

STATE OF MAINE

LAWS

RELATING TO

BEANO OR BINGO

AND

GAMES OF CHANCE

ISSUED BY THE

BUREAU OF MAINE STATE POLICE

AUGUSTA, MAINE

OCTOBER 2004

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THIS PAMPHLET
ISSUED FROM THE OFFICE OF
THE
BUREAU OF MAINE STATE POLICE
COLONEL CRAIG A. POULIN, CHIEF

STATE HOUSE STATION #42
AUGUSTA, MAINE 04333-0042

**ALL LICENSEES ARE URGED TO CONSULT THE BUREAU OF MAINE
STATE POLICE ON ANY QUESTION INVOLVING THE OPERATION OF
THEIR LICENSED BEANO OR BINGO AND GAMES OF CHANCE.
HOWEVER, THE MAINE STATE POLICE CANNOT OFFER LEGAL
ADVICE. IF YOU NEED LEGAL ASSISTANCE, PLEASE CONTACT A
QUALIFIED PRIVATE ATTORNEY.**

624-7210

APPROVED BY THE
OFFICE OF THE ATTORNEY GENERAL

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BEANO OR BINGO**

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**TITLE 17 M.R.S.A., CHAPTER 13-A
BEANO OR BINGO**

§ 311. Definitions

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

1. Beano. “Beano” means a specific kind of group game of chance, regardless of whether such a game is characterized by another name. Wherever the term “beano” is used, the word “bingo” or any other word used to characterize such a game may be interchanged. In “beano,” each participant is given or sold one or more tally cards, so-called, each of which contains preprinted numbers or letters and may or may not be arranged in vertical or horizontal rows. The participant covers or marks the numbers or letters as objects similarly numbered or lettered are drawn from a receptacle and the winner or winners are determined by the sequence in which those objects are drawn. The manner in which the winner is determined must be clearly announced or displayed before any game is begun. Until July 1, 1994, a game described in this subsection is “beano” and a licensee may conduct such a game regardless of whether the manner of determining the winner is specifically described as a permissible manner of determining the winner in rules adopted by the Chief of State Police.

1-A. Commercial beano hall permit. “Commercial beano hall permit” means written authority from the Chief of the State Police issued to a permittee who rents or leases premises for profit to a licensee to hold, conduct or operate “beano.”

1-B. Chief of the State Police. “Chief of the State Police” or “chief” means the Chief of the State Police or the chief’s designee.

2. Equipment. “Equipment” shall mean the receptacle and numbered objects to be drawn from it; the master board upon which such objects are placed as drawn; the tally cards or sheets bearing such numbers to be covered and the objects used to cover them; the boards or signs, however operated, used to display the numbers as they are drawn; public address systems; and any other articles essential to the operation, conduct and playing of “Beano.”

3. License. “License” shall mean that written authority from the Chief of the State Police to hold, conduct or operate the amusement commonly known as “Beano” for the entertainment of the public within the State of Maine. A location permit must accompany the license to be valid.

4. Licensee. “Licensee” shall mean any organization which has been granted a license by the Chief of the State Police to hold, conduct or operate “Beano” or “Bingo.”

5. Location Permit. “Location Permit” shall mean that card issued by the Chief of the State Police, describing the premises or area in which “Beano” may be conducted. Such location permit must be accompanied by a license. Only such locations expressly described in the location permit shall be used for the conduct of any game.

6. Organization. “Organization” shall mean any firm, association or corporation authorized to conduct “Beano” in accordance with this chapter.

7. Period. “Period” shall mean the number of calendar weeks authorized by a single license for the operation of “Beano” or “Bingo.”

7-A. Permittee. “Permittee” means an individual, corporation, partnership or unincorporated association that rents or leases a building or facilities for profit to a licensee to hold, conduct or operate “beano.”

7-B. Wild number beano. “Wild number beano” means a beano occasion, game or series of beano games in which a number is picked or denoted as a wild number that may be used to fill any number or letter on a beano card.

8. Winner-take-all round. “Winner-take-all round” means a beano game or series of beano games in which all the proceeds from the sale of the cards for that round are paid to participants as prizes during that round.

§ 312. License required

1. License required. A person, firm, association or corporation may not hold, conduct or operate the amusement commonly known as “beano” or “bingo” for the entertainment of the public within the State unless that person, firm, association or corporation has obtained a license from the Chief of the State Police.

2. Aiding and abetting. A person, firm, association or corporation may not aid or abet in violation of subsection 1.

3. Restricted hours. A person, firm, association or corporation may not conduct ‘beano’ or ‘bingo’ on Christmas or between the hours of 12 midnight and 7 a.m. A person, firm, association or corporation may not conduct “beano” or “bingo” on Sunday, except after the hour of 11 a.m. The prevailing time for the State is used to determine these hours.

4. Penalty. A person who violates this section commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

5. Application. This chapter may not be construed to apply to any other amusement or game.

§ 313. Application

Any organization desiring to conduct such an amusement shall apply to the Chief of the State Police for a license pursuant to the provisions set forth in this section. The application shall be on forms provided by the Chief of the State Police, shall be signed by a duly authorized officer of the organization to be licensed, shall contain the full name and address of the organization and the location where it is desired to conduct the amusement and shall bear the consent of the municipal officers of the town or city in which it is proposed to operate such amusement.

§ 313-A. Exemption for elderly

Clubs, groups or organizations, composed of individuals at least 90% of whom are 62 years of age or older, that operate “beano” or “bingo” games for their own entertainment and recreation and not for profit, are exempt from application and licensing provisions of this chapter.

§ 314. Issuance of license; fees

The Chief of the State Police may issue licenses to operate beano or bingo games to any volunteer fire department or any agricultural fair association or bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious or veterans’ organization that was in existence and founded, chartered or organized in the State at least 2 years prior to its application for a license, when sponsored, operated and conducted for the exclusive benefit of that organization by duly authorized members. The Chief of the State Police may also issue a license to any auxiliary associated with an organization, department or association qualified for a license under this section if the auxiliary was founded, chartered or organized in this State and has been in existence at least 2 years before applying for a license and the games are sponsored, operated and conducted for the exclusive benefit of the auxiliary by duly authorized members of the auxiliary. Proceeds from any game conducted by the auxiliary or the auxiliary's parent organization may not be used to provide salaries, wages or other remuneration to members, officers or employees of the auxiliary or its parent organization, except as provided in sections 326 and 335. The 2 years' limitation does not apply to any organizations in this State having a charter from a national organization, or auxiliaries of those organizations, even though the organizations have not been in existence for 2 years prior to their application for a license. The 2 years' limitation does not apply to any volunteer fire department or rescue unit or auxiliary of that department or unit. A license may be issued to an agricultural fair association when sponsored, operated and conducted for the benefit of such agricultural fair association.

The fee for such a license to any nonprofit organization is \$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 \$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.

All fees required by this chapter shall accompany the application for a license. Fees submitted as license fees shall be refunded if the license is not issued. Fees shall not be refunded for unused licenses or for any license which is suspended or revoked as provided by this chapter.

§ 314-A. High-stakes beano

1. Eligible organizations. The Chief of the State Police may issue licenses to operate high-stakes beano or high-stakes bingo to a federally recognized Indian tribe.

A. The Chief of the State Police may also issue, to a federally recognized tribe, licenses to sell lucky seven or other similar sealed tickets in accordance with section 324-A.

B. In conjunction with the operation of high-stakes beano, federally recognized Indian tribes holding a license under this section may advertise and offer prizes for attendance with a value of up to \$25,000 under the terms prescribed for raffles in section 331, subsection 6. Any prize awarded under this paragraph must be awarded only on the basis of a ticket of admission to the high-stakes beano game and may only be awarded to a person who holds an admission ticket.

The Chief of the State Police may not issue more than one license under this section to a federally recognized Indian tribe for the same period.

1-A. Sealed Tickets. The Chief of the State Police may also issue to any federally recognized Indian tribe licenses to sell lucky seven or other similar sealed tickets in accordance with section 324-A.

2. Limit on prizes. Notwithstanding section 317, there is no limit on the value of a single prize or total prizes awarded on any one occasion for high-stakes beano games operated under this section.

2-A. Attendance prizes. In conjunction with the operation of high-stakes beano, a federally recognized Indian tribe holding a license under this section may advertise and offer prizes for attendance with a value of up to \$25,000 under the terms prescribed for raffles in section 331, subsection 6. A prize awarded under this subsection may be awarded only on the basis of a ticket of admission to the high-stakes

beano game and may be awarded only to a person who holds an admission ticket.

3. Twenty-seven weekends per year. An organization licensed under this section may operate high-stakes beano games on 27 weekends per year, whether or not consecutive. For purposes of this section, a weekend consists of Saturday and the immediately following Sunday. A high-stakes beano game licensed under this section and canceled for any reason may be rescheduled at any time, as long as 5 days prior notice of the new date is given to the Chief of the State Police.

3-A. Exception. Notwithstanding subsection 3, an organization licensed under this section may operate high-stakes beano or high-stakes bingo games on New Year's Eve and New Year's Day.

4. Term of license; fees. A license issued under this section is valid for a period of one year. The annual license fee for a high-stakes beano license is \$50,000, payable in advance in quarterly installments. All license fees must be paid to the Treasurer of State to be credited to the General Fund.

5. Restrictions; penalty. A licensee may not:

- A. Transfer or assign a license issued under this section;
- B. Operate or conduct a beano game or high-stakes beano game on the same premises on the same date as another licensee; or
- C. Conduct a game outside the Indian Territory of the license organization.

A licensee who violates this subsection commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

6. Applicability of chapter. Except when in direct conflict with this section or as specifically provided, all other provisions of this chapter and rules adopted under this chapter apply to licenses for high-stakes beano issued under this section. Any rule requiring operators calling the numbers to be seated on the same floor level as the players does not apply to high-stakes beano.

7. Payment for services. Except as provided in paragraph A, an organization licensed under this section may pay the persons operating the high-stakes beano games for the organization no more than 200 % of the minimum wage as established by Title 26, chapter 7, subchapter III. The persons need not be members of an organization licensed under this section.

- A. An organization licensed under this section may contract for provision of professional legal, advertising, accounting and auditing services. The persons employed under a contract

entered into under this paragraph may receive reasonable professional fees at a rate higher than minimum wage.

8. Report. Beginning January 15, 1992, any federally recognized Indian tribe licensed to conduct high-stakes beano under this section must submit a quarterly report on the operation of high-stakes beano to the joint standing committee of the Legislature having jurisdiction over legal affairs matters. The report must include information on the number of persons playing high-stakes beano during the preceding calendar quarter, the funds collected for high-stakes beano, the total amount awarded in prizes, including prizes for attendance and any other information provided to the Bureau of State Police regarding the operation of high-stakes beano.

9. Repealed. Laws 2003, c. 452, § I-7, eff. July 1, 2004.

§ 314-B. Winner-take-all beano rounds

1. Eligible organizations. An organization licensed under section 314 may operate one winner-take-all round per occasion.

2. Prizes. Notwithstanding the prize limits in section 317, an organization operating a winner-take-all round under this section shall pay all proceeds from each winner-take-all round as prizes, provided no winner receives more than \$500.

§314-C. Wild number beano

An organization licensed under section 314 may conduct wild number beano during any beano occasion. The wild number must be announced at the beginning of a wild number beano game or at the beginning of each game conducted as part of a series.

