

MAINE STATE LEGISLATURE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 619, L.D. 829, Bill, "An Act to Strengthen Maine's Live Harness Racing Industry"

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

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the harness racing industry is an important industry in the State; and

Whereas, a more equitable distribution of purse funds must be provided immediately in order to strengthen live racing in the State; and

Whereas, this legislation will provide for a more equitable distribution of purse funds; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 8 MRSA §271, sub-§1, as amended by PL 1991, c. 579, §10, is further amended to read:

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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 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 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 of the revisions, not to exceed \$10, in the renewal fee. The license must set forth the name of the licensee, the place where the races or race meets are to be held and the specific race dates and time of day or night during which racing may be conducted by the licensee. The location stated in the license where the race or race meet is to be held may be transferred to any other licensee on the dates set forth in the 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 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.

Sec. 2. 8 MRSa §271, sub-§2, as amended by PL 1993, c. 388, §4, is further amended to read:

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

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- 2 A. The revenues to be generated, consistent with the
4 profitability and financial health of the licensee, for the
6 General Fund pursuant to section 275-H; the purse
8 supplements pursuant to section 275-I; the Sire Stakes Fund
 pursuant to section 281; and the Stipend Fund pursuant to
 Title 7, section 62;

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

- 14 C. The necessity of having and maintaining proper physical
16 facilities for racing meetings; and consequently, to insure
18 the continuance of the facilities, the quality of the
20 licensee's maintenance of its track and plant, the adequacy
22 of its provisions for rehabilitation and capital
 improvements and the necessity of fair treatment of the
 economic interests and investments of those who, in good
 faith, have provided and maintained racing facilities;

- 24 D. The desirability of reasonable consistency in the
 pattern of race date assignments from year to year;

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

- 32 F. The preservation of a diversity of harness racing tracks
34 in the State;

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

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

- 42 I. The personnel and resources available to the commission
44 for the enforcement of this chapter and the rules
 promulgated pursuant to this chapter;

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

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

4
6 **Sec. 3. 8 MRSA §271, sub-§5**, as enacted by PL 1991, c. 579,
§10, is amended to read:

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

18 **Sec. 4. 8 MRSA §275-A, sub-§1-A** is enacted to read:

20 **1-A. Commercial meet.** "Commercial meet" means harness
horse racing conducted live at a commercial track.

22 **Sec. 5. 8 MRSA §275-A, sub-§9-A** is enacted to read:

24 **9-A. Race date.** "Race date" means a scheduled racing
26 program of not less than 8 separate live races. In the event of
cancellation of a portion of the scheduled racing program due to
28 weather, power failure or a decision to cancel by the presiding
judge on duty, a minimum of 5 live races actually raced
30 constitutes a race date. If a licensee schedules separate
programs for both an afternoon and an evening on the same
32 calendar day and each program qualifies as a race date under this
subsection, that licensee is granted one race date for each
34 program.

36 **Sec. 6. 8 MRSA §275-A, sub-§10-A** is enacted to read:

38 **10-A. Regular meeting.** "Regular meeting" means the period
of time from the first date a licensee is authorized to conduct
40 live racing through the last date a licensee is authorized to
conduct live racing, excluding periods of time longer than 14
42 days when the licensee is not authorized to conduct live racing.
Notwithstanding this subsection, the regular meeting of a
44 licensee that is licensed to conduct live racing in at least 6
separate calendar months includes the entire calendar year.

46 **Sec. 7. 8 MRSA §275-D, sub-§§3 and 4**, as corrected by RR 1993,
48 c. 2, §6, are amended to read:

50 **3. Notice to commercial racetracks; objections.** An
applicant shall send written notice of its application for an

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2 off-track betting license to any commercial racetrack in whose
 3 market area the facility will be located and shall present proof
 4 to the commission that it has provided the notice. The notice
 5 must include all information contained in the application except
 6 information described in subsection 2, paragraph Q. A
 7 commercial racetrack shall notify the commission within 30 days
 8 of receiving notice if the racetrack objects to the location of
 9 the facility based on adverse impact to the commercial track.
 10 ~~The commission shall suspend consideration of the application for~~
 11 ~~the 30 day objection period. If the commission receives an~~
 12 ~~objection from a racetrack in whose market area the facility~~
 13 ~~would be located within the 30 day period, the commission shall~~
 14 ~~reject the application. If the commission does not receive an~~
 15 ~~objection within that period, the commission may proceed to~~
 16 ~~consider the application. For purposes of this section, the~~
 17 ~~market area is the area within a 50 mile radius of the commercial~~
 18 ~~racetrack, except that the market area changes to a 37.5 mile~~
 19 ~~radius on November 1, 1994 if the commission has not issued a~~
 20 ~~license for an off-track betting facility in the State by~~
 21 ~~November 1, 1994 and to a 25 mile radius on November 1, 1995 if~~
 22 ~~the commission has not issued a license for an off-track betting~~
 23 ~~facility in the State by November 1, 1995.~~

