S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

May 7, 2009

Introduced by M. of A. PRETLOW -- (at request of the New York State Racing and Wagering Board) -- read once and referred to the Committee on Racing and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to authorizing participation in an interstate compact for occupational horse race licenses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The racing, pari-mutuel wagering and breeding law is amended by adding a new article XII to read as follows:

ARTICLE XII

INTERSTATE COMPACT ON REGULATION OF HORSE AND GREYHOUND RACING AND PARI-MUTUEL WAGERING ACTIVITIES

SECTION 1201. PURPOSES.
1202. DEFINITIONS.
1203. ENTRY INTO FORCE, ELIGIBLE PARTIES, AND WITHDRAWAL.
1204. STATES ELIGIBLE TO JOIN COMPACT.
1205. WITHDRAWAL FROM THE COMPACT.
1206. COMPACT COMMISSION.
1207. POWERS AND DUTIES OF COMPACT COMMISSION.
1208. RULE MAKING.
1209. LIMITATION ON AUTHORITY.
1210. VOTING REQUIREMENTS.
1211. ADMINISTRATION AND MANAGEMENT.
1212. RIGHTS AND RESPONSIBILITIES OF PARTY STATES.

S 1201. PURPOSES. THE PURPOSES OF THIS COMPACT ARE:

(A) TO ENABLE PARTY STATES TO ACT JOINTLY AND COOPERATIVELY TO CREATE MORE UNIFORM, EFFECTIVE, AND EFFICIENT PRACTICES, PROGRAMS, RULES AND REGULATIONS RELATING TO LIVE PARI-MUTUEL HORSE OR GREYHOUND RACING AND TO PARI-MUTUEL WAGERING ACTIVITIES, BOTH ON-TRACK AND OFF-TRACK, THAT OCCUR IN OR AFFECT A PARTY STATE;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(B) TO FACILITATE THE GROWTH OF THE INDUSTRY BY SIMPLIFYING THE PROCESS OF PARTICIPATING IN LIVE HORSE AND GREYHOUND RACING AND PARI-MUTUEL WAGERING, IMPROVING THE QUALITY AND INTEGRITY OF RACING AND WAGERING, MORE EFFECTIVELY REGULATING SIMULCAST AND WAGERING SYSTEMS AND ACTIVITIES, AND THROUGH COOPERATIVE ACTION REDUCING THE COSTS INCURRED BY EACH PARTY STATE OR PARTICIPANT;

(C) TO AUTHORIZE THE NEW YORK STATE RACING AND WAGERING BOARD TO PARTICIPATE IN THIS COMPACT;

(D) TO PERMIT OFFICIALS FROM THE PARTY STATES TO PARTICIPATE IN THIS COMPACT AND, THROUGH THE COMPACT COMMISSION ESTABLISHED BY THIS COMPACT, TO ENTER INTO CONTRACTS WITH GOVERNMENTAL AGENCIES AND OTHER PERSONS TO CARRY OUT THE PURPOSES OF THIS COMPACT; AND

(E) TO ESTABLISH THE COMPACT COMMISSION CREATED BY THIS COMPACT AS AN INTERSTATE GOVERNMENTAL ENTITY DULY AUTHORIZED TO REQUEST AND TO RECEIVE CRIMINAL HISTORY RECORD INFORMATION FROM THE FEDERAL BUREAU OF INVESTIGATION AND FROM STATE, LOCAL, AND FOREIGN LAW ENFORCEMENT AGENCIES.

S 1202. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

(A) "COMPACT COMMISSION" MEANS THE ORGANIZATION OF OFFICIALS FROM THE PARTY STATES THAT IS AUTHORIZED AND EMPOWERED BY THIS COMPACT TO CARRY OUT THE PURPOSES OF THIS COMPACT;

(B) "LIVE RACING" MEANS LIVE HORSE OR GREYHOUND RACING WITH PARI-MUTUEL WAGERING;

(C) "OFFICIAL" MEANS THE DULY SELECTED MEMBER OR DESIGNEE OF A PARTY STATE RACING COMMISSION, OR ITS EQUIVALENT, WHO REPRESENTS THE PARTY STATE AS A MEMBER OF THE COMPACT COMMISSION;

