

IN THE SENATE

SENATE BILL NO. 1177

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO HORSE RACING; AMENDING SECTION 54-2512, IDAHO CODE, TO REVISE
2 PROVISIONS REGARDING LICENSE TRANSFER AND THE DISTRIBUTION AND USE
3 OF CERTAIN FUNDS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
4 54-2513, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE DISTRIBUTION
5 OF CERTAIN FUNDS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN
6 EMERGENCY.
7

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

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

11 54-2512. PARI-MUTUEL BETTING -- OTHER BETTING ILLEGAL. (1) Any li-
12 censee conducting a race meet under this chapter may provide a place or
13 places in the race meet grounds or enclosure at which such licensee may con-
14 duct and supervise the use of the pari-mutuel system by patrons on the result
15 of the races conducted by such licensee at such race meet and, upon written
16 application by a licensee and approval by the commission, on the result of
17 simulcast and/or televised races. The commission shall issue no more than
18 one (1) license to simulcast per live race meet licensee and there shall be no
19 more simulcasting sites in the state than there are licensed live race meet
20 sites.

21 (2) Licenses authorizing simulcast and/or televised races will be reg-
22 ulated by the commission, in addition to its other responsibilities, for the
23 purpose of enhancing, promoting, and protecting the live race industry in
24 the state of Idaho. No license authorizing simulcasting and/or televised
25 races shall be issued to or renewed for persons that are not also licensed to
26 conduct live race meets in the state of Idaho. Persons applying for a simul-
27 cast and/or televised race license shall have an agreement reached volun-
28 tarily or pursuant to binding arbitration in conformance with chapter 9, ti-
29 tle 7, Idaho Code, with a horsemen's group as the term "horsemen's group" is
30 defined in section 54-2502, Idaho Code. The agreement shall address, but
31 not be limited to, number of live race days and percentage of the live race
32 and simulcast handle that is dedicated to the live horse race purse struc-
33 ture. In addition, the agreement shall provide that all simulcast purse mon-
34 eys that are accrued as required by the horsemen's agreement be held in the
35 simulcast purse moneys fund created pursuant to the provisions of section
36 54-2508, Idaho Code. Race days agreed upon shall be submitted to the Idaho
37 state racing commission for its approval.

38 (3) Upon written application by a live horse race licensee and approval
39 by the Idaho state racing commission, a license may be issued to conduct
40 and supervise the use of the pari-mutuel system by patrons on the result of
41 simulcast and/or televised races in a facility not located on the grounds of

1 a live horse race meet facility, but within the county that the live horse
2 race facility is located, subject to the following restrictions:

3 (a) In addition to the distribution and payment of the handle as de-
4 scribed in section 54-2513, Idaho Code, a licensee operating under a li-
5 cense described in this subsection shall pay to the Idaho state racing
6 commission for deposit in the live horse race purse distribution fund,
7 a minimum of one percent (1%) of the gross daily receipts from simul-
8 cast and/or televised races. The Idaho state racing commission shall
9 distribute the moneys from the live horse race purse distribution fund
10 to those live horse race licensees that ran less than fifteen (15) live
11 race days during the preceding calendar year. The distribution shall be
12 made by dividing the total number of live race days of all of the qual-
13 ified live horse racetracks combined into the moneys collected by the
14 fund in any one (1) calendar year and by multiplying the result by the
15 number of days run by each of the respective live horse racetracks indi-
16 vidually; and

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

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

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

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

38 (a) In addition to the distribution and payment of the handle as de-
39 scribed in section 54-2513, Idaho Code, a licensee operating under a li-
40 cense described in this subsection shall pay to the Idaho state racing
41 commission for deposit in the live horse race purse distribution fund,
42 a minimum of one percent (1%) of the gross daily receipts from simul-
43 cast and/or televised races. The Idaho state racing commission shall
44 distribute the moneys from the live horse race purse distribution fund
45 to those live horse race licensees that ran less than fifteen (15) live
46 race days during the preceding calendar year. The distribution shall be
47 made by dividing the total number of live race days of all of the qual-
48 ified live horse racetracks combined into the moneys collected by the
49 fund in any one (1) calendar year and by multiplying the result by the

