

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 825

Introduced by Karpisek, 32.

Read first time January 08, 2010

Committee: General Affairs

A BILL

1 FOR AN ACT relating to horseracing; to amend sections 2-219,
2 2-1203, 2-1203.01, 2-1203.02, 2-1207, 2-1207.01, 2-1208,
3 2-1211, 2-1216, 2-1221, 2-1222, 2-1226, and 28-1113,
4 Reissue Revised Statutes of Nebraska; to eliminate
5 provisions relating to teleracing and telephonic
6 wagering and provide requirements for licensing satellite
7 facilities for wagering as prescribed; to harmonize
8 provisions; to provide an operative date; to repeal
9 the original sections; and to outright repeal sections
10 2-1230, 2-1231, 2-1232, 2-1233, 2-1234, 2-1235, 2-1236,
11 2-1237, 2-1238, 2-1239, 2-1240, 2-1241, and 2-1242,
12 Reissue Revised Statutes of Nebraska.

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

1 Section 1. Section 2-219, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-219 No person shall be permitted to exhibit or conduct
4 indecent shows or dances or to engage in any gambling or other
5 games of chance or horseracing, either inside the enclosure where
6 any state fair or district or county agricultural society fair
7 is being held or within forty rods thereof, during the time of
8 holding such fairs. Nothing in this section shall be construed to
9 prohibit wagering on the results of horseraces by the parimutuel
10 or certificate method when conducted by licensees within the
11 racetrack enclosure at licensed horserace meetings or at a
12 satellite facility, to prohibit the operation of bingo games
13 as provided in the Nebraska Bingo Act, to prohibit the conduct of
14 lotteries pursuant to the Nebraska County and City Lottery Act,
15 to prohibit the conduct of lotteries or raffles pursuant to the
16 Nebraska Lottery and Raffle Act or the Nebraska Small Lottery and
17 Raffle Act, or to prohibit the sale of pickle cards pursuant to
18 the Nebraska Pickle Card Lottery Act. Nothing in this section shall
19 be construed to prohibit the sale of intoxicating liquors, wine,
20 or beer by a person properly licensed pursuant to Chapter 53 on
21 premises under the control of the Nebraska State Fair Board or any
22 county agricultural society. Any person who violates this section
23 shall be guilty of a Class V misdemeanor. The trial of speed of
24 horses under direction of the society shall not be included in the
25 term horseracing. Upon the filing of proof with the State Treasurer

1 of a violation of this section inside the enclosure of such fair,
2 the amount of money appropriated shall be withheld from any money
3 appropriated for the ensuing year.

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

6 2-1203 The State Racing Commission shall have power to
7 prescribe and enforce rules and regulations governing horseraces
8 and race meetings licensed as provided in sections 2-1201 to
9 ~~2-1242.~~ 2-1229 and sections 13 to 20 of this act. Such rules and
10 regulations shall contain criteria to be used by the commission for
11 decisions on approving and revoking track licenses and licenses for
12 ~~teleracing satellite facilities and telephonic wagering~~ and setting
13 racing dates.

14 The commission may revoke or suspend licenses issued to
15 racing industry participants and may, in lieu of or in addition
16 to such suspension or revocation, impose a fine in an amount
17 not to exceed five thousand dollars upon a finding that a rule
18 or regulation has been violated by a licensed racing industry
19 participant. The exact amount of the fine shall be proportional
20 to the seriousness of the violation and the extent to which the
21 licensee derived financial gain as a result of the violation.

22 The commission may delegate to a board of stewards such
23 of the commission's powers and duties as may be necessary to carry
24 out and effectuate the purposes of sections 2-1201 to ~~2-1242.~~
25 2-1229 and sections 13 to 20 of this act.

