

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
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PUBLIC LAWS

OF THE

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1991

D. Submit regular reports to the board regarding the operation of the organization, the frequency, content and form of which ~~shall~~ must be determined by the board;

E. Following the close of each fiscal year, determine net written and earned premiums, the expense of administration and the paid and incurred losses for the year and report this information to the board on a form as prescribed by the board; and

F. Be paid as provided in the plan of operation for its expenses incurred in the performance of its services.

Sec. 4. 24-A MRSA §6059, sub-§§1 to 4, as enacted by PL 1987, c. 542, Pt. H, §5, are amended to read:

1. Reasonableness. Premiums charged for coverages issued by the organization may not be unreasonable for the group or the individual in relation to the benefits provided, the risk experience and the reasonable expenses of providing the coverage.

2. Separate schedules. Separate schedules of premium rates based on age, sex and geographical location may apply for individual risks. Rates and rate schedules may be adjusted for appropriate risk factors, such as age and area variation in claim cost, if based on individual rating, or may be based upon community rating for the entire group, and shall must take into consideration appropriate risk factors in accordance with established actuarial and underwriting practices. If using a community rate, the board shall develop a weighted average of individual rates of the 5 largest insurers. In no event may organization rates exceed 150% of rates applicable to the standard risk rate.

3. Standard risk rate. The board shall determine the standard risk rate by calculating the average individual standard rate charged by the 5 largest insurers offering coverages in the State comparable to the organization coverage. In the event 5 insurers do not offer comparable coverage, the standard risk rate ~~shall~~ must be established using reasonable actuarial techniques and ~~shall~~ must reflect anticipated experience and expenses for the coverage. In no event may organization rates exceed 150% of rates applicable to the standard risk rate.

4. Premium subsidy. The board shall make available a plan to subsidize premiums for those individuals who have been denied health insurance because of a health condition and who meet income eligibility requirements set by the board. The subsidy plan to be paid from the General Fund ~~shall~~ may not exceed \$50,000 in costs during the first 2 years of operation. Funds appropriated for this purpose may not lapse, but must be carried forward to fulfill the purposes of this subsection.

No subsidy may be given to a person if the premium amount, after deducting the subsidy, is less than the premium of any comparable individual health insurance policy currently available to that person in the State.

The board shall relate the experience of the subsidy plan to the Legislature in the annual report and shall make recommendations regarding the subsidy plan.

Sec. 5. 24-A MRSA §6059-A is enacted to read:

§6059-A. Community rating

The Maine High-Risk Insurance Organization shall plan for the use and establishment of community rating for premiums and shall implement a transition plan for such rating as of the effective date of this section.

See title page for effective date.

CHAPTER 579

H.P. 665 - L.D. 944

An Act to Permit Off-track Betting and to Revise the Harness Racing Laws

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

Sec. 1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1989, c. 878, Pt. A, §3, is amended to read:

2. Range 90. The salaries of the following state officials and employees ~~shall be~~ are within salary range 90:

Superintendent of Banking;

Bureau of Consumer Credit Protection Superintendent;

State Tax Assessor;

Superintendent of Insurance;

Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;

Associate Commissioner of Administration, Department of Mental Health and Mental Retardation;

Associate Commissioner for Institutional Management; ~~and~~

Executive Director, Maine Waste Management Agency; and

Chair, State Harness Racing Commission.

Sec. 2. 5 MRSA §12004-G, sub-§32, as enacted by PL 1987, c. 786, §5, is amended to read:

| | | | |
|-------------------------------------|---|-------------------------|--------------------------|
| 32. Sport and Entertain- ment | State Harness Racing Commis- sion | Legislative Per Diem | 8 MRSA §261 §261-A |
|-------------------------------------|---|-------------------------|--------------------------|

Sec. 3. 8 MRSA §261, as amended by PL 1989, c. 503, Pt. B, §48, is repealed.

Sec. 4. 8 MRSA §261-A is enacted to read:

§261-A. Commission

1. Establishment. The State Harness Racing Commission as established by Title 5, section 12004-G, subsection 32, shall carry out the purposes of this chapter. The commission is affiliated with the Department of Agriculture, Food and Rural Resources as specified in this chapter. For the purposes of this chapter, "department" means the Department of Agriculture, Food and Rural Resources and "commissioner" means the Commissioner of Agriculture, Food and Rural Resources.

