

MAINE STATE LEGISLATURE

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STATE OF MAINE
Department of Public Safety
Gambling Control Board
87 State House Station
Augusta, Maine
04333-0087

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GOVERNOR
MICHAEL J. SAUSCHUCK
COMMISSIONER

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CHAIRMAN
MILTON F. CHAMPION
EXECUTIVE DIRECTOR

December 15, 2023

Sen. Craig Hickman
Rep. Laura Supica
VLA Committee Members

Re: ADW Report Due December 15, 2023

Senators and Representatives,

As required by LD 731 “An Act Regarding the Licensing of Persons to Conduct Advance Deposit Wagering” Sec. 13. There shall be a report on advance deposit wagering and track revenues. The Department of Public Safety, Gambling Control Unit shall meet with and seek input from stakeholders on issues related to revenue implications for licensed harness racing tracks in in the State from the expansion of advance deposit wagering, including policies adopted in other states and technical capabilities of advance deposit wagering platforms. The unit shall submit a report with findings and recommendations to the Joint Standing Committee on Veterans and Legal Affairs no later than December 15, 2023. The joint standing committee may report out a bill to the Second Regular Session of the 131st Legislature relating to the subject matter of the report. Contributors to this report were Mr. Michael Cianchette from First Tracks Investments, LLC and Mr. Christopher McErlean from Penn ADW LLC.

In 2021, following the 2020 closure of Scarborough Downs, First Tracks Investments, LLC (“First Tracks”) was awarded a license from the Maine Harness Racing Commission (“MHRC”) to conduct commercial harness racing from the Cumberland Fairgrounds with a concurrent award of race dates. The reason for this was two-fold. First, First Tracks believes any continued success of the harness racing industry in our state required a presence in southern Maine. And second, they thought interest in Maine racing, both locally and worldwide, still exists.

First Tracks believes this thesis has been proven accurate. One of First Tracks major efforts has been focusing on the export of their “signal,” or live footage from Cumberland out to interested individuals worldwide. This is coupled with agreements for remote locations outside Maine to participate in our parimutuel wagering pools. The total amount wagered – the “handle” – has increased significantly.

The following table summarizes the handle for First Tracks summer (March through August) racing meets over the past 3 years:

	Total Handle	Race Days	Handle/Day	YoY Growth/Day
2021	\$ 1,865,307.60	28	\$ 66,618.13	-
2022	\$ 2,783,278.70	32	\$ 86,977.46	31%
2023	\$ 4,428,022.56	33	\$ 134,182.50	54%

As you can see, there is a lot of interest in watching and wagering on Maine harness racing. First Tracks believes that can continue to grow. However, the parent company of Bangor Raceway is PENN Entertainment, the largest operator of pari-mutuel horse racing facilities in North America with 11 facilities in 8 different jurisdictions. As such, they fully recognize the challenges facing racetracks of all sizes in today's environment have increased.

In order to put on these races, First Tracks incurs costs. While detailed, confidential financial information is provided annually to the Maine Harness Racing Commission, they report that the specific cost of a single race day is approximately \$8,000.00. Note, this amount is only for "race day specific" costs: starters, announcers, EMTs, totalizing equipment, audio/visual, tellers, judges, and security. It excludes any fixed or other overhead costs, such as insurance, facility rental or repair, management, full-time staff, equipment repair, capital investment, tools, utilities, professional fees, or other general operating costs.

The ADW operating model is also a challenging one, underlying racing's difficult economics. Based on PENN ADW, LLC as the sole ADW operator in the state since 2020, after payment of host fees (to tracks which, wagers are made, including Maine racetracks), payment to tech and platform partners, and the state ADW fee, the net amount remaining before other operating expenses (such as payroll and marketing) is less than the share received by the state of Maine (5.0% of gross handle.)

Bangor Raceway has worked diligently over the past several years to improve its racing product and presentation to attract wagering customers locally, across the country and around the world. Since 2019, average daily wagering on Bangor's races has gone up 112% despite a decrease of 10% in live racing dates during the same time frame.

PENN ADW, LLC (d/b/a as Hollywood Races) currently operates in 24 jurisdictions and was selected as the sole ADW licensee by the Maine Gambling Control Board ("GCB") in a competitive bidding process to inaugurate ADW wagering in the state of Maine in 2020. Hollywood Races has successfully operated ADW in the state since that time and worked with stakeholders to reshape legislation to allow additional licensed ADW operators in Maine starting in 2024.

