House Engrossed Senate Bill

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SENATE BILL 1146

AN ACT

AMENDING SECTION 5-104, ARIZONA REVISED STATUTES; AMENDING TITLE 5, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 5-105.01; AMENDING SECTIONS 5-106, 5-108, 5-108.03, 5-108.04, 5-112 AND 5-115, ARIZONA REVISED STATUTES; RELATING TO DOG AND HORSE RACING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

A. The commission shall:

1. Issue racing dates.

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

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

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

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

B. The director shall license personnel and shall regulate and supervise all racing meetings held and pari-mutuel wagering conducted in this state and cause the various places where racing meetings are held and wagering is conducted to be visited and inspected on a regular basis. The director may delegate to stewards ~~such~~ ANY of the director's powers and duties as are necessary to fully carry out and effectuate the purposes of this chapter. The director shall exercise immediate supervision over the department of racing. The director is subject to ongoing supervision by the commission, and the commission may approve or reject decisions of the director in accordance with rules established by the commission.

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

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

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

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

F. The department shall establish and collect the following licensing fees and regulatory assessments, which shall not be reduced for hardship tax credits pursuant to section 5-111, subsection I or for capital improvements pursuant to section 5-111.02 or 5-111.03:

1. For each racing license issued, a LICENSE fee ~~established by the department~~.

2. From the purse accounts provided for in section 5-111, a regulatory assessment to pay for racing animal medication testing, animal safety and welfare.

3. From each permittee, a regulatory assessment for each day of dark day simulcasting conducted in excess of the number of live racing days conducted by the permittee.

4. From each commercial racing permittee, a regulatory assessment payable from amounts deducted from pari-mutuel pools by the permittee, in addition to the amounts the permittee is authorized to deduct pursuant to section 5-111, subsection C from amounts wagered on live and simulcast races from in-state and out-of-state wagering handled by the permittee.

G. The commission shall establish financial assistance procedures for promoting adoption of racing greyhounds as domestic pets and for promoting adoption of retired racehorses. The provision of financial assistance to nonprofit enterprises for the purpose of promoting adoption of racing greyhounds as domestic pets and for the purpose of promoting adoption of retired racehorses is contingent on a finding by the commission that the program presented by the enterprise is in the best interest of the racing industry and this state. ~~Upon~~ ON a finding by the commission, the commission is authorized to make grants to nonprofit enterprises whose programs promote adoption of racing greyhounds or adoption of retired racehorses. The commission shall develop an application process. The commission shall require an enterprise to report to the commission on the use of grants under this subsection. Financial assistance for nonprofit enterprises for the purpose of promoting adoption of racing greyhounds as domestic pets under this subsection shall not exceed the amount collected for license fees under subsection F of this section for greyhound racing kennels, farms or other operations where greyhounds are raised for the purpose of dog

racing. Financial assistance for nonprofit enterprises that promote adoption of retired racehorses under this subsection shall not exceed the amount of retired racehorse adoption surcharges collected pursuant to this subsection. The commission shall collect a retired racehorse adoption surcharge in addition to each civil penalty assessed in connection with horse or harness racing pursuant to this article. The amount of the retired racehorse adoption surcharge shall be five per cent of the amount collected for each applicable civil penalty.

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

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

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

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

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

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

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

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

P. The director shall submit an annual report containing ~~such~~ operational and economic performance information as is necessary to evaluate the department's budget request for the forthcoming fiscal year to the governor, the speaker of the house of representatives, the president of the senate and the Arizona state library, archives and public records no later than September 30 each year. The annual report shall be for the preceding fiscal year and SHALL contain ~~such~~ performance information as FOLLOWS:

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

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

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

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

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

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

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

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

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

R. The department has responsibility for the collection and accounting of revenues for the state boxing and mixed martial arts commission including, but not limited to, licensing fees required by section 5-230, the levy of the tax on gross receipts imposed by section 5-104.02 and cash deposited pursuant to section 5-229. All revenues collected pursuant to this subsection, from whatever source, shall be reported and deposited pursuant to section 5-104.02, subsection C, except that licensing fees required by section 5-230 shall be deposited in the racing regulation fund established by section 5-113.01. The director shall adopt rules as necessary to accomplish the purposes of this subsection and chapter 2, article 2 of this title.