2. Members. The commission consists of 5 members appointed by the Governor. One member must be a member of the general public with no industry affiliation. One member must be affiliated with an agricultural society that conducts an annual agricultural fair. The other 3 members must be persons with a knowledge of harness racing.

3. Geographic distribution. The members must be appointed to provide broad geographic representation.

4. Term of office. Except as provided in subsection 5, members of the commission serve 3-year terms. Any vacancy is filled by appointment for the remainder of the unexpired term. Members whose terms expire serve until their successors are qualified and appointed.

5. Confirmation. Appointees must be reviewed by the joint standing committee of the Legislature having jurisdiction over agricultural matters and are subject to confirmation by the Legislature.

6. Chair. The Governor shall appoint one of the 5 commission members as chair. Beginning July 1, 1992, this position is a full-time, unclassified, major policy-influencing position and is entitled to an annual salary as determined by the Governor within salary range 90, as established by Title 2, section 6, subsection 2. The chair serves at the pleasure of the Governor.

7. Removal. Except as provided in subsection 5, the Governor may remove any member of the commission for just cause. A member who is subject to removal must be given a copy of the charges against that member and must, upon request, be given an opportunity to be heard upon 10 days' notice.

8. Conflict of interest. A commission member may not participate in any matter before the commission in which that member has a direct or indirect pecuniary interest or personal bias or if any other conflict of interest is determined by the commission to exist, either on its own motion or in response to a written complaint.

Sec. 5. 8 MRSA §262, as amended by PL 1983, c. 834, §2, is further amended to read:

§262. Organization

The commissioners shall select one from their number to be chairman of the commission. The Commissioner of Agriculture, Food and Rural Resources or his designee shall ex officio be secretary of the commission but shall not be a voting member thereof. Three of the members of the commission shall constitute a quorum to do business. The commission shall meet at least monthly and it shall be the duty of the secretary to keep a record of all proceedings of the commission and to preserve all books, maps, documents, papers and records entrusted to its care.

Sec. 6. 8 MRSA §264, as amended by PL 1985, c. 785, Pt. B, §50, is repealed and the following enacted in its place:

§264. Employees

The commission shall contract with or employ, and shall prescribe the duties of, all persons it determines necessary to carry out the purposes of this chapter. Except as provided in this section, the appointment and compensation of this staff are subject to the Civil Service Law.

The commission shall contract for the services of qualified persons to serve as presiding and associate track judges as necessary to provide adequate policing and enforcement. The judges are not employees of the State for any purpose. They are entitled to be paid a per diem fee as determined by the commission. They are not entitled to be reimbursed separately for expenses. The race tracks and fairs shall reimburse the commission for the per diem compensation of those presiding and associate judges assigned to them.

Sec. 7. 8 MRSA §265, as repealed and replaced by PL 1983, c. 812, §56, is amended to read:

§265. Compensation

Members Except as provided for the chair in section 261-A, subsection 5, members of the commission shall be entitled to be compensated as provided in Title 5, chapter 379.

Sec. 8. 8 MRSA §267 is repealed and the following enacted in its place:

§267. Budget; report

1. Budget. The commission shall submit to the commissioner as provided in Title 5, section 1665, a budget sufficient to carry out the provisions of this chapter and the commissioner shall transmit these requirements to the Bureau of the Budget without any revision, alteration or change. The commission shall submit a copy of this budget with any desired comments to the joint standing committee of the Legislature having jurisdiction over agricultural matters and to the Executive Director of the Legislative Council.

2. Report. Coincident with the submission of its budget, the commission shall make an annual report to the commissioner with copies to the Governor, the joint standing committee of the Legislature having jurisdiction over agricultural matters and the Executive Director of the Legislative Council. This report must include an account of the commission's operations and actions, a report of its financial position, including receipts, an account of the practical effects of application of this chapter and any recommended legislation. The operations report must include the number and types of violations of racing laws and rules, the disposition of those violations and the amount of time required for their disposition, including a history of any appeals.

Sec. 9. 8 MRSA §268, as amended by PL 1989, c. 882, is further amended to read:

§268. Rules

The commission shall ~~make~~ adopt rules and ~~regulations~~ for the holding, conducting and operating of all harness horse races or meets for public exhibition held in this State and for the operation of ~~race tracks~~ race-tracks on which any such race or meet is held; notwithstanding any other provision of law, harness horse races or meets held on Sunday ~~shall~~ may not commence until the hour of 1 p.m.

