

MAINE STATE LEGISLATURE

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L.D. 1837

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION

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

Amend the bill by striking out all of section 1.

Further amend the bill in section 3 in subsection 2 by striking out all of the 2nd sentence (page 1, lines 36 to 40 in L.D.)

Further amend the bill by striking out all of sections 4 and 5 and inserting in their place the following:

'Sec. 4. 8 MRSA §275-A, sub-§1, as amended by PL 1997, c. 474, §3 and affected by §6, is repealed and the following enacted in its place:

1. Commercial track. "Commercial track" means a harness horse racing track licensed under this chapter to conduct harness horse racing with pari-mutuel wagering that:

A. If the population of the region is 300,000 or more, based on the 1990 U.S. Census, conducted racing on more than 100 days in each of the previous 2 calendar years; or

B. If the population of the region is less than 300,000, based on the 1990 U.S. Census, conducted racing on more than 25 days in each of the previous 2 calendar years.

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2 For the purposes of this subsection, "region" is determined by
 4 measuring a distance of 50 miles from the center of the racing
 6 track along the most commonly used roadway, as determined by the
Department of Transportation, drawing a circle around the center
of the racing track using that 50-mile measurement and excluding
those municipalities or unorganized territories that do not have
boundaries contained entirely by that circle.'

8
 10 Further amend the bill in section 7 in that part designated
 12 "**§281.**" in the first paragraph in the first line (page 2, line 49
 in L.D.) by striking out the following: "department commission"
 and inserting in its place the following: 'department'

14 Further amend the bill in section 8 in that part designated
 16 "**§283.**" in the first paragraph in the first line (page 3, line 23
 in L.D.) by striking out the following: "department commission"
 and inserting in its place the following: 'department'

18
 20 Further amend the bill by striking out all of sections 9 to
 15 and inserting in their place the following:

22 '**Sec. 9. 8 MRSA §285-A, sub-§1, ¶A,** as reallocated by PL 1997,
 24 c. 735, §6, is repealed and the following enacted in its place:

26 A. "Eligible voter," with respect to each racing segment,
means those owners, trainers and drivers who are licensed by
this State and who participated during at least 10% of the
race days actually conducted within a racing segment or
participated in at least 15 starts at a racing segment.

30
 32 **Sec. 10. 8 MRSA §285-A, sub-§3,** as reallocated by PL 1997, c.
 735, §6, is amended to read:

34 **3. Public polling to be held.** Every eligible voter within
 36 a racing segment must be afforded the opportunity to vote at a
 public polling place for the exclusive bargaining agent to
 38 represent horse owners, trainers and drivers within that racing
 segment. With respect to each commercial track, the public
 polling must be conducted at the commercial track ~~on one of the~~
 40 ~~first 3 live race dates assigned to the track within the calendar~~
~~year during which the election is conducted.~~ The date of
 42 election and procedures utilized in conducting the public polling
must be established by the commission. The public polling with
 44 respect to the racing segment that consists of racing at all
 tracks other than commercial tracks must be conducted during May
 46 at a place to be determined by the commission. Notice of the
 right to vote at such the public polling and of the date, time
 48 and place of the public polling must be included with the ballot
 mailed by the commission pursuant to subsection 2.

2 **Sec. 11. 8 MRSA §285-A, sub-§7**, as reallocated by PL 1997, c.
735, §6, is amended to read:

4 **7. Repeal.** This section is repealed January 1, 2000 2001.

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

8 **§285-B. Dispute resolution; exclusive bargaining agent and**
10 **racetrack**

12 **1. Mediation.** If the exclusive bargaining agent, as defined
14 in section 285-A, subsection 1, and the racetrack are not able or
16 willing to reach an agreement and resolve issues related to
18 traditional contract issues of harness racing, prior to seeking
20 enactment of legislation or civil action in a court of law to
22 resolve such issues, an independent 3rd-party mediator, chosen
24 from a list of 5 mediators approved by the department, must be
26 retained. Either party may initiate a request for a mediator.
28 The costs of retaining the mediator must be shared by the
30 exclusive bargaining agent and the racetrack.

