

## LEGISLATIVE BILL 471

Approved by the Governor April 22, 1993

Introduced by Crosby, 29; Fisher, 35; Hohenstein, 17; Robinson, 16;  
Wesely, 26

AN ACT relating to horseracing; to amend sections 2-1227 to 2-1229, Reissue Revised Statutes of Nebraska, 1943, and section 2-1207, Revised Statutes Supplement, 1992; to eliminate an exemption from a required deduction from wagers; to change requirements for simulcasting; to state intent; to define a term; to provide rights for horseracing industry participants; to require rules and regulations; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 2-1207, Revised Statutes Supplement, 1992, be amended to read as follows:

2-1207. (1) Within the enclosure of any racetrack where a race or race meeting licensed and conducted under sections 2-1201 to 2-1218 is held or at a racetrack licensed to simulcast races or conduct interstate simulcasting, the parimutuel method or system of wagering on the results of the respective races may be used and conducted by the licensee. Wagers placed through licensed telercacing facilities or by approved telephonic wagering as authorized by sections 2-1230 to 2-1242 shall be deemed to be wagers placed and accepted within the enclosure of any racetrack. Under such system the licensee may receive wagers of money from any person present at such race or racetrack receiving the simulcast race or conducting interstate simulcasting or placed through a licensed telercacing facility or by approved telephonic wagering by any person who may legally wager on any horse in a race selected by such person to run first in such race, and the person so wagering shall acquire an interest in the total money so wagered on all horses in such race as first winners in proportion to the amount of money wagered by him or her. Such licensee shall issue to each person so wagering a certificate on which shall be shown the number of the race, the amount wagered, and the number or name of the horse selected by such person as first winner. As each race is run, at the option of the licensee, the licensee may deduct from the total sum wagered on all horses as first winners not less than fifteen percent or more than eighteen percent from such total sum, plus the odd cents of the redistribution over the next lower multiple of ten. At the option of the licensee, the licensee may deduct up to and including twenty-three percent from the total sum wagered by exotic wagers as defined in section 2-1208.03. The licensee shall notify the State Racing Commission in writing of the percentages the licensee intends to deduct during the live race meet conducted by the licensee and shall notify the

commission at least one week in advance of any changes to such percentages the licensee intends to make. The licensee shall also deduct from the total sum wagered by exotic wagers, if any, the tax plus the odd cents of the redistribution over the next multiple of ten as provided in subsection (1) of section 2-1208.04. The balance remaining on hand shall be paid out to the holders of certificates on the winning horse in the proportion that the amount wagered by each certificate holder bears to the total amount wagered on all horses in such race to run first. The licensee may likewise receive such wagers on horses selected to run second, third, or both, or in such combinations as the commission may authorize, the method, procedure, and authority and right of the licensee, as well as the deduction allowed to the licensee, to be as specified with respect to wagers upon horses selected to run first.

(2) At all race meets held pursuant to this section, the licensee shall deduct from the total sum wagered one-third of the amount over fifteen percent deducted pursuant to subsection (1) of this section on wagers on horses selected to run first, second, or third and one percent of all exotic wagers to be used to promote agriculture and horse breeding in Nebraska and for the support and preservation of horseracing pursuant to section 2-1207.01. ~~except that no amount shall be deducted from wagers on horses selected to run first, second, or third at tracks handling less than ten million dollars during their live race meets for promotion of agriculture and horse breeding.~~

(3) No minor shall be permitted to make any parimutuel wager, and there shall be no wagering except under the parimutuel method outlined in this section. Any person, association, or corporation who knowingly aids or abets a minor in making a parimutuel wager shall be guilty of a Class IV misdemeanor.

Sec. 2. That section 2-1227, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1227. (1) The commission may authorize and approve one or more applications by any racetrack issued a license under sections 2-1201 to 2-1223 for a license to provide the simulcast of horseraces for wagering purposes from a track operated by the applicant which is conducting a race to a receiving track which is also licensed pursuant to sections 2-1201 to 2-1223 and has applied for a simulcast facility license. No application shall be approved by the commission without a written agreement between the receiving track and the sending track relating to the simulcast. The written agreement between the receiving track and the sending track shall have the consent ~~of the Horsemen's Benevolent and Protective Association or other organization representing a majority of the horsepersons on the track at both the receiving track and the sending track~~ of the organization representing a majority of the licensed owners and trainers at both the sending and the receiving track.

