

State of Arkansas
76th General Assembly
Regular Session, 1987

SENATE BILL 625

By: Senator Canada As engrossed 3-11-87
 As engrossed 3-25-87

"AN ACT TO AMEND VARIOUS SECTIONS OF ACT NO. 46 OF THE ACTS OF ARKANSAS OF 1957, AS AMENDED; SPECIFICALLY AMEND SECTION 8 TO ELIMINATE THE REFERENCE TO THOROUGHBRED HORSE RACING; AMEND SECTION 17 TO AUTHORIZE A TOTAL OF 68 RACING DAYS IN ANY CALENDAR YEAR (WHICH SHALL NOT INCLUDE SUNDAYS BUT WHICH NEED NOT BE CONSECUTIVE), AND TO SPECIFY THAT ALL HORSE RACING AND WAGERING PROGRAMS MUST BE APPLIED FOR BY THE FRANCHISE HOLDER AND APPROVED BY THE COMMISSION; AMEND SUBSECTIONS (A) AND (B) OF SECTION 22 TO AUTHORIZE AGREEMENTS AND ARRANGEMENTS WHEREBY PATRONS MAY WAGER ON RACES RUN AT OTHER RACE TRACKS WHICH ARE SHOWN LIVE BY TELEVISION OR OTHERWISE AT THE ARKANSAS RACE TRACK AND AGREEMENTS AND ARRANGEMENTS WHEREBY ARKANSAS RACES ARE SHOWN LIVE AT OTHER RACE TRACKS; AMEND SUBSECTIONS (A), (B), (C), (E) AND (G) OF SECTION 23 TO SPECIFY THE DISPOSITION OF ALL MONEYS WAGERED AND THE DISPOSITION OF BREAKS FOR THE CALENDAR YEAR 1987, AND CALENDAR YEAR 1988 AND EACH CALENDAR YEAR THEREAFTER; STATE THE PURPOSE OF THE ACT, AUTHORIZE THE FRANCHISE HOLDER TO BORROW FUNDS IN RELIANCE UPON THE PROVISIONS OF THIS ACT AND PROVIDE THAT THE COMMISSION BE PERIODICALLY ADVISED OF THE NATURE OF AND PROGRESS MADE CONCERNING FRANCHISE HOLDER'S CONSTRUCTION, RECONSTRUCTION AND MAINTENANCE OF FACILITIES PROGRAMS; MAKE THIS ACT EFFECTIVE JANUARY 1, 1987, AND AUTHORIZE, APPROVE AND RATIFY ACTIONS TAKEN IN ACCORDANCE WITH THE PROVISIONS OF THIS ACT; FOR OTHER PURPOSES; AND DECLARING AN EMERGENCY."

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

SECTION 1. Section 8 of Act No. 46 of the Acts of Arkansas of 1957, as amended, is hereby amended to read as follows:

"Section 8. Subject to the limitations and conditions as in this Act or other applicable law provided, the Commission shall have sole jurisdiction over the business and/or the sport of horse racing in this State whereat such racing shall be permitted for any stake, purse or reward, and, in exercising such jurisdiction as aforesaid, but without necessarily being limited to the following enumeration, it shall be the function, power and/or duty of the Commission to:

- (a) Grant franchises to conduct horse races.
- (b) Approve dates for each racing meet, and issue permits therefor.
- (c) Issue licenses to horse owners, horse trainers, jockeys and jockeys' agents.
- (d) Collect and deposit in the State Treasury all fees for franchises and licenses for all taxes, other imposts, and all other moneys due the State of Arkansas in relation to horse racing.
- (e) Hear and determine all matters properly coming before the Commission, and grant rehearings thereon.
- (f) Take such other action, not inconsistent with law, as it may deem necessary or desirable to supervise and regulate, and to effectively control in the public interest, horse racing in the State of Arkansas."

SECTION 2. Section 17 of Act No. 46 of the Acts of Arkansas of 1957, as amended, is hereby amended to read as follows:

"Section 17. The total racing days during any calendar year shall not exceed 68. A franchise holder shall apply for a license to conduct each racing meet and shall specify in the application for a license the racing days desired (which shall not include Sundays but which need not be consecutive). On application of the franchise holder, the Commission may change the racing days in any license for a racing meet from those originally set forth in the license. Prior to each racing meet, the franchise holder shall write and submit to the Commission for approval the horse racing and wagering programs to be conducted at each racing meet which shall specify the conditions and provisions applicable to the requested racing and wagering programs and the Commission shall approve or disapprove, in whole or in part, the requested programs. If any portion of a submission is disapproved, the franchise holder may reapply prior to or at any time during the racing meet involved, but only

those horse racing programs and wagering programs that are requested by the franchise holder and approved by the Commission may be conducted at a racing meet."

