

REFERENCE TITLE: dog tracks; live racing exception

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2536

Introduced by
Representative Williams

AN ACT

AMENDING SECTIONS 5-110, 5-111 AND 5-112, ARIZONA REVISED STATUTES; RELATING
TO DOG RACING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 5-110, Arizona Revised Statutes, is amended to
3 read:

4 5-110. Racing days, times and allocations; emergency transfer;
5 county fairs; charity days

6 A. Permits for horse, harness or dog racing meetings shall be approved
7 and issued for substantially the same dates allotted to permittees for the
8 same type of racing during the preceding year or for other dates that
9 permittees request, provided that, in the event there is a conflict in dates
10 requested between two or more permittees in the same county for the same kind
11 of racing, the permittee whose application is for substantially the same
12 dates as were allotted to the permittee in the preceding year shall be
13 entitled to have preference over other permittees. In the event two or more
14 permittees have agreed that the dates to be allotted to each of them each
15 year shall be alternated from one year to the next, the commission shall
16 recognize their agreement and such permittees may be accorded preference over
17 any other permittee as to those dates to be allotted to such permittees on an
18 alternating basis. Except as otherwise provided, the commission shall allot
19 dates to the respective permittees after giving due consideration to all of
20 the factors involved and the interests of permittees, the public and this
21 state.

22 B. The commission may require by the terms of any permit that the
23 permittee offer such number of races during any racing meeting as the
24 commission shall determine, provided that the permittee shall be permitted to
25 offer not less than the same number of races each day as offered in the prior
26 year. The commission shall require each horse racing permittee to conduct
27 for a period of thirty days a number of races equal to an average of not less
28 than two races for each day of racing exclusively for quarter horses. If, in
29 the opinion of the commission, the permittee is offering acceptable quarter
30 horse races but an honest effort is not being put forth to fill these races
31 by the horsemen, the commission may rescind the two race per day quarter
32 horse requirement.

33 C. Live racing and wagering on simulcast races shall be permissible in
34 either daytime or nighttime, but there shall be no live daytime dog racing on
35 the same day that there is live daytime horse or harness racing in any county
36 in which commercial horse or harness racing has been conducted prior to
37 February 1, 1971, and no live nighttime horse or harness racing on the same
38 day that there is live nighttime dog racing in the same county. There shall
39 be no wagering on simulcast dog races before 4:15 p.m., mountain standard
40 time, on the same day that there is live daytime horse or harness racing in
41 any county in which commercial horse or harness racing has been conducted
42 before February 1, 1971, and no wagering on simulcast horse or harness racing
43 after 7:30 p.m., mountain standard time, on the same day that there is live
44 nighttime dog racing in the same county. The hours during which any other
45 dog, harness or horse racing is to be conducted shall be determined by the
46 commission. The application for a permit shall state the exact days on which

1 racing will be held and the time of day during which racing will be
2 conducted.

3 D. If the commission determines that an emergency has obligated or may
4 obligate a permittee to discontinue racing at a location, the commission may
5 authorize the permittee to transfer racing for the number of days lost to any
6 other location.

7 E. A racing meeting, when operated by a county fair racing association
8 or under lease during the county fair to any individual, corporation or
9 association, shall not come under the limitation placed on days of racing in
10 this section.

11 F. The department shall be the judge of whether a county fair racing
12 meeting is being operated in accordance with the provisions of this section.
13 A county fair racing meeting conducted by an individual, corporation or
14 association, other than the properly authorized county fair racing
15 association, shall come under the general provisions of this article the same
16 as a commercial meeting. Notwithstanding this subsection, a county fair
17 racing meeting, whether conducted by a county fair racing association or by
18 an individual, corporation or association other than a county fair racing
19 association, is exempt from the requirement prescribed in section 5-111 to
20 pay to the state a percentage of the pari-mutuel pool collected at the
21 meeting.

22 G. The commission may allow a permittee, in addition to the days
23 specified in this permit, to operate up to three racing days during any one
24 meeting as charity days. From the amount deducted from the total handled in
25 the pari-mutuel pool on charity days, the permittee shall deduct an amount
26 equal to the purses and the cost of conducting racing on these days, and
27 shall donate the balance to nonprofit organizations and corporations ~~which~~
28 ~~THAT~~ benefit the general public, ~~which~~ ~~THAT~~ are engaged in charitable,
29 benevolent and other like work and ~~which~~ ~~THAT~~ are selected by the permittee
30 and approved by the department. In no event shall the amount given to
31 charity from charity racing days be less than the amount ~~which~~ ~~THAT~~ otherwise
32 would have gone to this state as the state's share on a noncharity racing
33 day.

