

As Introduced

**127th General Assembly
Regular Session
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S. B. No. 125

Senator Stivers

**Cosponsors: Senators Clancy, Goodman, Spada, Mason, Schuler, Cates,
Cafaro, Smith**

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A B I L L

To amend sections 3769.03, 3769.08, 3769.083, 1
3769.085, and 3769.088 and to enact sections 2
3769.0811, 3769.0812, and 3769.0813 of the Revised 3
Code to authorize wagering at a track on horse 4
races that are telecast via an instant racing 5
system and to levy a tax on amounts wagered in 6
this manner. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3769.03, 3769.08, 3769.083, 8
3769.085, and 3769.088 be amended and sections 3769.0811, 9
3769.0812, and 3769.0813 of the Revised Code be enacted to read as 10
follows: 11

Sec. 3769.03. The state racing commission shall prescribe the 12
rules and conditions under which horse racing may be conducted and 13
may issue, deny, suspend, diminish, or revoke permits to conduct 14
horse racing as authorized by sections 3769.01 to 3769.14 of the 15
Revised Code. The commission may impose, in addition to any other 16
penalty imposed by the commission, fines in an amount not to 17
exceed ten thousand dollars on any permit holder or any other 18

person who violates the rules or orders of the commission. The 19
commission may prescribe the forms of wagering that are 20
permissible, the number of races, the procedures on wagering, and 21
the wagering information to be provided to the public. 22

The commission may require totalizator equipment to display 23
the amount of wagering in each wagering pool. The commission shall 24
initiate safeguards as necessary to account for the amount of 25
money wagered at each track in each wagering pool. It may require 26
permit holders to install equipment that will provide a complete 27
check and analysis of the functioning of any computers and require 28
safeguards on their performance. The commission shall require all 29
permit holders, except those holding state fair, county fair, or 30
other fair permits, to provide a photographic recording, approved 31
by the commission, of the entire running of all races conducted by 32
the permit holder. 33

The state racing commission may issue, deny, suspend, or 34
revoke licenses to those persons engaged in racing and to those 35
employees of permit holders as is in the public interest for the 36
purpose of maintaining a proper control over horse-racing 37
meetings. The commission, as is in the public interest for the 38
purpose of maintaining proper control over horse-racing meetings, 39
also may rule any person off a permit holder's premises. License 40
fees shall include registration fees and shall be set by the 41
commission. Each license issued by the commission, unless revoked 42
for cause, shall be for the period of one year from the first day 43
of January of the year in which it is issued, except as otherwise 44
provided in section 3769.07 of the Revised Code. Applicants for 45
licenses issued by the commission shall submit their fingerprints 46
to the commission, and the commission may forward the fingerprints 47
to the federal bureau of investigation ~~or~~ to any other agency, or 48
to both, for examination. 49

There is hereby created in the state treasury the state 50

racing commission operating fund. All license fees established and 51
collected by the commission pursuant to this section, and the 52
amounts specified in divisions (B) and (C) of section 3769.08 ~~and~~, 53
division (A)(6) of section 3769.087, and division (C)(2) of 54
section 3769.0813 of the Revised Code, shall be paid into the 55
state treasury to the credit of the fund. Moneys in the fund shall 56
be expended by the commission to defray its operating costs, 57
salaries and expenses, and the cost of administering and enforcing 58
this chapter. 59

The commission may deny a permit to any permit holder that 60
has defaulted in payments to the public, employees, or the 61
horsemen and may deny a permit to any successor purchaser of a 62
track for as long as any of those defaults have not been satisfied 63
by either the seller or purchaser. 64

The commission shall deny a permit to any permit holder that 65
has defaulted in payments to the state or has defaulted in 66
payments required under section 3769.089 ~~or~~, 3769.0810, or 67
3769.0813 of the Revised Code and shall deny a permit to any 68
successor purchaser of a track for as long as those defaults have 69
not been satisfied by either the seller or purchaser. 70

Any violation of this chapter, of any rule of racing adopted 71
by the commission, or of any law or rule with respect to racing in 72
any jurisdiction shall be sufficient reason for a refusal to issue 73
a license, or a suspension or revocation of any license issued, 74
pursuant to this section. 75

With respect to the issuance, denial, suspension, or 76
revocation of a license to a participant in horse racing, the 77
action of the commission shall be subject to Chapter 119. of the 78
Revised Code. 79

The commission may sue and be sued in its own name. Any 80
action against the commission shall be brought in the court of 81

common pleas of Franklin county. Any appeal from a determination 82
or decision of the commission rendered in the exercise of its 83
powers and duties under this chapter shall be brought in the court 84
of common pleas of Franklin county. 85

The commission, biennially, shall make a full report to the 86
governor of its proceedings for the two-year period ending with 87
the thirty-first day of December preceding the convening of the 88
general assembly and shall include its recommendations in the 89
report. The commission, semiannually, on the thirtieth day of June 90
and on the thirty-first day of December of each year, shall make a 91
report and accounting to the governor. 92

Sec. 3769.08. (A) Any person holding a permit to conduct a 93
horse-racing meeting may provide a place in the race meeting 94
grounds or enclosure at which the permit holder may conduct and 95
supervise the pari-mutuel system of wagering by patrons of legal 96
age on the live racing programs and simulcast racing programs 97
conducted by the permit holder. 98

The pari-mutuel method of wagering upon the live racing 99
programs and simulcast racing programs held at or conducted within 100
such race track, and at the time of such horse-racing meeting, or 101
at other times authorized by the state racing commission, shall 102
not be unlawful. No other place, except that provided and 103
designated by the permit holder and except as provided in section 104
3769.26 of the Revised Code, nor any other method or system of 105
betting or wagering, except the pari-mutuel system, shall be used 106
or permitted by the permit holder; nor, except as provided in 107
section 3769.089, 3769.0812, or 3769.26 of the Revised Code, shall 108
the pari-mutuel system of wagering be conducted by the permit 109
holder on any races except the races at the race track, grounds, 110
or enclosure for which the person holds a permit. ~~Each~~ Except as 111
provided in section 3769.0813 of the Revised Code, each permit 112

holder may retain as a commission an amount not to exceed eighteen 113
per cent of the total of all moneys wagered. 114

