

**As Reported by the Senate Finance and Financial Institutions
Committee**

**127th General Assembly
Regular Session
2007-2008**

Sub. S. B. No. 125

Senator Stivers

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

—

A B I L L

To amend sections 924.01, 924.04, 924.07, 924.09, 1
924.10, 3769.03, 3769.08, 3769.083, 3769.085, and 2
3769.088 and to enact sections 924.011, 924.071, 3
3769.0811, 3769.0812, and 3769.0813 of the Revised 4
Code to authorize wagering at a track on horse 5
races that are telecast via an instant racing 6
system, to levy a tax on amounts wagered in this 7
manner, and to enable certain persons associated 8
with the equine industry to establish an equine 9
marketing program. 10

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

Section 1. That sections 924.01, 924.04, 924.07, 924.09, 11
924.10, 3769.03, 3769.08, 3769.083, 3769.085, and 3769.088 be 12
amended and sections 924.011, 924.071, 3769.0811, 3769.0812, and 13
3769.0813 of the Revised Code be enacted to read as follows: 14

Sec. 924.01. As used in ~~Chapter 924. of the Revised Code~~ this 15
chapter: 16

(A) "Agricultural commodity" means any food, fiber, feed, 17

animal, or plant, or group of foods, fibers, feeds, animals, or 18
plants that the director of agriculture determines to be of the 19
same nature, in either a natural or a processed state. 20

(B) "Distributor" means any person who sells, offers for 21
sale, markets, or distributes an agricultural commodity ~~which he~~ 22
that the person has purchased or acquired directly from a 23
producer, or ~~which he~~ that the person markets on behalf of a 24
producer. 25

(C) "Handler" means any person who is in the business of 26
packing, grading, selling, offering for sale, or marketing any 27
agricultural commodity in commercial quantities as defined in a 28
marketing program. 29

(D) "Marketing program" means a program ~~which~~ that is 30
established by order of the director of agriculture pursuant to 31
this chapter, to improve or expand the market for an agricultural 32
commodity. 33

(E) "Operating committee" means a committee established to 34
administer a marketing program for an agricultural commodity. 35

(F) "Person" means any natural person, partnership, 36
corporation, society, association, or fiduciary. 37

(G) "Processor" means any person who is in the business of 38
grading, packaging, packing, canning, freezing, dehydrating, 39
fermenting, distilling, extracting, preserving, grinding, 40
crushing, juicing, or in any other way preserving or changing the 41
form of any agricultural commodity. 42

(H) "Producer" means, except as otherwise provided in this 43
division, any person who is in the business of producing, or 44
causing to be produced, any agricultural commodity for commercial 45
sale, ~~except that when~~. When used in reference to nursery stock, 46
"producer" also means a distributor, processor, handler, or 47
retailer of nursery stock. When used in reference to equines, 48

"producer" means any person who owns, breeds, or trains equines. 49

Sec. 924.011. Notwithstanding any language to the contrary, 50
the provisions of this chapter that concern distributors, 51
handlers, or processors shall not apply to an equine marketing 52
program. 53

Sec. 924.04. (A) Producers of an Ohio agricultural commodity 54
may present the director of agriculture with a petition signed by 55
the lesser of one thousand or twenty per cent of all such 56
producers requesting that the director hold a referendum in 57
accordance with section 924.06 of the Revised Code to establish a 58
marketing program for that commodity or to amend an existing 59
program. 60

(B) At the time of presentation of the petition to the 61
director under division (A) of this section, the petitioners also 62
shall present the proposed amendment or a proposed program, which 63
shall include all of the following: 64

(1) The Except in the case of a proposed equine marketing 65
program or a proposed amendment to an existing equine marketing 66
program, the rate of assessment to be made on the marketable 67
agricultural commodity, which shall not exceed two per cent of the 68
average market price of that agricultural commodity during the 69
preceding marketing year as defined by the United States 70
department of agriculture or, if there is no such definition, by 71
the director⁺. In the case of a proposed equine marketing program 72
or a proposed amendment to an existing equine marketing program, 73
the petition shall not provide for an assessment. 74

(2) Terms, conditions, limitations, and other qualifications 75
for assessment; 76

(3) Procedures to refund the assessment; 77

(4) Requirements for appointed or elected committees, except 78

that the operating committee of an equine marketing program shall 79
not be elected; 80

(5) In the case of a proposed equine marketing program or a 81
proposed amendment to an existing equine marketing program, a 82
specification that all money received for the program will be 83
equitably distributed among the equine industries that are 84
represented in the program for the purposes of carrying out the 85
purposes of the program as authorized under section 924.03 of the 86
Revised Code. 87

(C) Before making a decision under this division to approve 88
or disapprove a proposed program or a proposed amendment to an 89
existing program, the director shall publish in at least two 90
appropriate periodicals designated by ~~him~~ the director a notice 91
that the program or amendment has been proposed and informing 92
interested persons of the procedures for submitting comments 93
regarding the proposal. After publishing the notice, the director 94
shall provide interested persons with a copy of the proposed 95
program or proposed amendment to an existing program and an 96
opportunity to comment on the proposed program or amendment for 97
thirty days after the publication of the notice. The petitioners 98
may make changes to the proposed program or amendment based upon 99
the comments received. The director may make technical changes to 100
the proposal to ensure compliance with sections 924.01 to 924.16 101
of the Revised Code. Subsequent to any changes made by the 102
petitioners or any technical changes made by the director to a 103
proposed program or amendment to an existing program, the director 104
may approve or disapprove the proposed program or amendment to an 105
existing program. 106

(D) If the director approves the proposed program or 107
amendment, with any changes made under division (C) of this 108
section, ~~he~~ the director shall hold a referendum in accordance 109
with section 924.06 of the Revised Code to establish a marketing 110

program for that commodity or to amend an existing program. 111

Sec. 924.07. (A) When the producers of an agricultural 112
commodity who vote in a referendum favor a proposed marketing 113
program, the director of agriculture shall order the program 114
established and, if the marketing program does not provide for the 115
election of an operating committee, appoint an operating committee 116
consisting of producers of the commodity to administer the 117
program. Each operating committee shall consist of not less than 118
three nor more than fifteen producers. 119

(B) Of the members first appointed to an operating committee, 120
the director shall appoint approximately one-third for one-year 121
terms, approximately one-third for two-year terms, and the 122
remainder for three-year terms. Thereafter, the director shall 123
appoint each member for a three-year term unless the appointee is 124
to fill a vacancy in which case the appointee shall be appointed 125
for the unexpired term. Each such subsequent appointment shall be 126
made prior to the expiration date of the preceding or vacant term. 127

(C) The director shall not appoint any member of an operating 128
committee to serve more than three successive full three-year 129
terms. 130

(D) The director shall appoint members of each operating 131
committee from a list of candidates recommended by the producers 132
of the agricultural commodity for which the marketing program is 133
established. Insofar as possible the members shall be equitably 134
distributed by geographic and production areas. Any list of 135
candidates recommended to the director by producers shall include 136
not less than twice as many candidates as the number of members 137
~~which~~ that are to be appointed, but in no case shall a list 138
include fewer than three names. 139

(E) The director, or the director's designee, is an ex 140
officio member of each operating committee, with the right to 141

vote. 142

(F) Each member of an operating committee, except the 143
director or the director's designee, is entitled to actual and 144
necessary travel and incidental expenses while attending meetings 145
of the committee or while engaged in the performance of official 146
responsibilities delegated to the committee. No member of such a 147
committee shall receive in excess of thirty dollars per day, in 148
addition to such travel and incidental expenses, or for more than 149
twenty-four days per year for duties performed as a member of the 150
committee. 151

(G) No person is civilly liable for any actions taken in good 152
faith as a member of an operating committee. 153

