

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 806

Final Reading

Introduced by Lautenbaugh, 18; Larson, 40; Schilz, 47.

Read first time January 05, 2012

Committee: Judiciary

A BILL

1 FOR AN ACT relating to horseracing; to amend sections 2-1203.01,
2 2-1215, and 2-1222, Reissue Revised Statutes of Nebraska;
3 to authorize the State Racing Commission to license and
4 regulate wagering on historic horseraces as prescribed;
5 to provide for a tax on wagers; to create a fund; to
6 provide a penalty; to change penalty provisions; to
7 change provisions relating to the source and use of the
8 Racing Commission's Cash Fund; to provide severability;
9 and to repeal the original sections.

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

1 Section 1. Section 2-1203.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-1203.01 The State Racing Commission shall:

4 (1) Enforce all state laws covering horseracing as
5 required by sections 2-1201 to 2-1242 and enforce rules and
6 regulations adopted and promulgated by the commission under the
7 authority of section 2-1203;

8 (2) License racing industry participants, race officials,
9 mutuel employees, teleracing facility employees, telephone deposit
10 center employees, concessionaires, and such other persons as deemed
11 necessary by the commission and approve and license teleracing
12 facilities and telephonic wagering if the license applicants meet
13 eligibility standards established by the commission;

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

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

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

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

1 (7) Be authorized to license and regulate parimutuel
2 wagering on historic horseraces as defined in section 2 of this act
3 within a licensed racetrack enclosure as provided in sections 2 to 4
4 of this act. If the use of historic horseracing machines at licensed
5 racetrack enclosures as regulated by the commission results in a
6 final order of a court of competent jurisdiction determining that
7 such activity allows for any additional Class III gaming as defined
8 in the federal Indian Gaming Regulatory Act with the exception of
9 horseracing or historic horseracing, the authorization of wagering on
10 historic horseracing under this subdivision and sections 2 to 4 of
11 this act terminates one year after the date of the final order. All
12 licenses issued pursuant to this subdivision and the authorization to
13 license and regulate under this subdivision terminate after four
14 years of continuous use of historic horseracing machines, starting
15 from the date of the original order of the commission permitting the
16 use, unless the commission determines that (a) a racetrack enclosure
17 is constructed in a county which contains a city of the primary class
18 and (b) racetrack enclosures at which historic horseracing machines
19 are in use for four years of continuous use, starting from the date
20 of the original order of the commission permitting the use, have (i)
21 a thirty percent increase in the number of days of live horseraces
22 compared to the number of days of live horseraces in 2011 for
23 racetrack enclosures located in any county that does not contain a
24 city of the metropolitan class or a forty percent increase in the
25 number of days of live horseraces compared to the number of days of

1 live horseraces in 2011 for racetrack enclosures located in a county
2 that does contain a city of the metropolitan class or (ii) a twenty-
3 five percent increase in the purse at the racetrack enclosure
4 compared to the purse at the racetrack enclosure in 2011.

5 Sec. 2. (1) For purposes of licensure and regulation
6 pursuant to subdivision (7) of section 2-1203.01, historic horserace
7 means a form of horserace that creates a parimutuel pool from wagers
8 placed on a horserace previously held.

9 (2) The commission may adopt and promulgate rules and
10 regulations to implement subdivision (7) of section 2-1203.01.

11 (3) As part of the regulation under subdivision (7) of
12 section 2-1203.01, the commission shall require enough of the
13 historic horserace to be televised so as to maintain the integrity of
14 such horserace before another wager takes place or before beginning
15 another historic horserace.

16 (4) As part of the regulation under subdivision (7) of
17 section 2-1203.01, the commission shall impose an initial, one-time
18 licensing fee of one thousand dollars for each machine used for
19 parimutuel wagering on historic horseraces. The commission shall
20 remit the fees to the State Treasurer for credit to the Historic
21 Horseracing Distribution Fund.

22 Sec. 3. (1) In lieu of any other tax imposed under
23 sections 2-1201 to 2-1242 on a licensed racetrack enclosure and in
24 lieu of any other tax otherwise applicable to parimutuel wagering,
25 (a) there is hereby imposed a tax on the gross sum wagered by the

1 parimutuel method at each licensed racetrack enclosure on historic
2 horseraces at a rate of one percent of the first one hundred million
3 dollars collected from wagering on historic horseraces at the
4 licensed racetrack enclosure, one and one-half percent of the second
5 one hundred million dollars collected from wagering on historic
6 horseraces at the licensed racetrack enclosure, and two percent on
7 all additional money collected from wagering on historic horseraces
8 and (b)(i) if the racetrack enclosure is not located within the
9 corporate limits of a city, the licensee of the racetrack enclosure
10 shall remit one-tenth of one percent of the gross sum wagered under
11 this section to the county treasurer of the county in which the
12 racetrack enclosure is located for credit to the county general fund,
13 and (ii) if the racetrack enclosure is located within the corporate
14 limits of a city, the licensee of the racetrack enclosure shall remit
15 five-hundredths of one percent of the gross sum wagered to such
16 county treasurer for credit to the county general fund and five-
17 hundredths of one percent of the gross sum wagered to the city
18 treasurer of the city in which the racetrack enclosure is located for
19 credit to the city general fund.

