

# MAINE STATE LEGISLATURE

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Date: 3/5/14

(Filing No. H-654)

AGRICULTURE, CONSERVATION AND FORESTRY

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

COMMITTEE AMENDMENT "A" to H.P. 1203, L.D. 1680, Bill, "An Act To Protect the Integrity of Funding for Harness Racing Purses"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

**'Sec. 1. 8 MRSA §272-B, first ¶,** as repealed and replaced by PL 2007, c. 211, §1 and affected by §2, is amended to read:

Notwithstanding any other provision of this chapter, up to 3% of funds designated to supplement purses may be paid to a statewide association of horsemen in accordance with this section. A statewide association of horsemen, referred to in this section as "the association," means an association of horsemen a majority of the membership of which is composed of owners, trainers and drivers or any combination of owners, trainers and drivers who are licensed by the commission and whose officers are authorized by the membership to negotiate with a person licensed to conduct racing under section 271 on behalf of the association's membership.

**Sec. 2. 8 MRSA §272-C** is enacted to read:

**§272-C. Trust account**

**1. Establishment; deposits.** A licensee conducting live racing in the State shall establish a trust account for the benefit of the persons who race horses at that licensee's facility. Except as provided by subsection 3, funds distributed to or retained by the licensee pursuant to sections 287, 289, 290, 292 and 298 and Title 7, section 91, less any administrative assessments pursuant to section 267-A, that must be used to pay or supplement harness racing purses must be deposited in that account and used exclusively to pay harness racing purses. The funds in a trust account established in accordance with this subsection are not considered to be property of the licensee, may not be pledged as security for the debts of the licensee and are not subject to attachment or execution by creditors of the licensee.

**2. Payment if licensee fails to conduct racing.** If a licensee fails to conduct a race meet during a calendar year, all funds held in the trust account established under this

1 section by that licensee must be returned to the commission, which shall return to the  
2 licensee any amount that represented a reimbursement that equaled an overpayment of  
3 harness racing purses. Any remaining balance of the trust account must be redistributed  
4 by the commission to the trust accounts of all racetracks that continue to conduct live  
5 racing in the State, with each track receiving that portion of money determined by  
6 multiplying the amount of money available for redistribution by a fraction, the numerator  
7 of which is the number of race dates at that racing facility during the prior calendar year  
8 and the denominator of which is the total number of race dates throughout the State  
9 during that year, except that those funds received by a licensee pursuant to section 298  
10 must be returned to the fund to supplement harness racing purses established in section  
11 298 and must be distributed according to that section.

12 **3. Limited interim use of funds permitted.** Notwithstanding subsection 1, a  
13 licensee, solely for the purpose of funding racing operations, may during the period from  
14 January 1st to April 30th make use of funds that otherwise would be in a trust account  
15 established pursuant to subsection 1 if the following conditions are met:

16 A. The amount of the funds to be used is approved in writing by the association  
17 described in section 272-B;

18 B. The licensee provides the executive director of the commission written notice of  
19 the amount of funds to be used and the written approval from the association under  
20 paragraph A to use the funds;

21 C. The executive director of the commission certifies that the licensee is likely to  
22 receive disbursements from the funds established under sections 295 and 299 and  
23 Title 7, section 91 within 120 days; and

24 D. Funds used are repaid to the trust account established pursuant to subsection 1 no  
25 later than 10 days from the May 30th distribution to the licensee under section 295,  
26 subsection 2 and section 299, subsection 2.

27 This subsection is repealed June 30, 2017.

28 **Sec. 3. 8 MRSA §275-A, sub-§1,** as amended by PL 2003, c. 401, §10, is further  
29 amended to read:

30 **1. Commercial track.** "Commercial track" means a harness horse racing track  
31 licensed under this chapter to conduct harness horse racing with pari-mutuel wagering  
32 that:

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

1 B. If the population of the region is less than 300,000, based on the 1990 U.S.  
2 Census, conducted racing on more than 25 days in each of the previous 2 calendar  
3 years, except that if a racetrack that qualifies as a commercial track under this  
4 paragraph ceases operation, a separate racetrack operated by the owner or operator of  
5 the racetrack that ceased operation qualifies as a commercial track, and for all  
6 purposes is considered the same commercial track as the track that ceased operation,  
7 if the population of the region of that separate racetrack is less than 300,000, based on  
8 the 1990 U.S. Census, and the sum of the number of days on which racing was  
9 conducted at the track that ceased operation and the number of days on which racing  
10 was conducted at the separate racetrack equals at least 26 days in each of the 2  
11 preceding calendar years;