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

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

10 Sec. 3. Section 2-1203.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 2-1203.01 The State Racing Commission shall:

13 (1) Enforce all state laws covering horseracing as
14 required by sections 2-1201 to ~~2-1242~~ 2-1229 and sections 13
15 to 20 of this act and enforce rules and regulations adopted
16 and promulgated by the commission under the authority of section
17 2-1203;

18 (2) License racing industry participants, race officials,
19 mutuel employees, ~~teleracing~~ satellite facility employees,
20 ~~telephone deposit center employees,~~ concessionaires, and such other
21 persons as deemed necessary by the commission and approve and
22 license ~~teleracing~~ satellite facilities and ~~telephonic wagering~~ if
23 the license applicants meet eligibility standards established by
24 the commission;

25 (3) Prescribe and enforce security provisions, including,

1 but not limited to, the restricted access to areas within track
2 enclosures, backstretch areas, and ~~teleracing~~ satellite facilities,
3 and prohibitions against misconduct or corrupt practices;

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

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

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

12 Sec. 4. Section 2-1203.02, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 2-1203.02 (1) Any person applying for or holding a
15 license to participate in or be employed at a horserace meeting
16 licensed by the State Racing Commission shall be subject to
17 fingerprinting and a check of his or her criminal history
18 record information maintained by the Identification Division of
19 the Federal Bureau of Investigation for the purpose of determining
20 whether the commission has a basis to deny the license application
21 or to suspend, cancel, or revoke the person's license, except
22 that the commission shall not require a person to be fingerprinted
23 if such person has been previously fingerprinted in connection
24 with a license application in this state or any other state
25 within the last five years prior to the application for such

1 license. Any person involved in the administration or management
2 of a racetrack or satellite facility, including the governing
3 body, shall be subject to fingerprinting and a check of his
4 or her criminal history record information maintained by the
5 Identification Division of the Federal Bureau of Investigation.
6 The applicant, licensee, or person involved in the administration
7 or management of a racetrack or satellite facility shall pay the
8 actual cost of any fingerprinting or check of his or her criminal
9 history record information. The requirements of this subsection
10 shall not apply to employees of concessions who do not work in
11 restricted-access areas, admissions employees whose duties involve
12 only admissions ticket sales and verification or parking receipts
13 sales and verification, and medical or emergency services personnel
14 authorized to provide such services at the racetrack or satellite
15 facility.

16 (2) If the applicant is an individual who is applying for
17 a license to participate in or be employed at a horserace meeting,
18 the application shall include the applicant's social security
19 number.

20 Sec. 5. Section 2-1207, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 2-1207 (1) Within the enclosure of any racetrack where
23 a race or race meeting licensed and conducted under sections
24 2-1201 to 2-1218 is held or at a racetrack licensed to simulcast
25 races or conduct interstate simulcasting, the parimutuel method

1 or system of wagering on the results of the respective races
2 may be used and conducted by the licensee. Wagers placed through
3 licensed ~~teleticing~~ satellite facilities ~~or by approved telephonic~~
4 ~~wagering~~ as authorized by sections ~~2-1230 to 2-1242~~ 13 to 20 of
5 this act shall be deemed to be wagers placed and accepted within
6 the enclosure of ~~any~~ the racetrack that operates the satellite
7 facility. Under such system, the licensee may receive wagers of
8 money from any person present at such race or racetrack receiving
9 the simulcast race or conducting interstate simulcasting or placed
10 through a licensed ~~teleticing~~ satellite facility ~~or by approved~~
11 ~~telephonic wagering~~ by any person who may legally wager on any
12 horse in a race selected by such person to run first in such
13 race, and the person so wagering shall acquire an interest in
14 the total money so wagered on all horses in such race as first
15 winners in proportion to the amount of money wagered by him
16 or her. Such licensee shall issue to each person so wagering a
17 certificate on which shall be shown the number of the race, the
18 amount wagered, and the number or name of the horse selected by
19 such person as first winner. As each race is run, at the option of
20 the licensee, the licensee may deduct from the total sum wagered
21 on all horses as first winners not less than fifteen percent or
22 more than eighteen percent from such total sum, plus the odd cents
23 of the redistribution over the next lower multiple of ten. At the
24 option of the licensee, the licensee may deduct up to and including
25 twenty-five percent from the total sum wagered by exotic wagers