§ 315. Seasonal licenses

Notwithstanding section 314, the Chief of the State Police may issue seasonal licenses to operate "Beano" or "Bingo" games in bona fide resort hotels, provided they are operated and conducted therein by the management without profit and solely for the entertainment of guests of the hotel registered therein, and provided that charges, if any, to the guests for participation in such entertainment shall be limited to a maximum of \$2 in any 24-hour period. The fee for such license shall be \$10 and shall be paid to the Treasurer of State to be credited to the General Fund. Hotel and liquor licenses of any such resort hotel licensees shall not be withheld because of the conducting of such resort hotel of the game of "Beano" or "Bingo."

§ 316. 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 to conduct beano 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 organizations were founded must, upon request, 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 beano by a licensee to determine compliance with this chapter.

§ 317. Rules and regulations

The Chief of the State Police has the power to adopt rules, not inconsistent with law, that 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" and for the permitting and operation of commercial beano halls. The Chief of the State Police has the power and authority to regulate, supervise and exercise general control over the operation of such amusement and commercial beano halls, including, but not limited to, the payment of prizes and the use of equipment. Any rule adopted by the Chief of the State Police concerning the value of prizes that may be awarded 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. In establishing such rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 11-A, the Chief of the State Police must, in addition to the standards set forth in other provisions of this chapter, use the following standards setting forth conduct, conditions and activity considered undesirable:

- 1. Fraud.** The practice of any fraud or deception upon a participant in a game of "Beano" or "Bingo;"
- 2. Unsafe premises.** The conduct of "Beano" in, at or upon premises which may be unsafe due to fire hazard or other such conditions;
- 3. Advertising; solicitation and enticement.** Advertising which is obscene, solicitation on a public way of persons to participate in "Beano," charging admission or awarding prizes for attendance.

§ 317-A. Investigations; actions on licenses.

- 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 or commercial beano hall permits;
 - B.** Suspend, revoke or refuse to issue a license, after notice of the opportunity for a hearing, if the applicant, applicant's agent or employee, licensee or licensee's agent or employee violates a provision of this chapter or Title 17-A, chapter 39¹ or fails to meet the statutory requirements for licensure pursuant to this chapter;

¹ 17-A M.R.S.A. § 951 et seq. [Unlawful Gambling]

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;

D. Suspend or revoke a commercial beano hall permit, after notice of the opportunity for hearing, if a permittee or permittee's employee commits murder or a Class A, B or C crime or violates a provision of this chapter or Title 17-A, chapter 15², 29³, 37⁴ or 39;

E. Immediately suspend or revoke a commercial beano hall permit if there is probable cause to believe that the permittee or the permittee's employee committed murder or a Class A, B or C crime or violated a provision of Title 17-A, chapter 15, 29, 37 or 39; and

F. Issue a subpoena in the name of the State Police in accordance with Title 5, section 9060, except that this authority applies to any stage of an investigation under this chapter and is not limited to an adjudicatory hearing. This authority may not be used in the absence of reasonable cause to believe a violation has occurred. If a witness refuses to obey a subpoena or to give any evidence relevant to proper inquiry by the chief, the Attorney General may petition the Superior Court in the county where the refusal occurred to find the witness in contempt. The Attorney General shall cause to be served on that witness an order requiring the witness to appear before the Superior Court to show cause why the witness should not be adjudged in contempt. The court shall, in a summary manner, hear the evidence and, if it is such as to warrant the court in doing so, punish that witness in the same manner and to the same extent as for contempt committed before the Superior Court or with reference to the process of the Superior Court.

2. Licensing action after notice and opportunity for hearing. The Chief of the State Police shall notify the applicant, licensee or permittee in writing, before a license or permit is denied, suspended or revoked pursuant to subsection 1, paragraph B or D, of the intended denial or commencement date of the suspension or revocation, which may not be made any sooner than 96 hours after the licensee's or permittee'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 applicant, licensee or the permittee has the right to request a hearing before the Commissioner of Public Safety or the commissioner's designee. Upon the applicant's, licensee's or permittee'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 applicant, applicant's agent or employee,

² 17-A M.R.S.A. § 351 et seq. [Theft]

³ 17-A M.R.S.A. § 701 et seq. [Forgery and Related Charges]

⁴ 17-A M.R.S.A. § 901 et seq. [Fraud]

licensee or licensee's agent or employee violated a provision of this chapter or Title 17-A, chapter 39 or the permittee or the permittee's employee committed murder or a Class A, B or C crime or violated a provision of this chapter or Title 17-A, chapter 15, 29, 37 or 39. A request for a hearing may not be made any later than 10 days after the applicant, licensee or permittee is notified of the proposed denial, 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 unless otherwise agreed by the parties or continued upon request of a party for cause shown.

3. Immediate suspension or revocation. A licensee whose license or permittee whose permit is immediately suspended or revoked by the Chief of the State Police pursuant to subsection 1, paragraph C or E must be notified in writing of the duration of the suspension or revocation and the licensee's or the permittee's right to request a hearing before the Commissioner of Public Safety or the commissioner's designee. Upon the licensee's or permittee'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 or the permittee or the permittee's employee committed murder or a Class A, B or C crime or violated a provision of Title 17-A, chapter 15, 29, 37 or 39. A request for a hearing may not be made any later than 48 hours after the licensee or permittee 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.

§ 318. Expense of administration

The necessary expenses of administering this chapter shall be paid out of the fees received under this chapter.

§ 319. Persons under 16

Persons under the age of 16 years shall not be permitted to take part in the conduct of, nor participate in, the game of "Beano" or "Bingo," nor shall such minor be admitted to the playing area unless accompanied by parent, guardian or other responsible person.

No "Beano" or "Bingo" games licensed under this chapter shall be conducted unless some person at least 18 years of age, who has been a member in good standing of the licensee for at least 2 years, exercises exclusive control of each game played.

No license for the conduct of "Beano" or "Bingo" shall be issued to any firm, association, corporation or group composed wholly or primarily of minors.

§ 320. Conduct of beano

1. **Liquor prohibited.** A licensee may not conduct “beano” or “bingo” in the same room where liquor is sold, served or consumed during the period of one hour before the conduct of the games.
2. **Disorderly persons prohibited.** A licensee may not permit a disorderly person to enter or remain within the room or area where “beano” or “bingo” games are being conducted.
3. **Penalty.** A person who violates this section commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

§ 321. Effect of other laws

All acts and parts of acts inconsistent herewith shall be inoperative as to this chapter, and the share of the State stipend for aid and encouragement to agricultural societies shall not be withheld from any such society because of the conducting on the fair grounds of the game of “Beano” or “Bingo.”

§ 322. Reports

The Chief of the State Police shall require from any organization licensed to operate “Beano” or “Bingo” and any individual, corporation, partnership or unincorporated association that has a permit to operate a commercial beano hall whatever reports the chief determines necessary for the purpose of the administration and enforcement of this chapter.

§ 323. Access to premises

An organization making application to the Chief of the State Police to conduct or operate “Beano” or “Bingo,” an organization licensed under this chapter to operate “Beano” or “Bingo,” a commercial beano hall permit applicant or a commercial beano hall permittee shall permit inspection of any equipment, prizes, records or items and materials used or to be used in the conduct or operation of “Beano” or “Bingo” by the Chief of the State Police or the chief’s authorized representative.

The licensee or permittee shall permit at any time an inspector from the Department of Public Safety or the city or town fire inspectors of the municipality in which “Beano” is being conducted to enter and inspect the premises.

§ 324. **Repealed.** Laws 2003, c. 452 § I-9, effective July 1, 2004.

§324-A. Games of chance prohibited at “beano” locations

1. **Games of chance where “beano” located.** A person may not conduct a “beano” game at any location where a lottery or other game of chance is conducted.

2. Games of chance before “beano.” A person may not conduct a lottery or other game of chance during the period of one hour before the conduct of any “beano” game at the specific location of the “beano” game, except that the following lotteries may be conducted during the period of one hour before the conduct of “beano” games.

A. Lottery tickets issued by the State Liquor and Lottery Commission may be sold when a valid license certificate issued by the commission is properly displayed.

B. Raffle tickets may be sold in accordance with chapter 14.

C. Lucky seven or similar sealed tickets may be sold when that game of chance is licensed by the Chief of the State Police and when a valid license certificate is properly displayed. Notwithstanding the other provisions of this section and section 312, lucky seven games may be conducted during the period beginning 2 hours before and ending 2 hours after a “beano” game.

Notwithstanding any other rule, lucky seven or other similar sealed tickets may be sold that have a sale of \$1 or less.

3. Location defined. For purposes of this section, “location” means the location specified in the location permit.

4. Penalty. A person who violates this section commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

§ 325. Penalties

1. Violation of chapter or rules; general penalty. Except as otherwise specifically provided, a person, firm, association or corporation that violates a provision of this chapter or a rule of the Chief of the State Police prescribed by authority of this chapter commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

2. Commercial beano hall violations. A person, corporation, partnership or unincorporated association that rents or leases a building or facilities to hold, conduct or operate ‘beano’ game or ‘bingo’ commits a Class E crime if that person, corporation, partnership or unincorporated association:

A. Rents or leases a building or facilities to hold, conduct or operate a “beano” or “bingo” game without a commercial beano hall permit issued by the Chief of the State Police; or

B. Violates a provision of this chapter or a rule adopted by the Chief of the State Police pursuant to this chapter.

Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

§ 326. Proceeds

1. Repealed. Laws 1993, c. 45, § 2.

1-A. Payment of proceeds. An organization licensed to operate beano or bingo and Lucky 7 games in conjunction with beano or bingo may use the proceeds or part of the proceeds to:

A. Pay salaries, wages or remuneration to any person directly involved in operating beano, bingo or Lucky 7 games;

B. Defray the expenses or part of the expenses that further the purpose for which the organization is formed except that 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 subsection; and

C. 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 makes an application 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 setting out the facts 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.

1-B. Filing. An organization that chooses to use the proceeds or part of the proceeds as allowed by subsection 1-A must file with the Chief of the State Police, at least quarterly, a form for the disposition of funds

prescribed by the Chief of the State Police detailing all payments made. Every statement on the form must be made under oath by an officer of the organization.

2. Rules. The rules adopted pursuant to section 317 must contain standards governing payments made under this section. Payments under subsection 1-A, paragraph A may not exceed 20 % of the revenue generated by the games and the rules must limit payments to reasonable compensation, taking into account the nature of the services rendered, comparable wage rates, the size of the organization and other revenues, the size of the games and the revenue generated by the games. The Chief of the State Police may disallow any excessive payment of proceeds, may suspend an organization's license for excessive payment of proceeds and may condition the restoration of an organization's license on the repayment of an excessive payment of proceeds by the organization.

3. Repealed. Laws 1991, c. 59.

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.

§ 327. Nonsmoking area

The Chief of the State Police shall adopt rules that allow a licensee to establish a nonsmoking area within the room or outdoor area where the operator calls the numbers. Visibility and access between the smoking and nonsmoking areas may not be impeded except that a doorway may be installed. Both the smoking and nonsmoking areas must have a public address system and a master board, electric flashboard or chalkboard visible to all players. A member of the licensee must be present during the game in both the smoking and the nonsmoking areas. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.