(H) This section does not apply to the operating committee of 154
an equine marketing program established under section 924.071 of 155
the Revised Code. 156

Sec. 924.071. (A) When the producers who vote in a referendum 157
to create an equine marketing program favor the creation, the 158
director of agriculture shall order the program established and 159
appoint an operating committee consisting of the following members 160
to administer the program: 161

(1) Three members representing the horse racing industry, not 162
more than two of whom shall represent the same segment of the 163
industry; 164

(2) Three members representing the equine show industry, not 165
more than two of whom shall represent the same segment of the 166
industry; 167

(3) Three members representing recreational users of equines; 168

(4) Three members representing persons who use equines for 169
agricultural purposes; 170

(5) One member representing the agribusiness industry; 171

<u>(6) One member representing the Ohio farm bureau federation.</u>	172
<u>(B) Of the members first appointed to the operating</u>	173
<u>committee, the director shall appoint approximately one-third for</u>	174
<u>one-year terms, approximately one-third for two-year terms, and</u>	175
<u>the remainder for three-year terms. Thereafter, the director shall</u>	176
<u>appoint each member for a three-year term unless the appointee is</u>	177
<u>to fill a vacancy in which case the appointee shall be appointed</u>	178
<u>for the unexpired term. Each such subsequent appointment shall be</u>	179
<u>made prior to the expiration date of the preceding or vacant term.</u>	180
<u>(C) The director shall not appoint any member of the</u>	181
<u>operating committee to serve more than three successive full</u>	182
<u>three-year terms.</u>	183
<u>(D) The director shall appoint members of the operating</u>	184
<u>committee from a list of candidates recommended by equine</u>	185
<u>producers. Insofar as possible the members shall be equitably</u>	186
<u>distributed by geographic areas. Any list of candidates</u>	187
<u>recommended to the director by producers shall include not less</u>	188
<u>than twice as many candidates as the number of members that are to</u>	189
<u>be appointed, but in no case shall a list include fewer than three</u>	190
<u>names.</u>	191
<u>(E) The director, or the director's designee, is an ex</u>	192
<u>officio member of the operating committee, with the right to vote.</u>	193
<u>(F) Each member of the operating committee, except the</u>	194
<u>director or the director's designee, is entitled to actual and</u>	195
<u>necessary travel and incidental expenses while attending meetings</u>	196
<u>of the committee or while engaged in the performance of official</u>	197
<u>responsibilities delegated to the committee. No member of the</u>	198
<u>committee shall receive in excess of thirty dollars per day, in</u>	199
<u>addition to such travel and incidental expenses, or for more than</u>	200
<u>twenty-four days per year for duties performed as a member of the</u>	201
<u>committee.</u>	202

(G) No person is civilly liable for any actions taken in good faith as a member of the operating committee. 203
204

Sec. 924.09. (A) ~~Each~~ Except in the case of an equine marketing program, each operating committee may make assessments upon the marketable agricultural commodity for which the marketing program was established. 205
206
207
208

(B) No operating committee shall levy any assessment: 209

(1) That was not approved by the producers affected by the program; 210
211

(2) That exceeds two cents per bushel of corn, soybeans, or wheat, or two per cent of the average market price of any other agricultural commodity during the preceding marketing year as defined for the commodity by the United States department of agriculture or, if there is no such definition, by the director of agriculture; 212
213
214
215
216
217

(3) Against any producer who is not eligible to vote in a referendum for the marketing program that the operating committee administers. 218
219
220

(C) The director ~~of agriculture~~ may require a producer, processor, distributor, or handler of an agricultural commodity for which a marketing program has been established under sections 924.01 to 924.16 of the Revised Code to withhold assessments from any amounts that the producer, processor, distributor, or handler owes to producers of the commodity and, notwithstanding division (B)(3) of this section, to remit them to the director. Any processor, distributor, or handler who pays for any producer any assessment that is levied under authority of this section may deduct the amount of the assessment from any moneys that the processor, distributor, or handler owes to the producer. 221
222
223
224
225
226
227
228
229
230
231

(D) No operating committee shall use any assessments that it 232

levies or other funds it receives for any political or legislative 233
purpose, or for preferential treatment of one person to the 234
detriment of any other person affected by the marketing program. 235

(E) The operating committee of each marketing program shall 236
refund to a producer the assessments that it collects from the 237
producer not later than sixty days after receipt of a valid 238
application by the producer for a refund, provided that the 239
producer complies with the procedures for a refund that were 240
included in the program under division (B)(3) of section 924.04 of 241
the Revised Code. 242

In the case of the state beef marketing program, in lieu of 243
giving a refund to a producer, the director of the program's 244
operating committee may forward the refund to the cattlemen's beef 245
promotion and research board pursuant to the "Beef Promotion and 246
Research Act," 99 Stat. 1597 (1985), 7 U.S.C.A. 2901, and 247
amendments thereto, and shall credit that amount to the total 248
amount owed by the producer to the federal beef program. Each 249
application for a refund of assessments levied for a program 250
established after April 10, 1985, shall be made on a form provided 251
by the director of agriculture. Each operating committee for such 252
a program shall ensure that refund forms are available where 253
assessments for its program are withheld. 254

(F) The operating committee of an equine marketing program 255
may establish a voluntary contribution program for producers who 256
wish to financially support the marketing program. 257

Sec. 924.10. (A) There is hereby established in the state 258
treasury a fund for each marketing program that is established by 259
the director of agriculture pursuant to this chapter. Except as 260
authorized in division (B) of this section, all moneys collected 261
by the department of agriculture from each marketing program 262
pursuant to section 924.09 of the Revised Code shall be paid into 263

the fund for the marketing program ~~and~~. The fund for an equine 264
marketing program shall also consist of all moneys paid in 265
accordance with division (C)(3) of section 3769.0813 of the 266
Revised Code. Moneys in each fund shall be disbursed only pursuant 267
to a voucher approved by the director for use in defraying the 268
costs of administration of the marketing program and for carrying 269
out sections 924.02, 924.03, and 924.13 of the Revised Code. 270

(B) In lieu of deposits in the fund established pursuant to 271
division (A) of this section, the operating committee of any 272
marketing program established pursuant to this chapter may deposit 273
all moneys collected pursuant to section 924.09 of the Revised 274
Code with a bank or a savings and loan association as defined in 275
sections 1101.01 and 1151.01 of the Revised Code. All moneys 276
collected pursuant to section 924.09 of the Revised Code and 277
deposited pursuant to this division also shall be used only in 278
defraying the costs of administration of the marketing program and 279
for carrying out sections 924.02, 924.03, and 924.13 of the 280
Revised Code. 281

(C) Each operating committee shall establish a fiscal year 282
for its marketing program and shall publish within sixty days of 283
the end of each fiscal year an activity and financial report and 284
make such report available to each producer who pays an assessment 285
or otherwise contributes to the marketing program which the 286
committee administers, and to other interested persons. 287

(D) In addition to the reports required by division (C) of 288
this section, any marketing program that deposits moneys in 289
accordance with division (B) of this section shall submit to the 290
director both of the following: 291

(1) Annually, a financial statement prepared by a certified 292
public accountant holding a live permit from the accountancy board 293
issued pursuant to Chapter 4701. of the Revised Code. The 294
marketing program shall file the financial statement with the 295

director not more than sixty days after the end of each fiscal 296
year. 297

(2) Monthly, an unaudited financial statement. 298

Sec. 3769.03. The state racing commission shall prescribe the 299
rules and conditions under which horse racing may be conducted and 300
may issue, deny, suspend, diminish, or revoke permits to conduct 301
horse racing as authorized by sections 3769.01 to 3769.14 of the 302
Revised Code. The commission may impose, in addition to any other 303
penalty imposed by the commission, fines in an amount not to 304
exceed ten thousand dollars on any permit holder or any other 305
person who violates the rules or orders of the commission. The 306
commission may prescribe the forms of wagering that are 307
permissible, the number of races, the procedures on wagering, and 308
the wagering information to be provided to the public. 309

