Conference Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 342

SENATE BILL 1435

AN ACT

AMENDING SECTIONS 5-104, 5-107.01, 5-131 AND 41-705, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3016.26, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3024.09; APPROPRIATING MONIES; RELATING TO THE DEPARTMENT OF GAMING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 5-104, Arizona Revised Statutes, is amended to read:

5-104. Racing commission; director; department; powers and duties

A. The commission shall:

1. Issue racing dates.

2. Prepare and adopt complete rules to govern the racing meetings as may be required to protect and promote the safety and welfare of the animals participating in racing meetings, to protect and promote public health, safety and the proper conduct of racing and pari-mutuel wagering and any other matter pertaining to the proper conduct of racing within this state.

3. Conduct hearings on applications for permits and approve permits and shall conduct rehearings on licensing and regulatory decisions made by the director as required pursuant to rules adopted by the commission.

4. Conduct all reviews of applications to construct capital improvements at racetracks as provided in this chapter.

5. Adopt rules governing the proper and humane methods for the disposition and transportation of dogs by breeders, kennels or others.

B. The director shall license personnel and shall regulate and supervise all racing meetings held and pari-mutuel wagering conducted in this state and cause the various places where racing meetings are held and wagering is conducted to be visited and inspected on a regular basis. The director may delegate to stewards any of the director's powers and duties as are necessary to fully carry out and effectuate the purposes of this chapter. The director shall exercise immediate supervision over the department ~~of racing~~. The director is subject to ongoing supervision by the commission, and the commission may approve or reject decisions of the director in accordance with rules established by the commission.

C. The commission or the department is authorized to allow stewards, with the written approval of the director, to require a jockey, apprentice jockey, sulky driver, groom, horseshoer, outrider, trainer, assistant trainer, exercise rider, pony rider, starter, assistant starter, jockey's agent, veterinarian, assistant veterinarian, cool-out, lead-out, paddock employee, security or maintenance worker, official or individual licensed in an occupational category whose role requires direct hands-on contact with horses or greyhounds, while on the grounds of a permittee, to submit to a test if the stewards have reason to believe the licensee is under the influence of or unlawfully in possession of any prohibited substance regulated by title 13, chapter 34.

D. The department shall employ the services of the office of administrative hearings to conduct hearings on matters requested to be heard by the director or the commission for the department except for those rehearings that are required by the terms of this chapter to be conducted by

the commission. Any person adversely affected by a decision of a steward or by any other decision of the department may request a hearing on the decision. The decision of the administrative law judge becomes the decision of the director unless rejected or modified by the director within thirty days. The commission may hear any appeal of a decision of the director in accordance with title 41, chapter 6, article 10.

E. The department may visit and investigate the offices, tracks or places of business of any permittee and place in those offices, tracks or places of business expert accountants and other persons as it deems necessary for the purpose of ascertaining that the permittee or any licensee is in compliance with the rules adopted pursuant to this article.

F. The department shall establish and collect the following licensing fees and regulatory assessments, which shall not be reduced for hardship tax credits pursuant to section 5-111, subsection I or for capital improvements pursuant to section 5-111.02 or 5-111.03:

1. For each racing license issued, a license fee.

2. From the purse accounts provided for in section 5-111, a regulatory assessment to pay for racing animal medication testing, animal safety and welfare.

3. From each permittee, a regulatory assessment for each day of dark day simulcasting conducted in excess of the number of live racing days conducted by the permittee.

4. From each commercial racing permittee, a regulatory assessment payable from amounts deducted from pari-mutuel pools by the permittee, in addition to the amounts the permittee is authorized to deduct pursuant to section 5-111, subsection C from amounts wagered on live and simulcast races from in-state and out-of-state wagering handled by the permittee.

G. The commission shall establish financial assistance procedures for promoting adoption of racing greyhounds as domestic pets and for promoting adoption of retired racehorses. The provision of financial assistance to nonprofit enterprises for the purpose of promoting adoption of racing greyhounds as domestic pets and for the purpose of promoting adoption of retired racehorses is contingent on a finding by the commission that the program presented by the enterprise is in the best interest of the racing industry and this state. On a finding by the commission, the commission is authorized to make grants to nonprofit enterprises whose programs promote adoption of racing greyhounds or adoption of retired racehorses. The commission shall develop an application process. The commission shall require an enterprise to report to the commission on the use of grants under this subsection. Financial assistance for nonprofit enterprises for the purpose of promoting adoption of racing greyhounds as domestic pets under this subsection shall not exceed the amount collected for license fees under subsection F of this section for greyhound racing kennels, farms or other operations where greyhounds are raised for the purpose of dog racing.

