

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

No. 1827

S.P. 624

In Senate, April 28, 1997

**An Act to Authorize the Operation of Video Gaming Terminals by
Certain Nonprofit Organizations.**

Received by the Secretary of the Senate on April 17, 1997. Referred to the Committee on Legal and Veterans Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DAGGETT of Kennebec.
Cosponsored by Representative DUNLAP of Old Town and
Senators: CATHCART of Penobscot, FERGUSON of Oxford, MICHAUD of Penobscot,
NUTTING of Androscoggin, Representatives: MUSE of South Portland, TRUE of Fryeburg.

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

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4 **Sec. 1. 8 MRSA §372, sub-§2, ¶I**, as repealed and replaced by PL 1993, c. 349, §23, is amended to read:

6 I. Carry on a continuous study and investigation of the
8 lotteries throughout the State and the operation and
10 administration of similar laws that may be in effect in
12 other states or countries; and

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

18 J. Assign duties as necessary to a designee; and

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

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

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

36 K. The manner and amount of compensation to be paid
38 licensed sales agents necessary to provide for the adequate
40 availability of tickets or shares to prospective buyers and
42 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

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

54 M. Rules to administer and enforce Title 17, chapter 16,
56 which may be adopted jointly with the Chief of the State
58 Police. These rules are routine technical rules pursuant to
60 Title 5, chapter 375, subchapter II-A.

2 petition or other formal written accusation against a person for
3 some criminal or juvenile offense.

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

6 9. Gray area machine. "Gray area machine" means a machine
7 that is similar to the type of video gaming terminal that has
8 been legalized for gambling by the Chief of the State Police but
9 in fact has not been licensed and authorized by the Chief of the
10 State Police.

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

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

16 12. Operate. "Operate" means to offer for use exclusively
17 by members and guests of an entity.

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

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

33 15. Uniform location agreement. "Uniform location
34 agreement" means a written agreement between a licensee and a
35 video gaming terminal distributor that governs the terms and
36 conditions of the placement of video gaming terminals on the
37 premises of the licensee and that is on a form developed by the
38 Chief of the State Police.

39 16. Video gaming terminal. "Video gaming terminal" means a
40 machine that, upon insertion of coin or currency, is available to
41 play or simulate the play of a video game authorized by the Chief
42 of the State Police, including but not limited to poker, keno,
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2 blackjack and line games utilizing a video display and
3 microprocessor, in which by chance the player may receive free
4 games or credits that may be redeemed for cash. "Video gaming
5 terminal" does not include a machine that directly dispenses
6 coins, cash or tokens.

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

11 18. Video gaming terminal manufacturer. "Video gaming
12 terminal manufacturer" means a person who assembles or produces
13 video gaming terminals or associated equipment for sale or use in
14 this State.

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

18 **§362. License required**

19 A person may not manufacture, distribute, sell, operate or
20 place a video gaming terminal for use in this State unless the
21 person is licensed to do so by the Chief of the State Police. An
22 entity may not place for use or operate a video gaming terminal
23 in this State unless the machine is licensed by the Chief of the
24 State Police.

25 **§363. Administration and enforcement**

26 The Chief of the State Police and the director shall
27 administer and enforce the provisions of this chapter as
28 specified in this chapter.

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

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

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

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

36 C. Adopt rules necessary to administer and enforce this
37 chapter, including the power to jointly adopt rules with the
38 State Lottery Commission. These rules are routine technical
39 rules pursuant to Title 5, chapter 375, subchapter II-A;
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2 D. In any investigation conducted under this chapter, issue
4 subpoenas to compel the attendance of witnesses and the
production of evidence relevant to any fact at issue; and

6 E. Approve or disapprove terms and conditions of uniform
8 location agreements.

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

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

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

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

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

28 (3) The use of obscene advertising;

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

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

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

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

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

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

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

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

7 (4) Licensee is guilty of criminal conduct; and

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9
10 D. In accordance with the Maine Administrative Procedure
11 Act develop industry standards for uniform location
12 agreements to be used as the basis of agreements between
13 distributors and licensees.

