

CHAPTER 447**(SB 152)**

AN ACT relating to gambling related activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.380 is amended to read as follows:

- (1) Any track licensed by the commission to conduct horse racing and desiring to establish a simulcast facility shall apply for and may receive approval from the commission for each simulcast facility. Prior to considering an application for approval of a simulcast facility, the commission shall notify by regular mail, each state senator, state representative, county judge/executive, and mayor in the jurisdiction in which the proposed simulcast facility is located, at least ten (10) days in advance of the commission meeting at which the application is to be considered or voted upon. Consideration of an application shall be based on criteria contained in administrative regulations promulgated under KRS 230.300. Approval, if granted, shall be granted for a term of one (1) calendar year.
- (2) A track or tracks may proceed with the establishment of a simulcast facility unless, within sixty (60) days of the date on which the commission approved the facility, the governing body of the local government jurisdiction in which the facility is to be located votes, by simple majority of those voting, to disapprove the establishment of the simulcast facility. For the purposes of this section, "governing body" means, in an incorporated area, the board of aldermen, city council or board of commissioners; in a county, the fiscal court; in an urban-county government, the urban-county council, or in a charter county, the legislative body created in accordance with KRS 67.825 to 67.875.
- (3) The commission shall not approve the establishment of any simulcast facility within a radius of fifty (50) miles of a licensed track. The commission may approve the establishment of one (1) simulcast facility within a radius of greater than fifty (50) miles but less than seventy-five (75) miles of a licensed track, but the facility shall not be approved to operate without the prior written consent of the licensed track within whose seventy-five (75) mile radius the facility is located.
- (4) The commission may promulgate administrative regulations as it deems appropriate to protect the integrity of pari-mutuel wagering at any simulcast facility.
- (5) Licensed tracks conducting horse racing may enter into joint agreements to establish or operate one (1) or more simulcast facilities, on terms and conditions as the participating tracks may determine. Any agreements respecting these arrangements shall be filed with the commission, and applications for simulcast facilities shall be filed by and licenses may be issued to, these licensed tracks by the commission.
- (6) A simulcast facility may be established and operated on property that is owned or leased and which is not used solely for the operation of a simulcast facility; provided however, that a simulcast facility may not be established on the premises of a lottery vendor.
- (7) A simulcast facility shall not be subject to and shall not pay any excise tax imposed pursuant to KRS 138.510, any license tax imposed under KRS 137.170, or any admission tax imposed under KRS 138.480.

- (8) One percent (1%) of all moneys wagered at a simulcast facility shall be dedicated for local economic development and shall be allocated as follows:
- (a) If a simulcast facility is located in an incorporated area, seventy-five percent (75%) shall be allocated to the governing body of the city in which the facility is located, and twenty-five percent (25%) to the governing body of the county in which the facility is located.
 - (b) If a simulcast facility is located in an unincorporated area, all moneys shall be allocated to the governing body of the county or charter county in which the facility is located.
- (9) (a) After the deduction of moneys under subsection (8), simulcast facility shall deduct a commission allowed under KRS 230.3615 with respect to all wagers made at the simulcast facility. The commission, less moneys allocated in subsection (8) of this section, shall be split as follows:
- 1. Thirty percent (30%) shall be allocated to the host track;
 - 2. Forty-six and one-half percent (46.5%) to the purse program at the host track;
 - 3. Thirteen and one-half percent (13.5%) to be retained by the track or tracks owning the simulcast facility for the purpose of application to expenses incurred in connection therewith;
 - 4. Six percent (6%) to be allocated to the Kentucky Thoroughbred Owners and Breeders, Inc., to be expended as follows:
 - a. Up to three percent (3%) for capital improvements and promotion of offtrack betting; and
 - b. The remainder for marketing and promoting the Kentucky thoroughbred industry; and
 - 5. Four percent (4%) to be allocated to the commission to be used for purses at county fairs in Kentucky licensed and approved by the commission, and for the standardbred sires stakes program established under KRS 230.770.
- (b) The commission of a simulcast facility derived from interstate wagering shall be reduced by any amounts required to be paid by contract to the host track or track conducting the live race before it is divided as set forth in this section. No simulcast facility may receive any interstate simulcast except with the approval of the live Kentucky host track.
- (c) The Kentucky Thoroughbred Owners and Breeders, Inc., shall annually report to the commission on all money expended in accordance with subsection (9)(a)4. of this section. The report shall be in the form required, and provide all information required by the commission.
- (10) ***Subsections (1) and (2) of this section shall also apply to the establishment by a track of a noncontiguous facility in a county in which pari-mutuel racing and wagering is not being conducted. Subsection (8) of this section shall also apply to a noncontiguous race track facility referenced in this subsection, unless there is a written agreement to the contrary between the track establishing the facility and the governing body of the local government jurisdiction in which the facility is to be established.***

