

# MAINE STATE LEGISLATURE

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L.D. 829

DATE: 6/21/95

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
117TH LEGISLATURE  
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to H.P. 619, L.D. 829, Bill, "An Act to Strengthen Maine's Live Harness Racing Industry"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the harness racing industry is an important industry in the State; and

**Whereas,** a more equitable distribution of purse funds must be provided immediately in order to strengthen live racing in the State; and

**Whereas,** this legislation will provide for a more equitable distribution of purse funds; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 8 MRSA §271, sub-§1,** as amended by PL 1991, c. 579, §10, is further amended to read:

R. of S.

1. **Licensing.** If the commission is satisfied that all of this chapter and rules prescribed by the commission have been substantially complied with during the past year and will be fully complied with during the coming year by the person, association or corporation applying for a license; that the applicant, its members, directors, officers, shareholders, employees, creditors and associates are of good moral character; that the applicant is financially responsible; and that the award of racing dates to the applicant is appropriate under the criteria contained in subsection 2, it may issue a license for the holding of harness horse races or meets for public exhibition with pari-mutuel pools, which must expire on December 31st. The commission shall set licensing and license renewal fees sufficient to carry out the administration and enforcement of the licensing program. These fees may not exceed annually the greater of \$100 or \$10 for each calendar week or part of a week of harness racing regardless of whether pari-mutuel pools are sold. The commission shall provide a booklet containing harness racing laws and rules and relevant portions of the Maine Administrative Procedure Act to every initial licensee and a fee not to exceed \$10 must be included in the license fee to cover the cost of this publication. The commission shall provide necessary revisions of this booklet to those persons renewing licenses at the time of renewal and shall include the cost of the revisions, not to exceed \$10, in the renewal fee. The license must set forth the name of the licensee, the place where the races or race meets are to be held and the specific race dates and time of day or night during which racing may be conducted by the licensee. The location stated in the license where the race or race meet is to be held may be transferred to any other licensee on the dates set forth in the license during which the racing may be conducted, but, with respect to that transfer, the transfer may only be made to another licensee and the licensee is liable for compliance with all laws and regulations governing the conduct of harness racing. Any such license issued is not transferable or assignable. The Administrative Court Judge, as designated in Title 4, chapter 25, may revoke any license issued at any time for violation of the commission's rules or licensing provisions upon notice and hearing. The license of any corporation is automatically revoked, subject to Title 5, chapter 375, upon the change in ownership, legal or equitable, of 50% or more of the voting stock of the corporation and the corporation may not hold a harness horse race or meet for public exhibition without a new license.

Sec. 2. 8 MRSA §271, sub-§2, as amended by PL 1993, c. 388, §4, is further amended to read:

2. **Criteria for date awards.** In assigning race dates to licensees, the commission shall consider the following factors:

R. d. S.

HOUSE AMENDMENT "A" to H.P. 619, L.D. 829

- 2           A. The revenues to be generated, consistent with the  
4           profitability and financial health of the licensee, for the  
          General Fund pursuant to section 275-H; the purse  
6           supplements pursuant to section 275-I; the Sire Stakes Fund  
          pursuant to section 281; and the Stipend Fund pursuant to  
          Title 7, section 62;
- 8
- 10          B. The quality of race programming and facilities offered  
          and to be offered by the licensee and the suitability of the  
12          applicant's racing facilities for operation at the season  
          for which the race dates are requested;
- 14          C. The necessity of having and maintaining proper physical  
          facilities for racing meetings; and consequently, to insure  
16          the continuance of the facilities, the quality of the  
          licensee's maintenance of its track and plant, the adequacy  
18          of its provisions for rehabilitation and capital  
          improvements and the necessity of fair treatment of the  
20          economic interests and investments of those who, in good  
          faith, have provided and maintained racing facilities;
- 22
- 24          D. The desirability of reasonable consistency in the  
          pattern of race date assignments from year to year;
- 26          E. With respect to agricultural societies seeking licenses  
          to conduct harness racing meets at the time of their annual  
28          fairs, the scheduling of agricultural fairs determined by  
          the Commissioner of Agriculture, Food and Rural Resources  
30          pursuant to Title 7, sections 65 and 65-A;
- 32          F. The preservation of a diversity of harness racing tracks  
          in the State;
- 34
- 36          G. The quality of the licensee's observance and enforcement  
          of this chapter and the rules promulgated pursuant to this  
          chapter during the past year;
- 38
- 40          H. The extent to which the licensee fully utilized racing  
          race dates granted to it for the past year;
- 42          I. The personnel and resources available to the commission  
          for the enforcement of this chapter and the rules  
44          promulgated pursuant to this chapter;
- 46          J. The likely availability of race-worthy horses throughout  
          the year; and
- 48

