

Date: (Filing No. S-)

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STATE OF MAINE
SENATE
126TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT " " to COMMITTEE AMENDMENT "A" to H.P. 780, L.D. 1111, Bill, "An Act To Allow Maine's Harness Racing Industry To Compete with Casino Gaming"

Amend the amendment by striking out everything after the title and before the summary and inserting the following:

'Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 7 MRSA §82, sub-§5, as amended by PL 2011, c. 358, §1, is further amended to read:

5. Rulemaking. The commissioner shall adopt rules to establish procedures for licensing and awarding dates for agricultural fairs and performance standards for evaluating agricultural fairs. The commissioner, in consultation with the executive director of the State Harness Racing Commission, shall adopt rules that require agricultural fairs that receive a distribution of slot machine revenue in accordance with Title 8, section 1036, subsections 2, 2-A and 2-D to submit information regarding the use of that revenue sufficient for the executive director to submit the report required by Title 8, section 1037. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 7 MRSA §91, sub-§1, as amended by PL 2007, c. 539, Pt. G, §1 and affected by §15, is further amended to read:

1. Fund created. The Treasurer of State shall establish an account to be known as "the Agricultural Fair Support Fund" and shall credit to it all money received under Title 8, section 1036, subsection 2, paragraph D, subsection 2-A, paragraph G and subsection 2-D, paragraph B. The fund is a dedicated, nonlapsing fund. All revenues deposited in the fund must be disbursed in accordance with this section, except that assessments and advances may be withdrawn in accordance with Title 8, section 267-A.

Sec. 3. 8 MRSA §272-B, sub-§1, ¶E, as enacted by PL 2007, c. 211, §1 and affected by §2, is amended to read:

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1 E. The fund to supplement harness racing purses established under section 298 and
2 receiving payment pursuant to section 1036, subsection 2, paragraph B, subsection
3 2-A, paragraph H and subsection 2-D, paragraph A; and

4 **Sec. 4. 8 MRSA §298, sub-§1**, as amended by PL 2007, c. 539, Pt. G, §10 and
5 affected by §15, is further amended to read:

6 **1. Fund created.** A fund is established to supplement harness racing purses to
7 which the commission shall credit all payments received pursuant to section 1036,
8 subsection 2, paragraph B, subsection 2-A, paragraph H and subsection 2-D, paragraph A
9 for distribution in accordance with this section. The fund is a dedicated, nonlapsing fund,
10 and all revenues deposited in the fund remain in the fund and must be disbursed in
11 accordance with this section, except that assessments and advances may be withdrawn in
12 accordance with section 267-A. The commission shall distribute in accordance with this
13 section amounts credited to the fund.

14 **Sec. 5. 8 MRSA §1011, sub-§2-A**, as amended by PL 2011, c. 417, §2, is further
15 amended to read:

16 **2-A. Persons eligible for casino operator license.** The board may accept an
17 application for a casino operator license to operate slot machines and table games at a
18 casino from a commercial track that conducted harness racing at or within a 20-mile
19 radius of the center of a commercial track with pari-mutuel wagering on at least 100
20 calendar days in 2003 or a commercial track licensed to operate a slot machine facility on
21 January 1, 2011 for the same location where slot machines were operated on January 1,
22 2011 and any person if that person and casino satisfy the following criteria:

23 A. The casino is located on a parcel of land in Oxford County that is:

24 (1) No less than 50 acres in size; and

25 (2) Located not more than:

26 (a) Thirty miles from a Level I or Level II trauma center verified as such by
27 the American College of Surgeons or successor organization;

28 (b) Fifteen miles from the main office of a county sheriff;

29 (c) Twenty-five miles from the main office of a state police field troop;

30 (d) Thirty miles from an interchange of the interstate highway system;

31 (e) Ten miles from a fire station;

32 (f) Ten miles from a facility at which harness racing was conducted pursuant
33 to a license from the State Harness Racing Commission for the 2009 racing
34 year; and

35 (g) One-half mile from a state highway as defined in Title 23, section 1903,
36 subsection 15.

