

# MAINE STATE LEGISLATURE

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

HOUSE AMENDMENT "C" 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'Sec. 1. 2 MRSA §6, sub-§2, as repealed and replaced by PL  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
	Sport and Enter-	Racing Commis-	Per Diem	§261
16	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20 §48, is repealed.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  
40 affiliated with an agricultural society that conducts an annual  
agricultural fair. The other 3 members must be persons with a  
knowledge of harness racing.

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

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

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

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

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

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

26           **§262. Organization**

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

38           Sec. 6. 8 MRSA §264, as amended by PL 1985, c. 785, Pt. B,  
40           §50, is repealed and the following enacted in its place:

42           **§264. Employees**

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

50           The commission shall contract for the services of qualified  
          persons to serve as presiding and associate track judges as

2 necessary to provide adequate policing and enforcement. The  
3 judges are not employees of the State for any purpose. They are  
4 entitled to be paid a per diem fee as determined by the  
5 commission. They are not entitled to be reimbursed separately  
6 for expenses. The race tracks and fairs shall reimburse the  
7 commission for the per diem compensation of those presiding and  
8 associate judges assigned to them.

9  
10 **Sec. 7. 8 MRSA §265**, as repealed and replaced by PL 1983, c.  
11 812, §56, is amended to read:

12 **§265. Compensation**

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

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

19  
20 **§267. Budget; report**

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

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

44  
45 **Sec. 9. 8 MRSA §268**, as amended by PL 1989, c. 882, is  
46 further amended to read:

2 §268. Rules

4 The commission shall make adopt rules and ~~regulations~~ for  
6 the holding, conducting and operating of all harness horse races  
8 or meets for public exhibition held in this State and for the  
10 operation of ~~race-tracks racetracks~~ on which any such race or  
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.

12 The commission may adopt rules for the licensing and  
14 operation of off-track betting facilities. The commission shall  
16 mail notice of proposed rules or proposed amendments to rules  
18 related to off-track betting to each member of the joint standing  
20 committee of the Legislature having jurisdiction over legal  
22 affairs matters and to each member of the joint standing  
24 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.

26 The commission may authorize licensees of extended meets to  
28 provide for the simulcasting of entire racing cards during the  
first 6 & weeks of each year. ~~This paragraph is repealed January~~  
~~17, 1992.~~

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

34 §271. Issuance of licenses for the conduct of racing

36 1. Licensing. If the commission is satisfied that all of  
38 this chapter and rules prescribed by the commission have been  
40 substantially complied with during the past year and will be  
42 fully complied with during the coming year by the person,  
44 association or corporation applying for a license; that the  
46 applicant, its members, directors, officers, shareholders,  
48 employees, creditors and associates are of good moral character;  
that the applicant is financially responsible; and that the award  
of racing dates to the applicant is appropriate under the  
criteria contained in subsection 2, it may issue a license for  
the holding of harness horse races or meets for public exhibition  
with pari-mutuel pools, which shall must expire on December  
31st. The commission shall set licensing and license renewal  
fees sufficient to carry out the administration and enforcement  
50 of the licensing program. The fee for the license shall be These

2 fees may not exceed annually the greater of \$100 or \$10 for each  
3 calendar week or part of a week of harness racing regardless of  
4 whether pari-mutuel pools are sold. The commission shall  
5 provide a booklet containing harness racing laws and rules and  
6 relevant portions of the Maine Administrative Procedure Act to  
7 every initial licensee and a fee not to exceed \$10 must be  
8 included in the license fee to cover the cost of this  
9 publication. The commission shall provide necessary revisions of  
10 this booklet to those persons renewing licenses at the time of  
11 renewal and shall include the cost of the revisions, not to  
12 exceed \$10, in the renewal fee. The license shall must set forth  
13 the name of the licensee, the place where the races or race meets  
14 are to be held and the specific dates and time of day or night  
15 during which racing may be conducted by the licensee. The  
16 location stated in the license where the race or race meet is to  
17 be held may be transferred to any other licensee on the dates set  
18 forth in the license during which the racing may be conducted,  
19 but, with respect to such a that transfer, the transfer shall may  
20 only be made to another licensee and the licensee shall be is  
21 liable for compliance with all laws and regulations governing the  
22 conduct of harness racing. Any such license issued shall is not  
23 be transferable or assignable. The Administrative Court Judge,  
24 as designated in Title 4, chapter 25, may revoke any license  
25 issued at any time for violation of the commission's rules or  
26 licensing provisions upon notice and hearing. The license of any  
27 corporation shall be is automatically revoked, subject to Title  
28 5, chapter 375, upon the change in ownership, legal or equitable,  
29 of 50% or more of the voting stock of the corporation and the  
30 corporation shall may not hold a harness horse race or meet for  
31 public exhibition without a new license.

