

IN THE SENATE

SENATE BILL NO. 1087

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO HORSE RACING; AMENDING SECTION 54-2512, IDAHO CODE, TO REVISE A PROVISION REGARDING DISTRIBUTION OF THE SOURCE MARKET FEE AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION; AND PROVIDING A SUNSET DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-2512, Idaho Code, be, and the same is hereby amended to read as follows:

54-2512. PARI-MUTUEL BETTING -- OTHER BETTING ILLEGAL. (1) Any licensee conducting a race meet under this chapter may provide a place or places in the race meet grounds or enclosure at which such licensee may conduct and supervise the use of the pari-mutuel system by patrons on the result of the races conducted by such licensee at such race meet and, upon written application by a licensee and approval by the commission, on the result of simulcast and/or televised races. The commission shall issue no more than one (1) license to simulcast per live race meet licensee and there shall be no more simulcasting sites in the state than there are licensed live race meet sites.

(2) Licenses authorizing simulcast and/or televised races will be regulated by the commission, in addition to its other responsibilities, for the purpose of enhancing, promoting, and protecting the live race industry in the state of Idaho. No license authorizing simulcasting and/or televised races shall be issued to or renewed for persons that are not also licensed to conduct live race meets in the state of Idaho. Persons applying for a simulcast and/or televised race license shall have an agreement reached voluntarily or pursuant to binding arbitration in conformance with chapter 9, title 7, Idaho Code, with a horsemen's group as the term "horsemen's group" is defined in section 54-2502, Idaho Code. The agreement shall address, but not be limited to, the number of live race days and the percentage of the live race and simulcast handle that is dedicated to the live horse race purse structure. In addition, the agreement shall provide that all simulcast purse moneys that are accrued as required by the horsemen's agreement be held in the simulcast purse moneys fund created pursuant to the provisions of section 54-2508, Idaho Code. Race days agreed upon shall be submitted to the Idaho state racing commission for its approval.

(3) Upon written application by a live horse race licensee and approval by the Idaho state racing commission, a license may be issued to conduct and supervise the use of the pari-mutuel system by patrons on the result of simulcast and/or televised races in a facility not located on the grounds of a live horse race meet facility, but within the county that the live horse race facility is located, subject to the following restrictions:

(a) In addition to the distribution and payment of the handle as described in section 54-2513, Idaho Code, a licensee operating under a license described in this subsection shall pay to the Idaho state racing commission, for deposit in the live horse race purse distribution fund, a minimum of one percent (1%) of the gross daily receipts from simulcast and/or televised races. The Idaho state racing commission shall distribute the moneys from the live horse race purse distribution fund to those live horse race licensees that ran less than fifteen (15) live race days during the preceding calendar year. The distribution shall be made by dividing the total number of live race days of all of the qualified live horse racetracks combined into the moneys collected by the fund in any one (1) calendar year and by multiplying the result by the number of days run by each of the respective live horse racetracks individually; and

(b) Additionally, the licensee shall pay to the Idaho state racing commission a minimum of one percent (1%) of the gross daily receipts from simulcast and/or televised races conducted pursuant to the live horse race purse distribution fund to the licensee whose license is being utilized to conduct simulcast and/or televised races pursuant to this section. These moneys shall be used by the licensee solely for live horse race meet purses; and

(c) Approval must be obtained from the board of county commissioners; and

(d) A license to conduct and supervise the use of the pari-mutuel system by patrons on the result of simulcast and/or televised races issued pursuant to this section may be leased to another person or entity, but only with the approval of the Idaho state racing commission. A lessee of such a license shall be held by the Idaho state racing commission to the same standards as the original licensee.

