of a guilty plea
18 in open court on the record, the State shall provide written
19 notice of its intent to dispose of the property to any person
20 known to have alleged an interest in the property. The notice
21 may be by certified, return receipt mail or as otherwise ordered
22 by the court. Receipt by a person then licensed to operate a
23 motor vehicle in the State is presumed when notice is mailed to
24 the last known address of that person on file with the Department
25 of the Secretary of State, Bureau of Motor Vehicles. A person
26 other than the defendant asserting a legal interest in the
27 property within 30 days of the date of receipt of the notice may
28 petition the court for a hearing to adjudicate the validity of
29 any alleged interest in the property. The hearing must be held
30 before the court without jury. The request for the hearing must
31 be signed by the petitioner under penalty of perjury and must
32 state the nature and extent of the petitioner's right, title or
33 interest in the property, the time and circumstances of the
34 petitioner's acquisition of the right, title or interest in the
35 property, any additional facts supporting the petitioner's claim
36 and the relief sought. Upon the filing of any petition for
37 hearing, the court shall schedule the hearing as soon as
38 practicable, but in no event later than 6 months after the
39 petition is filed or after the sentencing of any defendant
40 convicted upon the same indictment. The court shall issue or
41 amend a final order of forfeiture in accordance with its
42 determination if, after the hearing, the court determines that
43 the petitioner has established by a preponderance of the evidence
44 that:

45 A. The petitioner has a legal right, title or interest in
46 the property and the right, title or interest renders the
47 order of forfeiture invalid in whole or in part because the
48 right, title or interest was vested in the petitioner rather
49 than any defendant or was superior to any right, title or
50 interest in the property.

2 interest to the exclusion of any defendant at the time of
3 the commission of the acts that gave rise to the forfeiture
4 of the property under this section; and

5 B. The petitioner is a bona fide purchaser for value of the
6 right, title or interest in the property and was at the time
7 of purchase reasonably without cause to believe that the
8 property was subject to forfeiture under this section.

9 6. Title to property following forfeiture. Following the
10 entry of a verdict of forfeiture of property pursuant to this
11 section or the entry of a guilty plea in open court on the
12 record, the State has clear title to property that is the subject
13 of the indictment or information and order of forfeiture and may
14 order all or a portion of the property forfeited to the State to
15 be disposed of pursuant to section 395.

16
17 **§397. Payment to the Attorney General**

18
19 As provided in Title 5, section 203, the Bureau of the State
20 Police shall pay the Attorney General from the Video Gaming Fund
21 for legal services provided pursuant to this chapter.

22
23 **§398. Implementation**

24
25 A video gaming terminal may not be operated under this
26 chapter before April 1, 1999.

27
28 **§399. Rules**

29
30 Rules adopted pursuant to this chapter are routine technical
31 rules pursuant to Title 5, chapter 375, subchapter II-A.

32
33 **Sec. 9. 25 MRSA §3902, sub-§4** is enacted to read:

34
35 **4. Notice of violation of video gaming terminal laws.** A
36 liquor enforcement officer who notices a potential violation of
37 any provision of Title 17, chapter 16 shall promptly notify the
38 Chief of the State Police of the potential violation.

39
40 **Sec. 10. 28-A MRSA §807** is enacted to read:

41
42 **§807. Notice to Chief of the State Police**

43
44 The commission shall notify the Chief of the State Police of
45 the suspension or revocation of any license issued under this
46 chapter. The commission shall also notify the Chief of the State
47 Police of any investigation of a violation of any provision of
48 this Title.

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

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

Sec. 12. Working capital advances. The State Controller is authorized to advance from the General Fund Unappropriated Surplus the following amounts to be used for any necessary start-up costs associated with the implementation of a system of video gaming terminals in the State pursuant to the Maine Revised Statutes, Title 8, section 372, subsection 2 and Title 17, chapter 16: \$128,925 to the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, Video Lottery Fund; \$565,896 to the Department of Public Safety, Bureau of State Police; and \$77,177 to the Department of the Attorney General. Funds advanced for this purpose must be returned to the General Fund Unappropriated Surplus from the first \$771,998 received by the State under Title 17, section 383 after the reductions for the Local Government Fund and for treatment of compulsive gambling required by Title 17, section 383, subsection 5. If all the funds advanced for this purpose have not been returned to the General Fund Unappropriated Surplus by June 30, 1999, return of the remaining balance may be delayed until January 1, 2000.