(2) Every licensee authorized to accept wagers on simulcast racing events pursuant to sections 2-1224 to 2-1227 shall be deemed to be conducting a licensed horserace meeting and shall be subject to all appropriate provisions of sections 2-1201 to 2-1223 relating to the conduct

of horserace meetings.

(3) The sums retained by any receiving track from the total deposits in pools wagered on simulcast racing events conducted pursuant to sections 2-1201 to 2-1227 shall be equal to the retained percentages applicable to the sending track. Of the sums retained by the receiving track from simulcast pools, the parimutuel tax shall be levied in accordance with sections 2-1201 to 2-1223. Of the sums retained by the receiving track, an amount as determined by agreement between the sending track and receiving track shall be distributed to the sending track.

(4) Any simulcast between a sending track located in the state and receiving track located in the state as provided in this section shall result in the combination of all wagers placed at the receiving track located in the state with the wagers placed at the sending track located in the state so as to produce common parimutuel betting pools for the calculation of odds and the determination of payouts from such pools, which payout shall be the same for all winning tickets, irrespective of whether the wager is placed at a sending track located in the state or receiving track located in the state.

Sec. 3. That section 2-1228, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1228. Any racetrack issued a license under sections 2-1201 to 2-1223 (1) conducting primarily quarterhorse races in the year immediately preceding the year for which application is made, regardless of the total number of days of live racing conducted in such year, or (2) conducting primarily thoroughbred horseraces in the year immediately preceding the year for which application is made which conducted live racing on at least ~~ninety~~ seventy percent of the days for which it was authorized to conduct live racing in 1988 unless the commission determines that such racetrack was unable to conduct live racing on the required number of days due to factors beyond its control, including, but not limited to, fire, earthquake, tornado, or other natural disaster, may apply to the commission for an interstate simulcast facility license. An application for such license shall be in a form prescribed by the commission and shall contain such information, material, or evidence as the commission may require. Any racetrack issued an interstate simulcast facility license may conduct the interstate simulcast of any horserace permitted under its license, and parimutuel wagering shall be allowed on such horserace. The commission shall not authorize interstate simulcasting for any racetrack pursuant to sections 2-1201 to 2-1223 unless all of the thoroughbred racetracks together applied for and received authority to conduct at least one hundred eighty live racing days in the calendar year in which the application is made. If any racetrack conducts live racing for less than seventy percent of the days assigned such racetrack in 1988, (a) such racetrack shall be precluded from conducting interstate simulcasts and (b) the number of live racing days conducted by such racetrack shall be subtracted from an amount equal to seventy percent of all the days assigned such racetrack in 1988 and the amount remaining shall be deducted from the one-hundred-eighty-day total

required by this section. If any racetrack ceases to conduct live racing, seventy percent of the days assigned such racetrack in 1988 shall be deducted from the one-hundred-eighty-day total required by this section.

Sec. 4. That section 2-1229, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1229. (1) The commission may authorize and approve an application for an interstate simulcast facility license by a receiving track within the state to receive the interstate simulcast of horseraces for parimutuel wagering purposes from any track located outside of the state. In determining whether such application should be approved, the commission shall consider whether such interstate simulcast would have a significant effect upon either live racing or the simulcasting of live racing of the same type and at the same time conducted in this state and whether it would expand the access to or availability of simulcasting to areas of the state or markets which are not at the time of the application fully served. Prior to approving any such application, the commission shall confer with and receive any recommendations of the organization which represents the majority of the thoroughbred breeders in Nebraska as to what effect an interstate simulcast would have upon horse breeding and horseracing in this state. No application submitted under section 2-1228 shall be approved by the commission without:

(a) The prior written approval of any other racetrack issued a license under sections 2-1201 to 2-1223 and conducting live racing of the same type on the same day at the same time as the proposed interstate simulcast race or races and of the ~~Horsemen's Benevolent and Protective Association or other group representing the majority of horsepersons at such racetrack or racetracks~~ organization which represented a majority of the licensed owners and trainers at the racetrack's immediately preceding live thoroughbred race meeting;

