

HOUSE BILL NO. 616

INTRODUCED BY B. MCCHESENEY, GILLAN, GROESBECK, THOMAS, J. TROPILA, OLSON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IT IS LAWFUL TO WAGER ON A FANTASY SPORTS LEAGUE CONDUCTED BY A PARIMUTUEL FACILITY THAT HAS BEEN LICENSED BY THE BOARD OF HORSERACING; PROVIDING A STATUTORY APPROPRIATION; AND AMENDING SECTIONS 23-4-101, 23-4-104, 23-4-201, 23-4-202, 23-4-301, 23-4-302, 23-4-304, 23-5-801, 23-5-802, ~~AND 23-5-805~~, AND 23-5-806, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-4-101, MCA, is amended to read:

"23-4-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Board" means the board of horseracing provided for in 2-15-3106.

(2) "Board of stewards" means a board composed of three stewards who supervise race meets.

(3) "Department" means the department of livestock provided for in Title 2, chapter 15, part 31.

(4) "Fantasy sports league" has the meaning provided in 23-5-801.

~~(4)~~(5) "Immediate family" means the spouse, parents, children, grandchildren, brothers, or sisters of an official or licensee regulated by this chapter who have a permanent or continuous residence in the household of the official or licensee and all other persons who have a permanent or continuous residence in the household of the official or licensee.

~~(5)~~(6) "Minor" means a person under 18 years of age.

(7) "Parimutuel facility" means a facility licensed by the board at which fantasy sports leagues are conducted and wagering on the outcome under a parimutuel system is permitted.

(8) "PARIMUTUEL NETWORK" MEANS AN ASSOCIATION LICENSED BY THE BOARD TO COMPILE AND DISTRIBUTE FANTASY SPORTS LEAGUE ROSTERS AND WEEKLY POINT TOTALS FOR LICENSED PARIMUTUEL FACILITIES AND TO MANAGE STATEWIDE PARIMUTUEL WAGERING POOLS ON FANTASY SPORTS LEAGUES.

~~(6)~~~~(8)~~(9) "Persons" means individuals, firms, corporations, fair boards, and associations.

~~(7)~~~~(9)~~(10) (a) "Race meet" means racing of registered horses or mules at which the parimutuel system of wagering is used. The term includes horseraces, mule races, and greyhound races that are simulcast.

(b) The term does not include live greyhound racing.

~~(8)(10)(11)~~ "Racing" means live racing of registered horses or mules and simulcast racing of horses, mules, and greyhounds.

~~(9)(11)(12)~~ "Simulcast" means a live broadcast of an actual horserace, mule race, or greyhound race at the time it is run. The term includes races of local or national prominence.

~~(10)(12)(13)~~ "Simulcast facility" means a facility at which horseraces, mule races, or greyhound races are simulcast and wagering on the outcome is permitted under the parimutuel system.

~~(13)(14)~~ "Simulcast parimutuel network" means an association licensed by the board to receive or originate intrastate and interstate simulcast race signals, relay the race signals to licensed simulcast facilities, compile and distribute fantasy sports league rosters and weekly point totals for licensed parimutuel facilities, and ~~to~~ AND manage statewide parimutuel wagering pools on simulcast races and. A SIMULCAST PARIMUTUEL NETWORK MAY BE LICENSED BY THE BOARD TO OPERATE A STATEWIDE PARIMUTUEL WAGERING POOL FOR fantasy sports leagues.

~~(11)(14)(15)~~ "Steward" means an official hired by the department and by persons sponsoring a race meet to regulate and control the day-to-day conduct and operation of a sanctioned meet."

