

MAINE STATE LEGISLATURE

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Minority

L.D. 519

Date: 2/26/14

(Filing No. S-398)

VETERANS AND LEGAL AFFAIRS

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

126TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 209, L.D. 519, Bill, "An Act To Establish Advance Deposit Wagering for Harness Racing"

Amend the bill by striking out the title and substituting the following:

'An Act To Authorize Advance Deposit Wagering for Horse Racing'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 8 MRSA §263-A, sub-§1, as amended by PL 2011, c. 358, §3, is further amended to read:

1. Rulemaking. The commission shall adopt rules for:

A. The conduct of harness racing and off-track betting facilities, including advance deposit wagering;

B. The licensing of racetracks and off-track betting facilities;

C. The licensing of individuals participating in harness racing and off-track betting facilities and advance deposit wagering, including rules requiring applicants to submit information sufficient for the report required to be submitted by the executive director of the commission as required by section 1037;

D. The procedures for hearing appeals from decisions of track judges;

E. The procedures and standards for setting racing dates; and

F. Any other responsibility assigned to the commission under this chapter.

Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter H-A 2-A, except for rules governing the conduct of advance deposit wagering, which are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 2. 8 MRSA §263-A, sub-§3, as enacted by PL 1997, c. 528, §6, is amended to read:

COMMITTEE AMENDMENT

1 **3. Licensing of tracks, advance deposit wagering providers and off-track betting**
2 **facilities.** The commission shall license racetracks ~~and, advance deposit wagering~~
3 providers and off-track betting facilities as provided in sections 271 ~~and, 271-A and~~
4 275-D.

5 **Sec. 3. 8 MRSA §263-C, sub-§4**, as amended by PL 2007, c. 611, §4, is further
6 amended to read:

7 **4. Duties.** The executive director has the following duties:

8 A. Management of the work of the commission, including:

9 (1) Rulemaking;

10 (2) Processing appeals;

11 (3) Licensing of tracks ~~and, off-track betting facilities and advance deposit~~
12 wagering providers;

13 (4) Setting race dates;

14 (5) Making reports to the Governor and Legislature and recommendations to the
15 commissioner regarding harness racing ~~and, off-track betting operations and~~
16 advance deposit wagering and the need for changes in statutes and rules; and

17 (6) Presenting evidence in adjudicatory hearings before the commission
18 regarding alleged violations of this chapter or rules adopted in accordance with
19 this chapter; and

20 B. Management of the work of the department regarding harness racing ~~and, off-~~
21 track betting and advance deposit wagering, including:

22 (1) Supervision of all staff involved in harness racing ~~and, off-track betting and~~
23 advance deposit wagering functions;

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

25 (3) Budget development and management;

26 (4) Policy development with regard to harness racing ~~and, off-track betting and~~
27 advance deposit wagering;

28 (5) Management of participant licensing;

29 (6) Enforcement of advance deposit wagering, harness racing and off-track
30 betting statutes and rules;

31 (7) Investigation of advance deposit wagering, harness racing and off-track
32 betting violations; and

33 (8) Facilitating the development of positive working relationships in the harness
34 racing industry and State Government.

35 **Sec. 4. 8 MRSA §271-A** is enacted to read:

1 **§271-A. Advance deposit wagering**

2 **1. Persons eligible to conduct advance deposit wagering.** The commission may
3 issue a license to conduct advance deposit wagering, including accepting deposits and
4 making wagers from accounts and entering into contracts with a provider of advance
5 deposit wagering services located within the United States, to a commercial track
6 licensed by the commission. If a commercial track has not been issued a license to
7 conduct advance deposit wagering by July 1, 2015, the commission may issue a license to
8 conduct advance deposit wagering to an off-track betting facility licensed by the
9 commission and in operation as of January 1, 2014. After January 1, 2016, if a
10 commercial track licensed to conduct advance deposit wagering surrenders or fails to
11 renew its license or the license to conduct advance deposit wagering is revoked, the
12 commission may issue a license to an off-track betting facility licensed by the
13 commission and that was in operation as of January 1, 2014. When issuing a license to
14 conduct advance deposit wagering to an off-track betting facility, the commission may
15 issue the license to a single off-track betting facility or to multiple off-track betting
16 facilities in partnership.

