

MAINE STATE LEGISLATURE

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Date: **3-11-14**

(Filing No. H-**671**)

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
SECOND REGULAR SESSION**

HOUSE AMENDMENT "**B**" to COMMITTEE AMENDMENT "A" to H.P. 780, L.D. 1111, Bill, "An Act To Allow Maine's Harness Racing Industry To Compete with Casino Gaming"

Amend the amendment by striking out everything after the first paragraph after the title and inserting the following:

'Sec. 1. 7 MRSA §82, sub-§5, as amended by PL 2011, c. 358, §1, is further amended to read:

5. Rulemaking. The commissioner shall adopt rules to establish procedures for licensing and awarding dates for agricultural fairs and performance standards for evaluating agricultural fairs. The commissioner, in consultation with the executive director of the State Harness Racing Commission, shall adopt rules that require agricultural fairs that receive a distribution of slot machine revenue in accordance with Title 8, section 1036, subsection 2, 2-A and 2-D to submit information regarding the use of that revenue sufficient for the executive director to submit the report required by Title 8, section 1037. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 7 MRSA §91, sub-§1, as amended by PL 2007, c. 539, Pt. G, §1 and affected by §15, is further amended to read:

1. Fund created. The Treasurer of State shall establish an account to be known as "the Agricultural Fair Support Fund" and shall credit to it all money received under Title 8, section 1036, subsection 2, paragraph D, subsection 2-A, paragraph G and subsection 2-D, paragraph B. The fund is a dedicated, nonlapsing fund. All revenues deposited in the fund must be disbursed in accordance with this section, except that assessments and advances may be withdrawn in accordance with Title 8, section 267-A.

Sec. 3. 8 MRSA §272-B, sub-§1, ¶E, as enacted by PL 2007, c. 211, §1 and affected by §2, is amended to read:

E. The fund to supplement harness racing purses established under section 298 and receiving payment pursuant to section 1036, subsection 2, paragraph B, subsection 2-A, paragraph H and subsection 2-D, paragraph A; and

1 **Sec. 4. 8 MRSA §298, sub-§1**, as amended by PL 2007, c. 539, Pt. G, §10 and
2 affected by §15, is further amended to read:

3 **1. Fund created.** A fund is established to supplement harness racing purses to
4 which the commission shall credit all payments received pursuant to section 1036,
5 subsection 2, paragraph B, subsection 2-A, paragraph H and subsection 2-D, paragraph A
6 for distribution in accordance with this section. The fund is a dedicated, nonlapsing fund,
7 and all revenues deposited in the fund remain in the fund and must be disbursed in
8 accordance with this section, except that assessments and advances may be withdrawn in
9 accordance with section 267-A. The commission shall distribute in accordance with this
10 section amounts credited to the fund.

11 **Sec. 5. 8 MRSA §1011, sub-§2-A**, as amended by PL 2011, c. 417, §2, is further
12 amended to read:

13 **2-A. Persons eligible for casino operator license.** The board may accept an
14 application for a casino operator license to operate slot machines and table games at a
15 casino from a commercial track that conducted harness racing at or within a 20-mile
16 radius of the center of a commercial track with pari-mutuel wagering on at least 100
17 calendar days in 2003 or a commercial track licensed to operate a slot machine facility on
18 January 1, 2011 for the same location where slot machines were operated on January 1,
19 2011 and any person if that person and casino satisfy the following criteria:

20 A. The casino is located on a parcel of land in Oxford County that is:

21 (1) No less than 50 acres in size; and

22 (2) Located not more than:

23 (a) Thirty miles from a Level I or Level II trauma center verified as such by
24 the American College of Surgeons or successor organization;

25 (b) Fifteen miles from the main office of a county sheriff;

26 (c) Twenty-five miles from the main office of a state police field troop;

27 (d) Thirty miles from an interchange of the interstate highway system;

28 (e) Ten miles from a fire station;

29 (f) Ten miles from a facility at which harness racing was conducted pursuant
30 to a license from the State Harness Racing Commission for the 2009 racing
31 year; and

32 (g) One-half mile from a state highway as defined in Title 23, section 1903,
33 subsection 15.

