

MAINE STATE LEGISLATURE

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DATE: 6/14/05

(Filing No. H-695)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

HOUSE AMENDMENT "A" to H.P. 1197, L.D. 1690, Bill, "An Act To Authorize, Subject to State Referendum, a Tribal Commercial Track and Slot Machines in Washington County"

Amend the bill by striking out the title and substituting the following:

'An Act To Authorize, Subject to State Referendum, a Tribal Commercial Track, with or without Slot Machines, in Washington County and To Determine the Use of Slot Machines at Existing Commercial Harness Racing Tracks'

Further amend the bill by striking out all of Part B and inserting in its place the following:

PART B

Sec. B-1. 5 MRSA §10004, sub-§4-A, as enacted by PL 2003, c. 687, Pt. A, §1 and affected by Pt. B, §11, is repealed.

Sec. B-2. 7 MRSA §77, as enacted by PL 2003, c. 687, Pt. A, §2 and affected by Pt. B, §11, is repealed.

Sec. B-3. 8 MRSA §271, sub-§9, as reallocated by RR 1997, c. 1, §7, is amended to read:

9. Previous year's dates. Beginning with licenses issued for calendar year 1996, notwithstanding any other provision of this chapter, every commercial track or tribal 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.

2 **Sec. B-4. 8 MRSA §275-A, sub-§12** is enacted to read:

4 **12. Tribal commercial track.** "Tribal commercial track"
6 means a harness racing track, operated by a tribe federally
 recognized as a tribe in Maine as of January 1, 2005, that:

8 A. Is located more than 90 miles from an existing commercial
10 track that operates slot machines but within 45 miles of the
 operating tribe's Indian reservation as described in Title
 30, chapter 601; and

12 B. Conducts racing on more than 25 days each calendar year
14 after being granted a license to conduct harness racing.

16 For purposes of this subsection, distance in miles is determined
18 by measuring the distance from the center of the tribal
 commercial track along the most commonly used roadway as
 determined by the Department of Transportation.

20 **Sec. B-5. 8 MRSA §275-C, sub-§2**, as enacted by PL 1997, c.
22 390, §1, is amended to read:

24 **2. Payments to agricultural fairs conducting live racing.**
26 A commercial track or tribal commercial track located within a
28 35-mile radius of an agricultural fair track may not present a
 simulcast on a day when the commercial track or tribal commercial
30 track is not conducting live racing and the agricultural fair
 track is conducting live racing unless the commercial track or
32 tribal commercial track pays the agricultural fair track 2% of
 the wagers made at the commercial track or tribal commercial
34 track at the time live racing is being conducted at the
 agricultural fair track and 1% of the wagers on the other races
 conducted on a day when live racing is being conducted at the
 agricultural fair track.

36 **Sec. B-6. 8 MRSA §275-D, sub-§3**, as amended by PL 2003, c.
38 401, §12, is further amended to read:

40 **3. Notice to commercial racetracks or tribal commercial**
 tracks; objections. An applicant shall send written notice of
42 its application for an off-track betting license to any
 commercial racetrack or tribal commercial track in whose market
44 area the facility will be located and shall present proof to the
 commission that it has provided the notice. The notice must
46 include all information contained in the application except
 information described in subsection 2, paragraph Q. A
48 commercial racetrack or tribal commercial track shall notify the
 commission within 30 days of receiving notice if the racetrack
50 objects to the location of the facility based on adverse impact

to the commercial track or tribal 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 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.

Sec. B-7. 8 MRSA §275-D, sub-§6, ¶D, as enacted by PL 1993, c. 388, §8, is amended to read:

D. No commercial racetrack, tribal commercial track or off-track betting facility in whose market area the facility would be located has filed a written objection to the facility within the time period prescribed in subsections 3 and 4.