17 **2. Fees.** The initial fee for a license to conduct advance deposit wagering is \$500.
18 The annual renewal fee is \$250.

19 **3. Duties of the commission.** The commission, or the executive director as
20 delegated by the commission, shall:

21 A. Enforce the provisions of this section and any rules adopted under this section;

22 B. Issue licenses for the conduct of advance deposit wagering;

23 C. Prescribe the form and content of an application for a license to conduct advance
24 deposit wagering;

25 D. Collect all license fees for advance deposit wagering and distribute commissions
26 from wagers made using advance deposit wagering;

27 E. Ensure that an advance deposit wagering licensee employs a reliable system to
28 verify the age and identity of an advance deposit wagering account holder;

29 F. Prescribe the process by which a person may establish an advance deposit
30 wagering account with an advance deposit wagering licensee that requires that the
31 account holder be a natural person and not a custodian, beneficiary, joint trust,
32 corporation or other organization;

33 G. Prescribe the methods by which deposits are made to advance deposit wagering
34 accounts. The methods prescribed must prohibit the use of credit cards and must
35 prohibit the use of the electronic benefits transfer system administered by the
36 Department of Health and Human Services under Title 22, chapter 1, subchapter 1-A;

37 H. Prescribe and approve methods by which an advance deposit wagering licensee
38 may accept wagers from and pay prizes to account holders registered and authorized
39 to place wagers using advance deposit wagering;

40 I. Prohibit the assignment or transfer of an advance deposit wagering account from
41 an authorized account holder to another person;

1 J. Establish a process for disposition of abandoned advance deposit wagering
2 accounts in accordance with state law; and

3 K. Require advance deposit wagering licensees to employ an appropriate system,
4 commonly known as a totalisator, to provide accounting controls and accurate
5 transmission of wagering data.

6 4. Wagering. Notwithstanding section 275-B, an advance deposit wagering licensee
7 may accept wagers from advance deposit wagering account holders by telephone,
8 electronic communication or other electronic media as approved by the commission.

9 5. Rules. The commission shall adopt rules for the administration, clarification,
10 execution and enforcement of the provisions of this section. Rules adopted pursuant to
11 this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter
12 2-A.

13 **Sec. 5. 8 MRSA §275-A, sub-§§2-A, 2-B and 7-A** are enacted to read:

14 2-A. Advance deposit wagering. "Advance deposit wagering" means a form of
15 pari-mutuel wagering on harness or thoroughbred races in which the bettor deposits funds
16 in a wagering account administered by an advance deposit wagering licensee from which
17 the licensee makes wagers on behalf of the bettor and to which the licensee deposits prize
18 money awarded to the bettor.

19 2-B. Advance deposit wagering licensee. "Advance deposit wagering licensee"
20 means a commercial track or off-track betting facility licensed under section 271-A that is
21 a host facility for advance deposit wagering.

22 7-A. Net commission. "Net commission" means the wagers placed via advance
23 deposit wagering after subtracting the amount of the contract cost of the advance deposit
24 wagering licensee in contracting with an advance deposit wagering service provider and
25 then subtracting an amount equal to 6.5% of the total remaining commission that is
26 retained by the advance deposit wagering licensee for expenses related to conducting
27 advance deposit wagering.

28 **Sec. 6. 8 MRSA §286, sub-§3**, as enacted by PL 1997, c. 528, §46, is amended to
29 read:

30 **3. Track intrastate simulcasting.** The distribution of the commission on
31 simulcasting of races originating at a racetrack in the State by another racetrack in the
32 State is calculated as percentages of the handle and distributed as follows.

