

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2184

H.P. 1554

House of Representatives, January 31, 2008

**An Act To Implement the Recommendations of the Commission To
Study the Promotion, Expansion and Regulation of the Harness
Racing Industry**

Reported by Representative PIEH of Bremen for the Joint Standing Committee on
Agriculture, Conservation and Forestry pursuant to Resolve 2007, chapter 128, section 8.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and
ordered printed under Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

2 **Sec. 1. 4 MRSA §807, sub-§3, ¶N**, as amended by PL 2007, c. 249, §5, is further
3 amended to read:

4 N. A person who is not an attorney, but is representing the State under section 807-
5 A; ~~or~~

6 **Sec. 2. 4 MRSA §807, sub-§3, ¶O**, as amended by PL 2007, c. 58, §3 and
7 enacted by c. 249, §6, is further amended to read:

8 O. A person who is not an attorney, but who is representing a party in any hearing,
9 action or proceeding before the Maine Public Employees Retirement System; or

10 **Sec. 3. 4 MRSA §807, sub-§3, ¶P** is enacted to read:

11 P. A person who is not an attorney but who, as the executive director of the State
12 Harness Racing Commission, is representing the Department of Agriculture, Food
13 and Rural Resources in accordance with Title 8, section 263-C.

14 **Sec. 4. 8 MRSA §263-C, sub-§4, ¶B**, as repealed and replaced by PL 2003, c.
15 687, Pt. B, §2 and affected by §11, is amended to read:

16 B. Management of the work of the department regarding harness racing and off-
17 track betting, including:

18 (1) Supervision of all staff involved in harness racing and off-track betting
19 functions;

20 (2) Management of the collection and distribution of revenues under this
21 chapter;

22 (3) Budget development and management;

23 (4) Policy development with regard to harness racing and off-track betting;

24 (5) Management of participant licensing;

25 (6) Enforcement of harness racing and off-track betting statutes and rules;

26 (7) Investigation of harness racing and off-track betting violations; ~~and~~

27 (8) Facilitating the development of positive working relationships in the harness
28 racing industry and State Government; and

29 (9) Presentation of evidence regarding alleged violations of this chapter or rules
30 adopted in accordance with this chapter.

31 **Sec. 5. 8 MRSA §267-A** is enacted to read:

32 **§267-A. Account to support laboratory testing**

33 The Laboratory Testing Account, referred to in this section as "the account," is
34 established as a dedicated account to support the detection of restricted and prohibited
35 substances. The account does not lapse but continues from year to year. The commission

1 shall annually estimate the funding needed for laboratory testing and include this estimate
2 in the budget submitted under section 267. Funds are deposited into the laboratory
3 testing account in accordance with this section.

4 **1. Funds contributing to the laboratory testing account.** The commission shall
5 annually calculate an amount to be transferred from each of the following funds to the
6 account:

7 A. The fund established in section 298 to supplement harness racing purses;

8 B. The Sire Stakes Fund under section 281;

9 C. The Agricultural Fair Support Fund established in Title 7, section 91;

10 D. The Fund to Encourage Racing at Maine's Commercial Tracks established in
11 section 299; and

12 E. The Fund to Stabilize Off-track Betting Facilities established in section 300.

13 **2. Maximum contribution.** The amount contributed annually from each of the
14 funds listed in subsection 1, paragraphs A to E must be based on a percentage of the
15 money received by each fund under section 1036. The contribution must represent the
16 same percentage from each fund and that percentage may not exceed 2% a year.

17 In any year the total contributions deposited into the account from the funds listed under
18 subsection 1, paragraphs A to E may not exceed the General Fund appropriation to the
19 commission for the purpose of testing.

20 **3. Administration.** The executive director, in consultation with the Treasurer of
21 State, shall develop a protocol for calculating contributions and transferring money into
22 the account.

23 **Sec. 6. 8 MRSA §273** is amended to read:

24 **§273. Penalties**

25 Any person, association or corporation holding or conducting, or any person or
26 persons aiding or abetting in the holding or conducting of, any harness horse race or meet
27 for public exhibition within the State without a license duly issued by said the
28 ~~commission, or any person, association or corporation who violates any of the provisions~~
29 ~~of this chapter or who violates any of the rules and regulations prescribed by the~~
30 ~~commission shall be punished by a fine of not more than \$5,000 or by imprisonment for~~
31 ~~not more than one year, or by both~~ commits a Class D crime.

