

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 1279

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H.P. 875

House of Representatives, April 9, 2015

### **An Act To Authorize Advance Deposit Wagering for Horse Racing**

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative PICCHIOTTI of Fairfield.  
Cosponsored by Representatives: LONGSTAFF of Waterville, O'CONNOR of Berwick,  
PRESCOTT of Waterboro, SKOLFIELD of Weld, WALLACE of Dexter, Senator:  
WHITTEMORE of Somerset.

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

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

4 **1. Rulemaking.** The commission shall adopt rules for:

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

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

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

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

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

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

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

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

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

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

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

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

28 (1) Rulemaking;

29 (2) Processing appeals;

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

32 (4) Setting race dates;

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

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

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

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

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

9 (3) Budget development and management;

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

12 (5) Management of participant licensing;

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

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

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

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

20 **§271-A. Advance deposit wagering**

21 **1. Persons eligible to conduct advance deposit wagering.** The commission may  
22 issue a license to conduct advance deposit wagering, including accepting deposits and  
23 making wagers from accounts and entering into contracts with a provider of advance  
24 deposit wagering services located within the United States, to a commercial track  
25 licensed by the commission, an off-track betting facility licensed by the commission and  
26 in operation as of January 1, 2014 or a multijurisdictional account wagering provider  
27 under subsection 2. If a commercial track has not requested a license from the  
28 commission by October 15, 2015, the commission may issue a license to conduct advance  
29 deposit wagering to an off-track betting facility licensed by the commission that was in  
30 operation as of January 1, 2014 or a multijurisdictional account wagering provider. After  
31 October 15, 2015, if a commercial track licensed to conduct advance deposit wagering  
32 surrenders or fails to renew its license or the license to conduct advance deposit wagering  
33 is revoked, the commission may issue a license to an off-track betting facility licensed by  
34 the commission that was in operation as of January 1, 2014 or a multijurisdictional  
35 account wagering provider. When issuing a license to conduct advance deposit wagering  
36 to an off-track betting facility, the commission may issue the license to a single off-track  
37 betting facility, multiple off-track betting facilities in partnership, multiple commercial  
38 tracks in partnership or multiple off-track betting facilities and commercial tracks in  
39 partnership.

1           **2. Multijurisdictional account wagering providers.** The commission may license  
2 a multijurisdictional account wagering provider that complies with this subsection to  
3 accept wagers from a person in this State.

4           A. The multijurisdictional account wagering provider must be licensed by the state in  
5 which it is located and, if required, by each state in which it operates.

6           B. The character and background of the multijurisdictional account wagering  
7 provider must be such that granting the application for a license is in the public  
8 interest and the best interest of honest horse racing.

9           C. The multijurisdictional account wagering provider shall use the services of an  
10 independent 3rd party to perform identity verification services with respect to the  
11 establishment of wagering accounts for persons who are residents of this State.

12           D. The multijurisdictional account wagering provider shall allow the commission  
13 access to the premises of the multijurisdictional account wagering provider to visit,  
14 investigate and place expert accountants and other persons the commission  
15 determines necessary for the purpose of ensuring compliance with the rules of the  
16 commission.

17           E. If not already licensed, the multijurisdictional account wagering provider shall  
18 agree to promptly take the steps necessary to qualify to do business in the State and to  
19 maintain that status in good standing.

20           F. If the multijurisdictional account wagering provider has affiliates or subsidiaries  
21 that conduct live racing and those affiliates or subsidiaries are offered for wagering  
22 by the multijurisdictional account wagering provider, then those affiliates or  
23 subsidiaries must be offered for use by commercial track licensees and off-track  
24 betting facility licensees for the purpose of advance deposit wagering under this  
25 chapter under the same commercial terms as provided to the multijurisdictional  
26 account wagering provider. The multijurisdictional account wagering provider may  
27 not offer for wagering any live racing that is not offered by a commercial track or off-  
28 track betting facility advance deposit wagering licensee.

