

74-8836. Simulcasting; licensing and regulation. (a) Any organization licensee that conducts at least 150 days of live racing during a calendar year or a fair association that conducts fewer than 22 days of live racing during a calendar year may apply to the commission for a simulcasting license to display simulcast horse or greyhound races and to conduct intertrack parimutuel wagering thereon. If the organization licensee conducts races at a racetrack facility that is owned by a facility owner licensee, both licensees shall join in the application. A simulcasting license granted to a fair association that conducts fewer than 22 days of live racing shall restrict the fair association's display of simulcast races to a number of days, including days on which it conducts live races, equal to not more than twice the number of days on which it conducts live races.

(b) (1) A simulcasting license granted to an organization licensee other than a fair association shall authorize the display of simulcast races at the racetrack facility where the live races are conducted so long as the licensee conducts at least eight live races per day and an average of 10 live races per day per week. If a simulcasting licensee conducts live horse races on a day when simulcast races are displayed by the licensee and the licensee conducts fewer than an average of 10 live horse races per day per week, not less than 80% of the races on which wagers are taken by the licensee during such week shall be live races conducted by the licensee unless approved by the recognized horsemen's group or upon a finding by the commission that the organization licensee was unable to do so for reasonable cause. If a simulcast licensee conducts live greyhound races on a day when simulcast races are displayed by the licensee and the licensee schedules fewer than 13 live greyhound races during a performance on such day, not less than 80% of the races on which wagers are taken by the licensee during such performance shall be live races conducted by the licensee.

(2) A simulcasting license granted to a fair association shall authorize the display of simulcast races at the racetrack facility where the races are conducted only if live races are scheduled for two or more days of the same calendar week, except that the licensee may conduct simulcast races in the week immediately before and immediately after a live meeting if the total number of days on which simulcast races are displayed does not exceed the total authorized in subsection (a). In no case shall the live meet or simulcast races allowed under this subsection exceed 10 consecutive weeks. For purposes of this subsection, a calendar week shall be measured from Monday through the following Sunday.

(3) Notwithstanding the provisions of subsection (a), (b)(1) or (b)(2), a fair association may apply to the commission for not more than five additional days of simulcasting of special events. In addition, the commission may authorize a fair association to display additional simulcast races but, if such fair association is less than 100 miles from an organization licensee that is not a fair association, it also shall secure written consent from that organization licensee.

(4) Notwithstanding the provisions of subsection (b)(1), if an emergency causes the cancellation of all or any live races scheduled for a day or performance by a simulcasting licensee, the commission or the commission's designee may authorize the licensee to display any simulcast races previously scheduled for such day or performance.

(5) Notwithstanding the provisions of subsection (b)(1), the commission may authorize the licensee to display simulcast special racing events as designated by the commission.

(c) The application for a simulcasting license shall be filed with the commission at a time and place prescribed by rules and regulations of the commission. The application shall be in a form and include such information as the commission prescribes.

(d) To qualify for a simulcasting license the applicant shall:

(1) Comply with the interstate horse racing act of 1978 (15 U.S.C. 3001 *et seq.*) as in effect December 31, 1991;

(2) submit with the application a written approval of the proposed simulcasting schedule signed by: (A) The recognized horsemen's group for the track, if the applicant is licensed to conduct only horse races; (B) the recognized greyhound owners' group, if the applicant is licensed to conduct only greyhound races and only greyhound races are to be simulcast; (C) both the recognized greyhound owners' group and a recognized horsemen's group, if the applicant is licensed to conduct only greyhound races and horse races are to be simulcast; (D) the recognized greyhound owners' group, if the applicant is licensed to conduct both greyhound and horse races, only greyhound races are to be simulcast and races are to be simulcast only while the applicant is conducting live greyhound races; (E) the recognized horsemen's group for the track, if the applicant is licensed to conduct both greyhound and horse races, only horse races are to be simulcast and races are to be simulcast only while the applicant is conducting live horse races; or (F) both the recognized greyhound owners' group and the recognized horsemen's group for the track, if the applicant is licensed to conduct both greyhound races and horse races and horse races are to be simulcast while the applicant is conducting live greyhound races or greyhound races are to be simulcast while the applicant is conducting live horse races; and

(3) submit, in accordance with rules and regulations of the commission and before the simulcasting of a race, a written copy of each contract or agreement which the applicant proposes to enter into with regard to such race, and any proposed modification of any such contract or agreement.

(e) The term of a simulcasting license shall be one year.

(f) A simulcasting licensee may apply to the commission or its designee for changes in the licensee's approved simulcasting schedule if such changes are approved by the respective recognized greyhound owners' group or recognized horsemen's group needed throughout the term of the license. Application shall be made upon forms furnished by the commission and shall contain such information as the commission prescribes.