NOTE: Pursuant to 22 M.R.S.A. § 1542, smoking is not permitted in public places, including beano locations. However, beano or bingo games being conducted in accordance with the provisions of Title 17 M.R.S.A § 314-A (high-stakes beano) are exempt from this ban by 22 M.R.S.A. § 1542(k). The operator(s) must establish non-smoking areas that comply with 17 M.R.S.A. § 327.⁵

⁵ Title 22, Chapter 262, Smoking
§1542. Smoking prohibited in public places

§ 328. Commercial beano hall

1. Permit required. An individual, corporation, partnership or unincorporated association may not rent or lease space for profit to a licensee to hold, conduct, or operate “Beano” or “Bingo” unless a commercial beano hall permit is obtained from the Chief of the State Police.

2. Application. An individual, corporation, partnership or unincorporated association desiring to rent or lease space for profit for the purpose given in subsection 1 shall apply to the Chief of the State Police for a commercial beano hall permit. The application must be on forms provided by the Chief of the State Police, must contain the full name and address of the individual or entity seeking to be permitted and the location of the building or facility to be rented or leased. An applicant who is an individual shall list the individual’s name and address. An applicant that is a corporation, partnership or unincorporated association shall also list the names and addresses of any owners with a 10% or greater interest in the corporation partnership or unincorporated association seeking the permit.

A. The applicant shall submit 2 fingerprint cards bearing the legible rolled and flat impression of the fingerprints of the partner, if the owner is an individual, of any owner who owns or controls a 50% or greater interest in the corporation, partnership or the unincorporated association, and, of the manager, if the manager is not the owner as previously described, prepared by a state or local public law enforcement agency to be forwarded to the State Bureau of Identification for the purpose of conducting state and national criminal history record checks.

3. Renewal; change of ownership or manager. A permittee seeking to renew a permit shall submit an application, but is not required to submit additional fingerprint cards. The permittee is required to notify the Chief of the State Police of any change in ownership or management of the commercial beano hall. The Chief of the State Police may require additional information or fingerprint submission subsequent to a change in ownership or management.

4. Use of criminal history record. The Chief of the State Police may use state and federal criminal history record information for the purpose of screening applicants. The Chief of the State Police may refuse to issue or renew a permit for an individual, corporation, partnership or unincorporated association if an owner or manager has

1. Prohibition. Smoking is prohibited in all enclosed areas of public places and all rest rooms made available to the public.

2. Limitations. The prohibition in subsection 1 is subject to the following limitations . . .

K. Smoking is not prohibited in public places when beano or bingo games are being conducted in accordance with the provisions of Title 17, section 314-A.

been found guilty of murder or a Class A, B or C crime or a violation of this chapter or Title 17-A, chapter 15, 29, 37 or 39 or a similar law in another state or jurisdiction, unless that conduct is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred.

5. Duration of permit and fee. The Chief of the State Police may issue a commercial beano hall permit for a calendar year for a fee of \$500.

6. Membership in licensee organization. The permittee or the permittee's employee may not be a member of a licensee organization renting or leasing the commercial beano hall.

7. Rent or lease amount. The permittee shall charge a licensee fair market value and may not charge based on the percentage of profit which the licensee makes for the rent or lease of a commercial beano hall.

8. Exception. The requirements of this section do not apply to an agricultural fair association that qualifies for a license and operates beano or bingo games pursuant to section 314.

§329. Assistance for player

A person conducting or assisting in the conduct of beano may assist a player by playing that player's cards while the player takes a restroom break. This section does not apply to the conduct of high-stakes beano.

**DEPARTMENT OF PUBLIC SAFETY
BUREAU OF STATE POLICE
16-222 C.M.R. Chapter 3
RULES AND REGULATIONS RELATING TO BEANO**

SUMMARY: This chapter states all rules and regulations relating to the licensing and conduct of Beano and Bingo. It describes the application for a license, the license required, the issuance of the license, the fees and seasonal licenses. It explains the laws relating to fraud, unsafe premises, advertising, soliciting and enticement.

This chapter covers topics of expense of administration, who may be allowed to play Beano, the conduct of such games, the effects of other laws on the game, and what other games may not be played at “Beano” locations. This chapter regulates the reports to be kept on the games, the access of the authorities to those records, and the penalties for the breach of any laws, rules and/or regulations. Also explained within this chapter are the minimum safety requirements necessary in the conduct of Beano.

3.01 General Requirements

A. Occasion: The definition for the word “occasion” shall mean a single gathering or session at which a series of successive Beano games are played.

B. No game may be conducted in any location where alcoholic beverages are sold, dispensed, or consumed one hour before and throughout, including intermissions, the conduct of any licensed Beano or Bingo game.

(1) The entrance from the outdoors to that part of a building where a licensed Beano or Bingo game is conducted must be separate and at least 15 feet away from the outdoor entrance to that part of the building where alcoholic beverages are sold, dispensed or consumed.

C. No admission shall be charged for attendance at any game of Beano or Bingo, and no prizes shall be awarded for attendance.

D. All Beano applications must be received by Maine State Police, Gaming and Weapons Section, 164 State House Station, Augusta, Maine 04333-0164 at least 8 days prior to the first date desired to operate. No Beano licenses will be issued unless the 8 day requirement is met.

E. No organization licensed under this chapter to operate Beano or Bingo for the entertainment of the public shall reserve any seats nor shall they allow any seats to be reserved at any time.

Seating will be on a first come, first serve basis for all Beano players. The only exception to this will be that a Licensee organization may reserve a seat for a physically handicapped person.

F. A licensee may conduct only one occasion of Beano or Bingo on the same date.

3.02 Equipment

A. No game of Beano shall be conducted with any Beano equipment unless said equipment is (a) owned absolutely, or (b) used without payment or any compensation therefore, except that electronic beano card computer systems, electronic beano card daubers, and electronically-stored beano cards may be leased under terms determined to be reasonable by the Department.

1. As part of the determination of the reasonableness of any lease, the Department shall:

a. Prohibit revenue sharing between the customer and any third party,

b. Require a certificate of approval of this beano equipment from a recognized independent testing laboratory and

c. Require the lease contracts be submitted to the Department.

2. The determination of the reasonableness of the lease contracts for this electronic beano equipment by the Department is deemed a “final agency action” pursuant to the Administrative Procedure Act 5 M.R.S.A. §8002 (4).

3. **Fair market value.** “Fair market value” means the most likely value that the lease of such electronic beano equipment would have in a competitive and open market under all conditions requisite to a fair lease with the lessee and lessor each acting prudently, knowledgeably and in their own best interest and a reasonable time being allowed for exposure in the open market.

NOTE: Equipment being purchased on installment is considered as “Owned.”

AA. An “electronic beano card dauber” (herein after referred to as “Electronic Dauber”) is an electronic appliance used by a player to identify beano cards that contain numbers or symbols input by a player. This device electronically stores preprinted beano cards purchased by a player, provides a means for a player to input numbers or symbols called by the licensee, compares the numbers or symbols input by the player to beano cards previously stored in an electronic database, and identifies to the player those stored beano cards that contain the

numbers or symbols input by the player: provided, that player-owned devices, which are not directly interfaced with or connected to equipment used to conduct beano games or the electronic database in which electronically generated beano cards are stored in any manner, are not "electronic beano card daubers" for purposes of these Rules and Regulations.

AAA. "Equipment" includes the "electronic beano card computer system" which is the computer hardware and software system owned by the beano hall operator or licensee, and used by the licensee, that loads the electronic beano cards purchased by each electronic beano card player into the electronic dauber. This system shall:

- (1) Be capable of printing hard copies of all beano cards purchased by electronic beano card players at the time of sale and before release of the electronic dauber to the player; and
- (2) Be capable of summarizing and printing at the completion of each beano occasion a record of the following:
 - (a) The beginning and ending card numbers purchased by each player;
 - (b) The beginning and ending transaction numbers;
 - (c) The total number of cards sold;
 - (d) The total number of sales transactions;
 - (e) The total dollar amount of sales; and
 - (f) The number and dollar amounts of all voids and overrings.

B. In addition to proper furniture such as table and chairs, each game of Beano shall use the following equipment: Beano cards, otherwise known as tally cards; suitable equipment for securing the numbers "called" in conducting the game; beans, corn or other material which may include the dauber function of an electronic dauber, to be used as tallies, and a chalkboard or electric flash board. For purposes of these Rules and Regulations, "Beano cards" may be electronically-stored.

BB. Each electronically-stored Beano card shall meet the requirements of section 3.02 (C) herein and shall display a serial number. The Beano numbers on that electronically-stored card shall be identical to the numbers on the paper card displaying the same serial number.

C. Each Beano or tally card shall have twenty-five squares which are divided into five vertical and five horizontal rows, making five squares to a row. At the top of each vertical row will appear one letter of the word "Beano" beginning at the extreme left row with the letter "B" and continuing in sequence through "O" at the extreme right row. Each

square shall be numbered making five numbers to a row, the exception being the center or third vertical row which has four numbers and a center space. (The most commonly used cards are those numbered 1 to 75 inclusive. In this series the numbers 1 to 15, inclusive, are used in the first vertical row; numbers 16 to 30, inclusive, in the second row; 31 to 45, inclusive, in the third row; 46 to 60, inclusive, in the fourth row; and 61 to 75, inclusive, in the fifth row. Each card may have a different combination of numbers either vertically, horizontally or diagonally).

D. One of the following methods shall be used in securing the numbers “called” in the conduct of the game: a. An electrically operated blower machine containing balls which the operator may take from the air one at a time while the blower is in operation or which provides a trap or other mechanical means for automatically catching no more than one ball at a time while the blower is in operation. b. A mechanically or manually operated cage which provides a trap or other mechanical means for automatically catching no more than one ball at a time while the cage is in operation.

3.03. Conduct of Beano

Electronic daubers are permitted under 17 M.R.S.A. § 311 *et seq.* and these Rules and Regulations, provided they are operated in accordance with this Chapter and any Rules and Regulations made and adopted pursuant thereto.

A. Before commencing the first game on any occasion at which a series of Beano games is to be held, all numbers shall be removed from the blower, or from such other mechanical means used to catch the numbers, and shall be placed in appropriate position to enable any interested person, or persons, to determine that all numbers 1 thru 75, are present.

B. All cards which have not been purchased and paid for shall be removed from the tables and the immediate vicinity of any player while the games are in progress.

BB. After commencing the first game, and until the end of the occasion, there shall be no electronic communication from the electronic dauber to the electronic Beano card computer system or any other electronic destination or from the electronic Beano card computer system to any other electronic destination.

C. All players will be furnished a ticket, receipt or some other easily and quickly identifiable device indicating the maximum number of cards purchased and which may be played at any single game. At no time will a participant play more than the number of Beano cards actually purchased and identified by the furnished ticket, receipt or other identifiable device used by the Licensee organization to signify the maximum number of cards purchased. The device used to indicate the number of cards purchased will remain in full sight of any interested person to view during the game.

NOTE: Those cards not purchased and not in use shall be kept within the playing room for those players wishing to make exchanges. Such exchanges will be made only at those intervals authorized by the Licensee.

CC. At the time of sale of any electronic Beano cards and prior to releasing the electronic dauber to the player, the licensee must print a hard copy of any electronic cards purchased by the player. An electronic Beano card player cannot exchange the cards being played until completion of a Beano game. In order to exchange the cards being played, the player must return the electronic dauber, and the hard copy of any previously-purchased electronic Beano cards, to the licensee for loading and printing of the new cards.

D. The Chief of the State Police may authorize a Licensee to conduct Beano in any structure, building, or portion thereof, that conforms with the provisions of all statutes, ordinances, and rules and regulations promulgated by local, county or state authority pertaining to entrances, exits, fire escapes, auxiliary lighting, fireproofing, and structural safety. Only such locations expressly described in the application and Location Permit shall be used for the conduct of any Beano game.

