

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 2236

H.P. 1597

House of Representatives, February 28, 2008

### **An Act To Clarify the Laws on Licensing for Charitable and Fraternal Organizations and Games of Chance**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND

Clerk

Presented by Representative HANLEY of Gardiner.

Cosponsored by Senator McCORMICK of Kennebec and

Representatives: BERRY of Bowdoinham, BROWNE of Vassalboro, CLARK of Millinocket, COTTA of China, CROCKETT of Augusta, HASKELL of Portland, McLEOD of Lee, PLUMMER of Windham.

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

2 **Sec. 1. 17 MRSA §331, sub-§10** is enacted to read:

3 **10. Nonprofit organizations.** Notwithstanding subsection 1, a license to hold,  
4 conduct or operate a game of chance is not required of a bona fide nonprofit charitable,  
5 educational, political, civic, recreational, fraternal, patriotic or religious organization or of  
6 a volunteer fire department or of a local or state affiliate of a national cribbage  
7 organization or of an auxiliary of any of these organizations as long as the organization or  
8 auxiliary either was founded in this State 2 years before holding, conducting or operating  
9 a game of chance or has been chartered or organized in this State for a period of not less  
10 than 2 consecutive years before holding, conducting or operating a game of chance.

11 **Sec. 2. 17 MRSA §332,** as amended by PL 2005, c. 563, §14, is further amended  
12 to read:

13 **§332. Issuance of license**

14 **1. Organizations eligible; organizations exempt.** Notwithstanding other provisions  
15 of law, the Chief of the State Police may issue a license to operate a game of chance to an  
16 agricultural society eligible for a stipend under Title 7, chapter 4, ~~or to a~~ . Except as  
17 provided in subsections 3 and 3-B and as otherwise provided in this chapter, a bona fide  
18 nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic or  
19 religious organization, or to a volunteer fire department or a local or state affiliate of a  
20 national cribbage organization or to an auxiliary of any of these organizations, any of  
21 which ~~must be~~ may operate a game of chance without a license as long as the  
22 organization or auxiliary either was founded, in this State 2 years before holding,  
23 conducting or operating a game of chance or has been chartered or organized in this State  
24 for a period of not less than 2 consecutive years before applying for a license holding,  
25 conducting or operating a game of chance.

26 **2. Games conducted by members and bartenders of licensees or authorized**  
27 **organizations only.** A game of chance licensed or otherwise authorized pursuant to this  
28 section ~~shall~~ must be operated and conducted for the exclusive benefit of the licensee or  
29 authorized organization and ~~shall~~ must be operated and conducted only by duly  
30 authorized members of the licensee or authorized organization or by persons employed by  
31 the licensee or authorized organization as bartenders, except that nonmembers employed  
32 by the licensee or authorized organization as bartenders may not operate or conduct any  
33 game of chance permitted under ~~section 332,~~ subsection 4, paragraph B. The  
34 requirements of this subsection ~~shall~~ do not apply to any agricultural fair association  
35 licensed to operate a game of chance.

36 **3. Schemes prohibited.** No license may be issued for the conduct or operation of,  
37 and an organization listed in subsection 1 may not conduct or operate without a license,  
38 any machine, slot machine, roulette, or any games commonly known as policy or  
39 numbers, except that a license may be issued for any electronic video machine. Any  
40 electronic video machine ~~which~~ that constitutes a game of chance, as defined in section  
41 330, subsection 2, ~~shall~~ must be fully governed by the laws contained in this chapter.

1           **3-A. Prohibited games.** The following games are prohibited.

2           A. No game may be allowed ~~which that~~ utilizes objects ~~which that~~ are constructed,  
3           designed or altered to be other than what they appear to be and to respond in a way  
4           other than that in which the average player would assume that they would respond,  
5           unless that construction, design or alteration is permitted in the rules governing that  
6           game and the construction, design or alteration meets the requirements of those rules.

7           B. No game may be allowed in which the operator either partially or entirely  
8           controls the outcome of the game by ~~his~~ the operator's manner of operating or  
9           conducting the ~~games game~~.

10          C. No game may be allowed in which the outcome depends upon the word of the  
11          operator against the word of the player.

12          D. No game of skill may be allowed ~~which that~~ includes any mechanical or  
13          physical device ~~which that~~ directly or indirectly impedes, impairs or thwarts the skill  
14          of the player.