(g) Except as provided by subsection (j), the takeout for simulcast horse and greyhound races shall be the same as it is for the live horse and greyhound races conducted during the current or next live race meeting at the racetrack facility where the simulcast races are displayed. For simulcast races the tax imposed on amounts wagered shall be as provided by K.S.A. 74-8823, and amendments thereto. Of the balance of the takeout remaining after deduction of taxes, an amount equal to a percentage, to be determined by the commission, of the gross sum wagered on simulcast races shall be used for purses, as follows:

(1) For greyhound races conducted by the licensee, if the simulcast race is a greyhound race and the licensee conducts only live greyhound races;

(2) for horse races conducted by the licensee, if the simulcast race is a horse race and the licensee conducts only live horse races;

(3) for horse races and greyhound races, as determined by both the recognized horsemen's group and the recognized greyhound owners' group, if the simulcast race is a greyhound race and the licensee does not conduct or

is not currently conducting live greyhound races; or

(4) for horse races and greyhound races, as determined by both the recognized horsemen's group and the recognized greyhound owners' group, if the simulcast is a horse race and the licensee does not conduct or is not currently conducting live horse races. That portion of simulcast purse money determined to be used for horse purses shall be apportioned by the commission to the various horse race meetings held in any calendar year based upon the number of live horse race dates comprising such horse race meetings in the preceding calendar year.

(h) Except as provided by subsection (j):

(1) If a simulcasting licensee has a license to conduct live horse races and the licensee displays a simulcast horse race: (A) All breakage proceeds shall be remitted by the licensee to the commission not later than the 15th day of the month following the race from which the breakage is derived and the commission shall remit any such proceeds received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas horse breeding development fund created by K.S.A. 74-8829, and amendments thereto; and (B) all unclaimed ticket proceeds shall be remitted by the licensee to the commission on the 61st day after the end of the calendar year and the commission shall remit any such proceeds received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas horse breeding development fund created by K.S.A. 74-8829, and amendments thereto.

(2) If a simulcasting licensee has a license to conduct live greyhound races and the licensee displays a simulcast greyhound race, breakage and unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for breakage and unclaimed winning ticket proceeds from live greyhound races.

(3) If a simulcasting licensee has a license to conduct live racing of only horses and the licensee displays a simulcast greyhound race, unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8822, and amendments thereto, for unclaimed winning ticket proceeds from live greyhound races. Breakage for such races shall be distributed for use to benefit greyhound racing as determined by the commission.

(4) If a simulcasting licensee has a license to conduct live racing of only greyhounds and the licensee displays a simulcast horse race: (A) All breakage proceeds shall be remitted by the licensee to the commission not later than the 15th day of the month following the race from which the breakage is derived and the commission shall remit any such proceeds received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas horse breeding development fund created by K.S.A. 74-8829, and amendments thereto; and (B) all unclaimed ticket proceeds shall be remitted by the licensee to the commission on the 61st day after the end of the calendar year and the commission shall remit any such proceeds received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas horse breeding development fund created by K.S.A. 74-8829, and amendments thereto.

(i) The commission may approve a request by two or more simulcasting licensees to combine wagering pools within the state of Kansas pursuant to rules and regulations adopted by the commission.

(j) (1) The commission may authorize any simulcasting licensee to participate in an interstate combined wagering pool with one or more other racing jurisdictions.

(2) If a licensee participates in an interstate pool, the licensee may adopt the takeout of the host jurisdiction or facility. The amount and manner of paying purses from the takeout in an interstate pool shall be as provided by subsection (g).

(3) The tax imposed on amounts wagered in an interstate pool shall be as provided by K.S.A. 74-8823, and amendments thereto. Parimutuel taxes may not be imposed on any amounts wagered in an interstate combined wagering pool other than amounts wagered within this jurisdiction.

(4) Breakage for interstate combined wagering pools shall be calculated in accordance with the statutes and rules and regulations of the host jurisdiction and shall be allocated among the participating jurisdictions in a manner agreed to among the jurisdictions. Breakage allocated to this jurisdiction shall be distributed as provided by subsection (h).

(5) Upon approval of the respective recognized greyhound owners' group or recognized horsemen's group, the commission may permit an organization licensee to simulcast to other racetrack facilities or off-track wagering or intertrack wagering facilities in other jurisdictions one or more races conducted by such licensee, use one or more races conducted by such licensee for an intrastate combined wagering pool or use one or more races conducted by such licensee for an interstate combined wagering pool at off-track wagering or intertrack wagering locations outside the commission's jurisdiction and may allow parimutuel pools in other jurisdictions to be combined with parimutuel pools in the commission's jurisdiction for the purpose of establishing an interstate combined wagering pool.

(6) The participation by a simulcasting licensee in a combined interstate 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.

(k) If the organization licensee, facility owner licensee if any and the recognized horsemen's group or recognized greyhound owners' group are unable to agree concerning a simulcasting application, the matter may be submitted to the commission for determination at the written request of any party in accordance with rules and regulations of the commission.

(l) This section shall be part of and supplemental to the Kansas parimutuel racing act.

History: L. 1992, ch. 27, § 2; L. 1994, ch. 228, § 4; L. 1994, ch. 332, § 4; L. 1996, ch. 262, § 9; L. 1998, ch. 178, § 7; L. 2000, ch. 173, § 21; L. 2001, ch. 5, § 352; July 1.