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

T. NOTWITHSTANDING ANY OTHER RULE OR LAW, UPON APPLICATION BY A DOG RACING PERMITTEE, THE DIRECTOR MAY REDUCE THE NUMBER OF KENNELS REQUIRED FOR ANY RACE TO NOT LESS THAN FIVE KENNELS.

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

Sec. 2. Title 5, chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 5-105.01, to read:

5-105.01. Injury reports and records

NO LATER THAN TEN DAYS FOLLOWING THE END OF EACH MONTH, THE DEPARTMENT SHALL OBTAIN A LIST OF ALL RACING RELATED INJURIES AND DEATHS TO THE ANIMALS REPORTED TO THE TRACK VETERINARIAN.

Sec. 3. Section 5-106, Arizona Revised Statutes, is amended to read:

5-106. Supervisor of mutuels; pari-mutuel auditors; other employees; stewards

A. The director shall appoint a supervisor of mutuels, security personnel and as many other employees as may be necessary for the enforcement of the laws of this state and the rules relating to racing.

B. The director shall determine which employees shall give bond to the state for the faithful performance of their respective duties in ~~such~~ AN

amount as the department shall prescribe. The cost of providing the bonds shall be a charge against the state.

C. The compensation of employees shall be as determined pursuant to section 38-611.

D. The director shall keep a record of all proceedings and preserve all books, documents and papers of the commission and department.

E. The supervisor of mutuels shall monitor the wagering and the pari-mutuel departments at all racing meetings and additional wagering facilities and shall enter into no other employment or contracts of employment involving racing or pari-mutuel wagering either within or without the state during days of racing in the state.

F. The security personnel appointed by the director shall assist in keeping the peace at all racing meetings and additional wagering facilities, shall enforce all laws of the state relating to racing and all rules of the commission and shall perform ~~such~~ other duties as the commission or director shall prescribe and in the discharge of their duties shall have the authority of peace officers.

G. The director shall establish a security section charged with the responsibility for investigative matters relating to the proper conduct of racing and greyhound breeding, inspections of off-track kenneling of greyhounds used, trained or bred for racing purposes and pari-mutuel wagering including barring undesirables from racing, undercover investigations, fingerprinting persons licensed by the department and reviewing license applications. The person in charge of the security section shall have at least five years of experience in law enforcement or in conducting or supervising investigations in some aspect of racing law enforcement.

H. For purposes of inspecting off-track greyhound training or breeding facilities, the director may request and accept volunteer assistance from a member or representative of the national greyhound association in any instance in which the director believes specialized knowledge or advice may be useful or necessary in the enforcement of this chapter.

I. If ~~upon~~ ON investigation by the department there is substantial evidence indicating that the security at any track or additional wagering facility is not satisfactory, the director may order the permittee to remedy the deficiency. If after ten days following ~~such~~ THE order the permittee has not remedied the deficiency, the department may institute its own security personnel program until the deficiency in security is remedied and may charge the permittee the actual costs incurred therefor. The permittee may petition the department for a hearing at any time to review the necessity of the department further maintaining its own security personnel.

J. Persons employed by the department as investigators must have training in a general investigation course, including instruction in appropriate Arizona law, conducted or approved by the director.

K. For each horse, harness or dog racing meeting, the director ~~shall~~, with the approval of the commission, SHALL employ two persons qualified as

