

LEGISLATIVE BILL 1153

Approved by the Governor April 7, 1994

Introduced by General Affairs Committee: Schellpeper, 18, Chairperson;
Cudaback, 36; Elmer, 38; Hartnett, 45; Hudkins, 21;
Robinson, 16; Will, 8

AN ACT relating to horseracing; to amend sections 2-1203.02, 2-1209, and 2-1211, Reissue Revised Statutes of Nebraska, 1943, sections 2-1203 and 2-1208, Revised Statutes Supplement, 1992, and section 2-1207, Revised Statutes Supplement, 1993; to change the distribution of certain fines; to create a fund; to provide an exemption from fingerprinting and criminal history requirements; to change provisions relating to deductions from wagers, payments to and use of funds by the State Racing Commission, and records maintained by licensees; to eliminate provisions relating to distributions to counties; to provide an operative date; to repeal the original sections, and also section 2-1210, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

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

Section 1. That section 2-1203, Revised Statutes Supplement, 1992, 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 2-1242. Such rules and regulations shall contain criteria to be used by the commission for decisions on approving and revoking track licenses and licenses for telereading 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. All fines shall be paid into a fund for alcohol and drug rehabilitation services for horseracing industry participants, which fund is hereby created.

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 2-1201 to 2-1242. 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 2-1203.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1203.02. Any person applying for or holding a license to participate in or be employed at a horserace meeting licensed by the State Racing Commission shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation for the purpose of determining whether the commission has a basis to deny the license application or to suspend, cancel, or revoke the person's license, except that the commission shall not require a person to be fingerprinted if such person has been previously fingerprinted in connection with a license application in this state or any other state within the last five years prior to the application for such license. Any person involved in the administration or management of a racetrack, including the governing body, shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation. The applicant, licensee, or person involved in the administration or management of a racetrack shall pay the actual cost of any fingerprinting or check of his or her criminal history record information. The requirements of this section shall not apply to employees of food or drink concessions who do not work in restricted-access areas, and admissions employees whose duties involve only admissions ticket sales and verification or parking receipts sales and verification, and medical or emergency services personnel authorized to provide such services at the racetrack.

Sec. 3. That section 2-1207, Revised Statutes Supplement, 1993, 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 telereading 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 telereading 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~~ twenty-four percent from the total sum wagered by exotic wagers as defined in section 2-1208.03. The State Racing Commission may authorize other levels of deduction on wagers conducted by means of interstate simulcasting. Each licensed racetrack shall increase the amount of deduction from the total sum wagered by exotic wagers by one percent over the amount deducted by that licensee in 1993. The licensee shall notify the commission ~~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.

(3) No minor person under nineteen years of age 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 person under nineteen years of age in making a parimutuel wager shall be guilty of a Class IV misdemeanor.

Sec. 4. That section 2-1208, Revised Statutes Supplement, 1992, be amended to read as follows:

2-1208. For all 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 two-tenths of one percent of the gross sum wagered by the parimutuel method at each licensed racetrack enclosure during the calendar year and thirty cents for each person entering the grounds or enclosure of the licensee upon a ticket of admission. If tickets are issued that are 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 any free passes or complimentary admission tickets 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 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 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 live races, the licensee shall pay to the commission the sum of fifty dollars for each live racing day that the licensee serves as the host track for intrastate simulcasting and twenty-five dollars for any other live racing day. 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 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 has been issued, license fees in the amount of only one-fourth of the daily fees respectively prescribed in this section for running race meetings, graduated 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, 2-1208.01, and 2-1242, shall be levied, assessed, or collected from any such licensee by the state or by any county, township, district, city, village, or other governmental subdivision or body having power to levy, assess, or collect any such tax or fee.

Sec. 5. That section 2-1209, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1209. Out of the funds received pursuant to section 2-1208, the expenses of the commissioners, the compensation and reasonable expenses of the secretary, assistants, and employees, and their reasonable expenses, and the other reasonable expenses of the commission State Racing Commission, including suitable furniture, equipment, supplies, and office expense expenses, shall first be paid, and the commission shall retain in its hands the further sum of five thousand dollars as a permanent fund out of which to pay its current expenses. No sums shall be paid out by the commission except the same be regularly audited and allowed and the allowance thereof recorded in the minutes of its meetings, and a voucher therefor be signed by its chairman and secretary. The commission shall maintain a reserve fund balance which shall not exceed ten percent of the appropriation for the commission for the calendar year. If the commission has unexpended funds in excess of its appropriation and authorized reserve fund balance at the end of the calendar year, such funds shall be credited to the General Fund. Sums paid out by the commission shall be subject to the general policy for disbursement of funds by agencies of the state, including regular audit.

Sec. 6. That section 2-1211, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1211. Every corporation or association licensed under sections 2-1201 to 2-1218 shall so keep its books and records as to clearly show the total number of admissions to races conducted by it on each racing day, including the number of admissions upon free passes or complimentary tickets, and the amount received daily from admission fees and the total amount of money wagered during the race meet, meeting, including wagers at locations to which its races were simulcast and at races which it received via simulcast from other racetracks, and shall furnish to the commission State Racing Commission such reports and information as it may require with respect thereto. At the end of each race meet meeting, the licensee shall furnish to the commission and the Governor a complete audit by a certified public accountant detailing all expenses and disbursements. Such audit shall be in the form specified by the commission and shall be filed on or before February 1 following such meet.

Sec. 7. This act shall become operative on May 5, 1994.

Sec. 8. That original sections 2-1203.02, 2-1209, and 2-1211, Reissue Revised Statutes of Nebraska, 1943, sections 2-1203 and 2-1208, Revised Statutes Supplement, 1992, and section 2-1207, Revised Statutes Supplement, 1993, and also section 2-1210, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 9. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.