

MAINE STATE HARNESS RACING COMMISSION

PROGRAM EVALUATION REPORT

Submitted in fulfillment of the requirements of
Title 3, Chapter 35

NOVEMBER 2023



Amanda E. Beal
Commissioner

Randy Charette
Deputy Commissioner

Nancy McBrady
Deputy Commissioner

18 Elkins Lane
Augusta, ME 04333

(207) 287-3200
maine.gov/dacf



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SECTION I

EXECUTIVE SUMMARY

The Maine State Harness Racing Commission ("Commission") was established in 1935 as the State Racing Commission. It received its present name in 1951, and in 1973, it was placed within the Department of Agriculture. Over the last 25 years, the 'Commission's responsibilities have expanded to include drug testing, off-track betting, simulcasting, and—most significantly—collecting in-state wagering revenue. That revenue is then redistributed to support Maine-bred racehorses, commercial tracks, harness racing purses, off-track betting, and Maine's agricultural fairs.

The Commission employs an Executive Director, a Program Director, a half-time Office Associate II, a half-time Resource Administrator, one State Steward (seasonal), and a Racing Technician. Two additional intermittent State Steward positions, one Veterinarian position, and one additional Racing Technician position are currently vacant. Commission staff perform oversight, financial management, licensing, and more.

There were a few setbacks to Maine harness racing in 2023. Due to cost factors, the Union Fair decided not to hold harness racing for the first time in 120 years. Midcoast OTB closed its doors in June of this year following the death of its sole owner. The Sire Stakes program had its lowest number of eligible horses in history. Maine has a minimal number of breeding farms, which may jeopardize the industry's future. Changes to the program, which may require changes to state law, would likely be needed in coming years to reinvigorate Maine breeding.

On a brighter note, planning for a new harness track in southern Maine is ongoing. Additionally, fiber optic cable has been installed at all Maine fairs hosting harness racing, enhancing the quality of the signal that goes out to the world for wagering. Infrastructure investments like these are examples of Maine taking the necessary steps to secure added economic benefits from the sport. The Commission welcomes the support and ideas of the Maine Legislature to continue to enhance harness racing in Maine.

SECTION II—STATUTORY

A. ENABLING AND AUTHORIZING LAWS

5 MRS Section 12004-G, subsection 32 authorizes the establishment of the Maine State Harness Racing Commission as a public policy board.

8 MRS Chapter 11 (Sections 261 through 300) provides regulatory oversight authority to the Commission for a variety of functions necessary to the operation and integrity of harness racing, including but not limited to licensing of participants; veterinary supervision of race horses; racing oversight by the state stewards and other track officials; regulation of off-track betting facilities; human and horse drug testing; and financial management of wagering revenue that benefits the industry.

B. DESCRIPTION OF PROGRAMS ADMINISTERED BY THE MAINE STATE HARNESS RACING COMMISSION

1. Licensing of participants, officials, tracks, and off-track betting; granting of race dates

Statutory Basis

8 MRS Sections 263-A, 268-271, 275-A through 275-O, 279 through 279-D, 283

Objectives

The Commission is charged with a range of licensing functions relating to harness racing and its participants. This program establishes standards to ensure that the industry operates in a manner that fosters fairness, integrity, transparency, and professionalism. For instance, drivers and trainers must achieve minimum competency standards before qualifying for a license, and horse owners must provide proof of adequate liability insurance. Similarly, the Presiding and Associate Track Judges must fulfill minimum continuing education standards to qualify for licensing. In addition, this program sets minimum age restrictions, allows for the completion of background checks, and requires assurance of financial capabilities for all participants.

Tracks and off-track betting facilities must submit detailed applications so the Commission can determine whether facilities are in good operating condition and have the financial means to operate responsibly. Facilities that fall under either category are subject to scheduled and random oversight by the Commission. In addition, race dates are assigned to licensed facilities in a manner that most benefits the entire industry.

The Commission has the right to refuse, revoke, or suspend a licensee found violating Commission statutes or rules or otherwise not in good standing in other racing jurisdictions.

Future Goals

- Create an online self-service portal for licensees.

