

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

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Legislative Document

No. 1081

H.P. 748

House of Representatives, March 17, 2009

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

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative TARDY of Newport.
Cosponsored by Senator TRAHAN of Lincoln and
Representatives: BEAULIEU of Auburn, CLARK of Millinocket, DAVIS of Sangerville,
FITTS of Pittsfield, HANLEY of Gardiner, McLEOD of Lee, NASS of Acton, SHAW of
Standish.

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

2 **Sec. 1. 17 MRSA §331, sub-§1**, as amended by PL 1975, c. 740, §5, is further
3 amended to read:

4 **1. License required.** ~~No~~ A person, firm, corporation, association or organization
5 shall may not hold, conduct or operate a game of chance within the State unless a license
6 therefor is obtained from the Chief of the State Police, ~~or the~~ except that organizations
7 may conduct or operate games of chance without a license when the total amount of
8 money collected in entry fees, chances or wagers for any one event is less than \$10,000
9 and the organization has collected not more than \$15,000 in entry fees, chances or wagers
10 in a calendar year. A game of chance that constitutes "social gambling" as that term is
11 defined by Title 17-A, section 952, subsection 8 does not require a license or notification
12 under this subsection. An organization wanting to conduct a game of chance that does
13 not require a license and is within the limits described in this subsection shall notify the
14 Chief of the State Police no less than 5 business days prior to conducting the game of
15 chance and provide the name and tax identification number of the organization
16 conducting the game and the time, date and location of the event and shall submit a \$30
17 registration fee.

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

19 **10. Nonprofit organizations.** Notwithstanding subsection 1, a license to hold,
20 conduct or operate a game of chance is not required of a bona fide nonprofit charitable,
21 educational, political, civic, recreational, fraternal, patriotic or religious organization or of
22 a volunteer fire department or of a local or state affiliate of a national cribbage
23 organization or of an auxiliary of any of these organizations as long as the organization or
24 auxiliary either was founded in this State at least 2 years before holding, conducting or
25 operating a game of chance or has been chartered or organized in this State for a period of
26 not less than 2 consecutive years before holding, conducting or operating a game of
27 chance.

28 **Sec. 3. 17 MRSA §332**, as amended by PL 2005, c. 563, §14, is further amended
29 to read:

30 **§332. Issuance of license**

31 **1. Organizations eligible.** Notwithstanding any other provisions provision of law,
32 and in accordance with section 331, subsection 1, the Chief of the State Police may issue
33 a license to operate a game of chance to an agricultural society eligible for a stipend
34 under Title 7, chapter 4, or to a bona fide nonprofit charitable, educational, political,
35 civic, recreational, fraternal, patriotic or religious organization, or to a volunteer fire
36 department or to an auxiliary of any of these organizations, any of which must be
37 founded, chartered or organized in this State for a period of not less than 2 consecutive
38 years before applying for a license.

39 **2. Games conducted by members and bartenders of licensees only.** A game of
40 chance licensed or otherwise authorized pursuant to this section shall must be operated
41 and conducted for the exclusive benefit of the licensee or authorized organization and

1 shall must be operated and conducted only by duly authorized members of the licensee or
2 authorized organization or by persons employed by the licensee or authorized
3 organization as bartenders, except that nonmembers employed by the licensee or
4 authorized organization as bartenders may not operate or conduct any game of chance
5 permitted under ~~section 332~~, subsection 4, paragraph B. The requirements of this
6 subsection shall do not apply to any agricultural fair association licensed to operate a
7 game of chance.

8 **3. Schemes prohibited.** No license may be issued for the conduct or operation of,
9 and an organization listed in subsection 1 may not conduct or operate without a license,
10 any machine, slot machine, roulette, or any games commonly known as policy or
11 numbers, except that a license may be issued for any electronic video machine. Any
12 electronic video machine ~~which that~~ constitutes a game of chance, as defined in section
13 330, subsection 2, ~~shall be fully~~ is governed by the laws contained in this chapter.

14 **3-A. Prohibited games.** The following games are prohibited.

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

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

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

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

28 **3-B. Licenses for electronic video machines.** The following provisions apply to
29 licenses for electronic video machines.

