



## HORSE RACING COMMITTEE

### NOTICE OF MEETING and AGENDA

**March 29, 2016**

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25,  
notice is hereby given of a meeting of the Horse Racing Committee.

The meeting will take place on:

**Tuesday, March 29, 2016**

**1:00 p.m.**

**at the Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, Massachusetts**

1. Call to order
2. Approval of Minutes - September 2, 2014
3. Review of Committee responsibilities
4. Review of 2014 Committee Decision regarding the 75/25% split of the Race Horse Development Fund and discussion of pending request from the Harness Horsemen's Association of New England regarding reevaluation of split
5. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting

I certify that on this date, this Notice was posted as "Horse Racing Committee Meeting" at [www.massgaming.com](http://www.massgaming.com) and emailed to: [regs@sec.state.ma.us](mailto:regs@sec.state.ma.us), and [melissa.andrade@state.ma.us](mailto:melissa.andrade@state.ma.us).

3/16/16

DATE

  
Stephen M. Reilly, Jr., Chairman

**Date Posted to Website:**

**3/16/16**



Massachusetts Gaming Commission

101 Federal Street, 12<sup>th</sup> Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | [www.massgaming.com](http://www.massgaming.com)



*Division of Racing*

## Massachusetts Horse Racing Committee Meeting Minutes

**Date:** September 2, 2014

**Time:** 1:00 PM

**Place:** One Ashburton Place  
The Charles River Conference Room, Room 1002-10<sup>th</sup> Floor  
Boston, Massachusetts

**Present:** Dr. Deborah Kochevar, Chair (Participated by telephone)  
Frank Frisoli, Esquire, Member  
Peter Goldberg, Esquire, Member  
Commissioner Gayle Cameron, Member  
Francis Orlando, Member  
Catherine Blue, MGC General Counsel  
Danielle Holmes, Esquire  
Ellen Cassidy, Secretary

The meeting was called to order at 1:00 p.m. Dr. Deborah Kochevar participated by telephone. She could hear everyone and everyone could hear her. Dr. Kochevar asked for a motion to approve the minutes of the prior meeting – August 5, 2014.

*Commissioner Gayle Cameron moved to approve the minutes subject to technical correctional and mechanical errors. Motion seconded by Peter Goldberg. Minutes were approved unanimously.*

Dr. Kochevar asked the committee to review the draft report. She thanked Danielle Holmes for her work on the report. The committee discussed the various comments and made suggested changes. Frank Frisoli asked that the record reflect that he objected to the list of items to be considered that was included in the report. Peter Goldberg noted his objection to the inclusion of Dr. Margaret Ray and her recommendation of the split in the report.

*Upon a roll call vote, Commissioner Gayle Cameron, Dr. Deborah Kochevar and Francis Orlando voted to approve the report; Frank Frisoli voted in opposition to the report, and Peter Goldberg abstained from voting to approve the report. The motion passed 3 to 1 with one abstention.*

After the vote, Dr. Kochevar thanked the committee for its hard work. She further noted that she would not be continuing on as part of the committee.

*Motion to adjourn made by Commissioner Gayle Cameron. Motion seconded by Peter Goldberg. The motion to adjourn was unanimously approved.*

The meeting adjourned at 1:54 p.m.



Massachusetts Gaming Commission

List of documents and other items used at the meeting:

- 1) Minutes from August 5, 2014
- 2) Decision and Report of the Committee

/s/ Ellen Cassidy  
Ellen Cassidy  
Secretary



Massachusetts Gaming Commission

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 149.00: RACE HORSE DEVELOPMENT FUND

Section

- 149.01: Definitions
- 149.02: Distributions from the Race Horse Development Fund
- 149.03: Notice to Commission of Intent to Discontinue Racing
- 149.04: Race Horse Development Fund: Distributions; Escrow Accounts

149.01: Definitions

As used in 205 CMR149.00, the following words and phrases shall have the following meaning, unless the context clearly requires otherwise:

Commission is defined in M.G.L. c. 23K § 2.

Harness Race means a race involving standardbreds as defined in 205 CMR 3.02: *Definitions*.

Harness Racing Association means an association as defined in 205 CMR 3.02: *Definitions*.

Horse Race means a race involving thoroughbreds as defined in 205 CMR 4.02: *Definitions*.

Horse Racing Association means an association as defined in 205 CMR 4.02: *Definitions*.

Horse Racing Committee means the committee established pursuant to M.G.L. c. 23K, § 60(b).

