

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to H.P. 665,
L.D. 944, Bill, "An Act to Permit Off-track Betting"

Amend the amendment by striking out everything after the
title and before the statement of fact and inserting in its place
the following:

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

'An Act to Permit Off-track Betting and to Revise the Harness
Racing Laws'

Further amend the bill by striking out everything after the
enacting clause and before the statement of fact and inserting in
its place the following:

'Sec. 1. 2 MRSA §6, sub-§2, as repealed and replaced by PL
1989, c. 878, Pt. A, §3, is amended to read:

2. Range 90. The salaries of the following state officials
and employees shall-be are within salary range 90:

Superintendent of Banking;

Bureau of Consumer Credit Protection Superintendent;

State Tax Assessor;

Superintendent of Insurance;

Associate Commissioner for Programs, Department of Mental
Health and Mental Retardation;

2 Associate Commissioner of Administration, Department of
Mental Health and Mental Retardation;

4 Associate Commissioner for Institutional Management; and

6 Executive Director, Maine Waste Management Agency; and

8 Chair, State Harness Racing Commission.

10 Sec. 2. 5 MRSA §12004-G, sub-§32, as enacted by PL 1987, c.
12 786, §5, is amended to read:

14	32.	State Harness	Legislative	8 MRSA
16	Sport and Enter-	Racing Commis-	Per Diem	§261
	tainment	sion		§261-A

18 Sec. 3. 8 MRSA §261, as amended by PL 1989, c. 503, Pt. B,
20 §48, is repealed.

22 Sec. 4. 8 MRSA §261-A is enacted to read:

24 §261-A. Commission

26 1. Establishment. The State Harness Racing Commission as
28 established by Title 5, section 12004-G, subsection 32, shall
30 carry out the purposes of this chapter. The commission is
32 affiliated with the Department of Agriculture, Food and Rural
Resources as specified in this chapter. For the purposes of this
chapter, "department" means the Department of Agriculture, Food
and Rural Resources and "commissioner" means the Commissioner of
Agriculture, Food and Rural Resources.

34 2. Members. The commission consists of 5 members appointed
36 by the Governor. One member must be a member of the general
38 public with no industry affiliation. One member must be
affiliated with an agricultural society that conducts an annual
agricultural fair. The other 3 members must be persons with a
knowledge of harness racing.

40 3. Term of office. Except as provided in subsection 5,
42 members of the commission serve 3-year terms. Any vacancy is
44 filled by appointment for the remainder of the unexpired term.
Members whose terms expire serve until their successors are
qualified and appointed.

46 4. Confirmation. Appointees must be reviewed by the joint
48 standing committee of the Legislature having jurisdiction over
50 agricultural matters and are subject to confirmation by the
Legislature.

2 5. Chair. The Governor shall appoint one of the 5
3 commission members as chair. Beginning July 1, 1992, this
4 position is a full-time, unclassified, major policy-influencing
5 position and is entitled to an annual salary as determined by the
6 Governor within salary range 90, as established by Title 2,
7 section 6, subsection 2. The chair serves at the pleasure of the
8 Governor.

9 6. Removal. Except as provided in subsection 5, the
10 Governor may remove any member of the commission for just cause.
11 A member who is subject to removal must be given a copy of the
12 charges against that member and must, upon request, be given an
13 opportunity to be heard upon 10 days' notice.

14 7. Conflict of interest. A commission member may not
15 participate in any matter before the commission in which that
16 member has a direct or indirect pecuniary interest or personal
17 bias or if any other conflict of interest is determined by the
18 commission to exist, either on its own motion or in response to a
19 written complaint.

20 Sec. 5. 8 MRSA §262, as amended by PL 1983, c. 834, §2, is
21 further amended to read:

22 §262. Organization

23 ~~The commissioners shall select one from their number to be~~
24 ~~chairman of the commission. The Commissioner of Agriculture,~~
25 ~~Feed and Rural Resources or his designee shall ex officio be~~
26 ~~secretary of the commission but shall not be a voting member~~
27 ~~thereof. Three of the members of the commission shall constitute~~
28 ~~a quorum to do business. The commission shall meet at least~~
29 ~~monthly and it shall be the duty of the secretary to keep a~~
30 ~~record of all proceedings of the commission and to preserve all~~
31 ~~books, maps, documents, papers and records entrusted to its care.~~

32 Sec. 6. 8 MRSA §264, as amended by PL 1985, c. 785, Pt. B,
33 §50, is repealed and the following enacted in its place:

34 §264. Employees

35 The commission shall contract with or employ, and shall
36 prescribe the duties of, all persons it determines necessary to
37 carry out the purposes of this chapter. Except as provided in
38 this section, the appointment and compensation of this staff are
39 subject to the Civil Service Law.

