

LEGISLATIVE BILL 591

Approved by the Governor May 4, 1989

Introduced by Schmit, 23; Schellpeper, 18; Labedz, 5

AN ACT relating to horseracing; to amend sections 2-1203.01, 2-1207, 2-1208.01, 2-1224, 2-1225, and 2-1227, Reissue Revised Statutes of Nebraska, 1943; to provide for interstate simulcasting; to provide for a tax as prescribed; to state and restate intent; to define and redefine terms; to provide for licenses for interstate simulcast facilities as prescribed; to harmonize provisions; 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 2-1203.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1203.01. The State Racing Commission shall:

(1) Enforce all state laws covering horseracing as required by sections 2-1201 to ~~2-1221~~; 2-1227 and sections 7 and 8 of this act and enforce rules and regulations adopted and promulgated by the commission under the authority of section 2-1203;

(2) License racing industry participants, race officials, mutuel employees, concessionaires, and such other persons as deemed necessary by the commission if the license applicants meet eligibility standards established by the commission;

(3) Prescribe and enforce security provisions, including, but not limited to, the restricted access to areas within track enclosures and backstretch areas, and prohibitions against misconduct or corrupt practices;

(4) Determine or cause to be determined by chemical testing and analysis of body fluids whether or not any prohibited substance has been administered to the winning horse of each race and any other horse selected by the board of stewards;

(5) Verify the certification of horses registered as being Nebraska-bred under the provisions of section 2-1213; and

(6) Collect and verify the amount of revenue received by the commission under section 2-1208.

Sec. 2. That section 2-1207, Reissue Revised

Statutes of Nebraska, 1943, 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 or ~~certificate~~ method or system of wagering on the results of the respective races may be used and conducted by the licensee. 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 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, the licensee may deduct from the total sum wagered on all horses as first winners, respectively, (a) at race meets which conduct raees live racing more than four days per week excluding holidays, fifteen percent of the total, plus the odd cents of the redistribution over the next lower multiple of ten or (b) at race meets which conduct raees live racing not more than four days per week excluding holidays, not less than fifteen nor more than eighteen percent of the total, plus the odd cents of the redistribution over the next lower multiple of ten. All licensees are hereby authorized to deduct up to and including twenty percent from the total sum wagered by exotic wagers as defined in section 2-1208.03. 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, including wagers on simulcast and interstate simulcast races but excluding except for wagers on horses selected to run first, second, or third, one percent of the total, 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.

(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 permits a minor to make a parimutuel wager shall be guilty of a Class IV misdemeanor.

Sec. 3. That section 2-1208.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1208.01. There is hereby imposed a tax on the gross sum wagered by the parimutuel method at each race meeting enclosure during a calendar year as follows:

(1) Commencing on July 1, 1987, and ending on December 31, 1990:

(a) For meets conducted on property owned by the state on which the Nebraska State Fair is also conducted, no tax shall be imposed, but the licensee shall apply two percent of any amount in excess of ten million dollars for the purpose of maintenance of buildings, streets, utilities, and other existing improvements on the Nebraska State Fairgrounds; and

(b) For all other meets:

(i) The first ten million dollars shall not be taxed; ~~except that for these race meetings that have taken the applicable exemption from parimutuel tax prior to May 30, 1987, this subdivision of subdivision (1)(b) shall not be applicable until January 1, 1988;~~

(ii) Any amount over ten million dollars but less than or equal to one hundred million dollars shall be taxed at the rate of two percent;

(iii) Any amount in excess of one hundred million dollars shall be taxed at the rate of five percent; and

(iv) An amount equal to two percent of the first taxable ninety million dollars at each race meeting enclosure during a calendar year shall be retained by the licensee for capital improvements and

for maintenance of the premises within the licensed racetrack enclosure and shall be a credit against the tax levied in subdivisions (b)(ii) and (b)(iii) of this subdivision; and

(2) For meets commencing on or after January 1, 1991, any amount in excess of twenty million dollars shall be taxed at the rate of four percent.

