

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND SIXTEEN

—  
H.P. 875 - L.D. 1279

**An Act To Authorize Advance Deposit Wagering for Horse Racing**

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 8 MRSA §1001, sub-§§1-A and 1-B** are enacted to read:

**1-A. Advance deposit wagering.** "Advance deposit wagering" means a form of pari-mutuel wagering on harness or thoroughbred races in which wagers are made by telephone, via electronic device or in person and the bettor deposits funds in a wagering account administered by an advance deposit wagering licensee from which the advance deposit wagering licensee makes wagers on behalf of the bettor and to which the advance deposit wagering licensee deposits money from winning wagers awarded to the bettor.

**1-B. Advance deposit wagering licensee.** "Advance deposit wagering licensee" means a person that is chosen by competitive bid and licensed by the board pursuant to subchapter 7 to conduct advance deposit wagering.

**Sec. 2. 8 MRSA §1001, sub-§29-C** is enacted to read:

**29-C. Net commission.** "Net commission" means the amount of wagers placed via advance deposit wagering after payment of money from winning wagers to winning bettors less a percentage paid to the board for administrative expenses of the board and less an amount retained by the advance deposit wagering licensee.

**Sec. 3. 8 MRSA §1003, sub-§1, ¶J**, as amended by PL 2011, c. 469, §1, is further amended to read:

J. Negotiate consent agreements to resolve administrative violations or investigations; ~~and~~

**Sec. 4. 8 MRSA §1003, sub-§1, ¶K**, as enacted by PL 2011, c. 469, §2, is amended to read:

K. Ensure that public safety inspectors employed by the board assigned to enforce the provisions of this chapter at the site of a casino may, in the absence of a sworn

law enforcement officer, detain any person who is suspected of violating any provision of this chapter. Such detention must comply with federal and state laws including the provisions of Title 17-A, section 107-; and

**Sec. 5. 8 MRSA §1003, sub-§1, ¶L** is enacted to read:

L. Regulate, supervise and exercise general control over the operation of advance deposit wagering in the State.

**Sec. 6. 8 MRSA §1003, sub-§2, ¶¶S and T**, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, are amended to read:

S. Prepare and submit to the department a budget for the administration of this chapter; ~~and~~

T. Keep accurate and complete records of its proceedings and certify the records as may be appropriate-; and

**Sec. 7. 8 MRSA §1003, sub-§2, ¶U** is enacted to read:

U. Adopt rules relating to the conduct of advance deposit wagering, including but not limited to the following:

- (1) Requirements for licensure to conduct advance deposit wagering;
- (2) The prevention of any fraud or deception upon an advance deposit wagering account holder;
- (3) Distributions of account statements to advance deposit wagering account holders from the advance deposit wagering licensee;
- (4) Establishing a definition of an abandoned advance deposit wagering account and provisions for disposition of funds in an abandoned account;
- (5) Prescribing methods for verifying residency and age of an applicant for an advance deposit wagering account;
- (6) Prescribing methods for verifying that an applicant for an advance deposit wagering account is a natural person and not a custodian, beneficiary, joint trust corporation or other organization;
- (7) Prescribing methods by which deposits are made to advance deposit wagering accounts. The methods prescribed must prohibit the use of the electronic benefits transfer system administered by the Department of Health and Human Services under Title 22, chapter 1, subchapter 1-A; and
- (8) Prohibiting the assignment or transfer of an advance deposit wagering account from an authorized account holder to another person.

Rules initially adopted as required by this paragraph are major substantive rules as described in Title 5, chapter 375, subchapter 2-A. Rules adopted after the first year of operation of advance deposit wagering conducted by an advance deposit wagering licensee are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

Sec. 8. 8 MRSA c. 31, sub-c. 7 is enacted to read:

## SUBCHAPTER 7

### ADVANCE DEPOSIT WAGERING

#### §1071. Advance deposit wagering license awarded pursuant to competitive bid

The board shall develop a request for proposals for the purpose of awarding one bidder the privilege to be licensed to conduct advance deposit wagering. The request for proposals must instruct potential bidders to propose the method by which they will conduct advance deposit wagering that provides the maximum benefit to the harness racing industry and the State in a manner that ensures wagering is conducted by residents of the State who are verified to be 18 years of age or older. A bidder seeking award of a license to conduct advance deposit wagering shall comply with the requirements determined by the board. The board shall require that a proposal include a nonrefundable application fee of \$1,000 and an agreement to pay the costs of the board for processing an application and performing background investigations, as described in this subchapter. The board shall ensure that the request for proposals clearly identifies the deadline for submission and all bid requirements. The board shall follow, as nearly as practicable, the provisions governing competitive bidding prescribed by Title 5, chapter 155, subchapter 1-A and rules adopted pursuant to that subchapter.