40 The commission shall contract for the services of qualified
41 persons to serve as presiding and associate track judges as
42 necessary to provide adequate policing and enforcement. The
43 judges are not employees of the State for any purpose. They are

2 entitled to be paid a per diem fee as determined by the
3 commission. They are not entitled to be reimbursed separately
4 for expenses. The race tracks and fairs shall reimburse the
5 commission for the per diem compensation of those presiding and
6 associate judges assigned to them.

7 **Sec. 7. 8 MRSA §265**, as repealed and replaced by PL 1983, c.
8 812, §56, is amended to read:

10 **§265. Compensation**

12 Members Except as provided for the chair in section 261-A,
13 subsection 5, members of the commission shall are entitled to be
14 compensated as provided in Title 5, chapter 379.

16 **Sec. 8. 8 MRSA §267** is repealed and the following enacted in
17 its place:

18 **§267. Budget; report**

20 **1. Budget.** The commission shall submit to the commissioner
21 as provided in Title 5, section 1665, a budget sufficient to
22 carry out the provisions of this chapter and the commissioner
23 shall transmit these requirements to the Bureau of the Budget
24 without any revision, alteration or change. The commission shall
25 submit a copy of this budget with any desired comments to the
26 joint standing committee of the Legislature having jurisdiction
27 over agricultural matters and to the Executive Director of the
28 Legislative Council.

30 **2. Report.** Coincident with the submission of its budget,
31 the commission shall make an annual report to the commissioner
32 with copies to the Governor, the joint standing committee of the
33 Legislature having jurisdiction over agricultural matters and the
34 Executive Director of the Legislative Council. This report must
35 include an account of the commission's operations and actions, a
36 report of its financial position, including receipts, an account
37 of the practical effects of application of this chapter and any
38 recommended legislation. The operations report must include the
39 number and types of violations of racing laws and rules, the
40 disposition of those violations and the amount of time required
41 for their disposition, including a history of any appeals.

42 **Sec. 9. 8 MRSA §268**, as amended by PL 1989, c. 882, is
43 further amended to read:

44 **§268. Rules**

45 The commission shall make ~~adopt~~ rules and ~~regulations~~ for
46 the holding, conducting and operating of all harness horse races
47 or meets for public exhibition held in this State and for the
48

2 operation of ~~race-tracks~~ racetracks on which any such race or
4 meet is held; notwithstanding any other provision of law, harness
horse races or meets held on Sunday shall ~~may~~ not commence until
the hour of 1 p.m.

6 The commission may adopt rules for the licensing and
8 operation of off-track betting facilities. The commission shall
10 mail notice of proposed rules or proposed amendments to rules
12 related to off-track betting to each member of the joint standing
14 committee of the Legislature having jurisdiction over legal
16 affairs matters and to each member of the joint standing
18 committee of the Legislature having jurisdiction over
agricultural matters not less than 20 days before a public
hearing on the proposed rule or amendment and not less than 20
days before adoption of such a rule or amendment without a public
hearing. The notice must include a copy of the proposed rule or
amendment. This paragraph is repealed 91 days after adjournment
of the First Regular Session of the 117th Legislature.

20 The commission may authorize licensees of extended meets to
22 provide for the simulcasting of entire racing cards during the
first 6 & weeks of each year. ~~This-paragraph-is-repealed-January~~
~~1,-1992.~~

24 **Sec. 10. 8 MRSA §271**, as amended by PL 1989, c. 203, §2, is
26 further amended to read:

28 **§271. Issuance of licenses for the conduct of racing**

30 1. **Licensing.** If the commission is satisfied that all of
32 this chapter and rules prescribed by the commission have been
substantially complied with during the past year and will be
34 fully complied with during the coming year by the person,
association or corporation applying for a license; that the
applicant, its members, directors, officers, shareholders,
36 employees, creditors and associates are of good moral character;
that the applicant is financially responsible; and that the award
38 of racing dates to the applicant is appropriate under the
criteria contained in subsection 2, it may issue a license for
40 the holding of harness horse races or meets for public exhibition
with pari-mutuel pools, which shall ~~must~~ expire on December
42 31st. The commission shall set licensing and license renewal
fees sufficient to carry out the administration and enforcement
of the licensing program. ~~The-fee-for-the-license-shall-be~~ These
44 fees may not exceed annually the greater of \$100 or \$10 for each
46 calendar week or part of a week of harness racing regardless of
whether ~~ex-not~~ pari-mutuel pools are sold. The commission shall
48 provide a booklet containing harness racing laws and rules and
relevant portions of the Maine Administrative Procedure Act to
50 every initial licensee and a fee not to exceed \$10 must be
included in the license fee to cover the cost of this

2 publication. The commission shall provide necessary revisions of
3 this booklet to those persons renewing licenses at the time of
4 renewal and shall include the cost of the revisions, not to
5 exceed \$10, in the renewal fee. The license shall must set forth
6 the name of the licensee, the place where the races or race meets
7 are to be held and the specific dates and time of day or night
8 during which racing may be conducted by the licensee. The
9 location stated in the license where the race or race meet is to
10 be held may be transferred to any other licensee on the dates set
11 forth in the license during which the racing may be conducted,
12 but, with respect to such-a that transfer, the transfer shall may
13 only be made to another licensee and the licensee shall-be is
14 liable for compliance with all laws and regulations governing the
15 conduct of harness racing. Any such license issued shall is not
16 be transferable or assignable. The Administrative Court Judge,
17 as designated in Title 4, chapter 25, may revoke any license
18 issued at any time for violation of the commission's rules or
19 licensing provisions upon notice and hearing. The license of any
20 corporation shall-be is automatically revoked, subject to Title
21 5, chapter 375, upon the change in ownership, legal or equitable,
22 of 50% or more of the voting stock of the corporation and the
23 corporation shall may not hold a harness horse race or meet for
24 public exhibition without a new license.