12 C. Began operation after January 1, 2014 in a region with a population of 300,000 or  
13 more, based on the 1990 U.S. Census, to replace a commercial track as defined by  
14 paragraph A that ceased operation after January 1, 2014 and for which no separate  
15 racetrack has been opened by the owner or operator of that commercial track that  
16 ceased operation. For purposes of this paragraph, a racetrack is not required to have  
17 conducted racing during the 2 preceding calendar years but is required to conduct  
18 racing on at least 100 days during each calendar year after the track is initially  
19 licensed as a commercial track. If a commercial track under this paragraph has not  
20 been granted 100 race days by the commission for the initial calendar year of  
21 operation, race days conducted during that year by the commercial track that ceased  
22 operation after January 1, 2014 are credited to the replacement commercial track; or

23 D. Began operation after January 1, 2014 in a region with a population of less than  
24 300,000, based on the 1990 U.S. Census, to replace a commercial track as defined by  
25 paragraph B that ceased operation after January 1, 2014 and for which no separate  
26 racetrack has been opened by the owner or operator of that commercial track that  
27 ceased operation. For purposes of this paragraph, a racetrack is not required to have  
28 conducted racing during the 2 preceding calendar years but is required to conduct  
29 racing on at least 25 days during each calendar year after the track is initially licensed  
30 as a commercial track. If a commercial track under this paragraph has not been  
31 granted 25 race days by the commission for the initial calendar year of operation, race  
32 days conducted during that year by the commercial track that ceased operation after  
33 January 1, 2014 are credited to the replacement commercial track.

34 For the purposes of this subsection, "region" is determined by measuring a distance of 50  
35 miles from the center of the racing track along the most commonly used roadway, as  
36 determined by the Department of Transportation, drawing a circle around the center of  
37 the racing track using that 50-mile measurement and excluding those municipalities or  
38 unorganized territories that do not have boundaries contained entirely by that circle.

39 **Sec. 4. 8 MRSA §276-B** is enacted to read:

40 **§276-B. Commercial track ceases operation; entitled to funds**

41 Other than funds used exclusively to pay harness racing purses, a commercial track  
42 that ceases operation is entitled to distribution of all funds maintained by the State under  
43 this chapter based on the number of race days conducted by that commercial track.'

**SUMMARY**

This amendment removes the requirement proposed in the bill that a statewide association of horsemen qualify as a tax-exempt organization under federal law before January 1, 2007 in order to be eligible to receive funds designated to supplement harness racing purses. The amendment requires instead that a majority of the membership of a statewide association of horsemen be composed of owners, trainers and drivers or any combination of owners, trainers and drivers licensed by the Department of Agriculture, Conservation and Forestry, State Harness Racing Commission in order to be eligible to receive funds designated to supplement harness racing purses.

The amendment specifies which funds used to pay harness racing purses must be deposited into a licensee's trust account for the benefit of persons who race horses. The amendment also provides that funds in the trust account are not considered to be property of the licensee, may not be pledged as security for the debts of the licensee and are not subject to attachment or execution by creditors of the licensee. The amendment provides that a licensee, solely for the purpose of funding racing operations, may make interim use of the funds in the trust account if certain conditions are met.

The amendment clarifies that if one new racetrack replaces a commercial track that ceases operations, the new racetrack is not required to have conducted racing during the preceding 2 calendar years but is required to conduct racing during each calendar year after initial licensure.

The amendment also provides that if one new racetrack replaces a commercial track that ceases operations, the racetrack that ceases operations is entitled to distribution of funds maintained by the State based on the number of days on which racing was conducted, not including funds used exclusively to pay harness racing purses.

**FISCAL NOTE REQUIRED**  
(See attached)



Approved: 02/28/14 *mac*

# 126th MAINE LEGISLATURE

LD 1680

LR 2568(02)

**An Act To Protect the Integrity of Funding for Harness Racing Purses**

**Fiscal Note for Bill as Amended by Committee Amendment**

**Committee: Agriculture, Conservation and Forestry**

**Fiscal Note Required: Yes**

*A (H-654)*

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## Fiscal Note

Minor cost increase - Other Special Revenue Funds

### Fiscal Detail and Notes

Any costs to the State Harness Racing Commission under the Department of Agriculture, Conservation and Forestry to monitor and redistribute certain purse revenues to various racetracks are expected to be minor and can be absorbed within existing budgeted resources.