

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

SENATE BILL 999

4
5 By: Senators B. Johnson, Higginbotham, Whitaker, T. Smith
6 By: Representatives Jackson, Childers, Cowling, Davis, Flowers, Mathis, Saunders

For An Act To Be Entitled

10 AN ACT TO PROVIDE CITIES OR COUNTIES THE
11 OPPORTUNITY TO PROMOTE ECONOMIC DEVELOPMENT,
12 TOURISM, AND AGRIBUSINESS BY LOCAL OPTION
13 ELECTION TO AUTHORIZE ADDITIONAL FORMS OF
14 ELECTRONIC GAMES OF SKILL AT HORSE RACING OR
15 GREYHOUND RACING PARKS IN THEIR COMMUNITIES; AND
16 FOR OTHER PURPOSES.

Subtitle

18 REGARDING THE AUTHORITY OF CITIES OR
19 COUNTIES BY LOCAL OPTION ELECTION TO
20 AUTHORIZE ADDITIONAL FORMS OF ELECTRONIC
21 GAMES OF SKILL AT HORSE RACING OR
22 GREYHOUND RACING PARKS IN THEIR
23 COMMUNITIES.

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26
27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

28
29 SECTION 1. Arkansas Code, Title 23 is amended to add an additional
30 chapter to read as follows:

31 CHAPTER 113 – WAGERING ON ELECTRONIC GAMES OF SKILL CONDUCTED BY HORSE RACING
32 AND GREYHOUND RACING FRANCHISEES, SUBJECT TO APPROVAL AT LOCAL OPTION
33 ELECTION

34
35 SUBCHAPTER 1 – GENERAL PROVISIONS
36



1 23-113-101. Legislative findings.

2 (a) It is found and determined by the General Assembly that:

3 (1) Horse racing and greyhound racing parks in the State of
4 Arkansas promote economic and agribusiness activity in the state and
5 especially in the local communities where the horse racing and greyhound
6 racing parks are located;

7 (2) Arkansas horse racing and greyhound racing parks also often
8 promote tourism and positive publicity for the state, including recent
9 national publicity surrounding the racehorse "Smarty Jones", the winner of
10 the 2004 Arkansas and Kentucky Derbies, that went on to be honored as the
11 2004 best three-year-old thoroughbred horse in the country;

12 (3) Many states, including Louisiana and Oklahoma, have
13 authorized racetracks to offer wagering on additional forms of electronic
14 games. The State of Texas is considering doing the same;

15 (4) Many Arkansans travel to adjoining states in order to wager
16 at legal gambling establishments in those states. This adversely impacts
17 Arkansas tourism and results in certain economic activity leaving Arkansas
18 for the benefit of adjoining states;

19 (5) Economic and agribusiness benefits derived by the State of
20 Arkansas from horse racing and greyhound racing parks in Arkansas, including
21 Arkansas farms and breeding operations, are and will continue to be adversely
22 impacted by these developments in adjoining and other states;

23 (6) Although Arkansas horse and greyhound racing parks presently
24 are allowed to offer wagering on electronic games based on previously run
25 horse and greyhound races, racetracks in adjoining and other states are
26 allowed to offer more types of electronic wagering games; and

27 (7) These developments place Arkansas horse racing and greyhound
28 racing parks at a competitive disadvantage to their counterparts in other
29 states and especially affect the economies of the local Arkansas communities
30 and related agribusinesses where the horse racing and greyhound racing parks
31 are located in Arkansas.

