

# OHIO

## TITLE 1. STATE GOVERNMENT

### CHAPTER 107. GOVERNOR

#### Section 107.25

**General Assembly: 122.**

**Bill Number: Sub. House Bill 98**

**Effective Date: 10/14/97**

(A) As used in this section:

(1) "Tribal-state compact" means a tribal-state compact described in the "Indian Gaming Regulatory Act," 102 Stat. 2472 (1988), 25 U.S.C. 2710(d).

(2) "Class I gaming," "class II gaming," "class III gaming," and "Indian tribe" have the same meanings as in the "Indian Gaming Regulatory Act," 102 Stat. 2472 (1988), 25 U.S.C. 2703.

(B) Neither of the following shall be ratified or take effect until the general assembly approves it by passage of an act:

(1) Each tribal-state compact the governor enters into with an Indian tribe;

(2) Each authorization the governor grants for an Indian tribe to place land into trust to be used for class I, class II, or class III gaming.

(C) Each tribal-state compact approved under this section shall contain an expiration date, which shall be not later than ten years after the compact's effective date.

(D) Each tribal-state compact approved under this section shall contain a binding agreement for the collection and payment of state and local sales, use, or other excise or applicable taxes, or for the payment of amounts that may be in lieu of such taxes, levied on any item sold to any nonmember of the governing tribe by any business establishment located on the land to be taken into trust.

## **TITLE 7. MUNICIPAL CORPORATIONS**

### **CHAPTER 715. GENERAL POWERS [PEACE AND MORALS]**

Section 715.49

**General Assembly: 120**

**Bill Number: Amended. Sub. S.B. 264**

**Effective Date: 9-29-94**

(A) Any municipal corporation may prevent riot, gambling, noise and disturbance, and indecent and disorderly conduct or assemblages, preserve the peace and good order, and protect the property of the municipal corporation and its inhabitants.

(B) Anytime a noise ordinance of a municipal corporation is violated, but the source of the noise is located outside the borders of that municipal corporation in an adjoining municipal corporation, the municipal corporation with the ordinance may enforce the ordinance against that source as long as there is a written agreement between the two municipal corporations permitting such enforcement.

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## **TITLE 15. CONSERVATION OF NATURAL RESOURCES**

### **CHAPTER 1533. HUNTING; FISHING, [TAG FISHING TOURNAMENTS]**

Section 1533.96

**General Assembly: 118.**

**Bill Number: Amended Sub. House Bill 550**

**Effective Date: 5-3-90**

(A) No person who has been convicted of or pleaded guilty to a theft or fraud offense under the laws of this state, another state, or the United States shall be eligible to apply for a permit to operate a tag fishing tournament under section 1533.92 of the Revised Code.

(B) No person who has been convicted of or pleaded guilty to any gambling offense under the laws of this state, another state, or any political subdivision of this state or another state shall be eligible to apply for a permit to operate a tag fishing tournament under section 1533.92 of the Revised Code.

(C) No person who has been convicted of or pleaded guilty to violating section 1533.97 of the Revised Code shall thereafter be eligible to apply for a permit to operate a tag fishing tournament under section 1533.92 of the Revised Code.

## **TITLE 17. CORPORATIONS – PARTNERSHIPS**

### **CHAPTER 1701. GENERAL CORPORATION LAW, [DISSOLUTION]**

Section 1701.91

**General Assembly: 116**

**Bill Number: Amended. Sub. House Bill 412**

**Effective Date: 3-17-87**

(A) A corporation may be dissolved judicially and its affairs wound up:

(1) By an order of the supreme court or of a court of appeals in an action in quo warranto brought as provided

by sections 2733.02 to 2733.39 of the Revised Code, in which event the court may order the affairs of the

corporation to be wound up by its directors as in the case of voluntary dissolution, or by proceedings in, and

under the order of, the court of common pleas of the county in this state in which the corporation has its principal office;

(2) By an order of the court of common pleas of the county in this state in which such corporation has its

principal office, in an action brought by holders of shares entitled to dissolve the corporation voluntarily, when it is established:

(a) That its articles have been canceled or its period of existence has expired and that it is necessary in order to

protect the shareholders that the corporation be judicially dissolved;

(b) That the corporation is insolvent or is unable to afford reasonable security to those who may deal with it and

that it is necessary in order to protect the creditors of the corporation that the corporation be judicially dissolved;

(c) That the objects of the corporation have wholly failed or are entirely abandoned or that their accomplishment

is impracticable;

(3) By an order of the court of common pleas of the county in this state in which the corporation has its principal

office, in an action brought by the holders of shares entitling them to exercise a majority of the voting power of

the corporation on such proposal, or the holders of such lesser proportion as are entitled by the articles to

dissolve the corporation voluntarily, when it is established that it is beneficial to the shareholders that the

corporation be judicially dissolved;

(4) By an order of the court of common pleas of the county in this state in which the corporation has its principal office, in an action brought by one-half of the directors when there is an even number of directors or by the holders of shares entitling them to exercise one-half of the voting power, when it is established that the corporation has an even number of directors who are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock, or when it is established that the corporation has an uneven number of directors and that the shareholders are deadlocked in voting power and unable to agree upon or vote for the election of directors as successors to directors whose terms normally would expire upon the election of their successors. Under these circumstances, dissolution of the corporation shall not be denied on the ground that the corporation is solvent or on the ground that the business of the corporation has been or could be conducted at a profit.

(5) By an order of the court of common pleas of the county in which the corporation, whether for profit or nonprofit, has its principal office, in an action brought by the prosecuting attorney of the county, when it is found that the corporation was organized or systematically used to further criminal purposes, or as a subterfuge to engage in prostitution, gambling, loan sharking, drug abuse, illegal drug distribution, counterfeiting, obscenity, extortion, corruption of law enforcement officers or other public officers, officials, or employees, or other criminal activity.

(B) A complaint for judicial dissolution shall be verified by any of the complainants and shall set forth facts showing that the case is one of those specified in this section. Unless the complainants set forth in the complaint that they are unable to annex a list of shareholders, a schedule shall be annexed to the complaint setting forth the name of each shareholder, his address if it is known or the fact that it is not known, the number of shares owned by him, and any balance unpaid on his shares.

(C) Upon the filing of a complaint for judicial dissolution, the court with which it is filed shall have power to issue injunctions, to appoint a receiver with such authority and duties as the court from time to time may direct, to take

such other proceedings as may be necessary to protect the property or the rights of the complainants or of the persons interested, and to carry on the business of the corporation until a full hearing can be had. Upon or after the filing of a complaint for judicial dissolution, the court, by injunction or order, may stay the prosecution of any proceeding against the corporation or involving any of its property and require the parties to the proceeding to present and prove their claims, demands, rights, interests, or liens, at the time and in the manner required of creditors or others. The court may refer the complaint to a special master commissioner.

(D) After a hearing had upon such notice as the court may direct to be given to all parties to the proceeding and to any other parties in interest designated by the court, a final order based either upon the evidence, or upon the report of the special master commissioner if one has been appointed, shall be made dissolving the corporation or dismissing the complaint. An order or judgment for the judicial dissolution of a corporation shall contain a concise statement of the proceedings leading up to the order or judgment; the name of the corporation; the place in this state where its principal office is located; the names and addresses of its directors and officers; the name and address of a statutory agent; and, if desired, such other provisions with respect to the judicial dissolution and winding up as are considered necessary or desirable. A certified copy of such order forthwith shall be filed in the office of the secretary of state, whereupon the corporation shall be dissolved. To the extent consistent with orders entered in such proceeding, the effect of such judicial dissolution shall be the same as in the case of voluntary dissolution, and the provisions of sections 1701.88, 1701.89, and 1701.90 of the Revised Code relating to the authority and duties of directors during the winding up of the affairs of a corporation dissolved voluntarily, with respect to the jurisdiction of courts over the winding up of the affairs of a corporation, and with respect to receivers for winding up the affairs of a corporation shall be applicable to corporations judicially dissolved.

(E) A judicial proceeding under this section concerning the judicial dissolution of a corporation is a special proceeding, and final orders in it may be vacated, modified, or reversed on appeal pursuant to the Rules of

Appellate Procedure or the Rules of Practice of the Supreme Court, whichever are applicable, and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code.

## CHAPTER 1711. AGRICULTURAL CORPORATIONS; AMUSEMENT RIDES

Section 1711.09

**General Assembly: 120.**

**Bill Number: Amended House Bill 336**

**Effective Date: 10-29-93**

Except as otherwise provided in this section, county agricultural societies, independent agricultural societies and the Ohio expositions commission shall not permit during any fair, or for one week before or three days thereafter, any dealing in spirituous liquors, or at any time allow or tolerate immoral shows, lottery devices, games of chance, or gambling of any kind, including pool selling and paddle wheels, anywhere on the fairground; and shall permit no person at any time to operate any side show, amusement, game, or device, or offer for sale any novelty by auction or solicitation, on such fairground who has not first obtained from the director of agriculture such license as is provided by section 1711.11 of the Revised Code. This section does not prohibit the sale of lottery tickets by the state lottery commission pursuant to Chapter 3770. of the Revised Code at the state fairground during the state fair. In addition, a county or independent agricultural society may permit, at any time except during a fair or for one week before or three days thereafter, a charitable organization to conduct in accordance with Chapter 2915. of the Revised Code games of chance, schemes of chance, or bingo on the fairground of a county with a population of 500,000 or less. A charitable organization may lease all or part of the fairground from the agricultural society for that purpose.

Any sales of intoxicating liquor transacted on the fairground shall be subject to Chapters 4301., 4303., and 4399. of the Revised Code.

Any agricultural society that permits the sale of intoxicating liquor on its fairground shall apply any proceeds gained by such society from the permit holder and from activities coincident to the sale of intoxicating liquor first to pay the cost of insurance on all buildings on such fairground, and then for any other purpose authorized by law.

Section 1711.11

**General Assembly: 121.**

**Bill Number: Sub. House Bill 670**

**Effective Date: 12/02/96**

(A) No person shall operate any concession at any fair or exposition conducted by a county or independent agricultural society or by the Ohio expositions commission without first obtaining from the director of agriculture a license to do so under division (B) of this section; nor shall any officer, agent, or employee of a county or independent agricultural society or of the Ohio expositions commission grant a privilege or concession to any person to do so, unless the person holds a license.

For the purposes of this section, "concession" means any show, amusement other than an amusement ride as defined in division (A) of section 1711.50 of the Revised Code, game, or novelty stand operation at a fair or exposition, but does not include food or drink operations.

(B) A license shall be issued by the director only upon a written application containing a detailed description of the concession. Blank applications for licenses shall be prepared and furnished by the director.

(C) No license shall be issued until the applicant has paid a fee of fifty dollars to the director, except that no fee shall be collected from nonprofit organizations which are recorded as such by the secretary of state or with the internal revenue service. The director shall pay the fee into the state treasury to the credit of the amusement ride inspection fund established by section 1711.53 of the Revised Code.

(D) A license issued under this section shall contain a detailed description of the concession licensed, shall expire on the thirty-first day of December following the date of issue, and shall be kept by the licensee in a conspicuous place where the licensee's concession is in operation.

(E)(1) The director shall employ and provide training for a chief inspector and additional inspectors and employees as necessary to administer and enforce this section. The director may appoint or contract with other persons to perform inspections of concessions provided that the persons meet the qualifications for inspectors established by rules adopted under division (G) of this section and are not owners or employees of owners of any concession subject to inspection under this section. No person shall inspect a concession who, within six months prior to the date of inspection, was an employee of the owner of the concession.

(2) Before the director contracts with other persons to inspect concessions, the director shall seek the advice of the advisory council on amusement ride safety on whether to contract with such persons. Such advice shall not be binding upon the director. After having received the advice of the council the director may proceed to contract for amusement ride inspectors and award the contract to the lowest responsive and responsible bidder in accordance with section 009.312 of the Revised Code. In order to determine the lowest responsive and responsible bid, the director, with the advice of the council, shall adopt rules governing the terms of the contract between the department of agriculture and the inspector. The rules shall prescribe the training and work experience required of an inspector, any insurance or bonds required of an inspector, and all the services the inspector will be required to perform on behalf of the department in an efficient professional manner.

(F) This section does not require the officers of any such society or of the Ohio expositions commission to grant any privilege or concession to any licensee.

(G) The director shall enforce this section and, in accordance with Chapter 119. of the Revised Code, adopt all rules that are necessary for its enforcement. If the director finds that this section has been violated or that the

licensee has been dishonest or has been fraudulent in dealings with the public, the director, in accordance with Chapter 119. of the Revised Code, shall revoke the licensee's license or fine the licensee not more than one thousand dollars, or both. The director, for a period not exceeding two years from the date of revocation, may refuse to issue another license to a person for a concession for which the person's license has been revoked. Notwithstanding section 119.12 of the Revised Code, all appeals from any fine by, or order of, the director shall be to the court of common pleas of the county where the place of business of the person is located or to the common pleas court of the county in which the person is a resident or in which the concession is located.

(H) Any person holding a license issued under this section who permits or tolerates at any place on the fairground where the person's concession is in operation, any immoral show, lottery device, game of chance, or gambling of any kind, including pool selling and paddle wheels, or who violates the terms of the license issued to the person, shall forfeit the license, and the director shall not issue any other license to the person until after a period of two years from the forfeiture. For the purposes of this division, "lottery device," "game of chance," and "gambling of any kind" do not include the sale of lottery tickets by the state lottery commission pursuant to Chapter 3770. of the Revised Code at the state fairground during the state fair. For the purposes of this section and section 1711.09 of the Revised Code, contests, games, tournaments, and other activities, the outcome of which is predominantly determined by the skill of the contestants, participants, or players, whether or not the contestants, participants, or players pay a price for the opportunity to win a prize, do not constitute a game of chance or gambling within the meaning, purpose, and intent of this section and section 1711.09 of the Revised Code or sections 2915.01 to 2915.04 of the Revised Code. The foregoing definition does not apply where the contest, game, tournament, or other activity, contains or includes any mechanical or physical device which directly or indirectly impedes, impairs, or thwarts the skill of the contestant, participant, or player.

## **TITLE 29. CRIMES – PROCEDURE**

### **CHAPTER 2901. GENERAL PROVISIONS**

#### Section 2901.01

**General Assembly: 122.**

**Bill Number: Amended Sub. House Bill 565**

**Effective Date: 03/30/99**

(A) As used in the Revised Code:

(1) "Force" means any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.

(2) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.

(3) "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

(4) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

(5) "Serious physical harm to persons" means any of the following:

(a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(b) Any physical harm that carries a substantial risk of death;

(c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

(d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious

disfigurement;

(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.

(6) "Serious physical harm to property" means any physical harm to property that does either of the following:

(a) Results in substantial loss to the value of the property or requires a substantial amount of time, effort, or money to repair or replace;

(b) Temporarily prevents the use or enjoyment of the property or substantially interferes with its use or enjoyment for an extended period of time.

(7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

(8) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

(9) "Offense of violence" means any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161

or of division (A)(1), (2), or (3) of section 2911.12 of the Revised Code or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section, division, or offense listed in division (A)(9)(a) of this section;

(c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a

risk of serious physical harm to persons;

(d) A conspiracy or attempt to commit, or complicity in committing, any offense under division (A)(9)(a), (b), or (c) of this section.

(10)(a) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

(b) As used in division (A)(10) of this section, "trade secret" has the same meaning as in section 1333.61 of the Revised Code, and "telecommunications service" and "information service" have the same meanings as in section 2913.01 of the Revised Code.

(c) As used in divisions (A)(10) and (13) of this section, "cable television service," "computer," "computer software," "computer system," "computer network," "data," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(11) "Law enforcement officer" means any of the following:

(a) A sheriff, deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, or state highway patrol trooper;

(b) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;

(c) A mayor, in the mayor's capacity as chief conservator of the peace within the mayor's municipal corporation;

(d) A member of an auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission;

(e) A person lawfully called pursuant to section 311.07 of the Revised Code to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;

(f) A person appointed by a mayor pursuant to section 737.01 of the Revised Code as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;

(g) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;

(h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;

(i) An Ohio veterans' home police officer appointed under section 5907.02 of the Revised Code;

(j) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code.

(12) "Privilege" means an immunity, license, or right conferred by law, bestowed by express or implied grant, arising out of status, position, office, or relationship, or growing out of necessity.

(13) "Contraband" means any property described in the following categories:

(a) Property that in and of itself is unlawful for a person to acquire or possess;

(b) Property that is not in and of itself unlawful for a person to acquire or possess, but that has been determined by a court of this state, in accordance with law, to be contraband because of its use in an unlawful activity or manner, of its nature, or of the circumstances of the person who acquires or possesses it, including, but not limited to, goods and personal property described in division (D) of section 2913.34 of the Revised Code;

(c) Property that is specifically stated to be contraband by a section of the Revised Code or by an ordinance, regulation, or resolution;

(d) Property that is forfeitable pursuant to a section of the Revised Code, or an ordinance, regulation, or resolution, including, but not limited to, forfeitable firearms, dangerous ordnance, obscene materials, and goods and personal property described in division (D) of section 2913.34 of the Revised Code;

(e) Any controlled substance, as defined in section 3719.01 of the Revised Code, or any device, paraphernalia, money as defined in section 1301.01 of the Revised Code, or other means of exchange that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in a violation of, Chapter 2925. or 3719. of the Revised Code;

(f) Any gambling device, paraphernalia, money as defined in section 1301.01 of the Revised Code, or other means of exchange that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in the violation of, Chapter 2915. of the Revised Code;

(g) Any equipment, machine, device, apparatus, vehicle, vessel, container, liquid, or substance that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in the violation of, any law of this state relating to alcohol or tobacco;

(h) Any personal property that has been, is being, or is intended to be used in an attempt or conspiracy to commit, or in the commission of, any offense or in the transportation of the fruits of any offense;

(i) Any property that is acquired through the sale or other transfer of contraband or through the proceeds of

contraband, other than by a court or a law enforcement agency acting within the scope of its duties;

(j) Any computer, computer system, computer network, computer software, or other telecommunications device that is used in a conspiracy to commit, an attempt to commit, or the commission of any offense, if the owner of the computer, computer system, computer network, computer software, or other telecommunications device is convicted of or pleads guilty to the offense in which it is used.

(14) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in section 2901.05 of the Revised Code, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.

(B)(1)(a) Subject to division (B)(2) of this section, as used in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense, "person" includes all of the following:

(i) An individual, corporation, business trust, estate, trust, partnership, and association;

(ii) An unborn human who is viable.

(b) As used in any section contained in Title XXIX of the Revised Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership, and association.

(c) As used in division (B)(1)(a) of this section:

(i) "Unborn human" means an individual organism of the species homo sapiens from fertilization until live birth.

(ii) "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (B)(1)(a) of this section, in no case shall the portion of the definition of the term "person" that is set forth in division (B)(1)(a)(ii) of this section be applied or construed in any section contained in

Title XXIX of the Revised Code that sets forth a criminal offense in any of the following manners:

(a) Except as otherwise provided in division (B)(2)(a) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman.

An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.07, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate section 2919.12, division (B) of section 2919.13, section 2919.15, 2919.17, or 2919.18 of the Revised Code, may be punished as a violation of section 2919.12, division (B) of section 2919.13, section 2919.15, 2919.17, or 2919.18 of the Revised Code, as applicable. Consent is sufficient under this division if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with section 2919.12 of the Revised Code.

(b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

(i) Her delivery of a stillborn baby;

(ii) Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;

(iii) Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;

(iv) Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;

(v) Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

## CHAPTER 2915. GAMBLING

### Section 2915.01

General Assembly: 121.

Bill Number: Sub. House Bill 143

Effective Date: 07/01/96

As used in this chapter:

- (A) "Bookmaking" means the business of receiving or paying off bets.
- (B) "Bet" means the hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.
- (C) "Scheme of chance" means a lottery, numbers game, pool, or other scheme in which a participant gives a valuable consideration for a chance to win a prize.
- (D) "Game of chance" means poker, craps, roulette, a slot machine, a punch board, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely or wholly by chance.
- (E) "Scheme or game of chance conducted for profit" means any scheme or game of chance designed to produce income for the person who conducts or operates the scheme or game of chance, but does not include a charitable bingo game.
- (F) "Gambling device" means:
  - (1) A book, totalizer, or other equipment for recording bets;

(2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance, except a charitable bingo game, or evidencing a bet;

(3) A deck of cards, dice, gaming table, roulette wheel, slot machine, punch board, or other apparatus designed for use in connection with a game of chance;

(4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes.

(G) "Gambling offense" means any of the following:

(1) A violation of section 2915.02, 2915.03, 2915.04, 2915.05, 2915.07, 2915.08, 2915.09, 2915.10, or 2915.11 of the Revised Code;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in division (G) (1) of this section or a violation of section 2915.06 of the Revised Code as it existed prior to the effective date of this amendment 1, 1996;

(3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;

(4) A conspiracy or attempt to commit, or complicity in committing any offense under division (G)(1), (2), or (3) of this section.

(H) "Charitable organization" means any tax exempt religious, educational, veteran's, fraternal, service, nonprofit medical, volunteer rescue service, volunteer fire fighter's, senior citizen's, youth athletic, amateur athletic, or youth athletic park organization. An organization is tax exempt if the organization is, and has received from the internal revenue service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code. To qualify as a charitable organization, an organization, except a volunteer rescue service or volunteer fire fighter's organization, shall have been in continuous existence

as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under section 2915.08 of the Revised Code or the conducting of any scheme of chance or game of chance as provided in division (C) of section 2915.02 of the Revised Code.

(I) "Religious organization" means any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances.