Licensed pari-mutuel tracks in Maine faced significant handle and revenue declines prior to the introduction of ADW in 2020. Pari-mutuel wagering at the commercial tracks, fairs and OTBs has decreased (in part due to the closure of Scarborough Downs in late 2020) while ADW wagering has somewhat slowed the overall declines since its implementation.

Pari-mutuel wagering in horseracing has long been moving towards a model of convenience wagering for over 30 years now. First with intra-state simulcasts, then inter-state simulcasting, off-track wagering and now internet wagering, horse racing has encouraged its customer base to adopt easier ways to make wagers on its product. Customers have embraced these changes, which increases the challenge to encourage attendance and wagering at the physical racetracks. To highlight this, in 2022, less than 2.5%

of total pari-mutuel wagering in the state of Maine was done at a racetrack.

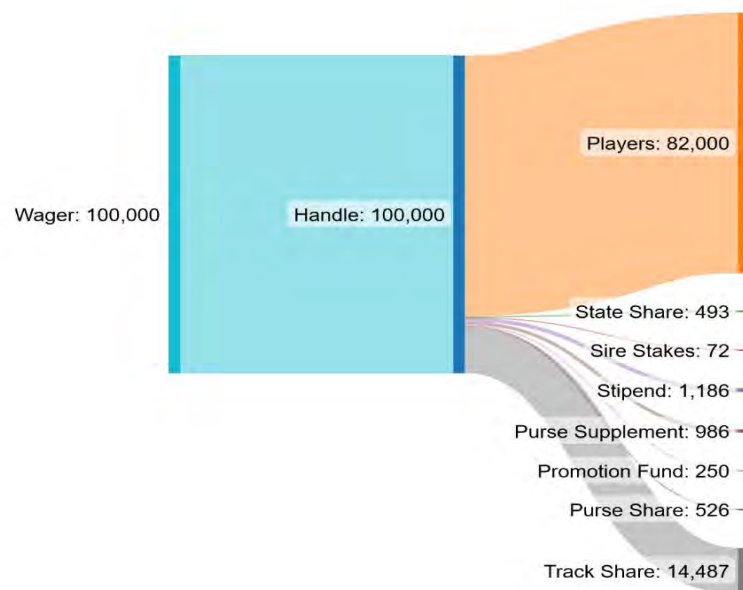
Harness racing in Maine is inextricably linked to the two casinos. Both are the primary source of funds for “purses” and breeder’s program, and a portion of the revenue from Bangor goes to the Fund to Encourage Racing. For purposes of this section, those amounts are excluded as they are not directly impacted by the expansion of ADW.

Year	ADW Total Handle	Revenue Due State (5%)	Annual Growth + or - % compared to prior year	Annual Growth + or - % compared to 2020
2020*	\$3,157,520.50	\$157,876.14		
2021	\$4,580,776.80	\$229,040.52	45%	45%
2022	\$5,334,401.20	\$266,720.12	16%	69%
2023**	\$4,381,204.60	\$219,060.31	-18%	39%

* 2020 data represents May- Dec 2020

** 2023 data as of Nov 30th

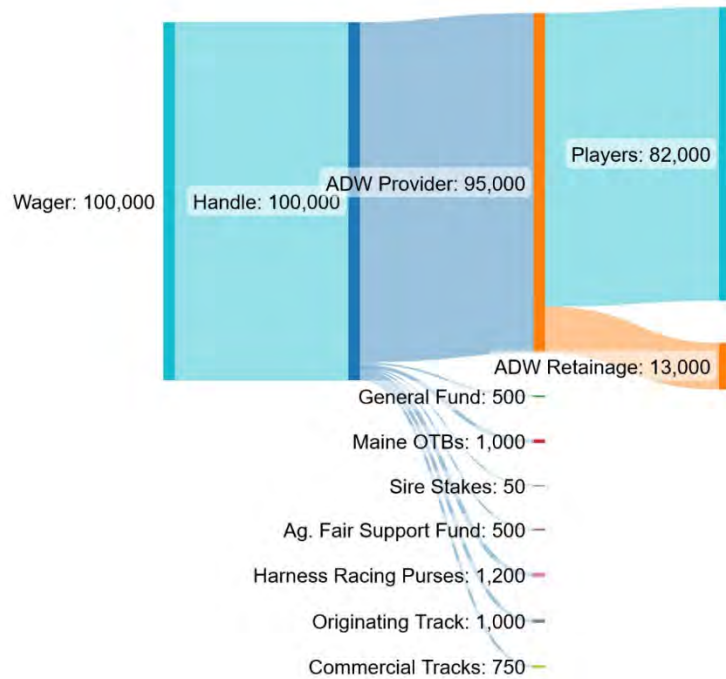
The amount of “commission” – or the amounts paid to various groups – based on gross wagers placed in Maine is governed by statute. *See* 8 M.R.S. §286. Below is a “Sankey” diagram that shows how these amounts are allocated from total wagering of \$100,000 on Win, Place, Show (e.g. a “straight” bet)¹ pools:



¹ There is a slightly different allocation for “exotic” bets, such as trifecta. For ease of comparison, this will utilize “straight” bets.