37 For the purposes of this paragraph, distances are determined by measuring along the
38 most commonly used roadway, as determined by the Department of Transportation;

1 B. The criteria adopted through rulemaking by the board regarding the licensing of
2 the operation of slot machines and table games;

3 C. The operation of a casino is approved by the voters of the municipality in which
4 the casino to be licensed is located in a referendum election or by a vote of the
5 municipal officers in the municipality in which the casino is to be licensed and
6 located held at any time after October 1, 2009 and on or before December 31, 2011;

7 D. The person owns a facility that is within 10 miles of the proposed casino at which
8 harness racing was conducted pursuant to a license from the State Harness Racing
9 Commission for the 2009 racing year; and

10 E. The slot machines and table games are located and operated in the casino.

11 **Sec. 6. 8 MRSA §1011, sub-§3**, as amended by PL 2011, c. 417, §3, is further
12 amended to read:

13 **3. Requirements for license; continued commercial track licensure; facility**
14 **requirements.** The board may not issue a license to operate a slot machine facility or a
15 casino to any person unless that person demonstrates compliance with the qualifications
16 set forth in sections 1016 and 1019. To maintain eligibility for a slot machine operator
17 license or a casino operator license under subsection 2-A issued to a commercial track
18 ~~with slot machines~~, a licensed commercial track must at all times maintain a license to
19 operate a commercial track without lapse, suspension or revocation. A commercial track
20 that is initially issued a casino operator license after January 1, 2014, in order to maintain
21 eligibility for a casino operator license, must ensure that table games and slot machines
22 are located in a facility immediately adjacent to a 5/8-mile racetrack constructed or
23 reconstructed after January 1, 2014 that includes a dining facility that provides expansive
24 views of the racing oval. The facility where table games and slot machines are operated
25 must be part of a complex that comprises a hotel with a minimum of 100 rooms, spa
26 facilities, indoor and outdoor swimming pools, an entertainment venue and retail space.

27 **Sec. 7. 8 MRSA §1018, sub-§1, ¶C-1**, as amended by PL 2011, c. 417, §4, is
28 further amended to read:

29 C-1. The initial application fee for a casino operator license is \$225,000, except that
30 the initial application fee for an applicant that is a commercial track that was licensed
31 to operate slot machines as of January 1, 2011 is \$25,000. The annual renewal fee is
32 \$80,000 plus an amount, set by rules of the board, equal to the cost to the board of
33 licensing casino operators and determined by dividing the costs of administering the
34 casino operator licenses by the total number of casino operators licensed by the
35 board. In addition, a casino operator shall pay an initial gaming table fee of \$100,000
36 for the privilege to operate each gaming table for a period of 20 years as long as the
37 casino operator is licensed. Each gaming table is also subject to an annual gaming
38 table renewal fee of \$1,000. The gaming table fees authorize the casino operator to
39 conduct any authorized table game at the gaming table during the 20-year period. A
40 casino licensed in accordance with section 1011, subsection 2-A, paragraph A is not
41 required to pay the gaming table fees until after one calendar year of table game
42 operation. Fees collected in accordance with this paragraph must be deposited to the
43 Gambling Control Board administrative expenses Other Special Revenue Funds
44 account, which is a nonlapsing dedicated account. A casino operator license initially

1 issued to a commercial track after January 1, 2014 is subject to a license fee as
2 provided by section 1018-A that must be paid to the Treasurer of State and deposited
3 to the General Fund.

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

6 **1-A. Fees for slot machine and casino operator licenses on or after September 1,**
7 **2012.** Notwithstanding subsection 1, paragraphs C and C-1, beginning September 1,
8 2012, an applicant for a slot machine operator license or a casino operator license must
9 pay a \$250,000 nonrefundable privilege fee to be submitted with the application for the
10 license and a minimum license fee, or cash bid if the license is part of a competitive
11 bidding process established by law, of \$5,000,000. This subsection does not apply to a
12 casino licensed for operation in the State as of September 1, 2012 or to a commercial
13 track initially licensed as a casino after January 1, 2014.

