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House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

HOUSE BILL 2591

AN ACT

AMENDING SECTIONS 5-104 AND 5-113, ARIZONA REVISED STATUTES; RELATING TO HORSE RACING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 5-104, Arizona Revised Statutes, is amended to
3 read:

4 5-104. Racing commission; director; department; powers and
5 duties

6 A. The commission shall:

7 1. Issue racing dates.

8 2. Prepare and adopt such complete rules to govern the racing meetings
9 as may be required to protect and promote the safety and welfare of the
10 animals participating in such racing meetings, to protect and promote public
11 health, safety and the proper conduct of racing and pari-mutuel wagering and
12 any other matter pertaining to the proper conduct of racing within this
13 state.

14 3. Conduct hearings on applications for permits and approve permits
15 and shall conduct such rehearings on licensing and regulatory decisions made
16 by the director as required pursuant to rules adopted by the commission.

17 4. Conduct all reviews of applications to construct capital
18 improvements at racetracks as provided in this chapter.

19 5. Adopt rules governing the proper and humane methods for the
20 disposition and transportation of dogs by breeders, kennels or others.

21 B. The director shall license personnel and shall regulate and
22 supervise all racing meetings held and pari-mutuel wagering conducted in this
23 state and cause the various places where racing meetings are held and
24 wagering is conducted to be visited and inspected on a regular basis. The
25 director may delegate to stewards such of the director's powers and duties as
26 are necessary to fully carry out and effectuate the purposes of this chapter.

27 The director shall exercise immediate supervision over the department of
28 racing. The director is subject to ongoing supervision by the commission,
29 and the commission may approve or reject decisions of the director in
30 accordance with rules established by the commission.

31 C. The commission or the department is authorized to allow stewards,
32 with the written approval of the director, to require a jockey, apprentice
33 jockey, sulky driver, groom, horseshoer, outrider, trainer, assistant
34 trainer, exercise rider, pony rider, starter, assistant starter, jockey's
35 agent, veterinarian, assistant veterinarian, cool-out, lead-out, paddock
36 employee, security or maintenance worker, official or individual licensed in
37 an occupational category whose role requires direct hands-on contact with
38 horses or greyhounds, while on the grounds of a permittee, to submit to a
39 test if the stewards have reason to believe the licensee is under the
40 influence of or unlawfully in possession of any prohibited substance
41 regulated by title 13, chapter 34.

42 D. The department shall employ the services of the office of
43 administrative hearings to conduct hearings on matters requested to be heard
44 by the director or the commission for the department except for those
45 rehearings that are required by the terms of this chapter to be conducted by

1 the commission. Any person adversely affected by a decision of a steward or
2 by any other decision of the department may request a hearing on such
3 decision. The decision of the administrative law judge becomes the decision
4 of the director unless rejected or modified by the director within thirty
5 days. The commission may hear any appeal of a decision of the director in
6 accordance with title 41, chapter 6, article 10.

7 E. The department may visit and investigate the offices, tracks or
8 places of business of any permittee and place in those offices, tracks or
9 places of business expert accountants and such other persons as it deems
10 necessary for the purpose of ascertaining that the permittee or any licensee
11 is in compliance with the rules ~~issued~~ ADOPTED pursuant to this article.

12 F. The department shall collect the fees payable for a license issued
13 by it, as follows:

14 1. Occupational licenses, up to fifty dollars.

15 2. Owner, trainer, veterinarian, authorized agent, officials,
16 assistant trainer, stable name renewal or kennel name renewal, up to
17 seventy-five dollars.

18 3. Owner-trainer, driver, jockey, jockey agent or apprentice jockey,
19 up to one hundred fifty dollars.

20 4. New stable name or new kennel name, up to five hundred dollars.

21 5. Duplicate license, up to five dollars.

22 6. Temporary license, up to fifty dollars.

23 7. If not licensed pursuant to paragraph 9 of this subsection with a
24 combination license, greyhound racing kennels, up to one hundred dollars.

25 8. If not licensed pursuant to paragraph 9 of this subsection with a
26 combination license, farms or other operations where greyhounds are raised
27 for the purpose of dog racing, up to one hundred dollars.