(J) "Educational organization" means any organization within this state that is not organized for profit, the primary purpose of which is to educate and develop the capabilities of individuals through instruction, and that operates or contributes to the support of a school, academy, college, or university.

(K) "Veteran's organization" means any individual post of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post or auxiliary unit has been incorporated as a nonprofit corporation for at least two years and has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association. As used in this division, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least ten years and either is incorporated by an act of the United States congress or has a national dues-paying membership of at least five thousand persons.

(L) "Volunteer fire fighter's organization" means any organization of volunteer fire fighters, as defined in section 146.01 of the Revised Code, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company.

(M) "Fraternal organization" means any society, order, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, that exists exclusively for the common business or sodality of its members, and that has been in continuous existence in this state for a period of five years.

(N) "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization as defined in section 4765.01 of the Revised Code.

(O) "Service organization" means any organization, not organized for profit, that is organized and operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, medical and therapeutic services for persons who are crippled, born with birth defects, or have any other mental or physical defect or those organized and operated exclusively to protect, or to contribute to the support of organizations or institutions organized and operated exclusively to protect, animals from inhumane treatment.

(P) "Nonprofit medical organization" means any organization that has been incorporated as a nonprofit corporation for at least five years and that has continuously operated and will be operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, hospital, medical, research, or therapeutic services for the public.

(Q) "Senior citizen's organization" means any private organization, not organized for profit, that is organized and operated exclusively to provide recreational or social services for persons who are fifty-five years of age or older and that is described and qualified under subsection 501(c)(3) of the Internal Revenue Code.

(R) "Charitable bingo game" means any bingo game that is conducted by a charitable organization that has obtained a bingo license pursuant to section 2915.08 of the Revised Code and the proceeds of which are used for a charitable purpose.

(S) "Bingo" means:

(1) A game with all of the following characteristics:

(a) The participants use bingo cards that are divided into twenty-five spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter

and a number and with the central space being designated as a free space.

(b) The participants cover the spaces on the bingo cards that correspond to combinations of letters and numbers that are announced by a bingo game operator.

(c) A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains seventy-five objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the seventy-five possible combinations of a letter and a number that can appear on the bingo cards.

(d) The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in division (S)(1)(c) of this section, that a predetermined and preannounced pattern of spaces has been covered on a bingo card being used by the participant.

(2) Any scheme or game other than a game as defined in division (S)(1) of this section with the following characteristics:

(a) The participants use cards, sheets, or other devices that are divided into spaces arranged in horizontal, vertical, or diagonal rows of spaces, with each space, except free spaces, being designated by a single letter, number, or symbol; by a combination of letters, numbers, or symbols; by a combination of a letter and a number, a letter and a symbol, or a number and a symbol; or by any combination of letters, numbers, and symbols, with some or none of the spaces being designated as a free, complimentary, or similar space.

(b) The participants cover the spaces on the cards, sheets, or devices that correspond to letters, numbers, symbols, or combinations of such that are announced by a bingo game operator or otherwise transmitted to the participants.

(c) A bingo game operator announces, or otherwise transmits to the participants, letters, numbers, symbols, or

any combination of such as set forth in division (S)(2)(a) of this section that appear on objects that a bingo game operator selects by chance that correspond to one of the possible letters, numbers, symbols, or combinations of such that can appear on the bingo cards, sheets, or devices.

(d) The winner of the bingo game is any participant who properly announces that a predetermined and preannounced pattern of spaces has been covered on a card, sheet, or device being used by the participant.

(T) "Conduct" means to back, promote, organize, manage, carry on, or prepare for the operation of a scheme or game of chance but does not include any act performed by a bingo game operator.

(U) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of a bingo game including, but not limited to, collecting money from participants, handing out bingo cards or objects to cover spaces on the bingo cards, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on the bingo cards, calling out the combinations of letters and numbers, distributing prizes to the winner of the bingo game, and preparing, selling, and serving food or beverages.

(V) "Participant" means any person who plays bingo by covering the spaces on a bingo card that correspond to combinations of letters and numbers that are announced by a bingo game operator.

(W) "Bingo session" means a period, not to exceed five continuous hours, during which a person conducts one or more bingo games.

(X) "Gross receipts" means all money or assets, including admission fees, that a person receives from a bingo session that the person conducts without the deduction of any amounts for prizes paid out during the session or for the expenses of conducting the bingo session. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting a bingo session, or by a bona fide auxiliary unit or society of a charitable organization, at a bingo session conducted by the charitable organization, provided all of the following apply:

(1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to the bingo session.

(2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.

(3) The food and beverages are sold at customary and reasonable prices.

(4) No person preparing, selling, or serving the food or beverages at the site of the bingo game receives directly or indirectly any form of compensation for the preparation, sale, or service of the food or beverages.

(Y) "Security personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or member of an organized police department of a municipal corporation or has successfully completed a peace officer's training course pursuant to sections 109.71 to 109.79 of the Revised Code and who is hired to provide security for the premises on which a bingo game is conducted.

(Z) "To use gross receipts for a charitable purpose" means that the proceeds of the bingo game are used by, or given, donated, or otherwise transferred to, any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code; that the proceeds of the bingo game are used by, or given, donated, or otherwise transferred to a veteran's organization, as defined in division (K) of this section, that is a post, chapter, or organization of war veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five per cent of the members of which are war veterans and substantially all of the other members of which are individuals who are veterans (but not war veterans) or are cadets, or are spouses, widows or widowers of war veterans, or such individuals, provided that no part of the net earnings of such post or organization inures to the benefit of any private shareholder or individual, and further

provided that the bingo game proceeds are used by the post or organization for the charitable purposes set forth in division (B)(12) of section 5739.02 of the Revised Code, are used for awarding scholarships to or for attendance at an institution mentioned in division (B)(12) of section 5739.02 of the Revised Code, are donated to a governmental agency, or are used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief; that the proceeds of the bingo game are used by, or given, donated, or otherwise transferred to a fraternal organization that has been in continuous existence in this state for fifteen years for use exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals and contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal Revenue Code; or that the proceeds of the bingo game are used by a volunteer fire fighter's organization and are used by the organization for the purposes set forth in division (L) of this section.

(AA) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter amended.

(BB) "Youth athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are twenty-one years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

(CC) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:

(1) It owns, operates, and maintains playing fields that satisfy both of the following:

(a) The playing fields are used at least one hundred days per year for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial

support to, or to operate, athletic activities for persons who are eighteen years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

(b) The playing fields are not used for any profit-making activity at any time during the year.

(2) It uses the proceeds of the bingo games it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in division (CC)(1) of this section.

(DD) "Amateur athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are training for amateur athletic competition that is sanctioned by a national governing body as defined in the "Amateur Sports Act of 1978," 90 Stat. 3045, 36 U.S.C.A. 373.

Section 2915.02

General Assembly: 122.

Bill Number: Sub. S.B. 37

Effective Date: 07/26/97

(A) No person shall do any of the following:

(1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking;

(2) Establish, promote, or operate or knowingly engage in conduct that facilitates any scheme or game of chance conducted for profit;

(3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any scheme or game of chance conducted for profit;

(4) Engage in betting or in playing any scheme or game of chance, except a charitable bingo game, as a substantial source of income or livelihood;

(5) With purpose to violate division (A)(1), (2), (3), or (4) of this section, acquire, possess, control, or operate any gambling device.

(B) For purposes of division (A)(1) of this section, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of division (A)(2) of this section, a person facilitates a scheme or game of chance conducted for profit if the person in any way knowingly aids in the conduct or operation of any such scheme or game, including, without limitation, playing any such scheme or game.

(C) This section does not prohibit conduct in connection with gambling expressly permitted by law.

(D) This section does not apply to any of the following:

(1) Schemes of chance conducted by a charitable organization that is, and has received from the internal revenue service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, provided that all of the money or assets received from the scheme of chance after deduction only of prizes paid out during the conduct of the scheme of chance are used by, or given, donated, or otherwise transferred to, any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and provided that the scheme of chance is not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to section 2915.12 of the Revised Code;

(2) Games of chance, if all of the following apply:

(a) The games of chance are not craps for money, roulette for money, or slot machines;

(b) The games of chance are conducted by a charitable organization that is, and has received from the internal revenue service a determination letter that is currently in effect, stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

(c) The games of chance are conducted at festivals of the organization that are conducted either for a period of four consecutive days or less and not more than twice a year or for a period of five consecutive days not more than once a year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance.

A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in division (D)(2)(c) of this section if the veteran's or fraternal organization already has leased the premises four times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in division (D)(2)(c) of this section, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under division (A)(3) of section 2915.09 of the Revised Code when it leases premises from another charitable organization to conduct bingo games.

(d) All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated, or otherwise transferred to, any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a

governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

(e) The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to section 2915.12 of the Revised Code.

No person shall receive any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, for operating or assisting in the operation of any scheme or game of chance.

(3) Any tag fishing tournament operated under a permit issued under section 1533.92 of the Revised Code, as "tag fishing tournament" is defined in section 1531.01 of the Revised Code.

(E) Division (D) of this section shall not be construed to authorize the sale, lease, or other temporary or permanent transfer of the right to conduct schemes of chance or games of chance, as granted by division (D) of this section, by any charitable organization that is granted that right.

(F) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of any gambling offense, gambling is a felony of the fifth degree.

Session Law from the 122nd from the General Assembly of the State of Ohio that references this section (this information may or may not be already included within this Revised Code section):

Senate Bill 37

Section 2915.03

General Assembly: 121

Bill Number: Amended. Sub. S.B. 2

Effective Date: 07/01/96

(A) No person, being the owner or lessee, or having custody, control, or supervision of premises, shall:

(1) Use or occupy such premises for gambling in violation of section 2915.02 of the Revised Code;

(2) Recklessly permit such premises to be used or occupied for gambling in violation of section 2915.02 of the Revised Code.

(B) Whoever violates this section is guilty of operating a gambling house, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, operating a gambling house is a felony of the fifth degree.

(C) Premises used or occupied in violation of this section constitute a nuisance subject to abatement pursuant to sections 3767.01 to 3767.99 of the Revised Code.

Section 2915.04

General Assembly: 109

Bill Number: House Bill. 511

Effective Date: 1-1-74

(A) No person, while at a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall make a bet or play any game of chance.

(B) No person, being the owner or lessee, or having custody, control, or supervision of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall recklessly permit such premises to be used or occupied in violation of division (A) of this section.

(C) This section does not prohibit conduct in connection with gambling expressly permitted by law.

(D) Whoever violates this section is guilty of public gaming, a minor misdemeanor. If the offender has previously been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.

(E) Premises used or occupied in violation of division (B) of this section constitute a nuisance subject to abatement pursuant to sections 3767.01 to 3767.99 of the Revised Code.

Section 2915.05

General Assembly: 121

Bill Number: Amended. Sub. S.B. 2

Effective Date: 07/01/96

(A) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of any of the following:

- (1) The subject of a bet;
- (2) A contest of knowledge, skill, or endurance that is not an athletic or sporting event;
- (3) A scheme or game of chance.

(B) No person shall knowingly do any of the following:

- (1) Offer, give, solicit, or accept anything of value to corrupt the outcome of an athletic or sporting event;
- (2) Engage in conduct designed to corrupt the outcome of an athletic or sporting event.

(C)(1) Whoever violates division (A) of this section is guilty of cheating, a misdemeanor of the first degree. If the potential gain from the cheating is five hundred dollars or more or if the offender previously has been convicted of any gambling offense or of any theft offense, as defined in section 2913.01 of the Revised Code, cheating is a felony of the fifth degree.

(2) Whoever violates division (B) of this section is guilty of corrupting sports. Corrupting sports is a felony of the fifth degree on a first offense and a felony of the fourth degree on each subsequent offense.

Section 2915.07

General Assembly: 121

Bill Number: Amended. Sub. S.B. 2

Effective Date: 07/01/96

(A) No person, except a charitable organization that has obtained a bingo license pursuant to section 2915.08 of the Revised Code, shall conduct or advertise a bingo game.

(B) Whoever violates this section is guilty of conducting an illegal bingo game, a felony of the fourth degree.

Section 2915.08

General Assembly: 120

Bill Number: Amended. House Bill 104

Effective Date: 10/07/93

(A) Annually before the first day of January a charitable organization that desires to conduct bingo games shall make out and deliver to the attorney general, upon a form to be furnished by the attorney general for that purpose, an application for a license to conduct bingo and a license fee of one hundred dollars or a reduced license fee established by the attorney general pursuant to division (G) of this section. The application shall be in the form prescribed by the attorney general and shall be signed and sworn to by the applicant.

The application shall contain the following:

- (1) The name and post-office address of the applicant;
- (2) A statement that the applicant is a charitable organization and that it has been in continuous existence as a charitable organization in this state for two years immediately preceding the making of the application or for five years in the case of a fraternal organization or a nonprofit medical organization;
- (3) The location at which the organization will conduct the bingo game, which location shall be within the county in which the principal place of business of the applicant is located, the days of the week and the times on each of those days when a bingo session will be conducted, whether the organization owns, leases, or subleases the premises, and a copy of the rental agreement if it leases or subleases the premises;
- (4) A statement of the applicant's previous history, record, and association that is sufficient to establish that the applicant is a charitable organization and a copy of a determination letter that is issued by the Internal Revenue Service and states that the organization is tax exempt under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code;
- (5) A statement as to whether the applicant has ever had any previous application refused, whether it previously has had a license revoked or suspended, and the reason stated by the attorney general for the refusal, revocation, or suspension;
- (6) A statement of the charitable purpose for which the bingo proceeds will be used;
- (7) Other necessary and reasonable information that the attorney general may require by rule adopted pursuant to section 111.15 of the Revised Code;
- (8) In the case of an applicant seeking to qualify as a youth athletic park organization under division (CC) of section 2915.01 of the Revised Code, a statement issued by a board or body vested with authority under Chapter 755. of the Revised Code for the supervision and maintenance of recreation facilities in the territory in which the organization is located, certifying that the playing fields owned by the organization were used for at

least one hundred days during the year in which the statement is issued, and were open for use to all residents of that territory, regardless of race, color, creed, religion, sex, or national origin, for athletic activities by youth athletic organizations, as defined in division (BB) of section 2915.01 of the Revised Code, that do not discriminate on the basis of race, color, creed, religion, sex, or national origin, and that the fields were not used for any profit-making activity at any time during the year. That type of board or body is authorized to issue the statement upon request and shall issue the statement if it finds that the applicant's playing fields were so used.

The attorney general, within thirty days after receiving a timely filed application from a charitable organization that has been issued a bingo license that has not expired and has not been revoked or suspended, shall send a temporary permit to the applicant specifying the date on which the application was filed with the attorney general and stating that, pursuant to section 119.06 of the Revised Code, the applicant may continue to conduct bingo games until a new license is granted or, if the application is rejected, until fifteen days after notice of the rejection is mailed to the applicant. The temporary permit does not affect the validity of the applicant's application and does not grant any rights to the applicant except those rights specifically granted in section 119.06 of the Revised Code. The issuance of a temporary permit by the attorney general pursuant to this paragraph does not prohibit the attorney general from rejecting the applicant's application because of acts that the applicant committed, or actions that he failed to take, before or after the issuance of the temporary permit.

(B)(1) The attorney general shall adopt rules to enforce sections 2915.01, 2915.02, and 2915.07 to 2915.12 of the Revised Code, to ensure that bingo games are conducted in accordance with those sections, and to maintain proper control over the conduct of bingo games. The rules, except rules adopted pursuant to division (A)(7) of this section, shall be adopted pursuant to Chapter 119. of the Revised Code. The attorney general shall license charitable organizations to conduct bingo games in conformance with this chapter and with the licensing provisions of Chapter 119. of the Revised Code.

(2) The attorney general may refuse to grant a bingo license to any organization, or revoke or suspend the license of any organization, that does any of the following or to which any of the following applies:

(a) Fails or has failed at any time to meet any requirement of sections 2915.07 to 2915.11 of the Revised Code, or violates or has violated any provision of sections 2915.02 or 2915.07 to 2915.12 of the Revised Code or any rule adopted by the attorney general pursuant to this section;

(b) Makes or has made an incorrect or false statement that is material to the granting of the license in an application filed pursuant to division (A) of this section;

(c) Submits or has submitted any incorrect or false information relating to an application if the information is material to the granting of the license;

(d) Maintains or has maintained any incorrect or false information that is material to the granting of the license in the records required to be kept pursuant to division (A) of section 2915.10 of the Revised Code, if applicable;

(e) The attorney general has good cause to believe will not conduct its bingo games in accordance with sections 2915.02 and 2915.07 to 2915.12 of the Revised Code or with any rule adopted by the attorney general pursuant to this section.

(3) For the purposes of this division, any action of an officer, trustee, agent, representative, or bingo game operator of an organization is an action of the organization.

(C) The attorney general may grant bingo licenses to charitable organizations that are branches, lodges, or chapters of national charitable organizations.

(D) The attorney general shall send notice in writing to the prosecuting attorney and sheriff of the county in which the organization will conduct the bingo game, as stated in its application for a license or amended license, and to any other law enforcement agency in that county that so requests, of all of the following:

(1) The issuance of the license;

- (2) The issuance of the amended license;
- (3) The rejection of an application for and refusal to grant a license;
- (4) The revocation of any license previously issued;
- (5) The suspension of any license previously issued.

(E) A bingo license issued by the attorney general shall set forth the information contained on the application of the charitable organization that the attorney general determines is relevant, including, but not limited to, the location at which the organization will conduct the bingo game and the days of the week and the times on each of those days when a bingo session will be conducted. If the attorney general refuses to grant or revokes or suspends a bingo license, he shall notify the applicant in writing and specifically identify the reason for the refusal, revocation, or suspension in narrative form and, if applicable, by identifying the section of the Revised Code violated. The failure of the attorney general to give the written notice of the reasons for the refusal, revocation, or suspension or a mistake in the written notice does not affect the validity of the attorney general's refusal to grant, or the revocation or suspension of, a bingo license. If the attorney general fails to give the written notice or if there is a mistake in the written notice, the applicant may bring an action to compel the attorney general to comply with this division or to correct the mistake, but the attorney general's order refusing to grant, or revoking or suspending, a bingo license shall not be enjoined during the pendency of the action.

(F) A charitable organization that has been issued a bingo license pursuant to division (B) of this section but that cannot conduct bingo sessions at the location, or on the day of the week or the time, specified on the license due to circumstances beyond its control may apply, without charge, in writing to the attorney general for an amended bingo license. The application shall describe in detail the causes making it impossible for the organization to conduct its bingo sessions in conformity with its license and shall indicate the location, days of the week, and times on each of those days when it desires to conduct a bingo session. If the attorney general approves the application for the amended license, he shall issue the amended license in accordance with division (E) of this

section, and the organization shall surrender its original license to the attorney general. The attorney general shall refuse to grant an application for an amended bingo license according to the terms of division (B) of this section.

(G) The attorney general, by rule adopted pursuant to section 111.15 of the Revised Code, shall establish a schedule of reduced license fees for charitable organizations that desire to conduct bingo games during fewer than twenty-six weeks in any calendar year.

Section 2915.09

General Assembly: 121

Bill Number: Amended Sub. S.B. 2

Effective Date: 07/01/96

(A) A charitable organization that conducts a bingo game shall do all of the following:

(1) Own all of the equipment used to conduct the bingo game or lease that equipment from a charitable organization that is licensed to conduct a bingo game for a rental rate that is not more than is customary and reasonable for that equipment;

(2) Use all of the gross receipts from the bingo game for paying prizes, for the charitable purposes listed in its bingo license application, for purchasing or leasing bingo cards and other equipment used in conducting the bingo game, hiring security personnel for the bingo game, or advertising the bingo game, provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring, or advertising, and for renting premises in which to conduct the bingo game, except that if the building in which the game is conducted is owned by the charitable organization conducting the game, the charitable organization may deduct from the total amount of the gross receipts from each session a sum equal to the lesser of six hundred dollars or forty-five per cent of the gross receipts from the session as consideration for the use of the premises;

(3) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of four hundred fifty dollars per bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size, and quality but not in excess of four hundred fifty dollars per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars per bingo session. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo games, the lessor of the premises shall provide only the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo equipment, or any other type of service or equipment. A charitable organization shall not lease or sublease premises that it owns or leases to more than one other charitable organization per calendar week for the purpose of conducting bingo games on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than one charitable organization per calendar week for conducting bingo games on the premises. In no case shall more than two bingo sessions be conducted on any premises in any calendar week.

(4) Display its bingo license conspicuously at the location where the bingo game is conducted;

(5) Conduct the bingo game in accordance with the definition of bingo set forth in division (S)(1) of section 2915.01 of the Revised Code.

(B) A charitable organization that conducts a bingo game shall not do any of the following:

(1) Pay any compensation to a bingo game operator for operating a bingo game that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo game, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;

(2) Pay consulting fees to any person for any services performed in relation to the bingo game;

(3) Pay concession fees to any person who provides refreshments to the participants in the bingo game;

(4) Conduct more than two bingo sessions in any seven-day period. Except that a volunteer fire fighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than two bingo sessions in a seven-day period after notifying the attorney general when it will conduct the sessions;

(5) Pay out more than three thousand five hundred dollars in prizes during any bingo session that is conducted by the charitable organization;

(6) Conduct a bingo session at any time during the ten-hour period between midnight and ten a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to section 2915.12 of the Revised Code, at any location not specified on its bingo license, or on any day of the week or during any time period not specified on its bingo license. If circumstances beyond its control make it impossible for the charitable organization to conduct a bingo session at the location specified on its bingo license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its bingo license, the charitable organization may apply in writing to the attorney general for an amended bingo

license, pursuant to division (F) of section 2915.08 of the Revised Code. A charitable organization may apply only once in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its bingo license. If the amended license is granted, the organization may conduct bingo sessions at the location, on the day of the week, and at the time specified on its amended license.