14 **Sec. 9. 8 MRSA §1018, sub-§2**, as enacted by PL 2003, c. 687, Pt. A, §5 and
15 affected by Pt. B, §11, is amended to read:

16 **2. Term of license; renewal, renewal fees.** ~~All~~ Except for a casino operator license
17 initially issued to a commercial track after January 1, 2014, all licenses issued by the
18 board under this chapter are effective for one year, unless revoked or surrendered
19 pursuant to subchapter 5. Upon proper application and payment of the required fees and
20 taxes and in accordance with rules adopted by the board, the board may renew a license
21 for an additional year if municipal approval has been obtained as provided in section
22 1012. The board shall transfer \$25,000 of the renewal fee required by subsection 1,
23 paragraph C to the municipality in which the slot machines are operated.

24 **Sec. 10. 8 MRSA §1018-A to 1018-C** are enacted to read:

25 **§1018-A. Casino operator application and license fee for a commercial track**
26 **licensed after January 1, 2014**

27 For the purposes of this section, "commissioner" means the Commissioner of
28 Administrative and Financial Services. Notwithstanding section 1018, subsection 1, the
29 license fee for a casino operator license initially issued to a commercial track after
30 January 1, 2014 must be determined in accordance with this section and is in addition to
31 an application fee of \$250,000. The license fee is deposited to the General Fund pursuant
32 to section 1018. The application fee must be used by the board to cover the costs of
33 administering the casino application and licensing process including background
34 investigations and to fund a market study that must be conducted by the Department of
35 Administrative and Financial Services, the purpose of which is to determine the current
36 market value of a casino operator license. The commissioner shall meet with the
37 commercial track that has applied for or been initially issued a license to operate a casino
38 after January 1, 2014 to negotiate an amount for a one-time license fee that may not be
39 less than \$50,000,000. The commissioner shall consider all of the elements in
40 subsections 1 to 5 when negotiating the license fee with the commercial track.

41 **1. Recent transaction relating to casino ownership.** The commissioner shall
42 determine the amount paid by existing casino operator licensees as part of a contract to
43 purchase a licensed existing casino or similar contracts between operators and entities

1 who have funded efforts to pass legislation to authorize the use of slot machines in the
2 State within the past 15 years.

3 **2. Gaming market.** The commissioner shall consider the potential market for
4 gaming in the State and specifically in the region where the commercial track that has
5 initially applied for or received a casino operator license after January 1, 2014 is located
6 or is to be located and including consideration of competition from gaming venues in the
7 northeast region of the United States. The commissioner shall also consider the market
8 risks associated with operating a resort casino with live harness racing.

9 **3. Live harness racing.** The commissioner shall consider the extent to which the
10 commercial track will be required by law to conduct live harness racing and any other
11 operations that may not be profitable to the casino operator and consider the losses
12 incurred by such operations. The commissioner shall consider secondary benefits of
13 harness racing to the local community, agricultural businesses and other businesses that
14 directly benefit from harness racing in the State.

15 **4. Revenue distributions.** The commissioner shall consider the distribution of
16 revenues to be required of the commercial track once it is licensed as a casino and how
17 those distributions benefit the State.

18 **5. Capital investment benefits.** The commissioner shall consider the commercial
19 track's willingness to accept conditions on licensure, including any capital investments
20 required by law, and how any required investments will provide value to the local
21 community and the State as a whole. Considerations must include facility investments to
22 allow for horses owned and trained by licensees of the State Harness Racing Commission
23 to be stabled at the location of the casino.

24 If the commissioner and the commercial track are not able to reach an agreement on a
25 license fee, the commissioner shall make the final determination of the license fee.
26 Determination of a license fee must be made within 90 calendar days after the
27 commencement of negotiations under this section.

28 **§1018-B. Licensing decision deadline**

29 The board shall make a final decision on issuance of a casino operator license within
30 90 calendar days of receiving what it considers to be a complete application from a
31 commercial track that initially applies for a casino operator license after January 1, 2014.

