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

3590--A

2011-2012 Regular Sessions

I N S E N A T E

February 28, 2011

Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering -- recommitted to the Committee on Racing, Gaming and Wagering in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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 Article 10 of the racing, pari-mutuel wagering and breeding law is REPEALED and a new article 10 is added to read as follows:

ARTICLE X

SIMULCASTING

SECTION 1000. STATEMENT OF PURPOSE.
1001. DEFINITIONS.
1002. GENERAL JURISDICTION.
1003. SIMULCASTING AUTHORIZED.
1004. SIMULCAST LICENSING.
1005. STATE RACING AND WAGERING BOARD AUTHORITY OVER SIMULCASTING AND ACCOUNT WAGERS.
1006. SIMULCASTS TO RACING ASSOCIATIONS.
1007. SIMULCASTS TO OFF-TRACK BETTING CORPORATION BRANCHES.
1008. TELEVISION, INTERNET AND VIDEO STREAMING OF HORSE RACES.
1009. CONDITIONS FOR ACCOUNT WAGERING LICENSES.
1010. LICENSED ACCOUNT WAGERING AT RACING ASSOCIATIONS.
1011. LICENSED ACCOUNT WAGERING AT OFF-TRACK BETTING CORPORATIONS.

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

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

S 1000. STATEMENT OF PURPOSE. THE SPORT OF HORSE RACING IS LARGELY DEPENDENT ON THE SIMULCASTING OF RACES BETWEEN HOST TRACKS AND OTHER RACETRACKS, OFF-TRACK BETTING SITES, AND PRIVATE HOMES. IN ORDER TO SUPPORT THE SPORT OF HORSE RACING, SIMULCASTING OF HORSE RACES SHOULD BE ENCOURAGED IN ORDER TO STRENGTHEN THE ECONOMIC CONTRIBUTIONS OF THE RACING INDUSTRY TO NEW YORK STATE. SIMULCASTING MAY ONLY BE CONDUCTED PURSUANT TO THE STRICT CONTROLS OF THIS ARTICLE AND THE RULES AND REGULATIONS OF THE NEW YORK STATE RACING AND WAGERING BOARD.

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

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

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

4. "GUEST TRACK" MEANS A RACING ASSOCIATION WHERE SIMULCASTS ORIGINATED FROM ANOTHER RACETRACK OR RACING ASSOCIATION ARE DISPLAYED.

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

6. "MARKET ORIGIN FEE ACCOUNT" SHALL MEAN AN ACCOUNT MAINTAINED BY THE STATE RACING AND WAGERING BOARD WHICH SHALL BE AUTHORIZED TO RECEIVE PAYMENTS FROM OFF-TRACK BETTING CORPORATIONS AND MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDERS ON BEHALF OF RACING ASSOCIATIONS, HORSEMEN AND BREEDERS IN NEW YORK STATE. OF THE MARKET ORIGIN FEE, EIGHTY-NINE AND ONE-HALF PERCENT SHALL BE PAID TO RACING ASSOCIATIONS. PAYMENTS TO INDIVIDUAL RACING ASSOCIATIONS SHALL BE DETERMINED BASED ON A RATIO WHERE THE NUMERATOR IS THE RACING ASSOCIATION'S TOTAL IN-STATE HANDLE ON ITS LIVE RACES BOTH AT RACING ASSOCIATIONS AND OFF-TRACK BETTING CORPORATIONS DURING THE PREVIOUS CALENDAR YEAR, AND THE DENOMINATOR IS THE TOTAL IN-STATE HANDLE ON LIVE RACES CONDUCTED BY ALL RACING ASSOCIATIONS IN NEW YORK STATE AT RACING ASSOCIATIONS AND OFF-TRACK BETTING CORPORATIONS DURING THE PREVIOUS CALENDAR YEAR, EXCEPT THAT NO LESS THAN TWENTY PERCENT OF THIS FEE SHALL BE APPORTIONED TO HARNESS RACING ASSOCIATIONS, AND NO MORE THAN SEVENTY PERCENT OF THIS FEE SHALL BE APPORTIONED TO AN ENFRANCHISED ASSOCIATION. OF THE REMAINING TEN AND ONE-HALF PERCENT OF THE MARKET ORIGIN FEE, 32.4 PERCENT SHALL BE PAID TO THE AGRICULTURE AND NEW YORK STATE HORSE BREEDING AND DEVELOPMENT FUND, AND 67.6 PERCENT SHALL BE PAID TO THE NEW YORK STATE THOROUGHBRED BREEDING AND DEVELOPMENT FUND. SUCH PAYMENTS SHALL BE MADE AT LEAST ONCE EVERY THIRTY DAYS IN ACCORDANCE WITH A SCHEDULE TO BE ESTABLISHED BY THE STATE RACING AND WAGERING BOARD.

7. "MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER" MEANS A BUSINESS ENTITY DOMICILED OUTSIDE NEW YORK STATE WHICH IS LICENSED IN MORE THAN

ONE JURISDICTION AND OFFERS PARI-MUTUEL ACCOUNT WAGERING ON RACES IT SIMULCASTS AND OTHER RACES IT OFFERS IN ITS WAGERING MENU.

8. "RACETRACK" MEANS RACING ASSOCIATIONS AND FACILITIES EITHER INSIDE OR OUTSIDE NEW YORK STATE OFFERING WAGERING ON LIVE HORSE RACING FOR WHICH SUCH FACILITIES ARE LICENSED IN THEIR STATE OR APPROPRIATE JURISDICTION.

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

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

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

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

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

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

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

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

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

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

5. OFF-TRACK BETTING CORPORATIONS MAY PROVIDE FOR SIMULCASTS TO SUPPLEMENTARY PRIVATE SIMULCAST FACILITIES AUTHORIZED TO ACCEPT WAGERS ON THE QUICK DRAW LOTTERY GAME PURSUANT TO PARAGRAPH ONE OF SUBDIVISION A OF SECTION SIXTEEN HUNDRED TWELVE OF THE TAX LAW. ALL SUCH SUPPLEMENTARY PRIVATE SIMULCAST FACILITIES SHALL BE SUBJECT TO A BACKGROUND CHECK

AND MUST BE LICENSED BY THE BOARD. THE BOARD MAY DENY A LICENSE TO SUSPEND, OR REVOKE A LICENSE TO A SUPPLEMENTARY PRIVATE SIMULCASTING FACILITY IF IT FINDS THAT LICENSING OF THE FACILITY IS NOT IN THE PUBLIC INTEREST AND THE BEST INTEREST OF HONEST HORSE RACING. ALL AGREEMENTS BETWEEN THE SUPPLEMENTARY PRIVATE SIMULCAST FACILITY AND THE OFF-TRACK BETTING CORPORATION SHALL BE IN WRITING, DISCLOSED TO THE BOARD, AND BE AVAILABLE TO THE PUBLIC UNDER THE PROVISIONS OF ARTICLE SIX OF THE PUBLIC OFFICERS LAW. THE BOARD SHALL PROMULGATE RULES AND REGULATIONS GOVERNING THE LICENSING OF SUPPLEMENTARY PRIVATE SIMULCASTING FACILITIES.

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

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

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

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

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

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

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

5. A LICENSED GUEST HARNESS RACING ASSOCIATION SHALL PAY AN AMOUNT EQUAL TO THREE-FOURTHS OF ONE PER CENTUM OF DAILY POOLS DERIVED FROM BETS IT RECEIVES TO THE AGRICULTURE AND NEW YORK STATE HORSE BREEDING AND DEVELOPMENT FUND. A LICENSED GUEST THOROUGHBRED RACING ASSOCIATION SHALL PAY AN AMOUNT EQUAL TO THREE-FOURTHS OF ONE PER CENTUM OF DAILY POOLS DERIVED FROM BETS IT RECEIVES TO THE NEW YORK STATE THOROUGHBRED BREEDING AND DEVELOPMENT FUND.

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

S 1007. SIMULCASTS TO OFF-TRACK BETTING CORPORATION BRANCHES. SIMULCASTS TO LICENSED OFF-TRACK BETTING CORPORATION'S BRANCHES AND LICENSED

SUPPLEMENTARY PRIVATE SIMULCASTING FACILITIES SHALL BE APPROVED BY THE STATE RACING AND WAGERING BOARD UNDER THE FOLLOWING CONDITIONS:

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

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

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

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

5. AN OFF-TRACK BETTING CORPORATION MAY WITH THE APPROVAL OF THE COUNTY AND THE MUNICIPALITY WHERE THE FACILITY IS TO BE LOCATED OPEN SIMULCAST THEATERS WHERE THE SURCHARGE IN SECTION FIVE HUNDRED THIRTY-TWO OF THIS CHAPTER SHALL NOT BE APPLICABLE TO WAGERS. ALL SIMULCAST THEATERS MUST BE LICENSED BY THE BOARD, AND THE BOARD MAY NOT LICENSE A SIMULCAST THEATER UNTIL THE APPROPRIATE LOCAL OFFICIALS HAVE CONFIRMED THAT THE FACILITY IS IN COMPLIANCE WITH ALL LOCAL LAWS AND ZONING REQUIREMENTS. A SIMULCAST THEATER MAY NOT BE OPENED AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN WITHIN TEN MILES OF A RACING ASSOCIATION, UNLESS THAT RACING ASSOCIATION HAS APPROVED THE OPERATION OF A SIMULCAST THEATER. AN OFF-TRACK BETTING CORPORATION SHALL BE AUTHORIZED TO FORM A PARTNERSHIP OR JOINT VENTURE WITH A RACING ASSOCIATION IN THE OPERATION OF A SIMULCAST THEATER. NO OFF-TRACK BETTING CORPORATION SHALL BE AUTHORIZED TO PLACE A SIMULCAST THEATER IN A COUNTY WHERE A DIFFERENT OFF-TRACK BETTING CORPORATION IS AUTHORIZED TO OPERATE. A SIMULCAST THEATER SHALL BE REQUIRED TO PAY THE FEES AND TAXES AUTHORIZED BY THIS SECTION.

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

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

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

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

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

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

6. THE ACCOUNT WAGERING PROVIDER SHALL PROVIDE FOR WITHDRAWALS FROM THE WAGERING ACCOUNT ONLY BY MEANS OF A CHECK MADE PAYABLE TO THE ACCOUNT HOLDER AND SENT TO THE ADDRESS OF THE ACCOUNT HOLDER OR BY MEANS 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 VERIFIABLE 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.

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

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

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

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

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

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

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

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

a. The board shall promulgate rules and regulations pursuant to which people may voluntarily exclude themselves from entering the premises of

an association or corporation licensed or enfranchised under article two, three, or four of this chapter or a facility licensed under section one thousand [eight or one thousand nine] FOUR of this chapter.

b. An association or corporation licensed or enfranchised under article two, three, or four of this chapter or a facility licensed under section one thousand [eight or one thousand nine] FOUR of this chapter shall not be liable to any self-excluded person or to any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of a self-excluded person's engaging in gambling activity while on the list of self-excluded persons; provided that nothing contained in this paragraph shall limit the liability of any such association, corporation, or facility for any other acts or omissions under any other statutory law or under the common law.

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

(i) shall pay to the commissioner of taxation and finance as a reasonable tax for the privilege of conducting pari-mutuel betting at races run at race meetings held by such corporation or association, a tax, which is hereby levied, at the following rates: of total daily on-track pools resulting from regular bets, one and six-tenths per centum; of the total daily on-track pools resulting from multiple bets, one and thirty-five hundredths per centum; of total daily on-track pools resulting from exotic bets, four and eighty-five hundredths per centum; and of total daily on-track pools resulting from super exotic bets, seven per centum, plus fifty per centum of the breaks. Effective September first, nineteen hundred ninety-four, such tax shall be one-half of one per centum of all wagers. Such association or corporation shall receive credit as a reduction of the daily tax by the state for the privilege of conducting pari-mutuel betting of amounts equal to one and one-half per centum of total daily pools resulting from the simulcast of such association's or corporation's races to licensed facilities operated by regional off-track betting corporations in accordance with section one thousand [eight] FOUR of this chapter; provided, however, that in no event shall total daily credit exceed one and one half per centum of the total daily pool of such association or corporation. Provided, however, that on and after September first, nineteen hundred ninety-four, such credit shall be four-tenths percent of total daily pools resulting from such simulcasting and that in no event shall such total daily credit exceed four-tenths percent of the total daily pool of such association or corporation. An amount equal to fifty per centum of such credit shall be used to increase purses. Provided, however, that for any twelve month period beginning on April first in nineteen hundred ninety and any year thereafter, each of the applicable rates set forth above shall be increased by one-half of one per centum on all on-track bets of any such racing association or corporation that did not expend an amount equal to at least one-half of one per centum of its on-track bets during the immediately preceding calendar year for enhancements consisting of capital improvements as defined by section three hundred nineteen of this chapter, repairs to its physical plant, structures, and equipment used in its racing or wagering operations, as certified by the state racing and wagering board to the commissioner of taxation and finance no later than eighty days after the close of such calendar year, and five special events at each track in each calendar year, not otherwise conducted in

the ordinary course of business, the purpose of which shall be to encourage, attract and promote track attendance and encourage new and continued patronage, which events shall be approved by the racing and wagering board for purposes of this subdivision. In the determination of the amounts expended for such enhancements, the board shall consider the average of the two immediately preceding twelve month calendar periods. Notwithstanding the foregoing no increase shall be imposed unless such corporation or association has been afforded notice and opportunity to be heard. The racing and wagering board shall promulgate rules and regulations to implement the provisions relating to notice and hearing.

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

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

Such associations or corporations shall receive credit as a reduction of the daily tax by the state for the privilege of conducting pari-mutuel betting of amounts equal to one per centum of total daily pools resulting from the simulcast of such association's or corporation's

races to licensed facilities operated by regional off-track betting corporations in accordance with section one thousand [eight] FOUR of this chapter, provided however, that in no event shall the total daily credit exceed one per centum of the total daily pool of such association or corporation which tax is hereby levied and shall be paid to the commissioner of taxation and finance as a reasonable tax imposed by the state for the privilege of conducting pari-mutuel betting at races run at race meetings held by such association or corporation. Provided, however, that on and after September first, nineteen hundred ninety-four such credit shall be four-tenths percent of total daily pools resulting from such simulcasting and that in no event shall such total daily credit exceed four-tenths percent of the total daily pool of such association or corporation. The racing and wagering board shall report annually, before July first, to the director of the budget, the chairman of the senate finance committee and the chairman of the assembly ways and means committee the extent to which such corporations and associations utilized such retained percentages and breakage for operations, maintenance, capital improvements, advertising and promotion, administration and general overhead and evaluate the effectiveness and make recommendations with respect to the application of the reduced rates of taxation as provided for in this subparagraph in accomplishing the objectives stated therein. Such report shall also specify the amounts of such retained percentages and breakage used for investments not directly related to racing activities and such amounts used to declare dividends or other profit distributions, additions to capital stock, its sale and transfer and additions to retained earnings. Such reports shall also include an analysis of any such agreements or proposals to conduct or otherwise expand wagers authorized under article ten of this chapter and present its conclusions with respect to the conduct of such wagering, the nature of such proposals and agreements, and recommendations to ensure the future maintenance of the intent of this article.

S 4. Section 105 of the racing, pari-mutuel wagering and breeding law is amended to read as follows:

S 105. Supplementary regulatory powers of the board. Notwithstanding any inconsistent provision of law, the board through its rules and regulations or in allotting dates for racing or in licensing race meetings at which pari-mutuel betting is permitted shall be empowered to: (i) permit racing at which pari-mutuel betting is conducted on any or all dates from the first day of January through the thirty-first day of December, inclusive of Sundays but exclusive of December twenty-fifth and Palm Sunday and Easter Sunday; and (ii) fix minimum and maximum charges for admission at any race meeting. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE ACCEPTANCE OF WAGERS, INCLUDING THE DISPLAY OF SIMULCAST SIGNALS, ON OUT-OF-STATE OR OUT-OF-COUNTRY RACES BY REGIONAL OFF-TRACK BETTING CORPORATIONS OR ANY OTHER AUTHORIZED ENTITY ON PALM SUNDAY TO THE EXTENT THAT SUCH ACCEPTANCE IS OTHERWISE CONSISTENT WITH THIS CHAPTER.

S 5. Section 503 of the racing, pari-mutuel wagering and breeding law, subdivision 10 as amended, subdivision 12 as added and subdivision 13 as renumbered by chapter 116 of the laws of 2001, is amended to read as follows:

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

1. To sue and be sued;
2. To have a seal and alter the same at pleasure;
3. To acquire, hold, lease, rent and dispose of personal property for its corporate purposes;
4. To acquire, in the name of the corporation, by purchase, condemnation, gift, grant or devise or otherwise, and to use, real property which is necessary or convenient for carrying out its corporate purposes; provided that the corporation shall not condemn any real property without first having obtained the consent of the chief elected official in the jurisdiction in which such real property is located. All real property acquired by the corporation by condemnation shall be acquired in the manner provided by law for the condemnation of real property in the jurisdiction in which the real property is located;
5. To make by-laws for the management and regulation of its affairs;
6. To appoint officers, agents, and employees, to prescribe their qualifications, and to fix their compensation;
7. To make contracts and leases, INCLUDING JOINT VENTURES WITH THIRD PARTIES OR ENTITIES, and to execute all instruments necessary or convenient to accomplish its corporate purposes;
8. TO ENTER INTO, AMEND, CANCEL AND TERMINATE AGREEMENTS FOR THE PERFORMANCE WITH AND AMONG OTHER REGIONAL OFF-TRACK BETTING CORPORATIONS, LICENSED RACING ASSOCIATIONS, MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDERS, AS DEFINED IN SECTION ONE THOUSAND ONE OF THIS CHAPTER, THIRD PARTY JOINT VENTURERS OR OTHER ENTITIES, OF THEIR RESPECTIVE FUNCTIONS, POWERS AND DUTIES ON A COOPERATIVE OR CONTRACT BASIS;
9. ACTING THROUGH ITS BOARD OF DIRECTORS, TO NEGOTIATE AND IMPLEMENT MERGERS, ACQUISITIONS OR CONSOLIDATIONS WITH OR AMONG OTHER REGIONAL OFF-TRACK BETTING CORPORATIONS, THIRD PARTIES OR OTHER ENTITIES.
[8.] 10. To construct such buildings, structures and facilities as may be necessary;
[9.] 11. To accept grants, loans and contributions from the United States, and the state or any agency or instrumentality of either of them, or any participating county, or a city, or any person, including gifts or transfers by bequest or otherwise, and to use the same or expend the proceeds thereof for its corporate purposes;
[10.] 12. In the manner and subject to the provisions [of sections two hundred twenty-two through seven hundred five] of this chapter, and subject to the rules and regulations of the state board, to establish and conduct within the region a system of off-track pari-mutuel betting on horse races, and, if licensed to do so under article three of this chapter, conduct harness race meetings;
[11.] 13. a. To promulgate, amend and repeal such rules and regulations consistent with the provisions [of sections two hundred twenty-two through seven hundred five] of this chapter as it may deem necessary or desirable to carry out the purposes of this article. Such rules and regulations shall have the force and effect of law;
b. No rule or regulation promulgated by a corporation pursuant to the provisions of this subdivision shall be effective until a copy thereof is filed with the clerk of each participating county;
c. Any violation of any rule or regulation, filed with the county clerk of each county in which such corporation operates and designated by the letter "R" by resolution of the board of directors of the corporation, shall be a violation and shall be punishable by imprisonment for not more than three months, or by a fine of not more than one thousand dollars, or by both such imprisonment and fine. All such fines collected shall be payable to the county comptroller in the county in which the

violation occurred and shall be paid by him into the general fund of such county. Any such rule shall be effective, notwithstanding that any act or omission made an offense or punishable thereby may be a crime or violation or punishable under any other provision of law;

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

[13.] 15. To perform such other acts and engage in such other activities as may be necessary and proper for exercising its powers and performing its duties under this article.

S 6. Subdivision 3 of section 520 of the racing, pari-mutuel wagering and breeding law is amended to read as follows:

3. Without limiting the generality of the foregoing, the board shall establish such general regulations to limit the access to off-track betting establishments of persons not permitted to bet therein, the availability or utilization of publications, written materials or communications equipment therein as the board determines to be in the interest of public order and the furtherance of the objectives of this article [and shall prohibit the sale of food and beverages in all facilities where bets may be placed]. The board shall also provide for the methods for the results of races to be communicated to regional corporations and disseminated thereby.

S 7. Subdivision 2 of section 529 of the racing, pari-mutuel wagering and breeding law is amended to read as follows:

2. Ninety-five percent of the balance of such account remaining unclaimed as of the last day of February of such year shall be paid to the state tax commission by March fifteenth. On or before April tenth of each year the balance of such account and any other unclaimed amounts received in the course of conducting off-track betting shall be paid by such corporation to the state tax commission. A penalty of five percent and interest at the rate of one percent per month from the due date to the date of payment of the unclaimed balance due March fifteenth or April tenth, as the case may be, shall be payable in case such balance is not paid when due. Such amounts, interest and penalties when collected by the state tax commission shall be deposited into the general fund of the state treasury. NOTWITHSTANDING THE FOREGOING, IN THE CASE OF THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, THE PAYMENTS TO THE STATE TAX COMMISSION DESCRIBED IN AND OTHERWISE MANDATED BY THIS SUBDIVISION SHALL NOT BE MADE, AND THE FULL BALANCE OF SUCH ACCOUNT REMAINING UNCLAIMED AND ALL OTHER UNCLAIMED AMOUNTS RECEIVED IN THE COURSE OF CONDUCTING OFF-TRACK BETTING BY SUCH CORPORATION SHALL BE RETAINED BY SUCH CORPORATION FOR ITS CORPORATE PURPOSES.

S 8. Section 530 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

S 530. Job security for track employees. Plans of operation of regional off-track betting corporations [shall] MAY include provision for job security for employees of racetracks within each region compat-

ible with and in furtherance of the objectives of this article and subject to the approval of the state racing and wagering board. Job security agreements that may be concluded from time to time after July first, nineteen hundred seventy-three between track employee organizations and the New York city off-track betting corporation or any other regional off-track betting corporation shall be subject to the approval of the board and when approved shall be deemed a part of the plan of operation of such corporation and any other regional corporation; provided, however, that nothing in this article or any other provision of this chapter shall be construed to require or empower the board to abrogate job security agreements between the New York city off-track betting corporation and any track employee organization, in effect on July first, nineteen hundred seventy-three and any such contracts shall be deemed to be a part of the plan of operation of such corporation.

S 9. Subdivisions 1, 3, 3-a and 6 of section 532 of the racing, pari-mutuel wagering and breeding law, subdivision 1 and the opening paragraph of subdivision 3 as amended by chapter 115 of the laws of 2008, subparagraph (v) of paragraph b of subdivision 3 as added by chapter 286 of the laws of 1985, subparagraph (vi) of paragraph b of subdivision 3 as added by chapter 365 of the laws of 2009 and subdivisions 3-a and 6 as added by chapter 346 of the laws of 1990, are amended to read as follows:

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

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

a. Fifty per centum [to such city] (I) IN THE CASE OF THE NEW YORK 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] SIX 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.

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

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

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

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

S 10. 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:

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

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

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

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

S 11. Section 225.00 of the penal law is amended by adding two new subdivisions 13 and 14 to read as follows:

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

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

S 12. The penal law is amended by adding two new sections 225.45 and 225.50 to read as follows:

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

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

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

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

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

AGGREGATE VALUE OF ALL SUCH ACCOUNT WAGERS IS FIFTY THOUSAND DOLLARS OR GREATER.

CONDUCTING ACCOUNT WAGERING WITHOUT A LICENSE IN THE FIRST DEGREE IS A CLASS C FELONY.

S 13. This act shall take effect immediately.