

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST SPECIAL SESSION

August 26, 2019

SECOND REGULAR SESSION

January 8, 2020 to March 17, 2020

**THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
NOVEMBER 25, 2019**

**THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 16, 2020**

**PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.**

**Augusta, Maine
2020**

CHAPTER 626
H.P. 1149 - L.D. 1590

**An Act To Amend the Laws
Relating to Harness Racing**

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

Sec. 1. 8 MRSA §263-A, sub-§1, ¶A, as enacted by PL 1997, c. 528, §6, is amended to read:

A. The conduct of harness racing and off-track betting facilities, including rules that may reduce the required number of separate live races for a licensee that is associated with an agricultural fair as defined in Title 7, section 81 to qualify as a racing program from 8 separate live races to 7 separate live races if a minimum number of horses is not available;

Sec. 2. 8 MRSA §267, sub-§1, as amended by PL 2017, c. 231, §5, is repealed and the following enacted in its place:

1. Budget. The department shall develop a recommended operating budget covering All Other account expenses for the biennium for the operating account established in section 267-A. The recommended budget must provide for the conduct of core activities necessary to carry out the provisions of this chapter and may allow for expenditures for discretionary activities, provided those activities are consistent with the purposes of this chapter. The commission shall conduct a hearing, provide notice of the hearing in accordance with Title 5, section 9052 and receive testimony on the recommended operating budget. Notice of the hearing must be provided to persons who receive distributions from the funds established by sections 281, 298, 299 and 300 and Title 7, section 91. The commission shall make findings based on the hearing and submit its recommendations to the commissioner, who may incorporate the recommendations in the final draft of the recommended budget. The commissioner shall transmit the final draft of the recommended budget to the Department of Administrative and Financial Services, Bureau of the Budget as provided in Title 5, section 1665. During the biennium, the commission may conduct additional hearings and receive additional testimony on revisions to the budget, including an expenditure for a discretionary activity. The commission may approve revisions to the budget, including an expenditure for a discretionary activity, if the commission determines that the activity is consistent with the provisions of this chapter and best serves the interest of the harness racing industry.

Sec. 3. 8 MRSA §270, sub-§5 is amended to read:

5. If racing plant owned or leased. Whether or not the racing plant is owned or leased, and if leased,

the name and residence of the fee owner of the real estate, or if a corporation, of the directors and stockholders thereof; who, unless the fee owner is a governmental entity or agricultural fair association, shall provide the following:

A. A current financial statement of the owner showing assets and liabilities;

B. A current operating statement of the owner showing income and expenses relating to the real estate;

C. If the owner is an individual, the residence of the owner;

D. If the owner is a partnership or a corporation whose stock is not publicly traded, the principal address of the partnership or corporation and the name, address and occupation of each partner, officer, director and shareholder of the partnership or corporation; and

E. If the owner is a corporation whose stock is publicly traded, the principal address of the corporation and the name, address and occupation of each officer and director and each shareholder owning or controlling 10% or more of the stock of the corporation and, for a shareholder owning 10% or more of the stock of the corporation that is a partnership or corporation, the principal address of the partnership or corporation and the name, address and occupation of each partner, officer, director and shareholder of the partnership or corporation;

Sec. 4. 8 MRSA §271, sub-§2, ¶A, as amended by PL 2007, c. 539, Pt. G, §7 and affected by §15, is further amended to read:

A. The revenues to be generated, consistent with the profitability and financial health of the licensee and the development of revenues from interstate simulcasting of the licensee's race programming, for the operating account pursuant to section 287; the purse supplements pursuant to section 286; the Sire Stakes Fund pursuant to section 281; and the Stipend Fund pursuant to Title 7, section 86;

Sec. 5. 8 MRSA §271, sub-§2, ¶B, as amended by PL 1995, c. 408, §2, is further amended to read:

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 race dates are requested and the ability of the applicant to offer racing at night;

Sec. 6. 8 MRSA §271, sub-§2, ¶C, as amended by PL 2017, c. 231, §9, is further amended to read:

C. The necessity of having and maintaining proper physical facilities for racing meetings, including the ability to maintain ownership of or a leasehold on the facilities; and consequently, to ensure 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;

Sec. 7. 8 MRSA §272-B, sub-§1, as enacted by PL 2007, c. 211, §1 and affected by §2, is amended to read:

1. Payment from licensee Disbursements to association. A licensee described in section 271 shall pay The commission shall disburse to an association determined eligible under subsection 2 an amount not to exceed 3% of each of the following:

- A. Disbursements from the Sire Stakes Fund under section 281 for the purpose of supplementing purses;
- B. The purse supplement share calculated under section 286 for distribution under section 290;
- C. The funds designated from the commercial meet account to supplement purses under section 287, subsection 2;
- D. The funds designated from the extended meet account to supplement purses under section 289, subsection 2, paragraph B;
- E. The fund to supplement harness racing purses established under section 298 and receiving payment pursuant to section 1036, subsection 2, paragraph B; and
- F. Disbursements from the Agricultural Fair Support Fund under Title 7, section 91, subsection 2, paragraph A.

Sec. 8. 8 MRSA §272-B, sub-§4, as enacted by PL 2007, c. 211, §1 and affected by §2, is amended to read:

4. Payment Disbursements. ~~Each year, upon receipt and verification of the information required under subsection 2, the commission shall advise licensees of the maximum amount payable to the association under subsection 1. Total payments disbursements made each year to the association under this section may not exceed the association's budget for that year.~~

Sec. 9. 8 MRSA §275-A, sub-§1, as amended by PL 2017, c. 231, §14, is further amended to read:

1. Commercial track. "Commercial track" means any harness horse racing track that is a for-profit business and is licensed under this chapter to conduct harness horse racing with pari-mutuel wagering that is not associated with an agricultural fair as defined in Title 7, section 81 and that:

- A. If the population of the region is 300,000 or more, based on the 1990 U.S. Census, conducted

racing on more than 69 days in each of the previous 2 calendar years, ~~except that if a racetrack that qualifies as a commercial track under this paragraph ceases operation, a separate racetrack operated by the owner or operator of the racetrack that ceased operation qualifies as a commercial track, and for all purposes is considered the same commercial track as the track that ceased operation, if the population of the region of that separate racetrack is 300,000 or more, based on the 1990 U.S. Census, and the sum of the number of days on which racing was conducted at the track that ceased operation and the number of days on which racing was conducted at the separate racetrack equals at least 70 days in each of the 2 preceding calendar years year after the track was initially licensed as a commercial track, unless a lesser number of days of racing was conducted in a year due to conditions beyond the control of the racetrack owner or operator as approved by the commission; or~~

B. If the population of the region is less than 300,000, based on the 1990 U.S. Census, conducted racing on more than 34 days in each of the previous 2 calendar years, ~~except that if a racetrack that qualifies as a commercial track under this paragraph ceases operation, a separate racetrack operated by the owner or operator of the racetrack that ceased operation qualifies as a commercial track, and for all purposes is considered the same commercial track as the track that ceased operation, if the population of the region of that separate racetrack is less than 300,000, based on the 1990 U.S. Census, and the sum of the number of days on which racing was conducted at the track that ceased operation and the number of days on which racing was conducted at the separate racetrack equals at least 35 days in each of the 2 preceding calendar years; year after the track was initially licensed as a commercial track, unless a lesser number of days of racing was conducted in a year due to conditions beyond the control of the racetrack owner or operator as approved by the commission.~~

C. ~~Began operation after January 1, 2014 in a region with a population of 300,000 or more, based on the 1990 U.S. Census, to replace a commercial track as defined by paragraph A that ceased operation after January 1, 2014 and for which no separate racetrack has been opened by the owner or operator of that commercial track that ceased operation. For purposes of this paragraph, a racetrack is not required to have conducted racing during the 2 preceding calendar years but is required to conduct racing on at least 70 days during each calendar year after the track is initially licensed as a commercial track. If a commercial track under this paragraph has not been granted 70 race days by the commission for the initial calendar year of operation, race days conducted during that year by the commercial~~