15          **3-B. Licenses for electronic video machines.** The following provisions apply to  
16          licenses for electronic video machines.

17          A. The Chief of the State Police may issue a game of chance license to operate an  
18          electronic video machine to any society or organization listed in subsection 1, ~~which~~  
19          that has been founded, chartered or organized in this State at least 2 years prior to its  
20          application for a license.

21          B. An electronic video machine licensed under this section ~~shall~~ may only be  
22          operated for the exclusive benefit of the licensee, except that up to 50% of the gross  
23          proceeds from the operation of the machine may be paid to the distributor as a rental  
24          fee and for service and repair of the machine. Notwithstanding other provisions of  
25          this chapter, a licensee may rent an electronic video machine from a distributor.

26          C. No more than 5 electronic video machines may be operated on the licensee's  
27          premises. A separate games of chance license is required for the operation of each  
28          electronic video machine.

29          D. A licensee may operate an electronic video machine only on the licensee's  
30          premises.

31          E. Two or more licensees may not share the use of any premises for the operation  
32          of electronic video machines.

33          F. ~~No~~ A distributor or employee of the distributor may not be a member of the  
34          licensee.

35          **4. Location.** A license, issued pursuant to this section, ~~shall~~ must specify the  
36          location where the organization may operate the licensed game of chance. An  
37          organization listed in subsection 1 may operate a game of chance on the premises of that  
38          organization or on premises on which the game of chance is operated under the  
39          supervision of that organization. ~~No~~ A licensee or organization listed in subsection 1  
40          may not operate games of chance in more than one location at the same time.

1 A. An agricultural society or a bona fide nonprofit organization may operate a game  
2 of chance on the grounds of an agricultural society and during the annual fair of the  
3 agricultural society.

4 B. No other licensee or organization listed in subsection 1 may operate a game of  
5 chance on premises to which the general public has access. In any room where a  
6 licensed or otherwise authorized game of chance is being conducted, there must be at  
7 least one member of the licensee or organization listed in subsection 1 present in that  
8 room for every 2 nonmembers who are present. That member must have been a  
9 member of the licensee or organization listed in subsection 1 for at least one year. A  
10 member of the licensee or organization listed in subsection 1, either directly or  
11 through another member or guest, may not stake or risk something of value in the  
12 licensee's or organization's game of chance unless the member has been a member, as  
13 defined in section 330, subsection 3-B, of the licensee or organization listed in  
14 subsection 1 for at least 14 days not including the day of admission into membership.

15 A bona fide nonprofit organization may operate a licensed game of chance to which  
16 the general public has access once every 3 months for a period not to exceed 3  
17 consecutive days. The licensed game of chance may be operated at any location  
18 described in the license and may be conducted only by members of the licensee.

19 **5. Multiple licenses.** An organization eligible to obtain a license to operate a game  
20 of chance may be issued licenses to operate more than one game of chance. Each license  
21 issued ~~shall be~~ is valid for the operation of no more than one game of chance, the nature  
22 of which ~~shall~~ must be specified on the license.

23 **6. Charitable organizations; livestock raffling.** A license is required before a  
24 charitable organization may raffle livestock for fund-raising purposes under Title 7,  
25 section 3972, subsection 4. The Commissioner of Agriculture, Food and Rural Resources  
26 or the commissioner's designee shall make forms available for charitable organizations to  
27 apply for licenses for one or 3-year periods. If the commissioner or the commissioner's  
28 designee is satisfied that the charitable organization has not violated or will not violate  
29 the restrictions of Title 7, section 3972, a license ~~shall~~ must be issued.

30 **Sec. 3. 17 MRSA §334**, as amended by PL 2001, c. 538, §3, is further amended to  
31 read:

32 **§334. Evidence**

33 The Chief of the State Police may require such evidence as the chief may determine  
34 necessary to satisfy the chief that an applicant or organization licensed or otherwise  
35 authorized to conduct games of chance conforms to the restrictions and other provisions  
36 of this chapter. Charters, organizational papers, bylaws or other such written orders of  
37 founding that outline or otherwise explain the purpose for which such organization was  
38 founded, must, upon request, be forwarded to the Chief of the State Police. The Chief of  
39 the State Police may require of any licensee or of any person operating, conducting or  
40 assisting in the operation of a licensed game of chance evidence as the chief may  
41 determine necessary to satisfy the chief that the person is a duly authorized member of  
42 the licensee; or organization that conducts a game of chance or a person employed by the  
43 licensee or organization that conducts a game of chance as a bartender, as required by

1 section 332, subsection 2. Upon request, this evidence must be forwarded to the Chief of  
2 the State Police. The Chief of the State Police may require such evidence as the chief  
3 may determine necessary regarding the conduct of games of chance by a licensee or  
4 organization to determine compliance with this chapter.