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

34 A. The revenues to be generated, consistent with the  
35 profitability and financial health of the licensee, for the  
36 General Fund pursuant to section 275; the purse supplements  
37 pursuant to section 275; the Sire Stakes Fund pursuant to  
38 section 281; and the Stipend Fund pursuant to Title 7,  
39 section 62;

42 B. The quality of race programming and facilities offered  
43 and to be offered by the licensee and the suitability of the  
44 applicant's racing facilities for operation at the season  
45 for which the dates are requested;

46 C. The necessity of having and maintaining proper physical  
47 facilities for racing meetings; and consequently, to insure  
48 the continuance of the facilities, the quality of the

- 2 licensee's maintenance of its track and plant, the adequacy  
of its provisions for rehabilitation and capital  
4 improvements and the necessity of fair treatment of the  
economic interests and investments of those who, in good  
6 faith, have provided and maintained racing facilities;
- 8 D. The desirability of reasonable consistency in the  
pattern of date assignments from year to year;
- 10 E. With respect to agricultural societies seeking licenses  
to conduct harness racing meets at the time of their annual  
12 fairs, the scheduling of agricultural fairs determined by  
the Commissioner of Agriculture, Food and Rural Resources  
14 pursuant to Title 7, sections 65 and 65-A;
- 16 F. The preservation of a diversity of harness racing tracks  
in the State;
- 18 G. The quality of the licensee's observance and enforcement  
20 of this chapter and the rules promulgated pursuant to this  
chapter during the past year;
- 22 H. The extent to which the licensee fully utilized racing  
24 dates granted to it for the past year;
- 26 I. The personnel and resources available to the commission  
for the enforcement of this chapter and the rules  
28 promulgated pursuant to this chapter;
- 30 J. The likely availability of race-worthy horses throughout  
the year; and
- 32 K. Such other criteria consistent with the betterment of  
34 harness racing and the public health, safety and welfare as  
the commission may establish by rule.

36 3. **Overlapping race dates.** The commission shall may not  
38 award overlapping race dates for extended meets to licensees  
which are within 50 miles of each other without the approval of  
40 60% or more of the entire commission.

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



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

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

20       §274-A. Off-track betting

22       1. Definitions. As used in this section, unless the  
24       context otherwise indicates, the following terms have the  
26       following meanings.

28       A. "Commercial track" means a harness horse racing track  
30       licensed under this chapter to conduct harness horse racing  
32       with pari-mutuel wagering that conducted racing on more than  
34       25 days in the previous calendar year.

36       B. "Exotic wagers" means wagers in which the bettor selects  
38       2 or more horses in one or more races in a single wager.

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

46       D. "Municipal officers" has the same meaning as in Title  
48       28-A, section 2, subsection 21, except that when an  
      off-track betting facility is proposed in an unincorporated  
      location, the term "municipal officers" means the county  
      commissioners of the county in which the facility is to be  
      located and the term "municipality" means the unincorporated  
      location.

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  
      pari-mutuel wagering on simulcast racing.

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

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

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

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 prescribed by the commission that specifies at least the following:

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

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

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

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

E. The total seating capacity of the proposed facility;

F. The size and number of toilet facilities;

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

H. The number of available parking spaces;

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

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

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

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

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

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

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

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

26          C. Following the public hearing, the municipal officers  
28          shall grant or deny approval of the facility and shall  
30          indicate the reasons for their decision and provide a copy  
          to the applicant.

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

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

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

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

44           (4) Conditions of record such as waste disposal  
46           violations, health or safety violations or repeated  
48           parking or traffic violations on or in the vicinity of  
50           the facility and caused by persons patronizing or  
          employed by the facility or other such conditions  
          caused by persons patronizing or employed by the  
          facility that unreasonably disturb, interfere with or

2 affect the ability of persons or businesses residing or  
3 located in the vicinity of the facility to use their  
4 property in a reasonable manner;

5 (5) Repeated incidents of record of breaches of the  
6 peace, disorderly conduct, vandalism or other  
7 violations of law on or in the vicinity of the facility  
8 and caused by persons patronizing or employed by the  
9 facility; or

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

11 E. An applicant aggrieved by the decision of the municipal  
12 officers under this section may appeal to the Superior  
13 Court. Denial of approval on the grounds listed under  
14 paragraph D, subparagraph (1) is not reviewable by the court.

