

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1149
Ways and Means

(Delegate Doory, *et al.*)

Horse Racing - Pimlico Race Course - Transfer of Preakness Stakes Name and Trademarks

This bill provides for the unconditional and unencumbered transfer of the name of the Preakness Stakes; copyrights, trademarks, service marks, and trade names associated with the Preakness Stakes; and the trophy known as the Woodlawn Vase to the State of Maryland, if any form of gambling, other than pari-mutuel betting, is authorized for Pimlico Race Course.

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: Potential decrease in special or general fund revenues if Pimlico Race Course is authorized to conduct additional gaming and specified provisions of the bill are met. The amount of the loss would range from \$0 to the amount of a license fee for a Pimlico Race Course gambling license. The bill would have no State fiscal effect if Pimlico Race Course is not authorized for additional gambling or if Pimlico Race Course is authorized for additional gambling and specified provisions of the bill are not met.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides that except for pari-mutuel betting, video lottery terminals (VLT) and other forms of gambling may not be conducted at Pimlico Race

Course in Baltimore City unless the owner of the name, copyrights, service marks, trademarks, and trade names associated with the Preakness Stakes has transferred them unconditionally and unencumbered to the State. The owner must make the transfer before the implementation of any law that authorizes the operation of VLTs or any other form of gambling at the Pimlico Race Course. Likewise, the owner of the trophy known as the Woodlawn Vase must transfer to the State all rights to the vase prior to the implementation of any such law.

Before the transfer of these rights to the State, a judicial hearing would determine if the copyright values of the Preakness Stakes and Woodlawn Vase exceed the combined value of: (1) the copyright use values of the Preakness Stakes and Woodlawn Vase; and (2) the value of any gambling license at Pimlico. The license value of any gambling license is defined as the value of the license in excess of any amount paid to the State to obtain the license.

If the judicial hearing determines that the copyright values of the Preakness Stakes and Woodlawn Vase are more valuable, the amount by which these copyrights are more valuable will be subtracted from the amount that the owner of Pimlico Race Course must pay the State for any gambling license other than a pari-mutuel betting license.

After the transfers have taken effect, the State is required to license the person that undertook the transfers the sole and exclusive right to the Preakness Stakes name, copyrights, etc., and the Woodlawn Vase if the licensee promotes and conducts the Preakness Stakes at the Pimlico Race Course each year.

The rights under the license may not be assigned or transferred by the licensee to any person without the prior written approval of the State. Assignment or transfer includes a change in ownership of the licensee by more than 50% of all the voting interests in the licensee during any 12 consecutive month period.

If the licensee violates any of the conditions in the bill, the license granted to the licensee will terminate and any license for VLTs or any other form of gaming may not be transferred to any other person.

Except as otherwise provided, the State may not sell, lease, convey, transfer, assign, license, or exchange its rights, title, and interests in the Preakness Stakes, the Woodlawn Vase, and the Preakness Stakes name, copyrights, service marks, trade names, and trademarks unless authorized by an act of the General Assembly.

Current Law: The State does not hold the rights to the Preakness Stakes or Woodlawn Vase.

Background: Regulated gaming in Maryland dates back to 1743 with the regulation of horse racing. Pari-mutuel betting was introduced in 1912 and the State Racing Commission was established in 1920. The Pimlico Race Course opened October 25, 1870. It is the nation's second oldest race course, after Saratoga. The first race ever run at the Pimlico Race Course was called the Dinner Party Stakes. This race is now known as the Dixie Handicap, and is the eighth oldest stakes race in the U.S. This race was also the precursor of the Preakness Stakes. The first Preakness Stakes was run May 27, 1873 at the Pimlico Race Course.

State Revenues: In the past two sessions, several bills have proposed that the owners of Pimlico Race Course pay a fee in exchange for a VLT or casino gambling license. These proposed license fees have ranged from \$5 million to \$100 million and have been credited to either the general fund or a specified special fund. The Administration's proposal to authorize VLT gaming (SB 205), as amended and passed by the Senate, provides that a VLT licensee is required to pay a license fee equal to \$3 million per 500 VLTs awarded. The number of VLTs awarded to Pimlico could not exceed 5,000 but also depends on how many, if any, VLTs are awarded to Laurel Park. HB 1361, as passed by the House, authorizes 9,500 VLTs in the State but does not provide for VLTs at Pimlico Race Course.

If a judicial hearing concludes that the loss in value to the owners of Pimlico Race Track due to the alteration of the copyright status of the Preakness Stakes and Woodlawn Vase is greater than the benefit conveyed to these owners from the granting of a gambling license, the owners would receive compensation. This compensation would be reflected as a lowering of the gambling license fee to be paid.

Legislative Services advises that due to the wide range in potential license types and fees, it cannot be reliably estimated if this bill would cause a decrease in revenue or the extent of any possible decrease. The maximum loss would be limited to the license fee to be paid by the owners of Pimlico Race Course for a gambling license fee.

Additional Information

Prior Introductions: HB 722 of 2004, an identical bill, was not reported from the Ways and Means Committee. The cross file of HB 722, SB 734, received an unfavorable report from the Budget and Taxation Committee. HB 1014 of 2003, a similar bill, was not reported from the Ways and Means Committee.

Cross File: None.

Information Source(s): Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2005
mam/rhh

Analysis by: Robert J. Rehrmann

Direct Inquiries to:
(410) 946-5510
(301) 970-5510