

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 704

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H.P. 521

House of Representatives, February 14, 2003

### An Act Relating to Harness Racing Laws

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative LUNDEEN of Mars Hill.  
Cosponsored by Senator BRYANT of Oxford and  
Representatives: PARADIS of Frenchville, TWOMEY of Biddeford.

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

2  
4       **Sec. 1. 8 MRSA §263-B, sub-§§2 and 3,** as enacted by PL 1997, c. 528, §6, are amended to read:

6       **2. Leadership in policy making.** The department shall take ~~the-lead~~ cooperate with the commission in developing state policy with regard to the harness racing industry and shall address the needs of the industry to remain competitive.

10       **3. Review of statutes and rules.** The department in conjunction with the commission shall maintain an ongoing review of the statutes and rules relating to harness racing and with the approval of the commission make recommendations to the Governor, and the Legislature and -the-commission regarding the need for changes in statutes and rules to improve the condition of the harness racing industry and the conduct and regulation of harness racing and off-track betting.

20       **Sec. 2. 8 MRSA §263-C, sub-§1,** as reallocated by PL 1999, c. 790, Pt. A, §8, is amended to read:

22       **1. Position.** The executive director is ~~an-unclassified~~ a classified position within the department.

26       **Sec. 3. 8 MRSA §263-C, sub-§2,** as reallocated by PL 1999, c. 790, Pt. A, §8, is repealed and the following enacted in its place:

30       **2. Appointment.** The commissioner shall appoint an executive director with the approval of the commission. The executive director is the principal administrative, operational and executive employee of the commission.

34       **Sec. 4. 8 MRSA §263-C, sub-§4. ¶¶A and B,** as reallocated by PL 1999, c. 790, Pt. A, §8, are amended to read:

38       A. Management of the work of the commission, including:

40           (1) Rulemaking;

42           (2) Processing appeals;

44           (3) Licensing of tracks and off-track betting facilities; and

46           (4) Setting race dates; and

48           (5) Making reports to the Governor and Legislature and recommendations to the commissioner regarding harness

50

2                   racine and off-track betting operations and the need  
3                   for changes in statutes and rules; and

4                   B. Management of the work of the department regarding  
5                   harness racing and off-track betting, including:

6                   (1) Supervision of all staff involved in harness  
7                   racing and off-track betting functions;

8                   (2) Management of the collection and distribution of  
9                   revenues under this chapter;

10                  (3) Budget development and management;

11                  (4) Policy development with regard to harness racing  
12                  and off-track betting;

13                  (5) Management of participant licensing;

14                  (6) Enforcement of harness racing and off-track  
15                  betting statutes and rules;

16                  (7) Investigation of harness racing and off-track  
17                  betting violations; and

18                  (8) Facilitating the development of positive working  
19                  relationships in the harness racing industry and State  
20                  Government; and.

21                  ~~(9) -- Making reports to the Governor and Legislature and  
22                  recommendations to the commissioner regarding harness  
23                  racing and off-track betting operations and the need  
24                  for changes in statutes and rules.~~

25                  **Sec. 5. 8 MRSA §270, first ¶**, as amended by PL 2001, c. 567,  
26                  §2, is further amended to read:

27                  Any person, association or corporation licensed to conduct  
28                  pari-mutuel betting desiring to hold a harness horse race or meet  
29                  for public exhibition if pari-mutuel wagering is permitted shall  
30                  apply to the commission for a license to do so. The application  
31                  must be signed and sworn to by the person or executive officer of  
32                  the association or corporation and must contain the following  
33                  information:

34                  **Sec. 6. 8 MRSA §272**, as amended by PL 1969, c. 526, §2, is  
35                  further amended to read:

36                  **§272. Bonds**

2 Every person, association or corporation licensed under this  
chapter shall, before said license is issued, give bond or  
4 irrevocable letter of credit to the State in such reasonable sum,  
not exceeding \$100,000, as may be fixed by the commission, with a  
6 surety or sureties to be approved by the commission, conditioned  
to faithfully make the payments prescribed by this chapter and to  
8 keep its books and records and make reports as provided, and to  
conduct its racing in conformity with this chapter and the rules  
and regulations prescribed by the commission.

10 **Sec. 7. 8 MRSA §272-A**, as amended by PL 1999, c. 482, §1, is  
12 repealed.

