

MAINE STATE LEGISLATURE

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M
R. d. s.

L.D. 829

2 DATE: 6/21/95

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

12
14 HOUSE AMENDMENT "B" to H.P. 619, L.D. 829, Bill, "An Act to
16 Strengthen Maine's Live Harness Racing Industry"

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

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

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

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

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

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

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

44 **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
3 profitability and financial health of the licensee, for the
4 General Fund pursuant to section 275-H; the purse
5 supplements pursuant to section 275-I; the Sire Stakes Fund
6 pursuant to section 281; and the Stipend Fund pursuant to
7 Title 7, section 62;
- 8
- 9 B. The quality of race programming and facilities offered
10 and to be offered by the licensee and the suitability of the
11 applicant's racing facilities for operation at the season
12 for which the race dates are requested;
- 13
- 14 C. The necessity of having and maintaining proper physical
15 facilities for racing meetings; and consequently, to insure
16 the continuance of the facilities, the quality of the
17 licensee's maintenance of its track and plant, the adequacy
18 of its provisions for rehabilitation and capital
19 improvements and the necessity of fair treatment of the
20 economic interests and investments of those who, in good
21 faith, have provided and maintained racing facilities;
- 22
- 23 D. The desirability of reasonable consistency in the
24 pattern of race date assignments from year to year;
- 25
- 26 E. With respect to agricultural societies seeking licenses
27 to conduct harness racing meets at the time of their annual
28 fairs, the scheduling of agricultural fairs determined by
29 the Commissioner of Agriculture, Food and Rural Resources
30 pursuant to Title 7, sections 65 and 65-A;
- 31
- 32 F. The preservation of a diversity of harness racing tracks
33 in the State;
- 34
- 35 G. The quality of the licensee's observance and enforcement
36 of this chapter and the rules promulgated pursuant to this
37 chapter during the past year;
- 38
- 39 H. The extent to which the licensee fully utilized ~~racing~~
40 race dates granted to it for the past year;
- 41
- 42 I. The personnel and resources available to the commission
43 for the enforcement of this chapter and the rules
44 promulgated pursuant to this chapter;
- 45
- 46 J. The likely availability of race-worthy horses throughout
47 the year; and
- 48

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

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 ~~racing-days~~ race dates
10 for a period of up to 3 years. The specific calendar dates for
~~these--racing--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
~~racing-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-§8, ¶A**, as enacted by PL 1993, c.
48 388, §8, is amended to read:

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2 A. An off-track betting facility located within a 75-mile
 4 radius of a noncommercial racing licensee may not present a
 6 simulcast at the same time that racing licensee is
 8 conducting live racing, unless the racing licensee consents
 10 and the facility pays the racing licensee 2% of the wagers
 12 made at the facility at the time live racing is being
 14 conducted. An off-track betting facility within a 50-mile
 16 radius of a noncommercial racing licensee may not present a
 18 simulcast during any day on which that racing licensee is
 20 conducting live racing, unless the racing licensee consents
 22 and the facility pays the racing licensee 1% of the wagers
 24 made on that day. Amounts payable under this section are
 26 taken from the facility's share of wagers authorized in
 28 section 275-K. If the racing licensee is conducting
 30 simulcasting pursuant to section 275-J, subsection 3, then
 32 the racing licensee is not entitled to payment by the
 34 facility under this section.

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

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

388, **Sec. 9. 8 MRSA §275-F, sub-§3, ¶B**, as enacted by PL 1993, c. 388, §8, is repealed.

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

32 C. From the balance of the total amount in excess of
 34 ~~\$350,000~~ \$400,000, regardless of when actually collected,
 36 80% must be paid and returned no later than 30 days after
 38 the end of the calendar year to those persons, associations
 40 and corporations that during that calendar year, conducted
 42 an extended meet pursuant to a license granted by the
 44 commission in section 271. This payment must be divided in
 46 the proportion that the contributions of regular and exotic
 48 wagers to pari-mutuel pools on live racing made or conducted
 at the extended meets of each racing licensee during that
 calendar year bear to the total contributions of regular and
 exotic wagers to pari-mutuel pools on live racing made or
 conducted at the extended meets of all racing licensees
 during that calendar year. Licensees sharing in this
 distribution shall use 1/2 of the funds so received for the
 purpose of supplementing purse money.

