Date:
(Filing No. H- )

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## STATE OF MAINE

 HOUSE OF REPRESENTATIVES 126TH LEGISLATURE SECOND REGULAR SESSIONHOUSE 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 first paragraph after the title and inserting the following:

Sec. 1. $\mathbf{7}$ 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 , subsection 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 $\S 15$, 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deposited in the fund must be disbursed in accordance with this section, except that assessments and advances may be withdrawn in accordance with Title 8, section 267-A.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, $\mathbb{\|} \mathbf{E}$, as enacted by PL 2007, c. 211, §1 and affected by $\S 2$, is amended to read:
E. The fund to supplement harness racing purses established under section 298 and receiving payment pursuant to section 1036, subsection 2, paragraph B, subsection 2-A, paragraph H and subsection 2-D, paragraph A; and

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

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remain in the fund and must be disbursed in accordance with this section, except that assessments and advances may be withdrawn in accordance with section 267-A. The commission shall distribute in accordance with this section amounts credited to the fund.

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

2-A. Persons eligible for casino operator license. The board may accept an application for a casino operator license to operate slot machines and table games at a casino from a commercial track that conducted harness racing at or within a 20 -mile radius of the center of a commercial track with pari-mutuel wagering on at least 100 calendar days in 2003 or a commercial track licensed to operate a slot machine facility on January 1, 2011 for the same location where slot machines were operated on January 1, 2011 and any person if that person and casino satisfy the following criteria:
A. The casino is located on a parcel of land in Oxford County that is:
(1) No less than 50 acres in size; and
(2) Located not more than:
(a) Thirty miles from a Level I or Level II trauma center verified as such by the American College of Surgeons or successor organization;
(b) Fifteen miles from the main office of a county sheriff;
(c) Twenty-five miles from the main office of a state police field troop;
(d) Thirty miles from an interchange of the interstate highway system;
(e) Ten miles from a fire station;
(f) Ten miles from a facility at which harness racing was conducted pursuant to a license from the State Harness Racing Commission for the 2009 racing year; and
(g) One-half mile from a state highway as defined in Title 23, section 1903, subsection 15 .

For the purposes of this paragraph, distances are determined by measuring along the most commonly used roadway, as determined by the Department of Transportation;
B. The criteria adopted through rulemaking by the board regarding the licensing of the operation of slot machines and table games;
C. The operation of a casino is approved by the voters of the municipality in which the casino to be licensed is located in a referendum election or by a vote of the municipal officers in the municipality in which the casino is to be licensed and located held at any time after October 1, 2009 and on or before December 31, 2011;
D. The person owns a facility that is within 10 miles of the proposed casino at which harness racing was conducted pursuant to a license from the State Harness Racing Commission for the 2009 racing year; and
E. The slot machines and table games are located and operated in the casino.

Sec. 6. 8 MRSA §1011, sub-§3, as amended by PL 2011, c. 417, §3, is further amended to read:
3. Requirements for license; continued commercial track licensure; facility requirements. The board may not issue a license to operate a slot machine facility or a casino to any person unless that person demonstrates compliance with the qualifications set forth in sections 1016 and 1019. To maintain eligibility for a slot machine operator license or a casino operator license under subsection 2-A issued to a commercial track with slot machines, a licensed commercial track must at all times maintain a license to operate a commercial track without lapse, suspension or revocation. A commercial track that is initially issued a casino operator license after January 1, 2014, in order to maintain eligibility for a casino operator license, must ensure that table games and slot machines are located in a facility immediately adjacent to a newly constructed or reconstructed 5/8mile racetrack that includes a dining facility that provides expansive views of the racing oval. The facility where table games and slot machines are operated must be part of a complex that comprises a hotel with a minimum of 100 rooms, spa facilities, indoor and outdoor swimming pools, an entertainment venue and retail space.

