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An Act Regarding the Regulation of Sports Wagering

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

Sec. 1. 8 MRSA §1003, sub-§5, as repealed and replaced by PL 2017, c. 475, Pt. A, §11, is amended to read:

5. Additional duties of the director. The director also serves as the director of the Gambling Control Unit, established as a bureau within the Department of Public Safety under Title 25, section 2902, subsection 12. As director of the unit, the director shall administer and enforce the laws governing fantasy contests under chapter 33, sports wagering under chapter 35 and beano and games of chance under Title 17, chapters 13-A and 62, respectively.

Sec. 2. 8 MRSA §1104, sub-§2, as enacted by PL 2017, c. 303, §2, is amended to read:

2. Certain leagues and contests prohibited. A fantasy contest operator may not offer a fantasy contest based on the performances of participants in collegiate or high school athletic events or other athletic events involving in which the majority of participants are under 18 years of age.

Sec. 3. 8 MRSA c. 35 is enacted to read:

CHAPTER 35

REGULATION OF SPORTS WAGERING

§ 1201. Authorization of sports wagering

Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are lawful when conducted in accordance with the provisions of this chapter and the rules of the director.

§ 1202. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Adjusted gross sports wagering receipts. "Adjusted gross sports wagering receipts" means an operator's gross receipts from sports wagering, excluding free bets, less the total of all winnings paid to patrons, which includes the cash equivalent of any merchandise or thing of value awarded as a prize, and less all excise taxes paid pursuant to federal law.

2. Collegiate sports or athletic event. "Collegiate sports or athletic event" means a sports or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers postsecondary educational services.

3. Director. "Director" means the director of the Gambling Control Unit within the Department of Public Safety.

4. Government. "Government" means any governmental unit of a national, state or local body exercising governmental functions, other than the United States Government.

5. License. "License" means an operator license under section 1205 to conduct sports wagering.

6. National criminal history background check system. "National criminal history background check system" means the criminal history background check system maintained by the Federal Bureau of Investigation.

7. Operator. "Operator" means a qualified gaming entity that is licensed to offer sports wagering.

8. Professional sports or athletic event. "Professional sports or athletic event" means an event at which 2 or more persons participate in sports or athletic contests and receive compensation in excess of actual expenses for their participation in the event.

9. Qualified gaming entity. "Qualified gaming entity" means a gaming entity that offers sports wagering through mobile applications or digital platforms in any jurisdiction in the United States pursuant to a state regulatory structure.

10. Sports event or sporting event. "Sports event" or "sporting event" means any professional sports or athletic event, collegiate sports or athletic event, motor race event, electronic sports event, competitive video game event or any other special event for which sports wagering is authorized by the director under this chapter.

11. Sports wagering. "Sports wagering" means the business of accepting wagers on sporting events or portions of sporting events, other events, the individual performance statistics of athletes in a sporting event or other events or a combination of any of the same by any system or method of wagering approved by the director, including, but not limited to, via mobile applications and digital platforms that use communications technology to accept wagers. "Sports wagering" includes, but is not limited to, single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets and straight bets. "Sports wagering" does not include fantasy contests as defined in section 1101, subsection 4.

12. Sports wagering account. "Sports wagering account" means a financial record established by an operator for an individual patron into which the patron may deposit and from which the patron may withdraw funds for sports wagering and other authorized purchases, and to which the operator may credit winnings or other amounts due to that patron or authorized by that patron. A sports wagering account may be established electronically through any approved mobile application or digital platform.

13. Sports wagering agreement. "Sports wagering agreement" means a written agreement between the director and one or more other governments whereby persons who are physically located in a signatory jurisdiction may participate in sports wagering conducted by one or more operators licensed by the signatory governments.

14. Sports wagering license. "Sports wagering license" means authorization granted under this chapter by the director to a qualified gaming entity that permits the qualified gaming entity to operate sports wagering through any authorized platform. This term is synonymous with "operator license."