25 2. **Criteria for date awards.** In assigning dates to
26 licensees, the commission shall consider the following factors:

27 A. The revenues to be generated, consistent with the
28 profitability and financial health of the licensee, for the
29 General Fund pursuant to section 275; the purse supplements
30 pursuant to section 275; the Sire Stakes Fund pursuant to
31 section 281; and the Stipend Fund pursuant to Title 7,
32 section 62;

33 B. The quality of race programming and facilities offered
34 and to be offered by the licensee and the suitability of the
35 applicant's racing facilities for operation at the season
36 for which the dates are requested;

37 C. The necessity of having and maintaining proper physical
38 facilities for racing meetings; and consequently, to insure
39 the continuance of the facilities, the quality of the
40 licensee's maintenance of its track and plant, the adequacy
41 of its provisions for rehabilitation and capital
42 improvements and the necessity of fair treatment of the
43 economic interests and investments of those who, in good
44 faith, have provided and maintained racing facilities;

45 D. The desirability of reasonable consistency in the
46 pattern of date assignments from year to year;

2 E. With respect to agricultural societies seeking licenses
to conduct harness racing meets at the time of their annual
4 fairs, the scheduling of agricultural fairs determined by
the Commissioner of Agriculture, Food and Rural Resources
6 pursuant to Title 7, sections 65 and 65-A;

8 F. The preservation of a diversity of harness racing tracks
in the State;

10 G. The quality of the licensee's observance and enforcement
of this chapter and the rules promulgated pursuant to this
12 chapter during the past year;

14 H. The extent to which the licensee fully utilized racing
dates granted to it for the past year;

16 I. The personnel and resources available to the commission
for the enforcement of this chapter and the rules
18 promulgated pursuant to this chapter;

20 J. The likely availability of race-worthy horses throughout
the year; and

24 K. Such other criteria consistent with the betterment of
harness racing and the public health, safety and welfare as
26 the commission may establish by rule.

28 3. Overlapping race dates. The commission shall may not
award overlapping race dates for extended meets to licensees
30 which are within 50 miles of each other without the approval of
60% or more of the entire commission.

32 ~~4. Evaluation. The Commissioner of Agriculture, Feed and
34 Rural Resources shall thoroughly evaluate the effects of
concurrent racing in Maine, including a survey and analysis of
36 racing patrons, during April and May of 1986. The commissioner
shall report his findings and recommendations to the Joint
38 Standing Committee on Agriculture for legislative action prior to
July 1, 1986.~~

40 5. Minimum number of race days. The commission may assign
42 a commercial licensee a minimum number of racing days for a
period of up to 3 years. The specific dates for these racing
44 days and additional race dates are determined each year in
accordance with subsection 1. For the purposes of this
46 subsection, "commercial licensee" means a licensee with an annual
total of more than 25 racing days with pari-mutuel wagering in
48 the previous calendar year.

50 **Sec. 11. 8 MRSA §274-A** is enacted to read:

§274-A. Off-track betting

2
4 1. Definitions. As used in this section, unless the
context otherwise indicates, the following terms have the
following meanings.

6
8 A. "Commercial track" means a harness horse racing track
licensed under this chapter to conduct harness horse racing
with pari-mutuel wagering that conducted racing on more than
10 25 days in the previous calendar year.

12 B. "Exotic wagers" means wagers in which the bettor selects
2 or more horses in one or more races in a single wager.

14
16 C. "Licensee" means a person licensed to conduct harness
horse racing in this State, including agricultural
associations.

18
20 D. "Municipal officers" has the same meaning as in Title
28-A, section 2, subsection 21, except that when an
off-track betting facility is proposed in an unincorporated
22 location, the term "municipal officers" means the county
commissioners of the county in which the facility is to be
24 located and the term "municipality" means the unincorporated
location.

26
28 E. "Off-track betting facility" means a Class A restaurant,
as defined in Title 28-A, section 2, subsection 15,
paragraph R, at which a licensee is licensed to conduct
30 pari-mutuel wagering on simulcast racing.

32 F. "Off-track betting licensee" means a licensee who has
obtained a license to conduct pari-mutuel wagering at an
34 off-track betting facility.

