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I N   S E N A T E

April 5, 2010

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Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to simulcasting; to amend the penal law, in relation to conducting account wagering without a license; and to repeal certain provisions of the racing, pari-mutuel wagering and breeding law relating thereto

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

1     Section 1. Article 10 of the racing, pari-mutuel wagering and breeding  
2 law is REPEALED and a new article 10 is added to read as follows:

3                     ARTICLE X

4                     SIMULCASTING

5 SECTION 1000. STATEMENT OF PURPOSE.

6             1001. DEFINITIONS.

7             1002. GENERAL JURISDICTION.

8             1003. SIMULCASTING AUTHORIZED.

9             1004. SIMULCAST LICENSING.

10            1005. STATE RACING AND WAGERING BOARD AUTHORITY OVER SIMULCAST-  
11                         ING AND ACCOUNT WAGERS.

12            1006. SIMULCASTS TO RACING ASSOCIATIONS.

13            1007. SIMULCASTS TO OFF-TRACK BETTING CORPORATION BRANCHES.

14            1008. TELEVISION, INTERNET AND VIDEO STREAMING OF HORSE RACES.

15            1009. CONDITIONS FOR ACCOUNT WAGERING LICENSES.

16            1010. LICENSED ACCOUNT WAGERING AT RACING ASSOCIATIONS.

17            1011. LICENSED ACCOUNT WAGERING AT OFF-TRACK BETTING CORPO-  
18                         RATIONS.

19            1012. LICENSED ACCOUNT WAGERING AT MULTI-JURISDICTIONAL ACCOUNT  
20                         WAGERING PROVIDERS.

21     S 1000. STATEMENT OF PURPOSE. THE SPORT OF HORSE RACING IS LARGELY  
22 DEPENDENT ON THE SIMULCASTING OF RACES BETWEEN HOST TRACKS AND OTHER  
23 RACETRACKS, OFF-TRACK BETTING SITES, AND PRIVATE HOMES. IN ORDER TO  
24 SUPPORT THE SPORT OF HORSE RACING, SIMULCASTING OF HORSE RACES SHOULD BE

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

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1 ENCOURAGED IN ORDER TO STRENGTHEN THE ECONOMIC CONTRIBUTIONS OF THE  
2 RACING INDUSTRY TO NEW YORK STATE. SIMULCASTING MAY ONLY BE CONDUCTED  
3 PURSUANT TO THE STRICT CONTROLS OF THIS ARTICLE AND THE RULES AND REGU-  
4 LATIONS OF THE NEW YORK STATE RACING AND WAGERING BOARD.

5 S 1001. DEFINITIONS. AS USED IN THIS ARTICLE: 1. "ACCOUNT WAGERING"  
6 MEANS A FORM OF PARI-MUTUEL WAGERING IN WHICH A PERSON ESTABLISHES AN  
7 ACCOUNT WITH A RACING ASSOCIATION, AN OFF-TRACK BETTING CORPORATION OR A  
8 STATE RACING AND WAGERING BOARD APPROVED MULTI-JURISDICTIONAL WAGERING  
9 HUB, AND SUBSEQUENTLY ISSUES WAGERING INSTRUCTIONS CONCERNING THE FUNDS  
10 IN THIS ACCOUNT, THEREBY AUTHORIZING THE ENTITY HOLDING THE ACCOUNT TO  
11 PLACE WAGERS ON THE ACCOUNT OWNER'S BEHALF. AN ACCOUNT WAGER MAY BE MADE  
12 ONLY BY THE ENTITY HOLDING THE ACCOUNT PURSUANT TO WAGERING INSTRUCTIONS  
13 ISSUED BY THE OWNER OF THE FUNDS COMMUNICATED BY TELEPHONE CALL OR BY  
14 COMMUNICATION THROUGH OTHER ELECTRONIC MEANS.

15 2. "ACCOUNT WAGERING LICENSEE" MEANS RACING ASSOCIATIONS, OFF-TRACK  
16 BETTING CORPORATIONS, AND NEW YORK STATE RACING AND WAGERING BOARD  
17 APPROVED MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDERS WHICH HAVE BEEN  
18 AUTHORIZED BY THE BOARD TO OFFER ACCOUNT WAGERING.

19 3. "DORMANT ACCOUNT" MEANS AN ACCOUNT WAGERING ACCOUNT HELD BY A  
20 RACING ASSOCIATION OR AN OFF-TRACK BETTING CORPORATION WHICH HAS BEEN  
21 INACTIVE FOR THREE YEARS.

22 4. "GUEST TRACK" MEANS A RACING ASSOCIATION WHERE SIMULCASTS ORIGI-  
23 NATED FROM ANOTHER RACETRACK OR RACING ASSOCIATION ARE DISPLAYED.

24 5. "HOST TRACK" MEANS THE RACETRACK OR THE RACING ASSOCIATION AT WHICH  
25 THE RACE WHICH IS THE SUBJECT OF SIMULCAST WAGERING IS RUN.

26 6. "MARKET ORIGIN FEE ACCOUNT" SHALL MEAN AN ACCOUNT MAINTAINED BY THE  
27 STATE RACING AND WAGERING BOARD WHICH SHALL BE AUTHORIZED TO RECEIVE  
28 PAYMENTS FROM OFF-TRACK BETTING CORPORATIONS AND MULTI-JURISDICTIONAL  
29 ACCOUNT WAGERING PROVIDERS ON BEHALF OF RACING ASSOCIATIONS, HORSEMEN  
30 AND BREEDERS IN NEW YORK STATE. OF THE MARKET ORIGIN FEE, EIGHTY-NINE  
31 AND ONE-HALF PERCENT SHALL BE PAID TO RACING ASSOCIATIONS. PAYMENTS TO  
32 INDIVIDUAL RACING ASSOCIATIONS SHALL BE DETERMINED BASED ON A RATIO  
33 WHERE THE NUMERATOR IS THE RACING ASSOCIATION'S TOTAL IN-STATE HANDLE ON  
34 ITS LIVE RACES BOTH AT RACING ASSOCIATIONS AND OFF-TRACK BETTING CORPO-  
35 RATIONS DURING THE PREVIOUS CALENDAR YEAR, AND THE DENOMINATOR IS THE  
36 TOTAL IN-STATE HANDLE ON LIVE RACES CONDUCTED BY ALL RACING ASSOCIATIONS  
37 IN NEW YORK STATE AT RACING ASSOCIATIONS AND OFF-TRACK BETTING CORPO-  
38 RATIONS DURING THE PREVIOUS CALENDAR YEAR, EXCEPT THAT NO LESS THAN  
39 TWENTY PERCENT OF THIS FEE SHALL BE APPORTIONED TO HARNESS RACING ASSO-  
40 CIATIONS, AND NO MORE THAN SEVENTY PERCENT OF THIS FEE SHALL BE APPOR-  
41 TIONED TO AN ENFRANCHISED ASSOCIATION. OF THE REMAINING TEN AND ONE-HALF  
42 PERCENT OF THE MARKET ORIGIN FEE, 32.4 PERCENT SHALL BE PAID TO THE  
43 AGRICULTURE AND NEW YORK STATE BREEDING AND DEVELOPMENT FUND, AND 67.6  
44 PERCENT SHALL BE PAID TO THE NEW YORK STATE THOROUGHBRED BREEDING AND  
45 DEVELOPMENT FUND. SUCH PAYMENTS SHALL BE MADE AT LEAST ONCE EVERY THIRTY  
46 DAYS IN ACCORDANCE WITH A SCHEDULE TO BE ESTABLISHED BY THE STATE RACING  
47 AND WAGERING BOARD.

48 7. "MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER" MEANS A BUSINESS  
49 ENTITY DOMICILED OUTSIDE NEW YORK STATE WHICH IS LICENSED IN MORE THAN  
50 ONE JURISDICTION AND OFFERS PARI-MUTUEL ACCOUNT WAGERING ON RACES IT  
51 SIMULCASTS AND OTHER RACES IT OFFERS IN ITS WAGERING MENU.

52 8. "RACETRACK" MEANS RACING ASSOCIATIONS AND FACILITIES EITHER INSIDE  
53 OR OUTSIDE NEW YORK STATE OFFERING WAGERING ON LIVE HORSE RACING FOR  
54 WHICH SUCH FACILITIES ARE LICENSED IN THEIR STATE OR APPROPRIATE JURIS-  
55 DICTION.

1 9. "SIMULCAST" MEANS THE LIVE TRANSMISSION OF VIDEO AND AUDIO SIGNALS  
2 CONVEYING A HORSE RACE HELD EITHER INSIDE OR OUTSIDE THIS STATE.