Horsemen has the meaning ascribed to the term in M.G.L. c. 23K § 60 and refers to Harness Horsemen and Thoroughbred Horsemen respectively.

License means a license to conduct a harness race, horse race, or both issued pursuant to M.G.L. c. 128A.

Meeting means a meeting as defined in 205 CMR 3.02: *Definitions* and 4.02: *Definitions*, respectively.

Race Horse Development Fund means the fund established pursuant to M.G.L. c. 23K, § 60.

Race Horse Development Fund Escrow Account means an escrow account established pursuant to 205 CMR 149.03(2)(a) and 149.04.

Race Track is defined in M.G.L. c. 128A, § 1.

149.02: Distributions from the Race Horse Development Fund

- (1) (a) The commission shall make distributions from the race horse development fund between harness racing associations and horse racing associations in accordance with the requirements of M.G.L. c. 23K, § 60, 205 CMR 149.02 and 149.04 and the recommendations of the horse racing committee.  
(b) If there is more than one harness racing association or more than one horse racing association, the horse racing committee shall determine how the distributions from the race horse development fund are shared between each harness racing association or horse racing association.
- (2) A harness racing association or horse racing association shall distribute funds received from the race horse development fund in accordance with M.G.L. c. 23K, § 60(c) and 205 CMR 149.04.
- (3) In order for a harness racing association or horse racing association to be eligible to receive funds from the race horse development fund such harness racing association or horse racing association shall comply with all safety standards adopted by the Commission and applicable to such harness racing association or horse racing association.

149.03: Notice to Commission of Intent to Discontinue Racing

- (1) A harness racing association or horse racing association shall provide the commission at least 30 days prior written notice of its intent to take any of the following actions:
  - (a) To discontinue harness races or horse races for the remainder of a harness meeting or horse meeting;
  - (b) To permanently discontinue harness races or horse races;
  - (c) To close a race track used for harness races or horse races;
  - (d) To abandon or relinquish a license;
  - (e) To not apply for the renewal of a license; or
  - (f) To transfer a race track to any other entity.
  
- (2) Upon receipt of a written notice of intent pursuant to 205 CMR 149.03(1), or upon learning that the harness racing association or horse racing association has failed to timely notify the commission pursuant thereto or that any event described in 205 CMR 149.03(1)(a) through (f) has occurred or will occur, the commission may take one or more of the following actions:
  - (a) Hold a public hearing to determine:
    1. whether monies from the race horse development fund which the harness racing association or horse racing association would have received pursuant to M.G.L. c. 23K, § 60, should be placed in a racing escrow account for distribution pursuant to 205 CMR 149.04;
    2. whether to transfer monies from the race horse development fund which the harness racing association or horse racing association would have received pursuant to M.G.L. c. 23K, § 60 to a different harness racing association or horse racing association;
    3. whether to transfer the harness racing association's or horse racing association's license to a different harness racing association or horse racing association;
    4. whether to take any other action within its authority to protect:
      - a. the interests of the commonwealth;
      - b. employees or former employees of the harness racing association or horse racing association;
      - c. harness racing horsemen and horse racing horsemen; and
      - d. the intended beneficiaries of the race horse development fund, any other fund established pursuant to M.G.L. c. 23K, 128A or 128C, and any other fund to which the harness racing association or horse racing association was required to contribute.
  - (b) Require the harness racing association or horse racing association to pay to the commission any amounts required pursuant to the terms of its license, M.G.L. c. 23K, 128A, and 128C, and 205 CMR 149.00 including, without limitation, all unclaimed winnings and breaks, assessments, taxes, and fees.

149.04: Race Horse Development Fund: Distributions; Escrow Accounts

- (1) If the commission determines pursuant to 205 CMR 149.03(2)(a) that monies due to a harness racing association or horse racing association from the race horse development fund should be placed in an escrow account, the commission shall establish a race horse development fund escrow account to hold such funds and any interest thereon for distribution in accordance with M.G.L. c. 23K, § 60(c), the recommendations of the horse racing committee, and 205 CMR 149.00.
  
- (2) The commission shall establish a separate race horse development fund escrow account concerning each harness racing association or horse racing association for which it determines such an account is necessary pursuant to 205 CMR 149.03(2)(a)
  
- (3) The commission shall hold funds in such race horse development fund escrow accounts subject to the following requirements: Monies held in a race horse development fund escrow account shall be held in escrow for no more than three years from the date of the Commission's determination to hold the funds in escrow. After three years, any monies remaining in such race horse development fund escrow accounts shall be transferred or distributed by the commission in accordance with the recommendations of the horse racing committee.