28 9. Any combination of greyhound racing kennels, farms or other
29 operations where greyhounds are raised for the purpose of dog racing, up to
30 one hundred dollars.

31 G. The commission shall establish financial assistance procedures for
32 promoting adoption of racing greyhounds as domestic pets AND FOR PROMOTING
33 ADOPTION OF RETIRED RACE HORSES. The provision of financial assistance to
34 nonprofit enterprises for the purpose of promoting adoption of racing
35 greyhounds as domestic pets AND FOR THE PURPOSE OF PROMOTING ADOPTION OF
36 RETIRED RACE HORSES is contingent on a finding by the commission that the
37 program presented by the enterprise is in the best interest of the ~~greyhound~~
38 racing industry and this state. Upon a finding by the commission, the
39 commission is authorized to make grants to nonprofit enterprises whose
40 programs promote adoption of racing greyhounds OR ADOPTION OF RETIRED RACE
41 HORSES. The commission shall develop an application process. The commission
42 shall require an enterprise to report to the commission on the use of grants
43 under this subsection. Financial assistance FOR NONPROFIT ENTERPRISES FOR
44 THE PURPOSE OF PROMOTING ADOPTION OF RACING GREYHOUNDS AS DOMESTIC PETS under
45 this subsection shall not exceed the amount collected for license fees under

1 subsection F, paragraphs 7, 8 and 9 of this section. FINANCIAL ASSISTANCE
2 FOR NONPROFIT ENTERPRISES THAT PROMOTE ADOPTION OF RETIRED RACE HORSES UNDER
3 THIS SUBSECTION SHALL NOT EXCEED THE AMOUNT OF RETIRED RACE HORSE ADOPTION
4 SURCHARGES COLLECTED PURSUANT TO THIS SUBSECTION. THE COMMISSION SHALL
5 COLLECT A RETIRED RACE HORSE ADOPTION SURCHARGE IN ADDITION TO EACH CIVIL
6 PENALTY ASSESSED IN CONNECTION WITH HORSE OR HARNESS RACING PURSUANT TO THIS
7 ARTICLE. THE AMOUNT OF THE RETIRED RACE HORSE ADOPTION SURCHARGE SHALL BE
8 FIVE PER CENT OF THE AMOUNT COLLECTED FOR EACH APPLICABLE CIVIL PENALTY.

9 H. A license is valid for the period established by the commission,
10 but not to exceed three years, except for a temporary license issued pursuant
11 to section 5-107.01, subsection F. The licensing period for horse racing
12 shall begin July 1. The licensing period for greyhound racing shall begin
13 February 1.

14 I. Upon application in writing by an objector to any decision of track
15 stewards, made within three days after the official notification to the
16 objector of the decision complained of, the department or administrative law
17 judge shall review the objection. In the case of a suspension of a license
18 by the track stewards, such suspension shall commence at once and run for a
19 period of not more than sixty days. Before the end of this suspension
20 period, filing an application for review is not cause for reinstatement. If
21 at the end of this suspension period the department or administrative law
22 judge has not held a hearing to review the decision of the stewards, the
23 suspended license shall be reinstated until such time as the department or
24 administrative law judge holds a hearing to review the objection. Except as
25 provided in section 41-1092.08, subsection H, a final decision of the
26 commission is subject to judicial review pursuant to title 12, chapter 7,
27 article 6.

28 J. The commission or the director may issue subpoenas for the
29 attendance of witnesses and the production of books, records and documents
30 relevant and material to a particular matter before the commission or
31 department. Such subpoenas shall be served and enforced in accordance with
32 title 41, chapter 6, article 10.

33 K. Any member of the commission, the administrative law judge or the
34 director or the director's designee may administer oaths, and such oaths
35 shall be administered to any person who appears before the commission to give
36 testimony or information pertaining to matters before the commission.

37 L. The commission shall adopt rules which require permittees to retain
38 for three months all official race photographs and videotapes. The
39 department shall retain all such photographs and videotapes which are used as
40 evidence in an administrative proceeding until the conclusion of the
41 proceeding and any subsequent judicial proceeding. All photographs and
42 videotapes must be available to the public on request, including photographs
43 and videotapes of races concerning which an objection is made, regardless of
44 whether the objection is allowed or disallowed.