34 For the purposes of this paragraph, distances are determined by measuring along the
35 most commonly used roadway, as determined by the Department of Transportation;

36 B. The criteria adopted through rulemaking by the board regarding the licensing of
37 the operation of slot machines and table games;

1 C. The operation of a casino is approved by the voters of the municipality in which
2 the casino to be licensed is located in a referendum election or by a vote of the
3 municipal officers in the municipality in which the casino is to be licensed and
4 located held at any time after October 1, 2009 and on or before December 31, 2011;

5 D. The person owns a facility that is within 10 miles of the proposed casino at which
6 harness racing was conducted pursuant to a license from the State Harness Racing
7 Commission for the 2009 racing year; and

8 E. The slot machines and table games are located and operated in the casino.

9 **Sec. 6. 8 MRSA §1011, sub-§3**, as amended by PL 2011, c. 417, §3, is further
10 amended to read:

11 **3. Requirements for license; continued commercial track licensure; facility**
12 **requirements.** The board may not issue a license to operate a slot machine facility or a
13 casino to any person unless that person demonstrates compliance with the qualifications
14 set forth in sections 1016 and 1019. To maintain eligibility for a slot machine operator
15 license or a casino operator license under subsection 2-A issued to a commercial track
16 ~~with slot machines~~, a licensed commercial track must at all times maintain a license to
17 operate a commercial track without lapse, suspension or revocation. A commercial track
18 that is initially issued a casino operator license after January 1, 2014, in order to maintain
19 eligibility for a casino operator license, must ensure that table games and slot machines
20 are located in a facility immediately adjacent to a newly constructed or reconstructed 5/8-
21 mile racetrack that includes a dining facility that provides expansive views of the racing
22 oval. The facility where table games and slot machines are operated must be part of a
23 complex that comprises a hotel with a minimum of 100 rooms, spa facilities, indoor and
24 outdoor swimming pools, an entertainment venue and retail space.

25 **Sec. 7. 8 MRSA §1018, sub-§1, ¶C-1**, as amended by PL 2011, c. 417, §4, is
26 further amended to read:

27 C-1. The initial application fee for a casino operator license is \$225,000, except that
28 the initial application fee for an applicant that is a commercial track that was licensed
29 to operate slot machines as of January 1, 2011 is \$25,000. The annual renewal fee is
30 \$80,000 plus an amount, set by rules of the board, equal to the cost to the board of
31 licensing casino operators and determined by dividing the costs of administering the
32 casino operator licenses by the total number of casino operators licensed by the
33 board. In addition, a casino operator shall pay an initial gaming table fee of \$100,000
34 for the privilege to operate each gaming table for a period of 20 years as long as the
35 casino operator is licensed. Each gaming table is also subject to an annual gaming
36 table renewal fee of \$1,000. The gaming table fees authorize the casino operator to
37 conduct any authorized table game at the gaming table during the 20-year period. A
38 casino licensed in accordance with section 1011, subsection 2-A, paragraph A is not
39 required to pay the gaming table fees until after one calendar year of table game
40 operation. Fees collected in accordance with this paragraph must be deposited to the
41 Gambling Control Board administrative expenses Other Special Revenue Funds
42 account, which is a nonlapsing dedicated account. A casino operator license initially
43 issued to a commercial track after January 1, 2014 is subject to a license fee as
44 provided by section 1018-A, which may not be less than \$50,000,000, and that must
45 be paid to the Treasurer of State and deposited to the General Fund.

1 **Sec. 8. 8 MRSA §1018, sub-§1-A**, as enacted by PL 2011, c. 699, §2, is amended
2 to read:

3 **1-A. Fees for slot machine and casino operator licenses on or after September 1,**
4 **2012.** Notwithstanding subsection 1, paragraphs C and C-1, beginning September 1,
5 2012, an applicant for a slot machine operator license or a casino operator license must
6 pay a \$250,000 nonrefundable privilege fee to be submitted with the application for the
7 license and a minimum license fee, or cash bid if the license is part of a competitive
8 bidding process established by law, of \$5,000,000. This subsection does not apply to a
9 casino licensed for operation in the State as of September 1, 2012 or to a commercial
10 track initially licensed as a casino after January 1, 2014.

11 **Sec. 9. 8 MRSA §1018, sub-§2**, as enacted by PL 2003, c. 687, Pt. A, §5 and
12 affected by Pt. B, §11, is amended to read:

13 **2. Term of license; renewal, renewal fees.** ~~All~~ Except for a casino operator license
14 issued pursuant to section 1018-A, all licenses issued by the board under this chapter are
15 effective for one year, unless revoked or surrendered pursuant to subchapter 5. Upon
16 proper application and payment of the required fees and taxes and in accordance with
17 rules adopted by the board, the board may renew a license for an additional year if
18 municipal approval has been obtained as provided in section 1012. The board shall
19 transfer \$25,000 of the renewal fee required by subsection 1, paragraph C to the
20 municipality in which the slot machines are operated.

