

## CHAPTER 21

## ( HB 353 )

AN ACT relating to horse racing and making an appropriation therefor.

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

➔Section 1. KRS 230.210 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Advance deposit account wagering" means a form of pari-mutuel wagering in which an individual may establish an account with a person or entity licensed by the racing commission, and may place a pari-mutuel wager through that account that is permitted by law;
- (2) "Advance deposit account wagering licensee" means a person or entity licensed by the racing commission to conduct advance deposit account wagering and accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts;
- (3) "Appaloosa race" or "Appaloosa racing" means that form of horse racing in which each horse participating in the race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey;
- (4) "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;
- (5) "Association" means any person licensed by the Kentucky Horse Racing Commission under KRS 230.300 and engaged in the conduct of a recognized horse race meeting;
- (6) "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;
- (7) "Horse race meeting" means horse racing run at an association licensed and regulated by the Kentucky Horse Racing Commission, and may include thoroughbred, harness, *appaloosa*, *Arabian*, and quarter horse racing;
- (8) "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track conducting racing and offering simulcasts of races conducted in other states or foreign countries;
- (9) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;
- (10) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;
- (11) "Kentucky Quarter Horse, *Appaloosa*, and *Arabian* Purse Fund[Program]" means a purse ~~fund~~[program] established to receive funds *as specified in Section 2 of this Act*[from the racing commission] for purse programs established in *Section 3 of this Act*[KRS 230.3771(4)] to supplement purses for quarter horse *appaloosa*, and *Arabian* horse races. The purse program shall be administered by the *Kentucky Horse Racing Commission*[Kentucky Quarter Horse Racing Association];
- (12) "Kentucky resident" means:
  - (a) An individual domiciled within this state;
  - (b) An individual who maintains a place of abode in this state and spends, in the aggregate, more than one hundred eighty-three (183) days of the calendar year in this state; or
  - (c) An individual who lists a Kentucky address as his or her principal place of residence when applying for an account to participate in advance deposit account wagering;
- (13) "Principal" means any of the following individuals associated with a partnership, trust, association, limited liability company, or corporation that is licensed to conduct a horse race meeting or an applicant for a license to conduct a horse race meeting:
  - (a) The chairman and all members of the board of directors of a corporation;
  - (b) All partners of a partnership and all participating members of a limited liability company;
  - (c) All trustees and trust beneficiaries of an association;

- (d) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;
  - (e) All stockholders or other individuals who own, hold, or control, either directly or indirectly, five percent (5%) or more of stock or financial interest in the collective organization; and
  - (f) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation;
- (14) "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;
- (15) "Racing commission" means the Kentucky Horse Racing Commission;
- (16) "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track that submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility that meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year;
- (17) "Simulcast facility" means any facility approved pursuant to the provisions of KRS 230.380 to simulcast racing and conduct pari-mutuel wagering;
- (18) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;
- (19) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track;
- (20) "Thoroughbred race" or "thoroughbred racing" means a form of horse racing in which each horse participating in the race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey; and
- (21) "Track" means any association duly licensed by the Kentucky Horse Racing Commission to conduct horse racing. "Track" shall include any facility or real property that is owned, leased, or purchased by a track within the same geographic area within a sixty (60) mile radius of a track but not contiguous to track premises, upon racing commission approval, and provided the noncontiguous property is not within a sixty (60) mile radius of another licensed track premise where live racing is conducted and not within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area.