14
15 **§365. Powers and duties of director**

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

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

24
25 B. Subject to approval of the State Lottery Commission and
26 to any applicable laws relating to public contracts, enter
27 into a contract for performance of the director's duties
28 under this chapter. All contracts must be awarded in
29 accordance with rules adopted by the Department of
30 Administrative and Financial Services pursuant to Title 5,
31 chapters 141 to 145 and Title 5, sections 1812 and 1813. A
32 contract awarded or entered into by the director may not be
33 assigned by the holder of the contract, except by specific
34 approval of the commission.

35 2. Duties. The director shall:

36
37 A. Develop, install and test a central computer system with
38 dial-up polling to all licensed video gaming terminals to
39 provide auditing program information. The system must use
40 continuous, on-line polling beginning no earlier than 6
41 months after the number of video gaming terminals licensed
42 reaches 1000. The communications system may not limit
43 participation to only one manufacturer of video gaming
44 terminals by either the cost in implementing the necessary
45 program modifications to communicate or the inability to
46 communicate with the central communications system;
47
48

2 **§371. License to operate**

4 **1. Eligible entities.** The Chief of the State Police may
6 issue a license to operate a video gaming terminal to an entity
8 listed in section 332, subsection 1 or to a person licensed to
10 sell liquor for consumption on the premises where sold, if the
12 establishment is one of the following types of licensed
14 establishments as defined in Title 28-A, section 2, subsection
16 15: club, hotel, incorporated civic organization or Class A
18 lounge.

20 **2. Qualifications for license.** An entity may be issued a
22 license to operate a video gaming terminal if the entity is
24 eligible for a license under subsection 1, has sufficient
26 financial assets to meet the financial obligations imposed by
28 this chapter and a method acceptable to the Chief of the State
30 Police for meeting those obligations and the entity and each
32 officer or director of the entity:

34 **A. Is of good moral character, determined pursuant to**
36 subsection 4;

38 **B. Is current in payment of all taxes, interest and**
40 penalties owed to the State or to a municipality, excluding
42 items under formal dispute or appeal pursuant to applicable
44 statutes or ordinances;

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

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

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

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

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

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

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

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

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

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

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

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

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

42 A. The Chief of the State Police shall prepare and supply
44 application forms.

46 B. The municipal officers or the county commissioners shall
provide, at the applicant's prepaid expense, public notice
48 of a hearing held under this section by causing a notice
stating the time and place of hearing to appear at least 6
50 consecutive days before the date of the hearing in a daily

2 newspaper having general circulation in the municipality
3 where the premises are located or 2 consecutive weeks before
4 the date of the hearing in a weekly newspaper having general
5 circulation in the municipality where the premises are
6 located.

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

11 6. Placement of terminals. No more than 5 video gaming
12 terminals may be placed on the premises of a licensee. A
13 terminal may not be placed in any location other than the
14 premises of the licensee. A licensee must own or control the
15 premises on which a video gaming terminal is located. The
16 terminal area must be designed to permit the licensee or an agent
17 of the licensee to see and control the area at all times to
18 ensure compliance with the provisions of this chapter.

19 7. Uniform location agreement. Each location must be
20 subject to a uniform location agreement between the distributor
21 and the licensee. A copy of the agreement must be submitted to
22 the Chief of the State Police. The Chief of the State Police may
23 approve or disapprove any uniform location agreement. If the
24 uniform location agreement is disapproved, the Chief of the State
25 Police must provide written reasons for the denial. The uniform
26 location agreement is the complete and sole agreement between the
27 licensee and the distributor regarding video gaming terminals.
28 No other agreement between the licensee and the distributor is
29 legally binding.

30 8. Appeal to commissioner. Any distributor or licensee
31 denied approval of a uniform location agreement may appeal the
32 decision of the Chief of the State Police to the Commissioner of
33 Public Safety. The commissioner shall hold a hearing to include
34 the distributor, the licensee and the Chief of the State Police
35 or the chief's designee before rendering a decision on the
36 appeal. The commissioner shall render a decision within 30 days
37 of the hearing.

38 9. Disclosure of other contracts and agreements. A
39 distributor shall disclose to the Chief of the State Police any
40 other contracts or agreements that the distributor or a
41 subsidiary of the distributor has made with a licensee.