Sec. 13. Allocation. The following funds are allocated from the Video Gaming Fund to carry out the purposes of this Act.

1998-99

**ADMINISTRATIVE AND FINANCIAL SERVICES,
DEPARTMENT OF**

**Bureau of Alcoholic Beverages
and Lottery Operations -
Video Gaming Terminals**

Positions - Legislative Count	(1.000)
Personal Services	\$7,425
All Other	121,500

Provides funds for one Clerk IV position and other costs necessary for administering the revenues collected for the Video Gaming Fund from licensed video gaming terminals.

FISCAL NOTE

1998-99

APPROPRIATIONS/ALLOCATIONS

Other Funds \$771,998

REVENUES

General Fund (\$238,298)
Other Funds 771,998

The State's share of the net terminal income from video gaming machines to be deposited into the Video Gaming Fund is estimated to be \$450,000 in fiscal year 1998-99, \$2,712,102 in fiscal year 1999-2000 and \$3,160,000 in fiscal year 2000-01. For fiscal year 1998-99 only, because the initial total start-up costs of \$771,998 to regulate video gaming machines are greater than the partial-year revenues of \$651,600 that will be collected, the General Fund will not receive any additional revenue and this bill will result in a net reduction of General Fund revenue. In addition, no additional funds will be generated for municipal revenue sharing and for the treatment of compulsive gambling in fiscal year 1998-99. However, after funding the administrative and enforcement expenses, providing funds for municipal revenue sharing and for compulsive gambling treatment and accounting for reductions in General Fund revenue from lottery ticket sales, this bill will generate net additional General Fund revenue of \$297,999 in fiscal year 1999-2000 and \$575,909 in fiscal year 2000-01.

The components of these revenue estimates include projected decreases in General Fund revenue from lottery ticket sales of \$117,450, \$792,248 and \$796,050 in fiscal years 1998-99, 1999-2000 and 2000-01, respectively. These estimates also include Video Gaming Fund revenue from license fees of \$201,600 in fiscal year 1998-99 and \$110,000 annually beginning in fiscal year 1999-2000. In addition to these revenues, a substantial but undeterminable amount of additional income tax revenue will result from the amounts distributed to machine distributors and operators and the expanded employment opportunities.

The bill authorizes a total working capital advance of \$771,998 to the Department of Administrative and Financial Services, the Department of Public Safety and the Department of the Attorney General from the General Fund Unappropriated Surplus. These advances must be repaid from the first \$771,998 collected by the State from video lottery machines. Since the total costs for fiscal year 1998-99 will exceed the projected

COMMITTEE AMENDMENT "A" to S.P. 624, L.D. 1827

revenue total of \$651,150 by \$120,398, the working capital advance will not be completely repaid until fiscal year 1999-2000. This will result in a negative adjustment to balance - General Fund in fiscal year 1998-99 of \$120,398 and a positive adjustment to balance - General Fund in fiscal year 1999-2000 of \$120,398. The Video Gaming Fund will experience equal but opposite adjustments to balance in the same fiscal years.

As a result of additional revenues generated by the Video Gaming Fund, the Local Government Fund will receive an additional \$204,421 and \$257,242 in fiscal years 1999-2000 and 2000-01, respectively, for municipal revenue sharing.

As a result of revenues generated by the Video Gaming Fund, the Department of Mental Health, Mental Retardation and Substance Abuse Services will receive additional Other Special Revenue of \$68,140 and \$85,747 in fiscal years 1999-2000 and 2000-01, respectively, for the treatment of compulsive gambling.

The Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services will require an initial Other Special Revenue allocation from the Video Gaming Fund of \$128,925 in fiscal year 1998-99 for the costs of administering the revenues collected for the Video Gaming Fund from licensed video gaming terminals. The estimated future costs in fiscal years 1999-2000 and 2000-01 will be approximately \$765,958 and \$855,759, respectively.