Financial assistance for nonprofit enterprises that promote adoption of retired racehorses under this subsection shall not exceed the amount of retired racehorse adoption surcharges collected pursuant to this subsection. The commission shall collect a retired racehorse adoption surcharge in addition to each civil penalty assessed in connection with horse or harness racing pursuant to this article. The amount of the retired racehorse adoption surcharge shall be five ~~per cent~~ PERCENT of the amount collected for each applicable civil penalty.

H. A license is valid for the period established by the commission, but not to exceed three years, except for a temporary license issued pursuant to section 5-107.01, subsection F. The licensing period for horse racing shall begin July 1. The licensing period for greyhound racing shall begin February 1.

I. On application in writing by an objector to any decision of track stewards, made within three days after the official notification to the objector of the decision complained of, the department or administrative law judge shall review the objection. In the case of a suspension of a license by the track stewards, the suspension shall run for a period of not more than six months. Before the end of this suspension period, filing an application for review is not cause for reinstatement. If at the end of this suspension period the department or administrative law judge has not held a hearing to review the decision of the stewards, the suspended license shall be reinstated until the department or administrative law judge holds a hearing to review the objection. Except as provided in section 41-1092.08, subsection H, a final decision of the commission is subject to judicial review pursuant to title 12, chapter 7, article 6.

J. The commission or the director may issue subpoenas for the attendance of witnesses and the production of books, records and documents relevant and material to a particular matter before the commission or department and the subpoenas shall be served and enforced in accordance with title 41, chapter 6, article 10.

K. Any member of the commission, the administrative law judge or the director or the director's designee may administer oaths, and the oaths shall be administered to any person who appears before the commission to give testimony or information pertaining to matters before the commission.

L. The commission shall adopt rules that require permittees to retain for three months all official race photographs and videotapes. The department shall retain all photographs and videotapes that are used as evidence in an administrative proceeding until the conclusion of the proceeding and any subsequent judicial proceeding. All photographs and videotapes must be available to the public on request, including photographs and videotapes of races concerning which an objection is made, regardless of whether the objection is allowed or disallowed.

M. The director may establish a management review section for the development, implementation and operation of a system of management reports and controls in major areas of department operations, including licensing, work load management and staffing, and enforcement of ~~the provisions of~~ this article and the rules of the commission.

N. In cooperation with the department of public safety, the director shall establish a cooperative fingerprint registration system. Each applicant for a license or permit under this article or any other person who has a financial interest in the business or corporation making the application shall submit to fingerprint registration as part of the background investigation conducted pursuant to section 5-108. The cooperative fingerprint registration system shall be maintained in an updated form using information from available law enforcement sources and shall provide current information to the director ~~upon~~ ON request as to the fitness of each racing permittee and each racing licensee to engage in the racing industry in this state.

O. The director shall develop and require department staff to use uniform procedural manuals in the issuance of any license or permit under this article and in the enforcement of this article and the rules adopted under this article.

P. The director shall submit an annual report containing operational and economic performance information as is necessary to evaluate the department's budget request for the forthcoming fiscal year to the governor, the speaker of the house of representatives, the president of the senate and the Arizona state library, archives and public records no later than September 30 each year. The annual report shall be for the preceding fiscal year and shall contain performance information as follows:

1. The total state revenues for the previous fiscal year from the overall pari-mutuel handle with an itemization for each dog racing meeting, each horse racing meeting, each harness racing meeting and each additional wagering facility.

2. The total state revenues for the previous fiscal year from the regulation of racing, including licensing fees assessed pursuant to subsection F of this section and monetary penalties assessed pursuant to section 5-108.02.

3. The amount and use of capital improvement funds pursuant to sections 5-111.02 and 5-111.03 that would otherwise be state revenues.

4. The number of licenses and permits issued, renewed, pending and revoked during the previous fiscal year.

5. The investigations conducted during the previous fiscal year and any action taken as a result of the investigations.

6. The department budget for the immediately preceding three fiscal years, including the number of full-time, part-time, temporary and contract

employees, a statement of budget needs for the forthcoming fiscal year and a statement of the minimum staff necessary to accomplish these objectives.

7. Revenues generated for this state for the preceding fiscal year by persons holding horse, harness and dog racing permits.

8. Recommendations for increasing state revenues from the regulation of the racing industry while maintaining the financial health of the industry and protecting the public interest.

Q. The commission may certify animals as Arizona bred or as Arizona stallions. The commission may delegate this authority to a breeders' association it contracts with for these purposes. The commission may authorize the association, racing organization or department to charge and collect a reasonable fee to cover the cost of breeding or ownership certification or transfer of ownership for racing purposes.

