

LD1611

Written Testimony

By James Day, President LRI, Inc. dba Winners Circle OTB

Good Morning Senator Dill, Representative O'Neil and members of the Agriculture Committee, my name is Jim Day, and I am President of LRI, Inc dba Winner's Circle OTB in Lewiston and a resident of Scarborough, ME. I am speaking in against LD 1611

IT IS VERY IMPORTANT that a track exist for the wonderful Horsemen and women of the State of Maine. Ruining a couple of existing businesses that have done nothing more than support harness racing for decades, is not the way to achieve this objective. There are ways to achieve what the entire industry wants, but this hastily submitted bill to bypass existing laws is not the way.

Let me explain further. The second half of this bill is bad policy and a bad addendum. As written, it allows any facility that holds any live meet (Topsham Fair, Cumberland Fair, the Commercial meet at Cumberland and eventually the proposed Saco facility that is being promised to the Horsemen) to open a simulcast facility in Portland forever. Or in actuality an Off Track Betting, since a simulcast facility was restricted to be at racetracks and like the name suggests, an off track betting facility is not at a racetrack it is off track.

Portland is the only City in Maine that meets the population threshold, so this is written with a specific person in mind to undermine existing law under the guise of needing additional income to invest further, without taking any steps forward to actually build a new facility.

This law bypasses several existing laws and approvals that have been established for 30 years:

- 1) The right for the City of Portland to vote on whether they want an OTB facility in their City. The only time Portland has voted on this, they did not vote against an applicant, they voted to make Portland a "dry" City regarding wagering. Should you not ask Portland their thoughts on this. Certainly the way this legislation was put forward you cannot expect that Portland is aware of this.
- 2) For over 30 years, OTBs have had a marketplace whereby if someone wanted to open in their marketplace, the existing business that has spent substantial dollars investing in itself, had the right to veto someone coming into their marketplace. That was a 35 mile radius.
 - a. Over the years, it has been shown that small markets and shared markets have not made for successful OTB ventures and Bath, Madawaska and other locations have closed. It takes a population base to make that business work and with the addition of two Maine Casinos, all of the OTBs are on very narrow ground and unless something changes, could close. Adding in Portland would jeopardize two locations and possibly a third. This has a

financial affect on everyone that benefits from the income generated at OTBs including the Fairs.

- b. Portland is in Scarborough's 35 mile radius (over 50% of their business will probably be poached) , Brunswick's 35 mile radius (over 30% of their business is affected) and to a much lesser extent Lewiston's. The people behind this bill, know that they would be not allowed to get a license under current law, so they are trying to bypass the law and get an emergency bill passed .
- 3) This law creates an OTB (it is off track), but uses the tax that is meant for a Commercial Track to take wagers AT THEIR FACILITY. It walks like an OTB, it talks like an OTB, but it is allowed to make TWICE what a regular OTB can make because it is taking a tax meant for a COMMERCIAL MEET AT A COMMERCIAL MEET. If you are going to allow the OTB, at least make it pay the same taxes as an OTB. Why are they getting a substantial tax break AND taking business away from existing facilities. There is a reason the Commercial meet gets favorable treatment AT THEIR FACILITY AND DURING THEIR RACE MEET, not at a location up to 25 miles away in Maine's largest City.

So the City of Portland gets no say on whether it wants to have this business within their borders, the long standing rights established in law of protecting market area are being dismissed and the new facility gets favorable treatment in the tax that it is being charged! It is allowed to take existing business from another business and gets to keep more income than the business that created the market.

And this licensed facility does not have an end date! Even in his testimony, Mr Cianchette says we will suggest a sunset and does not offer it as what he wants and has proposed. He has continuously stated to the Industry that he only wants this location until he opens, but that is not what is being put forward in this bill. If and when a track is opened in Saco, the law as written does not close the OTB in Portland. In fact, if a track is never opened in Saco and a few race days are licensed in Cumberland each year, then this OTB can keep operating forever. Even if a SUNSET was added, we all know that that can be easily adjusted, so I do not trust a Sunset provision, when a new Legislature doesn't have the history of why this is being closed.

That is the effects of the wording of the law that you have before you. It is a bad law to benefit a few interests and not supported by the entire industry.

Now lets discuss the background of how this was suppose to go.

- 1) Horsemen went to Scarborough and asked them to close so that it would open a path for First Track to open. There were agreements made and never once did First Track say then needed an OTB in Portland until they got their track started.
- 2) When First Track, Horsemen and Breeders did broach this subject, it was also promised that the prevailing tax for ALL OTBs would be reduced by half (except for

- the State's share). This part has failed to be added to the bill. Ask them if it was not intended. It is on the record as part of the Breeders testimony for sports wagering.
- 3) There is nothing in this law that makes First Track move forward. We had asked for construction timeline standards that First Track could write themselves and if they did not move forward then the Portland OTB would have to close. He agreed to this and now is writing a law (he has said he wrote this provision himself) that never has the Portland OTB Closing.
 - 4) All this really does is take Scarborough and Brunswick income and give it to First Track. There is no new income from this location. The agreement mentioned before allowed Scarborough to get an OTB if it closed its track. That was actually passed as part of a law last session (Public Law 2019, Chapter 626, Section 16), only to try and take 50% of her income that she has worked to create for the last 30 years. If this is what was intended, then it should have been part of their negotiations with Scarborough, who thought they knew what they were getting when they signed the agreement.
 - 5) First Track headed by Michael Cianchette are using empty promises to get what they want in one of their facilities in Portland, Maine and you are assisting them.
 - 6) It has been years since the Cianchette's have discussed building a track and there is not even a parcel of land announced, or a building permit applied for. Put a shovel in the ground, to show good faith and then ask for some concessions.

PLEASE do not move forward with the second part of this bill. It is a bad change, that steals a business away from Denise Terry and gives it to someone who has done nothing but make promises to date. It is important for a track to open for the Horsemen and women of this State. But before you give an entity the golden goose, they should actually do something that they have promised.

Again, because it is so important, I repeat how important it is that a track exist for the wonderful Horsemen and women of the State of Maine. There are ways to achieve what the entire industry wants, but this hastily submitted bill to bypass existing laws is not the way.

VOTE OUGHT NOT TO PASS and let the industry work together to get a track built in Southern Maine.