

# MAINE STATE LEGISLATURE

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*H. 018*

L.D. 90

DATE: **3.29.05**

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**LEGAL AND VETERANS AFFAIRS**

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**STATE OF MAINE  
SENATE  
122ND LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 32, L.D. 90, Bill, "An Act Regarding the Gambling Control Board"

Amend the bill by striking out the title and substituting the following:

**'An Act Concerning the Confidentiality of Records Held by the Gambling Control Board'**

Further amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

**'Sec. 1. 8 MRSA §§1006, 1007 and 1008 are enacted to read:**

**§1006. Confidentiality of records and information**

**1. Application and licensing records and information. This subsection applies to information or records included in an application or materials required by the board for issuance of a license pursuant to this chapter, including records obtained or developed by the board or department related to an applicant or licensee. For the purposes of Title 1, section 402, subsection 3, the following records and information are designated as confidential and may not be disclosed except as provided:**

**A. Trade secrets as defined in Title 10, section 1542 and proprietary information that if released could be competitively harmful to the submitter of the information;**

**COMMITTEE AMENDMENT**

**R.S.**

2           B. Information that if released would constitute an  
4           unwarranted invasion of personal privacy of a key executive,  
6           gaming employee or any other individual included in  
8           application materials, as determined by the board. Upon  
10           request, the board shall release a summary of information  
12           confidential under this paragraph describing the basis for  
14           the board's action in granting, denying, renewing,  
16           suspending, revoking or failing to grant or renew a license  
18           issued under this chapter. In preparing a summary, the  
20           board shall maximize public access to that information while  
22           taking reasonable measures to protect the confidentiality of  
24           that information;

26           C. Key executive or gaming employee compensation, except  
28           that:

30                   (1) Executive compensation required to be filed with  
32                   the federal Securities and Exchange Commission or, with  
34                   respect to applicants or licensees that are not  
36                   publicly traded corporations, executive compensation  
38                   that would be required to be filed with the federal  
40                   Securities and Exchange Commission were the applicant  
42                   or licensee a publicly traded corporation or controlled  
44                   by a publicly traded corporation is not confidential;  
46                   and

48                   (2) Compensation of the officers of the business  
50                   entity that is organized or authorized to do business  
52                   in this State who are responsible for the management of  
54                   gaming operations, as determined by the board, is not  
56                   confidential;

58           D. Financial, statistical and surveillance information  
60           related to the applicant or licensee that is obtained by the  
62           board or department from the central site monitoring system  
64           or surveillance devices;

66           E. Records that contain an assessment by a person who is  
68           not employed by the board or the department of the  
70           creditworthiness, credit rating or financial condition of  
72           any person or project, including reports that detail  
74           specific information for presentation to the board or  
76           department. Persons retained by the board or department to  
78           provide such an assessment shall prepare reports that  
80           indicate their conclusions and summarize information  
82           reviewed by them in a way that maximizes public access to  
84           that information;

86           F. Information obtained from other jurisdictions designated  
88           as confidential by the jurisdiction from which it is  
90           obtained and that must remain confidential as a condition of

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receipt. The board and the department may use information designated as confidential by the jurisdiction from which it is obtained but shall first make reasonable efforts to use information that is known to be publicly available from another source;

G. Information that is designated confidential under federal law whether obtained from federal authorities or provided to the board or department by an applicant, licensee or key executive; and

H. Birth dates, social security numbers, home addresses and telephone numbers, passport numbers, driver's license numbers, fingerprints, marital status, family relationships and support information, health status, personal financial records and tax returns of any individuals.

2. Disclosure to applicant or licensee; written consent. Records from an applicant or licensee may be disclosed to the applicant or licensee upon written request or to another person with the written consent of the applicant or licensee who provided the record.

3. Central site monitoring system operator. Records and information obtained or developed by the board or the department as part of a suitability requirement for selecting a 3rd party to operate the central site monitoring system pursuant to section 1004 are confidential for the purposes of Title 1, section 402, subsection 3, except that such records or information may be disclosed with the written consent of the person applying as the central site monitoring system operator.

4. Monitoring and surveillance records and information. Financial, statistical and surveillance information obtained by the board or department from the central site monitoring system or surveillance devices is confidential and may not be disclosed. The board shall prepare and make publicly available monthly and annual reports on the results of slot machine operations using the information described in this subsection pursuant to section 1003, subsection 2, paragraphs O and R, as long as the board takes appropriate measures to protect the confidentiality of specific information designated as confidential by this section.

5. Application. This section applies to all records and information in the possession of the board or the department on the effective date of this section, and the confidentiality of such information is governed by this section, not by the law in effect when the board or the department obtained the records or

# COMMITTEE AMENDMENT

**ADD**

information. Disclosure of the records or information is governed by this section.