21 **Sec. 10. 8 MRSA §§1018-A and 1018-B** are enacted to read:

22 **§1018-A. Casino operator application and license fee for a commercial track**
23 **licensed after January 1, 2014**

24 Notwithstanding section 1018, subsection 1, the license fee for a casino operator
25 license initially issued to a commercial track after January 1, 2014 must be determined in
26 accordance with this section and is in addition to an application fee of \$250,000. The
27 application fee must be used by the board to cover the costs of administering the casino
28 application and licensing process including background investigations and to fund a
29 market study that must be conducted by the Department of Administrative and Financial
30 Services, the purpose of which is to determine the market value of a casino operator
31 license as of the date of the application. The commissioner shall meet with the owner or
32 operator of the commercial track that has applied for or been initially issued a license to
33 operate a casino after January 1, 2014 to negotiate an amount for a one-time license fee
34 that may not be less than \$50,000,000. The commissioner shall consider all of the
35 elements in subsections 1 to 5 when negotiating the license fee with the commercial
36 track.

37 For the purposes of this section, "commissioner" means the Commissioner of
38 Administrative and Financial Services.

39 **1. Recent transaction relating to casino ownership.** The commissioner shall
40 determine the amount paid by existing casino operator licensees as part of a contract to
41 purchase a licensed existing casino or similar contracts between operators and entities
42 who have funded efforts to pass legislation to authorize the use of slot machines in the
43 State within the past 15 years.

1 **2. Gaming market.** The commissioner shall consider the potential market for
2 gaming in the State and specifically in the region where the commercial track that has
3 initially applied for or received a casino operator license after January 1, 2014 is located
4 or is to be located and including consideration of competition from gaming venues in the
5 northeast region of the United States. The commissioner shall also consider the market
6 risks associated with operating a resort casino with live harness racing.

7 **3. Live harness racing.** The commissioner shall consider the extent to which the
8 commercial track will be required by law to conduct live harness racing and any other
9 operations that may not be profitable to the casino operator and consider the losses
10 incurred by such operations. The commissioner shall consider secondary benefits of
11 harness racing to the local community, agricultural businesses and other businesses that
12 directly benefit from harness racing in the State.

13 **4. Revenue distributions.** The commissioner shall consider the distribution of
14 revenues to be required of the commercial track once it is licensed as a casino and how
15 those distributions benefit the State.

16 **5. Capital investment benefits.** The commissioner shall consider the commercial
17 track's willingness to accept conditions on licensure, including any capital investments
18 required by law, and how any required investments will provide value to the local
19 community and the State as a whole. Considerations must include facility investments to
20 allow for horses owned and trained by licensees of the State Harness Racing Commission
21 to be stabled at the location of the casino.

22 If the commissioner and the commercial track are not able to reach an agreement on a
23 license fee, the commissioner shall make the final determination of the license fee.
24 Determination of a license fee must be made within 90 calendar days after the
25 commencement of negotiations under this section.

26 **§1018-B. Licensing decision deadline**

27 The board shall make a final decision on issuance of a casino operator license within
28 90 calendar days of receiving what it considers to be a complete application from a
29 commercial track that initially applies for a casino operator license after January 1, 2014.

30 **Sec. 11. 8 MRSA §1019, sub-§6,** as amended by PL 2011, c. 417, §5, is further
31 amended to read:

32 **6. Proximity of licensed casinos and slot machine facilities.** A casino operator
33 license or slot machine operator license may not be issued under this chapter to operate
34 any casino or slot machine facility located within 100 miles of a licensed casino or slot
35 machine facility. This subsection does not apply to a commercial track initially licensed
36 to operate a casino after January 1, 2014 and it does not prohibit a commercial track that
37 was licensed to operate slot machines on January 1, 2011 from obtaining a casino
38 operator license for the same facility where slot machines were operated as of January 1,
39 2011. A commercial track that initially applies for a casino operator license after January
40 1, 2014 may relocate to a new location as long as it is not closer to an existing casino in
41 this State than the original location of the track was to an existing casino in this State.

42 **Sec. 12. 8 MRSA §1019, sub-§7,** as amended by PL 2011, c. 417, §6, is further
43 amended to read:

1 7. **Statewide and county referendum; municipal vote.** After Unless otherwise
2 specified by this subsection, after January 1, 2011, any a proposed casino or slot machine
3 facility may not be issued a license unless it has been approved by a statewide
4 referendum vote and a vote of the municipal officers or municipality in which the casino
5 or slot machine facility is to be located, except that a commercial track licensed to operate
6 slot machines on January 1, 2011 is only required, as a condition to obtain a casino
7 license, to receive approval to operate a casino by means of a referendum of the voters of
8 the county in which the commercial track is located. To be eligible for a casino operator
9 license, a commercial track that initially applies for a casino operator license after
10 January 1, 2014 is required to receive approval only of the voters of the municipality in
11 which the casino will be located.

