

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1837

H.P. 1276

House of Representatives, March 11, 1999

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### An Act to Amend the Harness Racing Laws.

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Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative TRUE of Fryeburg.  
Cosponsored by Senator CAREY of Kennebec and  
Representatives: CHIZMAR of Lisbon, CROSS of Dover-Foxcroft, GOOLEY of Farmington,  
JODREY of Bethel, LABRECQUE of Gorham, NUTTING of Oakland, O'BRIEN of  
Augusta, STANWOOD of Southwest Harbor.

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

2  
4       **Sec. 1. 8 MRSA §272-A, sub-§1**, as enacted by PL 1997, c. 474,  
§2 and affected by §6, is amended to read:

6       **1. Establishment; deposits.** Each licensee conducting live  
8 racing in the State shall establish a trust account for the  
benefit of the horsepersons who race at that licensee's  
10 facility. Except as provided in subsections 2, 3, 4 and 5 of  
this section, all funds that by statute must be used to pay  
12 purses must be deposited in that account and used exclusively to  
pay purses, including:

14       A. All funds distributed to or retained by the licensee to  
pay or supplement purses pursuant to sections 275-F, 275-H  
16 and 275-I, except that any funds may be used to reimburse a  
licensee for purse overpayment during its race meet.  
18 Reimbursement for purse overpayment to a licensee commences  
in 1998 for any overpayment in the previous calendar year  
20 and for any subsequent calendar year in which an overpayment  
occurs.

22       Upon request of the exclusive bargaining agent or the commission,  
24 a racing segment shall provide records regarding all financial  
transactions of the trust account, including, but not limited to,  
26 deposits, checks written, transfers, withdrawals, loans and loan  
repayments.

28       **Sec. 3. 8 MRSA §272-A, sub-§2**, as amended by PL 1997, c. 735,  
30 §2, is further amended to read:

32       **2. Bargaining agent funding.** One and one-half percent of  
the all amounts deposited in the trust account each month must be  
34 paid to the exclusive bargaining agent for horsepersons at that  
racetrack if a representative has been elected pursuant to  
36 section 285-A. If a racing segment refuses to pay the funds to  
the exclusive bargaining agent, the exclusive bargaining agent  
38 has the right to sue the racing segment for the collection of the  
funds in Superior Court and is entitled to reasonable attorney's  
40 fees, interest and costs of the collection of the funds.

42       **Sec. 4. 8 MRSA §272-A, sub-§3, ¶C** is enacted to read:

44       C. The racing segment shall advise the exclusive bargaining  
agent of any funds it intends to borrow from the funds  
46 described in this subsection and shall obtain written  
consent from the exclusive bargaining agent before the funds  
48 may be borrowed.

2           **Sec. 5. 8 MRSA §275-A, sub-§1**, as amended by PL 1997, c. 474,  
§3 and affected by §6, is further amended to read:

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

8           A. If the population within the 50-mile radius of the track  
is 300,000 or more, conducted racing on more than 100 days  
10 ~~in the previous 2 calendar years, except that if a racetrack~~  
~~that qualified as a commercial racetrack under this~~  
12 ~~subsection goes out of business, one new race track opening~~  
~~in a location with a population within a 50-mile radius of~~  
14 ~~the track of 300,000 or more qualifies as a commercial track~~  
~~if it races more than 100 days in a calendar year; or~~

16           B. If the population within the 50-mile radius of the track  
is less than 300,000, conducted racing on more than 25 days  
18 ~~in the previous 2 calendar years, except that if a racetrack~~  
~~that qualified as a commercial racetrack under this~~  
20 ~~subsection goes out of business, one new racetrack opening~~  
~~in a location with a population within a 50-mile radius of~~  
22 ~~the track of 300,000 or less qualifies as a commercial track~~  
24 ~~if it races more than 25 days in a calendar year.~~

26           For the purposes of this subsection, "50-mile radius" is measured  
by the most commonly used roadway.

28           **Sec. 6. 8 MRSA §279-A, first ¶**, as amended by PL 1997, c. 528,  
30 §40, is further amended to read:

32           For the purpose of enabling the department commission to  
exercise and maintain a proper control over racing conducted  
34 under this chapter, the commission may adopt rules for the  
licensing, with or without fee in the discretion of the  
36 commission, of owners, trainers, drivers, grooms and all other  
persons participating in harness horse racing, including  
38 pari-mutuel employees and race officials. The commission may  
issue conditional licenses to owners, trainers, drivers, grooms  
40 and all other persons participating in harness racing, including  
pari-mutuel employees and race officials if one or more criteria  
42 are not met as contained in the commission rules.