15. Wager. "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

§ 1203. Powers and duties of director

1. Powers and duties. In administering and enforcing this chapter, the director:

A. Has the power to regulate the conduct of sports wagering;

B. Shall examine the rules and regulations implemented in other states where sports wagering is conducted and shall, as far as practicable, adopt a similar regulatory structure through adoption of rules;

C. May adopt rules necessary for the successful implementation, administration and enforcement of this chapter, including, but not limited to, rules governing the acceptance of wagers on a sports event, other event or a series of sports events; maximum wagers that may be accepted by an operator from any one patron on any one event; type of wagering receipts that may be used; method of issuing receipts; method of accounting to be used by operators; types of records that must be kept; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming and inclusion of the statement, "If you or someone you know has a gambling problem and wants help, call 1-800-GAMBLER," on any mobile application or digital platform used to place wagers. Rules adopted under this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

D. May adopt emergency rules in accordance with Title 5, section 8054;

E. Shall determine the eligibility of a person to hold or continue to hold a license, shall issue all licenses and shall maintain a record of all licenses issued under this chapter. The director may accept applications, evaluate qualifications of applicants and undertake an initial review of licenses prior to adoption of emergency rules pursuant to paragraph D;

F. Shall levy and collect all fees, civil penalties and tax on adjusted gross sports wagering receipts imposed by this chapter, except as otherwise provided under this chapter;

G. May sue to enforce any provision of this chapter or any rule of the director by civil action or petition for injunctive relief;

H. May hold hearings, administer oaths and issue subpoenas or subpoenas duces tecum in the manner provided by applicable law; and

I. May exercise any other powers necessary to effectuate the provisions of this chapter and the rules of the director.

§ 1204. Licenses required

1. Licenses. A person or entity may not engage in any activity in connection with sports wagering in this State unless all necessary licenses have been obtained in accordance with this chapter and rules adopted pursuant to this chapter.

2. Qualifications and control. The director may not grant a license until the director determines that each person that has control of the applicant meets all qualifications for licensure. The following persons are considered to have control of an applicant:

A. Each corporate holding company, parent company, subsidiary company and person that owns 10% or more of the corporate applicant and that has the ability to control the activities of the corporate applicant or elect a majority of the board of directors of that corporate applicant, except for a bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;

B. Each person associated with a noncorporate applicant that directly or indirectly holds a beneficial or proprietary interest in the noncorporate applicant's business operation or that the director otherwise determines has the ability to control the noncorporate applicant; and

C. Key personnel of an applicant, including any executive, employee or agent, having the power to exercise significant influence over decisions concerning any part of the applicant's business operation.

3. Application. An applicant for a license issued under this chapter shall submit an application to the director in the form the director requires and submit fingerprints for a criminal history background check to the national criminal history background check system conducted by the Maine State Police and the Federal Bureau of Investigation, except that a person who has submitted to a criminal history background check in this State or any other state within the previous 12 months is not required to submit to another criminal history background check if the person submits the results of the previous criminal history background check. The fingerprints must be furnished by all persons required to be named in the application and must be accompanied by a signed authorization for the release of information by the Maine State Police and the Federal Bureau of Investigation. An applicant convicted of any disqualifying offense may not be licensed.

4. Material change to application. A person licensed under this chapter shall give the director written notice within 30 days of any material change to any information provided in the licensee's application for a license or renewal.

5. Gambling Control Unit employees prohibited. A Gambling Control Unit employee may not be an applicant for a license issued under this chapter.

§ 1205. Operator license; temporary license; audits

1. Operation upon approval. A qualified gaming entity may operate sports wagering upon the approval of the director.

2. Authority to conduct sports wagering. An operator license granted by the director pursuant to this section grants a licensee lawful authority to conduct sports wagering within the terms and conditions of the license and any rules adopted under this chapter.

3. Issuance of license. The director shall issue a license to operate sports wagering to a qualified gaming entity that meets the requirements of this section.