stewards. For each horse, harness or dog racing meeting, the permittee ~~shall~~, with the approval of the commission, SHALL employ one person qualified and licensed by the department as a steward. An applicant who wishes to be licensed or employed as a steward by the department for a commercial horse or harness racing meeting must be certified as a steward by a national organization approved by the department. ~~Beginning on January 1, 2000, an applicant who wishes to be licensed or employed as a steward by the department for a commercial dog racing meeting must be certified as a steward by a national organization approved by the department. An applicant as a steward for a commercial horse or harness racing meeting exceeding forty-five days shall have been employed as a steward, patrol judge, clerk of scales or other racing official at a horse or harness racing meeting for a period of not less than forty-five days during three of the past five years, or have at least five years' experience as a licensed jockey who has also served not less than one year as a licensed racing official at a horse or harness racing meeting, or have ten years' experience as a licensed horse trainer who has also served not less than one year as a licensed racing official at a horse or harness racing meeting.~~ The director shall designate one of the two stewards employed by the department pursuant to this section as chief steward for each horse, harness or dog racing meeting. The director shall designate the remaining stewards as assistant stewards. ~~A person employed by the department as a steward pursuant to this subsection is considered an exempt state employee and not a state service employee subject to title 41, chapter 4, articles 5 and 6. Stewards employed by the department pursuant to this section are eligible to receive compensation pursuant to section 38-611.~~ For each horse, harness or dog racing meeting conducted by a county fair racing association, the director ~~shall~~, with the approval of the commission, SHALL employ three persons qualified as stewards. The director shall designate one of the three stewards as chief steward for each horse, harness or dog racing meeting conducted by a county fair racing association, and shall designate the remaining stewards as assistant stewards.

Sec. 4. Section 5-108, Arizona Revised Statutes, is amended to read:

5-108. Issuance of permit or license; grounds for refusal to issue; nontransferable; renewal

A. The department shall conduct a thorough investigation concerning the application for a permit or a license and:

1. The department may refuse to issue or renew a license or the commission may refuse to approve or renew a permit for any applicant if there is substantial evidence to find that the applicant:

(a) Has been suspended or ruled off a recognized course in another jurisdiction by the racing board or commission thereof.

(b) Is not of good repute and moral character.

(c) Has, when previously licensed or granted a permit, violated the racing laws of this state or of any other state or the regulations of the commission.

(d) Is a corporation, firm or association not duly qualified and authorized to conduct business within this state.

(e) If an individual, has been convicted of a felony or any crime involving moral turpitude, or, if a corporation, firm or association, is controlled or operated directly or indirectly by a person or persons who have been convicted of a felony or any crime involving moral turpitude.

(f) If an individual, is engaged in or has been convicted of wagering by other than the mutuel method or in pool selling or bookmaking in any state of the United States or foreign country where such other method, pool selling or bookmaking is illegal or, if a corporation, firm or association, is controlled or operated directly or indirectly by a person who is engaged in or has been convicted of wagering by other than the mutuel method or in pool selling or bookmaking in any state of the United States or foreign country where such other method, pool selling or bookmaking is illegal.

(g) Has wilfully violated any provision of this chapter or any of the rules and regulations of the commission.

(h) Should not, in the best interest of the safety, welfare, economy, health and peace of the people of the state, be granted a license or permit.

(i) Has entered into any contract or contracts ~~which~~ THAT will not further the best interests of racing or be in the public interest or, in the case of permittees or applicants for permits to conduct racing meetings, has failed to file with the department a contract, as an addendum to an application for a permit to conduct a racing meeting, providing for food and beverage concession rights, if any, at ~~such~~ THAT racing meeting. A food and beverage concessionaire contract filed with the department pursuant to this section shall be available to the public ~~upon~~ ON request.

(j) Has failed to inform the department on or before May 15 of each year in writing of any material change, occurring during the immediately preceding year of the license or permit term, in the information supplied by the applicant in the application, for a license or permit. ~~In the event that~~ IF a licensee or permittee fails to file such information, the department shall notify the licensee or permittee of ~~such~~ THE failure to file and the licensee or permittee shall have an additional fifteen days, after the notice is mailed to the last known address of ~~such~~ THE licensee or permittee, to file ~~such~~ THE information.

2. The commission may refuse to approve or renew a permit to conduct a racing meeting or a food and beverage concessionaire license for any ground set forth in paragraph 1 of this subsection or if there is substantial evidence to find that:

(a) The applicant is not possessed of or has not demonstrated financial responsibility sufficient to meet adequately the requirements of the enterprise proposed to be authorized.

