

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

CHAPTER 247
HOUSE BILL 2387

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
46 by any other decision of the department may request a hearing on the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 N. In cooperation with the department of public safety, the director
46 shall establish a cooperative fingerprint registration system. Each

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

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

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

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

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

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

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

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

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

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

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

44 Q. The commission may certify animals as Arizona bred or as Arizona
45 stallions. The commission may delegate this authority to a breeders'
46 association it contracts with for these purposes. The commission may

1 authorize the association, racing organization or department to charge and
2 collect a reasonable fee to cover the cost of breeding or ownership
3 certification or transfer of ownership for racing purposes.

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

14 S. The commission may obtain the services of the office of
15 administrative hearings on any matter that the commission is empowered to
16 hear.

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

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

23 Sec. 2. Section 5-111, Arizona Revised Statutes, is amended to read:
24 5-111. Wagering percentage to permittee and state; exemptions

25 A. The commission shall prescribe rules governing wagering on races
26 under the system known as pari-mutuel wagering. Wagering shall be conducted
27 by a permittee only by pari-mutuel wagering and only on the dates for which
28 racing or dark day simulcasting has been authorized by the commission.
29 Wagering for a licensed racing meeting shall be conducted by a commercial
30 live-racing permittee only within an enclosure in which authorized racing
31 takes place and, in counties having a population of less than five hundred
32 thousand persons or at least one million five hundred thousand persons, at
33 those additional facilities that are owned or leased by a permittee, that are
34 approved by the commission and that are used by a permittee for handling
35 wagering as part of the pari-mutuel system of the commercial live-racing
36 permittee. In all other counties, wagering may also be conducted at
37 additional facilities that are owned or leased by a commercial live-racing
38 permittee who is licensed to conduct live racing in those counties or who has
39 the consent of all commercial permittees currently licensed to conduct live
40 racing in those counties and that are used by a permittee for handling
41 wagering and as part of the pari-mutuel system of the commercial live-racing
42 permittee. If the additional facilities have not been used for authorized
43 racing before their use for handling wagering, a permittee shall not use the
44 facilities for handling wagering before receiving approval for use by the
45 governing body of the city or town, if located within the corporate limits,
46 or by the board of supervisors, if located in an unincorporated area of the

1 county. A permittee may televise any live or simulcast races received at the
2 permittee's racing enclosure to the additional facilities at the times the
3 races are conducted or received at the permittee's enclosure. For the
4 purpose of section 5-110, subsection C only, a race on which wagering is
5 permitted under this subsection shall be deemed to also occur at the
6 additional facility in the county in which the additional facility is
7 located, and shall be limited in the same manner as actual live racing in
8 that county. For the purpose of subsections B and C of this section, the
9 wagering at the additional facility shall be deemed to occur in the county in
10 which the additional facility is located.

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

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

28 D. During the period of a permit for horse or harness racing, the
29 state shall receive two ~~per-cent~~ PERCENT of the gross amount of the first one
30 million dollars of the daily pari-mutuel pools and five ~~per-cent~~ PERCENT of
31 the gross amount exceeding one million dollars of the daily pari-mutuel
32 pools. Notwithstanding any other provision of this subsection, the
33 percentage paid by a permittee to the state does not apply to monies handled
34 in a pari-mutuel pool for wagering on simulcasts of out-of-state races. The
35 permittee shall retain the balance of the total amounts deducted pursuant to
36 subsection C of this section. Of the amount retained by the permittee, minus
37 the amount payable to the permittee for capital improvements pursuant to
38 section 5-111.02, breakage distributed to the permittee pursuant to section
39 5-111.01 and other applicable state, county and city transaction privilege or
40 other taxes, unless otherwise agreed by written contract, fifty ~~per-cent~~
41 PERCENT shall be used for purses. Unless otherwise agreed by written
42 contract, fifty ~~per-cent~~ PERCENT of the revenues received by the permittee
43 from simulcasting races as provided in section 5-112, net of costs of
44 advertising, shall be utilized as a supplement to the general purse
45 structure. All amounts that are deducted from the pari-mutuel pool for
46 purses pursuant to this section and sections 5-111.01, 5-112 and 5-114 and

1 revenues that are received from simulcasting and that are to be used as a
2 supplement to the general purse structure pursuant to this subsection shall
3 be deposited daily into a trust account for the payment of purse amounts.

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

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

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

21 H. All of the amounts received by a permittee from the gross amount of
22 monies handled in a pari-mutuel pool and all amounts held by a permittee for
23 payment of purses pursuant to this section and sections 5-111.01, 5-112 and
24 5-114 are exempt from the provisions of title 42, chapter 5.

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

31 ~~1. Determine the percentage decrease in pari mutuel wagering by
32 determining the percentage decrease in pari mutuel wagering between the base
33 period amount and the amount of pari mutuel wagering in the previous fiscal
34 year at the racetrack and the additional wagering facilities operated by the
35 permittee. The base period amount is the highest total annual pari-mutuel
36 wagering at the racetrack and all additional wagering facilities as reported
37 to the department for fiscal year 1989-1990, 1990-1991, 1991-1992, 1992-1993
38 or 1993-1994.~~

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

45 ~~3. The permittee's pari-mutuel tax due as otherwise determined under
46 subsections B and D of this section shall be reduced for the current period~~

1 ~~and any future periods by an amount equal to the amount of the hardship tax~~
2 ~~credit determined pursuant to this subsection. The hardship tax credit is in~~
3 ~~addition to any other tax exemptions, rebates and credits.~~

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

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

8 Sec. 4. Requirements for enactment: two-thirds vote

9 Pursuant to article IX, section 22, Constitution of Arizona, this act
10 is effective only on the affirmative vote of at least two-thirds of the
11 members of each house of the legislature and is effective immediately on the
12 signature of the governor or, if the governor vetoes this act, on the
13 subsequent affirmative vote of at least three-fourths of the members of each
14 house of the legislature.

APPROVED BY THE GOVERNOR MAY 13, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 13, 2016.