20 (2) A return as required by the Tax Commissioner shall be
21 filed for a racetrack enclosure for each month during which wagers on
22 historic horseraces are accepted at the enclosure. The return shall
23 be filed with and the tax due pursuant to subdivision (1)(a) of this
24 section shall be paid to the Department of Revenue on the tenth day
25 of the month following receipt of the tax. The Tax Commissioner shall

1 remit all revenue collected or received from the tax imposed under
2 subdivision (1)(a) of this section to the State Treasurer for credit
3 to the Historic Horseracing Distribution Fund.

4 Sec. 4. (1) The Historic Horseracing Distribution Fund is
5 hereby created in the Department of Revenue. All costs for
6 administration of the fund shall be paid from such fund.

7 (2) All receipts in the Historic Horseracing Distribution
8 Fund in excess of the amounts sufficient to cover the costs of
9 administration shall be distributed as follows:

10 (a) One-half of all such receipts shall be credited to
11 the Racing Commission's Cash Fund to be used by the State Racing
12 Commission for programs which facilitate equine therapy for youth and
13 veterans and programs which promote equine and equestrian activities
14 in Nebraska; and

15 (b) One-half of all such receipts shall be credited to
16 the Compulsive Gamblers Assistance Fund.

17 (3) Any money in the Historic Horseracing Distribution
18 Fund available for investment shall be invested by the state
19 investment officer pursuant to the Nebraska Capital Expansion Act and
20 the Nebraska State Funds Investment Act.

21 Sec. 5. Section 2-1215, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 2-1215 (1) Except as otherwise provided in subsection (2)
24 of this section, it shall be a Class I misdemeanor for:

25 (a) Any person, corporation, or association holding or

1 ~~conducting to hold or conduct~~ any horserace or horserace meeting, in
 2 connection with which the ~~said~~ parimutuel system of wagering is used
 3 or to be used, without a license duly issued by the State Racing
 4 Commission; ~~or any~~

5 (b) Any person, corporation, or association holding or
 6 ~~conducting to hold or conduct~~ horseraces or horserace meetings, in
 7 connection with which any wagering is permitted, in a otherwise than
 8 ~~in the manner hereinbefore specified~~ not authorized by law; or any

9 (c) Any person, corporation, or association violating to
 10 violate any of the provisions of sections 2-1201 to 2-1218 or any of
 11 the rules and regulations prescribed by the commission. ~~shall be~~
 12 ~~guilty of a Class I misdemeanor.~~

13 (2) It shall be a Class III misdemeanor to use a device
 14 for parimutuel wagering on historic horseraces as defined in section
 15 2 of this act outside the premises of a licensed racetrack enclosure.

16 Sec. 6. Section 2-1222, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 2-1222 (1) There is hereby created the Racing
 19 Commission's Cash Fund from which shall be appropriated such amounts
 20 as are available therefrom and as shall be considered incident to the
 21 administration of the State Racing Commission's office and for
 22 purposes of programs which facilitate equine therapy for youth and
 23 veterans and programs which promote equine and equestrian activities
 24 in Nebraska as provided in subsection (3) of this section.

25 (2) The fund shall contain all license fees and gross

1 receipt taxes collected by the commission as provided under sections
2 2-1203, 2-1203.01, 2-1208, and 2-1242 but shall not include taxes
3 collected pursuant to section 2-1208.01, and such fees and taxes
4 collected shall be remitted to the State Treasurer for credit to the
5 Racing Commission's Cash Fund.

6 (3) The amount transferred to the fund under section 4 of
7 this act shall be used by the State Racing Commission for programs
8 which facilitate equine therapy for youth and veterans and programs
9 which promote equine and equestrian activities in Nebraska.

10 (4) Any money in the fund available for investment shall
11 be invested by the state investment officer pursuant to the Nebraska
12 Capital Expansion Act and the Nebraska State Funds Investment Act.

13 Sec. 7. If any section in this act or any part of any
14 section is declared invalid or unconstitutional, the declaration
15 shall not affect the validity or constitutionality of the remaining
16 portions.

17 Sec. 8. Original sections 2-1203.01, 2-1215, and 2-1222,
18 Reissue Revised Statutes of Nebraska, are repealed.