(b) The applicant is not the true owner of the enterprise proposed to be granted a permit, that other persons have ownership in the enterprise which fact has not been disclosed or, if the applicant is a corporation, that

ten per cent of the stock of ~~such~~ THE corporation is subject to a contract or option to purchase at any time during the period for which the permit is issued unless the contract or option was disclosed to the department and the department approved the sale or transfer during the period of the permit.

(c) The granting of a permit or license in the locality set out in the application is not in the public interest or convenience.

(d) The applicant, if a corporation or any holder of more than ten per cent of the outstanding stock of any class, transferred, pledged or in any other way collateralized any of its stock after an application for a permit or license was filed with the department, without prior department approval. The provisions of subdivision (b) OF THIS PARAGRAPH and this subdivision shall not apply to day-to-day transfers of stock of a publicly held corporation unless the transfer, or a combination of transfers, involves a controlling interest in or affects the operational control of the corporation, or involves ten per cent or more of any class of stock of the corporation owned by the controlling shareholders or the manager of any racing meeting.

(e) The applicant has, or if the applicant is a corporation, its officers, managerial employees, directors or substantial stockholders have, committed acts of moral turpitude in this state or have ~~willfully~~ WILFULLY violated a material racing statute of this state or a material rule or regulation of the commission. If the commission makes such a finding, with respect to an officer, managerial employee, director or substantial stockholder, the applicant may be denied a permit only ~~upon~~ ON the failure to remove the officer, managerial employee or director or the failure of the substantial stockholder to sell its stock interest. For purposes of this subdivision a substantial stockholder is one who owns ten per cent of the issued and outstanding stock of the applicant.

3. The department may deny or refuse to renew a license or the commission may refuse to approve or renew a permit for any person who has made a knowingly false statement of a material fact to the department.

4. The department may deny or refuse to renew a license or the commission may refuse to approve or renew a permit to any applicant if ~~such~~ THE applicant has failed to meet any monetary obligation in connection with any racing meeting held in this state.

5. The department shall refuse to issue or renew a license or the commission shall refuse to approve or renew a permit for any applicant if there is substantial evidence to find that the applicant, if an individual, has been convicted within the last five years of a felony or any crime involving moral turpitude or, if a corporation, firm or association, is controlled or operated directly or indirectly by a person or persons who have been convicted within the last five years of a felony or any crime involving moral turpitude.

B. The department in conducting the investigation referred to in this section shall have the full cooperation of all state agencies and

departments, including the department of public safety, and ~~such~~ THE agencies and departments shall make their personnel available to the department, ~~upon~~ ON request.

C. If the commission determines that the applicant for a permit, whether such applicant is a lessee or an individual or corporate owner of the tracksite, meets the requirements prescribed by this article and the rules and regulations of the commission, it shall approve the permit. The permit shall be approved for a period of not to exceed three years~~, except that the commission may at its discretion approve a permit for a period of not to exceed five years for an applicant who has not previously been granted a permit pursuant to this section and who purchases an excess holding and interest required to be sold pursuant to section 5-108.03~~. Any renewal of a permit shall be pursuant to subsection D of this section.

D. Except as provided by subsection C of this section, permits shall be renewed for successive periods of not more than three years unless the commission revokes the permit or refuses to renew the permit for any of the grounds enumerated in this section or section 5-108.03. The renewal of a permit shall be denied only after a full hearing and a finding of good cause for refusing renewal has been made by the commission.

E. The director shall suspend or revoke a license or the commission shall deny or revoke a permit of a person who intentionally provides false information to the department or any other governmental agency concerning ~~his~~ THE PERSON'S criminal history background. The director may suspend or revoke a license or the commission may deny or revoke a permit of a person who negligently or recklessly provides false information to the department or any other governmental agency concerning ~~his~~ THE PERSON'S criminal history background.

F. Except as provided by this subsection, the director may grant a license or the commission may approve a permit to engage in the racing industry in this state only after all necessary investigation of the background of the applicant required by this article has been completed. A temporary permit approved by the commission or a temporary license valid for a period of not to exceed ninety days may be issued by the director ~~prior to~~ BEFORE the time the investigation of the background of the applicant for the license or permit has been completed. After a temporary license or permit has been issued, the director may suspend or revoke a temporary license or the commission may revoke a temporary permit for any reason ~~which~~ THAT would be grounds to refuse to issue, approve or renew a license or permit under the provisions of subsection A of this section.