1 as defined in section 2-1208.03. The State Racing Commission may
2 authorize other levels of deduction on wagers conducted by means of
3 interstate simulcasting. The licensee shall notify the commission
4 in writing of the percentages the licensee intends to deduct during
5 the live race meet conducted by the licensee and shall notify the
6 commission at least one week in advance of any changes to such
7 percentages the licensee intends to make. The licensee shall also
8 deduct from the total sum wagered by exotic wagers, if any, the tax
9 plus the odd cents of the redistribution over the next multiple of
10 ten as provided in subsection (1) of section 2-1208.04. The balance
11 remaining on hand shall be paid out to the holders of certificates
12 on the winning horse in the proportion that the amount wagered by
13 each certificate holder bears to the total amount wagered on all
14 horses in such race to run first. The licensee may likewise receive
15 such wagers on horses selected to run second, third, or both, or
16 in such combinations as the commission may authorize, the method,
17 procedure, and authority and right of the licensee, as well as the
18 deduction allowed to the licensee, to be as specified with respect
19 to wagers upon horses selected to run first.

20 (2) At all race meets held pursuant to this section, the
21 licensee shall deduct from the total sum wagered one-third of the
22 amount over fifteen percent deducted pursuant to subsection (1) of
23 this section on wagers on horses selected to run first, second, or
24 third and one percent of all exotic wagers to be used to promote
25 agriculture and horse breeding in Nebraska and for the support and

1 preservation of horseracing pursuant to section 2-1207.01.

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

8 Sec. 6. Section 2-1207.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 2-1207.01 The amount deducted from wagers pursuant to
11 subsection (2) of section 2-1207 may be used to promote agriculture
12 and horsebreeding in Nebraska, ~~and~~ shall be distributed as purse
13 supplements and breeder and stallion awards for Nebraska-bred
14 horses, as defined and registered pursuant to section 2-1213, at
15 the racetrack where the funds were generated, and may be used for
16 racetrack construction and maintenance, except that if a racetrack
17 does not continue to conduct live race meets, amounts deducted
18 may be distributed as purse supplements and breeder and stallion
19 awards at racetracks that conduct live race meets and amounts
20 deducted pursuant to a contract with the organization representing
21 the majority of the licensed owners and trainers at the racetrack's
22 most recent live race meet shall be used by that organization to
23 promote live thoroughbred horseracing in the state or as purse
24 supplements at racetracks that conduct live race meets in the
25 state. Any costs incurred by the State Racing Commission pursuant

1 to this section and subsection (2) of section 2-1207 shall be
2 separately accounted for and be deducted from such funds.

3 Sec. 7. Section 2-1208, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 2-1208 For all race meetings, every corporation or
6 association licensed under the provisions of sections 2-1201
7 to 2-1218 shall pay the tax imposed by section 2-1208.01 and
8 shall also pay to the State Racing Commission the sum of
9 sixty-four one hundredths of one percent of the gross sum wagered
10 by the parimutuel method at each licensed racetrack enclosure,
11 including all sums wagered at satellite facilities operated by
12 such racetrack, during the calendar year. For race meetings devoted
13 principally to running live races, the licensee shall pay to the
14 commission the sum of fifty dollars for each live racing day that
15 the licensee serves as the host track for intrastate simulcasting
16 and twenty-five dollars for any other live racing day. For each day
17 that wagering is conducted at a satellite facility, the licensee
18 shall pay to the commission the sum of five dollars.

19 No other license tax, permit tax, occupation tax, or
20 excise tax or racing fee, except as provided in this section
21 and in sections 2-1203~~7~~ and 2-1208.01, and ~~2-1242~~, shall be
22 levied, assessed, or collected from any such licensee by the state
23 or by any county, township, district, city, village, or other
24 governmental subdivision or body having power to levy, assess, or
25 collect any such tax or fee.