(7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen to work as a bingo game operator;

(8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;

(9) Permit the lessor of the premises on which bingo is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo equipment, or any other type of service or equipment.

(C) A bingo game operator shall not receive or accept any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for operating a bingo game or providing other work or labor at the site of the bingo game.

(D) Notwithstanding division (A)(3) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the attorney general in writing of

the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the attorney general prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the attorney general prior to December 6, 1977.

(E) Whoever violates division (A)(2) of this section is guilty of illegally conducting a bingo game, a felony of the fourth degree. Whoever violates division (A)(1), (3), (4), or (5), (B), or (C) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of division (A)(1), (3), (4), or (5), (B), or (C) of this section, a violation of division (A)(1), (3), (4), or (5), (B), or (C) of this section is a misdemeanor of the first degree.

Section 2915.10

General Assembly: 121

Bill Number: Amended. Sub. S.B. 2

Effective Date: 07/01/96

(A) A charitable organization that conducts a bingo session or scheme or game of chance pursuant to division

(D) of section 2915.02 of the Revised Code, shall maintain the following records for at least three years from the date on which the bingo session or scheme or game of chance is conducted:

- (1) An itemized list of the gross receipts of each session or scheme or game of chance;
- (2) An itemized list of all expenses other than prizes that are incurred in conducting the bingo session, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;
- (3) A list of all prizes awarded during the bingo session or scheme or game of chance conducted by the charitable organization and the name and address of all persons who are winners of prizes of one hundred dollars

or more in value;

(4) An itemized list of the charitable recipients of the proceeds of the bingo session or scheme or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the proceeds of a bingo session, or the money or assets received from a scheme or game of chance for any purpose set forth in division (Z) of section 2915.01 or division (D) of section 2915.02 of the Revised Code, a list of each purpose and an itemized list of each expenditure for each purpose;

(5) The number of persons who participate in any bingo session or scheme or game of chance that is conducted by the charitable organization;

(6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from the definition of "gross receipts" under division (X) of section 2915.01 of the Revised Code;

(7) An itemized list of all expenses incurred at each bingo session conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.

(B) The attorney general, or any local law enforcement agency, may:

(1) Investigate any charitable organization or any officer, agent, trustee, member, or employee of the organization;

(2) Examine the accounts and records of the organization;

(3) Conduct inspections, audits, and observations of bingo games or schemes or games of chance while they are in session;

(4) Conduct inspections of the premises where bingo games or schemes or games of chance are operated;

(5) Take any other necessary and reasonable action to determine if a violation of any provision of sections 2915.01, 2915.02, and 2915.07 to 2915.12 of the Revised Code has occurred and to determine whether section 2915.11 of the Revised Code has been complied with.

If any local law enforcement agency has reasonable grounds to believe that a charitable organization or an officer, agent, trustee, member, or employee of the organization has violated any provision of this chapter, the local law enforcement agency may proceed by action in the proper court to enforce this chapter, provided that the local law enforcement agency shall give written notice to the attorney general when commencing an action as described in this division.

(C) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of a bingo game or scheme or game of chance or premises where a bingo game or scheme or game of chance is operated, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the attorney general or a local law enforcement agency pursuant to division (B) of this section.

(D) Whoever violates division (A) or (C) of this section is guilty of a misdemeanor of the first degree.

Section 2915.11

General Assembly: 112.

Bill Number: House Bill 72

Effective Date: 12/15/77

(A) No person shall be a bingo game operator unless he is eighteen years of age or older.

(B) No person who has been convicted of a felony or a gambling offense in any jurisdiction shall be a bingo

game operator.

(C) Whoever violates division (A) of this section is guilty of a misdemeanor of the third degree.

(D) Whoever violates division (B) of this section is guilty of a misdemeanor of the first degree.

Section 2915.12

General Assembly: 121

Bill Number: Amended. Sub. S.B. 2

Effective Date: 07/01/96

Sections 2915.07 to 2915.11 of the Revised Code do not apply to bingo games that are conducted for the purpose of amusement only. A bingo game is conducted for the purpose of amusement only if it complies with all of the requirements specified in either division (A) or (B) of this section:

(A)(1) The participants do not pay any money or any other thing of value including an admission fee, or any fee for bingo cards, sheets, objects to cover the spaces, or other devices used in playing bingo, for the privilege of participating in the bingo game, or to defray any costs of the game, or pay tips or make donations during or immediately before or after the bingo game;

(2) All prizes awarded during the course of the game are nonmonetary, and in the form of merchandise, goods, or entitlements to goods or services only, and the total value of all prizes awarded during the game is less than one hundred dollars;

(3) No commission, wages, salary, reward, tip, donation, gratuity, or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game;

(4) The bingo game is not conducted either during or within ten hours of:

- (a) A bingo session during which a charitable bingo game is conducted pursuant to sections 2915.07 to 2915.11 of the Revised Code;
- (b) A scheme or game of chance other than a bingo game conducted pursuant to this section.
- (5) The number of players participating in the bingo game does not exceed fifty.
- (B)(1) The participants do not pay money or any other thing of value as an admission fee, and no participant is charged more than twenty-five cents to purchase a bingo card, sheet, objects to cover the spaces, or other devices used in playing bingo;
- (2) The total amount of money paid by all of the participants for bingo cards, sheets, objects to cover the spaces, or other devices used in playing bingo does not exceed one hundred dollars;
- (3) All of the money paid for bingo cards, sheets, objects to cover spaces, or other devices used in playing bingo are used only to pay winners monetary and nonmonetary prizes and to provide refreshments;
- (4) The total value of all prizes awarded during the game does not exceed one hundred dollars;
- (5) No commission, wages, salary, reward, tip, donation, gratuity, or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game;
- (6) The bingo game is not conducted during or within ten hours of either of the following:
- (a) A bingo session during which a charitable bingo game is conducted pursuant to sections 2915.07 to 2915.11 of the Revised Code;
- (b) A scheme of chance or game of chance other than a bingo game conducted pursuant to this section.
- (7) All of the participants reside at the premises where the bingo game is conducted;

(8) The bingo games are conducted on different days of the week and not more than twice in a calendar week.

(C) The attorney general, or any local law enforcement agency, may investigate the conduct of a bingo game that purportedly is conducted for purposes of amusement only if there is reason to believe that the purported amusement bingo game does not comply with the requirements of either division (A) or (B) of this section. A local law enforcement agency may proceed by action in the proper court to enforce this section if the local law enforcement agency gives written notice to the attorney general when commencing the action.

## CHAPTER 2933. PEACE WARRANTS; SEARCH WARRANTS

### Section 2933.21

General Assembly: 111.

Bill Number: House Bill 1

Effective Date: 06/13/75

A judge of a court of record may, within his jurisdiction, issue warrants to search a house or place:

(A) For property stolen, taken by robbers, embezzled, or obtained under false pretense;

(B) For weapons, implements, tools, instruments, articles or property used as a means of the commission of a crime, or when any of the objects or articles are in the possession of another person with the intent to use them as a means of committing crime;

(C) For forged or counterfeit coins, stamps, imprints, labels, trade-marks, bank bills, or other instruments of writing, and dies, plates, stamps, or brands for making them;

(D) For obscene materials and materials harmful to minors involved in a violation of section 2907.31 or 2907.32 of the Revised Code, but only so much of such materials shall be seized as are necessary for evidence in a prosecution of the violation;

(E) For gaming table, establishment, device, or apparatus kept or exhibited for unlawful gaming, or to win or gain money or other property, and for money or property won by unlawful gaming;

(F) For the existence of physical conditions which are or may become hazardous to the public health, safety, or welfare, when governmental inspections of property are authorized or required by law.

The enumeration of certain property and material in this section shall not affect or modify other laws for search and seizure.

Section 2933.29

General Assembly: 100.

Bill Number: House Bill 1

Effective Date: 10/01/53

Upon conviction of a person for keeping a room or place to be used for gambling, or knowingly permitting gambling to be conducted therein, or permitting a game to be played for gain, or a gaming device for gain, money, or other property or for betting, or gambling, or permitting such device to be so used, or for being without a fixed residence and in the habit of gambling, if money or other property won in gaming is found in his possession, such money or other property is subject to seizure and payment of a judgment which may be rendered against him , growing out of such violation.

## **TITLE 37. HEALTH – SAFETY – MORALS**

### **CHAPTER 3734. SOLID AND HAXARDOUS WASTES**

Section 3734.44

General Assembly: 121.

Bill Number: Amended Sub. S.B. 2

Effective Date: 07/01/96

Notwithstanding the provisions of any law to the contrary, no permit or license shall be issued or renewed by the director of environmental protection, the hazardous waste facility board, or a board of health:

(A) Unless the director, the hazardous waste facility board, or the board of health finds that the applicant, in any prior performance record in the transportation, transfer, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, has exhibited sufficient reliability, expertise, and competency to operate the solid waste, infectious waste, or hazardous waste facility, given the potential for harm to human health and the environment that could result from the irresponsible operation of the facility, or, if no prior record exists, that the applicant is likely to exhibit that reliability, expertise, and competence;

(B) If any individual or business concern required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the permittee, other than an equity interest or debt liability, by the investigation thereof, has been convicted of any of the following crimes under the laws of this state or equivalent laws of any other jurisdiction:

- (1) Murder;
- (2) Kidnapping;
- (3) Gambling;
- (4) Robbery;
- (5) Bribery;
- (6) Extortion;
- (7) Criminal usury;
- (8) Arson;
- (9) Burglary;
- (10) Theft and related crimes;
- (11) Forgery and fraudulent practices;

- (12) Fraud in the offering, sale, or purchase of securities;
  - (13) Alteration of motor vehicle identification numbers;
  - (14) Unlawful manufacture, purchase, use, or transfer of firearms;
  - (15) Unlawful possession or use of destructive devices or explosives;
  - (16) Violation of section 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.32, or 2925.37 or Chapter 3719. of the Revised Code, unless the violation is for possession of less than one hundred grams of marihuana, less than five grams of marihuana resin or extraction or preparation of marihuana resin, or less than one gram of marihuana resin in a liquid concentrate, liquid extract, or liquid distillate form;
  - (17) Engaging in a pattern of corrupt activity under section 2923.32 of the Revised Code;
  - (18) Violation of criminal provisions of Chapter 1331. of the Revised Code;
  - (19) Any violation of the criminal provisions of any federal or state environmental protection laws, rules, or regulations that is committed knowingly or recklessly, as defined in section 2901.22 of the Revised Code;
  - (20) Violation of Chapter 2909. of the Revised Code;
  - (21) Any offense specified in Chapter 2921. of the Revised Code.
- (C) Notwithstanding division (B) of this section, no applicant shall be denied the issuance or renewal of a permit or license on the basis of a conviction of any individual or business concern required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the permittee, other than an equity interest or debt liability, by the investigation thereof for any of the offenses enumerated in that division as disqualification criteria if that applicant has affirmatively demonstrated rehabilitation of the individual or business concern by a preponderance of the evidence. If any such individual was convicted of any of the offenses so enumerated that are felonies, a permit shall be denied unless five years have elapsed since the individual was fully discharged from imprisonment and parole for the offense, from a post-release control sanction imposed under

section 2967.28 of the Revised Code for the offense, or imprisonment, probation, and parole for an offense that was committed prior to the effective date of this amendment. In determining whether an applicant has affirmatively demonstrated rehabilitation, the director, the hazardous waste facility board, or the board of health shall request a recommendation on the matter from the attorney general and shall consider and base the determination on the following factors:

- (1) The nature and responsibilities of the position a convicted individual would hold;
- (2) The nature and seriousness of the offense;
- (3) The circumstances under which the offense occurred;
- (4) The date of the offense;
- (5) The age of the individual when the offense was committed;
- (6) Whether the offense was an isolated or repeated incident;
- (7) Any social conditions that may have contributed to the offense;
- (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs, or the recommendation of persons who have or have had the applicant under their supervision;
- (9) In the instance of an applicant that is a business concern, rehabilitation shall be established if the applicant has implemented formal management controls to minimize and prevent the occurrence of violations and activities that will or may result in permit or license denial or revocation or if the applicant has formalized those controls as a result of a revocation or denial of a permit or license. Those controls may include, but are not limited to, instituting environmental auditing programs to help ensure the adequacy of internal systems to achieve, maintain, and monitor compliance with applicable environmental laws and standards or instituting an antitrust compliance auditing program to help ensure full compliance with applicable antitrust laws. The business concern shall prove

by a preponderance of the evidence that the management controls are effective in preventing the violations that are the subject of concern.

(D) Unless the director, the hazardous waste facility board, or the board of health finds that the applicant has a history of compliance with environmental laws in this state and other jurisdictions and is presently in substantial compliance with, or on a legally enforceable schedule that will result in compliance with, environmental laws in this state and other jurisdictions.

(E) With respect to the approval of a permit, if the director or the hazardous waste facility board determines that current prosecutions or pending charges in any jurisdiction for any of the offenses enumerated in division (B) of this section against any individual or business concern required to be listed in the disclosure statement or shown by the investigation to have a beneficial interest in the business of the applicant other than an equity interest or debt liability are of such magnitude that they prevent making the finding required under division (A) of this section, provided that at the request of the applicant or the individual or business concern charged, the director or the hazardous waste facility board shall defer decision upon the application during the pendency of the charge

## CHAPTER 3763. GAMING

### **Title 37 - Chapter 63**

Section 3763.01

General Assembly: 111.

Bill Number: S.B. 398

Effective Date: 5-26-76

(A) All promises, agreements, notes, bills, bonds or other contracts, mortgages, or other securities, when the whole or part of the consideration thereof is for money or other valuable thing won or lost, laid, staked, or betted

at or upon a game of any kind, or upon a horse race or cockfights, sport or pastime, or on a wager, or for the repayment of money lent or advanced at the time of a game, play, or wager, for the purpose of being laid, betted, staked, or wagered, are void.

(B) Sections 3763.01 to 3763.08 of the Revised Code do not apply to a charitable bingo game as defined in division (O) of section 2915.01 of the Revised Code or to any scheme or game of chance that is not subject to criminal penalties under section 2915.02 of the Revised Code.

Section 3763.02

General Assembly: 100

Bill Number: House Bill. 1

Effective Date: 10-1-53

If a person, by playing a game, or by a wager, loses to another, money or other thing of value, and pays or delivers it or a part thereof, to the winner thereof, such person losing and paying or delivering, within six months after such loss and payment or delivery, may sue for and recover such money or thing of value or part thereof, from the winner thereof, with costs of suit.

Neither this section nor section 3763.04 of the Revised Code shall apply to any business transacted upon a regularly established stock exchange or board of trade through a member thereof whose relation to the transaction is that of broker only, and who actually delivers or receives the securities or other commodity bought or sold in accordance with the rules and regulations of said stock exchange or board of trade.

Section 3763.03

General Assembly: 100

Bill Number: H.. B. 1

Effective Date: 10/01/53

In the prosecution of an action under sections 3763.02 of the Revised Code, the plaintiff need only allege that the defendant is indebted to the plaintiff for, or received to the plaintiff's use, the money so lost and paid, or converted the goods won of the plaintiff to the defendant's use, whereby the plaintiff's action accrued to him , without setting forth the special matter.

Section 3763.04

General Assembly: 100

Bill Number: H.. B. 1

Effective Date: 10-1-53

If a person losing money or thing of value, as provided in section 3763.02 of the Revised Code, within the time therein specified, and without collusion or deceit, does not sue, and effectively prosecute, for such money or thing of value, any person may sue for and recover it, with costs of suit, against such winner, for the use of such person prosecuting such suit.

Section 3763.05

General Assembly: 100

Bill Number: House Bill. 1

Effective Date: 10/01/53

A person, liable under sections 3763.01 to 3763.08, inclusive, of the Revised Code, may be compelled to

answer, upon oath, interrogatories annexed to the petition for the purpose of discovery of his liability. Upon discovery and repayment of the money or other thing, the person discovering and repaying it, with costs, shall be acquitted and discharged from further punishment, penalty, or forfeiture, for winning such money or thing discovered and repaid.

Section 3763.06

General Assembly: 100

Bill Number: H.. B. 1

Effective Date: 10/01/53

The property, both real and personal, of a defendant against whom a judgment is rendered under sections 3763.01 to 3763.08, inclusive, of the Revised Code, for fines, costs, or to recover money or other thing of value, lost or paid, shall be liable therefor without exemption, and such judgment shall be a lien thereon until paid. If the owner of the building in which the money was lost knowingly permits it to be used for gaming purposes, such building, and the real estate upon which it stands, shall be liable therefor in a like manner. The guardian or trustee of a minor, insane person, or idiot, permitting property under his charge to be used for gaming purposes and to become liable on account thereof, shall be liable to his ward for such amount.

Section 3763.07

General Assembly: 116

Bill Number: Amended. Sub. House Bill 158

Effective Date: 3-17-87

When premises are occupied for gaming or lottery purposes, the lease or agreement under which they are so

occupied shall be void, at the instance of the lessor, who may at any time obtain possession of the premises by civil action, or by an action under Chapter 1923. of the Revised Code. If a person leases premises for gaming or lottery purposes, or knowingly permits them to be so used and occupied, and fails forthwith to prosecute, in good faith, an action for the recovery of such premises, such lessor shall be considered in all cases, civil and criminal, as a principal in carrying on the business of gaming, or a lottery, on such premises.

Section 3763.08

General Assembly: 100

Bill Number: H.. B. 1

Effective Date: 10-1-53

A person who expends money or thing of value or incurs an obligation for the purchase of or to procure a lottery or policy ticket, hazard, or chance, or an interest therein, in or on account of lottery, policy, scheme of chance, game of faro, pool or combination, keno, or scheme of gambling, or a person dependent for support upon or entitled to the earnings of such person, or a citizen for the use of the person so interested, may sue for and recover from the person receiving such money, thing of value, or obligation, the amount thereof, with exemplary damages, which shall not be less than fifty nor more than five hundred dollars, and may join as defendants in such suit all persons having an interest in such lottery, policy, or scheme of chance, or the possible profits thereof, as backers, vendors, owners, or otherwise.

## CHAPTER 3769. HORSE RACING

### **Title 37 - Chapter 69**

Section 3769.01

General Assembly: 111.

Bill Number: House Bill 287

Effective Date: 10-30-75

No person, association, corporation, or trust shall hold, conduct, assist, or aid and abet in holding or conducting any meetings, at which horse racing is permitted for any stake, purse, or award unless such person, association, corporation, or trust secures a permit to conduct a horse-racing meeting and complies with sections 3769.01 to 3769.14 of the Revised Code.

Such sections shall apply only to the racing of horses and do not prevent the use of any grounds, enclosure, or race track, whether or not owned or controlled by a permit holder, for any county or state fair, agricultural or livestock exhibition, horse show, or any horse racing where the pari-mutuel system of wagering upon the result of such horse racing is not permitted or allowed. This section does not permit the pari-mutuel method of wagering upon any race track unless a permit is secured as provided in sections 3769.04 to 3769.06 of the Revised Code.

## Section 3769.02

General Assembly: 119.

Bill Number: Amended Sub. House Bill 298

Effective Date: 07/26/91

A state racing commission is hereby established. It shall consist of five members, appointed by the governor, with the advice and consent of the senate. Not more than three members shall be affiliated with the same political party. To be eligible for appointment, a person shall be a qualified elector of the state and a resident of the state for not less than five years immediately preceding his appointment. No person shall be appointed to the

commission nor be an employee thereof nor officiate at pari-mutuel meetings conducted in this state who is licensed or regulated, directly or indirectly, by the commission other than for the position to which he is appointed, nor shall he have any legal or beneficial interest, direct or indirect, pecuniary or otherwise, in any firm, association, or corporation so licensed or regulated or which participates in pari-mutuel meetings in any manner, nor shall he participate in pari-mutuel meetings in any manner other than in his official capacity.

Terms of office shall be for four years, commencing on the first day of April and ending on the thirty-first day of March. Each member shall hold office from the date of his appointment until the end of the term for which he was appointed. Vacancies shall be filled by the governor with the advice and consent of the senate. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of his term until his successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

No vacancy on the commission shall impair the power and authority of the remaining members to exercise all the powers of the commission. One of the members of the commission shall be named by the governor as chairman of the commission at the time of making the appointment of any member for a full term.

The chairman and the associate commissioners shall receive a salary fixed pursuant to Chapter 124. of the Revised Code. When on commission business and for attending commission meetings, the commissioners shall be allowed actual and necessary traveling expenses. The salaries and expenses shall be paid out of the state racing commission operating fund created by section 3769.03 of the Revised Code.

Each commissioner, before entering upon the discharge of his duties, shall give a bond, payable to the treasurer of state, in the sum of ten thousand dollars with sufficient sureties to be approved by the director of administrative services, which bond shall be filed with the secretary of state.

The governor may remove any member for malfeasance, misfeasance, or nonfeasance in office, giving such

member a copy of the charges against him and affording him an opportunity to be publicly heard in person or by counsel in his own defense upon not less than ten days' notice. If such member is removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against the member and the governor's finding thereon, together with a complete report of the proceedings, and the governor's decision thereon is final.

Section 3769.021

General Assembly: 119.

Bill Number: Amended Sub. House Bill 298

Effective Date: 07/26/91

The state racing commission shall appoint a secretary, who shall serve during the pleasure of the commission. The secretary shall devote his full time to the duties of the office and shall not hold any other office or employment. To be eligible for appointment as secretary, a person must meet the qualifications required of a commissioner under section 3769.02 of the Revised Code, and the secretary is subject to the restrictions applying to a commissioner under that section.

