

TESTIMONY OF
CHRISTOPHER McERLEAN, VICE PRESIDENT OF RACING – PENN ENTERTAINMENT;
VICE PRESIDENT – PENN ADW, LLC (D/B/A HOLLYWOODRACES.COM)
March 8, 2023

AGAINST

LD 731 – An Act Regarding the Licensing of Persons to Conduct Advance Deposit Wagering
Sponsor: Senator B. Farrin

Senator Hickman, Representative Supica and Distinguished Members of the Committee,

I represent PENN ADW, LLC, the operator of Maine’s sole Account Deposit Wagering (ADW) license, which was awarded after a competitive bidding process in early 2020 and launched the state’s first legal online horse racing website and mobile app in May 2020 under the brand name “***Hollywood Races.***”

PENN ADW, LLC is a subsidiary of PENN Entertainment (“PENN”), the owner/operator of Hollywood Casino Bangor and the license holder for one of the two commercial racetracks in the state, Bangor Raceway.

In addition to being the largest regional casino operator in North America with 43 facilities in 20 jurisdictions, as well as a leading sports wagering and Igaming digital company, PENN is also the largest operator of pari-mutuel racing facilities in North America, owning or operating 11 facilities in 8 different jurisdictions. PENN tracks, representing harness, thoroughbreds and quarter horses, conduct over 1,300 live racing events annually and processes over \$1 billion in pari-mutuel wagers annually on live and simulcast races. Our ***Hollywood Races*** ADW is licensed to accept wagers in 24 states.

Since launching in the midst of the pandemic in May 2020, ***Hollywood Races*** has recorded sales, or “handle” of \$13 million dollars. It has generated nearly \$700,000 for the state of Maine and its racing stakeholders, including prize money for races conducted at Maine’s racetracks and fairs as well as operational fund for racetracks and off-track betting locations.

Handle on the ***Hollywood Races*** platform in 2022 increased 16% from the prior year and ***Hollywood Races*** is now generating nearly 20% of the total pari-mutuel handle in the entire state of Maine. These positive business results have been achieved with a spotless compliance and responsible gaming record with the Maine Gaming Control Board and despite the handicap of not having the opportunity to present some of the nation’s top racetracks and races on our platform.

PENN ADW, LLC's contract with the Maine Gaming Control Board is approved through May 2025. Starting with the initial bidding process, through a comprehensive implementation and launch, and through today, PENN ADW, LLC has invested significant time and resources to provide residents of the state of Maine with a first class ADW product. We feel this existing contract, entered into with good faith on both sides, should be honored before any changes or alterations are made by the legislature.

If the legislature chooses to move forward with additional licenses after the terms of our contract are honored, I would suggest the following changes to the pending bill LD 731:

1. Amend Section 3 of the Amendment presented by the sponsors (new 8 MSRA §1001)

Sec. 3. 8 MRSA §1001, sub-§20-A is enacted to read:

20-A. Net advance deposit wagering handle . "Net advance deposit wagering handle" means the total amount of wagers placed by residents of this State by means of advance deposit wagering, less any refunds on such wagers.

Prior definition "Gross advance deposit wagering income" is not terminology widely used for ADW or pari-mutuel wagering. "Handle" is a much more accepted term.

With the definition change in Sec. 3 above, additional changes are required in sections dealing with distributions:

Sec. 10. 8 MRSA §1072, as enacted by PL 2015, c. 499, §8, is amended to read:

§1072. Distribution of ~~net commission~~ Net advance deposit wagering handle

The ~~net commission~~ established in the contract executed pursuant to section 1071, subsection 3 Net advance deposit wagering handle must be distributed according to this section.

1. Distribution of ~~net commission~~ Net advance deposit wagering handle races conducted in State. An advance deposit wagering licensee shall collect ~~the net commission~~ Five (5.0) of Net advance deposit wagering handle from wagers placed with the licensee on races conducted at tracks in the State and distribute it to the board for distribution as follows.

2. Distribution of ~~net commission~~ Net advance deposit wagering handle on races conducted outside State. An advance deposit wagering licensee shall collect ~~the net commission~~ Five (5.0%) of gross advance deposit wagering income from wagers placed with the licensee on races conducted at tracks outside the State and distribute it to the board for distribution as follows.

2. Amend Section 11 of the Amendment presented by the sponsors (new 8 MSRA §1073)

4. Condition for Licensure

C. In the event an advance deposit wagering license directly, or indirectly, through any parent, affiliate or subsidiary of the advance deposit wagering licensee, offers or contracts on behalf of itself or others for horse racing content for wagering purposes with any advance deposit wagering licensee in the state, such horse racing content must be offered to all advance deposit wagering licensees, all commercial racetracks and all off-track betting facilities in the state under commercially reasonable terms and access.

i. Failure for a advance deposit wagering licensee to meet the conditions of Subsection 4C shall result in an immediate revocation of the licensee's advance deposit wagering license and such advance deposit wagering licensee, its parent, affiliate or any subsidiary shall not be permitted to apply for, or contract with any other party, for an advance deposit wagering license in this state.

This provision will provide for an equal playing field for all pari-mutuel entities operating in the state, a situation that unfortunately does not exist at the current time.

3. Amend Section 11 of the Amendment presented by the sponsors (new 8 MSRA §1073)

7. Effective Date. Account deposit wagering licensees may commence accepting wagers from resident of this state on or after June 1, 2025.

This provision would allow the existing ADW contract with the state of Maine, which was awarded in a competitive bidding process under the statutory framework established by the legislature, to run through its full term.

4. We do agree with other stakeholders that a provision for all licensed ADWs permit wagering on all races from tracks within the state of Maine, if that track desires to have its races offered by the ADW licensee. If a Maine racetrack offers its races for wagering with one ADW licensee it should be required to offer to all ADW licensees under commercially reasonable terms and conditions.
5. We would not recommend a geofencing requirement as suggested in another amendment at racetracks or off-track wagering locations based on technical and practical considerations.

We thank the committee for its consideration of PENN ADW, LLC's comments regarding this legislation.