

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 805

I.B. 1

House of Representatives, February 16, 2007

An Act To Authorize a Tribal Commercial Track and Slot Machines in Washington County

Transmitted to the Clerk of the 123rd Maine Legislature by the Secretary of State on
February 15, 2007 and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

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

4 **9. Previous year's dates.** Beginning with licenses issued for calendar year 1996,
5 notwithstanding any other provision of this chapter, every commercial track or tribal
6 commercial track that is licensed for a specific calendar year must be assigned all of the
7 race dates that it requests for that year if it conducted live racing on those dates during the
8 immediately preceding calendar year. For the purposes of this section, a race date is the
9 same from year to year if it is the closest calendar date that falls on the same day of the
10 week.

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

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

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

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

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

23 **Sec. 3. 8 MRSA §275-C, sub-§2**, as enacted by PL 1997, c. 390, §1, is amended
24 to read:

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

33 **Sec. 4. 8 MRSA §275-D, sub-§3**, as amended by PL 2003, c. 401, §12, is further
34 amended to read:

35 **3. Notice to commercial racetracks or tribal commercial tracks; objections.** An
36 applicant shall send written notice of its application for an off-track betting license to any
37 commercial racetrack or tribal commercial track in whose market area the facility will be
38 located and shall present proof to the commission that it has provided the notice. The
39 notice must include all information contained in the application except information

1 described in subsection 2, paragraph Q. A commercial racetrack or tribal commercial
2 track shall notify the commission within 30 days of receiving notice if the racetrack
3 objects to the location of the facility based on adverse impact to the commercial track or
4 tribal commercial track. The commission shall suspend consideration of the application
5 for the 30-day objection period. If the commission receives an objection from a racetrack
6 in whose market area the facility would be located within the 30-day period, the
7 commission shall reject the application. If the commission does not receive an objection
8 within that period, the commission may proceed to consider the application. For
9 purposes of this subsection, the market area is determined by measuring a distance of 50
10 miles from the center of the racetrack along the most commonly used roadway adjacent to
11 the racetrack, as determined by the Department of Transportation, drawing a circle
12 around the center of the racetrack using that 50-mile measurement.

13 **Sec. 5. 8 MRSA §275-D, sub-§6, ¶D**, as enacted by PL 1993, c. 388, §8, is
14 amended to read:

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

18 **Sec. 6. 8 MRSA §275-N**, as amended by PL 2003, c. 401, §14, is further
19 amended to read:

20 **§275-N. Limitations on off-track betting facilities**

21 The commission may not allow interstate simulcasting or license any off-track betting
22 facility for any calendar year unless during the preceding 2 calendar years there were at
23 least 150 race dates on which live racing actually was conducted at the commercial tracks
24 or tribal commercial track. Interstate simulcasting always must be allowed at any
25 commercial track or tribal commercial track that conducted at least 136 race dates during
26 the immediately preceding 2 calendar years or at an existing commercial track as defined
27 in section 275-A, subsection 1, paragraph B or tribal commercial track as defined in
28 section 275-A, subsection 12 at which at least 35 race dates were conducted during the
29 preceding 2 years if the interstate simulcasting at the commercial track or tribal
30 commercial track is conducted during the regular meeting. For the purposes of this
31 section, any race date that the commission determines was canceled due to a natural or
32 other disaster must be counted as a race date. For the purposes of this section and for the
33 purpose of meeting the requirements of section 275-A, subsection 1, any race date that is
34 canceled at a commercial race track due to the inability to meet the requirements of
35 section 275-A, subsection 9-A because of a horse shortage, as verified by the state
36 steward, is counted as a race date.

37 **Sec. 7. 8 MRSA §286, sub-§2, ¶A**, as enacted by PL 1997, c. 528, §46, is
38 amended to read:

39 A. On exotic wagers:

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

- 1 (2) The Sire Stakes Fund share is 1.551%;
- 2 (3) The Stipend Fund share is 1.169%;
- 3 (4) The Harness Racing Promotional Fund share is 0.25%;
- 4 (5) The horsemen's purse share is 7.871%;
- 5 (6) The track share is 7.922%; and
- 6 (7) The off-track betting facility share is 4.659%.

7 **Sec. 8. 8 MRSA §286, sub-§2, ¶B,** as enacted by PL 1997, c. 528, §46, is
8 amended to read:

9 B. On regular wagers:

- 10 (1) The state share is 0.493% for an off-track betting facility located in the same
11 municipality as a commercial track or tribal commercial track and 0.823% for all
12 other facilities;
- 13 (2) The Sire Stakes Fund share is 0.072%;
- 14 (3) The Stipend Fund share is 1.186%;
- 15 (4) The Harness Racing Promotional Fund share is 0.25%;
- 16 (5) The horsemen's purse share is 5.062%;
- 17 (6) The track share is 7.899%; and
- 18 (7) The off-track betting facility share is 2.718%.

