

MAINE STATE LEGISLATURE

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

HOUSE AMENDMENT "D" 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'Sec. 1. 2 MRSA §6, sub-§2, as repealed and replaced by PL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
15	Sport and Enter-	Racing Commis-	Per Diem	§261
16	tainment	sion		<u>§261-A</u>

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20 §48, is repealed.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. Geographic distribution. The members must be appointed
to provide broad geographic representation.

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

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

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

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

34 8. Conflict of interest. A commission member may not
36 participate in any matter before the commission in which that
38 member has a direct or indirect pecuniary interest or personal
40 bias or if any other conflict of interest is determined by the
42 commission to exist, either on its own motion or in response to a
44 written complaint.

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

30 **§262. Organization**

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

42 Sec. 6. 8 MRSA §264, as amended by PL 1985, c. 785, Pt. B,
44 §50, is repealed and the following enacted in its place:

46 **§264. Employees**

48 The commission shall contract with or employ, and shall
prescribe the duties of, all persons it determines necessary to
carry out the purposes of this chapter. Except as provided in

2 this section, the appointment and compensation of this staff are
3 subject to the Civil Service Law.

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

14 Sec. 7. 8 MRSA §265, as repealed and replaced by PL 1983, c.
15 812, §56, is amended to read:

16 **§265. Compensation**

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

22 Sec. 8. 8 MRSA §267 is repealed and the following enacted in
23 its place:

24 **§267. Budget; report**

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

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

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

4 **§268. Rules**

6 The commission shall make adopt rules and ~~regulations~~ for
the holding, conducting and operating of all harness horse races
8 or meets for public exhibition held in this State and for the
operation of ~~race-tracks~~ racetracks on which any such race or
10 meet is held; notwithstanding any other provision of law, harness
horse races or meets held on Sunday shall ~~may~~ not commence until
12 the hour of 1 p.m.

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

28 The commission may authorize licensees of extended meets to
provide for the simulcasting of entire racing cards during the
30 first 6 8 weeks of each year. ~~This paragraph is repealed January~~
~~1, 1992.~~

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

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

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

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

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

36 A. The revenues to be generated, consistent with the
37 profitability and financial health of the licensee, for the
38 General Fund pursuant to section 275; the purse supplements
39 pursuant to section 275; the Sire Stakes Fund pursuant to
40 section 281; and the Stipend Fund pursuant to Title 7,
41 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
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49
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2 the continuance of the facilities, the quality of the
licensee's maintenance of its track and plant, the adequacy
4 of its provisions for rehabilitation and capital
improvements and the necessity of fair treatment of the
6 economic interests and investments of those who, in good
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
12 to conduct harness racing meets at the time of their annual
fairs, the scheduling of agricultural fairs determined by
14 the Commissioner of Agriculture, Food and Rural Resources
pursuant to Title 7, sections 65 and 65-A;

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

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

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

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

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

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

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

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

50

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

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

12 **§274-A. Off-track betting**

14 1. Definitions. As used in this section, unless the
15 context otherwise indicates, the following terms have the
16 following meanings.

18 A. "Commercial track" means a harness horse racing track
19 licensed under this chapter to conduct harness horse racing
20 with pari-mutuel wagering that conducted racing on more than
21 25 days in the previous calendar year.

22 B. "Exotic wagers" means wagers in which the bettor selects
23 2 or more horses in one or more races in a single wager.

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

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

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

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

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

42 2. Off-track betting on simulcast racing. A person
43 licensed to operate a commercial track in this State may conduct
44 off-track betting on simulcast racing.

2 pari-mutuel wagering at an off-track betting facility in the
State if the facility is licensed under this section.

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

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

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

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

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

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

24 F. The size and number of toilet facilities;

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

30 H. The number of available parking spaces;

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

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

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

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

46 M. The number, type and quality of the television equipment
48 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
3 license to conduct pari-mutuel wagering at an off-track betting
4 facility unless the facility is approved, in accordance with this
5 subsection, by the municipal officers of the municipality in
6 which the facility is to be located.

7
8 A. Within 15 days after receiving an application for an
9 off-track betting facility license, the commission shall
10 notify the municipal officers of the municipality in which
11 the facility is to be located and shall send a copy of the
12 application to those officers. The municipal officers shall
13 hold a public hearing for the consideration of the
14 application in accordance with this subsection.

