

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 7, 1998 to March 31, 1998**

**SECOND SPECIAL SESSION**  
**April 1, 1998 to April 9, 1998**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 1998**

**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 9, 1998**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

**Sec. E-3. 4 MRSA §807, sub-§3, ¶K**, as enacted by PL 1997, c. 466, §2 and affected by §28, is amended to read:

K. A person who is not an attorney, but who is representing the Department of Human Services in accordance with Title 19-A, section 1615; Title 19-A, section 2009, subsection 8; Title 19-A, section 2201, subsection 1-B; and Title 19-A, section 2202, subsection 1-B; or

**Sec. E-4. 4 MRSA §807, sub-§3, ¶L** is enacted to read:

L. A person who is not an attorney, but who is representing the Department of Agriculture, Food and Rural Resources in accordance with Title 7, section 3909, subsection 2.

**Sec. E-5. 19-A MRSA §652, sub-§8**, as amended by PL 1997, c. 507, §1 and affected by §4, is further amended to read:

**8. Parties under 16 years of age.** The clerk may not issue a marriage license to a person under ~~18~~ 16 years of age without:

A. The written consent of that minor's parents, guardians or persons to whom a court has given custody;

B. Notifying the judge of probate in the county in which the minor resides of the filing of this intention; and

C. Receipt of that judge of probate's written consent to issue the license. The judge of probate shall base a decision on whether to issue consent on the best interest of the parties under ~~18~~ 16 years of age and shall consider the age of both parties and any criminal record of a party who is 18 years of age or older. The judge of probate, in the interest of public welfare, may order, after notice and opportunity for hearing, that a license not be issued. The judge of probate shall issue a decision within 30 days of receiving the notification under paragraph B.

**Sec. E-6. Retroactivity.** The section of this Act amending the Maine Revised Statutes, Title 19-A, section 652, subsection 8 applies retroactively to October 1, 1997.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 3, 1998.

## CHAPTER 684

H.P. 1456 - L.D. 2047

### An Act to Implement the Recommendations of the Governor's Advisory Committee on Gambling

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

**Sec. 1. 17 MRSA §314, 2nd ¶**, as amended by PL 1991, c. 528, Pt. H, §1 and affected by Pt. RRR and amended by c. 591, Pt. H, §1, is further amended to read:

The fee for such a license to any nonprofit organization is ~~\$7.50~~ \$12.00 for each calendar week, or portion thereof, that the amusement is to be operated, or the license may be issued for a calendar month for a fee of ~~\$22.50~~ \$36.00 or a calendar year for a fee of \$400. A special per-game license may be issued to any qualified nonprofit organization for the purposes of operating a game of "beano" or "bingo" for a fee of \$5.00. The special per-game license may not be issued more than 6 times to any one organization in a calendar year. All license fees must be paid to the Treasurer of State to be credited to the General Fund. A license is not assignable or transferable. Nothing contained in this section may be construed to prohibit any volunteer fire department or any agricultural fair association or bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious, veterans' organization or auxiliary of any of them from obtaining licenses for a period not to exceed 6 months on one application. No more than one license may be issued to any organization for any one period. No more than one licensee may operate or conduct a game of "beano" or "bingo" on the same premises on the same date.

**Sec. 2. 17 MRSA §317, first ¶**, as amended by PL 1985, c. 180, is further amended to read:

The Chief of the State Police ~~shall have~~ has the power to ~~make and~~ adopt rules and regulations, not inconsistent with law, which ~~he may deem~~ are necessary for the administration and enforcement of this chapter and for the licensing, conduct and operation of the amusement commonly known as "Beano" or "Bingo." ~~He shall have~~ The Chief of the State Police has the power and authority to regulate, supervise and exercise general control over the operation of such amusement, including, but not limited to, the payment of prizes and the use of equipment. Any rule ~~promulgated~~ adopted by the Chief of the State Police concerning the value of prizes that may be awarded ~~shall~~ must include a provision that no single prize may exceed \$400 in value and that no more than \$1,400 in total prizes may

be awarded on any one occasion. ~~He shall have the power and authority to investigate as to the direct or indirect ownership or control of any licenses and to revoke or suspend any license for just cause after hearing.~~ In establishing such rules and regulations, ~~he shall,~~ the Chief of the State Police must, in addition to the standards set forth in other provisions of this chapter, ~~be guided by~~ use the following standards setting forth conduct, conditions and activity ~~deemed~~ considered undesirable:

**Sec. 3. 17 MRSA §317-A** is enacted to read:

**§317-A. Investigations; suspension and revocation**

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

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

B. Suspend or revoke a license, after notice of the opportunity for a hearing, if the licensee or the licensee's agent or employee violates a provision of this chapter or Title 17-A, chapter 39; and

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

**2. Suspension or revocation after notice and opportunity for hearing.** The Chief of the State Police must notify the licensee in writing, before a license is suspended or revoked and after notice of the opportunity for a hearing, pursuant to subsection 1, paragraph B, of the intended commencement date of the suspension or revocation, which may not be made any sooner than 96 hours after the licensee's receipt of the notice, of the duration of the suspension or revocation and of the right to a hearing pursuant to this subsection. The licensee has the right to request a hearing before 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 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 licensee is notified of the proposed 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.

**3. Immediate suspension or revocation.** A licensee whose license is immediately suspended or revoked by the Chief of the State Police pursuant to subsection 1, paragraph C must be notified in writing of the duration of the suspension or revocation and the licensee's right to request a hearing before 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 the licensee's agent or employee violated a provision of Title 17-A, chapter 39. A request for a hearing may not be made any later than 48 hours after the licensee 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. 4. 17 MRSA §326, sub-§4** is enacted to read:

**4. Posting.** An organization licensed to operate beano or bingo and Lucky 7 games in conjunction with beano or bingo shall post in a conspicuous place in the room or hall where the licensed game is conducted a sign that states: the net revenue earned from the operation of those games in dollars and cents; the amount of charitable donations from that net revenue in dollars and cents; what percentage in dollars and cents of the net revenue that amount represents in donations to nonprofit activities; and what percentage of the net revenue was distributed from licensed games for the previous calendar year and the current calendar year.

**Sec. 5. 17 MRSA §335, sub-§4** is enacted to read:

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

**Sec. 6. 17 MRSA §339, sub-§2**, as amended by PL 1991, c. 528, Pt. H, §2 and affected by Pt. RRR and amended by c. 591, Pt. H, §2, is further amended to read:

**2. Operation of games of chance.** Except as provided in subsection 3, the fee for a license to operate a game of chance is \$9 \$15 for each week

computed on a Monday to Sunday basis or portion thereof. The license may be issued for a calendar month for a fee of ~~\$36~~ \$60 or for a calendar year for a fee of \$700.

Any combination of monthly or weekly licenses may be issued. Except as provided in subsection 3, licenses to conduct any authorized game of chance may be issued for a period not to exceed 6 months on one application.

**Sec. 7. 17 MRSA §343, first ¶,** as repealed and replaced by PL 1975, c. 410, §4, is amended to read:

The Chief of the State Police ~~shall have~~ has the power to ~~make and adopt rules and regulations,~~ not inconsistent with law, which ~~he may deem~~ are necessary for the administration and enforcement of this chapter and for the licensing, conduct and operation of games of chance. ~~He shall have~~ The chief of the State Police has the power and authority to regulate, supervise and exercise general control over the operation of such games; ~~to investigate as to the direct or indirect ownership or control of any organization conducting a game of chance, and to revoke or suspend any license for just cause after hearing.~~ In establishing such rules and regulations, ~~he shall,~~ the Chief of the State Police must, in addition to the standards set forth in other provisions of this chapter, ~~be guided by~~ use the following standards setting forth conduct, conditions and activity ~~deemed~~ considered undesirable.

**Sec. 8. 17 MRSA §343-A** is enacted to read:

**§343-A. Investigations; suspension and revocation**

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

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

B. Suspend or revoke a license, after notice and the opportunity for a hearing, if the licensee or the licensee's agent or employee violates a provision of this chapter or Title 17-A, chapter 39; and

C. Immediately suspend or revoke a license if there is probable cause to believe that the licensee or 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 39.

**2. Suspension or revocation after notice and opportunity for hearing.** The Chief of the State Police must notify the licensee in writing, before a license is suspended or revoked and after notice of the

opportunity for a hearing, pursuant to subsection 1, paragraph B, of the intended commencement date of the suspension or revocation, which may not be made any sooner than 96 hours after the licensee's receipt of the notice, of the duration of the suspension or revocation and of the right to a hearing pursuant to this subsection. The licensee has the right to request a hearing before 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 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 licensee is notified of the proposed 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.

