

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HOUSE BILL 2547

AN ACT

AMENDING SECTION 5-112, ARIZONA REVISED STATUTES; AMENDING TITLE 5, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 5-118; 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 5-112, Arizona Revised Statutes, is amended to
3 read:

4 5-112. Wagering legalized; simulcasting of races;
5 unauthorized wagering prohibited; classification;
6 report; anticompetitive or deceptive practices
7 prohibited

8 A. Except as provided in subsection J of this section, section
9 5-101.01, subsection F and title 13, chapter 33, any person within the
10 enclosure of a racing meeting held pursuant to this article may wager on
11 the results of a race held at the meeting or televised to the racetrack
12 enclosure by simulcasting pursuant to this section by contributing money
13 to a pari-mutuel pool operated by the permittee as provided by this
14 article.

15 B. The department, on request by a permittee, may grant permission
16 for electronically televised simulcasts of horse, harness or dog races to
17 be received by the permittee. In counties ~~having~~ WITH a population of one
18 million five hundred thousand persons or more, the simulcasts shall be
19 received at the racetrack enclosure where a horse or harness racing
20 meeting is being conducted, provided that the simulcast may only be
21 received during, immediately before or immediately after a minimum of nine
22 posted races for that racing day. In counties ~~having~~ WITH a population of
23 five hundred thousand persons or more but less than one million five
24 hundred thousand persons, the simulcasts shall be received at the
25 racetrack enclosure where a horse or harness racing meeting is being
26 conducted provided that the simulcast may only be received during,
27 immediately before or immediately after a minimum of four posted races for
28 that racing day. In all other counties, the simulcasts shall be received
29 at a racetrack enclosure at which authorized racing has been conducted,
30 whether or not posted races have been offered for the day the simulcast is
31 received. The simulcasts ~~shall be~~ ARE limited to horse, harness or dog
32 races. The simulcasts ~~shall be~~ ARE limited to the same type of racing as
33 authorized in the permit for live racing conducted by the permittee. The
34 department, on request by a permittee, may grant permission for the
35 permittee to transmit the live race from the racetrack enclosure where a
36 horse or harness racing meeting is being conducted to a facility or
37 facilities in another state. All simulcasts of horse or harness races
38 shall comply with the interstate horseracing act of 1978 (P.L. 95-515; 92
39 Stat. 1811; 15 United States Code chapter 57). All forms of pari-mutuel
40 wagering ~~shall be~~ ARE allowed on horse, harness or dog races, whether or
41 not televised by simulcasting. All monies wagered by patrons on these
42 horse, harness or dog races shall be computed in the amount of money
43 wagered each racing day for ~~THE~~ purposes of section 5-111.

44 C. Notwithstanding subsection B of this section, in counties ~~having~~
45 WITH a population of one million five hundred thousand persons or more,

1 simulcasts may be received at the racetrack enclosure, and the permittee
2 may offer pari-mutuel wagering on the simulcast racing at any additional
3 wagering facility used by a permittee for handling wagering as provided in
4 section 5-111, subsection A during a permittee's racing meeting as
5 approved by the commission, whether or not the simulcasts are televised to
6 the additional wagering facilities and whether or not posted races have
7 been conducted on the day the simulcast is received, if the permittee's
8 racing permit requires the permittee to conduct a minimum of one hundred
9 fifty-six days of live racing with an average of nine posted races on an
10 average of five racing days each week at the permittee's racetrack
11 enclosure during the period beginning on October 1 and ending on the first
12 full week in May, unless otherwise agreed in writing by the permittee and
13 the recognized horsemen's organization that represents the horsemen
14 participating in the race meet at the racetrack enclosure, subject to
15 approval by the department.