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

20 A. The commission finds that the facility:

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

22 (2) Will not adversely affect the integrity of live  
23 racing;

24 (3) Will not have an adverse impact on the local  
25 community;

26 (4) Provides a potential for job creation, including  
27 jobs in the racing and wagering industries and other  
28 service jobs;

29 (5) Has adequate seating facilities, toilet facilities  
30 and parking;

31 (6) Will not adversely affect the value of abutting  
32 property;

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

36 (8) Provides segregated areas for conducting betting  
37 separate from the areas in which restaurant or other

2           services are provided to the general public for  
3           nonbetting purposes:

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

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

10           6. Operation of facility. An off-track betting licensee  
11           may not permit a person under the age of 16 to enter the facility  
12           unless accompanied by a parent, legal guardian or custodian, as  
13           defined in Title 22, section 4002. The off-track betting  
14           licensee may not permit any person under the age of 16 within 15  
15           feet of any betting window or other place for accepting wagers.

16           7. Limitations on simulcasting. The following limits apply  
17           to simulcasting to off-track betting facilities.

18           A. A person may not simulcast to an off-track betting  
19           facility located within a 75-mile radius of another  
20           licensee, at the same time that other licensee is conducting  
21           live racing, without permission from that licensee and the  
22           commission. A person may not simulcast to an off-track  
23           betting facility within a 50-mile radius of another  
24           licensee, during any day on which that other licensee is  
25           conducting live racing, without permission from that  
26           licensee and the commission.

27           B. Races conducted outside the State may be simulcast to an  
28           off-track betting facility within the State only if those  
29           races are being simulcast to the off-track betting  
30           licensee's racetrack at the same time.

31           8. Annual report. The commission shall report annually by  
32           January 1st to the joint standing committee of the Legislature  
33           having jurisdiction over legal affairs matters and to the joint  
34           standing committee of the Legislature having jurisdiction over  
35           agricultural matters on the effect of off-track betting  
36           facilities on the local economy, the public interest, the  
37           integrity of live racing and other matters the commission finds  
38           appropriate. The commission may include in its report any  
39           recommendations for necessary changes in laws governing off-track  
40           betting.

41           9. Betting commissions. Commissions on pools of regular  
42           wagers may not exceed 18% of each dollar wagered and commissions  
43           on pools of exotic wagers may not exceed 26% of each dollar  
44           wagered.

2 wagered. In addition, the odd cents of all redistribution, based  
4 on each dollar wagered, whether regular wagers or exotic wagers,  
4 exceeding a sum equal to the next lowest multiple of 10, known as  
4 "breakage," must be retained by the off-track betting licensee.

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

10 A. The off-track betting licensee shall pay a sum equal to  
12 1.18% of the total contributions on exotic wagers and a sum  
14 equal to 1.203% of the total contributions on regular wagers  
14 to the commission to be credited to the agricultural fair  
14 Stipend Fund established by Title 7, section 62.

16 B. The off-track betting licensee shall pay a sum equal to  
18 1.566% of the total contributions on exotic wagers and a sum  
20 equal to .073% of the total contributions on regular wagers  
20 to the commission to be credited to the Sire Stakes Fund  
20 established by section 281.

22 C. The off-track betting licensee shall retain 3.347% of  
24 the total contributions on exotic wagers and .533% of the  
24 total contributions on regular wagers and add that sum to  
24 purse money.

26 D. The off-track betting licensee shall pay a sum equal to  
28 2.27% of the total contributions on exotic wagers and .50%  
28 of the total contributions on regular wagers to the  
30 Treasurer of State to be paid to the General Fund.

32 E. The off-track betting licensee shall pay a sum of 1% of  
34 the total contributions on exotic wagers and 1% of the total  
36 contributions on regular wagers to the commission. This sum  
38 must be returned to the licensees conducting harness racing  
40 for the purpose of supplementing purse money. This sum must  
42 be divided equally among the licensees in the proportion  
42 that the number of racing days of a licensee granted by the  
42 commission and actually raced bears to the total number of  
42 racing days granted in any one year by the commission and  
42 actually raced by licensees. Payments must be made to the  
42 licensees by the end of the calendar year.