149.04: continued

(4) (a) The commission shall make distributions from the race horse development fund or from a race horse development fund escrow account created under 205 CMR 149.03 because of a harness racing association as follows, in accordance with M.G.L. c. 23K, § 60, and 205 CMR 149.00:

1. 80% of the funds approved by the commission shall be paid weekly to a harness racing association, or if there is more than one harness racing association, as recommended by the horse racing committee, weekly by the Commission into a separate, interest-bearing purse account to be established by and for the benefit of harness racing horsemen. The earned interest on this account shall be credited to the purse account and shall be combined with revenues from existing purse agreements to fund purses for live harness races consistent with those agreements, with the advice and consent of the harness racing horsemen.

2. 16% of the funds approved by the commission shall be deposited by the Commission into an account for the benefit of the Massachusetts Standardbred Breeding Program authorized by the commission.

3. 4% shall be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at the harness horse racing association's race track for the benefit of the organization's members, their families, employees and others under the rules and eligibility requirements of the organization, as approved by the commission. This amount shall be deposited by the Commission within five business days of the end of each month into a separate account to be established by each respective horsemen's organization at a banking institution of its choice. Of this amount, the commission shall determine how much shall be paid annually by the horsemen's organization to the standardbred drivers' organization at the harness racing association's race track for health insurance, life and/or accident insurance or other benefits to active and disabled standardbred drivers under the rules and eligibility requirements of that organization.

(b) The commission shall make distributions from the race horse development fund or a race horse development fund escrow account created under 205 CMR 149.03 because of a horse racing association as follows, in accordance with M.G.L. c. 23K, § 60, and 205 CMR 149.00:

1. 80% of the funds approved by the commission shall be paid weekly to a horse racing association, or if there is more than one horse racing association, as recommended by the horse racing committee, weekly by the Commission into deposited weekly into a separate, interest-bearing purse account to be established by and for the benefit of horse racing horsemen. The earned interest on this account shall be credited to the purse account and shall be combined with revenues from existing purse agreements to fund purses for live horse races consistent with those agreements, with the advice and consent of the horse racing horsemen.

2. 16% of the funds approved by the commission shall be deposited by the Commission into an account for the benefit of the Massachusetts Thoroughbred Breeding Program authorized by the commission.

3. 4% shall be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at the horse racing association's race track for the benefit of the organization's members, their families, employees and others under the rules and eligibility requirements of the organization, as approved by the commission. This amount shall be deposited by the Commission within five business days of the end of each month into a separate account to be established by each respective horsemen's organization at a banking institution of its choice. Of this amount, the commission shall determine how much shall be paid annually by the horsemen's organization to the thoroughbred jockeys' organization at the horse racing association's race track for health insurance, life and/or accident insurance or other benefits to active and disabled thoroughbred jockeys under the rules and eligibility requirements of that organization.

(4) If the commission awards a license to a harness racing association, after placing the funds in escrow pursuant to 205 CMR 149.03 the commission may transfer funds to that harness racing association, for use in accordance with M.G.L. c. 23K § 60 and 205 CMR 149.00, from any race horse development fund escrow account then in existence that was created under 205 CMR 149.03.

205 CMR: MASSACHUSETTS GAMING COMMISSION

149.04: continued

(5) If the commission awards a license to a horse racing association after placing the funds in escrow pursuant to 205 CMR 149.03 the commission may transfer funds to that horse racing association, for use in accordance with M.G.L. c. 23K § 60 and 205 CMR 149.00, from any race horse development fund escrow account then in existence that was created under 205 CMR 149.03.

(6) The commission may, upon the recommendation of the horse racing committee, transfer all or a portion of the funds held in a race horse development fund escrow account to any one or more harness racing associations or horse racing associations for distribution in accordance with M.G.L. c. 23K, § 60, and 205 CMR 149.00.

REGULATORY AUTHORITY

205 CMR 149.00: M.G.L. c. 23K, §§ 2, 4(37), 4(38), 5, 7, 60; c. 128A, §§ 1, 2, 3, 9 and 9B.

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title II. Executive and Administrative Officers of the Commonwealth (Ch. 6-28a)

Chapter 23K. The Massachusetts Gaming Commission (Refs & Annos)

M.G.L.A. 23K § 60

§ 60. Race Horse Development Fund

Effective: November 22, 2011

[Currentness](#)

(a) There shall be established and set up on the books of the commonwealth a Race Horse Development Fund to be administered by the commission. The fund shall consist of monies deposited under [subsection \(c\) of section 55](#). The commission shall make distributions from the Race Horse Development Fund to each licensee under chapter 128A.