A return as required by the Tax Commissioner shall be filed for a race enclosure for each month during which wagers are accepted at the enclosure. The return shall be filed with and the net tax due pursuant to subdivisions (1) and (2) of this section shall be paid to the Department of Revenue on the next-to-the-last business day of the month to allow for deposit in the General Fund on the last business day of each month during each race meeting- tenth day of the following month.

Sec. 4. That section 2-1224, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1224. (1) The Legislature finds that:

(a) ~~The racing~~ horseracing, horse breeding, and parimutuel wagering industry is an important sector of the agricultural economy of the state, provides substantial revenue for state and local governments, and employs many residents of the state;

(b) The simultaneous telecast of live audio and visual signals of horseraces conducted within the state on which parimutuel betting is permitted holds the potential to strengthen and further these economic contributions and ~~that~~ it is in the best interest of the state to encourage experimentation with permit such live telecasts;

(c) ~~The purpose of such experimentation shall be to determine if simulcast technology can promote the overall growth of the industry resulting in additional revenue for the support of racing associations and corporations, purses, breeders, and labor.~~ Permitting parimutuel wagering on the results of horseracing conducted at racetracks outside the state also holds the potential to strengthen and further these economic contributions and it is in the best interest of the state to permit such wagering; and

(d) No simulcast or interstate simulcast shall be authorized which would jeopardize present live racing, horse breeding, or employment opportunities or which would infringe on current operations or markets of the racetracks which generate significant revenue for local governments in the state.

(2) The Legislature hereby authorizes experimentation with the telecasts of horseraces conducted within the state on which parimutuel wagering shall be permitted and interstate simulcasting under the regulation of rules and regulations adopted and promulgated by the State Racing Commission in the manner and subject to the conditions provided in sections 2-1207 and 2-1224 to 2-1227 and sections 7 and 8 of this act.

Sec. 5. That section 2-1225, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1225. As used in For purposes of sections 2-1207 and 2-1224 to 2-1227 and sections 7 and 8 of this act, unless the context otherwise requires:

(1) Commission shall mean the State Racing Commission;

(2) Interstate simulcast shall mean parimutuel wagering at any licensed racetrack within the state on the results of any horserace conducted outside the state;

(3) Licensed horserace meeting shall include, but not be limited to, licensed racetracks at which simulcasts or interstate simulcasts are conducted;

(4) ~~(3)~~ Operator shall mean any licensee issued a license under sections 2-1201 to 2-1223 operating a simulcast facility in accordance with sections 2-1224 to 2-1227 and sections 7 and 8 of this act;

(5) ~~(4)~~ Receiving track shall mean any track which displays a simulcast which originates from another track or which conducts interstate simulcasts;

(6) ~~(5)~~ Sending track shall mean any track from which a simulcast or interstate simulcast originates;

(7) ~~(6)~~ Simulcast shall mean the telecast of live audio and visual signals of any horserace conducted in the state for the purpose of parimutuel wagering;

(8) ~~(7)~~ Simulcast facility shall mean a facility within the state which is authorized to display simulcasts for parimutuel wagering purposes under sections 2-1224 to 2-1227 or to conduct interstate simulcasts under sections 7 and 8 of this act; and

(9) ~~(8)~~ Track shall mean the grounds or enclosures within which horseraces are conducted by licensees authorized to conduct such races in accordance with sections 2-1201 to 2-1223.

Sec. 6. 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 for a license 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 submitted under this subsection 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.

(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 a 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 a receiving track located in the state.

Sec. 7. 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 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.

Sec. 8. (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 7 of this act 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;

(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; 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.

(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. 9. That original sections 2-1203.01, 2-1207, 2-1208.01, 2-1224, 2-1225, and 2-1227, Reissue Revised Statutes of Nebraska, 1943, 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.