24 **4. Notice to off-track betting facilities; objections.** An
 25 applicant shall send written notice of its application for an
 26 off-track betting license to any existing off-track betting
 27 facility in whose market area the proposed facility will be
 28 located and shall present proof to the commission that it has
 29 provided the notice. The notice must include all information
 30 contained in the application except information described in
 31 subsection 2, paragraph Q. ~~An existing off-track betting~~
 32 ~~facility shall notify the commission within 30 days of receiving~~
 33 ~~notice if the facility objects to the location of the proposed~~
 34 ~~facility. The commission shall suspend consideration of the~~
 35 ~~application for the 30 day objection period. If the commission~~
 36 ~~receives an objection from an off-track betting facility in whose~~
 37 ~~market area the facility would be located within the 30 day~~
 38 ~~period, the commission shall reject the application. If the~~
 39 ~~commission does not receive an objection within that period, the~~
 40 ~~commission may proceed to consider the application. For purposes~~
 41 ~~of this section, the market area is the area within a 35 mile~~
 42 ~~radius of the off-track betting facility.~~

44 **Sec. 8. 8 MRSA §275-D, sub-§5, ¶A,** as enacted by PL 1993, c.
 45 388, §8, is amended to read:

46
 47 A. Within 15 days after receiving an application for an
 48 off-track betting facility license ~~or within 15 days after~~
 49 ~~the expiration of the 30 day objection period described in~~
 50 ~~subsections 3 and 4 when the proposed facility is located~~

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2 within--the--market--area--of--an--existing--off-track--betting
3 facility--or--a--commercial--racetrack, the commission shall
4 notify the municipal officers of the municipality in which
5 the facility is to be located and shall send a copy of the
6 application to those officers. The municipal officers shall
7 hold a public hearing for the consideration of the
8 application in accordance with this subsection.

9 **Sec. 9. 8 MRSA §275-D, sub-§6, ¶¶B and C**, as enacted by PL
10 1993, c. 388, §8, are amended to read:

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

14 C. The commission is satisfied that the provisions of this
15 chapter and any rules prescribed by the commission will be
16 fully complied with during the coming year by the person,
17 association or corporation applying for a license; that the
18 applicant, its members, directors, officers, shareholders,
19 employees, creditors and associates are of good moral
20 character; and that the applicant is financially
21 responsible; and.

22 **Sec. 10. 8 MRSA §275-D, sub-§6, ¶D**, as enacted by PL 1993, c.
23 388, §8, is repealed.

24 **Sec. 11. 8 MRSA §275-D, sub-§8, ¶A**, as enacted by PL 1993, c.
25 388, §8, is amended to read:

26 A. An off-track betting facility located within a 75-mile
27 radius of a noncommercial racing licensee may not present a
28 simulcast at the same time that racing licensee is
29 conducting live racing, unless the racing licensee consents
30 and the facility pays the racing licensee 2% of the wagers
31 made at the facility at the time live racing is being
32 conducted. An off-track betting facility within a 50-mile
33 radius of a noncommercial racing licensee may not present a
34 simulcast during any day on which that racing licensee is
35 conducting live racing, unless the racing licensee consents
36 and the facility pays the racing licensee 1% of the wagers
37 made on that day. Amounts payable under this section are
38 taken from the facility's share of wagers authorized in
39 section 275-K. If the racing licensee is conducting
40 simulcasting pursuant to section 275-J, subsection 3, then
41 the racing licensee is not entitled to payment by the
42 facility under this section.

43 **Sec. 12. 8 MRSA §275-D, sub-§10** is enacted to read:

44

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2 10. Moratorium. Notwithstanding any other provision of
3 law, no new licenses for betting on simulcast racing at a
4 commercial track or for off-track betting on simulcast racing may
5 be considered until May 31, 1996. Renewal licenses may be issued
6 by the commission during the moratorium period.

