

LEGISLATIVE BILL 718

Passed over the Governor's veto April 14, 1992.

Introduced by Schmit, 23

AN ACT relating to parimutuel wagering; to amend sections 2-1203, 2-1203.01, 2-1207, 2-1208, 2-1216, 2-1221, and 2-1222, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to parimutuel wagering; to provide for teleracing facilities and telephonic wagering; to state intent; to define terms; to provide powers and duties for the State Racing Commission and licensed racetracks; to change penalty provisions; to provide a penalty; to harmonize provisions; to provide severability; 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, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1203. The State Racing Commission shall have power to prescribe and enforce rules and regulations governing horseraces and race meetings licensed as provided in sections 2-1201 to 2-1229 and sections 8 to 20 of this act. Such rules and regulations shall contain criteria to be used by the commission for decisions on approving and revoking track licenses and licenses for teleracing facilities and telephonic wagering and setting racing dates. The commission may revoke or suspend licenses issued to racing industry participants and may, in lieu of or in addition to such suspension or revocation, impose a fine in an amount not to exceed one thousand dollars upon a finding that a rule or regulation has been violated by a licensed racing industry participant. The exact amount of the fine shall be proportional to the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation. The commission may delegate to a board of stewards such of the commission's powers and duties as may be necessary to carry out and effectuate the purposes of such sections. Any decision or action of such board of stewards may be appealed to the commission or reviewed by the commission on its own initiative.

Sec. 2. 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 2-1229 and sections 8 to 20 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, teleracing facility employeess, telephone deposit center employeess, concessionaires, and such other persons as deemed necessary by the commission and approve and license teleracing facilities and telephonic wagering 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 teleracing facilities, 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 section 2-1213; and

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

Sec. 3. 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 method or system of wagering on the results of the respective races may be used and conducted by the licensee. Wagers placed through licensed teleracing facilities or by approved telephonic wagering as authorized by sections 8 to 20 of this act 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. 4. That section 2-1208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1208. For race meetings devoted principally to running races, every corporation or association licensed under the provisions of sections 2-1201 to 2-1218 shall pay the tax imposed by section 2-1208.01 and shall also pay to the State Racing Commission the sum of thirty cents for each person entering the grounds or enclosure of the licensee upon a ticket of admission. If tickets are issued good for more than one day, then the sum of thirty cents shall be paid for each person using such ticket on each day that the same is used. If ; and if any free passes or complimentary admission tickets shall be are issued, the licensee shall pay the same tax upon such passes or complimentary tickets as if the same were sold at the regular and usual admission rate, but nothing herein in this section shall be construed to prohibit the issuance of tax-free passes to actual and necessary officials and employees of the licensee or other persons actually working at such racetrack. The ; PROVIDED, that the issuance of all such tax-free passes shall be under the regulations or orders of the commission, and a list of all persons to whom such tax-free passes are issued shall be filed with the commission. For race meetings devoted principally to running races, the licensee shall pay to the commission the sum of four hundred dollars for each racing day of each horserace meeting if the racetrack within which such races are conducted is located in a county of two hundred thousand population or more, in counties of more than seventy-five thousand but less than two hundred thousand population, the licensee shall pay to the commission ~~for each racing day~~ the sum of one hundred dollars for each racing day, and in counties of not more than seventy-five thousand population, the licensee shall pay to the commission the sum of thirty dollars for each racing day. For race meetings devoted

exclusively to harness races or at which the majority of the races conducted each day are harness races, every corporation or association licensed under the provisions of sections 2-1201 to 2-1218 shall pay to the State Racing Commission, for each racing day of each horserace meeting for which a license ~~shall have~~ has been issued, license fees in the amount of only one-fourth of the daily fees respectively ~~hereinbefore~~ prescribed in this section for running race meetings, graduated ~~as aforesaid pursuant to this section~~ in accordance with the population of the county in which the race meeting is conducted. No other license tax, permit tax, occupation tax, or excise tax, or racing fee, except as provided in this section and in sections 2-1203 and 2-1208.01 and section 20 of this act, shall be levied, assessed, or collected from any such licensee by the state or by any county, township, district, city, village, or any other governmental subdivision or body having power to levy, assess, or collect any such tax or fee.

