

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senators Everett and Lewellen**

A Bill

ACT 347 OF 1995
SENATE BILL 246

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE
9 23, CHAPTER 111, SUBCHAPTER 5 CONCERNING THE DISTRIBUTION
10 OF MONEY WAGERED ON DOG RACING AND DOG RACING MEETS; AND
11 FOR OTHER PURPOSES."

Subtitle

14 "AN ACT CONCERNING THE DISTRIBUTION OF
15 MONEY WAGERED ON DOG RACING AND DOG
16 RACING MEETS."

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20 SECTION 1. Arkansas Code 23-111-502 is amended to read as follows:

21 "§ 23-111-502. Number of racing days and meets generally - Hours.

22 (a) Upon application of the dog racing franchise holder, the State
23 Racing Commission may authorize each dog racing franchise holder to conduct,
24 during any calendar year, not more than two (2) racing meets of one hundred
25 twenty-two (122) nights each, on those nights which the commission may
26 determine to be in the best interest of the dog racing franchisee, kennel
27 owners and greyhound racing in the state of Arkansas, Sundays excepted.

28 (b) All night racing at any meet shall be held between the hours of
29 6:00 p.m. and 12:00 midnight.

30 (c) At the option of the franchise holder, daylight racing may be
31 conducted in addition to night racing on:

32 (1) One (1) day, other than a Sunday, during each calendar week
33 of a regular racing meet; and

34 (2) Memorial Day, Independence Day Holiday, and Labor Day.

35 (d) At the option of the franchise holder, upon application to the
36 State Racing Commission, in addition to night racing and that provided under

1 subsection (c) of this section, up to five (5) additional daylight
2 performances may be conducted each calendar week of a regular racing meet.

3 (e) All racing days provided for under §§ 23-111-503, 23-111-504, and
4 23-111-505 shall be conducted at night."

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6 SECTION 2. Arkansas Code 23-111-509 is amended to read as follows:

7 "§ 23-111-509. Disposition of wagering money.

8 (a) Each franchise holder conducting a racing meet under the provisions
9 of this chapter shall keep its books and records in such manner as to clearly
10 show the total amount of moneys wagered on each and every race held or
11 conducted at each meet and the disposition of the moneys.

12 (b) (1) *In the calendar year 1995 and each calendar year thereafter, the*
13 franchise holder shall withhold and retain for its own use and benefit sixteen
14 percent (16%) of all moneys wagered up to and including one hundred twenty-
15 five million dollars (\$125,000,000) and twelve percent (12%) of all moneys
16 wagered in excess of one hundred twenty-five million dollars (\$125,000,000).

17 (2) From the amount withheld and retained by the franchise
18 holder, the franchise holder shall agree that the following credits will be
19 made in the following percentage amounts of all moneys wagered up to and
20 including one hundred twenty-five million dollars (\$125,000,000) per calendar
21 year, which shall be in addition to any other credits or payments: seven-
22 eighths of one percent (.875%) to be used by the franchise holder for
23 supplements for increasing purses awarded at races conducted at the franchise
24 holder_s facility; three-eighths of one percent (.375%) to the institutions or
25 funds described in sections 23-111-503; 23-111-504; 23-111-505 and 23-111-515
26 on a proportionate basis; one-fourth of one percent (.25%) to be used by the
27 franchise holder to maintain employee health benefits for the employees of the
28 franchise holder; one-half of one percent (.5%) to be used by the franchise
29 holder for capital improvements to be made by the franchise holder at the
30 racing facility; and one-half of one percent (.5%) to be used by the franchise
31 holder for promotions to be conducted by the franchise holder to encourage
32 patronage and tourism. These credits will not accrue on moneys wagered in
33 excess of one hundred twenty-five million dollars (\$125,000,000) per calendar
34 year. The Arkansas Racing Commission may audit and verify receipts and
35 expenditures of the franchise holder in determining compliance with this

1 subdivision. If there is a final determination by the Commission that any of
2 the credits or payments provided in this subsection have not been used for the
3 purposes herein specified, the franchise holder shall pay the amount equal to
4 any moneys used for an unauthorized purpose to the Commission for the use and
5 benefit of the State of Arkansas.

6 (3) 'Capital improvements' as used in this section, shall include
7 all items and expenditures incurred for new construction with related
8 equipment, reconstruction, renovation, reconditioning, and repairing of
9 facilities with related equipment, or for debt service on money borrowed by
10 the franchise holder for those enumerated purposes. In the case of capital
11 improvements, the Commission may use a multi-year approach based on a multi-
12 year program being undertaken by the franchise holder so that accountability
13 for expenditures may be based on expenditures made during the entire multi-
14 year period out of the capital improvement moneys derived during the multi-
15 year period.

16 (c)(1) In the calendar year 1995 and each calendar year thereafter, for
17 all racing meets conducted by the franchise holder, the franchise holder shall
18 withhold and pay to the commission for the use and benefit of the State of
19 Arkansas, as a privilege tax, three percent (3%) of all moneys wagered up to
20 and including one hundred twenty-five million dollars (\$125,000,000), together
21 with one-third (1/3) of the odd cents or breaks, and seven percent (7%) of all
22 moneys wagered in excess of one hundred twenty-five million dollars
23 (\$125,000,000), together with one-third (1/3) of the odd cents or breaks.