19 **Sec. 9. 8 MRSA §287, sub-§5,** as amended by PL 1999, c. 622, §1, is further
20 amended to read:

21 **5. Definition.** For the purposes of this section, "improvements" means the amount
22 paid out for new buildings or for permanent improvements made to improve the facilities
23 utilized by the licensee for conducting its racing meetings; or the amount expended in
24 restoring property or in improving the facility or any part of the facility that results in the
25 addition, replacement or substantial enhancement or restoration of a fixed asset or of a
26 movable asset that is important to efficient operation of the racing meetings. In general,
27 the amounts referred to as improvements include amounts paid that add to the value,
28 improve or substantially prolong the useful life of the racetrack and moveable assets
29 utilized by the licensee for conducting its racing meetings. Amounts paid or incurred for
30 routine repairs and maintenance of property, interest expense or lease payments in
31 connection with the capital improvements are not improvements within the meaning of
32 this section. In order to qualify as an improvement, a substantial enhancement or
33 restoration of an asset must cost at least \$2,000 and must be an expenditure that would
34 qualify for depreciation under the United States Internal Revenue Code. A moveable
35 asset may be considered important to the efficient operation of a race meeting if the asset
36 will remain at the commercial track or tribal commercial track or at the offices of the
37 licensee throughout its use and if that asset is directly associated with running races,
38 accommodating patrons of the race meet, conducting pari-mutuel wagering or paying
39 purses.

1 **Sec. 10. 8 MRSA §287, sub-§7**, as enacted by PL 1999, c. 622, §2, is amended to
2 read:

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

15 **Sec. 11. 8 MRSA §299, sub-§2**, as enacted by PL 2003, c. 687, Pt. A, §4 and
16 affected by Pt. B, §11, is amended to read:

17 **2. Distribution.** On May 30th, September 30th and January 30th, all amounts
18 credited to the fund established by this section as of the last day of the preceding month
19 and not distributed before that day must be distributed to each commercial track licensed,
20 including tribal commercial tracks, under section 271, with each track receiving that
21 amount of the money available for distribution determined by multiplying that amount
22 times a fraction, the numerator of which is the total number of live race days conducted
23 by the commercial track during the preceding time period and the denominator of which
24 is the total number of race days conducted by all commercial tracks licensed under
25 section 271 during that time period. The payment in January must be adjusted so that for
26 the prior 3 time periods each commercial track receives that fraction of the total money
27 distributed over the full year from the fund established by this section, the amount
28 determined by multiplying the total amount of money times a fraction, the numerator of
29 which is the number of live race days conducted by the commercial track during the
30 calendar year and the denominator of which is the total number of race days conducted by
31 all commercial tracks licensed under section 271 during that calendar year.

32 **Sec. 12. 8 MRSA §300, sub-§1**, as enacted by PL 2003, c. 687, Pt. A, §4 and
33 affected by Pt. B, §11, is amended to read:

34 **1. Fund created.** The Fund to Stabilize Off-track Betting Facilities is established to
35 provide revenues to those off-track betting facilities licensed and in operation as of
36 December 31, 2003. The fund must also provide revenues to an off-track betting facility
37 licensed and operating after December 31, 2003 within the market area of a tribal
38 commercial track as long as the tribal commercial track is licensed to operate and
39 operates slot machines.

40 **Sec. 13. 8 MRSA §1001, sub-§43-A** is enacted to read:

41 **43-A. Tribal commercial track.** "Tribal commercial track" has the same meaning
42 as in section 275-A, subsection 12.

1 **Sec. 14. 8 MRSA §1011, sub-§2**, as enacted by PL 2003, c. 687, Pt. A, §5 and
2 affected by Pt. B, §11, is amended to read:

3 **2. Eligible persons.** The board may accept applications for a license to operate slot
4 machines from a person licensed to operate a tribal commercial track if, by December 31,
5 2007, the operation of slot machines is approved by an affirmative vote at a regular
6 meeting of the governing body or by referendum by the voters of the municipality where
7 the tribal commercial track is located. The board may also accept applications for a
8 license to operate slot machines from any person who is licensed to operate a commercial
9 track that satisfies the following criteria:

10 A. The commercial track is located at or within a 5-mile radius of the center of a
11 commercial track that conducted harness racing with pari-mutuel wagering on more
12 than 25 days during calendar year 2002; and

13 B. The operation of slot machines at the commercial track is approved by the voters
14 of the municipality in which the commercial track to be licensed is located by
15 referendum election held at any time after December 31, 2002 and before December
16 31, 2003.