1 M. The director may establish a management review section for the
2 development, implementation and operation of a system of management reports
3 and controls in major areas of department operations, including licensing,
4 work load management and staffing, and enforcement of the provisions of this
5 article and the rules of the commission.

6 N. In cooperation with the department of public safety, the director
7 shall establish a cooperative fingerprint registration system. Each
8 applicant for a license or permit under this article or any other person who
9 has a financial interest in the business or corporation making the
10 application shall submit to fingerprint registration as part of the
11 background investigation conducted pursuant to section 5-108. The
12 cooperative fingerprint registration system shall be maintained in an updated
13 form using information from available law enforcement sources and shall
14 provide current information to the director upon request as to the fitness of
15 each racing permittee and each racing licensee to engage in the racing
16 industry in this state.

17 O. The director shall develop and require department staff to use
18 uniform procedural manuals in the issuance of any license or permit under
19 this article and in the enforcement of this article and the rules adopted
20 under this article.

21 P. The director shall submit an annual report containing such
22 operational and economic performance information as is necessary to evaluate
23 the department's budget request for the forthcoming fiscal year to the
24 governor, the speaker of the house of representatives, ~~and~~ the president of
25 the senate **AND THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS** no
26 later than September 30 each year. The annual report shall be for the
27 preceding fiscal year and contain such performance information as:

28 1. The total state revenues for the previous fiscal year from the
29 overall pari-mutuel handle with an itemization for each dog racing meeting,
30 each horse racing meeting, each harness racing meeting and each additional
31 wagering facility.

32 2. The total state revenues for the previous fiscal year from the
33 regulation of racing, including licensing fees assessed pursuant to
34 subsection F of this section and monetary penalties assessed pursuant to
35 section 5-108.02.

36 3. The amount and use of capital improvement funds pursuant to
37 sections 5-111.02 and 5-111.03 which would otherwise be state revenues.

38 4. The number of licenses and permits issued, renewed, pending and
39 revoked during the previous fiscal year.

40 5. The investigations conducted during the previous fiscal year and
41 any action taken as a result of the investigations.

42 6. The department budget for the immediately preceding three fiscal
43 years, including the number of full-time, part-time, temporary and contract
44 employees, a statement of budget needs for the forthcoming fiscal year and a
45 statement of the minimum staff necessary to accomplish these objectives.

1 7. Revenues generated for this state for the preceding fiscal year by
2 persons holding horse, harness and dog racing permits.

3 8. Recommendations for increasing state revenues from the regulation
4 of the racing industry while maintaining the financial health of the industry
5 and protecting the public interest.

6 Q. The commission may certify animals as Arizona bred or as Arizona
7 stallions. The commission may delegate this authority to a breeders'
8 association it contracts with for these purposes. The commission may
9 authorize the association, racing organization or department to charge and
10 collect a reasonable fee to cover the cost of breeding or ownership
11 certification or transfer of ownership for racing purposes.

12 R. The department has responsibility for the collection and accounting
13 of revenues for the state boxing commission including, but not limited to,
14 licensing fees required by section 5-230, the levy of the tax on gross
15 receipts imposed by section 5-104.02 and cash deposited pursuant to section
16 5-229. All revenues collected pursuant to this subsection, from whatever
17 source, shall be reported and deposited pursuant to section 5-104.02,
18 subsection C. The director shall adopt rules as necessary to accomplish the
19 purposes of this subsection and chapter 2, article 2 of this title.

20 S. The commission may obtain the services of the office of
21 administrative hearings on any matter which the commission is empowered to
22 hear.

23 T. The department may adopt rules pursuant to title 41, chapter 6 to
24 carry out the purposes of this article, ensure the safety and integrity of
25 racing in this state and protect the public interest.

26 Sec. 2. Section 5-113, Arizona Revised Statutes, is amended to read:
27 5-113. Disposition of revenues and monies; funds; committee

28 A. All revenues derived from permittees, permits and licenses, as
29 provided by this article, and all monies transferred pursuant to section
30 44-313, subsection A shall be deposited, pursuant to sections 35-146 and
31 35-147, or distributed as follows:

32 1. Eight hundred thousand dollars or twenty-two per cent, whichever is
33 less, shall be deposited in the Arizona county fairs racing betterment fund
34 established by subsection B of this section.