R. The department has responsibility for the collection and accounting of revenues for the state boxing and mixed martial arts commission, including~~, but not limited to,~~ licensing fees required by section 5-230, the levy of the tax on gross receipts imposed by section 5-104.02 and cash deposited pursuant to section 5-229. All revenues collected pursuant to this subsection, from whatever source, shall be reported and deposited pursuant to section 5-104.02, subsection C, except that licensing fees required by section 5-230 shall be deposited in the racing regulation fund established by section 5-113.01. The director shall adopt rules as necessary to accomplish the purposes of this subsection and chapter 2, article 2 of this title.

S. The commission may obtain the services of the office of administrative hearings on any matter that the commission is empowered to hear.

T. Notwithstanding any other rule or law, ~~upon~~ ON application by a dog racing permittee, the director may reduce the number of kennels required for any race to not less than five kennels.

U. The department may adopt rules pursuant to title 41, chapter 6 to carry out the purposes of this article, ensure the safety and integrity of racing in this state and protect the public interest.

Sec. 2. Section 5-107.01, Arizona Revised Statutes, is amended to read:

5-107.01. <u>Necessity for permits for racing meetings; licenses for officials and other persons</u>

A. A person, association or corporation shall not hold any racing meeting without having first obtained and having in full force and effect a permit that is issued by the department.

B. ~~No~~ A trainer, driver, jockey, apprentice jockey, horse owner, dog owner, greyhound racing kennel owner or operator, breeder of racing greyhounds, exercise ~~boy~~ RIDER, agent, jockey's agent, stable foreman, groom, valet, veterinarian, horseshoer, steward, stable watchman, starter, timer, judge, food and beverage concessionaire, manager or other person acting as a

participant or official at any racing meeting including all employees of the pari-mutuel department and any other person or official the department deems proper shall NOT participate in racing meetings without having first obtained and having in full force and effect a license or credentials that are issued by the department, pursuant to such rules as the commission shall make. The department shall not revoke a license except for cause and after a hearing. For the purposes of this subsection, participate in a dog racing meeting includes breeding, raising and training a dog and certifying as an Arizona bred dog.

C. Each person, association or corporation that holds a permit or a license under this chapter shall comply with all rules and orders of the commission or department.

D. Any credential or license that is issued by the department to a licensee shall be used only as prescribed by commission rule or order of the director. Use for purposes other than those prescribed is grounds for suspension or revocation or imposition of a civil penalty as provided in section 5-108.02, subsection E.

E. All applicants for a permit or license shall submit to the department a full set of fingerprints, background information and the fees that are required pursuant to section 41-1750. The department of ~~racing~~ GAMING shall submit the fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. The applicant shall pay the fingerprint fee and costs of the background investigation in an amount that is determined by the department. For such purpose the department of ~~racing~~ GAMING and the department of public safety may enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3. The fees shall be credited pursuant to section 35-148.

F. The director may issue a temporary license to an owner, trainer, driver or jockey who is duly licensed in another jurisdiction for special races or special circumstances for a period of not to exceed thirty days. The director may allow a trainer so licensed to complete an application for a temporary license for an owner if the owner is not immediately available to personally submit the application.

G. A licensed owner, lessee or trainer of a qualified horse who has applied to a permittee to be stabled at a track and who has not been granted a stall shall not be prohibited from bringing the horse on the race grounds for the purpose of entering the animal in races that are held by the permittee or for the purposes of qualifying to race solely for the reason that the animal is not being stabled at the track if the owner, lessee or trainer is in compliance with rules adopted by the commission. ~~No~~ A dog racing permittee may NOT prohibit a licensed owner or a licensed lessee of a qualified animal who has applied to be kenneled at the track and who has not

been granted a kennel to enter the animal in races that are held by the permittee and to bring the animal on the track for purposes of qualifying to race or to race solely for the reason that the animal is not being kenneled at the track.

Sec. 3. Section 5-131, Arizona Revised Statutes, is amended to read:

5-131. Compact; authority to join

The department of ~~racing~~ GAMING and the racing commission may join with other states in an interstate compact on licensure of participants in live racing with pari-mutuel wagering as follows:

Article I

Rights and Responsibilities of Each Party State

Section 1. Rights and responsibilities of each party state.

A. By enacting this compact, each party state:

1. Agrees to accept the decisions of the compact committee regarding the issuance of compact committee licenses to participants in live racing pursuant to the committee's licensure requirements.

2. Agrees not to treat a notification to an applicant by the compact committee that the compact committee will not be able to process the application further as the denial of a license, or to penalize such an applicant in any other way based solely on such a decision by the compact committee.