17 **Sec. 15. 8 MRSA §1011, sub-§3**, as enacted by PL 2003, c. 687, Pt. A, §5 and
18 affected by Pt. B, §11, is amended to read:

19 **3. Requirements for license; continued commercial track or tribal commercial**
20 **track licensure.** The board may not issue a license to operate slot machines to any
21 person unless that person demonstrates compliance with the qualifications set forth in
22 sections 1016 and 1019. A person who is granted a license to operate slot machines must
23 maintain a license to operate a commercial track or tribal commercial track, without
24 lapse, suspension or revocation for the duration of the slot machine operator's license.

25 **Sec. 16. 8 MRSA §1012, first ¶**, as enacted by PL 2003, c. 687, Pt. A, §5 and
26 affected by Pt. B, §11, is amended to read:

27 An application for renewal of a slot machine operator license must first be approved
28 under this section by the municipal officers of the municipality in which the commercial
29 track or tribal commercial track with slot machines is located or, if the commercial track
30 or tribal commercial track is in an unincorporated place, the application must be approved
31 by the county commissioners of the county in which the commercial track or tribal
32 commercial track with slot machines is located.

33 **Sec. 17. 8 MRSA §1012, sub-§1, ¶B**, as enacted by PL 2003, c. 687, Pt. A, §5
34 and affected by Pt. B, §11, is amended to read:

35 B. Municipal officers or county commissioners, as the case may be, shall provide
36 public notice of any hearing held under this section by causing, at the applicant's
37 prepaid expense, a notice stating the name and place of the hearing to appear on at
38 least 3 consecutive days before the date of the hearing in a daily newspaper having
39 general circulation in the municipality where the premises of the commercial track or
40 tribal commercial track with slot machines are located or one week before the date of

1 the hearing in a weekly newspaper having general circulation in the municipality
2 where the premises are located.

3 **Sec. 18. 8 MRSA §1012, sub-§2, ¶A**, as enacted by PL 2003, c. 687, Pt. A, §5
4 and affected by Pt. B, §11, is amended to read:

5 A. Noncompliance of the commercial track or tribal commercial track licensed to
6 operate slot machines with any local zoning ordinance or other land use ordinance not
7 directly related to slot machine operations;

8 **Sec. 19. 8 MRSA §1012, sub-§2, ¶C**, as enacted by PL 2003, c. 687, Pt. A, §5
9 and affected by Pt. B, §11, is amended to read:

10 C. Repeated incidents of record of breaches of the peace, disorderly conduct,
11 vandalism or other violations of law on or in the vicinity of the premises of the
12 commercial track or tribal commercial track with slot machines and caused by
13 persons patronizing or employed by the commercial track or tribal commercial track
14 licensed to operate slot machines; and

15 **Sec. 20. 8 MRSA §1012, sub-§3**, as enacted by PL 2003, c. 687, Pt. A, §5 and
16 affected by Pt. B, §11, is amended to read:

17 **3. Appeal to board.** Any applicant aggrieved by the decision of the municipal
18 officers or county commissioners under this section may appeal to the board within 15
19 days of the receipt of the written decision of the municipal officers or county
20 commissioners. The board shall hold a public hearing in the city, town or unincorporated
21 place where the premises of the commercial track or tribal commercial track with slot
22 machines are situated. In acting on such an appeal, the board may consider all licensure
23 requirements and findings referred to in subsection 2. If the decision appealed is an
24 application denial, the board may issue the license only if it finds by clear and convincing
25 evidence that the decision was without justifiable cause.

26 **Sec. 21. 8 MRSA §1016, sub-§1, ¶B**, as enacted by PL 2003, c. 687, Pt. A, §5
27 and affected by Pt. B, §11, is amended to read:

28 B. The person has sufficient financial assets and responsibility to meet any financial
29 obligations imposed by this chapter and, if applying for a slot machine operator
30 license or slot machine operator license renewal, has sufficient financial assets and
31 responsibility to continue operation of a commercial track or tribal commercial track;

32 **Sec. 22. 8 MRSA §1020, sub-§3, ¶A**, as enacted by PL 2003, c. 687, Pt. A, §5
33 and affected by Pt. B, §11, is amended to read:

34 A. The total number of slot machines registered in the State may not exceed ~~1,500~~
35 3,000; and

36 **Sec. 23. 8 MRSA §1020, sub-§3, ¶B**, as enacted by PL 2003, c. 687, Pt. A, §5
37 and affected by Pt. B, §11, is amended to read:

38 B. A slot machine operator may not operate more than 1,500 slot machines at any
39 one commercial track or tribal commercial track.

