

# MAINE STATE LEGISLATURE

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L.D. 1670

DATE: 3/25/94

(Filing No. H- 948 )

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
116TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1243, L.D. 1670, Bill, "An Act to Amend the Harness Racing Laws"

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 §271, sub-§1, as amended by PL 1991, c. 579, §10, is further amended to read:

1. **Licensing.** If the commission is satisfied that all of this chapter and rules prescribed by the commission have been substantially complied with during the past year and will be fully complied with during the coming year by the person, association or corporation applying for a license; that the applicant, its members, directors, officers, shareholders, 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 must expire on December 31st. The license may include conditions the commission determines reasonable. 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 annually the greater of \$100 or \$10 for each calendar week or part of a week of harness racing regardless of whether pari-mutuel pools are sold. The commission shall provide a booklet containing harness racing laws and rules and relevant portions of the Maine Administrative Procedure Act to every

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

26 Sec. 2. 8 MRSA §275, sub-§2-A is enacted to read:

28 2-A. License and application fees. A person granted an  
 30 initial off-track betting license or a renewal license must pay a  
 32 license fee of \$500. An applicant for an initial license must  
 34 also submit a nonrefundable application fee of \$1,000 with the  
initial application. License fees must be placed in a dedicated,  
nonlapsing account to be used by the commission for the conduct  
of its activities.

36 Sec. 3. 8 MRSA §275-D, sub-§§3 and 4, as enacted by PL 1993, c.  
38 388, §8, are amended to read:

40 3. Notice to commercial racetracks; objections. An  
 42 applicant shall send written notice of its application for an  
 44 off-track betting license to any commercial racetrack ~~in whose~~  
~~market area the facility will be located and~~ within 50 miles of  
the proposed facility, measured along the most direct reasonable  
route of travel. The applicant shall present proof to the  
 46 commission that it has provided the notice. The notice must  
 48 include all information contained in the application except  
 50 information described in paragraph Q. A commercial racetrack  
 52 shall notify the commission within 30 days of receiving notice if  
the racetrack objects to the location of the facility based on  
adverse impact to the commercial track. The commission shall  
suspend consideration of the application for the 30-day objection

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period. If, within the 30-day period, the commission receives an objection from a racetrack in whose market area the facility would be located ~~within the 30-day period,~~ the commission shall reject the application. If the commission does not receive an objection within that period, the commission may proceed to consider the application. ~~For purposes of this section, the market area is the area within a 50-mile radius of the commercial racetrack, except that the market area changes to a 37.5-mile radius on November 1, 1994 if the commission has not issued a license for an off-track betting facility in the State by November 1, 1994 and to a 25-mile radius on November 1, 1995 if the commission has not issued a license for an off-track betting facility in the State by November 1, 1995.~~

4. **Notice to off-track betting facilities; objections.** An applicant shall send written notice of its application for an off-track betting license to any existing off-track betting facility ~~in whose market area the proposed facility will be located and~~ within 35 miles of the proposed facility, measured along the most direct reasonable route of travel. The applicant shall present proof to the commission that it has provided the notice. The notice must include all information contained in the application except information described in paragraph Q. An existing off-track betting facility shall notify the commission within 30 days of receiving notice if the facility objects to the location of the proposed facility. The commission shall suspend consideration of the application for the 30-day objection period. If, within the 30-day period, the commission receives an objection from an off-track betting facility in whose market area the facility would be located ~~within the 30-day period,~~ the commission shall reject the application. If the commission does not receive an objection within that period, the commission may proceed to consider the application. ~~For purposes of this section, the market area is the area within a 35-mile radius of the off-track betting facility.~~

Sec. 4. 8 MRSA §275-D, sub-§§6-A to 6-C are enacted to read:

6-A. License conditions. An off-track betting license may include conditions the commission determines reasonable.

6-B. Renewal of license. An applicant seeking renewal of an off-track betting license need not comply with subsection 5. At least 30 days before renewing an off-track betting license, the commission shall notify the municipality in which the facility is located that the application is pending and of any changes proposed in the application. The municipal officers may comment within 30 days of receiving the notice on whether the facility violates or has violated in the past year any municipal zoning or other ordinance, on whether any proposed change in the off-track betting facility may constitute such a violation or on other matters of concern to the municipality. The commission

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shall take comments of the municipal officers into account in acting on the application.