29           G. The multijurisdictional account wagering provider shall comply with all rules of  
30 the commission applicable to off-track betting facilities in the State, other than those  
31 requirements that require a presence in the State. The multijurisdictional account  
32 wagering provider is subject to the commission and distribution requirements of this  
33 chapter.

34           **3. Fees.** The initial fee for a license to conduct advance deposit wagering is \$500.  
35 The annual renewal fee is \$250.

36           **4. Duties of the commission.** The commission, or the executive director as  
37 delegated by the commission, shall:

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

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

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

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

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

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

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

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

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

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

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

23 5. Wagering. Notwithstanding section 275-B, an advance deposit wagering licensee  
24 may accept wagers from advance deposit wagering account holders by telephone,  
25 electronic communication or other electronic media as approved by the commission. If  
26 permitted by the off-track betting facility or commercial track, advance deposit wagering  
27 account holders may access accounts at such locations, with wagers using advance  
28 deposit wagering accounts treated as if the wager had been made at the commercial track  
29 or off-track betting facility.

30 6. Rules. The commission shall adopt rules for the administration, clarification,  
31 execution and enforcement of the provisions of this section. Rules adopted pursuant to  
32 this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter  
33 2-A.

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

35 2-A. Advance deposit wagering. "Advance deposit wagering" means a form of  
36 pari-mutuel wagering on harness or thoroughbred races in which the bettor deposits funds  
37 in a wagering account administered by an advance deposit wagering licensee from which  
38 the advance deposit wagering licensee makes wagers on behalf of the bettor and to which  
39 the advance deposit wagering licensee deposits prize money awarded to the bettor.

1           **2-B. Advance deposit wagering licensee.** "Advance deposit wagering licensee"  
2 means a commercial track, off-track betting facility or multijurisdictional account  
3 wagering provider licensed under section 271-A as a host facility for advance deposit  
4 wagering.

5           **Sec. 6. 8 MRSA §275-A, sub-§§6-A and 7-A** are enacted to read:

6           **6-A. Multijurisdictional account wagering provider.** "Multijurisdictional account  
7 wagering provider" means a business entity domiciled in a jurisdiction other than this  
8 State that does not operate a commercial track or an off-track betting facility that is open  
9 to the public within this State but that is licensed by another jurisdiction to offer pari-  
10 mutuel account wagering on races the business entity simulcasts and other races it offers  
11 in its wagering menu to persons in or out of the jurisdiction that issued the license.

12           **7-A. Net commission.** "Net commission" means the wagers placed via advance  
13 deposit wagering after subtracting the amount of the contract cost to the advance deposit  
14 wagering licensee in contracting with an advance deposit wagering provider and then  
15 subtracting an amount equal to 6.5% of the total remaining commission that is retained by  
16 the advance deposit wagering licensee for expenses related to conducting advance deposit  
17 wagering.

18           **Sec. 7. 8 MRSA §286, sub-§§8 to 14** are enacted to read:

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

25           **A. On exotic wagers:**

- 26                   **(1) The state share is 1.25%;**  
27                   **(2) The off-track betting facilities' pooled share is 34.75%;**  
28                   **(3) The Sire Stakes Fund share is 1.25%;**  
29                   **(4) The Stipend Fund share is 1.25%;**  
30                   **(5) The purse supplement share is 2.75%;**  
31                   **(6) The Harness Racing Promotional Fund share is 0.75%;**  
32                   **(7) The horsemen's purse share is 3.25%; and**  
33                   **(8) The commercial tracks' pooled share is 54.75%.**

34           **B. On regular wagers:**

- 35                   **(1) The state share is 0.75%;**  
36                   **(2) The off-track betting facilities' pooled share is 33%;**  
37                   **(3) The Sire Stakes Fund share is 1.25%;**

- 1                   (4) The Stipend Fund share is 1.25%;
- 2                   (5) The purse supplement share is 2.75%;
- 3                   (6) The Harness Racing Promotional Fund share is 0.5%;
- 4                   (7) The horsemen's purse share is 2.5%; and
- 5                   (8) The commercial tracks' pooled share is 58%.