The secretary shall be paid a salary fixed pursuant to section 124.14 of the Revised Code and shall be allowed actual and necessary traveling expenses when on commission business. The salary and expenses shall be paid out of the state racing commission operating fund created by section 3769.03 of the Revised Code.

The secretary shall attend all meetings of the commission. He shall keep a complete record of its proceedings and preserve, at its general office, all books, maps, documents, and papers entrusted to its care.

He shall be the executive officer of the commission and be responsible for keeping all commission records and

the carrying out of the rules and orders of the commission. He shall perform such other duties as the commission prescribes.

Section 3769.03

General Assembly: 121

Bill Number: Sub.. House Bill 561

Effective Date: 09/19/96

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

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

The state racing commission may issue, deny, suspend, or revoke licenses to such persons engaged in racing and

to such employees of permit holders as is in the public interest for the purpose of maintaining a proper control over horse-racing meetings. The commission may also, as is in the public interest for the purpose of maintaining proper control over horse-racing meetings, rule any person off a permit holder's premises. License fees, which shall also include registration fees, shall be set by the commission. Each such license, unless revoked for cause, shall be for the period of one year from the first day of January of the year in which it is issued, except as otherwise provided in section 3769.07 of the Revised Code. Applicants for licenses issued by the commission shall submit their fingerprints to the commission and the commission may forward the fingerprints to the federal bureau of investigation or to any other agency, or to both, for examination.

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

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

The commission shall deny a permit to any permit holder that has defaulted in payments to the state of Ohio or has defaulted in payments required under section 3769.089 or 3769.0810 of the Revised Code and shall deny a permit to any successor purchaser of a track for as long as such defaults have not been satisfied by either the seller or purchaser.

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

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

The commission shall, biennially, make a full report to the governor of its proceedings for the two-year period ending with the thirty-first day of December preceding the convening of the general assembly and shall embody therein its recommendations. The commission shall semiannually, on the thirtieth day of June and on the thirty-first day of December of each year, make a report and accounting to the governor.

Section 3769.04

General Assembly: 121.

Bill Number: Amended Sub. House Bill 99

Effective Date: 08/22/95

Any person, association, corporation, or trust desiring to hold or conduct a horse-racing meeting, wherein the pari-mutuel system of wagering is allowed, shall make application to the state racing commission for a permit to do so. Each application, accompanied by a permit fee of ten dollars and a cash bond, certified check, or bank draft, shall be filed with the commission at least five days prior to the first day of each horse-racing meeting that the person, association, corporation, or trust proposes to hold or conduct. The application, if made by an individual, shall be signed and verified under oath by the individual and, if made by individuals or a partnership, shall be signed and verified under oath by one of the individuals or a member of the partnership. If made by an association, trust, or corporation, the application shall be signed by the president or vice-president thereof and attested by the secretary or assistant secretary under the seal of the association, trust, or corporation, if it has a seal, and shall also be verified under oath by one of the officers signing the application. The commission shall

prescribe forms to be used in making the application. The application shall specify the name of the person, association, trust, or corporation making such application, the post-office address of the applicant (if a corporation, the name of the state of its incorporation), the dates on which the applicant intends to conduct or hold such horse-racing meeting, which dates shall be successive days, including Sundays unless otherwise requested by the applicant and authorized by the commission, the hours of each racing day during which the applicant intends to hold or conduct horse racing at such meeting which shall be during the hours specified pursuant to section 3769.07 of the Revised Code, and the location of the place, track, or enclosure where it is proposed to hold or conduct such horse-racing meeting and such further information as the commission prescribes.

If the application requests a permit for a horse-racing meet at a location at which such a meet has not previously been conducted by permission of the commission, then, in addition to the other requirements for said application, there shall accompany the application a petition signed by at least fifty-one per cent of the qualified electors voting for governor at the most recent general election in the townships in which the racing meet is proposed to be conducted, together with a certificate of the board of elections of the counties in which such townships are situated that the signatures on the petition are valid and comply with this section. No petition or certificate shall be required for a transfer made under section 3769.13 of the Revised Code if the transfer is to a county in which racing has previously been conducted pursuant to a permit issued under section 3769.06 of the Revised Code.

Such petition shall be in the following form:

"We, the undersigned, electors of ..... township, ..... county, Ohio request the granting of the application of ..... for a horse-racing meet to be conducted in whole or in part in ..... township, ..... county, Ohio in the year 19....."

Name Address Voting Precinct Township

.....

Such petition shall be sworn to in the manner provided in section 3513.27 of the Revised Code. This section does not apply to small horse-racing meets or horse shows which are not required to secure permits under section 3769.01 of the Revised Code, nor shall this section, other than the first paragraph, apply to county fair horse-racing meets.

Section 3769.05

General Assembly: 114.

Bill Number: Amended Sub. House Bill 330

Effective Date: 07-13-81

At the time of making application for a permit to conduct a horse-racing meeting, the applicant shall deposit with the state racing commission a cash bond, certified check, or bank draft, payable to the order of the commission, in an amount equal to one hundred dollars for each day petitioned for in said application. At the close of the last day of the horse-racing meeting, for which a permit is issued, as provided for in section 3769.06 of the Revised Code, the commission shall refund to such permit holder the sum of one hundred dollars for each racing day the permit holder paid to the state tax commissioner the tax due for said day, as provided for and at the rate stipulated in section 3769.08 of the Revised Code. In harness horse-racing meetings, if any full day's racing is declared off by the judges because of inclement weather or a muddy track, the commission shall refund to the permit holders the sum of one hundred dollars of their deposit for each such day.

Section 3769.06

General Assembly: 121.

Bill Number: Sub. House Bill 561

Effective Date: 09/19/96

Upon the proper filing of an application to conduct a horse-racing meeting accompanied by a permit fee and a cash bond, certified check, or bank draft by any person, association, trust, or corporation, not in default of payment of any obligation or debt due to the state under sections 3769.01 to 3769.14 of the Revised Code, the state racing commission may issue a permit to such applicant to hold or conduct a horse-racing meeting. Such permit shall specify:

- (A) The person, association, trust, or corporation to whom the same is issued;
  - (B) The days upon which such horse-racing meeting is to be held or conducted;
  - (C) The hours of such days between which live racing programs will be permitted;
  - (D) The location of the place, track, or enclosure where such horse-racing meeting is to be held or conducted.
- Such permit shall require the payment of the permit fee and deposit of the cash bond, certified check, or bank draft, by the applicant. Every permit shall contain a condition that all horse races or racing meetings, conducted thereunder, shall be subject to the rules and conditions prescribed and promulgated by the commission. The commission may refuse to award days or to issue a permit to any applicant if a permit previously issued to said applicant has been revoked under the authority of such sections. Such permit may be suspended, diminished, or revoked by the commission for any violation of such sections or of any rule of the commission. The commission shall immediately enter upon its record of proceedings a memorandum of its action in such suspension, diminution, or revocation and its reasons therefor. Such permit shall be nontransferable and shall apply only to the place, track, or enclosure specified in the permit, except as provided in section 3769.13 of the Revised Code.

Each permit issued under this section to hold or conduct a horse-racing meeting shall be issued for one year from the first day of January of the year for which it is issued. The holder of such permit shall be entitled to renewal of

the permit upon application to the commission for a renewal, and the commission shall renew the permit unless the commission rejects the application for good cause, according to the procedures of Chapter 119. of the Revised Code.

Section 3769.07

General Assembly: 121.

Bill Number: Sub. House Bill 561

Effective Date: 09/19/96

Except as otherwise provided in this section, no permit shall be issued under sections 3769.01 to 3769.14 of the Revised Code, authorizing the conduct of a live racing program for thoroughbred horses and quarter horses at any place, track, or enclosure except between the hours of twelve noon and seven p.m., for running horse-racing meetings, except that on special events days running horse-racing meetings may begin at nine a.m. by application to the state racing commission and except that the seven p.m. time may be extended to eight p.m. on a Sunday or holiday by application to the commission, and no permit shall be issued under those sections authorizing the conduct of a live racing program for harness horses at any place, track, or enclosure except between the hours of twelve noon and twelve midnight for light harness horse-racing meetings. The seven p.m. and eight p.m. closing times described in this section shall upon application to the commission be extended to nine p.m. for any running horse-racing meeting conducted between the fifteenth day of May and the fifteenth day of September at a track that is located more than twenty-five miles from a track located in this state where a light harness horse-racing meeting, other than a light harness horse-racing meeting at a county fair or independent fair, is being conducted and that is located less than twenty-five miles from a track located outside this state. A permit issued for horse racing at a county fair shall authorize live horse racing to begin at nine a.m. No permit shall be granted

for the holding or conducting of a horse-racing meeting after the tenth day of December in any calendar year, except for racing at winterized tracks. "Winterized track" means a track with enclosed club house or grandstand, all-weather racing track, heated facilities for jockeys or drivers, backstretch facilities that are properly prepared for winter racing, and adequate snow removal equipment available. No permit shall be issued for more than an aggregate of fifty-six racing days in any one calendar year, except that an additional five days of racing may be approved by the commission upon application by a permit holder and except that an additional thirty days of racing may be granted for racing at any time after the fifteenth day of October and prior to the fifteenth day of March to a permit holder who has a winterized facility, but no more than thirty such additional days may be issued at any one track or enclosure. No more than an aggregate of fifty-six racing days shall be issued in any one calendar year for any one race track, place, or enclosure, except for the additional five days of racing for each permit holder which may be approved by the commission pursuant to this section, except as provided in sections 3769.071 and 3769.13 of the Revised Code, except for racing days granted as a result of a winterized facility, and except that the commission may issue a second permit for a maximum of fifty-six racing days for any one track, place, or enclosure, if the commission determines that the issuance of such second permit is not against the public interest. No such second permit shall be issued:

(A) For the operation of racing in any county with a population of less than seven hundred thousand or for the operation of racing in any county which has more than one race track at which a racing meet has been authorized, except as provided in this division and in sections 3769.071 and 3769.13 of the Revised Code, in the same year by the commission. A second permit issued pursuant to this division may be issued at either or both race tracks in a county that has only two race tracks if a racing meet has been authorized at both race tracks in the same year by the commission and one race track has been authorized to conduct thoroughbred racing meets and the other race track has been authorized to conduct harness racing meets. When such second permit is issued pursuant to this division for racing at the one race track, racing shall not be conducted at that

race track on the same day that racing is conducted at the other race track in the county except by mutual agreement of the two race tracks.

(B) To any corporation having one or more shareholders owning an interest in any other permit issued by the commission for the operation of racing, in the same year, at any other race track, place, or enclosure in this state;

(C) To any person, association, or trust which owns, or which has any members owning, an interest in any other permit issued by the commission for the operation of racing, in the same year, at any other race track, place, or enclosure in this state.

No permit shall be issued so as to permit live racing programs on the same hour at more than one track in one county or on tracks in operation in 1975 within fifty miles of each other, nor shall any other form of pari-mutuel wagering other than horse racing be permitted within seventy-five miles of a track where horse racing is being conducted, except that this provision shall not apply to a horse-racing meeting held at the state fair or at a fair conducted by a county agricultural society or at a fair conducted by an independent agricultural society; nor shall more than one permit in any one year be granted to the same person, association, trust, or corporation for the holding or conducting of a horse-racing meeting, at more than one race track, place, or enclosure in this state. Distribution of days shall not apply to fairs or horse shows not required to secure a permit under such section.

A permit, granted under sections 3769.01 to 3769.14 of the Revised Code, shall be conspicuously displayed during the horse-racing meeting in the principal office at such race track and at all reasonable times shall be exhibited to any authorized person requesting to see the same.

Section 3769.071

General Assembly: 117.

Bill Number: Amended Sub. S.B. 206

Effective Date: 3-29-88

In addition to any permit authorized to be issued by this chapter, the state racing commission may issue not more than three permits for not more than fourteen consecutive racing days each at any race track, place, or enclosure. Not more than two permits shall be issued for quarter horse racing in one county. All racing under any permit issued pursuant to this section shall be limited to quarter horse racing only. This chapter applies to quarter horse racing, which shall be classified for this purpose the same as running horse racing. The minimum purse shall be five hundred dollars.

Section 3769.072

General Assembly: 121.

Bill Number: Sub. House Bill 561

Effective Date: 09/19/96

The commission shall grant to any track or enclosure that has fewer permits or total racing days available to it than another track or enclosure located within twenty miles a number of permits so that the total number of racing days available to both tracks or enclosures is equal. The state racing commission shall issue one additional permit for not more than sixty-one days to a permit holder issued a racing permit under section 3769.07 of the Revised Code, if, on the effective date of this section S 19, 1996, such permit holder conducts racing at a track that is located within the same county as, or is located within twenty miles of, another track for which three or more permits have previously been issued by the commission under section 3769.07 of the Revised Code. If one of the three permits is for racing at a winterized facility, the new permit issued under this section shall be for thirty days. Further, in addition to any permit authorized to be issued by this chapter, the commission shall issue not

more than two additional permits for not more than fourteen days each to a permit holder issued a racing permit under section 3769.07 of the Revised Code, if, on the effective date of this section S 19, 1996, such permit holder conducts racing at a track that is located within the same county as another track for which permits have previously been issued by the commission under section 3769.071 of the Revised Code. Permit holders receiving permits issued by the commission under this section may, but need not, conduct live racing programs under such a permit, subject to commission approval, but the number of racing days authorized by the permit shall be considered to be permit days for the purpose of section 3769.0810 of the Revised Code, whether or not live racing programs are conducted under that permit.

Section 3769.08

General Assembly: 122.

Bill Number: Sub. House Bill 117

Effective Date: 09/03/97

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

Such pari-mutuel method of wagering upon the live racing programs and simulcast racing programs held at or conducted within such race track, and at the time of such horse-racing meeting, or at other times authorized by the state racing commission, shall not be unlawful. No other place, except that provided and designated by the permit holder and except as provided in section 3769.26 of the Revised Code, nor any other method or system of betting or wagering, except the pari-mutuel system, shall be used or permitted by the permit holder; nor,

except as provided in section 3769.089 or 3769.26 of the Revised Code, shall the pari-mutuel system of wagering be conducted by the permit holder on any races except the races at the race track, grounds, or enclosure for which the person holds a permit. Each permit holder may retain as commission an amount not to exceed eighteen per cent of the total of all moneys wagered.

The pari-mutuel wagering authorized by this section is subject to sections 3769.25 to 3769.27 of the Revised Code.

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

- (1) One per cent of the first two hundred thousand dollars wagered, or any part thereof;
- (2) Two per cent of the next one hundred thousand dollars wagered, or any part thereof;
- (3) Three per cent of the next one hundred thousand dollars wagered, or any part thereof;
- (4) Four per cent of all sums over four hundred thousand dollars wagered.

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

Subject to division (M) of this section, from the moneys paid to the tax commissioner by thoroughbred-racing permit holders, one-half of one per cent of the total of all moneys so wagered on a racing day shall be paid into the Ohio fairs fund created by section 3769.082 of the Revised Code, one and one-eighth per cent of the total of

all moneys so wagered on a racing day shall be paid into the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code, and one-quarter of one per cent of the total of all moneys wagered on a racing day by each permit holder shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code. The required payment to the state racing commission operating fund does not apply to county and independent fairs and agricultural societies. The remaining moneys may be retained by the permit holder, except as provided in this section with respect to the odd cents redistribution. Amounts paid into the PASSPORT fund shall be used solely for the support of the PASSPORT program as determined in appropriations made by the general assembly. If the PASSPORT program is abolished, the amount that would have been paid to the PASSPORT fund under this chapter shall be paid to the general revenue fund of the state. As used in this chapter, "PASSPORT program" means the PASSPORT program created under section 173.40 of the Revised Code.

During calendar year 1994, the total amount paid to the Ohio thoroughbred race fund under this section and section 3769.087 of the Revised Code shall not exceed by more than six per cent the total amount paid to this fund under this section and that section during calendar year 1990. During each calendar year after calendar year 1994, the total amount paid to this fund under this section and that section shall not exceed by more than six per cent the total amount paid to this fund under this section and that section during the immediately preceding calendar year.

Each year, the total amount calculated for payment into the Ohio fairs fund under this division, division (C) of this section, and section 3769.087 of the Revised Code shall be an amount calculated using the percentages specified in this division, division (C) of this section, and section 3769.087 of the Revised Code. Until January 1, 1996, the total amount actually paid into the Ohio fairs fund under this division, division (C) of this section, and section 3769.087 of the Revised Code during each calendar year shall not exceed the total amount that was actually paid into that fund under this division, division (C) of this section, and section 3769.087 of the Revised

Code during calendar year 1990, plus five hundred thousand dollars. Beginning on January 1, 1996, and continuing through December 31, 1998, the total amount actually paid into the Ohio fairs fund during each calendar year under this division, division (C) of this section, and section 3769.087 of the Revised Code shall not exceed by more than five per cent an amount equal to the total amount actually paid into the Ohio fairs fund during the immediately preceding calendar year.

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

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

total of all money wagered on simulcast racing programs on that day:

- (1) One per cent of the first two hundred thousand dollars wagered, or any part thereof;
- (2) Two per cent of the next one hundred thousand dollars wagered, or any part thereof;
- (3) Three per cent of the next one hundred thousand dollars wagered, or any part thereof;
- (4) Four per cent of all sums over four hundred thousand dollars wagered.

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

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

During calendar year 1994, the total amount paid to the Ohio standardbred development fund under this division, division (C) of this section, and section 3769.087 of the Revised Code and the total amount paid to the Ohio quarter horse development fund under this division and that section shall not exceed by more than six per cent the total amount paid to each of these funds under this division and that section during calendar year 1990.

During each calendar year after calendar year 1994, the total amount paid to each of these funds shall not exceed by more than six per cent the total amount paid into the fund under this division, division (C) of this section, and section 3769.087 of the Revised Code in the immediately preceding calendar year.

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

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

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

Forty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for purse money for Ohio sired, bred, and owned colts, for purse money for Ohio bred horses, and for increased purse money for horse races. Upon the formation of the corporation described in section 3769.21 of the Revised Code to establish a harness horsemen's health and retirement fund, twenty-five per cent of that portion of that total sum of odd cents shall be paid at the close of each racing day by the permit holder to such corporation to establish and fund the health and retirement fund. Until such corporation is formed, such twenty-five per cent shall be paid at the close of each racing day by the permit holder to the tax commissioner or the tax

commissioner's agent in the county seat of the county in which the permit holder operates race meetings. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

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

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

(J) To encourage the improvement of racing facilities for the benefit of the public, breeders, and horse owners, and to increase the revenue to the state from the increase in pari-mutuel wagering resulting from such

improvements, the taxes paid by a permit holder to the state as provided for in this chapter shall be reduced by three-fourths of one per cent of the total amount wagered for those permit holders who make capital improvements to existing race tracks or construct new race tracks. The percentage of the reduction that may be taken each racing day shall equal seventy-five per cent of the tax levied under divisions (B) and (C) of this section and section 3769.087, and division (F)(2) of section 3769.26 of the Revised Code, as applicable, divided by the calculated amount each fund should receive under divisions (B) and (C) of this section and section 3769.087, and division (F)(2) of section 3769.26 of the Revised Code and the reduction provided for in this division. If the resulting percentage is less than one, that percentage shall be multiplied by the amount of the reduction provided for in this division. Otherwise, the permit holder shall receive the full reduction provided for in this division. The amount of the allowable reduction not received shall be carried forward and applied against future tax liability. After any reductions expire, any reduction carried forward shall be treated as a reduction as provided for in this division. If more than one permit holder is authorized to conduct racing at the facility that is being built or improved, the cost of the capital improvement shall be allocated between or among all the permit holders in the ratio that the permit holders' number of racing days bears to the total number of racing days conducted at the facility. Such reduction shall start from the day racing is first conducted following the date actual construction of the new race track or each capital improvement is completed and the construction cost has been certified by the racing commission, unless otherwise provided in this section. Such reduction shall continue for a period of twenty-five years for new race tracks and for fifteen years for new capital improvements if the construction of the improvement or new race track commenced prior to March 29, 1988, and for a period of ten years for new race tracks or new capital improvements if the construction of the improvement or new race track commenced on or after March 29, 1988, or until the total tax reduction reaches seventy per cent of the cost of the new race track or new capital improvement, as allocated to each permit holder, whichever occurs first. The tax reduction granted for any application approved by the racing commission after March 29, 1988, shall not

commence nor shall the ten-year period begin to run until all prior tax reductions with respect to the same race track have ended. The total tax reduction because of capital improvements shall not during any one year exceed for all permit holders using any one track three-fourths of one per cent of the total amount wagered, regardless of the number of capital improvements made. Several improvements to a race track may be consolidated in an application if the commission approved the application prior to March 29, 1988. No permit holder may receive a tax reduction for a capital improvement approved by the racing commission on or after March 29, 1988, at a race track until all tax reductions have ended for all prior capital improvements approved by the racing commission under this section or section 3769.20 of the Revised Code at that race track. If there are two or more permit holders operating meetings at the same track, they may consolidate their applications. The racing commission shall notify the tax commissioner when the diminution of tax begins and when it ends. Each fiscal year the commission shall submit a report to the tax commissioner, the office of budget and management, and the legislative budget office of the legislative service commission. The report shall identify each capital improvement project undertaken under this division and in progress at each race track, indicate the total cost of each such project, state the tax reduction that resulted from each such project during the immediately preceding fiscal year, estimate the tax reduction that will result from each such project during the current fiscal year, state the total tax reduction that resulted from all such projects at all race tracks during the immediately preceding fiscal year, and estimate the total tax reduction that will result from all such projects at all race tracks during the current fiscal year.