The Department of the Attorney General will require an additional Video Gaming Fund allocation of \$77,177 in fiscal year 1998-99 for one Assistant Attorney General position and one secretarial position to handle the additional workload. The estimated future costs in fiscal years 1999-2000 and 2000-01 will be \$83,090 and \$87,156, respectively.

The Department of Public Safety will require an additional Video Gaming Fund allocation of \$565,896 in fiscal year 1998-99 for a State Police Lieutenant position, a State Police Sergeant position, 2 Public Safety Inspector I positions, a Clerk Typist III position, a Clerk Typist II position and general operating expenses to carry out the enforcement activities of this Act. The estimated future costs in fiscal year 1999-2000 and 2000-01 will be \$500,246 and \$502,136, respectively.

This bill may increase prosecutions for Class C and D crimes. For Class C crimes, sentences of more than 9 months imposed for Class C crimes must be served in state correctional institutions. The cost to the State per sentence is \$59,803 based upon an average length of stay of 2 years and 3 months. The State also must reimburse counties for sentences served in

COMMITTEE AMENDMENT "A" to S.P. 624, L.D. 1827

2 county jails of 9 months or less for Class C crimes. For Class D
3 crimes, if a jail sentence is imposed, the additional costs to
4 the counties are estimated to be \$86.45 per day per prisoner.
5 These costs are not reimbursed by the State. The number of
6 prosecutions that may result in a jail sentence and the resulting
7 costs to the county jail system are expected to be insignificant.

8 The Judicial Department may require additional General Fund
9 appropriations to cover indigent defense costs related to these
10 new cases. The amounts can not be estimated at this time. The
11 additional workload and administrative costs associated with the
12 minimal number of new cases filed in the court system can be
13 absorbed within the budgeted resources of the Judicial
14 Department. The collection of additional fines may also increase
15 General Fund revenue by minor amounts.'

16

18 **SUMMARY**

20

21 This amendment replaces the bill. It allows operation of
22 video gaming terminals by nonprofit organizations that are
23 eligible for games of chance licenses and that are exempt from
24 federal tax under Internal Revenue Code sections 501(c)(3),
25 501(c)(4), 501(c)(8), 501(c)(10) and 501(c)(19). These sections
26 of the tax code refer to charitable organizations, civic leagues,
27 fraternal benefit societies, domestic fraternal societies and
28 association,; and veterans organizations. Organizations that
29 currently have licenses for electronic video machines but do not
30 qualify under one of those code sections may apply for an initial
31 license while they seek the required federal tax status. The
32 organization applying for the license must own or lease the
33 premises on which the terminals will be placed and must use the
34 premises for their charitable or nonprofit purpose.

34

35 Video gaming terminal manufacturers, distributors,
36 wholesalers and operators must be licensed by the Chief of the
37 State Police, following background investigations of the
38 applicants and their major business partners. Local approval is
39 required for a license to operate video gaming terminals.

40

41 The license specifies the number of terminals allowed on a
42 premise, and the maximum number of terminals allowed is 5 per
43 licensee. Terminals must be licensed by the Chief of the State
44 Police and must be connected to a computer system operated by the
45 Director of the State Lottery. This computer system must provide
46 continuous on-line monitoring of video gaming terminal activity.
47 Persons under 21 are not allowed to use the machines. Only
48 members of the organization and their guests are allowed to play,
49 except that the organization may obtain a license to offer the
50 machines for public use once every 6 months for a period of 3

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2 consecutive days. The maximum dollar amount for each play is \$2
and the maximum payout is \$1,000. Each game on each machine must
4 return at least 90% of wagers to players, calculated on an annual
basis.

6 A single distributor may not own more than 300 machines or
15% of the total number of machines in the state, whichever is
8 less. A person may not hold more than one type of license, e.g.,
a distributor may not also be a licensee or a manufacturer.

10 Net terminal income, which is income after payback to
12 players, is divided as follows: 33-1/3% to the State for payment
of administrative expenses, municipal revenue sharing, compulsive
14 gambling treatment and General Fund revenue; 33-1/3% to the
distributor; 33-1/3% to the licensee.

16 Licenses are issued for one year. Applicants for an initial
18 license must pay the actual costs of processing the application
and performing the background investigation. Terminal operation
20 may not begin before April 1, 1999.

22 The amendment also adds a fiscal note, appropriation section
and allocation section.
24