➔Section 2. KRS 230.3771 is amended to read as follows:

- (1) A thoroughbred track licensed to conduct thoroughbred racing may receive interstate simulcasts of thoroughbred, quarter horse, Appaloosa, and Arabian horse races, and conduct interstate wagering thereon, subject to the following limitations:
- (a) A thoroughbred receiving track may receive interstate simulcasts of thoroughbred races and conduct interstate wagering thereon at any time of day and during any live thoroughbred horse race meet conducted in the Commonwealth of Kentucky so long as the thoroughbred receiving track conducting interstate wagering remits to the thoroughbred host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.
  - (b) A thoroughbred host track which receives interstate simulcasts and conducts interstate wagering thereon during the period of time from the first awarded day of its live meet through the last awarded day of its live meet shall offer the simulcasts to all thoroughbred receiving tracks, all harness tracks not subject to the provisions of KRS 230.377(2), and all simulcast facilities through the intertrack wagering system.
  - (c) Except as otherwise prohibited by law, a receiving track shall conduct intertrack wagering on all live races of all thoroughbred host tracks on any day on which it receives an interstate simulcast for the purpose of conducting interstate wagering.
  - (d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

- (e) If more than one (1) thoroughbred track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast of thoroughbred races unless all thoroughbred tracks conducting live racing at the same time of day agree upon all interstate simulcasts to be received and the division of the thoroughbred host track's commission. If more than one (1) thoroughbred track conducts live racing at different times on the same day, the thoroughbred host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and concludes ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.
  - (f) Each thoroughbred track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the racing commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.
  - (g) Notwithstanding paragraph (f) of this subsection, any thoroughbred track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Owners and Breeders Association, Inc.
  - (h) A separate accounting on all interstate simulcasting shall be submitted to the racing commission. The accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.
  - (i) If the only simulcast or simulcasts a track participating as a host track makes available for interstate wagering through this state's intertrack wagering system on any race day are thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a thoroughbred host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.
  - (j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:
    - 1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
    - 2. Twenty-five percent (25%) to the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
    - 3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
    - 4. Twenty-five percent (25%) to the purse program of the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, then an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.
  - (k) A simulcast facility's commission on interstate wagering on thoroughbred racing, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).
- (2) A harness track licensed to conduct harness racing may receive interstate simulcasts of harness horse, quarter horse, Appaloosa, and Arabian horse races and conduct interstate wagering thereon subject to the following limitations:

- (a) A harness receiving track may receive interstate simulcasts of harness races, quarter horse races, Appaloosa races, and Arabian horse races, and conduct interstate wagering thereon at any time of day and during the course of any live harness horse race meet conducted in the Commonwealth of Kentucky so long as the harness receiving track conducting interstate wagering remits to the harness host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.
- (b) A harness host track which receives an interstate simulcast and conducts interstate wagering thereon during its live race meet shall offer the simulcasts to all thoroughbred receiving tracks not subject to the provisions of KRS 230.377(2), all harness tracks, and all simulcast facilities through the intertrack wagering system.
- (c) Except as otherwise prohibited by law, a harness receiving track or a simulcast facility shall conduct intertrack wagering on all live races of a harness host track on any day it receives an interstate simulcast from a harness host track.
- (d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.
- (e) If more than one (1) harness track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast on harness races unless all harness tracks conducting live racing at that time of day agree upon the interstate simulcast to be received and the division of the harness host track's commission. If more than one (1) harness track conducts live racing at different times on the same day, the harness host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and conclude ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.
- (f) Each harness track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the racing commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.
- (g) Notwithstanding paragraph (f) of this subsection, any harness track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Harness Horsemen's Association, or its successor.
- (h) A separate accounting on all interstate simulcasting shall be submitted to the racing commission. This accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.
- (i) If the only simulcast or simulcasts a track participating as a harness host track makes available for interstate wagering through this state's intertrack wagering system on any race day are harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars (\$75,000), then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a harness host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.
- (j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:
  - 1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
  - 2. Twenty-five percent (25%) to the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
  - 3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and