Sec. 7. 8 MRSA §1018, sub-§1, $\mathbb{T} \mathbf{C} \mathbf{C}-1$, as amended by PL 2011, c. 417 , $\S 4$, is further amended to read:

C-1. The initial application fee for a casino operator license is $\$ 225,000$, except that the initial application fee for an applicant that is a commercial track that was licensed to operate slot machines as of January 1, 2011 is $\$ 25,000$. The annual renewal fee is $\$ 80,000$ plus an amount, set by rules of the board, equal to the cost to the board of licensing casino operators and determined by dividing the costs of administering the casino operator licenses by the total number of casino operators licensed by the board. In addition, a casino operator shall pay an initial gaming table fee of $\$ 100,000$ for the privilege to operate each gaming table for a period of 20 years as long as the casino operator is licensed. Each gaming table is also subject to an annual gaming table renewal fee of $\$ 1,000$. The gaming table fees authorize the casino operator to conduct any authorized table game at the gaming table during the 20 -year period. A casino licensed in accordance with section 1011, subsection 2-A, paragraph A is not required to pay the gaming table fees until after one calendar year of table game operation. Fees collected in accordance with this paragraph must be deposited to the Gambling Control Board administrative expenses Other Special Revenue Funds account, which is a nonlapsing dedicated account. A casino operator license initially issued to a commercial track after January 1, 2014 is subject to a license fee as provided by section 1018-A, which may not be less than $\$ 50,000,000$, and that must be paid to the Treasurer of State and deposited to the General Fund.

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

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

Sec. 9. 8 MRSA §1018, sub-§2, as enacted by PL 2003, c. 687, Pt. A, $\S 5$ and affected by Pt. B, $\S 11$, is amended to read:
2. Term of license; renewal, renewal fees. All Except for a casino operator license issued pursuant to section 1018-A, all licenses issued by the board under this chapter are effective for one year, unless revoked or surrendered pursuant to subchapter 5. Upon proper application and payment of the required fees and taxes and in accordance with rules adopted by the board, the board may renew a license for an additional year if municipal approval has been obtained as provided in section 1012. The board shall transfer $\$ 25,000$ of the renewal fee required by subsection 1 , paragraph C to the municipality in which the slot machines are operated.

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

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

Notwithstanding section 1018, subsection 1, the license fee for a casino operator license initially issued to a commercial track after January 1, 2014 must be determined in accordance with this section and is in addition to an application fee of $\$ 250,000$. The application fee must be used by the board to cover the costs of administering the casino application and licensing process including background investigations and to fund a market study that must be conducted by the Department of Administrative and Financial Services, the purpose of which is to determine the market value of a casino operator license as of the date of the application. The commissioner shall meet with the owner or operator of the commercial track that has applied for or been initially issued a license to operate a casino after January 1, 2014 to negotiate an amount for a one-time license fee that may not be less than $\$ 50,000,000$. The commissioner shall consider all of the elements in subsections 1 to 5 when negotiating the license fee with the commercial track.

For the purposes of this section, "commissioner" means the Commissioner of Administrative and Financial Services.

1. Recent transaction relating to casino ownership. The commissioner shall determine the amount paid by existing casino operator licensees as part of a contract to purchase a licensed existing casino or similar contracts between operators and entities who have funded efforts to pass legislation to authorize the use of slot machines in the State within the past 15 years.
2. Gaming market. The commissioner shall consider the potential market for gaming in the State and specifically in the region where the commercial track that has initially applied for or received a casino operator license after January 1, 2014 is located or is to be located and including consideration of competition from gaming venues in the northeast region of the United States. The commissioner shall also consider the market risks associated with operating a resort casino with live harness racing.
3. Live harness racing. The commissioner shall consider the extent to which the commercial track will be required by law to conduct live harness racing and any other operations that may not be profitable to the casino operator and consider the losses incurred by such operations. The commissioner shall consider secondary benefits of harness racing to the local community, agricultural businesses and other businesses that directly benefit from harness racing in the State.
4. Revenue distributions. The commissioner shall consider the distribution of revenues to be required of the commercial track once it is licensed as a casino and how those distributions benefit the State.
5. Capital investment benefits. The commissioner shall consider the commercial track's willingness to accept conditions on licensure, including any capital investments required by law, and how any required investments will provide value to the local community and the State as a whole. Considerations must include facility investments to allow for horses owned and trained by licensees of the State Harness Racing Commission to be stabled at the location of the casino.

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

## §1018-B. Licensing decision deadline

The board shall make a final decision on issuance of a casino operator license within 90 calendar days of receiving what it considers to be a complete application from a commercial track that initially applies for a casino operator license after January 1, 2014.
§1018-C. Casino operator license fee for a commercial track licensed after January 1, 2014; reimbursement upon licensure of additional facilities

If the board, or a similar agency authorized to issue a slot machine facility or casino operator license, issues a slot machine operator license or casino operator license authorizing the operation of more than 5 slot machines at any one location within 10 years of a commercial track's being initially licensed to operate a casino after January 1, 2014, the Treasurer of State shall reimburse a portion of the license fee paid by the commercial track as provided by section 1018-A in accordance with this section. If a slot machine facility operator license or casino operator license is issued within one year of the operation of the casino operated by a commercial track licensed after January 1, 2014, the Treasurer of State shall reimburse $90 \%$ of the fee submitted by the commercial track. The reimbursement percentage is reduced by 10 percentage points for each year after that in which a new initial slot machine facility operator license or casino operator license is not authorized.

Sec. 11. 8 MRSA §1019, sub-§6, as amended by PL 2011, c. 417, §5, is further amended to read:
6. Proximity of licensed casinos and slot machine facilities. A casino operator license or slot machine operator license may not be issued under this chapter to operate any casino or slot machine facility located within 100 miles of a licensed casino or slot machine facility. This subsection does not apply to a commercial track initially licensed to operate a casino after January 1, 2014 and it does not prohibit a commercial track that was licensed to operate slot machines on January 1, 2011 from obtaining a casino operator license for the same facility where slot machines were operated as of January 1 , 2011. A commercial track that initially applies for a casino operator license after January 1,2014 may relocate to a new location as long as it is not closer to an existing casino in this State than the original location of the track was to an existing casino in this State.

Sec. 12. 8 MRSA $\S 1019$, sub- $\S 7$, as amended by PL 2011, c. 417, $\S 6$, is further amended to read:
7. Statewide and county referendum; municipal vote. After Unless otherwise specified by this subsection, after January 1, 2011, any a proposed casino or slot machine facility may not be issued a license unless it has been approved by a statewide referendum vote and a vote of the municipal officers or municipality in which the casino or slot machine facility is to be located, except that a commercial track licensed to operate slot machines on January 1, 2011 is only required, as a condition to obtain a casino license, to receive approval to operate a casino by means of a referendum of the voters of the county in which the commercial track is located. To be eligible for a casino operator license, a commercial track that initially applies for a casino operator license after January 1, 2014 is required to receive approval only of the voters of the municipality in which the casino will be located.

Sec. 13. 8 MRSA §1019, sub-§8 is enacted to read:
8. Slot machine and table game operation contingent upon facility construction. A commercial track initially licensed as a casino operator after January 1, 2014 may not begin operation of slot machines and table games prior to the completion of all phases of construction of a resort that includes a hotel, spa, pool, dining facility and entertainment venue and provides for a view of the racing oval from the dining facility and from the location of slot machines within the facility.

Sec. 14. 8 MRSA $\S 1020$, sub-§3, $\mathbb{S}[\mathbf{A}$, as amended by PL 2011, c. 585, §8, is further amended to read:
A. Except for slot machines used for training and educational purposes at postsecondary institutions as provided by section 1011, subsection 1-B, the total number of slot machines registered in the State may not exceed 3,000 4,500; and

Sec. 15. 8 MRSA §1036, sub-§2-D is enacted to read:
2-D. Distribution of table game income and slot machine revenue from a commercial track licensed to operate a casino after January 1, 2014. A commercial track initially licensed to operate a casino after January 1, 2014 shall collect and distribute revenue from the operation of slot machines and table games in accordance with this subsection. The casino operator shall collect and distribute $1 \%$ of the gross slot
machine income to the Treasurer of State for deposit in the General Fund for the administrative expenses of the board. The casino operator shall collect and distribute $39 \%$ of net slot machine income and $16 \%$ of net table game income to the board. The total amount of net slot machine revenue and net table game revenue forwarded to the board must be distributed as follows:
A. Sixteen percent must be forwarded by the board to the Treasurer of State, who shall credit the money to the fund established in section 298 to supplement harness racing purses;
B. Six percent must be forwarded by the board to the Treasurer of State, who shall credit the money to the Agricultural Fair Support Fund established in Title 7, section 91;
C. Six percent must be forwarded by the board to the Treasurer of State, who shall credit the money to the Sire Stakes Fund created in section 281;
D. One percent must be forwarded by the board directly to the municipality in which the slot machines and table games are located;
E. One percent must be forwarded by the board directly to the county in which the slot machines and table games are located;
F. One percent must be forwarded by the board to the Treasurer of State, who shall credit the money to the Fund to Stabilize Off-track Betting Facilities established by section 300. The amount distributed under this paragraph must be divided equally among the eligible off-track betting facilities except that no off-track betting facility may receive more than $25 \%$ of the amount forwarded by the board under this paragraph. Any revenues remaining after distribution to off-track betting facilities must be credited to the General Fund. An off-track betting facility is eligible for a distribution under this paragraph if it was licensed by the State Harness Racing Commission to conduct and actually conducted wagering operations for a minimum of 250 days during the preceding 12 -month period in which the first payment to the fund is required; and
G. Sixty-nine percent must be forwarded by the board to the Treasurer of State for deposit to the General Fund, except that, of the amount calculated pursuant to this paragraph, $\$ 100,000$ must be transferred annually to the Gambling Addiction Prevention and Treatment Fund established by Title 5, section 20006-B.
Sec. 16. 8 MRSA $\S 1037$, first $\ddagger$, as enacted by PL 2011, c. 358 , $\S 6$ and amended by c. 657 , Pt. W, $\S 6$, is further amended to read:

Beginning February 15, 2012, the executive director of the State Harness Racing Commission, in consultation with the Commissioner of Agriculture, Conservation and Forestry, annually shall submit a report to the joint standing committees of the Legislature having jurisdiction over slot machines, harness racing, agricultural fairs and appropriations and financial affairs regarding the use of slot machine revenue deposited in funds under section 1036, subsection 2, paragraphs B, C, D, H and I, subsection 2-A, paragraphs G, H and I and subsection 2-D, paragraphs A to C. The executive director and the commissioner shall obtain the information as described in this section. The report required by this section must be completed using budgeted resources. The executive
director may not distribute funds listed under section 1036, subsection 2, subsection 2-A and subsection 2-D, as applicable, to harness racing tracks, off-track betting facilities, agricultural fairs or the Sire Stakes Fund under section 281 until the information required to submit the report required by this section is provided.

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

1. Commercial tracks. A report required by this section must include the following information from commercial tracks licensed in accordance with chapter 11 that receive a distribution of slot machine revenue under section 1036, subsection 2, paragraph $B, D$ or $H$, subsection 2-A, paragraph G, H or I or subsection 2-D, paragraph A, B or C:
A. The total amount wagered on live harness races;
B. The total amount wagered on intrastate simulcast races;
C. The total amount wagered on interstate simulcast races;
D. The number of harness races originated in the State and made available for simulcast outside of the State;
E. The amount of the harness racing handle from wagers at the commercial track kept by that commercial track and the distribution of the handle to the State and industry recipients under section 286 ;
F. The amount received from the handle distribution from wagers at other tracks and off-track betting facilities under section 286 ;
G. The amount of revenue received in accordance with section 1036 , subsection 2 , paragraphs $B, D$ and $H$, subsection 2-A, paragraphs $G, H$ and $I$ and subsection 2-D, paragraphs A to C;
H. The number of full-time and part-time employees at the commercial track;
I. The amount, if any, spent on capital improvements to the commercial track and related facilities and a description of those improvements. The first report must include the amount spent since November 2005, shown by year. Subsequent annual reports must include the amount spent on capital improvements the immediately preceding calendar year;
J. Operating costs for the commercial track;
K. Profit and loss or depreciation figures for the commercial track; and
L. Administrative costs to comply with reporting requirements and contributions to the State Harness Racing Commission's operating account described in section 267-A.

Sec. 18. 8 MRSA §1037, sub-§2, $\llbracket[\mathbf{E}$, as enacted by PL 2011, c. 358, §6 and amended by c. 657, Pt. W, $\S 6$, is further amended to read:
E. The amounts, reported separately, of revenue received in accordance with section 1036, subsection 2, paragraphs B and D, subsection 2-A, paragraphs G and H and subsection 2-D, paragraphs A and B, in accordance with the Stipend Fund under Title 7 , section 86 and from any other source in accordance with rules adopted under
section 263-A, subsection 1, paragraph C and Title 7, section 82, subsection 5 by the Commissioner of Agriculture, Conservation and Forestry or the State Harness Racing Commission; and

Sec. 19. 8 MRSA §1037, sub-§3, $\mathbb{I}[\mathbf{B}$, as enacted by PL 2011, c. 358, §6 and amended by c. 657, Pt. W, §6, is further amended to read:
B. The amounts, reported separately, received from slot machine revenue in accordance with section 1036, subsection 2, paragraph D, subsection 2-A, paragraphs G and subsection 2-D, paragraph A, in accordance with the Stipend Fund under Title 7, section 86 and from any other source in accordance with rules adopted under section 263-A, subsection 1, paragraph C and Title 7, section 82, subsection 5 by the Commissioner of Agriculture, Conservation and Forestry or the State Harness Racing Commission; and

Sec. 20. 8 MRSA §1037, sub-§4, as enacted by PL 2011, c. 358, §6, is amended to read:
4. Breeders and owners within the Maine Standardbred program. A report required by this section must include the following information from horse breeders and owners within the Maine Standardbred program established pursuant to section 281 who receive a distribution under section 1036, subsection 2, paragraph C, subsection 2-A, paragraph I and subsection 2-D, paragraph C:
A. The number of mares bred by each Maine Standardbred stallion as reported to the State Harness Racing Commission;
B. An assessment of whether the number of Maine Standardbred horses in the State is sufficient to grow and sustain harness racing in the State;
C. The number of yearling horses eligible and nominated to participate in sire stakes racing;
D. The amount received from slot machine revenue in accordance with section 1036, subsection 2, paragraph C , subsection 2-A, paragraph I and subsection 2-D, paragraph C;
E. The total number of qualifying dashes for sire stakes races and the average purse for each dash sorted by the age of the horse and the average purse for each sire stakes final dash sorted by the age of the horse; and
F. An accounting of the Sire Stakes Fund, including the total amount of the fund at the beginning and end of the racing season and, reported separately, expenditures used to supplement purses, pay breeder promotional contracts, pay advertising costs, make payments to a statewide horsemen association, pay administrative costs and make contributions to the operating account described in section 267-A.
Sec. 21. 8 MRSA §1054, sub-§8, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, $\S 11$, is amended to read:
8. Failure to deposit funds. Violates section 1036,-subsection 2; or'

## SUMMARY

This amendment provides that a commercial track that conducted harness racing on at least 100 calendar days in 2003 and has received local approval via municipal referendum is eligible for a casino operator license. A casino so licensed is subject to a license fee, the amount of which depends on a market-value study paid for by the applicant, but which may not be less than $\$ 50,000,000$. The commercial track issued a license is required to construct a casino facility adjacent to the commercial track that includes a dining facility and gaming space that provides expansive views of the racing oval in addition to other amenities such as a spa, swimming pools, a minimum of 100 hotel rooms, an entertainment venue and retail space. Authority to operate slot machines and table games is contingent upon the completion of such a facility. The amendment also raises the statewide limit on slot machines from 3,000 to 4,500 .

The amendment provides that the casino operator must be reimbursed a portion of its license fee if, within 10 years, the State licenses any additional gaming facilities authorized to operate more than 5 slot machines. For each year in the 10 -year period that the State does not license a new gaming facility, the potential reimbursement amount decreases by $10 \%$.

The amendment requires the operator of the casino to collect $1 \%$ of gross slot machine income for deposit to the General Fund for administrative expenses of the Gambling Control Board. It requires the casino to collect $39 \%$ of net slot machine revenue and $16 \%$ of net table game revenue, which is to be distributed as follows:

1. Sixteen percent to the fund to supplement harness racing purses;
2. Six percent to the Agricultural Fair Support Fund;
3. Six percent to the Sire Stakes Fund;
4. One percent to the host municipality;
5. One percent to the host county;
6. One percent to the Fund to Stabilize Off-track Betting Facilities, to be divided equally among the licensed facilities; and
7. Sixty-nine percent to the General Fund, except that $\$ 100,000$ must be transferred to the Gambling Addiction Prevention and Treatment Fund.

FISCAL NOTE REQUIRED
(See attached)
SPONSORED BY:
(Representative SAUCIER)
TOWN: Presque Isle

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