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

12                   A. On exotic wagers:

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

21                   B. On regular wagers:

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

30                   **10. Advance deposit wagering interstate simulcasting with commingled pools;**  
31 **off-track betting facility licensee.** Except as provided in subsection 11, the distribution  
32 **of the commission on advance deposit wagering conducted by an off-track betting facility**  
33 **licensed to accept advance deposit wagers in accordance with section 271-A in**  
34 **simulcasting of races with commingled pools originating at a racetrack in another state is**  
35 **calculated as a percentage of the net commission and distributed as follows.**



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

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

17           **11. Advance deposit wagering interstate simulcasting with commingled pools**  
18           **exceeding \$5,000,000; off-track betting facility licensee.** Beginning with the first  
19           Monday after the total statewide handle from advance deposit wagering under subsection  
20           10 in that calendar year has reached \$5,000,000, the commission on advance deposit  
21           wagering by an off-track betting facility licensee is calculated as a percentage of the net  
22           commission and must be distributed as follows.

- 23           A. On exotic wagers:  
24               (1) The state share is 1.25%;  
25               (2) The Sire Stakes Fund share is 1.7975%;  
26               (3) The Stipend Fund share is 2.345%;  
27               (4) The purse supplement share is 10.88%;  
28               (5) The Harness Racing Promotional Fund share is 1.8998%;  
29               (6) The off-track betting facilities' pooled share is 47.0777%; and  
30               (7) The commercial tracks' pooled share is 34.75%.

- 31           B. On regular wagers:  
32               (1) The state share is 0.75%;  
33               (2) The Sire Stakes Fund share is 1.83%;  
34               (3) The Stipend Fund share is 2.41%;

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

5           **12. Advance deposit wagering intrastate simulcasting with commingled pools;**  
6 **commercial track licensee.** The distribution of the commission on advance deposit  
7 wagering conducted by a commercial track licensed to conduct advance deposit wagering  
8 under section 271-A in simulcasting of races with commingled pools originating at a  
9 racetrack within the State is calculated as a percentage of the net commission and  
10 distributed as follows.

11           A. On exotic wagers:

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

20           B. On regular wagers:

- 21           (1) The state share is 2.05417%;
- 22           (2) The off-track betting facilities' pooled share is 25%;
- 23           (3) The Sire Stakes Fund share is 0.3%;
- 24           (4) The Stipend Fund share is 4.94167%;
- 25           (5) The purse supplement share is 4.10833%;
- 26           (6) The Harness Racing Promotional Fund share is 3.23333%; and
- 27           (7) The host track share is 60.3625%.

28           **13. Advance deposit wagering intrastate simulcasting with commingled pools;**  
29 **off-track betting facility licensee.** The distribution of the commission on advance  
30 deposit wagering conducted by an off-track betting facility licensed to conduct advance  
31 deposit wagering under section 271-A in simulcasting of races with commingled pools  
32 originating at a racetrack within the State is calculated as a percentage of the net  
33 commission and distributed as follows.

34           A. On exotic wagers:

- 35           (1) The state share is 6.48462%;

- 1                   (2) The off-track betting facilities' pooled share is 25%;
- 2                   (3) The Sire Stakes Fund share is 4.47404%;
- 3                   (4) The Stipend Fund share is 3.37212%;
- 4                   (5) The purse supplement share is 12.41827%;
- 5                   (6) The Harness Racing Promotional Fund share is 0.72115%; and
- 6                   (7) The host track share is 47.5298%.

7                   B. On regular wagers:

- 8                   (1) The state share is 2.05417%;
- 9                   (2) The off-track betting facilities' pooled share is 25%;
- 10                  (3) The Sire Stakes Fund share is 0.3%;
- 11                  (4) The Stipend Fund share is 4.94167%;
- 12                  (5) The purse supplement share is 6.3%;
- 13                  (6) The Harness Racing Promotional Fund share is 1.04166%; and
- 14                  (7) The host track share is 60.3625%.