Sec. 5. That section 2-1216, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1216. The parimutuel system of wagering on the results of horseraces, ~~as hereinbefore provided~~, when conducted within the racetrack enclosure at licensed horserace meetings or through telereading facilities, shall not under any circumstances be held or construed to be unlawful, any other statutes of the State of Nebraska to the contrary notwithstanding. The money inuring to the State Racing Commission under sections 2-1201 to 2-1218 and sections 8 to 20 of this act from permit fees or from other sources, ~~as hereinbefore provided~~, shall never be considered as license money. It is the intention of the Legislature that the funds arising under ~~said~~ such sections ~~shall~~ be construed as general revenue to be appropriated and allocated exclusively for the specific purposes ~~therein~~ set forth in such sections.

Sec. 6. That section 2-1221, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1221. Whoever Except as provided in section 2-1207 and sections 8 to 20 of this act, whoever directly or indirectly, accepts anything of value to be wagered or to be transmitted or delivered for wager in any parimutuel ~~or certificate~~ system of wagering on horseraces, or delivers anything of value which has been received outside of the enclosure of a racetrack holding

a race meet licensed under Chapter 2, article 12, to be placed as wagers in the parimutuel pool or certificate system of wagering on horseracing within such enclosure shall be guilty of a Class II misdemeanor.

Sec. 7. That section 2-1222, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1222. There is hereby created the Racing Commission's Cash Fund, from which shall be appropriated such amounts as are available therefrom and as shall be considered incident to the administration of the State Racing Commission's office. The fund shall contain all license fees and gross receipt taxes collected by the commission as provided under sections 2-1201.01, 2-1203, 2-1203.01, 2-1208, 2-1219, 2-1222, and 2-1223, and section 20 of this act but shall not include taxes collected pursuant to section 2-1208.01, and such fee fees and taxes collected shall be paid remitted to the State Treasurer who shall credit the money for credit to the state Racing Commission's Cash Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections ~~72-1234 to 72-1259~~ 72-1237 to 72-1276.

Sec. 8. (1) The Legislature finds that:

(a) The horseracing, horse breeding, and parimutuel wagering industries are important sectors of the agricultural economy of the state, provide substantial revenue for state and local governments, and employ many residents of the state;

(b) The ability to provide licensed and regulated teleracing facilities through which parimutuel wagering is permitted holds the potential to strengthen the horseracing industry and further its economic contributions to the state and its citizens and it is in the best interests of the state to encourage experimentation with parimutuel wagering through licensed teleracing facilities;

(c) The offering of controlled telephonic wagering also holds the potential to strengthen the horseracing industry and further its economic contributions to the state and its citizens and it is in the best interests of the state to encourage experimentation with telephonic wagering;

(d) The purpose of such experimentation is to determine whether teleracing facilities and telephonic wagering will promote the overall growth of the horseracing industry, resulting in additional revenue for the support of racing organizations, purses, breeders, and labor; and

(e) Parimutuel wagering through teleracing facilities or telephonic wagering should be authorized and regulated in a manner which would not unreasonably jeopardize horseracing or employment opportunities or infringe on current operations or markets of licensed racetracks.

(2) The Legislature hereby authorizes experimentation with parimutuel wagering through teleracing facilities and telephonic wagering on horseraces conducted within the state and on simulcasting and interstate simulcasting received by licensed racetracks within the state under the regulation of the State Racing Commission in the manner and subject to the conditions provided in section 2-1207 and sections 8 to 20 of this act.

Sec. 9. For purposes of sections 8 to 20 of this act:

(1) Deposit account shall mean deposits kept at a telephone deposit center for individual patrons who wish to place telephonic wagers;

(2) Market area shall mean the area within fifty miles of the location of any licensed racetrack but shall not include the primary territory of any other licensed racetrack;

(3) Primary territory shall mean the county in which the licensed racetrack is located;

(4) Telephone deposit center shall mean a unit at the licensed racetrack operated by such licensed racetrack for the purposes of keeping deposit accounts and accepting telephonic wagers as authorized by the State Racing Commission;

(5) Telephonic wagering shall mean the placing of parimutuel wagers by telephone to a telephone deposit center at a licensed racetrack as authorized by the commission;

(6) Teleracing facility shall mean a detached, licensed area occupied solely by a licensee for the purpose of conducting telewagering and containing one or more betting terminals, which facility is either owned or under the exclusive control of the licensee during the period for which it is licensed; and

(7) Telewagering shall mean the placing of a wager through betting terminals electronically linked to a licensed racetrack, which electronic link instantaneously transmits the wagering information to the parimutuel pool for acceptance and issues tickets as evidence of such wager.

Sec. 10. The State Racing Commission shall have general jurisdiction over the approval of and shall

issue licenses to licensed racetracks for the operation of teleracing facilities and telephonic wagering. The commission shall adopt and promulgate rules and regulations to carry out sections 8 to 20 of this act.

