

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

**CHAPTER 342**  
**SENATE BILL 1435**

AN ACT

AMENDING SECTIONS 5-104, 5-107.01, 5-131 AND 41-705, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3016.26, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3024.09; APPROPRIATING MONIES; RELATING TO THE DEPARTMENT OF GAMING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

6 A. The commission shall:

7 1. Issue racing dates.

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

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

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

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

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

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

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

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

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

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

15 1. For each racing license issued, a license fee.

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

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

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

27 G. The commission shall establish financial assistance procedures for  
28 promoting adoption of racing greyhounds as domestic pets and for promoting  
29 adoption of retired racehorses. The provision of financial assistance to  
30 nonprofit enterprises for the purpose of promoting adoption of racing  
31 greyhounds as domestic pets and for the purpose of promoting adoption of  
32 retired racehorses is contingent on a finding by the commission that the  
33 program presented by the enterprise is in the best interest of the racing  
34 industry and this state. On a finding by the commission, the commission is  
35 authorized to make grants to nonprofit enterprises whose programs promote  
36 adoption of racing greyhounds or adoption of retired racehorses. The  
37 commission shall develop an application process. The commission shall  
38 require an enterprise to report to the commission on the use of grants under  
39 this subsection. Financial assistance for nonprofit enterprises for the  
40 purpose of promoting adoption of racing greyhounds as domestic pets under  
41 this subsection shall not exceed the amount collected for license fees under  
42 subsection F of this section for greyhound racing kennels, farms or other  
43 operations where greyhounds are raised for the purpose of dog racing.  
44 Financial assistance for nonprofit enterprises that promote adoption of  
45 retired racehorses under this subsection shall not exceed the amount of

1 retired racehorse adoption surcharges collected pursuant to this subsection.  
2 The commission shall collect a retired racehorse adoption surcharge in  
3 addition to each civil penalty assessed in connection with horse or harness  
4 racing pursuant to this article. The amount of the retired racehorse  
5 adoption surcharge shall be five ~~per-cent~~ PERCENT of the amount collected for  
6 each applicable civil penalty.

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

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

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

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

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

42 M. The director may establish a management review section for the  
43 development, implementation and operation of a system of management reports  
44 and controls in major areas of department operations, including licensing,

1 work load management and staffing, and enforcement of ~~the provisions of~~ this  
2 article and the rules of the commission.

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

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

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

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

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

33 3. The amount and use of capital improvement funds pursuant to  
34 sections 5-111.02 and 5-111.03 that would otherwise be state revenues.

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

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

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

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

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

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

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

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

23          T. Notwithstanding any other rule or law, ~~upon~~ **ON** application by a dog  
24 racing permittee, the director may reduce the number of kennels required for  
25 any race to not less than five kennels.

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

29          Sec. 2. Section 5-107.01, Arizona Revised Statutes, is amended to  
30 read:

31           5-107.01. Necessity for permits for racing meetings: licenses  
32                                   for officials and other persons

33          A. A person, association or corporation shall not hold any racing  
34 meeting without having first obtained and having in full force and effect a  
35 permit that is issued by the department.

36          B. ~~No~~ **A** trainer, driver, jockey, apprentice jockey, horse owner, dog  
37 owner, greyhound racing kennel owner or operator, breeder of racing  
38 greyhounds, exercise ~~boy~~ **RIDER**, agent, jockey's agent, stable foreman, groom,  
39 valet, veterinarian, horseshoer, steward, stable watchman, starter, timer,  
40 judge, food and beverage concessionaire, manager or other person acting as a  
41 participant or official at any racing meeting including all employees of the  
42 pari-mutuel department and any other person or official the department deems  
43 proper shall **NOT** participate in racing meetings without having first obtained  
44 and having in full force and effect a license or credentials that are issued  
45 by the department, pursuant to such rules as the commission shall make. The

1 department shall not revoke a license except for cause and after a hearing.  
2 For the purposes of this subsection, participate in a dog racing meeting  
3 includes breeding, raising and training a dog and certifying as an Arizona  
4 bred dog.

5 C. Each person, association or corporation that holds a permit or a  
6 license under this chapter shall comply with all rules and orders of the  
7 commission or department.

8 D. Any credential or license that is issued by the department to a  
9 licensee shall be used only as prescribed by commission rule or order of the  
10 director. Use for purposes other than those prescribed is grounds for  
11 suspension or revocation or imposition of a civil penalty as provided in  
12 section 5-108.02, subsection E.

13 E. All applicants for a permit or license shall submit to the  
14 department a full set of fingerprints, background information and the fees  
15 that are required pursuant to section 41-1750. The department of ~~raci~~  
16 ~~ng~~ GAMING shall submit the fingerprints to the department of public safety for  
17 the purpose of obtaining a state and federal criminal records check pursuant  
18 to section 41-1750 and Public Law 92-544. The department of public safety  
19 may exchange this fingerprint data with the federal bureau of investigation.  
20 The applicant shall pay the fingerprint fee and costs of the background  
21 investigation in an amount that is determined by the department. For such  
22 purpose the department of ~~raci~~ GAMING and the department of public safety  
23 may enter into an intergovernmental agreement pursuant to title 11, chapter  
24 7, article 3. The fees shall be credited pursuant to section 35-148.

25 F. The director may issue a temporary license to an owner, trainer,  
26 driver or jockey who is duly licensed in another jurisdiction for special  
27 races or special circumstances for a period of not to exceed thirty days.  
28 The director may allow a trainer so licensed to complete an application for a  
29 temporary license for an owner if the owner is not immediately available to  
30 personally submit the application.

31 G. A licensed owner, lessee or trainer of a qualified horse who has  
32 applied to a permittee to be stabled at a track and who has not been granted  
33 a stall shall not be prohibited from bringing the horse on the race grounds  
34 for the purpose of entering the animal in races that are held by the  
35 permittee or for the purposes of qualifying to race solely for the reason  
36 that the animal is not being stabled at the track if the owner, lessee or  
37 trainer is in compliance with rules adopted by the commission. ~~No~~ A dog  
38 racing permittee may NOT prohibit a licensed owner or a licensed lessee of a  
39 qualified animal who has applied to be kenneled at the track and who has not  
40 been granted a kennel to enter the animal in races that are held by the  
41 permittee and to bring the animal on the track for purposes of qualifying to  
42 race or to race solely for the reason that the animal is not being kenneled  
43 at the track.

44 Sec. 3. Section 5-131, Arizona Revised Statutes, is amended to read:  
45 5-131. Compact; authority to join



1 and its applicability to any government, agency, person or circumstance shall  
2 not be affected thereby. If all or some portion of this compact is held to  
3 be contrary to the constitution of any party state, the compact shall remain  
4 in full force and effect as to the remaining party states and in full force  
5 and effect as to the state affected as to all severable matters.

6 Article III

7 Definitions

8 For the purposes of this compact:

9 1. "Compact committee" means the organization of officials from the  
10 party states that is authorized and empowered by the compact to carry out the  
11 purposes of this compact.

12 2. "Official" means the appointed, elected, designated or otherwise  
13 duly elected representative of a racing commission or the equivalent thereof  
14 in a party state who represents that party as a member of the compact  
15 committee.

16 3. "Participants in live racing" means participants in live racing  
17 with pari-mutuel wagering in the party states.

18 4. "Party state" means each state that has enacted this compact.

19 5. "State" means each of the several states of the United States, the  
20 District of Columbia, the Commonwealth of Puerto Rico and each territory or  
21 possession of the United States.

22 Sec. 4. Section 41-705, Arizona Revised Statutes, is amended to read:

23 41-705. Racing investigation fund; distributions; refund

24 A. The racing investigation fund is established consisting of monies  
25 deposited for the projected cost of investigations conducted pursuant to  
26 title 5, chapter 1 by persons, partnerships, associations or corporations  
27 that hold a permit for a racing meeting under title 5. Monies deposited into  
28 the fund shall be made in a reasonable amount based on a request from the  
29 director of the ~~Arizona~~ department of ~~racing~~ GAMING. The department of  
30 administration shall administer the fund. Monies in the fund are  
31 continuously appropriated and are exempt from the provisions of section  
32 35-190 relating to lapsing of appropriations.

33 B. Monies distributed from the fund are subject to the following  
34 restrictions:

35 1. Distributions shall be made pursuant to instructions from the  
36 director of the department of ~~racing~~ GAMING to the director of the department  
37 of administration.

38 2. Distributions shall be limited to expenses that are authorized  
39 under title 5, chapter 1, article 1 and that are incurred in compliance with  
40 chapter 23 of this title including open and competitive bidding for all  
41 services.

42 C. On the instruction of the director of the department of ~~racing~~  
43 GAMING, the department of administration at the conclusion of an  
44 investigation shall refund to the permittee the difference between the amount

1 deposited into the fund by that permittee and the total actual cost of the  
2 investigation.

3       Sec. 5. Repeal

4       Section 41-3016.26, Arizona Revised Statutes, is repealed.

5       Sec. 6. Title 41, chapter 27, article 2, Arizona Revised Statutes, is  
6 amended by adding section 41-3024.09, to read:

7       41-3024.09. Arizona racing commission; termination July 1, 2024

8       A. THE ARIZONA RACING COMMISSION TERMINATES ON JULY 1, 2024.

9       B. TITLE 5, CHAPTER 1 IS REPEALED ON JANUARY 1, 2025.

10       Sec. 7. Purpose

11       Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,  
12 the legislature continues the Arizona racing commission to regulate the  
13 racing industry in this state for the protection of the public peace, safety  
14 and welfare.

15       Sec. 8. Appropriation; department of gaming; Arizona breeders'  
16       award fund

17       The sum of \$200,000 is appropriated from the state general fund in  
18 fiscal year 2016-2017 to the department of gaming for deposit in the Arizona  
19 breeders' award fund established by section 5-113, subsection F, Arizona  
20 Revised Statutes.

21       Sec. 9. Retroactivity

22       Sections 5 and 6 of this act are effective retroactively to  
23 July 1, 2016.

APPROVED BY THE GOVERNOR MAY 18, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2016.