The pari-mutuel wagering authorized by this section is 115
subject to sections 3769.25 to 3769.28 of the Revised Code, with 116
the exception that pari-mutuel wagering conducted under section 117
3769.0812 of the Revised Code is not subject to those sections. 118

(B) At the close of each racing day, each permit holder 119
authorized to conduct thoroughbred racing, out of the amount 120
retained on that day by the permit holder, shall pay by check, 121
draft, or money order to the tax commissioner, as a tax, a sum 122
equal to the following percentages of the total of all moneys 123
wagered on live racing programs on that day and shall separately 124
compute and pay by check, draft, or money order to the tax 125
commissioner, as a tax, a sum equal to the following percentages 126
of the total of all money wagered on simulcast racing programs on 127
that day: 128

(1) One per cent of the first two hundred thousand dollars 129
wagered, or any part of that amount; 130

(2) Two per cent of the next one hundred thousand dollars 131
wagered, or any part of that amount; 132

(3) Three per cent of the next one hundred thousand dollars 133
wagered, or any part of that amount; 134

(4) Four per cent of all sums over four hundred thousand 135
dollars wagered. 136

Except as otherwise provided in section 3769.089 of the 137
Revised Code, each permit holder authorized to conduct 138
thoroughbred racing shall use for purse money a sum equal to fifty 139
per cent of the pari-mutuel revenues retained by the permit holder 140
as a commission after payment of the state tax under this 141
division. This fifty per cent payment shall be in addition to the 142
purse distribution from breakage specified in this section. 143

Subject to division (M) of this section, from the moneys paid 144
to the tax commissioner by thoroughbred racing permit holders, 145
one-half of one per cent of the total of all moneys so wagered on 146
a racing day shall be paid into the Ohio fairs fund created by 147
section 3769.082 of the Revised Code, one and one-eighth per cent 148
of the total of all moneys so wagered on a racing day shall be 149
paid into the Ohio thoroughbred race fund created by section 150
3769.083 of the Revised Code, and one-quarter of one per cent of 151
the total of all moneys wagered on a racing day by each permit 152
holder shall be paid into the state racing commission operating 153
fund created by section 3769.03 of the Revised Code. The required 154
payment to the state racing commission operating fund does not 155
apply to county and independent fairs and agricultural societies. 156
The remaining moneys may be retained by the permit holder, except 157
as provided in this section with respect to the odd cents 158
redistribution. Amounts paid into the PASSPORT fund shall be used 159
solely for the support of the PASSPORT program as determined in 160
appropriations made by the general assembly. If the PASSPORT 161
program is abolished, the amount that would have been paid to the 162
PASSPORT fund under this chapter shall be paid to the general 163
revenue fund of the state. As used in this chapter, "PASSPORT 164
program" means the PASSPORT program created under section 173.40 165
of the Revised Code. 166

The total amount paid to the Ohio thoroughbred race fund 167
under this section and division (A) of section 3769.087 of the 168
Revised Code shall not exceed by more than six per cent the total 169
amount paid to this fund under this section and that section 170
during the immediately preceding calendar year. 171

Each year, the total amount calculated for payment into the 172
Ohio fairs fund under this division, division (C) of this section, 173
and division (A) of section 3769.087 of the Revised Code shall be 174
an amount calculated using the percentages specified in this 175

division, division (C) of this section, and division (A) of 176
section 3769.087 of the Revised Code. 177

A permit holder may contract with a thoroughbred horsemen's 178
organization for the organization to act as a representative of 179
all thoroughbred owners and trainers participating in a 180
horse-racing meeting conducted by the permit holder. A 181
"thoroughbred horsemen's organization" is any corporation or 182
association that represents, through membership or otherwise, more 183
than one-half of the aggregate of all thoroughbred owners and 184
trainers who were licensed and actively participated in racing 185
within this state during the preceding calendar year. Except as 186
otherwise provided in this paragraph, any moneys received by a 187
thoroughbred horsemen's organization shall be used exclusively for 188
the benefit of thoroughbred owners and trainers racing in this 189
state through the administrative purposes of the organization, 190
benevolent activities on behalf of the horsemen, promotion of the 191
horsemen's rights and interests, and promotion of equine research. 192
A thoroughbred horsemen's organization may expend not more than an 193
aggregate of five per cent of its annual gross receipts, or a 194
larger amount as approved by the organization, for dues, 195
assessments, and other payments to all other local, national, or 196
international organizations having as their primary purposes the 197
promotion of thoroughbred horse racing, thoroughbred horsemen's 198
rights, and equine research. 199

(C) Except as otherwise provided in division (B) of this 200
section, at the close of each racing day, each permit holder 201
authorized to conduct harness or quarter horse racing, out of the 202
amount retained that day by the permit holder, shall pay by check, 203
draft, or money order to the tax commissioner, as a tax, a sum 204
equal to the following percentages of the total of all moneys 205
wagered on live racing programs and shall separately compute and 206
pay by check, draft, or money order to the tax commissioner, as a 207