In order to qualify for the reduction in tax, a permit holder shall apply to the racing commission in such form as the commission may require and shall provide full details of the new racing track or capital improvement, including a schedule for its construction and completion, and set forth the costs and expenses incurred in connection therewith. The commission shall not approve an application unless the permit holder shows that a contract for the new race track or capital improvement has been let under an unrestricted competitive bidding

procedure, unless the contract is exempted by the controlling board because of its unusual nature. In determining whether to approve an application, the commission shall consider whether the new track or capital improvement will promote the safety, convenience, and comfort of the racing public and horse owners and generally tend towards the improvement of racing in this state.

If a new track or capital improvement is approved by the commission and construction has started, the tax adjustment may be authorized by the commission upon presentation of copies of paid bills in excess of one hundred thousand dollars or ten per cent of the approved cost, whichever is greater. After the initial authorization, the permit holder shall present copies of paid bills. If the permit holder is in substantial compliance with the schedule for construction and completion of the track or capital improvement, the commission may authorize the continuation of the tax adjustment upon the presentation of such additional paid bills. The total amount of the tax adjustment authorized shall not exceed seventy per cent of the approved cost of the new track or capital improvement. The commission may terminate any tax adjustment immediately if a permit holder fails to complete the track or capital improvement, or to substantially comply with the schedule for construction and completion of the track or capital improvement. If a permit holder fails to complete a new track or capital improvement, the 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.

As used in this section, "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 such race track facility, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator equipment and appurtenances thereto purchased by the track, new access roads, new parking areas, the complete reconstruction, reshaping, and leveling of the race track and appurtenances, the

installation of permanent new heating or air conditioning, and installations of a permanent nature forming a part of the track structure. "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. "New race track" or "new racing track" includes the reconstruction of a race track damaged by fire or other cause that has been declared by the racing commission, as a result of the damage, to be an inadequate facility for the safe operation of horse racing.

The commission shall not approve an application for a tax reduction under this section if it has reasonable cause to believe that the actions or negligence of the permit holder substantially contributed to the damage suffered by the track due to fire or other cause. The commission shall obtain any data or information available from a fire marshal, law enforcement official, or insurance company concerning any fire or other damage suffered by a track, prior to approving an application for a tax reduction.

The cost and expenses to which a tax reduction applies shall be determined by generally accepted accounting principles and verified by an audit of the permit holder's records upon completion of the project by the commission, or by an independent certified public accountant selected by the permit holder and approved by the commission.

The tax reductions for capital improvements and new tracks provided for in this division apply only to tax reductions approved by the state racing commission prior to the effective date of this amendment.

(K) No other license or excise tax or fee, except as provided in sections 3769.01 to 3769.14 of the Revised Code, shall be assessed or collected from such licensee by any county, township, district, municipal corporation, or other body having power to assess or collect a tax or fee. That portion of the tax paid under this section by permit holders for racing conducted at and during the course of an agricultural exposition or fair, and that portion of the tax that would have been paid by eligible permit holders into the PASSPORT fund as a result of racing

conducted at and during the course of an agricultural exposition or fair, shall be deposited into the state treasury to the credit of the horse racing tax fund, which is hereby created for the use of the agricultural societies of the several counties in which the taxes originate. The state racing commission shall determine eligible permit holders for purposes of the preceding sentence, taking into account the breed of horse, the racing dates, the geographic proximity to the fair, and the best interests of Ohio racing. On the first day of any month on which there is money in the fund, the director of budget and management shall provide for payment to the treasurer of each agricultural society the amount of the taxes collected under this section upon racing conducted at and during the course of any exposition or fair conducted by such society.

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

(M) Twenty-five per cent of the taxes levied on thoroughbred-racing permit holders, harness-racing permit holders, and quarter horse racing permit holders under this section, section 3769.087, and division (F)(2) of section 3769.26 of the Revised Code shall be paid to the PASSPORT fund. The tax commissioner shall pay any money remaining after payment to the PASSPORT fund and the reductions provided for in division (J) of this section and in section 3769.20 of the Revised Code into the Ohio fairs fund, Ohio thoroughbred race fund, Ohio standardbred development fund, Ohio quarter horse fund, and state racing commission operating fund as prescribed in this section and section 3769.087 of the Revised Code; except that the state racing commission

operating fund shall not receive more than two million five hundred thousand dollars in any calendar year. The tax commissioner shall thereafter use and apply the balance of the money paid as a tax by any permit holder to cover any shortage in the accounts of such funds resulting from an insufficient payment as a tax by any other permit holder. The moneys received by the tax commissioner shall be deposited weekly and paid by the tax commissioner into the funds to cover the total aggregate amount due from all permit holders to the funds, as calculated under this section and section 3769.087 of the Revised Code, as applicable. If, after payment to the PASSPORT fund, sufficient funds are not available from the tax deposited by the tax commissioner to pay the required amount into the Ohio fairs fund, Ohio standardbred development fund, Ohio thoroughbred race fund, Ohio quarter horse fund, and the state racing commission operating fund, the tax commissioner shall prorate on a proportional basis the amount paid to each of the funds. Any shortage to the funds as a result of a proration shall be applied against future deposits for the same calendar year when funds are available. After this application, the tax commissioner shall pay any remaining money paid as a tax by all permit holders into the PASSPORT fund. If the Ohio fairs fund does not receive two million five hundred thousand dollars in calendar year 1997 or 1998, the tax commissioner shall pay into the Ohio fairs fund, on a prorated basis, money that would have been paid into the Ohio thoroughbred race fund, Ohio standardbred development fund, Ohio quarter horse development fund, and state racing commission operating fund and the portion that was retained by the tracks the previous calendar year as a reduction provided for in division (J) of this section and section 3769.20 of the Revised Code until the previous year's deficiency is met. Each track that has an existing reduction shall increase its reduction credit balance by the amount determined by the tax commissioner that is needed to meet its prorated portion of the Ohio fairs fund deficiency. The credit balance increase shall be paid to the tax commissioner as a tax. This division does not apply to permit holders conducting racing at the course of an agricultural exposition or fair as described in division (K) of this section.

Session Law from the 122nd from the General Assembly of the State of Ohio that references this section (this information may or may not be already included within this Revised Code section):

House Bill 117

Section 3769.0810

General Assembly: 121.

Bill Number: Sub. House Bill 561

Effective Date: 09/19/96

(A) As used in this section:

(1) "Collection and settlement agent" means the permit holder designated by the state racing commission under division (B) of this section.

(2) "Racing week" means a seven-day period commencing on a Monday and ending on a Sunday.

(3) "Simulcast guest" and "simulcast host" have the same meanings as in section 3769.089 of the Revised Code.

(4) "Satellite facility" has the same meaning as in section 3769.25 of the Revised Code.

(5) "Settlement of wagering accounts" means the exchange of funds in order to equalize payments of winning wagers at all tracks and facilities participating in a common pari-mutuel pool.

(B) The state racing commission shall annually appoint as the collection and settlement agent one or more permit holders of tracks that hold no fewer than three fifty-six-day permits issued under section 3769.07 of the Revised Code. The collection and settlement agent shall give a cash or surety bond payable to the treasurer of state in an amount set by the commission for the performance of its duties under this section, and the bond shall be filed with the commission.

(C)(1) At the close of each day, each permit holder acting as a simulcast guest shall pay, by check, draft, or money order, or by wire transfer of funds, out of the money retained on that day to the collection and settlement agent an amount equal to one-half of one per cent of the total of all moneys wagered on that day on out-of-state simulcast racing programs simulcast to the simulcast guest from a simulcast host, to reimburse the simulcast host for administrative and simulcast costs.

(2) Within five business days after the close of each racing week, the collection and settlement agent shall pay and distribute to each simulcast host operating during that racing week its pro rata share of the fees collected from simulcast guests during that racing week. If a simulcast host acted as a host for day-simulcast racing programs only, then its share of the fees collected by the collection and settlement agent shall be computed and based on fees paid by simulcast guests offering such day-simulcast racing programs at their tracks. If a simulcast host acted as a simulcast host for evening-simulcast racing programs only, then its share of the fees shall be computed and based on fees paid by simulcast guests offering such evening-simulcast racing programs at their tracks. In making a calculation of the amount of fees to be distributed to simulcast hosts, the collection and settlement agent shall allocate equally between the accounts of simulcast hosts conducting only day-simulcast racing programs and only evening-simulcast racing programs those fees received by the agent from simulcast guests for simulcast racing programs that commenced on or after three p.m. and on or before before four p.m. The times listed in division (C)(2) of this section are standard time as described in section 001.04 of the Revised Code and in the "Uniform Time Act of 1966," 80 Stat. 107, 15 260 to 265.

(D)(1) At the close of each day, each permit holder shall pay, by check, draft, or money order, or by wire transfer of funds, out of the money retained on that day to the collection and settlement agent the intrastate simulcast fee provided in division (D) of section 3769.089 of the Revised Code in the amount equal to one and three-eighths per cent of the total of all moneys wagered on that day at its track or enclosure on live races conducted in this state and simulcast to its facility.

(2) Within five business days after the close of each racing week, the collection and settlement agent shall pay and distribute to permit holders that conducted live racing programs in this state during that racing week their share of the fees collected from other permit holders for that racing week.

(E) At the close of each day, each permit holder and satellite facility shall pay, by check, draft, or money order, or by wire transfer of funds, out of the money retained on that day to the collection and settlement agent a sum equal to required fees due to tracks, racing associations, or state regulatory agencies located outside this state for races simulcast into this state based on the totals of all money wagered that day at its track or enclosure or satellite facility on simulcast racing programs of races conducted outside this state. The collection and settlement agent shall inform the permit holders and the satellite facilities each day of the fee charged by each track, racing association, or state regulatory agency located outside this state for the simulcast of simulcast racing programs on races conducted outside this state and simulcast into this state. The collection and settlement agent shall be responsible for paying and disbursing to these tracks, racing associations, and state regulatory agencies on a timely basis the fees collected by it from permit holders and satellite facilities under this division.

(F) On or before the tenth day of each month, the collection and settlement agent shall file a report with the state racing commission showing all of the following:

(1) All collections of moneys and fees from permit holders and satellite facilities during the preceding calendar month;

(2) All payments and disbursements made by the agent to permit holders operating as simulcast hosts and the method of calculation of the share of each simulcast host;

(3) All payments and disbursements of required fees to tracks, racing associations, and state regulatory agencies located outside this state from which there were simulcasts of simulcast racing programs into this state;

(4) Such other information regarding the performance of its duties under this section as the commission may

request.

(G) All moneys and fees received and collected by the collection and settlement agent shall be deposited into, and disbursed from, separate bank accounts maintained with banks domiciled in this state established by the agent for this purpose, and no other funds or money of the agent or any other person shall be commingled with, deposited into, or withdrawn from the accounts. The collection and settlement agent may retain as its fee for services it provides and expenses it incurs in the performance of its duties under this section any interest earned on the bank accounts maintained by the agent under this division. The commission shall annually audit the bank account records, and the books and records, of the collection and settlement agent.

(H)(1) The collection and settlement agent shall assist permit holders and satellite facilities in the settlement of wagering accounts between and among simulcast hosts, simulcast guests, and satellite facilities for intrastate simulcast racing programs.

(2) The collection and settlement agent on behalf of all permit holders and satellite facilities operating in this state shall be responsible for the settlement of wagering accounts for interstate simulcast racing programs with all tracks, racing associations, and state regulatory agencies located outside this state. The agent shall notify each permit holder and satellite facility not less frequently than weekly of the amounts that may be due from it, or the amounts that may be due to it, for the settlement of wagering accounts on interstate simulcast racing programs simulcast into this state during the preceding race week. If a permit holder or satellite facility owes money for the settlement of wagering accounts for that racing week, it shall promptly pay, by check, draft, or money order, or by wire transfer of funds, to the agent the amount due. From the amounts it collects, the agent shall pay and disburse to permit holders and satellite facilities and to tracks, racing associations, and state regulatory agencies located outside this state, the amounts necessary to provide for the settlement of wagering accounts for that racing week.

(I) If a permit holder or satellite facility fails to timely pay and remit to the collection and settlement agent the

money and fees provided for in this section and in sections 3769.089 and 3769.26 of the Revised Code, the agent shall promptly notify the commission, or if the collection and settlement agent fails to collect, pay, disburse, and account for, the moneys and fees in the manner provided for in this section, then in any such event or occurrence, based on the information in the commission's possession, the commission may issue an emergency order prohibiting the permit holder, satellite facility, or agent, as the case may be, from serving as a simulcast host or simulcast guest or from receiving any simulcast racing program, and conducting wagering thereon, at its track or satellite facility, until such time as the permit holder, satellite facility, or agent complies with the requirements of this section and sections 3769.089 and 3769.26 of the Revised Code in the manner and to the extent set forth in the commission's order. In addition, the commission may make an assessment against the permit holder, satellite facility, or agent, as the case may be, based on information in the commission's possession. The commission shall give the party assessed written notice of the assessment by personal service or certified mail. All assessments not paid within thirty days after service of the notice of assessment, shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code computed from and after the date the assessment is made by the commission and entered in its official records until paid.

Unless the party to whom the notice of assessment is directed files with the commission, within thirty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment in writing, signed by the party assessed, or by the party's authorized agent having knowledge of the facts, the assessment shall become conclusive and the amount of the assessment, together with interest on it, shall be due and payable from the party assessed to the commission. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commission.

Unless the petitioner waives a hearing, the commission shall assign a time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the

commission may continue the hearing from time to time if necessary.

The commission may make such correction to its assessment as it finds proper. The commission shall serve a copy of its final determination on the petitioner by personal service or certified mail, and its decision in the matter is final, subject to appeal under section 119.12 of the Revised Code.

After an assessment becomes final, if any portion of the assessment, or interest due on it, remains unpaid, a certified copy of the commission's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the track for which the permit was issued is located or the county in which the party assessed resides or has its principal place of business. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county. The clerk, immediately upon the filing of such entry, shall enter a judgment for the state against the party assessed in the amount shown on the entry.

From the date of the filing of the entry in the clerk's office, any unpaid portion of the assessment, including the interest, shall bear interest at the rate per annum prescribed in section 5703.47 of the Revised Code and shall have the same effect as other judgments. Execution shall issue upon the judgment upon request of the commission, and all laws applicable to sales on execution apply to sales made under the judgment.

If the judgment is entered against the collection and settlement agent, the commission may immediately proceed against the agent's bond and surety for the full amount of the judgment and interest on it.

Any assessment, including interest on it, paid to or collected by the commission shall be deposited with the treasurer of state to the account of the commission, and the fee portion of such amount shall be distributed by the treasurer on order of the commission to the collection and settlement agent or to the permit holders and satellite facilities entitled to receive such fees, as the case may be under the circumstances.

(J) The commission may adopt rules for the implementation and administration of this section.

Section 3769.082

General Assembly: 116.

Bill Number: Sub. House Bill 201

Effective Date: 07-01-85

(A) There is hereby created in the state treasury the Ohio fairs fund. Moneys to the credit of the fund shall be distributed by the director of agriculture annually, on or before the first day of March, as follows:

(1) To each county agricultural society and to each independent agricultural society conducting an annual fair, twelve per cent of the total moneys in the Ohio fairs fund, to be allocated for general operations;

(2) To the Ohio expositions commission, the sum of one hundred twenty thousand dollars annually, to be divided equally as purse money among four stake races for two-year-old and three-year-old colts and for four stake races for two-year-old and three-year-old fillies at each gait of trotting and pacing; provided, that five thousand dollars and all entry fees shall be added to each race by the Ohio expositions commission.

If the races in this division cannot be contested due to unfavorable weather or other unavoidable cause, the races may be transferred to a suitable track approved by the director of agriculture and the Ohio exposition commission.

(3) To each county agricultural society and each independent agricultural society conducting horse races during their ITS annual fair, the sum of four thousand dollars, to be used as purse money for horse races in accordance with this section, and the additional sum of one thousand dollars to each such county agricultural society and independent agricultural society to be used for race track maintenance and other expenses necessary for the conduct of such horse races or colt stakes.

A grant of four thousand dollars shall be available to each county or independent agricultural society for the conduct of four stake races for two-year-old and three-year-old colts and for four stake races for two-year-old and three-year-old fillies at each gait of trotting and pacing; provided, that at least five hundred dollars shall be added to each race. Exclusive of entrance fees and the excess moneys provided in division (A)(4) of this section from the grant of four thousand dollars for purse money provided in this division, a sum not to exceed three thousand dollars may be used by a society to reach the required purse for each of the eight stake races. Such stake races shall be distributed as evenly as possible throughout the racing season.

(4) In the event that the moneys available on the first day of March of any year are less than that required to carry out divisions (A)(1), (2), and (3) of this section, the moneys so available in the Ohio fairs fund shall be prorated equally to the items set forth in such divisions. In the event that the moneys available on the first day of March of any year are in excess of that required to carry out divisions (A)(1), (2), and (3) of this section, such excess shall be distributed equally to those county agricultural societies and independent agricultural societies conducting stake races, such excess to be added to the stake races conducted under division (A)(3) of this section. The balance of such excess shall be distributed to provide four per cent of such excess to the Ohio expositions commission to be added to the purses pursuant to division (A)(2) of this section, and the balance shall be distributed to the county and independent agricultural societies conducting stake races, such excess to be added to and divided equally among the stake races conducted under division (A)(3) of this section.

(B) County agricultural societies and independent agricultural societies participating under division (A)(3) of this section shall, on or before the first day of November in the year immediately preceding the year in which the moneys are to be distributed, make application for participation in such distribution to the director of agriculture on forms provided by the director.

(C) Distribution of moneys pursuant to division (A)(3) of this section shall not be paid to county agricultural

societies and independent agricultural societies that conduct on their race courses automobile or motorcycle races during any year for which such distribution is requested, unless such automobile or motorcycle races are not conducted during the days and nights that horse racing is being conducted at such fair.

(D) All the foals in stake races conducted for two-year-old and three-year-old colts and fillies under this section shall have been sired by a stallion registered with the state racing commission. To be eligible for registration, a stallion shall be one of the following:

- (1) Owned by a resident of Ohio and regularly standing the entire stud season in Ohio;
- (2) Owned by a resident of a state other than Ohio but regularly standing the entire stud season in Ohio and leased by a resident of Ohio for a term of not less than ten years;
- (3) Owned jointly by a resident of a state other than Ohio and a resident of Ohio, regularly standing the entire stud season in Ohio, and leased by a resident of Ohio for a term of not less than ten years.

Each race shall be conditioned to admit only registered two-year-old and three-year-old colts and fillies sired by a registered stallion owned or leased and permanently standing for service at and within this state at the time of the foal's conception. All other conditions for the scheduling and conduct of these races shall be approved by the state racing commission. The races shall be scheduled subject to the right of the commission to prevent conflicts in the event of contemporaneous meetings.

Such stake races shall be open for nomination not earlier than the fifteenth day of February in the year the race is to be held. All entrance fees in such events shall be added to the moneys distributed under this section as purse money.

(E) The state racing commission shall make unannounced periodic urine, saliva, or blood tests of horses competing in the events raced under this section.

(F) The director of agriculture shall provide forms for application for distribution under division (A)(3) of this

section, shall adopt such rules as are necessary for carrying out this section, and may make such investigations as are necessary to determine the validity of any claims and applications for distribution of moneys under this section.

(G) Any county agricultural society or independent agricultural society which uses the moneys distributed under this section for any purpose other than that provided in this section is not eligible to receive distribution from the Ohio fairs fund for a period of two years after such misuse of such moneys occurs.

(H) As used in this section, "horse races" and "stake races" include either harness races or running races.

Section 3769.083

General Assembly: 117.

Bill Number: Amended Sub. S.B. 206

Effective Date: 03-29-88

(A) As used in this section:

(1) An "accredited Ohio thoroughbred horse" means a horse conceived in this state and born in this state which is both:

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

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

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

(a) A horse born of a mare which enters this state on or before the fifteenth day of July of the year in which the horse is conceived and remains continuously in this state until the horse is born;

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

Any thoroughbred mare may leave Ohio for such periods of time for purposes of such activities as veterinary treatment or surgery, sales purposes, racing purposes, and similar activities if permission is granted by the commission and the mare is returned to Ohio immediately upon the conclusion of the requested activity.

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

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

(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 of the Revised Code. Moneys to the credit of the fund shall be distributed on order of the state racing commission. The commission shall, with the advice and assistance of the Ohio thoroughbred racing advisory committee, use this fund, except as provided in divisions (C)(2), (3), and (D) of this section, to promote races and provide purses for such 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

racers 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 stake 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 such races shall be prescribed by the commission.

The commission shall, pursuant to division (B) of this section, prescribe the class or classes of such races to be held by each permit holder and shall, with the advice of the Ohio thoroughbred racing advisory committee, fix the dates and conditions of such races and the amount of moneys to be paid from the Ohio thoroughbred race fund to be added in each such race to the minimum purse established by the permit holder for the class of race held.

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

Stakes races where money is added from the fund shall be open only to accredited Ohio thoroughbred horses and Ohio foaled horses. Twenty-five per cent of the total moneys to be paid from the fund for stakes races shall be allocated to races for only accredited Ohio thoroughbred horses. The commission may require a nominating,

sustaining, and entry fee, not to exceed one per cent of the money added from the fund, for each horse in any such stake race. These fees shall be accumulated by the commission, and shall be paid out by the commission at its discretion as part of the purse money for additional races.

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

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

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

(E) The commission shall appoint such qualified personnel as may be required to supervise registration of horses under the terms of this section, to determine the eligibility of horses for accredited Ohio thoroughbred races, Ohio foaled races, and the stake races authorized by division (C)(2) of this section, and to assist the advisory committee and the commission in determining the conditions, class, and quality of the race program to be established under this section so as to carry out the purposes of this section. Such persons shall serve at the pleasure of the commission, and compensation shall be fixed by the commission. The compensation of such

personnel and necessary expenses shall be paid out of the fund.