32 If the exclusive bargaining agent and the racetrack can not
34 select a mutually agreed upon mediator within 15 days of the
36 initiation of a request for mediation on harness racing issues,
38 or if they have not reached an agreement within 30 days of
40 retaining the services of a mediator, they shall initiate an
42 arbitration procedure, as described in subsection 2, to commence
44 no more than 30 days after the initiation of a request for a
46 mediator, if the parties fail to select a mutually acceptable
48 mediator or no more than 30 days after failing to reach an
50 agreement using the services of a mediator.

2. Arbitration. The arbitration procedure must result in
binding determinations of the issues in controversy. These
determinations are subject to review by the Superior Court in the
manner specified in subsection 5.

Both parties shall submit their differences to a board of 3
arbitrators within 5 days of the day the board of arbitrators is
selected pursuant to this subsection. Within the 30-day period
described in subsection 1, the exclusive bargaining agent and the
racetrack shall each select and name one arbitrator and shall
immediately notify each other in writing of the name and address
of the person selected. The 2 arbitrators selected and named
shall, within 10 days from the request, agree upon, select and
name a neutral arbitrator. If either party does not select its
arbitrator, or if the 2 arbitrators do not agree upon, select and
name a neutral arbitrator within the 10 days, either party may
request the American Arbitration Association to utilize its

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2 procedures for the selection of the neutral arbitrator. As soon
3 as possible after receipt of the request, the neutral arbitrator
4 must be selected in accordance with rules and procedures
5 prescribed by the American Arbitration Association for making the
6 selection. The neutral arbitrator selected may not, without the
7 consent of both parties, be the same person who was selected as
8 mediator pursuant to subsection 1. As soon as possible after the
9 selection of the neutral arbitrator, the 3 arbitrators shall meet
10 with the parties or their representatives, or both, either
11 jointly or separately, make inquiries and investigations, hold
12 hearings or take such other steps as they determine appropriate.
13 If the neutral arbitrator is selected by utilizing the procedures
14 of the American Arbitration Association, the arbitration
15 proceedings must be conducted in accordance with the rules and
16 procedures of the American Arbitration Association. The hearing
17 must be informal, and the rules of evidence applicable to
18 judicial proceedings are not binding. Any documentary evidence
19 and other data determined relevant by the arbitrators may be
20 received in evidence. The arbitrators have the power to
21 administer oaths and to require by subpoena the attendance and
22 testimony of witnesses and the production of books, records and
23 other evidence relative or pertinent to the issues represented to
24 them for determination.

25 If the controversy is not resolved by agreement of the parties,
26 the arbitrators shall make determinations with respect to the
27 controversy if reasonably possible within 60 days after the
28 selection of the neutral arbitrator. The determinations may be
29 made public by the arbitrators or either party. If made by a
30 majority of the arbitrators, the determinations are binding on
31 both parties and the parties shall enter into an agreement or
32 take whatever other action that may be appropriate to carry out
33 the binding determinations. The determinations are subject to
34 review by the Superior Court in the manner specified by
35 subsection 5. The results of all arbitration proceedings,
36 recommendations and awards conducted under this section must be
37 filed with the commission in the office of its executive director
38 simultaneously with the submission of the recommendations and
39 award to the parties. If the parties settle their dispute during
40 the arbitration proceeding, the arbitrator shall submit a report
41 of the arbitrator's activities to the joint standing committee of
42 the Legislature having jurisdiction over harness racing matters
43 not more than 5 days after the arbitration proceeding has
44 terminated.

45 3. Standards. The arbitrators shall apply the following
46 standards when carrying out the purposes of this section:

47 A. Preservation of the harness racing industry in the
48 State; and
49

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2 B. Creating equity among the parties pertaining to the
3 relationship between the exclusive bargaining agent, as
4 defined in section 285-A, subsection 1, and the racing
5 tracks.