Sec. 5. Section 5-108.03, Arizona Revised Statutes, is amended to read:

5-108.03. Restrictions on ownership of licenses, permits and tracks; exemptions; sale for fair market value

A. From and after December 31, 1978, no person, firm, partnership, corporation or association or any affiliate thereof shall simultaneously hold

or have an ownership interest, direct or indirect, in permits to conduct racing meetings at more than four racetracks within this state. For the purpose of this chapter a person, firm, partnership, corporation or association holding or having an ownership interest, direct or indirect, in a place, enclosure or track at which a racing meeting is conducted in this state shall be considered as holding an ownership interest in the permit or permits issued for a racing meeting at ~~such~~ THAT location. This subsection shall not apply with respect to a corporation unless the person, firm, partnership, corporation or association otherwise subject to the provisions of this subsection owns or controls ten per cent or more of any class of stock of ~~such~~ THE corporation.

B. From and after December 31, 1978, no person, firm, partnership, corporation or association or any affiliate thereof, which holds or has an ownership interest, direct or indirect, in a permit to conduct a racing meeting within a county having a population of ~~three~~ SEVEN hundred thousand persons, or more, as shown by the last United States decennial census, shall simultaneously hold or have any ownership interest, direct or indirect, in a permit to conduct the same kind of racing within any other county having a population of ~~three~~ SEVEN hundred thousand persons, or more, as shown by the last United States decennial census.

~~C. Any person, firm, partnership, corporation or association which on the effective date of this section holds or has an ownership interest in permits in excess of the limits specified in subsections A and B shall use diligent effort to dispose of such excess holdings and interests prior to January 1, 1979. If such person, firm, partnership, corporation or association has failed to receive a reasonable offer, containing adequate security provisions, for the acquisition of such excess holdings or interest at the fair market value thereof prior to January 1, 1979, the department shall grant an extension of the affected permits for a one-year period. At the expiration of such extension, the department shall grant additional one year extensions but in no event shall the department grant more than three extensions for an affected permittee. Upon the disposal of such excess holdings and interest or expiration of the maximum number of extensions authorized, the limitations set forth in subsections A and B shall apply.~~

~~D.~~ C. For the purposes of subsections A~~,~~ OR B ~~and C~~ OF THIS SECTION, a person, firm, partnership, corporation or association shall be considered as itself holding or having any ownership interest held directly or indirectly by its affiliates. For the purposes of this chapter, one person, firm, partnership, corporation or association shall be considered the affiliate of another person, firm, partnership, corporation or association if any of the following applies:

1. They are either directly or indirectly under common control.

2. Any officer, director, manager, partner, supervisor, substantial stockholder, owner, trustee or administrator of one ~~such~~ person, firm, partnership, corporation or association is an officer, director, manager,

partner, substantial stockholder, owner, trustee or administrator of the other person, firm, partnership, corporation or association. For the purposes of this paragraph, a substantial stockholder is one who owns at least ten per cent of the issued and outstanding stock of a corporation.

3. They, at any time, within an immediately preceding three-year period, have each had a substantial ownership interest in the same permittee authorized to conduct a racing meeting in this state. For the purposes of this paragraph, the direct or indirect ownership of ten per cent or more of the equity of a permittee shall be considered a substantial ownership interest.

~~4. Notwithstanding the provisions of paragraph 3 of this subsection, any persons, firms, corporations, partnerships or affiliates thereof having a substantial ownership interest in the same permittee authorized to conduct a racing meeting in this state during 1976 shall be considered to be affiliates for purposes of subsections A and B until January 2, 1979, or until the termination of any extension granted by the department pursuant to subsection C, whichever period is longer. For the purposes of this paragraph, the direct or indirect owner of ten per cent or more of the equity of a permittee shall be considered a substantial ownership interest.~~

~~E.~~ D. For purposes of determining interest in a permit or permittee, insofar as ~~such~~ THE determination is based on stock ownership:

1. Stock owned, directly or indirectly, by or for a corporation, partnership, estate or trust shall be considered as being owned proportionately by its shareholders, partners or beneficiaries.