2. Oversight and enforcement at harness racing facilities and pari-mutuel betting facilities

Statutory Basis

8 MRS Sections 268 - 272, 275-A through 275-E, 275-N, 277 - 279, 279-C

Objectives

The objective of the oversight and enforcement program is to ensure that licensed facilities are in good condition, are operating professionally, and are adhering to pertinent laws. At all races, qualified judges and stewards approved and licensed by the Commission are present and charged with enforcing applicable laws and otherwise upholding the integrity of the sport. These officials must submit written reports documenting their activities, the conduct of the race meetings, and their decisions to the Commission.

Future Goals

- Requiring that the State Stewards in the State of Maine be accredited by the Race Officials Accreditation Program (ROAP) and the State Stewards act as the Presiding Judge at all harness meets.

3. Drug testing of horses, drivers, and licensees

Statutory Basis

8 MRS Sections 279-A and 279-E

Objectives

This program aims to ensure that horses are not racing with prohibited substances in their system. Once a horse has been checked into the paddock, trainers of horses participating in any race must present their horse for testing—either pre- or post-race—at the discretion of the State Veterinarian, Presiding Judge, or State Steward. The winning horse of each race is always tested along with any other selected horses.

To provide a safe environment in the paddock and on the track, random or scheduled drug/alcohol testing of any licensee (i.e., a driver, trainer, groom, starting gate driver, or any licensee who enters the paddock) is permitted at the discretion of the State Steward. In addition, whenever drivers, judges, and starting gate drivers participate on a race day, they must submit to a breath analyzer test.

Future Goals

- Conduct more pre-race testing on horses to detect the presence of drugs that may be undetectable after a race.
- Obtain more out-of-competition blood samples on racehorses to 1) increase oversight of race professionals and 2) detect the presence of "blood doping" substances that are undetectable on race days.
- For human testing, research drug testing options for 1) instant tests and 2) different labs to send the drug tests that would provide results more quickly.
- Research and establish standard referee labs to accelerate the split sample process.

4. Collection and disbursement of wagering revenue

Statutory Basis

8 MRS Sections 272-B and 286 - 300

Objectives

The Commission collects and deposits revenue from wagering fees and licensing revenue and then distributes the money by prescribed statutory formulas. Wagering revenue is generated at racetracks, interstate and intrastate off-track betting facilities, and slot machines at 'Maine's two licensed gambling facilities.

The accounts where wagering money is deposited include the 'Commission's Operating Fund, the Agricultural Fair Stipend Fund, the Sire Stakes Fund, the Harness Racing Promotional Board Fund, the Purse Supplement Fund, the Fund to Support Racing at Commercial Tracks, and the Off-Track Betting Simulcast Fund. These funds are crucial for supplying revenue to facilities related to the harness racing industry and 'Maine's Agricultural Fairs.

Future Goals

- Modernize the 'Commission's technology capacity to streamline the submission, management, and distribution of revenues.

5. Promotion and support for the Maine Standardbred racehorse breeding industry

Statutory Basis

8 MRSA Sections 281, 281-A and 288

Objectives

The Commission is charged with various responsibilities intended to ""encourage and promote the breeding of a strain of Maine Standardbreds"." Those responsibilities include registration of in-state stallions, registration of in-state two- and three-year-old Standardbred racehorses, establishment and oversight of dedicated races for Maine-bred horses (referred to as the ""Sire Stakes""), and collection and disbursements of wagering revenue to promote Sire Stakes racing and to supplement the Sire Stakes purses.

Future Goals

- Collaborate with the industry to increase the number and quality of Maine-bred racehorses and to enhance the popularity of the Sire Stakes program.