14 **Sec. 8. 8 MRSA §272-B** is enacted to read:

16 **§272-B. Association funding**

18 The licensee, as described in section 271, may pay up to 1  
20 1/2% of all amounts generated for the purpose of supplementing  
purses, as described in section 286, to an association of  
horsemen.

22 **Sec. 9. 8 MRSA §275-A, sub-§1, ¶¶A and B**, as repealed and  
24 replaced by PL 1999, c. 482, §2 and affected by §10, are amended  
to read:

26 A. If the population of the region is 300,000 or more, based  
28 on the 1990 U.S. Census, conducted racing on more than 100  
days in each of the previous 2 calendar years, except that  
30 if a racetrack that qualifies as a commercial track under  
32 this paragraph ceases operation, a separate racetrack  
34 operated by the owner or operator of the racetrack that  
36 ceased operation qualifies as a commercial track, and for  
38 all purposes is considered the same commercial track, as the  
40 track that ceased operation if the population of the region  
of that separate racetrack is 300,000 or more, based on the  
1990 U.S. Census, and the sum of the number of days on which  
racing was conducted at the track that ceased operation and  
the number of days on which racing was conducted at the  
separate racetrack equals at least 100 days in each of the 2  
preceding calendar years; or

42 B. If the population of the region is less than 300,000,  
44 based on the 1990 U.S. Census, conducted racing on more than  
25 days in each of the previous 2 calendar years, except  
46 that if a racetrack that qualifies as a commercial track  
48 under this paragraph ceases operation, a separate racetrack  
operated by the owner or operator of the racetrack that  
ceased operation qualifies as a commercial track, and for  
50 all purposes is considered the same commercial track as the

2 track that ceased operation, if the population of the region  
4 of that separate racetrack is less than 300,000, based on  
6 the 1990 U.S. Census, and the sum of the number of days on  
8 which racing was conducted at the track that ceased  
10 operation and the number of days on which racing was  
12 conducted at the separate racetrack equals at least 26 days  
14 in each of the 2 preceding calendar years.

16  
18 **Sec. 10. 8 MRSA §275-B, sub-§1.** as enacted by PL 1993, c. 388,  
20 §8, is amended to read:

22 **1. Racetracks.** A person licensed pursuant to section 271  
24 to conduct harness horse racing with pari-mutuel betting may sell  
26 pari-mutuel pools and common pari-mutuel pools for simulcast  
28 racers. The seller must be within the enclosure of the racetrack  
30 where the licensed race or race meet is conducted.

32  
34 **Sec. 11. 8 MRSA §275-D, sub-§3.** as amended by PL 1997, c. 528,  
36 §20, is further amended to read:

38 **3. Notice to commercial racetracks; objections.** An  
40 applicant shall send written notice of its application for an  
42 off-track betting license to any commercial racetrack in whose  
44 market area the facility will be located and shall present proof  
46 to the commission that it has provided the notice. The notice  
must include all information contained in the application except  
information described in subsection 2, paragraph Q. A  
commercial racetrack shall notify the commission within 30 days  
of receiving notice if the racetrack objects to the location of  
the facility based on adverse impact to the commercial track.  
The commission shall suspend consideration of the application for  
the 30-day objection period. If the commission receives an  
objection from a racetrack in whose market area the facility  
would be located within the 30-day period, the commission shall  
reject the application. If the commission does not receive an  
objection within that period, the commission may proceed to  
consider the application. For purposes of this section, ~~the~~  
~~market-area-is-the-area-within-a-50-mile-radius-of-the-commercial~~  
~~racetrack~~ subsection, the market area is determined by measuring  
a distance of 50 miles from the center of the racetrack along the  
most commonly used roadway adjacent to the racetrack, as  
determined by the Department of Transportation, drawing a circle  
around the center of the racetrack using that 50-mile measurement  
and excluding those municipalities or unorganized territories  
that do not have boundaries contained entirely by that circle.

