

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

State of Arkansas

As Engrossed: H3/11/99

82nd General Assembly

A Bill

Regular Session, 1999

HOUSE BILL 2213

By: Representative Jones

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 23-111-509 TO CLARIFY THE CIRCUMSTANCES UNDER WHICH ITS PROVISIONS APPLY TO LIVE, ON-PREMISES RACING AND TO SIMULCAST RACING, AND FOR OTHER PROVISIONS. "

Subtitle

"TO CLARIFY THE CIRCUMSTANCES UNDER WHICH THE PROVISIONS OF ARKANSAS CODE 23-111-509 APPLY TO LIVE, ON-PREMISES RACING AND TO SIMULCAST RACING. "

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

SECTION 1. Arkansas Code 23-111-509(b) is amended to read as follows:

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

(2)(A) From the amount withheld and retained by the franchise holder, the franchise holder shall agree that the following credits will be made in the following percentage amounts of all moneys wagered on live, on-premises races up to and including one hundred twenty-five million dollars (\$125,000,000) per calendar year, which shall be in addition to any other credits or payments:

(i) Seven-eighths of one percent (.875%) to be used by

1 the franchise holder for supplements for increasing purses awarded at races
2 conducted at the franchise holder's facility;

3 (ii) Three-eighths of one percent (.375%) to the
4 institutions or funds described in §§ 23-111-503 - 23-11-505 and 23-111-515 on
5 a proportionate basis;

6 (iii) One-fourth of one percent (.25%) to be used by
7 the franchise holder to maintain employee health benefits for the employees of
8 the franchise holder;

9 (iv) One-half of one percent (.5%) to be used by the
10 franchise holder for capital improvements to be made by the franchise holder
11 at the racing facility; and

12 (v) One-half of one percent (.5%) to be used by the
13 franchise holder for promotions to be conducted by the franchise holder to
14 encourage patronage and tourism.

15 (B) These credits will not accrue on moneys wagered on
16 live, on-premises races in excess of one hundred twenty-five million dollars
17 (\$125,000,000) per calendar year.

18 (C) The Arkansas Racing Commission may audit and verify
19 receipts and expenditures of the franchise holder in determining compliance
20 with this subdivision (b)(2).

21 (D) If there is a final determination by the commission
22 that any of the credits or payments provided in this subsection have not been
23 used for the purposes herein specified, the franchise holder shall pay the
24 amount equal to any moneys used for an unauthorized purpose to the commission
25 for the use and benefit of the State of Arkansas.

26 (3) 'Capital improvements' as used in this section, shall include
27 all items and expenditures incurred for new construction with related
28 equipment, reconstruction, renovation, reconditioning, and repairing of
29 facilities with related equipment, or for debt service on money borrowed by
30 the franchise holder for those enumerated purposes. In the case of capital
31 improvements, the commission may use a multiyear approach based on a multiyear
32 program being undertaken by the franchise holder so that accountability for
33 expenditures may be based on expenditures made during the entire multiyear
34 period out of the capital improvement moneys derived during the multiyear
35 period."

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

"(c)(1) In the calendar year 1995 and each calendar year thereafter, for all racing meets conducted by the franchise holder, the franchise holder shall withhold and pay to the commission for the use and benefit of the State of Arkansas, as a privilege tax:

(A) Three percent (3%) of all moneys wagered on live, on-premises races up to and including one hundred twenty-five million dollars (\$125,000,000), together with one-third (1/3) of the odd cents or breaks; and

(B) Seven percent (7%) of all moneys wagered on live, on-premises races in excess of one hundred twenty-five million dollars (\$125,000,000), together with one-third (1/3) of the odd cents or breaks.

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

(A) Two percent (2%) of all moneys wagered each day at the franchise holder's facility on simulcast races up to and including three hundred fifty thousand dollars (\$350,000), together with one-third (1/3) of the odd cents or breaks;

(B) Three percent (3%) of all moneys wagered each day at the franchise holder's facility on simulcast races in excess of three hundred fifty thousand dollars (\$350,000), but less than or equal to five hundred thousand dollars (\$500,000), together with one-third (1/3) of the odd cents or breaks; and

(C) Six percent (6%) of all moneys wagered each day at the franchise holder's facility on simulcast races in excess of five hundred thousand dollars (\$500,000), together with one-third (1/3) of the odd cents or breaks. "

SECTION 3. Arkansas Code 23-111-509(d) is amended to read as follows:

"(d) The franchise holder shall withhold and pay to the city or town in which the racing track is located two-thirds (2/3) of the odd cents or breaks on all moneys wagered on live, on-premises racing and on simulcast racing, or, if the track is not located within the corporate limits of a city or town, then the two-thirds (2/3) of the odd cents or breaks on all money wagered on live, on-premises racing and on simulcast racing shall be paid to the county

1 in which the track is located."
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3 SECTION 4. It is hereby found and determined by the Eighty-Second
4 General Assembly of the State of Arkansas that confusion and conflict has
5 developed over the proper interpretation of the provisions of Arkansas Code
6 § 23-111-509, as amended herein; that these amendments are necessary to
7 clarify and resolve such confusion and conflict, and are consistent with the
8 original intent of past General Assemblies and with the interpretation
9 accorded by the Department of Finance and Administration and by the Arkansas
10 Racing Commission; and that these amendments therefore shall be retroactive to
11 the dates of their respective, original dates of original enactment.
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13 SECTION 5. All provisions of this act of a general and permanent nature
14 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
15 Revision Commission shall incorporate the same in the Code.
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17 SECTION 6. If any provision of this act or the application thereof to
18 any person or circumstance is held invalid, such invalidity shall not affect
19 other provisions or applications of the act which can be given effect without
20 the invalid provision or application, and to this end the provisions of this
21 act are declared to be severable.
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23 SECTION 7. All laws and parts of laws in conflict with this act are
24 hereby repealed.
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26 SECTION 9. EMERGENCY CLAUSE. It is hereby found and determined by the
27 Eighty-second General Assembly that this act is necessary in order to
28 eliminate confusion and conflict regarding the interpretation of Arkansas Code
29 23-111-509 and to facilitate the collection and distribution of funds as
30 referenced therein. Therefore, an emergency is declared to exist and this act
31 being immediately necessary for the preservation of the public peace, health
32 and safety shall become effective on the date of its approval by the Governor.
33 If the bill is neither approved nor vetoed by the Governor, it shall become
34 effective on the expiration of the period of time during which the Governor
35 may veto the bill. If the bill is vetoed by the Governor and the veto is
36 overridden, it shall become effective on the date the last house overrides the

1 veto.

/s/ Jones

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