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

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

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

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

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

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

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

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

16 B. No other licensee or organization listed in subsection 1 may operate a game of
17 chance on premises to which the general public has access. In any room where a
18 licensed or otherwise authorized game of chance is being conducted, there must be at
19 least one member of the licensee or organization listed in subsection 1 present in that
20 room for every 2 nonmembers who are present. That member must have been a
21 member of the licensee or organization listed in subsection 1 for at least one year. A
22 member of the licensee or organization listed in subsection 1, either directly or
23 through another member or guest, may not stake or risk something of value in the
24 licensee's or organization's game of chance unless the member has been a member, as
25 defined in section 330, subsection 3-B, of the licensee or organization listed in
26 subsection 1 for at least 14 days not including the day of admission into membership.

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

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

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

1 **Sec. 4. 17 MRSA §334**, as amended by PL 2001, c. 538, §3, is further amended to
2 read:

3 **§334. Evidence**

4 The Chief of the State Police may require such evidence as the chief may determine
5 necessary to satisfy the chief that an applicant or organization licensed or otherwise
6 authorized to conduct games of chance conforms to the restrictions and other provisions
7 of this chapter. Charters, organizational papers, bylaws or other such written orders of
8 founding that outline or otherwise explain the purpose for which such organization was
9 founded, must, upon request, be forwarded to the Chief of the State Police. The Chief of
10 the State Police may require of any licensee or of any person operating, conducting or
11 assisting in the operation of a licensed game of chance evidence as the chief may
12 determine necessary to satisfy the chief that the person is a duly authorized member of
13 the licensee, or organization that conducts a game of chance or a person employed by the
14 licensee or organization that conducts a game of chance as a bartender, as required by
15 section 332, subsection 2. Upon request, this evidence must be forwarded to the Chief of
16 the State Police. The Chief of the State Police may require such evidence as the chief
17 may determine necessary regarding the conduct of games of chance by a licensee or
18 organization to determine compliance with this chapter.

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

21 **2-A. Exceptions.** Notwithstanding subsection 1, a licensee or organization
22 authorized to conduct a game of chance may pay or use the proceeds of a game of chance
23 to:

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

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

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

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

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

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

39 (b) In the case of a casualty loss, the licensing division may require
40 statements or reports from a law enforcement agency, rescue or other

1 emergency services personnel or an insurance agency to support the
2 application.

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

7 **Sec. 6. 17 MRSA §335, sub-§4**, as enacted by PL 1997, c. 684, §5, is amended to
8 read:

9 **4. Posting.** An organization licensed or otherwise authorized to conduct a game of
10 chance pursuant to section 332 shall post in a conspicuous place in the room or hall where
11 the game of chance is conducted a sign that states: the net revenue earned from the
12 operation of the game in dollars and cents; the amount of charitable donations from that
13 net revenue in dollars and cents; what percentage in dollars and cents of the net revenue
14 that amount represents in donations to nonprofit activities; and what percentage of the net
15 revenue was distributed from licensed or otherwise authorized games for the previous
16 calendar year and the current calendar year.

17 **Sec. 7. 17 MRSA §336**, as amended by PL 2001, c. 672, §§9 to 12, is further
18 amended to read:

19 **§336. Records; licenses**

20 **1. Records required.** Each licensee and organization authorized to conduct a game
21 of chance shall keep a record of all financial transactions involving games of chance
22 operated under each license granted to the licensee and games of chance operated by such
23 an organization. The treasurer of the licensee or organization authorized to conduct a
24 game of chance or another officer designated by the treasurer is responsible for
25 maintaining those records. The records must include an exact account of all revenue
26 from the games, an itemization of all expenses, including, but not limited to, the cost of
27 prizes, printing, licenses and administration, and the disposition of all proceeds,
28 including, but not limited to, all gifts, grants and payments to any person, firm,
29 corporation, association or organization for any purpose whatsoever. All financial
30 records involving games of chance must be separate and distinguishable from other
31 records of the organization. Revenue from more than one game of chance may be entered
32 into one account.

33 **1-B. Records required for licensee employing tokens.** If a licensee or organization
34 authorized to conduct a game of chance employs tokens to account for revenue from
35 games of chance and if the licensee or organization authorized to conduct a game of
36 chance maintains direct control over the sale and redemption of the tokens and keeps
37 accurate records of all tokens used, then the chief may by rule alter or reduce the record-
38 keeping requirements of subsection 1 to the extent that a licensee's or organization's use
39 of tokens renders those records unnecessary for adequate control of the licensee's or
40 organization's games.

