

Act No. 408
Public Acts of 1998
Approved by the Governor
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Reps. Griffin, Frank, Law, Curtis, Hanley, Hale and Bankes

ENROLLED HOUSE BILL No. 5400

AN ACT to amend 1995 PA 279, entitled "An act to license and regulate the conducting of horse race meetings in this state with pari-mutuel wagering on the results of horse races and persons involved in horse racing and pari-mutuel gaming activities at such race meetings; to create the office of racing commissioner; to prescribe the powers and duties of the racing commissioner; to prescribe certain powers and duties of the department of agriculture and the director of the department of agriculture; to provide for the promulgation of rules; to provide for the imposition of taxes and fees and the disposition of revenues; to impose certain taxes; to create funds; to legalize and permit the pari-mutuel method of wagering on the results of live and simulcast races at licensed race meetings in this state; to appropriate the funds derived from pari-mutuel wagering on the results of horse races at licensed race meetings in this state; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending sections 10, 14, 17, and 18 (MCL 431.310, 431.314, 431.317, and 431.318) and by adding section 19a.

The People of the State of Michigan enact:

Sec. 10. (1) A person desiring to conduct a thoroughbred, standardbred, quarter horse, Appaloosa, or Arabian race meeting, or a combination of these race meetings, with pari-mutuel wagering on the results of live and simulcast horse races pursuant to this act shall apply each year to the racing commissioner for a race meeting license in the manner and form required by the racing commissioner. The application shall be filed with the racing commissioner before September 1 of the preceding year except that applications for 1999 racing dates may be filed at any time. The application, after being filed, shall be made available for public inspection during regular business hours. The application shall be in writing and shall give the name and address of the applicant, and, if the applicant is a corporation or partnership, shall state the place of the applicant's incorporation or partnership and the names and addresses of all corporate directors, officers, shareholders, and partners. The application shall also do all of the following:

- (a) Specify the licensed racetrack at which the proposed race meeting will be held.
- (b) Specify whether the applicant requests or will request to conduct simulcasting at the proposed race meeting and, if so, demonstrate the applicant's ability to conduct simulcasting in accordance with this act.
- (c) Specify the horse breed for which the applicant desires to conduct live racing at the proposed race meeting, and the days on which the applicant proposes to conduct live horse racing at the race meeting.
- (d) Specify the time period during which the applicant requests to be licensed during the calendar year immediately following the date of application.
- (e) Demonstrate to the racing commissioner that the applicant and all persons associated with the applicant who hold any beneficial or ownership interest in the business activities of the applicant or who have power or ability to influence or control the business decisions or actions of the applicant satisfy all of the following requirements:
 - (i) Are persons of good character, honesty, and integrity.

- (ii) Possess sufficient financial resources and business ability and experience to conduct the proposed race meeting.
- (iii) Do not pose a threat to the public interest of the state or to the security and integrity of horse racing or pari-mutuel wagering on the results of horse races in the state.
- (f) Provide any other information required by the rules promulgated under this act or by the racing commissioner.

(2) Upon the filing of the application for a race meeting license, the racing commissioner shall conduct an investigation of the applicant and the application to determine whether the applicant, application, and proposed race meeting comply with the licensing requirements under this act and the rules promulgated under this act. Unless a different agreement is reached by all the race meeting licensees in a city area, a race meeting licensee shall not conduct a live thoroughbred horse race after 6:45 p.m. on any day except Sunday. Unless a different agreement is reached by all the race meeting licensees in a city area, a race meeting licensee shall not conduct a live standardbred horse race before 6:45 p.m. on any day except Sunday. Notwithstanding the 6:45 p.m. time restrictions, the commissioner, upon request by a race meeting licensee, may grant to the race meeting licensee a race meeting license authorizing any of the following:

(a) The licensee to conduct live horse racing programs that would otherwise be prevented by the 6:45 p.m. time restriction, if no other race meeting in a city area is licensed or authorized to conduct live horse racing at the same time the licensee proposes to conduct the requested live horse racing programs.

(b) Waiver of the 6:45 p.m. time restriction pursuant to the written agreement of all race meeting licensees in the city area.

(c) The licensee to conduct live horse racing programs after 6:45 p.m., if the licensee is not in a city area and is 75 miles or more from the nearest race meeting licensee authorized to conduct live horse racing.