32 **Sec. 7. 8 MRSA §279-A, first ¶**, as amended by PL 1999, c. 482, §3, is further
33 amended to read:

34 For the purpose of enabling the commission to exercise and maintain a proper control
35 over racing conducted under this chapter, the commission may adopt rules for the
36 licensing, with or without fee in the discretion of the commission, of owners, trainers,
37 drivers, grooms and all other persons participating in harness horse racing, including pari-
38 mutuel employees and race officials. The commission may issue conditional licenses to

1 owners, trainers, drivers, grooms and all other persons participating in harness racing,
2 including pari-mutuel employees and race officials if one or more criteria are not met as
3 contained in the commission rules. A person issued a license as a trainer shall submit a
4 horse for testing in accordance with section 279-E.

5 **Sec. 8. 8 MRSA §279-B, first ¶**, as amended by PL 1991, c. 579, §14, is further
6 amended to read:

7 To enforce the provisions of this chapter and the rules referred to in section 279-A,
8 the commission is authorized to establish a schedule for fines ~~not to exceed \$1,000~~ for
9 each violation of this chapter or the rules. The commission is authorized to levy a fine,
10 after notice and hearing, for each violation of this chapter or the rules.

11 **Sec. 9. 8 MRSA §279-E** is enacted to read:

12 **§279-E. Trainers; duty to submit a horse for testing for use of prohibited substances**

13 Upon request of the commission, a person who signs an application for and receives
14 a trainer's license in accordance with this chapter and rules adopted under section 279-A
15 shall submit a horse trained by that licensee and identified by the commission for the
16 purpose of obtaining a blood sample to test for the use of prohibited substances.

17 **1. Obtaining a sample.** Pursuant to this section, the commission may require a
18 licensed trainer to:

19 A. Transport the horse to a designated site where a veterinarian employed by the
20 commission or the department may draw a blood sample; or

21 B. Allow a veterinarian employed by the commission or the department, or a
22 veterinarian designated by the commission and accompanied by a state steward,
23 access to the premises where the horse is kept for the purpose of obtaining a blood
24 sample.

25 **2. Rulemaking.** The commission shall adopt rules establishing a procedure for
26 obtaining blood samples and ensuring a secure chain of custody for transporting the
27 sample to a laboratory for testing. The rules must consider travel distances and costs
28 associated with obtaining a sample when designating a testing site and may assess a fee to
29 defray travel costs for the veterinarian and the state steward. Rules adopted pursuant to
30 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-
31 A.

32 **3. Refusal.** Refusal to comply with the commission's directives for obtaining a
33 sample under this section is a basis for suspension of a trainer's license.

34 **Sec. 10. 8 MRSA §280, sub-§5** is enacted to read:

35 **5. Investigation by State Police.** The State Police may assist in investigating
36 alleged violations of subsection 1 when:

37 A. The commission requests assistance; and

1 B. A sample submitted for testing under rules adopted pursuant to section 279-A or
2 279-E yields a positive test result.

3 **Sec. 11. 8 MRSA §1001, sub-§36,** as enacted by PL 2003, c. 687, Pt. A, §5 and
4 affected by Pt. B, §11, is repealed.

5 **Sec. 12. 8 MRSA §1035,** as enacted by PL 2003, c. 687, Pt. A, §5 and affected by
6 Pt. B, §11, is amended to read:

7 **§1035. Location of slot machines**

8 Slot machines may be located only on the premises of a commercial track. For the
9 purposes of this section, "premises of a commercial track" means property owned by the
10 person who owns the property on which a commercial track is located and that is either
11 within 200 feet of the outside edge of the racing oval or, if the commercial track was
12 owned by a municipality when a license to operate slot machines in association with that
13 commercial track was issued, within 2,000 feet of the center of the racing oval.

14 **SUMMARY**

15 This bill does the following.

16 1. It specifies that the duties of the executive director of the State Harness Racing
17 Commission include presenting evidence on alleged violations.

18 2. It establishes a dedicated account for laboratory testing to detect restricted and
19 prohibited substances administered to horses.

20 3. It requires a trainer to submit a horse for testing to detect prohibited substances.

21 4. It removes the statutory caps on fines for violations of the harness racing statutes
22 and rules.

23 5. It clarifies that conducting a harness horse racing meet without a license is a Class
24 D crime.

25 6. It authorizes the State Police upon the request of the State Harness Racing
26 Commission to assist in investigations following a positive test for use of substances in
27 violation of the harness racing rules.

28 7. It restricts licenses to operate slot machines to property within 200 feet of a
29 commercial track, except that the 2,000-foot maximum distance continues for a
30 commercial track that received an initial license for slot machines while owned by a
31 municipality.