2. An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For purposes of this section, the family of an individual includes only his brothers and sisters, whether by the whole or half blood, spouse, ancestors and lineal descendants.

3. Stock constructively owned by a person by reason of the application of paragraph 1 of this subsection shall, for purposes of applying paragraph 1 or 2 of this subsection, be treated as actually owned by ~~such~~ THE person. Stock constructively owned by ~~such~~ THE person by reason of the application of paragraph 2 of this subsection shall not be treated as owned by ~~him~~ THE PERSON for purposes of again applying paragraph 2 of this subsection in order to make another the constructive owner of ~~such~~ THE stock.

Sec. 6. Section 5-108.04, Arizona Revised Statutes, is amended to read:

5-108.04. Restrictions on loans; exemptions

~~From and after December 31, 1978, or from and after the termination of any extension period granted by the department pursuant to section 5-108.03, whichever time is later, no~~ A permittee or AN affiliate ~~thereof~~ OF A PERMITTEE shall NOT borrow from or accept loans or guarantees of loans from any licensed food and beverage concessionaire or any affiliate ~~thereof~~ OF A CONCESSIONAIRE, or make payments pursuant to any such loans, except that a

permittee may accept loans or guarantees of loans, and may make payments pursuant to such loans, from a food and beverage concessionaire ~~which~~ THAT is an affiliate of such permittee.

Sec. 7. Section 5-112, Arizona Revised Statutes, is amended to read:

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

A. Except as provided in subsection ~~L~~ K of this section, section 5-101.01, subsection F and title 13, chapter 33, any person within the enclosure of a racing meeting held pursuant to this article may wager on the results of a race held at the meeting or televised to the racetrack enclosure by simulcasting pursuant to this section by contributing money to a pari-mutuel pool operated by the permittee as provided by this article.

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

C. Notwithstanding subsection B of this section, in counties having a population of one million five hundred thousand persons or more according to the most recent United States decennial census, simulcasts may be received at the racetrack enclosure and at any additional wagering facility used by a

permittee for handling wagering as provided in section 5-111, subsection A during a permittee's racing meeting as approved by the commission, whether or not posted races have been conducted on the day the simulcast is received, if:

1. For horse and harness racing, the permittee's racing permit requires the permittee to conduct a minimum OF ONE HUNDRED FIFTY-SIX DAYS OF LIVE RACING WITH AN AVERAGE of nine posted races on an average of five racing days each week at the permittee's racetrack enclosure during the period beginning on October 1 and ending on the first full week in May, UNLESS OTHERWISE AGREED IN WRITING BY THE PERMITTEE AND THE RECOGNIZED HORSEMEN'S ORGANIZATION THAT REPRESENTS THE HORSEMEN PARTICIPATING IN THE RACE MEET AT THE RACETRACK ENCLOSURE SUBJECT TO APPROVAL BY THE DEPARTMENT.

2. For dog racing, the permittee is required to conduct a minimum of ~~twelve~~ TEN posted races on each of ~~five~~ FOUR days each week for ~~fifty~~ FORTY-ONE weeks during a calendar year at the permittee's racetrack enclosure.

D. Notwithstanding subsection B of this section, in counties having a population of ~~five~~ SEVEN hundred thousand persons or more but less than one million five hundred thousand persons according to the most recent United States decennial census, simulcasts may be received at the racetrack enclosure and at any additional wagering facility used by a permittee for handling wagering as provided in section 5-111, subsection A during a permittee's racing meeting as approved by the commission, whether or not posted races have been conducted on the day the simulcast is received, subject to the following conditions:

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

2. For dog racing, the permittee is required to conduct a minimum of nine posted races on each of one hundred days during a calendar year at the permittee's racetrack enclosure, unless a lesser number is otherwise agreed to by written contract entered into by February 1 of each year by a permittee and a majority of licensed persons then participating in a greyhound racing meeting as greyhound racing kennel owners.