33 A. On exotic wagers:

- 34 (1) The state share is 2.248%;
- 35 (2) The Sire Stakes Fund share is 1.551%;
- 36 (3) The Stipend Fund share is 1.169%;
- 37 (4) The purse supplement share is 0.99%;
- 38 (5) The Harness Racing Promotional Fund share is 0.25%;
- 39 (6) The horsemen's purse share is 4.305%; and

1 (7) The track share is 15.487%.

2 B. On regular wagers:

3 (1) The state share is 0.493%;

4 (2) The Sire Stakes Fund share is 0.072%;

5 (3) The Stipend Fund share is 1.186%;

6 (4) The purse supplement share is 0.986%;

7 (5) The Harness Racing Promotional Fund share is 0.25%;

8 (6) The horsemen's purse share is 1.512%; and

9 (7) The track share is 13.501%.

10 For exotic and regular wagers placed with an advance deposit wagering licensee that is an
11 off-track betting facility, the track share is reduced by 2% and credited to the off-track
12 betting facility, licensed to conduct advance deposit wagering.

13 **Sec. 7. 8 MRSA §286, sub-§§8 to 13** are enacted to read:

14 **8. Advance deposit wagering interstate simulcasting with commingled pools;**
15 **commercial track licensee. Except as provided by subsection 9, the distribution of the**
16 **commission on advance deposit wagering conducted by a commercial track licensed to**
17 **accept advance deposit wagers in accordance with section 271-A in simulcasting of races**
18 **with commingled pools originating at a racetrack in another state is calculated as a**
19 **percentage of the net commission and distributed as follows.**

20 A. On exotic wagers:

21 (1) The state share is 1.250%;

22 (2) The off-track betting facilities' pooled share is 34.750%;

23 (3) The Sire Stakes Fund share is 1.250%;

24 (4) The Stipend Fund share is 1.250%;

25 (5) The purse supplement share is 2.750%;

26 (6) The Harness Racing Promotional Fund share is 0.750%;

27 (7) The horsemen's purse share is 3.250%; and

28 (8) The commercial tracks' pooled share is 54.750%.

29 B. On regular wagers:

30 (1) The state share is 0.750%;

31 (2) The off-track betting facilities' pooled share is 33.000%;

32 (3) The Sire Stakes Fund share is 1.250%;

33 (4) The Stipend Fund share is 1.250%;

- 1 (5) The purse supplement share is 2.750%;
- 2 (6) The Harness Racing Promotional Fund share is 0.50%;
- 3 (7) The horsemen's purse share is 2.5%; and
- 4 (8) The commercial tracks' pooled share is 58%.

5 **9. Advance deposit wagering interstate simulcasting with commingled pools**
6 **exceeding \$5,000,000; commercial track licensee. Beginning with the first Monday**
7 **after the total statewide handle from advance deposit wagering in simulcasting of races**
8 **with commingled pools originating from out-of-state tracks has reached \$5,000,000, the**
9 **commission on advance deposit wagering is calculated as a percentage of the net**
10 **commission and must be distributed as follows.**

11 A. On exotic wagers:

- 12 (1) The state share is 1.25%;
- 13 (2) The Sire Stakes Fund share is 1.7975%;
- 14 (3) The Stipend Fund share is 2.345%;
- 15 (4) The horsemen's purse share is 3.75%;
- 16 (5) The purse supplement share is 7.13%;
- 17 (6) The Harness Racing Promotional Fund share is 1.8998%;
- 18 (7) The commercial tracks' pooled share is 47.0777%; and
- 19 (8) The off-track betting facilities' pooled share is 34.75%.

20 B. On regular wagers:

- 21 (1) The state share is 0.75%;
- 22 (2) The Sire Stakes Fund share is 1.83%;
- 23 (3) The Stipend Fund share is 2.41%;
- 24 (4) The horsemen's purse share is 2.5%;
- 25 (5) The purse supplement share is 7.39%;
- 26 (6) The Harness Racing Promotional Fund share is 1.718%;
- 27 (7) The commercial tracks' pooled share is 50.402%; and
- 28 (8) The off-track betting facilities' pooled share is 33%.

