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

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

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

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

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

§ 332. Issuance of license

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 334. Evidence

The Chief of the State Police may require such evidence as the chief may determine necessary to satisfy the chief that an applicant or organization licensed or otherwise authorized to conduct games of chance conforms to the restrictions and other provisions of this chapter. Charters, organizational papers, bylaws or other such written orders of founding that outline or otherwise explain the purpose for which

such organization was founded, must, upon request, be forwarded to the Chief of the State Police. The Chief of the State Police may require of any licensee or of any person operating, conducting or assisting in the operation of a licensed game of chance evidence as the chief may determine necessary to satisfy the chief that the person is a duly authorized member of the licensee, or organization that conducts a game of chance or a person employed by the licensee or organization that conducts a game of chance as a bartender, as required by section 332, subsection 2. Upon request, this evidence must be forwarded to the Chief of the State Police. The Chief of the State Police may require such evidence as the chief may determine necessary regarding the conduct of games of chance by a licensee or organization to determine compliance with this chapter.

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

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

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

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

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

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

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

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

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

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

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

4. Posting. An organization licensed or otherwise authorized 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 or otherwise authorized games for the previous calendar year and the current calendar year.

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

§ 336. Records; licenses

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 345. Access to premises

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

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

SUMMARY

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