5 **Sec. 4. 17 MRSA §335, sub-§2-A**, as enacted by PL 1993, c. 45, §7, is amended  
6 to read:

7 **2-A. Exceptions.** Notwithstanding subsection 1, a licensee or organization  
8 authorized to conduct a game of chance may pay or use the proceeds of a game of chance  
9 to:

10 A. Defray the expenses or part of the expenses that further the purpose for which  
11 the organization is formed, except that the proceeds may not be:

12 (1) Used to purchase alcohol or to defray the cost of activities where alcohol is  
13 served; or

14 (2) Paid directly to organization members except as specifically allowed in this  
15 section; and

16 B. Defray the expenses or part of the expenses of a member, auxiliary member,  
17 officer or employee of the organization for a serious illness, injury or casualty loss if  
18 the licensee or organization authorized to conduct a game of chance makes an  
19 application pursuant to this section and the application is approved by the licensing  
20 division within the Bureau of State Police.

21 (1) An application must be made in the form and contain the information the  
22 licensing division requires.

23 (a) In the case of serious illness or injury, the licensing division may require  
24 certification by a licensed physician in support of the application.

25 (b) In the case of a casualty loss, the licensing division may require  
26 statements or reports from a law enforcement agency, rescue or other  
27 emergency services personnel or an insurance agency to support the  
28 application.

29 (c) The licensing division may deny an application if it appears that the  
30 person who would receive the proceeds has adequate means of financial  
31 support, including, but not limited to, insurance or workers'  
32 compensation benefits.

33 **Sec. 5. 17 MRSA §335, sub-§4**, as enacted by PL 1997, c. 684, §5, is amended to  
34 read:

35 **4. Posting.** An organization licensed or otherwise authorized to conduct a game of  
36 chance pursuant to section 332 shall post in a conspicuous place in the room or hall where  
37 the game of chance is conducted a sign that states: the net revenue earned from the  
38 operation of the game in dollars and cents; the amount of charitable donations from that  
39 net revenue in dollars and cents; what percentage in dollars and cents of the net revenue  
40 that amount represents in donations to nonprofit activities; and what percentage of the net

1 revenue was distributed from licensed or otherwise authorized games for the previous  
2 calendar year and the current calendar year.

3 **Sec. 6. 17 MRSA §336**, as amended by PL 2001, c. 672, §§9 to 12, is further  
4 amended to read:

5 **§336. Records; licenses**

6 **1. Records required.** Each licensee and organization authorized to conduct a game  
7 of chance shall keep a record of all financial transactions involving games of chance  
8 operated under each license granted to the licensee and games of chance operated by such  
9 an organization. The treasurer of the licensee or organization authorized to conduct a  
10 game of chance or another officer designated by the treasurer is responsible for  
11 maintaining those records. The records must include an exact account of all revenue  
12 from the games, an itemization of all expenses, including, but not limited to, the cost of  
13 prizes, printing, licenses and administration, and the disposition of all proceeds,  
14 including, but not limited to, all gifts, grants and payments to any person, firm,  
15 corporation, association or organization for any purpose whatsoever. All financial  
16 records involving games of chance must be separate and distinguishable from other  
17 records of the organization. Revenue from more than one game of chance may be entered  
18 into one account.

19 **1-B. Records required for licensee or organization employing tokens.** If a  
20 licensee or organization authorized to conduct a game of chance employs tokens to  
21 account for revenue from games of chance and if the licensee or organization authorized  
22 to conduct a game of chance maintains direct control over the sale and redemption of the  
23 tokens and keeps accurate records of all tokens used, then the chief may by rule alter or  
24 reduce the record-keeping requirements of subsection 1 to the extent that a licensee's or  
25 organization's use of tokens renders those records unnecessary for adequate control of the  
26 licensee's or organization's games.