29 **10. Advance deposit wagering interstate simulcasting with commingled pools;**
30 **off-track betting facility licensee. Except as provided by subsection 11, the distribution**
31 **of the commission on advance deposit wagering conducted by an off-track betting facility**
32 **licensed to accept advance deposit wagers in accordance with section 271-A in**

1 simulcasting of races with commingled pools originating at a racetrack in another state is
2 calculated as a percentage of the net commission and distributed as follows.

3 A. On exotic wagers:

- 4 (1) The state share is 1.25%;
5 (2) The Sire Stakes Fund share is 1.25%;
6 (3) The Stipend Fund share is 1.25%;
7 (4) The purse supplement share is 6%;
8 (5) The Harness Racing Promotional Fund share is 0.75%;
9 (6) The off-track betting facilities' pooled share is 54.75%; and
10 (7) The commercial tracks' pooled share is 34.75%.

11 B. On regular wagers:

- 12 (1) The state share is 0.75%;
13 (2) The Sire Stakes Fund share is 1.25%;
14 (3) The Stipend Fund share is 1.25%;
15 (4) The purse supplement share is 5.25%;
16 (5) The Harness Racing Promotional Fund share is 0.5%;
17 (6) The off-track betting facilities' pooled share is 58%; and
18 (7) The commercial tracks' pooled share is 33%.

19 **11. Advance deposit wagering interstate simulcasting with commingled pools**
20 **exceeding \$5,000,000; off-track betting facility licensee. Beginning with the first**
21 **Monday after the total statewide handle from advance deposit wagering in that calendar**
22 **year has reached \$5,000,000, the commission on advance deposit wagering by an off-**
23 **track betting facility licensee is calculated as a percentage of the net commission and**
24 **must be distributed as follows.**

25 A. On exotic wagers:

- 26 (1) The state share is 1.25%;
27 (2) The Sire Stakes Fund share is 1.7975%;
28 (3) The Stipend Fund share is 2.345%;
29 (4) The purse supplement share is 10.88%;
30 (5) The Harness Racing Promotional Fund share is 1.8998%;
31 (6) The off-track betting facilities' pooled share is 47.0777%; and
32 (7) The commercial tracks' pooled share is 34.750%.

1 B. On regular wagers:

- 2 (1) The state share is 0.75%;
3 (2) The Sire Stakes Fund share is 1.83%;
4 (3) The Stipend Fund share is 2.41%;
5 (4) The purse supplement share is 9.89%;
6 (5) The Harness Racing Promotional Fund share is 1.718%;
7 (6) The off-track betting facilities' pooled share is 50.402%; and
8 (7) The commercial tracks' pooled share is 33%.

9 **12. Advance deposit wagering intrastate simulcasting with commingled pools;**
10 **commercial track licensee. The distribution of the commission on advance deposit**
11 **wagering conducted by a commercial track licensed to conduct advance deposit wagering**
12 **in simulcasting of races with commingled pools originating at a racetrack within the State**
13 **is calculated as a percentage of the net commission and distributed as follows.**

14 A. On exotic wagers:

- 15 (1) The state share is 6.48462%;
16 (2) The off-track betting facilities' pooled share is 25%;
17 (3) The Sire Stakes Fund share is 4.47404%;
18 (4) The Stipend Fund share is 3.37212%;
19 (5) The purse supplement share is 2.85577%;
20 (6) The Harness Racing Promotional Fund share is 0.72115%;
21 (7) The horsemen's purse share is 9.5625%; and
22 (8) The host track share is 47.5298%.

23 B. On regular wagers:

- 24 (1) The state share is 2.05417%;
25 (2) The off-track betting facilities' pooled share is 25%;
26 (3) The Sire Stakes Fund share is 0.3%;
27 (4) The Stipend Fund share is 4.94167%;
28 (5) The purse supplement share is 4.10833%;
29 (6) The Harness Racing Promotional Fund share is 1.04167%; and
30 (7) The host track share is 60.3625%.