6
7 4. Costs. The costs for the services of the mediator, if
8 any, and of the neutral arbitrator, if any, including per diem
9 expenses and actual and necessary travel and subsistence expenses
10 and the costs of hiring the premises where any mediation,
11 fact-finding or arbitration proceedings are conducted, must be
12 shared equally by the parties to the proceedings. All other costs
13 must be assumed by the party incurring them.

14
15 5. Arbitration administration. The cost for services
16 rendered and expenses incurred must be shared equally by the
17 parties to the proceedings. Once one party has paid its share of
18 the estimated cost of providing the service, the matter must be
19 scheduled for hearing. A party who has not paid an invoice for
20 the estimated or actual cost of providing services within 60 days
21 of the date the invoice was issued is, in the absence of good
22 cause shown, liable for the amount of the invoice together with a
23 penalty in the amount of 25% of the amount of the invoice.

24
25 6. Review. Either party may seek a review by the Superior
26 Court of a binding determination by an arbitration panel.

27 In the absence of fraud, the binding determination of an
28 arbitration panel or of an arbitrator upon all questions of fact
29 is final. The court may, after consideration, affirm, reverse or
30 modify any such binding determination or decision based upon an
31 erroneous ruling or finding of law. An appeal may be taken to
32 the law court as any civil action.

33
34 7. Violation; penalties. Notwithstanding any other
35 provision of this chapter, the following acts constitute a
36 violation of this section for which the commission may suspend a
37 license issued under this chapter for up to one year or impose a
38 fine not to exceed \$5,000, or both:

39
40
41 A. Failure to submit to the mediation process as described
42 in subsection 1;

43 B. Failure or refusal to submit to the arbitration process
44 described in subsection 2; or

45 C. Failure or refusal to abide by the decision of the
46 arbitrator.'

47
48
49 Further amend the bill by striking out all of section 14.

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2 Further amend the bill in section 16 in the last line (page
 4 8, line 4 in L.D.) by striking out the following: "January 1,
 1999" and inserting in its place the following: 'June 17, 1993'

6 Further amend the bill by relettering or renumbering any
 8 nonconsecutive Part letter or section number to read
 consecutively.

10 Further amend the bill by inserting at the end before the
 12 summary the following:

14 FISCAL NOTE

16 Amending the definition of a commercial racetrack will avoid
 18 a loss of budgeted General Fund revenue in the amounts of \$13,800
 and \$18,400 in fiscal years 1999-00 and 2000-01, respectively,
 20 and avoids a similar loss of budgeted dedicated revenues
 collected by the Harness Racing Commission in the amounts of
 22 \$28,050 and \$37,400 in fiscal years 1999-00 and 2000-01,
 respectively.

24 Authorizing the Harness Racing Commission to collect certain
 26 fines may result in insignificant increases of General Fund
 revenue.

28 The State Harness Racing Commission will incur some minor
 30 additional costs to perform certain administrative tasks
 pertaining to the establishment of a dispute resolution process.
 32 These costs can be absorbed within the commission's existing
 budgeted resources.

34 The establishment of a dispute resolution process, which
 36 will be paid for by both parties in a dispute, is likely to
 increase the dedicated revenues and expenditures of the Maine
 Labor Relations Board within the Department of Labor. The
 38 amounts will depend on the number of disputes that are handled by
 the board and can not be determined at this time.'

42 SUMMARY

44 This amendment strikes all language in the original bill
 46 that would amend the laws pertaining to the relationship between
 the exclusive bargaining agent and a harness racing track and the
 distribution of the handle from harness racing events. It
 48 clarifies the definition of "commercial track" retroactively.
 The amendment changes the way an eligible voter is determined in
 50 the process of selecting the exclusive bargaining agent. It also

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2 extends by one year the repeal of the laws pertaining to the
relationship between the exclusive bargaining agent and a harness
4 racing track. Finally, the amendment establishes a dispute
resolution process, which begins with voluntary mediation and
6 requires a racetrack and the exclusive bargaining agent to submit
to binding arbitration if no resolution is reached using a
mediator.

8

The amendment also adds a fiscal note to the bill.