16 D. Notwithstanding subsection B of this section, in counties ~~having~~
17 WITH a population of seven hundred thousand persons or more but less than
18 one million five hundred thousand persons, simulcasts may be received at
19 the racetrack enclosure, and the permittee may offer pari-mutuel wagering
20 on the simulcast racing at any additional wagering facility used by a
21 permittee for handling wagering as provided in section 5-111, subsection A
22 during a permittee's racing meeting as approved by the commission, whether
23 or not the simulcasts are televised to the additional wagering facilities
24 and whether or not posted races have been conducted on the day the
25 simulcast is received. The permittee may conduct wagering on dark day
26 simulcasts for twenty days, provided the permittee conducts a minimum of
27 seven posted races on each of the racing days mandated in the permittee's
28 commercial racing permit. In order to conduct wagering on dark day
29 simulcasts for more than twenty days, the permittee is required to conduct
30 a minimum of seven posted races on one hundred forty racing days at the
31 permittee's racetrack enclosure, UNLESS OTHERWISE AGREED IN WRITING BY THE
32 PERMITTEE AND THE RECOGNIZED HORSEMEN'S ORGANIZATION THAT REPRESENTS THE
33 HORSEMEN PARTICIPATING IN THE RACE MEET AT THE RACETRACK ENCLOSURE,
34 SUBJECT TO APPROVAL BY THE DEPARTMENT.

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

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

43 G. Simulcast signals or teletracking of simulcast signals does not
44 prohibit live racing or teletracking of that live racing in any county at
45 any time.

1 H. Except as provided in subsection J of this section, section
2 5-101.01, subsection F and title 13, chapter 33, any person within a
3 racetrack enclosure or an additional facility authorized for wagering
4 pursuant to section 5-111, subsection A may wager on the results of a race
5 televised to the facility pursuant to section 5-111, subsection A by
6 contributing to a pari-mutuel pool operated as provided by this article.

7 I. Except as provided in this article and in title 13, chapter 33,
8 all forms of wagering or betting on the results of a race, including
9 buying, selling, cashing, exchanging or acquiring a financial interest in
10 pari-mutuel tickets, except by operation of law, whether the race is
11 conducted in this state or elsewhere, are illegal.

12 J. A permittee shall not knowingly permit a person who is under
13 twenty-one years of age to be a patron of the pari-mutuel system of
14 wagering.

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

18 L. Simulcasting may only be authorized for the same type of racing
19 authorized by a permittee's live racing permit.

20 M. In addition to pari-mutuel wagering otherwise authorized by this
21 chapter, a commercial live-racing permittee or a commercial dog racing
22 permittee that conducted live dog racing in 2016 may conduct advance
23 deposit wagering as approved by the commission. The commission also may
24 allow advance deposit wagering by an advance deposit wagering provider if
25 a racing authority in the state where the advance deposit wagering
26 provider is located approves the advance deposit wagering provider and,
27 for horse racing, if the advance deposit wagering provider annually
28 secures the approval of the commercial live horse racing permittees in a
29 county where the advance deposit wagering provider or commercial
30 live-racing permittee accepts advance deposit wagers for horse racing and
31 of the organization that represents the majority of owners and trainers at
32 each of the commercial live horse racing enclosures in each county. An
33 advance deposit wagering provider that the commission approves shall pay
34 source market fees on wagers placed on horse racing from this state to
35 commercial live horse racing permittees in this state. The advance
36 deposit wagering provider shall divide the source market fees on horse
37 racing wagers on the basis of the proportion of the permittees' total live
38 and simulcast handle during the previous year and the advance deposit
39 wagering provider shall pay source market fees on wagers on dog racing
40 from the county in which the live or simulcast racing is conducted to the
41 commercial live racing permittee in that county. The advance deposit
42 wagering provider shall divide the source market fees on dog racing from
43 wagering in any other county as provided in a written agreement that is
44 submitted to the department between all commercial dog racing permittees.

1 N. The commission may issue a permit to authorize an advance
2 deposit wagering provider to accept advance deposit wagering on racing
3 from persons in this state. The procedures for the approval of the permit
4 must be similar to the procedures for the approval of racing permits under
5 this article, subject to the following requirements:

6 1. The commission shall issue an advance deposit wagering permit
7 only if the state agency that regulates racing in the state where the
8 advance deposit wagering provider is located approves the permittee or
9 provider to conduct advance deposit wagering.