36 G. "Regular wagers" means wagers other than exotic wagers.

38 2. Off-track betting on simulcast racing. A person
licensed to operate a commercial track in this State may conduct
40 pari-mutuel wagering at an off-track betting facility in the
State if the facility is licensed under this section.

42
44 3. Application for off-track betting. To obtain a license
to conduct pari-mutuel wagering at an off-track betting facility,
a person must submit to the commission an application on a form
46 prescribed by the commission that specifies at least the
following:

48
50 A. The number of permanent and part-time jobs to be created
at the proposed facility;

2 B. The population of the municipality and surrounding area
where the proposed facility is to be located;

4 C. The proximity of the proposed facility to any other
approved off-track betting facility or licensed racetrack;

6 D. The type of seating to be provided, including areas in
8 the proposed facility where patrons can handicap races;

10 E. The total seating capacity of the proposed facility;

12 F. The size and number of toilet facilities;

14 G. The availability of food and beverages, including the
16 number of tables, chairs, kitchen facilities and concession
stands;

18 H. The number of available parking spaces;

20 I. A description of the general design or style of the
22 facility, including lighting, decor and plans for the
exterior of the facility;

24 J. The number of betting windows and stand-alone betting
26 terminals to be provided;

28 K. A description of the heating and air-conditioning units,
the smoke removal equipment and other climate control
30 devices;

32 L. The total area in square feet of the proposed facility;
and

34 M. The number, type and quality of the television equipment
36 to be installed and, if applicable, the name and place of
business of any proposed independent contract operator.

38 4. Municipal approval. The commission may not grant a
40 license to conduct pari-mutuel wagering at an off-track betting
facility unless the facility is approved, in accordance with this
42 subsection, by the municipal officers of the municipality in
which the facility is to be located.

44 A. Within 15 days after receiving an application for an
46 off-track betting facility license, the commission shall
notify the municipal officers of the municipality in which
48 the facility is to be located and shall send a copy of the
application to those officers. The municipal officers shall
50 hold a public hearing for the consideration of the
application in accordance with this subsection.

2 B. The municipal officers shall provide public notice of
3 any hearing held under this subsection by causing a notice
4 stating the name and place of hearing, at the applicant's
5 prepaid expense, to appear on at least 6 consecutive days
6 before the date of hearing in a daily newspaper having
7 general circulation in the municipality where the facility
8 will be located or on 2 consecutive weeks before the date of
9 the hearing in a weekly newspaper having general circulation
10 in the municipality where the facility is to be located.

11 C. Following the public hearing, the municipal officers
12 shall grant or deny approval of the facility and shall
13 indicate the reasons for their decision and provide a copy
14 to the applicant.

15 D. Approval of a facility may be denied on one or more of
16 the following grounds:

17 (1) Objection on policy or other grounds to the
18 conduct of pari-mutuel wagering within the municipality;

19 (2) Conviction of the applicant or a holder of more
20 than 50% of the shares or other interests of the
21 applicant of any Class A, Class B or Class C crime;

22 (3) Noncompliance of the facility or its use with any
23 local zoning ordinance or other land use ordinance;

24 (4) Conditions of record such as waste disposal
25 violations, health or safety violations or repeated
26 parking or traffic violations on or in the vicinity of
27 the facility and caused by persons patronizing or
28 employed by the facility or other such conditions
29 caused by persons patronizing or employed by the
30 facility that unreasonably disturb, interfere with or
31 affect the ability of persons or businesses residing or
32 located in the vicinity of the facility to use their
33 property in a reasonable manner;

34 (5) Repeated incidents of record of breaches of the
35 peace, disorderly conduct, vandalism or other
36 violations of law on or in the vicinity of the facility
37 and caused by persons patronizing or employed by the
38 facility; or

39 (6) A violation of any provision of this section.

40 E. An applicant aggrieved by the decision of the municipal
41 officers under this section may appeal to the Superior
42 Court. Denial of approval on the grounds listed under
43 paragraph D, subparagraph (1) is not reviewable by the court.
44

2 5. Requirements for approval of license. The commission
3 shall review the application and hold a public hearing on the
4 application. The commission may issue a license to conduct
5 pari-mutuel wagering at an off-track betting facility if the
6 facility meets the following requirements:

8 A. The commission finds that the facility:

10 (1) Will not adversely affect the public interest;

12 (2) Will not adversely affect the integrity of live
13 racing;

14 (3) Will not have an adverse impact on the local
15 community;

16 (4) Provides a potential for job creation, including
17 jobs in the racing and wagering industries and other
18 service jobs;

19 (5) Has adequate seating facilities, toilet facilities
20 and parking;

21 (6) Will not adversely affect the value of abutting
22 property;

23 (7) Will be operated by an applicant with financial
24 ability to maintain the facility in a manner to meet
25 the standards set forth in this paragraph; and

26 (8) Provides segregated areas for conducting betting
27 separate from the areas in which restaurant or other
28 services are provided to the general public for
29 nonbetting purposes;

30 B. The municipal officers of the municipality in which the
31 facility is to be located have approved the facility
32 pursuant to subsection 4; and

33 C. Approval by the commission will not permit the person
34 licensed to conduct pari-mutuel wagering at more than 4
35 off-track betting facilities.