The commission may require totalizator equipment to display 310
the amount of wagering in each wagering pool. The commission shall 311
initiate safeguards as necessary to account for the amount of 312
money wagered at each track in each wagering pool. It may require 313
permit holders to install equipment that will provide a complete 314
check and analysis of the functioning of any computers and require 315
safeguards on their performance. The commission shall require all 316
permit holders, except those holding state fair, county fair, or 317
other fair permits, to provide a photographic recording, approved 318
by the commission, of the entire running of all races conducted by 319
the permit holder. 320

The state racing commission may issue, deny, suspend, or 321
revoke licenses to those persons engaged in racing and to those 322
employees of permit holders as is in the public interest for the 323
purpose of maintaining a proper control over horse-racing 324
meetings. The commission, as is in the public interest for the 325
purpose of maintaining proper control over horse-racing meetings, 326

also may rule any person off a permit holder's premises. License 327
fees shall include registration fees and shall be set by the 328
commission. Each license issued by the commission, unless revoked 329
for cause, shall be for the period of one year from the first day 330
of January of the year in which it is issued, except as otherwise 331
provided in section 3769.07 of the Revised Code. Applicants for 332
licenses issued by the commission shall submit their fingerprints 333
to the commission, and the commission may forward the fingerprints 334
to the federal bureau of investigation ~~or~~ to any other agency, or 335
to both, for examination. 336

There is hereby created in the state treasury the state 337
racing commission operating fund. All license fees established and 338
collected by the commission pursuant to this section, and the 339
amounts specified in divisions (B) and ~~(C)~~(E) of section 3769.08 340
~~and~~ division (A)(6) of section 3769.087, and division (C)(2) of 341
section 3769.0813 of the Revised Code, shall be paid into the 342
state treasury to the credit of the fund. Moneys in the fund shall 343
be expended by the commission to defray its operating costs, 344
salaries and expenses, and the cost of administering and enforcing 345
this chapter. 346

The commission may deny a permit to any permit holder that 347
has defaulted in payments to the public, employees, or the 348
horsemen and may deny a permit to any successor purchaser of a 349
track for as long as any of those defaults have not been satisfied 350
by either the seller or purchaser. 351

The commission shall deny a permit to any permit holder that 352
has defaulted in payments to the state or has defaulted in 353
payments required under section 3769.089 ~~or~~ 3769.0810, or 354
3769.0813 of the Revised Code and shall deny a permit to any 355
successor purchaser of a track for as long as those defaults have 356
not been satisfied by either the seller or purchaser. 357

Any violation of this chapter, of any rule of racing adopted 358

by the commission, or of any law or rule with respect to racing in 359
any jurisdiction shall be sufficient reason for a refusal to issue 360
a license, or a suspension or revocation of any license issued, 361
pursuant to this section. 362

With respect to the issuance, denial, suspension, or 363
revocation of a license to a participant in horse racing, the 364
action of the commission shall be subject to Chapter 119. of the 365
Revised Code. 366

The commission may sue and be sued in its own name. Any 367
action against the commission shall be brought in the court of 368
common pleas of Franklin county. Any appeal from a determination 369
or decision of the commission rendered in the exercise of its 370
powers and duties under this chapter shall be brought in the court 371
of common pleas of Franklin county. 372

The commission, biennially, shall make a full report to the 373
governor of its proceedings for the two-year period ending with 374
the thirty-first day of December preceding the convening of the 375
general assembly and shall include its recommendations in the 376
report. The commission, semiannually, on the thirtieth day of June 377
and on the thirty-first day of December of each year, shall make a 378
report and accounting to the governor. 379

Sec. 3769.08. (A) Any person holding a permit to conduct a 380
horse-racing meeting may provide a place in the race meeting 381
grounds or enclosure at which the permit holder may conduct and 382
supervise the pari-mutuel system of wagering by patrons of legal 383
age on the live racing programs and simulcast racing programs 384
conducted by the permit holder. 385

The pari-mutuel method of wagering upon the live racing 386
programs and simulcast racing programs held at or conducted within 387
such race track, and at the time of such horse-racing meeting, or 388
at other times authorized by the state racing commission, shall 389

not be unlawful. No other place, except that provided and 390
designated by the permit holder and except as provided in section 391
3769.26 of the Revised Code, nor any other method or system of 392
betting or wagering, except the pari-mutuel system, shall be used 393
or permitted by the permit holder; nor, except as provided in 394
section 3769.089, 3769.0812, or 3769.26 of the Revised Code, shall 395
the pari-mutuel system of wagering be conducted by the permit 396
holder on any races except the races at the race track, grounds, 397
or enclosure for which the person holds a permit. ~~Each~~ Except as 398
provided in section 3769.0813 of the Revised Code, each permit 399
holder may retain as a commission an amount not to exceed eighteen 400
per cent of the total of all moneys wagered. 401

The pari-mutuel wagering authorized by this section is 402
subject to sections 3769.25 to 3769.28 of the Revised Code, with 403
the exception that pari-mutuel wagering conducted under section 404
3769.0812 of the Revised Code is not subject to those sections. 405

(B) At the close of each racing day, each permit holder 406
authorized to conduct thoroughbred racing, out of the amount 407
retained on that day by the permit holder, shall pay by check, 408
draft, or money order to the tax commissioner, as a tax, a sum 409
equal to the following percentages of the total of all moneys 410
wagered on live racing programs on that day and shall separately 411
compute and pay by check, draft, or money order to the tax 412
commissioner, as a tax, a sum equal to the following percentages 413
of the total of all money wagered on simulcast racing programs on 414
that day: 415

(1) One per cent of the first two hundred thousand dollars 416
wagered, or any part of that amount; 417

(2) Two per cent of the next one hundred thousand dollars 418
wagered, or any part of that amount; 419

(3) Three per cent of the next one hundred thousand dollars 420

wagered, or any part of that amount; 421

(4) Four per cent of all sums over four hundred thousand 422
dollars wagered. 423

Except as otherwise provided in section 3769.089 of the 424
Revised Code, each permit holder authorized to conduct 425
thoroughbred racing shall use for purse money a sum equal to fifty 426
per cent of the pari-mutuel revenues retained by the permit holder 427
as a commission after payment of the state tax under this 428
division. This fifty per cent payment shall be in addition to the 429
purse distribution from breakage specified in this section. 430

Subject to division (M) of this section, from the moneys paid 431
to the tax commissioner by thoroughbred racing permit holders, 432
one-half of one per cent of the total of all moneys so wagered on 433
a racing day shall be paid into the Ohio fairs fund created by 434
section 3769.082 of the Revised Code, one and one-eighth per cent 435
of the total of all moneys so wagered on a racing day shall be 436
paid into the Ohio thoroughbred race fund created by section 437
3769.083 of the Revised Code, and one-quarter of one per cent of 438
the total of all moneys wagered on a racing day by each permit 439
holder shall be paid into the state racing commission operating 440
fund created by section 3769.03 of the Revised Code. The required 441
payment to the state racing commission operating fund does not 442
apply to county and independent fairs and agricultural societies. 443
The remaining moneys may be retained by the permit holder, except 444
as provided in this section with respect to the odd cents 445
redistribution. Amounts paid into the PASSPORT fund shall be used 446
solely for the support of the PASSPORT program as determined in 447
appropriations made by the general assembly. If the PASSPORT 448
program is abolished, the amount that would have been paid to the 449
PASSPORT fund under this chapter shall be paid to the general 450
revenue fund of the state. As used in this chapter, "PASSPORT 451
program" means the PASSPORT program created under section 173.40 452

of the Revised Code. 453

The total amount paid to the Ohio thoroughbred race fund 454
under this section and division (A) of section 3769.087 of the 455
Revised Code shall not exceed by more than six per cent the total 456
amount paid to this fund under this section and that section 457
during the immediately preceding calendar year. 458