3. Reserves the right:

(a) To charge a fee for the use of a compact committee license in that state.

(b) To apply its own standards in determining whether, on the facts of a particular case, a compact committee license should be suspended or revoked.

(c) To apply its own standards in determining licensure eligibility, under the laws of that party state, for categories of participants in live racing that the compact committee determines not to license and for individual participants in live racing who do not meet the licensure requirements of the compact committee.

(d) To establish its own licensure standards for the licensure of nonracing employees at pari-mutuel racetracks and employees at separate satellite wagering facilities.

B. Any party state that suspends or revokes a compact committee license, through its racing commission or its equivalent or otherwise, shall promptly notify the compact committee of that suspension or revocation.

C. A party state shall not be held liable for the debts or other financial obligations incurred by the compact committee.

D. The department of ~~racing~~ GAMING may adopt rules to carry out the purposes of this section.

Article II

Construction and Severability

Section 2. Construction and severability.

This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact shall be severable, and, if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of the United States or of any party state, or the applicability of this compact to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and its applicability to any government, agency, person or circumstance shall not be affected thereby. If all or some portion of this compact is held to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Article III

Definitions

For the purposes of this compact:

1. "Compact committee" means the organization of officials from the party states that is authorized and empowered by the compact to carry out the purposes of this compact.

2. "Official" means the appointed, elected, designated or otherwise duly elected representative of a racing commission or the equivalent thereof in a party state who represents that party as a member of the compact committee.

3. "Participants in live racing" means participants in live racing with pari-mutuel wagering in the party states.

4. "Party state" means each state that has enacted this compact.

5. "State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico and each territory or possession of the United States.

Sec. 4. Section 41-705, Arizona Revised Statutes, is amended to read:

41-705. Racing investigation fund; distributions; refund

A. The racing investigation fund is established consisting of monies deposited for the projected cost of investigations conducted pursuant to title 5, chapter 1 by persons, partnerships, associations or corporations that hold a permit for a racing meeting under title 5. Monies deposited into the fund shall be made in a reasonable amount based on a request from the director of the ~~Arizona~~ department of ~~racing~~ GAMING. The department of administration shall administer the fund. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

B. Monies distributed from the fund are subject to the following restrictions:

1. Distributions shall be made pursuant to instructions from the director of the department of ~~racing~~ GAMING to the director of the department of administration.

2. Distributions shall be limited to expenses that are authorized under title 5, chapter 1, article 1 and that are incurred in compliance with chapter 23 of this title including open and competitive bidding for all services.

C. On the instruction of the director of the department of ~~racing~~ GAMING, the department of administration at the conclusion of an investigation shall refund to the permittee the difference between the amount deposited into the fund by that permittee and the total actual cost of the investigation.

Sec. 5. Repeal

Section 41-3016.26, Arizona Revised Statutes, is repealed.

Sec. 6. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3024.09, to read:

41-3024.09. Arizona racing commission; termination July 1, 2024

A. THE ARIZONA RACING COMMISSION TERMINATES ON JULY 1, 2024.

B. TITLE 5, CHAPTER 1 IS REPEALED ON JANUARY 1, 2025.

Sec. 7. Purpose

Pursuant to section 41-2955, subsection B, Arizona Revised Statutes, the legislature continues the Arizona racing commission to regulate the racing industry in this state for the protection of the public peace, safety and welfare.

Sec. 8. Appropriation; department of gaming; Arizona breeders' award fund

The sum of $200,000 is appropriated from the state general fund in fiscal year 2016-2017 to the department of gaming for deposit in the Arizona breeders' award fund established by section 5-113, subsection F, Arizona Revised Statutes.

Sec. 9. Retroactivity

Sections 5 and 6 of this act are effective retroactively to July 1, 2016.

APPROVED BY THE GOVERNOR MAY 18, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2016.

Passed the House April 7, 20 16,

by the following vote: 49 Ayes,

7 Nays, 4 Not Voting

Speaker of the House

Pro Tempore

Chief Clerk of the House

Passed the Senate March 7, 20 16,

by the following vote: 26 Ayes,

3 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1435

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 6, 2016,

by the following vote: 40 Ayes,

13 Nays, 7 Not Voting

Speaker of the House

Jim Drake
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 28, 2016,

by the following vote: 25 Ayes,

4 Nays, 1 Not Voting

President of the Senate

Susan Pierce
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 9th day of May, 2016,

at 10:07 o'clock A. M.

Secretary to the Governor

Approved this 18th day of

May, 2016,

at 9:07 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18th day of May, 2016

at 12:05 o'clock P M.

Michele Reagan
Secretary of State

S.B. 1435