

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE

House Bill 356  
Ways and Means

(Delegate Patterson, *et al.*)

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Horse Racing Reform Act of 2006

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This bill repeals provisions of law that prohibit thoroughbred track operations after 6:15 p.m. The bill also clarifies that, with approval of the Maryland Racing Commission, mile thoroughbred racing licensees and harness racing licensees may contract to hold pari-mutuel betting on racing held at out-of-state tracks where betting on racing is lawful. The bill also prohibits the commission from withholding its approval from a licensee that seeks to hold pari-mutuel betting on thoroughbred or harness racing held at out-of-state tracks where betting on racing is lawful if it has granted its approval to another licensee to do the same. The licensee of the track where pari-mutuel betting occurs must retain the proceeds of the betting. Finally, the bill prohibits the commission from requiring a licensee to pay a premium to another licensee or contribute the takeout to any other licensee or entity.

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Fiscal Summary

**State Effect:** The bill would not affect State finances.

**Local Effect:** None.

**Small Business Effect:** Meaningful. Breeders, trainers, and other small businesses involved in the horse racing industry could be affected by a shift in the distribution of horse racing revenues. Those involved in the standardbred industry could be positively affected; those involved in the thoroughbred industry could be negatively affected.

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## Analysis

**Current Law:** Currently, thoroughbred tracks may operate after 6:15 p.m. with the approval of the nearest harness track.

**Background:** Currently, most thoroughbred racing in Maryland occurs at Pimlico Race Course in Baltimore City and Laurel Race Track in Anne Arundel County, both owned by Magna Entertainment Corporation (MEC) and run by the Maryland Jockey Club. All standardbred racing occurs at Rosecroft Raceway in Prince George's County and Ocean Downs in Worcester County, which are independently owned. The State Racing Commission licenses each facility; State law limits the number of licensees. An additional track license was awarded to Allegany Racing in Allegany County, which is owned by the same persons that own Ocean Downs. Allegany Racing has yet to begin construction and most likely will not begin construction unless slot machines are approved and Allegany Racing is designated one of the sites. Ocean Downs has also recently opened an off-track betting establishment in Cambridge.

The bill addresses one recommendation of the House Committee on Ways and Means' Study of Video Lottery Terminals that was issued in January 2004. The committee made the following recommendation:

- strong consideration should be given to authorizing thoroughbreds to conduct night racing.

Historically, thoroughbred racing was conducted during the day and standardbred racing in the evening. This tradition was recognized in law by statute passed in 1984 which provided that thoroughbred racing could not be conducted after 6:15 p.m., with limited exceptions. Two notable exceptions to this custom exist in the Mid-Atlantic Region, Charles Town Races and Mountaineer Race Track in West Virginia.

The committee's report also noted that authorizing thoroughbreds to race at night would allow the industry to showcase its product at a time more convenient to the general public. Horse racing remains the only major sport in the United States that continues to be conducted on a regular basis on weekdays during the day. This is a major obstacle to attracting new fans to the sport's declining base. Removing the restriction on nighttime thoroughbred racing would provide the thoroughbred industry the option of identifying certain seasons or certain nights when night racing would increase on-track attendance.

The bill also addresses an issue that continues to affect the industry – the revenue sharing agreement between the Maryland Jockey Club and Rosecroft Raceway. Since the advent of simulcast wagering in the State, the thoroughbred and harness industries, which is each comprised of track owners, horsemen, and horse breeders, have operated under some type

of revenue sharing agreement where all of the net revenue generated by simulcasting and live racing was divided among all of the parties. The agreement, which expired in April 2004, was commonly referred to as the 80/20 agreement whereby the thoroughbred industry's share of the net revenue was 80% and the harness industry received 20% of the net revenue. Because both industries were collectively operating as one industry the prohibition on thoroughbred track operations after 6:15 p.m. was waived.

After the expiration of the 80/20 agreement it took several weeks for the thoroughbred and harness industries to renegotiate and agree to a new revenue sharing agreement. Under the new agreement, which has been in effect since June 2004, Rosecroft is required to pay the thoroughbred industry 12% of gross wagering on all thoroughbred signals shown at the Rosecroft facility. Conversely, the Maryland Jockey Club pays the harness industry 12% of gross wagering on all harness races shown at its facilities (Laurel and Pimlico). In 2005, Rosecroft paid approximately \$7.9 million to the Maryland Jockey Club under the agreement; the Maryland Jockey Club paid Rosecroft approximately \$2.3 million. Any change to the current agreement must be agreed upon by all of the parties that make up the thoroughbred and harness industries. The prohibition on thoroughbred track operations after 6:15 p.m. is still waived. However, the only nighttime racing currently conducted at the State's thoroughbred tracks is conducted via simulcast.

Ocean Downs, because of its geographical location (Worcester County), is not considered to be in the market area of Rosecroft or Laurel and Pimlico and, therefore, is not and has not been involved in the revenue sharing agreement.

**State Fiscal Effect:** The repeal of the prohibition against night racing is not expected to have an operational or fiscal effect because the prohibition is currently waived due to the revenue sharing agreement between the Maryland Jockey Club and Rosecroft Raceway. The bill eliminates the need for an agreement between the thoroughbred and standardbred industries in order for the thoroughbred industry to operate at night. In addition, the Racing Commission advises that Sunday racing is currently conducted at all of the State's race tracks.

The bill is not expected to significantly affect the overall amount that is wagered at Maryland horse racing tracks and, therefore, would not affect the amount of State wagering taxes collected. However, the distribution of wagering revenues between the thoroughbred and standardbred industries could be significantly altered as the standardbred industry would not be required to pay any revenues to the thoroughbred industry and vice versa.

**Additional Comments:** The bill does, however, impose a restriction on the Maryland Racing Commission by eliminating its authority to make decisions regarding cross-breed

simulcasting. The Racing Commission has ruled, in two different orders (1997 and 2004), against unrestricted simulcasting – where a track (Rosecroft) could import any thoroughbred or harness simulcast signals it chooses. It was determined by the commission that unrestricted simulcasting would be detrimental to the thoroughbred industry because the thoroughbred industry would lose a significant amount of revenue if the practice was allowed. In addition, the commission noted that unrestricted simulcasting could pose problems related the Interstate Horse Racing Act 15 USC Section 3001, *et seq.* due to the proximity of Laurel, Pimlico, and Rosecroft. The commission ruled that, in order for Rosecroft to import thoroughbred simulcast signals, it would in turn be required to pay the Maryland Jockey Club some amount of the revenue received as a result. It should be noted that the same standard applies to the Maryland Jockey Club with respect to standardbred signals received at its facilities. Hence, the various revenue sharing agreements that have been in place since the beginning of simulcast wagering in the State. Under State law, the commission cannot set any specific requirements for any revenue sharing agreements. Under the bill, the commission would be prohibited from enforcing its previous rulings.

As drafted, the bill prohibits Timonium from holding simulcast wagering because it is not a mile track; the bill would also prohibit Ocean Downs from having simulcast wagering on quarter-horse racing.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 58 (Senator Lawlah) – Finance.

**Information Source(s):** Department of Labor, Licensing, and Regulation; Department of Legislative Services

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