15
16 B. The municipal officers shall provide public notice of
17 any hearing held under this subsection by causing a notice
18 stating the name and place of hearing, at the applicant's
19 prepaid expense, to appear on at least 6 consecutive days
20 before the date of hearing in a daily newspaper having
21 general circulation in the municipality where the facility
22 will be located or on 2 consecutive weeks before the date of
23 the hearing in a weekly newspaper having general circulation
24 in the municipality where the facility is to be located.

25
26 C. Following the public hearing, the municipal officers
27 shall grant or deny approval of the facility and shall
28 indicate the reasons for their decision and provide a copy
29 to the applicant.

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

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

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

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

39 (4) Conditions of record such as waste disposal
40 violations, health or safety violations or repeated
41 parking or traffic violations on or in the vicinity of
42 the facility and caused by persons patronizing or
43 employed by the facility or other such conditions
44 caused by persons patronizing or employed by the
45 facility that unreasonably disturb, interfere with or
46 affect the ability of persons or businesses residing or
47 conducting business in the vicinity of the facility.
48
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2 located in the vicinity of the facility to use their
property in a reasonable manner;

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

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

12 E. An applicant aggrieved by the decision of the municipal
officers under this section may appeal to the Superior
14 Court. Denial of approval on the grounds listed under
paragraph D, subparagraph (1) is not reviewable by the court.
16

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

22 A. The commission finds that the facility:

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

26 (2) Will not adversely affect the integrity of live
28 racing;

30 (3) Will not have an adverse impact on the local
32 community;

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

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

40 (6) Will not adversely affect the value of abutting
42 property;

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

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

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

6 C. Approval by the commission will not permit the person
7 licensed to conduct pari-mutuel wagering at more than 4
8 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.

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

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

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

44 9. Betting commissions. Commissions on pools of regular
45 wagers may not exceed 18% of each dollar wagered and commissions
46 on pools of exotic wagers may not exceed 26% of each dollar
47 wagered. In addition, the odd cents of all redistribution, based
48 on each dollar wagered, whether regular wagers or exotic wagers,
49 may not exceed 1% of each dollar wagered.

2 exceeding a sum equal to the next lowest multiple of 10, known as
3 "breakage," must be retained by the off-track betting licensee.

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

6
7 A. The off-track betting licensee shall pay a sum equal to
8 1.18% of the total contributions on exotic wagers and a sum
9 equal to 1.203% of the total contributions on regular wagers
10 to the commission to be credited to the agricultural fair
11 Stipend Fund established by Title 7, section 62.

12
13 B. The off-track betting licensee shall pay a sum equal to
14 1.566% of the total contributions on exotic wagers and a sum
15 equal to .073% of the total contributions on regular wagers
16 to the commission to be credited to the Sire Stakes Fund
17 established by section 281.

18
19 C. The off-track betting licensee shall retain 3.347% of
20 the total contributions on exotic wagers and .533% of the
21 total contributions on regular wagers and add that sum to
22 purse money.

23
24 D. The off-track betting licensee shall pay a sum equal to
25 2.27% of the total contributions on exotic wagers and .50%
26 of the total contributions on regular wagers to the
27 Treasurer of State to be paid to the General Fund.

28
29 E. The off-track betting licensee shall pay a sum of 1% of
30 the total contributions on exotic wagers and 1% of the total
31 contributions on regular wagers to the commission. This sum
32 must be returned to the licensees conducting harness racing
33 for the purpose of supplementing purse money. This sum must
34 be divided equally among the licensees in the proportion
35 that the number of racing days of a licensee granted by the
36 commission and actually raced bears to the total number of
37 racing days granted in any one year by the commission and
38 actually raced by licensees. Payments must be made to the
39 licensees by the end of the calendar year.

40
41 11. Repeal. This section is repealed 91 days after
42 adjournment of the First Regular Session of the 117th Legislature.

43
44 Sec. 12. 8 MRSA §275, as amended by PL 1989, c. 787, Pt. A,
45 §3, is further amended to read:

46 **§275. Taxes**

47
48 Beginning January 1, 1983, each Each person, association or
49 corporation licensed to conduct a race meet under this chapter
50