34 H. Notwithstanding any other provision of this chapter, any dog racing
35 permittee to which a permit to conduct dog racing in this state has been
36 issued may in any racing year modify the racing date allocations made to the
37 permittee for conducting dog racing at a track by reallocating up to
38 two-thirds of the racing dates allocated to that permittee for dog racing at
39 a track to another track in this state at which the permittee or a
40 corporation of common ownership to the permittee conducts dog racing. For
41 the purpose of this section a corporation of common ownership to the
42 permittee is a corporation ~~which~~ ~~THAT~~ is owned or controlled, directly or
43 indirectly, by the same corporation that owns or controls the permittee and
44 which holds a permit to conduct dog racing in this state.

45 I. Notwithstanding any other provision of this article, any dog racing
46 permittee that has offered live dog racing in eight out of ten calendar years

1 from 1980 to 1990 in counties that have a population of less than ONE MILLION
2 five hundred thousand persons according to the most recent United States
3 decennial census shall be considered as operating a racetrack enclosure for
4 all purposes under this article and shall not be required to conduct live
5 racing as a condition of that permittee's racing permit. Any permittee
6 qualified under this subsection may conduct wagering on telecasts of races
7 conducted at racetrack enclosures within this state or at racetrack
8 enclosures outside this state without offering live racing at that
9 permittee's racetrack enclosure.

10 Sec. 2. Section 5-111, Arizona Revised Statutes, is amended to read:

11 5-111. Wagering percentage to permittee and state; exemptions

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

44 B. During the period of any permit for dog racing in any county, the
45 state shall receive five and one-half per cent of all monies handled in the
46 pari-mutuel pool operated by the permittee, to be paid daily during the

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

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

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

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

38 E. Any county fair racing association may apply to the commission for
39 one racing meeting each year and the commission shall set the number of days
40 and the dates of such meetings. A racing meeting conducted under this
41 subsection shall be operated in such manner that all profits accrue to the
42 county fair racing association, and the county fair racing association may
43 deduct from the pari-mutuel pool the same amount as prescribed in subsection
44 C of this section. All county fair racing meetings, whether conducted by
45 county fair racing associations under ~~the provisions of~~ this subsection or by
46 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. 3. 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 this article may wager on the
44 results of a race held at the meeting or televised to the racetrack enclosure
45 by simulcasting pursuant to this section by contributing money to a
46 pari-mutuel pool operated by the permittee as provided by this article.

1 B. The department, upon request by a permittee, may grant permission
 2 for electronically televised simulcasts of horse, harness or dog races to be
 3 received by the permittee. In counties having a population of one million
 4 five hundred thousand persons or more according to the most recent United
 5 States decennial census, the simulcasts shall be received at the racetrack
 6 enclosure where a horse, harness or dog racing meeting is being conducted,
 7 provided that the simulcast may only be received during, immediately before
 8 or immediately after a minimum of nine posted races for that racing day. In
 9 counties having a population of five hundred thousand persons or more but
 10 less than one million five hundred thousand persons according to the most
 11 recent United States decennial census, the simulcasts shall be received at
 12 the racetrack enclosure where a horse, harness or dog racing meeting is being
 13 conducted provided that the simulcast may only be received during,
 14 immediately before or immediately after a minimum of four posted races for
 15 that racing day. In all other counties, the simulcasts shall be received at
 16 a racetrack enclosure at which authorized racing has been conducted whether
 17 or not posted races have been offered for the day the simulcast is received.
 18 The simulcasts shall be limited to horse, harness or dog races. The
 19 simulcasts shall be limited to the same type of racing as authorized in the
 20 permit for live racing conducted by the permittee. The department, upon
 21 request by a permittee, may grant permission for the permittee to transmit
 22 the live race from the racetrack enclosure where a horse, harness or dog
 23 racing meeting is being conducted to a facility or facilities in another
 24 state. All simulcasts of horse or harness races shall comply with the
 25 interstate ~~horse racing~~ HORSERACING act of 1978 (P.L. 95-515; 92 Stat. 1811;
 26 15 United States Code chapter 57). All forms of pari-mutuel wagering shall
 27 be allowed on horse, harness or dog races televised by simulcasting. All
 28 monies wagered by patrons on these horse, harness or dog races shall be
 29 computed in the amount of money wagered each racing day for purposes of
 30 section 5-111.