36 6. Operation of facility. An off-track betting licensee
37 may not permit a person under the age of 16 to enter the facility
38 unless accompanied by a parent, legal guardian or custodian, as
39 defined in Title 22, section 4002. The off-track betting
40 licensee may not permit any person under the age of 16 within 15
41 feet of any betting window or other place for accepting wagers.
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2 7. Limitations on simulcasting. The following limits apply
3 to simulcasting to off-track betting facilities.

4 A. A person may not simulcast to an off-track betting
5 facility located within a 75-mile radius of another
6 licensee, at the same time that other licensee is conducting
7 live racing, without permission from that licensee and the
8 commission. A person may not simulcast to an off-track
9 betting facility within a 50-mile radius of another
10 licensee, during any day on which that other licensee is
11 conducting live racing, without permission from that
12 licensee and the commission.

13 B. Races conducted outside the State may be simulcast to an
14 off-track betting facility within the State only if those
15 races are being simulcast to the off-track betting
16 licensee's racetrack at the same time.

17 8. Annual report. The commission shall report annually by
18 January 1st to the joint standing committee of the Legislature
19 having jurisdiction over legal affairs matters and to the joint
20 standing committee of the Legislature having jurisdiction over
21 agricultural matters on the effect of off-track betting
22 facilities on the local economy, the public interest, the
23 integrity of live racing and other matters the commission finds
24 appropriate. The commission may include in its report any
25 recommendations for necessary changes in laws governing off-track
26 betting.

27 9. Betting commissions. Commissions on pools of regular
28 wagers may not exceed 18% of each dollar wagered and commissions
29 on pools of exotic wagers may not exceed 26% of each dollar
30 wagered. In addition, the odd cents of all redistribution, based
31 on each dollar wagered, whether regular wagers or exotic wagers,
32 exceeding a sum equal to the next lowest multiple of 10, known as
33 "breakage," must be retained by the off-track betting licensee.

34 10. Allocation of revenues. The off-track betting
35 licensee shall allocate the revenues as follows.

36 A. The off-track betting licensee shall pay a sum equal to
37 1.18% of the total contributions on exotic wagers and a sum
38 equal to 1.203% of the total contributions on regular wagers
39 to the commission to be credited to the agricultural fair
40 Stipend Fund established by Title 7, section 62.

41 B. The off-track betting licensee shall pay a sum equal to
42 1.566% of the total contributions on exotic wagers and a sum
43 equal to .073% of the total contributions on regular wagers
44 to the commission to be credited to the Sire Stakes Fund
45 established by section 281.

2 C. The off-track betting licensee shall use 4.347% of the
4 total contributions on exotic wagers and 1.533% of the total
6 contributions on regular wagers for the purpose of
8 supplementing purse money.

10 D. The off-track betting licensee shall pay a sum equal to
12 2.27% of the total contributions on exotic wagers and .50%
14 of the total contributions on regular wagers to the
16 Treasurer of State to be paid to the General Fund.

18 11. Repeal. This section is repealed 91 days after
20 adjournment of the First Regular Session of the 117th Legislature.

22 Sec. 12. 8 MRSA §275, as amended by PL 1989, c. 787, Pt. A,
24 §3, is further amended to read:

26 **§275. Taxes**

28 ~~Beginning January 1, 1983, each~~ Each person, association or
30 corporation licensed to conduct a race meet under this chapter
32 shall pay to the Treasurer of State, to be credited to the
34 General Fund of the State, a sum equal to .50% of the total
36 contributions of regular wagers and 2.27% of the total
38 contributions of exotic wagers to all pari-mutuel pools conducted
40 or made at any race or race meet licensed under this chapter. If
42 the total of the regular and exotic wagers exceeds \$37,000,000
44 \$33,500,000 for any calendar year, 72% of the revenue credited to
46 the General Fund under this section attributable to this excess
48 shall must be returned by the Treasurer of State to commercial
50 meet licensees. As used in this chapter, the term "commercial
 meet" means any meeting where harness racing is held with an
 annual total of more than 25 racing days duration with
 pari-mutuel wagering. This payment shall must be divided in the
 proportion that the contributors of regular and exotic wagers of
 pari-mutuel pools made or conducted at the commercial meets of
 each licensee during the calendar year bear to the total
 contributions of regular and exotic wagers to pari-mutuel pools
 made or conducted at the commercial meets of all licensees during
 that calendar year. Licensees sharing in this distribution shall
 use 1/2 of the funds so received for the purpose of supplementing
 purse money. ~~The other 1/2 of this distribution is to be used by~~
 ~~the commercial licensees for improving their racing facilities~~
 ~~for the benefit of the public, horse owners, horsemen and~~
 ~~horsewomen, and to increase the revenue to the State from the~~
 ~~increase in pari-mutuel wagering resulting from such~~
 ~~improvements.~~ The other 1/2 of this distribution must be paid to
 the commercial licensees as reimbursement for improvements made
 to their racing facilities in the calendar year during which the
 funds are generated. To receive reimbursement, commercial