~~track that ceased operation after January 1, 2014 are credited to the replacement commercial track; or~~

~~D. Began operation after January 1, 2014 in a region with a population of less than 300,000, based on the 1990 U.S. Census, to replace a commercial track as defined by paragraph B that ceased operation after January 1, 2014 and for which no separate racetrack has been opened by the owner or operator of that commercial track that ceased operation. For purposes of this paragraph, a racetrack is not required to have conducted racing during the 2 preceding calendar years but is required to conduct racing on at least 35 days during each calendar year after the track is initially licensed as a commercial track. If a commercial track under this paragraph has not been granted 35 race days by the commission for the initial calendar year of operation, race days conducted during that year by the commercial track that ceased operation after January 1, 2014 are credited to the replacement commercial track.~~

For the purposes of this subsection, "region" is determined by measuring a distance of 50 miles from the center of the racing track along the most commonly used roadway, as determined by the Department of Transportation, drawing a circle around the center of the racing track using that 50-mile measurement and excluding those municipalities or unorganized territories that do not have boundaries contained entirely by that circle.

~~For the purpose of determining the number of days a race track conducted racing under this subsection, if a race day is canceled due to a natural or other disaster, or due to a horse supply shortage as verified by the state steward, the track is considered to have conducted racing on that day.~~

Sec. 10. 8 MRSA §275-D, sub-§1, as amended by PL 2011, c. 99, §1, is further amended to read:

1. Off-track betting on simulcast racing. A person may conduct pari-mutuel wagering at an off-track betting facility that is licensed under this section; ~~if the person facility is licensed to operate located and operated within~~ a hotel, as defined in Title 28-A, section 2, subsection 15, paragraph H, with public dining facilities, a Class A lounge, as defined in Title 28-A, section 2, subsection 15, paragraph L, a Class A restaurant, as defined in Title 28-A, section 2, subsection 15, paragraph R, or a Class A restaurant/lounge, as defined in Title 28-A, section 2, subsection 15, paragraph R-1.

Sec. 11. 8 MRSA §275-D, sub-§9, as amended by PL 1997, c. 528, §23, is further amended to read:

9. Annual report. The department shall report annually by ~~January~~ March 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 department finds appropriate. The department may include in its report any recommendations for necessary changes in laws governing off-track betting.

Sec. 12. 8 MRSA §286, sub-§8 is enacted to read:

8. Payment from Stipend Fund. Notwithstanding any other provision of law, the amounts payable to the Stipend Fund under this section from an off-track betting facility newly licensed after January 1, 2020 must be divided among all agricultural fair licensees based upon the number of days raced in conjunction with the annual agricultural fairs of the licensees.

Sec. 13. 8 MRSA §298, sub-§2-A, as enacted by PL 2007, c. 183, §2 and affected by §3, is amended to read:

2-A. Distribution. On April 30th, July 30th, October 30th and January 30th of each year, all amounts credited to the fund established by this section as of the last day of the preceding month and not distributed before that day must be distributed to each commercial track, as defined in section 275-A, subsection 1, to each agricultural fair licensee that conducts live racing on fair dates assigned by the commissioner pursuant to Title 7, section 84 ~~and~~, to each agricultural fair licensee that conducts an extended meet as long as that licensee conducted an extended meet in 2005 and to each agricultural fair licensee awarded live race dates by the commission upon closure of an existing commercial track that is not replaced, with each commercial track and each agricultural fair licensee receiving an amount of money determined by multiplying the amount of money available for distribution by a fraction, the numerator of which is the total number of live race dashes assigned to the commercial track or agricultural fair licensee for the year and the denominator of which is the total number of race dashes assigned to all commercial tracks and agricultural fair licensees for the year. The payment in January must be adjusted so that for the prior year each commercial track or agricultural fair licensee entitled to a distribution receives that portion of the total money distributed for the full year from the fund established by this section that is determined by multiplying the total amount of money by a fraction, the numerator of which is the number of live race dashes conducted by the commercial track or agricultural fair licensee during the calendar year that qualify for a distribution and the denominator of which is the total number of race dashes conducted during that calendar year that qualify for a distribution. For purposes of this subsection, a race dash qualifies for distribution if the dash was conducted by a commercial track or by an agricultural fair licensee on dates assigned under Title 7, sec-

tion 84 or during an extended meet. The funds distributed pursuant to this subsection must be used to supplement harness racing purses.