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

46 Sec. 12. 8 MRSA §275, as amended by PL 1989, c. 787, Pt. A,  
46 §3, is further amended to read:

2 §275. Taxes

4 Beginning ~~January 1, 1983,~~ each Each person, association or  
6 corporation licensed to conduct a race meet under this chapter  
8 shall pay to the Treasurer of State, to be credited to the  
10 General Fund of the State, a sum equal to .50% of the total  
12 contributions of regular wagers and 2.27% of the total  
14 contributions of exotic wagers to all pari-mutuel pools conducted  
16 or made at any race or race meet licensed under this chapter. If  
18 the total of the regular and exotic wagers exceeds \$37,000,000  
20 \$33,500,000 for any calendar year, 72% of the revenue credited to  
22 the General Fund under this section attributable to this excess  
24 shall must be returned by the Treasurer of State to commercial  
26 meet licensees. As used in this chapter, the term "commercial  
28 meet" means any meeting where harness racing is held with an  
30 annual total of more than 25 racing days duration with  
32 pari-mutuel wagering. This payment shall must be divided in the  
34 proportion that the contributors of regular and exotic wagers of  
36 pari-mutuel pools made or conducted at the commercial meets of  
38 each licensee during the calendar year bear to the total  
40 contributions of regular and exotic wagers to pari-mutuel pools  
42 made or conducted at the commercial meets of all licensees during  
44 that calendar year. Licensees sharing in this distribution shall  
46 use 1/2 of the funds so received for the purpose of supplementing  
48 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  
hersewomen, 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  
licensees must submit plans for the improvements to the Maine  
Harness Racing Commission and receive approval from the  
commission prior to making the improvements and the commission  
must verify that the approved improvements have been made. For  
the purpose of this section, "improvements" means the amount paid  
out for new buildings or for permanent improvements made to  
improve the facilities utilized by the licensee for conduct of  
its racing meetings; or the amount expended in restoring property  
or in improving the facility or any part of the facility which  
that results in the addition or replacement of a fixed asset. In  
general, the amounts referred to as improvements include amounts  
paid which that add to the value, improve or substantially  
prolong the useful life of the race track utilized by the  
licensee for the conduct of its racing meeting. Amounts paid or  
incurred for repairs and maintenance of property, interest  
expense or lease payments in connection with the capital

2 improvements are not improvements within the meaning of this  
3 section. In addition, 9% of the revenue credited to the General  
4 Fund under this section attributable to this excess shall must be  
5 distributed to the stipend fund provided by Title 7, section 62.  
6 Further, 9% of the revenue credited to the General Fund under  
7 this section attributable to this excess shall must be paid to  
8 the commission to be credited to the Sire Stakes Fund, provided  
9 in section 281. A sum equal to 1.550% of the total contributions  
10 on exotic wagers and .185% of the total contributions on regular  
11 wagers on all pari-mutuel pools conducted or made at any race or  
12 race meet licensed under this chapter shall must be retained by  
13 the licensee and added to purse money.

14 A sum equal to 1% of the total contributions on regular  
15 wagers and a sum equal to 1% of the total contributions on exotic  
16 wagers on all pari-mutuel pools conducted or made at any race or  
17 race meet licensed under this chapter must be paid and returned  
18 to the licensees for the purpose of supplementing purse money.  
19 This sum must be divided equally among the licensees in the  
20 proportion that the number of racing days of a licensee granted  
21 by the commission and actually raced bears to the total number of  
22 racing days granted in any one year by the commission and  
23 actually raced by licensees. Payments are made to these licensees  
24 by the end of the calendar year. A sum equal to 1.797% of the  
25 total contributions on exotic wagers and .348% of the total  
26 contributions on regular wagers on all pari-mutuel pools  
27 conducted or made at any race or race meet licensed under this  
28 chapter must be retained by the licensee and added to purse  
29 money. ~~Notwithstanding other provisions of this section, the~~  
30 ~~Treasurer of State shall credit \$3,380 of the amount received~~  
31 ~~under this section in fiscal year 1989-90 to the Legislative~~  
32 ~~Account to provide funding for a study of the harness racing~~  
33 ~~industry.~~

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

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

42 **§279-A. Licenses, rules and regulations for participating in**  
43 **racing**

44 For the purpose of enabling the State Harness Racing  
45 Commission to exercise and maintain a proper control over racing  
46 conducted under this chapter, the commission shall ~~have the power~~  
47 ~~to make and~~ may adopt rules and ~~regulations~~ for the licensing,  
48 with or without fee in the discretion of the commission, of  
49



owners, trainers, drivers, grooms and all other persons participating in harness horse racing, including pari-mutuel employees and race officials.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 **§283. Reciprocal disciplinary action**

38 The commission shall act to obtain current listings from  
40 other states of persons in harness racing occupations regulated  
42 by the state who have been refused a license or who have had  
44 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.