E. All players must be seated in the same room or outdoor area with the operator calling the numbers. Under no circumstances is Beano to be conducted in more than one room. Any person who is not physically present within the room where the game is being conducted shall not be allowed to participate as a player. No game shall be conducted in whole or in part in any corridor, hallway or portion thereof.

EE. The electronic Beano card player must input each number called by the licensee into the memory of the electronic dauber by use of a separate dauber function. Automatic or global marking of numbers is prohibited.

F. Any location or room wherein Beano is conducted shall be fully and completely lighted at all times during the conduct of the game.

G. The Licensee shall conspicuously post the license to operate Beano, the Location Permit, and a copy of this publication in the room or area where Beano is being conducted.

H. The Licensee shall conspicuously post the price or combination of prices of all Beano cards in the room or area where Beano is being conducted.

I. Repealed. (6-24-94)

J. The particular arrangement of numbers required to be covered in order to win the game shall be clearly described and announced to the players immediately before each game begins.

K. Each number shall remain within the blower or cage until ready to be called. Upon removal, said number shall be called without delay unless a Beano or Bingo is called, at which time no additional numbers will be called, and at which time the card shall be checked. If a number was removed from the blower or cage and had not been announced when the Beano was called, this number shall be placed back in the blower or cage. Each number as called must be clearly marked on a chalkboard or electric flash board visible to all players, and must remain on such chalkboard or electric flash board until after the winner or winners have been determined.

KK. The player must notify the licensee when a winning pattern or "Beano" appears by means that do not utilize the electronic dauber.

L. The winner's card shall be checked against the numbers called. In checking the card back such card shall be held by the checker, high above his head, visible to the participants. In the case of electronic daubers, the electronic beano card player must identify the winning card on the printed hard copy of the Beano cards issued at the time of sale of the cards to allow verification by the licensee.

M. The operator calling the numbers must be seated on the same floor level as the players.

MM. An organization licensed under this chapter may operate a game whereby an announced prize is awarded to the player(s) who wins a Bingo game and whose winning arrangement of numbers contains, anywhere within that arrangement, a pre-announced number or a number that has been randomly marked by way of the card-printing process. An organization may not operate this game to require the pre-announced or randomly marked number to appear at a specific place or in a specific order within the winning arrangement of numbers.

N. On each Beano occasion all cards shall be purchased and winners determined. The prize shall be awarded at the conclusion of each game.

O. No person conducting or assisting in the conduct of Beano may participate as a player, or assist any player by playing their cards, in any game of Beano during the same occasion.

P. All members of the Licensee who are involved in the conduct of Beano shall be thoroughly familiar with the provisions of the Statutes pertaining to Beano and with these Rules and Regulations.

Q. All prizes given to the winners in the form of checks shall be made payable to the name of the winner. Absolutely no checks are to be made payable to "Cash," "The Bearer," etc. Checks given to the winners as prizes may be cashed by the Licensee provided that the recipients have properly endorsed said checks.

R. Cash prizes may be awarded but only by the issuance of checks drawn on a checking account, the use of which is reserved exclusively for the deposit of income from the game of Beano and the disbursements entailed in the operation thereof.

S. When more than one player is found to be the winner in the same game, the designated prize shall be divided as equally as possible, giving consideration to each winning card involved, and when division is not possible, substitute prizes whose aggregate value does not exceed that permitted by these Rules and Regulations shall be awarded.

T. Electronic daubers shall not be reserved for any player. However, an electronic dauber may be reserved for a player with a disability that would restrict the ability to mark paper tally cards when such disability is consistent with definitions set forth in the Americans with Disabilities Act (ADA). If there are no requests for use of this reserved dauber prior to fifteen (15) minutes before the scheduled start of the occasion, it may be made available for use by any player.

U. The purchase price per card for electronic Beano cards shall be the same as the purchase price per card for paper Beano cards. No additional fee shall be imposed for use of electronic daubers.

V. No electronic dauber shall be programmed to play more than 54 Beano cards in a single game.

W. A room or outdoor area may be partitioned into designated smoking and nonsmoking areas. The partition must be constructed in accordance with applicable building codes using materials that do not obstruct visibility between the two areas or of the operator calling the numbers by a player in either area. Visibility may not be limited by glare, reflection, distortion or other natural occurring phenomenon. Access between the two areas may not be impeded. An opaque doorway may be installed in the partition, provided it does not obstruct the players' view of the caller.

Each area of a room or outdoor area that is partitioned into designated smoking and nonsmoking areas must have a public address system and a master board, electric flashboard or chalkboard visible to all players and a member of the licensee must be present during the game in both the smoking and nonsmoking areas.

3.04 Maximum Prizes

A.

(1) No single prize awarded shall be in excess of \$400 in value.

(2) No more than \$1400 may be awarded during any one occasion.

B. Fictitious values shall not be set on any prize, but shall be determined by the retail cost of an equivalent article on the open market.

C. Credit towards greater prizes shall not be given.

D. No goods, wares or merchandise that exceeds the valuation permitted by regulations shall be exhibited among the prizes to be awarded the winner or winners of games.

3.05 Expenditures

A. The Licensee may pay as compensation to a member of the Licensee, who has been in good standing for at least two years previous to application, an amount not to exceed 200% of the minimum wage as established by Title 26, Chapter 7, Subchapter III, for advising, controlling and managing the conduct of Beano.

The Licensee may also pay as compensation to a member of the Licensee who has been in good standing for at least one year previous to application, an amount not to exceed 200% of the minimum wage as established by Title 26, Chapter 7, Subchapter III, for assisting in the conduct of Beano or Lucky Seven Games.

The Licensee may pay as compensation to any member or employee an amount not to exceed 200% of the minimum wage as established by Title 26, Chapter 7, Subchapter III, for janitorial services.

The Licensee may also pay reasonable amounts for the use of suitable premises, furniture and goods, wares, or merchandise to be given as prizes.

An amount not to exceed 200% of the minimum wage as established by Title 26, Chapter 7, Subchapter III, may be paid to members of the licensee for conducting Lucky Seven Games as authorized by Section 324 Subsection 3.

All such payments shall be made from the respective Beano and Games of Chance accounts and reported on the respective Beano and Games of Chance disposition of funds reports.

At no time shall the payments made pursuant to this rule exceed 20% of the net revenue after deducting expenses for prizes, license fees and any other direct expense.

B. If the Licensee has operated Beano on ten or more occasions during the preceding fiscal year and continues to operate Beano during the current fiscal year, or, if the Licensee intends to operate Beano on ten or more occasions, said Licensee shall, in addition to the other books and records required hereafter, maintain and keep a separate account of the type commonly known as a "Checking Account" in a reputable

banking establishment. A Licensee maintaining such an account under these Rules and Regulations shall deposit, therein, within one week from the date an occasion was held, the gross receipts from its operation of Beano, and shall make any necessary expenditures entailed in its operation of the amusement from this account by check. No other use shall be made of this account. The Licensee shall maintain in the checking account an amount sufficient to cover all the checks written for each occasion.

3.06 Proceeds

Except as provided for in Rule 31, proceeds from any Beano game shall not be used to provide salaries, wages or other remuneration to members, officers, or employees of any organization authorized to conduct Beano or Bingo games under this title.

3.07 Reports and records required

A. Within SIX days after any period in which Bingo or Beano is conducted, with other than an annual license, the licensee shall file with the Chief of the Maine State Police a disposition of funds form prescribed and furnished by him. Within SIX days after each calendar month of an annual license period during which Bingo or Beano is conducted, the licensee shall file with the Chief of the Maine State Police a disposition of funds form prescribed and furnished by him, which shall include:

1. An exact account of all income from Beano or Bingo;
2. A list of all expenses, including, but not limited to, the cost of all prizes, printing, licenses and administration; and
3. An exact account of the disposition of all other proceeds from Beano or Bingo, including, but not limited to, all gifts, grants and payments to any person, firm, corporation, association or organization for any purpose whatsoever.

Every such statement shall be made under oath by the member in charge of such occasion and shall be open to public inspection

B. Each licensee shall maintain for a period of three years following the date the game was held a record of the name and address of the recipients of each prize given. A copy of the record shall be furnished to the Chief of the State Police upon request.

C. Each licensee shall maintain and keep for a period of three years following the date the game was held all records of financial transactions involving Beano or Bingo shall be separate and distinguishable from all other financial records of the organization.

D. Each Licensee shall maintain and keep for a period of three years following the date the occasion was held such books and records as may be necessary to substantiate the reports required thereafter.

E. The Chief of the State Police or his authorized representative may examine the books and records of any Licensee at any time, so far as those books and records relate to the transactions connected with the holding, operating and conducting of Beano, and the Licensee shall cooperate with the Chief or his representative by making such books and records available to him. The Chief of the State Police may also examine any manager, officers, director, agent, member or employee of the licensee in relation to the conduct of a game of Beano, or concerning the conduct of Beano.

3.08 Safety precautions

A. The following minimum safety requirements shall be adhered to per the State Fire Marshal's office:

(1.) The number, type and location of fire extinguishers shall be at the discretion of the State Fire Marshal's Office based on size and location of the playing area.

(2.) There shall be exit signs for each exit, with emergency lighting for all exits, hallways and the playing area.

(3.) Steps and stairs leading into, and those in the building, shall be kept free of obstructions and in good repair, with at least one handrail per set of steps or stairs.

(4.) There shall be no obstruction of any nature in any aisle, corridor, or stairway in or leading to, the licensed premises during the conduct of any Beano game.

(5.) All exit doors from the playing area and the licensed premises shall swing outward, and shall not be provided with a latch or lock unless it is panic hardware.

(6.) Heating units, if involved, shall be installed in separate rooms with fire resistive rating of at least one hour, or shall be otherwise located and installed in such a manner as to protect the occupants in the event of any emergency or panic.

NOTE: If your organization is considering any new construction or alterations to the Beano premises, it is suggested that you consult the State Fire Marshal's Office, 52 State House Station, Augusta, Maine 04333, Telephone 626-3870.

3.09 Commercial Hall Permits

A commercial hall permittee shall conspicuously post the commercial beano hall permit at the leased or rented hall in the room or area where Beano is being conducted.

**17 M.R.S.A., CHAPTER 14
GAMES OF CHANCE**

§ 330. Definitions

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

1. Distributor. "Distributor" shall mean a person, firm, corporation, association or organization that sells, markets or otherwise distributes sealed tickets, gambling apparatus or any other implements of gambling that may be used in the conduct of a game of chance.

1-A. Electronic video machine. "Electronic video machine" means a machine, however operated, which has a video screen featuring an electronically simulated game or games and delivers or entitles the person playing or operating it to receive the privilege of playing the electronic video machine without charge, but does not deliver or entitle the person playing or operating the electronic video machine to receive any cash, premiums, merchandise, tickets or something of value other than the privilege of playing the electronic video machine without charge. A machine which has a video screen featuring an electronically simulated slot machine as a game is not an electronic video machine, but is a machine as defined in subsection 3-A.

1-B. Chief of State Police. "Chief of the State Police" or "chief" means the Chief of the State Police or the chief's designee.

1-C. Agricultural society. "Agricultural society" or "fair" means a nonprofit agricultural fair society eligible for the state stipend under Title 7, section 62.

