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COMMITTEE AMENDMENT ADOPTED

May 3, 2022

**S. 1128**

Introduced by Senators Shealy and McElveen

S. Printed 5/3/22--S. [SEC 5/4/22 11:28 AM]

Read the first time March 8, 2022.

**A** **BILL**

TO AMEND CHAPTER 5, TITLE 52 OF THE 1976 CODE, RELATING TO HORSE RACING, TO ENACT THE SOUTH CAROLINA EQUINE ADVANCEMENT ACT TO ESTABLISH A GRANT PROGRAM TO ASSIST THE GROWTH AND DEVELOPMENT OF THE EQUINE INDUSTRY IN SOUTH CAROLINA, TO PROVIDE FOR PARI-MUTUEL WAGERING ON APPLICATIONS OPERATED BY A LICENSED ADVANCED DEPOSIT WAGERING ENTITY, TO ESTABLISH SOUTH CAROLINA EQUINE COMMISSION TO REGULATE THE INDUSTRY, TO PROVIDE FOR MEMBERSHIP ON THE COMMISSION, TO PROVIDE FOR THE POWERS, DUTIES, AND OBLIGATIONS OF THE COMMISSION, TO PROVIDE FOR LICENSE FEES, AND TO DEFINE NECESSARY TERMS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 5, Title 52 of the 1976 Code is amended by adding:

“Article 5

South Carolina Equine Advancement Act

Section 52-5-300. This chapter may be referred to and cited as the ‘South Carolina Equine Advancement Act’. This chapter is enacted to benefit South Carolina and its residents through the improvement and development of South Carolina’s equine-related agriculture, business, and recreation.

Section 52-5-310. As used in this chapter, unless the context clearly indicates otherwise:

(1) ‘Application’ means a program or piece of software designed and written to fulfill a particular purpose of the user through a computer or mobile electronic device.

(2) ‘Commission’ means South Carolina Equine Commission.

(3) ‘Mobile electronic device’ means a cellular telephone, portable computer, GPS receiver, electronic game, or any substantially similar stand-alone electronic device used to communicate, display, or record digital content.

(4) ‘Pari‑mutuel wagering’ means the system of wagering on horse races in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, plus any amounts provided by a licensee, less deductions required or permitted by law, and includes pari‑mutuel wagering on races conducted at any licensed pari-mutuel facility.

(5) ‘Advance deposit account wagering’ means a method of pari‑mutuel wagering in which an individual may establish an account with an entity licensed by the commission to place pari‑mutuel wagers electronically through an application.

(6) ‘ADW licensee’ means any person or entity licensed by the commission to conduct advanced deposit account wagering in this State.

(7) ‘ADW licensee’s earnings’ means the licensee’s gross receipts from takeout on advance deposit account wagering minus fees required to be paid by the licensee to offer the races for wagering.

(8) ‘Takeout’ means the total amount of money withheld from each pari-mutuel pool as authorized by this chapter or regulation promulgated pursuant to this chapter.

Section 52-5-320. (A) The South Carolina Equine Commission consists of:

(1) the Director of the Department of Revenue, ex officio, or his designee, who shall serve as chairman;

(2) two commissioners appointed by the President of the Senate;

(3) two commissioners appointed by the Speaker of the House of Representatives; and

(4) two commissioners appointed by the Governor.

(B) Of the commissioners appointed by the President of the Senate and the Speaker of the House of Representatives, the President and the Speaker may each appoint one member of the General Assembly. If a member of the General Assembly is appointed, then he shall serve ex officio.

(C) Commissioners not serving ex officio shall serve for terms of four years and until their successors are appointed and qualify with the term of office beginning on July 1 of the appropriate year. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term. Members shall serve without compensation, but are allowed mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.

Section 52-5-330. In addition to the powers contained elsewhere in this chapter, the commission has all power necessary, useful, or appropriate to fund, operate, and administer the commission and to perform its other functions including, but not limited to, the power to:

(1) have perpetual succession;

(2) adopt, promulgate, amend, and repeal bylaws not inconsistent with provisions in this chapter for the administration of the commission's affairs and the implementation of its functions, including the right of the commission to select qualifying grants and to provide other financial assistance;

(3) sue and be sued in its own name;

(4) have a seal and alter it at its pleasure, although the failure to affix the seal does not affect the validity of an instrument executed on behalf of the commission;

(5) license for use in this State horse racing-related advance deposit wagering applications and to collect licensing fees;

(6) make grants to qualified recipients to finance the eligible costs of qualified projects;

(7) expend funds to obtain accounting, management, legal, and financial consulting, and other professional services necessary to the operations of the commission;

(8) expend funds appropriated to the commission as the commission determines necessary for the costs of administering the commission’s operations;

(9) establish advisory committees as the commission determines appropriate, which may include individuals from the private sector with relevant expertise;

(10) collect fees and charges in connection with the use of a licensed horse racing-related advance deposit application;

(11) enter into contracts or agreements related to providing grants and other financial assistance;

(12) approve takeout rates as may be requested by the ADW licensee; and

(13) perform all other responsibilities necessary or convenient to exercise powers granted or reasonably implied by this chapter.

Section 52-5-340. The Department of Revenue shall provide such administrative support to the commission or any of its divisions or components as the commission may request and require in the performance of their duties including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support.