This subsection takes effect December 31, 2009.

Sec. 14. 8 MRSA §299, sub-§5, ¶C, as enacted by PL 2017, c. 231, §25, is amended to read:

C. One additional race day credit is earned for each day raced during the months of March and December. A maximum of ~~12~~ 16 race day credits may be awarded per commercial track for the month of March and a maximum of ~~12~~ 16 race day credits may be awarded per commercial track for the month of December.

Sec. 15. 8 MRSA §299-A, sub-§1, as enacted by PL 2017, c. 371, §5, is amended to read:

1. Fund created. The Harness Racing Promotional Fund, referred to in this section as "the fund," is established to be used solely for the marketing and promotion of harness racing in the State. The fund consists of any money received through the commission on wagers pursuant to section 286 and any contributions, grants or appropriations from private and public sources. The fund, to be accounted for within the commission, must be held separate and apart from all other money, funds and accounts. Any balance remaining in the fund at the end of a fiscal year does not lapse but must be carried forward to the next fiscal year. The fund may not be charged for indirect costs under a departmental indirect cost allocation plan.

Sec. 16. Commercial track ceases operation prior to March 1, 2021. If the State Harness Racing Commission as established by the Maine Revised Statutes, Title 8, section 261-A determines that a commercial track ceased or agreed to cease operation prior to March 1, 2021 following a request from a bona fide statewide organization of horsemen in whole or in part to facilitate the prospect that a modernized commercial track might open, notwithstanding the requirements of Title 8, section 275-D, the commission may grant a license to the operator of the former commercial track or an entity controlled by its owners to operate an off-track betting facility in the same municipality of the commercial track at or after the commercial track ceases operation as a commercial track.

See title page for effective date.

CHAPTER 627

S.P. 537 - L.D. 1660

**An Act To Improve Access to
Physician Assistant Care**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergencies; and

Whereas, it is critically important that this legislation take effect before the expiration of the 90-day period; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

Sec. A-1. 24-A MRSA §4306, as amended by PL 2011, c. 364, §28, is further amended to read:

§4306. Enrollee choice of primary care provider

A carrier offering or renewing a managed care plan shall allow enrollees to choose their own primary care providers, as allowed under the managed care plan's rules, from among the panel of participating providers made available to enrollees under the managed care plan's rules. A carrier shall allow physicians, including, but not limited to, pediatricians and physicians who specialize in obstetrics and gynecology, and physician assistants licensed pursuant to Title 32, section 2594-E or section 3270-E and certified nurse practitioners who have been approved by the State Board of Nursing to practice advanced practice registered nursing without the supervision of a physician pursuant to Title 32, section 2102, subsection 2-A to serve as primary care providers for managed care plans. A carrier is not required to contract with certified nurse practitioners, physician assistants or physicians as primary care providers in any manner that exceeds the access and provider network standards required in this chapter or chapter 56, or any rules adopted pursuant to those chapters. A carrier shall allow enrollees in a managed care plan to change primary care providers without good cause at least once annually and to change with good cause as necessary. When an enrollee fails to choose a primary care provider, the carrier may assign the enrollee a primary care provider located in the same geographic area in which the enrollee resides.

Sec. A-2. 24-A MRSA §4320-O is enacted to read:

§4320-O. Coverage for services provided by a physician assistant

1. Services provided by a physician assistant. A carrier offering a health plan in this State shall provide coverage for health care services performed by a physician assistant licensed under Title 32, section 2594-E or 3270-E when those services are covered services under the health plan when performed by any other health care