The commission may adopt rules for the licensing and operation of off-track betting facilities. The commission shall mail notice of proposed rules or proposed amendments to rules related to off-track betting to each member of the joint standing committee of the Legislature having jurisdiction over legal affairs matters and to each member of the joint standing committee of the Legislature having jurisdiction over agricultural matters not less than 20 days before a public hearing on the proposed rule or amendment and not less than 20 days before adoption of such a rule or amendment without a public hearing. The notice must include a copy of the proposed rule or amendment. This paragraph is repealed 91 days after adjournment of the First Regular Session of the 117th Legislature.

The commission may authorize licensees of extended meets to provide for the simulcasting of entire racing

cards during the first 68 weeks of each year. ~~This paragraph is repealed January 1, 1992.~~

Sec. 10. 8 MRSA §271, as amended by PL 1989, c. 203, §2, is further amended to read:

§271. Issuance of licenses for the conduct of racing

1. Licensing. If the commission is satisfied that all of this chapter and rules prescribed by the commission have been substantially complied with during the past year and will be fully complied with during the coming year by the person, association or corporation applying for a license; that the applicant, its members, directors, officers, shareholders, employees, creditors and associates are of good moral character; that the applicant is financially responsible; and that the award of racing dates to the applicant is appropriate under the criteria contained in subsection 2, it may issue a license for the holding of harness horse races or meets for public exhibition with pari-mutuel pools, which ~~shall~~ must expire on December 31st. The commission shall set licensing and license renewal fees sufficient to carry out the administration and enforcement of the licensing program. ~~The fee for the license shall be~~ These fees may not exceed annually the greater of \$100 or \$10 for each calendar week or part of a week of harness racing regardless of whether ~~or not~~ pari-mutuel pools are sold. The commission shall provide a booklet containing harness racing laws and rules and relevant portions of the Maine Administrative Procedure Act to every initial licensee and a fee not to exceed \$10 must be included in the license fee to cover the cost of this publication. The commission shall provide necessary revisions of this booklet to those persons renewing licenses at the time of renewal and shall include the cost of the revisions, not to exceed \$10, in the renewal fee. The license ~~shall~~ must set forth the name of the licensee, the place where the races or race meets are to be held and the specific dates and time of day or night during which racing may be conducted by the licensee. The location stated in the license where the race or race meet is to be held may be transferred to any other licensee on the dates set forth in the license during which the racing may be conducted, but, with respect to ~~such a~~ that transfer, the transfer ~~shall~~ may only be made to another licensee and the licensee ~~shall be~~ is liable for compliance with all laws and regulations governing the conduct of harness racing. Any such license issued ~~shall~~ is not ~~be~~ transferable or assignable. The Administrative Court Judge, as designated in Title 4, chapter 25, may revoke any license issued at any time for violation of the commission's rules or licensing provisions upon notice and hearing. The license of any corporation ~~shall be~~ is automatically revoked, subject to Title 5, chapter 375, upon the change in ownership, legal or equitable, of 50% or more of the voting stock of the corporation and the corporation ~~shall~~ may not hold a harness horse race or meet for public exhibition without a new license.

2. Criteria for date awards. In assigning dates to licensees, the commission shall consider the following factors:

- A. The revenues to be generated, consistent with the profitability and financial health of the licensee, for the General Fund pursuant to section 275; the purse supplements pursuant to section 275; the Sire Stakes Fund pursuant to section 281; and the Stipend Fund pursuant to Title 7, section 62;
- B. The quality of race programming and facilities offered and to be offered by the licensee and the suitability of the applicant's racing facilities for operation at the season for which the dates are requested;
- C. The necessity of having and maintaining proper physical facilities for racing meetings; and consequently, to insure the continuance of the facilities, the quality of the licensee's maintenance of its track and plant, the adequacy of its provisions for rehabilitation and capital improvements and the necessity of fair treatment of the economic interests and investments of those who, in good faith, have provided and maintained racing facilities;
- D. The desirability of reasonable consistency in the pattern of date assignments from year to year;
- E. With respect to agricultural societies seeking licenses to conduct harness racing meets at the time of their annual fairs, the scheduling of agricultural fairs determined by the Commissioner of Agriculture, Food and Rural Resources pursuant to Title 7, sections 65 and 65-A;
- F. The preservation of a diversity of harness racing tracks in the State;
- G. The quality of the licensee's observance and enforcement of this chapter and the rules promulgated pursuant to this chapter during the past year;
- H. The extent to which the licensee fully utilized racing dates granted to it for the past year;
- I. The personnel and resources available to the commission for the enforcement of this chapter and the rules promulgated pursuant to this chapter;
- J. The likely availability of race-worthy horses throughout the year; and
- K. Such other criteria consistent with the betterment of harness racing and the public health, safety and welfare as the commission may establish by rule.