tax, a sum equal to the following percentages of the total of all	208
money wagered on simulcast racing programs on that day:	209
(1) One per cent of the first two hundred thousand dollars	210
wagered, or any part of that amount;	211
(2) Two per cent of the next one hundred thousand dollars	212
wagered, or any part of that amount;	213
(3) Three per cent of the next one hundred thousand dollars	214
wagered, or any part of that amount;	215
(4) Four per cent of all sums over four hundred thousand	216
dollars wagered.	217
Except as otherwise provided in division (B) and subject to	218
division (M) of this section, from the moneys paid to the tax	219
commissioner by permit holders authorized to conduct harness or	220
quarter horse racing, one-half of one per cent of all moneys	221
wagered on that racing day shall be paid into the Ohio fairs fund;	222
from the moneys paid to the tax commissioner by permit holders	223
authorized to conduct harness racing, five-eighths of one per cent	224
of all moneys wagered on that racing day shall be paid into the	225
Ohio standardbred development fund; and from the moneys paid to	226
the tax commissioner by permit holders authorized to conduct	227
quarter horse racing, five-eighths of one per cent of all moneys	228
wagered on that racing day shall be paid into the Ohio quarter	229
horse development fund.	230
(D) In addition, subject to division (M) of this section,	231
beginning on January 1, 1996, from the money paid to the tax	232
commissioner as a tax under this section and division (A) of	233
section 3769.087 of the Revised Code by harness horse permit	234
holders, one-half of one per cent of the amount wagered on a	235
racing day shall be paid into the Ohio standardbred development	236
fund. Beginning January 1, 1998, the <u>The</u> payment to the Ohio	237
standardbred development fund required under this division does	238

not apply to county agricultural societies or independent 239
agricultural societies. 240

The total amount paid to the Ohio standardbred development 241
fund under this division, division (C) of this section, and 242
division (A) of section 3769.087 of the Revised Code and the total 243
amount paid to the Ohio quarter horse development fund under this 244
division and division (A) of that section shall not exceed by more 245
than six per cent the total amount paid into the fund under this 246
division, division (C) of this section, and division (A) of 247
section 3769.087 of the Revised Code in the immediately preceding 248
calendar year. 249

(E) Subject to division (M) of this section, from the money 250
paid as a tax under this chapter by harness and quarter horse 251
permit holders, one-quarter of one per cent of the total of all 252
moneys wagered on a racing day by each permit holder shall be paid 253
into the state racing commission operating fund created by section 254
3769.03 of the Revised Code. This division does not apply to 255
county and independent fairs and agricultural societies. 256

(F) Except as otherwise provided in section 3769.089 of the 257
Revised Code, each permit holder authorized to conduct harness 258
racing shall pay to the harness horsemen's purse pool a sum equal 259
to fifty per cent of the pari-mutuel revenues retained by the 260
permit holder as a commission after payment of the state tax under 261
division (C) of this section. This fifty per cent payment is to be 262
in addition to the purse distribution from breakage specified in 263
this section. 264

(G) In addition, each permit holder authorized to conduct 265
harness racing shall be allowed to retain the odd cents of all 266
redistribution to be made on all ~~mutual~~ mutuel contributions 267
exceeding a sum equal to the next lowest multiple of ten. 268

Forty per cent of that portion of that total sum of such odd 269

cents shall be used by the permit holder for purse money for Ohio 270
sired, bred, and owned colts, for purse money for Ohio bred 271
horses, and for increased purse money for horse races. Upon the 272
formation of the corporation described in section 3769.21 of the 273
Revised Code to establish a harness horsemen's health and 274
retirement fund, twenty-five per cent of that portion of that 275
total sum of odd cents shall be paid at the close of each racing 276
day by the permit holder to that corporation to establish and fund 277
the health and retirement fund. Until that corporation is formed, 278
that twenty-five per cent shall be paid at the close of each 279
racing day by the permit holder to the tax commissioner or the tax 280
commissioner's agent in the county seat of the county in which the 281
permit holder operates race meetings. The remaining thirty-five 282
per cent of that portion of that total sum of odd cents shall be 283
retained by the permit holder. 284

(H) In addition, each permit holder authorized to conduct 285
thoroughbred racing shall be allowed to retain the odd cents of 286
all redistribution to be made on all mutuel contributions 287
exceeding a sum equal to the next lowest multiple of ten. Twenty 288
per cent of that portion of that total sum of such odd cents shall 289
be used by the permit holder for increased purse money for horse 290
races. Upon the formation of the corporation described in section 291
3769.21 of the Revised Code to establish a thoroughbred horsemen's 292
health and retirement fund, forty-five per cent of that portion of 293
that total sum of odd cents shall be paid at the close of each 294
racing day by the permit holder to that corporation to establish 295
and fund the health and retirement fund. Until that corporation is 296
formed, that forty-five per cent shall be paid by the permit 297
holder to the tax commissioner or the tax commissioner's agent in 298
the county seat of the county in which the permit holder operates 299
race meetings, at the close of each racing day. The remaining 300
thirty-five per cent of that portion of that total sum of odd 301
cents shall be retained by the permit holder. 302

(I) In addition, each permit holder authorized to conduct 303
quarter horse racing shall be allowed to retain the odd cents of 304
all redistribution to be made on all mutuel contributions 305
exceeding a sum equal to the next lowest multiple of ten, subject 306
to a tax of twenty-five per cent on that portion of the total sum 307
of such odd cents that is in excess of two thousand dollars during 308
a calendar year, which tax shall be paid at the close of each 309
racing day by the permit holder to the tax commissioner or the tax 310
commissioner's agent in the county seat of the county within which 311
the permit holder operates race meetings. Forty per cent of that 312
portion of that total sum of such odd cents shall be used by the 313
permit holder for increased purse money for horseraces. The 314
remaining thirty-five per cent of that portion of that total sum 315
of odd cents shall be retained by the permit holder. 316