(b) There shall be a horse racing committee consisting of 5 members, 1 of whom shall be the governor or the governor's designee who shall serve as chair, 1 of whom shall be the treasurer and receiver general or the treasurer's designee, 1 of whom shall be the chair of the commission or the chair's designee, 1 of whom shall be appointed by the New England Horsemen's Benevolent & Protective Association and the Massachusetts Thoroughbred Breeding Program and 1 of whom shall be appointed by the Harness Horseman's Association of New England and the Massachusetts Standardbred Breeding Program. The horse racing committee shall make recommendations on how the funds received in subsection (a) shall be distributed between thoroughbred and standardbred racing facilities to support the thoroughbred and standardbred horse racing industries under this section. In making its recommendations, the committee shall consider certain criteria including, but not limited to: (i) the average purses awarded at thoroughbred and standardbred racing facilities; (ii) the total employment numbers, both direct and indirect, attributable to each horse racing industry; (iii) the relative needs of each horse racing industry for increased purses; (iv) the amount of the live racing handle generated by each horse racing industry; and (v) the number of breeding and training farms of each industry that are located in the commonwealth. The committee shall submit distribution recommendations to the clerks of the senate and house of representatives not later than 30 days before submitting the recommendations to the commission for final approval. The commission shall only change the distribution percentage upon a recommendation by the committee.

(c) Funds received from the Race Horse Development Fund shall be distributed between thoroughbred and standardbred accounts, as approved by the commission, as follows:

(i) 80 per cent of the funds approved by the commission shall be deposited weekly into a separate, interest-bearing purse account to be established by and for the benefit of the horsemen; provided, however, that the earned interest on the account shall be credited to the purse account; and provided further, that licensees shall combine these funds with revenues from existing purse agreements to fund purses for live races consistent with those agreements with the advice and consent of the horsemen;

(ii) 16 per cent of the funds approved by the commission shall be deposited as follows: (A) for a thoroughbred track, into the Massachusetts Thoroughbred Breeding Program authorized by the commission; or (B) for a standardbred track, into the Massachusetts Standardbred Breeding Program authorized by the commission;



(iii) 4 per cent shall be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at a horse racing facility for the benefit of the organization's members, their families, employees and others under the rule and eligibility requirements of the organization, as approved by the commission; provided, however, that this amount shall be deposited within 5 business days of the end of each month into a separate account to be established by each respective horsemen's organization at a banking institution of its choice; and provided further, that of this amount, the commission shall determine how much shall be paid annually by the horsemen's organization to the thoroughbred jockeys or standardbred drivers organization at the horse racing facility for health insurance, life insurance or other benefits to active and disabled thoroughbred jockeys or standardbred drivers under the rules and eligibility requirements of that organization.

**Credits**

Added by [St.2011, c. 194, § 16, eff. Nov. 22, 2011](#).

M.G.L.A. 23K § 60, MA ST 23K § 60

Current through Chapter 50 of the 2016 2nd Annual Session

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P.O. Box 1811 ~ Plainville, MA 02762

February 7, 2015

VIA FACSIMILE TRANSMISSION

Catherine Blue, Esq.  
Massachusetts Gaming Commission  
101 Federal Street, 23<sup>rd</sup> Floor  
Boston, MA 02110

RE: Horse Racing Committee/Race Horse Development Fund

Dear Attorney Blue:

On behalf of the Harness Horseman's Association of New England (HHANE) and all of the men and women of the Standardbred Industry in Massachusetts, we respectfully request the Horse Racing Committee (HRC) revisit and reevaluate the split it has made pursuant to MGL Chapter 23K Section 60(b), the Expanded Gaming Act.

Significant and real changes in the Massachusetts Horse Racing Industry have occurred since the HRC's decision that warrants this review at the committee's earliest opportunity. A split was decided based upon what was to be two (2) equal racing seasons of Thoroughbreds and Standardbreds. The Standardbred industry has requested, received approval for, and looks forward to racing 105 dates in 2015. The same is not so for the Thoroughbred industry. In fact, no application has been even submitted for license to race a Thoroughbred meet for an amount of days even *close to* 105 days.