3. Overlapping race dates. The commission ~~shall~~ may not award overlapping race dates for extended meets

to licensees ~~which are~~ within 50 miles of each other without the approval of 60% or more of the entire commission.

~~4. Evaluation.~~ ~~The Commissioner of Agriculture, Food and Rural Resources shall thoroughly evaluate the effects of concurrent racing in Maine, including a survey and analysis of racing patrons, during April and May of 1986. The commissioner shall report his findings and recommendations to the Joint Standing Committee on Agriculture for legislative action prior to July 1, 1986.~~

5. Minimum number of race days. The commission may assign a commercial licensee a minimum number of racing days for a period of up to 3 years. The specific dates for these racing days and additional race dates are determined each year in accordance with subsection 1. For the purposes of this subsection, "commercial licensee" means a licensee with an annual total of more than 25 racing days with pari-mutuel wagering in the previous calendar year.

Sec. 11. 8 MRSA §274-A is enacted to read:

§274-A. Off-track betting

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commercial track" means a harness horse racing track licensed under this chapter to conduct harness horse racing with pari-mutuel wagering that conducted racing on more than 25 days in the previous calendar year.

B. "Exotic wagers" means wagers in which the bettor selects 2 or more horses in one or more races in a single wager.

C. "Licensee" means a person licensed to conduct harness horse racing in this State, including agricultural associations.

D. "Municipal officers" has the same meaning as in Title 28-A, section 2, subsection 21, except that when an off-track betting facility is proposed in an unincorporated location, the term "municipal officers" means the county commissioners of the county in which the facility is to be located and the term "municipality" means the unincorporated location.

E. "Off-track betting facility" means a Class A restaurant, as defined in Title 28-A, section 2, subsection 15, paragraph R, at which a licensee is licensed to conduct pari-mutuel wagering on simulcast racing.

F. "Off-track betting licensee" means a licensee who has obtained a license to conduct pari-mutuel wagering at an off-track betting facility.

G. "Regular wagers" means wagers other than exotic wagers.

2. Off-track betting on simulcast racing. A person licensed to operate a commercial track in this State may conduct pari-mutuel wagering at an off-track betting facility in the State if the facility is licensed under this section.

3. Application for off-track betting. To obtain a license to conduct pari-mutuel wagering at an off-track betting facility, a person must submit to the commission an application on a form prescribed by the commission that specifies at least the following:

A. The number of permanent and part-time jobs to be created at the proposed facility;

B. The population of the municipality and surrounding area where the proposed facility is to be located;

C. The proximity of the proposed facility to any other approved off-track betting facility or licensed race-track;

D. The type of seating to be provided, including areas in the proposed facility where patrons can handicap races;

E. The total seating capacity of the proposed facility;

F. The size and number of toilet facilities;

G. The availability of food and beverages, including the number of tables, chairs, kitchen facilities and concession stands;

H. The number of available parking spaces;

I. A description of the general design or style of the facility, including lighting, decor and plans for the exterior of the facility;

J. The number of betting windows and stand-alone betting terminals to be provided;

K. A description of the heating and air-conditioning units, the smoke removal equipment and other climate control devices;

L. The total area in square feet of the proposed facility; and

M. The number, type and quality of the television equipment to be installed and, if applicable, the name and place of business of any proposed independent contract operator.

4. Municipal approval. The commission may not grant a license to conduct pari-mutuel wagering at an off-track betting facility unless the facility is approved, in ac-

cordance with this subsection, by the municipal officers of the municipality in which the facility is to be located.