2 K. Such other criteria consistent with the betterment of  
harness racing and the public health, safety and welfare as  
4 the commission may establish by rule.

6 **Sec. 3. 8 MRSA §271, sub-§5**, as enacted by PL 1991, c. 579,  
§10, is amended to read:

8 **5. Minimum number of race dates.** The commission may assign  
a commercial licensee a minimum number of ~~raeing-days~~ race dates  
10 for a period of up to 3 years. The specific calendar dates for  
~~these--raeing--days~~ the minimum number of race dates and any  
12 additional race dates are determined each year in accordance with  
subsection 1. For the purposes of this subsection, "commercial  
14 licensee" means a licensee with an annual total of more than 25  
~~raeing-days~~ race dates with pari-mutuel wagering in the previous  
16 calendar year.

18 **Sec. 4. 8 MRSA §275-A, sub-§1-A** is enacted to read:

20 **1-A. Commercial meet.** "Commercial meet" means harness  
horse racing conducted live at a commercial track.  
22

24 **Sec. 5. 8 MRSA §275-A, sub-§9-A** is enacted to read:

26 **9-A. Race date.** "Race date" means a scheduled racing  
program of not less than 8 separate live races. In the event of  
cancellation of a portion of the scheduled racing program due to  
28 weather, power failure or a decision to cancel by the presiding  
judge on duty, a minimum of 5 live races actually raced  
30 constitutes a race date. If a licensee schedules separate  
programs for both an afternoon and an evening on the same  
32 calendar day and each program qualifies as a race date under this  
subsection, that licensee is granted one race date for each  
34 program.

36 **Sec. 6. 8 MRSA §275-A, sub-§10-A** is enacted to read:

38 **10-A. Regular meeting.** "Regular meeting" means the period  
of time from the first date a licensee is authorized to conduct  
40 live racing through the last date a licensee is authorized to  
conduct live racing, excluding periods of time longer than 14  
42 days when the licensee is not authorized to conduct live racing.  
Notwithstanding this subsection, the regular meeting of a  
44 licensee that is licensed to conduct live racing in at least 6  
separate calendar months includes the entire calendar year.  
46

48 **Sec. 7. 8 MRSA §275-D, sub-§8, ¶A**, as enacted by PL 1993, c.  
388, §8, is amended to read:

R. d. S.

HOUSE AMENDMENT "A" to H.P. 619, L.D. 829

2 A. An off-track betting facility located within a 75-mile  
 4 radius of a noncommercial racing licensee may not present a  
 6 simulcast at the same time that racing licensee is  
 8 conducting live racing, unless the racing licensee consents  
 10 and the facility pays the racing licensee 2% of the wagers  
 12 made at the facility at the time live racing is being  
 14 conducted. An off-track betting facility within a 50-mile  
 16 radius of a noncommercial racing licensee may not present a  
 18 simulcast during any day on which that racing licensee is  
 conducting live racing, unless the racing licensee consents  
 and the facility pays the racing licensee 1% of the wagers  
 made on that day. Amounts payable under this section are  
 taken from the facility's share of wagers authorized in  
 section 275-K. If the racing licensee is conducting  
 simulcasting pursuant to section 275-J, subsection 3, then  
 the racing licensee is not entitled to payment by the  
 facility under this section.