Sec. B-8. 8 MRSA §275-N, as amended by PL 2003, c. 401, §14, is further amended to read:

§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 2 calendar years there were at least 150 race dates on which live racing actually was conducted at the commercial tracks or tribal commercial track. Interstate simulcasting always must be allowed at any commercial track or tribal commercial track that conducted at least 136 race dates during the immediately preceding 2 calendar years or at an existing commercial track as defined in section 275-A, subsection 1, paragraph B or tribal commercial track as defined in section 275-A, subsection 12 at which at least 35 race dates were conducted during the preceding 2 years if the interstate simulcasting at the commercial track or tribal commercial track is conducted during the regular meeting. 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. For the purposes of this section and for the purpose of meeting the requirements of section 275-A, subsection 1, any race date that is canceled at a commercial race track due to the inability to meet the requirements of section 275-A, subsection 9-A because of a horse shortage, as verified by the state steward, is counted as a race date.

2 **Sec. B-9. 8 MRSA §286, sub-§2, ¶¶A and B**, as enacted by PL
4 1997, c. 528, §46, are amended to read:

6 A. On exotic wagers:

8 (1) The state share is 2.248% for an off-track betting
10 facility located in the same municipality as a
 commercial track or tribal commercial track and 2.578%
 for all other facilities;

12 (2) The Sire Stakes Fund share is 1.551%;

14 (3) The Stipend Fund share is 1.169%;

16 (4) The Harness Racing Promotional Fund share is 0.25%;

18 (5) The horsemen's purse share is 7.871%;

20 (6) The track share is 7.922%; and

22 (7) The off-track betting facility share is 4.659%.

24 B. On regular wagers:

26 (1) The state share is 0.493% for an off-track betting
28 facility located in the same municipality as a
 commercial track or tribal commercial track and 0.823%
 for all other facilities;

30 (2) The Sire Stakes Fund share is 0.072%;

32 (3) The Stipend Fund share is 1.186%;

34 (4) The Harness Racing Promotional Fund share is 0.25%;

36 (5) The horsemen's purse share is 5.062%;

38 (6) The track share is 7.899%; and

40 (7) The off-track betting facility share is 2.718%.

42 **Sec. B-10. 8 MRSA §287, sub-§5**, as amended by PL 1999, c. 622,
44 §1, is further amended to read:

46 **5. Definition.** For the purposes of this section,
48 "improvements" means the amount paid out for new buildings or for
50 permanent improvements made to improve the facilities utilized by
 the licensee for conducting its racing meetings; or the amount
 expended in restoring property or in improving the facility or

any part of the facility that results in the addition, replacement or substantial enhancement or restoration of a fixed asset or of a movable asset that is important to efficient operation of the racing meetings. In general, the amounts referred to as improvements include amounts paid that add to the value, improve or substantially prolong the useful life of the racetrack and moveable assets utilized by the licensee for conducting its racing meetings. Amounts paid or incurred for routine repairs and maintenance of property, interest expense or lease payments in connection with the capital improvements are not improvements within the meaning of this section. In order to qualify as an improvement, a substantial enhancement or restoration of an asset must cost at least \$2,000 and must be an expenditure that would qualify for depreciation under the United States Internal Revenue Code. A moveable asset may be considered important to the efficient operation of a race meeting if the asset will remain at the commercial track or tribal commercial track or at the offices of the licensee throughout its use and if that asset is directly associated with running races, accommodating patrons of the race meet, conducting pari-mutuel wagering or paying purses.

Sec. B-11. 8 MRSA §287, sub-§7, as enacted by PL 1999, c. 622, §2, is amended to read:

7. Interim payments to commercial tracks or tribal commercial track. If during the course of any calendar year the commission finds that wagers placed at facilities licensed under this chapter for the year are likely to exceed \$35,000,000, it may, if reasonably necessary for improvements to be effected expeditiously, direct the Treasurer of State to make interim payments to a commercial track or tribal commercial track in amounts as the commission finds the commercial track or tribal commercial track is likely to be entitled to receive under this section. If a commercial track or tribal commercial track receives interim payments under this subsection that exceed the total amount the commercial track or tribal commercial track is entitled to receive for the calendar year, the Treasurer of State shall reimburse the General Fund for this excess by retaining money otherwise due to that commercial track or tribal commercial track pursuant to section 295.

Sec. B-12. 8 MRSA §298, as enacted by PL 2003, c. 687, Pt. A, §3 and affected by Pt. B, §11, is repealed.

Sec. B-13. 8 MRSA §§299 and 300, as enacted by PL 2003, c. 687, Pt. A, §4 and affected by Pt. B, §11, are repealed.

