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Legislative Document

No. 1590

H.P. 1149

House of Representatives, April 18, 2019

An Act To Amend the Laws Relating to Harness Racing

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 MAREAN of Hollis.

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

2 **Sec. 1. 8 MRSA §267, sub-§1**, as amended by PL 2017, c. 231, §5, is repealed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

4 **1. Budget.** On or before August 1st of every even-numbered year, the department in
5 consultation with the commission shall develop a recommended operating budget
6 covering All Other account expenses for the biennium that provides for the conduct of
7 core activities necessary to carry out the provisions of this chapter and expenditures for
8 additional discretionary activities. The department shall provide a draft of the budget to
9 the commission, which shall review the draft budget and may make recommendations
10 concerning any expenditures for core activities or discretionary activities. The
11 commissioner shall consider each recommendation of the commission and may
12 incorporate the recommendation in the final draft of the recommended budget, which the
13 commissioner shall transmit to the Department of Administrative and Financial Services,
14 Bureau of the Budget. During the biennium, the commission may implement an
15 expenditure for a discretionary activity in the budget if the commission determines that
16 the activity is in the best interest of the harness racing industry.

17 **Sec. 2. 8 MRSA §270, sub-§5** is amended to read:

18 **5. If racing plant owned or leased.** Whether or not the racing plant is owned or
19 leased, and if leased, the name ~~and residence~~ of the fee owner of the real estate, ~~or if a~~
20 ~~corporation, of the directors and stockholders thereof;~~ who, unless the fee owner is a
21 governmental entity or agricultural fair association, shall provide the following:

- 22 A. A current financial statement of the owner showing assets and liabilities;
23 B. A current operating statement of the owner showing income and expenses relating
24 to the real estate;
25 C. If the owner is an individual, the residence of the owner;
26 D. If the owner is a partnership or a corporation whose stock is not publicly traded,
27 the principal address of the partnership or corporation and the name, address and
28 occupation of each partner, officer, director and shareholder of the partnership or
29 corporation; and
30 E. If the owner is a corporation whose stock is publicly traded, the principal address
31 of the corporation and the name, address and occupation of each officer and director
32 and each shareholder owning or controlling 10% or more of the stock of the
33 corporation and, for a shareholder owning 10% or more of the stock of the
34 corporation that is a partnership or corporation, the principal address of the
35 partnership or corporation and the name, address and occupation of each partner,
36 officer, director and shareholder of the partnership or corporation;

37 **Sec. 3. 8 MRSA §271, sub-§2, ¶A**, as amended by PL 2007, c. 539, Pt. G, §7 and
38 affected by §15, is further amended to read:

39 A. The revenues to be generated, consistent with the profitability and financial health
40 of the licensee and the development of revenues from interstate simulcasting of the

1 licensee's race programming, for the operating account pursuant to section 287; the
2 purse supplements pursuant to section 286; the Sire Stakes Fund pursuant to section
3 281; and the Stipend Fund pursuant to Title 7, section 86;

4 **Sec. 4. 8 MRSA §271, sub-§2, ¶B**, as amended by PL 1995, c. 408, §2, is further
5 amended to read:

6 B. The quality of race programming and facilities offered and to be offered by the
7 licensee ~~and~~, the suitability of the applicant's racing facilities for operation at the
8 season for which the race dates are requested and the ability of the applicant to offer
9 racing at night;

10 **Sec. 5. 8 MRSA §271, sub-§2, ¶C**, as amended by PL 2017, c. 231, §9, is further
11 amended to read:

12 C. The necessity of having and maintaining proper physical facilities for racing
13 meetings, including the ability to maintain ownership of or a leasehold on the
14 facilities; and consequently, to ensure the continuance of the facilities, the quality of
15 the licensee's maintenance of its track and plant, the adequacy of its provisions for
16 rehabilitation and capital improvements and the necessity of fair treatment of the
17 economic interests and investments of those who, in good faith, have provided and
18 maintained racing facilities;

19 **Sec. 6. 8 MRSA §275-A, sub-§1**, as amended by PL 2017, c. 231, §14, is further
20 amended to read:

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

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

39 B. If the population of the region is less than 300,000, based on the 1990 U.S.
40 Census, conducted racing on more than 34 days in each of the ~~previous 2~~ calendar
41 years, ~~except that if a racetrack that qualifies as a commercial track under this~~
42 ~~paragraph ceases operation, a separate racetrack operated by the owner or operator of~~