This shows the amount retained by a track after the payment of winnings to players, as well as the other amounts owed to statutory recipients. For purposes of comparison, this will be rounded to 14.5% of wagers placed.

In contrast to the above, the following diagram shows the distribution² of revenue from a hypothetical \$100,000 in total wagering placed on an ADW pursuant to the newly enacted state law.



The “Originating Track” receives \$1,000 in this scenario. The “Commercial Tracks” fund is divided between licensed commercial tracks in the State. First Tracks’ present share is approximately 60% of that fund, or \$450 of the hypothetical \$100,000 in wagers. That results in a total payment of 1.45% of an ADW wager to First Tracks.

The challenge is plain. Putting on racing is an expensive endeavor and the expansion of ADW presents significant jeopardy for its continued viability. To illustrate, imagine the following hypothetical. There are two audience members watching the live race, Timmy Teller and Andy ADW. Timmy places a \$100 wager at the window with a real, live Mainer. The track receives \$1.45 from that wager to pay for locals to work the track, provide security, and the like. Andy sits on his phone and places the same \$100 with an out-of-state ADW provider. The track receives 14 cents from that bet.

As noted previously, the harness racing industry in Maine is tied to the Bangor and Oxford casinos. The expansion of ADW likely has an indirect impact on the viability of commercial tracks.

Maine law establishes the Gambling Control Board as the licensing and regulatory agency overseeing ADW licensees. Accordingly, as outlined in the previous section, a portion of the state-

² A portion of the “ADW Retainage” may be remitted to the racing track subject to agreements between the track and the ADW. However, those amounts are unknown at this point and not included here.

imposed tax on ADW revenues is paid into the General Fund. The Gambling Control Board is then funded by appropriations and other revenues derived from its regulated entities, such as the casinos.

However, both commercial tracks and off-track betting facilities are regulated and licensed by the MHRC. The MHRC has a special revenue account to fund its operations. *See* 8 M.R.S. §267-A. That special revenue account is funded, in part, by payment of the “state share” of the commission earned by live, in-person harness racing tracks and off-track betting facilities. *See* 8 M.R.S. §267-A(2)(A). In the event the costs of the MHRC exceed the amount earned from the state share and other revenue sources, the MHRC has the authority to levy an “assessment” of certain casino revenues dedicated to harness racing. *See* 8 M.R.S. §267-A(4).

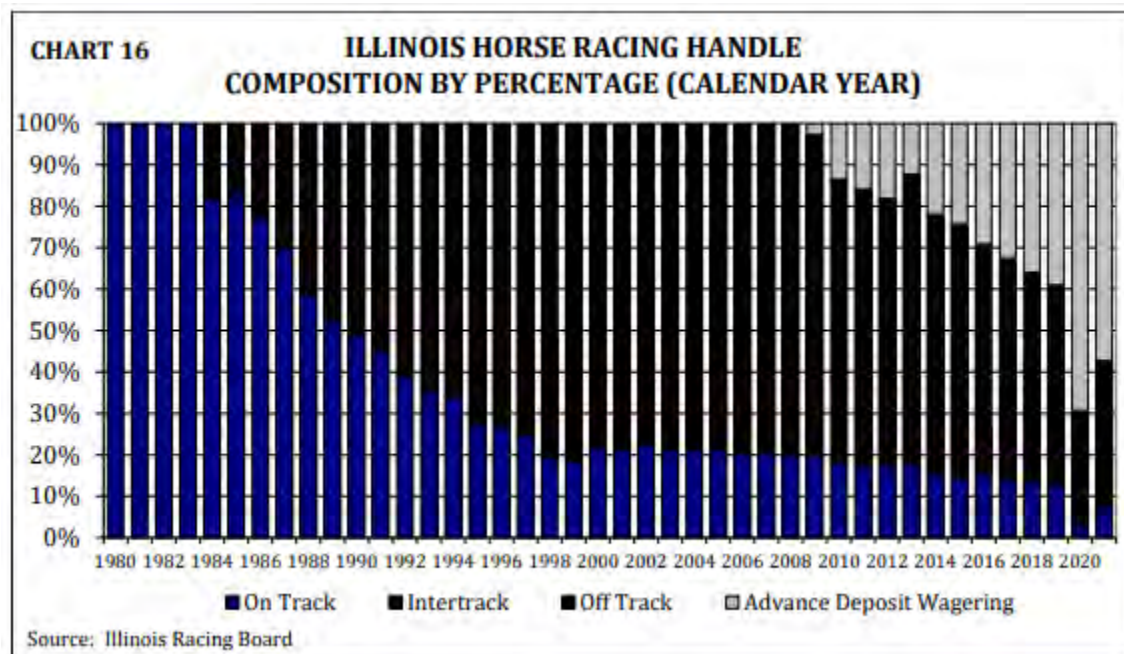
As players move to online ADW platforms and away from commercial tracks and off-track betting facilities, the “state share” paid to the MHRC will necessarily decrease. As the “state share” decreases, the amount of assessments against commercial track operating revenues and harness racing purses increases.