2 shall pay to the Treasurer of State, to be credited to the
3 General Fund of the State, a sum equal to .50% of the total
4 contributions of regular wagers and 2.27% of the total
5 contributions of exotic wagers to all pari-mutuel pools conducted
6 or made at any race or race meet licensed under this chapter. If
7 the total of the regular and exotic wagers exceeds \$37,000,000
8 \$33,500,000 for any calendar year, 72% of the revenue credited to
9 the General Fund under this section attributable to this excess
10 shall must be returned by the Treasurer of State to commercial
11 meet licensees. As used in this chapter, the term "commercial
12 meet" means any meeting where harness racing is held with an
13 annual total of more than 25 racing days duration with
14 pari-mutuel wagering. This payment shall must be divided in the
15 proportion that the contributors of regular and exotic wagers of
16 pari-mutuel pools made or conducted at the commercial meets of
17 each licensee during the calendar year bear to the total
18 contributions of regular and exotic wagers to pari-mutuel pools
19 made or conducted at the commercial meets of all licensees during
20 that calendar year. Licensees sharing in this distribution shall
21 use 1/2 of the funds so received for the purpose of supplementing
22 purse money. ~~The other 1/2 of this distribution is to be used by~~
23 ~~the commercial licensees for improving their racing facilities~~
24 ~~for the benefit of the public, horse owners, horsemen and~~
25 ~~horsewomen, and to increase the revenue to the State from the~~
26 ~~increase in pari-mutuel wagering resulting from such~~
27 ~~improvements. The other 1/2 of this distribution must be paid to~~
28 the commercial licensees as reimbursement for improvements made
29 to their racing facilities in the calendar year during which the
30 funds are generated. To receive reimbursement, commercial
31 licensees must submit plans for the improvements to the Maine
32 Harness Racing Commission and receive approval from the
33 commission prior to making the improvements and the commission
34 must verify that the approved improvements have been made. For
35 the purpose of this section, "improvements" means the amount paid
36 out for new buildings or for permanent improvements made to
37 improve the facilities utilized by the licensee for conduct of
38 its racing meetings; or the amount expended in restoring property
39 or in improving the facility or any part of the facility which
40 that results in the addition or replacement of a fixed asset. In
41 general, the amounts referred to as improvements include amounts
42 paid which that add to the value, improve or substantially
43 prolong the useful life of the race track utilized by the
44 licensee for the conduct of its racing meeting. Amounts paid or
45 incurred for repairs and maintenance of property, interest
46 expense or lease payments in connection with the capital
47 improvements are not improvements within the meaning of this
48 section. In addition, 9% of the revenue credited to the General
49 Fund under this section attributable to this excess shall must be
50 distributed to the stipend fund provided by Title 7, section 62.
Further, 9% of the revenue credited to the General Fund under

2 this section attributable to this excess shall must be paid to
the commission to be credited to the Sire Stakes Fund, provided
4 in section 281. A sum equal to 1.550% of the total contributions
on exotic wagers and .185% of the total contributions on regular
6 wagers on all pari-mutuel pools conducted or made at any race or
race meet licensed under this chapter shall must be retained by
the licensee and added to purse money.

8
10 A sum equal to 1% of the total contributions on regular
wagers and a sum equal to 1% of the total contributions on exotic
12 wagers on all pari-mutuel pools conducted or made at any race or
race meet licensed under this chapter must be paid and returned
14 to the licensees for the purpose of supplementing purse money.
This sum must be divided equally among the licensees in the
16 proportion that the number of racing days of a licensee granted
by the commission and actually raced bears to the total number of
18 racing days granted in any one year by the commission and
actually raced by licensees. Payments are made to these licensees
20 by the end of the calendar year. A sum equal to 1.797% of the
total contributions on exotic wagers and .348% of the total
22 contributions on regular wagers on all pari-mutuel pools
conducted or made at any race or race meet licensed under this
chapter must be retained by the licensee and added to purse
24 money. ~~Notwithstanding other provisions of this section, the
Treasurer of State shall credit \$3,380 of the amount received
26 under this section in fiscal year 1989-90 to the Legislative
Account to provide funding for a study of the harness racing
28 industry.~~

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

34
36 **Sec. 13. 8 MRSA §279-A**, as repealed and replaced by PL 1975,
c. 35, is amended to read:

38 **§279-A. Licenses, rules and regulations for participating in
40 racing**

42 For the purpose of enabling the State Harness Racing
Commission to exercise and maintain a proper control over racing
44 conducted under this chapter, the commission shall ~~have the power
to make and~~ may adopt rules and ~~regulations~~ for the licensing,
46 with or without fee in the discretion of the commission, of
owners, trainers, drivers, grooms and all other persons
48 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.

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.