Sec. B-14. 8 MRSA c. 31, as amended, is repealed.

Sec. B-15. 17 MRSA §314-A, sub-§5-A is enacted to read:

5-A. Games on nontribal land. Notwithstanding subsection 5, upon proper application, the department may issue a high-stakes beano license to a federally recognized Indian tribe to operate games on nontribal land in Washington County. The department may issue a high-stakes beano license in accordance with this section to all federally recognized Indian tribes in the State jointly.

Sec. B-16. Authorization to report out legislation. The Joint Standing Committee on Legal and Veterans Affairs may report out to the Second Regular Session of the 122nd Legislature legislation to correct and update any cross-references related to and necessitated by this Act.

Sec. B-17. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES,
DEPARTMENT OF

Harness Racing Commission 0320

Initiative: Appropriates funds for a .310 full-time-equivalent State Racing Steward position, a .310 full-time-equivalent State Harness Racing Technician position and operating costs necessary to regulate a new commercial track in Washington County.

GENERAL FUND	2005-06	2006-07
POSITIONS - FTE COUNT	0.000	0.620
Personal Services	\$0	\$20,284
All Other	\$0	\$7,737
GENERAL FUND TOTAL	\$0	\$28,021

AGRICULTURE, FOOD AND RURAL RESOURCES,
DEPARTMENT OF
DEPARTMENT TOTALS

	2005-06	2006-07
GENERAL FUND	\$0	\$28,021
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$28,021

ATTORNEY GENERAL, DEPARTMENT OF

Administration - Attorney General 0310

Initiative: Deappropriates funds for one Assistant Attorney General position to reflect the deauthorization of the provisionally licensed slot machine facility in Bangor.

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2	GENERAL FUND	2005-06	2006-07
	POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
4	Personal Services	(\$35,615)	(\$71,230)
6	GENERAL FUND TOTAL	(\$35,615)	(\$71,230)
8	ATTORNEY GENERAL, DEPARTMENT OF		
	DEPARTMENT TOTALS	2005-06	2006-07
10	GENERAL FUND	(\$35,615)	(\$71,230)
12	DEPARTMENT TOTAL - ALL FUNDS	(\$35,615)	(\$71,230)
14	PUBLIC SAFETY, DEPARTMENT OF		
16	Gambling Control Board Z002		
18	Initiative: Deappropriates funds for the Gambling Control Board		
20	to reflect the deauthorization of the provisionally licensed slot		
	machine facility in Bangor.		
22	GENERAL FUND	2005-06	2006-07
	POSITIONS - LEGISLATIVE COUNT	(10,000)	(10,000)
24	Personal Services	(\$720,685)	(\$1,445,143)
	All Other	(\$567,284)	(\$2,265,662)
26	GENERAL FUND TOTAL	(\$1,287,969)	(\$3,710,805)
28	PUBLIC SAFETY, DEPARTMENT OF		
30	DEPARTMENT TOTALS	2005-06	2006-07
32	GENERAL FUND	(\$1,287,969)	(\$3,710,805)
34	DEPARTMENT TOTAL - ALL FUNDS	(\$1,287,969)	(\$3,710,805)
36	SECTION TOTALS	2005-06	2006-07
38	GENERAL FUND	(\$1,323,584)	(\$3,754,014)
40	SECTION TOTAL - ALL FUNDS	(\$1,323,584)	(\$3,754,014)

PART C

46 **Sec. C-1. Statutory referendum procedure; submission at statewide**
election; form of question; effective date. This Act takes effect when
48 approved only for the purpose of permitting its submission to the
legal voters of the State at the next statewide election in the
50 month of November following passage of this Act. The municipal
officers of this State shall notify the inhabitants

of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote for one of the following questions:

Question A. Do you favor allowing a tribal harness racing track and slot machines in Washington County and continuing to allow slot machines at other commercial harness racing tracks in the State?

Question B. Do you favor allowing a tribal harness racing track in Washington County and repealing laws that allow slot machines at any commercial harness racing tracks in the State?

Question C. Do you favor disallowing a tribal harness racing track in Washington County and continuing to allow slot machines at commercial harness racing tracks in the State?