35 2. One million two hundred thousand dollars or thirty-three per cent,
36 whichever is less, shall be deposited in the county fairs livestock and
37 agriculture promotion fund established by subsection C of this section.

38 3. Eight hundred thousand dollars or twenty-two per cent, whichever is
39 less, shall be deposited in the Arizona breeders' award fund established by
40 subsection F of this section.

41 4. Forty thousand dollars or one per cent, whichever is less, shall be
42 deposited in the Arizona stallion award fund established by subsection G of
43 this section.

1 5. Three hundred thousand dollars or nine per cent, whichever is less,
2 shall be deposited in the county fair racing fund established by subsection I
3 of this section.

4 6. One per cent of the revenues and monies shall be deposited in the
5 agricultural consulting and training fund established by subsection J of this
6 section.

7 7. Forty-five thousand dollars or one per cent, whichever is less,
8 shall be subject to legislative appropriation to the department for
9 administration of the Arizona county fairs racing betterment fund, the
10 Arizona breeders' award fund, the Arizona stallion award fund and the
11 greyhound adoption fund. Monies that are distributed pursuant to this
12 paragraph and that remain unspent at the end of a fiscal year do not revert
13 to the state general fund.

14 8. Four hundred thousand dollars or eleven per cent, whichever is
15 less, shall be deposited in the Arizona exposition and state fair fund
16 established by section 3-1005 for the purpose of capital outlay.

17 9. Any revenues and monies that are not distributed pursuant to
18 paragraphs 1 through 8 of this subsection at the end of a fiscal year shall
19 be deposited in the state general fund.

20 B. The Arizona county fairs racing betterment fund is established
21 under the jurisdiction of the department. The department shall distribute
22 monies from the fund to the county fair association or county fair racing
23 association of each county conducting a county fair racing meeting in such
24 proportion as the department deems necessary for the promotion and betterment
25 of county fair racing meetings. All expenditures from the fund shall be made
26 upon claims approved by the department. In order to be eligible for
27 distributions from the fund, a county fair association must provide the
28 department with an annual certification in the form required by the
29 department supporting expenditures made from the fund. Balances remaining in
30 the fund at the end of a fiscal year do not revert to the state general fund.

31 C. The county fairs livestock and agriculture promotion fund is
32 established under the control of the governor and shall be used for the
33 purpose of promoting the livestock and agricultural resources of the state
34 and for the purpose of conducting an annual Arizona national livestock fair
35 by the Arizona exposition and state fair board to further promote livestock
36 resources. The direct expenses less receipts of the livestock fair shall be
37 paid from this fund, but such payment shall not exceed thirty per cent of the
38 receipts of the fund for the preceding fiscal year. Balances remaining in the
39 fund at the end of a fiscal year do not revert to the state general
40 fund. All expenditures from the fund shall be made upon claims approved by
41 the governor, as recommended by the livestock and agriculture committee, for
42 the promotion and betterment of the livestock and agricultural resources of
43 this state. The livestock and agriculture committee is established and shall
44 be composed of the following members, at least three of whom are from

1 counties that have a population of less than five hundred thousand persons,
2 appointed by the governor:

- 3 1. Three members representing county fairs.
- 4 2. One member representing Arizona livestock fairs.
- 5 3. One member representing the university of Arizona college of
6 agriculture.
- 7 4. One member representing the livestock industry.
- 8 5. One member representing the farming industry.
- 9 6. One member representing the governor's office.
- 10 7. One member representing the Arizona state fair conducted by the
11 Arizona exposition and state fair board.
- 12 8. One member representing the general public.

13 D. The governor shall appoint a chairman from the members. Terms of
14 members shall be four years.

15 E. Members of the committee are not eligible to receive compensation
16 but are eligible to receive reimbursement for expenses pursuant to title 38,
17 chapter 4, article 2.