(b) The prior written approval of any other racetrack issued a license under sections 2-1224 to 2-1227 which is simulcasting the racing program of any licensee conducting live racing in this state of the same type on the same day at the same time as the proposed interstate simulcast race or races and of the ~~Horsemen's Benevolent and Protective Association or other group representing the majority of horsepersons at such racetrack or racetracks~~ organization which represented a majority of the licensed owners and trainers at the racetrack's immediately preceding live thoroughbred race meeting; and

(c) A written agreement between the receiving track and the sending track located outside of the state in any other state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico setting forth the division of all proceeds between the sending and receiving tracks and all other conditions under which such interstate simulcast will be conducted. Such written agreement shall have the consent of the group representing the majority of horsepersons racing at the sending track and of the ~~Horsemen's Benevolent and Protective Association or other group representing the majority of horsepersons at the receiving track~~ organization which

represented a majority of the licensed owners and trainers at the receiving track's immediately preceding live thoroughbred race meeting.

(2) Every licensee authorized to accept wagers on interstate simulcast events pursuant to this section shall be deemed to be conducting a licensed horserace meeting and shall also be subject to all appropriate provisions of sections 2-1201 to 2-1223 relating to the conduct of horserace meetings.

Sec. 5. The Legislature finds that the horseracing industry is an important facet of economic and recreational development in Nebraska. Breeders, owners, and trainers are an important and integral part of the live horseracing industry in Nebraska.

Sec. 6. For purposes of sections 5 to 8 of this act, horseracing industry participant shall mean an individual who currently holds a valid license from the State Racing Commission and who owns, trains, cares for, or rides horses stabled at a Nebraska-licensed racetrack for the purpose of horseracing at the live race meeting at such racetrack.

Sec. 7. (1) A horseracing industry participant shall be entitled to reasonable treatment from those licensed to conduct thoroughbred race meets.

(2) Private property belonging to a horseracing industry participant at a racetrack facility shall not unlawfully be converted, seized, damaged, or destroyed by racetrack employees or agents without compensation.

(3) A horseracing industry participant shall not be deemed to forfeit or waive any right to privacy without reasonable cause guaranteed by law by virtue of being licensed by the state, by entry upon licensed horseracing facilities, or by engaging in the sport of horseracing in this state.

(4) A horseracing industry participant may not be excluded from the grounds of any licensed racetrack by track management without a hearing by the stewards at such racetrack unless there is reasonable grounds to believe such participant has committed a felony or is posing a physical danger to himself or herself, to others, or to animals in his or her care or his or her physical presence will bring immediate harm to horseracing. Such hearing shall be held as soon as practicable and shall be given first priority and precedence by the stewards. This subsection shall not apply to the allocation of stalls pursuant to an agreement between the horseracing industry participant and the licensed racetrack.

(5) A horseracing industry participant shall be free from unreasonable searches and seizures of his or her person without probable cause and shall be free from unreasonable searches and seizures of his or her housing, vehicle, papers, and effects.

(6) If a horseracing industry participant has been charged with a violation of a rule of racing which involves a substantial risk of loss or suspension of his or her license or which involves a criminal penalty, he or she shall be entitled to the following protections as a matter of right:

(a) To remain silent;

(b) To the benefit of counsel, including the opportunity to

confer with counsel in preparation of a defense;

(c) To a speedy and public hearing;

(d) To present evidence and to testify in person at his or her hearing;

(e) To cross-examine the witnesses who testify against him or her; and

(f) To have prospective witnesses excluded from the hearing room during the hearing.

Nothing in this section shall prevent a horseracing industry participant from knowingly waiving any rights afforded under this subsection.

(7) A horseracing industry participant shall not be required to waive his or her constitutional rights nor the rights granted pursuant to sections 5 to 8 of this act as a condition of pursuing a livelihood in this state or at any licensed thoroughbred horseracing facility.

Sec. 8. (1) The State Racing Commission shall adopt and promulgate rules and regulations which provide for dismissal, license revocation or suspension, fines, or other suitable penalties necessary to enforce sections 5 to 7 of this act.

(2) Nothing in such sections shall affect in any way the right of any horseracing industry participant to bring any action in any appropriate forum for the violation of any law of this state or any rule of racing.

Sec. 9. That original sections 2-1227 to 2-1229, Reissue Revised Statutes of Nebraska, 1943, and section 2-1207, Revised Statutes Supplement, 1992, are repealed.

Sec. 10. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.