31 C. Notwithstanding subsection B of this section, in counties having a
 32 population of one million five hundred thousand persons or more according to
 33 the most recent United States decennial census, simulcasts may be received at
 34 the racetrack enclosure and at any additional wagering facility used by a
 35 permittee for handling wagering as provided in section 5-111, subsection A
 36 during a permittee's racing meeting as approved by the commission, whether or
 37 not posted races have been conducted on the day the simulcast is received,
 38 if:

- 39 1. For horse and harness racing, the permittee's racing permit
 40 requires the permittee to conduct a minimum of nine posted races on an
 41 average of five racing days each week at the permittee's racetrack enclosure
 42 during the period beginning on October 1 and ending on the first full week in
 43 May.
- 44 2. For dog racing, the permittee is required to conduct a minimum of
 45 twelve posted races on each of five days each week for fifty weeks during a
 46 calendar year at the permittee's racetrack enclosure.

1 D. Notwithstanding subsection B of this section, **FOR HORSE AND HARNESS**
2 **RACING** in counties having a population of five hundred thousand persons or
3 more but less than one million five hundred thousand persons according to the
4 most recent United States decennial census, simulcasts may be received at the
5 racetrack enclosure and at any additional wagering facility used by a
6 permittee for handling wagering as provided in section 5-111, subsection A
7 during a permittee's racing meeting as approved by the commission, whether or
8 not posted races have been conducted on the day the simulcast is received.

9 ~~, subject to the following conditions:~~

10 ~~1. For horse and harness racing,~~ The permittee may conduct wagering on
11 dark day simulcasts for twenty days, provided the permittee conducts a
12 minimum of seven posted races on each of the racing days mandated in the
13 permittee's commercial racing permit. In order to conduct wagering on dark
14 day simulcasts for more than twenty days, the permittee is required to
15 conduct a minimum of seven posted races on one hundred forty racing days at
16 the permittee's racetrack enclosure.

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

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

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

29 G. Notwithstanding subsection B of this section and subject to
30 subsections C and D of this section, during the period of the permit for
31 horse racing, wagering on dark day simulcasts of horse races at a permittee's
32 additional wagering facilities shall only be allowed for a maximum number of
33 days equal to the number of days of live horse racing scheduled to be
34 conducted at that permittee's racetrack enclosure during the permittee's
35 racing meeting, and during the period of a permit for dog racing, wagering on
36 dark day simulcasts of dog races at a permittee's additional wagering
37 facilities shall only be allowed for a maximum number of days equal to the
38 number of days of live dog racing scheduled to be conducted at that
39 permittee's racetrack enclosure during the permittee's racing meeting. The
40 number of days allowed for dark day simulcasting under this subsection shall
41 be computed by adding all racing days, including any county fair racing days
42 operated in accordance with section 5-110, subsection F, allotted to the
43 permittee's racetrack enclosure in one or more racing permits and all racing
44 days allocated to the permittee's racetrack enclosure pursuant to section
45 5-110, subsection H.

1 H. Simulcast signals or teletracking of simulcast signals does not
2 prohibit live racing or teletracking of that live racing in any county at any
3 time.

4 I. Except as provided in subsection L of this section, section
5 5-101.01, subsection G and title 13, chapter 33, any person within a
6 racetrack enclosure or an additional facility authorized for wagering
7 pursuant to section 5-111, subsection A may wager on the results of a race
8 televised to the facility pursuant to section 5-111, subsection A by
9 contributing to a pari-mutuel pool operated as provided by this article.

10 J. Notwithstanding subsection B of this section, the department, in
11 counties having a population of one million five hundred thousand persons or
12 more according to the most recent United States decennial census and on
13 request by a permittee for one day each year, may grant permission for
14 simulcasts to be received without compliance with the minimum of nine posted
15 races requirement.

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

21 L. A permittee shall not knowingly permit a person who is under
22 twenty-one years of age to be a patron of the pari-mutuel system of wagering.

23 M. Except as provided in title 13, chapter 33, any person who violates
24 this article with respect to any wagering or betting, whether the race is
25 conducted in or outside this state, is guilty of a class 6 felony.

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

28 O. Any person other than a permittee under this article who accepts a
29 wager or who bets on the results of a race, whether the race is conducted in
30 or outside this state, including buying, selling, cashing, exchanging or
31 acquiring a financial interest in a pari-mutuel ticket from a person in this
32 state outside of a racing enclosure or an additional wagering facility that
33 is approved by the commission and that is located in this state is guilty of
34 a class 6 felony.

35 P. Pursuant to section 13-108, a pari-mutuel wager or a bet placed or
36 made by a person in this state is deemed for all purposes to occur in this
37 state.

38 Q. The department and the attorney general shall enforce subsections O
39 and P of this section and shall submit an annual report that summarizes these
40 enforcement activities to the governor, the speaker of the house of
41 representatives and the president of the senate. The department and the
42 attorney general shall provide a copy of this report to the secretary of
43 state ~~and the director of the Arizona state library, archives and public~~
44 ~~records.~~