

5812

2011-2012 Regular Sessions

I N S E N A T E

June 17, 2011

Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to the simulcast of horse races, account wagering and winnings

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

1 Section 1. Section 1001 of the racing, pari-mutuel wagering and breed-
2 ing law, as added by chapter 363 of the laws of 1984, subdivisions n, o
3 and p as added by chapter 445 of the laws of 1997, is amended to read as
4 follows:
5 S 1001. Definitions. As used in this article, the following terms
6 shall have the following meanings:
7 a. "Simulcast" means the telecast of live audio and visual signals of
8 running, harness or quarter horse races [conducted in the state] for the
9 purposes of pari-mutuel wagering;
10 b. "Track" means the grounds or enclosures within which horse races
11 are conducted by any person, association or corporation lawfully author-
12 ized to conduct such races in accordance with the terms and conditions
13 of this chapter OR THE LAWS OF ANOTHER JURISDICTION;
14 c. "Sending track" means any track from which simulcasts originate;
15 d. "Receiving track" means any track where simulcasts originated from
16 another track are displayed;
17 e. "Applicant" means any association or corporation applying for a
18 simulcast license in accordance with the provisions of this article;
19 f. "Operator" means any association or corporation operating a simul-
20 cast facility in accordance with the provisions of this article;
21 g. "Regional track or tracks" means any or all tracks located within a
22 region defined as an off-track betting region, except that for the
23 purposes of section one thousand eight of this article any track located
24 in New York city, or Nassau, Suffolk and Westchester counties, shall be

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

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1 deemed a regional track for all regions located in district one, as
2 defined in this section;
3 h. "[The board] BOARD" means the state racing and wagering board;
4 i. "Branch office" means an establishment maintained and operated by
5 an off-track betting corporation, where off-track pari-mutuel betting on
6 horse races may be placed in accordance with the terms and conditions of
7 this chapter and rules and regulations issued pursuant thereto;
8 j. "Simulcast facility" means those facilities within the state that
9 are authorized pursuant to the provisions of this article to display
10 simulcasts for pari-mutuel wagering purposes;
11 k. "Off-track betting region" means those regions as defined in
12 section five hundred nineteen of this chapter;
13 l. "Simulcast theater" means a simulcast facility which is also a
14 public entertainment and wagering facility, and which may include any or
15 all of the following: a large screen television projection and display
16 unit, a display system for odds, pools, and payout prices, areas for
17 viewing and seating, a food and beverage facility, and any other conven-
18 ience currently provided at racetracks and not inconsistent with local
19 zoning ordinances;
20 m. "Simulcast districts" means one or more of the following named
21 districts comprised of the counties within which pari-mutuel racing
22 events are conducted as follows:
23 District 1 New York City, Suffolk, Nassau, and
24 Westchester counties
25 District 2 Sullivan county
26 District 3 Saratoga county
27 District 4 Oneida county
28 District 5 Erie, Genesee and Ontario counties
29 n. "Initial out-of-state thoroughbred track" means the track commenc-
30 ing full-card simulcasting to New York prior to any other out-of-state
31 thoroughbred track after 1:00 PM on any calendar day.
32 o. "Second out-of-state thoroughbred track" means the track (or subse-
33 quent track or tracks where otherwise authorized by this article)
34 conducting full-card simulcasting to New York after the race program
35 from the initial out-of-state thoroughbred track that has commenced
36 simulcasting on any calendar day.
37 p. "Mixed meeting" means a race meeting which has a combination of
38 thoroughbred, quarter horse, Appaloosa, paint, and/or Arabian racing on
39 the same race program.
40 Q. "ACCOUNT WAGERING" MEANS A FORM OF PARI-MUTUEL WAGERING IN WHICH A
41 PERSON ESTABLISHES AN ACCOUNT WITH AN ACCOUNT WAGERING LICENSEE AND
42 SUBSEQUENTLY COMMUNICATES VIA TELEPHONE OR OTHER ELECTRONIC MEDIA TO THE
43 ACCOUNT WAGERING LICENSEE WAGERING INSTRUCTIONS CONCERNING THE FUNDS IN
44 SUCH PERSON'S ACCOUNT AND WAGERS TO BE PLACED ON THE ACCOUNT OWNER'S
45 BEHALF.
46 R. "ACCOUNT WAGERING LICENSEE" MEANS RACING ASSOCIATIONS, OFF-TRACK
47 BETTING CORPORATIONS, AND BOARD APPROVED MULTI-JURISDICTIONAL ACCOUNT
48 WAGERING PROVIDERS THAT HAVE BEEN AUTHORIZED BY THE BOARD TO OFFER
49 ACCOUNT WAGERING.
50 S. "DORMANT ACCOUNT" MEANS AN ACCOUNT WAGERING ACCOUNT HELD BY AN
51 ACCOUNT WAGERING LICENSEE IN WHICH THERE HAS BEEN NO WAGERING ACTIVITY
52 FOR THREE YEARS.
53 T. "MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER" MEANS A BUSINESS
54 ENTITY LOCATED IN A STATE OTHER THAN THE STATE OF NEW YORK, WHICH IS
55 LICENSED BY SUCH OTHER STATE TO OFFER PARI-MUTUEL ACCOUNT WAGERING ON

1 RACES SUCH PROVIDER SIMULCASTS AND OTHER RACES IT OFFERS IN ITS WAGERING
2 MENU TO PERSONS LOCATED IN OR OUT OF THE STATE ISSUING SUCH LICENSE.

3 S 2. Section 1002 of the racing, pari-mutuel wagering and breeding
4 law, as added by chapter 363 of the laws of 1984, subdivision 2 as
5 amended by chapter 18 of the laws of 2008, is amended to read as
6 follows:

7 S 1002. General jurisdiction. 1. The [state racing and wagering] board
8 shall have general jurisdiction over the simulcasting of horse races AND
9 ACCOUNT WAGERING within the state, and the board may issue rules and
10 regulations in accordance with the provisions of this article.

11 2. The board shall annually submit reports on or before July first
12 following each year in which simulcasting OR ACCOUNT WAGERING is
13 conducted to the director of the budget, the chairman of the senate
14 finance committee and the chairman of the assembly ways and means
15 committee evaluating the results of such simulcasts OR ACCOUNT WAGERING
16 on the compatibility with the well-being of the horse racing, breeding
17 and pari-mutuel wagering industries in this state and make any recommen-
18 dations it deems appropriate. Such reports may be submitted together
19 with the reports required by subdivision two of section two hundred
20 thirty-six and subparagraph (iii) of paragraph a and subparagraph (i) of
21 paragraph b of subdivision one of section three hundred eighteen of this
22 chapter.

23 S 3. Section 1012 of the racing, pari-mutuel wagering and breeding
24 law, as amended by chapter 18 of the laws of 2008, subdivision 5 as
25 amended by section 10 of part S of chapter 61 of the laws of 2011, is
26 amended to read as follows:

27 S 1012. [Telephone accounts and telephone] ACCOUNT wagering. [Any
28 regional off-track betting corporation, and any franchised corporation,
29 harness, thoroughbred, quarter horse racing association or corporation
30 licensed to conduct pari-mutuel racing may maintain telephone betting
31 accounts for wagers placed on races and special events offered by such
32 corporation or association.] FRANCHISED CORPORATIONS, RACING ASSOCI-
33 ATIONS, OFF-TRACK BETTING CORPORATIONS AND MULTI-JURISDICTIONAL ACCOUNT
34 WAGERING PROVIDERS SHALL APPLY TO THE BOARD TO BE LICENSED TO OFFER
35 ACCOUNT WAGERING.

36 1. A. FRANCHISED CORPORATIONS, RACING ASSOCIATIONS, OFF-TRACK BETTING
37 CORPORATIONS AND MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDERS MAY
38 FORM PARTNERSHIPS, JOINT VENTURES, OR ANY OTHER AFFILIATION OR CONTRAC-
39 TUAL ARRANGEMENT IN ORDER TO FURTHER THE PURPOSES OF THIS SECTION.

40 B. THE DISTRIBUTION OF REVENUES TO PURSES MADE BY ANY FRANCHISED
41 CORPORATION, OR HARNESS, THOROUGHBRED, QUARTER HORSE RACING ASSOCIATION
42 OR CORPORATION FROM ACCOUNT WAGERS PLACED ON RACES RUN AT A GUEST FACIL-
43 ITY SHALL BE DETERMINED PURSUANT TO A WRITTEN AGREEMENT BETWEEN SUCH
44 ASSOCIATION OR CORPORATION AND ITS REPRESENTATIVE HORSEMEN'S ORGANIZA-
45 TION AS APPROVED BY THE BOARD.

46 2. THE BOARD SHALL PROMULGATE RULES AND REGULATIONS TO LICENSE AND
47 REGULATE ALL PHASES OF ACCOUNT WAGERING.

48 3. THE BOARD SHALL SPECIFY A NON-REFUNDABLE APPLICATION FEE WHICH
49 SHALL BE PAID BY EACH APPLICANT FOR AN ACCOUNT WAGERING LICENSE OR
50 RENEWAL THEREOF.

51 4. ACCOUNT WAGERING LICENSEES SHALL UTILIZE PERSONAL IDENTIFICATION
52 NUMBERS (PINS) AND SUCH OTHER TECHNOLOGIES AS THE BOARD MAY SPECIFY TO
53 ASSURE THAT ONLY THE ACCOUNT HOLDER HAS ACCESS TO THE ADVANCE DEPOSIT
54 WAGERING ACCOUNT.

55 5. ACCOUNT WAGERING LICENSEES SHALL PROVIDE FOR (I) WITHDRAWALS FROM
56 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 (II) THAT THE ACCOUNT HOLDER MAY WITHDRAW FUNDS FROM THE WAGERING ACCOUNT AT A FACILITY APPROVED BY THE BOARD BY PRESENTING VERIFIABLE PERSONAL AND ACCOUNT IDENTIFICATION INFORMATION.

6. ACCOUNT WAGERING LICENSEES MAY ENGAGE IN INTERSTATE WAGERING TRANSACTIONS ONLY WHERE THERE IS COMPLIANCE WITH CHAPTER FIFTY-SEVEN OF TITLE FIFTEEN OF THE UNITED STATES CODE, COMMONLY REFERRED TO AS THE "INTERSTATE HORSERACING ACT".

7. 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.

8. A. EACH WAGERING ACCOUNT SHALL BE IN THE NAME OF A NATURAL PERSON AND SHALL NOT BE IN THE NAME OF ANY BENEFICIARY, CUSTODIAN, JOINT TRUST, CORPORATION, PARTNERSHIP OR OTHER ORGANIZATION OR ENTITY.

B. A WAGERING 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. SUCH FORM SHALL INCLUDE THE ADDRESS OF THE PRINCIPAL RESIDENCE OF THE PROSPECTIVE ACCOUNT HOLDER AND INDICATE 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.

D. NO PERSON OTHER THAN THE PERSON IN WHOSE NAME AN ACCOUNT HAS BEEN ESTABLISHED MAY ISSUE WAGERING INSTRUCTIONS RELATING TO THAT ACCOUNT OR OTHERWISE ENGAGE IN WAGERING TRANSACTIONS RELATING TO THAT ACCOUNT.

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

10. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE OR IN REGULATIONS WHICH THE BOARD MAY ADOPT PURSUANT THERETO, 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.

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

12. Any [regional off-track betting corporation and any franchised corporation, harness, thoroughbred, quarter horse racing association or corporation licensed to conduct pari-mutuel racing] ACCOUNT WAGERING LICENSEE may require a minimum account balance in an amount to be determined by such entity.

[2.] 13. a. Any regional off-track betting corporation may suspend collection of the surcharge imposed under section five hundred thirty-two of this chapter on winning wagers placed in [telephone] WAGERING accounts maintained by such regional corporation.

1 b. In a city of one million or more any regional off-track betting
2 corporation, with the approval of the mayor of such city, may suspend
3 collection of the surcharge imposed under section five hundred thirty-
4 two of this chapter in winning wagers placed in [telephone] WAGERING
5 accounts maintained by such regional corporation.

6 [3.] 14. Any [telephone] WAGERING account maintained by [a regional
7 off-track betting corporation, franchised corporation, harness,
8 thoroughbred, quarter horse association or corporation, with inactivity
9 for a period of three years] AN ACCOUNT WAGERING LICENSEE THAT HAS
10 BECOME A DORMANT ACCOUNT shall be forfeited and paid to the commissioner
11 of taxation and finance. Such amounts when collected shall be paid by
12 the commissioner of taxation and finance into the general fund of the
13 state treasury.

14 [4.] 15. The maintenance and operation of such [telephone] WAGERING
15 accounts provided for in this section shall be subject to rules and
16 regulations of the [state racing and wagering] board. The board shall
17 include in such regulation a requirement that [telephone] WAGERING
18 account information pertaining to surcharge and nonsurcharge [telephone]
19 WAGERING accounts shall be separately reported.

20 [4-a.] 16. For the purposes of this section, "telephone [betting]
21 WAGERING accounts" and "telephone wagering" shall mean and include all
22 those wagers which utilize any wired or wireless communications device,
23 including but not limited to wireline telephones, wireless telephones,
24 and the internet, to transmit the placement of wagers on races and
25 special events offered by any regional off-track betting corporation,
26 and any harness, thoroughbred, quarter horse racing association or
27 corporation licensed or franchised to conduct pari-mutuel racing in New
28 York state.

29 [5. The provisions of this section shall expire and be of no further
30 force and effect after June thirtieth, two thousand twelve.]

31 17. A MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER SHALL ONLY BE
32 LICENSED UNDER THE FOLLOWING CONDITIONS:

33 A. THE MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER IS LICENSED BY
34 THE STATE IN WHICH IT IS LOCATED AND, IF REQUIRED, BY EACH STATE IN
35 WHICH IT OPERATES;

36 B. THE MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER POSSESSES APPRO-
37 PRIATE TOTALIZATOR AND ACCOUNTING CONTROLS, NO LESS THAN THOSE REQUIRED
38 PURSUANT TO PART FIFTY-ONE HUNDRED OF TITLE NINE OF THE NEW YORK CODES,
39 RULES AND REGULATIONS, WHICH WILL SAFEGUARD THE TRANSMISSION OF WAGERING
40 DATA AND WILL KEEP A SYSTEM OF ACCOUNTS WHICH WILL MAINTAIN A SEPARATE
41 RECORD OF REVENUES COLLECTED BY THE WAGERING PROVIDER, THE DISTRIBUTION
42 OF SUCH REVENUES AND AN ACCOUNTING OF COSTS RELATIVE TO THE OPERATION OF
43 THE WAGERING PROVIDER;

44 C. THE CHARACTER AND THE BACKGROUND OF THE MULTI-JURISDICTIONAL
45 ACCOUNT WAGERING PROVIDER IS SUCH THAT GRANTING THE APPLICATION FOR A
46 LICENSE IS IN THE PUBLIC INTEREST AND THE BEST INTEREST OF HONEST HORSE
47 RACING;

48 D. THE MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER SHALL UTILIZE
49 THE SERVICES OF AN INDEPENDENT THIRD PARTY TO PERFORM IDENTITY AND
50 VERIFICATION SERVICES WITH RESPECT TO THE ESTABLISHMENT OF WAGERING
51 ACCOUNTS FOR PERSONS LOCATED IN NEW YORK;

52 E. THE BOARD SHALL BE ALLOWED ACCESS TO THE PREMISES OF THE MULTI-
53 JURISDICTIONAL ACCOUNT WAGERING PROVIDER TO VISIT, INVESTIGATE AND,
54 PLACE SUCH EXPERT ACCOUNTANTS AND OTHER PERSONS IT DEEMS NECESSARY FOR
55 THE PURPOSE OF INSURING COMPLIANCE WITH THE RULES AND REGULATIONS OF THE
56 BOARD;

1 F. WAGERS PLACED WITH THE MULTI-JURISDICTIONAL ACCOUNT WAGERING
2 PROVIDER SHALL RESULT IN THE COMBINATION OF ALL WAGERS PLACED AT THE
3 HOST TRACK SO AS TO PRODUCE COMMON PARI-MUTUEL BETTING POOLS FOR THE
4 CALCULATION OF ODDS AND THE DETERMINATION OF PAYOUTS FROM SUCH POOL,
5 WHICH PAYOUT SHALL BE THE SAME FOR ALL WINNING TICKETS, IRRESPECTIVE OF
6 WHETHER A WAGER IS PLACED AT A HOST TRACK OR AT A MULTI-JURISDICTIONAL
7 ACCOUNT WAGERING PROVIDER;

8 G. A MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER AUTHORIZED TO
9 ACCEPT ACCOUNT WAGERS FROM PERSONS RESIDENT IN NEW YORK, WITH RESPECT TO
10 EACH SUCH WAGER ACCEPTED, SHALL PAY SUCH PARI-MUTUEL TAX, BREEDERS' FUND
11 DISTRIBUTIONS, AND SUCH OTHER STATUTORY PAYMENTS INCLUDING APPLICABLE
12 REGULATORY FEES AND DISTRIBUTIONS THEREON EQUIVALENT IN IDENTITY AND
13 AMOUNT TO THE PARI-MUTUEL TAX, BREEDERS' FUND DISTRIBUTIONS, STATUTORY
14 PAYMENTS, INCLUDING APPLICABLE REGULATORY FEES AND DISTRIBUTIONS THAT
15 WOULD BE REQUIRED IF SUCH WAGER HAD BEEN PLACED BY THE ACCOUNT HOLDER
16 RESIDENT IN NEW YORK AS AN ACCOUNT WAGER WITH AN OFF-TRACK BETTING
17 CORPORATION OPERATING IN THE OFF-TRACK BETTING REGION IN WHICH THE
18 ACCOUNT HOLDER'S COUNTY OF RESIDENCE IS LOCATED. THE BOARD SHALL PROMUL-
19 GATE RULES AND REGULATIONS WHICH WILL DETERMINE THE EXACT AMOUNT AND THE
20 DISTRIBUTION OF PAYMENTS OF PARI-MUTUEL TAXES, DISTRIBUTIONS TO BREED-
21 ERS' FUNDS, AND STATUTORY PAYMENTS INCLUDING APPLICABLE REGULATORY FEES
22 AND DISTRIBUTIONS TO TRACKS AND PURSES BY MULTI-JURISDICTIONAL ACCOUNT
23 WAGERING PROVIDERS; AND

24 H. IN ADDITION, FOR EACH ACCOUNT WAGER ACCEPTED FROM PERSONS RESIDENT
25 IN NEW YORK, THE MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER SHALL
26 PAY TO THE COUNTY OF RESIDENCE OF THE ACCOUNT HOLDER A FEE OF ONE-HALF
27 OF ONE PERCENT OF SUCH ACCOUNT WAGER. IF THE COUNTY OF RESIDENCE IS
28 WITHIN A CITY WITH A POPULATION IN EXCESS OF ONE MILLION, THE FEE SHALL
29 BE PAID TO THE STATE. IN COUNTIES THAT ARE MEMBERS OF AN OFF-TRACK
30 BETTING CORPORATION, THE PAYMENT SHALL BE MADE TO THE OFF-TRACK BETTING
31 CORPORATION. THE MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDER SHALL BE
32 ENTITLED TO DEDUCT FROM THE PARI-MUTUEL TAX PAYABLE BY IT UNDER PARA-
33 GRAPH G OF THIS SUBDIVISION SUCH AMOUNTS THAT THE MULTI-JURISDICTIONAL
34 ACCOUNT WAGERING PROVIDER IS OBLIGATED TO PAY PURSUANT TO THIS PARA-
35 GRAPH.

36 18. ACCEPTANCE OF ANY WAGER FROM A NEW YORK STATE RESIDENT WITHOUT
37 BEING LICENSED BY THE BOARD PURSUANT TO THIS SECTION SHALL BE PUNISHABLE
38 BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH WAGER.

39 S 4. Section 503 of the racing, pari-mutuel wagering and breeding law
40 is amended by adding a new subdivision 12-a to read as follows:

41 12-A. TO ENTER INTO, AMEND, CANCEL AND TERMINATE AGREEMENTS FOR THE
42 PERFORMANCE AMONG THEMSELVES, LICENSED RACING ASSOCIATIONS AND
43 MULTI-JURISDICTIONAL ACCOUNT WAGERING PROVIDERS, AS DEFINED IN SECTION
44 ONE THOUSAND ONE OF THIS CHAPTER, OF THEIR RESPECTIVE FUNCTIONS, POWERS
45 AND DUTIES ON A COOPERATIVE OR CONTRACT BASIS.

46 S 5. This act shall take effect immediately.