Each year, the total amount calculated for payment into the 459
Ohio fairs fund under this division, division (C) of this section, 460
and division (A) of section 3769.087 of the Revised Code shall be 461
an amount calculated using the percentages specified in this 462
division, division (C) of this section, and division (A) of 463
section 3769.087 of the Revised Code. 464

A permit holder may contract with a thoroughbred horsemen's 465
organization for the organization to act as a representative of 466
all thoroughbred owners and trainers participating in a 467
horse-racing meeting conducted by the permit holder. A 468
"thoroughbred horsemen's organization" is any corporation or 469
association that represents, through membership or otherwise, more 470
than one-half of the aggregate of all thoroughbred owners and 471
trainers who were licensed and actively participated in racing 472
within this state during the preceding calendar year. Except as 473
otherwise provided in this paragraph, any moneys received by a 474
thoroughbred horsemen's organization shall be used exclusively for 475
the benefit of thoroughbred owners and trainers racing in this 476
state through the administrative purposes of the organization, 477
benevolent activities on behalf of the horsemen, promotion of the 478
horsemen's rights and interests, and promotion of equine research. 479
A thoroughbred horsemen's organization may expend not more than an 480
aggregate of five per cent of its annual gross receipts, or a 481
larger amount as approved by the organization, for dues, 482
assessments, and other payments to all other local, national, or 483
international organizations having as their primary purposes the 484

promotion of thoroughbred horse racing, thoroughbred horsemen's 485
rights, and equine research. 486

(C) Except as otherwise provided in division (B) of this 487
section, at the close of each racing day, each permit holder 488
authorized to conduct harness or quarter horse racing, out of the 489
amount retained that day by the permit holder, shall pay by check, 490
draft, or money order to the tax commissioner, as a tax, a sum 491
equal to the following percentages of the total of all moneys 492
wagered on live racing programs and shall separately compute and 493
pay by check, draft, or money order to the tax commissioner, as a 494
tax, a sum equal to the following percentages of the total of all 495
money wagered on simulcast racing programs on that day: 496

(1) One per cent of the first two hundred thousand dollars 497
wagered, or any part of that amount; 498

(2) Two per cent of the next one hundred thousand dollars 499
wagered, or any part of that amount; 500

(3) Three per cent of the next one hundred thousand dollars 501
wagered, or any part of that amount; 502

(4) Four per cent of all sums over four hundred thousand 503
dollars wagered. 504

Except as otherwise provided in division (B) and subject to 505
division (M) of this section, from the moneys paid to the tax 506
commissioner by permit holders authorized to conduct harness or 507
quarter horse racing, one-half of one per cent of all moneys 508
wagered on that racing day shall be paid into the Ohio fairs fund; 509
from the moneys paid to the tax commissioner by permit holders 510
authorized to conduct harness racing, five-eighths of one per cent 511
of all moneys wagered on that racing day shall be paid into the 512
Ohio standardbred development fund; and from the moneys paid to 513
the tax commissioner by permit holders authorized to conduct 514
quarter horse racing, five-eighths of one per cent of all moneys 515

wagered on that racing day shall be paid into the Ohio quarter horse development fund. 516
517

(D) In addition, subject to division (M) of this section, 518
~~beginning on January 1, 1996,~~ from the money paid to the tax 519
commissioner as a tax under this section and division (A) of 520
section 3769.087 of the Revised Code by harness horse permit 521
holders, one-half of one per cent of the amount wagered on a 522
racing day shall be paid into the Ohio standardbred development 523
fund. ~~Beginning January 1, 1998,~~ the The payment to the Ohio 524
standardbred development fund required under this division does 525
not apply to county agricultural societies or independent 526
agricultural societies. 527

The total amount paid to the Ohio standardbred development 528
fund under this division, division (C) of this section, and 529
division (A) of section 3769.087 of the Revised Code and the total 530
amount paid to the Ohio quarter horse development fund under this 531
division and division (A) of that section shall not exceed by more 532
than six per cent the total amount paid into the fund under this 533
division, division (C) of this section, and division (A) of 534
section 3769.087 of the Revised Code in the immediately preceding 535
calendar year. 536

(E) Subject to division (M) of this section, from the money 537
paid as a tax under this chapter by harness and quarter horse 538
permit holders, one-quarter of one per cent of the total of all 539
moneys wagered on a racing day by each permit holder shall be paid 540
into the state racing commission operating fund created by section 541
3769.03 of the Revised Code. This division does not apply to 542
county and independent fairs and agricultural societies. 543

(F) Except as otherwise provided in section 3769.089 of the 544
Revised Code, each permit holder authorized to conduct harness 545
racing shall pay to the harness horsemen's purse pool a sum equal 546
to fifty per cent of the pari-mutuel revenues retained by the 547

permit holder as a commission after payment of the state tax under 548
division (C) of this section. This fifty per cent payment is to be 549
in addition to the purse distribution from breakage specified in 550
this section. 551

(G) In addition, each permit holder authorized to conduct 552
harness racing shall be allowed to retain the odd cents of all 553
redistribution to be made on all ~~mutual~~ mutuel contributions 554
exceeding a sum equal to the next lowest multiple of ten. 555

Forty per cent of that portion of that total sum of such odd 556
cents shall be used by the permit holder for purse money for Ohio 557
sired, bred, and owned colts, for purse money for Ohio bred 558
horses, and for increased purse money for horse races. Upon the 559
formation of the corporation described in section 3769.21 of the 560
Revised Code to establish a harness horsemen's health and 561
retirement fund, twenty-five per cent of that portion of that 562
total sum of odd cents shall be paid at the close of each racing 563
day by the permit holder to that corporation to establish and fund 564
the health and retirement fund. Until that corporation is formed, 565
that twenty-five per cent shall be paid at the close of each 566
racing day by the permit holder to the tax commissioner or the tax 567
commissioner's agent in the county seat of the county in which the 568
permit holder operates race meetings. The remaining thirty-five 569
per cent of that portion of that total sum of odd cents shall be 570
retained by the permit holder. 571

(H) In addition, each permit holder authorized to conduct 572
thoroughbred racing shall be allowed to retain the odd cents of 573
all redistribution to be made on all mutuel contributions 574
exceeding a sum equal to the next lowest multiple of ten. Twenty 575
per cent of that portion of that total sum of such odd cents shall 576
be used by the permit holder for increased purse money for horse 577
races. Upon the formation of the corporation described in section 578
3769.21 of the Revised Code to establish a thoroughbred horsemen's 579

health and retirement fund, forty-five per cent of that portion of 580
that total sum of odd cents shall be paid at the close of each 581
racing day by the permit holder to that corporation to establish 582
and fund the health and retirement fund. Until that corporation is 583
formed, that forty-five per cent shall be paid by the permit 584
holder to the tax commissioner or the tax commissioner's agent in 585
the county seat of the county in which the permit holder operates 586
race meetings, at the close of each racing day. The remaining 587
thirty-five per cent of that portion of that total sum of odd 588
cents shall be retained by the permit holder. 589