Section 2. Section 23-4-104, MCA, is amended to read:

"23-4-104. Duties of board. The board shall adopt rules to govern race meets and the parimutuel system. These rules shall include the following:

- (1) definitions;
- (2) auditing;
- (3) supervision of the parimutuel system;
- (4) corrupt practices;
- (5) supervision, duties, and responsibilities of the executive secretary, presiding steward, racing secretary, and other racing officials;
- (6) licensing of all personnel who have anything to do with the substantive operation of racing;
- (7) the establishment of dates for race meets and meetings in the best interests of breeding and racing in this state;
- (8) the veterinary practices and standards ~~which~~ that must be observed in connection with race meets;
- (9) absolute responsibility of trainers for the condition of horses and mules, regardless of the acts of third parties;
- (10) licensing or renewal of a license of a person whose license has been suspended by the board or

another horseracing jurisdiction;

(11) setting license fees commensurate with the cost of issuing a license;

(12) the time, conduct, and supervision of simulcast races and fantasy sports leagues and parimutuel betting on simulcast races and fantasy sports leagues; and

(13) licensing, approval, and regulation of simulcast facilities."

Section 3. Section 23-4-201, MCA, is amended to read:

"23-4-201. Licenses. (1) A person may not hold a race meet, including simulcast race meets under the parimutuel system, or operate as CONDUCT FANTASY SPORTS LEAGUE WAGERING THROUGH a parimutuel facility, PARIMUTUEL NETWORK, OR A SIMULCAST PARIMUTUEL NETWORK conducting a fantasy sports league in this state without a valid license issued by the department under this chapter. A person applying for a license to hold a race meet under this chapter shall file with the department an application that must set forth the time, place, and number of days the license will continue and other information the board requires.

(2) A person who participates in a race meet must be licensed and charged an annual fee set by the board. The annual fee must be paid to the department and used for expenses of administering this chapter. Each person holding a license under this chapter shall comply with this chapter and with the rules adopted and orders issued by the board.

(3) A license may not be issued to a person who has failed to pay the fees, taxes, or money required under this chapter.

(4) An application to hold a race meet must be submitted to the department, and the board shall act on the application within 30 days. The board is the sole judge of whether the race meet may be licensed and the number of days the meet may continue.

(5) The board shall require that a fair board and an independent racing association conducting a race meet comply with the requirements of the rules adopted by the board before granting a license.

(6) A racing association consisting of a local fair board or an association approved by a local fair board may apply for a license to hold a simulcast race meet in a simulcast facility.

(7) An unexpired license held by a person who violates this chapter or who fails to pay to the department the sums required under this chapter is subject to cancellation and revocation by the board.

(8) A license to operate a parimutuel facility conducting fantasy sports league wagering may not be issued to an applicant unless the applicant is also licensed under Title 23, chapter 5."

Section 4. Section 23-4-202, MCA, is amended to read:

"23-4-202. (Temporary) Penalty for violations of law -- authority of board -- judicial review. (1) A person holding a race meet or an owner, trainer, or jockey participating in a race meet, without first being licensed under this chapter, or a person violating this chapter is guilty of a misdemeanor.

(2) The board or, upon the board's authorization, the board of stewards of a race meet at which they officiate may exclude from racecourses in this state a person whom the board considers detrimental to the best interest of racing as defined by rules of the board.

(3) As its own formal act or through an act of a board of stewards of a race meet, the board may suspend or revoke any license issued by the department to a licensee and assess a fine, not to exceed \$1,000, against a licensee who violates any of the provisions of this chapter or any rule or order of the board. In addition to the suspension or revocation and fine, the board may forbid application for relicensure for a 2-year period. Fines collected under this subsection must be deposited in the general fund.

(4) The board shall promulgate rules implementing this chapter, including the right to a hearing for individuals against whom action is taken or proposed under this chapter. The rules may include provisions for the following:

(a) summary imposition of penalty by the stewards of a race meet, including a fine and license suspension, subject to review under the contested case provisions of the Montana Administrative Procedure Act;

(b) stay of a summary imposition of penalty by either the board or board of stewards;

(c) retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;

(d) setting aside of up to 3% of exotic wagering on races, including simulcast races, to be deposited in the board's agency fund account. The board shall then distribute all funds collected under this subsection to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(e) using 2% of exotic wagering on live racing to be immediately and equally distributed to all purses except stakes races;

(f) assessment of penalty and interest on the late payment of fines, which must be paid before licenses are reinstated;

(g) definition of exotic forms of wagering on races to be allowed;

(h) standards for simulcast facilities; and

(i) conduct and supervision of simulcast races and parimutuel betting or wagering on simulcast races.