4. Temporary license. A qualified gaming entity may submit a request to the director for the immediate commencement of sports wagering operations. Such a request must include the initial license fee of \$10,000 payable to the director. Upon receiving a request for a temporary license, the director shall review the request. If the director determines that the entity requesting the temporary license is a qualified gaming entity, has paid the initial license fee and is in compliance with this subsection, the director shall authorize the qualified gaming entity to conduct sports wagering for 2 years under a temporary license or until a final determination on the operator's license application is made. Sports wagering conducted under authority of a temporary license must comply with the operator's house rules adopted pursuant to section 1207.

5. Grant of license; term. Upon application by a qualified gaming entity and payment of an application fee of \$10,000 payable to the director, the director shall grant an operator license that provides for the right to conduct sports wagering if the applicant meets the requirements for licensure under the provisions of this chapter and the rules adopted under this chapter and pays the initial license fee of \$10,000 payable to the director. A license must be issued for a 5-year period and may be renewed for 5-year periods upon payment of a renewal fee of \$10,000 payable to the director, as long as the operator continues to meet all qualification requirements.

6. Mobile applications and digital platforms. An operator license authorizes the operation of sports wagering through any mobile application or digital platforms approved by the director.

7. Expiration date and renewal. An operator shall submit to the director such documentation or information as the director may require demonstrating that the operator continues to meet the requirements of this chapter and rules adopted under this chapter. Required documentation or information must be submitted no later than 5 years after issuance of an operator license and every 5 years thereafter or within shorter time periods based on circumstances specified by the director.

8. Audits. Upon application for a license and annually thereafter, an operator shall submit to the director an annual audit of the financial transactions and condition of the licensee's total operations prepared by a certified public accountant in accordance with generally accepted accounting principles and applicable federal and state laws. The audit must be submitted by an operator by July 1st of the following year.

§ 1206. License prohibitions

1. Grounds for denial. The director may not grant a license, pursuant to the provisions of this chapter, if the applicant:

- A. Has knowingly made a false statement of a material fact to the director;
- B. Has had a license revoked by any government authority responsible for regulation of gaming activities; or
- C. Has been convicted of a crime of moral turpitude, a gambling-related offense or a theft or fraud offense or has otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order.

2. Denial of license; reprimand, suspension and revocation. The director may deny a license to any applicant, reprimand any licensee or suspend or revoke a license:

- A. If the applicant or licensee has not demonstrated to the satisfaction of the director financial responsibility sufficient to adequately meet the requirements of the licensed business or proposed business;
- B. If the applicant or licensee is not the true owner of the licensed business or proposed business or is not the sole owner and has not disclosed the existence or identity of other persons that have an ownership interest in the applicant; or
- C. If an applicant has not met the requirements of this section or any other provision of this chapter.

§ 1207. Sports wagering house rules

1. Adoption of house rules. An operator shall adopt comprehensive house rules for game play governing sports wagering transactions with its patrons. The rules must specify the amounts to be paid on winning wagers, the circumstances under which the operator will void a bet, treatment of errors, late bets and related contingencies and the effect of schedule changes. House rules must be approved by the director prior to implementation.

2. Posting of house rules. The house rules, together with any other information the director determines to be appropriate, must be included in the terms and conditions of the sports wagering system. Copies must be made readily available to patrons.

§ 1208. Operator duties

1. Duties. An operator shall:

- A. Employ a monitoring system using software to identify unusual irregularities in volume or odds swings that could signal suspicious activity that requires further investigation; such activity must be immediately reported to and investigated by the director. System requirements and specifications must be in accordance with industry standards;
- B. Promptly report to the director any facts or circumstances related to the operation of a licensee that constitute a violation of state or federal law and immediately report any suspicious betting over a threshold set by the operator that has been approved by the director to the appropriate state or federal authorities;
- C. Conduct all sports wagering activities and functions in a manner that does not pose a threat to the public health, safety or welfare of the citizens of this State;
- D. Keep current in all payments and obligations to the director;
- E. Prevent any person from tampering with or interfering with the operation of any sports wagering;
- F. Ensure that sports wagering occurs using only a mobile application or digital platform approved by the director that uses communications technology to accept wagers originating in this State or in a state or jurisdiction with which the director has entered into a sports wagering agreement;
- G. Maintain sufficient cash and other supplies to conduct sports wagering at all times; and
- H. Maintain daily records showing the gross sports wagering receipts and adjusted gross sports wagering receipts of the licensee and timely file with the director any additional reports required by rule or by other provisions of this chapter.

