ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 1905 By: Coates and Leftwich of the Senate

and

Armes of the House

(amusements and sports – Oklahoma Horse Racing Act – codification – effective date)

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"(amusements and sports - amending 3A O.S., Sections 205.6, 205.6a, 205.7 and 208.2 - Oklahoma Horse Racing Act - Horsemen's Bookkeeper - inspection and audit – codification - effective date)

~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

SECTION 1. AMENDATORY 3A O.S. 2001, Section 205.6, is amended to read as follows:

Section 205.6 A. Any organization licensee conducting a race meeting may provide places on the race meeting grounds at which it may conduct and supervise the pari-mutuel system of wagering on the horse races conducted by the organization licensee at the race meeting. No other place or method of betting, pool making, wagering, or gambling shall be used or permitted by the organization licensee. The pari-mutuel system of wagering shall be permitted only on horse races conducted at a racetrack where such pari-mutuel system of wagering is authorized pursuant to the provisions of the Oklahoma Horse Racing Act.

B. Each organization licensee that holds a race meeting at which the pari-mutuel system of wagering is conducted shall retain an amount equal to eighteen percent (18%) of all money wagered, to be distributed as follows:

1. The first One Hundred Million Dollars ($100,000,000.00) wagered per calendar year for each type of racing shall be distributed as follows provided, that all racing dates exclusively for Thoroughbred racing in a calendar year shall be combined for the purpose of computing taxation rates and all racing dates for mixed racing and all other individual breeds in a calendar year shall be combined but considered separate from Thoroughbred racing for the purpose of computing taxation rates:

a. One-ninth (1/9) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first

business day following the close of the racing day on which it was assessed. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

b. Five-ninths (5/9) of the eighteen percent (18%) shall be retained by the organization licensee; and

c. One-third (1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses.

2. All money wagered per calendar year for each type of racing in excess of One Hundred Million Dollars ($100,000,000.00) but not to exceed One Hundred Fifty Million Dollars ($150,000,000.00) shall be distributed as follows provided, that all racing dates exclusively for Thoroughbred racing in a calendar year shall be combined for the purpose of computing taxation rates and all racing dates for mixed racing and all other individual breeds in a calendar year shall be combined but considered separate from Thoroughbred racing for the purpose of computing taxation rates:

a. One-ninth (1/9) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on

which it was assessed. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

b. Four-ninths (4/9) of the eighteen percent(18%) shall be retained by the organization licensee; and

c. One-third (1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses; and

d. One-ninth (1/9) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as follows:

(1) seventy-five percent (75%) as purses for participating horses, and

(2) twenty-five percent (25%) shall be remitted to the Commission, at such intervals as required by the Commission, for deposit in the Oklahoma Breeding Development Fund Special Account.

3. All money wagered per calendar year for each type of racing in excess of One Hundred Fifty Million Dollars ($150,000,000.00) shall be distributed as follows provided, that all racing dates exclusively for Thoroughbred racing in a calendar year shall be

combined for the purpose of computing taxation rates and all racing dates for mixed racing and all other individual breeds in a calendar year shall be combined but considered separate from Thoroughbred racing for the purpose of computing taxation rates:

a. One-ninth (1/9) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

b. One-third (1/3) of the eighteen percent (18%) shall be retained by the organization licensee; and

c. One-third (1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses; and

d. Two-ninths (2/9) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as follows:

(1) seventy-five percent (75%) as purses for participating horses, and

(2) twenty-five percent (25%) shall be remitted to the Commission, at such intervals as required by the Commission, for deposit in the Oklahoma Breeding Development Fund Special Account.

C. Notwithstanding any other provisions of this act, the state shall collect six percent (6%) of the total amount wagered under the provisions of this act at such time the organization licensee has no further debt service.

D. In addition to the amount required to be retained by the provisions of subsection B of this section, each organization licensee holding a race meeting at which the pari-mutuel system of wagering is conducted shall retain an additional amount equal to three percent (3%) of all money wagered on multiple race wagers involving not to exceed two races and on multiple horse wagers not to exceed two horses in the same race.

Such amount shall be retained by the organization licensee to be distributed as follows:

1. Two-thirds (2/3) of three percent (3%) shall be distributed:

a. Seventy-five percent (75%) as purses for participating horses; and

b. Twenty-five percent (25%) shall be remitted to the Commission, at such intervals or required by the Commission, for deposit in the Oklahoma Breeding Development Fund Special Account.

2. One-third (1/3) of the three percent (3%) shall be distributed:

a. Fifty percent (50%) as purses for participating horses; and

b. Fifty percent (50%) to the organization licensee.

E. Each organization licensee shall retain an amount not less than twenty-one percent (21%) nor greater than twenty-five percent (25%) of all money wagered on multiple race wagers involving more than two races, and on multiple horse wagers involving more than two horses such amount shall be distributed as follows:

1. Eighteen percent (18%) pursuant to subsection B of this section;

2. Three percent (3%) pursuant to subsection D of this section; and

3. Of the remainder, fifty percent (50%) to be distributed as purses for participating horses and fifty percent (50%) to the organization licensee.

F. Organization licensees shall keep accurate books and records of all moneys wagered on each day of a race meeting and of the taxes paid pursuant to the provisions of this section. The Oklahoma Tax Commission or an authorized representative shall have access at all reasonable times to such records for the purpose of examining and checking the records and ascertaining whether the proper amount of taxes is being paid. The Oklahoma Tax Commission shall require

verified reports and a statement of the total of all moneys wagered daily at a race meeting and may prescribe forms upon which such reports and statement shall be made. The organization licensee shall provide the Oklahoma Tax Commission with such space and accommodations as may be necessary for the Oklahoma Tax Commission to implement its duties pursuant to the provisions of the Oklahoma Horse Racing Act.

G. No revenue bonds issued by a public trust, as authorized by the provisions of Title 62 of the Oklahoma Statutes, shall be used to finance any racetrack or racing facility.

H. All monies retained or to be distributed for purses shall be held in trust by the Horsemen's Bookkeeper pursuant to Section 5 of this act for the duly designated horsemen's organization for purses.

SECTION 2. AMENDATORY 3A O.S. 2001, Section 205.6a, is amended to read as follows:

Section 205.6a A. Any organization licensee shall file with the Oklahoma Horse Racing Commission its plan to conduct pari-mutuel wagering at a facility or facilities located outside the organization licensee's racing enclosure. Such pari-mutuel wagering may be conducted at any time as authorized by the Commission. The conducting of pari-mutuel wagering at a facility outside the organization licensee's enclosure is subject to the following:

1. Pari-mutuel wagering shall be permitted only in a county which approves or has approved the conducting of pari-mutuel horse

racing in that county pursuant to the provisions of Section 209 of this title;

2. Pari-mutuel wagering conducted by an organization licensee shall not be permitted within thirty (30) miles of another organization licensee's racing enclosure without the express permission granted by the other organization licensee;

3. All pari-mutuel wagering facilities located outside any organization licensee's racing enclosure shall be operated in accordance with all applicable rules of the Oklahoma Horse Racing Commission Rules of Racing (Pari-Mutuel Edition);

4. The organization licensee sending its racing signal to a facility or facilities outside its racing enclosure may combine the pari-mutuel pools of all facilities with those of the organization licensee for the purpose of determining odds and computing payoffs. The amount of money to be retained and distributed by the organization licensee and to be remitted to the Oklahoma Tax Commission from money wagered pursuant to the provisions of this section shall be the same as set forth in paragraph 1 of subsection B, in subsection D, and in subsection E of Section 205.6 of this title and in Section 208.2 of this title;

5. One percent (1%) of the total monies wagered at a facility other than an organization licensee's racing enclosure shall be distributed from the amount retained pursuant to paragraph 4 of this subsection as follows:

a. ten percent (10%) to the State Auditor and Inspector for the purpose of auditing such facilities, and

b. forty-five percent (45%) to the county in which the facility is located, and

c. forty-five percent (45%) to the city in which the facility is located, or

d. if the facility is not located within the corporate limits of any city, ninety percent (90%) to the county in which the facility is located;

6. The distribution for purses at facilities other than an organization licensee's racing enclosures shall be:

a. six and one-half percent (6.5%) of total handle during the first thirty-six (36) months after the opening of a facility in a county, and

b. seven and one-half percent (7.5%) of total handle thereafter.

Upon completion of three hundred sixty-five (365) calendar days since the opening of a facility in a county, the thirty-six-month period commences retroactive to the opening of that facility. If the facility does not operate for three hundred sixty-five (365) calendar days, a new facility may be opened and operated, with the thirty-six-month period commencing consistent with this paragraph. If a facility terminates operation after the three-hundred-sixty-fifth calendar day, all days shall be allotted to subsequent

facilities not to exceed one thousand ninety-five (1,095) calendar days per facility; and

7. The organization licensee, after the distribution to the Oklahoma Tax Commission pursuant to the provisions of paragraph 4 of this subsection and distributions pursuant to paragraphs 5 and 6 of this subsection, shall retain the balance of the monies wagered.

B. Notification by an organization licensee to conduct pari-mutuel wagering at a facility or facilities outside of the organization licensee's racing enclosure shall be made annually to the Oklahoma Horse Racing Commission. An organization licensee may make an original notification to conduct pari-mutuel wagering at a facility or facilities outside of the organization licensee's racing enclosure at any time.

C. All persons employed in the actual conduct of pari-mutuel wagering at a facility outside an organization licensee's racing enclosure shall be licensed by the Commission, consistent with Section 204.2 of this title.

D. Breakage and unclaimed ticket proceeds shall be distributed in the manner applicable to the races of the racing program of the organization licensee sending the racing program.

E. All monies retained or to be distributed for purses shall be held in trust by the Horsemen’s Bookkeeper pursuant to Section 5 of this act for the duly designated horsemen’s organization for purses.

SECTION 3. AMENDATORY 3A O.S. 2001, Section 205.7, as amended by Section 1, Chapter 152, O.S.L. 2002 (3A O.S. Supp. 2009, Section 205.7), is amended to read as follows:

Section 205.7 A. The Oklahoma Horse Racing Commission may authorize an organization licensee to accept wagers on the results of out-of-state full racing programs for simulcast races as follows:

1. On days when the organization licensee is conducting live racing, the licensee may accept wagers on out-of-state full racing programs during the hours when it is conducting live racing, and may accept wagers on the results of out-of-state full racing programs during the hours it is not conducting live racing;

2. a. On days when the organization licensee is not conducting live racing, the licensee may accept wagers on the results of out-of-state full racing programs, provided that the number of days, not included in its race meeting, which an organization licensee may be authorized to accept wagering pursuant to this paragraph is limited to fifty percent (50%) of the number of days the licensee conducts live racing;

b. notwithstanding the limitations contained in subparagraph a of this paragraph, an organization licensee may accept wagers on races run at any racetrack licensed by the Oklahoma Horse Racing

Commission, and may accept wagers on the out-of-state full racing programs received by said racetrack; and

3. On days when the licensee is conducting live racing, the Oklahoma Horse Racing Commission may authorize the organization licensee to accept wagers on individual out-of-state simulcast races in addition to the out-of-state full racing programs.

B. The authorization provided in subsection A of this section must comply with federal laws including, but not limited to, Chapter 57 of Title 15 of the United States Code.

C. Wagers on out-of-state races conducted pursuant to the provisions of this section may be placed in a separate pari-mutuel pool or pools, or may be combined with the pari-mutuel pool or pools of the track where the race is run, or may be combined with other organization licensees licensed by the Oklahoma Horse Racing Commission and their wagering facilities located within this state.

D. Each organization licensee accepting wagers on an out-of-state race shall deduct a percentage of the amount handled which is equal to the percentage deducted from the amount handled by the organization licensee in pari-mutuel pools at the race meeting or meetings held by the organization licensee if the wagers on the out-of-state races are not being combined with the pari-mutuel pool or pools where the race or races are being run.

E. For the day on which the out-of-state race is offered, each organization licensee shall pay the state share of the organization

licensee at the rate applicable to the races of the racing program of the organization licensee.