32 (b) It is further found and determined by the General Assembly that:

33 (1) If no effort is made to address these issues:

34 (A) Arkansans will continue to spend money out-of-state
35 which might otherwise be spent in Arkansas;

36 (B) Arkansas horse racing and greyhound racing parks will

1 remain at a competitive disadvantage to their out-of-state counterparts, and
2 this will not only adversely impact horse racing and greyhound racing parks
3 in Arkansas, but also related Arkansas agribusinesses, including farms and
4 breeding operations, and other Arkansas businesses that realize economic
5 benefits from horse racing and greyhound racing activities in Arkansas; and

6 (C) jobs at Arkansas horse racing and greyhound racing
7 parks and at related Arkansas agribusinesses, including farms and breeding
8 operations, along with jobs at other Arkansas businesses that realize
9 economic benefits from horse racing and greyhound racing activities in
10 Arkansas, may become in jeopardy; and

11 (2) If this legislation is enacted and becomes law and local
12 voters in the communities where the horse racing and greyhound racing parks
13 are located approve the wagering on additional games of skill at Arkansas
14 horse racing and greyhound racing parks as provided in this chapter:

15 (A) Arkansans will spend money in Arkansas which might
16 otherwise have been spent out-of-state;

17 (B) Arkansas horse racing and greyhound racing parks will
18 become more competitive and this will provide economic benefits to related
19 Arkansas agribusinesses, including farms and breeding operations, as well as
20 other related Arkansas businesses; and

21 (C) Jobs at Arkansas horse racing and greyhound racing
22 parks and at related agribusinesses, along with jobs at other businesses that
23 realize economic benefits from horse racing and greyhound racing activities
24 in Arkansas, will be better protected and more secure, and additional job
25 opportunities may be created.

26 (c) For the reasons stated in subsections (a) and (b) of this section
27 and other reasons the General Assembly finds that cities or counties where
28 horse racing or greyhound racing parks are located in Arkansas should have
29 the opportunity to address these issues and promote economic development,
30 tourism, and agribusiness by allowing the voters in these cities or counties
31 to have the opportunity by local election to authorize horse racing or
32 greyhound racing parks in their communities to offer wagering on additional
33 forms of electronic games of skill.

34
35 23-113-102. Title.

36 This chapter shall be known and may be cited as the "Local Option Horse

Racing and Greyhound Racing Electronic Games of Skill Act".

23-113-103. Definitions.

As used in this chapter:

(1) "Arkansas Greyhound Racing Law" means the Arkansas Greyhound Racing Law, § 23-111-101 et seq.;

(2) "Arkansas Horse Racing Law" means the Arkansas Horse Racing Law, § 23-110-101 et seq.;

(3) "Commission" means the Arkansas Racing Commission or its successor having jurisdiction over horse racing and greyhound racing in this state;

(4) "Director" means the Director of the Department of Finance and Administration;

(5)(A) "Electronic games of skill" means games played through any electronic device or machine that afford an opportunity for the exercise of skill or judgment where the outcome is not completely controlled by chance alone.

(B) "Electronic games of skill" do not include pari-mutuel wagering on horse racing and greyhound racing governed by the Arkansas Horse Racing Law or Arkansas Greyhound Racing Law, whether pari-mutuel wagering on live racing, simulcast racing, or races conducted in the past and rebroadcast by electronic means;

(6) "Franchise holder" means any person holding a franchise to conduct horse racing under the Arkansas Horse Racing Law or greyhound racing under the Arkansas Greyhound Racing Law;

(7) "Net wagering revenues from electronic games of skill" means the gross wagering revenues received by a franchise holder from wagers placed by patrons on electronic games of skill, less amounts paid out or separately reserved under rules of the commission for future pay out, to patrons on the wagers; and

(8) "Person" means any individual, corporation, partnership, association, trust, or other entity.

SUBCHAPTER 2 – AUTHORIZATION OF WAGERING ON ELECTRONIC GAMES OF SKILL
SUBJECT TO APPROVAL AT LOCAL OPTION ELECTION

1 23-113-201. Wagering on electronic games of skill permitted subject to
2 approval at local option election – Other conditions and limitations.