§ 1209. Displaying betting limits

An operator shall conspicuously display the minimum and maximum wagers permitted on any mobile application or digital platform used to place wagers and shall comply with these minimum and maximum wagers.

§ 1210. Sports wagering agreements

1. Authorization to enter into sports wagering agreements. On behalf of this State, the director is authorized to:

- A. Enter into sports wagering agreements; and
- B. Take all necessary actions to ensure that any sports wagering agreement entered into pursuant to this section becomes effective.

2. Rules relating to sports wagering agreements. The director may adopt rules to implement this section. The rules adopted by the director pursuant to this section may include provisions prescribing:

- A. The form, length and terms of an agreement entered into by the director and another government, including, but not limited to, provisions relating to how taxes are to be treated by this State and another government, revenues are to be shared and distributed and disputes with patrons are to be resolved;
- B. The information to be furnished to the director by a government that proposes to enter into an agreement with this State pursuant to this section;
- C. The information to be furnished to the director to enable the director to carry out the purposes of this section;
- D. The manner and procedure for hearings conducted by the director pursuant to this section, including any special rules or notices; and
- E. The information required to be furnished to the director to support any recommendations made to the director pursuant to this section.

3. Required provisions. The director may not enter into any sports wagering agreement pursuant to this section unless the agreement includes provisions that:

- A. Account for the sharing of revenues by this State and any signatory government;
- B. Permit the effective regulation of sports wagering by this State, including provisions relating to licensing of persons, technical standards, resolution of disputes by patrons, requirements for financial resources, enforcement, accounting and maintenance of records;
- C. Require each signatory government to prohibit operators of sports wagering from engaging in any activity permitted by the sports wagering agreement unless they are licensed in this State or by a signatory government with similar requirements approved by the director;
- D. Prohibit any signatory government from deviating from the requirements of the sports wagering agreement unless all signatory governments agree to such deviation;
- E. Prohibit any subordinate or side agreement among any subset of signatory governments unless the agreement relates exclusively to the sharing of revenues; and
- F. Require a signatory government to establish and maintain regulatory requirements governing sports wagering that are consistent with the requirements of this State in all material respects if the sports wagering agreement allows persons physically located in this State to participate in sports wagering conducted by a signatory government or an operator licensed by a signatory government.

§ 1211. Acceptance of wagers; excluded persons

1. Accepting wagers. An operator shall accept wagers on sports events by means of electronic devices using a mobile application or digital platform approved by the director. A person placing a wager must be 18 years of age or older.

2. Mobile applications and digital platforms. An operator may accept wagers from a patron physically located in this State, through the patron's sports wagering account, using a mobile application or digital platform approved by the director. The branding for each mobile application or digital platform must be determined by the operator.

3. Physical location of patron; pooling of wagers. An operator may accept wagers from a patron physically located in a state or jurisdiction with which the director has entered into a sports wagering agreement, through the patron's sports wagering account, using a mobile application or digital platform, as long as the application or platform is approved by the director and all other requirements of the agreement are satisfied. An operator may pool such wagers with wagers received from patrons physically located in this State.

4. Wagers with other operators. An operator may accept wagers placed by other operators, and may place wagers with other operators, as long as an operator that places a wager with another operator informs the operator accepting the wager that the wager is being placed by an operator and discloses the wagering operator's identity.

5. Excluded persons. The director or an operator may ban a person from participating in the play or operation of sports wagering. A log of all excluded persons must be kept by the director and each operator, and a person on the director's exclusion list or an operator's exclusion list may not engage in sports wagering under this chapter.

6. Employees prohibited from wagering. An employee of an operator may not place a wager on any sports event through a mobile application or digital platform of that employee's employer.

7. Other wagering prohibitions. An employee of an operator may not knowingly wager or be paid any prize from any wager placed with that operator or at any facility or through any mobile application or digital platform outside this State that is directly or indirectly owned or operated by that operator.

