

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 704

H.P. 521

House of Representatives, February 14, 2003

An Act Relating to Harness Racing Laws

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.

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

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 A, §8, is repealed and the following enacted in its place: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

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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~~
40 racetrack subsection, the market area is determined by measuring
42 a distance of 50 miles from the center of the racetrack along the
44 most commonly used roadway adjacent to the racetrack, as
46 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.