10 2. An advance deposit wagering provider may accept advance deposit
11 pari-mutuel wagers from natural persons in this state on racing conducted
12 by a commercial live-racing permittee in this state or on racing conducted
13 outside this state if the commercial live-racing permittee in this state
14 at a racetrack enclosure in a county where live horse or live dog racing
15 has been conducted for a period of at least forty days per year for at
16 least twelve consecutive years beginning after 1992 or at a new racetrack
17 enclosure in the same county that replaced the previously existing
18 racetrack enclosure on which advance deposit wagering is accepted or that
19 conducts a racing program with the same type of racing on which the
20 advance deposit wagering is accepted enters into an agreement with the
21 advance deposit wagering provider providing for the payment of a source
22 market fee that is agreed to by the commercial live-racing permittee on
23 all advance deposit wagering.

24 3. An advance deposit wagering provider shall pay source market
25 fees in an amount that is agreed to by the commercial live-racing
26 permittee on all advance deposit wagering by persons in this state on the
27 same type of racing the commercial live-racing permittee conducts. Source
28 market fees from wagers by persons in this state through an advance
29 deposit wagering provider shall be allocated as provided in paragraph 7 of
30 this subsection to a commercial live horse racing permittee at a racetrack
31 enclosure in a county where live horse racing has been conducted for a
32 period of at least forty days per year for at least twelve consecutive
33 years beginning after 1992 or at a new racetrack enclosure in the same
34 county that replaced the previously existing racetrack enclosure during
35 the period of time that the commercial live-racing permittee conducts a
36 racing program. Source market fees for dog racing from wagering through
37 the advance deposit wagering provider from persons wagering in a county
38 shall be allocated as provided in paragraph 7 of this subsection to a
39 commercial dog racing permittee at a racetrack enclosure in a county where
40 live dog racing had been conducted in 2016 or had been conducted for a
41 period of at least forty days per year for at least twelve consecutive
42 years beginning after 1992 or at a new racetrack enclosure in the same
43 county that replaced the previously existing racetrack enclosure. Source
44 market fees from wagers by persons in this state in all other counties for

1 pari-mutuel wagering on dog racing through an advance deposit wagering
2 provider shall be allocated as provided in paragraph 7 of this subsection.

3 4. Advance deposit wagering agreements that are executed between
4 permittees in this state must contain the same or substantially equivalent
5 terms and conditions, including provisions for revenue sharing, as the
6 terms and conditions contained in simulcasting agreements that are
7 executed between those same permittees in order to accept advance deposit
8 wagering on horse racing from a county with a commercial dog racing
9 permittee.

10 5. The advance wagering provider shall transmit daily a percentage
11 determined by the department of the gross revenues generated by advance
12 deposit wagers to the department for deposit in the racing regulation fund
13 established by section 5-113.01.

14 6. The advance deposit wagering provider shall file the consent
15 provided for in this subsection with the commission, and the consent is
16 valid for a period of at least one year.

17 7. The source market fees are allocated, after deductions, as
18 provided for in section 5-111, subsection C for horse racing for any fees
19 or payments to the state, county and city for taxes or other fees, in the
20 same manner as the proceeds of simulcast pari-mutuel wagering as provided
21 in section 5-111, subsection C for horse racing. From the source market
22 fees from advance deposit wagering on horse racing allocated for purses as
23 provided in section 5-111, subsection C, five percent is paid to the
24 department for deposit in the Arizona breeders' award fund account for
25 distributions for Arizona bred horses as provided in section 5-114.

26 O. The owner of the advance deposit wagering account may make an
27 advance deposit pari-mutuel wager only by telephone.

28 P. Only the advance deposit wagering provider may make an advance
29 deposit wager, pursuant to wagering instructions the owner of the monies
30 issues by telephone. The advance deposit wagering provider shall ensure
31 the identification of the owner of the account by using methods and
32 technologies approved by the commission. Any advance deposit wagering
33 provider that accepts wagering instructions on races that are conducted in
34 this state, or accepts wagering instructions originating in this state,
35 shall provide a daily report that contains a full accounting and
36 verification of the source of the wagers made, including the postal zip
37 code of the source of the wagers and all pari-mutuel data, in a form and
38 manner that is approved by the commission. All reasonable costs
39 associated with the creation, provision and transfer of the data is the
40 responsibility of the advance deposit wagering provider.