Section 2. KRS 138.510 is amended to read as follows:

- (1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars (\$1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) *of this section* shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars (\$1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. ***However, effective January 1, 2001, if a host track located in this state is the location for the conduct of a one (1) day international horse racing event that distributes in excess of a total of ten million dollars (\$10,000,000) in purses, an excise tax shall not be imposed on pari-mutuel wagering on live racing conducted that day at the race track. This tax exemption shall remain in effect for any succeeding one (1) day international horse racing event if the event returns within three (3) years of the previously-held event.*** For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered:
 - (a) At a receiving track;
 - (b) At a simulcast facility;
 - (c) On telephone account wagering; or
 - (d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the ***total*** live racing handle for thoroughbred racing and one percent (1%) of the ***total*** live handle for harness racing.

- (2) An excise tax is imposed on:
 - (a) All licensed tracks conducting telephone account wagering;
 - (b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and
 - (c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.
- (3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year. ***A noncontiguous track facility approved by the Kentucky Racing Commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total annual handle on live racing of two hundred fifty thousand dollars (\$250,000) or less. The amount of money exempted under this subsection shall be retained by the noncontiguous track facility, KRS 230.3771 and 230.378 notwithstanding.***
- (4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

- (a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or
 - (b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.
- (5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and onetwentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.
- (6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on Postsecondary Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

SECTION 3. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

- (1) *The board of directors of the Kentucky Racing Health and Welfare Fund, Inc., may create and fund the Kentucky Race Track Retirement Plan. The board shall use no more than twenty-five percent (25%) of the annual sum paid by the commission under KRS 230.361 to 230.373 to fund the plan.*
- (2) *The plan shall be provided for the benefit of thoroughbred trainers, assistant trainers, exercise riders, grooms, stable attendants, and other stable employees who can demonstrate that they are not otherwise eligible to participate in any other private or public, nonself-funded retirement or pension plan.*
- (3) *The Kentucky Race Track Retirement Plan shall be administered by the board of directors of the Kentucky Racing Health and Welfare Fund, Inc., for the charitable and benevolent purposes set forth in KRS 230.374, and no part of the sums administered by the fund for the plan or any net earnings of the plan shall inure to the benefit of any private individual, director, officer, or member of the fund, or any of the persons who paid sums to the commission under the provisions of KRS 230.361 to 230.373.*

- (4) *The board of directors of the Kentucky Racing Health and Welfare Fund, Inc., shall be the trustee of the plan's funds and shall have full power to invest and reinvest funds. Investments shall be diversified to balance the risks associated with various investment options to maintain the long-term solvency of the plan. The board shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the investments in which any of the plan's funds have been invested, as well as of the proceeds of investments belonging to the plan. The board members or any investment manager shall discharge their duties with respect to the assets of the plan solely in the interest of the plan's members and:*
- (a) *For the exclusive purposes of providing benefits to plan members and their beneficiaries and defraying reasonable expenses of administering the plan;*
 - (b) *With the care, skill, prudence, and diligence under the circumstances that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and*
 - (c) *In accordance with any other laws or instruments governing the administration of the plan's funds.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 372 IS CREATED TO READ AS FOLLOWS:

The terms and provisions of this chapter do not apply to betting, gaming, or wagering that has been authorized, permitted, or legalized, including, but not limited to, all activities and transactions permitted under KRS Chapters 154A, 230, and 238.

