LEGISLATURE OF THE STATE OF IDAHO  
Sixty-first Legislature  
Second Regular Session - 2012

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 536

BY STATE AFFAIRS COMMITTEE

AN ACT
RELATING TO PARI-MUTUEL BETTING; AMENDING SECTION 54-2512, IDAHO CODE, TO REVISE PENALTIES FOR CERTAIN ACTS, TO PROVIDE REQUIREMENTS TO RECEIVE AN ADVANCE DEPOSIT WAGERING LICENSE, TO PROVIDE REQUIREMENTS OF LICENSEES REGARDING INTERSTATE SIMULCAST SIGNALS, TO PROVIDE AUTHORITY TO THE COMMISSION TO SUSPEND OR REVOKE LICENSES FOR CERTAIN CONDUCT AND TO ALLOW FOR CIVIL PENALTIES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-2512, Idaho Code, be, and the same is hereby amended to read as follows:

54-2512. PARI-MUTUEL BETTING -- OTHER BETTING ILLEGAL. (1) Any licensee conducting a race meet under this chapter may provide a place or places in the race meet grounds or enclosure at which such licensee may conduct and supervise the use of the pari-mutuel system by patrons on the result of the races conducted by such licensee at such race meet and, upon written application by a licensee and approval by the commission, on the result of simulcast and/or televised races. The commission shall issue no more than one (1) license to simulcast per live race meet licensee and there shall be no more simulcasting sites in the state than there are licensed live race meet sites.

(2) Licenses authorizing simulcast and/or televised races will be regulated by the commission, in addition to its other responsibilities, for the purpose of enhancing, promoting, and protecting the live race industry in the state of Idaho. No license authorizing simulcasting and/or televised races shall be issued to or renewed for persons that are not also licensed to conduct live race meets in the state of Idaho. Persons applying for a simulcast and/or televised race license shall have an agreement reached voluntarily or pursuant to binding arbitration in conformance with chapter 9, title 7, Idaho Code, with a horsemen's group as the term "horsemen's group" is defined in section 54-2502, Idaho Code. The agreement shall address, but not be limited to, number of live race days and percentage of the live race and simulcast handle that is dedicated to the live horse race purse structure. In addition, the agreement shall provide that all simulcast purse monies that are accrued as required by the horsemen's agreement be held in the simulcast purse moneys fund created pursuant to the provisions of section 54-2508, Idaho Code. Race days agreed upon shall be submitted to the Idaho racing commission for its approval.

(3) Upon written application by a live horse race licensee and approval by the Idaho state racing commission, a license may be issued to conduct and supervise the use of the pari-mutuel system by patrons on the result of simulcast and/or televised races in a facility not located on the grounds of
a live horse race meet facility, but within the county that the live horse race facility is located, subject to the following restrictions:

(a) In addition to the distribution and payment of the handle as described in section 54-2513, Idaho Code, a licensee operating under a license described in this subsection shall pay to the Idaho state racing commission for deposit in the live horse race purse distribution fund, a minimum of one percent (1%) of the gross daily receipts from simulcast and/or televised races. The Idaho state racing commission shall distribute the moneys from the live horse race purse distribution fund to those live horse race licensees that ran less than fifteen (15) live race days during the preceding calendar year. The distribution shall be made by dividing the total number of live race days of all of the qualified live horse racetracks combined into the moneys collected by the fund in any one (1) calendar year and by multiplying the result by the number of days run by each of the respective live horse racetracks individually; and

(b) Additionally, the licensee shall pay to the Idaho state racing commission a minimum of one percent (1%) of the gross daily receipts from simulcast and/or televised races conducted pursuant to the race purse distribution fund to the licensee whose license is being utilized to conduct simulcast and/or televised races pursuant to this section. These moneys shall be used by the licensee solely for live horse race meet purses; and

(c) Approval must be obtained from the board of county commissioners; and

(d) A license to conduct and supervise the use of the pari-mutuel system by patrons on the result of simulcast and/or televised races issued pursuant to this section may be leased to another person or entity but only with the approval of the Idaho state racing commission. A lessee of such a license shall be held by the Idaho state racing commission to the same standards as the original licensee.

(4) Upon written application by a live horse race licensee and approval by the Idaho state racing commission, a license may be issued to conduct and supervise the use of the pari-mutuel system by patrons on the result of simulcast and/or televised races in a facility located in another county within the state other than the county where the licensee's live racetrack facility is located subject to the following restrictions:

(a) In addition to the distribution and payment of the handle as described in section 54-2513, Idaho Code, a licensee operating under a license described in this subsection shall pay to the Idaho state racing commission for deposit in the live horse race purse distribution fund, a minimum of one percent (1%) of the gross daily receipts from simulcast and/or televised races. The Idaho state racing commission shall distribute the moneys from the live horse race purse distribution fund to those live horse race licensees that ran less than fifteen (15) live race days during the preceding calendar year. The distribution shall be made by dividing the total number of live race days of all of the qualified live horse racetracks combined into the moneys collected by the fund in any one (1) calendar year and by multiplying the result by the
number of days run by each of the respective live horse racetracks individually; and

(b) Additionally, the licensee shall pay to the Idaho state racing commission a minimum of one percent (1%) of the gross daily receipts from simulcast and/or televised races conducted pursuant to the live horse race purse distribution fund to the licensee whose license is being utilized to conduct simulcast and/or televised races pursuant to this section. These moneys shall be used by the licensee solely for live horse race meet purses; and

(c) Approval must be obtained from the board of county commissioners of the county in which the simulcast and/or televised race facility is to be located; and

(d) A license to conduct and supervise the use of the pari-mutuel system by patrons on the result of simulcast and/or televised races issued under this section may be leased to another person or entity, but only with the approval of the Idaho state racing commission. A lessee of such a license shall be held by the Idaho state racing commission to the same standards as the original licensee.