15                  **14. Multijurisdictional account wagering provider.** The distribution of the  
16 commission on advance deposit wagering conducted by a multijurisdictional account  
17 wagering provider licensed to conduct advance deposit wagering in accordance with  
18 section 271-A in simulcasting of races with commingled pools originating at a racetrack  
19 in this State or another state is calculated as a percentage of the net commission and  
20 distributed as follows.

21                  A. On exotic wagers:

- 22                  (1) The state share is 1.25%;
- 23                  (2) The off-track betting facilities' pooled share is 34.75%;
- 24                  (3) The Sire Stakes Fund share is 1.7975%;
- 25                  (4) The Stipend Fund share is 2.345%;
- 26                  (5) The purse supplement share is 7.13%;
- 27                  (6) The Harness Racing Promotional Fund share is 1.8998%;
- 28                  (7) The horsemen's purse share is 3.75%; and
- 29                  (8) The commercial tracks' pooled share is 47.0777%.

30                  B. On regular wagers:

- 31                  (1) The state share is 0.75%;
- 32                  (2) The off-track betting facilities' pooled share is 33%;
- 33                  (3) The Sire Stakes Fund share is 1.83%;
- 34                  (4) The Stipend Fund share is 2.41%;

- 1                   (5) The purse supplement share is 7.39%;
- 2                   (6) The Harness Racing Promotional Fund share is 1.718%;
- 3                   (7) The horsemen's purse share is 2.5%; and
- 4                   (8) The commercial tracks' pooled share is 50.402%.

5                   **Sec. 8. 8 MRSA §293**, as enacted by PL 1997, c. 528, §46, is amended by adding  
6 at the end 2 new paragraphs to read:

7                   Amounts calculated as the commercial tracks' pooled share of commissions  
8 distributed from advance deposit wagers under section 286 must be shared among and  
9 distributed to all licensed commercial tracks, with each commercial track receiving that  
10 portion of the commercial tracks' pooled share determined by multiplying the pooled  
11 share times a fraction, the numerator of which is the minimum number of days of racing  
12 the track is required by law to conduct annually in order to retain its commercial track  
13 license and the denominator of which is the sum of the number of days of racing all the  
14 commercial tracks are required to conduct in order to retain their commercial track  
15 licenses. The commercial tracks' pooled share must be paid within 17 days after the  
16 advance deposit wager is placed.

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

20                   **Sec. 9. 8 MRSA §294-A** is enacted to read:

21                   **§294-A. Off-track betting facilities' pooled share; advance deposit wagers**

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

26                   **Sec. 10. Review of advance deposit wagering.** The State Harness Racing  
27 Commission shall consult with all licensees authorized to conduct harness racing in the  
28 State and organizations that receive a distribution of commissions under the Maine  
29 Revised Statutes, Title 8, chapter 11 to consider the effect of the operation of advance  
30 deposit wagering on the conduct of racing and recommend any changes to the distribution  
31 of commissions from advance deposit wagering. The commission may recommend  
32 changes to the distribution to provide greater stability to the harness racing industry and  
33 to ensure that distributions are fair and equitable among recipients. The commission shall  
34 submit a report based on these considerations and make recommendations to the joint  
35 standing committee of the Legislature having jurisdiction over wagering on harness  
36 racing matters no later than December 31, 2023.

1

## SUMMARY

2           This bill establishes a framework for the conduct of advance deposit wagering on  
3 harness and thoroughbred racing. The bill provides that commercial tracks and  
4 established off-track betting facilities are eligible for a license to accept wagers made by  
5 telephone or electronic communication using advance deposit wagering. Advance  
6 deposit wagering is a form of pari-mutuel wagering in which a bettor establishes an  
7 account from which wagers on horse races are made and into which prizes are deposited.  
8 An advance deposit wager licensee receives a percentage of each wager made using  
9 advance deposit wagering. Advance deposit wagering licenses are issued by the State  
10 Harness Racing Commission. The bill prescribes the duties of the commission with  
11 regard to enforcement and administration of laws and rules that govern advance deposit  
12 wagering. The bill also authorizes multijurisdictional account wagering providers from  
13 outside the State to provide advance deposit wagering.