(D) "PARTICIPANTS IN LIVE RACING AND PARI-MUTUEL WAGERING" MEANS ALL PARTICIPANTS IN LIVE RACING AND PERSONS WHO OPERATE OR ARE INVOLVED WITH RELATED PARI-MUTUEL WAGERING;

(E) "PARTY STATE" MEANS EACH STATE THAT HAS ENACTED THIS COMPACT;

(F) "STATE" MEANS EACH OF THE SEVERAL STATES OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, AND EACH TERRITORY OR POSSESSION OF THE UNITED STATES; AND

(G) "COMPACT RULE OR REGULATION" MEANS A RULE OR REGULATION ADOPTED BY THIS INTERSTATE COMPACT TO GOVERN, FOR TWO OR MORE SPECIFIED PARTY STATES, ANY PART OF LIVE PARI-MUTUEL HORSE AND GREYHOUND RACING OR PARI-MUTUEL WAGERING ACTIVITIES, WHETHER ON-TRACK OR OFF-TRACK, THAT OCCUR IN OR AFFECT SUCH STATES.

S 1203. ENTRY INTO FORCE, ELIGIBLE PARTIES, AND WITHDRAWAL. THIS COMPACT SHALL COME INTO FORCE WHEN ENACTED BY ANY TWO STATES. THEREAFTER, THIS COMPACT SHALL BECOME EFFECTIVE, AS TO ANY OTHER PARTY STATE THAT ENACTS THIS COMPACT, UPON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE OFFICIALS ON THE COMPACT COMMISSION.

S 1204. STATES ELIGIBLE TO JOIN COMPACT. ANY STATE THAT HAS ADOPTED OR AUTHORIZED HORSE OR GREYHOUND RACING WITH PARI-MUTUEL WAGERING SHALL BE ELIGIBLE TO BECOME A PARTY TO THIS COMPACT.

S 1205. WITHDRAWAL FROM THE COMPACT. ANY PARTY STATE MAY WITHDRAW FROM THIS COMPACT BY ENACTING A STATUTE REPEALING THIS COMPACT, BUT NO SUCH WITHDRAWAL SHALL BECOME EFFECTIVE UNTIL THE HEAD OF THE EXECUTIVE BRANCH OF THE WITHDRAWING STATE HAS GIVEN NOTICE IN WRITING OF SUCH WITHDRAWAL TO THE HEAD OF THE EXECUTIVE BRANCH OF ALL OTHER PARTY STATES.

S 1206. COMPACT COMMISSION. (A) THERE IS HEREBY CREATED AN INTERSTATE GOVERNMENTAL ENTITY KNOWN AS THE COMPACT COMMISSION, TO BE COMPRISED OF ONE OFFICIAL FROM EACH PARTY STATE, WHO SHALL BE SELECTED, SERVE, AND BE REMOVED IN ACCORDANCE WITH THE LAWS OF THE PARTY STATE. EACH OFFICIAL SHALL HAVE, PURSUANT TO THE LAWS OF THE PARTY STATE, THE ASSISTANCE OF

THE STATE'S RACING COMMISSION, OR ITS EQUIVALENT, IN CONSIDERING ISSUES RELATED TO THE COMPACT. WHEN AN OFFICIAL IS NOT PRESENT TO PERFORM ANY DUTY IN THE COMPACT COMMISSION, A DESIGNATED ALTERNATE MAY SERVE INSTEAD. THE DESIGNATION OF AN OFFICIAL AND ALTERNATE SHALL BE EFFECTIVE WHEN WRITTEN NOTICE HAS BEEN PROVIDED TO THE COMPACT COMMISSION.

(B) THE CHAIRMAN OF THE RACING AND WAGERING BOARD SHALL, OR HIS OR HER DESIGNEE, REPRESENT NEW YORK STATE IN THE COMPACT COMMISSION.