20 **Sec. 8. 8 MRSA §275-F, sub-§3, ¶A**, as enacted by PL 1993, c.  
 388, §8, is amended to read:

22 A. The first ~~\$295,000~~ \$400,000 of the total amount,  
 24 regardless of when actually collected, must be credited to  
 the Stipend Fund provided in Title 7, section 62.

26 **Sec. 9. 8 MRSA §275-F, sub-§3, ¶B**, as enacted by PL 1993, c.  
 388, §8, is repealed.

28 **Sec. 10. 8 MRSA §275-F, sub-§3, ¶C**, as enacted by PL 1993, c.  
 30 388, §8, is amended to read:

32 C. From the balance of the total amount in excess of  
 34 ~~\$350,000~~ \$400,000, regardless of when actually collected,  
 80% must be paid and returned no later than 30 days after  
 36 the end of the calendar year to those persons, associations  
 and corporations that during that calendar year, conducted  
 38 an extended meet pursuant to a license granted by the  
 commission in section 271. This payment must be divided in  
 40 the proportion that the contributions of regular and exotic  
 wagers to pari-mutuel pools on live racing made or conducted  
 42 at the extended meets of each racing licensee during that  
 calendar year bear to the total contributions of regular and  
 44 exotic wagers to pari-mutuel pools on live racing made or  
 conducted at the extended meets of all racing licensees  
 46 during that calendar year. Licensees sharing in this  
 distribution shall use 1/2 of the funds so received for the  
 48 purpose of supplementing purse money.

50 The remaining 20% must be credited to the Stipend Fund  
 provided in Title 7, section 62.

# HOUSE AMENDMENT

A. d. S.

2           **Sec. 11. 8 MRSA §275-H, sub-§3, ¶A**, as enacted by PL 1993, c.  
388, §8, is amended to read:

4  
6           A. The Treasurer of State must return to commercial meet  
licensees 72% of the revenue credited to the General Fund  
8           under this section attributable to amounts in excess of  
\$33,500,000. This payment must be divided in the proportion  
10          that the contributions of regular and exotic wagers of  
pari-mutuel pools on live racing made or conducted at the  
12          commercial meets of each licensee during the calendar year  
bear to the total contributions of regular and exotic wagers  
14          to pari-mutuel pools on live racing made or conducted at the  
commercial meets of all licensees during that calendar  
16          year. Licensees sharing in this distribution shall use 1/2  
of the funds received for the purpose of supplementing purse  
18          money. The other 1/2 of this distribution must be paid to  
the commercial licensees as reimbursement for improvements  
20          made to their racing facilities in the calendar year during  
which the funds are generated. To receive reimbursement,  
22          commercial licensees must submit plans for the improvements  
prior to making the improvements and the commission must  
24          verify that the approved improvements have been made.

26           **Sec. 12. 8 MRSA §275-I, sub-§3**, as corrected by RR 1993, c. 2,  
§7, is repealed and the following enacted in its place:

28           3. Distribution based on race dates. On May 30th,  
30          September 30th and January 30th, payments made under subsections  
1 and 2 for distribution in accordance with this subsection must  
32          be divided among the licensees conducting live racing in the  
State. The amount of the payment made to a licensee is  
34          calculated by dividing the number of race dates that the licensee  
live raced in any calendar year by the total number of race dates  
36          live raced by all licensees in that year. The payment due in May  
1995 must be distributed among the licensees conducting live  
38          racing in the State in proportion to the number of dates each  
licensee is licensed and actually open for wagering during 1995.  
40          The January 30, 1996 payment must be adjusted to reflect the  
dates actually live raced during the months of May to December of  
42          1995. Beginning January 30, 1997, the January 30th payment must  
be adjusted to reflect the dates actually live raced during the  
44          previous year, not the dates granted.

