

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

# HOUSE BILL 2694

AN ACT

AMENDING SECTIONS 5-111 AND 5-112, ARIZONA REVISED STATUTES; RELATING TO  
PARI-MUTUEL WAGERING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 5-111, Arizona Revised Statutes, is amended to  
3 read:

4 5-111. Wagering percentage to permittee and state; exemptions

5 A. The commission shall prescribe rules governing wagering on races  
6 under the system known as pari-mutuel wagering. Wagering shall be conducted  
7 by a permittee only by pari-mutuel wagering and only on the dates for which  
8 racing or dark day simulcasting has been authorized by the commission.  
9 Wagering ~~for a licensed~~ DURING A racing meeting shall be conducted by a  
10 COMMERCIAL OR COUNTY FAIR LIVE RACING permittee only within an enclosure in  
11 which authorized racing takes place and, in counties having a population of  
12 less than five hundred thousand persons or at least one million five hundred  
13 thousand persons, as shown by the most recent United States decennial census,  
14 at those additional facilities ~~which~~ THAT are owned or leased by a permittee,  
15 ~~and which~~ THAT ARE APPROVED BY THE COMMISSION AND THAT are used by a  
16 permittee for handling wagering as part of the pari-mutuel system ~~and pool of~~  
17 ~~the permittee at the enclosure where the authorized racing is conducted~~ OF  
18 THE COMMERCIAL OR COUNTY FAIR LIVE RACING PERMITTEE. In all other counties,  
19 wagering may also be conducted at additional facilities ~~which~~ THAT are owned  
20 or leased by a permittee who is licensed to conduct live racing in those  
21 counties or who has the consent of all commercial permittees currently  
22 licensed to conduct live racing in those counties and ~~which~~ THAT are used by  
23 a permittee for handling wagering ~~and~~ as part of the pari-mutuel system ~~and~~  
24 ~~pool of the permittee at the enclosure where the authorized racing is~~  
25 ~~conducted~~ OF THE COMMERCIAL OR COUNTY FAIR LIVE RACING PERMITTEE. If the  
26 additional facilities have not been used for authorized racing before their  
27 use for handling wagering, a permittee shall not use the facilities for  
28 handling wagering before receiving approval for such use by the governing  
29 body of the city or town, if located within the corporate limits, or by the  
30 board of supervisors, if located in an unincorporated area of the county. A  
31 permittee may televise ~~the~~ ANY LIVE races OR ANY SIMULCAST RACES RECEIVED AT  
32 THE PERMITTEE'S RACING ENCLOSURE to the additional facilities at the times  
33 the races are conducted OR RECEIVED AT THE PERMITTEE'S RACING ENCLOSURE. For  
34 the purpose of section 5-110, subsection C only, a race upon which wagering  
35 is permitted under this subsection shall be deemed to also occur at the  
36 additional facility in the county in which the additional facility is  
37 located, and as such shall be limited in the same manner as actual live  
38 racing in such county. For the purpose of subsections B and C of this  
39 section, the wagering at the additional facility shall be deemed to occur in  
40 the county in which the additional facility is located.

41 B. During the period of any permit for dog racing in any county, the  
42 state shall receive five and one-half per cent of all monies handled in the  
43 pari-mutuel pool operated by the permittee, to be paid daily during the  
44 racing meeting. In all counties having a population of one million five  
45 hundred thousand persons or more, according to the most recent United States

1 decennial census, four and three-quarters per cent of the gross amount of  
2 monies handled in a pari-mutuel pool shall be deducted from the pari-mutuel  
3 pool and shall be deposited daily into a trust account for the payment of  
4 purse amounts. In counties having a population of less than one million five  
5 hundred thousand persons according to the most recent United States decennial  
6 census, four per cent of the gross amount of monies handled in a pari-mutuel  
7 pool shall be deducted from the pari-mutuel pool and shall be deposited daily  
8 in a trust account for the payment of purse amounts. In addition,  
9 twenty-five per cent of any reduction in pari-mutuel taxes each year  
10 resulting from the application of the hardship tax reduction credit  
11 determined pursuant to subsection I of this section shall be deposited in the  
12 trust account for supplementing purse amounts in an equitable manner over the  
13 racing meeting as determined by the commission. Notwithstanding any other  
14 provision of this subsection, the percentage paid by a permittee to the state  
15 does not apply to monies handled in a pari-mutuel pool for wagering on  
16 simulcasts of out-of-state races. During a week in which a permittee  
17 conducts live racing at the permittee's racetrack enclosure, the permittee  
18 shall deduct from monies handled in a pari-mutuel pool for wagering on  
19 simulcasts of out-of-state races and deposit daily in a trust account for the  
20 payment of purse amounts the same percentage of the pari-mutuel pool as is  
21 deducted for purses for live races unless otherwise agreed by written  
22 contract. Unless otherwise agreed by written contract, if the commission  
23 reasonably determines that live racing will not be conducted within one  
24 calendar year at a racetrack enclosure, the permittee shall deduct from  
25 monies handled in a pari-mutuel pool for wagering on simulcasts of  
26 out-of-state races and deposit daily in a trust account to supplement purses  
27 of any dog track where live racing is conducted within a one hundred mile  
28 radius. The supplementing provided by this subsection shall be in the most  
29 equitable manner possible as determined by the commission. The permittee  
30 shall allocate the funds in the trust account and pay purse amounts at least  
31 biweekly. The permittee ~~may~~, at the permittee's discretion, ~~MAY~~ pay  
32 additional amounts to augment purses from the amounts received by the  
33 permittee under this subsection.