(5) The district court of the first judicial district of the state has exclusive jurisdiction for judicial review

of cases arising under this chapter.

23-4-202. (Effective July 1, 2007) Penalty for violations of law -- authority of board -- judicial review. (1) ~~(A) A person holding a race meet or an owner, trainer, or jockey participating in a race meet or operating a parimutuel facility conducting fantasy sports league wagering~~ without first being licensed under this chapter or a person violating this chapter is guilty of a misdemeanor.

~~(B) A PERSON OPERATING A PARIMUTUEL FACILITY, PARIMUTUEL NETWORK, OR SIMULCAST PARIMUTUEL NETWORK THAT CONDUCTS FANTASY SPORTS LEAGUE WAGERING WITHOUT FIRST BEING LICENSED UNDER THIS CHAPTER OR A PERSON VIOLATING THIS CHAPTER IS GUILTY OF A MISDEMEANOR.~~

(2) The board or, upon the board's authorization, the board of stewards of a race meet at which the stewards officiate may exclude from racecourses a person whom the board or board of stewards considers detrimental to the best interest of racing as defined by rules of the board.

(3) As its own formal act or through an act of a board of stewards of a race meet, the board may suspend or revoke any license issued by the department to a licensee and assess a fine, not to exceed \$1,000, against a licensee who violates any of the provisions of this chapter or any rule or order of the board. In addition to the suspension or revocation and fine, the board may prohibit application for relicensure for a 2-year period. Fines collected under this subsection must be deposited in the general fund.

(4) The board shall promulgate rules implementing this chapter, including the right to a hearing for individuals against whom action is taken or proposed under this chapter. The rules may include provisions for the following:

(a) summary imposition of penalty by the stewards of a race meet, including a fine and license suspension, subject to review under the contested case provisions of the Montana Administrative Procedure Act;

(b) stay of a summary imposition of penalty by either the board or board of stewards;

(c) retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;

(d) setting aside of up to 3% of exotic wagering on races, including simulcast races, to be deposited in a state special revenue account and statutorily appropriated to the board as provided in 17-7-502. The board shall then distribute all funds collected under this subsection to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(e) using 2% of exotic wagering on live racing to be immediately and equally distributed to all purses except stakes races;

(f) assessment of penalty and interest on the late payment of fines, which must be paid before licenses are reinstated;

- (g) definition of exotic forms of wagering on races to be allowed;
- (h) standards for simulcast facilities; ~~and~~
- (i) conduct and supervision of simulcast races and parimutuel betting or wagering on simulcast races;

and

(j) conduct and supervision of parimutuel facilities, PARIMUTUEL NETWORKS, SIMULCAST PARIMUTUEL NETWORKS, and parimutuel wagering on fantasy sports leagues conducted at parimutuel facilities.

(5) The district court of the first judicial district of the state has exclusive jurisdiction for judicial review of cases arising under this chapter."

Section 5. Section 23-4-301, MCA, is amended to read:

"23-4-301. Parimutuel betting -- other betting illegal. (1) It is unlawful to make, report, record, or register a bet or wager on the result of a contest of speed, skill, or endurance of an animal, whether the contest is held within or outside of this state, except under 23-5-502 or this chapter.

(2) A licensee conducting a race meet under this chapter may provide a place in the race meet grounds or enclosure where the licensee may conduct or supervise the use of the parimutuel system by patrons on the result of the races conducted under this chapter and the rules of the board.

(3) A person licensed under this chapter to hold a race meet may simulcast live races at a place in the race meet grounds or simulcast facility where the licensee may conduct or supervise the use of the parimutuel system by patrons on the results of simulcast races approved by the board.