7 Notwithstanding Title 1, section 302, this subsection applies to
8 all actions and proceedings in effect on the effective date of
9 this subsection.

10 **Sec. 13. 8 MRSA §275-F, sub-§3, ¶A,** as enacted by PL 1993, c.
11 388, §8, is amended to read:

12 A. The first \$295,000 \$400,000 of the total amount,
13 regardless of when actually collected, must be credited to
14 the Stipend Fund provided in Title 7, section 62.

15 **Sec. 14. 8 MRSA §275-F, sub-§3, ¶B,** as enacted by PL 1993, c.
16 388, §8, is repealed.

17 **Sec. 15. 8 MRSA §275-F, sub-§3, ¶C,** as enacted by PL 1993, c.
18 388, §8, is amended to read:

19 C. From the balance of the total amount in excess of
20 \$350,000 \$400,000, regardless of when actually collected,
21 80% must be paid and returned no later than 30 days after
22 the end of the calendar year to those persons, associations
23 and corporations that during that calendar year, conducted
24 an extended meet pursuant to a license granted by the
25 commission in section 271. This payment must be divided in
26 the proportion that the contributions of regular and exotic
27 wagers to pari-mutuel pools on live racing made or conducted
28 at the extended meets of each racing licensee during that
29 calendar year bear to the total contributions of regular and
30 exotic wagers to pari-mutuel pools on live racing made or
31 conducted at the extended meets of all racing licensees
32 during that calendar year. Licensees sharing in this
33 distribution shall use 1/2 of the funds so received for the
34 purpose of supplementing purse money.

35 The remaining 20% must be credited to the Stipend Fund
36 provided in Title 7, section 62.

37 **Sec. 16. 8 MRSA §275-H, sub-§3, ¶A,** as enacted by PL 1993, c.
38 388, §8, is amended to read:

39 A. The Treasurer of State must return to commercial meet
40 licensees 72% of the revenue credited to the General Fund
41 under this section attributable to amounts in excess of

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2 \$33,500,000. This payment must be divided in the proportion
3 that the contributions of regular and exotic wagers of
4 pari-mutuel pools on live racing made or conducted at the
5 commercial meets of each licensee during the calendar year
6 bear to the total contributions of regular and exotic wagers
7 to pari-mutuel pools on live racing made or conducted at the
8 commercial meets of all licensees during that calendar
9 year. Licensees sharing in this distribution shall use 1/2
10 of the funds received for the purpose of supplementing purse
11 money. The other 1/2 of this distribution must be paid to
12 the commercial licensees as reimbursement for improvements
13 made to their racing facilities in the calendar year during
14 which the funds are generated. To receive reimbursement,
15 commercial licensees must submit plans for the improvements
16 to the commission and receive approval from the commission
17 prior to making the improvements and the commission must
18 verify that the approved improvements have been made.

19 **Sec. 17. 8 MRSA §275-I, sub-§3**, as corrected by RR 1993, c. 2,
20 §7, is repealed and the following enacted in its place:

21 3. Distribution based on race dates. On May 30th,
22 September 30th and January 30th, payments made under subsections
23 1 and 2 for distribution in accordance with this subsection must
24 be divided among the licensees conducting live racing in the
25 State. The amount of the payment made to a licensee is
26 calculated by dividing the number of race dates on which the
27 licensee conducted live racing in any calendar year by the total
28 number of race dates on which all licensees conducted live racing
29 in that year. The January 30, 1996 payment must be adjusted to
30 reflect the dates on which live racing was actually conducted
31 during the months of May 1995 to December 1995. Beginning
32 January 30, 1997, the January 30th payment must be adjusted to
33 reflect the dates on which live racing was actually conducted
34 during the previous year, not the dates granted.