34 C. During the period of a permit for horse, harness or dog racing, the  
35 permittee ~~which~~ ~~THAT~~ conducts such meeting may deduct up to and including  
36 twenty-five per cent of the total amount handled in the regular pari-mutuel  
37 pools and ~~may~~, at the permittee's option, ~~MAY~~ deduct up to and including  
38 thirty per cent of the total amount handled in the exacta, daily double,  
39 quinella and other wagering pools involving two horses or dogs, and up to and  
40 including thirty-five per cent of the total amount handled in the trifecta or  
41 other wagering pools involving more than two horses or dogs in one or more  
42 races. The amounts if deducted shall be distributed as prescribed in  
43 subsection D of this section and section 5-111.02 for horse or harness racing  
44 permittees. For dog racing permittees, unless otherwise agreed by written  
45 contract, the permittee shall allocate to purses from amounts wagered on live

1 racing conducted in this state an amount equal to fifty per cent of any  
2 amounts that are deducted pursuant to this subsection in excess of twenty per  
3 cent of the total amount handled in the regular pari-mutuel pools, twenty-one  
4 per cent of the total amount handled in the exacta, daily double, quinella  
5 and other wagering pools involving two dogs or twenty-five per cent of the  
6 total amount handled in the trifecta or other wagering pools involving more  
7 than two dogs in one or more races. For dog racing permittees the  
8 percentages prescribed in subsection B of this section shall be distributed  
9 to the state and to the trust account for payment of purse amounts and the  
10 permittee shall receive the balance. If the dog racing permittee has made  
11 capital improvements, the distribution to the state shall be adjusted as  
12 provided in section 5-111.03. Monies deposited in the trust account for  
13 payment of purses pursuant to this subsection shall be in addition to amounts  
14 deposited pursuant to subsection B of this section.

15 D. During the period of a permit for horse or harness racing, the  
16 state shall receive two per cent of the gross amount of the first one million  
17 dollars of the daily pari-mutuel pools and five per cent of the gross amount  
18 exceeding one million dollars of the daily pari-mutuel pools.  
19 Notwithstanding any other provision of this subsection, the percentage paid  
20 by a permittee to the state does not apply to monies handled in a pari-mutuel  
21 pool for wagering on simulcasts of out-of-state races. The permittee shall  
22 retain the balance of the total amounts deducted pursuant to subsection C of  
23 this section. Of the amount retained by the permittee, less the amount  
24 payable to the permittee for capital improvements pursuant to section  
25 5-111.02, breakage distributed to the permittee pursuant to section 5-111.01  
26 and other applicable state, county and city transaction privilege or other  
27 taxes, unless otherwise agreed by written contract, fifty per cent shall be  
28 used for purses. Unless otherwise agreed by written contract, fifty per cent  
29 of the revenues received by the permittee from simulcasting races as provided  
30 in section 5-112, net of costs of advertising, shall be utilized as a  
31 supplement to the general purse structure. All amounts ~~which~~ THAT are  
32 deducted from the pari-mutuel pool for purses pursuant to this section and  
33 sections 5-111.01, 5-112 and 5-114 and ~~revenues which~~ PROCEEDS THAT are  
34 received from simulcasting and ~~which~~ THAT are to be used as a supplement to  
35 the general purse structure pursuant to this subsection shall be deposited  
36 daily into a trust account for the payment of purse amounts.