42 10. Incentives prohibited. A distributor may not offer an
43 incentive to a licensee to accept placement of a video gaming
44 terminal on the premises of the licensee and a licensee may not
45 solicit such an incentive. For purposes of this subsection,
46

2 "incentive" means any consideration, including merchandise, a
3 premium or bonus in cash or an advance payment of the licensee's
4 share of net terminal income. "Incentive" does not include the
5 licensee's share of net terminal income provided for in section
6 383. A person who violates this subsection is guilty of a Class
7 C crime and that person's license, if any, is revoked and the
8 right to apply for a license under this chapter is precluded.

10 **§372. Licensing of terminals**

11 **1. License required.** A video gaming terminal may not be
12 placed for public use or operated in this State unless the
13 terminal is licensed by the Chief of the State Police. The
14 terminal license must be prominently displayed on the terminal.
15 Language describing the odds of winning the game and warning of
16 the danger of compulsive gambling must also be prominently
17 displayed on the terminal.

18 **2. Requirements for license.** To be licensed, a video
19 gaming terminal:

20 **A. May offer only games permitted by the Chief of the State**
21 **Police;**

22 **B. May not have any means of manipulation that affect the**
23 **random probabilities of winning a game;**

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

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

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

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

41 **G. Must have accounting software that keeps an electronic**
42 **record of information that includes, but is not limited to,**

2 the following: total cash inserted into the terminal; total
3 credits awarded by the terminal, total credits played for
4 video games and total credits distributed by tickets made by
5 the terminal's printer; and the payback percentage of each
6 video game; and

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

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

16 4. Examination of prototypes. The Chief of the State
17 Police and the Attorney General shall examine prototypes of video
18 gaming 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 gaming 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 gaming 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 or any
32 gray area machine is contraband and a public nuisance and is
33 subject to confiscation by any law enforcement officer.

34 6. Ownership of terminals. An entity may not place or
35 operate a video gaming terminal for use in this State if the
36 terminal is owned by an entity other than a video gaming terminal
37 distributor licensed under this chapter. A video gaming terminal
38 distributor may not own more than 300 video gaming terminals
39 licensed in this State or more than 15% of the total number of
40 video gaming terminals licensed in this State, whichever is
41 greater.

42 §373. Licensing of manufacturer, distributor, wholesaler

43 1. Qualifications. To be licensed as a video gaming
44 terminal manufacturer, distributor or wholesaler, a person must
45 be a resident of this State and have been a resident of this State
46 for at least one year immediately preceding the date of application
47 for the license. The person must also be at least 21 years of age
48 and have no criminal record involving the sale of alcoholic
49 beverages, controlled substances, or firearms. The person must
50 also have no record of conviction for a crime involving the sale of

2 meet the qualifications set forth in section 371, excluding
3 subsection 1. Any individual applying for a license, any partner
4 of a partnership or any officer, director or holder of any
5 ownership interest of a corporation or association applying for a
6 license as a manufacturer, distributor or wholesaler must submit
7 to a background investigation by the Chief of the State Police to
8 verify the applicant's compliance with the requirements of
9 section 371, excluding subsection 1. Employees of video gaming
10 terminal distributors involved in distribution, maintenance and
11 service of video gaming terminals must meet the qualifications
12 set forth in section 371, subsection 2, paragraphs C, D and E and
13 section 371, subsection 3.