27 **2. Disposition of funds reports.** Within 10 business days after the last day of any  
28 period during which a licensed game of chance is conducted with other than an annual  
29 license or within 10 business days after the end of each calendar month during which a  
30 licensed game of chance is conducted with an annual license, the licensee shall file with  
31 the Chief of the State Police a disposition of funds form prescribed and furnished by the  
32 Chief of the State Police, detailing for the period the total receipts and expenditures of the  
33 game and the disposition of funds. Every statement must be made under oath by an  
34 officer of the licensee or by the member in charge of the conduct of the game.

35 **2-A. Disposition of funds reports from licensee using tokens.** If tokens are  
36 employed to account for revenue from licensed games of chance, then the licensee shall  
37 report the number of tokens sold, the number redeemed and the disposition of funds from  
38 the proceeds of sale in addition to such other information as the chief may require under  
39 subsection 2.

40 **3. Records maintained for 3 years.** Every licensee ~~which~~ or organization  
41 authorized to conduct a game of chance that has conducted a game of chance shall  
42 maintain and keep for a period of 3 years reports as may be necessary to substantiate the

1 records and reports required by this section or by the rules and regulations adopted under  
2 this chapter.

3 **4. Location.** All records ~~which shall~~ that must be maintained by a licensee or  
4 organization authorized to conduct a game of chance pursuant to this section and pursuant  
5 to the rules and regulations adopted under this chapter ~~shall must~~ be kept and maintained  
6 on the premises where the game of chance has been conducted or at the primary business  
7 office of the licensee or organization authorized to conduct a game of chance, which  
8 office ~~shall must~~ be designated by the licensee in the license application. All these  
9 records ~~shall must~~ be open to inspection by the Chief of the State Police or ~~his~~ the chief's  
10 representative and ~~no~~ a licensee shall or organization authorized to conduct a game of  
11 chance may not refuse the Chief of the State Police or ~~his~~ the chief's representative the  
12 right to inspect or audit the records. Refusal to permit inspection or audit of the records  
13 ~~shall does~~ not constitute a crime under this chapter but ~~shall does~~ constitute grounds for  
14 revocation of license.

15 **Sec. 7. 17 MRSA §341, sub-§1**, as amended by PL 1999, c. 716, §9, is further  
16 amended to read:

17 **1. Limits.** A licensed or otherwise authorized game of chance is limited as to the  
18 amount to be gambled for any one chance to \$1, except that an organization may operate  
19 and conduct a game of cards and charge no more than \$1 daily entry fee for participation  
20 in a game of cards, as long as no money or valuable thing other than \$1 daily entry fee is  
21 gambled in connection with a game of cards.

22 **Sec. 8. 17 MRSA §341, sub-§2**, as enacted by PL 1981, c. 130, is amended to  
23 read:

24 **2. Exceptions.** If the licensee or organization authorized to conduct a game of  
25 chance operates games of chance less than 3 days per calendar year and contributes 100%  
26 of the gross income from those games of chance to charity, then those games of chance  
27 ~~shall be~~ are limited as to the amount ~~which that~~ may be gambled to:

- 28 A. \$1 daily entry fee;  
29 B. 50¢ per game; or  
30 C. 25¢ per card received.

31 Prior to play of the game, the licensee or organization authorized to conduct a game of  
32 chance shall determine which of the limits in ~~paragraph paragraphs~~ A, B ~~or~~ and C is to be  
33 used and shall post the limit.

34 **Sec. 9. 17 MRSA §345**, as amended by PL 1997, c. 728, §8, is further amended to  
35 read:

36 **§345. Access to premises**

37 Any person, firm, corporation, association or organization making application to the  
38 Chief of the State Police to conduct or operate a game of chance or any ~~such~~ person, firm,  
39 corporation, association or organization authorized under this chapter to operate or



1 conduct a game of chance; shall permit inspection of any equipment, prizes, records or  
2 items and materials used or to be used in the conduct or operation of a game of chance by  
3 the Chief of the State Police or the chief's authorized representative.

4 Any firm, corporation, association or organization licensed to operate a game of  
5 chance or that operates a game of chance shall permit at any time the Department of  
6 Public Safety or the city or town fire inspectors of the municipality in which the licensed  
7 or otherwise authorized game is being conducted to enter and inspect the licensed  
8 premises on which the game is being conducted.

9

### SUMMARY

10 This bill allows nonprofit organizations to conduct games of chance without a  
11 license.