

MAINE STATE LEGISLATURE

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DATE: May 28, 1999

(Filing No. S- 367)

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**STATE OF MAINE
SENATE
119TH LEGISLATURE
FIRST REGULAR SESSION**

SENATE AMENDMENT " A" to COMMITTEE AMENDMENT "A" to H.P. 1276, L.D. 1837, Bill, "An Act to Amend the Harness Racing Laws"

Amend the amendment by striking out all of section 12 and inserting in its place the following:

Sec. 12. 8 MRSA §285-B is enacted to read:

§285-B. Dispute resolution; exclusive bargaining agent and racetrack

1. Mediation. If the exclusive bargaining agent and the racetrack are not able or willing to reach an agreement on any issue related to harness racing, an independent 3rd-party mediator, chosen from a list of 5 mediators approved by the department, must be retained prior to seeking enactment of legislation or civil action in a court of law to resolve such an issue. Either party may initiate a request for a mediator. The costs of retaining such a mediator must be shared by the exclusive bargaining agent and the race track.

If the exclusive bargaining agent and the racetrack can not select a mutually agreed upon mediator within 15 days of initiating a request for mediation of a harness racing issue, either party may so advise the department. The department shall thereafter either appoint a mediator or designated employee of the department to serve as mediator. If at mediation the parties are not able to reach an agreement, the mediator shall make findings of fact and prepare a report that addresses the following issues:

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1276,
L.D. 1837

- 2 A. The identity, nature and character of each issue on
which the parties are unable to agree;
- 4 B. The relationship of each issue to the viability of the
harness racing industry in Maine;
- 6 C. The position of the parties on each issue;
- 8 D. The value of what each party is offering in relation to
10 that party's demands;
- 12 E. How similar disputes are resolved among other parties
inside and outside of the harness racing industry;
- 14 F. Whether the issue in dispute is governed or affected by
16 any existing rule or statute and, if so, whether the rule or
statute should be amended; and
- 18 G. A recommendation stating whether the dispute among the
20 parties is best addressed in a private manner, in a court of
law, by legislation, by regulation or by arbitration.

22 The mediator shall present the report to each of the parties
24 and shall file copies with the department, the commission and the
26 Joint Standing Committee on Legal and Veterans Affairs. The
28 mediator shall report to the Joint Standing Committee on Legal
and Veterans Affairs by January 15, 2000 to present information
30 on any issue that has been resolved by the mediation described in
this section, to present a report if one is complete or to
present information regarding the status of ongoing mediation,
whichever the case may be.

32 2. Standards. In making any recommendation, the mediator
34 shall consider the following:

- 36 A. Promoting profitability of the harness racing industry;
- 38 B. Any existing statute or rule governing the issue in
40 dispute;
- 42 C. Custom and practice in the industry;
- 44 D. Fair election of the bargaining agent; and
- 46 E. Equity among the parties.

48 3. Costs. The costs for the services of the mediator
including, if any, per diem expenses, actual and necessary travel
and subsistence expenses and the costs of hiring the premises

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1276,
L.D. 1837

2 where any mediation is conducted, must be shared equally by the
racetrack and the exclusive bargaining agent.

4 4. Violation; penalty. Notwithstanding any other provision
of this chapter, failure or refusal to submit to the mediation
6 process as described in this section constitutes a violation of
this section for which the commission may impose a penalty not to
8 exceed \$5,000.

10 5. Repeal. This section is repealed January 1, 2001.'

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SUMMARY

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16 This amendment removes the requirement for binding
18 arbitration and creates a more detailed mediation process for the
racetrack and the exclusive bargaining agent.

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SPONSORED BY:

(Senator DAGGETT)

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COUNTY: Kennebec

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