(4) It is unlawful to conduct pool selling or bookmaking or to circulate handbooks or to bet or wager on a race of a licensed race meet, other than by the parimutuel system and in the race meet grounds or enclosure where the race is held, or to permit a minor to use the parimutuel system.

(5) Each licensee conducting a parimutuel system for an intrastate simulcast race meet shall combine the parimutuel pools at a simulcast facility with those at the actual racing facility for the purpose of determining the odds and computing payoffs. The amount of the handle at the simulcast race meet must be combined with the amount of parimutuel handle at the live racing facility for the purposes of distribution of money derived from parimutuel betting under 23-4-302 and 23-4-304.

(6) Negotiated purse money from intrastate and interstate simulcast parimutuel handles at racing associations that do not conduct live racing will be pooled and distributed to all tracks conducting live racing, all moneys to be distributed on a percent, based on each track's percent, of total annual on-track parimutuel handle.

(7) It is unlawful to:

(a) conduct pool selling or bookmaking or to wager on a fantasy sports league other than by the parimutuel system and by being physically present at the licensed parimutuel facility;

(b) permit a minor to use the parimutuel system; or

(c) conduct internet or telephone wagering on fantasy sports leagues.

(8) Each parimutuel facility licensee conducting fantasy sports league wagering pursuant to 23-5-802 shall separate the fantasy sports parimutuel handle from the simulcast race meet parimutuel handle and shall distribute the fantasy sports parimutuel funds as provided in 23-4-302."

Section 6. Section 23-4-302, MCA, is amended to read:

"23-4-302. (Temporary) Distribution of deposits -- breakage. (1) Each licensee conducting the parimutuel system shall distribute all funds deposited in any pool to the winner of the parimutuel pool, less an amount that in the case of exotic wagering on races may not exceed 26% and in all other races may not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as "breakage".

(2) Each licensee conducting the parimutuel system for a simulcast race meet shall distribute all funds deposited with the licensee in any pool for the simulcast race meet, less an amount that in the case of exotic wagering on these races may not exceed 26%, unless the signal originator percentage is higher, in which case the Montana simulcast licensee may adopt the same percentage withheld as the place where the signal originated, and that in all other of these races may not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as "breakage".

(3) Each licensee conducting a parimutuel system for a simulcast race meet shall deduct 1% of the total amount wagered on the race meet and deposit it in the board's agency fund account. The board shall then distribute all funds collected under this subsection to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

23-4-302. (Effective July 1, 2007) Distribution of deposits -- breakage. (1) Each licensee conducting the parimutuel system for a simulcast race meet shall distribute all funds deposited in any pool to the winner of the parimutuel pool, less an amount that in the case of exotic wagering on races may not exceed 26% and in all other races may not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as "breakage".

(2) Each licensee conducting the parimutuel system for a simulcast race meet shall distribute all funds

deposited with the licensee in any pool for the simulcast race meet, less an amount that in the case of exotic wagering on these races may not exceed 26%, unless the signal originator percentage is higher, in which case the Montana simulcast licensee may adopt the same percentage withheld as the place where the signal originated, and that in all other of these races may not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as "breakage".

(3) Each licensee conducting a parimutuel system for a simulcast race meet shall deduct 1% of the total amount wagered on the race meet and deposit it in a state special revenue account. The funds deposited are statutorily appropriated to the board as provided in 17-7-502. The board shall then distribute all funds collected under this subsection to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(4) (a) Each THE parimutuel facility NETWORK licensee conducting fantasy sports league wagering shall distribute all funds deposited in the pool to the winner of the parimutuel pool less the takeout amount of 26% of the total deposits.

(b) The takeout amount must be distributed as follows:

(i) 15% to the parimutuel facility licensee;

(ii) 24% to the simulcast parimutuel network licensee as an administrative fee; and

(iii) 61% to the board's special revenue account. The funds deposited are statutorily appropriated as provided in 17-7-502. The board shall use all funds collected under this subsection (4)(b)(iii) for administration of this chapter, for distribution to live race purses, and for other purposes the board considers appropriate for the good of the existing horseracing industry.