Sec. 11. The State Racing Commission shall not issue a license for a teleracing facility unless the local governing body of the city or village in which such facility is proposed or of the county, if the facility is not within the corporate limits of a city or village, has by ordinance or resolution approved the operation of the facility within such jurisdiction.

Sec. 12. (1) Any licensed racetrack conducting live racing may, alone or jointly with other licensed racetracks conducting live racing, own and operate teleracing facilities and may own and operate as many such facilities in its primary territory as may be authorized by the State Racing Commission.

(2) A licensee may own and operate teleracing facilities outside of the primary territory and market area of any other licensed racetrack as permitted by the commission and subject to sections 8 to 20 of this act. A licensed racetrack shall not own or operate any teleracing facility outside its primary territory except with the permission and consent of all licensed racetracks running the same breed of horse. Each licensed racetrack may choose whether or not to participate in the ownership and operation of teleracing facilities outside the primary territory of a licensed racetrack.

Sec. 13. A licensed racetrack may conduct wagering through a teleracing facility on intrastate simulcasting and interstate simulcasting if otherwise licensed to do so by the State Racing Commission.

Sec. 14. A licensee may deduct up to five percent from the winnings of the holder of a winning ticket purchased through a teleracing facility or through telephonic wagering. All tickets purchased through telewagering shall bear distinctive markings, and such tickets may be redeemed at the teleracing facility or at the licensed racetrack owning or operating the facility. All wagers made through a teleracing facility shall be subject to all of the laws and conditions pertaining to wagers made at a licensed racetrack.

Sec. 15. (1) Any licensed racetrack desiring to own and operate a teleracing facility shall submit a feasibility study and plan of operation to the State Racing Commission along with the application therefor.

(2) The feasibility study shall include:

(a) The number of teleracing facilities requested and location of each teleracing facility requested;

(b) The potential market;

(c) The estimated costs of operation; and

(d) The probable impact of the proposed operation on racetrack attendance and parimutuel wagering within the area served by such racetrack.

(3) The plan of operation shall include the following:

(a) A narrative description of the system and how it works;

(b) The types and approximate cost of data processing, communication, and transmission facilities that will be utilized, including any back-up systems; and

(c) Security measures.

The commission may request additional information from the applicant.

Sec. 16. The State Racing Commission shall hold a hearing prior to acting upon an application for a teleracing facility, except that if the teleracing facility requested by the applicant is in its primary territory, the commission need not hold such hearing. The commission shall take into consideration the legislative findings set forth in section 8 of this act in deciding whether to approve and license a facility. All teleracing facilities shall conform to local zoning requirements and ordinances.

Sec. 17. A licensed racetrack which conducts live race meets may establish and conduct a telephonic wagering system as may be approved by the State Racing Commission, subject to the following requirements:

(1) The licensed racetrack shall establish and maintain a telephone deposit center;

(2) The telephone deposit center shall accept wagers only up to the amount posted to the credit of the deposit account of the account holder at the time the wager is placed;

(3) All such wagers shall be entered into the parimutuel pool and be subject to all laws and conditions applicable to any other wagers;

(4) No licensed racetrack shall conduct a telephonic wagering system outside its primary territory without the permission and consent of all licensed racetracks running the same breed of horse. Each licensed racetrack may choose whether or not to participate in the ownership and operation of a telephonic wagering system outside the primary territory

of a licensed racetrack; and

(5) The licensed racetrack has obtained the written consent of the organization which represents a majority of the thoroughbred breeders in Nebraska and the organization which represents a majority of the owners and trainers at the racetrack of the licensee conducting the live race meeting.

Sec. 18. (1) Telephone deposit centers shall only accept telephonic wagers from the holder of a deposit account. No person shall in any manner place any wager by telephone to the telephone deposit center on behalf of a holder of a deposit account. Only the holder of a deposit account may place a telephonic wager.

(2) Any person violating subsection (1) of this section shall be guilty of a Class II misdemeanor.

Sec. 19. Telephonic wagering may be conducted at licensed racetracks conducting either intrastate simulcasting or interstate simulcasting as approved by the State Racing Commission.

Sec. 20. An amount equivalent to one-half of one percent of the amount wagered through telephonic wagering shall be paid to the Department of Revenue by licensed racetracks and shall be remitted by the department to the State Treasurer for credit to the Racing Commission's Cash Fund.

Sec. 21. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 22. That original sections 2-1203, 2-1203.01, 2-1207, 2-1208, 2-1216, 2-1221, and 2-1222, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 23. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.