S 1207. POWERS AND DUTIES OF COMPACT COMMISSION. THE COMPACT COMMISSION IS HEREBY GRANTED, TO CARRY OUT ITS PURPOSES, THE POWER AND DUTY:

(A) TO CREATE MORE UNIFORM, EFFECTIVE, OR EFFICIENT PRACTICES AND PROGRAMS, WITH THE CONSENT OF EACH PARTY STATE THAT SHALL PARTICIPATE THEREIN, RELATING TO ANY PART OF LIVE PARI-MUTUEL HORSE OR GREYHOUND RACING OR PARI-MUTUEL WAGERING ACTIVITIES, WHETHER ON-TRACK OR OFF-TRACK, THAT OCCUR IN OR AFFECT A PARTY STATE;

(B) TO ADOPT COMPACT RULES AND REGULATIONS, TO GOVERN ALL OR ANY PART OF LIVE PARI-MUTUEL HORSE AND GREYHOUND RACING OR PARI-MUTUEL WAGERING ACTIVITIES, WHICH SHALL SUPERCEDE ANY CONFLICTING STATE RULES OR REGULATIONS IN THE SPECIFIED PARTY STATES;

(C) TO INVESTIGATE LICENSE APPLICANTS AND, AS PERMITTED BY FEDERAL AND STATE LAW, TO GATHER INFORMATION, INCLUDING CRIMINAL HISTORY RECORDS FROM THE FEDERAL BUREAU OF INVESTIGATION AND FROM STATE, LOCAL, AND FOREIGN COUNTRY LAW ENFORCEMENT AGENCIES (INCLUDING THE ROYAL CANADIAN MOUNTED POLICE), NECESSARY TO DECIDE WHETHER AN APPLICANT MEETS ITS LICENSE REQUIREMENTS. SUCH CRIMINAL HISTORY RECORD INFORMATION MAY BE RECEIVED AND REVIEWED ONLY BY THE OFFICIALS ON, AND EMPLOYEES OF, THE COMPACT COMMISSION, AND THAT INFORMATION MAY BE USED ONLY FOR THE PURPOSES OF THIS COMPACT. NO SUCH OFFICIAL OR EMPLOYEE MAY DISCLOSE OR DISSEMINATE SUCH CRIMINAL HISTORY RECORD INFORMATION TO ANY PERSON OR ENTITY OTHER THAN ANOTHER OFFICIAL ON, OR EMPLOYEE OF, THE COMPACT COMMISSION. THE COMPACT COMMISSION, ITS EMPLOYEES, OR ITS DESIGNEE SHALL TAKE THE FINGERPRINTS OF EACH LICENSE APPLICANT AND, PURSUANT TO PUBLIC LAW 92-544 OR PUBLIC LAW 100-413, FORWARD THE FINGERPRINTS TO A STATE IDENTIFICATION BUREAU, THE ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL (AN ASSOCIATION OF STATE OFFICIALS REGULATING PARI-MUTUEL WAGERING, DESIGNATED BY THE ATTORNEY GENERAL OF THE UNITED STATES), OR ANOTHER ENTITY WITH AN EQUIVALENT DESIGNATION, FOR SUBMISSION TO THE FEDERAL BUREAU OF INVESTIGATION OR OTHER RECEIVING LAW ENFORCEMENT AGENCY;

(D) TO ASSUME ALL OF THE LICENSING AND EMPLOYER DUTIES AND RESPONSIBILITIES OF THE INTERSTATE COMPACT ON LICENSURE OF PARTICIPANTS IN LIVE RACING WITH PARI-MUTUEL WAGERING, IF REQUESTED BY THAT ENTITY, WITH ALL OF THE AUTHORITY AND PURSUANT TO ALL OF THE LICENSING STANDARDS, LAWS, RULES AND REGULATIONS APPLICABLE TO THAT ENTITY;

(E) TO ACT JOINTLY AND COOPERATIVELY TO CREATE A MORE EQUITABLE AND UNIFORM PARI-MUTUEL RACING AND WAGERING INTERSTATE REGULATORY FRAMEWORK, INCLUDING BUT NOT LIMITED TO THE ADOPTION OF STANDARDIZED RULES OF RACING AND EQUINE DRUG REGULATIONS, CLOSING INEQUALITIES IN HOW REGULATORY STANDARDS AND STATUTORY REQUIREMENTS APPLY TO INDUSTRY PARTICIPANTS; IMPROVING WAGERING MONITORING AND INTEGRITY; AND MAKING INDUSTRY AND PARTICIPANT INFORMATION MORE AVAILABLE TO GOVERNMENT OFFICIALS;