Sec. 14. (1) Except as provided in subsection (8), before November 1 of the year preceding the year for which applications are made, the racing commissioner shall grant or deny each application for a race meeting license, allocate or deny the dates, for which application has been made, on which pari-mutuel wagering on live races may be conducted at each licensed race meeting in this state, and shall also determine whether the applicant may simulcast under section 18 during the calendar year for which the license is issued. The racing commissioner may grant a race meeting license for any time period up to 1 year during which the licensee may conduct live and simulcast horse races with pari-mutuel wagering on the results of such races.

(2) Subject to section 12(7), all simulcasting authorized by the racing commissioner shall be conditioned upon the holder of the license conducting at least 9 live horse races on each live racing date allocated in the holder's race meeting license, unless this requirement is waived in writing by both the racing commissioner and the certified horsemen's organization with which the licensee has contracted.

(3) The racing commissioner shall not issue a race meeting license to an organization organized for a charitable purpose or organized for the purpose of distributing its profits or income to charitable organizations.

(4) Except as provided in section 12(7), (8), and (9), if after the issuance of a race meeting license, the racing commissioner determines upon further investigation that the holder of a race meeting license has not met, or will be unable to meet, the requirements of the license, the racing commissioner may impose a fine or suspend or revoke the race meeting license, or both, for all or part of the remainder of the time period for which the license was granted. Before making the required determination to impose a fine or suspend or revoke a race meeting license under this subsection, the racing commissioner shall consider whether the race meeting licensee's inability or failure to meet the requirements of its license is due to a cause beyond the control of the race meeting licensee.

(5) Any action taken by the racing commissioner under subsection (4) shall become effective 10 days after the holder of the race meeting license has received written notice unless the commissioner finds that the public health, safety, or welfare requires emergency action and immediate effect of the commissioner's order.

(6) A denial of a race meeting license under subsection (3) may be appealed to the circuit court for judicial review pursuant to section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631. A suspension or revocation of a race meeting license may be appealed pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(7) Each applicant issued a race meeting license shall maintain an interest bearing account used exclusively for deposit of all funds due horsemen's purse pools under this act. All funds due to this account shall be deposited within a reasonable time after receipt by the race meeting licensee. The name of the depository and the identification number of the account shall be designated in each race meeting license application and all interest earned by the account shall be credited to the purse pool and deposited in the account.

(8) The November 1 deadline provided in subsection (1) does not apply to 1999 thoroughbred race meeting dates. The racing commissioner may issue 1999 thoroughbred race meeting dates at any time.

Sec. 17. (1) The pari-mutuel system of wagering upon the results of horse races as permitted by this act shall not be held or construed to be unlawful. All forms of pari-mutuel wagering conducted at a licensed race meeting shall be preapproved by the racing commissioner pursuant to rule or written order of the commissioner.

(2) A holder of a race meeting license may provide a place in the race meeting grounds or enclosure at which he or she may conduct and supervise the pari-mutuel system of wagering on the results of horse races as permitted by this act. If the pari-mutuel system of wagering is used at a race meeting, a totalisator or other device that is equal in accuracy and clearness to a totalisator and approved by the racing commissioner shall be used. The odds display of the totalisator or other device shall be placed in full view of the patrons.

(3) Subject to section 18(3), each holder of a race meeting license shall retain as his or her commission on all forms of straight wagering 17% of all money wagered involving straight wagers on the results of live and simulcast horse races conducted at the licensee's race meetings. Subject to section 18(3), each holder of a race meeting license shall retain as his or her commission on all forms of multiple wagering, without the written permission of the racing commissioner not more than 28% and with the written permission of the racing commissioner not more than 35% of all money wagered involving any form of multiple wager on the results of live and simulcast horse races conducted at the licensee's race meeting. Except as otherwise provided by contract, 50% of all commissions from wagering on the results of live racing at the racetrack where the live racing was conducted shall be paid to the horsemen's purse pool at the racetrack where the live racing was conducted. As used in this subsection:

(a) "Straight wagering" means a wager made on the finishing position of a single specified horse in a single specified race.

(b) "Multiple wagering" means a wager made on the finishing positions of more than 1 horse in a specified race or the finishing positions of 1 or more horses in more than 1 specified race.

(4) All breaks shall be retained by the race meeting licensee and paid directly to the city or township in which the racetrack is located as a fee for services provided pursuant to section 21.

(5) Payoff prices of tickets of a higher denomination shall be calculated as even multiples of the payoff price for a \$1.00 wager. Each holder of a race meeting license shall distribute to the persons holding winning tickets, as a minimum, a sum not less than \$1.10 calculated on the basis of each \$1.00 deposited in a pool, except that each race meeting licensee may distribute a sum of not less than \$1.05 to persons holding winning tickets for each \$1.00 deposited in a minus pool. As used in this subsection, "minus pool" means any win, place, or show pool in which the payout would exceed the total value of the pool.