**1. Eligible bidders; bid proposal factors.** The board may accept bids from an entity that for a period of at least 2 years has been licensed to accept wagers on horse racing as either the operator of a commercial track, as an off-track betting facility licensed under section 275-D or as an entity licensed in another state to conduct advance deposit wagering. When considering bids for the privilege to be licensed to conduct advance deposit wagering, the board shall consider the following:

A. The financial suitability of the bidder to operate advance deposit wagering, including purchase of a bond to secure the accounts of advance deposit wagering bettors;

B. The extent to which the bidder's proposal to conduct advance deposit wagering will benefit the harness racing industry in the State and the General Fund;

C. The percentage of wagers the bidder proposes to pay to the board to cover the costs of the board for administration and oversight of advance deposit wagering and to make distributions required under section 1072;

D. The adequacy of systems the bidder will use to conduct advance deposit wagering to ensure that bettors who establish accounts to place bets on horse racing via advance deposit wagering are 18 years of age or older and residents of the State;

E. The likelihood that the bidder will meet the requirements for licensure to conduct advance deposit wagering as prescribed by the rules of the board;

F. The methods by which the bidder will provide access to systems and records to facilitate adequate monitoring and enforcement by the board; and

G. Factors other than those in paragraphs A to F disclosed in the board's request for proposals that the board determines to be relevant.

**2. Bid award factor priorities.** The board shall develop a system of priority by assigning points to the factors required to be considered under subsection 1.

**3. Contract required.** In order to be selected as the winning bidder for the privilege to be licensed by the board to conduct advance deposit wagering, a person must agree to enter into a contract with the board that obligates the advance deposit wagering licensee to the proposals made in the bid submitted in accordance with this section. The contract must include a framework of reasonable financial penalties for failure of the advance deposit wagering licensee to comply with the terms of the contract and rules of the board. The licensee may not conduct advance deposit wagering prior to the execution of the contract required by this subsection.

**4. Application; investigation.** In order to be licensed by the board to conduct advance deposit wagering, a person that is selected as the winning bidder in accordance with this subchapter must complete an application using forms developed by the board and comply with additional requests the board determines necessary to investigate the suitability of the winning bidder to be issued a license.

**5. Authority to conduct advance deposit wagering.** A license issued in accordance with this subchapter authorizes the licensee to conduct advance deposit wagering in accordance with the requirements of this subchapter and rules of the board. A licensee may accept wagers made from advance deposit wagering account holders by telephone and via electronic device. If a licensee is also licensed to accept wagers on live or simulcast horse racing as a commercial track or off-track betting facility under this Title, the licensee may accept in-person advance deposit wagers at the commercial track or off-track betting facility. A person that facilitates an advance deposit wagering account on behalf of a resident of this State or accepts wagers on horse races from a resident of this State without a license is guilty of unlawful gambling under Title 17-A, chapter 39. Upon notification by an individual, or upon its own motion, the board shall direct any person that facilitates advance deposit wagering without a license to immediately cease operations and notify the person that the person may be subject to prosecution for unlawful gambling.

**6. License fee; term.** A license issued pursuant to this subchapter authorizes the licensee to conduct advance deposit wagering for a period of 5 years. The fee for a license to conduct advance deposit wagering is \$500. The renewal fee for a license to conduct advance deposit wagering is \$250.

#### **§1072. Distribution of net commission**

The net commission established in the contract executed pursuant to section 1071, subsection 3 must be distributed according to this section.

**1. Distribution of net commission from wagers placed on races conducted in State.** An advance deposit wagering licensee shall collect the net commission from

wagers placed on races conducted at tracks in the State and distribute it to the board for distribution as follows.

A. Ten percent of the net commission must be deposited directly to the General Fund.

B. Twenty percent of the net commission must be distributed to all off-track betting facilities licensed under section 275-D so that each off-track betting facility receives the same amount.

C. One percent of the net commission must be distributed to the Sire Stakes Fund established under section 281.

D. Ten percent of the net commission must be distributed to the Agricultural Fair Support Fund established under Title 7, section 91 except that, notwithstanding Title 7, section 91, subsection 2, paragraph A, no portion of the distribution required by this paragraph may be distributed to a commercial track.

E. Twenty-four percent of the net commission must be distributed to the fund established under section 298 to supplement harness racing purses.

F. Twenty percent of the net commission must be distributed to the track where the race upon which the wager was placed was conducted.

G. Fifteen percent of the net commission must be distributed to all commercial tracks, with each commercial track receiving a portion determined by multiplying that 15% times a fraction, the numerator of which is the minimum number of days of racing the commercial track is required by law to conduct annually in order to retain its commercial track license and the denominator of which is the sum of the number of days of racing all the commercial tracks are required to conduct in order to retain their commercial track licenses.

**2. Distribution of net commission from wagers placed on races conducted outside State.** An advance deposit wagering licensee shall collect the net commission from wagers placed on races conducted at tracks outside the State and distribute it to the board for distribution as follows.

A. Ten percent of the net commission must be deposited directly to the General Fund.

B. Thirty-six percent of the net commission must be distributed to all off-track betting facilities licensed under section 275-D so that each off-track betting facility receives the same amount.

C. One percent of the net commission must be distributed to the Sire Stakes Fund established under section 281.

D. Ten percent of the net commission must be distributed to the Agricultural Fair Support Fund established under Title 7, section 91 except that, notwithstanding Title 7, section 91, subsection 2, paragraph A, no portion of the distribution required by this paragraph may be distributed to a commercial track.

E. Seven percent of the net commission must be distributed to the fund established under section 298 to supplement harness racing purses.

F. Thirty-six percent of the net commission must be distributed to all commercial tracks, with each commercial track receiving a portion determined by multiplying that 36% times a fraction, the numerator of which is the minimum number of days of racing the commercial track is required by law to conduct annually in order to retain its commercial track license and the denominator of which is the sum of the number of days of racing all the commercial tracks are required to conduct in order to retain their commercial track licenses.