(J)(1) To encourage the improvement of racing facilities for 317
the benefit of the public, breeders, and horse owners, and to 318
increase the revenue to the state from the increase in pari-mutuel 319
wagering resulting from those improvements, the taxes paid by a 320
permit holder to the state as provided for in this chapter shall 321
be reduced by three-fourths of one per cent of the total amount 322
wagered for those permit holders who make capital improvements to 323
existing race tracks or construct new race tracks. The percentage 324
of the reduction that may be taken each racing day shall equal 325
seventy-five per cent of the taxes levied under divisions (B) and 326
(C) of this section and section 3769.087 of the Revised Code, and 327
division (F)(2) of section 3769.26 of the Revised Code, as 328
applicable, divided by the calculated amount each fund should 329
receive under divisions (B) and (C) of this section and section 330
3769.087 of the Revised Code, and division (F)(2) of section 331
3769.26 of the Revised Code and the reduction provided for in this 332
division. If the resulting percentage is less than one, that 333
percentage shall be multiplied by the amount of the reduction 334
provided for in this division. Otherwise, the permit holder shall 335

receive the full reduction provided for in this division. The 336
amount of the allowable reduction not received shall be carried 337
forward and applied against future tax liability. After any 338
reductions expire, any reduction carried forward shall be treated 339
as a reduction as provided for in this division. 340

If more than one permit holder is authorized to conduct 341
racing at the facility that is being built or improved, the cost 342
of the new race track or capital improvement shall be allocated 343
between or among all the permit holders in the ratio that the 344
permit holders' number of racing days bears to the total number of 345
racing days conducted at the facility. 346

A reduction for a new race track or a capital improvement 347
shall start from the day racing is first conducted following the 348
date actual construction of the new race track or each capital 349
improvement is completed and the construction cost has been 350
approved by the state racing commission, unless otherwise provided 351
in this section. A reduction for a new race track or a capital 352
improvement shall continue for a period of twenty-five years for 353
new race tracks and for fifteen years for capital improvements if 354
the construction of the capital improvement or new race track 355
commenced prior to March 29, 1988, and for a period of ten years 356
for new race tracks or capital improvements if the construction of 357
the capital improvement or new race track commenced on or after 358
March 29, 1988, but before ~~the effective date of this amendment~~ 359
June 6, 2001, or until the total tax reduction reaches seventy per 360
cent of the approved cost of the new race track or capital 361
improvement, as allocated to each permit holder, whichever occurs 362
first. A reduction for a new race track or a capital improvement 363
approved after ~~the effective date of this amendment~~ June 6, 2001, 364
shall continue until the total tax reduction reaches one hundred 365
per cent of the approved cost of the new race track or capital 366
improvement, as allocated to each permit holder. 367

A reduction granted for a new race track or a capital 368
improvement, the application for which was approved by the racing 369
commission after March 29, 1988, but before ~~the effective date of~~ 370
~~this amendment~~ June 6, 2001, shall not commence nor shall the 371
ten-year period begin to run until all prior tax reductions with 372
respect to the same race track have ended. The total tax reduction 373
because of capital improvements shall not, during any one year, 374
exceed for all permit holders using any one track three-fourths of 375
one per cent of the total amount wagered, regardless of the number 376
of capital improvements made. Several capital improvements to a 377
race track may be consolidated in an application if the state 378
racing commission approved the application prior to March 29, 379
1988. No permit holder may receive a tax reduction for a capital 380
improvement approved by the racing commission on or after March 381
29, 1988, at a race track until all tax reductions have ended for 382
all prior capital improvements approved by the racing commission 383
under this section or section 3769.20 of the Revised Code at that 384
race track. If there are two or more permit holders operating 385
meetings at the same track, they may consolidate their 386
applications. The racing commission shall notify the tax 387
commissioner when the reduction of tax begins and when it ends. 388

Each fiscal year the state racing commission shall submit a 389
report to the tax commissioner, the office of budget and 390
management, and the legislative service commission. The report 391
shall identify each capital improvement project undertaken under 392
this division and in progress at each race track, indicate the 393
total cost of each project, state the tax reduction that resulted 394
from each project during the immediately preceding fiscal year, 395
estimate the tax reduction that will result from each project 396
during the current fiscal year, state the total tax reduction that 397
resulted from all such projects at all race tracks during the 398
immediately preceding fiscal year, and estimate the total tax 399
reduction that will result from all such projects at all race 400

tracks during the current fiscal year. 401

(2) In order to qualify for the reduction in tax, a permit 402
holder shall apply to the state racing commission in such form as 403
the commission may require and shall provide full details of the 404
new race track or capital improvement, including a schedule for 405
its construction and completion, and set forth the costs and 406
expenses incurred in connection with it. The racing commission 407
shall not approve an application unless the permit holder shows 408
that a contract for the new race track or capital improvement has 409
been let under an unrestricted competitive bidding procedure, 410
unless the contract is exempted by the controlling board because 411
of its unusual nature. In determining whether to approve an 412
application, the racing commission shall consider whether the new 413
race track or capital improvement will promote the safety, 414
convenience, and comfort of the racing public and horse owners and 415
generally tend towards the improvement of racing in this state. 416

(3) If a new race track or capital improvement is approved by 417
the state racing commission and construction has started, the tax 418
reduction may be authorized by the commission upon presentation of 419
copies of paid bills in excess of one hundred thousand dollars or 420
ten per cent of the approved cost, whichever is greater. After the 421
initial authorization, the permit holder shall present copies of 422
paid bills. If the permit holder is in substantial compliance with 423
the schedule for construction and completion of the new race track 424
or capital improvement, the racing commission may authorize the 425
continuation of the tax reduction upon the presentation of the 426
additional paid bills. The total amount of the tax reduction 427
authorized shall not exceed the percentage of the approved cost of 428
the new race track or capital improvement specified in division 429
(J)(1) of this section. The racing commission may terminate any 430
tax reduction immediately if a permit holder fails to complete the 431
new race track or capital improvement, or to substantially comply 432

with the schedule for construction and completion of the new race track or capital improvement. If a permit holder fails to complete a new race track or capital improvement, the racing commission shall order the permit holder to repay to the state the total amount of tax reduced. The normal tax paid by the permit holder shall be increased by three-fourths of one per cent of the total amount wagered until the total amount of the additional tax collected equals the total amount of tax reduced.