4. Twenty-five percent (25%) to the purse program of the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.
- (k) A simulcast facility's commission on interstate wagering on harness races, after deduction of applicable taxes and any amount required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).
- (3) A harness track may only receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon as provided in subsection (1)(b) of this section. A thoroughbred track may only receive interstate simulcasts of harness horse races and conduct interstate wagering thereon as provided in subsection (2)(b) of this section. A simulcast facility may only receive interstate simulcasts of thoroughbred and harness horse races and conduct interstate wagering thereon as provided in subsections (1)(b) and (2)(b) of this section.
- (4) (a) A thoroughbred track licensed to conduct horse racing may receive interstate simulcasts of quarter horse, Appaloosa, and Arabian horse races and conduct interstate wagering thereon, subject to the limitations stated in paragraph (b) of this subsection.
- (b) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:
1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
  2. Twenty-five percent (25%) to the host track; and
  3. Fifty percent (50%) to the Kentucky quarter horse, Appaloosa, and Arabian *purse fund established by Section 3 of this Act*~~development fund established by KRS 230.445~~ to supplement purses for quarter horse, Appaloosa, and Arabian horse races in this state.
- (5) (a) A harness track licensed to conduct horse racing may receive interstate simulcasts of quarter horse, Appaloosa, and Arabian horse races and conduct interstate wagering thereon, subject to the limitations stated in paragraphs (b) and (c) of this subsection.
- (b) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:
1. Twenty-five percent (25%) to the purse program of the receiving track;
  2. Twenty-five percent (25%) to the purse program of the host track;
  3. Twenty-five percent (25%) to the receiving track; and
  4. Twenty-five percent (25%) to the host track.
- (c) When a quarter horse, Appaloosa, or Arabian horse race is run at a Kentucky race track, the commission to the Kentucky quarter horse, Appaloosa, and Arabian *purse fund established by Section 3 of this Act*~~development fund established by KRS 230.445~~ shall be twenty-two percent (22%) from the host track's purse share.
- (6) Other provisions of the Kentucky Revised Statutes notwithstanding, any track in a geographic area that contains more than one (1) track within a fifty (50) mile radius of any other track may only receive interstate simulcasts on racing of the same breed of horse as the track was licensed to race on or before July 15, 1998, except any track may receive interstate simulcasts on quarter horse, Appaloosa, or Arabian horse races.

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

- (1) *The Kentucky quarter horse, Appaloosa, and Arabian purse fund is created as a trust and agency fund to be administered by the Kentucky Horse Racing Commission and shall consist of moneys allocated to the fund under the provisions of Section 2 of this Act together with any other moneys contributed to or allocated to the fund from all other sources. For the purposes of this section, "purse fund" or "fund" means the Kentucky quarter horse, Appaloosa, and Arabian purse fund.*
- (2) *Notwithstanding KRS 45.229, money to the credit of the fund at the end of the fiscal year shall not lapse but shall be carried forward in the fund to the succeeding fiscal year. Interest earnings of the fund shall become a part of the fund and shall not lapse.*

- (3) *Moneys in the fund shall be used and are hereby appropriated for purposes specified in this section.*
- (4) *The Kentucky Horse Racing Commission shall use the purse fund to promote racing and to provide purses for races conducted in the Commonwealth as follows:*
- (a) *The Kentucky Horse Racing Commission shall provide for distribution of money from the fund to persons, corporations, or associations operating licensed tracks within the Commonwealth conducting quarter horse, Appaloosa, or Arabian horse racing;*
  - (b) *Moneys from the purse fund shall be allocated to each breed of horse represented in the fund in proportion to the amount each breed has contributed to the fund; and*
  - (c) *The Kentucky Horse Racing Commission shall consult with the Kentucky Quarter Horse Racing Association or its successor, the Kentucky Appaloosa Owners Association or its successor, and the Kentucky Arabian Horse Association or its successor, to designate the races and the amount of purse money to be provided for designated races for each breed respectively.*
- (5) *The Kentucky Horse Racing Commission shall:*
- (a) *Fix the dates and conditions of races to be held by licensed tracks;*
  - (b) *Fix the amount of money to be paid from the fund to be added to the purse provided for each race by the licensed operator of the track; and*
  - (c) *Promulgate administrative regulations necessary to carry out the provisions of this section.*
- (6) *The Kentucky Horse Racing Commission shall carry out the provisions of this section and administer the purse fund in a manner designed to promote and aid in the development of the horse industry in Kentucky and upgrade the quality of horse racing in Kentucky.*

Signed by Governor April 4, 2012.