32 **§1018-C. Casino operator license fee for a commercial track licensed after January**
33 **1, 2014; reimbursement upon licensure of additional facilities**

34 If the board, or a similar agency authorized to issue a slot machine facility or casino
35 operator license, issues a slot machine operator license or casino operator license
36 authorizing the operation of more than 5 slot machines at any one location within 10
37 years of a commercial track's being initially licensed to operate a casino after January 1,
38 2014, the Treasurer of State shall reimburse a portion of the license fee paid by the
39 commercial track as provided by section 1018-A in accordance with this section. If a slot
40 machine facility operator license or casino operator license is issued within one year of
41 the operation of the casino operated by a commercial track licensed after January 1, 2014,
42 the Treasurer of State shall reimburse 90% of the fee submitted by the commercial track.
43 The reimbursement percentage is reduced by 10 percentage points for each year after that

1 in which a new initial slot machine facility operator license or casino operator license is
2 not authorized.

3 **Sec. 11. 8 MRSA §1019, sub-§6**, as amended by PL 2011, c. 417, §5, is further
4 amended to read:

5 **6. Proximity of licensed casinos and slot machine facilities.** A casino operator
6 license or slot machine operator license may not be issued under this chapter to operate
7 any casino or slot machine facility located within 100 miles of a licensed casino or slot
8 machine facility. This subsection does not apply to a commercial track initially licensed
9 to operate a casino after January 1, 2014 and it does not prohibit a commercial track that
10 was licensed to operate slot machines on January 1, 2011 from obtaining a casino
11 operator license for the same facility where slot machines were operated as of January 1,
12 2011. A commercial track that initially applies for a casino operator license after January
13 1, 2014 may relocate to a new location as long as it is not closer to an existing casino than
14 the original location of the track.

15 **Sec. 12. 8 MRSA §1019, sub-§7**, as amended by PL 2011, c. 417, §6, is further
16 amended to read:

17 **7. Statewide and county referendum; municipal vote.** ~~After~~ Unless otherwise
18 specified by this subsection, after January 1, 2011, any a proposed casino or slot machine
19 facility may not be issued a license unless it has been approved by a statewide
20 referendum vote and a vote of the municipal officers or municipality in which the casino
21 or slot machine facility is to be located, except that a commercial track licensed to operate
22 slot machines on January 1, 2011 is only required, as a condition to obtain a casino
23 license, to receive approval to operate a casino by means of a referendum of the voters of
24 the county in which the commercial track is located. To be eligible for a casino operator
25 license, a commercial track that initially applies for a casino operator license after
26 January 1, 2014 is required to receive approval only of the voters of the municipality in
27 which the casino will be located.

28 **Sec. 13. 8 MRSA §1019, sub-§8** is enacted to read:

29 **8. Slot machine and table game operation contingent upon facility construction.**
30 A commercial track initially licensed as a casino operator after January 1, 2014 may not
31 begin operation of slot machines and table games prior to the completion of all phases of
32 construction of a resort that includes a hotel, spa, pool, dining facility and entertainment
33 venue and provides for a view of the racing oval from the dining facility and from the
34 location of slot machines within the facility.

35 **Sec. 14. 8 MRSA §1020, sub-§3, ¶A**, as amended by PL 2011, c. 585, §8, is
36 further amended to read:

37 A. Except for slot machines used for training and educational purposes at
38 postsecondary institutions as provided by section 1011, subsection 1-B, the total
39 number of slot machines registered in the State may not exceed ~~3,000~~ 4,500; and

40 **Sec. 15. 8 MRSA §1036, sub-§2-D** is enacted to read:

41 **2-D. Distribution of table game income and slot machine revenue from a**
42 **commercial track licensed to operate a casino after January 1, 2014.** A commercial

1 track initially licensed to operate a casino after January 1, 2014 shall collect and
2 distribute revenue from the operation of slot machines and table games in accordance
3 with this subsection. The casino operator shall collect and distribute 1% of the gross slot
4 machine income to the Treasurer of State for deposit in the General Fund for the
5 administrative expenses of the board. The casino operator shall collect and distribute
6 39% of net slot machine income and 16% of net table game income to the board. The
7 total amount of net slot machine revenue and net table game revenue forwarded to the
8 board must be distributed as follows:

9 A. Sixteen percent must be forwarded by the board to the Treasurer of State, who
10 shall credit the money to the fund established in section 298 to supplement harness
11 racing purses;

12 B. Six percent must be forwarded by the board to the Treasurer of State, who shall
13 credit the money to the Agricultural Fair Support Fund established in Title 7, section
14 91;

15 C. Six percent must be forwarded by the board to the Treasurer of State, who shall
16 credit the money to the Sire Stakes Fund created in section 281;

17 D. One percent must be forwarded directly to the municipality in which the slot
18 machines and table games are located;

19 E. One percent must be forwarded directly to the county in which the slot machines
20 and table games are located;

21 F. One percent must be forwarded to the Treasurer of State, who shall credit the
22 money to the Fund to Stabilize Off-track Betting Facilities established by section 300.
23 The amount distributed under this paragraph must be divided equally among the
24 eligible off-track betting facilities except that no off-track betting facility may receive
25 more than 25% of the amount forwarded to the board under this paragraph. Any
26 revenues remaining after distribution to off-track betting facilities must be credited to
27 the General Fund. An off-track betting facility is eligible for a distribution under this
28 paragraph if it was licensed by the State Harness Racing Commission to conduct and
29 actually conducted wagering operations for a minimum of 250 days during the
30 preceding 12-month period in which the first payment to the fund is required; and

31 G. Sixty-nine percent must be deposited to the General Fund for administrative
32 expenses of the board in accordance with rules adopted by the board under section
33 1003, subsection 1, paragraph B, except that, of the amount calculated pursuant to
34 this paragraph, \$100,000 must be transferred annually to the Gambling Addiction
35 Prevention and Treatment Fund established by Title 5, section 20006-B.

36 **Sec. 16. 8 MRSA §1037, first ¶**, as enacted by PL 2011, c. 358, §6 and amended
37 by c. 657, Pt. W, §6, is further amended to read:

38 Beginning February 15, 2012, the executive director of the State Harness Racing
39 Commission, in consultation with the Commissioner of Agriculture, Conservation and
40 Forestry, annually shall submit a report to the joint standing committees of the
41 Legislature having jurisdiction over slot machines, harness racing, agricultural fairs and
42 appropriations and financial affairs regarding the use of slot machine revenue deposited
43 in funds under section 1036, subsection 2, paragraphs B, C, D, H and I, subsection 2-A,

1 paragraphs G, H and I and subsection 2-D, paragraphs A to C. The executive director
2 and the commissioner shall obtain the information as described in this section. The report
3 required by this section must be completed using budgeted resources. The executive
4 director may not distribute funds listed under section 1036, subsection 2, subsection 2-A
5 and subsection 2-D, as applicable, to harness racing tracks, off-track betting facilities,
6 agricultural fairs or the Sire Stakes Fund under section 281 until the information required
7 to submit the report required by this section is provided.

8 **Sec. 17. 8 MRSA §1037, sub-§1**, as enacted by PL 2011, c. 358, §6, is amended
9 to read:

10 **1. Commercial tracks.** A report required by this section must include the following
11 information from commercial tracks licensed in accordance with chapter 11 that receive a
12 distribution of slot machine revenue under section 1036, subsection 2, paragraph B, D or
13 H, subsection 2-A, paragraph G, H or I or subsection 2-D, paragraph A, B or C:

- 14 A. The total amount wagered on live harness races;
- 15 B. The total amount wagered on intrastate simulcast races;
- 16 C. The total amount wagered on interstate simulcast races;
- 17 D. The number of harness races originated in the State and made available for
18 simulcast outside of the State;
- 19 E. The amount of the harness racing handle from wagers at the commercial track
20 kept by that commercial track and the distribution of the handle to the State and
21 industry recipients under section 286;
- 22 F. The amount received from the handle distribution from wagers at other tracks and
23 off-track betting facilities under section 286;
- 24 G. The amount of revenue received in accordance with section 1036, subsection 2,
25 paragraphs B, D and H, subsection 2-A, paragraphs G, H and I and subsection 2-D,
26 paragraphs A to C;
- 27 H. The number of full-time and part-time employees at the commercial track;
- 28 I. The amount, if any, spent on capital improvements to the commercial track and
29 related facilities and a description of those improvements. The first report must
30 include the amount spent since November 2005, shown by year. Subsequent annual
31 reports must include the amount spent on capital improvements the immediately
32 preceding calendar year;
- 33 J. Operating costs for the commercial track;
- 34 K. Profit and loss or depreciation figures for the commercial track; and
- 35 L. Administrative costs to comply with reporting requirements and contributions to
36 the State Harness Racing Commission's operating account described in section
37 267-A.

38 **Sec. 18. 8 MRSA §1037, sub-§2, ¶E**, as enacted by PL 2011, c. 358, §6 and
39 amended by c. 657, Pt. W, §6, is further amended to read:

1 E. The amounts, reported separately, of revenue received in accordance with section
2 1036, subsection 2, paragraphs B and D, subsection 2-A, paragraphs G and H and
3 subsection 2-D, paragraphs A and B, in accordance with the Stipend Fund under Title
4 7, section 86 and from any other source in accordance with rules adopted under
5 section 263-A, subsection 1, paragraph C and Title 7, section 82, subsection 5 by the
6 Commissioner of Agriculture, Conservation and Forestry or the State Harness Racing
7 Commission; and

8 **Sec. 19. 8 MRSA §1037, sub-§3, ¶B**, as enacted by PL 2011, c. 358, §6 and
9 amended by c. 657, Pt. W, §6, is further amended to read:

10 B. The amounts, reported separately, received from slot machine revenue in
11 accordance with section 1036, subsection 2, paragraph D, subsection 2-A, paragraphs
12 G and subsection 2-D, paragraph A, in accordance with the Stipend Fund under Title
13 7, section 86 and from any other source in accordance with rules adopted under
14 section 263-A, subsection 1, paragraph C and Title 7, section 82, subsection 5 by the
15 Commissioner of Agriculture, Conservation and Forestry or the State Harness Racing
16 Commission; and

17 **Sec. 20. 8 MRSA §1037, sub-§4**, as enacted by PL 2011, c. 358, §6, is amended
18 to read:

19 **4. Breeders and owners within the Maine Standardbred program.** A report
20 required by this section must include the following information from horse breeders and
21 owners within the Maine Standardbred program established pursuant to section 281 who
22 receive a distribution under section 1036, subsection 2, paragraph C, subsection 2-A,
23 paragraph I and subsection 2-D, paragraph C:

24 A. The number of mares bred by each Maine Standardbred stallion as reported to the
25 State Harness Racing Commission;

26 B. An assessment of whether the number of Maine Standardbred horses in the State
27 is sufficient to grow and sustain harness racing in the State;

28 C. The number of yearling horses eligible and nominated to participate in sire stakes
29 racing;

30 D. The amount received from slot machine revenue in accordance with section 1036,
31 subsection 2, paragraph C, subsection 2-A, paragraph I and subsection 2-D,
32 paragraph C;

33 E. The total number of qualifying dashes for sire stakes races and the average purse
34 for each dash sorted by the age of the horse and the average purse for each sire stakes
35 final dash sorted by the age of the horse; and

36 F. An accounting of the Sire Stakes Fund, including the total amount of the fund at
37 the beginning and end of the racing season and, reported separately, expenditures
38 used to supplement purses, pay breeder promotional contracts, pay advertising costs,
39 make payments to a statewide horsemen association, pay administrative costs and
40 make contributions to the operating account described in section 267-A.

41 **Sec. 21. 8 MRSA §1054, sub-§8**, as enacted by PL 2003, c. 687, Pt. A, §5 and
42 affected by Pt. B, §11, is amended to read:

