

# HOUSE BILL No. 1401

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-31-7; IC 4-31.5; IC 6-8.1-1-1; IC 35-45-5-5.

**Synopsis:** Advance deposit wagering. Authorizes wagering on horse racing through advance deposit wagering. Provides for the regulation of advance deposit wagering. Imposes an excise tax on wagers made through advance deposit wagering by Indiana residents. Establishes the equine industry infrastructure fund for the deposit of the excise tax revenue. Authorizes the use of the excise tax revenue for grants to promote Indiana horse racing and Indiana horse racing tracks. Authorizes the Indiana horse racing commission to adopt administrative rules concerning advance deposit wagering.

**Effective:** July 1, 2017.

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January 17, 2017, read first time and referred to Committee on Public Policy.

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First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

## HOUSE BILL No. 1401

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 4-31-7-1, AS AMENDED BY P.L.149-2016,  
2       SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2017]: Sec. 1. (a) A person holding a permit to conduct a  
4       horse racing meeting or a license to operate a satellite facility may  
5       provide a place in the racing meeting grounds or enclosure or the  
6       satellite facility at which the person may conduct and supervise the  
7       pari-mutuel system of wagering by patrons of legal age on the horse  
8       races conducted or simulcast by the person. The person may not permit  
9       or use:  
10       (1) another place other than that provided and designated by the  
11       person; or  
12       (2) another method or system of betting or wagering.  
13       However, a permit holder licensed to conduct gambling games under  
14       IC 4-35 may permit wagering on gambling games at a racetrack as  
15       permitted by IC 4-35.  
16       (b) Except as provided in:  
17       (1) section 7 of this chapter; ~~and~~



1           **(2) IC 4-31-5.5; and**

2           **(3) IC 4-31.5;**

3           the pari-mutuel system of wagering may not be conducted on any races  
4           except the races at the racetrack, grounds, or enclosure for which the  
5           person holds a permit.

6           SECTION 2. IC 4-31-7-3 IS AMENDED TO READ AS FOLLOWS  
7           [EFFECTIVE JULY 1, 2017]: Sec. 3. **(a) This section does not apply**  
8           **to a licensed SPMO (as defined in IC 4-31.5-2-7).**

9           ~~(a)~~ **(b)** The following equipment must be provided and maintained  
10          in good working order at each permit holder's racetrack or satellite  
11          facility, as applicable:

12          (1) A totalizator for win, place, and show wagering. The  
13          totalizator must:

14               (A) be of a design approved by the commission;

15               (B) be capable of registering by automatic mechanical,  
16               electric, or electronic means on central aggregators all wagers  
17               made on each horse, entry, or the field in each of the win,  
18               place, and show pools;

19               (C) display the totals wagered in a manner that permits ready  
20               tabulation and recording of those totals by the commission's  
21               representative before they are cleared from the central  
22               aggregators; and

23               (D) display to the public on a board running totals of amounts  
24               wagered in each of the win, place, and show pools on each  
25               entry in each race.

26          (2) A telephone system connecting the judges' stand with the  
27          office of the pari-mutuel plant and any other stations considered  
28          necessary by the commission.

29          (3) A system of bells that shall be rung from the judges' stand to  
30          signal the close of wagering.

31          (4) A button in the judges' stand that, when pressed, will lock  
32          ticket-issuing machines and close wagering for each race.

33          ~~(b)~~ **(c)** In addition to the requirements of subsection ~~(a)~~; **(b)**, a  
34          permit holder may conduct exotic wagering only by the use of  
35          automatic mechanical, electric, or electronic devices that:

36               (1) print and issue tickets evidencing individual wagers;

37               (2) locally print a permanent record of the tickets issued by each  
38               machine or register on central aggregators by automatic  
39               mechanical, electric, or electronic means the total dollar value of  
40               those tickets; and

41               (3) permit ready tabulation and recording of those figures by the  
42               commission's representative before they are cleared from the



central aggregators.

SECTION 3. IC 4-31.5 IS ADDED TO THE INDIANA CODE AS  
A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
2017]:

# **ARTICLE 31.5. ADVANCE DEPOSIT WAGERING**

## **Chapter 1. General Provisions**

**Sec. 1.** It is the intent of the general assembly to recognize changes in technology for pari-mutuel wagering and to retain for the Indiana horse racing industry a part of revenues generated by Indiana residents on wagers placed with secondary pari-mutuel organizations.

## **Chapter 2. Definitions**

**Sec. 1.** The definitions set forth in IC 4-31-2 apply throughout this article.

**Sec. 2.** "Account holder" means an Indiana resident who has established an advance deposit wagering account.

**Sec. 3.** "Advance deposit wagering" means a system of pari-mutuel wagering in which wagers of an account holder are debited and payouts are credited to an account established by the account holder, regardless of whether the wagers are made in person, by telephone, or through communication by other electronic means.

**Sec. 4.** "Advance deposit wagering account" means an account for advance deposit wagering held by a licensed SPMO.

**Sec. 5.** "Communication by other electronic means" means communication by any electronic communication device, including any of the following:

- (1) A personal computer or other device enabling communication through the Internet.
- (2) A private network.
- (3) An interactive television.
- (4) A wireless communication technology.
- (5) An interactive computer service (as defined in IC 35-45-5-1).
- (6) Any other technology approved by the commission.

**Sec. 6.** "Fund" means the equine industry infrastructure fund established by IC 4-31.5-4-3.

**Sec. 7.** "Licensed SPMO" means a secondary pari-mutuel organization licensed under this chapter.

**Sec. 8.** "Secondary pari-mutuel organization" means an entity that offers advance deposit wagering.

## **Chapter 3. Advance Deposit Wagering Operations**



1       **Sec. 1. Advance deposit wagering is permitted in Indiana in the**  
 2 **manner allowed by this chapter and subject to rules adopted by the**  
 3 **commission.**

4       **Sec. 2. (a) The commission may issue to a secondary pari-mutuel**  
 5 **organization a license to offer advance deposit wagering to Indiana**  
 6 **residents if the commission:**

7           **(1) finds that the applicant satisfies the requirements of this**  
 8 **chapter and the rules adopted by the commission under**  
 9 **IC 4-31.5-5; and**

10          **(2) approves the contract submitted under section 5 of this**  
 11 **chapter.**

12       **(b) The term of a license issued under this chapter is one (1)**  
 13 **year.**

14       **(c) The annual license renewal fee is one thousand dollars**  
 15 **(\$1,000).**

16       **Sec. 3. A secondary pari-mutuel organization applying for a**  
 17 **license under this chapter must provide the following to the**  
 18 **commission:**

19           **(1) Written evidence of the approval to conduct advance**  
 20 **deposit wagering that the organization has received from the**  
 21 **appropriate regulatory authority in each state where the**  
 22 **secondary pari-mutuel organization is licensed.**

23           **(2) A copy of a proposed contract executed by the applicant**  
 24 **and each permit holder to satisfy the requirements of section**  
 25 **5 of this chapter.**

26           **(3) A nonrefundable application fee of five thousand dollars**  
 27 **(\$5,000).**

28           **(4) A complete application on a form prescribed by the**  
 29 **commission.**

30           **(5) Any other information required by the commission.**

31       **Sec. 4. The commission may require an applicant to pay any**  
 32 **costs incurred by the commission for background checks,**  
 33 **investigation, and review of the license application that exceed five**  
 34 **thousand dollars (\$5,000).**

35       **Sec. 5. (a) A licensed SPMO may accept advance deposit wagers**  
 36 **for races conducted within or outside Indiana. Advance deposit**  
 37 **wagers made under this chapter are considered to have been made**  
 38 **in Indiana.**

39       **(b) A licensed SPMO must have a single written contract signed**  
 40 **by each permit holder. The contract must be approved by the**  
 41 **commission. The contract must:**

42           **(1) govern all aspects of the business relationship between the**



1 licensed SPMO and each permit holder; and  
 2 (2) contain a provision reserving all rights of horsemen's  
 3 associations under the federal Interstate Horse Racing Act (15  
 4 U.S.C. 3001 et seq.).

5 Sec. 6. A secondary pari-mutuel organization that is not licensed  
 6 under this chapter may not accept a wager from an individual  
 7 whose physical location is within Indiana at the time the wager is  
 8 made. A secondary pari-mutuel organization that accepts a wager  
 9 in violation of this section submits to the jurisdiction of Indiana  
 10 courts for the purposes of section 7 of this chapter.

11 Sec. 7. (a) A permit holder has a right of action against a  
 12 secondary pari-mutuel organization that accepts a wager in  
 13 violation of section 6 of this chapter.

14 (b) If the permit holder prevails in an action filed under this  
 15 section, the permit holder is entitled to the following:

- 16 (1) An injunction to enjoin future violations of this chapter.
- 17 (2) Compensatory damages equal to any actual damage  
 18 proven by the permit holder. If the permit holder does not  
 19 prove actual damage, the permit holder is entitled to  
 20 presumptive damages of five hundred dollars (\$500) for each  
 21 wager placed in violation of this chapter.
- 22 (3) The permit holder's reasonable attorney's fees and other  
 23 litigation costs reasonably incurred in connection with the  
 24 action.

25 Sec. 8. A licensed SPMO shall comply with all applicable federal  
 26 laws.

27 Sec. 9. An individual less than twenty-one (21) years of age may  
 28 not open, own, or have access to an advance deposit wagering  
 29 account.

#### 30 Chapter 4. Advance Deposit Wagering Tax

31 Sec. 1. (a) An excise tax is imposed on all advance deposit  
 32 account wagering conducted by a licensed SPMO under this article  
 33 at the rate of two percent (2%) of the amount wagered through the  
 34 licensed SPMO by an Indiana resident.

35 (b) A licensed SPMO shall remit to the department of state  
 36 revenue the tax imposed under subsection (a) before the fifteenth  
 37 day of the month following the month in which the licensed SPMO  
 38 accepted the wager from an Indiana resident.

39 (c) The tax imposed by this section is a listed tax for purposes of  
 40 IC 6-8.1-1.

41 Sec. 2. The department of state revenue shall deposit taxes  
 42 collected under section 1 of this chapter in the equine industry



1 infrastructure fund established by section 3 of this chapter.

2 Sec. 3. (a) The equine industry infrastructure fund is  
3 established.

4 (b) The fund consists of advance deposit wagering taxes  
5 deposited into the fund under section 2 of this chapter.

6 (c) The commission shall administer the fund.

7 (d) The treasurer of state may invest money in the fund not  
8 needed to meet the obligations of the fund in the same manner as  
9 other public funds may be invested. The treasurer of state shall  
10 deposit interest that accrues from these investments in the fund.

11 (e) Money in the fund at the end of the state fiscal year does not  
12 revert to the state general fund.

13 Sec. 4. Money in the fund must be used as follows:

14 (1) Fifty percent (50%) to provide grants to permit holders  
15 for the improvement and maintenance of the permit holders'  
16 horse racing facilities.

17 (2) Fifty percent (50%) to provide grants as follows:

18 (A) Eight percent (8%) to the horsemen's association  
19 representing quarter horses.

20 (B) Forty-six percent (46%) to the horsemen's association  
21 representing standardbred owners and trainers for the  
22 purpose of promoting and encouraging Indiana  
23 standardbred participation at permit holders' race tracks.

24 (C) Forty-six percent (46%) to the horsemen's associations  
25 representing the thoroughbred breed to be allocated as  
26 follows:

27 (i) Eighty percent (80%) to the horsemen's association  
28 representing thoroughbred owners and trainers.

29 (ii) Twenty percent (20%) to the horsemen's association  
30 representing thoroughbred owners and breeders.

31 Sec. 5. The commission shall make grants under section 4 of this  
32 chapter with the money deposited into the fund during a particular  
33 month before the fifteenth day of the following month.

#### 34 Chapter 5. Administrative Rules

35 Sec. 1. The commission may adopt rules under IC 4-22-2,  
36 including emergency rules adopted in the manner provided in  
37 IC 4-22-2-37.1, to implement this chapter.

38 Sec. 2. Rules adopted under section 1 of this chapter may  
39 include rules that prescribe any of the following:

40 (1) Procedures for verifying the age of an individual opening  
41 an advance deposit wagering account or placing a wager with  
42 a licensed SPMO.



(2) Requirements for opening and administering advance deposit wagering accounts.

(3) A guarantee or acceptable surety that the full value of balances in an advance deposit wagering account will be paid.

(4) Record keeping requirements.

(5) Licensing procedures, including the following:

(A) Procedures for investigating an applicant.

(B) Forms for licensing.

(C) Procedures for renewing licenses.

(6) Civil penalties for violations of this article or the rules adopted by the commission.

SECTION 4. IC 6-8.1-1-1, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); **the advance deposit wagering tax (IC 4-31.5-4)**; the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the type II gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1) (repealed); the utility receipts and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1) (*repealed*); the county option income tax (IC 6-3.5-6) (*repealed*); the county economic development income tax (IC 6-3.5-7) (*repealed*); *the local income tax (IC 6-3.6)*; the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the aviation fuel excise tax (IC 6-6-13); the commercial vehicle excise tax (IC 6-6-5.5); the excise tax imposed on recreational vehicles and truck campers (IC 6-6-5.1); the hazardous waste disposal tax (IC 6-6-6.6) (repealed); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the penalties assessed for oversize vehicles (IC 9-20-3 and ~~IC 9-30~~; *IC 9-20-18*); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and ~~IC 9-30~~; *IC 9-20-18*); and any





1 other tax or fee that the department is required to collect or administer.

2 SECTION 5. IC 35-45-5-5 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. The provisions of  
4 this chapter do not apply to:

5 (1) pari-mutuel wagering conducted at racetrack locations or  
6 satellite facilities licensed for pari-mutuel wagering under  
7 IC 4-31; or

8 (2) **wagering on horse races conducted through advance**  
9 **deposit wagering accounts authorized by IC 4-31.5.**