1 number of days run by each of the respective live horse racetracks indi-
2 vidually; and

3 (b) Additionally, the licensee shall pay to the Idaho state racing com-
4 mission a minimum of one percent (1%) of the gross daily receipts from
5 simulcast and/or televised races conducted pursuant to the live horse
6 race purse distribution fund to the licensee whose license is being uti-
7 lized to conduct simulcast and/or televised races pursuant to this sec-
8 tion. These moneys shall be used by the licensee solely for live horse
9 race meet purses; and

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

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

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

23 (f) No simulcast and/or televised race license can be transferred into
24 a county that has had a live race license within the prior ~~five~~ three
25 (~~5~~) years.

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

29 (6) There is hereby created in the state treasury the live horse race
30 purse distribution fund, to which shall be deposited moneys received by the
31 Idaho state racing commission for the purposes described in this section.
32 All moneys in the live horse race purse distribution fund are hereby perpet-
33 ually appropriated to the Idaho state racing commission for payment as re-
34 quired in this section. Payments by the Idaho state racing commission from
35 the live horse race purse distribution fund to the recipient live horse race-
36 tracks shall be made no later than thirty (30) days after Idaho state racing
37 commission approval of a live race meet license application for the forth-
38 coming calendar year.

39 (7) Once a total handle exceeding fourteen million dollars
40 (\$14,000,000) is realized from simulcasting and/or televised races con-
41 ducted pursuant to this section in any one (1) calendar year, the Idaho state
42 racing commission shall submit to the Idaho horse board a sum of five percent
43 (5%) of the balance over fourteen million dollars (\$14,000,000), but not to
44 exceed twelve thousand five hundred dollars (\$12,500) to be used by the Idaho
45 horse board for youth programs and to the "Idaho Robert R. Lee Promise Schol-
46 arship Program" as detailed in chapter 43, title 33, Idaho Code, a sum of five
47 percent (5%) of the balance over fourteen million dollars (\$14,000,000), but
48 not to exceed twelve thousand five hundred dollars (\$12,500).

49 (8) Such pari-mutuel system conducted at such race meet shall not under
50 any circumstances, if conducted under the provisions of this chapter and in

1 conformity thereto and to the rules of the commission, be held or construed
2 to be unlawful, other statutes of this state to the contrary notwithstanding.
3

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

8 (10) Advance deposit wagering on live and/or simulcast horse racing
9 conducted by licensees is hereby declared to be lawful and within the scope
10 of the licensee's license. As used in this section, "advance deposit wager-
11 ing" means a form of wagering in which an account holder may deposit money
12 with a licensee and then use the balance to fund wagers. The bettor can
13 then contact the licensee from a location without actually being physically
14 present at the licensee's premises in order to communicate the desired use
15 of those funds for wagering purposes. However, no wager can be accepted by
16 the licensee that exceeds the amount in the account held by the licensee for
17 the person placing the wager. Any advance deposit wagering conducted by a
18 person with a provider outside of the state by telephone or other electronic
19 means shall be a felony unless that provider is licensed by the Idaho state
20 racing commission and provides a source market fee of not less than ten
21 percent (10%) of the handle forwarded monthly to the commission. In order
22 to receive an advance deposit wagering license, the applicant must comply
23 with the provisions of subsection (12) of this section and must also reach
24 a nondiscriminatory agreement regarding signal costs with any licensed
25 facility in Idaho if such provider or affiliate is sending interstate simul-
26 cast signals to such licensed facility in Idaho. All moneys in the advance
27 deposit wagering accounts held by the commission are hereby continuously
28 appropriated to the commission for payment as required by this section. Pay-
29 ments to recipients shall be made annually. From the effective date of this
30 act through December 31, 2022, distribution of the source market fee shall
31 be forty percent (40%) to purses to be deposited directly into the horse-
32 men's purse account at all tracks weighted by number of races ran through
33 the year of distribution, and thirty percent (30%) to the simulcast sites
34 in the state, not to exceed thirty thousand dollars (\$30,000) per site, and
35 the balance to the Idaho state racing commission, with sixty percent (60%)
36 of that amount to be used for funding of the Idaho state racing commission
37 and forty percent (40%) of that amount to be used for hair testing. On and
38 after January 1, 2023, distribution of the source market fee shall be forty
39 percent (40%) to purses to be deposited directly into the horsemen's purse
40 account at all tracks weighted by number of races ran through the year of dis-
41 tribution, thirty percent (30%) to the simulcast sites in the state weighted
42 by the annual simulcast handle, five percent (5%) to the track distribution
43 fund account, five percent (5%) to the breed distribution fund account, five
44 ten percent (510%) to the Idaho state racing commission, five percent (5%)
45 to the public school income fund, and ten percent (10%) for track operating
46 expenses at the live tracks with distribution weighted on the number of race
47 days. All moneys in the track operating accounts are hereby continuously
48 appropriated to the commission for payment as required by this section. For
49 purposes of this section, wagering instructions concerning funds held in an
50 advance deposit account shall be deemed to be issued within the licensee's