2. Game of chance. "Game of chance" means any game, contest, scheme or device in which:

A. A person stakes or risks something of value for the opportunity to win something of value;

B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and

C. Chance enters as an element that influences the outcome in a manner that cannot be eliminated through the application of skill.

For the purposes of this subsection, "an event the result of which is determined by chance" includes but is not limited to a shuffle of a deck or decks of cards, a roll of a die or dice or a random drawing or generation of an object or objects that may include, but are not limited to, a card or cards, a die or dice, a number or numbers or simulations of any of these. A shuffle of a deck or decks of

cards, a roll of a die or dice, a random drawing or generation of an object or objects or some other event the result of which is determined by chance that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance. For purposes of this chapter, beano and bingo are not games of chance.

2.-A. Game of Skill. “Game of skill” means any game, contest, scheme or device in which a person stakes something of value for the opportunity to win something of value and that is not a game of chance.

2-C. Gross Revenue. “Gross revenue” means the total amount wagered in a game of chance less the prizes awarded.

3. Licensee. "Licensee" shall mean a firm, corporation, association or organization licensed by the Chief of the State Police to operate a game of chance.

3-A. Machine. "Machine" means any machine, including electronic devices, however operated, the internal mechanism or components of which when set in motion or activated and by the application of the element of chance may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tickets or something of value as defined in subsection 8.

3-B. Member. "Member" means a bona fide member of a firm, corporation, association, organization, department, class or combination thereof, who has been duly admitted as a member according to the laws, rules, regulations, ordinances or bylaws governing membership in the firm, corporation, association, organization, department, class or combination thereof.

3-C. Net Revenue. “Net revenue” means gross revenue less all approved expenses.

4. Printer. "Printer" shall mean a person, firm, corporation, association or organization that reproduces in printed form, for sale or distribution, materials to be used in the conduct of a game of chance.

5. Raffle. "Raffle" shall mean a game of chance in which:

A. A person, or persons, pays or agrees to pay something of value for a chance, represented and differentiated by a number, to win a prize;

B. One or more of the chances is to be designated the winning chance;

C. The winning chance is to be determined as a result of a drawing from a container holding numbers representative of all chances sold; and

D. A holder of a winning chance does not receive something of value worth more than the amount applicable under section 331-A.

6. Roulette. "Roulette" shall mean a game of chance in which players bet on the compartment of a revolving wheel into which a small ball will come to rest.

7. Slot machine. "Slot machine" means any machine which operates by inserting a coin, token or similar object, setting the internal mechanism of the machine in motion, and by the application of the element of chance may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tickets or something of value as defined in subsection 8.

8. Something of value. "Something of value" means:

A. Any money or property;

B. Any token, object or article exchangeable for money, property, amusement or entertainment; or

C. Any form of credit or promise directly or indirectly contemplating transfer of money or property, or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

9. Tokens. "Tokens" means distinctive objects, chips, tickets or other devices of no intrinsic value used as a substitute for cash in accounting for revenue from a game of chance.

§ 331. Game of chance

1. License required. No person, firm, corporation, association or organization shall hold, conduct or operate a game of chance within the State unless a license therefor is obtained from the Chief of the State Police, or the game of chance constitutes "social gambling" as that term is defined by Title 17-A, section 952, subsection 8.

2. Repealed. 1987, c. 190, § 2.

2-A. Games of chance at agricultural fairs. The Chief of the State Police may issue a license to hold, conduct or operate the game of chance commonly known as "penny falls" or "quarter falls" at any agricultural fair as long as the fair controls the revenue from such games.

3. Door prizes. Distribution of tickets to any event upon which appear details concerning any prize to be given away as a result of a drawing is to be considered a game of chance within the meaning of this chapter, except that such distribution of tickets containing only the words "Door Prize," without further description, shall be excluded from the

provisions of this chapter, provided that no promotional materials or presentations, written or oral, shall further describe the door prize.

4. "Donation" not to provide an exclusion. The word "Donation" printed on a ticket shall in no way exclude the sponsoring organization from complying with this chapter.

5. Repealed. 1977, c. 350, § 3.

6. Raffles with prizes of \$10,000 or less. Notwithstanding subsection 1, a license to conduct or operate a raffle as defined in section 330, subsection 5, in which the holder of the winning chance does not receive something of value worth more than \$10,000, is not required of the following:

A. Any agricultural society eligible for the state stipend under Title 7, section 62, or any bona fide, nonprofit organization that is either charitable, educational, political, civic, recreational, fraternal, patriotic or religious or any auxiliary of such organization;

B. Any volunteer police force, fire department or ambulance corps;

C. Any class or organization of any elementary, secondary or postsecondary educational institution operated or accredited by the State; or

D. Any State agency that conducts or operates a raffle for a donated item to benefit fish and wildlife conservation projects.

Any exempt organization, department or class or combination listed in paragraph A, B, C or D may sponsor, operate and conduct a raffle without a license only for the exclusive benefit of that organization, department or class or combination, and that raffle must be conducted only by duly authorized members of the sponsoring organization, department or class or combination.

A state agency may not conduct or operate more than 2 raffles per year pursuant to paragraph D.

7. Special exempt raffles; prizes more than \$10,000 but not more than \$25,000. The following rules apply to special exempt raffles licensed under this subsection.

A. Except as provided in subsection 8, the Chief of the State Police may issue one special exempt raffle license per year to any organization, department or class eligible to hold a raffle under subsection 6 without obtaining a license. The special exempt raffle license entitles the licensee to hold one raffle in which the holder of a winning chance receives something of value worth more than \$10,000 but not more than \$25,000.

Section 341 does not apply to raffles licensed under this section.

B. The Chief of the State Police may not issue a license under this subsection to hold a raffle in which the holder of a winning chance receives a cash prize worth more than \$10,000.

C. All tickets sold pursuant to a special exempt raffle license shall be purchased from a licensed distributor or licensed printer. Tickets shall be sequentially numbered and have printed on their faces the following information: the name of the special exempt raffle licensee; a description of the prize or prizes; the price of the ticket; and the date, time and place of the drawing. Any organization, department or class listed in subsection 6 that conducts a raffle under section 331-A shall retain all unsold raffle tickets for 6 months after the raffle drawing and make those tickets available for inspection at the request of the Chief of the State Police.

8. Repealed. eff. July 1, 1991.

8-A. Special exempt raffles; prizes more than \$10,000 but not more than \$75,000. The following rules apply to special exempt raffles licensed under this subsection.

A. The Chief of the State Police may issue one special exempt raffle license per year to any organization, department or class eligible to hold a raffle under subsection 6 without obtaining a license. The special exempt raffle license entitles the licensee to hold one raffle in which the holder of a winning chance receives something of value worth more than \$10,000 but not more than \$75,000. Section 341 does not apply to raffles licensed under this section.

B. The Chief of the State Police may not issue a license under this subsection to hold a raffle in which the holder of a winning chance receives a cash prize worth more than \$10,000.

C. All tickets sold pursuant to a special exempt raffle license must be purchased from a licensed distributor or licensed printer. Tickets must be sequentially numbered and have printed on their faces the following information: the name of the special exempt raffle licensee; a description of the prize or prizes; the price of the ticket; and the date, time and place of the drawing. Any organization, department or class listed in subsection 6 that conducts a raffle under section 331-A shall retain all unsold raffle tickets for 6 months after the raffle drawing and make those tickets available for inspection at the request of the Chief of the State Police.

D. The Chief of the State Police may issue only one special exempt raffle license per year, either under this subsection or

subsection 7, to the same organization, department or class listed in subsection 6.

9. Glass; prohibited. The use of glass is prohibited in games of skill pursuant to Title 32, section 1873.

§ 331-A. Raffle prize values

1. Special exempt raffle licensees. The holder of a special exempt raffle license issued under section 331, subsection 7, may conduct or operate one raffle per year in which the holder of a winning chance receives something of value worth more than \$10,000 but not more than \$25,000. The holder of a special exempt raffle license issued under section 331, subsection 8, may conduct or operate one raffle per year in which the holder of a winning chance receives something of value worth more than \$10,000 but not more than \$75,000. The holder of a special exempt raffle license issued under section 331, subsection 7 or 8, may not conduct or operate a raffle in which the holder of a winning chance receives a cash prize worth more than \$10,000.

2. Other raffles. All other persons, either licensed under this chapter to conduct or operate a raffle or exempt under section 331, subsection 6, may conduct or operate raffles in which the holder of a winning chance receives something of value worth no more than \$10,000.

§ 332. Issuance of license

1. Organizations eligible. 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 the state stipend under Title 7, section 62, or to a bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic or religious organization, or to a volunteer fire department or to an auxiliary of any of these organizations, any of which must be founded, chartered or organized in this State for a period of not less than 2 consecutive years before applying for a license.

2. Games conducted by members and bartenders of licensees only. A game of chance licensed pursuant to this section shall be operated and conducted for the exclusive benefit of the licensee and shall be operated and conducted only by duly authorized members of the licensee or by persons employed by the licensee as bartenders, except that nonmembers employed by the licensee 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 not 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 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 constitutes a game of chance, as defined in section 330, subsection 2, shall 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 utilizes objects which 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 manner of operating or conducting the games.

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 includes any mechanical or physical device which 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 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 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 distributor or employee of the distributor may be a member of the licensee.

4. Location. A license, issued pursuant to this section, shall specify the location where the organization may operate the licensed game of chance. No licensee may 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 may operate a game of chance on premises to which the general public has access. In any room where a licensed game of chance is being conducted, there shall be at least one member of the licensee present in that room for every 2 nonmembers who are present. That member must have been a member of the licensee for at least one year. A member of the licensee, either directly or through another member or guest, may not stake or risk something of value in the licensee's game of chance unless the member has been a member, as defined in section 330, subsection 3-B, of the licensee 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 valid for the operation of no more than one game of chance, the nature of which shall 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 be issued.

§ 333. Application

An application to operate or conduct a game of chance shall be on forms provided by the Chief of the State Police. Such application shall be signed by a duly authorized officer of the organization. It shall contain the full

name and address of the organization, a full description of the game of chance, the location where the game is to be conducted and any other information deemed necessary by the Chief of the State Police for the issuance of a license to operate a game of chance. An application to operate or conduct a game of chance shall bear the consent of the municipal officers of the town or city in which such game of chance is to be operated or conducted.

§ 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 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 deem necessary to satisfy the chief that the person is a duly authorized member of the licensee, or a person employed by the licensee 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 necessary regarding the conduct of games of chance by a licensee to determine compliance with this chapter.

§ 335. Revenue and expenses

1. Compensation. Those who conduct games of chance may not be paid for such services except as follows.

A. An organization including a fair licensed to operate beano, bingo or Lucky 7 games may use up to 20% of the gross revenue to compensate those who conduct the games.

B. Each person who conducts a game of chance licensed to an agricultural fair may be paid at a rate that does not exceed 3 times the State's minimum wage as established in Title 26, section 664, subsection 1, unless the game is one for which the limit in paragraph A applies.

2. Repealed. Laws 1993, c. 45, § 6.

2-A. Exceptions. Notwithstanding subsection 1, a licensee 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 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.

2-B. Repealed. Laws 2001, c. 672, § 8.

3. Rules. The Chief of the State Police shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375 to carry out this section.

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.

§ 336. Records; licenses

1. Records required. Each licensee shall keep a record of all financial transactions involving games of chance operated under each license granted to the licensee. The treasurer of the licensee 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

game, 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 an 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-A. Repealed. Laws 2001, c. 672, § 10.