31 **13. Advance deposit wagering intrastate simulcasting with commingled pools;**
32 **off-track betting facility licensee. The distribution of the commission on advance**

1 deposit wagering conducted by an off-track betting facility licensed to conduct advance
2 deposit wagering in simulcasting of races with commingled pools originating at a
3 racetrack within the State is calculated as a percentage of the net commission and
4 distributed as follows.

5 A. On exotic wagers:

- 6 (1) The state share is 6.48462%;
7 (2) The off-track betting facilities' pooled share is 25%;
8 (3) The Sire Stakes Fund share is 4.47404%;
9 (4) The Stipend Fund share is 3.37212%;
10 (5) The purse supplement share is 29.98077%;
11 (6) The Harness Racing Promotional Fund share is 0.72115%; and
12 (7) The host track share is 47.5298%.

13 B. On regular wagers:

- 14 (1) The state share is 2.05417%;
15 (2) The off-track betting facilities' pooled share is 25%;
16 (3) The Sire Stakes Fund share is 0.3%;
17 (4) The Stipend Fund share is 4.94167%;
18 (5) The purse supplement share is 6.3%;
19 (6) The Harness Racing Promotional Fund share is 1.04167%; and
20 (7) The host track share is 60.3625%.

21 **Sec. 8. 8 MRSA §293**, as enacted by PL 1997, c. 528, §46, is amended to read:

22 **§293. Track share, host track share and commercial tracks' pooled share**

23 Amounts calculated as track share under section 286 must be retained by the track
24 where the wager was placed.

25 Amounts calculated as the commercial tracks' pooled share of commissions
26 distributed from advance deposit wagers under section 286 must be shared among and
27 distributed to all licensed commercial tracks, with each commercial track receiving that
28 portion of the commercial tracks' pooled share determined by multiplying the pooled
29 share times a fraction, the numerator of which is the minimum number of days of racing
30 the track is required by law to conduct annually in order to retain its commercial track
31 license and the denominator of which is the sum of the number of days of racing all the
32 commercial tracks are required to conduct in order to retain their commercial track
33 licenses. The commercial tracks' pooled share must be paid within 17 days after the
34 advance deposit wager is placed.

A. of B.

1 Amounts calculated as the host track share of commissions distributed from advance
2 deposit wagers under section 286 must be paid to the track where the race was conducted
3 within 17 days after the wager is placed.

4 **Sec. 9. 8 MRS §294-A** is enacted to read:

5 **§294-A. Off-track betting facilities' pooled share**

6 Amounts calculated as the off-track betting facilities' pooled share of commissions
7 distributed from advance deposit wagers under section 286 must be divided evenly
8 among and distributed to all off-track betting facilities within 17 days after the advance
9 deposit wager is placed.

10 **Sec. 10. Review of advance deposit wagering.** The State Harness Racing
11 Commission shall consult with all licensees authorized to conduct harness racing in the
12 State and organizations that receive a distribution of commissions under the Maine
13 Revised Statutes, Title 8, chapter 11 to consider the impact of the operation of advance
14 deposit wagering on the conduct of racing and recommend any changes to the distribution
15 of commissions from advance deposit wagering. The commission may recommend
16 changes to the distribution to provide greater stability to the harness racing industry and
17 to ensure that distributions are fair and equitable among recipients. The commission shall
18 submit a report based on these considerations and make recommendations to the joint
19 standing committee of the Legislature having jurisdiction over wagering on harness
20 racing matters no later than December 31, 2018.

21 **Sec. 11. Appropriations and allocations.** The following appropriations and
22 allocations are made.

23 **AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF**

24 **Harness Racing Commission 0320**

25 Initiative: Provides an allocation of \$48,204 in fiscal year 2014-15, which would increase
26 to \$95,408 beginning in fiscal year 2015-16, for monitoring of advance deposit wagering.