3 (a)(1) In addition to pari-mutuel wagering on horse racing and
4 greyhound racing authorized by the Arkansas Horse Racing Law and the Arkansas
5 Greyhound Racing Law, respectively, any franchise holder may conduct wagering
6 on electronic games of skill in accordance with this chapter at any time or
7 times during the calendar year at locations on the grounds of the franchise
8 holder's racetrack park site where the franchise holder is authorized by the
9 Arkansas Racing Commission to conduct pari-mutuel wagering on horse racing or
10 greyhound racing pursuant to the Arkansas Horse Racing Law or the Arkansas
11 Greyhound Racing Law, as the case may be.

12 (2)(A)(i) The franchise holder may not conduct wagering on
13 electronic games of skill under this chapter unless the question of the
14 wagering on electronic games of skill under this chapter shall have been
15 submitted to the electors of the city, town, or county in which the franchise
16 holder's racetrack park site is located where the wagering on electronic
17 games of skill is to be conducted, at any special or general election, and a
18 majority of the electors voting on the question shall have approved at the
19 election wagering on electronic games of skill under this chapter.

20 (ii) If the racetrack park is located within the
21 corporate limits of a city or town, the question shall be submitted to the
22 electors of either the city, town, or county in which the racetrack park is
23 located, as requested by the franchise holder, and if the racetrack park is
24 not located within the corporate limits of a city or town, then the question
25 shall be submitted to the electors of the county in which the racetrack park
26 is located.

27 (B)(i) The governing body of the city, town, or county, as
28 the case may be, shall by ordinance submit the question to the electors if
29 requested by the franchise holder.

30 (ii) If the franchise holder makes a request for an
31 election, the franchise holder shall present to the governing body evidence
32 of anticipated benefits to economic development, job creation, tourism, and
33 agribusiness which may result, directly or indirectly, from the authorization
34 of wagering on electronic games of skill at the franchise holder's racetrack
35 park site under this chapter if approved by the local voters at the election.

36 (iii) The franchise holder may make requests on one

1 (1) or more occasions, and elections so requested from time to time by the
2 franchise holder may be held during any one (1) or more calendar years as
3 requested from time to time by the franchise holder but not more than one (1)
4 special election shall be held for such purposes by the same city, town, or
5 county during any particular calendar year.

6 (iv) The cost incurred by the city, town, or county
7 involved in conducting each special election pursuant to the franchise
8 holder's request shall be paid by the franchise holder. The election shall
9 be held and conducted under the general election laws of the state except as
10 otherwise provided in this subdivision (a)(2).

11 (C) The ordinance shall set forth the ballot question
12 substantially as follows:

13
14 "For wagering on electronic games of skill conducted by _____ [name of
15 franchise holder] on the grounds of its racetrack park site in
16 _____ [city, town, or county] []

17
18 Against wagering on electronic games of skill conducted by _____ [name of
19 franchise holder] on the grounds of its racetrack park site in
20 _____ [city, town, or county] []

21
22 As authorized by Arkansas Code Section 23-113-201, the question presented is
23 whether or not wagering on electronic games of skill may be conducted by
24 _____ [name of franchise holder] on the grounds of its
25 racetrack park site in _____ [city, town, or county] under the
26 provisions of Chapter 113 of Title 23 of the Arkansas Code. Vote for or
27 against the question by marking the appropriate box above. "Electronic games
28 of skill" means games played through any electronic device or machine that
29 afford an opportunity for the exercise of skill or judgment where the outcome
30 is not completely controlled by chance alone."

31 (D) Notice of the election shall be given by the clerk of
32 the city, town, or county involved by one (1) publication in a newspaper
33 having general circulation within the city, town, or county involved not less
34 than ten (10) calendar days before the election. No other publication or
35 posting of a notice by any other public official shall be required.

36 (E) The election shall be held no earlier than thirty-one

1 (31) calendar days, and no later than one hundred twenty (120) calendar days,
 2 after the effective date of the ordinance in which the election is called by
 3 the governing body.