1-B. Records required for licensee employing tokens. If a licensee employs tokens to account for revenue from games of chance and if the licensee 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 use of tokens renders those records unnecessary for adequate control of the licensee'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 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 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 be maintained by a licensee pursuant to this section and pursuant to the rules and regulations adopted under this chapter shall be kept and maintained on the premises where the game of chance has been conducted or at the primary business office of the licensee, which office shall be designated by the licensee in the license application. All these records shall be open to inspection by the Chief of the State Police or his representative and no licensee shall refuse the Chief of the State Police or his representative the right to inspect or audit the records. Refusal to permit inspection or

audit of the records shall not constitute a crime under this chapter but shall constitute grounds for revocation of license.

§ 336-A. Records; distributors and printers

1. Sales agreements. Each distributor shall forward to the Chief of the State Police, prior to delivery of any gambling machine to the purchaser, a copy of all sales agreements, sales contracts or any other agreements involving the sale of any gambling machine. The terms of the sales contract shall include, but not be limited to, the name of seller, name of purchaser, address of seller, address of purchaser, description of the gambling machine including serial number and model name and number, total sale price, any arrangement or terms for payments and the date of final payment.

Any change, modification or alteration of these agreements shall be reported to the Chief of the State Police by the purchaser within 6 days of the change, modification or alteration.

2. Service agreements. With the sale of any gambling machine involving a service agreement, the distributor shall forward to the Chief of the State Police a copy of the agreement prior to delivery of the machine. The terms of the service agreements shall include, but not be limited to, the name of seller, name of purchaser, address of seller, address of purchaser, description of machine to be serviced, including serial number and model name and number and all prices and payments for that service.

Any change, modification or alteration of the agreement shall be reported to the Chief of the State Police by the purchaser within 6 days of the change, modification or alteration.

2-A. Agricultural societies; lease agreements. When a gambling apparatus or implement is leased as provided in section 337 to an agricultural society, the distributor shall forward to the Chief of the State Police a copy of the lease agreement prior to delivery of the gambling apparatus or implement. The terms of the lease must include, but are not limited to, the name of the lessor; address of the lessor; name of the lessee; address of the lessee; description of the gambling apparatus or implement; serial number, model name or number of the gambling apparatus or implement; and all prices and payments for the lease. Each lease must be for a specific period of time no longer than the duration of the annual fair of that lessee, and each gaming apparatus must have its own separate lease. Gambling apparatus or implements leased under this section:

A. May only be operated for the exclusive benefit of the agricultural society, except for leased amounts subject to the provisions of section 337 amounts for the gambling apparatus or implements may be paid to the distributor for the lease; and

B. Must bear the name and address of the distributor.

3. Reports. At the end of each calendar month, every distributor and printer shall file with the Chief of the State Police a report which shall indicate:

A. The names and addresses of all persons or organizations to which the distributor or printer has distributed equipment and the dates of the distribution;

B. A description of the equipment distributed, including serial number and model name and number; and

C. The quantities of any equipment distributed.

4. Retention and inspection of records. Each distributor and printer shall maintain and keep for a period of 3 years, on the premises of the distributor or printer, any records that may be necessary to substantiate the reports required by this section or by the rules and regulations adopted under this chapter. All distributor's and printer's records shall be open to inspection and no licensee shall refuse the Chief of the State Police or his representative the right to inspect or audit the records. Refusal to permit inspection or audit of the records shall not constitute a crime under this chapter but shall constitute grounds for revocation of license.

§ 337. Distributor

A distributor may not sell, lease, market or otherwise distribute gambling apparatus or implements unless licensed by the Chief of the State Police, except that a license is not required for the sale, marketing or distribution of raffle tickets when the holder of the winning chance receives something of value worth less than \$10,000.

Every nonresident manufacturer or distributor of gambling apparatus or implements doing business in the State shall have a Maine agent who must be licensed as a distributor.

A distributor may not sell, market or otherwise distribute gambling apparatus or implements to a person or organization, except to persons or organizations licensed to operate or conduct games of chance under section 332, licensed to conduct a special exempt raffle under section 331, subsection 7 or 8, or eligible to conduct a raffle pursuant to section 331, subsection 6. A distributor may not lease or loan or otherwise distribute free of charge any gambling apparatus or implements to an organization eligible to operate a game of chance. A distributor may lease gambling apparatus or implements to an agricultural society licensed to operate games of chance on the grounds of the agricultural society and during the annual fair of the agricultural society as long as the distributor does not charge the agricultural society an amount in excess of 50% of the gross revenue from any licensed game of chance.

Every licensee shall acquire all gambling apparatus and implements from a distributor licensed under this section, unless that gambling apparatus

or implements are printed, manufactured or constructed by the licensed organization. At no time may any licensee print, manufacture or construct any gambling implements or apparatus for distribution to any other licensee. The applicant for a distributor's license, or if the applicant is a firm, corporation, association or other organization, its resident manager, superintendent or official representative shall file an application with the Chief of the State Police on forms furnished by the Chief of the State Police. The Chief of the State Police shall furnish each applicant with a current copy of this chapter and the rules adopted under section 343. The Chief of the State Police shall furnish each licensee with a copy of any changes or additions to this chapter and the rules adopted under section 343.

§ 338. Printer

No Maine printer may print materials to be used in the conduct of a licensed game of chance unless licensed by the Chief of the State Police. A printer licensed under this section may act as a distributor without having to be licensed as a distributor providing neither the printer nor anyone in the printer's behalf acts as a seller for services connected with a game of chance outside the confines of the printer's premises described in that printer's license. If that printer or someone else acts as a seller for the printer's services in connection with a game of chance outside of the premises described in that printer's license, either that printer or any person or persons acting in that printer's behalf must be licensed as a distributor.

The applicant for a printer's license, or if the applicant is a firm, corporation, association or other organization, its resident manager, superintendent or official representative shall file an application with the Chief of the State Police on forms furnished by the Chief of the State Police. The Chief of the State Police shall furnish each applicant with a current copy of this chapter and the rules adopted under section 343. The Chief of the State Police shall furnish each licensee with a copy of any changes or additions to this chapter and the rules adopted under section 343.

§ 338-A. Investigations and actions on licenses

1. Investigation. The Chief of the State Police shall investigate or cause to be investigated all complaints made to him and all violations of this chapter or the rules adopted pursuant to section 343.

2. Refusal to issue, modify or renew; modification; suspension; revocation. Grounds for an action to refuse to issue, modify or renew, modify, suspend or revoke the license of a distributor or printer licensed under this chapter are as follows:

A. The distributor or printer or its resident manager, superintendent or official representative made or caused to be made a false statement of material fact in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued.

B. The distributor or printer or its resident manager, superintendent or official representative violated any provision of this chapter or any rule adopted by the Chief of the State Police under section 343.

(1) Except as provided in subparagraph (2), the Chief of the State Police shall give written notice of any violation to the distributor or printer who then has 14 days to comply. Failure to comply within the 14-day period is grounds for an action under this section.

(2) If a distributor or printer violates section 337 or 338 the Chief of the State Police is not required to give the notice or allow the compliance period provided in subparagraph (1).

C. The distributor or printer or its resident manager, superintendent or official representative has been:

(1) Convicted of a crime which is included in this chapter or Title 17-A, chapter 39; or

(2) Convicted within the prior 10 years of any crime for which imprisonment for more than one year may be imposed.

§ 339. Fees

1. Original application fee. The original application for a license to operate a game of chance must be accompanied by a fee of \$7.50. This is not a fee for a license and is not refundable.

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

2-A. Operation of electronic video machines. The fee for a game of chance license to operate an electronic video machine is \$15 for each week computed on a Monday to Sunday basis or portion of a week. The license may be issued for a calendar month for a fee of \$60.

Any combination of monthly or weekly licenses may be issued. Licenses to operate an authorized electronic video machine may be issued for a period not to exceed 6 months on one application.

3. Games of cards. The fee for a license issued to an organization to operate a game of cards, when the organization charges no more than \$1 daily entry fee for participation in the games of cards and when no money or valuable thing other than the \$1 daily entry fee is gambled by any person in connection with the game of cards, is \$7.50 for each calendar year or portion thereof.

4. Distributors. The fee for a license issued to a distributor is \$625 for each calendar year or portion thereof.

5. Printers. The fee for a license issued to a printer is \$15 for each calendar year or portion thereof.

6. Application. Licenses to operate any authorized game of chance may be issued for a period not to exceed 6 months on one application.

All fees required by this section must accompany the application for any license issued by authority of this chapter.

Fees submitted as license fees must be refunded if the license is not issued. Rebates may not be given for any unused license or portion of an unused license. If any license is suspended or revoked as provided by this chapter, fees paid for licenses issued may not be refunded.

§ 340. Persons under 16 years of age

No licensee, game owner or operator may permit persons under the age of 16 years to take part in a game of chance. No person under the age of 16 years may sell chances, except in relation to charitable, religious or recognized youth associations.

No person under the age of 18 years may be licensed under this chapter.

§ 341. Limits on games of chance

1. Limits. A licensed 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.

2. Exceptions. If the licensee 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 limited as to the amount which 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 shall determine which of the limits in paragraph A, B or C is to be used and shall post the limit.

3. Repealed. Laws 2001, c. 672, § 13.

4. Games conducted at agricultural fairs by members of agricultural society or bona fide nonprofit. Beginning January 1, 2002, games of chance operated and conducted solely by members of an agricultural fair society or games of chance operated and conducted by members of bona fide nonprofit organizations on the grounds of the agricultural society and during the annual fair of the agricultural society may use cash, tickets, tokens or other device approved by the Chief of the State Police by rule.

Notwithstanding any other provision of this section, the tickets, tokens or other device approved by the Chief of the State Police must be unique to the agricultural society and may be in denominations of 25¢, 50¢ or \$1. The tickets, tokens or device approved by the Chief of the State Police may be sold and redeemed only by a person who has been a member or active volunteer of the agricultural society for at least 2 fair seasons. The agricultural society has the burden of proof for demonstrating the qualification of members or active volunteers.

5. Requirements. Agricultural fairs that use tokens shall provide records and reports as required by section 336, subsections 1-B and 2-A.

6. Rules. Rules adopted pursuant to subsection 4 are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.

§ 342. Reports

The Chief of the State Police shall require from any licensed printer or distributor, or from any organization authorized to operate a game of chance, whatever reports he deems necessary for the purpose of the administration and enforcement of this chapter.

§ 343. Rules and regulations

The Chief of the State Police has the power to adopt rules, not inconsistent with law, which are necessary for the administration and enforcement of this chapter and for the licensing, conduct and operation of games of chance. The Chief of the State Police has the power and authority to regulate, supervise and exercise general control over the operation of such

games. In establishing such rules, the Chief of the State Police must, in addition to the standards set forth in other provisions of this chapter, use the following standards setting forth conduct, conditions and activity considered undesirable.

- 1. Fraud.** The practice of any fraud or deception upon a participant in a game of chance.
- 2. Unsafe premises.** The conduct of a game of chance in or at premises which may be unsafe due to fire hazard or other such conditions.
- 3. Advertising and solicitation.** Advertising which is obscene; solicitation on a public way of persons to participate in a game of chance.
- 4. Organized crime.** Infiltration of organized crime into the operation of games of chance, or into the printing or distributing of gambling materials.
- 5. Disorderly persons.** Presence of disorderly persons in a location where a game of chance is being conducted.
- 6. Leasing of equipment.** Use of equipment which is not owned absolutely, or for which rental is made for said use in the operation of a game of chance.
- 7. Bona fide nonprofit organization.** The establishment of organizations which exist primarily to operate games of chance and do not have a bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious or public safety purpose.