1 enclosure. As used in this section, "source market fee" means that part of a
 2 wager, made outside of the state by an Idaho resident, that is returned to the
 3 state of Idaho. The commission may promulgate rules pursuant to chapter 52,
 4 title 67, Idaho Code, to implement the provisions of this subsection.

5 (11) Pari-mutuel taxes or commissions may not be imposed on any amounts
 6 wagered in an interstate combined wagering pool other than amounts wagered
 7 within this jurisdiction.

8 (12) No licensee shall engage in any anticompetitive or deceptive prac-
 9 tices in the process of contracting for the right to send any interstate
 10 simulcast signal to a licensed facility in Idaho. For purposes of this sub-
 11 section, anticompetitive or deceptive practices shall include, but not be
 12 limited to:

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

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

25 (c) Any other activity with the purpose or effect of artificially in-
 26 flating prices beyond reasonable market rates or passing on or attempt-
 27 ing to pass on any portion of the ten percent (10%) advance deposit wa-
 28 gering fee to licensed facilities in Idaho.

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

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

36 SECTION 2. That Section 54-2513, Idaho Code, be, and the same is hereby
 37 amended to read as follows:

38 54-2513. HORSE RACING -- DISTRIBUTIONS OF DEPOSITS -- BREAKAGE. (A)
 39 Each licensee conducting the pari-mutuel system for live and simulcast horse
 40 races having an average daily handle in excess of one hundred thousand dol-
 41 lars (\$100,000) shall distribute all sums deposited in any pool as follows:

42 (1) Eighty-two percent (82%) of any win, place or show pool to the win-
 43 ner thereof, and eighteen percent (18%) to the licensee;

44 (2) Seventy-seven and one-quarter percent (77.25%) of all two (2) horse
 45 exotic wagers including, but not limited to, daily doubles and quinel-
 46 las to the winner thereof, three-quarters of one percent (.75%) to the
 47 Idaho state racing commission for deposit in the racing commission ac-
 48 count, and twenty-two percent (22%) to the licensee;

1 (3) Seventy-five and one-quarter percent (75.25%) of all three (3) or
2 more horse exotic wagers including, but not limited to, trifecta and
3 twin-trifecta to the winner thereof, three-quarters of one percent
4 (.75%) to the Idaho state racing commission for deposit in the racing
5 commission account, and twenty-four percent (24%) to the licensee.

6 (B) Each licensee conducting the pari-mutuel system for live and simul-
7 cast horse races having an average daily handle in excess of one hundred
8 thousand dollars (\$100,000) shall retain the sums deposited in any pool as
9 required in subsection (A) of this section, for distribution and payment
10 based upon gross daily receipts as follows:

11 (1) One and one-quarter percent (1.25%) of gross daily receipts, sepa-
12 rately stated, shall be paid to the Idaho state racing commission, for
13 deposit in the racing commission account, which is hereby created in the
14 state regulatory fund.

15 (2) One-half of one percent (.50%) of gross daily receipts from horse
16 races, separately stated, shall be paid to the Idaho state racing com-
17 mission for deposit in the track distribution account, which is hereby
18 created in the pari-mutuel distribution fund, for further distribution
19 to certain Idaho horse race tracks, defined as follows:

20 a. Recipient horse racing tracks shall be those which, during the
21 race meet year of distribution, have a total race handle from both
22 live races and simulcast races of less than five million dollars
23 (\$5,000,000);

24 b. Distributions to recipient horse racing tracks shall be
25 weighted proportionately on the number of days raced during the
26 year of distribution.