4 (F)(i) Within thirty (30) calendar days after completion
 5 of the tabulation of the votes, the mayor of the city or town or the county
 6 judge of the county, as the case may be, shall proclaim the results of the
 7 election by issuing a proclamation and publishing it one (1) time in a
 8 newspaper having general circulation within the city, town, or county
 9 involved.

10 (ii) The results of the election as stated in the
 11 proclamation shall be conclusive unless suit contesting the proclamation is
 12 filed in the circuit court in the county where the election took place within
 13 twenty (20) calendar days after the date of publication of the proclamation.

14 (G) If the wagering on electronic games of skill is
 15 approved at any election as provided in this subdivision (a)(2), that
 16 approval shall be final and shall continue in effect thereafter as long as
 17 wagering on electronic games of skill at the location involved is authorized
 18 by the other provisions of this chapter, other than this subdivision (a)(2).

19 (b)(1) In order to conduct wagering on electronic games of skill
 20 during a calendar year, the franchise holder must have been licensed by the
 21 commission to conduct a live racing meet within the calendar year or the
 22 immediately preceding calendar year of either:

23 (A) Horse racing under the Arkansas Horse Racing Law; or

24 (B) Greyhound racing under the Arkansas Greyhound Racing
 25 Law.

26 (2) However, the commission may waive the requirement of
 27 subdivision (b)(1) of this section if the license was not issued because of
 28 events such as fire, storm, accident or other casualty, epidemic, shortages
 29 of horses or greyhounds, war, sabotage, acts of a public enemy, civil
 30 disturbances, strikes, labor disputes, work stoppages, or similar events.

31 (c)(1) Wagering on electronic games of skill conducted by a franchise
 32 holder in accordance with this chapter shall be lawful, notwithstanding any
 33 laws or parts of laws of the State of Arkansas to the contrary.

34 (2) However, this chapter is not intended to authorize a lottery
 35 or the sale of lottery tickets prohibited by Arkansas Constitution Article
 36 19, Section 14.

1 (d)(1) In order to constitute an electronic game of skill under this
2 chapter, the game must not be completely controlled by chance alone.

3 (2) A game is not completely controlled by chance alone if the
4 betting public may attain through the exercise of skill or judgment a better
5 measure of success in playing the game than could be mathematically expected
6 on the basis of pure luck, that is, on the basis of pure random chance alone.

7 (e)(1) Prior to conducting wagering on an electronic game of skill,
8 the franchise holder shall present to the commission a complete description
9 of the game and the electronic device or machine to be utilized in the play
10 of the game, the proposed rules of play, and such further information as the
11 commission determines is necessary or appropriate in order to effectively
12 carry out its regulatory functions in accordance with this chapter. The
13 franchise holder shall also present evidence to the commission of anticipated
14 economic benefits to the horse racing or greyhound racing industries in
15 Arkansas, including Arkansas horse or greyhound farms and breeding operations
16 and related agribusinesses, which may result, directly or indirectly, from
17 the authorization of wagering on the electronic game of skill.

18 (2)(A) Within sixty (60) calendar days after the submission of
19 the information required by subdivision (e)(1) of this section, the
20 commission shall make a finding as to whether:

21 (i) The game and electronic device or machine
22 constitutes an electronic game of skill authorized by this chapter; and

23 (ii) Economic benefits to the horse racing or
24 greyhound racing industries in Arkansas, including Arkansas horse or
25 greyhound farms and breeding operations and related agribusinesses, may
26 result, directly or indirectly, from the authorization of wagering on the
27 electronic game of skill.

28 (B) The finding shall further either approve the proposed
29 rules of play or recommend modifications as the commission determines are
30 necessary in the public interest in carrying out its regulatory functions in
31 accordance with this chapter.