**HARNESS RACING COMMISSION
REVENUES & EXPENSES**

		2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Revenues:											
1221	LICENSES HARNESS HORSE RACING	3,450	2,620	2,420	2,330	2,350	3,310	3,400	3,130	2,450	2,140
1255	PULL EVENT PERMIT	2,455	4,085	3,180	4,375	2,700	3,465	1,910	815	3,535	3,705
1301	COMM PARI MUTUELS HARNESS	472,029	491,751	437,966	421,288	432,359	408,556	328,839	251,451	412,313	263,152
1302	COMM PARI MUTUELS STIPEND	-	-	-	-	524,413	505,240	344,422	331,911	571,222	346,882
1305	COMMISSION ON PARI MUTUEL	-	-	-	-	424,370	402,335	277,145	514,906	883,938	637,480
1322	SLOT MACHINE REVENUE	-	-	-	-	9,931,459	9,915,888	7,558,055	8,639,970	11,863,586	11,987,892
1448	SPECIAL LICENSES & LEASES	57,140	51,365	52,930	48,625	47,465	47,305	28,700	35,695	38,105	36,140
2001	MISCELLANEOUS FINES	200	-	-	-	-	-	-	-	-	(1,000)
2631	REGISTRATION FEES	139,325	144,625	128,766	124,580	376,351	352,345	263,457	152,973	114,940	123,793
2637	MISC SERVICES & FEES	-	-	-	-	-	-	7	-	-	-
2642	CERTIFIED DOCUMENT FEES	-	-	-	-	-	-	30	38	-	-
2689	CASH OVER SHORT FOREIGN EX	(420)	-	10	150	(750)	-	2,100	2,200	2,000	(170)
2690	RECOVERED COST	-	-	-	-	120	-	-	-	15	50
2719	CONT FROM OTHER SPECIAL REVENUE	165,000	302,500	482,500	597,000	0	(0)	(0)	-	-	-
2952	ADJ TO PRIOR YEAR BAL/UNALLOCT	154,131	-	-	220	3,280,894	-	-	-	-	-
2953	ADJ OF ALL OTHER BALANCE FWD	217	-	15	-	-	(391)	-	408,878	87,852	172,873
2955	ADJ OF PERS SERV BALANCE FWD	-	-	-	-	-	(16,203)	-	-	-	-
2968	REG TRANSFER UNALLOCATED	5,597	-	-	-	10,942	3,390	-	-	-	-
2981	LEGIS TRANSFER OF REVENUE	-	-	-	-	(181,403)	(107,452)	(183,846)	-	-	-
	TOTAL REVENUES	999,124	996,946	1,107,787	1,198,568	14,881,715	11,517,790	8,624,219	10,341,968	13,979,955	13,572,937
Expenses (Personnel)											
31	SALARIES AND WAGES	23,620	26,069	27,708	24,246	52,546	58,097	60,592	66,121	64,831	59,616
32	SALARIES AND WAGES	186,285	190,445	179,834	176,055	214,493	238,985	247,101	254,100	273,755	262,005
33	SALARIES AND WAGES	120,148	112,190	145,138	130,839	108,848	73,390	54,915	9,316	27,810	34,038
36	SALARIES AND WAGES	7,164	11,029	11,565	13,553	10,420	4,599	5,947	4,168	16,073	5,823
31-36	SALARIES AND WAGES	337,218	339,733	364,245	344,693	386,306	375,071	368,556	333,706	382,469	361,482
38	UNEMPLOYMENT	7,135	5,920	7,467	5,598	5,213	4,425	4,999	6,012	4,844	4,866
39	FRINGE BENEFITS	191,672	187,818	196,436	194,484	216,929	220,818	215,709	200,994	195,444	178,964
	TOTAL PERSONNEL EXPENSES	873,243	873,204	932,393	889,468	994,754	975,385	957,820	874,418	965,226	906,793
Expenses (All Other)											
40	PROF. SERVICES, NOT BY STATE	344,599	315,536	412,146	584,688	527,779	347,057	328,596	139,297	279,076	266,577
41	PROF. SERVICES, BY STATE	1,740	6,360	300	840	19,500	-	10,800	-	-	-
42	TRAVEL EXPENSES, IN STATE	5,863	3,962	5,233	5,154	7,559	5,050	5,900	1,111	10,853	12,323
43	TRAVEL EXPENSES, OUT OF STATE	(28)	755	1,778	-	206	373	527	-	-	-
46	RENTS	13,575	12,297	11,363	7,922	5,852	6,122	4,983	4,237	8,474	5,033
47	REPAIRS	472	-	375	553	210	195	115	-	-	-
48	INSURANCE	547	649	702	794	1,119	1,530	1,480	1,557	1,863	1,773
49	GENERAL OPERATIONS	21,927	21,068	24,556	21,882	21,651	38,868	216,879	26,308	80,779	59,542
50	EMPLOYEE TRAINING	-	-	-	-	-	-	600	-	-	-
51	COMMODITIES - FOOD	-	83	29	-	-	-	-	-	-	-
53	TECHNOLOGY	-	-	-	400	29	198	1,778	1,513	1,924	3,569
55	EQUIPMENT AND TECHNOLOGY	-	-	-	104	616	1,024	135	110	2,650	3,214
56	OFFICE & OTHER SUPPLIES	18,955	15,769	18,986	15,775	17,161	14,499	10,715	12,698	14,600	16,587
64	GRANTS TO PUB AND PRIV ORGNS	-	-	-	-	9,931,432	10,522,778	9,429,863	6,259,030	13,552,541	12,286,068
82	ADMINISTRATIVE CHARGES AND FEE	(20)	-	-	-	-	141	-	-	20	-
85	TRANSFERS	37,245	46,771	49,968	44,548	29,164	21,198	32,856	21,593	52,402	57,258
90	CHARGES TO ASSETS AND LIAB.	-	-	-	-	-	-	-	-	-	23
	TOTAL ALL OTHER EXPENSES	444,877	423,251	525,436	682,658	10,562,280	10,959,034	10,045,229	6,467,454	14,005,182	12,711,967
	TOTAL EXPENDITURES	1,318,120	1,296,456	1,457,829	1,572,126	11,557,034	11,934,419	11,003,049	7,341,872	14,970,407	13,618,760

