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## **An Act To Clarify the Maine State Lottery Agent Licensing Process**

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

**Sec. 1. 8 MRSA §371, sub-§5**, as enacted by PL 1987, c. 505, §2, is amended to read:

**5. Person.** "Person" means an individual, association, corporation, limited liability company, limited partnership, limited liability partnership, partnership, club, trust, estate, society, company, receiver, trustee, assignee, referee or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" means all departments, commissions, agencies and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

**Sec. 2. 8 MRSA §372, sub-§2, ¶F**, as enacted by PL 1987, c. 505, §2, is repealed.

**Sec. 3. 8 MRSA §374, sub-§1, ¶H**, as amended by PL 1991, c. 683, §1, is further amended to read:

H. The method to be used in selling tickets or shares and the types of sales promotions that may be conducted utilizing tickets or shares as approved in advance by the commission or the director or the director's designee;

**Sec. 4. 8 MRSA §374, sub-§1, ¶I**, as enacted by PL 1987, c. 505, §2, is amended to read:

I. ~~The licensing of agents issuing of licenses to sell tickets or shares, but a person under the age of 18 shall not be licensed as an agent~~ qualified persons who are at least 18 shall not be licensed as an agent years of age and the denial, suspension and revocation of those licenses;

**Sec. 5. 8 MRSA §374, sub-§1, ¶J**, as enacted by PL 1987, c. 505, §2, is amended to read:

J. The license fee to be charged to ~~agents~~ persons applying for a license;

**Sec. 6. 8 MRSA §374, sub-§1, ¶K**, as amended by PL 1997, c. 301, §1, is further amended to read:

K. The manner and amount of compensation to be paid ~~licensed sales agents~~ to persons licensed to sell lottery tickets or shares necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the general public;

**Sec. 7. 8 MRSA §374, sub-§4**, as enacted by PL 1993, c. 397, §1, is repealed.

**Sec. 8. 8 MRSA §375**, as amended by PL 1993, c. 641, §1 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

### **§ 375. Lottery sales; licensing; appeals**

**1. Factors.** A license as an agent to sell lottery tickets or shares may be issued by the director or the director's designee to any qualified person. Before issuing the license, the director or the director's designee shall consider at least the following factors:

- A. The financial responsibility and security of the person and the person's business or activity;
- B. The accessibility of the person's place of business or activity to the public;
- C. The sufficiency of existing licensees to serve the public convenience; and [PL 1987, c. 505, § 2 (NEW).]
- D. The volume of expected sales.

**2. Appeals.** ~~An applicant who is denied a license~~If the director or the director's designee denies a person a license to sell lottery tickets or shares, the person may appeal the director's decision to the commission by filing a written appeal with the commission within 15 days of the mailing of the director's decision. ~~An applicant~~A person aggrieved by a decision of the commission may appeal the commission's decision by filing a complaint with the District Court and serving a copy of the complaint upon the commission. The complaint must be filed and served within 30 days of the mailing of the commission's decision.

**Sec. 9. 8 MRSA §376, sub-§1**, as enacted by PL 1987, c. 505, §2, is amended to read:

**1. Reasons for suspension or revocation.** ~~The commission~~director or the director's designee may suspend or revoke, after notice and hearing in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, any license issued pursuant to this chapter. The license may be temporarily suspended by the ~~commission without prior notice,~~director or director's designee pending any prosecution, investigation or hearing. A license may be suspended or revoked by the ~~commission~~director or the director's designee for just cause, including, but not limited to, one or more of the following reasons:

- A. Failure to account for tickets received or the proceeds of the sale of tickets or to file a bond, if required by the ~~commission,~~ or to comply with ~~instructions of the commission~~provisions of this chapter or rules adopted under this chapter concerning the licensed activity;
- B. Conviction of any criminal offense;
- C. Failure to file any return or report, to keep records or to pay any tax;
- D. Engaging in fraud, deceit, misrepresentation or conduct prejudicial to public confidence;
- E. Insufficiency of the number of tickets sold by the ~~sales agent~~a person licensed to sell lottery tickets or shares; or
- F. A material change, since issuance of the license, with respect to any of the matters required to be considered by the director under section 375 or as defined by rules adopted under this chapter.

**Sec. 10. 8 MRSA §376, sub-§2**, as enacted by PL 1987, c. 505, §2, is repealed.

**Sec. 11. 8 MRSA §376, sub-§3** is enacted to read:

**3. Appeal for suspension or revocation of license.** If the director or the director's designee suspends or revokes a person's license to sell lottery tickets or shares, the person may appeal the decision to the commission by filing a written appeal with the commission within 15 days of the mailing of the decision. The appeal must include the reason the commission should reverse the decision.

A person aggrieved by a decision of the commission may appeal the commission's decision by filing a complaint with the District Court and serving a copy of the complaint upon the commission. The complaint must be filed and served within 30 days of the mailing of the commission's decision.

**Sec. 12. 8 MRSA §409, sub-§2,** as enacted by PL 1983, c. 732, §1, is repealed.

**Sec. 13. 8 MRSA §411,** as enacted by PL 1983, c. 732, §1, is repealed.

**Sec. 14. 8 MRSA §412,** as enacted by PL 1983, c. 732, §1, is repealed.

## SUMMARY

This bill makes the following changes to the law regarding the operations of lotteries.

1. It amends the definition of "person" to include other forms of businesses.
2. It clarifies the rule-making authority of the State Liquor and Lottery Commission relating to license issuance, denial, suspension and revocation.
3. It clarifies that the Director of the Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services or the director's designee has the authority to deny, suspend or revoke a license to sell lottery tickets or shares.
4. It clarifies that the appeal of a decision to deny, suspend or revoke a license may be made to the commission.