3 10. "SIMULCAST FACILITY" MEANS THOSE RACING ASSOCIATIONS AND OFF-TRACK  
4 BETTING CORPORATIONS WITHIN THE STATE THAT ARE AUTHORIZED PURSUANT TO  
5 THE PROVISIONS OF THIS ARTICLE TO DISPLAY SIMULCASTS FOR PARI-MUTUEL  
6 WAGERING PURPOSES.

7 S 1002. GENERAL JURISDICTION. THE STATE RACING AND WAGERING BOARD  
8 SHALL HAVE GENERAL JURISDICTION OVER THE SIMULCASTING OF HORSE RACES TO  
9 AND FROM LOCATIONS WITHIN NEW YORK STATE, AND THE BOARD SHALL ISSUE  
10 APPROPRIATE RULES AND REGULATIONS IN ACCORDANCE WITH THE PROVISIONS OF  
11 THIS ARTICLE.

12 S 1003. SIMULCASTING AUTHORIZED. ALL HOST TRACKS IN NEW YORK STATE, AS  
13 A CONDITION OF THEIR LICENSURE TO CONDUCT PARI-MUTUEL WAGERING, SHALL  
14 GRANT A COMPULSORY LICENSE TO OFF-TRACK BETTING CORPORATIONS PURSUANT TO  
15 WHICH SIMULCASTS OF THEIR RACES SHALL BE MADE AVAILABLE TO ALL OFF-TRACK  
16 BETTING CORPORATIONS EXCEPT THAT:

17 1. A HOST TRACK LOCATED IN A COUNTY OR A CITY WITH A POPULATION IN  
18 EXCESS OF ONE MILLION PEOPLE MAY DENY SENDING ITS SIMULCAST SIGNAL TO AN  
19 OFF-TRACK BETTING BRANCH THAT IS LOCATED LESS THAN FIVE MILES FROM THE  
20 HOST TRACK; AND

21 2. A HOST TRACK IN ANY OTHER COUNTY MAY DENY SENDING ITS SIMULCAST  
22 SIGNAL TO AN OFF-TRACK BETTING BRANCH THAT IS LOCATED LESS THAN FIFTEEN  
23 MILES FROM THE HOST TRACK. NOTHING SHALL PREVENT AN OFF-TRACK BETTING  
24 BRANCH OFFICE THAT IS DENIED THE SIMULCAST SIGNAL FROM THE HOST TRACK  
25 FROM TAKING WAGERS ON RACES RUN BY THE HOST TRACK. WHERE A BRANCH OFFICE  
26 TAKES WAGERS ON RACES BUT IS DENIED A SIMULCAST SIGNAL BY THE HOST  
27 TRACK, THE DISTRIBUTION OF THE TAKEOUT SHALL BE GOVERNED BY SECTION ONE  
28 THOUSAND SEVEN OF THIS ARTICLE.

29 S 1004. SIMULCAST LICENSING. 1. ALL SIMULCAST FACILITIES SHALL BE  
30 LICENSED BY THE STATE RACING AND WAGERING BOARD. THE BOARD MAY ONLY  
31 LICENSE THOSE SIMULCAST FACILITIES WHERE THE APPROPRIATE LOCAL OFFICIALS  
32 HAVE CONFIRMED THAT THE FACILITY IS IN COMPLIANCE WITH ALL LOCAL LAWS  
33 AND ZONING REQUIREMENTS.

34 2. THE BOARD SHALL APPROVE THE SIMULCASTING FACILITY LICENSE IF IT  
35 DETERMINES THAT THE FACILITY POSSESSES APPROPRIATE TOTALIZATOR AND  
36 ACCOUNTING CONTROLS WHICH WILL SAFEGUARD THE TRANSMISSION OF WAGERING  
37 DATA, WILL EFFECTUATE COMMON POOLING, AND WILL KEEP A SYSTEM OF ACCOUNTS  
38 WHICH WILL MAINTAIN A SEPARATE RECORD OF REVENUES COLLECTED BY THE  
39 FACILITY, THE DISTRIBUTION OF SUCH REVENUES, AND AN ACCOUNTING OF COSTS  
40 RELATIVE TO THE OPERATION OF THE FACILITY.

41 3. SIMULCAST FACILITIES MAY PROVIDE FOOD AND BEVERAGE SERVICE IN  
42 COMPLIANCE WITH APPLICABLE STATE AND LOCAL LAWS.

43 4. NO SIMULCAST FACILITY THAT COLLECTS A SURCHARGE PURSUANT TO SECTION  
44 FIVE HUNDRED THIRTY-TWO OF THIS CHAPTER SHALL CHARGE A PATRON FOR ADMIS-  
45 SION.

46 5. OFF-TRACK BETTING CORPORATIONS MAY PROVIDE FOR SIMULCASTS TO  
47 SUPPLEMENTARY PRIVATE SIMULCAST FACILITIES AUTHORIZED TO ACCEPT WAGERS  
48 ON THE QUICK DRAW LOTTERY GAME PURSUANT TO PARAGRAPH ONE OF SUBDIVISION  
49 (A) OF SECTION SIXTEEN HUNDRED TWELVE OF THE TAX LAW. ALL SUCH SUPPLE-  
50 MENTARY PRIVATE SIMULCAST FACILITIES SHALL BE SUBJECT TO A BACKGROUND  
51 CHECK AND MUST BE LICENSED BY THE BOARD. THE BOARD MAY DENY A LICENSE  
52 TO, SUSPEND, OR REVOKE A LICENSE TO A SUPPLEMENTARY PRIVATE SIMULCASTING  
53 FACILITY IF IT FINDS THAT LICENSING OF THE FACILITY IS NOT IN THE PUBLIC  
54 INTEREST AND THE BEST INTEREST OF HONEST HORSE RACING. ALL AGREEMENTS  
55 BETWEEN THE SUPPLEMENTARY PRIVATE SIMULCAST FACILITY AND THE OFF-TRACK  
56 BETTING CORPORATION SHALL BE IN WRITING, DISCLOSED TO THE BOARD, AND BE

1 AVAILABLE TO THE PUBLIC UNDER THE PROVISIONS OF ARTICLE SIX OF THE  
2 PUBLIC OFFICERS LAW. THE BOARD SHALL PROMULGATE RULES AND REGULATIONS  
3 GOVERNING THE LICENSING OF SUPPLEMENTARY PRIVATE SIMULCASTING FACILI-  
4 TIES.

5 S 1005. STATE RACING AND WAGERING BOARD AUTHORITY OVER SIMULCASTING  
6 AND ACCOUNT WAGERS. 1. EACH SIMULCASTING LICENSEE SHALL PAY A NON-RE-  
7 FUNDABLE FEE TO BE DETERMINED BY THE BOARD FOR EACH BRANCH OFFICE OR  
8 SUPPLEMENTARY PRIVATE SIMULCASTING FACILITY FOR WHICH IT IS SEEKING A  
9 LICENSE.

10 2. IN ADDITION TO THE PENALTIES AUTHORIZED PURSUANT TO SECTIONS 225.45  
11 AND 225.50 OF THE PENAL LAW, THE BOARD MAY, AFTER NOTICE AND AN OPPORTU-  
12 NITY FOR A HEARING, REVOKE OR SUSPEND THE LICENSE OF ANY RACING ASSOCI-  
13 ATION, OFF-TRACK BETTING CORPORATION, SUPPLEMENTARY PRIVATE SIMULCASTING  
14 FACILITY, OR MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER FOR A  
15 VIOLATION OF THIS ARTICLE OR THE RULES AND REGULATIONS PROMULGATED  
16 PURSUANT TO THIS ARTICLE. THE BOARD IS ALSO AUTHORIZED AND EMPOWERED TO  
17 IMPOSE MONETARY FINES FOR VIOLATIONS OF THIS ARTICLE, NOT EXCEEDING  
18 TWENTY-FIVE THOUSAND DOLLARS FOR EACH VIOLATION.

19 S 1006. SIMULCASTS TO RACING ASSOCIATIONS. EACH RACING ASSOCIATION  
20 WHICH IS LICENSED TO CONDUCT LIVE PARI-MUTUEL RACING FOR THIRTY DAYS OR  
21 MORE EACH YEAR MAY BE LICENSED BY THE STATE RACING AND WAGERING BOARD TO  
22 OFFER PARI-MUTUEL WAGERING AND SIMULCASTING ON LIVE RACING FROM OTHER  
23 RACETRACKS AND RACING ASSOCIATIONS UNDER THE FOLLOWING CONDITIONS:

24 1. THE PARI-MUTUEL TAX ON EACH WAGER SHALL BE SIX PERCENT OF TAKEOUT.