(6) A holder of a race meeting license shall not knowingly permit a person less than 18 years of age to be a patron of the pari-mutuel wagering conducted or supervised by the holder.

(7) Any act or transaction relative to pari-mutuel wagering on the results of live or simulcast horse races shall only occur or be permitted to occur within the enclosure of a licensed race meeting. A person shall not participate or be a party to any act or transaction relative to placing a wager or carrying a wager for placement outside of a race meeting ground. A person shall not provide messenger service for the placing of a bet for another person who is not a patron. However, this subsection does not prevent simulcasting or intertrack or interstate common pool wagering inside or outside this state as permitted by this act or the rules promulgated under this act.

Sec. 18. (1) Simulcasting by race meeting licensees may be authorized by the racing commissioner subject to the limitations of this section. As used in this section, "simulcast" means the live transmission of video and audio signals conveying a horse race held either inside or outside this state to a licensed race meeting in this state. A simulcast from 1 racetrack in this state to another racetrack in this state shall be called an "intertrack simulcast". A simulcast from a racetrack outside this state to a racetrack inside this state shall be called an "interstate simulcast".

(2) The holder of a race meeting license may apply to the racing commissioner, in the manner and form required by the commissioner, for a permit to televise simulcasts of horse races to viewing areas within the enclosure of the licensed racetrack at which the applicant is licensed to conduct its race meeting. The commissioner may issue a permit for individual race and full card simulcasts televised during, between, before, or after programmed live horse races on any day that live racing is conducted by the applicant, and also on other days during the term of the applicant's license when the applicant does not conduct live horse racing, subject to the following conditions:

(a) The applicant shall have a current contract with a certified horsemen's organization.

(b) The applicant shall have applied for and been allocated the minimum number of live racing dates required by section 12(1) to (5), subject to the availability of adequate horse supply as determined by the racing commissioner.

(c) The applicant shall make a continuing good faith effort throughout the duration of its race meeting to program and conduct not less than 9 live horse races on each live racing date allocated to the applicant.

(d) The certified horsemen's organization with which the applicant has contracted shall have consented to the requested simulcasts on any live racing day when the applicant is unable to program and conduct not less than 9 live horse races, if required by section 12(6).

(e) If the requested simulcasts are interstate, the applicant shall waive in writing any right that the applicant may have under the interstate horse racing act of 1978, Public Law 95-515, 15 U.S.C. 3001 to 3007, to restrict interstate simulcasts by other race meeting licensees in this state.

(f) If the applicant conducts its race meeting in a city area, the applicant shall make the video and audio signals of its live horse races available for intertrack simulcasting to all licensed race meetings in this state located more than 12 miles from the applicant's race meeting. The applicant shall charge each race meeting licensee the same fee to receive its live signals for intertrack simulcasting. The fee shall not exceed 3% of the total amount wagered on the intertrack simulcast at each race meeting that receives the simulcast.

(g) Except as otherwise agreed by the race meeting licensees in a city area and the respective certified horsemen's organizations with which they contract, a licensee in a city area shall receive all available intertrack simulcasts from licensed race meetings in the city area located more than 12 miles from the licensee's race meeting.

(h) A licensed race meeting outside a city area shall not conduct interstate simulcasts unless it also receives all intertrack simulcasts from licensed race meetings in a city area that are available.

(i) All applicants conducting licensed race meetings in a city area shall authorize all other race meeting licensees in the state to conduct simulcasts of the breed for which the applicant is licensed to conduct live horse racing. An applicant may not conduct interstate simulcasts unless authorization to do so is given by the applicant, in accordance with subdivision (j), permitting all other race meeting licensees to receive interstate simulcasts of a different breed than they are licensed to race live.

(j) A race meeting licensee shall not conduct an interstate simulcast of a different breed than it is licensed to race live at its race meeting, unless the licensee has the written permission of all race meeting licensees in a city area that are licensed to race that breed live at their race meetings.

(k) All authorized simulcasts shall be conducted in compliance with the written permit and related orders issued by the racing commissioner and all other requirements and conditions of this act and the rules of the racing commissioner promulgated under this act.

(l) All authorized interstate simulcasts shall also comply with the interstate horse racing act of 1978, Public Law 95-15, 15 U.S.C. 3001 to 3007.