48 **Sec. 12. 8 MRSA §275-D, sub-§4.** as corrected by RR 1993, c. 2,  
§6, is amended to read:

2           **4. Notice to off-track betting facilities; objections.** An  
3 applicant shall send written notice of its application for an  
4 off-track betting license to any existing off-track betting  
5 facility in whose market area the proposed facility will be  
6 located and shall present proof to the commission that it has  
7 provided the notice. The notice must include all information  
8 contained in the application except information described in  
9 subsection 2, paragraph Q. An existing off-track betting  
10 facility shall notify the commission within 30 days of receiving  
11 notice if the facility objects to the location of the proposed  
12 facility. The commission shall suspend consideration of the  
13 application for the 30-day objection period. If the commission  
14 receives an objection from an off-track betting facility in whose  
15 market area the facility would be located within the 30-day  
16 period, the commission shall reject the application. If the  
17 commission does not receive an objection within that period, the  
18 commission may proceed to consider the application. For purposes  
19 of this section, ~~the market area is the area within a 35-mile  
20 radius of the off-track betting facility~~ subsection, the market  
21 area is determined by measuring a distance of 35 miles from the  
22 off-track betting facility along the most commonly used roadway  
23 adjacent to the off-track betting facility, as determined by the  
24 Department of Transportation, drawing a circle around the center  
25 of the off-track betting facility using that 35-mile measurement  
26 and excluding those municipalities or unorganized territories  
that do not have boundaries contained entirely by that circle.

28           **Sec. 13. 8 MRSA §275-N**, as amended by PL 2001, c. 567, §4, is  
29 further amended to read:

30           **§275-N. Limitations on off-track betting facilities**

31           The commission may not allow interstate simulcasting or  
32 license any off-track betting facility for any calendar year  
33 unless during the preceding 2 calendar years there were at least  
34 150 race dates on which live racing actually was conducted at the  
35 commercial tracks. Interstate simulcasting always must be  
36 allowed at any commercial track that conducted at least 136 race  
37 dates during the immediately preceding 2 calendar years or at an  
38 existing commercial track as defined in section 275-A, subsection  
39 1, paragraph B at which at least 35 race dates were conducted  
40 during the preceding 2 years if the interstate simulcasting at  
41 the commercial track is conducted during the regular meeting.  
42 For the purposes of this section, any race date that the  
43 commission determines was canceled due to a natural or other  
44 disaster must be counted as a race date. For the purposes of  
45 this section and for the purpose of meeting the requirements of  
46 section 275-A, subsection 1, any race date that is canceled at a  
47 commercial race track due to the inability to meet the

2 requirements of section 275-A, subsection 9-A because of a horse  
shortage, as verified by the state steward, is counted as a race  
4 date ~~for the purpose of meeting the requirements of section~~  
~~275-A, subsection 1.~~

6 **Sec. 14. 8 MRSA §279-D** is enacted to read:

8 **§279-D. Insurance**

10 Applicants for an owner's license must provide proof of  
12 liability insurance on horses owned by the applicant in an amount  
not less than \$300,000. Copies of that liability insurance  
14 coverage must accompany the application for an owner's license.

16 **Sec. 15. 8 MRSA §283**, as amended by PL 1999, c. 482, §5, is  
further amended to read:

18 **§283. Reciprocal disciplinary action**

20 The department shall act to obtain current listings from  
22 other states racing jurisdictions of persons in harness racing  
occupations regulated by the state racing jurisdiction who have  
24 been refused a license or who have had their license revoked or  
suspended. The commission shall refuse to license or shall  
26 suspend the license of these persons until notification that they  
are again eligible for licensing in the state racing jurisdiction  
28 or states racing jurisdictions in question.

30 **SUMMARY**

32 This bill accomplishes the following.

34 1. Current law specifies that the Department of  
Agriculture, Food and Rural Resources "take the lead" in  
36 developing state policy with respect to harness racing. This  
bill instead directs the department to cooperate with the State  
38 Harness Racing Commission in developing such state policy.

40 2. It directs the State Harness Racing Commission to share  
the duty of reviewing racing-related statutes and rules on an  
42 ongoing basis and requires that the appointment of the executive  
director receive the commissioner's approval.

44 3. It identifies the executive director's duty to report  
and recommend changes regarding harness racing as the work of the  
46 commission, rather than as the work of the department.

48 4. It repeals the provision requiring the establishment of  
50 trust accounts.



2           5. It requires the licensee to pay to an association of  
horsemen up to 1.5% of all amounts generated for the purpose of  
4 supplementing purses.

6           6. It specifies that if a commercial track ceases  
operation, a separate racetrack operated by the owner of the  
8 now-closed racetrack is considered to be the same racetrack as  
the track that ceased operation.

10           7. It authorizes the sale of common pari-mutuel pools for  
12 simulcast races.

14           8. It changes the method of determining market area.

16           9. It requires an applicant for an owner's license to  
provide proof of insurance of not less than \$300,000 on the  
18 applicant's horses.