A. Within 15 days after receiving an application for an off-track betting facility license, the commission shall notify the municipal officers of the municipality in which the facility is to be located and shall send a copy of the application to those officers. The municipal officers shall hold a public hearing for the consideration of the application in accordance with this subsection.

B. The municipal officers shall provide public notice of any hearing held under this subsection by causing a notice stating the name and place of hearing, at the applicant's prepaid expense, to appear on at least 6 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the facility will be located or on 2 consecutive weeks before the date of the hearing in a weekly newspaper having general circulation in the municipality where the facility is to be located.

C. Following the public hearing, the municipal officers shall grant or deny approval of the facility and shall indicate the reasons for their decision and provide a copy to the applicant.

D. Approval of a facility may be denied on one or more of the following grounds:

(1) Objection on policy or other grounds to the conduct of pari-mutuel wagering within the municipality;

(2) Conviction of the applicant or a holder of more than 50% of the shares or other interests of the applicant of any Class A, Class B or Class C crime;

(3) Noncompliance of the facility or its use with any local zoning ordinance or other land use ordinance;

(4) Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the facility and caused by persons patronizing or employed by the facility or other such conditions caused by persons patronizing or employed by the facility that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the facility to use their property in a reasonable manner;

(5) Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the facility and caused by persons patronizing or employed by the facility; or

(6) A violation of any provision of this section.

E. An applicant aggrieved by the decision of the municipal officers under this section may appeal to the Superior Court. Denial of approval on the grounds listed under paragraph D, subparagraph (1) is not reviewable by the court.

5. Requirements for approval of license. The commission shall review the application and hold a public hearing on the application. The commission may issue a license to conduct pari-mutuel wagering at an off-track betting facility if the facility meets the following requirements:

A. The commission finds that the facility:

(1) Will not adversely affect the public interest;

(2) Will not adversely affect the integrity of live racing;

(3) Will not have an adverse impact on the local community;

(4) Provides a potential for job creation, including jobs in the racing and wagering industries and other service jobs;

(5) Has adequate seating facilities, toilet facilities and parking;

(6) Will not adversely affect the value of abutting property;

(7) Will be operated by an applicant with financial ability to maintain the facility in a manner to meet the standards set forth in this paragraph; and

(8) Provides segregated areas for conducting betting separate from the areas in which restaurant or other services are provided to the general public for nonbetting purposes;

B. The municipal officers of the municipality in which the facility is to be located have approved the facility pursuant to subsection 4; and

C. Approval by the commission will not permit the person licensed to conduct pari-mutuel wagering at more than 4 off-track betting facilities.

6. Operation of facility. An off-track betting licensee may not permit a person under the age of 16 to enter the facility unless accompanied by a parent, legal guardian or custodian, as defined in Title 22, section 4002. The off-track betting licensee may not permit any person under the age of 16 within 15 feet of any betting window or other place for accepting wagers.

7. Limitations on simulcasting. The following limitations apply to simulcasting to off-track betting facilities.

A. A person may not simulcast to an off-track betting facility located within a 75-mile radius of another licensee, at the same time that other licensee is conducting live racing, without permission from that licensee and the commission. A person may not simulcast to an off-track betting facility within a 50-mile radius of another licensee, during any day on which that other licensee is conducting live racing, without permission from that licensee and the commission.

B. Races conducted outside the State may be simulcast to an off-track betting facility within the State only if those races are being simulcast to the off-track betting licensee's racetrack at the same time.

8. Annual report. The commission shall report annually by January 1st to the joint standing committee of the Legislature having jurisdiction over legal affairs matters and to the joint standing committee of the Legislature having jurisdiction over agricultural matters on the effect of off-track betting facilities on the local economy, the public interest, the integrity of live racing and other matters the commission finds appropriate. The commission may include in its report any recommendations for necessary changes in laws governing off-track betting.

9. Betting commissions. Commissions on pools of regular wagers may not exceed 18% of each dollar wagered and commissions on pools of exotic wagers may not exceed 26% of each dollar wagered. In addition, the odd cents of all redistribution, based on each dollar wagered, whether regular wagers or exotic wagers, exceeding a sum equal to the next lowest multiple of 10, known as "breakage," must be retained by the off-track betting licensee.