37 E. Any county fair racing association may apply to the commission for  
38 one racing meeting each year and the commission shall set the number of days  
39 and the dates of such meetings. A racing meeting conducted under this  
40 subsection shall be operated in such manner that all profits accrue to the  
41 county fair racing association, and the county fair racing association may  
42 deduct from the pari-mutuel pool the same amount as prescribed in subsection  
43 C of this section. All county fair racing meetings, whether conducted by  
44 county fair racing associations under ~~the provisions of~~ this subsection or by  
45 an individual, corporation or association other than a county fair racing

1 association, are exempt from the payment to the state of the percentage of  
2 the pari-mutuel pool prescribed by subsection D of this section and are also  
3 exempt from ~~the provisions of~~ section 5-111.01.

4 F. Monies from charity racing days are exempt from the state  
5 percentage of the pari-mutuel pool prescribed in this section.

6 G. Sums held by a permittee for payment of unclaimed pari-mutuel  
7 tickets are exempt from the provisions of the revised Arizona unclaimed  
8 property act, title 44, chapter 3.

9 H. All of the amounts received by a permittee from the gross amount of  
10 monies handled in a pari-mutuel pool and all amounts held by a permittee for  
11 payment of purses pursuant to this section and sections 5-111.01, 5-112 and  
12 5-114 are exempt from the provisions of title 42, chapter 5.

13 I. On August 1 of each year a permittee is eligible for a hardship tax  
14 credit pursuant to this subsection. For **THE** purposes of this subsection,  
15 "permittee" ~~shall include~~ **INCLUDES** any person who has succeeded to the  
16 interest of a permittee and who is authorized to conduct racing at the  
17 facility for which the permit was issued. The department shall determine the  
18 amount of any hardship tax credit as follows:

19 1. Determine the percentage decrease in pari-mutuel wagering by  
20 determining the percentage decrease in pari-mutuel wagering between the base  
21 period amount and the amount of pari-mutuel wagering in the previous fiscal  
22 year at the racetrack and the additional wagering facilities operated by the  
23 permittee. The base period amount is the highest total annual pari-mutuel  
24 wagering at the racetrack and all additional wagering facilities as reported  
25 to the department for fiscal year 1989-1990, 1990-1991, 1991-1992, 1992-1993  
26 or 1993-1994.

27 2. Determine the permittee's hardship tax credit by multiplying the  
28 total pari-mutuel tax due as a result of wagering at the racetrack and all  
29 additional wagering facilities for the previous fiscal year before applying  
30 any hardship tax credit amount by the percentage decrease in pari-mutuel  
31 wagering determined pursuant to paragraph 1 of this subsection and  
32 multiplying the result by three.

33 3. The permittee's pari-mutuel tax due as otherwise determined under  
34 subsections B and D of this section shall be reduced for the current period  
35 and any future periods by an amount equal to the amount of the hardship tax  
36 credit determined pursuant to this subsection. The hardship tax credit is in  
37 addition to any other tax exemptions, rebates and credits.

38 Sec. 2. Section 5-112, Arizona Revised Statutes, is amended to read:

39 5-112. Wagering legalized; simulcasting of races; unauthorized  
40 wagering prohibited; classification; report

41 A. Except as provided in subsection L of this section, section  
42 5-101.01, subsection G and title 13, chapter 33, any person within the  
43 enclosure of a racing meeting held pursuant to ~~the provisions of~~ this article  
44 may wager on the results of a race held at the meeting or televised to the  
45 racetrack enclosure by simulcasting pursuant to this section by contributing

1 money to a pari-mutuel pool ~~operated by the permittee~~ as provided by this  
2 article.

