§ 904. On-track wagers on the Kentucky Derby, the Preakness and the Breeders' Cup. 1. Notwithstanding any inconsistent provision of this chapter, whenever a regional off-track betting corporation accepts wagers on and displays the simulcast of the Kentucky Derby, the Preakness or races known as the "Breeders' Cup", any corporation or association conducting pari-mutuel betting pursuant to this chapter may elect to accept wagers on and display the simulcast of the Kentucky Derby, the Preakness and the races known as the Breeders' Cup. Upon such election:

a. The applicable state tax provided for in paragraphs a and b of subdivision one of section five hundred twenty-seven of this chapter shall be one-half percent for regular, multiple and exotic bets. Any harness racing or association or corporation, or thoroughbred racing corporation authorized pursuant to this section shall pay to the commission as a regulatory fee, which fee is hereby levied, six-tenths of one percent of the total daily pari-mutuel pools.

b. The system of on and off-track betting shall result in the combination of all off-track wagers with on-track wagers so as to produce common pari-mutuel betting pools. Provided, however, that the commission may authorize separate pari-mutuel wagering pools for any corporation or association electing to accept such wagers, if the commission determines that a common on and off-track pari-mutuel betting pool, due to limitations in existing computer systems and information transmission and receiving capacities cannot practically be accomplished so as to maximize a reasonable number of separate wagering interests. The resulting separate pools for regional off-track betting corporations shall be subject to the limitations set forth in subdivision eight of section five hundred twenty-three of this chapter.

c. Every association and corporation shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, providing such tickets be presented for payment before April first of the year following the year of their purchase, less an amount that it shall retain at the same rate established by the sending track.

d. For a franchised corporation, the applicable state tax and distributions to purses and the New York state thoroughbred breeding and development fund shall be the same amounts as provided in section two hundred thirty-eight of this chapter provided, however, that upon election of any corporation to accept such wagers, no additional amounts may be withheld as provided in section two hundred thirty-seven of this chapter.

e. For any corporation licensed pursuant to article two of this chapter, the applicable state tax shall be one percent of all wagers, the amount payable to the thoroughbred breeding and development fund shall be one-half of one percent and distribution to purses shall be fifty percent of the amount retained by the track after all statutory and contracted payments are made. No additional amounts may be withheld as provided in section two hundred thirty-seven of this chapter.

f. For any association or corporation licensed pursuant to article three of this chapter, the applicable state tax shall be one percent of all wagers, the amount payable to the thoroughbred breeding and development fund shall be one-half of one percent and distributions to purses shall be one and three-quarters percent. No additional amounts may be withheld as provided in section three hundred nineteen of this chapter. For the purposes of purse distributions, any association or corporation located in the Western Off-Track Betting Region shall remit said distributions to the thoroughbred track located within said region and all other corporations or associations shall remit said purse distributions to a franchised corporation.

Notwithstanding any other provision of law, any such association or corporation conducting pari-mutuel wagering on races run by a franchised corporation on the days when they are accepting wagers on the Kentucky Derby, the Preakness or the Breeders' Cup shall pay a state pari-mutuel tax of one percent of all such wagers in lieu of the tax imposed by paragraph a of subdivision three of section one thousand seven of this chapter.

2. The commission shall approve an application from any racing

corporation or association pursuant to subdivision one of this section to accept on-track wagers and display the simulcast of the Kentucky Derby or the Preakness provided, however, that no application shall be approved by the board that it determines may cause a reduction of the total number of racing events normally conducted at the track on a daily basis.

2-a. The commission shall approve an application from any racing corporation or association pursuant to subdivision one of this section to accept on-track wagers on the Breeders' Cup races, and, in instances where the application contemplates the on-track display of simulcasts of and wagering on the entire card of Breeders' Cup races, the commission shall authorize, for that day, a reduction of the total number of racing events normally conducted at the track on a daily basis provided that the total number of live racing events conducted at the track shall not be less than two.

3. Every racing association or corporation authorized to accept wagers on the Kentucky Derby, the Preakness or the Breeders' Cup pursuant to subdivision one of this section shall be subject to all appropriate provisions of this chapter pursuant to the conduct of a race meeting by such association or corporation.

4. Notwithstanding any other provision of law, whenever a harness racing association or corporation is receiving the simulcast of races run at a thoroughbred racing corporation, such harness racing association may also receive the telecast of and accept wagers on any out of state races which are telecast to the thoroughbred racing corporation. Pools resulting from wagers in the out of state races shall be combined with the appropriate pools resulting from wagers on such races at the thoroughbred racing corporation.