2 licensees must submit plans for the improvements to the Maine
3 Harness Racing Commission and receive approval from the
4 commission prior to making the improvements and the commission
5 must verify that the approved improvements have been made. For
6 the purpose of this section, "improvements" means the amount paid
7 out for new buildings or for permanent improvements made to
8 improve the facilities utilized by the licensee for conduct of
9 its racing meetings; or the amount expended in restoring property
10 or in improving the facility or any part of the facility which
11 that results in the addition or replacement of a fixed asset. In
12 general, the amounts referred to as improvements include amounts
13 paid which that add to the value, improve or substantially
14 prolong the useful life of the race track utilized by the
15 licensee for the conduct of its racing meeting. Amounts paid or
16 incurred for repairs and maintenance of property, interest
17 expense or lease payments in connection with the capital
18 improvements are not improvements within the meaning of this
19 section. In addition, 9% of the revenue credited to the General
20 Fund under this section attributable to this excess shall must be
21 distributed to the stipend fund provided by Title 7, section 62.
22 Further, 9% of the revenue credited to the General Fund under
23 this section attributable to this excess shall must be paid to
24 the commission to be credited to the Sire Stakes Fund, provided
25 in section 281. A sum equal to 1.550% of the total contributions
26 on exotic wagers and .185% of the total contributions on regular
27 wagers on all pari-mutuel pools conducted or made at any race or
28 race meet licensed under this chapter shall must be retained by
the licensee and added to purse money.

30 A sum equal to 1% of the total contributions on regular
31 wagers and a sum equal to 1% of the total contributions on exotic
32 wagers on all pari-mutuel pools conducted or made at any race or
33 race meet licensed under this chapter must be paid and returned
34 to the licensees for the purpose of supplementing purse money.
35 This sum must be divided equally among the licensees in the
36 proportion that the number of racing days of a licensee granted
37 by the commission and actually raced bears to the total number of
38 racing days granted in any one year by the commission and
39 actually raced by licensees. Payments are made to these licensees
40 by the end of the calendar year. A sum equal to 1.797% of the
41 total contributions on exotic wagers and .348% of the total
42 contributions on regular wagers on all pari-mutuel pools
43 conducted or made at any race or race meet licensed under this
44 chapter must be retained by the licensee and added to purse
45 money. ~~Notwithstanding other provisions of this section, the~~
46 ~~Treasurer of State shall credit \$3,380 of the amount received~~
47 ~~under this section in fiscal year 1989-90 to the Legislative~~
48 ~~Account to provide funding for a study of the harness racing~~
49 ~~industry.~~

2 A sum equal to 1 1/2% of the tax on exotic wagers on all
3 pari-mutuel pools conducted or made at any race or race meet
4 licensed under this chapter shall must be retained by the
5 licensees.

6 Sec. 13. 8 MRSA §279-A, as repealed and replaced by PL 1975,
7 c. 35, is amended to read:

8
9 **§279-A. Licenses, rules and regulations for participating in**
10 **racing**

11 For the purpose of enabling the State Harness Racing
12 Commission to exercise and maintain a proper control over racing
13 conducted under this chapter, the commission shall ~~have the power~~
14 ~~to make and~~ may adopt rules and ~~regulations~~ for the licensing,
15 with or without fee in the discretion of the commission, of
16 owners, trainers, drivers, grooms and all other persons
17 participating in harness horse racing, including pari-mutuel
18 employees and race officials.

19
20 ~~The fee for any such license or registration, if imposed,~~
21 ~~shall not in any case exceed \$10 per annual license to be~~
22 ~~credited to the General Fund.~~

23
24 The commission shall set licensing and license renewal fees
25 sufficient to carry out the administration and enforcement of the
26 licensing program. These fees may not exceed \$100 annually. The
27 commission shall provide a booklet containing harness racing laws
28 and rules and relevant portions of the Maine Administrative
29 Procedure Act to every initial licensee and a fee not to exceed
30 \$10 must be included in the license fee to cover the cost of this
31 publication. The commission shall provide necessary revisions of
32 this booklet to those persons renewing licenses at the time of
33 renewal and shall include the cost not to exceed \$10 in the
34 renewal fee.

35
36 The commission shall ~~have the power to make and~~ may adopt
37 rules and ~~regulations~~ for the conduct on the race track and
38 grounds of owners, trainers, drivers, grooms and all other
39 persons participating in harness horse racing. The rules and
40 ~~regulations shall~~ must be reasonably necessary for any one or
41 more of the following purposes: To to protect the wagering
42 public, to protect the state's State's share of pari-mutuel
43 pools, to protect the health and welfare of spectators and
44 participating owners, trainers, drivers, grooms and all other
45 persons participating in harness horse racing, including
46 pari-mutuel employees and race officials and to protect the
47 health and welfare of standard-bred horses.
48

2 The Administrative Court Judge ~~shall have the power to~~ may
revoke or suspend any license for violations of this chapter or
4 the rules ~~and regulations~~.