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

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

27 §374. Applications

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

37 A. Full name;

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

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

41 D. Answers to the following questions posed in
42 substantially the following form:

- 2 (1) "Is there a formal charging instrument now pending
3 against you in this or any other jurisdiction for a
4 crime that is punishable by imprisonment for one year
5 or more?"
- 6 (2) "Is there a formal charging instrument now pending
7 against you in this or any other jurisdiction for a
8 juvenile offense that involves conduct that, if
9 committed by an adult, would be punishable by
10 imprisonment for one year or more?"
- 11 (3) "Have you ever been convicted of a crime described
12 in subparagraph (1) or adjudicated as having committed
13 a juvenile offense as described in subparagraph (2)?"
- 14 (4) "Are you a fugitive from justice?"
- 15 (5) "Are you a drug abuser, drug addict or
16 drug-dependent person?"
- 17 (6) "Have you been dishonorably discharged from the
18 military forces within the past 5 years?"
- 19 (7) "Are you an illegal alien?"
- 20 (8) "To your knowledge, have you been the subject of
21 an investigation by any law enforcement agency within
22 the past 5 years regarding the alleged abuse by you of
23 family or household members?"
- 24 (9) "Have you been convicted within the past 5 years
25 of crimes punishable by imprisonment of less than one
26 year?"
- 27 (10) "Have you been adjudged within the past 5 years
28 to have committed juvenile offenses involving conduct
29 that, if committed by an adult, would be punishable by
30 imprisonment of less than one year?"
- 31 (11) "To your knowledge, have you engaged within the
32 past 5 years in reckless or negligent conduct that has
33 been the subject of an investigation by a governmental
34 entity?"

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

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

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

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

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

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

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

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

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

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

48 4. Notification of municipal officers. An applicant for a
license to operate a video gaming terminal must send a copy of
50 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.

§375. Fees; term of license; transferability

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

A. A license for a video gaming terminal manufacturer is \$5,000;

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

C. A license for a video gaming terminal distributor is \$2,500; and

D. A license to operate a video gaming terminal is \$100 per terminal.

In addition to the annual license fee, the Chief of the State Police may charge a one-time application fee for a license described in paragraph A, B or C 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.

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

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

§376. Actions relating to licenses

1. Suspension or revocation of license; refusal to renew. The Chief of the State Police may refuse to renew a license after a hearing in accordance with the Maine Administrative Procedure Act. The Chief of the State Police may suspend a license issued under this chapter for a period of up to 180 days. The Administrative Court may suspend or revoke a license issued under this chapter. The Chief of the State Police may refuse to renew or suspend a license and the Administrative Court may revoke or suspend a license for just cause, including any of the following:

A. The person made or caused to be made a false statement of material fact in obtaining a license under this chapter

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

10 **§383. Allocation of funds**

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

16 **2. Allocation of net terminal income.** The distributor
17 shall allocate 20% of the net terminal income to the State, 40%
18 of the net terminal income to the licensee on whose premises the
19 terminal is located and 40% of the net terminal income to the
20 distributor.

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

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

42 **5. Use of state share.** At the end of each fiscal year
43 beginning after June 30, 1998, the Treasurer of State shall
44 transfer to the Local Government Fund created in Title 30-A,
45 section 5681 an amount equal to 15% of the state share of net
46 terminal income derived from video gaming terminals during that
47 fiscal year, net of state administrative costs. The State shall
48 spend 5% of the state share of net terminal income for the
49 treatment of compulsive gambling.

2 6. Failure to deposit funds. A distributor who willfully
4 fails to comply with this section commits a Class C crime. The
6 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.

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

14 **§384. Video Gaming Fund**

16 1. Fund created. There is created and established a
18 separate fund to be known as the Video Gaming Fund and to be
20 deposited in depositories the Treasurer of State selects. The
 fund consists of all revenue payable to the State pursuant to
 sections 375 and 383 and all other money credited or transferred
 to the fund from any other fund or source pursuant to law.

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

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

28 B. For payment to the Local Government Fund pursuant to
30 section 383; and

32 C. For payment to the General Fund.

34 3. Committee review of allocation. The director shall
36 submit to the joint standing committee of the Legislature having
38 jurisdiction over legal affairs for review all proposals for
 allocations from the Video Gaming Fund. The proposed allocations
 for each fiscal year must be submitted by January 1st preceding
 the start of the fiscal year.

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

42 Section 335 applies to the use of proceeds from video gaming
44 terminals by any organization eligible to receive a license under
46 section 332, except that the organization is not prohibited from
48 using the proceeds to pay salaries, wages or remuneration to its
 employees. An organization eligible to receive a license under
 section 332 must file with the Chief of the State Police a
 disposition of funds form prescribed by the Chief of the State
 Police detailing the disposition of proceeds received from video

2 gaming terminals. Every statement on the form must be made under
3 oath by an officer of the organization.

4 A licensee shall maintain a record of charitable and
5 community contributions made from the organization's share of net
6 terminal income and shall annually forward to the Chief of the
7 State Police and post prominently on or adjacent to the video
8 gaming terminal the percent of net terminal income provided to
9 charitable and community beneficiaries.