44           **Sec. 7. 8 MRSA §281**, as amended by PL 1997, c. 528, §42, is  
further amended to read:

46           **§281. Standard-bred horses**

48           The department commission shall encourage and promote the  
50 breeding of a strain of Maine Standardbreds and make provision to

2 encourage donations of the same by licensees or others to persons  
or institutions within the State for breeding purposes.

4 The department commission, by rule, may define a strain of  
6 Maine Standardbred, bred or owned in the State of Maine and  
registered with the department in its registry book. The  
8 department commission is also authorized to establish necessary  
fees for horses and races in the establishment of a Maine  
10 Standardbred program, the funds from which must be administered  
by the department by deposit in a trust account entitled Sire  
12 Stakes Fund. All disbursements from the fund must be for the  
purposes of supplementing purses, costs of administration and any  
14 other appropriate expenses incurred by the department. A report  
must be submitted annually by the executive director to the  
16 commissioner setting forth an itemization of all deposits to and  
expenditures from the fund.

18 **Sec. 8. 8 MRSA §283**, as amended by PL 1997, c. 528, §44, is  
further amended to read:

20 **§283. Reciprocal disciplinary action**

22 The department commission shall act to obtain current  
24 listings from other states of persons in harness racing  
occupations regulated by the state who have been refused a  
26 license or who have had their license revoked or suspended. The  
department commission shall refuse to license or shall suspend  
28 the license of these persons until notification that they are  
again eligible for licensing in the state or states in question.

30 **Sec. 9. 8 MRSA §285-A, sub-§1, ¶A**, as reallocated by PL 1997,  
32 c. 735, §6, is amended to read:

34 A. "Eligible voter," with respect to each racing segment,  
36 means those owners, trainers and drivers who are licensed by  
this State and ~~who participated during at least 15% of the~~  
38 ~~race dates actually conducted within a racing segment. Any~~  
licensed owner, trainer or driver who believes that licensed  
40 ~~owner, trainer or driver would have participated in at least~~  
15% of the race dates actually conducted within a racing  
42 ~~segment except for extraordinary circumstances beyond the~~  
licensed owner's, trainer's or driver's control may petition  
44 ~~the commission during the following January. If the~~  
commission finds that special circumstances in fact did  
46 ~~exist and did prevent the licensed owner, trainer or driver~~  
from qualifying, the commission shall certify the person as  
48 an "eligible voter" with respect to that racing segment.

50 **Sec. 10. 8 MRSA §285-A, sub-§1, ¶C**, as reallocated by PL 1997,  
c. 735, §6, is amended to read:

2 C. "Participation" means owning, training or driving a  
4 horse or horses that actually start a race ~~during a race~~  
date at a racing segment.

6 **Sec. 11. 8 MRSA §285-A, sub-§§2, 3 and 4**, as reallocated by PL  
1997, c. 735, §6, are amended to read:

8  
2. **Elections to be held.** For each racing segment, the  
10 commission shall certify, biannually beginning in 1998,  
eligibility of voters, and shall conduct and certify an election  
12 to determine who will be the exclusive bargaining agent to  
represent licensed harness horse owners, trainers and drivers at  
14 each racetrack within that racing segment. During each January  
preceding such an election, the commission, in consultation with  
16 the racetracks within each racing segment and in consultation  
with the existing representatives of licensed harness horse  
18 owners, trainers and drivers within that racing segment shall  
prepare a list of eligible voters within each racing segment.  
20 During February of each year for which elections are to be held,  
the commission shall prepare and forward to each eligible voter  
22 within each racing segment a ballot for the election of the  
exclusive bargaining agent within that racing segment. The  
24 ballot must include the name of any incorporated entity that  
during the preceding January has requested in writing to have its  
26 name included on the ballot for that racing segment. Eligible  
voters for each racing segment are entitled to vote in the  
28 election held for that racing segment either by returning the  
commission's official mailed ballot to the commission not later  
30 than the following February 28th or by appearing and voting in  
person, by secret ballot, at the public polling conducted  
32 pursuant to subsection 3. Racing segments shall remain neutral  
in the exclusive bargaining agent election process. Opposition  
34 to, support or influence for or interference with any candidate  
in an exclusive bargaining agent election by a racing segment,  
its employees or agents is strictly prohibited except as provided  
in this subsection. If a candidate for exclusive bargaining  
38 agent believes that the racing segment for which the exclusive  
bargaining agent election is being held is supporting or opposing  
40 a candidate, influencing the election or interfering with the  
election, the candidate may file a civil action in Superior Court  
42 in the county in which the election is to be held to seek  
equitable and legal relief including temporary restraining  
44 orders, preliminary and permanent injunctive relief to enjoin the  
prohibited behavior and for the awarding of damages. If a  
46 candidate for exclusive bargaining agent establishes by a  
preponderance of the evidence that a racing segment has engaged  
48 in prohibited activity, the candidate for exclusive bargaining  
agent is entitled to actual, compensatory, exemplary and punitive  
50 damages, reasonable attorney's fees, interest and costs.

2           **3. Public polling to be held.** Every eligible voter within  
4 a racing segment must be afforded the opportunity to vote at a  
6 public polling place for the exclusive bargaining agent to  
8 represent horse owners, trainers and drivers within that racing  
10 segment. With respect to each commercial track, the public  
12 polling must be conducted at the commercial track ~~on one of the~~  
14 ~~first-3-live-race-dates assigned to the track within the calendar~~  
16 ~~year--during--which--the--election--is--conducted.~~ The date of  
18 election and procedures utilized in conducting the public polling  
20 must be established by the commission. The public polling with  
22 respect to the racing segment that consists of racing at all  
24 tracks other than commercial tracks must be conducted during May  
26 at a place to be determined by the commission. Notice of the  
28 right to vote at such the public polling and of the date, time  
30 and place of the public polling must be included with the ballot  
32 mailed by the commission pursuant to subsection 2.

34           **4. Results certified by commission.** If one entity receives  
36 more than 50% of the total ballots cast under subsections 2 and 3  
38 for election of an exclusive bargaining agent within a racing  
40 segment, that bargaining agent ~~shall~~ must be certified by the  
42 commission as the exclusive bargaining agent within that  
44 segment. If no entity receives more than 50% of the ballots, a  
46 runoff election among the 2 entities receiving the most votes  
48 must be conducted as described in subsection 2. The entity  
50 receiving the most votes at that runoff election must be  
certified by the commission as the exclusive bargaining agent for  
that racing segment. Only candidates for exclusive bargaining  
agent eligible under subsection 2 have the right to appeal the  
certification of election results by the commission to the  
Superior Court. Racing segments have no standing to appeal the  
certification of election results by the commission to the  
Superior Court.

36           **Sec. 12. 8 MRSA §285-A, sub-§7,** as reallocated by PL 1997, c.  
38 735, §6, is repealed.

40           **Sec. 13. 8 MRSA §285-B** is enacted to read:

42           **§285-B. Bargaining**

44           **1. Definition.** As used in this section "bargaining" means  
46 the mutual obligation of a racing segment and that racing  
48 segment's exclusive bargaining agent to meet at reasonable times  
50 to negotiate, in good faith, a written contract with respect to  
amounts of horse race purses, racing conditions, health and  
safety issues, insurance policies, racetrack payments made to  
horsepersons' trust accounts, racetrack payments to the exclusive  
bargaining agent, issues contained in prior contractual

2 agreements between bargaining agents and the racing segments and  
3 other issues of concern to the harness racing industry. The  
4 obligation on the part of the racing segment extends to an  
5 exclusive bargaining agent elected pursuant to section 285-A.  
6 The mutual obligation does not require either party to agree to a  
7 proposal or make a concession. The mutual obligation to bargain  
8 continues until a contract is entered into by the parties or  
9 binding arbitration is invoked by a party.

