

REFERENCE TITLE: racing; hardship tax credit; elimination

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2387

Introduced by
Representative Farnsworth E

AN ACT

AMENDING SECTIONS 5-104 AND 5-111, ARIZONA REVISED STATUTES; RELATING TO
HORSE AND 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 5-104, 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 including,
12 but not limited to, licensing fees required by section 5-230, the levy of the
13 tax on gross receipts imposed by section 5-104.02 and cash deposited pursuant
14 to section 5-229. All revenues collected pursuant to this subsection, from
15 whatever source, shall be reported and deposited pursuant to section
16 5-104.02, subsection C, except that licensing fees required by section 5-230
17 shall be deposited in the racing regulation fund established by section
18 5-113.01. The director shall adopt rules as necessary to accomplish the
19 purposes of this subsection and chapter 2, article 2 of this title.

20 S. The commission may obtain the services of the office of
21 administrative hearings on any matter 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 5-111, Arizona Revised Statutes, is amended to read:
30 5-111. Wagering percentage to permittee and state; exemptions

31 A. The commission shall prescribe rules governing wagering on races
32 under the system known as pari-mutuel wagering. Wagering shall be conducted
33 by a permittee only by pari-mutuel wagering and only on the dates for which
34 racing or dark day simulcasting has been authorized by the commission.
35 Wagering for a licensed racing meeting shall be conducted by a commercial
36 live-racing permittee only within an enclosure in which authorized racing
37 takes place and, in counties having a population of less than five hundred
38 thousand persons or at least one million five hundred thousand persons, at
39 those additional facilities that are owned or leased by a permittee, that are
40 approved by the commission and that are used by a permittee for handling
41 wagering as part of the pari-mutuel system of the commercial live-racing
42 permittee. In all other counties, wagering may also be conducted at
43 additional facilities that are owned or leased by a commercial live-racing
44 permittee who is licensed to conduct live racing in those counties or who has
45 the consent of all commercial permittees currently licensed to conduct live

1 racing in those counties and that are used by a permittee for handling
 2 wagering and as part of the pari-mutuel system of the commercial live-racing
 3 permittee. If the additional facilities have not been used for authorized
 4 racing before their use for handling wagering, a permittee shall not use the
 5 facilities for handling wagering before receiving approval for use by the
 6 governing body of the city or town, if located within the corporate limits,
 7 or by the board of supervisors, if located in an unincorporated area of the
 8 county. A permittee may televise any live or simulcast races received at the
 9 permittee's racing enclosure to the additional facilities at the times the
 10 races are conducted or received at the permittee's enclosure. For the
 11 purpose of section 5-110, subsection C only, a race on which wagering is
 12 permitted under this subsection shall be deemed to also occur at the
 13 additional facility in the county in which the additional facility is
 14 located, and shall be limited in the same manner as actual live racing in
 15 that county. For the purpose of subsections B and C of this section, the
 16 wagering at the additional facility shall be deemed to occur in the county in
 17 which the additional facility is located.

18 B. During the period of any permit for dog racing in any county, the
 19 state shall receive five and one-half ~~per cent~~ PERCENT of all monies handled
 20 in the pari-mutuel pool operated by the permittee, to be paid daily during
 21 the racing meeting. In all counties having a population of one million five
 22 hundred thousand persons or more, four and three-quarters ~~per cent~~ PERCENT of
 23 the gross amount of monies handled in a pari-mutuel pool shall be deducted
 24 from the pari-mutuel pool and shall be deposited daily into a trust account
 25 for the payment of purse amounts. In counties having a population of less
 26 than one million five hundred thousand persons, four ~~per cent~~ PERCENT of the
 27 gross amount of monies handled in a pari-mutuel pool shall be deducted from
 28 the pari-mutuel pool and shall be deposited daily in a trust account for the
 29 payment of purse amounts. ~~In addition, twenty five per cent of any reduction~~
 30 ~~in pari mutuel taxes each year resulting from the application of the hardship~~
 31 ~~tax reduction credit determined pursuant to subsection I of this section~~
 32 ~~shall be deposited in the trust account for supplementing purse amounts in an~~
 33 ~~equitable manner over the racing meeting as determined by the commission.~~
 34 Notwithstanding any other provision of this subsection, the percentage paid
 35 by a permittee to the state does not apply to monies handled in a pari-mutuel
 36 pool for wagering on simulcasts of out-of-state races. During a week in
 37 which a permittee conducts live racing at the permittee's racetrack
 38 enclosure, the permittee shall deduct from monies handled in a pari-mutuel
 39 pool for wagering on simulcasts of out-of-state races and deposit daily in a
 40 trust account for the payment of purse amounts the same percentage of the
 41 pari-mutuel pool as is deducted for purses for live races unless otherwise
 42 agreed by written contract. Unless otherwise agreed by written contract, if
 43 the commission reasonably determines that live racing will not be conducted
 44 within one calendar year at a racetrack enclosure, the permittee shall deduct
 45 from monies handled in a pari-mutuel pool for wagering on simulcasts of

1 out-of-state races and deposit daily in a trust account to supplement purses
 2 of any dog track where live racing is conducted within a one hundred mile
 3 radius. The supplementing provided by this subsection shall be in the most
 4 equitable manner possible as determined by the commission. The permittee
 5 shall allocate the funds in the trust account and pay purse amounts at least
 6 biweekly. The permittee, at the permittee's discretion, may pay additional
 7 amounts to augment purses from the amounts received by the permittee under
 8 this subsection.

9 C. During the period of a permit for horse, harness or dog racing, the
 10 permittee that conducts the meeting may deduct up to and including
 11 twenty-five ~~per-cent~~ PERCENT of the total amount handled in the regular
 12 pari-mutuel pools and, at the permittee's option, may deduct up to and
 13 including thirty ~~per-cent~~ PERCENT of the total amount handled in the exacta,
 14 daily double, quinella and other wagering pools involving two horses or dogs,
 15 and up to and including thirty-five ~~per-cent~~ PERCENT of the total amount
 16 handled in the trifecta or other wagering pools involving more than two
 17 horses or dogs in one or more races. The amounts if deducted shall be
 18 distributed as prescribed in subsection D of this section and section
 19 5-111.02 for horse or harness racing permittees. For dog racing permittees,
 20 unless otherwise agreed by written contract, the permittee shall allocate to
 21 purses from amounts wagered on live racing conducted in this state an amount
 22 equal to fifty ~~per-cent~~ PERCENT of any amounts that are deducted pursuant to
 23 this subsection in excess of twenty ~~per-cent~~ PERCENT of the total amount
 24 handled in the regular pari-mutuel pools, twenty-one ~~per-cent~~ PERCENT of the
 25 total amount handled in the exacta, daily double, quinella and other wagering
 26 pools involving two dogs or twenty-five ~~per-cent~~ PERCENT of the total amount
 27 handled in the trifecta or other wagering pools involving more than two dogs
 28 in one or more races. For dog racing permittees the percentages prescribed
 29 in subsection B of this section shall be distributed to the state and to the
 30 trust account for payment of purse amounts and the permittee shall receive
 31 the balance. If the dog racing permittee has made capital improvements, the
 32 distribution to the state shall be adjusted as provided in section 5-111.03.
 33 Monies deposited in the trust account for payment of purses pursuant to this
 34 subsection shall be in addition to amounts deposited pursuant to subsection B
 35 of this section.

36 D. During the period of a permit for horse or harness racing, the
 37 state shall receive two ~~per-cent~~ PERCENT of the gross amount of the first one
 38 million dollars of the daily pari-mutuel pools and five ~~per-cent~~ PERCENT of
 39 the gross amount exceeding one million dollars of the daily pari-mutuel
 40 pools. Notwithstanding any other provision of this subsection, the
 41 percentage paid by a permittee to the state does not apply to monies handled
 42 in a pari-mutuel pool for wagering on simulcasts of out-of-state races. The
 43 permittee shall retain the balance of the total amounts deducted pursuant to
 44 subsection C of this section. Of the amount retained by the permittee, minus
 45 the amount payable to the permittee for capital improvements pursuant to

1 section 5-111.02, breakage distributed to the permittee pursuant to section
2 5-111.01 and other applicable state, county and city transaction privilege or
3 other taxes, unless otherwise agreed by written contract, fifty ~~per cent~~
4 PERCENT shall be used for purses. Unless otherwise agreed by written
5 contract, fifty ~~per cent~~ PERCENT of the revenues received by the permittee
6 from simulcasting races as provided in section 5-112, net of costs of
7 advertising, shall be utilized as a supplement to the general purse
8 structure. All amounts that are deducted from the pari-mutuel pool for
9 purses pursuant to this section and sections 5-111.01, 5-112 and 5-114 and
10 revenues that are received from simulcasting and that are to be used as a
11 supplement to the general purse structure pursuant to this subsection shall
12 be deposited daily into a trust account for the payment of purse amounts.

13 E. Any county fair racing association may apply to the commission for
14 one racing meeting each year and the commission shall set the number of days
15 and the dates of the meetings. A racing meeting conducted under this
16 subsection shall be operated in such manner so that all profits accrue to the
17 county fair racing association, and the county fair racing association may
18 deduct from the pari-mutuel pool the same amount as prescribed in subsection
19 C of this section. All county fair racing meetings, whether conducted by
20 county fair racing associations under this subsection or by an individual,
21 corporation or association other than a county fair racing association, are
22 exempt from the payment to the state of the percentage of the pari-mutuel
23 pool prescribed by subsection D of this section and are also exempt from the
24 provisions of section 5-111.01.

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

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

30 H. All of the amounts received by a permittee from the gross amount of
31 monies handled in a pari-mutuel pool and all amounts held by a permittee for
32 payment of purses pursuant to this section and sections 5-111.01, 5-112 and
33 5-114 are exempt from the provisions of title 42, chapter 5.

34 ~~I. On August 1 of each year, a permittee is eligible for a hardship
35 tax credit pursuant to this subsection. For purposes of this subsection,
36 "permittee" shall include any person who has succeeded to the interest of a
37 permittee and who is authorized to conduct racing at the facility for which
38 the permit was issued. The department shall determine the amount of any
39 hardship tax credit as follows:~~

40 ~~1. Determine the percentage decrease in pari-mutuel wagering by
41 determining the percentage decrease in pari-mutuel wagering between the base
42 period amount and the amount of pari-mutuel wagering in the previous fiscal
43 year at the racetrack and the additional wagering facilities operated by the
44 permittee. The base period amount is the highest total annual pari-mutuel
45 wagering at the racetrack and all additional wagering facilities as reported~~

1 ~~to the department for fiscal year 1989-1990, 1990-1991, 1991-1992, 1992-1993~~
2 ~~or 1993-1994.~~

3 ~~2. Determine the permittee's hardship tax credit by multiplying the~~
4 ~~total pari-mutuel tax due as a result of wagering at the racetrack and all~~
5 ~~additional wagering facilities for the previous fiscal year before applying~~
6 ~~any hardship tax credit amount by the percentage decrease in pari-mutuel~~
7 ~~wagering determined pursuant to paragraph 1 of this subsection and~~
8 ~~multiplying the result by three.~~

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

14 Sec. 3. Application of previously earned hardship tax credits

15 This act does not prevent a permittee from using hardship tax credits
16 that were lawfully earned before the effective date of this act to reduce
17 pari-mutuel taxes after the effective date of this act.

18 Sec. 4. Requirements for enactment; two-thirds vote

19 Pursuant to article IX, section 22, Constitution of Arizona, this act
20 is effective only on the affirmative vote of at least two-thirds of the
21 members of each house of the legislature and is effective immediately on the
22 signature of the governor or, if the governor vetoes this act, on the
23 subsequent affirmative vote of at least three-fourths of the members of each
24 house of the legislature.