10. Allocation of revenues. The off-track betting licensee shall allocate the revenues as follows.

A. The off-track betting licensee shall pay a sum equal to 1.18% of the total contributions on exotic wagers and a sum equal to 1.203% of the total contributions on regular wagers to the commission to be credited to the agricultural fair Stipend Fund established by Title 7, section 62.

B. The off-track betting licensee shall pay a sum equal to 1.566% of the total contributions on exotic wagers and a sum equal to .073% of the total contributions on regular wagers to the commission to be credited to the Sire Stakes Fund established by section 281.

C. The off-track betting licensee shall retain 3.347% of the total contributions on exotic wagers and .533% of the total contributions on regular wagers and add that sum to purse money.

D. The off-track betting licensee shall pay a sum equal to 2.27% of the total contributions on exotic wagers and .50% of the total contributions on regular wagers to the Treasurer of State to be paid to the General Fund.

E. The off-track betting licensee shall pay a sum of 1% of the total contributions on exotic wagers and 1% of the total contributions on regular wagers to the commission. This sum must be returned to the licensees conducting harness racing for the purpose of supplementing purse money. This sum must be divided equally among the licensees in the proportion that the number of racing days of a licensee granted by the commission and actually raced bears to the total number of racing days granted in any one year by the commission and actually raced by licensees. Payments must be made to the licensees by the end of the calendar year.

11. Repeal. This section is repealed 91 days after adjournment of the First Regular Session of the 117th Legislature.

Sec. 12. 8 MRSA §275, as amended by PL 1989, c. 787, Pt. A, §3, is further amended to read:

§275. Taxes

~~Beginning January 1, 1983, each~~ Each person, association or corporation licensed to conduct a race meet under this chapter shall pay to the Treasurer of State, to be credited to the General Fund of the State, a sum equal to .50% of the total contributions of regular wagers and 2.27% of the total contributions of exotic wagers to all pari-mutuel pools conducted or made at any race or race meet licensed under this chapter. If the total of the regular and exotic wagers exceeds \$37,000,000 ~~\$33,500,000~~ for any calendar year, 72% of the revenue credited to the General Fund under this section attributable to this excess ~~shall~~ must be returned by the Treasurer of State to commercial meet licensees. As used in this chapter, the term "commercial meet" means any meeting where harness racing is held with an annual total of more than 25 racing days duration with pari-mutuel wagering. This payment ~~shall~~ must be divided in the proportion that the contributors of regular and exotic wagers of pari-mutuel pools made or conducted at the commercial meets of each licensee during the calendar year bear to the total contributions of regular and exotic wagers to pari-mutuel pools made or conducted at the commercial meets of all licensees during that calendar year. Licensees sharing in this distribution shall use 1/2 of the funds ~~so~~ received for the purpose of supplementing purse money. ~~The other 1/2 of this distribution is to be used by the commercial licensees for improving their racing facilities for the benefit of the public, horse owners, horsemen and horsewomen, and to increase the revenue to the State from the increase in pari-mutuel wagering resulting from such improvements. The other~~

1/2 of this distribution must be paid to the commercial licensees as reimbursement for improvements made to their racing facilities in the calendar year during which the funds are generated. To receive reimbursement, commercial licensees must submit plans for the improvements to the Maine Harness Racing Commission and receive approval from the commission prior to making the improvements and the commission must verify that the approved improvements have been made. For the purpose of this section, "improvements" means the amount paid out for new buildings or for permanent improvements made to improve the facilities utilized by the licensee for conduct of its racing meetings; or the amount expended in restoring property or in improving the facility or any part of the facility ~~which~~ that results in the addition or replacement of a fixed asset. In general, the amounts referred to as improvements include amounts paid ~~which~~ that add to the value, improve or substantially prolong the useful life of the race track utilized by the licensee for the conduct of its racing meeting. Amounts paid or incurred for repairs and maintenance of property, interest expense or lease payments in connection with the capital improvements are not improvements within the meaning of this section. In addition, 9% of the revenue credited to the General Fund under this section attributable to this excess ~~shall~~ must be distributed to the stipend fund provided by Title 7, section 62. Further, 9% of the revenue credited to the General Fund under this section attributable to this excess ~~shall~~ must be paid to the commission to be credited to the Sire Stakes Fund, provided in section 281. A sum equal to 1.550% of the total contributions on exotic wagers and .185% of the total contributions on regular wagers on all pari-mutuel pools conducted or made at any race or race meet licensed under this chapter ~~shall~~ must be retained by the licensee and added to purse money.