Therefore, in light of these changes, and other significant issues, we would like to formally request the HRC convene to address these issues in keeping with the spirit and intent of the Massachusetts Expanded Gaming Act.

Thank you in advance for your anticipated cooperation and attention to this matter. We look forward to hearing from you in this regard. Should you wish to speak with me further, I may be reached at 508-361-1000.

Very truly yours,

HARNESS HORSEMAN'S ASSOCIATION OF NEW ENLAND

*Michael Perpall*

Michael Perpall  
President

# COMMONWEALTH OF MASSACHUSETTS HORSE RACING COMMITTEE

## DECISION AND REPORT OF THE COMMITTEE

Massachusetts General Laws, chapter 23K, section 60, establishes a Horse Racing Committee (“Committee”) charged with evaluating the state of the horse racing industry in the Commonwealth and making a recommendation to the Legislature and the Massachusetts Gaming Commission on the distribution of funds from the newly established Racehorse Development Fund<sup>1</sup>. The funds are to be distributed between the thoroughbred and standardbred racing industries in the Commonwealth. These two segments of the Commonwealth’s racing industry, while similar in many aspects, experience many differences including, but not limited to, breeding and training practices, farm size and locations, and their respective economic impacts on the Commonwealth.

The Racehorse Development Fund was established to support the racing industry in the Commonwealth. The monies in the development fund are derived from gaming and simulcasting activities within the Commonwealth. Pursuant to G.L. c.23K, §60(c), the funds are to be divided between the thoroughbred and standardbred accounts, with 80% of the funds distributed into purse accounts, 16% of the funds distributed to support breeding programs, and 4% of the funds are to be used to fund health and pension benefits for the members of the horsemen’s organizations.

The Horse Racing Committee consists of the following five members: the Chairwoman, Dr. Deborah Kochevar, as the designee of the Governor; Francis Orlando as the designee of the Treasurer; Commissioner Gayle Cameron, as the designee of the Gaming Commission; Attorney Frank Frisoli, appointed by the New England Horsemen’s Benevolent & Protective Association and the Massachusetts Thoroughbred Breeding Program; and Attorney Peter Goldberg, appointed by the Harness Horseman’s Association of New England and the Massachusetts Standardbred Breeding Program. The Committee held its first meeting on August 10<sup>th</sup>, 2012 under the direction of Chairman John Sherman, the initial designee of the Governor. Chairman Sherman chaired the Committee until December of 2012 when he resigned from the position. The Committee met 3 times between August and December 2012. No meetings were held from December 2012 until April of 2013, when Dr. Deborah Kochevar was appointed as the new Chairwoman of the committee. Since that date, the Committee has met approximately once per month and extensively evaluated and discussed the statutory criteria set forth in section 60, namely, (1) the average purses awarded at thoroughbred and standardbred racing facilities; (2) the total employment numbers, both direct and indirect, attributable to each horse racing industry; (3) the relative needs of each horse racing industry for increased purses; (4) the amount of the live racing handle generated by each horse racing industry; and (5) the number of breeding and training farms of each industry that are located in the commonwealth<sup>2</sup>. The statute does not

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<sup>1</sup> Established in M.G.L. c.23K, §60(a), the Racehorse Development Fund is administered by the Massachusetts Gaming Commission.

<sup>2</sup> M.G.L. c.23K, §60(b).

limit the Committee to the five criteria listed but due to the broadness of the criteria the Committee did not find it necessary to add additional, separate factors for consideration.

With the assistance of students from Cummings School of Veterinary at Tufts University and the University of Massachusetts, Amherst, the Committee conducted a statewide survey on the breeding and training farms in the state of Massachusetts. The survey was conducted by contacting, and subsequently visiting, a list of farms in the Commonwealth provided by the Committee member representatives of the thoroughbred and standardbred industries. Due to various challenges, the final farm survey portrayed that the students were only able to make contact and collect data from 71 farms from the list of 145. The sample was not homogenous and did not provide the Committee with more accurate or informative information as that collected and provided by the Massachusetts Gaming Commission.