18 F. The Arizona breeders' award fund is established under the
19 jurisdiction of the department. The department shall distribute monies from
20 the fund to the breeder, or the breeder's heirs, devisees or successors, of
21 every winning horse or greyhound foaled or whelped in this state, as defined
22 by section 5-114, in a manner and in an amount established by rules of the
23 commission to protect the integrity of the racing industry and promote,
24 improve and advance the quality of race horse and greyhound breeding within
25 this state. The department may contract with a breeders' association to
26 provide data, statistics and other information necessary to enable the
27 department to carry out the purposes of this subsection. Persons who are not
28 eligible to be licensed under section 5-107.01 or persons who have been
29 refused licenses under section 5-108 are not eligible to participate in the
30 Arizona greyhound breeders' award fund. Balances remaining in the fund at
31 the end of a fiscal year do not revert to the state general fund. For the
32 purposes of this subsection, "breeder" means the owner or lessee of the dam
33 of the animal at the time the animal was foaled or whelped.

34 G. The Arizona stallion award fund is established under the
35 jurisdiction of the department to promote, improve and advance the quality of
36 stallions in this state. The department shall distribute monies from the
37 fund to the owner or lessee, or the owner's or lessee's heirs, devisees or
38 successors, of every Arizona stallion whose certified Arizona bred offspring,
39 as prescribed in section 5-114, finishes first, second or third in an
40 eligible race in this state. The department may contract with a breeders'
41 association to provide data, statistics and other information necessary to
42 enable the department to carry out the purposes of this subsection. Balances
43 remaining in the fund at the end of a fiscal year do not revert to the state
44 general fund. The commission shall adopt rules pursuant to title 41, chapter

1 6 to carry out the purposes of this subsection. The rules shall prescribe at
2 a minimum:

3 1. The manner and procedure for distribution from the fund, including
4 eligibility requirements for owners and lessees.

5 2. Subject to availability of monies in the fund, the amount to be
6 awarded.

7 3. The requirements for a stallion registered with the jockey club,
8 Lexington, Kentucky or with the American quarter horse association, Amarillo,
9 Texas to be certified as an Arizona stallion.

10 4. The types and requirements of races for which an award may be made.

11 H. The greyhound **AND RETIRED RACE HORSE** adoption fund is established.
12 The department shall administer the fund **AND MAINTAIN SEPARATE ACCOUNTS FOR**
13 **GREYHOUND ADOPTIONS AND RETIRED RACE HORSE ADOPTIONS**. All revenues derived
14 from license fees collected from dog breeders, racing kennels and other
15 operations pursuant to section 5-104, subsection F, paragraphs 7, 8 and 9
16 shall be deposited, pursuant to sections 35-146 and 35-147, in **THE GREYHOUND**
17 **ADOPTION ACCOUNT OF** the fund. **ALL REVENUES DERIVED FROM RETIRED RACE HORSE**
18 **ADOPTION SURCHARGES COLLECTED PURSUANT TO SECTION 5-104, SUBSECTION G SHALL**
19 **BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE RETIRED RACE**
20 **HORSE ADOPTION ACCOUNT OF THE FUND**. The department shall distribute monies
21 from the fund to provide financial assistance to nonprofit enterprises
22 approved by the commission to promote the adoption of former racing
23 greyhounds as domestic pets **AND TO PROMOTE THE ADOPTION OF RETIRED RACE**
24 **HORSES** pursuant to section 5-104, subsection G in a manner and in an amount
25 established by rules of the commission. Balances remaining in the fund at
26 the end of a fiscal year do not revert to the state general fund.

27 I. The county fair racing fund is established. The department shall
28 administer the fund. Subject to legislative appropriation, the department
29 shall use fund monies for the administration of county fair racing. Any
30 monies remaining unexpended in the fund at the end of the fiscal year in
31 excess of seventy-five thousand dollars shall revert to the state general
32 fund.

33 J. The agricultural consulting and training fund is established. The
34 Arizona department of agriculture shall administer the fund. Subject to
35 legislative appropriation, the Arizona department of agriculture shall use
36 monies in the fund for the agricultural consulting and training program
37 established by section 3-109.01. Balances remaining in the fund at the end of
38 a fiscal year do not revert to the state general fund.