3 B. The department ~~may~~, upon request by a permittee, **MAY** grant  
4 permission for electronically televised simulcasts of horse, harness or dog  
5 races to be received by the ~~permittee~~ **COMMERCIAL OR COUNTY FAIR RACING**  
6 **PERMITTEE AT THE PERMITTEE'S RACING ENCLOSURE**. In counties having a  
7 population of one million five hundred thousand persons or more according to  
8 the most recent United States decennial census, the simulcasts shall be  
9 received at the racetrack enclosure where a horse, harness or dog racing  
10 meeting is being conducted, provided that the simulcast may only be received  
11 during, immediately before or immediately after a minimum of nine ~~posted~~  
12 **HAVE BEEN POSTED** races for that racing day. In counties having a population  
13 of five hundred thousand persons or more, ~~—~~ but less than one million five  
14 hundred thousand persons according to the most recent United States decennial  
15 census, the simulcasts shall be received at the racetrack enclosure where a  
16 horse, harness or dog racing meeting is being conducted provided that the  
17 simulcast may only be received during, immediately before or immediately  
18 after a minimum of four posted races for that racing day. In all other  
19 counties, the simulcasts shall be received at a racetrack enclosure at which  
20 authorized racing has been conducted whether or not posted races have been  
21 offered for the day the simulcast is received. The simulcasts shall be  
22 limited to horse, harness or dog races. The simulcasts shall be limited to  
23 the same type of racing as authorized in the permit for live racing conducted  
24 by the permittee. The department ~~may~~, upon request by a permittee, **MAY** grant  
25 permission for the permittee to transmit the live race from the racetrack  
26 enclosure where a horse, harness or dog racing meeting is being conducted to  
27 a facility or facilities in another state. All simulcasts of horse or  
28 harness races shall comply with the interstate horse racing act of 1978 (P.L.  
29 95-515; 92 Stat. 1811; 15 United States Code chapter 57). All forms of  
30 pari-mutuel wagering shall be allowed on **LIVE OR SIMULCAST** horse, harness or  
31 dog races ~~televised by simulcasting~~ **THAT ARE AVAILABLE FOR WAGERING AND THAT**  
32 **ARE CONDUCTED BY A COMMERCIAL HORSE OR DOG RACING PERMITTEE UNDER THIS**  
33 **CHAPTER**. All monies wagered by patrons on these horse, harness or dog races  
34 shall be computed in the amount of money wagered each racing day for purposes  
35 of section 5-111.

36 C. Notwithstanding subsection B of this section, in counties having a  
37 population of one million five hundred thousand persons or more according to  
38 the most recent United States decennial census, simulcasts may be received  
39 at the racetrack enclosure and **THE PERMITTEE MAY OFFER PARI-MUTUEL WAGERING**  
40 **ON THE SIMULCASTS** at any additional wagering facility used by a permittee for  
41 handling wagering as provided in section 5-111, subsection A during a  
42 permittee's racing meeting as approved by the commission, **WHETHER OR NOT THE**  
43 **SIMULCASTS ARE TELEVIEWED TO THE ADDITIONAL WAGERING FACILITY AND** whether or  
44 not posted races have been conducted on the day the simulcast is received,  
45 if:

1           1. For horse and harness racing, the permittee's racing permit  
2 requires the permittee to conduct a minimum of nine posted LIVE races on an  
3 average of five racing days each week at the permittee's racetrack enclosure  
4 during the period beginning on October 1 and ending on the first full week in  
5 May.

6           2. For dog racing, the permittee is required to conduct a minimum of  
7 twelve posted LIVE races on each of five days each week for fifty weeks  
8 during a calendar year at the permittee's racetrack enclosure.

9           D. Notwithstanding subsection B of this section, in counties having a  
10 population of five hundred thousand persons or more but less than one million  
11 five hundred thousand persons according to the most recent United States  
12 decennial census, simulcasts may be received at the racetrack enclosure and  
13 THE PERMITTEE MAY OFFER PARI-MUTUEL WAGERING ON THE SIMULCASTS at any  
14 additional wagering facility used by a permittee for handling wagering as  
15 provided in section 5-111, subsection A during a permittee's racing meeting  
16 as approved by the commission, WHETHER OR NOT THE SIMULCASTS ARE TELEVISED TO  
17 THE ADDITIONAL WAGERING FACILITY AND whether or not posted races have been  
18 conducted on the day the simulcast is received, subject to the following  
19 conditions:

20           1. For horse and harness racing, the permittee may conduct wagering on  
21 dark day simulcasts for twenty days, provided the permittee conducts a  
22 minimum of seven posted races on each of the racing days mandated in the  
23 permittee's commercial racing permit. In order to conduct wagering on dark  
24 day simulcasts for more than twenty days, the permittee is required to  
25 conduct a minimum of seven posted races on one hundred forty racing days at  
26 the permittee's racetrack enclosure.

27           2. For dog racing, the permittee is required to conduct a minimum of  
28 nine posted LIVE races on each of four days each week for fifty weeks during  
29 a calendar year at the permittee's racetrack enclosure.

30           E. In an emergency and upon a showing of good cause by a permittee,  
31 the commission may grant an exception to the minimum racing day requirements  
32 of subsections C and D of this section.

33           F. The minimum racing day requirements of subsections C and D of this  
34 section shall be computed by adding all racing days, including any county  
35 fair racing days operated in accordance with section 5-110, subsection F,  
36 allotted to the permittee's racetrack enclosure in one or more racing permits  
37 and all racing days allotted to the permittee's racetrack enclosure pursuant  
38 to section 5-110, subsection H.