6. Publicly available records. Except for the information described in subsection 1, paragraph H, nothing in this section may be construed as designating confidential any records or information that are otherwise publicly available, and the board and the department are not required to treat those records or that information as confidential.

7. Report on operations. When financial and operating information, business records, business plans and marketing plans that are confidential under this section are submitted, the board and the applicant or licensee shall prepare a publicly available document that summarizes the confidential information in a manner that maximizes public access to that information.

**§1007. Intelligence sharing, reciprocal use and restricted use agreements**

1. Agreement. The board or the department may enter into intelligence sharing, reciprocal use or restricted use agreements with a department or agency of the Federal Government and law enforcement agencies and gaming enforcement or regulatory agencies of other jurisdictions. The board or the department may provide information or records designated as confidential under section 1006 only after obtaining a signed authorization to release the information or records from the applicant, licensee, owner, key executive or gaming employee to which the information or records relate, pertain or belong. This authorization requirement does not apply to the sharing of information permitted under subsections 2 and 3.

2. Reports from other jurisdictions. Information or records in the possession of the board or the department received pursuant to an intelligence sharing, reciprocal use or restricted use agreement entered into by the board or the department with a federal department or agency or a law enforcement agency or gaming enforcement or regulatory agency of any jurisdiction are considered records or information within the meaning of section 1006, subsection 1 and may be disseminated only with the permission of the person or agency providing the information or records.

3. Investigation of violations. Records received by the board or the department as application materials or as part of an investigation related to an applicant or licensee may be disclosed to state or federal law enforcement entities when the Attorney General or the department determines that the

information contains evidence of a possible violation of laws, rules or regulations enforced by those entities.

**§1008. Hearings and proceedings**

Notwithstanding section 1006, the confidentiality of records and information used or produced in connection with hearings, proceedings or appeals under subchapter 5 regarding noncompliance with or violation of this chapter are governed by the provisions of section 1052.

**Sec. 2. 8 MRSA §1052, first ¶**, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

All reports, information or records compiled by the board or the department pursuant to this subchapter regarding noncompliance with or violation of this chapter by an applicant, licensee, owner or key executive are confidential, except that the board may disclose any confidential information as follows.

**Sec. 3. 8 MRSA §1052, sub-§3**, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

**3. During investigation.** All complaints and investigative records of the board are confidential during the pendency of an investigation. These Notwithstanding section 1006, the complaints and records become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this subsection, an investigation is concluded when:

- A. A notice of an adjudicatory hearing as defined under Title 5, chapter 375, subchapter 1 has been issued;
- B. A consent agreement has been executed; or
- C. A letter of dismissal has been issued or the investigation has otherwise been closed.'

**SUMMARY**

This amendment replaces the bill. This amendment makes certain records confidential as an exception to the law that provides for public access to records used in the course of government. Records that are designated confidential under this amendment are those that are included in application and licensing materials and contain the following:

COMMITTEE AMENDMENT "A" to S.P. 32, L.D. 90

1. Trade secrets and proprietary information that if released would be competitively harmful to the submitter of the information;

2. Information that the Gambling Control Board determines is an unwarranted invasion of personal privacy. The board may release a summary of that information if the board determines it is necessary to describe the basis of an action taken by the board;

3. Financial, statistical and surveillance information from the central site monitoring system, except that the board shall use this information to publicly report on money credited to players and distributed to the State;

4. Independent reports of creditworthiness or financial condition of any person or project, except that the conclusion and a summary of that assessment will be publicly available;

5. Records used to determine suitability of a 3rd-party operator of the central site monitoring system;

6. Information obtained from another state that is confidential in that state;

7. Information designated confidential by federal law; and

8. Personally identifying information.

The amendment specifies that information that is otherwise public will remain public. The amendment allows for relevant confidential information to be shared among law enforcement agencies in the course of investigating violations of law in this State and other jurisdictions and allows for some confidential records to be shared with the consent of the licensee or applicant. The amendment requires the board and the applicant or licensee to summarize certain business records that are otherwise confidential in a way that maximizes public access to that information. This amendment designates as confidential records in possession of the Gambling Control Board or the Department of Public Safety prior to the effective date of this amendment whether or not those records were confidential upon receipt. Current law governing the enforcement of the laws relative to slot machine facilities at commercial racetracks prescribes that some confidential information becomes public when a proceeding is complete. This amendment specifies that the records designated confidential by this amendment would be subject to that public disclosure when a proceeding regarding noncompliance with or violation of the law governing slot machine operations is complete.