25 2. THERE IS A SIGNED CONTRACT BETWEEN THE GUEST RACING ASSOCIATION AND  
26 ITS HORSEMEN WHICH GOVERNS THE DISTRIBUTION OF THE RETAINED REVENUES  
27 RECEIVED BY THE GUEST RACING ASSOCIATION FROM THE SIMULCASTS.

28 3. WHERE THE HOST TRACK IS A RACING ASSOCIATION, THERE IS A SIGNED  
29 CONTRACT BETWEEN THE HOST RACING ASSOCIATION AND ITS HORSEMEN WHICH  
30 GOVERNS THE DISTRIBUTION OF REVENUES TO BE RECEIVED BY THE HOST RACING  
31 ASSOCIATION.

32 4. WHERE THE HOST TRACK IS A RACETRACK, THERE IS COMPLIANCE WITH CHAP-  
33 TER FIFTY-SEVEN OF TITLE FIFTEEN OF THE UNITED STATES CODE COMMONLY  
34 REFERRED TO AS THE "INTERSTATE HORSERACING ACT."

35 5. A LICENSED GUEST HARNESS RACING ASSOCIATION SHALL PAY AN AMOUNT  
36 EQUAL TO THREE-FOURTHS OF ONE PER CENTUM OF DAILY POOLS DERIVED FROM  
37 BETS IT RECEIVES TO THE AGRICULTURE AND NEW YORK STATE BREEDING AND  
38 DEVELOPMENT FUND. A LICENSED GUEST THOROUGHBRED RACING ASSOCIATION SHALL  
39 PAY AN AMOUNT EQUAL TO THREE-FOURTHS OF ONE PER CENTUM OF DAILY POOLS  
40 DERIVED FROM BETS IT RECEIVES TO THE NEW YORK STATE THOROUGHBRED BREED-  
41 ING AND DEVELOPMENT FUND.

42 6. ANY SIMULCASTS BETWEEN A HOST TRACK AND A GUEST TRACK SHALL RESULT  
43 IN THE COMBINATION OF ALL WAGERS PLACED AT THE GUEST FACILITY WITH  
44 WAGERS PLACED AT THE HOST FACILITY SO AS TO PRODUCE COMMON PARI-MUTUEL  
45 BETTING POOLS FOR THE CALCULATION OF ODDS AND THE DETERMINATION OF  
46 PAYOUTS FROM SUCH POOL, PURSUANT TO SECTION NINE HUNDRED FIVE OF THIS  
47 CHAPTER.

48 S 1007. SIMULCASTS TO OFF-TRACK BETTING CORPORATION BRANCHES. SIMUL-  
49 CASTS TO LICENSED OFF-TRACK BETTING CORPORATION'S BRANCHES AND LICENSED  
50 SUPPLEMENTARY PRIVATE SIMULCASTING FACILITIES SHALL BE APPROVED BY THE  
51 STATE RACING AND WAGERING BOARD UNDER THE FOLLOWING CONDITIONS:

52 1. THE PARI-MUTUEL TAX ON EACH WAGER SHALL BE SIX PERCENT OF TAKEOUT.

53 2. WHERE THE HOST FACILITY IS A RACETRACK, THERE IS COMPLIANCE WITH  
54 CHAPTER FIFTY-SEVEN OF TITLE FIFTEEN OF THE UNITED STATES CODE COMMONLY  
55 REFERRED TO AS THE "INTERSTATE HORSERACING ACT."

1 3. SIMULCASTS BETWEEN A HOST TRACK AND AN OFF-TRACK BETTING CORPO-  
2 RATION BRANCH OR SUPPLEMENTARY PRIVATE SIMULCASTING FACILITY SHALL  
3 RESULT IN THE COMBINATION OF ALL WAGERS PLACED AT THE OFF-TRACK BETTING  
4 CORPORATION BRANCH OR SUPPLEMENTARY PRIVATE SIMULCASTING FACILITY WITH  
5 WAGERS PLACED AT THE HOST TRACK SO AS TO PRODUCE COMMON PARI-MUTUEL  
6 BETTING POOLS FOR THE CALCULATION OF ODDS AND THE DETERMINATION OF  
7 PAYOUTS FROM SUCH POOL, PURSUANT TO SECTION NINE HUNDRED FIVE OF THIS  
8 CHAPTER.

9 4. THIRTY-FOUR PERCENT OF THE FIRST FIFTY MILLION DOLLARS IN TAKEOUT  
10 AND FORTY-ONE PERCENT OF TAKEOUT AMOUNTS IN EXCESS OF FIFTY MILLION  
11 DOLLARS PER ENTITY ARE TO BE DISTRIBUTED TO THE MARKET ORIGIN FEE  
12 ACCOUNT.

13 5. AN OFF-TRACK BETTING CORPORATION MAY WITH THE APPROVAL OF THE COUN-  
14 TY AND THE MUNICIPALITY WHERE THE FACILITY IS TO BE LOCATED OPEN SIMUL-  
15 CAST THEATERS WHERE THE SURCHARGE IN SECTION FIVE HUNDRED THIRTY-TWO OF  
16 THIS CHAPTER SHALL NOT BE APPLICABLE TO WAGERS. ALL SIMULCAST THEATERS  
17 MUST BE LICENSED BY THE BOARD, AND THE BOARD MAY NOT LICENSE A SIMULCAST  
18 THEATER UNTIL THE APPROPRIATE LOCAL OFFICIALS HAVE CONFIRMED THAT THE  
19 FACILITY IS IN COMPLIANCE WITH ALL LOCAL LAWS AND ZONING REQUIREMENTS. A  
20 SIMULCAST THEATER MAY NOT BE OPENED AFTER JANUARY FIRST, TWO THOUSAND  
21 ELEVEN WITHIN TEN MILES OF A RACING ASSOCIATION, UNLESS THAT RACING  
22 ASSOCIATION HAS APPROVED THE OPERATION OF A SIMULCAST THEATER. AN  
23 OFF-TRACK BETTING CORPORATION SHALL BE AUTHORIZED TO FORM A PARTNERSHIP  
24 OR JOINT VENTURE WITH A RACING ASSOCIATION IN THE OPERATION OF A SIMUL-  
25 CAST THEATER. NO OFF-TRACK BETTING CORPORATION SHALL BE AUTHORIZED TO  
26 PLACE A SIMULCAST THEATER IN A COUNTY WHERE A DIFFERENT OFF-TRACK  
27 BETTING CORPORATION IS AUTHORIZED TO OPERATE. A SIMULCAST THEATER SHALL  
28 BE REQUIRED TO PAY THE FEES AND TAXES AUTHORIZED BY THIS SECTION.

29 S 1008. TELEVISION, INTERNET AND VIDEO STREAMING OF HORSE RACES. A  
30 RACETRACK MAY TELEVISION, VIDEO STREAM OR BROADCAST VIA THE INTERNET LIVE  
31 HORSE RACES INTO HOMES AND PRIVATE RESIDENCES IN NEW YORK STATE.  
32 OFF-TRACK BETTING CORPORATIONS AND NEW YORK STATE RACING AND WAGERING  
33 BOARD APPROVED MULTI-JURISDICTIONAL WAGERING PROVIDERS WITH THE WRITTEN  
34 APPROVAL OF THE HOST TRACK MAY TELEVISION, VIDEO STREAM OR BROADCAST VIA  
35 THE INTERNET LIVE HORSE RACES ON STATIONS OR NETWORKS THAT THEY CONTROL  
36 OR OPERATE.

37 S 1009. CONDITIONS FOR ACCOUNT WAGERING LICENSES. 1. A RACING ASSOCI-  
38 ATION, AN OFF-TRACK BETTING CORPORATION AND A MULTI-JURISDICTIONAL  
39 ACCOUNT WAGERING PROVIDER MAY APPLY TO THE NEW YORK STATE RACING AND  
40 WAGERING BOARD TO BE LICENSED TO OFFER ACCOUNT WAGERING.

41 2. A RACING ASSOCIATION, AN OFF-TRACK BETTING CORPORATION AND A  
42 MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER MAY FORM A PARTNERSHIP,  
43 JOINT VENTURE, OR ANY OTHER AFFILIATION IN ORDER TO FURTHER THE PURPOSES  
44 OF THIS SECTION.

45 3. THE BOARD SHALL DEVELOP AND ADOPT RULES AND REGULATIONS TO LICENSE  
46 AND REGULATE ALL PHASES OF ACCOUNT WAGERING.

