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H.P. 1116

House of Representatives, April 26, 2011

An Act To Clarify the Maine State Lottery Agent Licensing Process

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative CAREY of Lewiston.

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

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

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

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12 repealed.

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

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

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

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

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

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

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

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

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

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

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

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

- 5 A. The financial responsibility and security of the person and the person's business
6 or activity;
- 7 B. The accessibility of the person's place of business or activity to the public;
- 8 C. The sufficiency of existing licensees to serve the public convenience; and
- 9 D. The volume of expected sales.

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

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

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

- 28 A. Failure to account for tickets received or the proceeds of the sale of tickets or to
29 file a bond, if required ~~by the commission,~~ or to comply with ~~instructions of the~~
30 ~~commission~~ provisions of this chapter or rules adopted under this chapter concerning
31 the licensed activity;
- 32 B. Conviction of any criminal offense;
- 33 C. Failure to file any return or report, to keep records or to pay any tax;
- 34 D. Engaging in fraud, deceit, misrepresentation or conduct prejudicial to public
35 confidence;
- 36 E. Insufficiency of the number of tickets sold by ~~the sales agent~~ a person licensed to
37 sell lottery tickets or shares; or

1 F. A material change, since issuance of the license, with respect to any of the
2 matters required to be considered by the director under section 375 or as defined by
3 rules adopted under this chapter.

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

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

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

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

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

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

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

18 **SUMMARY**

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

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