41 Q. Any person other than a permittee or any advance deposit
42 wagering provider who is approved by the commission under this article and
43 who accepts a wager or who bets on the results of a race, whether the race
44 is conducted in or outside this state, including buying, selling, cashing,
45 exchanging or acquiring a financial interest in a pari-mutuel ticket from

1 a person in this state outside of a racing enclosure or an additional
2 wagering facility that is approved by the commission and that is located
3 in this state is guilty of a class 6 felony.

4 R. Pursuant to section 13-108, a pari-mutuel wager or a bet placed
5 or made by a person in this state is deemed for all purposes to occur in
6 this state.

7 S. The department and the attorney general shall enforce
8 subsections Q and R of this section and shall submit an annual report that
9 summarizes these enforcement activities to the governor, the speaker of
10 the house of representatives and the president of the senate. The
11 department and the attorney general shall provide a copy of this report to
12 the secretary of state.

13 T. EACH COMMERCIAL LIVE-RACING PERMITTEE IN THIS STATE SHALL ENTER
14 INTO AN AGREEMENT THAT COMPLIES WITH THIS SUBSECTION. SIMULCASTS THAT
15 ORIGINATE FROM A RACETRACK ENCLOSURE THAT CONDUCTS LIVE RACING IN THIS
16 STATE SHALL BE OFFERED TO EACH COMMERCIAL LIVE-RACING PERMITTEE IN THIS
17 STATE AND ADDITIONAL WAGERING FACILITY IN THIS STATE. EACH SIMULCAST
18 AGREEMENT EXECUTED PURSUANT TO THIS SUBSECTION IS SUBJECT TO APPROVAL BY
19 THE COMMISSION. THE COMMISSION SHALL APPROVE THE SIMULCAST AGREEMENT IF
20 THE COMMISSION DETERMINES THAT THE AGREEMENT IS REASONABLE AND COMPLIES
21 WITH THE REQUIREMENTS OF THIS SUBSECTION. A PERMITTEE MAY NOT ENGAGE IN
22 ANY ANTICOMPETITIVE OR DECEPTIVE PRACTICE IN OFFERING TO SEND THE
23 PERMITTEE'S SIMULCAST TO ANOTHER COMMERCIAL LIVE-RACING PERMITTEE OR
24 ADDITIONAL WAGERING FACILITY IN THIS STATE. FOR THE PURPOSES OF THIS
25 SUBSECTION, AN ANTICOMPETITIVE OR DECEPTIVE PRACTICE INCLUDES ANY OF THE
26 FOLLOWING:

27 1. ANY AGREEMENT TO CHARGE EXCESSIVE OR UNREASONABLE FEES FOR THE
28 RIGHT TO RECEIVE THE SIMULCASTS. IN DETERMINING WHETHER A FEE IS
29 EXCESSIVE OR UNREASONABLE, THE COMMISSION SHALL CONSIDER PREVAILING RATES
30 PAID FOR COMPARABLE SIMULCAST SIGNALS IN THE PAST, PREVAILING RATES PAID
31 OUTSIDE THIS STATE AND WHETHER ANY COMMONALITY OF OWNERSHIP OR REVENUE
32 SHARING EXISTS, PARTIALLY OR WHOLLY, BETWEEN THE PERMITTEE IN THIS STATE
33 AND THE ENTITY THAT RECEIVES THE SIMULCAST FEE.

34 2. ANY AGREEMENT, COMBINATION, TRUST OR JOINT ENTERPRISE WITH ANY
35 OTHER RACETRACK OR ENTITY IN WHICH MULTIPLE SIMULCAST SIGNALS ARE BUNDLED
36 TOGETHER FOR THE PURPOSE OF SECURING AN EXCESSIVE OR UNREASONABLE FEE FOR
37 ONE OR MORE SIMULCAST SIGNALS IN THE GROUP IN EXCHANGE FOR THE RIGHT TO
38 RECEIVE ANY OF THE SIGNALS IN THAT GROUP.

39 3. ANY OTHER ACTIVITY WITH THE PURPOSE OR EFFECT OF ARTIFICIALLY
40 INFLATING PRICES BEYOND REASONABLE MARKET RATES.