F. Breakage and unclaimed ticket proceeds shall be distributed in the manner applicable to the races of the racing program of the organization licensee.

G. Except as otherwise provided by law, the amount remaining from the deduction pursuant to the provisions of subsection D of this section after payment of the state share and the contractual payment to the out-of-state host racing organization, shall be distributed as follows:

1. Fifty percent (50%) to the organization licensee; and

2. Fifty percent (50%) to the organization licensee to be distributed as purses.

H. An organization licensee accepting wagers on out-of-state full racing programs pursuant to subsection A of this section shall, for any year in which it intends to accept such out-of-state full racing programs, make application to the Commission for not less than eighty percent (80%) of the number of live racing days awarded for each race meeting to that licensee in 1996.

I. Notwithstanding subsection H of this section, any organization licensee may apply for less than the eighty percent (80%) of the number of live race days for a designated race meeting awarded to the licensee in 1996 if such application is approved by

the organization licensee's official horsemen's representative at that designated race meeting.

J. One-tenth of one percent (1/10 of 1%) of the total monies wagered at the racing enclosure on out-of-state simulcast races shall be remitted by the organization licensee from the amount retained pursuant to this section to the State Auditor and Inspector for the purpose of auditing racing facilities.

K. All monies retained or to be distributed for purses shall be held in trust by the Horsemen's Bookkeeper pursuant to Section 5 of this act for the duly designated horsemen's organization for purses.

SECTION 4. AMENDATORY 3A O.S. 2001, Section 208.2, as amended by Section 23, Chapter 8, O.S.L. 2004 (3A O.S. Supp. 2009, Section 208.2), is amended to read as follows:

Section 208.2 A. Any fair association organized pursuant to the provisions of Title 2 of the Oklahoma Statutes for Agricultural Fair Corporations, the Free Oklahoma State Fair, Free District Fairs, and Agricultural and Industrial Expositions and Fairs or any existing county, district, or state fair as of January 1, 1983, may apply to the Commission for one race meeting each year to be held within the boundaries of the county where the fair association is located. The Oklahoma Horse Racing Commission may set the number of days and the dates of such race meeting requested by the fair association. A race meeting conducted by a fair association shall not exceed sixteen (16) days during a twenty-eight-consecutive-day

period or a fair association shall be permitted to conduct a race meeting of twenty (20) to twenty-two (22) days during a thirty-eight-consecutive-day period. A race meeting conducted pursuant to the provisions of this section shall be conducted in such a manner that all profits shall accrue to the fair association.

B. Each organization licensee that, pursuant to this section, holds a race meeting at which the pari-mutuel system of wagering is conducted shall retain the following amounts from the monies wagered:

1. On win, place, and show wagers, an amount equal to eighteen percent (18%) shall be retained and distributed as follows:

a. two-thirds (2/3) of the eighteen percent (18%) to the organization licensee, and

b. one-third (1/3) of the eighteen percent (18%) to purses for participating horses;

2. On race wagers involving two races or two horses, an amount equal to twenty-one percent (21%) shall be retained and distributed as follows:

a. one percent (1%) shall be remitted to the Commission, at such intervals as required by the Commission, for deposit in the Oklahoma Breeding and Development Fund Special Account for participating horses,

b. two-thirds (2/3) of the balance of the amount retained to the organization licensee, and

c. one-third (1/3) of the balance of the amount retained to purses for participating horses;

3. On race wagers involving three or more races or three or more horses, an amount equal to not less than twenty-one percent (21%) nor more than twenty-five percent (25%) shall be retained and distributed as follows:

a. one percent (1%) shall be remitted to the Commission, at such intervals as required by the Commission, for deposit in the Oklahoma Breeding and Development Fund Special Account for participating horses,

b. two-thirds (2/3) of the balance of the amount retained to the organization licensee, and

c. one-third (1/3) of the balance of the amount retained to purses for participating horses; and

4. a. Wagers conducted pursuant to Section 205.7 of this title by an organization licensee pursuant to this section whether or not such wagers are accepted during the live race meeting of the organization licensee shall be exempt from the provisions of subsection E of Section 205.7 of this title.

b. Except as otherwise provided by law, the amount remaining after the deduction made pursuant to the provisions of subsection D of Section 205.7 of this title and after the contractual payment to the out-of-

state host racing organization shall be distributed as follows: an amount equal to two percent (2%) of the monies wagered shall be distributed to the organization licensee and the balance shall be distributed as follows:

(1) fifty percent (50%) to the organization licensee, and

(2) fifty percent (50%) to the organization licensee to be distributed as purses.