(4) As used in this ~~section~~ division:

(a) "Capital improvement" means an addition, replacement, or remodeling of a structural unit of a race track facility costing at least one hundred thousand dollars, including, but not limited to, the construction of barns used exclusively for the race track facility, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator equipment and appurtenances to that equipment purchased by the track, new access roads, new parking areas, the complete reconstruction, reshaping, and leveling of the racing surface and appurtenances, the installation of permanent new heating or air conditioning, roof replacement or restoration, installations of a permanent nature forming a part of the track structure, and construction of buildings that are located on a permit holder's premises. "Capital improvement" does not include the cost of replacement of equipment that is not permanently installed, ordinary repairs, painting, and maintenance required to keep a race track facility in ordinary operating condition.

(b) "New race track" includes the reconstruction of a race track damaged by fire or other cause that has been declared by the state racing commission, as a result of the damage, to be an inadequate facility for the safe operation of horse racing.

(c) "Approved cost" includes all debt service and interest costs that are associated with a capital improvement or new race

track and that the state racing commission approves for a tax 465
reduction under division (J) of this section. 466

(5) The state racing commission shall not approve an 467
application for a tax reduction under this section if it has 468
reasonable cause to believe that the actions or negligence of the 469
permit holder substantially contributed to the damage suffered by 470
the track due to fire or other cause. The racing commission shall 471
obtain any data or information available from a fire marshal, law 472
enforcement official, or insurance company concerning any fire or 473
other damage suffered by a track, prior to approving an 474
application for a tax reduction. 475

(6) The approved cost to which a tax reduction applies shall 476
be determined by generally accepted accounting principles and 477
verified by an audit of the permit holder's records upon 478
completion of the project by the state racing commission, or by an 479
independent certified public accountant selected by the permit 480
holder and approved by the commission. 481

(K) No other license or excise tax or fee, except as provided 482
in sections 3769.01 to 3769.14 of the Revised Code, shall be 483
assessed or collected from such licensee by any county, township, 484
district, municipal corporation, or other body having power to 485
assess or collect a tax or fee. That portion of the tax paid under 486
this section by permit holders for racing conducted at and during 487
the course of an agricultural exposition or fair, and that portion 488
of the tax that would have been paid by eligible permit holders 489
into the PASSPORT fund as a result of racing conducted at and 490
during the course of an agricultural exposition or fair, shall be 491
deposited into the state treasury to the credit of the horse 492
racing tax fund, which is hereby created for the use of the 493
agricultural societies of the several counties in which the taxes 494
originate. The state racing commission shall determine eligible 495
permit holders for purposes of the preceding sentence, taking into 496

account the breed of horse, the racing dates, the geographic 497
proximity to the fair, and the best interests of Ohio racing. On 498
the first day of any month on which there is money in the fund, 499
the tax commissioner shall provide for payment to the treasurer of 500
each agricultural society the amount of the taxes collected under 501
this section upon racing conducted at and during the course of any 502
exposition or fair conducted by the society. 503

(L) From the tax paid under this section by harness track 504
permit holders, the tax commissioner shall pay into the Ohio 505
thoroughbred race fund a sum equal to a percentage of the amount 506
wagered upon which the tax is paid. The percentage shall be 507
determined by the tax commissioner and shall be rounded to the 508
nearest one-hundredth. The percentage shall be such that, when 509
multiplied by the amount wagered upon which tax was paid by the 510
harness track permit holders in the most recent year for which 511
final figures are available, it results in a sum that 512
substantially equals the same amount of tax paid by the tax 513
commissioner during that year into the Ohio fairs fund from taxes 514
paid by thoroughbred permit holders. This division does not apply 515
to county and independent fairs and agricultural societies. 516

(M) Twenty-five per cent of the taxes levied on thoroughbred 517
racing permit holders, harness racing permit holders, and quarter 518
horse racing permit holders under this section, division (A) of 519
section 3769.087 of the Revised Code, and division (F)(2) of 520
section 3769.26 of the Revised Code shall be paid into the 521
PASSPORT fund. The tax commissioner shall pay any money remaining, 522
after the payment into the PASSPORT fund and the reductions 523
provided for in division (J) of this section and in section 524
3769.20 of the Revised Code, into the Ohio fairs fund, Ohio 525
thoroughbred race fund, Ohio standardbred development fund, Ohio 526
quarter horse fund, and state racing commission operating fund as 527
prescribed in this section and division (A) of section 3769.087 of 528

the Revised Code. The tax commissioner shall thereafter use and 529
apply the balance of the money paid as a tax by any permit holder 530
to cover any shortage in the accounts of such funds resulting from 531
an insufficient payment as a tax by any other permit holder. The 532
moneys received by the tax commissioner shall be deposited weekly 533
and paid by the tax commissioner into the funds to cover the total 534
aggregate amount due from all permit holders to the funds, as 535
calculated under this section and division (A) of section 3769.087 536
of the Revised Code, as applicable. If, after the payment into the 537
PASSPORT fund, sufficient funds are not available from the tax 538
deposited by the tax commissioner to pay the required amounts into 539
the Ohio fairs fund, Ohio standardbred development fund, Ohio 540
thoroughbred race fund, Ohio quarter horse fund, and the state 541
racing commission operating fund, the tax commissioner shall 542
prorate on a proportional basis the amount paid to each of the 543
funds. Any shortage to the funds as a result of a proration shall 544
be applied against future deposits for the same calendar year when 545
funds are available. After this application, the tax commissioner 546
shall pay any remaining money paid as a tax by all permit holders 547
into the PASSPORT fund. This division does not apply to permit 548
holders conducting racing at and during the course of an 549
agricultural exposition or fair as described in division (K) of 550
this section. 551

Sec. 3769.083. (A) As used in this section: 552

(1) An "accredited Ohio thoroughbred horse" means a horse 553
conceived in this state and born in this state which is both of 554
the following: 555