32 (3) The franchise holder may commence conducting wagering on the
33 electronic game of skill subject to the other provisions of this chapter and
34 other applicable rules of the commission adopted pursuant to this chapter if:

35 (A) The finding concludes that economic benefits to the
36 horse racing or greyhound racing industries in Arkansas, including Arkansas

1 horse or greyhound farms and breeding operations and related agribusinesses,
2 may result, directly or indirectly, from the authorization of wagering on the
3 electronic game of skill;

4 (B) The finding concludes that the game and electronic
5 device or machine constitutes an electronic game of skill authorized by this
6 chapter; and

7 (C) The commission approves the rules of play or, if
8 applicable, the franchise holder incorporates the changes recommended by the
9 commission into the final rules of play.

10 (4) If the finding concludes that the game and electronic device
11 or machine does not constitute an electronic game of skill authorized by this
12 chapter or recommends changes in the proposed rules of play, or if the
13 finding concludes that neither direct nor indirect economic benefits to the
14 horse racing or greyhound racing industries in Arkansas, including Arkansas
15 horse or greyhound farms and breeding operations and related agribusinesses,
16 will result from the authorization of wagering on the electronic game of
17 skill, the commission shall provide the franchise holder with the opportunity
18 for a hearing by the commission before the finding is made final by the
19 commission.

20 (f) For each electronic game of skill, the commission shall provide by
21 appropriate rule or regulation the specifications for establishing that
22 patrons, in the aggregate, exercising some degree of skill or judgment will,
23 over the expected lifetime of the electronic game of skill, obtain a payout
24 of at least eighty-three percent (83%) of the aggregate amounts wagered on
25 the electronic game of skill.

26 (g) Wagers on electronic games of skill may be made only by
27 individuals physically present at the location on the grounds of the
28 franchise holder's authorized racetrack park site as set forth in subsection
29 (a) of this section where electronic games of skill are located and being
30 operated in accordance with this chapter.

31 (h) No individual under twenty-one (21) years of age shall be
32 intentionally allowed to place wagers on electronic games of skill, and the
33 commission shall provide by rule or regulation appropriate supervisory
34 procedures for franchise holders to follow in order to safeguard against
35 individuals under twenty-one (21) years of age placing wagers on electronic
36 games of skill.

1
2 SUBCHAPTER 3 – ARKANSAS RACING COMMISSION

3
4 23-113-301. Jurisdiction of Arkansas Racing Commission.

5 Subject to the limitations and conditions in this chapter or other
6 applicable law, the Arkansas Racing Commission shall have full administrative
7 regulatory jurisdiction over the business of electronic games of skill and
8 wagering thereon conducted by franchise holders under this chapter.

9
10 23-113-302. Powers and duties.

11 (a) In addition to all other duties, powers, and responsibilities
12 conferred upon it by other laws of this state, the Arkansas Racing Commission
13 shall exercise the duties, powers, and responsibilities over electronic games
14 of skill and wagering on the electronic games of skill as authorized in this
15 chapter and without necessarily being limited to the following enumeration,
16 but subject to the other provisions of this chapter, the commission shall:

17 (1) Regulate the specific games, devices, machines, and
18 equipment played and utilized in connection with wagering on electronic games
19 of skill and the rules of play and methods of operation thereof as
20 contemplated by this chapter, as well as appropriate security and
21 surveillance systems, in order to safeguard fairness and integrity in the
22 conduct and operation of electronic games of skill and wagering on the
23 electronic games of skill;

24 (2) Regulate the specific times of operation and specific areas
25 on the premises of the franchise holder’s racetrack park site where wagering
26 on electronic games of skill may be conducted;

27 (3) Prescribe the procedures for issuing licenses to employees
28 of the franchise holder conducting electronic games of skill and wagering on
29 the electronic games of skill, including, without limitation, the information
30 to be submitted by the individuals in connection with their background,
31 employment, experience, and character, as reasonably necessary to determine
32 the individual’s qualifications and suitability for the position;