A sum equal to 1% of the total contributions on regular wagers and a sum equal to 1% of the total contributions on exotic wagers on all pari-mutuel pools conducted or made at any race or race meet licensed under this chapter must be paid and returned to the licensees for the purpose of supplementing purse money. This sum must be divided equally among the licensees in the proportion that the number of racing days of a licensee granted by the commission and actually raced bears to the total number of racing days granted in any one year by the commission and actually raced by licensees. Payments are made to these licensees by the end of the calendar year. A sum equal to 1.797% of the total contributions on exotic wagers and .348% of the total contributions on regular wagers on all pari-mutuel pools conducted or made at any race or race meet licensed under this chapter must be retained by the licensee and added to purse money. ~~Notwithstanding other provisions of this section, the Treasurer of State shall credit \$3,380 of the amount received under this section in fiscal year 1989-90 to the Legislative Account to provide funding for a study of the harness racing industry.~~

A sum equal to 1 1/2% of the tax on exotic wagers on all pari-mutuel pools conducted or made at any race or race meet licensed under this chapter ~~shall~~ must be retained by the licensees.

Sec. 13. 8 MRSA §279-A, as repealed and replaced by PL 1975, c. 35, is amended to read:

§279-A. Licenses, rules and regulations for participating in racing

For the purpose of enabling the State Harness Racing Commission to exercise and maintain a proper control over racing conducted under this chapter, the commission ~~shall have the power to make and~~ may adopt rules ~~and regulations~~ for the licensing, with or without fee in the discretion of the commission, of owners, trainers, drivers, grooms and all other persons participating in harness horse racing, including pari-mutuel employees and race officials.

~~The fee for any such license or registration, if imposed, shall not in any case exceed \$10 per annual license to be credited to the General Fund.~~

The commission shall set licensing and license renewal fees sufficient to carry out the administration and enforcement of the licensing program. These fees may not exceed \$100 annually. The commission shall provide a booklet containing harness racing laws and rules and relevant portions of the Maine Administrative Procedure Act to every initial licensee and a fee not to exceed \$10 must be included in the license fee to cover the cost of this publication. The commission shall provide necessary revisions of this booklet to those persons renewing licenses at the time of renewal and shall include the cost not to exceed \$10 in the renewal fee.

The commission ~~shall have the power to make and~~ may adopt rules ~~and regulations~~ for the conduct on the race track and grounds of owners, trainers, drivers, grooms and all other persons participating in harness horse racing. The rules ~~and regulations~~ shall must be reasonably necessary for any one or more of the following purposes: ~~To~~ to protect the wagering public, to protect the ~~state's~~ State's share of pari-mutuel pools, to protect the health and welfare of spectators and participating owners, trainers, drivers, grooms and all other persons participating in harness horse racing, including pari-mutuel employees and race officials and to protect the health and welfare of standard-bred horses.

The Administrative Court Judge ~~shall have the power to~~ may revoke or suspend any license for violations of this chapter or the rules and regulations.

Sec. 14. 8 MRSA §279-B, as amended by PL 1989, c. 878, Pt. A, §22, is further amended to read:

§279-B. Fines, suspensions and revocations

~~In order to~~ To enforce the provisions of this chapter and the rules referred to in section 279-A, the commission is authorized to establish a schedule for fines not to exceed ~~\$100~~ \$1,000 for each violation of this chapter or the rules. The commission is authorized to levy a fine, after notice and hearing, for each violation of this chapter or the rules.

The commission is further authorized to establish a schedule of suspensions of licenses and may levy suspensions for each violation of this chapter or the rules.

Any person aggrieved by any fine or suspension imposed by the commission may seek judicial review pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 15. 8 MRSA §279-B, sub-§§1 and 2 are enacted to read:

1. Delegation of authority to executive director. The commission may delegate to the commission's executive director, by rules adopted in accordance with the Maine Administrative Procedure Act, its authority to levy fines and suspensions for particular violations or classes of violations. The executive director shall exercise this authority in a manner consistent with the provisions of Title 5, chapter 375. Any person aggrieved by any fine or suspension imposed by the executive director may seek judicial review pursuant to the Maine Administrative Procedure Act. This subsection is repealed on July 1, 1992.