(F) TO ENTER INTO CONTRACTS AND AGREEMENTS WITH GOVERNMENTAL AGENCIES AND OTHER PERSONS TO PROVIDE PERSONAL SERVICES FOR ITS ACTIVITIES, AND SUCH OTHER SERVICES AS MAY BE NECESSARY;

(G) TO CREATE, APPOINT, AND ABOLISH ALL THOSE OFFICES, EMPLOYMENTS, AND POSITIONS INCLUDING AN EXECUTIVE DIRECTOR USEFUL TO FULFILL ITS PURPOSES; TO PRESCRIBE THEIR POWERS, DUTIES, AND QUALIFICATIONS; TO HIRE PERSONS THEREFOR; AND TO PROVIDE FOR THEIR TERM, TENURE, REMOVAL,

COMPENSATION, AND FRINGE AND RETIREMENT BENEFITS, AND OTHER CONDITIONS OF EMPLOYMENT;

(H) TO BORROW, ACCEPT, AND CONTRACT FOR THE SERVICES OF PERSONNEL FROM ANY STATE, FEDERAL, OR OTHER GOVERNMENTAL AGENCY, OR FROM ANY OTHER PERSON OR ENTITY;

(I) TO ACQUIRE, HOLD, AND DISPOSE OF ANY REAL OR PERSONAL PROPERTY BY GIFT, PURCHASE, LEASE, LICENSE, AND SIMILAR MEANS;

(J) TO CHARGE AND COLLECT A FEE FOR SERVICES PROVIDED BY THE COMPACT, INCLUDING FOR LICENSURE AND RENEWAL FROM EACH LICENSE APPLICANT AND FOR DEFRAYING THE ACTUAL COST OF COMPACT COMMISSION ADMINISTRATION, PRACTICES, AND PROGRAMS, PROVIDED THAT SUCH LATTER FEE OR FEES SHALL NOT EXCEED AN ENTRY FEE OF TEN DOLLARS PER RACE AND SHALL NOT CAUSE A DISPROPORTIONATE FISCAL COST OR BENEFIT FOR OR WITHIN ANY PARTY STATE;

(K) TO RECEIVE ADDITIONAL FUNDS THROUGH GIFTS, GRANTS, AND APPROPRIATIONS.

S 1208. RULE MAKING. IN THE EXERCISE OF ITS RULE MAKING AUTHORITY, THE COMPACT COMMISSION:

(A) MAY APPOINT ADVISORY COMMITTEES COMPRISING OFFICIALS IN THE COMPACT COMMISSION AND OFFICIALS OR OTHER EMPLOYEES OF THEIR RESPECTIVE STATE RACING COMMISSIONS, INDUSTRY REPRESENTATIVES, AND SUCH OTHER INTERESTED PERSONS AS MAY BE DESIGNATED IN THE BY-LAWS;

(B) SHALL, BEFORE FORMAL RULE MAKING, WRITE A COMPLETE DRAFT OF EACH PROPOSED COMPACT RULE OR REGULATION, WHICH SHALL INCLUDE A SPECIFICATION OF THE PARTY STATES TO WHICH IT SHALL APPLY UPON ITS ADOPTION AFTER FORMAL RULE MAKING, AND TO WHICH THE UNANIMOUS CONSENT OF EACH SPECIFIED PARTY STATE MUST BE GIVEN BEFORE FORMAL RULE MAKING MAY BEGIN;

(C) SHALL ENGAGE IN FORMAL RULE MAKING PURSUANT TO A PROCESS THAT SUBSTANTIALLY CONFORMS TO THE MODEL STATE ADMINISTRATIVE PROCEDURE ACT OF 1981 AS AMENDED, AS MAY BE APPROPRIATE TO THE ACTIONS AND OPERATIONS OF THE COMPACT COMMISSION; AND