(I) In addition, each permit holder authorized to conduct 590
quarter horse racing shall be allowed to retain the odd cents of 591
all redistribution to be made on all mutuel contributions 592
exceeding a sum equal to the next lowest multiple of ten, subject 593
to a tax of twenty-five per cent on that portion of the total sum 594
of such odd cents that is in excess of two thousand dollars during 595
a calendar year, which tax shall be paid at the close of each 596
racing day by the permit holder to the tax commissioner or the tax 597
commissioner's agent in the county seat of the county within which 598
the permit holder operates race meetings. Forty per cent of that 599
portion of that total sum of such odd cents shall be used by the 600
permit holder for increased purse money for horse races. The 601
remaining thirty-five per cent of that portion of that total sum 602
of odd cents shall be retained by the permit holder. 603

(J)(1) To encourage the improvement of racing facilities for 604
the benefit of the public, breeders, and horse owners, and to 605
increase the revenue to the state from the increase in pari-mutuel 606
wagering resulting from those improvements, the taxes paid by a 607
permit holder to the state as provided for in this chapter shall 608
be reduced by three-fourths of one per cent of the total amount 609
wagered for those permit holders who make capital improvements to 610
existing race tracks or construct new race tracks. The percentage 611

of the reduction that may be taken each racing day shall equal 612
seventy-five per cent of the taxes levied under divisions (B) and 613
(C) of this section and section 3769.087 of the Revised Code, and 614
division (F)(2) of section 3769.26 of the Revised Code, as 615
applicable, divided by the calculated amount each fund should 616
receive under divisions (B) and (C) of this section and section 617
3769.087 of the Revised Code, and division (F)(2) of section 618
3769.26 of the Revised Code and the reduction provided for in this 619
division. If the resulting percentage is less than one, that 620
percentage shall be multiplied by the amount of the reduction 621
provided for in this division. Otherwise, the permit holder shall 622
receive the full reduction provided for in this division. The 623
amount of the allowable reduction not received shall be carried 624
forward and applied against future tax liability. After any 625
reductions expire, any reduction carried forward shall be treated 626
as a reduction as provided for in this division. 627

If more than one permit holder is authorized to conduct 628
racing at the facility that is being built or improved, the cost 629
of the new race track or capital improvement shall be allocated 630
between or among all the permit holders in the ratio that the 631
permit holders' number of racing days bears to the total number of 632
racing days conducted at the facility. 633

A reduction for a new race track or a capital improvement 634
shall start from the day racing is first conducted following the 635
date actual construction of the new race track or each capital 636
improvement is completed and the construction cost has been 637
approved by the state racing commission, unless otherwise provided 638
in this section. A reduction for a new race track or a capital 639
improvement shall continue for a period of twenty-five years for 640
new race tracks and for fifteen years for capital improvements if 641
the construction of the capital improvement or new race track 642
commenced prior to March 29, 1988, and for a period of ten years 643

for new race tracks or capital improvements if the construction of 644
the capital improvement or new race track commenced on or after 645
March 29, 1988, but before ~~the effective date of this amendment~~ 646
June 6, 2001, or until the total tax reduction reaches seventy per 647
cent of the approved cost of the new race track or capital 648
improvement, as allocated to each permit holder, whichever occurs 649
first. A reduction for a new race track or a capital improvement 650
approved after ~~the effective date of this amendment~~ June 6, 2001, 651
shall continue until the total tax reduction reaches one hundred 652
per cent of the approved cost of the new race track or capital 653
improvement, as allocated to each permit holder. 654

A reduction granted for a new race track or a capital 655
improvement, the application for which was approved by the racing 656
commission after March 29, 1988, but before ~~the effective date of~~ 657
~~this amendment~~ June 6, 2001, shall not commence nor shall the 658
ten-year period begin to run until all prior tax reductions with 659
respect to the same race track have ended. The total tax reduction 660
because of capital improvements shall not, during any one year, 661
exceed for all permit holders using any one track three-fourths of 662
one per cent of the total amount wagered, regardless of the number 663
of capital improvements made. Several capital improvements to a 664
race track may be consolidated in an application if the state 665
racing commission approved the application prior to March 29, 666
1988. No permit holder may receive a tax reduction for a capital 667
improvement approved by the racing commission on or after March 668
29, 1988, at a race track until all tax reductions have ended for 669
all prior capital improvements approved by the racing commission 670
under this section or section 3769.20 of the Revised Code at that 671
race track. If there are two or more permit holders operating 672
meetings at the same track, they may consolidate their 673
applications. The racing commission shall notify the tax 674
commissioner when the reduction of tax begins and when it ends. 675

Each fiscal year the state racing commission shall submit a 676
report to the tax commissioner, the office of budget and 677
management, and the legislative service commission. The report 678
shall identify each capital improvement project undertaken under 679
this division and in progress at each race track, indicate the 680
total cost of each project, state the tax reduction that resulted 681
from each project during the immediately preceding fiscal year, 682
estimate the tax reduction that will result from each project 683
during the current fiscal year, state the total tax reduction that 684
resulted from all such projects at all race tracks during the 685
immediately preceding fiscal year, and estimate the total tax 686
reduction that will result from all such projects at all race 687
tracks during the current fiscal year. 688

(2) In order to qualify for the reduction in tax, a permit 689
holder shall apply to the state racing commission in such form as 690
the commission may require and shall provide full details of the 691
new race track or capital improvement, including a schedule for 692
its construction and completion, and set forth the costs and 693
expenses incurred in connection with it. The racing commission 694
shall not approve an application unless the permit holder shows 695
that a contract for the new race track or capital improvement has 696
been let under an unrestricted competitive bidding procedure, 697
unless the contract is exempted by the controlling board because 698
of its unusual nature. In determining whether to approve an 699
application, the racing commission shall consider whether the new 700
race track or capital improvement will promote the safety, 701
convenience, and comfort of the racing public and horse owners and 702
generally tend towards the improvement of racing in this state. 703

(3) If a new race track or capital improvement is approved by 704
the state racing commission and construction has started, the tax 705
reduction may be authorized by the commission upon presentation of 706
copies of paid bills in excess of one hundred thousand dollars or 707

ten per cent of the approved cost, whichever is greater. After the 708
initial authorization, the permit holder shall present copies of 709
paid bills. If the permit holder is in substantial compliance with 710
the schedule for construction and completion of the new race track 711
or capital improvement, the racing commission may authorize the 712
continuation of the tax reduction upon the presentation of the 713
additional paid bills. The total amount of the tax reduction 714
authorized shall not exceed the percentage of the approved cost of 715
the new race track or capital improvement specified in division 716
(J)(1) of this section. The racing commission may terminate any 717
tax reduction immediately if a permit holder fails to complete the 718
new race track or capital improvement, or to substantially comply 719
with the schedule for construction and completion of the new race 720
track or capital improvement. If a permit holder fails to complete 721
a new race track or capital improvement, the racing commission 722
shall order the permit holder to repay to the state the total 723
amount of tax reduced. The normal tax paid by the permit holder 724
shall be increased by three-fourths of one per cent of the total 725
amount wagered until the total amount of the additional tax 726
collected equals the total amount of tax reduced. 727

(4) As used in this ~~section~~ division: 728

(a) "Capital improvement" means an addition, replacement, or 729
remodeling of a structural unit of a race track facility costing 730
at least one hundred thousand dollars, including, but not limited 731
to, the construction of barns used exclusively for the race track 732
facility, backstretch facilities for horsemen, paddock facilities, 733
new pari-mutuel and totalizator equipment and appurtenances to 734
that equipment purchased by the track, new access roads, new 735
parking areas, the complete reconstruction, reshaping, and 736
leveling of the racing surface and appurtenances, the installation 737
of permanent new heating or air conditioning, roof replacement or 738
restoration, installations of a permanent nature forming a part of 739

the track structure, and construction of buildings that are 740
located on a permit holder's premises. "Capital improvement" does 741
not include the cost of replacement of equipment that is not 742
permanently installed, ordinary repairs, painting, and maintenance 743
required to keep a race track facility in ordinary operating 744
condition. 745