1 the racetrack that ceased operation qualifies as a commercial track, and for all
2 purposes is considered the same commercial track as the track that ceased operation,
3 if the population of the region of that separate racetrack is less than 300,000, based on
4 the 1990 U.S. Census, and the sum of the number of days on which racing was
5 conducted at the track that ceased operation and the number of days on which racing
6 was conducted at the separate racetrack equals at least 35 days in each of the 2
7 preceding calendar years; year after the track was initially licensed as a commercial
8 track, unless a lesser number of days of racing was conducted in a year due to
9 conditions beyond the control of the racetrack owner or operator as approved by the
10 commission.

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

22 D. Began operation after January 1, 2014 in a region with a population of less than
23 300,000, based on the 1990 U.S. Census, to replace a commercial track as defined by
24 paragraph B that ceased operation after January 1, 2014 and for which no separate
25 racetrack has been opened by the owner or operator of that commercial track that
26 ceased operation. For purposes of this paragraph, a racetrack is not required to have
27 conducted racing during the 2 preceding calendar years but is required to conduct
28 racing on at least 35 days during each calendar year after the track is initially licensed
29 as a commercial track. If a commercial track under this paragraph has not been
30 granted 35 race days by the commission for the initial calendar year of operation, race
31 days conducted during that year by the commercial track that ceased operation after
32 January 1, 2014 are credited to the replacement commercial track.

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

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

42 **Sec. 7. 8 MRSA §275-C, sub-§4** is enacted to read:

43 **4. Payment to a commercial track conducting live racing.** An off-track betting
44 facility located within a 50-mile radius of a commercial track may not present a simulcast

1 on a day when the commercial track is conducting live racing unless the off-track betting
2 facility pays the commercial track 1% of the wagers made at the off-track betting facility
3 during the time that live racing is being conducted at the commercial track on that race
4 day and 0.5% of the wagers made at the off-track betting facility during the time that live
5 racing is not being conducted on that race day.

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

8 **1. Off-track betting on simulcast racing.** A person may conduct pari-mutuel
9 wagering at an off-track betting facility that is licensed under this section, if the ~~person~~
10 facility is located and operated within a licensed to operate a hotel, as defined in Title
11 28-A, section 2, subsection 15, paragraph H, with public dining facilities, a Class A
12 lounge, as defined in Title 28-A, section 2, subsection 15, paragraph L, a Class A
13 restaurant, as defined in Title 28-A, section 2, subsection 15, paragraph R, or a Class A
14 restaurant/lounge, as defined in Title 28-A, section 2, subsection 15, paragraph R-1
15 establishment under Title 28-A, section 2, subsection 15.

16 **Sec. 9. 8 MRSA §275-D, sub-§3**, as amended by PL 2003, c. 401, §12, is
17 repealed.

18 **Sec. 10. 8 MRSA §275-D, sub-§4**, as amended by PL 2003, c. 401, §13, is
19 further amended to read:

20 **4. Notice to off-track betting facilities; objections.** An applicant shall send written
21 notice of its application for an off-track betting license to any existing off-track betting
22 facility in whose market area the proposed facility will be located and shall present proof
23 to the commission that it has provided the notice. The notice must include all information
24 contained in the application except information described in subsection 2, paragraph Q.
25 An existing off-track betting facility shall notify the commission within 30 days of
26 receiving notice if the facility objects to the location of the proposed facility. The
27 commission shall suspend consideration of the application for the 30-day objection
28 period. If the commission receives an objection from an off-track betting facility in
29 whose market area the facility would be located within the 30-day period, the commission
30 shall reject the application. If the commission does not receive an objection within that
31 period, the commission may proceed to consider the application. For purposes of this
32 subsection, the market area is determined by measuring a distance of ~~35~~ 15 miles from
33 the off-track betting facility along the most commonly used roadway adjacent to the off-
34 track betting facility, as determined by the Department of Transportation, drawing a circle
35 around the center of the off-track betting facility using that ~~35-mile~~ 15-mile
36 measurement.