(4) Upon written application by a live horse race licensee and approval by the Idaho state racing commission, a license may be issued to conduct and supervise the use of the pari-mutuel system by patrons on the result of simulcast and/or televised races in a facility located in another county within the state other than the county where the licensee's live racetrack facility is located, subject to the following restrictions:

(a) In addition to the distribution and payment of the handle as described in section 54-2513, Idaho Code, a licensee operating under a license described in this subsection shall pay to the Idaho state racing commission, for deposit in the live horse race purse distribution fund, a minimum of one percent (1%) of the gross daily receipts from simulcast and/or televised races. The Idaho state racing commission shall distribute the moneys from the live horse race purse distribution fund to those live horse race licensees that ran less than fifteen (15) live race days during the preceding calendar year. The distribution shall be made by dividing the total number of live race days of all of the qualified live horse racetracks combined into the moneys collected by the fund in any one (1) calendar year and by multiplying the result by the number of days run by each of the respective live horse racetracks individually; and

1 (b) Additionally, the licensee shall pay to the Idaho state racing com-
2 mission a minimum of one percent (1%) of the gross daily receipts from
3 simulcast and/or televised races conducted pursuant to the live horse
4 race purse distribution fund to the licensee whose license is being uti-
5 lized to conduct simulcast and/or televised races pursuant to this sec-
6 tion. These moneys shall be used by the licensee solely for live horse
7 race meet purses; and

8 (c) Approval must be obtained from the board of county commissioners of
9 the county in which the simulcast and/or televised race facility is to
10 be located; and

11 (d) A license to conduct and supervise the use of the pari-mutuel sys-
12 tem by patrons on the result of simulcast and/or televised races issued
13 under this section may be leased to another person or entity, but only
14 with the approval of the Idaho state racing commission. A lessee of such
15 a license shall be held by the Idaho state racing commission to the same
16 standards as the original licensee.

17 (e) No simulcast and/or televised race license transferred from one
18 ~~(1)~~ county to another shall be located in a facility within thirty (30)
19 miles of a live horse racetrack without the approval of that live horse
20 racetrack facility.

21 (f) No simulcast and/or televised race license can be transferred
22 into a county that has had a live race license within the prior five (5)
23 years.

24 (5) No more than one (1) simulcast and/or televised race facility per
25 county shall be allowed. This includes the one (1) simulcast license autho-
26 rized in section 54-2514A, Idaho Code.

27 (6) There is hereby created in the state treasury the live horse race
28 purse distribution fund, to which shall be deposited moneys received by the
29 Idaho state racing commission for the purposes described in this section.
30 All moneys in the live horse race purse distribution fund are hereby perpet-
31 ually appropriated to the Idaho state racing commission for payment as re-
32 quired in this section. Payments by the Idaho state racing commission from
33 the live horse race purse distribution fund to the recipient live horse race-
34 tracks shall be made no later than thirty (30) days after Idaho state racing
35 commission approval of a live race meet license application for the forth-
36 coming calendar year.

37 (7) Once a total handle exceeding fourteen million dollars
38 (\$14,000,000) is realized from simulcasting and/or televised races con-
39 ducted pursuant to this section in any one (1) calendar year, the Idaho state
40 racing commission shall submit to the Idaho horse board a sum of five percent
41 (5%) of the balance over fourteen million dollars (\$14,000,000), but not to
42 exceed twelve thousand five hundred dollars (\$12,500) to be used by the Idaho
43 horse board for youth programs and to the "Idaho Robert R. Lee Promise Schol-
44 arship Program" as detailed in chapter 43, title 33, Idaho Code, a sum of five
45 percent (5%) of the balance over fourteen million dollars (\$14,000,000), but
46 not to exceed twelve thousand five hundred dollars (\$12,500).

47 (8) Such pari-mutuel system conducted at such race meet shall not under
48 any circumstances, if conducted under the provisions of this chapter and in
49 conformity thereto and to the rules of the commission, be held or construed

1 to be unlawful, other statutes of this state to the contrary notwithstanding.
2

3 (9) The participation by a licensee in an interstate combined wagering
4 pool does not cause that licensee to be considered to be doing business in any
5 jurisdiction other than the jurisdiction in which the licensee is physically
6 located.