6-C. Transfer of license on sale of facility. A license issued under this section is not transferable. If a licensed off-track betting facility is sold, the new owner of the facility may apply for an off-track betting license and the commission shall grant that person a license if:

A. The person submits the information required in subsection 2;

B. The commission finds that the facility meets the standards set forth in subsection 6, paragraphs A and C; and

C. The person submits the initial application fee and the license fee required by subsection 2-A.

Sec. 5. 8 MRSA §275-D, sub-§8, ¶A, as enacted by PL 1993, c. 388, §8, is amended to read:

A. An off-track betting facility located within a 75-mile radius 75 miles of a noncommercial racing licensee, measured along the most direct reasonable route of travel, may not present a simulcast at the same time that the racing licensee is conducting live racing, unless the racing licensee consents and the facility pays the racing licensee 2% of the wagers made at the facility at the time live racing is being conducted. An off-track betting facility within a 50-mile-radius 50 miles of a noncommercial racing licensee may not present a simulcast during any day on which that racing licensee is conducting live racing, unless the racing licensee consents and the facility pays the racing licensee 1% of the wagers made on that day. Amounts payable under this section are taken from the facility's share of wagers authorized in section 275-K.

Sec. 6. 8 MRSA §275-D, sub-§8, ¶C is enacted to read:

C. An off-track betting facility located within 35 miles of a commercial racing licensee, measured along the most direct reasonable route of travel, may not present a simulcast during a day on which that live racing licensee is conducting live racing, unless the live racing licensee agrees with the off-track betting licensee to permit simulcasts on that day.

Sec. 7. 8 MRSA §275-J, sub-§1, ¶B, as enacted by PL 1993, c. 388, §8, is amended to read:

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2 B. For wagers made at a racetrack on simulcast races,  
75.005% 75.004% of the commission on regular wagers and  
4 59.564% 59.565% of the commission on exotic wagers, which  
must be retained by the racetrack where the wager was placed.

6 Sec. 8. 8 MRSA §275-J, sub-§2, ¶C, as enacted by PL 1993, c.  
388, §8, is amended to read:

8 C. For wagers placed at an off-track betting facility on  
10 harness racing within the State, 7.889% of regular wagers  
and 7.923% 7.922% of exotic wagers, which must be sent by  
12 the off-track betting facility to the racetrack where the  
14 race was conducted; and

16 Sec. 9. 8 MRSA §275-K, sub-§1, as enacted by PL 1993, c. 388,  
§8, is amended to read:

18 1. Interstate commingled pools. An off-track betting  
facility may retain ~~61.857%~~ 61.856% of the commission on regular  
20 wagers made to interstate commingled pools and ~~50.422%~~ 50.423% of  
the commission on exotic wagers made to those pools.

22 Sec. 10. 8 MRSA §279-A, first ¶, as amended by PL 1991, c. 579,  
24 §13, is further amended to read:

26 For the purpose of enabling the State Harness Racing  
Commission to exercise and maintain a proper control over racing  
28 conducted under this chapter, the commission may adopt rules for  
the licensing, with or without fee in the discretion of the  
30 commission, of owners, trainers, drivers, grooms and all other  
persons participating in harness horse racing, including  
32 pari-mutuel employees and race officials. The licenses may  
include conditions the commission determines reasonable.

34 Further amend the bill by inserting at the end before the  
36 statement of fact the following:

38 FISCAL NOTE

40		1994-95
42		
44	<b>REVENUES</b>	
46	Other Funds	\$7,500

48 The establishment of application and licensing fees for  
50 off-track betting facilities will increase dedicated revenue

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collections. The estimated annual increase of dedicated revenue to the State Harness Racing Commission is \$7,500 beginning in fiscal year 1994-95.'

**STATEMENT OF FACT**

The amendment replaces the bill. It establishes application fees for new and renewal off-track betting licenses, requires the State Harness Racing Commission to notify municipal officers of a renewal application and permits municipal officers to comment on the application. The amendment also clarifies how mileage is to be measured, prohibits simulcasting at an off-track betting facility when commercial live racing is being conducted within 35 miles, unless the licensee permits the simulcast, and makes minor adjustments to the distribution of commissions to ensure that distributions add up to the correct number. The amendment also provides for a person who purchases a licensed facility to apply to continue off-track betting at that facility if that person meets certain criteria, and authorizes the commission to include conditions in all licenses it issues.

This amendment also adds a fiscal note to the bill.