37 **Sec. 11. 8 MRSA §275-D, sub-§5, ¶A**, as enacted by PL 1993, c. 388, §8, is
38 amended to read:

39 A. Within 15 days after receiving an application for an off-track betting facility
40 license or within 15 days after the expiration of the 30-day objection period described
41 in ~~subsections 3 and~~ subsection 4 when the proposed facility is located within the
42 market area of an existing off-track betting facility ~~or a commercial racetrack~~, the

1 commission shall notify the municipal officers of the municipality in which the
2 facility is to be located and shall send a copy of the application to those officers. The
3 municipal officers shall hold a public hearing for the consideration of the application
4 in accordance with this subsection.

5 **Sec. 12. 8 MRSA §275-D, sub-§6, ¶A**, as enacted by PL 1993, c. 388, §8, is
6 amended to read:

7 A. The commission finds that the facility:

- 8 (1) Will not adversely affect the public interest;
- 9 (2) Will not adversely affect the integrity of live racing;
- 10 (3) Will not have an adverse impact on the local community;
- 11 (4) Provides a potential for job creation, including jobs in the racing and
12 wagering industries and other service jobs;
- 13 (5) Has adequate seating facilities, toilet facilities and parking;
- 14 (6) Will not adversely affect the value of abutting property;
- 15 (7) Will be operated by an applicant with financial ability to maintain the facility
16 in a manner that meets the standards set forth in this paragraph;
- 17 (8) Provides segregated areas for conducting betting separate from the areas in
18 which restaurant or other services are provided to the general public for
19 nonbetting purposes; and
- 20 (9) Will not adversely affect existing licensed off-track betting facilities within
21 ~~35~~ 15 miles of the proposed facility.

22 **Sec. 13. 8 MRSA §275-D, sub-§6, ¶D**, as enacted by PL 1993, c. 388, §8, is
23 amended to read:

24 D. No ~~commercial racetrack~~ or off-track betting facility in whose market area the
25 facility would be located has filed a written objection to the facility within the time
26 period prescribed in ~~subsections 3 and~~ subsection 4.

27 **Sec. 14. 8 MRSA §275-D, sub-§9**, as amended by PL 1997, c. 528, §23, is
28 further amended to read:

29 **9. Annual report.** The department shall report annually by ~~January~~ March 1st to the
30 joint standing committee of the Legislature having jurisdiction over legal affairs matters
31 and to the joint standing committee of the Legislature having jurisdiction over
32 agricultural matters on the effect of off-track betting facilities on the local economy, the
33 public interest, the integrity of live racing and other matters the department finds
34 appropriate. The department may include in its report any recommendations for
35 necessary changes in laws governing off-track betting.

36 **Sec. 15. 8 MRSA §275-P** is enacted to read:

1 **§275-P. Reduced payments for facilities licensed after January 1, 2019**

2 **1. Eligible licensees.** A licensee that is first licensed after January 1, 2019, owned
3 by a federally recognized Indian tribe and located and operated within a licensed
4 establishment under Title 28-A, section 2, subsection 15 is eligible for reduced payments
5 under this section.

6 **2. Off-track betting facility interstate simulcasting.** For an off-track betting
7 facility that is eligible for reduced payments under subsection 1, the distribution of the
8 commission on simulcasting of races originating at a racetrack in the State is calculated as
9 a percentage of the handle and distributed as follows.

10 **A. On exotic wagers:**

- 11 (1) The state share is 1.50%;
12 (2) The Sire Stakes Fund share is 1.50%;
13 (3) The Stipend Fund share is 1.50%;
14 (4) The Harness Racing Promotional Fund share is 0.50%;
15 (5) The horsemen's purse share is 7.00%;
16 (6) The track share is 7.50%; and
17 (7) The off-track betting facility share is 6.50%.

18 **B. On regular wagers:**

- 19 (1) The state share is 0.25%;
20 (2) The Sire Stakes Fund share is 0.05%;
21 (3) The Stipend Fund share is 1.25%;
22 (4) The horsemen's purse share is 4.75%;
23 (5) The track share is 7.75%; and
24 (6) The off-track betting facility share is 3.95%.

25 **3. Off-track betting facility interstate simulcasting with commingled pools.** The
26 distribution of the commission on simulcasting of races with commingled pools
27 originating at a racetrack in another state by an off-track betting facility is calculated as a
28 percentage of the net commission and distributed as follows.

