

CHAPTER 173

(HB 708)

AN ACT relating to horse racing.

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

Section 1. KRS 230.443 is amended to read as follows:

~~Ne-]Quarter horses, Appaloosas, and Arabian horses[horse or Appaloosa] foaled by artificial insemination **or other means** shall be eligible to race under the provisions of this chapter[, but Arabian horses foaled by artificial insemination shall be eligible to race under the provisions of this chapter].~~

SECTION 2. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 7 of this Act, unless the context requires otherwise:

- (1) *"Hub" means an international wagering hub, a business which, through a qualified subscriber-based service, conducts pari-mutuel wagering on the horse races that it simulcasts and other races that it carries in its wagering menu;*
- (2) *"Qualified subscriber-based service" means any information service or system, including but not limited to a closed-loop system, that uses:*
 - (a) *A device or combination of devices authorized and operated exclusively for placing, receiving, or otherwise making pari-mutuel wagers on horse races by a customer subscriber base through accounts established with the operator of the hub;*
 - (b) *An effective customer verification and age verification system; and*
 - (c) *Appropriate data security standards to prevent unauthorized access by nonsubscribers or minors;*
- (3) *"Foreign jurisdiction" means states other than Kentucky, a territory of the United States, a foreign country, or any political subdivision thereof;*
- (4) *"Commission" means the Kentucky Racing Commission or its successor authority; and*
- (5) *"Call center" means that portion of a qualified subscriber-based service that is physically located in the Commonwealth, where wagers are placed, received, or otherwise made by a customer subscriber base through accounts established with the operator of the hub.*

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

- (1) *Except as otherwise provided in Sections 2 to 7 of this Act, the provisions of KRS 230.378, 230.379, and 230.380 shall apply to the establishment of authorized hub accounts for residents of the Commonwealth of Kentucky.*
- (2) *Accounts may be established for individuals outside of the Commonwealth of Kentucky, including foreign jurisdictions, if:*
 - (a) *Pari-mutuel wagering on horse racing is lawful in the jurisdiction of the account holder's principal residence; and*
 - (b) *The hub complies with the Interstate Horse Racing Act, 15 U.S.C. secs. 3001 to 3007. The call center used in the operations of the hub shall not be located on state*

property. No more than four (4) hubs shall be licensed in the Commonwealth at any one (1) time.

SECTION 4. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding KRS 230.361(1), a licensee may operate the hub either independently or in association with one (1) or more racetracks licensed by the commission to run live races and conduct pari-mutuel wagering in Kentucky. Hub operations may be physically located on property other than that operated by a racetrack and may accept wagers at that location and shall comply with the Interstate Horseracing Act, 15 U.S.C. secs. 3001 to 3007.*
- (2) As a part of the application for licensure as a hub, an applicant shall submit a detailed plan of operations in a format and containing any information as required by the commission. The application shall be accompanied by an application fee to cover incremental costs to the commission, in an amount the commission determines to be appropriate. At a minimum, the operating plan shall address the following:
 - (a) The manner in which the proposed wagering system will operate, including its proposed operating schedule;*
 - (b) The requirements for a qualified subscriber-based service set out in Section 2 of this Act; and*
 - (c) The requirements for accounts established and operated for persons whose principal residence is outside of the Commonwealth of Kentucky.**
- (3) The commission may require changes in a proposed plan of operations as a condition of licensure. Subsequent material changes in the system's operation shall not occur unless approved by the commission.*
- (4) The commission may conduct investigations or inspections or request additional information from any applicant as it deems appropriate in determining whether to approve the license application.*
- (5) An applicant licensed under this section may enter into any agreements that are necessary to promote, advertise, and further the sport of horse racing, or for the effective operation of hub operations, including, without limitation, interstate account wagering, television production, and telecommunications services.*
- (6) The commission shall promulgate administrative regulations to effectuate the provisions of Sections 2 to 7 of this Act. The administrative regulations shall include but not be limited to criteria for licensing, the application process, the format for the plan of operations, requisite fees, procedures for notifying the commission of substantive changes, contents of agreements entered into under subsection (5) of this section, procedures for accounting for wagers made, and other matters reasonably necessary to implement Sections 2 to 7 of this Act.*
- (7) The commission may require the hub to make the following payments to the commission:
 - (a) A license fee not to exceed two hundred dollars (\$200) per operating day; and*
 - (b) A fee of not more than one percent (1%) of the hub's total gross wagering receipts.**
- (8) A hub's records and financial information shall not be subject to the provisions of KRS 61.870 to 61.884.*

- (9) *The Auditor of Public Accounts may review and audit all records and financial information of the hub, including all account information. The Auditor shall prepare a report of the review and audit which shall not contain any proprietary information regarding the hub. A copy of the report shall be sent to the Legislative Research Commission for referral to the appropriate committee.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in subsection (7) of Section 4 of this Act, the operator of a hub shall not be subject to any fee or tax imposed on racetracks or simulcast facilities under KRS 137.170, 138.480, 138.510, or Chapter 230 for the hub operator's wagering and simulcast operations established under Sections 2 to 7 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

- (1) *Any wager that is made for an account maintained with the hub operator shall be considered to have been made in the Commonwealth of Kentucky.*
- (2) *Account holders may communicate instructions concerning account wagers to the hub only by telephonic or other electronic means.*
- (3) *None of the following wagers shall be processed through a hub:*
- (a) *A wager on live racing accepted by a track;*
 - (b) *A telephone account wager accepted by a track;*
 - (c) *An intertrack wager accepted by a receiving track or simulcast facility; or*
 - (d) *An interstate wager accepted by a receiving track or simulcast facility.*
- (4) *Any hub that processes any of the wagers delineated in subsection (3) of this section from a track, receiving track, or simulcast facility shall be subject to revocation of its hub license.*
- (5) *Except as provided in Section 8 of this Act, nothing in Sections 2 to 7 of this Act shall exempt racetracks or simulcast facilities from any taxes imposed under KRS 137.170, 138.480, 138.510, or Chapter 230.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

The commission or its staff shall, upon request, be given access, for review and audit, to all records and financial information of the hub operator, including all account information. The commission may require that the hub operator annually submit to the commission audited financial statements.

SECTION 8. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

All harness racetracks licensed by the commission shall not be required to pay the excise tax imposed under KRS 138.510(2) and (3) and that amount that would have been paid under that subsection shall be retained by the track to promote and maintain its facilities and its live meet.

Approved April 22, 2004