C. Any organization licensed pursuant to this section and conducting pari-mutuel wagering on races being run at another organization licensee within the State of Oklahoma shall retain from the monies being wagered an amount equal to the amount being retained from wagers by the sending track. The amount of money retained shall be distributed as follows:

1. Fifty percent (50%) to the organization licensee; and

2. Fifty percent (50%) to the organization licensee as purses for participating horses.

D. The Commission shall issue occupation licenses for personnel of organization licensees licensed pursuant to this section. Each occupation license shall be issued pursuant to Section 204.2 of this title except that the occupation license fee shall not be more than Ten Dollars ($10.00) excluding fingerprinting fees.

E. All monies retained or to be distributed for purses shall be held in trust by the Horsemen's Bookkeeper pursuant to Section 5 of this act for the duly designated horsemen's organization for purses.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 208.13 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Each organization licensee shall utilize a Horsemen's Bookkeeper who shall, at a minimum, maintain the records and accounts prescribed in this section or in the rules of the Oklahoma Horse Racing Commission. The Horsemen's Bookkeeper may be an employee of the organization licensee, may be employed jointly by two or more organization licensees, or may be an entity which contracts with one or more organization licensees.

B. The records of the Horsemen's Bookkeeper shall include the following:

1. The name, mailing address, social security number or federal tax identification number, and the state or country of residence of each horse owner, trainer, and jockey participating at a race meeting who has funds due or on deposit in a horsemen's account; and

2. All statements of partnerships, syndicates, corporations, assignments of interest, lease agreements, and registrations of authorized agents.

C. All records of the Horsemen's Bookkeeper shall be kept separate from the records of the organization licensee or licensees.

D. All funds on account with the Horsemen's Bookkeeper shall be maintained as follows:

1. In one or more trust accounts which are separate from all accounts of the organization licensee with each designated as a "Horsemen's Trust Account"; and

2. In trust accounts which are fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

E. 1. The Horsemen's Bookkeeper shall receive, maintain, and disburse the purses of each race and all stakes, entrance money, jockey fees, purchase money in claiming races, along with all applicable taxes and other monies that properly come into the possession of the Horsemen's Bookkeeper.

2. All disbursements pursuant to this subsection shall be made within forty-eight (48) hours of approval by the stewards unless a protest or appeal has been filed with the stewards or the Commission, except that minimum jockey mount fees may be disbursed prior to such approval. All disbursements subject to a protest or appeal shall be made within forty-eight (48) hours of receipt of a dismissal or a final non-appealable order disposing of such protest or appeal.

3. Except as otherwise provided in this subsection and in the absence of a prior request, all disbursements pursuant to this

subsection shall be made within fifteen (15) days after the last race day of the race meeting.

F. The Horsemen's Bookkeeper may accept, hold, and pay monies due and belonging to other organizations, licensees, or meetings; provided, prompt payment or return shall be made to the person or entity to which it is due.

G. All records of the Horsemen's Bookkeeper shall be subject to inspection and audit by the Commission at any time.

H. The Horsemen's Bookkeeper and the organization licensee or licensees employing the Horsemen's Bookkeeper shall be subject to disciplinary action by the Commission.

I. The Horsemen's Bookkeeper, each organization licensee employing the Horsemen's Bookkeeper, and the managing officers of each organization licensee employing the Horsemen's Bookkeeper, shall be jointly and severally responsible to ensure that the amounts retained from the pari-mutuel handle are distributed according to the Oklahoma Horse Racing Act and the orders and rules of the Commission.

SECTION 6. This act shall become effective November 1, 2010."

Passed the House of Representatives the 20th day of April, 2010.

_____
Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2010.

_____
Presiding Officer of the Senate