In March of 2014 the Committee hired Dr. Margaret A Ray, of the University of Mary Washington, as an industry expert to review the statistical data from Massachusetts pertaining to both thoroughbred and standardbred horses and racing and to provide the committee with an economic analysis to aid in determining the appropriate distribution of the funds. The Committee provided Dr. Ray with numerous committee-approved reports and statistics for her analysis. Dr. Ray's report relied solely upon data provided to her by the Committee. The Committee did not provide Dr. Ray with any recommendations on the appropriate weight to be given to each statutory criterion. Dr. Ray, in reviewing all the materials provided to her, prepared a report for the Committee with an economic analysis of the industry in Massachusetts and her recommendation was that 85-90% of the Race Horse Development Fund be allocated to the thoroughbred industry with the balance to the standardbred industry.

The Committee carefully reviewed and discussed numerous reports and memos provided by each industry, by the Massachusetts Gaming Commission, and by Dr. Ray. The Committee also solicited and considered public comment on the weight that should be given to each factor and the final percentage split.

Accordingly, the Committee makes the following findings and recommendations:

- 1) In order to best aid each industry, and to yield the greatest return to the Commonwealth, the Committee, upon a 3-2 vote, recommends the following split: 75% of the fund to be distributed to the thoroughbred racing industry and 25% to be distributed to the standardbred racing industry.
- 2) This recommended split is to be reassessed on an annual basis. The Committee will meet in October of each calendar year to review the distribution of the Race Horse Development Fund. If the Committee finds it necessary to meet additional times throughout the year it may do so upon request of at least three members of the Committee to the Chair that a meeting be called.
- 3) In reviewing the split at each annual meeting, the Committee will assess the following benchmarks in order to assess the split with regards to the health of the industry:

The statutory criteria:

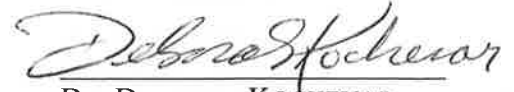
1. The average purses awarded at thoroughbred and standardbred racing facilities;
  2. The total employment numbers, both direct and indirect, attributable to each horse racing industry;
  3. The relative needs of each horse racing industry for increased purses;
  4. The amount of the live racing handle generated by each horse racing industry;
  5. The number of breeding and training farms of each industry that are located in the Commonwealth; and
  6. Such other criteria as determined by the Committee and consistent with the statute, including but not limited to:
    - A. Pool size;
    - B. Field size;
    - C. Number of live race days and total races;
    - D. Number of Mass-bred starters ;
    - E. Number of Mass-bred starts;
    - F. Amount of Mass-bred purses earned;
    - G. Number of restricted Mass-bred races;
    - H. Number of W2 and 1099 employees;
    - I. Capital expenditures to racing facilities;
    - J. Gross terminal revenue on live race days vs. non-live race days at the Category 2 Gaming Facilities;
    - K. Number and types of occupational licensees;
    - L. Number of stallions, mares, and foals residing in Mass;
    - M. Number of breeders registered with relevant breed organizations;
    - N. Number and average sale price of MA- bred horses sold at public auction;
    - O. Such other criteria consistent with the statute.
- 4) The committee will provide an annual report assessing the above data with an annual recommendation of the percentage split of the Race Horse Development Fund to the legislature and the Massachusetts Gaming Commission.
- 5) The Committee further recommends the Gaming Commission draft the necessary regulations to address the use of the funds in the Race Horse Development Fund in the situation where one of the breeds is no longer racing due to lack of racing facilities. The Committee recommends that such regulations should provide for the allocated amount for that breed to continue to be collected and held in an escrow account for three fiscal years to allow for and encourage the development of new facilities to ensure the continued racing of that breed.<sup>3</sup>

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<sup>3</sup> MGC staff evaluated several other jurisdictions and found that most provided separate funds for each breed with specific allocations to each fund. Most jurisdictions do not appear to allow the funds from one breed to be redistributed to a different breed of racing if that breed were to cease racing for any period of time.

However, a similar escrow system does exist in Michigan. *See*, M.C.L.A. 413.319a. The Michigan statute allows for escrowing of development funds in the event that a thoroughbred track license is surrendered, revoked, escrowed, or if a track closes, until a new track is licensed and obtains the written direction from the certified horseman's association for the depository of the escrowed accounts into the purse accounts. It should be noted, however, that Michigan's statute also provides for a specified allocation of the funds to each breed. Nothing in the Michigan statute allows the funds allocated to one breed to be redistributed and placed in the purse accounts for a different breed of racing even in the absence of an escrow provision.

RESPECTFULLY SUBMITTED,  
HORSE RACING COMMITTEE  
BY:



DR. DEBORAH KOHEVAR,  
CHAIRWOMAN

DATE: 27 Oct 2014