47 4. EACH APPLICANT FOR AN ACCOUNT WAGERING LICENSE SHALL SUBMIT A NON-  
48 REFUNDABLE FEE TO BE DETERMINED BY THE BOARD. SUCH LICENSE FEE SHALL  
49 NOT BE LESS THAN ONE HUNDRED THOUSAND DOLLARS.

50 5. THE ACCOUNT WAGERING LICENSEE SHALL UTILIZE PERSONAL IDENTIFICATION  
51 NUMBERS (PINS) AND OTHER TECHNOLOGIES TO ASSURE THAT ONLY THE ACCOUNT  
52 HOLDER HAS ACCESS TO THE ADVANCE DEPOSIT WAGERING ACCOUNT.

53 6. THE ACCOUNT WAGERING PROVIDER SHALL PROVIDE FOR WITHDRAWALS FROM  
54 THE WAGERING ACCOUNT ONLY BY MEANS OF A CHECK MADE PAYABLE TO THE  
55 ACCOUNT HOLDER AND SENT TO THE ADDRESS OF THE ACCOUNT HOLDER OR BY MEANS  
56 OF AN ELECTRONIC TRANSFER TO AN ACCOUNT HELD BY THE VERIFIED ACCOUNT

HOLDER OR THE ACCOUNT HOLDER MAY WITHDRAW FUNDS FROM THE WAGERING ACCOUNT AT A FACILITY APPROVED BY THE COMMISSION BY PRESENTING VERIFI-  
ABLE PERSONAL AND ACCOUNT IDENTIFICATION INFORMATION.

7. RACING ASSOCIATIONS AND OFF-TRACK BETTING CORPORATIONS MAY TAKE WAGERS FROM INDIVIDUALS RESIDING OUTSIDE NEW YORK STATE WHERE THERE IS COMPLIANCE WITH CHAPTER FIFTY-SEVEN OF TITLE FIFTEEN OF THE UNITED STATES CODE COMMONLY REFERRED TO AS THE "INTERSTATE HORSERACING ACT."

8. THE ACCOUNT HOLDER'S DEPOSITS TO THE WAGERING ACCOUNT SHALL BE SUBMITTED BY THE ACCOUNT HOLDER TO THE ACCOUNT WAGERING LICENSEE AND SHALL BE IN THE FORM OF ONE OF THE FOLLOWING:

(A) CASH GIVEN TO THE ACCOUNT WAGERING LICENSEE;

(B) CHECK, MONEY ORDER, NEGOTIABLE ORDER OF WITHDRAWAL, OR WIRE OR ELECTRONIC TRANSFER, PAYABLE AND REMITTED TO THE ACCOUNT WAGERING LICENSEE; OR

(C) CHARGES MADE TO AN ACCOUNT HOLDER'S DEBIT OR CREDIT CARD UPON THE ACCOUNT HOLDER'S DIRECT AND PERSONAL INSTRUCTION, WHICH INSTRUCTION MAY BE GIVEN BY TELEPHONE COMMUNICATION OR OTHER ELECTRONIC MEANS TO THE ACCOUNT WAGERING LICENSEE OR ITS AGENT BY THE ACCOUNT HOLDER IF THE USE OF THE CARD HAS BEEN APPROVED BY THE ACCOUNT WAGERING LICENSEE.

9. (A) THE ACCOUNT SHALL BE IN THE NAME OF A NATURAL PERSON AND MAY NOT BE IN THE NAME OF ANY BENEFICIARY, CUSTODIAN, JOINT TRUST, CORPORATION, PARTNERSHIP OR OTHER ORGANIZATION OR ENTITY.

(B) AN ACCOUNT MAY BE ESTABLISHED BY A PERSON COMPLETING AN APPLICATION FORM APPROVED BY THE BOARD AND SUBMITTING IT TOGETHER WITH A CERTIFICATION, OR OTHER PROOF, OF AGE AND RESIDENCY. THE FORM SHALL INCLUDE THE ADDRESS OF THE PRINCIPAL RESIDENCE OF THE PROSPECTIVE ACCOUNT HOLDER AND A STATEMENT THAT A FALSE STATEMENT MADE IN REGARD TO AN APPLICATION MAY SUBJECT THE APPLICANT TO PROSECUTION.

(C) THE PROSPECTIVE ACCOUNT HOLDER SHALL SUBMIT THE COMPLETED APPLICATION TO THE ACCOUNT WAGERING LICENSEE. THE ACCOUNT WAGERING LICENSEE MAY ACCEPT OR REJECT AN APPLICATION AFTER RECEIPT AND REVIEW OF THE APPLICATION AND CERTIFICATION, OR OTHER PROOF, OF AGE AND RESIDENCY FOR COMPLIANCE WITH THIS SECTION.

10. A WAGERING ACCOUNT SHALL NOT BE ASSIGNABLE OR OTHERWISE TRANSFERABLE.

11. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE OR IN REGULATIONS WHICH THE BOARD MAY ADOPT HEREUNDER, ALL ACCOUNT WAGERS SHALL BE FINAL AND NO WAGER SHALL BE CANCELED BY THE ACCOUNT HOLDER AT ANY TIME AFTER THE WAGER HAS BEEN ACCEPTED BY THE ACCOUNT WAGERING LICENSEE.

12. DORMANT ACCOUNTS SHALL BE TREATED AS ABANDONED PROPERTY PURSUANT TO SECTION THREE HUNDRED OF THE ABANDONED PROPERTY LAW.

S 1010. LICENSED ACCOUNT WAGERING AT RACING ASSOCIATIONS. IN ORDER TO BE LICENSED BY THE NEW YORK STATE RACING AND WAGERING BOARD, WAGERING ACCOUNTS AT RACING ASSOCIATIONS SHALL ALSO BE IN COMPLIANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND FOUR OF THIS ARTICLE.

S 1011. LICENSED ACCOUNT WAGERING AT OFF-TRACK BETTING CORPORATIONS. 1. IN ORDER TO BE LICENSED BY THE NEW YORK STATE RACING AND WAGERING BOARD, WAGERING ACCOUNTS AT OFF-TRACK BETTING CORPORATIONS SHALL ALSO BE IN COMPLIANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND FIVE OF THIS ARTICLE.

2. EACH OFF-TRACK BETTING CORPORATION IS AUTHORIZED TO DETERMINE THE EXTENT TO WHICH THE PROVISIONS OF SECTION FIVE HUNDRED THIRTY-TWO OF THIS CHAPTER (I.E. SURCHARGE) WILL BE APPLICABLE TO ITS ACCOUNT HOLDERS. THE POLICIES ADOPTED BY THE OFF-TRACK BETTING CORPORATION IN REGARD TO SECTION FIVE HUNDRED THIRTY-TWO OF THIS CHAPTER SHALL BE SUPPLIED IN WRITING TO EVERY ACCOUNT HOLDER.

1 S 1012. LICENSED ACCOUNT WAGERING AT MULTI-JURISDICTIONAL ACCOUNT  
2 WAGERING PROVIDERS. A MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER MAY  
3 ONLY BE LICENSED UNDER THE FOLLOWING CONDITIONS:

4 1. THE MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER IS LICENSED IN  
5 THE JURISDICTION IN WHICH IT OPERATES.

6 2. THE MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER POSSESSES APPRO-  
7 PRIATE TOTALIZATOR AND ACCOUNTING CONTROLS WHICH WILL SAFEGUARD THE  
8 TRANSMISSION OF WAGERING DATA AND WILL KEEP A SYSTEM OF ACCOUNTS WHICH  
9 WILL MAINTAIN A SEPARATE RECORD OF REVENUES COLLECTED BY THE WAGERING  
10 PROVIDER, THE DISTRIBUTION OF SUCH REVENUES, AND AN ACCOUNTING OF COSTS  
11 RELATIVE TO THE OPERATION OF THE WAGERING PROVIDER. WAGERS PLACED WITH  
12 THE MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER SHALL RESULT IN THE  
13 COMBINATION OF ALL WAGERS PLACED AT THE HOST TRACK SO AS TO PRODUCE  
14 COMMON PARI-MUTUEL BETTING POOLS FOR THE CALCULATION OF ODDS AND THE  
15 DETERMINATION OF PAYOUTS FROM SUCH POOL, PURSUANT TO SECTION NINE  
16 HUNDRED FIVE OF THIS CHAPTER.

17 3. THE CHARACTER AND THE BACKGROUND OF THE MULTI-JURISDICTIONAL  
18 ACCOUNT WAGERING PROVIDER IS IN THE PUBLIC INTEREST AND THE BEST INTER-  
19 EST OF HONEST HORSE RACING.

20 4. THE MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER SHALL UTILIZE  
21 THE SERVICES OF AN INDEPENDENT THIRD PARTY TO PERFORM IDENTITY AND  
22 VERIFICATION SERVICES WITH RESPECT TO NEW YORKERS ESTABLISHING WAGERING  
23 ACCOUNTS.

24 5. THE BOARD SHALL BE ALLOWED ACCESS TO THE PREMISES OF THE MULTI-JUR-  
25 ISDICTIONAL ACCOUNT WAGERING PROVIDER TO VISIT, INVESTIGATE, AND PLACE  
26 EXPERT ACCOUNTANTS AND OTHER PERSONS IT DESIRES NECESSARY FOR THE  
27 PURPOSE OF INSURING COMPLIANCE WITH THE RULES AND REGULATIONS OF THE  
28 BOARD.

29 6. A MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER SHALL PAY ON THE  
30 WAGERS OF NEW YORK STATE RESIDENTS: (A) A PARI-MUTUEL TAX OF FOUR  
31 PERCENT OF TAKEOUT; (B) A FEE OF THIRTY-FOUR PERCENT OF THE FIRST FIFTY  
32 MILLION DOLLARS IN TAKEOUT AND FORTY-ONE PERCENT OF TAKEOUT AMOUNTS IN  
33 EXCESS OF FIFTY MILLION DOLLARS TO THE MARKET ORIGIN FEE ACCOUNT; AND  
34 (C) A FEE OF FIVE PERCENT OF TAKEOUT TO THE COUNTY OF RESIDENCE OF THE  
35 NEW YORK STATE ACCOUNT HOLDER. IF THE COUNTY OF RESIDENCE IS WITHIN A  
36 CITY WITH A POPULATION IN EXCESS OF ONE MILLION PEOPLE, THE FEE SHALL BE  
37 PAID TO THE STATE. IN COUNTIES WHICH ARE MEMBERS OF AN OFF-TRACK BETTING  
38 CORPORATION, THE PAYMENT SHALL BE MADE TO THE OFF-TRACK BETTING CORPO-  
39 RATION. THE MULTI-JURISDICTION ACCOUNT HOLDER SHALL BE ENTITLED TO  
40 DEDUCT FROM ITS MARKET ORIGIN FEE DISTRIBUTIONS MADE ON THE WAGER OF THE  
41 NEW YORK STATE RESIDENT TO RACETRACKS OTHER THAN HOST TRACKS. IN NO  
42 EVENT SHALL THE DEDUCTION EXCEED TWENTY-FIVE PERCENT OF THE MARKET  
43 ORIGIN FEE.

44 S 2. Paragraphs a and b of subdivision 2 of section 108 of the racing,  
45 pari-mutuel wagering and breeding law, as added by chapter 434 of the  
46 laws of 2002, are amended to read as follows:

47 a. The board shall promulgate rules and regulations pursuant to which  
48 people may voluntarily exclude themselves from entering the premises of  
49 an association or corporation licensed or enfranchised under article  
50 two, three, or four of this chapter or a facility licensed under section  
51 one thousand [eight or one thousand nine] FOUR of this chapter.

52 b. An association or corporation licensed or enfranchised under arti-  
53 cle two, three, or four of this chapter or a facility licensed under  
54 section one thousand [eight or one thousand nine] FOUR of this chapter  
55 shall not be liable to any self-excluded person or to any other party in  
56 any judicial proceeding for any harm, monetary or otherwise, which may

1 arise as a result of a self-excluded person's engaging in gambling  
2 activity while on the list of self-excluded persons; provided that noth-  
3 ing contained in this paragraph shall limit the liability of any such  
4 association, corporation, or facility for any other acts or omissions  
5 under any other statutory law or under the common law.

6 S 3. Subparagraph (i) of paragraph a and subparagraph (i) of paragraph  
7 b of subdivision 1 of section 318 of the racing, pari-mutuel wagering  
8 and breeding law, subparagraph (i) of paragraph a as amended by chapter  
9 281 of the laws of 1994 and subparagraph (i) of paragraph b as amended  
10 by chapter 280 of the laws of 2001, are amended to read as follows:

11 (i) shall pay to the commissioner of taxation and finance as a reason-  
12 able tax for the privilege of conducting pari-mutuel betting at races  
13 run at race meetings held by such corporation or association, a tax,  
14 which is hereby levied, at the following rates: of total daily on-track  
15 pools resulting from regular bets, one and six-tenths per centum; of the  
16 total daily on-track pools resulting from multiple bets, one and thir-  
17 ty-five hundredths per centum; of total daily on-track pools resulting  
18 from exotic bets, four and eighty-five hundredths per centum; and of  
19 total daily on-track pools resulting from super exotic bets, seven per  
20 centum, plus fifty per centum of the breaks. Effective September first,  
21 nineteen hundred ninety-four, such tax shall be one-half of one per  
22 centum of all wagers. Such association or corporation shall receive  
23 credit as a reduction of the daily tax by the state for the privilege of  
24 conducting pari-mutuel betting of amounts equal to one and one-half per  
25 centum of total daily pools resulting from the simulcast of such associ-  
26 ation's or corporation's races to licensed facilities operated by  
27 regional off-track betting corporations in accordance with section one  
28 thousand [eight] FOUR of this chapter; provided, however, that in no  
29 event shall total daily credit exceed one and one half per centum of the  
30 total daily pool of such association or corporation. Provided, however,  
31 that on and after September first, nineteen hundred ninety-four, such  
32 credit shall be four-tenths percent of total daily pools resulting from  
33 such simulcasting and that in no event shall such total daily credit  
34 exceed four-tenths percent of the total daily pool of such association  
35 or corporation. An amount equal to fifty per centum of such credit shall  
36 be used to increase purses. Provided, however, that for any twelve  
37 month period beginning on April first in nineteen hundred ninety and any  
38 year thereafter, each of the applicable rates set forth above shall be  
39 increased by one-half of one per centum on all on-track bets of any such  
40 racing association or corporation that did not expend an amount equal to  
41 at least one-half of one per centum of its on-track bets during the  
42 immediately preceding calendar year for enhancements consisting of capi-  
43 tal improvements as defined by section three hundred nineteen of this  
44 chapter, repairs to its physical plant, structures, and equipment used  
45 in its racing or wagering operations, as certified by the state racing  
46 and wagering board to the commissioner of taxation and finance no later  
47 than eighty days after the close of such calendar year, and five special  
48 events at each track in each calendar year, not otherwise conducted in  
49 the ordinary course of business, the purpose of which shall be to  
50 encourage, attract and promote track attendance and encourage new and  
51 continued patronage, which events shall be approved by the racing and  
52 wagering board for purposes of this subdivision. In the determination of  
53 the amounts expended for such enhancements, the board shall consider the  
54 average of the two immediately preceding twelve month calendar periods.  
55 Notwithstanding the foregoing no increase shall be imposed unless such  
56 corporation or association has been afforded notice and opportunity to



1 be heard. The racing and wagering board shall promulgate rules and regu-  
2 lations to implement the provisions relating to notice and hearing.

3 (i) Of the sums retained by any other licensed harness racing associ-  
4 ation or corporation other than those described in paragraph a of this  
5 subdivision, the applicable tax rates for regular bets shall be six-  
6 tenths of one per centum; for multiple bets shall be one and one-tenth  
7 per centum; for exotic bets shall be five and six-tenths per centum and  
8 for super exotic bets shall be seven per centum, plus fifty per centum  
9 of the breaks. Effective September first, nineteen hundred ninety-four,  
10 for all licensed harness racing associations and corporations which have  
11 entered into a contract with their representative horsemen's association  
12 on and after such date, such tax shall be one-half of one per centum of  
13 all wagers, plus fifty per centum of the breaks.

14 Provided, however, that for any twelve month period beginning on April  
15 first in nineteen hundred ninety and any year thereafter, each of the  
16 applicable rates set forth above shall be increased by one-quarter of  
17 one per centum on all on-track bets of any such racing association or  
18 corporation that did not expend an amount equal to at least one-half of  
19 one per centum of its on-track bets during the immediately preceding  
20 calendar year for enhancements consisting of capital improvements as  
21 defined by section three hundred nineteen of this article, repairs to  
22 its physical plant, structures, and equipment used in its racing or  
23 wagering operations, as certified by the state racing and wagering board  
24 to the commissioner of taxation and finance no later than eighty days  
25 after the close of such calendar year, and five special events at each  
26 track in each calendar year, not otherwise conducted in the ordinary  
27 course of business, the purpose of which shall be to encourage, attract  
28 and promote track attendance and encourage new and continued patronage,  
29 which events shall be approved by the racing and wagering board for  
30 purposes of this subdivision. In this regard, expenditures by a county  
31 agricultural society pursuant to section three hundred nineteen of this  
32 article shall be credited to the applicable harness racing association  
33 or corporation for this purpose. In the determination of the amounts  
34 expended for such enhancements, the board may consider the immediately  
35 preceding twelve month calendar period or the average of the two imme-  
36 diately preceding twelve month calendar periods. Notwithstanding the  
37 foregoing no increase shall be imposed unless such corporation or asso-  
38 ciation has been afforded a notice and opportunity to be heard and no  
39 increase shall be imposed during nineteen hundred ninety-five on the  
40 authorized harness racing association conducting a special seven day  
41 harness race meeting that did not make such required expenditures during  
42 nineteen hundred ninety-four. The racing and wagering board shall  
43 promulgate rules and regulations to implement the provisions relating to  
44 notice and hearing.

45 Such associations or corporations shall receive credit as a reduction  
46 of the daily tax by the state for the privilege of conducting pari-mutu-  
47 el betting of amounts equal to one per centum of total daily pools  
48 resulting from the simulcast of such association's or corporation's  
49 races to licensed facilities operated by regional off-track betting  
50 corporations in accordance with section one thousand [eight] FOUR of  
51 this chapter, provided however, that in no event shall the total daily  
52 credit exceed one per centum of the total daily pool of such association  
53 or corporation which tax is hereby levied and shall be paid to the  
54 commissioner of taxation and finance as a reasonable tax imposed by the  
55 state for the privilege of conducting pari-mutuel betting at races run  
56 at race meetings held by such association or corporation. Provided,

1 however, that on and after September first, nineteen hundred ninety-four  
2 such credit shall be four-tenths percent of total daily pools resulting  
3 from such simulcasting and that in no event shall such total daily cred-  
4 it exceed four-tenths percent of the total daily pool of such associ-  
5 ation or corporation. The racing and wagering board shall report annual-  
6 ly, before July first, to the director of the budget, the chairman of  
7 the senate finance committee and the chairman of the assembly ways and  
8 means committee the extent to which such corporations and associations  
9 utilized such retained percentages and breakage for operations, mainte-  
10 nance, capital improvements, advertising and promotion, administration  
11 and general overhead and evaluate the effectiveness and make recommenda-  
12 tions with respect to the application of the reduced rates of taxation  
13 as provided for in this subparagraph in accomplishing the objectives  
14 stated therein. Such report shall also specify the amounts of such  
15 retained percentages and breakage used for investments not directly  
16 related to racing activities and such amounts used to declare dividends  
17 or other profit distributions, additions to capital stock, its sale and  
18 transfer and additions to retained earnings. Such reports shall also  
19 include an analysis of any such agreements or proposals to conduct or  
20 otherwise expand wagers authorized under article ten of this chapter and  
21 present its conclusions with respect to the conduct of such wagering,  
22 the nature of such proposals and agreements, and recommendations to  
23 ensure the future maintenance of the intent of this article.

24 S 4. Subparagraph (v) of paragraph b of subdivision 3 and subdivision  
25 6 of section 532 of the racing, pari-mutuel wagering and breeding law,  
26 subparagraph (v) of paragraph b of subdivision 3 as added by chapter 286  
27 of the laws of 1985 and subdivision 6 as added by chapter 346 of the  
28 laws of 1990, are amended to read as follows:

29 (v) where the track conducting the race is located in a thoroughbred  
30 special betting district and is simulcasting pursuant to section one  
31 thousand [eight] SIX of this chapter outside such special betting  
32 district, ninety per centum to the off-track betting operator and ten  
33 per centum to the county in which such track is located.

34 6. Notwithstanding any provision herein or in section one thousand  
35 [nine] SEVEN of this chapter to the contrary where the track conducting  
36 the race is a thoroughbred track located in the Catskill region conduct-  
37 ing a mixed meeting such surcharge shall be collected on all wagers  
38 placed in branch offices or simulcast theaters of a regional off-track  
39 betting corporation. The revenues received from any such surcharge  
40 imposed in accordance with this section plus the breaks shall be  
41 distributed monthly as follows:

42 a. one-fifth to the county in which such track is located;

43 b. three-fifths to a regional track located in the region in which the  
44 bet is placed in accordance with provisions of section five hundred  
45 twenty-seven of this article, one-half thereof to be used for purses at  
46 such regional track, except that in any region containing two or more  
47 regional tracks such tracks shall be entitled to an equal share;

48 c. one-fifth to be retained by the off-track betting operator with  
49 whom such bet originated as operating revenues.

50 S 5. Section 105 of the racing, pari-mutuel wagering and breeding law  
51 is amended to read as follows:

52 S 105. Supplementary regulatory powers of the board. Notwithstanding  
53 any inconsistent provision of law the board through its rules and regu-  
54 lations or in allotting dates for racing or in licensing race meetings  
55 at which pari-mutuel betting is permitted shall be empowered to: (i)  
56 permit racing at which pari-mutuel betting is conducted on any or all

1 dates from the first day of January through the thirty-first day of  
2 December, inclusive of Sundays but exclusive of December twenty-fifth  
3 and Palm Sunday and Easter Sunday; and (ii) fix minimum and maximum  
4 charges for admission at any race meeting. NOTHING IN THIS SECTION SHALL  
5 BE CONSTRUED TO PROHIBIT THE ACCEPTANCE OF WAGERS, INCLUDING THE DISPLAY  
6 OF SIMULCAST SIGNALS, ON OUT-OF-STATE OR OUT-OF-COUNTRY RACES BY  
7 REGIONAL OFF-TRACK BETTING CORPORATIONS OR ANY OTHER AUTHORIZED ENTITY  
8 ON PALM SUNDAY TO THE EXTENT THAT SUCH ACCEPTANCE IS OTHERWISE CONSIST-  
9 ENT WITH THIS CHAPTER.

10 S 6. Section 503 of the racing, pari-mutuel wagering and breeding law,  
11 subdivision 10 as amended, subdivision 12 as added and subdivision 13 as  
12 renumbered by chapter 116 of the laws of 2001, is amended to read as  
13 follows:

14 S 503. Powers of regional corporations. Subject to the general and  
15 specific limitations [of sections two hundred twenty-two through seven  
16 hundred five] of this chapter and the authority of the state board  
17 pursuant to articles one and five-a of this chapter, each corporation  
18 shall have power:

- 19 1. To sue and be sued;
- 20 2. To have a seal and alter the same at pleasure;
- 21 3. To acquire, hold, lease, rent and dispose of personal property for  
22 its corporate purposes;
- 23 4. To acquire, in the name of the corporation, by purchase, condemna-  
24 tion, gift, grant or devise or otherwise, and to use, real property  
25 which is necessary or convenient for carrying out its corporate  
26 purposes; provided that the corporation shall not condemn any real prop-  
27 erty without first having obtained the consent of the chief elected  
28 official in the jurisdiction in which such real property is located. All  
29 real property acquired by the corporation by condemnation shall be  
30 acquired in the manner provided by law for the condemnation of real  
31 property in the jurisdiction in which the real property is located;
- 32 5. To make by-laws for the management and regulation of its affairs;
- 33 6. To appoint officers, agents, and employees, to prescribe their  
34 qualifications, and to fix their compensation;
- 35 7. To make contracts and leases, INCLUDING JOINT VENTURES WITH THIRD  
36 PARTIES OR ENTITIES, and to execute all instruments necessary or conven-  
37 ient to accomplish its corporate purposes;
- 38 8. TO ENTER INTO, AMEND, CANCEL AND TERMINATE AGREEMENTS FOR THE  
39 PERFORMANCE WITH AND AMONG OTHER REGIONAL OFF-TRACK BETTING CORPO-  
40 RATIONS, LICENSED RACING ASSOCIATIONS, MULTI-JURISDICTIONAL ACCOUNT  
41 WAGERING PROVIDERS, AS DEFINED IN SECTION ONE THOUSAND ONE OF THIS CHAP-  
42 TER, THIRD PARTY JOINT VENTURERS OR OTHER ENTITIES, OF THEIR RESPECTIVE  
43 FUNCTIONS, POWERS AND DUTIES ON A COOPERATIVE OR CONTRACT BASIS;

44 9. ACTING THROUGH ITS BOARD OF DIRECTORS, TO NEGOTIATE AND IMPLEMENT  
45 MERGERS, ACQUISITIONS OR CONSOLIDATIONS WITH OR AMONG OTHER REGIONAL  
46 OFF-TRACK BETTING CORPORATIONS, THIRD PARTIES OR OTHER ENTITIES.

47 [8.] 10. To construct such buildings, structures and facilities as may  
48 be necessary;

49 [9.] 11. To accept grants, loans and contributions from the United  
50 States, and the state or any agency or instrumentality of either of  
51 them, or any participating county, or a city, or any person, including  
52 gifts or transfers by bequest or otherwise, and to use the same or  
53 expend the proceeds thereof for its corporate purposes;

54 [10.] 12. In the manner and subject to the provisions [of sections two  
55 hundred twenty-two through seven hundred five] of this chapter, and  
56 subject to the rules and regulations of the state board, to establish

1 and conduct within the region a system of off-track pari-mutuel betting  
2 on horse races, and, if licensed to do so under article three of this  
3 chapter, conduct harness race meetings;

4 [11.] 13. a. To promulgate, amend and repeal such rules and regu-  
5 lations consistent with the provisions [of sections two hundred twenty-  
6 two through seven hundred five] of this chapter as it may deem necessary  
7 or desirable to carry out the purposes of this article. Such rules and  
8 regulations shall have the force and effect of law;

9 b. No rule or regulation promulgated by a corporation pursuant to the  
10 provisions of this subdivision shall be effective until a copy thereof  
11 is filed with the clerk of each participating county;

12 c. Any violation of any rule or regulation, filed with the county  
13 clerk of each county in which such corporation operates and designated  
14 by the letter "R" by resolution of the board of directors of the corpo-  
15 ration, shall be a violation and shall be punishable by imprisonment for  
16 not more than three months, or by a fine of not more than one thousand  
17 dollars, or by both such imprisonment and fine. All such fines collected  
18 shall be payable to the county comptroller in the county in which the  
19 violation occurred and shall be paid by him into the general fund of  
20 such county. Any such rule shall be effective, notwithstanding that any  
21 act or omission made an offense or punishable thereby may be a crime or  
22 violation or punishable under any other provision of law;

23 [12.] 14. When licensed to conduct harness race meetings pursuant to  
24 article three of this chapter, western regional off-track betting corpo-  
25 ration shall be authorized to enter into an agreement to make payments  
26 in lieu of taxes to the Batavia city school district in an amount that  
27 is based upon the assessed value of Batavia Downs race track as of the  
28 first day of January, nineteen hundred ninety-eight and to enter into an  
29 agreement with the county of Genesee to pay five-tenths of one percent  
30 of the total deposits in pools resulting from the acceptance of simul-  
31 cast wagering at Batavia Downs race track in order to compensate such  
32 county for losses that may occur as the result of the closure of branch  
33 offices in said county.

34 [13.] 15. To perform such other acts and engage in such other activ-  
35 ities as may be necessary and proper for exercising its powers and  
36 performing its duties under this article.

37 S 7. Subdivision 3 of section 520 of the racing, pari-mutuel wagering  
38 and breeding law is amended to read as follows:

39 3. Without limiting the generality of the foregoing, the board shall  
40 establish such general regulations to limit the access to off-track  
41 betting establishments of persons not permitted to bet therein, the  
42 availability or utilization of publications, written materials or commu-  
43 nications equipment therein as the board determines to be in the inter-  
44 est of public order and the furtherance of the objectives of this arti-  
45 cle [and shall prohibit the sale of food and beverages in all facilities  
46 where bets may be placed]. The board shall also provide for the methods  
47 for the results of races to be communicated to regional corporations and  
48 disseminated thereby.

49 S 8. Subdivision 2 of section 529 of the racing, pari-mutuel wagering  
50 and breeding law is amended to read as follows:

51 2. Ninety-five percent of the balance of such account remaining  
52 unclaimed as of the last day of February of such year shall be paid to  
53 the state tax commission by March fifteenth. On or before April tenth of  
54 each year the balance of such account and any other unclaimed amounts  
55 received in the course of conducting off-track betting shall be paid by  
56 such corporation to the state tax commission. A penalty of five percent

1 and interest at the rate of one percent per month from the due date to  
2 the date of payment of the unclaimed balance due March fifteenth or  
3 April tenth, as the case may be, shall be payable in case such balance  
4 is not paid when due. Such amounts, interest and penalties when  
5 collected by the state tax commission shall be deposited into the gener-  
6 al fund of the state treasury. NOTWITHSTANDING THE FOREGOING, IN THE  
7 CASE OF THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, THE PAYMENTS TO  
8 THE STATE TAX COMMISSION DESCRIBED IN AND OTHERWISE MANDATED BY THIS  
9 SUBDIVISION SHALL NOT BE MADE, AND THE FULL BALANCE OF SUCH ACCOUNT  
10 REMAINING UNCLAIMED AND ALL OTHER UNCLAIMED AMOUNTS RECEIVED IN THE  
11 COURSE OF CONDUCTING OFF-TRACK BETTING BY SUCH CORPORATION SHALL BE  
12 RETAINED BY SUCH CORPORATION FOR ITS CORPORATE PURPOSES.

13 S 9. Section 530 of the racing, pari-mutuel wagering and breeding law,  
14 as amended by chapter 18 of the laws of 2008, is amended to read as  
15 follows:

16 S 530. Job security for track employees. Plans of operation of  
17 regional off-track betting corporations [shall] MAY include provision  
18 for job security for employees of racetracks within each region compat-  
19 ible with and in furtherance of the objectives of this article and  
20 subject to the approval of the state racing and wagering board. Job  
21 security agreements that may be concluded from time to time after July  
22 first, nineteen hundred seventy-three between track employee organiza-  
23 tions and the New York city off-track betting corporation or any other  
24 regional off-track betting corporation shall be subject to the approval  
25 of the board and when approved shall be deemed a part of the plan of  
26 operation of such corporation and any other regional corporation;  
27 provided, however, that nothing in this article or any other provision  
28 of this chapter shall be construed to require or empower the board to  
29 abrogate job security agreements between the New York city off-track  
30 betting corporation and any track employee organization, in effect on  
31 July first, nineteen hundred seventy-three and any such contracts shall  
32 be deemed to be a part of the plan of operation of such corporation.

33 S 10. Subdivisions 1, 3 and 3-a of section 532 of the racing, pari-mu-  
34 tuel wagering and breeding law, subdivision 1 and the opening paragraph  
35 of subdivision 3 as amended by chapter 115 of the laws of 2008, subpara-  
36 graph (v) of paragraph b of subdivision 3 as added by chapter 286 of the  
37 laws of 1985, subparagraph (vi) of paragraph b of subdivision 3 as added  
38 by chapter 365 of the laws of 2009 and subdivision 3-a as added by chap-  
39 ter 346 of the laws of 1990, are amended to read as follows:

40 1. Notwithstanding any other provision of law, each regional off-  
41 track betting corporation, or off-track betting operator, including the  
42 New York city off-track betting corporation, conducting off-track  
43 betting [shall] MAY, IN ACCORDANCE WITH PROVISIONS OF ITS PLAN OF OPERA-  
44 TION SUBMITTED TO THE BOARD, impose a surcharge of UP TO five per centum  
45 on the portion of pari-mutuel wagering pools distributable to persons  
46 having placed bets at off-track betting facilities located within such  
47 region. The revenues derived from such surcharge, plus the breaks, shall  
48 be held separate and apart from any amounts otherwise authorized to be  
49 retained from pari-mutuel pools. Such surcharge is hereby levied subject  
50 to the conditions set forth in this subdivision and article ten of this  
51 chapter.

52 [3.] 2. The revenues received from any surcharge imposed by subdivi-  
53 sion one of this section, plus the breaks, shall be distributed monthly,  
54 as follows:

55 a. Fifty per centum [to such city] (I) IN THE CASE OF THE NEW YORK  
56 CITY OFF-TRACK BETTING CORPORATION, TO SUCH CORPORATION, or (II) IN THE

CASE OF THE OTHER REGIONAL OFF-TRACK BETTING CORPORATIONS, to the counties and cities entitled to receive revenues from the regional corporation pursuant to section five hundred sixteen of this chapter and in the same proportion as provided therein, or to an off-track betting operator; and

b. The balance as follows:

(i) where the track conducting the race on which the bet was placed is located within a city with a population in excess of one hundred thousand, to such city;

(ii) where the track conducting the race on which the bet was placed is not located within a city with a population in excess of one hundred thousand, to the county in which such track is located;

(iii) where the track conducting the race on which the bet was placed is located partially within a city with a population in excess of one million and partially within a county, twenty-five per centum of such balance to the city and the remainder to the county; and

(iv) where the track conducting the race on which the bet was placed is located outside the state, [in the same manner as described in paragraph a of this subdivision] TO THE OFF-TRACK BETTING CORPORATION WHERE THE WINNING WAGER WAS PLACED.

(v) where the track conducting the race is located in a thoroughbred special betting district and is simulcasting pursuant to section one thousand eight of this chapter outside such special betting district, ninety per centum to the off-track betting operator and ten per centum to the county in which such track is located.

(vi) for the period of September first, two thousand seven until August thirty-first, two thousand twelve and where the track conducting the race on which the bet was placed is a harness track located in the county of Erie, to such track.

[3-a.] 3. Such five per centum surcharge herein provided is hereby increased by a supplemental UP TO one per centum surcharge on the portion of pari-mutuel wagering pools of multiple, exotic and super exotic bets distributable to persons having placed bets at off-track betting facilities to be distributed in accordance with the provisions of section five hundred nine-a or six hundred nine-a of this chapter, whichever may be applicable to the corporation with which such bets originated.

S 11. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 533 to read as follows:

S 533. REBATES AND OTHER REWARDS. 1. THE TERM "REBATE" SHALL MEAN THE PORTION OF THE RETAINED COMMISSION FROM WAGERING ACCEPTED BY AN OFF-TRACK BETTING CORPORATION AWARDED TO BETTORS THAT IS INTENDED TO REDUCE OR REFUND ALL OR A PORTION OF THE TAKEOUT TO SUCH BETTORS. A REBATE SHALL INCLUDE REFUNDS TO BETTORS ON ANY PORTION OR PERCENTAGE OF THE FULL FACE VALUE OF A PARI-MUTUEL WAGER, OR INCREASING THE PAYOFF OF, OR PAYING A BONUS ON, A WINNING PARI-MUTUEL WAGER, AS WELL AS AWARDS OF MERCHANDISE, SERVICES (INCLUDING ADMISSION, SEATING, PROGRAMS OR OTHER PERIODICALS), FREE OR REDUCED COST PARI-MUTUEL WAGERS, AND MONETARY AWARDS.

2. WITH THE CONSENT OF THE HOST RACETRACK, AND FOLLOWING APPROVAL FROM THE BOARD, AN OFF-TRACK BETTING CORPORATION MAY OFFER REBATES ON THE RACES RUN AT SUCH TRACK.

3. THE BOARD MAY APPROVE REBATES OFFERED BY AN OFF-TRACK BETTING CORPORATION PROVIDED, AT A MINIMUM, THERE IS COMPLIANCE WITH EACH OF THE FOLLOWING REQUIREMENTS:

1 A. THE REBATES, AND REBATE PROGRAM, HAVE BEEN AUTHORIZED BY ALL HOST  
2 RACETRACKS ON WHOSE RACES THE DOLLAR VALUE OF WAGERS PLACED BY BETTORS  
3 SHALL FORM THE BASIS, IN WHOLE OR IN PART, FOR THE DETERMINATION OF THE  
4 AMOUNT OR CHARACTER OF THE REBATE;

5 B. THE OFF-TRACK BETTING CORPORATION FULLY AND ACCURATELY DISCLOSES  
6 THE REBATE PROGRAM TO THE BOARD, WHICH SHALL INCLUDE DISCLOSURE OF THE  
7 MONETARY VALUE OF ALL AWARDS REBATED TO BETTORS IN THE PREVIOUS CALENDAR  
8 YEAR, AND THE TERMS AND CONDITIONS GOVERNING THE AWARD OF REBATES TO  
9 INDIVIDUAL BETTORS FOR THE UPCOMING CALENDAR YEAR;

10 C. THE OFF-TRACK BETTING CORPORATION PROVIDES ASSURANCES THAT THE  
11 AMOUNTS GOVERNING THE REBATES ARE DETERMINED SOLELY BY: (I) THE AMOUNTS  
12 WAGERED BY THE BETTOR; (II) THE TAKEOUT ON THE BET ESTABLISHED AT THE  
13 HOST TRACK; AND/OR (III) HOW FREQUENTLY THE BETTOR WAGERS.

14 4. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED AS LIMITING  
15 THE AUTHORITY OF THE BOARD TO PROMULGATE RULES AND REGULATIONS GOVERNING  
16 REBATES AND REBATE PROGRAMS OFFERED BY AN OFF-TRACK BETTING CORPORATION,  
17 WHICH RULES AND REGULATIONS MAY IMPOSE ADDITIONAL AND FURTHER REQUIRE-  
18 MENTS AND CONDITIONS UPON OFF-TRACK BETTING CORPORATIONS SEEKING TO  
19 OFFER, OR OFFERING, REBATES, THAN AS SET FORTH IN SUBDIVISION TWO OF  
20 THIS SECTION.

21 S 12. Section 225.00 of the penal law is amended by adding two new  
22 subdivisions 13 and 14 to read as follows:

23 13. "ACCOUNT WAGERING" MEANS A FORM OF PARI-MUTUEL WAGERING ON HORSE  
24 RACES IN WHICH A PERSON ESTABLISHES AN ACCOUNT WITH AN ACCOUNT WAGERING  
25 LICENSEE, AND SUBSEQUENTLY ISSUES WAGERING INSTRUCTIONS CONCERNING THE  
26 FUNDS IN THIS ACCOUNT, THEREBY AUTHORIZING THE LICENSEE TO PLACE HORSE  
27 RACE WAGERS ON BEHALF OF THE ACCOUNT HOLDER.

28 14. "MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER" MEANS A BUSINESS  
29 ENTITY DOMICILED OUTSIDE OF NEW YORK STATE THAT IS LICENSED IN ANOTHER  
30 STATE OR JURISDICTION TO OFFER PARI-MUTUEL ACCOUNT WAGERING ON RACES IT  
31 SIMULCASTS AND OTHER RACES OFFERED IN ITS WAGERING MENU TO PERSONS  
32 LOCATED IN OR OUT OF THE STATE OR OTHER JURISDICTION ISSUING SUCH  
33 LICENSE.

34 S 13. The penal law is amended by adding two new sections 225.45 and  
35 225.50 to read as follows:

36 S 225.45 CONDUCTING ACCOUNT WAGERING WITHOUT A LICENSE IN THE SECOND  
37 DEGREE.

38 A PERSON IS GUILTY OF CONDUCTING ACCOUNT WAGERING WITHOUT A LICENSE IN  
39 THE SECOND DEGREE WHEN HE OR IT KNOWINGLY ACCEPTS OR OFFERS OR SEEKS TO  
40 ACCEPT ACCOUNT WAGERS ON HORSE RACES FROM BETTORS LOCATED WITHIN THE  
41 STATE BUT IS NOT APPROVED TO DO SO AND LICENSED AS A MULTI-JURISDICTION-  
42 AL ACCOUNT WAGERING PROVIDER, OR OTHER AUTHORIZED ACCOUNT WAGERING  
43 LICENSEE, BY THE STATE RACING AND WAGERING BOARD IN ACCORDANCE WITH THE  
44 PROVISIONS OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW.

45 CONDUCTING ACCOUNT WAGERING WITHOUT A LICENSE IN THE SECOND DEGREE IS  
46 A CLASS D FELONY.

47 S 225.50 CONDUCTING ACCOUNT WAGERING WITHOUT A LICENSE IN THE FIRST  
48 DEGREE.

49 A PERSON IS GUILTY OF CONDUCTING ACCOUNT WAGERING WITHOUT A LICENSE IN  
50 THE FIRST DEGREE WHEN HE OR IT KNOWINGLY ACCEPTS OR OFFERS OR SEEKS TO  
51 ACCEPT ACCOUNT WAGERS ON HORSE RACES FROM BETTORS LOCATED WITHIN THE  
52 STATE BUT IS NOT APPROVED TO DO SO AND LICENSED AS A MULTI-JURISDICTION-  
53 AL ACCOUNT WAGERING PROVIDER, OR OTHER AUTHORIZED ACCOUNT WAGERING  
54 LICENSEE, BY THE STATE RACING AND WAGERING BOARD IN ACCORDANCE WITH THE  
55 PROVISIONS OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW AND THE

1 AGGREGATE VALUE OF ALL SUCH ACCOUNT WAGERS IS FIFTY THOUSAND DOLLARS OR  
2 GREATER.  
3 CONDUCTING ACCOUNT WAGERING WITHOUT A LICENSE IN THE FIRST DEGREE IS A  
4 CLASS C FELONY.  
5 S 14. This act shall take effect immediately.