7 (10) Advance deposit wagering on live and/or simulcast horse racing
8 conducted by licensees is hereby declared to be lawful and within the scope
9 of the licensee's license. As used in this section, "advance deposit wager-
10 ing" means a form of wagering in which an account holder may deposit money
11 with a licensee and then use the balance to fund wagers. The bettor can
12 then contact the licensee from a location without actually being physically
13 present at the licensee's premises in order to communicate the desired use of
14 those funds for wagering purposes. However, no wager can be accepted by the
15 licensee that exceeds the amount in the account held by the licensee for the
16 person placing the wager. Any advance deposit wagering conducted by a person
17 with a provider outside of the state by telephone or other electronic means
18 shall be a felony unless that provider is licensed by the Idaho state racing
19 commission and provides a source market fee of not less than ten percent
20 (10%) of the handle forwarded monthly to the commission. In order to receive
21 an advance deposit wagering license, the applicant must comply with the
22 provisions of subsection (12) of this section and must also reach a nondis-
23 criminatory agreement regarding signal costs with any licensed facility in
24 Idaho if such provider or affiliate is sending interstate simulcast signals
25 to such licensed facility in Idaho. All moneys in the advance deposit wager-
26 ing accounts held by the commission are hereby continuously appropriated to
27 the commission for payment as required by this section. ~~Payments to recip-~~
28 ~~ients shall be made annually.~~ Distribution of the source market fee shall
29 be ~~forty~~ twenty percent (~~40~~20%) to purses to be deposited directly into the
30 horsemen's purse account at all tracks weighted by the number of races ran
31 run through the year of distribution with payment to be made annually, thirty
32 ten percent (310%) to the simulcast sites in the state weighted by the annual
33 simulcast handle with payment to be made annually, five percent (5%) to the
34 track distribution fund with payment to be made annually, five percent (5%)
35 to the breed distribution fund with payment to be made quarterly, forty-five
36 percent (45%) to the Idaho state racing commission with payment to be made
37 monthly, five percent (5%) to the public school income fund with payment
38 to be made annually, and ten percent (10%) for track operating expenses at
39 the live tracks with distribution weighted on the number of race days with
40 payment to be made annually. All moneys in the track operating accounts are
41 hereby continuously appropriated to the commission for payment as required
42 by this section. For purposes of this section, wagering instructions con-
43 cerning funds held in an advance deposit account shall be deemed to be issued
44 within the licensee's enclosure. As used in this section, "source market
45 fee" means that part of a wager, made outside of the state by an Idaho resi-
46 dent, that is returned to the state of Idaho. The commission may promulgate
47 rules pursuant to chapter 52, title 67, Idaho Code, to implement the provi-
48 sions of this subsection.

1 (11) Pari-mutuel taxes or commissions may not be imposed on any amounts
 2 wagered in an interstate combined wagering pool other than amounts wagered
 3 within this jurisdiction.

4 (12) No licensee shall engage in any anticompetitive or deceptive prac-
 5 tices in the process of contracting for the right to send any interstate
 6 simulcast signal to a licensed facility in Idaho. For purposes of this sub-
 7 section, anticompetitive or deceptive practices shall include, but not be
 8 limited to:

9 (a) Any agreement to charge excessive or unreasonable fees for the
 10 right to receive an interstate signal. In determining whether a fee is
 11 excessive or unreasonable, the commission shall consider prevailing
 12 rates paid for comparable signals in the past, prevailing rates paid
 13 outside Idaho and whether any commonality of ownership or revenue shar-
 14 ing exists, partially or wholly, between the Idaho licensee and the
 15 entity receiving the simulcast fees; or

16 (b) Any agreement, combination, trust or joint enterprise with any
 17 other track or entity in which multiple interstate signals are bundled
 18 together for the purpose of securing an excessive or unreasonable fee
 19 for one (1) or more signals in the group in exchange for the right to
 20 receive any of the signals in the group; or

21 (c) Any other activity with the purpose or effect of artificially in-
 22 flating prices beyond reasonable market rates or passing on or attempt-
 23 ing to pass on any portion of the ten percent (10%) advance deposit wa-
 24 gering fee to licensed facilities in Idaho.

25 The commission may suspend or revoke licenses and may impose civil penalties
 26 of up to ten thousand dollars (\$10,000) per occurrence for violation of this
 27 subsection.

28 (13) It shall be unlawful to conduct pool selling, bookmaking, or to
 29 circulate handbooks, or to bet or wager on a race of any licensed race meet,
 30 other than by the pari-mutuel system; and it shall further be unlawful know-
 31 ingly to permit any minor to use the pari-mutuel system.

32 SECTION 2. An emergency existing therefor, which emergency is hereby
 33 declared to exist, this act shall be in full force and effect on and after its
 34 passage and approval, and retroactively to January 1, 2017.

35 SECTION 3. The provisions of Section 1 of this act shall be null, void
 36 and of no force and effect on and after January 1, 2019.