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

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

and all racing days allotted to the permittee's racetrack enclosure pursuant to section 5-110, subsection H.

~~G. Notwithstanding subsection B of this section and subject to subsections C and D of this section, during the period of the permit for horse racing, wagering on dark day simulcasts of horse races at a permittee's additional wagering facilities shall only be allowed for a maximum number of days equal to the number of days of live horse racing scheduled to be conducted at that permittee's racetrack enclosure during the permittee's racing meeting. During the period of a permit for dog racing, wagering on dark day simulcasts of dog races at a permittee's additional wagering facilities shall only be allowed for a maximum number of days equal to the number of days of live dog racing scheduled to be conducted at that permittee's racetrack enclosure during the permittee's racing meeting, unless the permittee has offered live dog racing in a county that is subject to subsection D of this section for eight of the last ten preceding calendar years. The number of days allowed for dark day simulcasting under this subsection shall be computed by adding all racing days, including any county fair racing days operated in accordance with section 5-110, subsection F, allotted to the permittee's racetrack enclosure in one or more racing permits and all racing days allocated to the permittee's racetrack enclosure pursuant to section 5-110, subsection H.~~

~~H.~~ G. Simulcast signals or teletracking of simulcast signals does not prohibit live racing or teletracking of that live racing in any county at any time.

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

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

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

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

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

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

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

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

~~Q.~~ P. The department and the attorney general shall enforce subsections ~~O~~ N and ~~P~~ O of this section and shall submit an annual report that summarizes these enforcement activities to the governor, the speaker of the house of representatives and the president of the senate. The department and the attorney general shall provide a copy of this report to the secretary of state.

Sec. 8. Section 5-115, Arizona Revised Statutes, is amended to read:

5-115. Violation; classification; civil penalties

A. At any racing meeting conducted under ~~the provisions of~~ this article, a person is guilty of a class 4 felony, if ~~he~~ THE PERSON:

1. Knowingly influences or has any understanding or connivance with any official, owner, jockey, trainer, groom, starter, assistant starter or other person associated with a stable, kennel or race in which any horse or dog participates to predetermine the result ~~thereof~~ OF A RACE.

2. Knowingly gives or offers a bribe in any form to any official, owner, trainer, jockey, driver or groom, starter or assistant starter or any other person licensed by the department or accepts or solicits a bribe in any form.

3. Knowingly has in ~~his~~ THE PERSON'S possession or in use, while riding or driving in any horse race, any mechanical or electric device capable of affecting a horse's performance other than an ordinary whip.

4. Knowingly commits any other corrupt or fraudulent practice in relation to racing ~~which~~ THAT affects or may affect the result of a race.

5. For the purpose of selling or offering to sell predictions on horse races, harness races or dog races, advertises that he has predicted the outcome of any race ~~which~~ THAT has been run in this state, unless ~~such~~ THE person has notified in writing the department or a representative of the department of his predictions at least three hours ~~prior to~~ BEFORE the race involved on forms prescribed by the department. ~~No~~ A person shall NOT advertise the fact that he has notified the department or use the name of the

department in any way whatsoever to promote the activities described in this section. For the purposes of this paragraph, "advertise" means the use of any newspaper, magazine or other publication, book, notice, circular, pamphlet, letter, handbill, tip sheet, poster, bill, sign, placard, card, label, tag window display, store sign, radio or television announcement, or other means or methods now or hereafter employed to bring to the attention of the public information concerning the outcome of horse or dog races. Nothing contained in this paragraph ~~shall apply~~ APPLIES to any daily newspaper of general circulation ~~which~~ THAT is regularly entered in the United States mail, or any other daily publication carrying complete past performances of horses or dogs entered in races, or to any regularly published magazine or periodical devoted to racing news, ~~which magazine or periodical~~ THAT has been published for at least two years.

B. It is a class 4 felony for:

1. A trainer or owner to enter a horse or dog in a race if the trainer or owner knows that the horse or dog is drugged or desensitized and that the racing performance of the animal is affected.