41 **2. Disposition of funds reports.** Within 10 business days after the last day of any
42 period during which a licensed game of chance is conducted with other than an annual

1 license or within 10 business days after the end of each calendar month during which a
2 licensed game of chance is conducted with an annual license, the licensee shall file with
3 the Chief of the State Police a disposition of funds form prescribed and furnished by the
4 Chief of the State Police, detailing for the period the total receipts and expenditures of the
5 game and the disposition of funds. Every statement must be made under oath by an
6 officer of the licensee or by the member in charge of the conduct of the game.

7 **2-A. Disposition of funds reports from licensee using tokens.** If tokens are
8 employed to account for revenue from licensed games of chance, then the licensee shall
9 report the number of tokens sold, the number redeemed and the disposition of funds from
10 the proceeds of sale in addition to such other information as the chief may require under
11 subsection 2.

12 **3. Records maintained for 3 years.** Every licensee ~~which~~ or organization
13 authorized to conduct a game of chance that has conducted a game of chance shall
14 maintain and keep for a period of 3 years reports as may be necessary to substantiate the
15 records and reports required by this section or by the rules and regulations adopted under
16 this chapter.

17 **4. Location.** All records ~~which shall~~ that must be maintained by a licensee or
18 organization authorized to conduct a game of chance pursuant to this section and pursuant
19 to the rules ~~and regulations~~ adopted under this chapter ~~shall~~ must be kept and maintained
20 on the premises where the game of chance has been conducted or at the primary business
21 office of the licensee or organization authorized to conduct a game of chance, which
22 office ~~shall~~ must be designated by the licensee in the license application. All these
23 records ~~shall~~ must be open to inspection by the Chief of the State Police or ~~his~~ the chief's
24 representative and ~~no~~ a licensee shall or organization authorized to conduct a game of
25 chance may not refuse the Chief of the State Police or ~~his~~ the chief's representative the
26 right to inspect or audit the records. Refusal to permit inspection or audit of the records
27 ~~shall~~ does not constitute a crime under this chapter but ~~shall~~ does constitute grounds for
28 revocation of license.

29 **Sec. 8. 17 MRSA §341, sub-§1**, as repealed and replaced by PL 2007, c. 554, §2,
30 is amended to read:

31 **1. Limits.** The maximum bet for licensed or otherwise authorized games of chance,
32 including card games in which bets are placed per hand or per deal, is \$1 for any one
33 chance, hand or deal. Licensed card games that award part or all of the entry fees paid to
34 participate as prize money and in which no money or thing of value is wagered except for
35 the entry fee are limited to a \$5 daily entry fee and no more than 40 players at any one
36 time at any one location.

37 **Sec. 9. 17 MRSA §341, sub-§2**, as enacted by PL 1981, c. 130, is amended to
38 read:

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

- 1 A. ~~\$1~~ One dollar daily entry fee;
- 2 B. ~~50¢~~ Fifty cents per game; or
- 3 C. ~~25¢~~ Twenty-five cents per card received.

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

7 **Sec. 10. 17 MRSA §345**, as amended by PL 1997, c. 728, §8, is further amended
8 to read:

9 **§345. Access to premises**

10 Any person, firm, corporation, association or organization making application to the
11 Chief of the State Police to conduct or operate a game of chance or any ~~such~~ person, firm,
12 corporation, association or organization authorized under this chapter to operate or
13 conduct a game of chance, shall permit inspection of any equipment, prizes, records or
14 items and materials used or to be used in the conduct or operation of a game of chance by
15 the Chief of the State Police or the chief's authorized representative.

16 Any firm, corporation, association or organization licensed to operate a game of
17 chance or that operates a game of chance shall permit at any time the Department of
18 Public Safety or the city or town fire inspectors of the municipality in which the licensed
19 or otherwise authorized game is being conducted to enter and inspect the ~~licensed~~
20 premises on which the game is being conducted.

21 **SUMMARY**

22 This bill allows nonprofit organizations to conduct games of chance without a
23 license.