27 All moneys in the track distribution account are hereby continuously
28 appropriated to the commission for payment as required by this section.
29 Payments to horse racing tracks shall be made annually but not later
30 than December 15.

31 (3) One-half of one percent (.50%) of gross daily receipts from horse
32 races, separately stated shall be paid by the licensee to the commission
33 for deposit in the breed distribution account, which is hereby created
34 in the pari-mutuel distribution fund, for payment by the commission in
35 proportion to the ~~handle generated~~ races run by each horse breed, to
36 lawfully constituted representatives of each horse breed, to benefit
37 owners and/or breeders of Idaho bred racing thoroughbreds, racing quar-
38 ter horses, racing Appaloosas, racing paints and racing Arabians, sub-
39 ject to the approval of the commission. Moneys in the breed distribu-
40 tion account on December 31 of each year which have not been distributed
41 by the commission shall be paid to the public school income fund.

42 All moneys in the breed distribution account are hereby continuously
43 appropriated to the commission for payment as required by this section.
44 Payments to representatives shall be made quarterly.

45 (4) From the balance of gross daily receipts remaining with the li-
46 censee after the distributions required in subsection (B) (1), (2) and
47 (3) of this section from horse races, the following amounts shall be
48 paid or retained:

49 a. From the first \$20,000 of gross daily receipts, the licensee
50 shall retain the entire amount;

1 b. From the next \$10,000 of gross daily receipts (gross daily re-
2 receipts between \$20,000 and \$30,000), the public school income fund
3 and the equine education account shall each receive one-eighth of
4 one percent (.125%), and the licensee shall retain the balance;

5 c. From the next \$10,000 of gross daily receipts (gross daily re-
6 receipts between \$30,000 and \$40,000), the public school income fund
7 and the equine education account shall each receive sixty-two and
8 one-half hundredths percent (.625%), and the licensee shall re-
9 tain the balance;

10 d. From all amounts of over \$40,000 of gross daily receipts, the
11 public school income fund and the equine education account shall
12 each receive one and one-eighth percent (1.125%), and the licensee
13 shall retain the balance.

14 The public schools' and the equine education account's share shall be
15 paid by the licensee to the racing commission for deposit in the public
16 school income fund or the equine education account as appropriate. The
17 licensee's percentage shall be retained by the licensee.

18 (C) Each licensee conducting the pari-mutuel system for live and simul-
19 cast horse races having an average daily handle of one hundred thousand dol-
20 lars (\$100,000) or less shall distribute all sums deposited in any pool as
21 follows:

22 (1) Seventy-seven percent (77%) of any win, place or show pool to the
23 winner thereof, and twenty-three percent (23%) to the licensee;

24 (2) Seventy-six and one-quarter percent (76.25%) of all other pools to
25 the winner thereof, three-quarters of one percent (.75%) to the Idaho
26 state racing commission for deposit in the racing account, and twenty-
27 three percent (23%) to the licensee.

28 (D) Each licensee conducting the pari-mutuel system for live and
29 simulcast horse races shall retain twenty-three percent (23%) of all sums
30 deposited in any pool, for distribution and payment based upon gross daily
31 receipts as follows:

32 (1) One and one-quarter percent (1.25%) of gross daily receipts, sepa-
33 rately stated, shall be paid to the Idaho state racing commission, for
34 deposit in the racing commission account.

35 (2) One-half of one percent (.50%) of gross daily receipts from horse
36 races, separately stated, shall be paid to the Idaho state racing com-
37 mission for deposit in the track distribution account, for further dis-
38 tribution to certain Idaho horse race tracks, defined as follows:

39 a. Recipient horse racing tracks shall be those which, during the
40 race meet year of distribution, have a total race handle from both
41 live races and simulcast races of less than five million dollars
42 (\$5,000,000);

43 b. Distributions to recipient horse racing tracks shall be
44 weighted proportionately on the number of days raced during the
45 year of distribution.

46 All moneys in the track distribution account are hereby continuously
47 appropriated to the commission for payment as required by this section.
48 Payments to horse racing tracks shall be made annually but not later
49 than December 15.

