

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 528

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H.P. 407

House of Representatives, February 6, 2001

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**An Act to Amend the Beano and Games of Chance Laws.**

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Submitted by the Department of Public Safety pursuant to Joint Rule 204.  
Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative CHIZMAR of Lisbon.  
Cosponsored by Senator MARTIN of Aroostook and  
Representatives: LESSARD of Topsham, MAYO of Bath, Senator: DAVIS of Piscataquis.

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

2           **Sec. 1. 17 MRSA §311, sub-§1-B** is enacted to read:

4           **1-B. Chief of State Police.** "Chief of the State Police" or  
6 "chief" means the Chief of the State Police or the chief's  
8 designee.

10           **Sec. 2. 17 MRSA §317-A**, as amended by PL 1999, c. 74, §3, is  
further amended to read:

12           **§317-A. Investigations; actions on licenses**

14           **1. Chief of State Police.** The Chief of the State Police  
16 may:

18           A. Investigate all aspects of this chapter including the  
direct and indirect ownership or control of any licenses or  
20 commercial beano hall permits;

22           B. Suspend ~~or~~, revoke or refuse to issue a license, after  
notice of the opportunity for a hearing, if the applicant,  
24 applicant's agent or employee, licensee or the licensee's  
agent or employee violates a provision of this chapter or  
26 Title 17-A, chapter 39 or fails to meet the statutory  
requirements for licensure pursuant to this chapter;

28           C. Immediately suspend or revoke a license if there is  
probable cause to believe that the licensee or the  
30 licensee's agent or employee violated a provision of Title  
17-A, chapter 39;

32           D. Suspend or revoke a commercial beano hall permit, after  
34 notice of the opportunity for hearing, if a permittee or  
permittee's employee commits murder or a Class A, B or C  
36 crime or violates a provision of this chapter or Title 17-A,  
chapter 15, 29, 37 or 39; and

38           E. Immediately suspend or revoke a commercial beano hall  
40 permit if there is probable cause to believe that the  
permittee or the permittee's employee committed murder or a  
42 Class A, B or C crime or violated a provision of Title 17-A,  
chapter 15, 29, 37 or 39; and

44           F. Issue a subpoena in the name of the State Police in  
46 accordance with Title 5, section 9060, except that this  
48 authority applies to any stage of an investigation under  
this chapter and is not limited to an adjudicatory hearing.  
50 If a witness refuses to obey a subpoena or to give any  
evidence relevant to proper inquiry by the chief, the

2 Attorney General may petition the Superior Court in the  
4 county where the refusal occurred to find the witness in  
6 contempt. The Attorney General shall cause to be served on  
8 that witness an order requiring the witness to appear before  
10 the Superior Court to show cause why the witness should not  
12 be adjudged in contempt. The court shall, in a summary  
14 manner, hear the evidence and, if it is such as to warrant  
16 the court in doing so, punish that witness in the same  
18 manner and to the same extent as for contempt committed  
20 before the Superior Court or with reference to the process  
22 of the Superior Court.

24 **2. Licensing action after notice and opportunity for**  
26 **hearing.** The Chief of the State Police must shall notify the  
28 applicant, licensee or permittee in writing, before a license or  
30 permit is denied, suspended or revoked and-after-notice-of-the  
32 opportunity-for-a-hearing, pursuant to subsection 1, paragraph B  
34 or D, of the intended denial or commencement date of the  
36 suspension or revocation, which may not be made any sooner than  
38 96 hours after the licensee's or permittee's receipt of the  
40 notice, of the duration of the suspension or revocation and of  
42 the right to a hearing pursuant to this subsection. The  
44 applicant, licensee or permittee has the right to request a  
46 hearing before the Commissioner of Public Safety or the  
48 commissioner's designee. Upon the applicant's, licensee's or  
50 permittee's request for a hearing, the Commissioner of Public  
Safety shall provide a hearing. The hearing must comply with the  
Maine Administrative Procedure Act. The purpose of the hearing  
is to determine whether a preponderance of the evidence  
establishes that the applicant, applicant's agent or employee,  
licensee or the licensee's agent or employee violated a provision  
of this chapter or Title 17-A, chapter 39 or the permittee or the  
permittee's employee committed murder or a Class A, B or C crime  
or violated a provision of this chapter or Title 17-A, chapter  
15, 29, 37 or 39. A request for a hearing may not be made any  
later than 10 days after the applicant, licensee or permittee is  
notified of the proposed denial, suspension or revocation. The  
suspension or revocation action must be stayed pending the  
hearing; the hearing may not be held any later than 30 days after  
the date the commissioner receives the request unless otherwise  
agreed by the parties or continued upon request of a party for  
cause shown.

44 **3. Immediate suspension or revocation.** A licensee whose  
46 license or permittee whose permit is immediately suspended or  
48 revoked by the Chief of the State Police pursuant to subsection  
50 1, paragraph C or E must be notified in writing of the duration  
of the suspension or revocation and the licensee's or the  
permittee's right to request a hearing before the Commissioner of  
Public Safety or the commissioner's designee. Upon the

licensee's or permittee's request for a hearing, the Commissioner  
2 of Public Safety shall provide a hearing. The hearing must  
4 comply with the Maine Administrative Procedure Act. The purpose  
6 of the hearing is to determine whether a preponderance of the  
8 evidence establishes that the licensee or the licensee's agent or  
10 employee violated a provision of Title 17-A, chapter 39 or the  
12 permittee or the permittee's employee committed murder or a Class  
14 A, B or C crime or violated a provision of Title 17-A, chapter  
15, 29, 37 or 39. A request for a hearing may not be made any  
later than 48 hours after the licensee or permittee is notified  
of the suspension or revocation. A hearing may not be held any  
later than 10 days after the date the commissioner receives the  
request.