**3. Immediate suspension or revocation.** A licensee whose license is immediately suspended or revoked by the Chief of the State Police pursuant to subsection 1, paragraph C must be notified in writing of the duration of the suspension or revocation and the licensee's right to request a hearing before 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 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 39. A request for a hearing may not be made any later than 48 hours after the licensee 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. 9. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

**1998-99**

**PUBLIC SAFETY,  
DEPARTMENT OF**

**Administration**

Positions - Legislative Count	(4,000)
Personal Services	\$121,928
All Other	85,131
Capital Expenditures	58,500

Provides funds for one  
Detective position, one Clerk  
Typist III position and 2 Public  
Safety Inspector I positions to  
provide additional assistance in  
the enforcement and  
administration of beano and  
games of chance activities.

**DEPARTMENT OF PUBLIC  
SAFETY  
TOTAL**

\$265,559

See title page for effective date.

**CHAPTER 685**

**H.P. 1547 - L.D. 2176**

**An Act Concerning Sea Urchin  
Management**

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

**Sec. 1. 12 MRSA §6749-N, first ¶,** as enacted by PL 1993, c. 740, §3, is amended to read:

Notwithstanding section 6749, ~~in calendar years 1995, 1996, 1997 and 1998,~~ it is unlawful for a person to fish for or take sea urchins from:

**Sec. 2. 12 MRSA §6749-O, sub-§§1 and 2,** as amended by PL 1995, c. 595, §3, are further amended to read:

**1. Handfishing and dragging licenses.** Except as provided in subsections 3 and 4, the commissioner may not issue a handfishing sea urchin license or a sea urchin dragging license for calendar year 1994, 1995, 1996, 1997 or 1998 to any person unless that person possessed that license in the previous calendar year. This subsection is repealed December 31, 1998.

**2. Hand-raking and trapping license.** Except as provided in subsections 3 and 4, the commissioner may not issue a sea urchin hand-raking and trapping license for calendar year 1996 to any person unless that person possessed either a handfishing sea urchin license or a sea urchin dragging license in calendar year 1995. The commissioner may not issue a sea urchin hand-raking and trapping license for calendar year 1997 or 1998 to any person unless that person possessed a sea urchin hand-raking and trapping license in the previous calendar year. A person who is issued a sea urchin hand-raking and trapping license may not be issued a handfishing sea urchin license or a sea urchin dragging license in the same calendar year. This subsection is repealed December 31, 1998.

**Sec. 3. 12 MRSA §6749-O, sub-§§2-A and 2-B** are enacted to read:

**2-A. License eligibility.** The commissioner may not issue a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license to any person for calendar year 1999, 2000 or 2001 unless that person possessed that license in the previous calendar year or becomes eligible to obtain that license pursuant to a lottery under subsection 2-B.

**2-B. Sea urchin license lottery.** The commissioner shall establish by rule a lottery system under which a person who did not hold a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license in the previous calendar year may become eligible to obtain that license in calendar year 1999, 2000 or 2001 for use in a zone established pursuant to section 6749-N. The rules for a lottery system must include provisions for the method and administration of a lottery. The rules may include provisions for a method under which a person may submit more than one entry in a lottery based on the prior calendar years a person held a license that qualify that person for a lottery. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

A. Pursuant to section 6749-P, all licenses issued to a person in a calendar year must be for use in the same zone.

B. A person may not enter more than one license lottery during a calendar year.

C. A person is eligible to enter a lottery for a handfishing sea urchin license and a sea urchin hand-raking and trapping license if that person held in the previous calendar year a sea urchin and scallop diving tender license issued under section 6535 that was valid for more than 30 days or if that person held in the previous calendar year a handfishing scallop license issued under section 6701.

D. A person is eligible to enter a lottery for a sea urchin dragging license if that person held in the previous calendar year a commercial fishing license issued under section 6501, a scallop boat license issued under section 6702, a mahogany quahog license issued under section 6731 or a mussel boat license issued under section 6746.

E. Except as provided in paragraph F, the number of persons awarded eligibility in a lottery for a handfishing sea urchin license, a sea urchin hand-raking and trapping license or a sea urchin dragging license in a zone must be in accordance with the exit ratio for that license in that zone.