12 **SUBCHAPTER IV**

14 **ENFORCEMENT AND PENALTIES**

16 **§391. Reports; records**

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

24 2. Location. A license holder shall maintain all records
25 required by this chapter or by rules adopted under this chapter
26 at the primary business office within this State of the license
27 holder or on the premises where the video gaming terminal is
28 operated. In the case of a video gaming terminal manufacturer or
29 wholesaler, the records must be maintained at the primary
30 business office of the manufacturer or wholesaler. The primary
31 business office must be designated by the license holder in the
32 license application. All records must be open to inspection by
33 the Chief of the State Police, the director or the designee of
34 either of them and a license holder may not refuse the Chief of
35 the State Police, the director or the designee of either of them
36 the right to inspect or audit the records. Refusal to permit
37 inspection or audit of the records is not a crime under this
38 chapter but does constitute grounds for revocation of the license.

40 **§392. Access to premises, equipment, records**

42 A person holding a license under this chapter shall permit
43 the Chief of the State Police or the chief's designee to inspect
44 any equipment, prizes, records or items and materials used or to
45 be used in the operation of any video gaming terminal
46 manufactured, owned, distributed or operated by that person. A
47 person holding a license under this chapter shall consent in
48 writing to the examination of all accounts, bank accounts and
49 records in the license holder's possession or under the license
50 holder's control and shall authorize all 3rd parties in

2 possession or in control of those accounts or records to allow
3 the Chief of the State Police or the chief's designee to examine
4 the accounts and records as the chief determines necessary.

6 **§393. Contempt**

8 If a witness refuses to obey a subpoena issued by the Chief
9 of the State Police or to give any evidence relevant to proper
10 inquiry by the chief, the Attorney General may petition the
11 Superior Court in the county where the refusal occurred to find
12 the witness in contempt. The Attorney General shall cause to be
13 served on the witness an order requiring that witness to appear
14 before the Superior Court to show cause why that witness should
15 not be adjudged in contempt. The court shall, in a summary
16 manner, hear the evidence and, if it is such as to warrant the
17 court to do so, punish the witness in the same manner and to the
18 same extent as for contempt committed before the Superior Court
19 or with reference to the process of the Superior Court.

20 **§394. Violations**

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

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

28 B. Permitting a person to play a video gaming terminal
29 licensed pursuant to this chapter at a time other than
30 during the legal hours for the on-premises consumption of
31 liquor;

32 C. Extending credit to a person in order for the person to
33 play a video lottery terminal;

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

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

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

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

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

2 C. Manufacturing, distributing, selling, operating or
4 placing a video gaming terminal for use in this State
6 without a license or manufacturing, distributing, selling,
 operating or placing a gray area machine for use in this
 State; and

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

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

16 §395. Payment to the Attorney General

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

22 §396. Implementation

24 A video gaming terminal may not be operated under this
 chapter before January 1, 1998.

26 §397. Rules

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

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

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

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

40 §807. Notice to Chief of the State Police

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

48 Sec. 10. 28-A MRSA §1054, sub-§11, ¶C is enacted to read:
50

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

8 **Sec. 11. Working capital advances.** The State Controller is
9 authorized to advance from the General Fund Unappropriated
10 Surplus the following amounts to be used for any necessary
11 start-up costs associated with the implementation of a system of
12 video gaming terminals in the State pursuant to the Maine Revised
13 Statutes, Title 8, section 372, subsection 2 and Title 17,
14 chapter 16: \$250,000 to the Department of Administrative and
15 Financial Services, Bureau of Alcoholic Beverages and Lottery
16 Operations, Video Lottery Fund; and \$500,000 to the Department of
17 Public Safety, Bureau of State Police. Funds advanced for this
18 purpose must be returned to the General Fund Unappropriated
19 Surplus from the first \$750,000 received by the State under Title
20 17, section 383 after the reductions for the Local Government
21 Fund and for treatment of compulsive gambling required by Title
22 17, section 383, subsection 5.

24 SUMMARY

25 This bill authorizes the operation of video gaming terminals
26 and establishes the State's share of net terminal income at 20%.
27
28