(c) The odd cents of all redistribution based on each dollar deposited that exceeds a sum equal to the next lowest multiple of 10, known as "breakage", as well as unclaimed winning tickets from each parimutuel pool must be distributed to the simulcast parimutuel network licensee."

Section 7. Section 23-4-304, MCA, is amended to read:

"23-4-304. (Temporary) Gross receipts -- department's percentage -- collection and allocation.

(1) (a) The licensee shall pay to the department within 5 days following receipt by the licensee 1% of the gross receipts of each day's parimutuel betting at each race meet. At the end of each race meet the licensee shall prepare a report to the department showing the amount of the overpayments and underpayments. If the report shows the underpayments to be in excess of the overpayments, the balance must be paid to the department.

Money paid to the department may be used for the expenses incurred in carrying out this chapter. The licensee shall, at the same time, pay to the department all funds collected under 23-4-202(4)(d) on exotic wagering on races. These funds must be deposited in the board's agency fund account. The board shall then distribute all funds collected under 23-4-202(4)(d) to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(b) Each licensed simulcast facility shall pay to the department either 1% of the gross receipts of each day's parimutuel betting at each race meet or the actual cost to the board of regulating the simulcast race meet, whichever is higher. The money must be paid to the department within 5 days after receipt of the money by the licensee. At the end of each race meet the licensed simulcast facility shall prepare a report to the department showing the amount of the overpayments and underpayments. If the report shows the underpayments to be in excess of the overpayments, the balance must be paid to the department. Money paid to the department must be deposited in an account in the state special revenue fund and must be used for the administration of this chapter. The licensed simulcast facility shall, at the same time, pay to the department all funds collected under 23-4-202(4)(d) on exotic wagering on races. These funds must be deposited in the board's agency fund account. The board shall then distribute all funds collected under 23-4-202(4)(d) to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(2) Prior to the beginning of the live racing season, funds collected under 23-4-202(4)(d) must be distributed by the department, after first passing through the board's agency fund account, to be used for race purses that are distributed to each live race meet by the board or for other purposes that the board considers appropriate for the good of the horseracing industry.

23-4-304. (Effective July 1, 2007) Gross receipts -- department's percentage -- collection and allocation. (1) (a) ~~The~~ Each live race meet licensee shall pay to the department within 5 days following receipt by the licensee 1% of the gross receipts of each day's parimutuel betting at each race meet. At the end of each race meet the licensee shall prepare a report to the department showing the amount of the overpayments and underpayments. If the report shows the underpayments to be in excess of the overpayments, the balance must be paid to the department. Money paid to the department may be used for the expenses incurred in carrying out this chapter. The licensee shall, at the same time, pay to the department all funds collected under 23-4-202(4)(d) on exotic wagering on races. These funds must be deposited in a state special revenue account. The board shall then distribute all funds collected under 23-4-202(4)(d) to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(b) Each licensed simulcast facility shall pay to the department either 1% of the gross receipts of each

day's parimutuel betting at each race meet or the actual cost to the board of regulating the simulcast race meet, whichever is higher. The money must be paid to the department within 5 days after receipt of the money by the licensee. At the end of each race meet the licensed simulcast facility shall prepare a report to the department showing the amount of the overpayments and underpayments. If the report shows the underpayments to be in excess of the overpayments, the balance must be paid to the department. Money paid to the department must be deposited in an account in the state special revenue fund and must be used for the administration of this chapter. The licensed simulcast facility shall, at the same time, pay to the department all funds collected under 23-4-202(4)(d) on exotic wagering on races. These funds must be deposited in a state special revenue account. The board shall then distribute all funds collected under 23-4-202(4)(d) to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(c) ~~Each~~ THE licensed parimutuel facility NETWORK conducting fantasy sports league wagering shall pay to the department 15% of the gross proceeds of each week's fantasy sports league parimutuel betting. The money must be paid to the department within 10 days after receipt of the money by the licensee. Money paid to the department must be deposited in an account in the state special revenue fund. The board shall then use the funds for the administration of this chapter and for distribution to live RACE purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(2) Prior to the beginning of the live racing season, funds collected under 23-4-202(4)(d) must be distributed by the department, after first passing through a state special revenue account, to be used for race purses that are distributed to each live race meet by the board or for other purposes that the board considers appropriate for the good of the horseracing industry.