The commission shall adopt such rules as are necessary to carry out this section and shall administer the stake race program and other races supported by the Ohio thoroughbred race special account FUND in a manner best designed to aid in the development of the thoroughbred horse industry in the state, to upgrade the quality of horse racing in the state, and to improve the quality of horses conceived and foaled in the state.

Section 3769.084

General Assembly: 116.

Bill Number: Sub. House Bill 201

Effective Date: 07/01/85

(A) The Ohio thoroughbred racing advisory committee is hereby created to consist of three members appointed by the governor with the advice and consent of the senate. The members of the committee shall be residents of the state knowledgeable in the breeding and racing of thoroughbred horses. The Ohio thoroughbred horsemen's association and representatives of Ohio thoroughbred race tracks may submit to the governor the names of persons whom they recommend for appointment as members of the committee. Terms of office shall be for three years, commencing on the first day of February and ending on the thirty-first day of January. Each member shall hold office from the date of his appointment until the end of the term for which he was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of his term until his successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(B) The Ohio thoroughbred racing advisory committee shall advise and assist the state racing commission

regarding the administration of the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code.

(C) Members of the committee shall receive no compensation except that they shall be paid from the fund for the actual and necessary expenses incurred in the performance of their duties.

Section 3769.085

General Assembly: 121.

Bill Number: Sub. House Bill 670

Effective Date: 12/02/96

There is hereby created in the state treasury the Ohio standardbred development fund, to consist of moneys paid into it pursuant to section 3769.08 of the Revised Code. Moneys to the credit of the Ohio standardbred development fund shall be distributed on order of the state racing commission with the approval of the Ohio standardbred development commission.

The development commission shall consist of three members, all to be residents of this state knowledgeable in breeding and racing, to be appointed by the governor with the advice and consent of the senate. One member shall be a standardbred breeder and one a standardbred owner. Of the initial appointments one member shall be appointed for a term ending June 30, 1977, and two members shall be appointed for terms ending June 30, 1979. Thereafter appointments for other than unexpired terms shall be for four years. Terms shall begin the first day of July and end the thirtieth day of June. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until a successor takes office. Members shall receive no compensation, except they shall be paid actual and necessary

expenses from the Ohio standardbred development fund. The state racing commission shall also be reimbursed for actual expense approved by the development commission. The development commission may elect one member to serve as secretary.

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

Colts and fillies eligible to the races shall be only those sired by a standardbred stallion that was registered with the state racing commission and stood in Ohio the entire breeding season of the year the colt or filly was conceived and fillies foaled before November 1, 1979, that are not so qualified but wholly owned by a resident or residents of Ohio on the first day of January of the year that such filly would be eligible to race as a two-year-old and also wholly owned by a resident or residents of Ohio on the date the race is contested.

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

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

Section 3769.086

General Assembly: 121.

Bill Number: Sub. House Bill 670

Effective Date: 12/02/96

There is hereby created in the state treasury the Ohio quarter horse development fund, to consist of all moneys paid into the fund at Ohio quarter horse meets. The purpose of the fund is to advance and improve the breeding of racing quarter horses in Ohio.

Moneys to the credit of the fund shall be distributed on order of the state racing commission with the approval of the Ohio quarter horse development commission.

The development commission shall consist of three members, to be appointed by the governor, with the advice and consent of the senate. One member shall be a quarter horse breeder and one a quarter horse owner. Of the initial appointments, one member shall be appointed for a term ending June 30, 1977, and two members shall be appointed for terms ending June 30, 1979. Thereafter appointments for other than unexpired terms shall be for

four years. Terms shall begin the first day of July and end the thirtieth day of June. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until a successor takes office. Members shall receive no compensation, except they shall be paid actual and necessary expenses from the Ohio quarter horse development fund. The state racing commission shall also be reimbursed for actual expense approved by the development commission. The development commission may elect one member to serve as secretary.

After a general meeting advertised at least one month in advance, the development commission shall allocate and approve all available moneys to one or more stake races and, at the development commission's discretion, to one or more overnight races. The eligibility for entry into such stake or overnight races shall be restricted to the following horses:

(A) An Ohio-sired horse, which means a colt or filly registered with the American quarter horse association that has been sired by a quarter horse or thoroughbred stallion that stands for breeding purposes only in this state in the year that the colt or filly was conceived and is registered according to the rules of the state racing commission;

(B) An Ohio-foaled horse, which means a filly or colt with a certificate of registration from the American quarter horse association that the colt or filly was foaled in this state. A copy of the registration papers shall accompany any nomination for entry in a race.

(C) An Ohio-owned horse, which means a colt or filly wholly owned by a resident of this state, according to the rules of the state racing commission, both at the time of nomination and at the time of the race.

The development commission may combine any or all of the above classes in one race, but in an overnight race to which money is allocated, preference shall be given to the highest preferred class in the order listed in this section.

The development commission may allocate a sum not to exceed ten per cent of the total Ohio quarter horse development fund to research projects directed toward improving the breeding, raising, and racing of horses in the state and toward education or promotion of the industry.

Section 3769.087

General Assembly: 121.

Bill Number: Sub. House Bill 561

Effective Date: 09/19/96

(A) In addition to the commission of eighteen per cent retained by each permit holder as provided in section 3769.08 of the Revised Code, each permit holder shall retain an additional amount equal to four per cent of the total of all moneys wagered on each racing day on all wagering pools other than win, place, and show, of which amount retained an amount equal to three per cent of the total of all moneys wagered on each racing day on such pools shall be paid by check, draft, or money order to the tax commissioner, as a tax. Subject to the restrictions contained in divisions (B), (C), and (M) of section 3769.08 of the Revised Code, from such additional moneys paid to the tax commissioner:

(1) Four-sixths shall be PASSPORT allocated to fund distribution as provided in division (M) of section 3769.08 of the Revised Code;

(2) One-twelfth shall be paid into the Ohio fairs fund created by section 3769.082 of the Revised Code;

(3) One-twelfth of the additional moneys paid to the tax commissioner by thoroughbred racing permit holders shall be paid into the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code;

(4) One-twelfth of the additional moneys paid to the tax commissioner by harness horse racing permit holders shall be paid to the Ohio standardbred development fund created by section 3769.085 of the Revised Code;

(5) One-twelfth of the additional moneys paid to the tax commissioner by quarter horse racing permit holders shall be paid to the Ohio quarter horse development fund created by section 3769.086 of the Revised Code;

(6) One-sixth shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code.

The remaining one per cent that is retained of the total of all moneys wagered on each racing day on all pools other than win, place, and show, shall be retained by racing permit holders, and, except as otherwise provided in section 3769.089 of the Revised Code, racing permit holders shall use one-half for purse money and retain one-half.

(B) In addition to the commission of eighteen per cent retained by each permit holder as provided in section 3769.08 of the Revised Code and the additional amount retained by each permit holder as provided in division

(A) of this section, each permit holder may retain, upon notification to the state racing commission, an additional amount equal to not less than two per cent but not more than three per cent of the total of all moneys wagered on each racing day on wagering pools designated by the permit holder that require three or more runner selections to complete the wager. If a permit holder retains an additional amount under this division that equals or exceeds two per cent of the total of all moneys wagered on a racing day on the wagering pools designated under this division, the permit holder shall pay by check, draft, or money order to the tax commissioner, as a tax, an amount equal to two per cent of the total of all moneys wagered on that racing day on those designated wagering pools. The tax commissioner shall deposit the amount of the tax received under this division in the PASSPORT fund. Any amount that is retained but not paid under this division to the tax commissioner as a tax shall be retained by the permit holder, and the permit holder shall use one-half for purse money and retain one-half.

Section 3769.088

General Assembly:

Bill Number: 122Amended. Sub. House Bill 215

Effective Date:

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

A penalty of fifteen per cent shall be added to the amount of every assessment made under this section. The commissioner may adopt rules providing for the remission of penalties added to assessments made under this section.

The commissioner shall give the party assessed written notice of the assessment by personal service or certified mail.

(B) Unless the party to whom the notice of assessment is directed files with the commissioner within thirty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment in writing, signed by the party assessed, or by the party's authorized agent having knowledge of the facts, the assessment shall become final and the amount of the assessment shall be due and payable from the party assessed to the tax commissioner. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commissioner.

Unless the petitioner waives a hearing, the commissioner shall assign a time and place for the hearing on the

petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commissioner may continue the hearing from time to time if necessary.

The commissioner may make such correction to the assessment as the commissioner finds proper. The commissioner shall serve a copy of the commissioner's final determination on the petitioner by personal service or certified mail, and the commissioner's decision in the matter shall be final, subject to appeal as provided in section 5717.02 of the Revised Code. Only objections decided on the merits by the board of tax appeals or a court shall be given collateral estoppel or res judicata effect in considering an application for refund of amounts paid pursuant to the assessment.

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

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

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

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

Session Law from the 122nd from the General Assembly of the State of Ohio that references this section (this information may or may not be already included within this Revised Code section):

House Bill 215

Section 3769.089

General Assembly: 121.

Bill Number: Sub. House Bill 561

Effective Date: 09/19/96

(A) As used in this chapter:

(1) "Racing day" means any day authorized under a permit holder's permit on which, at a simulcast host, either a live racing program is conducted as authorized under section 3769.07 of the Revised Code or a simulcast racing program is conducted as authorized under this section.

(2) "Live racing day" means a racing day on which a live racing program is conducted by the permit holder along with simulcasts of all other available racing programs from within this state and simulcast racing programs from outside this state as authorized under this section.

(3) "Live racing program" means a racing program consisting of no fewer than seven live horse races at thoroughbred tracks and nine live races at standardbred tracks and additional horse races simulcast from other facilities located either inside or outside this state, in which not more than two horse races on which pari-mutuel wagering is conducted are simulcast from facilities located outside this state. If only one racing meeting of a

particular breed of horse is being held, no fewer than nine live horse races shall be held on a live racing day. If, during the course of a racing meeting at a standardbred track, the racing secretary of the permit holder determines that there is an insufficient number of entries to have a full field of eight horses for each of nine races on a live racing program, then the racing secretary of the permit holder, after consultation with the Ohio harness horsemen's association, may reduce the number of live races on that live racing program from nine to either eight or seven, as the racing secretary may determine. If during the course of a meeting at a thoroughbred track, the racing secretary of a permit holder determines that there is an insufficient number of entries to have a full field of eight horses for each of nine races on a live racing program, then the racing secretary of the permit holder, with the consent of the thoroughbred horsemen's association, may reduce the number of live races on that live racing program from nine to either eight or seven, as the racing secretary may determine. No more than seventeen races on which pari-mutuel wagering is conducted, including both live races and races simulcast from other facilities located either inside or outside this state, shall be part of a live racing program.

(4) "Simulcast host" means a track or enclosure in this state where, on a racing day, a permit holder is doing one or both of the following:

(a) Conducting a live racing program and offering this program for simulcasting to one or more simulcast guests and satellite facilities in this state;

(b) Receiving a simulcast racing program for simulcasting to one or more simulcast guests and satellite facilities in this state.

(5) "Simulcast guest" means any track or enclosure that is receiving from a simulcast host, on a day other than a racing day, a live racing program or a simulcast racing program.

(6) "Simulcast racing program" means all simulcasts of horse races to a simulcast host or simulcast guest on a racing day or on any other day on which pari-mutuel wagering is conducted, but does not include any simulcast horse races from inside or outside this state that are included in a simulcast host's live racing program.

(7) "Satellite facility" has the same meaning as in section 3769.25 of the Revised Code.

(8) "Collection and settlement agent" has the same meaning as in section 3769.0810 of the Revised Code.

(9) "Special racing event" means individual races in live racing programs or simulcast racing programs, and simulcast racing programs on special event days under division (C) of this section, conducted at facilities located outside this state for which the track, racing association, or state regulatory agency conducting such races charges a simulcast host a fee for the privilege of receiving a simulcast of such races into this state that is higher than the customary and regular fee charged for simulcast races because of the status or popularity of such races.

(B) The state racing commission shall, upon request by any permit holder, permit electronically televised simulcasts of horse races at the permit holder's track or enclosure on racing days authorized by the permit holder's permit. Except as provided in division (B) of this section, the commission shall not permit the simulcast of any simulcast racing program conducted at tracks or facilities located outside this state unless the out-of-state simulcast racing program is available to all permit holders, whether serving as simulcast hosts or simulcast guests, and all satellite facilities, in this state open and operating on that day. A permit holder or satellite facility may inform the commission that it waives the right to receive the simulcast of a simulcast racing program or a race in a simulcast racing program on that day and in this event the simulcast racing program or simulcast race shall be available to all other simulcast hosts, simulcast guests, and satellite facilities open and operating in this state on that day.

In order for a permit holder to offer simulcasts of horse races conducted at facilities located outside this state, the permit holder shall have conducted live racing programs during the immediately preceding calendar year on a number of days that is not less than the number of regular live racing days it conducted in calendar year 1991, not including additional racing days conducted in calendar year 1991 by the permit holder at a winterized facility

under a permit issued under section 3769.07 of the Revised Code, as certified by the commission. In satisfying the foregoing requirement for live racing days during the immediately preceding calendar year, a permit holder may include the number of days on which live racing programs were conducted under a permit issued under section 3769.07 of the Revised Code for additional racing days at a winterized facility. In addition, in order for a permit holder to offer simulcasts of horse races conducted at facilities located outside this state, the permit holder shall offer all simulcasts of horse races conducted in this state made available to it.

In order for a permit holder to offer simulcasts of races conducted at race tracks located outside this state at the same time and during the hours in which the live races of a live racing program are being conducted at its track, a permit holder conducting a thoroughbred live racing program shall obtain the consent of the thoroughbred horsemen's association and a permit holder conducting a harness live racing program shall obtain the consent of the Ohio harness horsemen's association. The consent of the horsemen's organization shall not be unreasonably withheld, and shall be consistent with the interest of preserving live racing in this state. If a horsemen's organization withholds its consent, the permit holder may file an objection with the commission, which shall promptly consider the objection and determine whether the horsemen's organization's action in withholding consent is without substantial merit and, if the commission so determines, shall authorize the permit holder to simulcast the simulcast racing programs. The determination of the commission is final. A permit holder, as a simulcast host, may offer simulcast racing programs at its track or enclosure of races conducted at tracks and facilities located outside this state prior to the commencement of, and following the conclusion of, its live races without obtaining the consent of a horsemen's organization under this division.

(C) The commission shall allocate to each track one racing day for each permit holder during each calendar year for the conduct of a live racing program on which a permit holder may conduct as few as one live horse race, with the remainder of the horse races on that racing day on which pari-mutuel wagering is conducted as part of the live racing program being simulcast from other tracks and facilities located either inside or outside this state.

In addition, the commission may allocate to each permit holder racing days on which it may as part of a live racing program simulcast more than two horse races from facilities located outside this state if the horse races involve a national wagering pool and pari-mutuel wagering is conducted on the national wagering pool, but on such a racing day there shall in no event be more than two horse races simulcast from facilities located outside this state included in a live racing program on which separate pari-mutuel wagering is conducted. As used in this division, "national wagering pool" means an interstate or intrastate common pari-mutuel wagering pool involving two or more selections covering two or more horse races conducted at tracks located inside or outside this state.

In emergency situations, the commission may authorize a live racing day at a track in which all horse races on that racing day on which pari-mutuel wagering is conducted are simulcast from tracks and facilities located either inside or outside this state with the consent of the thoroughbred horsemen's association for a track conducting a thoroughbred live racing program and with the consent of the Ohio harness horsemen's association for a track conducting a harness live racing program. If a horsemen's organization withholds its consent, the permit holder may file an objection with the commission, which shall promptly consider the objection and determine whether the horsemen's organization's action in withholding consent is without substantial merit and, if the commission so determines, shall authorize the permit holder to simulcast the simulcast racing programs. The determination of the commission is final.

(D) On any day that a racing day has been applied for at any track in this state, each track in this state may operate as either a simulcast host or a simulcast guest and may conduct, with the approval of the state racing commission, pari-mutuel wagering on all simulcasts of races conducted inside this state made available to it plus all simulcasts of races conducted at facilities located outside this state as determined by the simulcast hosts. Except as otherwise provided in this section, any simulcast host or simulcast guest may receive and conduct simulcast racing programs that feature any breed of horse at any time of day, as authorized by the commission.

Those persons holding state fair, county fair, or other fair permits shall not receive a simulcast racing program on which pari-mutuel wagering is conducted, except that a holder of a permit issued under section 3769.07 of the Revised Code that has been authorized by the commission to conduct races of the state fair, a county fair, or other fair at a commercial track may receive and conduct simulcast racing programs as a simulcast host or simulcast guest at the same time in conjunction with the live racing program of the state fair, county fair, or other fair permit holder conducted at its track.

The simulcast hosts, with the approval of the state racing commission, shall determine which simulcast racing programs offered by race tracks located outside this state will be simulcast at their tracks and at all simulcast hosts, simulcast guests, and satellite facilities in this state that are open and operating during the hours that the simulcast hosts are operating. Simulcast guests and satellite facilities shall receive all approved simulcast racing programs offered by simulcast hosts. In addition, a simulcast host and simulcast guest, with the approval of the commission, may also receive simulcast horse races and simulcast racing programs not agreed to by simulcast hosts.

A simulcast host that normally operates during the day only may serve as a simulcast host for only day-simulcast racing programs, which include all simulcast racing programs that commence at a track located outside this state on or before four p.m. A simulcast host that normally operates during the evening only may serve as a simulcast host for only evening-simulcast racing programs, which include all simulcast racing programs that commence at a track located outside this state on or after three p.m. A simulcast host that normally operates during the evening, but that under its permit conducts live racing programs during the day, may serve as a simulcast host for day-simulcast racing programs. A permit holder that is offering at its track simulcast racing programs that commence at a track located outside this state on or before four p.m. and simulcast racing programs that commence at a track located outside this state on or after three p.m. may serve as a simulcast host for both the day-simulcast racing program and the evening-simulcast racing program only if no other permit holder is serving

as a simulcast host for the other simulcast racing programs. The times listed in this and the immediately following paragraphs are standard time as described in section 001.04 of the Revised Code and in the "Uniform Time Act of 1966," 80 Stat. 107, 15 260 to 265.

If a simulcast host is conducting a racing program that features thoroughbred or quarter horses on the same day that another simulcast host is conducting a live racing program that features harness horses at a track located in the same county as, or within twenty miles of, the track of the first simulcast host, the first simulcast host shall not conduct pari-mutuel wagering on simulcast racing programs that commence after four p.m. on that day and the second simulcast host shall not conduct wagering on simulcast racing programs that commence before three p.m. on that day.

A simulcast host that is conducting a live racing program and is simulcasting that program to other simulcast hosts and simulcast guests in this state shall receive from each simulcast host and each simulcast guest receiving the simulcast an intrastate simulcast fee of one and three-eighths per cent of the amounts wagered on such simulcast racing program at its facilities. The simulcast hosts and simulcast guests receiving such simulcast racing program shall pay the intrastate simulcast fee to the collection and settlement agent, and the fee shall be disbursed by the agent, at the time and in the manner provided in section 3769.0810 of the Revised Code.

(E)(1) The moneys wagered on simulcast racing programs on a racing day shall be separated from the moneys wagered on the live racing program on that racing day. From the moneys wagered on the simulcast races, each permit holder may retain as a commission the percentage of the amount wagered as specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable, and shall pay, by check, draft, or money order to the state tax commissioner, as a tax, the tax specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable. From the tax collected, the tax commissioner shall make the distributions to the respective funds, and in the proper amounts, as required by sections 3769.08 and 3769.087 of the Revised Code, as applicable. Except as provided in divisions (E)(2) and (3) of this section, from the amount remaining after the payment of

state taxes on the moneys wagered on live racing programs and on the moneys wagered on simulcast racing programs, a permit holder shall retain an amount equal to two and three-eighths per cent of the amount wagered on live racing programs and on intrastate and interstate simulcast racing programs simulcast at its track and on the amount wagered on the live racing programs and simulcast racing programs at a satellite facility allocated to it under section 3769.26 of the Revised Code, as a fee to pay for those costs associated with the reception and transmission of simulcasts and the administrative cost of the conduct of live racing programs and simulcast racing programs. From the remaining balance, one-half shall be retained by the permit holder for purses. On a day when a permit holder conducts a live racing program, all purse money generated from wagering on live racing programs and on simulcast racing programs at its track shall be used for that permit holder's purse account. On a day when a permit holder operates as a simulcast host with no live racing program, or operates as a simulcast guest, all purse money generated from wagering on intrastate and interstate simulcast racing programs shall be paid to the state racing commission for deposit into the Ohio combined simulcast horse racing purse fund created under this section. In addition, on a day when a permit holder serves as a simulcast host for a satellite facility, all purse money generated from amounts wagered at the satellite facility allocated to the permit holder under section 3769.26 of the Revised Code shall be paid to the commission for deposit into the Ohio simulcast horse racing purse fund.

(2) If there are not four satellite facilities in operation in this state within one year after the effective date of this section S 19, 1996, or if there are not seven satellite facilities in operation in this state within two years after the effective date of this section S 19, 1996, or if there are not ten satellite facilities in operation in this state within three years after the effective date of this section S 19, 1996, then in any such event the amount to be retained as a fee by the permit holder under division (E)(1) of this section shall be one and seven-eighths per cent until such time as the number of satellite facilities specified in division (E)(2) of this section are in operation. For good cause shown, the thoroughbred horsemens association and Ohio harness horsemens association may waive the

requirements of division (E)(2) of this section or extend the date for compliance as to any year by filing a written notification with the state racing commission.