**Sec. 3. 17 MRSA §330, sub-§1-B** is enacted to read:

**1-B. Chief of State Police.** "Chief of the State Police" or  
18 "chief" means the Chief of the State Police or the chief's  
20 designee.

**Sec. 4. 17 MRSA §343-A**, as enacted by PL 1997, c. 684, §8, is  
22 amended to read:

**§343-A. Investigations; actions on licenses**

**1. Chief of State Police.** The Chief of the State Police  
26 may:

A. Investigate all aspects of this chapter including the  
28 direct and indirect ownership or control of any licenses;

B. Suspend ~~or~~, revoke or refuse to issue a license, after  
32 notice and the opportunity for a hearing, if the applicant,  
34 applicant's agent or employee, licensee or ~~the~~ licensee's  
agent or employee violates a provision of this chapter or  
36 Title 17-A, chapter 39 or fails to meet the statutory  
requirements for licensure pursuant to this chapter; and

C. Immediately suspend or revoke a license if there is  
38 probable cause to believe that the licensee or the  
40 licensee's agent or employee violated section 332,  
42 subsection 3-A or 3-B, paragraph C or a provision of Title  
17-A, chapter 39; and

D. Issue a subpoena in the name of the State Police in  
44 accordance with Title 5, section 9060, except that this  
46 authority applies to any stage of an investigation under  
48 this chapter and is not limited to an adjudicatory hearing.  
If a witness refuses to obey a subpoena or to give any  
50 evidence relevant to proper inquiry by the chief, the

2           Attorney General may petition the Superior Court in the  
4           county where the refusal occurred to find the witness in  
6           contempt. The Attorney General shall cause to be served on  
8           that witness an order requiring the witness to appear before  
10           the Superior Court to show cause why the witness should not  
12           be adjudged in contempt. The court shall, in a summary  
              manner, hear the evidence and, if it is such as to warrant  
              the court in doing so, punish that witness in the same  
              manner and to the same extent as for contempt committed  
              before the Superior Court or with reference to the process  
              of the Superior Court.

14           **2. Licensing actions after notice and opportunity for**  
16           **hearing.** The Chief of the State Police must shall notify the  
18           applicant or licensee in writing, before a license is denied,  
20           suspended or revoked ~~and after notice of the opportunity for a~~  
22           hearing, pursuant to subsection 1, paragraph B, of the intended  
24           denial or commencement date of the suspension or revocation,  
26           which may not be made any sooner than 96 hours after the  
28           licensee's receipt of the notice, of the duration of the  
30           suspension or revocation and of the right to a hearing pursuant  
32           to this subsection. The applicant or licensee has the right to  
34           request a hearing before the Commissioner of Public Safety or the  
36           commissioner's designee. Upon the applicant's or licensee's  
38           request for a hearing, the Commissioner of Public Safety shall  
              provide a hearing. The hearing must comply with the Maine  
              Administrative Procedure Act. The purpose of the hearing is to  
              determine whether a preponderance of the evidence establishes  
              that the applicant, applicant's agent or employee, licensee or  
              the licensee's agent or employee violated a provision of this  
              chapter or Title 17-A, chapter 39. A request for a hearing may  
              not be made any later than 10 days after the applicant or  
              licensee is notified of the proposed denial, suspension or  
              revocation. The suspension or revocation must be stayed pending  
              the hearing; the hearing may not be held any later than 30 days  
              after the date the commissioner receives the request unless  
              otherwise agreed by the parties or continued upon request of a  
              party for cause shown.

40           **3. Immediate suspension or revocation.** A licensee whose  
42           license is immediately suspended or revoked by the Chief of the  
44           State Police pursuant to subsection 1, paragraph C must be  
46           notified in writing of the duration of the suspension or  
48           revocation and the licensee's right to request a hearing before  
50           the Commissioner of Public Safety or the commissioner's  
              designee. Upon the licensee's request for a hearing, the  
              Commissioner of Public Safety shall provide a hearing. The  
              hearing must comply with the Maine Administrative Procedure Act.  
              The purpose of the hearing is to determine whether a  
              preponderance of the evidence establishes that the licensee or

2 the licensee's agent or employee violated section 332, subsection  
3-A or 3-B, paragraph C or a provision of Title 17-A, chapter  
4 39. A request for a hearing may not be made any later than 48  
5 hours after the licensee is notified of the suspension or  
6 revocation. A hearing may not be held any later than 10 days  
after the date the commissioner receives the request.

8

## SUMMARY

10

11 This bill affects the licensing laws for beano and games of  
12 chance as follows.

13 1. It clarifies the Chief of the State Police's authority  
14 to appoint a designee to deal with beano and games of chance  
15 licensing matters.  
16

17 2. It clarifies that the grounds for refusal to issue a  
18 license and the grounds for suspension or revocation of a license  
19 are consistent with each other.  
20

21 3. It gives the Chief of the State Police the authority to  
22 issue subpoenas for investigations and hearings pertaining to  
23 beano and games of chance.  
24