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

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

4
6 A. The Treasurer of State must return to commercial meet
licensees 72% of the revenue credited to the General Fund
under this section attributable to amounts in excess of
8 \$33,500,000. This payment must be divided in the proportion
that the contributions of regular and exotic wagers of
10 pari-mutuel pools on live racing made or conducted at the
commercial meets of each licensee during the calendar year
12 bear to the total contributions of regular and exotic wagers
to pari-mutuel pools on live racing made or conducted at the
14 commercial meets of all licensees during that calendar
year. Licensees sharing in this distribution shall use 1/2
16 of the funds received for the purpose of supplementing purse
money. The other 1/2 of this distribution must be paid to
18 the commercial licensees as reimbursement for improvements
made to their racing facilities in the calendar year during
20 which the funds are generated. To receive reimbursement,
commercial licensees must submit plans for the improvements
22 to the commission and receive approval from the commission
prior to making the improvements and the commission must
24 verify that the approved improvements have been made.

26 **Sec. 12. 8 MRSA §275-I, sub-§3**, as corrected by RR 1993, c. 2,
§7, is repealed and the following enacted in its place:

28 **3. Distribution based on race dates.** On May 30th,
30 September 30th and January 30th, payments made under subsections
1 and 2 for distribution in accordance with this subsection must
32 be divided among the licensees conducting live racing in the
State. The amount of the payment made to a licensee is
34 calculated by dividing the number of race dates that the licensee
live raced in any calendar year by the total number of race dates
36 live raced by all licensees in that year. The payment due in May
1995 must be distributed among the licensees conducting live
38 racing in the State in proportion to the number of dates each
licensee is licensed and actually open for wagering during 1995.
40 The January 30, 1996 payment must be adjusted to reflect the
dates actually live raced during the months of May to December of
42 1995. Beginning January 30, 1997, the January 30th payment must
be adjusted to reflect the dates actually live raced during the
44 previous year, not the dates granted.

46 **Sec. 13. 8 MRSA §275-J, sub-§3**, as amended by PL 1993, c. 646,
§2, is further amended to read:

48 **3. Distribution based on wagered amounts.** On May 15th
50 30th, September 15th 30th and within 15 30 days after the close

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of all off-track betting facilities for the year, amounts payable under subsections 1 and 2 for distribution in accordance with this subsection must be distributed to commercial race tracks and the agricultural fair associations only for the dates assigned by the Commissioner of Agriculture, Food and Rural Resources pursuant to Title 7, section 65 in the State that provide simulcast transmission of live racing in the State in proportion to the amount of wagers placed at off-track betting facilities on simulcast races from that licensee up to the last day of the preceding month and the total amount wagered at off-track betting facilities on races simulcast 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. 14. 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.

Beginning with licenses issued for calendar year 1996, 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. 15. 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 | | |

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2 Administration - Agriculture

4 All Other \$98,000 \$100,000

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

10

12 State Harness Racing Commission

12

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

14

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

18

20 DEPARTMENT OF AGRICULTURE, FOOD
AND RURAL RESOURCES
TOTAL

\$-0-

\$-0-

22

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

24

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

26

28

30 FISCAL NOTE

32

The redistribution of certain horse racing purse funds will
result in a net increase of \$98,000 and \$100,000 in dedicated
revenue to the Agricultural Fair Stipend account administered
through the Administration program within the Department of
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.'

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46 STATEMENT OF FACT

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The amendment replaces the original bill, but keeps the
provisions that change the distribution of purse funds, amends
the definition of "commercial meet," changes the amount payable
to the Stipend Fund and changes the criteria for the distribution

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2 of amounts to supplement purses. The changes in the definition
for "commercial track" are deleted.

4 New provisions included in the amendment include:

6 1. A change in the payment dates from the 15th of May,
September and January to the 30th of May, September and January;

8 2. A provision to allow for the appropriate calculation of
10 1995 payments since the distribution formula changes in the
middle of the year;

12 3. A definition for "race date";

14 4. A requirement that, beginning with licenses issued for
16 calendar year 1996, the State Harness Racing Commission grant a
commercial track all the race dates it requests if it conducted
18 live races on those dates in the preceding year;

20 5. The criteria that live racing be conducted on a minimum
of 150 race dates in Maine before any interstate simulcasting of
22 off-track betting is permitted by the State Harness Racing
Commission; and

24 6. A fiscal note to the bill.

26
28 SPONSORED BY: George A. Kerr
30 (Representative KERR)

32 TOWN: Old Orchard Beach

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