SECTION 3. Subsections (A) and (B) of Section 22 of Act No. 46 of the Acts of Arkansas of 1957, as amended, are hereby amended to read as follows:

"Section 22. (A) Any franchise holder conducting a horse racing meet may provide a place or places in the race meeting grounds, or enclosure, at which it may conduct and supervise the pari-mutuel or certificate system of wagering; and such pari-mutuel or certificate method of wagering shall not under any circumstances, if conducted under the provisions of this Act, be held or construed to be unlawful, all other laws or parts of laws of the State of Arkansas to the contrary notwithstanding.

(B) With the prior approval of the Commission, and consistent with applicable federal and state laws, a franchise holder may enter into agreements and arrangements with other parties whereby its patrons may wager on races run at other race tracks which are shown live by television or otherwise at the Arkansas race track and agreements and arrangements whereby its races are shown live at other race tracks. Such agreements and arrangements shall specify all financial, wagering and other details which shall govern and to that end the provisions of Section 23 of Act No. 46 of the Acts of Arkansas of 1957, as heretofore and as amended by this Act, and any other inconsistent provisions shall not be applicable to such agreements and arrangements. Nothing in this Act shall be construed to allow simulcasting or wagering at any time other than when a race meet is being conducted."

SECTION 4. Subsections (A), (B), (C), (E) and (G) of Section 23 of Act No. 46 of the Acts of Arkansas of 1957, as amended, are hereby amended to read as follows:

"Section 23. (A) Each franchise holder conducting a racing meet under the provisions of this Act shall keep its books and records in such manner as to clearly show the total amount of moneys wagered on each and every race held or conducted at each such meet, and the disposition of such moneys.

(B) (1) At the racing meet conducted in calendar year 1987, the franchise holder shall withhold and retain for its own use and benefit ten percent

(10.00%) of all moneys wagered on races where the wagerer is required to select one (1) horse and fourteen percent (14.00%) of all moneys wagered on races where the wagerer is required to select more than one (1) horse. At the racing meet conducted in calendar year 1988, the franchise holder shall withhold and retain for its own use and benefit ten and fifty-five hundredths percent (10.55%) of all moneys wagered on races where the wagerer is required to select one (1) horse and sixteen percent (16.00%) of all moneys wagered on races where the wagerer is required to select more than one (1) horse. At the racing meet conducted in calendar year 1989, the franchise holder shall withhold and retain for its own use and benefit eleven percent (11.00%) of all moneys wagered on races where the wagerer is required to select one (1) horse and sixteen percent (16.00%) of all moneys wagered on races where the wagerer is required to select more than one (1) horse. At the racing meet conducted in calendar year 1990, the franchise holder shall withhold and retain for its own use and benefit eleven and fifty-five hundredths percent (11.55%) of all moneys wagered on races where the wagerer is required to select one (1) horse and sixteen percent (16.00%) of all moneys wagered on races where the wagerer is required to select more than one (1) horse. At the racing meet conducted in calendar year 1991, and at the racing meet held in any calendar year thereafter, the franchise holder shall withhold and retain for its own use and benefit twelve percent (12.00%) of all moneys wagered on races where the wagerer is required to select one (1) horse and sixteen percent (16.00%) of all moneys wagered on races where the wagerer is required to select more than one (1) horse.

(B)(2) Of the moneys withheld by the franchise holder pursuant to the provisions of subsection (B)(1) herein, and from such portion of said moneys as are set aside by the franchise holder for purses, the sum of one percent (1.00%) shall be paid to the Arkansas Horsemen's Benevolent and Protective Association to be used for benevolent purposes. Such payment shall be made by the franchise holder at the conclusion of each racing meet.

(C)(1) In addition to the amount withheld under (B) above, the franchise holder shall withhold and pay the following:

(i) At the racing meet conducted in calendar year 1987, six and fifty-five hundredths percent (6.55%) of all moneys wagered shall be paid to the Commission for the use and benefit of the State of Arkansas, as a privilege tax. At the racing meet conducted in calendar year 1988, six percent

(6.00%) of all moneys wagered on races where the wagerer is required to select one (1) horse and four and fifty-five hundredths percent (4.55%) of all moneys wagered on races where the wagerer is required to select more than one (1) horse shall be paid to the Commission for the use and benefit of the State of Arkansas, as a privilege tax. At the racing meet conducted in calendar year 1989, five and fifty-five hundredths percent (5.55%) of all moneys wagered on races where the wagerer is required to select one (1) horse and four and fifty-five hundredths percent (4.55%) of all moneys wagered on races where the wagerer is required to select more than one (1) horse shall be paid to the Commission for the use and benefit of the State of Arkansas, as a privilege tax. At the racing meet conducted in calendar year 1990, five percent (5.00%) of all moneys wagered on races where the wagerer is required to select one (1) horse and four and fifty-five hundredths percent (4.55%) of all moneys wagered on races where the wagerer is required to select more than one (1) horse shall be paid to the Commission for the use and benefit of the State of Arkansas, as a privilege tax. At the racing meet conducted in calendar year 1991, and at the racing meet conducted in each calendar year thereafter, four and fifty-five hundredths percent (4.55%) of all moneys wagered on races where the wagerer is required to select one (1) horse and four and fifty-five hundredths percent (4.55%) of all moneys wagered on races where the wagerer is required to select more than one (1) horse shall be paid to the Commission for the use and benefit of the State of Arkansas, as a privilege tax; and

(ii) In the case of all racing meets for thoroughbred horses, forty-five hundredths of one percent (.45%) of all moneys wagered at such racing meet shall be paid to the Commission for deposit in the Arkansas Racing Commission Purse and Awards Fund to be used for purse supplements for two (2) stakes races only and breeders awards as hereinafter specified. The number of Arkansas bred races shall be a matter for negotiation between the track and the horsemen."