(3) If a simulcast racing program simulcast by a simulcast host at its track or enclosure and to other simulcast hosts, simulcast guests, and satellite facilities in this state is a special racing event, the permit holder offering the special racing event and other simulcast hosts, simulcast guests, and satellite facilities receiving the special racing event shall not retain the fee provided under division (E)(1) or (2) of this section but shall retain from the moneys wagered on the special racing event an amount equal to the fee charged by the track, racing association, or state regulatory agency simulcasting the special racing event to the simulcast host. From the remaining balance, one-half shall be retained by the permit holder for purses in the manner provided in division (E)(1) of this section.

A permit holder proposing to simulcast a special racing event as a simulcast host shall advise its horsemen's organization of the proposed schedule of the special racing event and obtain its consent to this schedule. The consent of the horsemen's organization shall not be unreasonably withheld and shall be consistent with the interest of preserving live racing in this state. If the horsemen's organization withholds its consent, the permit holder may file an objection with the state racing commission, which shall promptly consider the objection and determine whether the organization's action in withholding consent is without substantial merit and, if the commission so determines, shall authorize the permit holder to simulcast the special racing event. The determination of the commission is final.

(F) There is hereby created in the state treasury the Ohio combined simulcast horse racing purse fund, to consist of moneys paid into it by permit holders pursuant to division (E) of this section and by satellite facilities pursuant to division (F) of section 3769.26 of the Revised Code. Moneys to the credit of the fund, including interest earned thereon, may be used by the commission for the costs of administering this division and the balance shall be distributed among permit holders no less frequently than monthly to each permit holder's purse account on order of the commission.

For each calendar year, permit holders at each track shall receive a share of each distribution of the Ohio combined simulcast horse racing purse fund in the same percentage, rounded to the nearest one-hundredth of the amount of each distribution, as the average total amount wagered at the track on racing days at which live racing programs were conducted, including the amount allocated to the track under section 3769.26 of the Revised Code for live races, during the five calendar years immediately preceding the year for which the distribution is made bears to the average annual total amount wagered at all tracks in the state operating under permits issued by the state racing commission under section 3769.07, 3769.071, or 3769.072 of the Revised Code on all racing days at which live racing programs were conducted, including the amount allocated to the tracks under section 3769.26 of the Revised Code for live races, during the five calendar years immediately preceding the year for which the distribution is made. By the thirty-first day of January of each year the commission shall calculate the share of the permit holders at each track for that year, shall enter the share percentages in its official records, and shall notify all permit holders of the share percentages of all tracks for that calendar year.

The permit holders at each track, with the approval of the commission, shall allocate their share of the fund as distributed to the purse account of each permit holder for each race meeting.

The commission shall cause to be kept accurate records of its administration of the fund, including all administrative expenses incurred by it and charged to the fund, and of distributions to permit holders. These records are public records available for inspection at any time during the regular business hours of the commission by any permit holder or horsemen's organization, by an authorized agent of the permit holder or horsemen's organization, or by any other person.

(G) Upon the approval of the commission, a permit holder conducting live racing programs may transmit electronically televised simulcasts of horse races conducted at the permit holder's track to racing associations, tracks, and facilities located outside this state for the conduct of pari-mutuel wagering thereon, at the times, on

the terms, and for the fee agreed upon by the permit holder and the receiving racing association, track, or facility.

From the fees paid to the permit holder for such simulcasts, a permit holder shall retain for the costs of

administration a fee in an amount equal to one per cent of the amount wagered on the races simulcast by the

permit holder. From the remaining balance of the fee, one-half shall be retained by the permit holder for purses,

except that notwithstanding the fee arrangement between the permit holder and the receiving racing association,

track, or facility, the permit holder shall deposit into its purse account not less than an amount equal to

three-fourths of one per cent of the amount wagered at racing associations, tracks, and facilities located outside

the state on the races simulcast by the permit holder.

All televised simulcasts of horse races conducted in this state to racing associations, tracks, and facilities located

outside this state shall comply with the "Interstate Horse Racing Act of 1978," 92 Stat. 1811, 15 U.S.C.A. 3001

to 3007. The consent of the horsemen's organization at the track of the permit holder applying to the commission

to simulcast horse races conducted at the permit holder's track to racing associations, tracks, and facilities

located outside this state shall not be unreasonably withheld and shall be consistent with the interest of preserving

live racing. If a horsemen's organization withholds its consent, the permit holder may file an objection with the

commission, which shall promptly consider the objection and determine whether the horsemen's organization's

action in withholding consent is without substantial merit and, if the commission so determines, shall authorize the

permit holder to simulcast the races. The determination of the commission is final.

(H)(1) The state racing commission may authorize any permit holder that is authorized to conduct live horse

racing on racing days and that conducts pari-mutuel wagering on simulcasts of horse races under this section that

are conducted at race tracks either inside or outside this state to conduct, supervise, and participate in interstate

and intrastate common pari-mutuel wagering pools on those races in the manner provided in division (H) of this

section. Except as otherwise expressly provided in division (H) of this section or in the rules of the state racing

commission, the provisions of this chapter that govern pari-mutuel wagering apply to interstate or intrastate

common pari-mutuel wagering pools.

(2) Subject to the approval of the state racing commission, the types of wagering, calculation of the commission retained by the permit holder, tax rates, distribution of winnings, and rules of racing in effect for pari-mutuel wagering pools at the host track may govern wagers placed at a receiving track in this state and merged into an interstate or intrastate common pari-mutuel wagering pool. Breakage from interstate or intrastate common pari-mutuel wagering pools shall be calculated in accordance with the rules that govern the host track and shall be distributed among the tracks participating in the interstate or intrastate common wagering pool in a manner agreed to by the participating tracks and the host track. An interstate common pari-mutuel wagering pool formed under division (H)(3) of this section is subject to that division rather than to division (H)(2) of this section.

(3) Subject to the approval of the state racing commission, an interstate common pari-mutuel wagering pool may be formed between a permit holder and one or more receiving tracks located in states other than the state in which the host track is located. The commission may approve types of wagering, calculation of the commission retained by the permit holder, tax rates, distribution of winnings, rules of racing, and calculation of breakage for such an interstate common pari-mutuel wagering pool that differ from those that would otherwise be applied in this state under this chapter but that are consistent for all tracks participating in the interstate common pari-mutuel wagering pool formed under division (H)(3) of this section.

(4) As used in division (H) of this section:

(a) "Host track" means a track where live horse races are conducted and offered for simulcasting to receiving tracks.

(b) "Receiving track" means a track where simulcasts of races from a host track are displayed and wagered on.

(I) Each permit holder is responsible for paying all costs associated with the up-link for, and reception of, simulcasts, and the conduct and operation of simulcast racing programs, for all fees and costs associated with

serving as a simulcast host or simulcast guest, and for any required fees payable to the tracks, racing associations, or state regulatory agencies where simulcast racing is conducted at tracks located outside this state.

(J) No license, fee, or excise tax, other than as specified in division (E) of this section, shall be assessed upon or collected from a permit holder or the owners of a permit holder in connection with, or pertaining to, the operation and conduct of simulcast racing programs in this state, by any county, township, municipal corporation, district, or other body having the authority to assess or collect a tax or fee.

(K)(1) Permit holders operating tracks within the same county or adjacent counties that are conducting simulcast racing programs under this section may enter into agreements regarding the conduct of simulcast racing programs at their respective tracks and the sharing of the retained commissions therefrom, for such periods of time, upon such terms and conditions, and subject to such rights and obligations, as the contracting permit holders consider appropriate under the circumstances. Permit holders so contracting shall notify the state racing commission of their entry into an agreement pursuant to this division, the names of the permit holders that are parties to the agreement, and the length of the term of the agreement.

(2) Permit holders and the thoroughbred horsemens association and Ohio harness horsemens association may agree to do any of the following:

(a) Increase or reduce the fees and amounts to be retained by the permit holders under this section;

(b) Increase or reduce the fees and amounts to be allocated to the purse accounts or permit holders under this section;

(c) Increase or reduce the fees to be paid between and among simulcast hosts and simulcast guests under this section and under division (C) of section 3769.0810 of the Revised Code;

(d) Modify, suspend, or waive the requirements set forth in division (B) of this section as to any permit holder or as to all permit holders.

All permit holders and both horsemen's organizations shall approve such agreement. Any agreement entered into under division (K)(2) of this section shall set forth the effective date of any such increase or reduction, and the terms and provisions of the agreement, and a copy of the agreement shall be filed with the state racing commission.

Section 3769.09

General Assembly: 115.

Bill Number: Amended Sub. House Bill 37

Effective Date: 06/22/84

The state racing commission shall employ a racing inspector to attend each horse-racing meeting, held under a permit issued under sections 3769.01 to 3769.14 of the Revised Code. Such racing inspector shall give bond in the sum of five thousand dollars with sufficient sureties to be approved by and made payable to the treasurer of state, which bond shall be filed with the secretary of state. Such racing inspectors shall be paid a salary fixed pursuant to Chapter 124. of the Revised Code. Such racing inspector shall have full and free access to the books, records, and papers pertaining to the pari-mutuel system of wagering and to the enclosure or space where the pari-mutuel system is conducted at any horse-racing meeting to which he shall be assigned, for the purpose of ascertaining whether the holder of such permit is retaining the proper amount of commission. Such racing inspector shall investigate and ascertain whether such sections or rules promulgated by the commission are being violated at such race track or enclosure. Upon discovering any such violation, such racing inspector shall immediately report his findings in writing and under oath to the commission for such action as it may deem fitting and proper.

Section 3769.091

General Assembly: 120.

Bill Number: Amended Sub. House Bill 361

Effective Date: 9-27-94

The state racing commission may delegate to the stewards and judges of racing meetings under the jurisdiction of the commission the power to suspend licenses for not to exceed one year and to impose fines not to exceed one thousand dollars for any violation of the rules or orders of the commission, provided that two of such officials shall concur in such suspension. Any suspension of a license by such officials is valid even though the suspension extends beyond the period of the racing meeting for which such officials have been appointed. The suspension shall be effective at all other race meetings under the jurisdiction of the commission. Any fine or suspension may be appealed to the commission. Such appeal shall stay the fine or suspension until further action by the commission.

Section 3769.10

General Assembly: 122.

Bill Number: Amended Sub. House Bill 215

Effective Date: 09/29/97

The state racing commission and the tax commissioner shall enforce this chapter and may incur such expenses as are necessary; provided, that the power of the tax commissioner shall extend only to enforcement and administration of the taxes levied by sections 3769.08, 3769.087, 3769.26, and 3769.28 of the Revised Code as provided in those sections and in sections 5703.05, 5703.17 to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised Code. The commissioner may adopt, in accordance with section 5703.14 of the

Revised Code, such rules as the commissioner considers necessary to administer sections 3769.08, 3769.087, 3769.088, 3769.26, and 3769.28 of the Revised Code.

Except as otherwise provided in section 3769.03 of the Revised Code, all taxes, fees, and moneys due the state under sections 3769.01 to 3769.071 and 3769.09 to 3769.14 of the Revised Code shall be paid to, and received for by, the secretary of the state racing commission, and shall be paid by the secretary weekly into the state treasury to the credit of the general revenue fund. All taxes due the state under sections 3769.08, 3769.087, and 3769.26 of the Revised Code shall be paid to, and received for by, the tax commissioner, and shall be paid by the commissioner weekly into the proper funds.

All vouchers of the commission shall be approved by the commission chairperson or secretary, or both, as authorized by the commission.

Session Law from the 122nd from the General Assembly of the State of Ohio that references this section (this information may or may not be already included within this Revised Code section):

House Bill 215

Section 3769.12

General Assembly: 100.

Bill Number: House Bill 1

Effective Date: 10-1-53

The county sheriff shall enforce sections 3769.01 to 3769.14, inclusive, of the Revised Code.

Section 3769.13

General Assembly: 117.

Bill Number: Amended Sub. S.B. 206

Effective Date: 03-29-88

(A) Any person, association, trust, or corporation owning, leasing, or operating a race track, place, or enclosure which has been damaged by fire or other cause and at which in any year such a person, association, trust, or corporation has held or conducted a horse-racing meeting under a permit issued by the state racing commission, may be issued a permit by said commission to hold or conduct a horse-racing meeting at any one other track, place, or enclosure for not more than an aggregate of fifty-six racing days in the calendar year for which such permit is issued, provided:

(1) The damaged race track, place, or enclosure has not been repaired or restored to its previous condition at the time the permit is issued;

(2) The permit is issued within two years after the damage was incurred.

(B) The permits provided for in divisions (A), (C), and (D) of this section shall be issued in conformity with and subject to sections 3769.01 to 3769.14 of the Revised Code, except that the restriction contained in section 3769.07 of the Revised Code against the issuing of a permit for the holding or conducting of a horse-racing meeting for more than an aggregate of fifty-six racing days in any one calendar year for any one race track, place, or enclosure shall not be applicable to a race track, place, or enclosure at which a horse-racing meeting is held under a permit issued pursuant to this section, and except that if more than one permit holder has conducted horse-racing meetings at the same race track pursuant to divisions (A), (C), and (D) of this section, the permits may be consolidated or held under one permit holder with the consent of all current permit holders and the approval of the racing commission.

(C) Any person, association, trust, or corporation operating or conducting a horse-racing meeting at a race track

in 1974 under license from the commission, or successor in interest to such person, association, trust, or corporation, shall be issued a permit by the commission to conduct a horse-racing meeting at any other race track, if the race track is within fifty miles of the race track at which racing was conducted in 1974, and the facilities of the race track to which it is sought to remove are substantially better than the facilities of the race track from which it is sought to remove. In the event of the removal, no other person, association, trust, or corporation, or successor in interest to the person, association, trust, or corporation, excepting however, a fair or agricultural society, may conduct racing under license from the commission at the race track from which said permit was removed.

(D) Any person, association, trust, or corporation to whom a permit has been issued under section 3769.06 of the Revised Code but who is unable to conduct a horse-racing meeting on any of the days authorized by the permit because of damage by fire or other cause to the race track, place, or enclosure where the horse-racing meeting was to occur shall be issued a permit by the commission authorizing the unused racing days to be used during the next three successive years for which a permit is issued under section 3769.06 of the Revised Code, except that the commission shall not issue a permit authorizing the future use of the unused days if it has reasonable cause to believe that the actions or negligence of the permit holder substantially contributed to the damage suffered by the track.

Section 3769.131

General Assembly: 118.

Bill Number: Amended Sub. House Bill 405

Effective Date: 4-11-91

Notwithstanding sections 3769.07 and 3769.13 of the Revised Code, any person operating or conducting a

horse-racing meeting at any race track, place, or enclosure in 1990 under a permit issued by the state racing commission, or the successor in interest to such person, may, with the approval of the commission, consolidate and hold in one entity all permits issued by the commission for horse racing at the same race track, place, or enclosure, as were held in 1990. Any such consolidation of permits shall have no effect on the number of racing days authorized to the holder of the permits by this chapter.

Section 3769.14

General Assembly: 121.

Bill Number: Amended Sub. House Bill 99

Effective Date: 08/22/95

If there is presented to the board of elections of any county a petition, sworn to in the manner provided by section 3513.27 of the Revised Code and signed by thirty-five per cent of the qualified and registered electors, where such qualified electors are required to be registered to enjoy the privilege of suffrage, as shown by the most recent general election, but in no event shall such petition contain less than thirty-five hundred signatures of qualified electors, requesting that there be submitted at a general election or at a special election, at the discretion of the board, the issue, "Shall licensed horse racing be prohibited throughout this county for a period of ..... (not to exceed five) years?", the board shall submit such issue to the electors of said county in the manner provided by section 3505.06 of the Revised Code. If a majority of the electors voting on said issue vote "yes" thereon, the state racing commission shall have no jurisdiction thereafter to license meetings in said county for the number of years, not exceeding five, specified in said petition. If a majority of the electors voting on said issue or question vote "no" thereon, such issue or question shall not again be submitted to a vote until the expiration of the time set forth in the petition on which the question or issue was submitted.

When the board of any county has received such petition and accepted it as valid, it shall notify the commission of said petition, and the commission shall not issue a permit for racing in said county between the time of filing said petition and the general or special election.

Section 3769.17

General Assembly: 100.

Bill Number: House Bill 1

Effective Date: 10-1-53

The name of a horse, mare, gelding, colt, or filly for entry for competition in a contest of speed shall not be changed after having contested for a prize, purse, premium, stake, or sweepstake, except as provided by the printed rules of the society or association under which such contest is advertised to be conducted.

Section 3769.18

General Assembly: 100.

Bill Number: House Bill 1

Effective Date: 10-1-53

The class to which a horse belongs for an entry in a contest of speed shall be determined by its public performance in former contests or trials of speed, as provided by the printed rules of the society or association under which such contest is advertised to be conducted.

Section 3769.20

General Assembly: 121.

Bill Number: Sub. House Bill 561

Effective Date: 09/19/96

(A) To encourage the renovation of existing racing facilities for the benefit of the public, breeders, and horse owners, and to increase the revenue to the state from the increase in pari-mutuel wagering resulting from such improvement, the taxes paid by a permit holder to the state, in excess of the amount paid to the PASSPORT fund, shall be reduced by one per cent of the total amount wagered for those permit holders who carry out a "major capital improvement project," as defined in this section. The percentage of the reduction that may be taken each racing day shall equal seventy-five per cent of the tax levied under divisions (B) and (C) of section 3769.08, section 3769.087, and division (F)(2) of section 3769.26 of the Revised Code, as applicable, divided by the calculated amount each fund should receive under divisions (B) and (C) of section 3769.08, section 3769.087, and division (F)(2) of section 3769.26 of the Revised Code and the reduction provided for in this section. If the resulting percentage is less than one, that percentage shall be multiplied by the amount of the reduction provided for in this section. Otherwise, the permit holder shall receive the full reduction provided for in this section. The amount of the allowable reduction not received shall be carried forward and added to any other reduction balance and applied against future tax liability. After any reductions expire, any reduction carried forward shall be treated as a reduction as provided for in this section. If the amount of allowable abatement exceeds the amount of taxes derived from a permit holder, the amount of the allowable abatement not used may be carried forward and applied against future tax liability. If more than one permit holder is authorized to conduct racing at the facility which is being improved, the cost of the major capital improvement project shall be allocated between or among all the permit holders in the ratio that each permit holder's number of racing days bears to the total number of racing days conducted at the facility. Such reduction shall start from the day racing is first

conducted following the date on which the major capital improvement project is completed and the construction cost has been certified by the state racing commission, except as otherwise provided in division (B) of this section, and shall continue until the total tax reduction equals the cost of the major capital improvement project plus debt service applicable to the project. In no event, however, shall any tax reduction, excluding any reduction balances, be permitted under this section after December 31, 2004. The total tax reduction because of the major capital improvement project shall not during any one year exceed for all permit holders using any one track, one per cent of the total amount wagered. The commission shall notify the tax commissioner when the diminution of tax begins and when it ends.

Each fiscal year the commission shall submit a report to the tax commissioner, the office of budget and management, and the legislative budget office of the legislative service commission. The report shall identify each capital improvement project undertaken under this section and in progress at each race track, indicate the total cost of each such project, state the tax reduction that resulted from each such project during the immediately preceding fiscal year, estimate the tax reduction that will result from each such project during the current fiscal year, state the total tax reduction that resulted from all such projects at all race tracks during the immediately preceding fiscal year, and estimate the total tax reduction that will result from all such projects at all race tracks during the current fiscal year.

The tax reduction granted pursuant to this section shall be in addition to any tax reductions for capital improvements and new tracks provided for in section 3769.08 of the Revised Code and approved by the racing commission prior to March 29, 1988.

In order to qualify for the reduction in tax, a permit holder shall apply to the commission in such form as the commission may require and shall provide full details of the major capital improvement project, including plans and specifications, a schedule for the project's construction and completion, and a breakdown of proposed costs. In addition, the permit holder shall have commenced construction of the major capital improvement

project or shall have had the application for the project approved by the racing commission prior to March 29, 1988. The commission shall not approve an application unless the permit holder shows that a contract for the major capital improvement project has been let under an unrestricted competitive bidding procedure, unless the contract is exempted by the controlling board because of its unusual nature. In determining whether to approve an application, the commission shall consider whether the major capital improvement project will promote the safety, convenience, and comfort of the racing public and horse owners and generally tend toward the improvement of racing in this state.

(B) If the major capital improvement project is approved by the commission and construction has started, the tax adjustment may be authorized by the commission upon presentation of copies of paid bills in excess of five hundred thousand dollars. After the initial authorization, the permit holder shall present copies of paid bills in the amount of not less than five hundred thousand dollars. If the permit holder is in substantial compliance with the schedule for construction and completion of the major capital improvement project, the commission may authorize the continuance of the tax adjustment upon the presentation of such additional paid bills in increments of five hundred thousand dollars. The commission may terminate the tax adjustment if a permit holder fails to complete the major capital improvement project, or fails to comply substantially with the schedule for construction and completion of the major capital improvement project. If the time for completion of the major capital improvement project is delayed by acts of God, strikes, or the unavailability of labor or materials, the time for completion as set forth in the schedule shall be extended by the period of such delay. If a permit holder fails to complete the major capital improvement project, the commission shall order the permit holder to repay to the state the total amount of tax reduced, unless the permit holder has spent at least six million dollars on the project. The normal tax paid by the permit holder under section 3769.08 of the Revised Code shall be increased by one per cent of the total amount wagered until the total amount of the additional tax collected equals the total amount of tax reduced. Any action taken by the commission pursuant to this section in terminating the tax adjustment or

requiring repayment of the amount of tax reduced shall be subject to Chapter 119. of the Revised Code.