46           **Sec. 13. 8 MRSA §275-J, sub-§3**, as amended by PL 1993, c. 646,  
§2, is further amended to read:

48           3. Distribution based on wagered amounts. On May 15th  
50          30th, September 15th 30th and within 15 30 days after the close

# HOUSE AMENDMENT

R. of S.

HOUSE AMENDMENT "A" to H.P. 619, L.D. 829

of all off-track betting facilities for the year, amounts payable under subsections 1 and 2 for distribution in accordance with this subsection must be distributed to commercial race tracks and the agricultural fair associations only for the dates assigned by the Commissioner of Agriculture, Food and Rural Resources pursuant to Title 7, section 65 in the State that provide simulcast transmission of live racing in the State in proportion to the amount of wagers placed at off-track betting facilities on simulcast races from that licensee up to the last day of the preceding month and the total amount wagered at off-track betting facilities on races simulcast from all commercial racetracks up to that date. The last payment of the calendar year must be adjusted to reflect each licensee's wagers in proportion to the total wagered at off-track betting facilities in that calendar year.

Sec. 14. 8 MRSA §275-N, as enacted by PL 1993, c. 707, Pt. U, §2, is repealed and the following enacted in its place:

§275-N. Limitations on off-track betting facilities

The commission may not allow interstate simulcasting or license any off-track betting facility for any calendar year unless during the preceding calendar year there was at least 150 race dates on which live racing was actually conducted at the commercial tracks. Interstate simulcasting must always be allowed at any commercial track that conducted at least 136 race dates during the immediately preceding calendar year or at an existing commercial track as defined in section 275-A, subsection 1, paragraph B at which at least 35 race dates were conducted during the immediately preceding year. For the purposes of this section, any race date that the commission determines was canceled due to a natural or other disaster must be counted as a race date.

Notwithstanding any other provision of this chapter, every commercial track that is licensed for a specific calendar year must be assigned all of the race dates that it requests for that year if it conducted live racing on those dates during the immediately preceding calendar year. For the purposes of this section, a race date is the same from year to year if it is the closest calendar date that falls on the same day of the week.

Sec. 15. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES		

HOUSE AMENDMENT



R. G. S.

2 Administration - Agriculture

4 All Other \$98,000 \$100,000

6 Allocates funds to reflect an  
8 increase in the amounts  
distributed to agricultural  
fairs.

10

12 State Harness Racing Commission

12

All Other (\$98,000) (\$100,000)

14

16 Deallocates funds to reflect  
a decrease in the amounts  
distributed to extended meets.

18

20 DEPARTMENT OF AGRICULTURE, FOOD  
AND RURAL RESOURCES  
TOTAL

\$-0-

\$-0-

22

24 **Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved.'

26

Further amend the bill by inserting at the end before the  
statement of fact the following:

28

30 FISCAL NOTE

32

34 The redistribution of certain horse racing purse funds will  
result in a net increase of \$98,000 and \$100,000 in dedicated  
revenue to the Agricultural Fair Stipend account administered  
through the Administration program within the Department of  
36 Agriculture, Food and Rural Resources for fiscal years 1995-96  
and 1996-97, respectively. The redistribution of these funds  
38 will also result in a net decrease of dedicated revenue in these  
same amounts paid to the Extended Meets Stipend account  
40 administered through the State Harness Racing Commission  
program. Allocations from these programs must be adjusted to  
42 account for these dedicated revenue adjustments.'

44

46 STATEMENT OF FACT

46

48 The amendment replaces the original bill, but keeps the  
provisions that change the distribution of purse funds, amends  
the definition of "commercial meet," changes the amount payable  
50 to the Stipend Fund and changes the criteria for the distribution

R. d. S.

HOUSE AMENDMENT "A" to H.P. 619, L.D. 829

of amounts to supplement purses. The changes in the definition for "commercial track" are deleted.

New provisions included in the amendment include:

1. A change in the payment dates from the 15th of May, September and January to the 30th of May, September and January;

2. A provision to allow for the appropriate calculation of 1995 payments since the distribution formula changes in the middle of the year;

3. A definition for "race date";

4. A requirement that the State Harness Racing Commission grant a commercial track all the race dates it requests if it conducted live races on those dates in the preceding year;

5. The criteria that live racing be conducted on a minimum of 150 race dates in Maine before any interstate simulcasting of off-track betting is permitted by the State Harness Racing Commission; and

6. A fiscal note to the bill.

SPONSORED BY:

*George A. Kerr*  
(Representative KERRY)

TOWN: Old Orchard Beach