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Legislative Document

No. 1213

H.P. 831

House of Representatives, April 2, 2015

An Act To Ensure Fair Competition by and between Maine's Commercial Tracks

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 VACHON of Scarborough.
Cosponsored by Senator VOLK of Cumberland and
Representatives: McELWEE of Caribou, RUSSELL of Portland, SIROCKI of Scarborough,
Senators: DIAMOND of Cumberland, DUTREMBLE of York, VALENTINO of York.

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

2 **Sec. 1. 8 MRSA §1011, sub-§2**, as amended by IB 2009, c. 2, §29, is further
3 amended to read:

4 **2. Eligible persons.** The board may accept applications for a license to operate slot
5 machines or a casino from any person who is licensed as of December 31, 2003 to
6 operate a commercial track that satisfies the following criteria:

7 A. The commercial track is located at or within a ~~5-mile~~ 12-mile radius of the center
8 of a commercial track that conducted harness racing with pari-mutuel wagering on
9 more than 25 days during calendar year 2002; ~~and~~

10 B. The operation of slot machines at the commercial track is approved by the voters
11 of the municipality in which the commercial track to be licensed is located by
12 referendum election held at any time after December 31, 2002 ~~and before December~~
13 ~~31, 2003;~~

14 C. The slot machines and all gambling activities are located within a building
15 immediately adjacent to the racetrack from which the races can be seen and that
16 features a principal dining facility with a clear view of the racing oval, and the
17 building is part of a complex that includes a resort hotel with at least 100 rooms, a
18 spa, indoor and outdoor pools, entertainment facilities and retail space; and

19 D. The racing oval is at least 5/8 of a mile long.

20 Any additional assurances the commercial track provides to the Commissioner of
21 Administrative and Financial Services as part of the procedures to establish the
22 competitive bidding and fair market value license fee for that commercial track in
23 accordance with section 1018, subsection 1-B must be imposed as conditions on the
24 commercial track's license as a slot machine operator or a casino, and the commercial
25 track must be in compliance with those conditions in order to operate any gambling
26 activities for which the license is required.

27 **Sec. 2. 8 MRSA §1018, sub-§1-A**, as enacted by PL 2011, c. 699, §2, is amended
28 to read:

29 **1-A. Fees for slot machine and casino operator licenses on or after September 1,**
30 **2012.** Notwithstanding subsection 1, paragraphs C and C-1, beginning September 1,
31 2012, an applicant for a slot machine operator license or a casino operator license must
32 pay a \$250,000 nonrefundable privilege fee to be submitted with the application for the
33 license and a minimum license fee, or cash bid if the license is part of a competitive
34 bidding process established by law, of \$5,000,000. This subsection does not apply to a
35 casino licensed for operation in the State as of September 1, 2012 or to a commercial
36 track licensed before January 1, 2003 that was first licensed to operate slot machines or a
37 casino on or after January 1, 2013. A commercial track first licensed to operate slot
38 machines or a casino on or after January 1, 2013 shall pay a nonrefundable application
39 fee of \$250,000 and at the time of licensing shall also pay a competitive bidding and fair
40 market value license fee determined in accordance with subsection 1-B. The fee must be
41 paid to the Treasurer of State and credited to the General Fund. The competitive bidding

1 and fair market value license fee must be returned to the licensee by the State if, during
2 the 10 years following payment, any other person receives an initial license from the
3 State or is otherwise authorized by the State to operate within 50 miles of the commercial
4 track a slot machine facility with more than 5 slot machines or a casino.

5 **Sec. 3. 8 MRSA §1018, sub-§1-B** is enacted to read:

6 **1-B. Competitive bidding and fair market value license fee.** The Commissioner
7 of Administrative and Financial Services shall assess the competitive bidding and fair
8 market value license fee under subsection 1-A to a commercial track that after January 1,
9 2014 becomes eligible for and applies for a slot machine operator or casino operator
10 license. The commercial track shall negotiate with the commissioner to reach an
11 agreement on the fee amount, taking into account the factors listed in paragraphs A to I.
12 If an agreement under this subsection is not reached, the commissioner shall conduct a
13 hearing and make a determination of the competitive bidding and fair market value
14 license fee for that commercial track, taking into account the following factors:

15 A. The amounts that have been previously paid for the value of licensing under this
16 subchapter as determined by the commissioner;