1 Sec. 8. Section 2-1211, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-1211 Every corporation or association licensed under
4 sections 2-1201 to 2-1218 shall so keep its books and records as
5 to clearly show the total number of admissions to races conducted
6 by it on each racing day, including the number of admissions
7 upon free passes or complimentary tickets, and the amount received
8 daily from admission fees and the total amount of money wagered
9 during the race meeting, including wagers at locations to which
10 its races were simulcast, including satellite facilities, and at
11 races which it received via simulcast from other racetracks, and
12 shall furnish to the State Racing Commission such reports and
13 information as it may require with respect thereto. At the end of
14 each race meeting, the licensee shall furnish to the commission
15 and the Governor a complete audit by a certified public accountant
16 detailing all expenses and disbursements. Such audit shall be in
17 the form specified by the commission and shall be filed on or
18 before February 1 following such meet.

19 Sec. 9. Section 2-1216, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 2-1216 The parimutuel system of wagering on the results
22 of horseraces, when conducted within the racetrack enclosure
23 at licensed horserace meetings or through ~~televacing~~ satellite
24 facilities, shall not under any circumstances be held or construed
25 to be unlawful, any other statutes of the State of Nebraska to

1 the contrary notwithstanding. The money inuring to the State Racing
2 Commission under sections 2-1201 to 2-1218 and ~~2-1230 to 2-1242~~
3 sections 13 to 20 of this act from permit fees or from other
4 sources shall never be considered as license money. It is the
5 intention of the Legislature that the funds arising under such
6 sections be construed as general revenue to be appropriated and
7 allocated exclusively for the specific purposes set forth in such
8 sections.

9 Sec. 10. Section 2-1221, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 2-1221 Except as provided in sections 2-1207 and ~~2-1230~~
12 ~~to 2-1242~~, sections 13 to 20 of this act, whoever directly or
13 indirectly accepts anything of value to be wagered or to be
14 transmitted or delivered for wager in any parimutuel system of
15 wagering on horseraces or delivers anything of value which has
16 been received outside of the enclosure of a racetrack holding a
17 race meet licensed under Chapter 2, article 12, or at a satellite
18 facility to be placed as wagers in the parimutuel pool within such
19 enclosure or at such satellite facility shall be guilty of a Class
20 II misdemeanor.

21 Sec. 11. Section 2-1222, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 2-1222 There is hereby created the Racing Commission's
24 Cash Fund from which shall be appropriated such amounts as are
25 available therefrom and as shall be considered incident to the

1 administration of the State Racing Commission's office. The fund
2 shall contain all license fees and gross receipt taxes collected
3 by the commission as provided under sections 2-1203, 2-1203.01,
4 and 2-1208~~7~~ and 2-1242 but shall not include taxes collected
5 pursuant to section 2-1208.01, and such fees and taxes collected
6 shall be remitted to the State Treasurer for credit to the Racing
7 Commission's Cash Fund. Any money in the fund available for
8 investment shall be invested by the state investment officer
9 pursuant to the Nebraska Capital Expansion Act and the Nebraska
10 State Funds Investment Act.

11 Sec. 12. Section 2-1226, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 2-1226 Any racetrack issued a license under sections
14 2-1201 to 2-1223 which operates at least one live race meet during
15 each calendar year except as provided in section 2-1228 may apply
16 to the commission for a simulcast facility license. An application
17 for such license shall be in such form as may be prescribed by
18 the commission and shall contain such information, material, or
19 evidence as the commission may require. Any racetrack issued a
20 simulcast facility license may display the simulcast of a horserace
21 on which parimutuel wagering shall be allowed, either at such
22 racetrack or at any authorized satellite facility.

23 Sec. 13. (1) The Legislature finds that:

24 (a) The horseracing, horse breeding, and parimutuel
25 wagering industries are important sectors of the agricultural

1 economy of the state, provide substantial revenue for state and
2 local governments, and employ many residents of the state;

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

10 (c) Parimutuel wagering through satellite facilities
11 should be authorized and regulated in a manner which would not
12 unreasonably jeopardize horseracing or employment opportunities or
13 infringe on current operations or markets of licensed racetracks.

14 (2) The Legislature hereby authorizes parimutuel wagering
15 through satellite facilities on horseraces conducted within the
16 state and on simulcasting and interstate simulcasting received by
17 licensed racetracks within the state under the regulation of the
18 State Racing Commission in the manner and subject to the conditions
19 provided in sections 2-1207 and sections 13 to 20 of this act.