35 **Sec. 18. 8 MRSA §275-J, sub-§3**, as amended by PL 1993, c. 646,
36 §2, is further amended to read:

37 3. Distribution based on wagered amounts. On May 15th
38 30th, September 15th 30th and within 15 30 days after the close
39 of all off-track betting facilities for the year, amounts payable
40 under subsections 1 and 2 for distribution in accordance with
41 this subsection must be distributed to commercial race tracks and
42 the agricultural fair associations only for the dates assigned by
43 the Commissioner of Agriculture, Food and Rural Resources
44 pursuant to Title 7, section 65 in the State that provide
45 simulcast transmission of live racing in the State in proportion
46 to the amount of wagers placed at off-track betting facilities on
47 simulcast races from that licensee up to the last day of the
48 preceding month and the total amount wagered at off-track betting
49 facilities on races simulcast

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from all commercial racetracks up to that date. The last payment of the calendar year must be adjusted to reflect each licensee's wagers in proportion to the total wagered at off-track betting facilities in that calendar year.

Sec. 19. 8 MRSA §275-N, as enacted by PL 1993, c. 707, Pt. U, §2, is repealed and the following enacted in its place:

§275-N. Limitations on off-track betting facilities

The commission may not allow interstate simulcasting or license any off-track betting facility for any calendar year unless during the preceding calendar year there was at least 150 race dates on which live racing was actually conducted at the commercial tracks. Interstate simulcasting must always be allowed at any commercial track that conducted at least 136 race dates during the immediately preceding calendar year or at an existing commercial track as defined in section 275-A, subsection 1, paragraph B at which at least 35 race dates were conducted during the immediately preceding year. For the purposes of this section, any race date that the commission determines was canceled due to a natural or other disaster must be counted as a race date.

Notwithstanding any other provision of this chapter, every commercial track that is licensed for a specific calendar year must be assigned all of the race dates that it requests for that year if it conducted live racing on those dates during the immediately preceding calendar year. For the purposes of this section, a race date is the same from year to year if it is the closest calendar date that falls on the same day of the week.

Sec. 20. Application; 1995 wagers. All wagers from May 1, 1995 to December 31, 1995 are subject to the race date formula specified in section 17 of this Act. The calculation of payments due on September 30, 1995, January 30, 1996 and thereafter are based entirely upon that formula.

Sec. 21. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF Administration - Agriculture		
All Other	\$98,000	\$100,000

2008

2 Allocates funds to reflect an
4 increase in the amounts
6 distributed to agricultural
fairs.

8 **State Harness Racing Commission**

10 All Other (\$98,000) (\$100,000)

12 Deallocates funds to reflect
14 a decrease in the amounts
distributed to extended meets.

16 **DEPARTMENT OF AGRICULTURE, FOOD
AND RURAL RESOURCES
TOTAL**

\$-0- \$-0-

18
20 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.'

22
24 Further amend the bill by inserting at the end before the
statement of fact the following:

26
28 **FISCAL NOTE**

30 The redistribution of certain horse racing purse funds will
32 result in a net increase of \$98,000 and \$100,000 in dedicated
34 revenue to the Agricultural Fair Stipend account administered
36 through the Administration program within the Department of
38 Agriculture, Food and Rural Resources for fiscal years 1995-96
and 1996-97, respectively. The redistribution of these funds
will also result in a net decrease of dedicated revenue in these
same amounts paid to the Extended Meets Stipend account
administered through the State Harness Racing Commission
program. Allocations from these programs must be adjusted to
account for these dedicated revenue adjustments.'

40
42 **STATEMENT OF FACT**

44 The amendment replaces the original bill, but keeps the
46 provisions that change the distribution of purse funds, amend the
48 definition of "commercial meet," change the amount payable to the
Stipend Fund and change the criteria for the distribution of
amounts to supplement purses. The changes in the definition for
"commercial track" are deleted.

50
52 New provisions included in the amendment include:

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1. A change in the payment dates from the 15th of May, September and January to the 30th of May, September and January;
2. A provision to allow for the appropriate calculation of 1995 payments since the distribution formula changes in the middle of the year;
3. A definition for "race date";
4. A requirement that the State Harness Racing Commission grant a commercial track all the race dates it requests if it was granted those live race dates in the preceding year;
5. The removal of the automatic veto power of a racetrack or existing off-track betting facility over a new off-track betting facility application to prevent possible antitrust violations;
6. The criteria that live racing be conducted on a minimum of 150 race dates in Maine before any interstate simulcasting of off-track betting is permitted by the commission;
7. A moratorium on the issuance of new licenses for betting on simulcasting races until May 31, 1996 in order to prevent possible antitrust violations that may place the State at financial risk, until a comprehensive approach can be enacted. This moratorium applies to applications currently on file with the commission and to applications currently in litigation; and
8. An allocation section and a fiscal note to the bill.