17 B. The likely gambling market of the commercial track;

18 C. The extent to which the commercial track is required under its racing and
19 gambling licenses to conduct live harness racing and other activities that are not
20 likely to generate additional profits but that serve other interests of the State or the
21 local community and the likely costs and benefits of those activities;

22 D. The taxation and other laws that apply to the commercial track's gambling
23 operations;

24 E. Any commitment the commercial track makes in writing to accept conditions on
25 its gambling licenses that add expense and capital obligations but that, in the opinion
26 of the commissioner, provide substantial value to the people of the State or the local
27 community;

28 F. The market risks associated with the commercial track's existing and proposed
29 business;

30 G. The capital investment likely to be required of the commercial track to carry on
31 all racing, gambling and other activities required as conditions to its gambling and
32 racing licensure;

33 H. The extent to which the commercial track, as a condition of licensure, is willing to
34 commit to create on-site stabling facilities for horses owned and trained by licensees
35 of the State Harness Racing Commission and the likely capital investment associated
36 with such facilities; and

37 I. The existing and likely competition the commercial track faces from within and
38 outside the State for gambling and other revenues.

39 A fee determination by the Commissioner of Administrative and Financial Services under
40 this subsection constitutes final agency action.

1 **Sec. 4. 8 MRSA §1019, sub-§6**, as amended by PL 2011, c. 417, §5, is further
2 amended to read:

3 **6. Proximity of licensed casinos and slot machine facilities.** A casino operator
4 license or slot machine operator license may not be issued under this chapter to operate
5 any casino or slot machine facility located within 100 miles of a licensed casino or slot
6 machine facility. This subsection ~~does~~, subsection 7 and section 1011, subsection 2-B do
7 not prohibit a commercial track that was licensed to operate slot machines on January 1,
8 2011 from obtaining a casino operator license for the same facility where slot machines
9 were operated as of January 1, 2011 or a commercial track that was licensed to accept any
10 form of wagers prior to December 31, 2002 from obtaining a casino operator license or a
11 slot machine operator license for any facility where bets on harness racing were taken
12 prior to December 31, 2002 or at any other new facility that, under section 275-A,
13 subsection 1, is considered the same commercial track as such a facility and is not located
14 nearer to any existing casino or slot machine facility than was the commercial track that it
15 replaced.

16 **Sec. 5. 8 MRSA §1019, sub-§7**, as amended by PL 2011, c. 417, §6, is further
17 amended to read:

18 **7. Statewide and county referendum; municipal vote.** After January 1, 2011, any
19 proposed casino or slot machine facility may not be issued a license unless it has been
20 approved by a statewide referendum vote and a vote of the municipal officers or
21 municipality in which the casino or slot machine facility is to be located, except that a
22 commercial track licensed to operate slot machines ~~on January 1, 2011~~ or a casino that is
23 required to pay a competitive bidding and fair market value license fee under section
24 1018, subsection 1-B is not required to obtain referendum approval other than local
25 referendum approval as may be required by law, and except that any commercial track
26 licensed to operate slot machines that is not required to pay a competitive bidding and fair
27 market value license fee is only required, as a condition to obtain a casino license, to
28 receive approval to operate a casino by means of a referendum of the voters of the county
29 in which the commercial track is located.

30 **Sec. 6. 8 MRSA §1020, sub-§3, ¶A**, as amended by PL 2011, c. 585, §8, is
31 further amended to read:

32 A. Except for slot machines used for training and educational purposes at
33 postsecondary institutions as provided by section 1011, subsection 1-B, the total
34 number of slot machines registered in the State may not exceed ~~3,000~~ 7,500; and

35 **Sec. 7. 8 MRSA §1036, sub-§1**, as amended by PL 2011, c. 417, §7, is further
36 amended to read:

37 **1. Distribution for administrative expenses of board.** A slot machine operator
38 licensed under section 1011, subsection 2 or a casino operator that is a commercial track
39 ~~that was licensed to operate slot machines under section 1011, subsection 2 on January 1,~~
40 ~~2011~~ shall collect and distribute 1% of gross slot machine income to the Treasurer of
41 State for deposit in the General Fund for the administrative expenses of the board.

1 Commissioner of Administrative and Financial Services. The bill provides that most of
2 the revenues distributed from the commercial track are credited to the General Fund.