§ 1212. Sports wagering revenues; accounting for State's share of revenue imposed for privilege of offering sports wagering; limitation of other taxes

1. Imposition and rate of assessment. For the privilege of holding a license to operate sports wagering under this chapter, a tax of 10% of the licensee's adjusted gross sports wagering receipts is levied on the licensee. The accrual method of accounting must be used for purposes of calculating the amount of the tax owed by the licensee.

2. Operator returns and payment of tax. The following provisions govern operator returns and payment of tax pursuant to subsection 1.

A. The tax levied and collected pursuant to subsection 1 is due and payable to the director in monthly installments on or before the 15th calendar day following the calendar month in which the adjusted gross sports wagering receipts were received.

B. An operator shall complete and submit the return for the preceding month by electronic communication to the director, on or before the 15th calendar day, in the form prescribed by the director that provides:

(1) The gross sports wagering receipts and adjusted gross sports wagering receipts during that month;

(2) The tax amount for which the operator is liable; and

(3) Any additional information necessary in the computation and collection of the tax on adjusted gross sports wagering receipts required by the director.

C. The tax amount shown to be due must be remitted by electronic funds transfer simultaneously with the filing of the return.

D. When adjusted gross sports wagering receipts for a month is a negative number because the winnings paid to a licensee's sports wagering patrons exceed the licensee's gross sports wagering receipts, the director shall allow the licensee to carry over the negative amount to returns filed for subsequent months. The negative amount of adjusted gross sports wagering receipts may not be carried back to an earlier month and money previously received by the director may not be refunded, except if the licensee surrenders its license and the licensee's last return reported negative adjusted gross sports wagering receipts.

3. No other taxes. The tax on adjusted gross sports wagering receipts imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of or the proceeds from the operation of sports wagering.

§ 1213. Civil violation

Except as provided in section 1214, a person that violates the provisions of this chapter commits a civil violation for which the director may impose a fine of not more than \$50,000 for each violation. The director may impose a fine on any person that violates this chapter and is not limited to persons licensed under this chapter.

§ 1214. Crimes and penalties related to unauthorized sports wagering

1. Violation of this chapter. A person, other than a licensee under this chapter, that engages in or facilitates sports wagering commits a Class E crime and notwithstanding Title 17-A, section 1301 is subject to a fine of not more than \$10,000 and a term of imprisonment of not more than 90 days.

2. Second violation. A person convicted of a 2nd violation of subsection 1 commits a Class D crime and notwithstanding Title 17-A, section 1301 is subject to a fine of not more than \$50,000 and a term of imprisonment of not more than 6 months.

3. Third violation. A person convicted of a 3rd or subsequent violation of subsection 1 commits a Class C crime and notwithstanding Title 17-A, section 1301 is subject to a fine of not less than \$25,000 and not more than \$100,000 and a term of imprisonment of not less than one year and not more than 5 years.

§ 1215. Applicability of other laws

The provisions of Title 17, chapter 62 and Title 17-A, chapter 39 do not apply to sports wagering conducted in accordance with this chapter and the rules adopted pursuant to this chapter.

SUMMARY

This bill authorizes sports wagering regulated by the Department of Public Safety, Gambling Control Unit. The bill requires a person or entity offering sports wagering to hold an operator license. A gaming entity that offers sports wagering through mobile applications or digital platforms in any jurisdiction in the United States pursuant to a state regulatory structure and that meets certain requirements is eligible to receive an operator license. An operator license authorizes the operation of sports wagering through a mobile application or digital platform approved by the Gambling Control Unit. For the privilege of holding a license to operate sports wagering, the bill levies a tax of 10% of the licensee's adjusted gross sports wagering receipts from the operation of sports wagering. The bill allows the director of the Gambling Control Unit to enter into a sports wagering agreement between the director and one or more other governments whereby persons who are physically located in a signatory jurisdiction may participate in sports wagering conducted by one or more operators licensed by the signatory governments. The bill also allows a fantasy contest operator to offer a fantasy contest based on the performances of participants in collegiate athletic events.