(D) SHALL HAVE A STANDING COMMITTEE THAT REVIEWS ON AN ANNUAL OR MORE FREQUENT BASIS THE EFFECT AND VALUE OF EACH ADOPTED COMPACT RULE OR REGULATION AND SUBMITS, WHEN IT DETERMINES THAT A REVISION IS APPROPRIATE OR WHEN REQUESTED TO BY ANY PARTY STATE, A COMPLETE DRAFT OF A REVISING PROPOSED COMPACT RULE OR REGULATION. TO THE EXTENT SUCH NEW PROPOSAL ONLY ADDS OR REMOVES A PARTY STATE OR STATES TO WHICH A COMPACT RULE OR REGULATION APPLIES, THE CONSENT REQUIRED BY SUBDIVISION (B) OF THIS SECTION SHALL BE REQUIRED OF ONLY THE STATES BEING ADDED TO OR REMOVED FROM THE STATES SPECIFIED IN A COMPACT RULE OR REGULATION.

S 1209. LIMITATION ON AUTHORITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THE COMPACT COMMISSION SHALL NOT ADOPT ANY PRACTICE, PROGRAM, RULE OR REGULATION THAT CHANGES STATE REGULATORY STANDARDS OR STATUTORY REQUIREMENTS GOVERNING THE AMOUNT AND DISTRIBUTION OF THE TAKEOUT, RETENTION, OR BREAKAGES ON INTRASTATE WAGERS OR THAT IMPOSES LICENSURE REQUIREMENTS FOR NON-RACING OR NON-WAGERING EMPLOYEES OF ANY RACETRACK OR OFF-SITE WAGERING FACILITY OPERATING WHOLLY WITHIN A PARTY STATE.

S 1210. VOTING REQUIREMENTS. THE COMPACT COMMISSION SHALL HAVE THE FOLLOWING VOTING REQUIREMENTS:

(A) EACH OFFICIAL SHALL BE ENTITLED TO ONE VOTE IN THE COMPACT COMMISSION;

(B) THE AFFIRMATIVE VOTE OF THE OFFICIAL OF EVERY PARTY STATE SPECIFIED IN A PROPOSED COMPACT RULE OR REGULATION, INCLUDING ANY NEW PROPOSED RULE OR REGULATION THAT WOULD ADD OR REMOVE A PARTY STATE, SHALL BE NECESSARY AND SUFFICIENT TO ADOPT, REVISE, AMEND, OR RESCIND A COMPACT RULE OR REGULATION. A COMPACT PRACTICE, PROGRAM, RULE OR REGU-

LATION SHALL NOT BECOME EFFECTIVE IN A NEW PARTY STATE BASED MERELY UPON IT ENTERING THE COMPACT;

(C) A MAJORITY VOTE OF THE TOTAL NUMBER OF OFFICIALS IN THE COMPACT COMMISSION SHALL BE REQUIRED TO ADMIT ANOTHER PARTY STATE, TO ISSUE OR RENEW A LICENSE, AND TO RECEIVE OR DISTRIBUTE ANY FUNDS. A TWO-THIRDS MAJORITY VOTE OF THE TOTAL NUMBER OF OFFICIALS IN THE COMPACT COMMISSION SHALL BE REQUIRED TO ADOPT, AMEND, OR RESCIND THE BY-LAWS. ALL OTHER ACTIONS BY THE COMPACT COMMISSION SHALL REQUIRE A MAJORITY VOTE OF THOSE OFFICIALS WHO ARE PRESENT FOR THE VOTE; AND

(D) NO ACTION MAY BE TAKEN BY THE COMPACT COMMISSION UNLESS A QUORUM, A MAJORITY OF THE OFFICIALS ON THE COMPACT COMMISSION, IS PRESENT FOR THE VOTE.