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

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

1. Delegation of authority to executive director. The commission may delegate to the commission's executive director, by rules adopted in accordance with the Maine Administrative Procedure Act, its authority to levy fines and suspensions for particular violations or classes of violations. The executive 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.

2. Delegation of authority to commission chair. The commission may delegate to the chair, by rules adopted in accordance with the Maine Administrative Procedure Act, its authority to levy fines and suspensions for particular violations 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.

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

§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		

2	Positions		(1.0)
	Personal Services	\$7,222	\$72,154
4	All Other	205,271	280,741
	Capital Expenditures		2,000

6
8 Provides funds for a
10 full-time chair position
12 beginning in fiscal year
14 1992-93, a range change for
16 the State Racing Steward
18 positions, compensation for
20 presiding and associate
22 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.

24 **DEPARTMENT OF AGRICULTURE, FOOD
AND RURAL RESOURCES**

26 **TOTAL** \$212,493 \$354,895

28 **Sec. 18. Transition.** After the effective date of this Act and
30 before July 1, 1992, the Governor shall either select a chair
32 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.

34 Except as provided in this section, all members of the State
36 Harness Racing Commission who are qualified and confirmed and are
38 serving on the effective date of this Act shall continue to serve
40 under this Act for a period at least equal to the terms under
42 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.

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

46 **FISCAL NOTE**

48 **1991-92** **1992-93**

APPROPRIATIONS/ALLOCATIONS

2
4

General Fund	\$212,493	\$354,895
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6
REVENUES

6
8

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

10 This bill will increase General Fund revenue by \$332,272 in
12 fiscal year 1991-92 and \$351,319 in fiscal year 1992-93 based on
14 a proposed increase in license fees, fines and reimbursements
16 from racetracks and fairs for the cost of presiding and
18 associated judges. The State Harness Racing Commission will
20 require General Fund appropriations of \$212,493 in fiscal year
22 1991-92 and \$354,895 in fiscal year 1992-93 for a full-time chair
24 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.

26 This bill allows off-track betting at facilities that
28 simulcast live racing. The additional betting from off-track
30 facilities will result in an increase in General Fund revenue of
32 \$36,915 for fiscal year 1991-92 and \$73,830 for fiscal year
34 1992-93. This estimate is based on the 1990 total handle and
36 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
and set the program up. The cost associated with approving
facilities and the annual report requirement will be absorbed by
the Department of Agriculture, Food and Rural Resources utilizing
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.

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

48 This bill lowers the threshold from \$37,000,000 to
50 \$33,500,000 at which excess revenue must be returned to
commercial meet licensees by the Treasurer of State. This change

will decrease General Fund revenue by an estimated \$44,913
2 annually.

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

10 STATEMENT OF FACT

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

24 This amendment amends the harness racing laws to :

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

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

38 3. Broaden the Maine Administrative Procedure Act
40 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,
46 subject to the Civil Service Law;

48 5. Require that the commission contract with, pay and
assign presiding and associate track judges. The commission will
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;

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

7. Change the recipient of the commission's annual report
from the Governor to the Commissioner of Agriculture, Food and
Rural Resources with a copy to the Governor, the joint standing
committee of the Legislature having jurisdiction over

HOUSE AMENDMENT "D" to COMMITTEE AMENDMENT "A" to H.P. 665, L.D.
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2 agricultural matters and the Executive Director of the
Legislative Council;

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

6
8 9. Raise permitted annual fees for participating in any
other licensed racing activity from \$10 to not more than \$100;

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

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

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

24
26 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
28 threshold is due to the closing of a racetrack in 1989, making
the present \$37,000,000 threshold no longer realistic. One-half
30 of the returned funds is used to supplement and add purse money
and 1/2 is used for the improvement of racing facilities. The
32 amendment also specifies conditions that must be met for
commercial licensees to receive reimbursement for improvements;

34
36 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
38 provides for fines up to \$5,000 or imprisonment of not more than
one year. Because of the severity of the fines authorized in
40 Title 8, section 273, these penalties require provisions for
protection of defendant rights;

42
44 15. Require that the commission honor license action
imposed by other states; and

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2 16. Permit the commission to delegate its authority to levy
3 fines and suspensions for particular violations or classes of
4 violations. The commission may delegate this authority to its
5 executive director until July 1, 1992. After July 1, 1991, the
6 commission may delegate this authority to its chair.

Filed by Rep. Tardy of Palmyra
Reproduced and distributed under the direction of the Clerk of the
House
(6/12/91) (Filing No. H-672)