(e) No simulcast and/or televised race license transferred from one (1) county to another shall be located in a facility within thirty (30) miles of a live horse racetrack without the approval of that live horse racetrack facility.

(f) No simulcast and/or televised race license can be transferred into a county that has had a live race license within the prior five (5) years.

(5) No more than one (1) simulcast and/or televised race facility per county shall be allowed. This includes the one (1) simulcast license authorized in section 54-2514A, Idaho Code.

(6) There is hereby created in the state treasury the live horse race purse distribution fund, to which shall be deposited moneys received by the Idaho state racing commission for the purposes described in this section. All moneys in the live horse race purse distribution fund are hereby perpetually appropriated to the Idaho state racing commission for payment as required in this section. Payments by the Idaho state racing commission from the live horse race purse distribution fund to the recipient live horse racetracks shall be made no later than thirty (30) days after Idaho state racing commission approval of a live race meet license application for the forthcoming calendar year.

(7) Once a total handle exceeding fourteen million dollars ($14,000,000) is realized from simulcasting and/or televised races conducted pursuant to this section in any one (1) calendar year, the Idaho state racing commission shall submit to the Idaho horse board a sum of five percent (5%) of the balance over fourteen million dollars ($14,000,000), but not to exceed twelve thousand five hundred dollars ($12,500) to be used by the Idaho horse board for youth programs and to the "Idaho Robert R. Lee Promise Scholarship Program" as detailed in chapter 43, title 33, Idaho Code, a sum of five percent (5%) of the balance over fourteen million dollars ($14,000,000), but not to exceed twelve thousand five hundred dollars ($12,500).

(8) Such pari-mutuel system conducted at such race meet shall not under any circumstances, if conducted under the provisions of this chapter and in
conformity thereto and to the rules of the commission, be held or construed to be unlawful, other statutes of this state to the contrary notwithstanding.

(9) The participation by a licensee in an interstate combined wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located.

(10) Advance deposit wagering on live and/or simulcast horse racing conducted by licensees is hereby declared to be lawful and within the scope of the licensee's license. As used in this section, "advance deposit wagering" means a form of wagering in which an account holder may deposit money with a licensee and then use the balance to fund wagers. The bettor can then contact the licensee from a location without actually being physically present at the licensee's premises in order to communicate the desired use of those funds for wagering purposes. However, no wager can be accepted by the licensee that exceeds the amount in the account held by the licensee for the person placing the wager. Any advance deposit wagering conducted by a person with a provider outside of the state by telephone or other electronic means shall be illegal a felony unless that provider is licensed by the Idaho state racing commission and provides a source market fee of not less than ten percent (10%) of the handle forwarded monthly to the commission. In order to receive an advance deposit wagering license, the applicant must comply with the provisions of subsection (12) of this section and must also reach a nondiscriminatory agreement regarding signal costs with any licensed facility in Idaho if such provider or affiliate is sending interstate simulcast signals to such licensed facility in Idaho. All moneys in the advance deposit wagering accounts held by the commission are hereby continuously appropriated to the commission for payment as required by this section. Payments to recipients shall be made annually. Distribution of the source market fee shall be forty percent (40%) to purses to be deposited directly into the horsemen's purse account at all tracks weighted by number of races ran through the year of distribution, thirty percent (30%) to the simulcast sites in the state weighted by the annual simulcast handle, five percent (5%) to the track distribution fund, five percent (5%) to the breed distribution fund, five percent (5%) to the Idaho state racing commission, five percent (5%) to the public school income fund, and ten percent (10%) for track operating expenses at the live tracks with distribution weighted on the number of race days. All moneys in the track operating accounts are hereby continuously appropriated to the commission for payment as required by this section. For purposes of this section, wagering instructions concerning funds held in an advance deposit account shall be deemed to be issued within the licensee's enclosure. As used in this section, "source market fee" means that part of a wager, made outside of the state by an Idaho resident, that is returned to the state of Idaho. The commission may promulgate rules pursuant to chapter 52, title 67, Idaho Code, to implement the provisions of this subsection.

(11) Pari-mutuel taxes or commissions may not be imposed on any amounts wagered in an interstate combined wagering pool other than amounts wagered within this jurisdiction.
(12) No licensee shall engage in any anticompetitive or deceptive practices in the process of contracting for the right to send any interstate simulcast signal to a licensed facility in Idaho. For purposes of this subsection, anticompetitive or deceptive practices shall include, but not be limited to:

(a) Any agreement to charge excessive or unreasonable fees for the right to receive an interstate signal. In determining whether a fee is excessive or unreasonable, the commission shall consider prevailing rates paid for comparable signals in the past, prevailing rates paid outside Idaho and whether any commonality of ownership or revenue sharing exists, partially or wholly, between the Idaho licensee and the entity receiving the simulcast fees; or

(b) Any agreement, combination, trust or joint enterprise with any other track or entity in which multiple interstate signals are bundled together for the purpose of securing an excessive or unreasonable fee for one (1) or more signals in the group in exchange for the right to receive any of the signals in the group; or

(c) Any other activity with the purpose or effect of artificially inflating prices beyond reasonable market rates or passing on or attempting to pass on any portion of the ten percent (10%) advance deposit wagering fee to licensed facilities in Idaho.

The commission may suspend or revoke licenses and may impose civil penalties of up to ten thousand dollars ($10,000) per occurrence for violation of this subsection.

(13) It shall be unlawful to conduct pool selling, bookmaking, or to circulate handbooks, or to bet or wager on a race of any licensed race meet, other than by the pari-mutuel system; and it shall further be unlawful knowingly to permit any minor to use the pari-mutuel system.