39           G. Notwithstanding subsection B of this section and subject to  
40 subsections C and D of this section, during the period of the permit for  
41 horse racing, wagering on dark day simulcasts of horse races at a permittee's  
42 additional wagering facilities shall only be allowed for a maximum number of  
43 days equal to the number of days of live horse racing scheduled to be  
44 conducted at that permittee's racetrack enclosure during the permittee's  
45 racing meeting, and during the period of a permit for dog racing, wagering on

1 dark day simulcasts of dog races at a permittee's additional wagering  
2 facilities shall only be allowed for a maximum number of days equal to the  
3 number of days of live dog racing scheduled to be conducted at that  
4 permittee's racetrack enclosure during the permittee's racing meeting. The  
5 number of days allowed for dark day simulcasting under this subsection shall  
6 be computed by adding all racing days, including any county fair racing days  
7 operated in accordance with section 5-110, subsection F, allotted to the  
8 permittee's racetrack enclosure in one or more racing permits and all racing  
9 days allocated to the permittee's racetrack enclosure pursuant to section  
10 5-110, subsection H.

11 H. Simulcast signals or teletracking of simulcast signals does not  
12 prohibit live racing or teletracking of that live racing in any county at any  
13 time.

14 I. Except as provided in subsection L of this section, section  
15 5-101.01, subsection G and title 13, chapter 33, any person within a  
16 racetrack enclosure or an additional facility authorized for wagering  
17 pursuant to section 5-111, subsection A may wager on the results of a race  
18 televised to the ~~facility~~ PERMITTEE'S LIVE RACING ENCLOSURE pursuant to  
19 section 5-111, subsection A by contributing to a pari-mutuel pool operated as  
20 provided by this article.

21 J. Notwithstanding subsection B of this section, the department, in  
22 counties having a population of one million five hundred thousand persons or  
23 more according to the most recent United States decennial census, ~~may, upon~~  
24 AND ON request by a permittee for one day each year, MAY grant permission for  
25 simulcasts to be received without compliance with the minimum of nine posted  
26 races requirement.

27 K. Except as provided in this article and in title 13, chapter 33, all  
28 forms of wagering or betting on the results of a race, including but not  
29 limited to buying, selling, cashing, exchanging or acquiring a financial  
30 interest in pari-mutuel tickets, except by operation of law, whether the race  
31 is conducted in this state or elsewhere, are illegal.

32 ~~Until June 1, 2003, a permittee shall not knowingly permit a minor~~  
33 ~~to be a patron of the pari-mutuel system of wagering. Beginning on June 1,~~  
34 ~~2003,~~ A permittee shall not knowingly permit a person who is under twenty-one  
35 years of age to be a patron of the pari-mutuel system of wagering.

36 M. Except as provided in title 13, chapter 33, any person ~~violating~~  
37 ~~any provision of~~ WHO VIOLATES this article with respect to any wagering or  
38 betting, whether the race is conducted ~~within~~ IN or ~~without~~ OUTSIDE this  
39 state, is guilty of a class 6 felony.

40 N. Simulcasting may only be authorized for the same type of racing  
41 authorized by a permittee's live racing permit.

42 O. ANY PERSON OTHER THAN A PERMITTEE UNDER THIS ARTICLE WHO ACCEPTS A  
43 WAGER OR WHO BETS ON THE RESULTS OF A RACE, WHETHER THE RACE IS CONDUCTED IN  
44 OR OUTSIDE THIS STATE, INCLUDING BUYING, SELLING, CASHING, EXCHANGING OR  
45 ACQUIRING A FINANCIAL INTEREST IN A PARI-MUTUEL TICKET FROM A PERSON IN THIS

1 STATE OUTSIDE OF A RACING ENCLOSURE OR AN ADDITIONAL WAGERING FACILITY THAT  
2 IS APPROVED BY THE COMMISSION AND THAT IS LOCATED IN THIS STATE IS GUILTY OF  
3 A CLASS 6 FELONY.

4 P. PURSUANT TO SECTION 13-108, A PARI-MUTUEL WAGER OR A BET PLACED OR  
5 MADE BY A PERSON IN THIS STATE IS DEEMED FOR ALL PURPOSES TO OCCUR IN THIS  
6 STATE.

7 Q. THE DEPARTMENT AND THE ATTORNEY GENERAL SHALL ENFORCE SUBSECTIONS O  
8 AND P OF THIS SECTION AND SHALL SUBMIT AN ANNUAL REPORT THAT SUMMARIZES THESE  
9 ENFORCEMENT ACTIVITIES TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF  
10 REPRESENTATIVES AND THE PRESIDENT OF THE SENATE. THE DEPARTMENT AND THE  
11 ATTORNEY GENERAL SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF  
12 STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC  
13 RECORDS.