

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995

# A Bill

SENATE BILL 246

4 By: Senators Everett and Lewellen  
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## 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

13 "AN ACT CONCERNING THE DISTRIBUTION OF  
14 MONEY WAGERED ON DOG RACING AND DOG  
15 RACING MEETS."  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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

1 State Racing Commission, in addition to night racing and that provided under  
2 subsection (c) of this section, up to five (5) additional daylight  
3 performances may be conducted each calendar week of a regular racing meet.

4 (e) All racing days provided for under §§ 23-111-503, 23-111-504, and  
5 23-111-505 shall be conducted at night."

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

8 "§ 23-111-509. Disposition of wagering money.

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

13 (b)(1) *In the calendar year 1995 and each calendar year thereafter, the*  
14 franchise holder shall withhold and retain for its own use and benefit  
15 sixteen percent (16%) of all moneys wagered up to and including one hundred  
16 twenty-five million dollars (\$125,000,000) and twelve percent (12%) of all  
17 moneys wagered in excess of one hundred twenty-five million dollars  
18 (\$125,000,000).

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

1 per calendar year. The Arkansas Racing Commission may audit and verify  
2 receipts and expenditures of the franchise holder in determining compliance  
3 with this subdivision. If there is a final determination by the Commission  
4 that any of the credits or payments provided in this subsection have not been  
5 used for the purposes herein specified, the franchise holder shall pay the  
6 amount equal to any moneys used for an unauthorized purpose to the Commission  
7 for the use and benefit of the State of Arkansas.

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

18       (c)(1) In the calendar year 1995 and each calendar year thereafter, for  
19 all racing meets conducted by the franchise holder, the franchise holder  
20 shall withhold and pay to the commission for the use and benefit of the State  
21 of Arkansas, as a privilege tax, three percent (3%) of all moneys wagered up  
22 to and including one hundred twenty-five million dollars (\$125,000,000),  
23 together with one-third (1/3) of the odd cents or breaks, and seven percent  
24 (7%) of all moneys wagered in excess of one hundred twenty-five million  
25 dollars (\$125,000,000), together with one-third (1/3) of the odd cents or  
26 breaks.

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

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

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

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

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

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

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

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

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

4 (g) All moneys due the State of Arkansas by the permit holder under  
5 subsection (c) of this section shall be paid to the commission daily, and all  
6 amounts due the city, town, or county under subsection (d) of this section  
7 shall be paid over to the treasurer of the city, town, or county immediately  
8 following the close of the racing meet."  
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10 SECTION 3. All provisions of this act of a general and permanent  
11 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
12 Code Revision Commission shall incorporate the same in the Code.  
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14 SECTION 4. If any provision of this act or the application thereof to  
15 any person or circumstance is held invalid, such invalidity shall not affect  
16 other provisions or applications of the act which can be given effect without  
17 the invalid provision or application, and to this end the provisions of this  
18 act are declared to be severable.  
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20 SECTION 5. All laws and parts of laws in conflict with this act are  
21 hereby repealed.  
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23 SECTION 6. EMERGENCY. It is hereby found and determined by the  
24 Eightieth General Assembly of the State of Arkansas that the state\_s  
25 greyhound pari-mutuel racetrack located in Crittenden County, Arkansas, and  
26 its constituent business base composed of kennel owners, breeders, trainers,  
27 and local business have been severely damaged by the development of casino  
28 gaming in the State of Mississippi. Casino gaming in Mississippi pays a  
29 disproportionately lower tax, allowing those operators to spend  
30 correspondingly higher amounts for marketing and promotion. The state\_s  
31 greyhound racetrack needs substantial renovation and needs substantial  
32 investment to promote attendance and tourism in order to compete. An  
33 immediate restructuring of the statutorily mandated payments is required to  
34 enable the state\_s greyhound racetrack to improve purse structures for the  
35 kennel owners; enhance the required charitable contributions which benefit

1 all citizens in the state; to continue to provide a significant employment  
2 base; and in order to maintain the viability of greyhound pari-mutuel racing  
3 in this state. The legislature hereby declares an emergency to exist and  
4 this act shall take effect immediately upon its passage. Therefore, an  
5 emergency is hereby declared to exist and this act being necessary for the  
6 immediate preservation of the public peace, health and safety shall be in  
7 full force and effect from and after its passage and approval.

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*/s/ Everett and Lewellen*

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