The Chief of the State Police shall provide a mechanism for individuals and businesses to request a determination from the State Police as to whether a particular game, contest, scheme or device qualifies as a game of chance or a game of skill.

§ 343-A. Investigations; actions on licenses

- 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, revoke or refuse to issue a license, after notice and the opportunity for a hearing, if the applicant, applicant's agent or employee, licensee or licensee's agent or employee violates a provision of this chapter or Title 17-A, chapter 39 or fails to meet the statutory requirements for licensure pursuant to this chapter;

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; and

D. Issue a subpoena in the name of the State Police in accordance with Title 5, section 9060, except that this authority applies to any stage of an investigation under this chapter and is not limited to an adjudicatory hearing. This authority may not be used in the absence of reasonable cause to believe a violation has occurred. If a witness refuses to obey a subpoena or to give any evidence relevant to proper inquiry by the chief, the Attorney General may petition the Superior Court in the county where the refusal occurred to find the witness in contempt. The Attorney General shall cause to be served on that witness an order requiring the witness to appear before the Superior Court to show cause why the witness should not be adjudged in contempt. The court shall, in a summary manner, hear the evidence and, if it is such as to warrant the court in doing so, punish that witness in the same manner and to the same extent as for contempt committed before the Superior Court or with reference to the process of the Superior Court.

2. Licensing actions after notice and opportunity for hearing. The Chief of the State Police shall notify the applicant or licensee in writing, before a license is denied, suspended or revoked pursuant to subsection 1, paragraph B, of the intended denial or 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 applicant or licensee has the right to request a hearing before the Commissioner of Public Safety or the commissioner's designee. Upon the applicant's or 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 applicant, applicant's agent or employee, licensee or 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 applicant or licensee is notified of the proposed denial, 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 unless otherwise agreed by the parties or continued upon request of a party for cause shown.

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.

§ 344. Expenses

The necessary expenses of administering this chapter shall be paid out of the fees received under said chapter.

§ 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 shall permit at any time the Department of Public Safety or the city or town fire inspectors of the municipality in which the licensed game is being conducted to enter and inspect the licensed premises.

§ 346. Violations

Any person who violates this chapter or the rules and regulations promulgated hereunder shall be guilty of a Class D crime.

§ 347. Vending machines

Nothing in this chapter applies to vending machines, the primary purpose of which is to dispense beverages, candy, fruit or other foodstuffs when a coin is inserted into the machine.

**DEPARTMENT OF PUBLIC SAFETY
BUREAU OF STATE POLICE
16-222 C.M.R. Chapter 2
RULES AND REGULATIONS RELATING
TO GAMES OF CHANCE**

SUMMARY: This chapter describes all requirements that must be met in order to be issued a license to operate games of chance. It also explains restrictions on the operation of such games, records required, disposition of funds required, location, sales agreements, and retention and inspection of records.

This chapter dictates who may print and distribute materials used in games of chance and how they may be licensed to do so. This chapter also regulates who may be allowed to play games of chance and who may be allowed to own and operate such games.

2.01 Definitions

A. Equipment. "Equipment" shall mean any and all articles essential to the operation and conduct of a Game of Chance.

B. License. "License" shall mean the written authority from the Chief of the State Police to hold, conduct or operate a Game of Chance within the State of Maine.

C. Period. "Period" shall mean the number of calendar weeks authorized by a single license to operate a Game of Chance.

D. Lucky seven or similar sealed ticket game shall mean a game consisting of tickets or cards with preprinted symbols, numbers, or other figures that are hidden by an opaque removable material. Each ticket or card represents a chance to win a specific single prize or specific single set of prizes. A winning ticket or card contains a predetermined winning configuration of symbols, numbers, or other figures.

2.02 Conduct of Games of Chance

A. No Games of Chance shall be conducted with any gambling equipment unless said equipment is owned absolutely.

Note:

(1) Equipment being purchased on installment is considered as "owned."

(2) Any gambling equipment which is owned absolutely by an organization eligible to obtain a license in accordance with Title 17 M.R.S.A. Sec. 332, subsection 1 may loan said gambling equip-

ment to another organization eligible to obtain a license. No payment or compensation may be charged for the loan of this gambling equipment.

B. The licensee shall not permit any disorderly or visibly intoxicated person to enter or remain within the room or area where any Games of Chance are being conducted.

C. No Game of Chance shall be conducted unless some responsible person at least 18 years of age, exercises exclusive control of each game played.

D. The licensee shall conspicuously post the Games of Chance license in an area near the licensed game. A copy of the Laws and Rules and Regulations of Title 17, Chapter 14 shall also be posted in the room or area where a licensed Game of Chance is being conducted.

E. Any location or room wherein Games of Chance are being conducted shall be fully lighted at all times during the conduct of the game.

F. All prizes shall be designated, announced, posted or indicated to the players prior to the start of each game.

G. At the conclusion of each Game of Chance the winners will be determined and the prize awarded. No prize or any values derived from a previous prize shall be credited toward a greater prize.

H. When more than one player is found to be the winner in the same game, the designated prize shall be divided as equally as possible.

I. All members of an organization who are involved in the conduct of Games of Chance shall be thoroughly familiar with the provisions of Title 17, Chapter 14, pertaining to Games of Chance and these Rules and Regulations.

J. An organization conducting a Game of Chance shall not advertise in any obscene or indecent manner, nor shall said organization permit advertising of any obscene or indecent nature.

K. The following minimum safety requirements shall be adhered to per the State Fire Marshal's Office.

(1) There shall be at least one 10 BC Chemical or CO² fire extinguisher or one 2 1/2 gallon soda acid fire extinguisher per 2500 feet of floor space.

(2) There shall be exit signs for each exit, with emergency lighting for all exits, hallways and the playing area.

- (3) Steps and stairs leading into, and those in the building, shall be kept free of obstructions and in good repair, with at least one handrail per set of steps or stairs.
- (4) There shall be no obstructions of any nature in any aisle, corridor, or stairway in, or leading to, the licensed premises during the conduct of any Games of Chance.
- (5) All exit doors from the playing area and the licensed premises shall swing outward, and shall not be provided with a latch or lock unless it is panic hardware.
- (6) Heating units, if involved, shall be installed in separate rooms with fire resistive rating of at least one hour, or shall be otherwise located and installed in such a manner as to protect the occupants in the event of any emergency or panic.

Note: If your organization is considering any new construction or alteration to your Games of Chance premises, it is suggested that you consult:

Fire Marshal's Office
25 Commerce Drive Suite 1
State House Station #52
Augusta, Maine 04333-0052
626-3870

2.03 Administrative requirements

A. All Games of Chance applications must be received at:

Maine State Police
Licensing, Gaming and Weapons Unit
State House Station 164
Augusta, Maine 04333-0164
(207) 624-7210

at least 8 days prior to the first date desired to operate. No Games of Chance licenses will be issued unless the 8 day requirement is met.

B. Any organization applying for a gambling machine license under this chapter shall forward a copy of the Internal Revenue Service Special Tax Form 11 B showing proof of payment as required by the Department of the Treasury.

No Games of Chance licenses will be issued unless the IRS Special Tax Stamp accompanies the application.

2.04 Sealed tickets limitations and prohibitions

- A.** This rule does not apply to Lucky Seven or similar sealed tickets when conducted or operated in conjunction with high-stakes beano.
- B.** Each Lucky Seven or similar sealed ticket game shall contain no more than twelve thousand individual tickets or cards, none of which are attached in any way to any other ticket or card.
- C.** Every Lucky Seven or similar sealed ticket game shall be assigned unique serial number by the manufacturer. Every ticket or card in a Lucky Seven or similar sealed ticket game shall bear the unique serial number of the Lucky Seven or similar sealed ticket game. This serial number shall be plainly visible to the contestant, participant, or other interested person.
- D.** No Lucky Seven or similar sealed ticket game shall be conducted or operated in which the operator or Licensee knows or can identify any winning ticket or card that has not been opened by the contestant or participant.
- E.** Operators of Lucky Seven or similar sealed ticket games shall offer all the tickets or cards comprising the game for sale simultaneously. No operator shall mix or add any tickets or cards from one Lucky Seven or similar sealed ticket game together with the tickets or cards to another Lucky Seven or similar sealed ticket game. Nor shall any operator change the original odds of winning a Lucky Seven or sealed ticket game in any manner.
- F.** No person conducting or operating or assisting in the conduct or operation of a Lucky Seven or similar sealed ticket game may participate as a player or contestant in that game. Persons conducting or operating or assisting in the conduct or operation of a Lucky Seven or similar sealed ticket game may elect to post whether prizes have been awarded or not in that game. If persons conducting or operating or assisting in the conduct or operation of a Lucky Seven or similar sealed ticket game elect to post that prizes have been awarded, that posting shall be immediately following the award of the prize and shall include all prizes for that game. No person conducting or operating or assisting in the conduct or operation of a Lucky Seven or similar sealed ticket game shall deceive a participant or contestant by misrepresenting in any way that a prize has been or has not been awarded.

OTHER RELEVANT STATUTES
17-A M.R.S.A. CHAPTER 39
SECTIONS 951-961

§ 951. Inapplicability of chapter

Any person licensed by the Chief of State Police as provided in Title 17, chapter 13-A⁶ or chapter 14⁷, or authorized to operate or conduct a raffle pursuant to Title 17, section 331, subsection 6, shall be exempt from the application of the provisions of this chapter insofar as that person's conduct is within the scope of the license.

§ 952. Definitions

As used in this chapter, the following definitions apply:

1. "Advance gambling activity." A person "advances gambling activity" if, acting other than as a player or a member of the player's family residing with a player in cases in which the gambling takes place in their residence, he engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes, but is not limited to, bookmaking, conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefore, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. A person also advances gambling activity if, having substantial proprietary control or other authoritative control over premises being used with his knowledge for purposes of gambling activity, he permits that activity to occur or continue, or makes no effort to prevent its occurrence or continuation.

2. "Bookmaking" means advancing gambling activity by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events.

3. Contest of chance. "Contest of chance" means any game, contest, scheme or device in which:

A. A person stakes or risks something of value for the opportunity to win something of value;

⁶ 17 M.R.S.A. § 311 et. seq. [Beano or Bingo]

⁷ 17 M.R.S.A. § 330 et. seq. [Games of Chance]

B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and

C. Chance enters as an element that influences the outcome in a manner than cannot be eliminated through the application of skill.

For the purposes of this subsection, “an event the result of which is determined by chance” includes but is not limited to a shuffle of a deck or decks of cards, a roll of a die or dice or a random drawing or generation of an object or objects that may include, but are not limited to, a card or cards, a die or dice, a number or numbers or simulations of any of these. A shuffle of a deck or decks of cards, a roll of a die or dice, a random drawing or generation of an object or objects or some other event the result of which is determined by chance that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance.

4. “Gambling.” A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include bona fide business transaction valid under the law of contracts, including but not limited to contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

5. “Gambling device” means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. However, lottery tickets and other items used in the playing phases of lottery schemes are not gambling devices within this definition.

