

## LEGISLATIVE BILL 656

Approved by the Governor February 13, 2014

Introduced by Executive Board: Wightman, 36, Chairperson.

FOR 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; to repeal provisions held unconstitutional by *Stenberg v. Douglas Racing Corp.*, 246 Neb. 901 (1994), and *Stenberg v. Omaha Exposition and Racing, Inc.*, 263 Neb. 991 (2002); to harmonize provisions; to repeal the original sections; and to outright repeal sections 2-1230, 2-1231, 2-1232, 2-1233, 2-1234, 2-1235, 2-1236, 2-1237, 2-1238, 2-1239, 2-1240, 2-1241, and 2-1242, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 2-1203, Reissue Revised Statutes of Nebraska, is amended to read:

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~~, 2-1229. 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 five 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 sections 2-1201 to ~~2-1242~~, 2-1229.

Any decision or action of such board of stewards may be appealed to the commission or may be reviewed by the commission on its own initiative. The board of stewards may impose a fine not to exceed fifteen hundred dollars upon a finding that a rule or regulation has been violated.

The commission shall remit administrative fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 2. Section 2-1203.01, Reissue Revised Statutes of Nebraska, is amended to read:

2-1203.01 The State Racing Commission shall:

(1) Enforce all state laws covering horseracing as required by sections 2-1201 to ~~2-1242~~ 2-1229 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 employees, telephone deposit center employees,~~ 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. Section 2-1207, Reissue Revised Statutes of Nebraska, is amended to read:

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 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 teleracing 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-five 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. The licensee shall notify the 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 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 person under nineteen years of age in making a parimutuel wager shall be guilty of a Class IV misdemeanor.

Sec. 4. Section 2-1208, Reissue Revised Statutes of Nebraska, is amended to read:

2-1208 For all race meetings, 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 sixty-four one hundredths of one percent of the gross sum wagered by the parimutuel method at each licensed racetrack enclosure during the calendar year. 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.

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 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. Section 2-1216, Reissue Revised Statutes of Nebraska, is amended to read:

2-1216 The parimutuel system of wagering on the results of horseraces, when conducted within the racetrack enclosure at licensed horserace meetings, or through teleracing 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 2-1230 to 2-1242 from permit fees or from other sources shall never be considered as license

money. It is the intention of the Legislature that the funds arising under such sections be construed as general revenue to be appropriated and allocated exclusively for the specific purposes set forth in such sections.

Sec. 6. Section 2-1221, Reissue Revised Statutes of Nebraska, is amended to read:

2-1221 Except as provided in ~~sections~~ section 2-1207, and 2-1230 to 2-1242, whoever directly or indirectly accepts anything of value to be wagered or to be transmitted or delivered for wager in any parimutuel 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, sections 2-1201 to 2-1247~~ to be placed as wagers in the parimutuel pool within such enclosure shall be guilty of a Class II misdemeanor.

Sec. 7. Section 2-1222, Reissue Revised Statutes of Nebraska, is amended to read:

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 2-1203, 2-1203.01, and 2-1208, ~~and 2-1242~~ but shall not include taxes collected pursuant to section 2-1208.01, and such fees and taxes collected shall be remitted to the State Treasurer for credit to the Racing Commission's Cash Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 8. Original sections 2-1203, 2-1203.01, 2-1207, 2-1208, 2-1216, 2-1221, and 2-1222, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 9. The following sections are outright repealed: Sections 2-1230, 2-1231, 2-1232, 2-1233, 2-1234, 2-1235, 2-1236, 2-1237, 2-1238, 2-1239, 2-1240, 2-1241, and 2-1242, Reissue Revised Statutes of Nebraska.