6 **Sec. 14. 8 MRSA §279-B**, as amended by PL 1989, c. 878, Pt. A,
§22, is further amended to read:

8 **§279-B. Fines, suspensions and revocations**

10 ~~In order to~~ To enforce the provisions of this chapter and
12 the rules referred to in section 279-A, the commission is
authorized to establish a schedule for fines not to exceed \$100
14 \$1,000 for each violation of this chapter or the rules. The
commission is authorized to levy a fine, after notice and
16 hearing, for each violation of this chapter or the rules.

18 The commission is further authorized to establish a schedule
of suspensions of licenses and may levy suspensions for each
violation of this chapter or the rules.

20 Any person aggrieved by any fine or suspension imposed by
22 the commission may seek judicial review pursuant to the Maine
Administrative Procedure Act, Title 5, chapter 375.

24 **Sec. 15. 8 MRSA §279-B, sub-§§1 and 2** are enacted to read:

26 1. Delegation of authority to executive director. The
28 commission may delegate to the commission's executive director,
by rules adopted in accordance with the Maine Administrative
30 Procedure Act, its authority to levy fines and suspensions for
particular violations or classes of violations. The executive
32 director shall exercise this authority in a manner consistent
with the provisions of Title 5, chapter 375. Any person
34 aggrieved by any fine or suspension imposed by the executive
director may seek judicial review pursuant to the Maine
36 Administrative Procedure Act. This subsection is repealed on
July 1, 1992.

38 2. Delegation of authority to commission chair. The
40 commission may delegate to the chair, by rules adopted in
accordance with the Maine Administrative Procedure Act, its
42 authority to levy fines and suspensions for particular violations
or classes of violations. The chair shall exercise this
44 authority in a manner consistent with Title 5, chapter 375. Any
person aggrieved by any fine or suspension imposed by the chair
46 may seek judicial review pursuant to the Maine Administrative
Procedure Act. This subsection takes effect on July 1, 1992.

48 **Sec. 16. 8 MRSA §283** is enacted to read:
50

§283. Reciprocal disciplinary action

The commission shall act to obtain current listings from other states of persons in harness racing occupations regulated by the state who have been refused a license or who have had their license revoked or suspended. The commission shall refuse to license or shall suspend the license of these persons until notification that they are again eligible for licensing in the state or states in question.

Sec. 17. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1991-92	1992-93
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
State Harness Racing Commission		
Positions		(1.0)
Personal Services	\$7,222	\$72,154
All Other	205,271	280,741
Capital Expenditures		2,000
Provides funds for a full-time chair position beginning in fiscal year 1992-93, a range change for the State Racing Steward positions, compensation for presiding and associate judges, recodifying and printing racing laws, the expenses of the Association of Racing Commissioners International membership and related travel, annual reporting requirements and general operating expenses.		
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES		
TOTAL	\$212,493	\$354,895

Sec. 18. Transition. After the effective date of this Act and before July 1, 1992, the Governor shall either select a chair meeting the qualifications of the Maine Revised Statutes, Title 8, section 261, subsection 5, from the existing members or shall appoint a new member to serve as chair replacing that existing

member whose term is to expire next.

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Except as provided in this section, all members of the State Harness Racing Commission who are qualified and confirmed and are serving on the effective date of this Act shall continue to serve under this Act for a period at least equal to the terms under which they were previously appointed. Except as provided in Title 8, section 261-A, subsection 5, beginning in October 1991, as a current commission member's term expires, the resulting vacancy must be filled by persons meeting the qualifications specified in Title 8, section 261-A, subsection 2.

Sec. 19. Effective date. Section 1 takes effect on July 1, 1992.

14

FISCAL NOTE

16

1991-92 1992-93

18

APPROPRIATIONS/ALLOCATIONS

20

General Fund	\$212,493	\$354,895
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22

REVENUES

24

General Fund	\$324,274	\$380,236
Other Funds	72,525	145,050

26

28

This bill will increase General Fund revenue by \$332,272 in fiscal year 1991-92 and \$351,319 in fiscal year 1992-93 based on a proposed increase in license fees, fines and reimbursements from racetracks and fairs for the cost of presiding and associated judges. The State Harness Racing Commission will require General Fund appropriations of \$212,493 in fiscal year 1991-92 and \$354,895 in fiscal year 1992-93 for a full-time chair position beginning in fiscal year 1992-93, a range change from 21 to 26 for the State Racing Steward positions to reflect additional supervisory responsibilities, compensation for presiding and associate judges, recodifying racing rules, the expenses of the Association of Racing Commissioners International membership and travel, annual reporting requirements and other operating expenses.