2. A person to perform the drugging or desensitizing of a horse or dog if ~~such a~~ THE person knows that the horse or dog will compete in a race while so drugged or desensitized and knows that the racing performance of the animal is affected.

3. A person to intentionally fail to notify a steward as soon as reasonably possible that a horse or dog entered in a race is drugged or desensitized or that a horse or dog was not properly made available for the required tests or inspections and knows that the racing performance of the animal may be affected.

4. A person to intentionally impair or alter the normal performance of a pari-mutuel wagering system with the intent to defraud or injure the state or a permittee. Alteration of the normal performance of a pari-mutuel system includes:

(a) Altering, changing or interfering with any equipment or device used in connection with pari-mutuel wagering.

(b) Causing any false, inaccurate, delayed or unauthorized data, impulse or signal to be fed into, transmitted over, registered in or displayed on any equipment or device used in connection with pari-mutuel wagering.

5. A person to impair or alter the normal operation of simulcast broadcasts by intentionally doing any of the following with the intent to defraud or injure the state or a permittee:

(a) Intercepting or decoding a transmission of a simulcast signal, either in whole or in part, which has been authorized in writing for the use of pari-mutuel wagering and ~~which~~ THAT the director has not provided written authorization for the person to receive or decode.

(b) Without written authorization from the director, manufacturing, distributing or selling a device, a plan or a kit for a device capable of

intercepting or decoding a transmission of a simulcast signal with the intent that the device, plan or kit be used for interception or decoding.

(c) Without written authorization from the director, possessing a device, a plan or a kit for a device capable of intercepting or decoding a transmission of a simulcast signal with the intent that the device, plan or kit be used for the interception or decoding.

C. The department, in addition to any criminal penalties provided in this chapter and in addition to suspension or revocation of a credential or a license, may levy a civil penalty as to a licensee or a holder of a credential as follows:

1. In an amount of not ~~to exceed~~ MORE THAN five thousand dollars for each violation of any provision of subsection A OF THIS SECTION.

2. In an amount of not ~~to exceed one~~ MORE THAN TWO thousand FIVE HUNDRED dollars for each violation of any provision of this chapter ~~which~~ THAT constitutes grounds for suspension or revocation of a credential or license, except for violation of those provisions contained in subsection A OF THIS SECTION. All sums paid to the department pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

D. Any person who holds or conducts any racing meeting or operates an additional wagering facility without first complying with the provisions of this article, or any person who fails to submit to a drug test as directed by stewards or who violates any other provision of this article for which no other penalty is prescribed, is guilty of a class 2 misdemeanor.

E. A member of the commission or an employee of the department who at any time, directly or indirectly, knowingly receives any money, bribe, tip or other thing of value or service from any person connected with racing given with an intent to influence ~~his~~ THE MEMBER'S OR EMPLOYEE'S official action, or any person connected with racing who, directly or indirectly, knowingly gives ~~such~~ money, A bribe, A tip or ANY other thing of value or service to a member of the commission or an employee of the department with intent to influence ~~his~~ THE MEMBER'S OR EMPLOYEE'S official action, is guilty of a class 4 felony.

F. A person who knowingly removes or alters, either directly or indirectly, any tattoo, other marking, device, coloration or special characteristic that is required by the department for the purpose of identifying a greyhound used or bred for racing purposes or a person who knowingly subjects a greyhound used or bred for racing purposes regulated under this chapter to grossly inhumane conditions or severe mistreatment is guilty of a class 6 felony. For THE purposes of this subsection:

1. "Grossly inhumane conditions" means conditions arising from a person's reckless indifference to the consequences of an act or omission if the person, without any actual intent to injure, is aware from ~~his~~ THE PERSON'S knowledge of existing circumstances and conditions that ~~his~~ THE

PERSON'S conduct will inevitably or probably result in injury to a greyhound used or bred for racing purposes.

2. "Severe mistreatment" means the infliction of physical pain, suffering or death on a greyhound used or bred for racing purposes in a manner that is either wanton or with reckless indifference to pain or suffering.

Sec. 9. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.