(b) "New race track" includes the reconstruction of a race 746
track damaged by fire or other cause that has been declared by the 747
state racing commission, as a result of the damage, to be an 748
inadequate facility for the safe operation of horse racing. 749

(c) "Approved cost" includes all debt service and interest 750
costs that are associated with a capital improvement or new race 751
track and that the state racing commission approves for a tax 752
reduction under division (J) of this section. 753

(5) The state racing commission shall not approve an 754
application for a tax reduction under this section if it has 755
reasonable cause to believe that the actions or negligence of the 756
permit holder substantially contributed to the damage suffered by 757
the track due to fire or other cause. The racing commission shall 758
obtain any data or information available from a fire marshal, law 759
enforcement official, or insurance company concerning any fire or 760
other damage suffered by a track, prior to approving an 761
application for a tax reduction. 762

(6) The approved cost to which a tax reduction applies shall 763
be determined by generally accepted accounting principles and 764
verified by an audit of the permit holder's records upon 765
completion of the project by the state racing commission, or by an 766
independent certified public accountant selected by the permit 767
holder and approved by the commission. 768

(K) No other license or excise tax or fee, except as provided 769
in sections 3769.01 to 3769.14 of the Revised Code, shall be 770

assessed or collected from such licensee by any county, township, 771
district, municipal corporation, or other body having power to 772
assess or collect a tax or fee. That portion of the tax paid under 773
this section by permit holders for racing conducted at and during 774
the course of an agricultural exposition or fair, and that portion 775
of the tax that would have been paid by eligible permit holders 776
into the PASSPORT fund as a result of racing conducted at and 777
during the course of an agricultural exposition or fair, shall be 778
deposited into the state treasury to the credit of the horse 779
racing tax fund, which is hereby created for the use of the 780
agricultural societies of the several counties in which the taxes 781
originate. The state racing commission shall determine eligible 782
permit holders for purposes of the preceding sentence, taking into 783
account the breed of horse, the racing dates, the geographic 784
proximity to the fair, and the best interests of Ohio racing. On 785
the first day of any month on which there is money in the fund, 786
the tax commissioner shall provide for payment to the treasurer of 787
each agricultural society the amount of the taxes collected under 788
this section upon racing conducted at and during the course of any 789
exposition or fair conducted by the society. 790

(L) From the tax paid under this section by harness track 791
permit holders, the tax commissioner shall pay into the Ohio 792
thoroughbred race fund a sum equal to a percentage of the amount 793
wagered upon which the tax is paid. The percentage shall be 794
determined by the tax commissioner and shall be rounded to the 795
nearest one-hundredth. The percentage shall be such that, when 796
multiplied by the amount wagered upon which tax was paid by the 797
harness track permit holders in the most recent year for which 798
final figures are available, it results in a sum that 799
substantially equals the same amount of tax paid by the tax 800
commissioner during that year into the Ohio fairs fund from taxes 801
paid by thoroughbred permit holders. This division does not apply 802
to county and independent fairs and agricultural societies. 803

(M) Twenty-five per cent of the taxes levied on thoroughbred 804
racing permit holders, harness racing permit holders, and quarter 805
horse racing permit holders under this section, division (A) of 806
section 3769.087 of the Revised Code, and division (F)(2) of 807
section 3769.26 of the Revised Code shall be paid into the 808
PASSPORT fund. The tax commissioner shall pay any money remaining, 809
after the payment into the PASSPORT fund and the reductions 810
provided for in division (J) of this section and in section 811
3769.20 of the Revised Code, into the Ohio fairs fund, Ohio 812
thoroughbred race fund, Ohio standardbred development fund, Ohio 813
quarter horse fund, and state racing commission operating fund as 814
prescribed in this section and division (A) of section 3769.087 of 815
the Revised Code. The tax commissioner shall thereafter use and 816
apply the balance of the money paid as a tax by any permit holder 817
to cover any shortage in the accounts of such funds resulting from 818
an insufficient payment as a tax by any other permit holder. The 819
moneys received by the tax commissioner shall be deposited weekly 820
and paid by the tax commissioner into the funds to cover the total 821
aggregate amount due from all permit holders to the funds, as 822
calculated under this section and division (A) of section 3769.087 823
of the Revised Code, as applicable. If, after the payment into the 824
PASSPORT fund, sufficient funds are not available from the tax 825
deposited by the tax commissioner to pay the required amounts into 826
the Ohio fairs fund, Ohio standardbred development fund, Ohio 827
thoroughbred race fund, Ohio quarter horse fund, and the state 828
racing commission operating fund, the tax commissioner shall 829
prorate on a proportional basis the amount paid to each of the 830
funds. Any shortage to the funds as a result of a proration shall 831
be applied against future deposits for the same calendar year when 832
funds are available. After this application, the tax commissioner 833
shall pay any remaining money paid as a tax by all permit holders 834
into the PASSPORT fund. This division does not apply to permit 835
holders conducting racing at and during the course of an 836

agricultural exposition or fair as described in division (K) of 837
this section. 838

Sec. 3769.083. (A) As used in this section: 839

(1) An "accredited Ohio thoroughbred horse" means a horse 840
conceived in this state and born in this state which is both of 841
the following: 842

(a) Born of a mare that is domiciled in this state at the 843
time of the horse's conception, that remains continuously in the 844
state through the date on which the horse is born, and that is 845
registered as required by the rules of the state racing 846
commission; 847

(b) By a stallion that stands for breeding purposes only in 848
this state in the year in which the horse is conceived, and that 849
is registered as required by the rules of the commission. 850

(2) An "Ohio foaled horse" means a horse registered as 851
required by the rules of the state racing commission which is 852
either of the following: 853

(a) A horse born of a mare that enters this state before 854
foaling and remains continuously in this state until the horse is 855
born; 856

(b) A thoroughbred foal produced within the state by any 857
broodmare shipped into the state to foal and be bred to a 858
registered Ohio stallion. To qualify this foal as an Ohio foaled 859
horse, the broodmare shall remain in this state one year 860
continuously after foaling or continuously through foaling to the 861
cover of the Ohio stallion, whichever is sooner. All horses 862
previously registered as Ohio conceived and foaled shall be 863
considered as Ohio foaled horses effective January 1, 1976. 864

Any thoroughbred mare may leave this state for periods of 865
time for purposes of activities such as veterinary treatment or 866

surgery, sales purposes, breeding purposes, racing purposes, and 867
similar activities if permission is granted by the state racing 868
commission and the mare is returned to this state immediately upon 869
the conclusion of the requested activity. 870

(3) "Horse," "stallion," "mare," or "foal" means a horse of 871
the thoroughbred breed as distinguished from a horse of the 872
standard breed or any other breed, and "race" means a race for 873
thoroughbred horses conducted by a permit holder of the state 874
racing commission. 875

(4) "Horse" includes animals of all ages and of both sexes. 876

(B) There is hereby created in the state treasury the Ohio 877
thoroughbred race fund, to consist of moneys paid into it pursuant 878
to sections 3769.08 ~~and~~, 3769.087, and 3769.0813 of the Revised 879
Code. All investment earnings on the cash balances in the fund 880
shall be credited to it. Moneys to the credit of the fund shall be 881
distributed on order of the state racing commission. The 882
commission, with the advice and assistance of the Ohio 883
thoroughbred racing advisory committee, shall use the fund, except 884
as provided in divisions (C)(2) and (3) and (D) of this section, 885
to promote races and provide purses for races for horses in the 886
following classes: 887

(1) Accredited Ohio thoroughbred horses; 888

(2) Ohio foaled horses. 889

Not less than ten nor more than twenty-five per cent of the 890
total money to be paid from the fund for all types of races shall 891
be allocated to races restricted to accredited Ohio thoroughbred 892
horses. The commission may combine the classes of horses described 893
in divisions (B)(1) and (2) of this section in one race, except in 894
stakes races. 895

