

# MAINE STATE LEGISLATURE

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January 18, 1968

E. B. Stevens, Executive Secretary

Maine Harness Racing Commission

Phillip M. Kilmister, Assistant

Attorney General

Section 275, Chapter 11 of Title 8, M.R.S.A. (1964).

**FACTS:**

In your memo to this office dated November 21, 1967 you state that a question has arisen as to whether or not replacement or make-up days granted by the Commission to certain licensees should be considered as additional granted racing dates. You mention that "in some instances tracks have not raced their full allotment of dates granted. In some instances this has been due to weather conditions and at other times because they did not desire to do so."

**QUESTION:**

Should a replacement date given by the Commission to a licensee be considered an additional racing date in determining the amount of the daily purse supplement which a licensee is entitled to under the terms of 8 M.R.S.A. § 275?

**ANSWER:**

No.

**OPINION:**

The above-stated question has actually been answered in a previous opinion of this office rendered on August 4, 1961. We take this opportunity to reiterate and slightly expand said opinion.

The second paragraph of Title 8, section 275 of the Revised Statutes of Maine reads as follows:

"A sum equal to 1/6 of the tax on all pari-mutuel pools conducted or made at any race or race meet licensed under this chapter shall be paid and returned to the licensees for the purpose of supplementing purse money. This sum shall be divided equally among the licensees in the proportions that the number of racing days of a licensee granted by the commission bears to the total number of racing days granted in any one year by the commission. Payments shall be made to said licensees by the end of the calendar year."

In reference to the above-quoted statutory language we have previously held that:

"There is no question that the Legislature intended that the division of the money to the licensees is based on a proportion between the racing days granted to an individual licensee and the total racing days granted to all licenses. The number of days actually raced has no bearing whatsoever upon the division of the money among the licensees." (Emphasis supplied) 1961-1962 Atty. Gen. Rep. p. 72.

By way of illustration, let us assume that the Commission grants a total of 230 racing dates to all licensees at the beginning of a given year. If a county fair association as one licensee is granted 6 racing days, the association would be entitled to 6/230 of the total amount of tax money returnable to licensees under the terms of section 275 of Title 8. If the association were unable to utilize any of the days granted to it for racing due, for example, to inclement weather, said association would still be entitled to 6/230 of the tax funds collected by the State for redistribution to licensees. By the same token, if the association were able to conduct racing on only half of its allotted six days and the Commission were able to grant the association three replacement days on which to conduct racing, the association would still be entitled to only 6/230 of the total funds distributable to licenses and not 9/233 of said funds.

E. B. Stevens

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January 18, 1968

A "make-up" or "replacement date" is precisely what the term implies and is not to be considered an additional racing date.

Phillip M. Kilmister  
Assistant Attorney General

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