33 (4) Prescribe the procedures for issuing licenses to persons
34 supplying electronic games of skill to the franchise holder, including,
35 without limitation, the information to be submitted by the persons in
36 connection with their background, experience, character, business activities,

1 and financial affairs, as reasonably necessary to determine the person's
2 qualifications and suitability for supplying electronic games of skill to
3 franchise holders for use in accordance with this chapter;

4 (5) Have authority to enter upon the premises where electronic
5 games of skill are being operated and to observe the conduct of wagering
6 thereon; and

7 (6) Take such other action not inconsistent with law as the
8 commission may deem necessary or desirable in order to supervise and regulate
9 and to effectively control in the public interest the operation of electronic
10 games of skill and conduct of wagering thereon as authorized by this chapter.

11 (b) The commission may promulgate, revise, amend, and repeal rules,
12 regulations, and orders, consistent with the policy, objects, and purposes of
13 this chapter, as it reasonably deems necessary or desirable in the public
14 interest in carrying out the provisions of this chapter.

15
16 23-113-303. Licenses for employees and suppliers.

17 (a) The Arkansas Racing Commission may require persons employed by the
18 franchise holder in the conduct of wagering on electronic games of skill to
19 obtain a license from the commission under procedures generally consistent
20 with the licensing procedures otherwise applicable to other employees of the
21 franchise holder engaged in the conduct of pari-mutuel wagering on horse
22 racing or greyhound racing, as the case may be.

23 (b)(1) No person may sell or otherwise supply electronic games of
24 skill to a franchise holder for the conduct of wagering thereon as authorized
25 in this chapter unless the person has:

26 (A) Demonstrated to the satisfaction of the commission
27 that the person has the capability and qualifications necessary to reasonably
28 furnish the equipment and perform the services to be provided by the
29 supplier; and

30 (B) Obtained a license from the commission.

31 (2) Each supplier shall pay to the commission an annual license
32 fee in the amount of one thousand dollars (\$1,000) per year for each year or
33 part thereof that the license is in effect.

34 (c) Any person knowingly making a false statement on an employee or
35 supplier license application under this chapter shall be guilty of a Class A
36 misdemeanor.

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23-113-304. Hearings.

(a)(1) If any franchise holder or other person is aggrieved by any action of the Arkansas Racing Commission, the franchise holder or other person shall be entitled to a hearing by the commission.

(2) The hearings shall be conducted in accordance with the rules and procedures governing other commission hearings.

(b)(1) At the conclusion of the hearing, the commission shall make its findings to be the basis for the action taken by the commission.

(2) The findings and orders of the commission shall be subject to review in the Pulaski County Circuit Court from which an appeal may be taken to the Arkansas Supreme Court.

SUBCHAPTER 4 – CONTRIBUTION TO PURSES AND ARKANSAS THOROUGHBRED AND GREYHOUND BREEDING PROGRAMS

23-113-401. Contribution to purses and promotion of Arkansas thoroughbred and greyhound breeding activities.

(a) An amount equal to fourteen percent (14%) of the net wagering revenues from electronic games of skill shall be set aside by the franchise holder in a separate account and used only for purses for live horse racing or live greyhound racing conducted by the franchise holder, as the case may be.

(b) With respect to a franchise holder operating a franchise to conduct horse racing, an amount equal to one percent (1%) of the net wagering revenues from electronic games of skill conducted by the horse racing franchise holder shall be paid by the franchise holder to the Arkansas Racing Commission for deposit into the Arkansas Racing Commission Purse and Awards Fund to be used for purse supplements, breeders’ awards, owners’ awards, and stallion awards as provided in § 23-110-409 in order to promote and encourage thoroughbred horse breeding activities in Arkansas.

(c) With respect to a franchise holder operating a franchise to conduct greyhound racing, an amount equal to one percent (1%) of the net wagering revenues from electronic games of skill conducted by the greyhound racing franchise holder shall be paid by the franchise holder to the commission to be used for breeders’ awards as provided in the commission’s

1 rules and regulations governing greyhound racing in Arkansas in order to
 2 promote and encourage greyhound breeding activities in Arkansas.