5-A. “Illegal gambling machine” means any machine, including electronic devices, however operated:

A. The internal mechanism or components of which when set in motion or activated may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tickets or something of value;

B. That is used to advance gambling activity;

C. That is not a machine that a person may lawfully operate pursuant to a license that has been issued under Title 17, chapter 14 or that is operated by the Department of Administrative and

- 6. “Lottery”** means an unlawful gambling scheme in which:
- A.** The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated the winning ones; and
 - B.** The winning chances are to be determined by a drawing or by some other method based on an element of chance; and
 - C.** The holders of the winning chances are to receive something of value.
- 7. “Mutuel”** means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.
- 8. “Player”** means a person who engages in social gambling solely as a contestant or bettor on equal terms with the other participants therein without receiving or becoming entitled to receive something of value or any profit there from other than his personal gambling winnings. “Social gambling” is gambling, or a contest of chance, in which the only participants are players and from which no person or organization receives or becomes entitled to receive something of value or any profit whatsoever, directly or indirectly, other than as a player, from any source, fee, remuneration connected with said gambling, or such activity as arrangements or facilitation of the game, or permitting the use of premises, or selling or supplying for profit refreshments, food, drink service or entertainment to participants, players or spectators. A person who engages in “bookmaking” as defined in subsection 2 is not a “player.”
- 9. “Profit from gambling activity.”** A person “profits from gambling activity” if, other than as a player, he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.
- 10. “Something of value”** means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property, or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.
- 11. “Unlawful”** means not expressly authorized by statute.

§ 953. Aggravated unlawful gambling

1. A person is guilty of aggravated unlawful gambling if he intentionally or knowingly advances or profits from unlawful gambling activity by:

A. Engaging in bookmaking to the extent that the person receives or accepts in any 24-hour period more than 5 bets totaling more than \$500; or

B. Receiving in connection with a lottery or mutuel scheme or enterprise, money or written records from a person other than a player whose chances or plays are represented by such money or records; or

C. Receiving in connection with a lottery, mutuel or other gambling scheme or enterprise more than \$1,000 in any 24-hour period played in the scheme or enterprise.

2. Aggravated gambling is a Class B crime.

§ 954. Unlawful gambling

1. Any person is guilty of unlawful gambling if he intentionally or knowingly advances or profits from unlawful gambling activity.

2. Unlawful gambling is a Class D crime.

§ 955. Possession of gambling records

1. A person is guilty of possession of gambling records if, other than as a player, he knowingly possesses any writing, paper, instrument or article, which is being used or is intended by him to be used in the operation of unlawful gambling activity, as defined in this chapter.

2. Possession of gambling records is a Class D crime.

§ 956. Possession of gambling devices

1. A person is guilty of possession of gambling devices if he manufactures, sells, transports, places, possesses or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device, knowing it is to be used in the advancement of unlawful gambling activity, as defined in this chapter.

2. Possession of gambling devices is a Class D crime.

§ 957. Out-of-state gambling

In any prosecution under this chapter it is not a defense that the gambling activity, including the drawing of a lottery, which is involved in the illegal conduct takes place outside this State and is not in violation of the laws of the jurisdiction in which the lottery or other activity takes place.

§ 958. Injunctions; recovery of payments

1. When it appears to the Attorney General that any person has formed or published a lottery, or taken any measures for that purpose, or is engaged in selling or otherwise distributing tickets, certificates, shares or interest therein, whether such lottery originated in this State or not, he shall immediately make complaint in the name of the State to the Superior Court for an injunction to restrain such person from further proceedings therein. If satisfied that there is sufficient ground therefore, such court shall forthwith issue such injunction and thereupon it shall order notice to be served on the adverse party to appear and answer to said complaint. Such court, after a full hearing, may dissolve, modify or make perpetual such injunction, make all orders and decrees necessary to restrain and suppress such unlawful proceedings and, if the adverse party neglects to appear, or the final decree of the court is against him, judgment shall be rendered against him for all costs, fees and expenses incurred in the case and for such compensation to the Attorney General for his expenses, as the court deems reasonable.

2. Payments, compensations and securities of every description, made directly or indirectly in whole or in part, for any such lottery or ticket, certificate, share or interest therein, are received without consideration and against law and equity, and may be recovered.

§959. Illegal gambling machines; forfeiture

1. An illegal gambling machine, including any monetary contents and associated proceeds, is subject to forfeiture to the State.

2. An illegal gambling machine and any monetary contents may be declared forfeited under this section by any court that has jurisdiction over the illegal gambling machine or final jurisdiction over any related criminal proceeding brought under this chapter or by the Superior Court for Kennebec County. Property subject to forfeiture may be kept or stored at any location within the territorial boundaries of the State and is subject to the authority of any court in which a petition seeking the forfeiture of that property is filed.

3. Forfeitures under this section must be accomplished by the following procedure.

A. A district attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a

proceeding in rem to order forfeiture of an illegal gambling machine and any monetary contents. The petition must be filed in the court having jurisdiction over the property.

B. The proceeding under paragraph A is an in rem civil action, in which the State has the burden of proving all material facts by a preponderance of the evidence.

C. A court shall order the State to give notice of the pendency of the action and the right to be heard by certified or registered mail or through hand delivery by a deputy sheriff to any person who appears to have an interest in the illegal gambling machine and any monetary contents. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Department of the Secretary of State, Bureau of Motor Vehicles.

D. A court shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition after an answer is filed by a person served with notice under paragraph C. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law.

E. Based on the findings and conclusions, the court shall issue a final order, from which the parties have a right of appeal. The final order must provide for disposition of the illegal gambling machine and any monetary contents by the State. Any revenue generated by the disposition of the illegal gambling machine and any monetary contents of the machine must be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice. The balance, if any, must be deposited in the General Fund.

4. Any law enforcement officer, department or agency having custody of an illegal gambling machine or any monetary contents of an illegal gambling machine or having disposed of the illegal gambling machine or any monetary contents shall keep and maintain during the pendency of the action full and complete records in accordance with this subsection. Upon issuance by the court of a final order ordering the disposition, destruction or return of the illegal gambling machine or the monetary contents, the officer, department or agency must transmit a copy of those records to the Department of Public Safety for inclusion into a centralized record.

A. The records must show:

(1) From whom the illegal gambling machine and monetary contents were received;

(2) Under what authority the illegal gambling machine and any monetary contents are held, received or disposed of;

(3) To whom the illegal gambling machine and any monetary contents are delivered;

(4) The date and manner of destruction or disposition of the illegal gambling machine; and

(5) The exact kinds, quantities and forms of illegal gambling machines and the exact amount of any monetary contents of any machine held in custody or disposed of.

B. The records must be open to inspections by all federal and state officers authorized by the laws of the United States, a state or territory of the United States or a foreign nation to investigate or prosecute gambling laws.

C. The Department of Public Safety is responsible for maintaining a centralized record of illegal gambling machines seized. At least quarterly, the department shall provide a report of the disposition of property previously held by the department to the Commissioner of Administrative and Financial Services and the legislative Office of Fiscal and Program Review for review. These records must include an estimate of the fair market value of items seized.

5. Persons making final disposition or destruction of an illegal gambling machine or its monetary contents under court order shall report, under oath, to the court the exact circumstances of the destruction or disposition.

6. An illegal gambling machine together with any monetary contents is contraband and may be seized by any law enforcement officer pursuant to subsection 7 or 8.

7. At the request of the State ex parte, a court may issue any preliminary order or process necessary to seize or secure the property for which forfeiture is sought and provide for its custody.

A. Process for seizure of the property for which forfeiture is sought under this section may issue only upon a showing of probable cause. The application for process for seizure of the property and the issuance, execution and return of the process are subject to the provisions of applicable state law.

B. Any property subject to forfeiture under this section may be seized upon process.

8. Seizure of property forfeited under this section without process may be made when seizure is incident to a legal search or inspection if a law enforcement officer has probable cause to believe the property seized is an illegal gambling machine.

§960. Criminal forfeiture

1. A person convicted of a violation of this chapter forfeits to the State all rights, privileges, interests and claims to property that is subject to forfeiture pursuant to section 959. All rights, privileges, interest and title in property subject to forfeiture under this section vest in the State upon the commission of the act-giving rise to forfeiture pursuant to section 959.

2. Property subject to forfeiture that is not yet the subject of a final order pursuant to section 959 may be proceeded against by indictment or superseding indictment of a grand jury in any related criminal proceeding in which one or more persons with an interest in the property have been simultaneously indicted for one or more violations of this chapter. At any time prior to trial, the State, with the consent of the court and any defendant with an interest in the property, may file an ancillary charging instrument or information alleging that that property is subject to criminal forfeiture. Upon commencement of a criminal forfeiture by indictment or information of any property that may be the subject of any pending civil action commenced pursuant to section 959, the civil action must be immediately stayed and subrogated to the criminal forfeiture action. Discovery in the criminal action must be as provided by the Maine Rules of Criminal Procedure.

3. Property subject to forfeiture that has not already been seized but has been indicted by a grand jury pursuant to this section may also be ordered seized based upon the grand jury's finding of probable cause pursuant to section 959.

4. Trial against property charged by indictment or information may be by jury and must be held in a single proceeding together with the trial of the related criminal violation. Forfeiture of the property must be proved by the State by a preponderance of the evidence. The court, in its discretion, may allow any defendant with an interest in property indicted pursuant to this section to waive the right to trial by jury as against the property while preserving the right to trial by jury of any crime alleged. At trial by jury, the court, upon motion of a defendant or the State, may separate the trial of the matter against the defendant from the trial of the matter against the property subject to criminal forfeiture. If the court bifurcates the jury trial, the court shall first instruct and submit to the jury the issue of the guilt or innocence of defendants to be determined by proof beyond a reasonable doubt and shall restrict argument of counsel to those issues. After a verdict upon the guilt or innocence of all defendants, the court shall instruct and submit to the jury the issue of the forfeiture of the property to be determined by proof by a preponderance of the evidence and the court shall restrict argument to those issues. A special verdict must be

returned as to the extent of the interest in property subject to forfeiture, if any.

5. A person not charged in an indictment under this section may not intervene in the criminal action. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State shall provide written notice of its intent to dispose of the property to any person known to have alleged an interest in the property. The notice may be by certified, return receipt mail or as otherwise ordered by the court. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Department of the Secretary of State, Bureau of Motor Vehicles. A person other than the defendant asserting a legal interest in the property within 30 days of the date of receipt of the notice may petition the court for a hearing to adjudicate the validity of any alleged interest in the property. The hearing must be held before the court without jury. The request for the hearing must be signed by the petitioner under penalty of perjury and must state the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim and the relief sought. Upon the filing of any petition for hearing, the court shall schedule the hearing as soon as practicable, but in no event later than 6 months after the petition is filed or after the sentencing of any defendant convicted upon the same indictment. The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that:

A. The petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; and

B. The petitioner is a bona fide purchaser for value of the right, title or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section.

6. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State has clear title to property that is the subject of the indictment or information and order of forfeiture and may order all or a portion of the property forfeited to the State to be disposed of pursuant to section 959.

§961. Construction

Sections 959 and 960 must be liberally construed to effectuate their remedial purposes.

ALL CORRESPONDENCE SHOULD BE FORWARDED TO:

DEPARTMENT OF PUBLIC SAFETY
LICENSING, GAMING & WEAPONS UNIT
STATE HOUSE STATION 164
AUGUSTA, ME 04333-0164

PHYSICAL ADDRESS:

DEPARTMENT OF PUBLIC SAFETY
LICENSING, GAMING & WEAPONS UNIT
45 COMMERCE DRIVE, SUITE 1
AUGUSTA, MAINE 04333-0164

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