1 **Sec. 24. 8 MRSA §1035**, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by
2 Pt. B, §11, is amended to read:

3 **§1035. Location of slot machines**

4 Slot machines may be located only on the premises of a commercial track or tribal
5 commercial track.

6 **Sec. 25. 8 MRSA §1036, sub-§2**, as amended by PL 2005, c. 109, §1, is further
7 amended to read:

8 **2. Distribution from commercial track or tribal commercial track.** A slot
9 machine operator shall collect and distribute ~~39%~~ percentages of the total gross slot
10 machine income from slot machines operated by the slot machine operator to the board
11 for distribution by the board as follows:

12 A. Three percent of the total gross slot machine income must be deposited to the
13 General Fund for administrative expenses of the board, including gambling addiction
14 counseling services, in accordance with rules adopted by the board;

15 B. Ten percent of the total gross slot machine income must be forwarded by the
16 board to the Treasurer of State, who shall credit the money to the fund established in
17 section 298 to supplement harness racing purses;

18 C. Three percent of the total gross slot machine income must be credited by the
19 board to the Sire Stakes Fund created in section 281;

20 D. Three percent of the total gross slot machine income must be forwarded by the
21 board to the Treasurer of State, who shall credit the money to the Agricultural Fair
22 Support Fund established in Title 7, section 77;

23 E. Ten percent of the total gross slot machine income must be forwarded by the
24 board to the State Controller to be credited to the Fund for a Healthy Maine
25 established by Title 22, section 1511 and segregated into a separate account under
26 Title 22, section 1511, subsection 11, with the use of funds in the account restricted
27 to the purposes described in Title 22, section 1511, subsection 6, paragraph E;

28 F. Two percent of the total gross slot machine income must be forwarded by the
29 board to the University of Maine System Scholarship Fund created in Title 20-A,
30 section 10909. The amount from a tribal commercial track allocated in accordance
31 with this paragraph must fund scholarships at the University of Maine campuses in
32 Washington County;

33 G. One percent of the total gross slot machine income must be forwarded by the
34 board to the board of trustees of the Maine Community College System to be applied
35 by the board of trustees to fund its scholarships program under Title 20-A, section
36 12716, subsection 1. The amount from a tribal commercial track allocated in
37 accordance with this paragraph must fund scholarships at the community college in
38 Washington County;

39 H. Four percent of the total gross slot machine income must be forwarded by the
40 board to the Treasurer of State, who shall credit the money to the Fund to Encourage

1 Racing at Maine's Commercial Tracks, established in section 299; however, the
2 payment required by this paragraph is terminated when all commercial tracks have
3 obtained a license to operate slot machines in accordance with this chapter;

4 I. Two percent of the total gross slot machine income must be forwarded by the
5 board to the Treasurer of State, who shall credit the money to the Fund to Stabilize
6 Off-track Betting Facilities established by section 300, as long as a facility has
7 conducted off-track wagering operations for a minimum of 250 days during the
8 preceding 12-month period in which the first payment to the fund is required. After
9 48 months of receiving an allocation of the total gross slot machine income from a
10 licensed operator, the percent of total slot machine income forwarded to the Fund to
11 Stabilize Off-track Betting Facilities is reduced to 1% with the remaining 1% to be
12 forwarded to the State in accordance with subsection 1; ~~and~~

13 J. One percent of the total gross slot machine income must be forwarded directly to
14 the municipality in which the slot machines are located;

15 K. One percent of the total gross slot machine income from a tribal commercial track
16 must be forwarded directly to the Washington County Development Authority; and

17 L. One percent of the total gross slot machine income from a tribal commercial track
18 must be forwarded directly to the career and technical education centers located in
19 Washington County.

20 **Sec. 26. 17 MRSA §314-A, sub-§5-A** is enacted to read:

21 **5-A. Games on nontribal land.** Notwithstanding subsection 5, upon proper
22 application, the Chief of the State Police may issue a high-stakes beano license to a
23 federally recognized Indian tribe to operate games on nontribal land in Washington
24 County. The Chief of the State Police may issue a high-stakes beano license in
25 accordance with this section to all federally recognized Indian tribes in the State jointly.

26 **SUMMARY**

27 This initiated bill authorizes the operation of slot machines at a tribal commercial
28 track. The operation of slot machines at a tribal commercial track is subject to regulation
29 by the Gambling Control Board. The operation of slot machines must be approved by the
30 municipality in which the tribal commercial track is located before the Gambling Control
31 Board may grant a license to operate slot machines to a person licensed to operate that
32 tribal commercial track. This initiated bill also authorizes the issuance of a high-stakes
33 beano license to a federally recognized Indian tribe to operate games on nontribal land in
34 Washington County.