24 (2) For all racing performances simultaneously televised by the
25 franchise holder in calendar year 1987 and each calendar year thereafter, but
26 conducted at another race track facility, the franchise holder shall withhold
27 and pay to the commission for the use and benefit of the State of Arkansas:

28 (A) Two percent (2%) of all moneys wagered up to and including
29 three hundred fifty thousand dollars (\$350,000);

30 (B) Three percent (3%) of all moneys wagered in excess of three
31 hundred fifty thousand dollars (\$350,000) but less than or equal to five
32 hundred thousand dollars (\$500,000); and

33 (C) Six percent (6%) of all moneys wagered in excess of five
34 hundred thousand dollars (\$500,000).

35 (3) The licensee shall withhold no more than nineteen percent

1 (19%) of the total moneys wagered in simulcast racing, except when the state
2 of the host race meet allows for withholding a greater percentage; then the
3 licensee shall withhold no more than the percentage allowed by the state of
4 the host meet.

5 (d) The franchise holder shall withhold and pay to the city or town in
6 which the racing track is located two-thirds (2/3) of the odd cents or breaks,
7 or, if the track is not located within the corporate limits of a city or town,
8 then the two-thirds (2/3) of the odd cents or breaks shall be paid to the
9 county in which the track is located.

10 (e) (1) Excepting only the moneys retained for the use and benefit of
11 the franchise holder, the amounts paid to the commission for the use and
12 benefit of the State of Arkansas, and the amount paid to the city, town, or
13 county, as provided in subsection (d) of this section, all moneys received by
14 the franchise holder from wagers shall be paid over to patrons holding winning
15 pari-mutuel tickets, as their respective interests may appear, upon
16 presentation of the tickets.

17 (2) However, all winning pari-mutuel tickets not presented to the
18 franchise holder for redemption on or before the one hundred eightieth day
19 next following the last racing day of each racing meet hereafter held shall be
20 void. Of the moneys represented by the void pari-mutuel tickets, the franchise
21 holder shall immediately distribute the proceeds as follows: one-half (1/2) of
22 the amount thereof shall be paid to the treasurer of the county in which the
23 racing track is located for credit to the general fund of the county, and one-
24 half (1/2) of the amount thereof shall be paid to the treasurer of the city in
25 which the racing track is located and shall be credited to the general fund of
26 the city. The money shall be used for charitable purposes only, benefiting
27 young females and young males of the city as determined by the mayor and the
28 governing body of the city. It is the intent that the funds shall be made
29 available to and used by the Girls' Club and Boys' Club or similar nonprofit
30 charitable organizations providing recreational youth services benefiting
31 young females and young males of the city.

32 (f) Breaks or breakage shall at all times be computed as the amount of
33 odd cents remaining in each pari-mutuel pool after redistributions are made in
34 a sum equal to the next lowest multiple of ten cents (10¢).

35 (g) All moneys due the State of Arkansas by the permit holder under

1 subsection (c) of this section shall be paid to the commission daily, and all
2 amounts due the city, town, or county under subsection (d) of this section
3 shall be paid over to the treasurer of the city, town, or county immediately
4 following the close of the racing meet."

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6 SECTION 3. All provisions of this act of a general and permanent
7 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
8 Code Revision Commission shall incorporate the same in the Code.

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10 SECTION 4. If any provision of this act or the application thereof to
11 any person or circumstance is held invalid, such invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are declared to be severable.

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16 SECTION 5. All laws and parts of laws in conflict with this act are
17 hereby repealed.

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19 SECTION 6. EMERGENCY. It is hereby found and determined by the
20 Eightieth General Assembly of the State of Arkansas that the state_s greyhound
21 pari-mutuel racetrack located in Crittenden County, Arkansas, and its
22 constituent business base composed of kennel owners, breeders, trainers, and
23 local business have been severely damaged by the development of casino gaming
24 in the State of Mississippi. Casino gaming in Mississippi pays a
25 disproportionately lower tax, allowing those operators to spend
26 correspondingly higher amounts for marketing and promotion. The state_s
27 greyhound racetrack needs substantial renovation and needs substantial
28 investment to promote attendance and tourism in order to compete. An
29 immediate restructuring of the statutorily mandated payments is required to
30 enable the state_s greyhound racetrack to improve purse structures for the
31 kennel owners; enhance the required charitable contributions which benefit all
32 citizens in the state; to continue to provide a significant employment base;
33 and in order to maintain the viability of greyhound pari-mutuel racing in this
34 state. The legislature hereby declares an emergency to exist and this act
35 shall take effect immediately upon its passage. Therefore, an emergency is

1 hereby declared to exist and this act being necessary for the immediate
2 preservation of the public peace, health and safety shall be in full force and
3 effect from and after its passage and approval.

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/s/ Everett and Lewellen

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APPROVED: 2-16-95

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