(a) Born of a mare that is domiciled in this state at the 556
time of the horse's conception, that remains continuously in the 557
state through the date on which the horse is born, and that is 558
registered as required by the rules of the state racing 559

commission; 560

(b) By a stallion that stands for breeding purposes only in 561
this state in the year in which the horse is conceived, and that 562
is registered as required by the rules of the commission. 563

(2) An "Ohio foaled horse" means a horse registered as 564
required by the rules of the state racing commission which is 565
either of the following: 566

(a) A horse born of a mare that enters this state before 567
foaling and remains continuously in this state until the horse is 568
born; 569

(b) A thoroughbred foal produced within the state by any 570
broodmare shipped into the state to foal and be bred to a 571
registered Ohio stallion. To qualify this foal as an Ohio foaled 572
horse, the broodmare shall remain in this state one year 573
continuously after foaling or continuously through foaling to the 574
cover of the Ohio stallion, whichever is sooner. All horses 575
previously registered as Ohio conceived and foaled shall be 576
considered as Ohio foaled horses effective January 1, 1976. 577

Any thoroughbred mare may leave this state for periods of 578
time for purposes of activities such as veterinary treatment or 579
surgery, sales purposes, breeding purposes, racing purposes, and 580
similar activities if permission is granted by the state racing 581
commission and the mare is returned to this state immediately upon 582
the conclusion of the requested activity. 583

(3) "Horse," "stallion," "mare," or "foal" means a horse of 584
the thoroughbred breed as distinguished from a horse of the 585
standard breed or any other breed, and "race" means a race for 586
thoroughbred horses conducted by a permit holder of the state 587
racing commission. 588

(4) "Horse" includes animals of all ages and of both sexes. 589

(B) There is hereby created in the state treasury the Ohio thoroughbred race fund, to consist of moneys paid into it pursuant to sections 3769.08 ~~and~~, 3769.087, and 3769.0813 of the Revised Code. All investment earnings on the cash balances in the fund shall be credited to it. Moneys to the credit of the fund shall be distributed on order of the state racing commission. The commission, with the advice and assistance of the Ohio thoroughbred racing advisory committee, shall use the fund, except as provided in divisions (C)(2) and (3) and (D) of this section, to promote races and provide purses for races for horses in the following classes:

- (1) Accredited Ohio thoroughbred horses;
- (2) Ohio foaled horses.

Not less than ten nor more than twenty-five per cent of the total money to be paid from the fund for all types of races shall be allocated to races restricted to accredited Ohio thoroughbred horses. The commission may combine the classes of horses described in divisions (B)(1) and (2) of this section in one race, except in stakes races.

(C)(1) Each permit holder conducting thoroughbred races shall schedule races each week for horses in the classes named in division (B) of this section; the number of the races shall be prescribed by the state racing commission. The commission, pursuant to division (B) of this section, shall prescribe the class or classes of the races to be held by each permit holder and, with the advice of the Ohio thoroughbred racing advisory committee, shall fix the dates and conditions of the races and the amount of moneys to be paid from the Ohio thoroughbred race fund to be added in each race to the minimum purse established by the permit holder for the class of race held.

- (2) The commission, with the advice of the Ohio thoroughbred

621 racing advisory committee, may provide for stakes races to be run
622 each year, and fix the number of stakes races and the time, place,
623 and conditions under which each shall be run. The commission shall
624 fix the amount of moneys to be paid from the Ohio thoroughbred
625 race fund to be added to the purse provided for each stakes race
626 by the permit holder, except that, in at least four stakes races
627 each year, the commission shall require, if four stakes races can
628 be arranged, that the permit holder conducting the stakes race
629 provide no less than fifteen thousand dollars for the purse for
630 the stakes race, and the commission shall provide moneys from the
631 fund to be added to the purse in an amount equal to or greater
632 than the amount provided by the permit holder. The commission may
633 require a nominating, sustaining, and entry fee not to exceed one
634 per cent of the money added from the fund for each horse in any
635 stakes race, which fee shall be added to the purse for the race.

636 Stakes races where money is added from the Ohio thoroughbred
637 race fund shall be open only to accredited Ohio thoroughbred
638 horses and Ohio foaled horses. Twenty-five per cent of the total
639 moneys to be paid from the fund for stakes races shall be
640 allocated to races for only accredited Ohio thoroughbred horses.
641 The commission may require a nominating, sustaining, and entry
642 fee, not to exceed one per cent of the money added from the fund,
643 for each horse in any of these stakes races. These fees shall be
644 accumulated by the commission and shall be paid out by the
645 commission at its discretion as part of the purse money for
646 additional races.

647 (3) The commission may pay from the Ohio thoroughbred race
648 fund to the breeder of a horse of class (1) or (2) of division (B)
649 of this section winning first, second, or third prize money of a
650 purse for a thoroughbred race an amount not to exceed fifteen per
651 cent of the first, second, or third prize money of the purse. For
652 the purposes of this division, the term "breeder" shall be defined

by rule of the commission. 653

The commission also may provide for stallion owners' awards 654
in an amount equal to not less than three nor more than ten per 655
cent of the first, second, or third place share of the purse. The 656
award shall be paid to the owner of the stallion, provided that 657
the stallion was standing in this state as provided in division 658
(A)(1)(b) of this section at the time the horse placing first, 659
second, or third was conceived. 660

(D) The state racing commission may provide for the 661
expenditure of moneys from the Ohio thoroughbred race fund in an 662
amount not to exceed in any one calendar year ten per cent of the 663
total amount received in the account that year to provide for 664
research projects directed toward improving the breeding, raising, 665
racing, and health and soundness of thoroughbred horses in the 666
state and toward education or promotion of the industry. Research 667
for which the moneys from the fund may be used may include, but 668
shall not be limited to, studies of pre-race blood testing, 669
post-race testing, improvement of the breed, and nutrition. 670