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

2		1991-92	1992-93
4	<b>AGRICULTURE, FOOD AND RURAL</b>		
6	<b>RESOURCES, DEPARTMENT OF</b>		
8	<b>State Harness Racing Commission</b>		
10	Positions		(1.0)
12	Personal Services	\$7,222	\$72,154
14	All Other	205,271	280,741
16	Capital Expenditures		2,000
18	Provides funds for a		
20	full-time chair position		
22	beginning in fiscal year		
24	1992-93, a range change for		
26	the State Racing Steward		
28	positions, compensation for		
30	presiding and associate		
32	judges, recodifying and		
34	printing racing laws, the		
36	expenses of the Association		
38	of Racing Commissioners		
40	International membership and		
42	related travel, annual		
44	reporting requirements and		
46	general operating expenses.		
48			
30	<b>DEPARTMENT OF AGRICULTURE, FOOD</b>		
32	<b>AND RURAL RESOURCES</b>		
34	<b>TOTAL</b>	\$212,493	\$354,895

34       **Sec. 18. Transition.** After the effective date of this Act and  
36 before July 1, 1992, the Governor shall either select a chair  
38 meeting the qualifications of the Maine Revised Statutes, Title  
40 8, section 261, subsection 5, from the existing members or shall  
42 appoint a new member to serve as chair replacing that existing  
44 member whose term is to expire next.

46       Except as provided in this section, all members of the State  
48 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.



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

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

14           This bill repeals the sunset provision concerning  
simulcasting and allows this program to operate during the first  
16 8 weeks of every year. Since no funds were budgeted due to the  
statutory repeal provision, this bill will result in additional  
18 revenue to the General Fund in an amount that can not be  
determined at this time.' '

20

#### STATEMENT OF FACT

22

24           This amendment requires proposed rules on off-track betting  
and the annual report on off-track betting be sent to both the  
Joint Standing Committee on Legal Affairs and the Joint Standing  
26 Committee on Agriculture. All other provisions of Committee  
Amendment "A", as amended by House Amendment "A" thereto, are  
28 incorporated in this amendment unchanged.

30

This amendment amends the harness racing laws to :

32

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

36

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

40

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

44

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

46

5. Require that the commission contract with, pay and  
48 assign presiding and associate track judges. The commission will  
be reimbursed by the tracks and fairs for the per diem of those

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2 judges assigned to them. Currently, the State licenses judges  
and the tracks employ them;

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

6  
8 7. Change the recipient of the commission's annual report  
from the Governor to the Commissioner of Agriculture, Food and  
10 Rural Resources with a copy to the Governor, the joint standing  
committee of the Legislature having jurisdiction over  
12 agricultural matters and the Executive Director of the  
Legislative Council;

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

16  
18 9. Raise permitted annual fees for participating in any  
other licensed racing activity from \$10 to not more than \$100;

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

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

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

34  
36 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  
38 threshold is due to the closing of a racetrack in 1989, making  
the present \$37,000,000 threshold no longer realistic. One-half  
40 of the returned funds is used to supplement and add purse money  
and 1/2 is used for the improvement of racing facilities. The  
42 amendment also specifies conditions that must be met for  
commercial licensees to receive reimbursement for improvements;

44  
46 14. Raise the maximum fine that the commission is  
authorized to levy, pursuant to the Maine Revised Statutes, Title  
8, section 279-B, from \$100 to \$1,000. Title 8, section 273  
48 provides for fines up to \$5,000 or imprisonment of not more than

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2 one year. Because of the severity of the fines authorized in  
Title 8, section 273, these penalties require provisions for  
protection of defendant rights;

4

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  
violations. The commission may delegate this authority to its  
executive director until July 1, 1992. After July 1, 1991, the  
12 commission may delegate this authority to its chair.

14

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