(3) The funds collected under this section and deposited in a state special revenue account are statutorily appropriated to the board as provided in 17-7-502."

Section 8. Section 23-5-801, MCA, is amended to read:

"23-5-801. Fantasy sports leagues defined. As used in this part, a "fantasy sports league" means a gambling activity conducted in the following manner:

(1) A fantasy sports league consists of a limited number of persons or groups of persons who pay an entrance fee for membership in the league. The entrance fee may include an administrative fee.

(2) ~~(a)~~ Each league member creates a fictitious team composed of athletes from a given professional sport, such as baseball, basketball, or football. Player selection is conducted through random drawings ~~or~~, a bidding process, OR

~~(b) If the fantasy sports league is conducting parimutuel wagering at a parimutuel facility that has been licensed by the board of horseracing under Title 23, chapter 4, each league member may create a fictitious team composed of participants~~ BY SELECTION from a roster prepared by the simulcast parimutuel network coordinator.

(3) ~~After~~ Except for fantasy sports leagues operated by a parimutuel facility UNDER TITLE 23, CHAPTER 4, after the initial teams are selected, interim replacement of players may occur by trade or purchase. A specific fee, which may not exceed the total entrance fee, is charged for each transaction.

(4) A method, as defined by league rules, is devised to permit each team to compete against other teams in the league. Points are awarded to a team according to the performance of individual players or teams or both during a designated time period.

(5) A league member may be eligible to receive a payout based on the number of points accumulated. Payouts, which may be in the form of cash or prizes, are awarded according to league rules.

~~(6)~~ The roster of eligible participants prepared by the simulcast parimutuel network must be provided to each league member.

~~(6)(7)~~ Rules governing the conduct of the fantasy sports league must be provided in writing to each league member."

Section 9. Section 23-5-802, MCA, is amended to read:

"23-5-802. Fantasy sports leagues authorized. It is lawful to conduct or participate in a fantasy sports league, including a fantasy sports league that is conducted through the use of a parimutuel facility that has been licensed by the board of horseracing OPERATED UNDER A PARIMUTUEL SYSTEM OF WAGERING REGULATED under Title 23, chapter 4. It is unlawful to wager on a fantasy sports league by telephone or by the internet."

Section 10. Section 23-5-805, MCA, is amended to read:

"23-5-805. Payouts -- administrative fees charged by commercial establishments. (1) The ~~Except~~ as provided in subsection (2)(b), the total value of payouts to all league members must equal the amount collected for entrance, administrative, and transactions fees, minus payment for administrative expenses.

(2) (a) If ~~Except as provided in subsection (2)(b),~~ if a commercial establishment charges an administrative fee for conducting a fantasy sports league, the fee for each participant may not be more than 15% of the amount charged as a participant's entrance fee.

(b) A THE parimutuel facility NETWORK, as defined in 23-4-101, shall distribute all funds wagered on fantasy sports leagues in any wagering pool pursuant to the requirements of 23-4-302 and 23-4-304."

SECTION 11. SECTION 23-5-806, MCA, IS AMENDED TO READ:

"23-5-806. Sports betting prohibited -- applicability. Sections 23-5-801, 23-5-802, and 23-5-805 do not:

- (1) authorize betting or wagering on the outcome of an individual sports event; or
- (2) apply to gambling activities governed under Title 23, chapter 4, except for parimutuel facilities, parimutuel networks, or simulcast parimutuel networks conducting fantasy sports leagues, or under Title 23, chapter 5, part 2 or 5, of this title."

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