(E) The state racing commission shall appoint qualified 671
personnel as may be required to supervise registration of horses 672
under the terms of this section, to determine the eligibility of 673
horses for accredited Ohio thoroughbred races, Ohio foaled races, 674
and the stakes races authorized by division (C)(2) of this 675
section, and to assist the Ohio thoroughbred racing advisory 676
committee and the commission in determining the conditions, class, 677
and quality of the race program to be established under this 678
section so as to carry out the purposes of this section. The 679
personnel shall serve at the pleasure of the commission, and 680
compensation shall be fixed by the commission. The compensation of 681
the personnel and necessary expenses shall be paid out of the Ohio 682
thoroughbred race fund. 683

The commission shall adopt rules as are necessary to carry 684

out this section and shall administer the stakes race program and 685
other races supported by the Ohio thoroughbred race fund in a 686
manner best designed to aid in the development of the thoroughbred 687
horse industry in the state, to upgrade the quality of horse 688
racing in the state, and to improve the quality of horses 689
conceived and foaled in the state. 690

Sec. 3769.085. (A) There is hereby created in the state 691
treasury the Ohio standardbred development fund, to consist of 692
moneys paid into it pursuant to ~~section~~ sections 3769.08 and 693
3769.0813 of the Revised Code and any fees assessed for or on 694
behalf of the Ohio sires stakes races. All fees so assessed shall 695
be exempt from the requirements of divisions (D) and (M) of ~~that~~ 696
section 3769.08 of the Revised Code. All investment earnings on 697
the cash balance in the fund shall be credited to the fund. Moneys 698
to the credit of the fund shall be distributed on order of the 699
state racing commission with the approval of the Ohio standardbred 700
development commission. 701

(B) The Ohio standardbred development commission shall 702
consist of three members, all to be residents of this state 703
knowledgeable in breeding and racing, to be appointed by the 704
governor with the advice and consent of the senate. One member 705
shall be a standardbred breeder, and one member shall be a 706
standardbred owner. Of the initial appointments, one member shall 707
be appointed for a term ending June 30, 1977, and two members 708
shall be appointed for terms ending June 30, 1979. Thereafter, 709
appointments for other than unexpired terms shall be for four 710
years. Terms shall begin the first day of July and end the 711
thirtieth day of June. Any member appointed to fill a vacancy 712
occurring prior to the expiration of the term for which the 713
member's predecessor was appointed shall hold office for the 714
remainder of that term. Any member shall continue in office 715
subsequent to the expiration date of the member's term until a 716

successor takes office. Members shall receive no compensation, 717
except that they shall be paid actual and necessary expenses from 718
the Ohio standardbred development fund. The state racing 719
commission also shall be reimbursed from the fund for actual 720
expenses approved by the development commission. The development 721
commission may elect one member to serve as secretary. 722

(C) Upon application not later than the first day of December 723
from the harness tracks conducting races with pari-mutuel 724
wagering, other than agricultural expositions and fairs, the Ohio 725
standardbred development commission, after a hearing and not later 726
than the twentieth day of January, shall allocate and approve all 727
available moneys for colt races for two-year-old and 728
three-year-old colts and fillies, both trotting and pacing. 729
Separate races for fillies shall be provided at each age and gait. 730
Up to five races and a championship race shall be scheduled for 731
each of the eight categories of age, sex, and gait. The 732
allocations shall take into account the time of year that racing 733
colts is feasible, the equity and continuity of the proposed dates 734
for racing events, and the amounts to be added by the tracks, 735
looking to the maximum benefit for those participating in the 736
races. Representatives of the tracks and the Ohio harness 737
horsemen's association shall be given an opportunity to be heard 738
before the allocations are made. No races shall be contested 739
earlier than the first day of May or later than the first day of 740
November; all permit holders operating extended pari-mutuel 741
meetings between those dates shall be entitled to at least three 742
races. No funds for a race shall be allocated to and paid to a 743
permit holder by the development commission unless the permit 744
holder adds at least twenty-five per cent to the amount allocated 745
by the development commission, and not less than five thousand 746
dollars to each race. 747

Colts and fillies eligible to the races shall be only those 748

sired by a standardbred stallion that was registered with the 749
state racing commission and stood in the state the entire breeding 750
season of the year the colt or filly was conceived. 751

If the development commission concludes that sufficient funds 752
are available to add aged races without reducing purse levels of 753
the colt and filly races, the development commission may allocate 754
funds to four-year-old and up races of each sex and gait with Ohio 755
eligibility required as set forth in this section. 756

(D) The state racing commission may allocate an amount not to 757
exceed five per cent of the total Ohio standardbred development 758
fund available in any one calendar year to research projects 759
directed toward improving the breeding, raising, racing, and 760
health and soundness of horses in the state and toward education 761
or promotion of the industry. 762

Sec. 3769.088. (A) If any permit holder required by this 763
chapter to pay the taxes levied by sections 3769.08, 3769.087, 764
3769.0813, 3769.26, and 3769.28 of the Revised Code fails to pay 765
the taxes, the tax commissioner may make an assessment against the 766
permit holder based upon any information in the commissioner's 767
possession. 768

A penalty of up to fifteen per cent may be added to the 769
amount of every assessment made under this section. The 770
commissioner may adopt rules providing for the imposition and 771
remission of penalties added to assessments made under this 772
section. 773

The commissioner shall give the party assessed written notice 774
of the assessment in the manner provided in section 5703.37 of the 775
Revised Code. With the notice, the commissioner shall provide 776
instructions on how to petition for reassessment and request a 777
hearing on the petition. 778