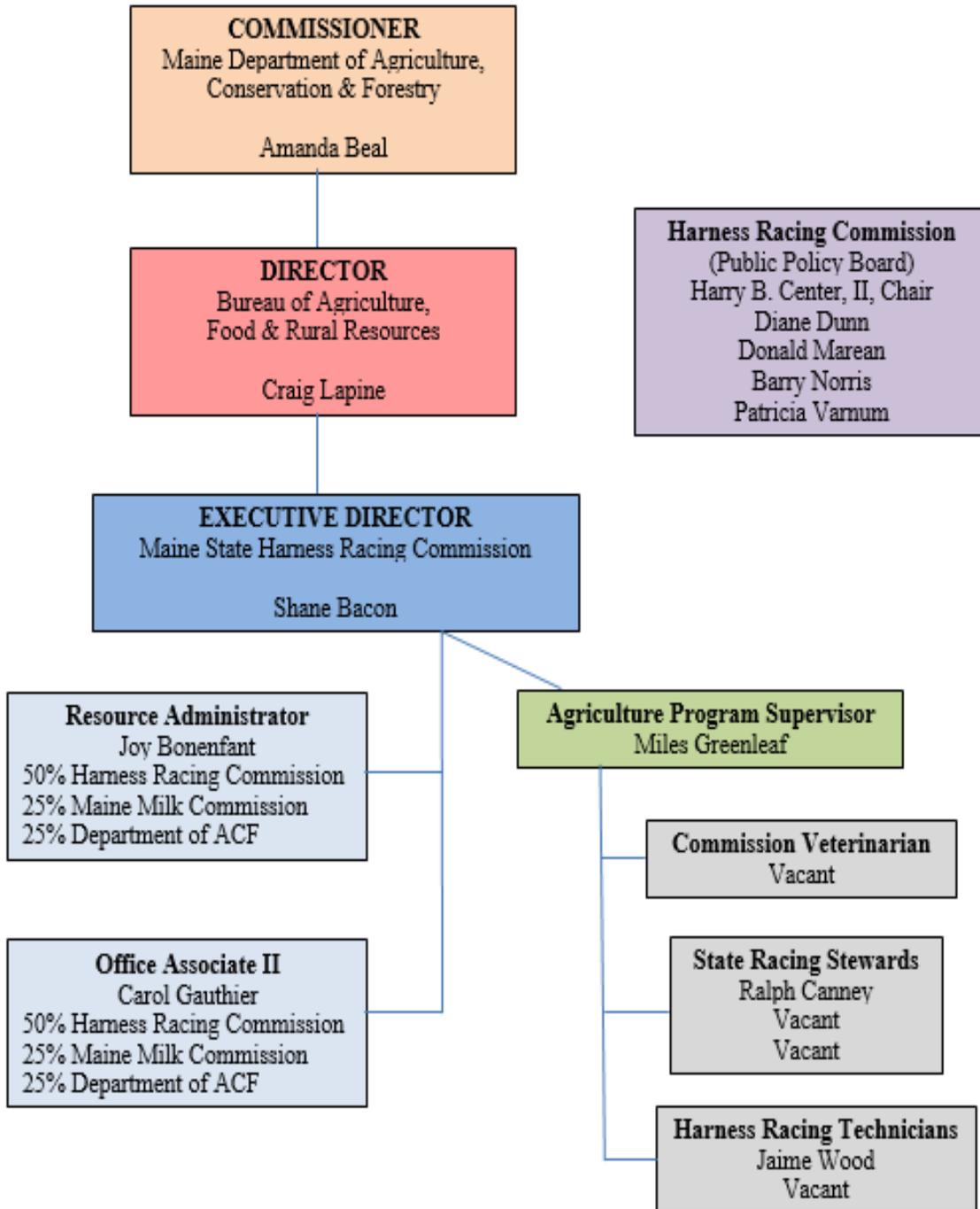
Figure 1:
HARNESS RACING COMMISSION
REVENUE VS. EXPENDITURE



C. ORGANIZATIONAL STRUCTURE

Maine State Harness Racing Commission

Organizational Structure



D. COMPLIANCE WITH FEDERAL AND STATE HEALTH AND SAFETY LAWS

The Commission takes proactive measures to ensure compliance with all federal and state health and safety laws and certifies that it will comply with all federal standards relating to nondiscrimination, which include, but are not limited to (a) Title VI of the Civil Rights Act—prohibits discrimination based on race, color or national origin, (b) Title XI of the Education Amendments of 1972—prohibits discrimination on the basis of sex, (c) Section 504 of the Rehabilitation Act of 1973—prohibits discrimination on the basis of handicaps, and (d) The Age Discrimination Act of 1975—prohibits discrimination on the basis of age.

As a unit of the Department of Agriculture, Conservation, and Forestry, the Commission participates in safety compliance inspections conducted by the Maine Bureau of Labor Standards. Work site evaluations have been performed for all employees using video display terminals to provide specific recommendations to enhance employee safety, comfort, and efficiency. Ergonomic workstations have been obtained, when necessary, for all employees to implement the recommendations contained in the work site evaluations.

E. FINANCIAL SUMMARY

The Commission collects and redistributes wagering revenue from three sources: the Bangor Racino, the Oxford Casino, and regular and exotic wagers from licensed in-state pari-mutuel harness racing wagering facilities. Annually, \$13.5 million is received from these revenue sources, which is redistributed according to statutory formulas to provide financial support to racing purses, Maine-bred racehorses (Sire Stakes), commercial tracks, off-track betting, harness racing promotion, and agricultural fairs.

Dedicated wagering and licensing revenues have wholly funded the Commission since the end of 2008 after the harness racing industry worked with the Maine Legislature to replace the General Fund revenue on which it was partially dependent.

In State Fiscal Year 2023, the Commission expended \$13,618,760 million for operational purposes, with \$1,173,370 of the expended funds allocated between personal services and contractual services for drug testing.

F. RULES AND REGULATIONS

Summary of Rules and Rulemaking

Chapter 1 Administration

Statutory Authority 8 MRSA §§ 263-A, 268, 275-C, 279-A, 279-B, 281

Effective Date February 22, 1993

Last Amended September 20, 2023

This chapter contains definitions, rules of construction, sulky standards, licensing requirements, and fees set forth by the Commission.

Chapter 3 Officials and Racetrack Personnel

Statutory Authority 8 MRSA §§ 263-A, 268, 275-C, 279-A, 279-B, 281

Effective Date February 22, 1993

Last Amended September 20, 2023

This chapter describes the responsibilities, duties, and restrictions of the various licensed race officials who have administrative responsibility for enforcing these rules. It also refers to other licensed personnel having responsibilities relating to racing.

Chapter 5 Tracks

Statutory Authority 8 MRSA §§ 263-A, 268, 272-B, 279-A and B

Effective Date February 22, 1993

Last Amended December 22, 2020

This chapter contains the requirements of the racing Associations to conduct race meets in the state and includes, but is not limited to, equipment, bonding, licensing, personnel, and racing regulations.

Chapter 7 Racing

Statutory Authority 8 MRSA §§ 263-A, 268, 275-C, 279-A, 279-B, 281

Effective Date February 22, 1993

Last Amended March 11, 2023

This chapter shall set forth all rules specific to all facets of racing. This shall include the procedures for the assembling and drawing of races, the standards that horses and participants are held to, starting and racing rules, and proper procedures for placing and purse distribution. To facilitate understanding of this chapter, it is arranged sequentially in the order in which the various elements of racing should occur. For example, the draw comes before the starting rules, the starting rules before the racing rules, etc.

Chapter 9 Sire Stakes

Statutory Authority 8 MRSA §§ 263-A, 268, 275-C, 279-A, 279-B, 281

Effective Date February 22, 1993

Last Amended July 4, 2021

This chapter pertains to the establishment of a Breeders Stakes program to encourage and develop a Maine breed of Standardbred horses under 8 MRSA §281.

Chapter 11 Medication and Testing

Statutory Authority 8 MRSA §§ 263-A, 268, 275-C, 279-A, 279-B, 281

Effective Date February 22, 1993

Last Amended August 17, 2020

This chapter contains rules for equine medication, including, but not limited to, prohibited substances, types of tests, methods of testing, responsibilities of race track personnel, purse redistribution, and penalties.

Chapter 13 Pari-Mutuel

Statutory Authority 8 MRSA §§ 263-A, 268, 275-C, 279-A, 279-B, 281

Effective Date February 22, 1993

Last Amended March 29, 2021

This chapter discusses methods for maintaining and verifying Win, Place, and Show pools and multiple-pool wagers. It contains the requirements for bonding the Mutuel director, plant security, and conduct within the Mutuel enclosure.

Chapter 15 Off-Track Betting

Statutory Authority 8 MRSA §§ 263-A, 268, 275-C, 279-A, 279-B, 281

Effective Date February 22, 1993

Last Amended February 21, 2018

This chapter contains the licensing rules and operational criteria for off-track betting.

Chapter 17 Rule Violations; Penalties

Statutory Authority 8 MRSA §§ 263-A, 268, 275-C, 279-A, 279-B, 281

Effective Date February 22, 1993

Last Amended May 7, 2021

This chapter contains the penalty provisions for violations of the racing rules by Associations or participants.

Chapter 19 Protests, Appeals, and Race Date Assignment Hearings

Statutory Authority 8 MRSA §§ 263-A, 268, 275-C, 279-A, 279-B, 281

Effective Date February 22, 1993

Last Amended February 7, 2022

This chapter discusses protests, appeals of decisions, and rulings of judges and officials of tracks, including filing requirements and deadlines and Licensing and Race Date Assignment Hearings.

Chapter 21 General Hearing Procedures

Statutory Authority 8 MRSA §§ 263-A, 268, 275-C, 279-A, 279-B, 281

Effective Date February 22, 1993

Last Amended May 28, 2022

This chapter establishes hearing procedures that apply to appeal hearings, licensing hearings, race date assignment hearings, advisory rulings, petitions, and miscellaneous hearings conducted by the Commission.

Regulatory Agenda

AGENCY UMBRELLA-UNIT: **01-017**

AGENCY NAME: Maine Department of Agriculture, Conservation and Forestry, **Maine State Harness Racing Commission**

EMERGENCY RULES ADOPTED SINCE THE LAST REGULATORY AGENDA: None

EXPECTED 2023-24 RULEMAKING ACTIVITY:

CHAPTERS 1 through 21 and/or New Rule: Various Titles

STATUTORY AUTHORITY: 8 MRSA §§263-A; 268, 275-C, 279-A and B, 281

PURPOSE: The Maine State Harness Racing Commission will continue to update its rules to meet the needs of an ever-changing industry.

SCHEDULE FOR ADOPTION: Before October 1, 2023

AFFECTED PARTIES: Harness horse licensees, track owners and operators, pari-mutuel wagering facilities, and those affiliated with the harness racing industry.

CONSENSUS-BASED RULE DEVELOPMENT: Not Contemplated

CONTACT PERSON: Shane Bacon, 28 SHS Augusta, ME 04333, (207) 287-3221
shane.bacon@maine.gov.

G. COORDINATION WITH OTHER AGENCIES

- The Commission shares the services of an Office Associate II and Resource Administrator and shares the cost of these positions equally.
- The Commission coordinates with the United States Trotting Association to obtain licensee and horse information. The State of Maine provides the Maine Presiding and Associate Judges with required training every two years.
- The Commission works closely with the Gambling Control Board in its licensing of commercial racetracks and slot operations.
- The Commission works closely with the Association of Racing Commissioners International on model rules and drug enforcement standards.

H. IDENTIFICATION OF CONSTITUENCIES SERVED

- Wagering public
- Occupational licensees (owners, trainers, drivers, grooms, and pari-mutuel tellers)
- Licensed officials
- Licensed pari-mutuel facilities
- Agricultural fair management
- Standardbred breeders
- Harness Racing Promotional Board
- Licensed vendors
- Other racing jurisdictions
- United States Trotting Association
- General public

I. USE OF ALTERNATIVE DELIVERY SYSTEMS

- The Commission provides copies of all occupational license applications through the 'Department's website.
- The Commission continues to contract for 1) professional/technical services provided in the field (veterinarians and veterinary technicians) and 2) professional financial reviews and assessments.
- The Commission is evaluating the feasibility of an online self-service portal for licensing and other services.

J. EMERGING ISSUES

The Maine harness racing industry faces several critical challenges that threaten the industry's viability in both the short and long term. Many of these issues are interrelated and generally arise from a reduction in the percent of 'Maine's population operating farms. As a result, agriculture and livestock are not a part of daily life for most Mainers. Thus, there is a diminishing knowledge and attraction to large animals like racehorses and the associated sport and profession. Likewise, other forms of available entertainment options are plentiful, which creates intense competition for the 'public's dollars and attention.

Horse supply is reaching a crisis stage. Owning racehorses has become much more expensive than when most people lived on or near farms. Furthermore, all farms are experiencing the effects of increasing costs of agricultural inputs like feed and bedding. In addition, harness racing wagering has decreased, which reduces the purses. These factors have discouraged many horse owners and would-be horse owners from continuing to invest in the sport. When there are fewer horses to race, it results in smaller fields, which are less appealing to the wagering public. The Harness Racing Commission voted to reduce racing at fairs by one day in 2023 to alleviate the horse shortage. The intent is to have fewer race-backs with a day off midweek at each venue.

Breeding program in need of a change. Maine Standardbred breeding is at an all-time low. Without changes to the breeding program, it will likely decline further. This is not beneficial to Maine harness racing or an economic benefit to the state.

Harness racing wagering has experienced a precipitous decline. There are many ways one can choose to be entertained today and many ways to wager money. Online betting (such as fantasy football), casinos containing slots, card games, etc., now present intense competition for wagering dollars. For those who remain interested in wagering on harness racing, there are now various ways to bet, including by telephone, the internet, and off-track betting facilities. This results in fewer people visiting tracks, which in turn takes ancillary income away from the tracks and lends to the appearance of a bygone pastime.

Small fairs are struggling. Some of 'Maine's agricultural fairs are struggling to break even on the harness racing portion of the program. Many of the factors cited above that affect the popularity of harness racing and wagering on the sport, combined with the increasingly high overhead associated with hosting harness racing meets, leave some agricultural fairs questioning the financial wisdom of continuing with the sport. In 2023, Union Fair decided not to host harness racing for the first time in 120 years. Competition with commercial tracks may also be a factor in some cases.

K. ANY OTHER INFORMATION SPECIFICALLY REQUESTED BY THE COMMITTEE

The committee requested no additional information.

L. COMPARISON OF FEDERAL LAWS AND REGULATIONS

Harness racing is not regulated in Maine at a federal level.

M. POLICY ON MANAGING PERSONAL INFORMATION

The Commission is careful to protect the private personal information of its licensees by adhering to 'Maine's Freedom of Access Law (1MRSA. § 401 *et seq*) and the 'state's web-based privacy policy described at <http://www.maine.gov/portal/privacy.html>.

Private information is unavailable on the internet and only provided to two other agencies as mandated by law. Licensing information is provided to the State Tax Assessor pursuant to 36 M.R.S.A. § 175 for tax purposes and to the Department of Health and Human Services pursuant to 19 M.R.S.A. § 2201 to ensure all licensees are in good standing with respect to dependents.

N. REQUIRED REPORTS AND APPLICATIONS

The Commission does not require reports from licensees or otherwise.