41 U. ANY SIMULCAST OF LIVE RACING INTO THIS STATE THAT ORIGINATES
42 FROM OUTSIDE THIS STATE SHALL COMPLY WITH THIS SUBSECTION. THE SIMULCAST
43 MUST BE OFFERED TO EACH COMMERCIAL LIVE-RACING PERMITTEE IN THIS STATE AND
44 ADDITIONAL WAGERING FACILITY IN THIS STATE. EACH SIMULCAST AGREEMENT
45 EXECUTED PURSUANT TO THIS SUBSECTION IS SUBJECT TO APPROVAL BY THE

1 COMMISSION. THE COMMISSION SHALL APPROVE THE SIMULCAST AGREEMENT IF THE
2 COMMISSION DETERMINES THAT THE AGREEMENT IS REASONABLE AND COMPLIES WITH
3 THE REQUIREMENTS OF THIS SUBSECTION. A PROVIDER OF SIMULCASTS ORIGINATING
4 FROM OUTSIDE OF THIS STATE MAY NOT ENGAGE IN ANY ANTICOMPETITIVE OR
5 DECEPTIVE PRACTICE IN OFFERING TO CONTRACT FOR THE PRIVILEGE TO SEND ANY
6 INTERSTATE SIMULCAST TO A COMMERCIAL LIVE-RACING PERMITTEE OR ADDITIONAL
7 WAGERING FACILITY IN THIS STATE. FOR THE PURPOSES OF THIS SUBSECTION, AN
8 ANTICOMPETITIVE OR DECEPTIVE PRACTICE INCLUDES ANY OF THE FOLLOWING:

9 1. ANY AGREEMENT TO CHARGE EXCESSIVE OR UNREASONABLE FEES FOR THE
10 RIGHT TO RECEIVE THE INTERSTATE SIMULCASTS. IN DETERMINING WHETHER A FEE
11 IS EXCESSIVE OR UNREASONABLE, THE COMMISSION SHALL CONSIDER PREVAILING
12 RATES PAID FOR COMPARABLE SIMULCAST SIGNALS IN THE PAST, PREVAILING RATES
13 PAID OUTSIDE THIS STATE AND WHETHER ANY COMMONALITY OF OWNERSHIP OR
14 REVENUE SHARING EXISTS, PARTIALLY OR WHOLLY, BETWEEN THE PERMITTEE IN THIS
15 STATE AND THE ENTITY RECEIVING THE SIMULCAST FEE.

16 2. ANY AGREEMENT, COMBINATION, TRUST OR JOINT ENTERPRISE WITH ANY
17 OTHER RACETRACK OR ENTITY IN WHICH MULTIPLE INTERSTATE SIGNALS ARE BUNDLED
18 TOGETHER FOR THE PURPOSE OF SECURING AN EXCESSIVE OR UNREASONABLE FEE FOR
19 ONE OR MORE SIMULCAST SIGNALS IN THE GROUP IN EXCHANGE FOR THE RIGHT TO
20 RECEIVE ANY OF THE SIGNALS IN THAT GROUP.

21 3. ANY OTHER ACTIVITY WITH THE PURPOSE OR EFFECT OF ARTIFICIALLY
22 INFLATING PRICES BEYOND REASONABLE MARKET RATES.

23 Sec. 2. Title 5, chapter 1, article 1, Arizona Revised Statutes, is
24 amended by adding section 5-118, to read:

25 5-118. Authorization to own or lease not more than six new
26 additional wagering facilities

27 A PERMITTEE THAT IS AUTHORIZED TO CONDUCT LIVE RACING IN A COUNTY
28 WITH A POPULATION OF SEVEN HUNDRED THOUSAND PERSONS OR MORE BUT LESS THAN
29 ONE MILLION FIVE HUNDRED THOUSAND PERSONS MAY OWN OR LEASE NOT MORE THAN
30 SIX NEW ADDITIONAL WAGERING FACILITIES IN THAT COUNTY THAT BEGIN
31 OPERATIONS BETWEEN THE EFFECTIVE DATE OF THIS SECTION AND JUNE 30, 2022.