12 **Sec. 13. 8 MRSA §1019, sub-§8** is enacted to read:

13 **8. Slot machine and table game operation contingent upon facility construction.**
14 A commercial track initially licensed as a casino operator after January 1, 2014 may not
15 begin operation of slot machines and table games prior to the completion of all phases of
16 construction of a resort that includes a hotel, spa, pool, dining facility and entertainment
17 venue and provides for a view of the racing oval from the dining facility and from the
18 location of slot machines within the facility.

19 **Sec. 14. 8 MRSA §1020, sub-§3, ¶A,** as amended by PL 2011, c. 585, §8, is
20 further amended to read:

21 A. Except for slot machines used for training and educational purposes at
22 postsecondary institutions as provided by section 1011, subsection 1-B, the total
23 number of slot machines registered in the State may not exceed ~~3,000~~ 4,500; and

24 **Sec. 15. 8 MRSA §1036, sub-§2-D** is enacted to read:

25 **2-D. Distribution of table game income and slot machine revenue from a**
26 commercial track licensed to operate a casino after January 1, 2014. A commercial
27 track initially licensed to operate a casino after January 1, 2014 shall collect and
28 distribute revenue from the operation of slot machines and table games in accordance
29 with this subsection. The casino operator shall collect and distribute 1% of the gross slot
30 machine income to the Treasurer of State for deposit in the General Fund for the
31 administrative expenses of the board. The casino operator shall collect and distribute
32 39% of net slot machine income and 16% of net table game income to the board. The
33 total amount of net slot machine revenue and net table game revenue forwarded to the
34 board must be distributed as follows:

35 A. Sixteen percent must be forwarded by the board to the Treasurer of State, who
36 shall credit the money to the fund established in section 298 to supplement harness
37 racing purses;

38 B. Six percent must be forwarded by the board to the Treasurer of State, who shall
39 credit the money to the Agricultural Fair Support Fund established in Title 7, section
40 91;

41 C. Six percent must be forwarded by the board to the Treasurer of State, who shall
42 credit the money to the Sire Stakes Fund created in section 281;

1 D. One percent must be forwarded by the board directly to the municipality in which
2 the slot machines and table games are located;

3 E. One percent must be forwarded by the board directly to the county in which the
4 slot machines and table games are located;

5 F. One percent must be forwarded by the board to the Treasurer of State, who shall
6 credit the money to the Fund to Stabilize Off-track Betting Facilities established by
7 section 300. The amount distributed under this paragraph must be divided equally
8 among the eligible off-track betting facilities except that no off-track betting facility
9 may receive more than 25% of the amount forwarded by the board under this
10 paragraph. Any revenues remaining after distribution to off-track betting facilities
11 must be credited to the General Fund. An off-track betting facility is eligible for a
12 distribution under this paragraph if it was licensed by the State Harness Racing
13 Commission to conduct and actually conducted wagering operations for a minimum
14 of 250 days during the preceding 12-month period in which the first payment to the
15 fund is required; and

16 G. Sixty-nine percent must be forwarded by the board to the Treasurer of State for
17 deposit to the General Fund, except that, of the amount calculated pursuant to this
18 paragraph, \$100,000 must be transferred annually to the Gambling Addiction
19 Prevention and Treatment Fund established by Title 5, section 20006-B.

20 **Sec. 16. 8 MRSA §1037, first ¶**, as enacted by PL 2011, c. 358, §6 and amended
21 by c. 657, Pt. W, §6, is further amended to read:

22 Beginning February 15, 2012, the executive director of the State Harness Racing
23 Commission, in consultation with the Commissioner of Agriculture, Conservation and
24 Forestry, annually shall submit a report to the joint standing committees of the
25 Legislature having jurisdiction over slot machines, harness racing, agricultural fairs and
26 appropriations and financial affairs regarding the use of slot machine revenue deposited
27 in funds under section 1036, subsection 2, paragraphs B, C, D, H and I, subsection 2-A,
28 paragraphs G, H and I and subsection 2-D, paragraphs A to C. The executive director
29 and the commissioner shall obtain the information as described in this section. The report
30 required by this section must be completed using budgeted resources. The executive
31 director may not distribute funds listed under section 1036, subsection 2, subsection 2-A
32 and subsection 2-D, as applicable, to harness racing tracks, off-track betting facilities,
33 agricultural fairs or the Sire Stakes Fund under section 281 until the information required
34 to submit the report required by this section is provided.