Section 5. KRS 230.230 is amended to read as follows:

- (1) The Governor shall appoint an executive director for the commission for a term of four (4) years~~and~~ who may be removed in the same manner as a commissioner. The executive director shall possess the powers and perform the duties imposed upon him by this chapter, and~~such~~ other duties as the commission may direct or prescribe. The executive director shall cause to be kept a full record of all proceedings before the commission and shall preserve at its general office all books, maps, records, documents, licenses, and other papers of the commission. All records of the commission shall be open to inspection by the public during regular office hours.
- (2) The *chairman and the executive director of the* commission may employ, *dismiss, or take other personnel action concerning* an assistant executive director,~~and~~ stenographers, clerks, and other personnel as *they~~it~~* may deem necessary to efficiently operate *the commission's~~its~~* general office or any branch thereof. The *chairman and the executive director of the* commission shall fix the compensation of all employees. Any member of the commission,~~or~~ the executive director, or any employee referred to in this section shall be reimbursed for expenses paid or incurred in the discharge of official business when approved by the *chairman or executive director of the* commission. The compensation of the employees referred to in this section, except for the executive director, together with reimbursement of expenses incurred by employees, a member of the commission, or the executive director, shall be paid from commission funds.

Section 6. KRS 230.240 is amended to read as follows:

- (1) In addition to the employees referred to in KRS 230.230, the *chairman and the executive director of the* commission may employ, *dismiss, or take other personnel action and*

determine the~~at~~ reasonable compensation *of*~~t~~ stewards, supervisors of mutuels, veterinarians, inspectors, accountants, *security officers*~~guards~~, and other employees deemed by the *chairman or the executive director*~~commission~~ to be essential at or in connection with any horse race meeting and *in*~~to~~ the best interest of racing. *The security officers shall be peace officers and conservators of the peace on commission property and at all race tracks and grounds in the Commonwealth and shall possess all the common law and statutory powers and privileges now available or hereafter made available to sheriffs, constables, and police officers for the purpose of enforcing all laws relating directly or indirectly to the conduct of horse racing and pari-mutuel wagering thereon, or the enforcement of laws relating to the protection of persons or property on premises licensed by the commission.* The commission for the purpose of maintaining integrity and honesty in racing shall prescribe by administrative regulation the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In addition, the commission shall be responsible for seeing that racing officials employed under the provisions of this section~~shall~~ have adequate training to perform their duties in a competent manner.

- (2) The commission shall promulgate administrative regulations for effectively preventing the use of improper devices, *and restricting or prohibiting the use and* administration of drugs or stimulants or other improper acts *to*~~for the purpose of affecting the speed or health of~~ horses *prior to the horse participating in a race.*~~in races in which they are to participate, and in connection therewith~~ The commission *may*~~is authorized to~~ acquire, operate, and maintain, or ~~to provide by~~ contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine, or other tests, and to purchase supplies and equipment for and in connection with *the*~~such~~ laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under this chapter in the manner and in proportions as the commission shall by administrative regulation provide.
- (3) The compensation of the employees referred to in this section shall be paid by the licensee conducting the horse race meeting in connection with which the employees are utilized or employed. The salary of the executive director to the commission shall be prorated among and paid by the various associations licensed under this chapter in the manner as the commission shall, by administrative regulation, provide. The employees referred to in this section shall be deemed employees of the commission, and are paid by the licensee or association for convenience only.
- (4) Each person, as a condition precedent to the privilege of receiving a license under this chapter to conduct a horse race meeting, shall be deemed to have agreed *to*~~that it shall~~ pay expenses and compensation as provided in this section and as may be actually and reasonably incurred.

Section 7. KRS 15.380 is amended to read as follows:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
 - (a) State Police officers;
 - (b) City, county, and urban-county police officers;
 - (c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);

- (d) State or public university safety and security officers appointed pursuant to KRS 164.950;
 - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
 - (f) Airport safety and security officers appointed under KRS 183.880;
 - (g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090; and
 - (h) Division of Insurance Fraud Investigators appointed under KRS 304.47-040.
- (2) The requirements of KRS 15.380 to 15.402 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.402 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council:
- (a) Deputy coroners;
 - (b) Deputy constables;
 - (c) Deputy jailers;
 - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
 - (e) Officers appointed under KRS 61.360;
 - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
 - (g) Private security officers; and
 - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080.
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
- (a) Sheriffs;
 - (b) Coroners;
 - (c) Constables;~~{and}~~
 - (d) Jailers; *and*
 - (e) *Racing commission security officers employed under Section 6 of this Act.*
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.402.

Approved April 21, 2000