(B) Unless the party assessed files with the tax commissioner 779
within sixty days after service of the notice of assessment, 780
either personally or by certified mail, a written petition for 781
reassessment signed by the party assessed or that party's 782
authorized agent having knowledge of the facts, the assessment 783
becomes final, and the amount of the assessment is due and payable 784
from the party assessed to the commissioner. The petition shall 785
indicate the objections of the party assessed, but additional 786
objections may be raised in writing if received by the 787
commissioner prior to the date shown on the final determination. 788
If the petition has been properly filed, the commissioner shall 789
proceed under section 5703.60 of the Revised Code. 790

(C) After an assessment becomes final, if any portion of the 791
assessment remains unpaid, including accrued interest, a certified 792
copy of the tax commissioner's entry making the assessment final 793
may be filed in the office of the clerk of the court of common 794
pleas in the county in which the place, track, or enclosure for 795
which the permit was issued is located or the county in which the 796
party assessed resides or has its principal place of business. If 797
the party assessed maintains no place of business in this state 798
and is not a resident of this state, the certified copy of the 799
entry may be filed in the office of the clerk of the court of 800
common pleas of Franklin county. 801

Immediately upon the filing of the entry, the clerk shall 802
enter a judgment for the state against the party assessed in the 803
amount shown on the entry. The judgment may be filed by the clerk 804
in a loose-leaf book entitled "special judgments for state horse 805
racing tax," and shall have the same effect as other judgments. 806
Execution shall issue upon the judgment upon the request of the 807
tax commissioner, and all laws applicable to sales on execution 808
shall apply to sales made under the judgment. 809

The portion of the assessment not paid within sixty days 810

after the day the assessment was issued shall bear interest at the 811
rate per annum prescribed by section 5703.47 of the Revised Code 812
from the day the tax commissioner issues the assessment until the 813
day the assessment is paid. Interest shall be paid in the same 814
manner as the tax and may be collected by the issuance of an 815
assessment under this section. 816

(D) All money collected by the tax commissioner under this 817
section shall be treated as revenue arising from the taxes imposed 818
by sections 3769.08, 3769.087, 3769.0813, 3769.26, and 3769.28 of 819
the Revised Code. 820

Sec. 3769.0811. As used in sections 3769.0811 to 3769.0813 of 821
the Revised Code: 822

(A) "Instant racing system" means a telecast, for pari-mutuel 823
wagering purposes, of audio and visual signals of horse races 824
previously conducted at facilities inside or outside this state, 825
that is to a place, track, or enclosure for which a permit is 826
issued under section 3769.06 of the Revised Code, and that is 827
displayed on individual viewing terminals. 828

(B) "Permit holder" has the same meaning as in section 829
3769.25 of the Revised Code. 830

(C) "Permit holder's commission" means an amount that does 831
not exceed twelve per cent of the total of all moneys wagered on a 832
racing day on horse races telecast via an instant racing system to 833
a permit holder's place, track, or enclosure for which a permit is 834
issued under section 3769.06 of the Revised Code. 835

Sec. 3769.0812. (A) Upon written request by any permit 836
holder, the state racing commission shall authorize the permit 837
holder to operate on racing days an instant racing system at the 838
permit holder's place, track, or enclosure for which the permit is 839
issued under section 3769.06 of the Revised Code. 840

(B) Each permit holder that receives an authorization may 841
install and operate individual viewing terminals at the permit 842
holder's place, track, or enclosure to implement an instant racing 843
system. A permit holder shall design and operate the instant 844
racing system so that a person is not able to fast-forward the 845
last ten seconds of any telecast. 846

Sec. 3769.0813. (A) The moneys wagered on horse races 847
telecast via an instant racing system on a racing day shall be 848
separated from the moneys wagered on live horse races conducted 849
at, and on other horse races simulcast to, the permit holder's 850
place, track, or enclosure on that racing day. Each permit holder 851
shall retain a permit holder's commission from the former moneys. 852

(B) At the close of each racing day, the permit holder shall 853
pay by check, draft, or money order to the state tax commissioner, 854
as a tax, an amount equal to twenty per cent of the permit 855
holder's commission. The moneys wagered on horse races telecast 856
via an instant racing system are subject only to this tax and not 857
to any tax levied under section 3769.08 or 3769.087 or division 858
(E) of section 3769.089 of the Revised Code. 859

(C) The amount of the permit holder's commission that remains 860
after the payment to the state tax commissioner of the tax levied 861
under division (B) of this section is the permit holder's net 862
commission. The net commission shall be allocated in the following 863
manner: 864

(1)(a) The permit holder shall pay an amount equal to 865
nineteen per cent of the net commission to the permit holder's 866
purse account. 867

(b) The Ohio division of the horsemen's benevolent and 868
protective association may direct that up to fifty per cent of the 869
net commission that is paid to the permit holder's purse account 870
under division (C)(1)(a) of this section may be designated for 871

either of the following: 872

(i) Horsemen's health and benevolence programs; 873

(ii) Payment into the Ohio thoroughbred race fund created by 874
section 3769.083 of the Revised Code. 875

(c) The Ohio harness horsemen's association may direct that 876
up to fifty per cent of the net commission that is paid to the 877
permit holder's purse account under division (C)(1)(a) of this 878
section may be designated for any of the following: 879

(i) Horsemen's health and benevolence programs; 880

(ii) Payment into the Ohio standardbred development fund 881
created by section 3769.085 of the Revised Code; 882

(iii) Payment into the Ohio fairs fund created by section 883
3769.082 of the Revised Code. 884

(2) The permit holder shall pay an amount not to exceed one 885
per cent of the net commission, as determined by rule of the state 886
racing commission, into the state racing commission operating fund 887
created by section 3769.03 of the Revised Code, as an 888
administrative fee. 889

(3) The permit holder shall retain the balance of the net 890
commission that remains after paying the amounts described in 891
divisions (C)(1) and (2) of this section. 892

Section 2. That existing sections 3769.03, 3769.08, 3769.083, 893
3769.085, and 3769.088 of the Revised Code are hereby repealed. 894
895