10 2. Prior course of dealing. If an exclusive bargaining  
11 agent has bargained with a racing segment in any 2 of the 3  
12 preceding years, the racing segment is considered to have a prior  
13 course of dealing with the exclusive bargaining agent. The sale  
14 of a racetrack does not negate any prior course of dealing that  
15 the exclusive bargaining agent had with the racing segment.

16 3. Enter contracts. Nothing in this section may be  
17 construed to prohibit an exclusive bargaining agent from  
18 voluntarily entering into contracts with racing segments.

19 4. Binding arbitration. If the exclusive bargaining agent  
20 and the racing segment are unable to negotiate a contract within  
21 60 days of the first written request to meet to negotiate a  
22 contract pursuant to subsection 1, either party may invoke  
23 binding arbitration and have the contract submitted to an agreed  
24 upon arbitrator for final binding arbitration. If the parties  
25 are unable to agree upon the choice of an arbitrator, one or both  
26 of the parties may petition Superior Court to order arbitration  
27 and appoint an arbitrator pursuant to Title 14, chapter 706. The  
28 cost of the arbitrator must be borne equally by the parties.

29 **Sec. 14. 8 MRSA §286, sub-§1, ¶¶A and B, as enacted by PL 1997,**  
30 **c. 528, §46, are amended to read:**

31 **A. On exotic wagers:**

- 32 (1) The state share is 2.248%;  
33 (2) The Sire Stakes Fund share is 1.551%;  
34 (3) The Stipend Fund share is 1.169%;  
35 (4) The purse supplement share is 0.99%;  
36 (5) The Harness Racing Promotional Fund share is 0.25%;  
37 (6) The horsemen's purse share is ~~3.315%~~ 10.015%; and  
38 (7) The track share is ~~16.477%~~ 9.777%.



2 B. On regular wagers:

- 4 (1) The state share is 0.493%;
- 6 (2) The Sire Stakes Fund share is 0.072%;
- 8 (3) The Stipend Fund share is 1.186%;
- 10 (4) The purse supplement share is 0.986%;
- 12 (5) The Harness Racing Promotional Fund share is 0.25%;
- 14 (6) The horsemen's purse share is ~~0.526%~~ 7.226%; and
- 16 (7) The track share is ~~14.487%~~ 7.787%.

18 **Sec. 15. 8 MRSA §286, sub-§3, ¶¶A and B**, as enacted by PL 1997,  
c. 528, §46, are amended to read:

20 A. On exotic wagers:

- 22 (1) The state share is 2.248%;
- 24 (2) The Sire Stakes Fund share is 1.551%;
- 26 (3) The Stipend Fund share is 1.169%;
- 28 (4) The purse supplement share is 0.99%;
- 30 (5) The Harness Racing Promotional Fund share is 0.25%;
- 32 (6) The horsemen's purse share is ~~4.305%~~ 7.871%; and
- 34 (7) The track share is ~~15.487%~~ 11.921%.

36 B. On regular wagers:

- 38 (1) The state share is 0.493%;
- 40 (2) The Sire Stakes Fund share is 0.072%;
- 42 (3) The Stipend Fund share is 1.186%;
- 44 (4) The purse supplement share is 0.986%;
- 46 (5) The Harness Racing Promotional Fund share is 0.25%;
- 48 (6) The horsemen's purse share is ~~1.512%~~ 5.062%; and
- 50 (7) The track share is ~~13.501%~~ 9.951%.

2           **Sec. 16. Retroactivity.** The section that amends the Maine  
4 Revised Statutes, Title 8, section 275-A, subsection 1 is  
6 retroactive to January 1, 1999.

8

### SUMMARY

10           This bill amends the harness racing laws regarding exclusive  
12 bargaining agent elections and allows greater voter participation  
14 in the election. The bill establishes a compulsory binding  
16 arbitration process to resolve disputes between exclusive  
bargaining agents and commercial racetracks. The bill provides  
for auditing procedures enabling the exclusive bargaining agents  
and the Harness Racing Commission to have the purse trust  
accounts audited. The bill amends the definition of a commercial  
racetrack and makes the definition retroactive to January 1, 1999.