(3) All forms of wagering by pari-mutuel methods provided for under this act for live racing shall be allowed on simulcast horse races authorized under this section. All money wagered on simulcast horse races at a licensed race meeting shall be included in computing the total amount of all money wagered at the licensed race meeting for purposes of section 17. When the simulcast is an interstate simulcast, the money wagered on that simulcast shall form a separate pari-mutuel pool at the receiving track unless 2 or more licensees receive the same interstate simulcast signals or the racing commissioner permits the receiving track to combine its interstate simulcast pool with the pool created at the out-of-state sending track on the same race. If 2 or more licensees receive the same interstate simulcast signals, the money wagered on the simulcasts shall be combined in a common pool and the licensees shall jointly agree and designate at which race meeting the common pool will be located. However, if the law of the jurisdiction in which the sending racetrack is located permits interstate common pools at the sending racetrack, the racing commissioner may permit pari-mutuel pools on interstate simulcast races in this state to be combined with pari-mutuel pools on the same races created at the out-of-state sending racetrack. If the pari-mutuel pools on the interstate simulcast races in this state are combined in a common pool at the out-of-state sending track, then the commissions described in section 17 on the pool created in this state shall be adjusted to equal the commissions in effect at the sending track under the laws of its jurisdiction. If the simulcast is an intertrack simulcast, the money wagered on that simulcast at the receiving racetrack shall be added to the pari-mutuel pool at the sending racetrack.

(4) Each race meeting licensee that receives an interstate simulcast shall pay to the horsemen's simulcast purse pool established under section 19 a sum equal to 40% of the licensee's net commission from all money wagered on the interstate simulcast, as determined by section 17(3) after first deducting from the licensee's statutory commission the applicable state tax on wagering due and payable under section 22 and the actual verified fee paid by the licensee to the sending host track to receive the interstate simulcast signal. The licensee shall retain the remaining balance of its net commission and shall be responsible for paying all other capital and operational expenses related to receiving interstate simulcasts at its race meeting. Any subsequent rebate of a fee paid by a licensee to receive interstate simulcast signals shall be shared equally by the licensee and the horsemen's simulcast purse pool established under section 19.

(5) A race meeting licensee licensed to conduct pari-mutuel horse racing in a city area shall provide the necessary equipment to send intertrack simulcasts of the live horse races conducted at its race meeting to all other race meeting licensees in this state, and shall send its intertrack simulcast signals to those licensees upon request for an agreed fee, which shall not exceed 3% of the total amount wagered on the race at the receiving track. Race meeting licensees that send or receive intertrack simulcasts shall make the following payments to the horsemen's purse pools:

(a) Each race meeting licensee that sends an intertrack simulcast shall pay 50% of the simulcast fee that it receives for sending the simulcast signal to the horsemen's purse pool at the sending track.

(b) Each race meeting licensee that receives an intertrack simulcast shall pay to the horsemen's simulcast purse pool established pursuant to section 19 a sum equal to 40% of the receiving track's net commission from wagering on the intertrack simulcast under section 17(3) after first deducting from the licensee's statutory commission the applicable state tax on wagering due and owing under section 22 and the actual verified fee paid by the receiving track to the sending host track to receive the intertrack simulcast signal.

(6) The racing commissioner may authorize a race meeting licensee to transmit simulcasts of live horse races conducted at its racetrack to locations outside of this state in accordance with the interstate horse racing act of 1978, Public Law 95-515, 15 U.S.C. 3001 to 3007, or any other applicable laws, and may permit pari-mutuel pools on such simulcast races created under the laws of the jurisdiction in which the receiving track is located to be combined in a common pool with pari-mutuel pools on the same races created in this state. A race meeting licensee that transmits simulcasts of its races to locations outside this state shall pay 50% of the fee that it receives for sending the simulcast signal to the horsemen's purse pool at the sending track after first deducting the actual verified cost of sending the signal out of state.

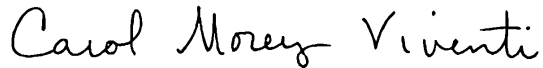
(7) Simulcasting of events other than horse races for purposes of pari-mutuel wagering is prohibited.

Sec. 19a. If a thoroughbred track license is surrendered, revoked, or escrowed, or after January 1, 1998, a licensed thoroughbred track is closed, the racing commissioner shall order the deposit of horsemen's purse pool money deposited and distributed pursuant to section 19 to a depository designated by a race meeting licensee upon written direction of the affected certified horsemen's organization regardless of whether there was racing at the race meeting licensee's location during the previous year.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.