3 (d)(1) The dedication of net wagering revenues from electronic games
 4 of skill to purses and breeding activities as set forth in this section shall
 5 not be subject to any contract or agreement between the franchise holder and
 6 any organization representing horsemen or greyhound owners or trainers, to
 7 the end that any such contractual obligations for the use of moneys for
 8 purses shall not apply to the funds dedicated to purses and breeding
 9 activities as set forth in this section.

10 (2) The moneys dedicated to purses and breeding activities as
 11 set forth in this section are intended to be in addition to any such
 12 contractual purse obligations affecting moneys other than the amounts
 13 dedicated to purses and breeding activities as set forth in this section, as
 14 well as in addition to amounts required to be used for purses and breeding
 15 activities under applicable provisions of the Arkansas Horse Racing Law and
 16 the Arkansas Greyhound Racing Law, as the case may be.

17 (e) The commission shall have jurisdiction to check and verify
 18 compliance by the franchise holder with the provisions of this section and
 19 shall make periodic determinations as to compliance under rules and
 20 regulations adopted by the commission.

21
 22 SUBCHAPTER 5 – PRIVILEGE FEES

23
 24 23-113-501. Privilege fees.

25 (a) Franchise holders conducting wagering on electronic games of skill
 26 under this chapter shall pay the following fees for the privilege of
 27 conducting the wagering:

28 (1) An amount equal to eighteen percent (18%) of the net
 29 wagering revenues from electronic games of skill shall be paid by the
 30 franchise holder to the Director of the Department of Finance and
 31 Administration for disposition under § 23-113-604;

32 (2) An amount equal to one-half of one percent (0.5%) of the net
 33 wagering revenues from electronic games of skill shall be paid by the
 34 franchise holder to the county in which the franchise holder is operating the
 35 electronic games of skill; and

36 (3) An amount equal to one and one-half percent (1.5%) of the

1 net wagering revenues from electronic games of skill shall be paid by the
 2 franchise holder to the city or town in which the franchise holder is
 3 operating the electronic games of skill.

4 (b) The privilege fees shall be paid on a monthly basis pursuant to
 5 rules and procedures adopted by the director. It shall be the duty of a
 6 franchise holder on or before the twentieth day of each month to deliver to
 7 the director upon forms prescribed and furnished by the director a return
 8 under oath showing the total net wagering revenues from electronic games of
 9 skill during the preceding calendar month.

10 (c) The privilege fees levied by this section are in lieu of any state
 11 or local gross receipts, sales, or other similar taxes, and to this end the
 12 Arkansas Gross Receipts Tax Act of 1941, § 26-52-101 et seq., shall not be
 13 applicable to gross receipts derived by franchise holders from wagering on
 14 electronic games of skill.

15 (d) The privilege fee payable to the director under subdivision (a)(1)
 16 of this section shall be administered by the director pursuant to the
 17 Arkansas Tax Procedure Act, § 26-18-101 et seq. However, regulatory
 18 authority over licensing and other matters under this chapter not relating to
 19 the administration, payment, and collection of the privilege fee shall remain
 20 with the Arkansas Racing Commission.

21
 22 SUBCHAPTER 6 – MISCELLANEOUS

23
 24 23-113-601. Duty to maintain records.

25 A franchise holder operating electronic games of skill and conducting
 26 wagering thereon under this chapter shall keep a complete set of books and
 27 records as necessary to show fully the activities and transactions of the
 28 franchise holder with respect to the operations and wagering conducted in
 29 accordance with this chapter, and the Arkansas Racing Commission shall have
 30 reasonable access to the books and records in order to verify compliance with
 31 the provisions of this chapter and the rules and regulations of the
 32 commission.