(C)(1) Each permit holder conducting thoroughbred races shall 896
schedule races each week for horses in the classes named in 897

division (B) of this section; the number of the races shall be 898
prescribed by the state racing commission. The commission, 899
pursuant to division (B) of this section, shall prescribe the 900
class or classes of the races to be held by each permit holder 901
and, with the advice of the Ohio thoroughbred racing advisory 902
committee, shall fix the dates and conditions of the races and the 903
amount of moneys to be paid from the Ohio thoroughbred race fund 904
to be added in each race to the minimum purse established by the 905
permit holder for the class of race held. 906

(2) The commission, with the advice of the Ohio thoroughbred 907
racing advisory committee, may provide for stakes races to be run 908
each year, and fix the number of stakes races and the time, place, 909
and conditions under which each shall be run. The commission shall 910
fix the amount of moneys to be paid from the Ohio thoroughbred 911
race fund to be added to the purse provided for each stakes race 912
by the permit holder, except that, in at least four stakes races 913
each year, the commission shall require, if four stakes races can 914
be arranged, that the permit holder conducting the stakes race 915
provide no less than fifteen thousand dollars for the purse for 916
the stakes race, and the commission shall provide moneys from the 917
fund to be added to the purse in an amount equal to or greater 918
than the amount provided by the permit holder. The commission may 919
require a nominating, sustaining, and entry fee not to exceed one 920
per cent of the money added from the fund for each horse in any 921
stakes race, which fee shall be added to the purse for the race. 922

Stakes races where money is added from the Ohio thoroughbred 923
race fund shall be open only to accredited Ohio thoroughbred 924
horses and Ohio foaled horses. Twenty-five per cent of the total 925
moneys to be paid from the fund for stakes races shall be 926
allocated to races for only accredited Ohio thoroughbred horses. 927
The commission may require a nominating, sustaining, and entry 928
fee, not to exceed one per cent of the money added from the fund, 929

for each horse in any of these stakes races. These fees shall be 930
accumulated by the commission and shall be paid out by the 931
commission at its discretion as part of the purse money for 932
additional races. 933

(3) The commission may pay from the Ohio thoroughbred race 934
fund to the breeder of a horse of class (1) or (2) of division (B) 935
of this section winning first, second, or third prize money of a 936
purse for a thoroughbred race an amount not to exceed fifteen per 937
cent of the first, second, or third prize money of the purse. For 938
the purposes of this division, the term "breeder" shall be defined 939
by rule of the commission. 940

The commission also may provide for stallion owners' awards 941
in an amount equal to not less than three nor more than ten per 942
cent of the first, second, or third place share of the purse. The 943
award shall be paid to the owner of the stallion, provided that 944
the stallion was standing in this state as provided in division 945
(A)(1)(b) of this section at the time the horse placing first, 946
second, or third was conceived. 947

(D) The state racing commission may provide for the 948
expenditure of moneys from the Ohio thoroughbred race fund in an 949
amount not to exceed in any one calendar year ten per cent of the 950
total amount received in the account that year to provide for 951
research projects directed toward improving the breeding, raising, 952
racing, and health and soundness of thoroughbred horses in the 953
state and toward education or promotion of the industry. Research 954
for which the moneys from the fund may be used may include, but 955
shall not be limited to, studies of pre-race blood testing, 956
post-race testing, improvement of the breed, and nutrition. 957

(E) The state racing commission shall appoint qualified 958
personnel as may be required to supervise registration of horses 959
under the terms of this section, to determine the eligibility of 960
horses for accredited Ohio thoroughbred races, Ohio foaled races, 961

and the stakes races authorized by division (C)(2) of this 962
section, and to assist the Ohio thoroughbred racing advisory 963
committee and the commission in determining the conditions, class, 964
and quality of the race program to be established under this 965
section so as to carry out the purposes of this section. The 966
personnel shall serve at the pleasure of the commission, and 967
compensation shall be fixed by the commission. The compensation of 968
the personnel and necessary expenses shall be paid out of the Ohio 969
thoroughbred race fund. 970

The commission shall adopt rules as are necessary to carry 971
out this section and shall administer the stakes race program and 972
other races supported by the Ohio thoroughbred race fund in a 973
manner best designed to aid in the development of the thoroughbred 974
horse industry in the state, to upgrade the quality of horse 975
racing in the state, and to improve the quality of horses 976
conceived and foaled in the state. 977

Sec. 3769.085. (A) There is hereby created in the state 978
treasury the Ohio standardbred development fund, to consist of 979
moneys paid into it pursuant to ~~section~~ sections 3769.08 and 980
3769.0813 of the Revised Code and any fees assessed for or on 981
behalf of the Ohio sires stakes races. All fees so assessed shall 982
be exempt from the requirements of divisions (D) and (M) of ~~that~~ 983
section 3769.08 of the Revised Code. All investment earnings on 984
the cash balance in the fund shall be credited to the fund. Moneys 985
to the credit of the fund shall be distributed on order of the 986
state racing commission with the approval of the Ohio standardbred 987
development commission. 988

(B) The Ohio standardbred development commission shall 989
consist of three members, all to be residents of this state 990
knowledgeable in breeding and racing, to be appointed by the 991
governor with the advice and consent of the senate. One member 992

shall be a standardbred breeder, and one member shall be a 993
standardbred owner. Of the initial appointments, one member shall 994
be appointed for a term ending June 30, 1977, and two members 995
shall be appointed for terms ending June 30, 1979. Thereafter, 996
appointments for other than unexpired terms shall be for four 997
years. Terms shall begin the first day of July and end the 998
thirtieth day of June. Any member appointed to fill a vacancy 999
occurring prior to the expiration of the term for which the 1000
member's predecessor was appointed shall hold office for the 1001
remainder of that term. Any member shall continue in office 1002
subsequent to the expiration date of the member's term until a 1003
successor takes office. Members shall receive no compensation, 1004
except that they shall be paid actual and necessary expenses from 1005
the Ohio standardbred development fund. The state racing 1006
commission also shall be reimbursed from the fund for actual 1007
expenses approved by the development commission. The development 1008
commission may elect one member to serve as secretary. 1009

(C) Upon application not later than the first day of December 1010
from the harness tracks conducting races with pari-mutuel 1011
wagering, other than agricultural expositions and fairs, the Ohio 1012
standardbred development commission, after a hearing and not later 1013
than the twentieth day of January, shall allocate and approve all 1014
available moneys for colt races for two-year-old and 1015
three-year-old colts and fillies, both trotting and pacing. 1016
Separate races for fillies shall be provided at each age and gait. 1017
Up to five races and a championship race shall be scheduled for 1018
each of the eight categories of age, sex, and gait. The 1019
allocations shall take into account the time of year that racing 1020
colts is feasible, the equity and continuity of the proposed dates 1021
for racing events, and the amounts to be added by the tracks, 1022
looking to the maximum benefit for those participating in the 1023
races. Representatives of the tracks and the Ohio harness 1024
horsemen's association shall be given an opportunity to be heard 1025

before the allocations are made. No races shall be contested 1026
earlier than the first day of May or later than the first day of 1027
November; all permit holders operating extended pari-mutuel 1028
meetings between those dates shall be entitled to at least three 1029
races. No funds for a race shall be allocated to and paid to a 1030
permit holder by the development commission unless the permit 1031
holder adds at least twenty-five per cent to the amount allocated 1032
by the development commission, and not less than five thousand 1033
dollars to each race. 1034

Colts and fillies eligible to the races shall be only those 1035
sired by a standardbred stallion that was registered with the 1036
state racing commission and stood in the state the entire breeding 1037
season of the year the colt or filly was conceived. 1038