This indirect, negative impact on track revenues was, First Tracks believes, not fully considered by the committee and legislature in enacting the new law, given the complexity of the dual-regulatory environment (e.g. MHRC and GCB) over parimutuel wagering activities.

For context, below are various items from other jurisdictions to give additional context, particularly about (1) the shift in activity from physical wagering to online ADW wagering, (2) impacts on state revenues from the growth of ADW in other jurisdictions, and (3) a commentary on impacts of ADW nationwide:

[2022 Wagering Report \(ilga.gov\)](https://cgfa.ilga.gov/Upload/2022_Wagering_in_IL.pdf) (https://cgfa.ilga.gov/Upload/2022_Wagering_in_IL.pdf)

Illinois Wagering Update 2022 – The below chart shows the massive swing away physical wagering to ADW



[LSC_Coley.pdf \(racingohio.net\)](http://www.racingohio.net/LSC_Coley.pdf) (http://www.racingohio.net/LSC_Coley.pdf)

Ohio Legislative Services Commission Report – Page 9 notes that significant decreases in revenue for the state arises from shift to ADW

[The racing industry will not survive if America's ADW model carries on like this | Topics: TVG, Stronach Group, NYRA, Churchill Downs Inc, Saratoga, ADW | Thoroughbred Racing Commentary](https://www.thoroughbredracing.com/articles/5092/racing-industry-will-not-survive-if-americas-adw-model-carries/)
(<https://www.thoroughbredracing.com/articles/5092/racing-industry-will-not-survive-if-americas-adw-model-carries/>)

Industry article outlining challenges with expansion of ADW.

Given these realities, First Tracks believes that the Legislature should first consider a straightforward question. Should Maine continue to participate in the sport of harness racing?

To provide context to this decision, the 2017 report of the Maine Center for Business and Economic Research about The Economic Contribution of the Maine Harness Racing Industry (available at: [The Economic Contribution of the Maine Harness Racing Industry](https://digitalmaine.com/cgi/viewcontent.cgi?article=1011&context=hrc_docs) (https://digitalmaine.com/cgi/viewcontent.cgi?article=1011&context=hrc_docs)) should be referenced. It notes that harness racing preserves approximately 4.25 acres of land per horse involved (11.2 square miles statewide) and supports more than 1,000 jobs statewide.

If the answer to the question is “yes” and Maine should continue its harness racing heritage, then given the expected negative direct and indirect revenue impacts of the ADW expansion on track operations, First Tracks would suggest the following recommendations be made to the Veterans and Legal Affairs Committee:

1. Remove any sunset of 8 M.R.S. §275-B(3) and provide commercial tracks the ability to permanently locate simulcast facilities in market-accessible areas.
2. Explore opportunities to reduce statutory track requirements for dates or licenses and instead authorize regulatory bodies to issue race dates that provide for the greatest utilization of existing resources (e.g. the current “cascade”).
3. Authorize cooperative agreements between commercial tracks and Maine’s Wabanaki tribes for existing licensed activities (e.g. sports wagering).
4. Explore additional revenue opportunities for tracks in the context of any expansion of regulated activities, both gaming and non-gaming.

PENN ADW, LLC feels the best course of action at the current time is to compile the necessary information and data based on the results of this expansion of ADW in the state of Maine. This may take from one to two years to get a complete set of results and analysis, but we believe it would be the best way to properly analyze the impacts to all facets of the pari-mutuel horse racing industry in the state.

Respectfully,



Milton Champion, Executive Director GCU