35 **Sec. 17. 8 MRSA §1037, sub-§1**, as enacted by PL 2011, c. 358, §6, is amended
36 to read:

37 **1. Commercial tracks.** A report required by this section must include the following
38 information from commercial tracks licensed in accordance with chapter 11 that receive a
39 distribution of slot machine revenue under section 1036, subsection 2, paragraph B, D or
40 H, subsection 2-A, paragraph G, H or I or subsection 2-D, paragraph A, B or C:

- 41 A. The total amount wagered on live harness races;
- 42 B. The total amount wagered on intrastate simulcast races;
- 43 C. The total amount wagered on interstate simulcast races;

- 1 D. The number of harness races originated in the State and made available for
2 simulcast outside of the State;
- 3 E. The amount of the harness racing handle from wagers at the commercial track
4 kept by that commercial track and the distribution of the handle to the State and
5 industry recipients under section 286;
- 6 F. The amount received from the handle distribution from wagers at other tracks and
7 off-track betting facilities under section 286;
- 8 G. The amount of revenue received in accordance with section 1036, subsection 2,
9 paragraphs B, D and H, subsection 2-A, paragraphs G, H and I and subsection 2-D,
10 paragraphs A to C;
- 11 H. The number of full-time and part-time employees at the commercial track;
- 12 I. The amount, if any, spent on capital improvements to the commercial track and
13 related facilities and a description of those improvements. The first report must
14 include the amount spent since November 2005, shown by year. Subsequent annual
15 reports must include the amount spent on capital improvements the immediately
16 preceding calendar year;
- 17 J. Operating costs for the commercial track;
- 18 K. Profit and loss or depreciation figures for the commercial track; and
- 19 L. Administrative costs to comply with reporting requirements and contributions to
20 the State Harness Racing Commission's operating account described in section
21 267-A.

22 **Sec. 18. 8 MRSA §1037, sub-§2, ¶E**, as enacted by PL 2011, c. 358, §6 and
23 amended by c. 657, Pt. W, §6, is further amended to read:

- 24 E. The amounts, reported separately, of revenue received in accordance with section
25 1036, subsection 2, paragraphs B and D, subsection 2-A, paragraphs G and H and
26 subsection 2-D, paragraphs A and B, in accordance with the Stipend Fund under Title
27 7, section 86 and from any other source in accordance with rules adopted under
28 section 263-A, subsection 1, paragraph C and Title 7, section 82, subsection 5 by the
29 Commissioner of Agriculture, Conservation and Forestry or the State Harness Racing
30 Commission; and

31 **Sec. 19. 8 MRSA §1037, sub-§3, ¶B**, as enacted by PL 2011, c. 358, §6 and
32 amended by c. 657, Pt. W, §6, is further amended to read:

- 33 B. The amounts, reported separately, received from slot machine revenue in
34 accordance with section 1036, subsection 2, paragraph D, subsection 2-A, paragraphs
35 G and subsection 2-D, paragraph A, in accordance with the Stipend Fund under Title
36 7, section 86 and from any other source in accordance with rules adopted under
37 section 263-A, subsection 1, paragraph C and Title 7, section 82, subsection 5 by the
38 Commissioner of Agriculture, Conservation and Forestry or the State Harness Racing
39 Commission; and

40 **Sec. 20. 8 MRSA §1037, sub-§4**, as enacted by PL 2011, c. 358, §6, is amended
41 to read:



Approved: 03/07/14 *MAC*

126th MAINE LEGISLATURE

LD 1111

LR 1490(05)

An Act To Allow Maine's Harness Racing Industry To Compete with Casino Gaming

Fiscal Note for House Amendment *B* to Committee Amendment "A"

Sponsor: Rep. Marean of Hollis

Fiscal Note Required: Yes

Fiscal Note

Future biennium revenue decrease - General Fund

Future biennium revenue increase - Other Special Revenue Funds

Fiscal Detail and Notes

This floor amendment retains the overall tax structure in the committee amendment but reduces the percentage distributed to the General Fund and increases distributions to various dedicated accounts. The estimate of the revenue reduction to the General Fund is \$558,352 annually compared to the committee amendment, with revenue to Other Special Revenue Funds increased by the same amount.