2. Delegation of authority to commission chair. The commission may delegate to the chair, by rules adopted in accordance with the Maine Administrative Procedure Act, its authority to levy fines and suspensions for particular violations or classes of violations. The chair shall exercise this authority in a manner consistent with Title 5, chapter 375. Any person aggrieved by any fine or suspension imposed by the chair may seek judicial review pursuant to the Maine Administrative Procedure Act. This subsection takes effect on July 1, 1992.

Sec. 16. 8 MRSA §283 is enacted to read:

§283. Reciprocal disciplinary action

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

Sec. 17. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

| | 1991-92 | 1992-93 |
|---|------------------|------------------|
| AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF | | |
| State Harness Racing Commission | | |
| Positions | | (1.0) |
| Personal Services | \$7,222 | \$72,154 |
| All Other | 205,271 | 280,741 |
| Capital Expenditures | | 2,000 |
| <p>Provides funds for a full-time chair position beginning in fiscal year 1992-93, a range change for the State Racing Steward positions, compensation for presiding and associate judges, recodifying and printing racing laws, the expenses of the Association of Racing Commissioners International membership and related travel, annual reporting requirements and general operating expenses.</p> | | |
| DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES | | |
| TOTAL | \$212,493 | \$354,895 |

Sec. 18. Transition. After the effective date of this Act and before July 1, 1992, the Governor shall either select a chair meeting the qualifications of the Maine Revised Statutes, Title 8, section 261, subsection 5, from the existing members or shall appoint a new member to serve as chair replacing that existing member whose term is to expire next.

Except as provided in this section, all members of the State Harness Racing Commission who are qualified and confirmed and are serving on the effective date of this Act shall continue to serve under this Act for a period at least equal to the terms under which they were previously appointed. Except as provided in Title 8, section 261-A, subsection 5, beginning in October 1991, as a current commission member's term expires, the resulting vacancy must be filled by persons meeting the qualifications specified in Title 8, section 261-A, subsection 2.

Sec. 19. Effective date. Section 1 takes effect on July 1, 1992.

See title page for effective date, unless otherwise indicated.

CHAPTER 580

S.P. 562 - L.D. 1466

An Act to Amend Certain Laws Administered by the Maine State Retirement System

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

Sec. 1. 3 MRSA §701, sub-§3, as enacted by PL 1985, c. 507, §1, is amended to read:

3. Average final compensation. "Average final compensation" means the average annual rate of earnable compensation of a member during the 3 years of creditable service, not necessarily consecutive, ~~as a Legislator~~ in which the average annual rate of earnable compensation is highest or during ~~his~~ the member's entire period of creditable service if the period is less than 3 years.

Sec. 2. 5 MRSA §17057, as enacted by PL 1989, c. 76, is amended to read:

§17057. Medical information not public record

Medical information of any kind in the possession of the retirement system, including information pertaining to diagnosis or treatment of mental or emotional disorders, ~~shall be~~ is confidential and not open to public inspection and ~~shall is~~ not be "public records" as defined in Title 1, section 402, subsection 3. Records containing medical information may be examined by the employee to whom they relate or by the State or participating local district employer of the employee for any purposes related to any claim for workers' compensation or any other benefit. The employee ~~shall~~ must be advised in writing by the retirement system of any request by the employer to examine the employee's medical records. Medical information obtained pursuant to this section ~~shall~~ must remain confidential, except as otherwise provided by law, and except when involved in ~~proceedings regarding workers' compensation~~ proceedings resulting from an appeal pursuant to section 17451 or proceedings regarding claims for other retirement benefits.

Sec. 3. 5 MRSA §17058 is enacted to read:

§17058. Information for administrative or judicial proceedings

If information regarding the availability, calculation or value of any benefit is required for an administrative or judicial proceeding, the party seeking the information must file written questions requesting that information with the executive director. The executive director, or the executive director's designee, shall make a certified response to those questions within 30 days and the certified response is admissible as evidence in any administrative or judicial proceeding. A subpoena or other form of discovery directed at obtaining the information may not be issued nor may employees of the retirement system be required to testify on the subjects covered by the certified response unless there is an express finding by an administrative agency or a court that there is a compelling necessity to permit further discovery or to require testimony.

Sec. 4. 5 MRSA §17656, sub-§1, ¶C, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read: