§ 1008. Simulcasts to off-track branch offices. 1. The commission may in accordance with the provisions of section one thousand three of this article and section five hundred twenty-three of this chapter authorize and approve an application for licenses submitted by any off-track betting corporation to display the simulcasts of racing from any thoroughbred or harness racing association or corporation located in the state.

2. Such application shall include, but not be limited to, a copy of a written agreement between the sending track and such regional off-track betting corporation and the following:

a. The location of each branch office to display the simulcast;

b. Any remuneration the sending track will receive in addition to the provisions of section five hundred twenty-seven of this chapter; and

c. (i) Except as provided in section one thousand thirteen of this article, if such sending track is not a thoroughbred track in the Catskill region conducting a mixed meeting, letters of consent to such agreement by the regional track or tracks conducting a meeting or meetings of the same type of racing during the period for which simulcasting is proposed. For purposes of this article, a track first licensed to conduct pari-mutuel racing after January first, nineteen hundred eighty-five, shall not be considered a regional track for purposes of applicable letters of consent as required in this section and section one thousand nine of this article. Such period shall be defined as a twenty-four hour day from midnight to midnight. For those tracks located in the city of New York or the counties of Westchester or Nassau, such period shall be limited to the same time of day, defined as afternoon against afternoon, twilight against twilight and evening against evening, the hours for which shall be as further specified by the commission.

(ii) For any simulcasting facility located within an area of a circle whose radius is forty miles, the center of which shall be measured from a regional track, and as provided in section one thousand thirteen of this article, the commission shall not approve such application unless

such regional track, as described in subparagraph (i) of this paragraph, has given its written authorization, provided however, that between thirty-one and forty miles such approval shall not be unreasonably withheld. Such approval shall not be required if the simulcasting facility is located without the forty mile radius or if the sending track is a thoroughbred track in the Catskill region conducting a mixed meeting. Such written authorization shall not be required nor shall the provisions of section five hundred twenty-three of this chapter apply to those races that such regional track may elect to receive as a simulcast race during its regularly scheduled race meeting.

2-a. In the interest of providing maximum distribution of the simulcast signal of New York pari-mutuel races among regional off-track betting corporations, whenever a sending track makes its simulcast signal available to an off-track betting region authorized to accept its wagers, such sending track shall make its simulcast signal available to all such regions authorized to accept its wagers in accordance with section five hundred twenty-three of this chapter, and subdivision two of this section. In the event the sending track and the off-track betting corporations are unable to agree upon terms, including the identification of branch offices required to receive the signal, such terms, conditions and consideration shall be determined by binding arbitration as provided in section one thousand thirteen of this chapter.

3. Off-track betting simulcast pools shall be distributed according to the provisions of section five hundred twenty-seven of this chapter, except that:

a. The share so retained by the off-track betting corporation may be divided in a manner determined by contractual agreement; and

b. Of the sums received by the sending track, fifty percent shall be distributed to purses in addition to moneys distributed pursuant to section five hundred twenty-seven of this chapter. The off-track betting corporation shall pay to the commission as a regulatory fee, which fee is hereby levied, six-tenths of one percent of the total daily pools.

4. a. Notwithstanding any other provision of law to the contrary, the commission may authorize a regional off-track betting corporation to amend its plan of operation to provide for the sale of food and non-alcoholic beverages within its simulcasting facilities. For such facilities when facilities of a hotel or restaurant as defined in section three of the alcoholic beverage control law are used, and table service for at least twenty-four persons is provided, the commission may, in its discretion, authorize a regional off-track betting corporation to amend its plan of operation to provide for the sale of beer, wine and liquor, in accordance with all applicable state and local licensing requirements. The commission shall promulgate rules and regulations to carry out the provisions of this subdivision with the intent that such sale of food, alcoholic and non-alcoholic beverages shall be in accordance with appropriate health and sanitary codes, and shall not include sales on credit except such sales using a third-party credit card. With respect to the sale of beer, wine and liquor, said rules and regulations shall provide requirements for seating capacity and the minimum number of tables, which in no event shall be less than six.

b. (i) Regional off-track betting corporations shall have the option of charging an admission fee to simulcasting facilities authorized to sell food, alcoholic or non-alcoholic beverages pursuant to paragraph a of this subdivision. The amount of such fee shall be subject to the approval of the commission.

(iii) Any county (except a county wholly within a city) or city, or both, in which such simulcasting facility is located, is hereby authorized and empowered to adopt and amend local laws imposing a tax on such admission fee at a rate not to exceed fifteen percent of the admission fee. The provisions of article eight of this chapter relating to the administration and collection of the taxes authorized to be imposed by such article (including the provisions relating to judicial review) shall apply to a tax imposed pursuant to the authority of this subparagraph, in the same manner and with the same force and effect as if the language of such provisions had been incorporated in full into this subparagraph and expressly referred to a tax authorized to be

imposed pursuant to this subparagraph, except to the extent that any such provision is either inconsistent with a provision of this subparagraph or is not relevant to this subparagraph.

5. a. As a condition to receiving simulcasts in any branch office from any sending track a regional off-track betting corporation located in a city with a population of one million shall simulcast the thoroughbred and quarter horse races of a thoroughbred track located in the Catskill region conducting a mixed meeting in all such branches that will receive the simulcasts of any other thoroughbred or harness horse races on any day that such thoroughbred track in the Catskill region may be conducting a mixed meeting and offers such simulcasts of its races to such corporation, provided, however, that the costs associated with the transmission and receipt of the simulcast signal of such thoroughbred track located in the Catskill region shall be borne by such track.

b. Any branch office that receives such simulcast signal for forty-five days may cease receiving such signal if the off-track betting operator justifies to the commission that the opening of such branch office has sustained economic loss during such forty-five day period. Provided, however, the track and off-track betting operator may waiver this provision by contract.