20 Sec. 14. For purposes of sections 13 to 20 of this act,
21 satellite facility means a licensed facility that is outside
22 the premises of a licensed racetrack that is used for the
23 purpose of conducting satellite wagering and (1) contains one
24 or more betting terminals that are electronically linked and
25 instantaneously transmit the wagering information to the parimutuel

1 pool for acceptance, (2) issues tickets as evidence of such
2 wagering, and (3) is a place where wagers may be placed and
3 winnings may be paid.

4 Sec. 15. The State Racing Commission shall have general
5 jurisdiction over the approval of and shall issue licenses to
6 licensed racetracks for the operation of satellite facilities. The
7 commission shall adopt and promulgate rules and regulations to
8 carry out sections 13 to 20 of this act.

9 Sec. 16. The State Racing Commission shall not issue a
10 license for a satellite facility unless the local governing body
11 of the city or village in which such facility is proposed or of
12 the county, if the facility is not within the corporate limits
13 of a city or village, has by ordinance or resolution approved the
14 operation of the facility within such jurisdiction.

15 Sec. 17. Any licensed racetrack conducting live racing
16 may, alone or jointly with other licensed racetracks conducting
17 live racing, own and operate satellite facilities and may own and
18 operate as many such facilities as may be authorized by the State
19 Racing Commission.

20 Sec. 18. A licensed racetrack may conduct wagering
21 through a satellite facility on intrastate simulcasting and
22 interstate simulcasting if otherwise licensed to do so by the State
23 Racing Commission.

24 Sec. 19. (1) Any licensed racetrack desiring to own and
25 operate a satellite facility shall submit a feasibility study and

1 plan of operation to the State Racing Commission along with the
2 application therefor.

3 (2) The feasibility study shall include:

4 (a) The number of satellite facilities requested and
5 location of each satellite facility requested;

6 (b) The potential market; and

7 (c) The estimated costs of operation.

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

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

11 (b) The types and approximate cost of data processing,
12 communication, and transmission facilities that will be utilized,
13 including any backup systems; and

14 (c) Security measures.

15 The commission may request additional information from
16 the applicant.

17 Sec. 20. The State Racing Commission shall hold a hearing
18 prior to acting upon an application for a satellite facility. The
19 commission shall take into consideration the legislative findings
20 set forth in section 13 of this act in deciding whether to approve
21 and license a facility. All satellite facilities shall conform to
22 local zoning requirements and ordinances.

23 Sec. 21. Section 28-1113, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 28-1113 Nothing in this article shall be construed to:

1 (1) Apply to or prohibit wagering on the results of
2 horseraces by the parimutuel or certificate method when conducted
3 by licensees within the racetrack enclosure at licensed horserace
4 meetings or at a satellite facility; or

5 (2) Prohibit or punish the conducting or participating in
6 any bingo, lottery by the sale of pickle cards, lottery, raffle,
7 or gift enterprise when conducted in accordance with the Nebraska
8 Bingo Act, the Nebraska County and City Lottery Act, the Nebraska
9 Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the
10 Nebraska Small Lottery and Raffle Act, the State Lottery Act, or
11 section 9-701.

12 Sec. 22. This act only becomes operative upon the
13 adoption of the amendment to the Constitution of Nebraska that
14 authorizes the changes made by this legislative bill by the
15 electorate at the general election in November 2010.

16 Sec. 23. Original sections 2-219, 2-1203, 2-1203.01,
17 2-1203.02, 2-1207, 2-1207.01, 2-1208, 2-1211, 2-1216, 2-1221,
18 2-1222, 2-1226, and 28-1113, Reissue Revised Statutes of Nebraska,
19 are repealed.

20 Sec. 24. The following sections are outright repealed:
21 Sections 2-1230, 2-1231, 2-1232, 2-1233, 2-1234, 2-1235, 2-1236,
22 2-1237, 2-1238, 2-1239, 2-1240, 2-1241, and 2-1242, Reissue Revised
23 Statutes of Nebraska.