If the development commission concludes that sufficient funds 1039
are available to add aged races without reducing purse levels of 1040
the colt and filly races, the development commission may allocate 1041
funds to four-year-old and up races of each sex and gait with Ohio 1042
eligibility required as set forth in this section. 1043

(D) The state racing commission may allocate an amount not to 1044
exceed five per cent of the total Ohio standardbred development 1045
fund available in any one calendar year to research projects 1046
directed toward improving the breeding, raising, racing, and 1047
health and soundness of horses in the state and toward education 1048
or promotion of the industry. 1049

Sec. 3769.088. (A) If any permit holder required by this 1050
chapter to pay the taxes levied by sections 3769.08, 3769.087, 1051
3769.0813, 3769.26, and 3769.28 of the Revised Code fails to pay 1052
the taxes, the tax commissioner may make an assessment against the 1053
permit holder based upon any information in the commissioner's 1054
possession. 1055

A penalty of up to fifteen per cent may be added to the 1056

amount of every assessment made under this section. The 1057
commissioner may adopt rules providing for the imposition and 1058
remission of penalties added to assessments made under this 1059
section. 1060

The commissioner shall give the party assessed written notice 1061
of the assessment in the manner provided in section 5703.37 of the 1062
Revised Code. With the notice, the commissioner shall provide 1063
instructions on how to petition for reassessment and request a 1064
hearing on the petition. 1065

(B) Unless the party assessed files with the tax commissioner 1066
within sixty days after service of the notice of assessment, 1067
either personally or by certified mail, a written petition for 1068
reassessment signed by the party assessed or that party's 1069
authorized agent having knowledge of the facts, the assessment 1070
becomes final, and the amount of the assessment is due and payable 1071
from the party assessed to the commissioner. The petition shall 1072
indicate the objections of the party assessed, but additional 1073
objections may be raised in writing if received by the 1074
commissioner prior to the date shown on the final determination. 1075
If the petition has been properly filed, the commissioner shall 1076
proceed under section 5703.60 of the Revised Code. 1077

(C) After an assessment becomes final, if any portion of the 1078
assessment remains unpaid, including accrued interest, a certified 1079
copy of the tax commissioner's entry making the assessment final 1080
may be filed in the office of the clerk of the court of common 1081
pleas in the county in which the place, track, or enclosure for 1082
which the permit was issued is located or the county in which the 1083
party assessed resides or has its principal place of business. If 1084
the party assessed maintains no place of business in this state 1085
and is not a resident of this state, the certified copy of the 1086
entry may be filed in the office of the clerk of the court of 1087
common pleas of Franklin county. 1088

Immediately upon the filing of the entry, the clerk shall 1089
enter a judgment for the state against the party assessed in the 1090
amount shown on the entry. The judgment may be filed by the clerk 1091
in a loose-leaf book entitled "special judgments for state horse 1092
racing tax," and shall have the same effect as other judgments. 1093
Execution shall issue upon the judgment upon the request of the 1094
tax commissioner, and all laws applicable to sales on execution 1095
shall apply to sales made under the judgment. 1096

The portion of the assessment not paid within sixty days 1097
after the day the assessment was issued shall bear interest at the 1098
rate per annum prescribed by section 5703.47 of the Revised Code 1099
from the day the tax commissioner issues the assessment until the 1100
day the assessment is paid. Interest shall be paid in the same 1101
manner as the tax and may be collected by the issuance of an 1102
assessment under this section. 1103

(D) All money collected by the tax commissioner under this 1104
section shall be treated as revenue arising from the taxes imposed 1105
by sections 3769.08, 3769.087, 3769.0813, 3769.26, and 3769.28 of 1106
the Revised Code. 1107

Sec. 3769.0811. As used in sections 3769.0811 to 3769.0813 of 1108
the Revised Code: 1109

(A) "Instant racing system" means a telecast, for pari-mutuel 1110
wagering purposes, of audio and visual signals of horse races 1111
previously conducted at facilities inside or outside this state, 1112
that is to a place, track, or enclosure for which a permit is 1113
issued under section 3769.06 of the Revised Code, and that is 1114
displayed on individual viewing terminals. 1115

(B) "Permit holder" has the same meaning as in section 1116
3769.25 of the Revised Code. 1117

(C) "Permit holder's commission" means an amount that does 1118

not exceed twelve per cent of the total of all moneys wagered on a racing day on horse races telecast via an instant racing system to a permit holder's place, track, or enclosure for which a permit is issued under section 3769.06 of the Revised Code.

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

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

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

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

(C) The amount of the permit holder's commission that remains after the payment to the state tax commissioner of the tax levied

under division (B) of this section is the permit holder's net 1149
commission. The net commission shall be allocated in the following 1150
manner: 1151

(1)(a) The permit holder shall pay an amount equal to 1152
nineteen per cent of the net commission to the permit holder's 1153
purse account. 1154

(b) The Ohio division of the horsemen's benevolent and 1155
protective association may direct that up to fifty per cent of the 1156
net commission that is paid to the permit holder's purse account 1157
under division (C)(1)(a) of this section be designated for either 1158
of the following: 1159

(i) Horsemen's health and benevolence programs; 1160

(ii) Payment into the Ohio thoroughbred race fund created by 1161
section 3769.083 of the Revised Code. 1162

(c) The Ohio harness horsemen's association may direct that 1163
up to fifty per cent of the net commission that is paid to the 1164
permit holder's purse account under division (C)(1)(a) of this 1165
section be designated for any of the following: 1166

(i) Horsemen's health and benevolence programs; 1167

(ii) Payment into the Ohio standardbred development fund 1168
created by section 3769.085 of the Revised Code; 1169

(iii) Payment into the Ohio fairs fund created by section 1170
3769.082 of the Revised Code. 1171

(2) The permit holder shall pay an amount not to exceed one 1172
per cent of the net commission, as determined by rule of the state 1173
racing commission, into the state racing commission operating fund 1174
created by section 3769.03 of the Revised Code, as an 1175
administrative fee. 1176

(3) Subject to division (D) of this section, the permit 1177
holder shall pay an amount equal to one per cent of the net 1178

commission as follows: 1179

(a) Three-fourths of the amount to the director of 1180
agriculture for deposit in the state treasury to the credit of the 1181
fund established under section 924.10 of the Revised Code for the 1182
equine marketing program; 1183

(b) One-fourth of the amount to horse power Ohio, a nonprofit 1184
corporation, which shall use the money to support equine programs 1185
in Ohio, including therapeutic riding programs, programs that 1186
promote the preservation and expansion of public bridle trails and 1187
facilities, and rider education and public equine awareness 1188
programs. 1189

(4) The permit holder shall retain the balance of the net 1190
commission that remains after paying the amounts described in 1191
divisions (C)(1), (2), and (3) of this section. 1192

(D)(1) When the aggregate amount paid by permit holders under 1193
division (C)(3) of this section for a calendar year equals six 1194
hundred thousand dollars, the permit holder shall, for the 1195
remainder of that calendar year, retain the amount that otherwise 1196
would be required to be paid under that division. 1197

(2) Beginning in calendar year 2009, the dollar amount 1198
specified in division (D)(1) of this section shall be increased by 1199
two per cent annually until it equals one million dollars. 1200

(E) The tax commissioner shall distribute the tax collected 1201
under division (B) of this section in the manner required for the 1202
tax collected under section 3769.08 of the Revised Code, as 1203
applicable. 1204

Section 2. That existing sections 924.01, 924.04, 924.07, 1205
924.09, 924.10, 3769.03, 3769.08, 3769.083, 3769.085, and 3769.088 1206
of the Revised Code are hereby repealed. 1207