(E) (1) Breaks shall at all times be computed on the basis of ten cents (10_) on the dollar and the odd cents or breaks are hereby classified as special thoroughbred horse racing fees to be deposited and used as herein provided. During the first racing meet in any calendar year the franchise holder shall withhold and pay the breaks to the following recipients for the purposes hereinafter specified:

(a) 48.25% of the breaks shall be paid to the city or town in which any such racing meet is conducted, or, if such racing meet is not conducted within the corporate limits of a city or town, then such 48.25% of the breaks shall be paid to the county in which such racing meet is conducted;

(b) 11.75% of the breaks shall be paid to the county in which such racing meet is conducted whether or not such racing meet is conducted within the corporate limits of a city or town in such county; and

(c) the remaining 40.00% of the breaks shall be withheld and retained by the franchise holder for its own use and benefit.

(2) During the second and any subsequent racing meet in any calendar year, the franchise holder shall withhold and pay the breaks to the following recipients for the purposes hereinafter specified:

(a) 24.125% of the breaks shall be paid to the city or town in which any such racing meet is conducted, or, if such racing meet is not conducted within the corporate limits of a city or town, then such 24.125% of the breaks shall be paid to the county in which such racing meet is conducted;

(b) 5.875% of the breaks shall be paid to the county in which such racing meet is conducted whether or not such racing meet is conducted within the corporate limits of a city or town in such county; and

(c) 30% of the breaks shall be paid to the State of Arkansas; and

(d) the remaining 40.00% of the breaks shall be withheld and retained by the franchise holder for its own use and benefit.

(G) All such payments to the Commission under (C) (1) (ii) above and all payments to a city or town and county shall be made by the franchise holder at the conclusion of the racing meet involved. Such payments to the city or town and county shall be used by the city, town or county for such lawful purposes as the city, town or county shall determine. All payments due the State of Arkansas under (C) (1) (i) above shall be paid to the Commission daily."

SECTION 5. The purpose of this Act is to put the franchise holder in a position to maintain and improve its high level of racing operations in the face of increasing and severe competition by distributing adequate purses and undertaking and completing substantial construction, reconstruction and maintenance of facilities programs. It is intended that the franchise holder shall proceed in reliance upon the provisions of this Act to incur sufficient

debt to undertake a construction, reconstruction and maintenance of facilities program in the immediate future and to proceed with it in an orderly manner. The franchise holder shall periodically keep the Commission advised of the nature of and progress made concerning its construction, reconstruction and maintenance of facilities programs.

SECTION 6. The provisions of this Act shall be effective as of January 1, 1987 and thereafter. To this end, the provisions hereof shall be applicable to the racing meet conducted in calendar year 1987 as though it had been in effect when that meet started except as to (a) the increased amounts to be withheld on races where the wagerer is required to select more than one (1) horse and (b) the amount over six percent (6.00%) being fifty-five hundredths of one percent (.55%), paid to the Commission for the use and benefit of the State of Arkansas under the provisions of (C) (1) (i) of Section 23, as amended hereby, which increased and additional amounts ((a) and (b) above) can be withheld only on races run after the effective date of this Act. Also, all actions taken by the franchise holder, Commission, and city, town or county prior to and subsequent to the enactment of this Act which actions are in accordance with the provisions of this Act are hereby authorized, approved and ratified.

SECTION 7. The provisions (sections, sentences and phrases) of this Act are hereby declared to be severable and if any provision shall be determined illegal for any reason such determination shall not affect the validity of the remaining provisions and all remaining provisions shall continue in full force and effect.

SECTION 8. It is hereby found and declared that horse racing and activities related thereto in Arkansas have had a most significant favorable impact on the economy of the entire State and the welfare of our citizens and residents, which is threatened by increased competition from racing in other states, including new and improved plants and programs in surrounding and nearby states, and it is imperative that Arkansas franchise holders be able to increase purses and improve facilities in order to keep up with competition and hold and improve Arkansas' premiere and traditional position in horse racing; and that in order to accomplish these goals (essential to the welfare

of the State and its citizens and residents) the amendments and purposes set forth in this Act must be effective immediately. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the protection of the public peace, health and safety, shall take effect, and be in full force, immediately upon its passage and approval.

/s/ Canada