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This bill allows off-track betting at facilities that simulcast live racing. The additional betting from off-track facilities will result in an increase in General Fund revenue of \$36,915 for fiscal year 1991-92 and \$73,830 for fiscal year 1992-93. This estimate is based on the 1990 total handle and anticipates an additional increase of 12% from off-track betting. The fiscal year 1991-92 estimate assumes only 1/2 year operation considering the additional time required to adopt rules

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2 and set the program up. The cost associated with approving
4 facilities and the annual report requirement will be absorbed by
6 the Department of Agriculture, Food and Rural Resources utilizing
8 existing budgeted resources. The additional betting will also
increase dedicated revenues to the Agricultural Fair Stipend
Fund, the Sires Stakes Fund and the Horseman's Purse account in
the amount of \$72,525 for fiscal year 1991-92 and \$145,000 for
fiscal year 1992-93.

10 The Governor's adjusted current services budget proposes to
12 increase by one percent the State's share of the harness racing
14 handle. Revenue estimates contained in this bill may need to be
adjusted depending upon the enacted version of the current
services budget.

16 This bill lowers the threshold from \$37,000,000 to
18 \$33,500,000 at which excess revenue must be returned to
20 commercial meet licensees by the Treasurer of State. This change
will decrease General Fund revenue by an estimated \$44,913
annually.

22 This bill repeals the sunset provision concerning
24 simulcasting and allows this program to operate during the first
8 weeks of every year. Since no funds were budgeted due to the
26 statutory repeal provision, this bill will result in additional
revenue to the General Fund in an amount that can not be
28 determined at this time.' '

30 STATEMENT OF FACT

32 This amendment requires proposed rules on off-track betting
and the annual report on off-track betting be sent to both the
34 Joint Standing Committee on Legal Affairs and the Joint Standing
Committee on Agriculture. All other provisions of Committee
Amendment "A" are incorporated in this amendment unchanged.

36 This amendment amends the harness racing laws to :

38 1. Remove the requirement that State Harness Racing
40 Commission members have geographic and political party
42 representation and allows all but one member to have industry
affiliation;

44 2. Provides for a full-time, salaried chair to be appointed
46 by the Governor. This position becomes effective on July 1, 1992;

48 3. Broaden the Maine Administrative Procedure Act
50 conflict-of-interest provision to require that persons with
conflict not participate in a matter before the commission;

52 4. Give the commission authority to hire its own employees,
subject to the Civil Service Law;

2 5. Require that the commission contract with, pay and
4 assign presiding and associate track judges. The commission will
6 be reimbursed by the tracks and fairs for the per diem of those
judges assigned to them. Currently, the State licenses judges
and the tracks employ them;

8 6. Require that the Commissioner of Agriculture, Food and
10 Rural Resources transmit the commission's budget as submitted;

12 7. Change the recipient of the commission's annual report
14 from the Governor to the Commissioner of Agriculture, Food and
16 Rural Resources with a copy to the Governor, the joint standing
committee of the Legislature having jurisdiction over
agricultural matters and the Executive Director of the
Legislative Council;

18 8. Raise permitted annual fees for conducting racing from
20 \$10 per week, to \$10 per week or \$100, whichever is greater;

22 9. Raise permitted annual fees for participating in any
24 other licensed racing activity from \$10 to not more than \$100;

26 10. Require that, within the limits specified, permitted
28 annual fees be sufficient to cover the expenses of the licensing
30 program;

32 11. Require that all licensees be provided with a booklet
34 of racing laws and rules. Up to \$10 of the cost of this booklet
36 is included in the licensing fee;

38 12. Give the State Harness Racing Commission the authority
40 to assign a minimum number of race days for a period of up to 3
42 years. The specific dates for the races are allocated each year
44 as provided under current law. Any licensee that meets the
46 definition of "commercial licensee" may be assigned days in
48 advance;

 13. Lower the threshold at which excess revenue generated
from regular and exotic wagers must be returned to commercial
meet licensees by the Treasurer of State. The decreased
threshold is due to the closing of a racetrack in 1989, making
the present \$37,000,000 threshold no longer realistic. One-half
of the returned funds is used to supplement and add purse money
and 1/2 is used for the improvement of racing facilities. The
amendment also specifies conditions that must be met for
commercial licensees to receive reimbursement for improvements;

 14. Raise the maximum fine that the commission is
authorized to levy, pursuant to the Maine Revised Statues, Title
8, section 279-B, from \$100 to \$1,000. Title 8, section 273

2 provides for fines up to \$5,000 or imprisonment of not more than
one year. Because of the severity of the fines authorized in
4 Title 8, section 273, these penalties require provisions for
protection of defendant rights;

6 15. Require that the commission honor license action
imposed by other states; and

8
10 16. Permit the commission to delegate its authority to levy
fines and suspensions for particular violations or classes of
12 violations. The commission may delegate this authority to its
executive director until July 1, 1992. After July 1, 1991, the
14 commission may delegate this authority to its chair.

Filed by Rep. Tardy of Palmyra
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