Section 52-5-350. (A) No person shall operate a pari‑mutuel wagering application in this State unless he has obtained an ADW license issued by the commission in accordance with the provisions of this chapter. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars, imprisoned for not more than one year, or both. Each wager accepted on an application in violation of this section constitutes a separate offense. Furthermore, following a conviction of a violation of this section, the person convicted is not eligible for a license pursuant to this article.

(B) Pari-mutuel wagering on horse races is unlawful unless the pari-mutuel wagering occurs through an advance deposit wagering application maintained by an ADW licensee. Any person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars, imprisoned for not more than one year, or both.

Section 52-5-360. (A) Any person desiring to offer application-based pari‑mutuel wagering in this State shall file with the commission an application for an ADW license. The application shall be filed at the time and place prescribed by the commission and shall be in the form and contain the information prescribed by the commission including, but not limited to:

(1) the name and address of the person; if a corporation or company, the state of its incorporation or organization, the full name and address of each officer and director thereof, and, if a foreign corporation or company, whether it is qualified to do business in this State; if a partnership or joint venture, the name and address of each officer of the partnership or joint venture;

(2) the name and address of each stockholder or member of the corporation or company constituting a majority of the share or membership or each partner of the partnership or joint venture and of each person who has contracted for a pecuniary interest in the applicant that individually or collectively constitute majority ownership;

(3) additional information that the commission deems appropriate regarding the character, background, and responsibility of the applicant and the members, partners, stockholders, officers, and directors of the applicant;

(4) a description of the application through which wagers will be accepted and processed;

(5) information relating to the financial responsibility of the applicant as the commission deems appropriate;

(6) a business plan with a statement of expected benefit to the State, its residents, and its horse-related agribusiness. The business plan and statement must be considered by the commission in determining whether, in the commission’s opinion and sole discretion, an applicant’s plan sufficiently achieves the objectives of this chapter as stated in Section 52-5-300 to qualify for licensing including, but not limited to, whether the applicant’s plan would contribute to the financial betterment and improvement of:

(a) the State through tax or fee, or both, payments, economic impact, and job creation;

(b) the state’s horse breeding incentive programs;

(c) the state’s horse training centers; and

(d) equine-related instruction including, but not limited to, veterinarians, equine business operations, youth development and mentoring conducted by academic institutions, and other organizations; and

(7) any other information which the commission in its discretion deems appropriate.

(B) The commission may grant a license to an applicant to operate pari-mutuel wagering on horse races through an application for a duration not to exceed ten years.

(C) The commission shall review each license annually to ensure that each licensee is acting in accordance with applicable laws and regulations and in a manner consistent with the original issuance of the license. A licensee who is not acting in accordance with applicable laws and regulations, or in a manner inconsistent with the original issuance of his license, is subject to suspension or revocation of his license at the commission’s discretion.

(D) The commission shall set and collect a license application fee equal to ten percent of the applicant’s projected ADW licensee’s earnings in the State during the first full year of operations. Thereafter, the commission shall collect an annual fee from each ADW licensee equal to ten percent of the ADW licensee’s earnings in the State during the previous twelve months. The annual fee shall be paid within four calendar weeks of the end of the ADW licensee’s fiscal or calendar year. The ADW licensee shall designate whether he is paying on a fiscal-year or calendar-year basis at the time that his license is issued.

(E) The commission may not issue more than a total of three licenses. The commission may issue additional ADW licenses to any applicant entity conducting live horse racing events in the State for the sole purpose of conducting wagering on such live South Carolina-based events through its own application.

Section 52-5-370. The commission may retain up to five percent of the application and annual license fees collected for the commission’s expenses. The remainder of the fees collected shall be credited to the Equine Industry Development Fund.

Section 52-5-380. (A) There is established in the State Treasury the Equine Industry Development Fund. This fund is separate and distinct from the general fund of the State and all other funds. The fund shall consist of fees collected pursuant to Section 11-60-90(D) less those amounts retained by the commission pursuant to Section 11-60-100 and donations, contributions, bequests, or other gifts. The purpose of the fund is to provide grants to promote and improve the equine industry in the State. Earnings and interest on this fund must be credited to it and any balance at the end of a fiscal year will carry forward to the fund in the succeeding fiscal year.

(B) The commission shall establish a grant program utilizing funds in the Equine Industry Development Fund to promote and improve the equine industry in this State. Not later than twelve months after this chapter is effective, the commission shall promulgate regulations establishing the grant program. The regulations, at a minimum, shall establish the criteria to qualify for grants and shall set forth the procedures for applying for grants. The commission may require any information of the grant applicant that is necessary to properly evaluate the grant proposal.

Section 52-5-390. The commission is performing an essential governmental function in the exercise of the powers conferred upon it and is not required to pay taxes or assessments upon property or upon its operations or the income from them or taxes or assessments upon property or loan obligations acquired or used by the commission or upon the income from them.

Section 52-5-400. Neither the commission nor any officer, employee, or committee of the commission acting on behalf of it, while acting within the scope of its authority, is subject to any liability resulting from carrying out any of the powers given in this chapter and is absolutely immune from actions or inactions within the scope of their authority.

Section 52-5-410. Following the close of each state fiscal year, the commission shall submit an annual report of its activities for the preceding year to the Governor and to the General Assembly.”

SECTION 2. This act takes effect upon the approval of the Governor.

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