27	OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
28	All Other	\$0	\$48,204
29			
30	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$48,204

31 **Harness Racing Commission 0320**

32 Initiative: Provides an allocation of \$7,959 in fiscal year 2014-15, which would increase
33 to \$15,919 beginning in fiscal year 2015-16, for the purpose of funding the State Harness
34 Racing Commission.

35	OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
36	All Other	\$0	\$7,959
37			

1 OTHER SPECIAL REVENUE FUNDS TOTAL \$0 \$7,959

2 **Harness Racing Promotional Board 0873**

3 Initiative: Provides an allocation of \$6,837 in fiscal year 2014-15, which would increase
 4 to \$13,673 beginning in fiscal year 2015-16, to the Harness Racing Promotional Board to
 5 promote the harness racing industry.

6	OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
7	All Other	\$0	\$6,837
8			
9	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$6,837</u>

10	AGRICULTURE, CONSERVATION AND		
11	FORESTRY, DEPARTMENT OF		
12	DEPARTMENT TOTALS	2013-14	2014-15
13			
14	OTHER SPECIAL REVENUE FUNDS	\$0	\$63,000
15			
16	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$63,000</u>
17			

18 **SUMMARY**

19 This amendment, which is the minority report of the committee, replaces the bill and
 20 establishes a framework for the conduct of advance deposit wagering on harness horse
 21 racing and thoroughbred horse racing. The amendment provides that commercial tracks
 22 are eligible for a license to accept wagers made by telephone or electronic
 23 communication using advance deposit wagering. If no commercial track is licensed to
 24 conduct advance deposit wagering as of July 1, 2015, an existing off-track betting facility
 25 is eligible for an advance deposit wagering license. The amendment provides that an off-
 26 track betting facility may apply for a license individually or in partnership with another
 27 eligible off-track betting facility. Under the amendment, advance deposit wagering is a
 28 form of pari-mutuel wagering in which a bettor establishes an account from which wagers
 29 on horse races are made and into which prizes are deposited. An advance deposit wager
 30 licensee receives a percentage of each wager made using advance deposit wagering.
 31 Advance deposit wagering licenses are issued by the State Harness Racing Commission.
 32 The amendment prescribes the duties of the commission with regard to enforcement and
 33 administration of laws and rules that govern advance deposit wagering. The amendment
 34 also adds an appropriations and allocations section.

35 **FISCAL NOTE REQUIRED**

36 (See attached)



126th MAINE LEGISLATURE

LD 519

LR 833(02)

An Act To Establish Advance Deposit Wagering for Harness Racing

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-398)
Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

	FY 2013-14	FY 2014-15	Projections FY 2015-16	Projections FY 2016-17
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$63,000	\$125,000	\$125,000
Revenue				
Other Special Revenue Funds	\$0	\$63,000	\$125,000	\$125,000

Fiscal Detail and Notes

The bill establishes a framework for allowing commercial racetracks to be host facilities for advance deposit wagering. This allows the creation of wagering accounts, administered by licensed advance deposit wagering racetracks, to accept deposits from bettors in advance of races. Bettors would have the ability to make wagers through the telephone, the internet or other approved electronic media with prize money deposited in the bettor's account by the racetracks.

The bill includes an Other Special Revenue Funds allocation of \$48,204 in fiscal year 2014-15 which would increase to \$95,408 starting in fiscal year 2015-16 for monitoring advance deposit wagering. This bill is anticipated to result in a \$48,204 increase in revenue to the Harness Racing Commission from increased betting tax revenue and from new license and renewal fees beginning in fiscal year 2014-15, then rising to \$95,408 in subsequent years. The bill will increase betting tax revenue by \$7,959 in fiscal year 2014-15 and to \$15,919 in subsequent years. The Harness Racing Promotional Board is also expected to have an increase in revenue of \$6,837 starting in fiscal year 2014-15 and then rising to \$13,673 in subsequent years. It is assumed that the off-track betting facilities' pooled share will be distributed by the racetracks managing the advance deposit accounts.