The legal voters of each city, town and plantation shall vote by ballot on these questions and designate their choice for or against only one of the questions by a cross or check mark placed within a corresponding square below the word Yes or No. The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If it appears that a plurality of the legal votes are cast in favor of Question A, the Governor shall proclaim that fact without delay, and Part A of this Act takes effect 30 days after the date of the proclamation. If it appears that a plurality of the legal votes are cast in favor of Question B, the Governor shall proclaim that fact without delay, and Part B of this Act takes effect 30 days after the date of proclamation. If it appears that a plurality of the legal votes are cast in favor of Question C, the Governor shall proclaim that fact without delay, and Part A and Part B of this Act do not take effect.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purposes of this referendum.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment leaves unchanged Part A of the bill, which proposes to allow a tribal harness racing track and slot machines

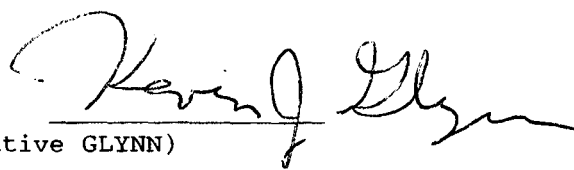
HOUSE AMENDMENT

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in Washington County. As an alternative to Part A, this amendment enacts a new Part that allows a tribal harness racing track in Washington County, but repeals laws that allow slot machines at any commercial harness racing tracks in the State. This amendment requires that these 2 alternatives be submitted to the legal voters at the next statewide election in November, as well as a 3rd alternative to approve neither of these proposals and to keep the law as it currently exists unchanged.

FISCAL NOTE REQUIRED

(See attached)

SPONSORED BY: 
(Representative GLYNN)

TOWN: South Portland



122nd MAINE LEGISLATURE

LD 1690

LR 2425(04)

An Act to Authorize, Subject to State Referendum, a Tribal Commercial Track and Slot Machines in Washington County

Fiscal Note for House Amendment "A"

Sponsor: Rep. Glynn

Fiscal Note Required: Yes

Fiscal Note

Impacts contingent on results of statewide referendum:

Fiscal Detail and Notes

This amendment requires that a statewide referendum take place. The referendum gives voters the choice between 3 questions. The fiscal impact of this amendment will depend on which question is approved by the voters:

Question A: If a majority of voters select this option, they will be voting to approve the establishment of a tribal harness racing track and slot machines in Washington County and to continue to allow slot machines at other commercial tracks. An affirmative vote for this option will have the effect of retaining the fiscal impacts identified in the fiscal note for the original bill.

Question B: If a majority of voters select this option, they will be voting to approve the establishment of a tribal harness racing track in Washington County and to deauthorize slot machines at commercial tracks. An affirmative vote for this option will have the effect of replacing the fiscal impacts identified in the fiscal note for the original bill with the fiscal impacts discussed below.

The repeal of the authorization for the licensed slot facility in Bangor would result in the loss of General Fund revenue in the amounts of \$474,250 and \$12,933,391 in fiscal years 2005-06 and 2006-07, respectively, and would also result in the loss of Fund For a Healthy Maine revenue in the amount of \$9,893,520 in fiscal year 2006-07. The deauthorization of the licensed slot machine facility would also result in General Fund deappropriations of \$1,287,969 and \$3,710,805 in the same fiscal years to eliminate the Gambling Control Board within the Department of Public Safety and would further require deappropriations of \$35,615 and \$71,230 to the Department of the Attorney General to eliminate one Assistant Attorney General position.

In addition to the impacts for the General Fund and the Fund For Healthy Maine, the revenues for all previously authorized Other Special Revenue Funds allocations pertaining to the existing slot machine facility would cease and no associated Other Special Revenue Funds expenditures would take place.

Allowing the establishment of a commercial track in Washington County would result in additional estimated General Fund revenues of \$2,748 in fiscal year 2006-07. The Harness Racing Commission within the Department of Agriculture, Food and Rural Resources would require additional General Fund appropriations of \$28,021 in fiscal year 2006-07 for the costs of regulating an additional commercial track.

Question C: If a majority of voters select this option, they will be voting against the establishment of a tribal harness racing track and slot machines in Washington County. An affirmative vote for this option will have the effect of eliminating the fiscal impacts described in the fiscal note for the original bill.