1 (3) One-half of one percent (.50%) of gross daily receipts from horse
 2 races, separately stated shall be paid by the licensee to the commis-
 3 sion for deposit in the breed distribution account, for payment by the
 4 commission in proportion to the ~~handle generated~~ races run by each horse
 5 breed, to lawfully constituted representatives of each horse breed,
 6 to benefit owners and/or breeders of Idaho bred racing thoroughbreds,
 7 racing quarter horses, racing Appaloosas, racing paints and racing Ara-
 8 bians, subject to the approval of the commission. Moneys in the breed
 9 distribution account on December 31 of each year which have not been
 10 distributed by the commission shall be paid to the public school income
 11 fund. All moneys in the breed distribution account are hereby contin-
 12 uously appropriated to the commission for payment as required by this
 13 section. Payments to representatives shall be made quarterly.

14 (4) Twenty and three-quarters percent (20.75%) of gross daily receipts
 15 from horse races shall be paid or retained as follows:

16 a. From the first \$20,000 of gross daily receipts, the licensee
 17 shall retain twenty and three-quarters percent (20.75%);

18 b. From the next \$10,000 of gross daily receipts (gross daily re-
 19 cepts between \$20,000 and \$30,000), the public school income fund
 20 and the equine education account shall each receive one-eighth of
 21 one percent (.125%), and the licensee shall retain twenty and one-
 22 half percent (20.50%);

23 c. From the next \$10,000 of gross daily receipts (gross daily re-
 24 cepts between \$30,000 and \$40,000), the public school income fund
 25 and the equine education account shall each receive sixty-two and
 26 one-half hundredths percent (.625%), and the licensee shall re-
 27 tain nineteen and one-half percent (19.50%);

28 d. From all amounts of over \$40,000 of gross daily receipts, the
 29 public school income fund and the equine education account shall
 30 each receive one and one-eighth percent (1.125%), and the licensee
 31 shall retain eighteen and one-half percent (18.50%).

32 The public schools' share and the equine education account's share
 33 shall be paid by the licensee to the Idaho state racing commission for
 34 deposit in the public school income fund or the equine education account
 35 as appropriate. The licensee's percentage shall be retained by the li-
 36 censee.

37 (E) Each licensee may retain the odd cents of all redistribution to be
 38 based on each dollar deposited exceeding a sum equal to the next lowest mul-
 39 tiple of ten (10), known as breakage, and the total amount of unclaimed tick-
 40 ets at the termination of the time allowed by rule of the commission.

41 (F) If the fiscal year-end balance in the racing commission account ex-
 42 ceeds six hundred thousand dollars (\$600,000), the excess shall be trans-
 43 ferred by the office of the state controller to the pari-mutuel distribution
 44 fund, which is hereby created, for further distribution as follows:

45 (1) Sixty percent (60%) shall be deposited in the Idaho horse
 46 owner/breeder award account, which is hereby created in the pari-mutuel
 47 distribution fund, and shall be distributed by the Idaho state racing
 48 commission annually, but not later than December 15 of each year as fol-
 49 lows:

1 a. Fifty percent (50%) to the breeders of Idaho bred winners based
2 on the number of live races by each breed for the current calendar
3 year; and

4 b. Fifty percent (50%) in equal amounts to owners of Idaho bred
5 horse race winners.

6 c. All moneys in the Idaho horse owner/breeder award account are
7 hereby continuously appropriated to the commission for payment as
8 required in this section.

9 (2) Forty percent (40%) shall be deposited in the track purse enhance-
10 ment account, which is hereby created, and paid to all Idaho licensed
11 horse racetracks for the purpose of purse enhancement based on the num-
12 ber of live race dates held the preceding calendar year. Track purse en-
13 hancement moneys shall be disbursed no later than thirty (30) days af-
14 ter Idaho state racing commission approval of live race meet license ap-
15 plications for the forthcoming calendar year. All moneys in the track
16 purse enhancement account are hereby continuously appropriated to the
17 commission for payment as required by this section.

18 SECTION 3. An emergency existing therefor, which emergency is hereby
19 declared to exist, this act shall be in full force and effect on and after its
20 passage and approval.