29 **A. On exotic wagers:**

- 30 (1) The state share is 5.00%;
31 (2) The Sire Stakes Fund share is 5.00%;
32 (3) The Stipend Fund share is 4.50%;
33 (4) The Harness Racing Promotional Fund share is 25.00%;
34 (5) The purse supplement share is 15.50%;
35 (6) The off-track betting facility simulcast fund share is 10.50%; and

1 (7) The off-track betting facility share is all amounts not otherwise assigned.

2 B. On regular wagers:

3 (1) The Sire Stakes Fund share is 0.40%;

4 (2) The Stipend Fund share is 7.00%;

5 (3) The Harness Racing Promotional Fund share is 1.50%;

6 (4) The purse supplement share is 7.00%;

7 (5) The off-track betting facility simulcast fund share is 18.50%; and

8 (6) The off-track betting facility share is all amounts not otherwise assigned.

9 **4. Off-track betting facility interstate simulcasting with noncommingled pools.**

10 The distribution of the commission on simulcasting of races with noncommingled pools
11 originating at a racetrack in another state by an off-track betting facility is calculated as a
12 percentage of the handle and distributed as follows.

13 A. On exotic wagers:

14 (1) The state share is 1.00%;

15 (2) The Sire Stakes Fund share is 1.25%;

16 (3) The Stipend Fund share is 2.00%;

17 (4) The Harness Racing Promotional Fund share is 1.50%;

18 (5) The purse supplement share is 4.00%;

19 (6) The off-track betting facility simulcast fund share is 3.00%; and

20 (7) The off-track betting facility share is 13.25%.

21 B. On regular wagers:

22 (1) The state share is 0.05%;

23 (2) The Sire Stakes Fund share is 0.05%;

24 (3) The Stipend Fund share is 1.25%;

25 (4) The Harness Racing Promotional Fund share is 0.25%;

26 (5) The purse supplement share is 1.20%;

27 (6) The off-track betting facility simulcast fund share is 3.20%; and

28 (7) The off-track betting facility share is 12.00%.

29 **5. Payment from the Stipend Fund.** Notwithstanding any other provision of law,
30 the amounts payable to the Stipend Fund under this section must be divided among all
31 agricultural fair licensees based upon days raced in conjunction with the annual
32 agricultural fairs of the licensees.

33 **Sec. 16. 8 MRSA §298, sub-§2-A,** as enacted by PL 2007, c. 183, §2 and
34 affected by §3, is amended to read:

1 during the biennium if the commission determines the activities are in the best interest of
2 the harness racing industry.

3 2. It protects the Harness Racing Promotional Fund from being charged for indirect
4 costs under a departmental indirect cost allocation plan.

5 3. It requires a harness racing license application of a pari-mutuel betting licensee
6 who leases a racing plant to list financial and corporate information of the owner of the
7 real estate.

8 4. It requires the commission, when assigning race dates to licensees, to consider the
9 development of revenues from interstate simulcasting, the ability to offer night racing and
10 the ability to maintain ownership of or a leasehold on facilities.

11 5. It changes the definition of "commercial track" for regions with a population of
12 300,000 or more and with a population of less than 300,000 by removing language for
13 racetracks that have ceased operations.

14 6. It provides that an off-track betting facility within a 50-mile radius of a
15 commercial track must pay 1% of the wagers made during the time live racing is being
16 conducted on race day and 0.5% of the wagers made during the time that live racing is
17 not being conducted on race day.

18 7. It allows an off-track betting facility to be located within a facility licensed to
19 serve alcohol that is owned by an owner other than the off-track betting facility owner.

20 8. It removes the requirement that an applicant for an off-track betting license notify
21 commercial tracks within 50 miles of the proposed off-track betting facility.

22 9. It provides that an applicant for an off-track betting license must notify and allow
23 objections from existing off-track betting facilities within 15 miles of the proposed off-
24 track betting facility, instead of within 35 miles as in current law.

25 10. It changes the date of the Department of Agriculture, Conservation and Forestry's
26 annual report to the Legislature on off-track betting from January 1st to March 1st.

27 11. It provides for reduced payments from revenues derived by an off-track betting
28 facility first licensed after January 1, 2019 that is owned by a federally recognized Indian
29 tribe and is located and operated in an establishment licensed to serve alcohol.

30 12. It allows an agricultural fair licensee to qualify for funds from the fund to
31 supplement harness racing purses by conducting an extended meet, removing the
32 requirement that the licensee must have conducted an extended meet in 2005.