33
 34 23-113-602. Inconsistent statutes inapplicable.

35 (a) Title 5, Chapter 66 and all other laws and parts of laws
 36 inconsistent with any of the provisions of this chapter are expressly

1 declared not to apply to any person engaged in, conducting, or otherwise
2 participating in operating electronic games of skill or wagering thereon as
3 authorized by this chapter.

4 (b) No person shall be guilty of any criminal offense set forth in
5 Title 5, Chapter 66 or any other law relating to illegal gambling to the
6 extent the person relied on any rule, order, finding, or other determination
7 by the Arkansas Racing Commission that the activity was authorized by this
8 chapter.

9
10 23-113-603. Pari-mutuel wagering on horse racing and greyhound racing.

11 (a) Pari-mutuel wagering on horse racing and greyhound racing, whether
12 on live racing, simulcast racing, or races conducted in the past and
13 rebroadcast by electronic means, shall continue to be governed by the
14 Arkansas Horse Racing Law and the Arkansas Greyhound Racing Law,
15 respectively, and not by this chapter.

16 (b)(1) Provisions of the Arkansas Horse Racing Law and the Arkansas
17 Greyhound Racing Law prohibiting wagering other than on horse or greyhound
18 races and other than under the pari-mutuel or certificate method of wagering
19 shall not apply to wagering on electronic games of skill conducted pursuant
20 to this chapter, and to this end the provisions of §§ 23-110-405(d)(1),
21 23-111-508(b), 23-111-508(d)(1) and (2), 23-110-405(d)(2), 23-111-508(d)(4),
22 and any other inconsistent provisions of the Arkansas Horse Racing Law and
23 the Arkansas Greyhound Racing Law shall not apply to wagering on electronic
24 games of skill conducted in accordance with this chapter.

25 (2) Wagering under this chapter is not required to be pari-
26 mutuel.

27
28 23-113-604. Disposition of privilege fees, license fees, etc.

29 (a) All privilege fees received by the Director of the Department of
30 Finance and Administration under this chapter for the benefit of the state
31 shall be deposited in the State Treasury as general revenues.

32 (b) All permit or license fees, penalties, and fines received by the
33 Arkansas Racing Commission under this chapter shall be deposited in the State
34 Treasury as general revenues.

35
36 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the

1 Eighty-Fifth General Assembly of the State of Arkansas that competition from
 2 outside the State of Arkansas is having an adverse impact on the horse racing
 3 and greyhound racing industries in this state and related agribusinesses;
 4 that Louisiana racetracks are now offering to their patrons wagering on
 5 various types of electronic wagering games; that racetracks in the State of
 6 Oklahoma will soon be offering to their patrons wagering on electronic games,
 7 and the State of Texas is considering doing the same; that these economic
 8 conditions are adversely affecting, and these impending and potential
 9 developments will in the very near future more substantially adversely
 10 affect, the economic benefits to the State of Arkansas directly and
 11 indirectly accruing from the horse racing and greyhound racing industries and
 12 related agribusinesses; that these conditions are adversely affecting, and
 13 these impending and potential developments will in the very near future more
 14 substantially adversely affect, jobs, economic development, and tourism in
 15 Arkansas, and it is imperative to address immediately these conditions,
 16 developments and competitive burdens, and in order to accomplish these
 17 objectives, essential to the welfare of the State of Arkansas and its
 18 citizens and residents, the provisions set forth in this act must be
 19 effective immediately. Therefore, an emergency is declared to exist and this
 20 act being immediately necessary for the preservation of the public peace,
 21 health, and safety shall become effective on:

- 22 (1) The date of its approval by the Governor;
- 23 (2) If the bill is neither approved nor vetoed by the Governor,
 24 the expiration of the period of time during which the Governor may veto the
 25 bill; or
- 26 (3) If the bill is vetoed by the governor and the veto is
 27 overridden, the date the last house overrides the veto.

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