S 1211. ADMINISTRATION AND MANAGEMENT. THE COMPACT COMMISSION SHALL:

(A) ANNUALLY ELECT, FROM THE OFFICIALS AND ALTERNATES ON THE COMPACT COMMISSION, A CHAIRMAN, VICE-CHAIRMAN, SECRETARY, AND TREASURER;

(B) ADOPT, AMEND, AND RESCIND BY-LAWS FOR THE CONDUCT OF ITS BUSINESS, PUBLISH THEM IN A CONVENIENT FORM, AND FILE A COPY OF THEM, AND COMPACT RULES AND REGULATIONS IN EFFECT IN A STATE, WITH THE SECRETARY OF STATE, OR ITS EQUIVALENT, OF EACH PARTY STATE; AND

(C) DELEGATE DAY-TO-DAY MANAGEMENT AND ADMINISTRATION OF ITS DUTIES, AS NEEDED, TO AN EXECUTIVE DIRECTOR AND SUPPORT STAFF, SUCH AS THE ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL OR ITS SUCCESSOR, WHO SHALL ALL BE CONSIDERED GOVERNMENTAL EMPLOYEES.

S 1212. RIGHTS AND RESPONSIBILITIES OF PARTY STATES. EACH PARTY STATE IN THE COMPACT SHALL:

(A) ACCEPT THE DECISIONS OF THE COMPACT COMMISSION ON THE CREATION OF PRACTICES AND PROGRAMS, THE ISSUANCE OR RENEWAL OF LICENSES, AND THE ADOPTION OF COMPACT RULES OR REGULATIONS, AND SHALL REIMBURSE OR OTHERWISE PAY THE EXPENSES OF ITS OFFICIAL AND ALTERNATE IN THE COMPACT COMMISSION;

(B) NOT TREAT ANY NOTIFICATION OF AN APPLICANT BY THE COMPACT COMMISSION THAT THE APPLICATION WILL NOT BE PROCESSED FURTHER AS THE DENIAL OF A LICENSE OR OTHERWISE PENALIZE SUCH AN APPLICANT SOLELY BECAUSE OF SUCH ACTION BY THE COMPACT COMMISSION;

(C) RESERVE THE RIGHT:

(1) TO CHARGE A FEE FOR THE USE OF A COMPACT LICENSE WITHIN THAT PARTY STATE, FOR WHICH THE RACING AND WAGERING BOARD SHALL CHARGE THE FEE, FOR EACH LICENSE CATEGORY, SET FORTH IN SECTIONS TWO HUNDRED TWENTY AND THREE HUNDRED NINE OF THIS CHAPTER;

(2) TO APPLY ITS OWN STANDARDS AND PROCEDURES TO DETERMINE WHETHER A COMPACT COMMISSION LICENSE SHOULD BE SUSPENDED OR REVOKED IN ITS JURISDICTION;

(3) TO APPLY ITS OWN STANDARDS FOR LICENSURE OR RENEWAL OF STATE APPLICANTS WHO DO NOT MEET THE LICENSURE REQUIREMENTS OF THE COMPACT COMMISSION, WHO ARE WITHIN A CATEGORY OF PARTICIPANTS IN RACING AND WAGERING THAT THE COMPACT COMMISSION DOES NOT LICENSE, OR WHO APPLY TO THE PARTY STATE FOR A STATE LICENSE;

(4) TO APPLY ITS OWN STANDARDS AND PROCEDURES, UNLESS SUPERCEDED BY A COMPACT RULE OR REGULATION, TO DETERMINE WHETHER A PARTICIPANT IN LIVE RACING OR PARI-MUTUEL WAGERING HAS VIOLATED A UNIFORM RULE OR REGULATION IN ITS JURISDICTION AND TO IMPOSE AN APPROPRIATE PENALTY;

(D) THROUGH ITS RACING COMMISSION OR ITS EQUIVALENT, PROMPTLY NOTIFY THE COMPACT COMMISSION, OR ITS DESIGNATED PROGRAM TO RECORD THE SAME, THAT THE PARTY STATE HAS ADJUDGED A VIOLATION OF ANY STATE OR COMPACT RULE OR REGULATION OR IMPOSED A SUSPENSION OR REVOCATION UPON A COMPACT COMMISSION LICENSEE; AND

(E) NOT BE HELD LIABLE FOR THE DEBTS OR OTHER FINANCIAL OBLIGATIONS INCURRED BY THE COMPACT COMMISSION.

S 2. This act shall take effect immediately.