

MAINE STATE LEGISLATURE

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

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

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

§268. Rules

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

The commission may adopt rules for the licensing and operation of off-track betting facilities. The commission shall mail notice of proposed rules or proposed amendments to rules related to off-track betting to each member of the joint standing committee of the Legislature having jurisdiction over legal affairs 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 This paragraph is repealed 91 days after adjournment of the First Regular Session of the 117th Legislature.

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 This paragraph is repealed January 1, 1992.

2 Sec. 2. 8 MRSa §274-A is enacted to read:

4 §274-A. Off-track betting

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

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

14 B. "Exotic wagers" means wagers in which the bettor selects
16 2 or more horses in one or more races in a single wager.

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

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

30 E. "Off-track betting facility" means a Class A restaurant,
32 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.

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

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

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

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

- 2 A. The number of permanent and part-time jobs to be created
 at the proposed facility;
- 4 B. The population of the municipality and surrounding area
 where the proposed facility is to be located;
- 6 C. The proximity of the proposed facility to any other
8 approved off-track betting facility or licensed racetrack;
- 10 D. The type of seating to be provided, including areas in
 the proposed facility where patrons can handicap races;
- 12 E. The total seating capacity of the proposed facility;
- 14 F. The size and number of toilet facilities;
- 16 G. The availability of food and beverages, including the
18 number of tables, chairs, kitchen facilities and concession
20 stands;
- 22 H. The number of available parking spaces;
- 24 I. A description of the general design or style of the
 facility, including lighting, decor and plans for the
26 exterior of the facility;
- 28 J. The number of betting windows and stand-alone betting
 terminals to be provided;
- 30 K. A description of the heating and air-conditioning units,
32 the smoke removal equipment and other climate control
 devices;
- 34 L. The total area in square feet of the proposed facility;
 and
- 36 M. The number, type and quality of the television equipment
38 to be installed and, if applicable, the name and place of
 business of any proposed independent contract operator.
- 40 4. Municipal approval. The commission may not grant a
42 license to conduct pari-mutuel wagering at an off-track betting
44 facility unless the facility is approved, in accordance with this
 subsection, by the municipal officers of the municipality in
46 which the facility is to be located.
- 48 A. Within 15 days after receiving an application for an
 off-track betting facility license, the commission shall
50 notify the municipal officers of the municipality in which
 the facility is to be located and shall send a copy of the
 application to those officers. The municipal officers shall

2 hold a public hearing for the consideration of the
application in accordance with this subsection.

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

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

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

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

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

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

32 (4) Conditions of record such as waste disposal
violations, health or safety violations or repeated
34 parking or traffic violations on or in the vicinity of
the facility and caused by persons patronizing or
36 employed by the facility or other such conditions
caused by persons patronizing or employed by the
38 facility that unreasonably disturb, interfere with or
affect the ability of persons or businesses residing or
40 located in the vicinity of the facility to use their
property in a reasonable manner;

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

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

50 E. An applicant aggrieved by the decision of the municipal
52 officers under this section may appeal to the Superior

2 Court. Denial of approval on the grounds listed under
paragraph D, subparagraph (1) is not reviewable by the court.

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

10 A. The commission finds that the facility:

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

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

16 (3) Will not have an adverse impact on the local
18 community;

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

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

26 (6) Will not adversely affect the value of abutting
28 property;

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

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

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

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

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

2 7. Limitations on simulcasting. The following limits apply
3 to simulcasting to off-track betting facilities.

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

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

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

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

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

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

43
44 B. The off-track betting licensee shall pay a sum equal to
45 1.566% of the total contributions on exotic wagers and a sum
46 equal to .073% of the total contributions on regular wagers
47 to the commission to be credited to the Sire Stakes Fund
48 established by section 281.
49
50

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

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

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

22 **FISCAL NOTE**

24		1991-92	1992-93
26	REVENUES		
28	General Fund	\$36,915	\$73,830
30	Other Funds	72,525	145,050

32 This bill allows off-track betting at facilities that
34 simulcast live racing. The additional betting from off-track
36 facilities will result in an increase in General Fund revenue of
38 \$36,915 for fiscal year 1991-92 and \$73,830 for fiscal year
40 1992-93. This estimate is based on the 1990 total handle and
anticipates an additional increase of 12% from off-track
betting. The fiscal year 1991-92 estimate assumes only a
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 Sire Stakes Fund and the Horsemen's Purse
account in the amount of \$72,525 for fiscal year 1991-92 and
\$145,000 for fiscal year 1992-93.'

42 **STATEMENT OF FACT**

44 This amendment replaces the original bill. The amendment:
46
48 1. Grants authority to the Harness Racing Commission to
50 adopt rules for the licensing and operation of off-track betting
52 facilities and requires notice to the Joint Standing Committee on
Legal Affairs of any proposed rule or amendment;

2. Adds definitions;

3. Clarifies that only operators of licensed tracks in the State who conducted racing on at least 25 days in the previous year may conduct pari-mutuel wagering at off-track betting facilities;

4. Requires municipal approval of an off-track betting facility;

5. Requires the Harness Racing Commission to make specific findings before approving a license for an off-track betting facility;

6. Requires an off-track betting licensee to ensure that persons under 16 years of age do not enter the off-track betting facility unless accompanied by a parent, guardian or custodian and that persons under 16 years of age stay at least 15 feet from any betting window;

7. Prohibits simulcasting to an off-track betting facility within 50 miles of any live racing on the same day, or within 75 miles during the same hours as that live racing, without approval of the licensee of those races and the commission;

8. Permits simulcasting to off-track betting facilities of races from outside the State only if the races are also being simulcast to the off-track betting licensee's racetrack;

9. Changes the recipient of the report from the Joint Standing Committee on Agriculture to the Joint Standing Committee on Legal Affairs;

10. Changes the distribution of commissions on off-track betting wagers to be essentially the same as the distribution on wagers made at the track;

11. Repeals the authority for off-track betting facilities 91 days after adjournment of the 117th Legislature and requires the commission to report to the Joint Standing Committee on Legal Affairs by January 1, 1995; and

12. Adds a fiscal note to the bill.

Reported by the Majority of the Committee on Legal Affairs
Reproduced and distributed under the direction of the Clerk of the House
(6/4/91) (Filing No. H-541)