As used in this section, "major capital improvement project" means the renovation, reconstruction, or remodeling, costing at least six million dollars, of a race track facility, including, but not limited to, the construction of barns used exclusively for such race track facility, backstretch facilities for horsemen , paddock facilities, 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 race track and appurtenances, grandstand enclosure, installation of permanent new heating or air conditioning, roof replacement, and installations of a permanent nature forming a part of the track structure.

The cost and expenses to which the tax reduction applies shall be determined by generally accepted accounting principles and be verified by an audit of the permit holder's records, upon completion of the major capital improvement project, either by the commission or by an independent certified public accountant selected by the permit holder and approved by the commission.

Section 3769.21

General Assembly: 121.

Bill Number: Sub. House Bill 561

Effective Date: 09/19/96

(A) A corporation may be formed pursuant to Chapter 1702. of the Revised Code to establish a thoroughbred horsemen's health and retirement fund and a corporation may be formed pursuant to Chapter 1702. of the Revised Code to establish a harness horsemen's health and retirement fund to be administered for the benefit of horsemen . As used in this section, "horsemen " includes any person involved in the owning, breeding, training,

grooming, or racing of horses which race in Ohio, except for the owners or managers of race tracks. For purposes of the thoroughbred horsemen's health and retirement fund, "horsemen " also does not include trainers and grooms who are not members of the thoroughbred horsemen's organization in this state. No more than one corporation to establish a thoroughbred horsemen's health and retirement fund and no more than one corporation to establish a harness horsemen's health and retirement fund may be established in Ohio pursuant to this section. The trustees of the corporation formed to establish a thoroughbred horsemen's health and retirement fund shall have the discretion to determine which horsemen shall benefit from such fund.

(B) The articles of incorporation of both of the corporations described in division (A) of this section shall provide for at least the following:

(1) The corporation shall be governed by, and the health and retirement fund shall be administered by, a board of three trustees appointed pursuant to division (C) of this section for staggered three-year terms.

(2) The board of trustees shall adopt and administer a plan to provide health benefits, retirement benefits, or both to either thoroughbred or harness horsemen .

(3) The sum paid to the corporation pursuant to division (G) or (H) of section 3769.08 of the Revised Code shall be used exclusively to establish and administer the health and retirement fund, and to finance benefits paid to horsemen pursuant to the plan adopted under division (B)(2) of this section.

(4) The articles of incorporation and code of regulations of the corporation may be amended at any time by the board of trustees pursuant to the method set forth in the articles of incorporation and code of regulations, except that no amendment shall be adopted which is inconsistent with this section.

(C) Within sixty days after the formation of each of the corporations described in division (A) of this section, the state racing commission shall appoint the members of the board of trustees of that corporation. Vacancies shall be filled by the state racing commission in the same manner as initial appointments. Each trustee of the

thoroughbred horsemen's health and retirement fund appointed by the commission shall be active as a thoroughbred horseman while serving a term as a trustee and shall have been active as a thoroughbred horseman for at least five years immediately prior to the commencement of any such term. Each trustee of the harness horsemen's health and retirement fund appointed by the commission shall be active as a harness horseman while serving a term as a trustee and shall have been active as a harness horseman for at least five years immediately prior to the commencement of any such term. The incorporators of either such corporation may serve as initial trustees until the state racing commission acts pursuant to this section to make these appointments.

(D) The intent of the general assembly in enacting this section pursuant to Amended House Bill No. 639 of the 115th general assembly was to fulfill a legitimate government responsibility in a manner that would be more cost efficient and effective than direct state agency administration by permitting nonprofit corporations to be formed to establish health and retirement funds for the benefit of harness and thoroughbred horsemen , as it was determined that such persons were in need of such benefits.

Section 3769.25

General Assembly: 121.

Bill Number: Sub. House Bill 561

Effective Date: 09/19/96

As used in sections 3769.25 to 3769.27 of the Revised Code, unless the context requires otherwise:

(A) "Simulcast" means the telecast, for wagering purposes, of audio and visual signals of live horse races conducted at facilities either inside or outside this state.

(B) "Track" means any place, track, or enclosure where a permit holder conducts live horse racing for profit at a race meeting.

(C) "Permit holder" means a corporation, trust, partnership, limited partnership, association, person, or group of persons issued a permit under this chapter to conduct a racing meeting, other than the holder of a permit issued for a racing meeting at a county fair or an independent fair.

(D) "Simulcast host" has the same meaning as in section 3769.089 of the Revised Code.

(E) "Satellite facility" means any facility that is approved by the state racing commission and at which pari-mutuel wagering is conducted under section 3769.26 of the Revised Code. "Satellite facility" does not include a track.

(F) "Collection and settlement agent" has the same meaning as in section 3769.0810 of the Revised Code.

(G) "Approval of the appropriate local legislative authority" means the enactment of an ordinance or resolution by the legislative authority of the municipal corporation where a satellite facility is proposed to be located or, if a satellite facility is proposed to be located in an unincorporated area, by the board of township trustees of the township where the satellite facility is proposed to be located, that approves the location of the satellite facility in the municipal corporation or the unincorporated area. "Approval of the appropriate local legislative authority" also means the failure of the legislative authority of a municipal corporation or the board of township trustees of a township to take a vote to enact an ordinance or resolution described in this division within sixty days after the ordinance or resolution is first introduced before the legislative authority or board.

Section 3769.26

General Assembly: 122.

Bill Number: Sub. S.B. 37

Effective Date: 07/26/97

(A)(1) Except as otherwise provided in division (B) of this section, each track in existence on September 27, 1994, regardless of the number of permit holders authorized to conduct race meetings at the track, may establish, with the approval of the state racing commission and the appropriate local legislative authority, not more than two satellite facilities at which it may conduct pari-mutuel wagering on horse races conducted either inside or outside this state and simulcast by a simulcast host to the satellite facilities.

(2) Prior to a track's establishing satellite facilities under this section, the permit holders at that track shall agree among themselves regarding their respective rights and obligations with respect to those satellite facilities.

(3)(a) Any track that desires to establish a satellite facility shall provide written notification of its intent to the state racing commission and to the appropriate local legislative authority that is required to approve the satellite facility, together with detailed plans and specifications for the satellite facility. The commission shall deliver copies of this notification to all other tracks in this state, and the commission shall, within forty-five days after receiving the notification, hold a hearing on the track's intent to establish a satellite facility. At this hearing the commission shall consider the evidence presented and determine whether the request for establishment of a satellite facility shall be approved.

The commission shall not approve a track's request to establish a satellite facility if the owner of the premises where the satellite facility is proposed to be located or if the proposed operator of the satellite facility has been convicted of or has pleaded guilty to a gambling offense that is a felony or any other felony under the laws of this state, any other state, or the United States that the commission determines to be related to fitness to be the owner of such a premises or to be the operator of a satellite facility. As used in division (A)(3)(a) of this section, "gambling offense" has the same meaning as in section 2915.01 of the Revised Code and "operator" means the individual who is responsible for the day-to-day operations of a satellite facility. The commission shall conduct a background investigation on each person who is the owner of a premises where a satellite facility is proposed to

be located or who is proposed to be the operator or an employee of a satellite facility. The commission shall adopt rules in accordance with Chapter 119. of the Revised Code that specify the specific information the commission shall collect in conducting such a background investigation.

No track shall knowingly contract with a person as the owner of the premises where a satellite facility is located, or knowingly employ a person as the operator or an employee of a satellite facility, who has been convicted of or pleaded guilty to a gambling offense that is a felony or any other felony under the laws of this state, any other state, or the United States that the commission determines to be related to fitness to be the owner of such a premises or to be the operator or an employee of a satellite facility. The commission may impose a fine in an amount not to exceed ten thousand dollars on any track that violates any of these prohibitions.

(b) Each track that receives the notification described in division (A)(3)(a) of this section shall notify the commission and the track that desires to establish the satellite facility, within thirty days after receiving the notification from the commission, indicating whether or not it desires to participate in the joint ownership of the facility. Ownership shall be distributed equally among the tracks that choose to participate in the joint ownership of the facility unless the participating tracks agree to and contract otherwise. Tracks that fail to respond to the commission and the track that desires to establish the satellite facility within this thirty-day period regarding the ownership of the particular satellite facility are not eligible to participate in its ownership.

(B) If, within three years after September 27, 1994, a track in existence on September 27, 1994, does not establish both of the satellite facilities it is authorized to establish under division (A) of this section, another track, with the approval of the racing commission, may establish in accordance with this section a number of additional satellite facilities that does not exceed the number of satellite facilities that the first track did not establish. However, no more than fourteen satellite facilities may be established in this state.

(C) Except as otherwise provided in this division, each permit holder in this state shall allow the races that it

conducts, and the races conducted outside this state that it receives as a simulcast host, to be simulcast to all satellite facilities operating in this state and shall take all action necessary to supply its simulcast and wagering information to these satellite facilities. A permit holder at a track where the average daily amount wagered for all race meetings during calendar year 1990 did not exceed two hundred fifty thousand dollars may elect not to simulcast its races to the satellite facilities. If a permit holder at such a track chooses to simulcast its races to satellite facilities, it shall allow its races to be simulcast to all satellite facilities operating in this state. Except as otherwise provided in this division, each satellite facility shall receive simulcasts of and conduct pari-mutuel wagering on all live racing programs being conducted at any track in this state and on all agreed simulcast racing programs, as provided in division (D) of section 3769.089 of the Revised Code, conducted in other states that are received by simulcast in this state, without regard to the breed of horse competing in the race or the time of day of the race.

No satellite facility may receive simulcasts of horse races during the same hours that a county fair or independent fair located within the same county as the satellite facility is conducting pari-mutuel wagering on horse races at that county or independent fair.

Except as otherwise provided in this division, the commission shall not approve the establishment of a satellite facility within a radius of fifty miles of any track. The commission may approve the establishment of a satellite facility at a location within a radius of at least thirty-five but not more than fifty miles from one or more tracks if all of the holders of permits issued for those tracks consent in writing to the establishment of the satellite facility. The commission may approve the establishment of a satellite facility at a location within a radius of thirty-five miles of more than one race track if all holders of permits issued for those tracks consent in writing to the establishment of the satellite facility and, if the tracks are located completely within one county and the proposed satellite facility will be located within that county, if both the legislative authority of the municipal corporation in that county with the largest population, and the appropriate legislative authority that is required to approve the satellite facility

under division (A)(1) of this section, approve the establishment of the new satellite facility. The commission may approve the establishment of a satellite facility at a location within a radius of less than twenty miles from an existing satellite facility if the owner of the existing satellite facility consents in writing to the establishment of the new satellite facility.

A satellite facility shall not receive simulcasts of horse races conducted outside this state on any day when no simulcast host is operating.

(D) Each simulcast host is responsible for paying all costs associated with the up-link for simulcasts. Each satellite facility is responsible for paying all costs associated with the reception of simulcasts and the operation of the satellite facility.

(E) All money wagered at the simulcast host, and all money wagered at all satellite facilities on races simulcast from the simulcast host, shall be included in a common pari-mutuel pool at the simulcast host. Except as otherwise provided in division (F)(6) of this section, the payment shall be the same for all winning tickets whether a wager is placed at a simulcast host or a satellite facility. Wagers placed at a satellite facility shall conform in denomination, character, terms, conditions, and in all other respects to wagers placed at the simulcast host for the same race.

(F)(1) As used in division (F) of this section, "effective rate" means the effective gross tax percentage applicable at the simulcast host, determined in accordance with sections 3769.08 and 3769.087 of the Revised Code, after combining the money wagered at the simulcast host with the money wagered at satellite facilities on races simulcast from the host track.

(2) For the purposes of calculating the amount of taxes to be paid and the amount of commissions to be retained by permit holders, fifty per cent of the amount wagered at satellite facilities on a live racing program simulcast from a simulcast host shall be allocated to the permit holder's live race wagering at that simulcast host that conducts the live racing program, and fifty per cent of the amount wagered at satellite facilities on simulcast racing

programs conducted outside this state shall be allocated to, and apportioned equally among, the permit holders acting as simulcast hosts for the out-of-state simulcast racing programs. The remainder of the amount wagered at a satellite facility on races simulcast from a simulcast host shall be allocated to the satellite facility. In computing the tax due on the amount allocated to the satellite facility, if there is more than one simulcast host for out-of-state simulcast racing programs, the effective rate applied by the satellite facility shall be the tax rate applicable to the simulcast host that pays the highest effective rate under section 3769.08 of the Revised Code on such simulcast racing programs.

(3) The portion of the amount wagered that is allocated to a simulcast host under division (F)(2) of this section shall be treated, for the purposes of calculating the amount of taxes to be paid and commissions to be retained, as having been wagered at the simulcast host on a live racing program or on a simulcast racing program. The permit holder at the simulcast host shall pay, by check, draft, or money order to the state tax commissioner, as a tax, the tax specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable, except that the tax shall be calculated using the effective rate, and the permit holder may retain as a commission the percentage of the amount wagered as specified in those sections. From the tax collected, the tax commissioner shall make distributions to the respective funds, and in the proper amounts, as required by sections 3769.08 and 3769.087 of the Revised Code, as applicable.

(4) From the portion of the amount wagered that is allocated to a satellite facility under division (F)(2) of this section, the satellite facility may retain as a commission the amount specified in section 3769.08 or 3769.087 of the Revised Code, as applicable. The portion of the amount wagered that is allocated to a satellite facility shall be subject to tax at the effective rate as follows:

(a) One per cent of such amount allocated to the satellite facility shall be paid as a tax each racing day to the tax commissioner for deposit into the PASSPORT fund.

(b) The remaining balance of the taxes calculated at the effective rate, after payment of the tax specified in

division (F)(4)(a) of this section, shall be retained by the satellite facility to pay for those costs associated with the reception of the simulcasts.

(5) From the commission retained by a satellite facility after the deduction of the tax paid at the effective rate under division (F)(4) of this section, the satellite facility shall retain an amount equal to two and three-eighths per cent of the amount wagered that day on simulcast racing programs and the balance shall be divided as follows:

(a) One-half shall be paid to the owner of the satellite facility;

(b) One-half shall be paid to the state racing commission for deposit into the Ohio combined simulcast horse racing purse fund.

(6) In addition to the commission retained under this section, a satellite facility shall retain two and one-half per cent of the amount that would otherwise be paid on each winning wager unless the retention of this amount would either cause or add to a minus pool. As used in division (F)(6) of this section, "minus pool" means a wagering pool in which a winning wager is paid off at less than one hundred ten per cent of the amount of the wager. The amount retained shall be paid each racing day to the tax commissioner for deposit into the PASSPORT fund.

(7) At the close of each day, each satellite facility shall pay, by check, draft, or money order, or by wire transfer of funds, out of the money retained on that day to the collection and settlement agent the required fee to be paid by the simulcast host to the tracks, racing associations, or state regulatory agencies located outside this state for simulcasts into this state computed and based on one-half of the amount wagered at the satellite facility that day on interstate simulcast racing programs.

(G) No license, fee, or excise tax, other than as specified in division (F)(6) of this section, shall be assessed upon or collected from a satellite facility, the owners of a satellite facility, or the holders of permits issued for a track that has established a satellite facility by any county, township, municipal corporation, district, or other body having the authority to assess or collect a tax or fee.

(H) In no case shall that portion of the commissions designated for purses from satellite facilities be less than that portion of those commissions designated for purses at the simulcast host.

(I) It is the intention of the general assembly in enacting this section not to adversely affect the amounts paid into the Ohio thoroughbred race fund created under section 3769.083 of the Revised Code. Therefore, each track that acts as a simulcast host under this section shall calculate, on a semi-annual basis during calendar years 1994, 1995, and 1996, its average daily contribution to the Ohio thoroughbred race fund created under section 3769.083 of the Revised Code on those days on which the track conducted live horse racing. If this average daily contribution to the fund is less than the average daily contribution from the same track to the fund during the same six-month period of calendar year 1992, there shall be contributed to the fund an amount equal to the average daily shortfall multiplied by the number of days of live racing conducted during the six-month period in calendar year 1994, 1995, or 1996, as applicable. The amount of such contribution shall be allocated among the simulcast host, the purse program at the simulcast host, and the satellite facilities for which the track served as the simulcast host, on a pro rata basis in proportion to the amounts contributed by them to the fund during such six-month period in calendar year 1994, 1995, or 1996, as applicable.

Session Law from the 122nd from the General Assembly of the State of Ohio that references this section (this information may or may not be already included within this Revised Code section):

Senate Bill 37

Section 3769.27

General Assembly: 120.

Bill Number: Amended Sub. House Bill 361

Effective Date: 9-27-94

(A) If a petition is presented, not later than four p.m. of the seventy-fifth day before the day of a general or primary election, to the board of elections of any county, signed by qualified electors of the county equal in number to at least ten per cent of the total number of votes cast in the county for the office of governor at the preceding general election for that office, but signed by at least five hundred electors, requesting that there be submitted the question "shall satellite facilities that receive simulcasts of live horse races and that conduct wagering on those simulcasts be prohibited throughout this county for a period of ..... (not to exceed five) years?", the board of elections shall submit this question to the electors of the county on the day of the next general or primary election, whichever occurs first, in the manner provided by law for the submission of questions and issues. The board of elections shall notify the state racing commission of the results of the election on the question.

(B) If a majority of the electors voting on the question set forth in division (A) of this section vote "yes," the state racing commission shall have no jurisdiction thereafter to approve satellite facilities in that county for the number of years, not exceeding five, specified in the petition. If a majority of the electors voting on the question set forth in division (A) of this section vote "no," this question shall not again be submitted to a vote in the county until the expiration of the time set forth in the petition. When the board of elections of any county has received a petition and accepted it as valid, it shall so notify the commission and the commission shall not approve a satellite facility in that county between this notification and the day of the general or primary election.

(C) Once a proposed satellite facility receives the approval of the appropriate local legislative authority, a petition seeking an election under this section in the county where the proposed satellite facility will be located is invalid unless the date of signing of each signature on the petition that is counted by the board of elections to meet the number of signatures required by division (A) of this section is a date within ninety days after the date of the approval of the appropriate local legislative authority for the proposed satellite facility.

Section 3769.28

General Assembly: 120.

Bill Number: Sub. House Bill 297

Effective Date: 10-12-94

The tax commissioner shall collect from each permit holder who conducts a pari-mutuel system of wagering where the wagering is less than five million dollars a sum of money equal to one-tenth of one per cent of the total amount wagered and where the wagering is five million dollars or more a sum of money equal to fifteen hundredths of one per cent of the total amount wagered during any horse-racing meeting for the purpose of providing operating revenue for the political subdivisions wherein such meetings are held. Such moneys shall be collected by the commissioner within ten days after the close of such meeting and shall be sent back to the permit holder who paid the tax. Such permit holder shall then immediately forward the moneys to the chief fiscal officers of the municipal corporations or townships in which such horse-racing meeting took place and in which any such facilities or accessory uses therefor were located. Such moneys shall be divided equally between the municipal corporations or townships in which such horse-racing meeting took place and in which any facilities or accessory uses therefor were located. Such municipal corporations or townships may distribute a portion of the moneys so received to any adjoining political subdivision which incurs increased expenses because of such horse-racing meeting.

This section shall not apply to any agricultural society which holds a horse-racing permit.

The amount collected under this section from any one permit holder shall not exceed fifteen thousand dollars from any one horse-racing meeting in any calendar year.

## CHAPTER 3770. STATE LOTTERY

### **Title 37 - Chapter 70**

Section 3770.01

General Assembly: 122.

Bill Number: Amended Sub. House Bill 215

Effective Date: 06/30/97

There is hereby created the state lottery commission consisting of nine members appointed by the governor with the advice and consent of the senate. No more than five members of the commission shall be members of the same political party. Of the additional and new appointments made to the commission pursuant to the amendment of August 1, 1980, three shall be for terms ending August 1, 1981, three shall be for terms ending August 1, 1982, and three shall be for terms ending August 1, 1983. Thereafter, terms of office shall be for three years, each term ending on the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. The members of the commission shall represent the various geographic regions of the state. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

All members of the commission shall be citizens of the United States and residents of this state. No member shall have any pecuniary interest in any contract or license awarded by the commission. Each person appointed as a member of the commission shall have prior experience or education in business administration, management, sales, marketing, or advertising.

The commission shall elect annually one of its members to serve as chairperson for a term of one year. Election as chairperson shall not extend a member's appointive term. Each member of the commission shall receive an annual salary of five thousand dollars, payable in monthly installments. Each member shall also receive actual and

necessary expenses incurred in the discharge of official duties.

Each member of the commission, before entering upon the discharge of official duties, shall give a bond, payable to the treasurer of state, in the sum of ten thousand dollars with sufficient sureties to be approved by the treasurer of state, which bond shall be filed with the secretary of state.

The governor may remove any member of the commission for malfeasance, misfeasance, or nonfeasance in office, giving such member a copy of the charges against the member and affording the member an opportunity to be publicly heard in person or by counsel in the member's own defense upon not less than ten days' notice. If such member is removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against the member and the governor's finding thereon, together with a complete report of the proceedings, and the governor's decision thereon is final.

The commission shall maintain offices at locations in the state as it may deem necessary for the efficient performance of its functions. The director shall maintain an office in Columbus to coordinate the activities of the state lottery commission with other state departments.

Session Law from the 122nd from the General Assembly of the State of Ohio that references this section (this information may or may not be already included within this Revised Code section):

House Bill 215

Section 3770.02

General Assembly: 122.

Bill Number: Amended Sub. House Bill 215

Effective Date: 09/29/97

(A) Subject to the advice and consent of the senate, the governor shall appoint a director of the state lottery commission who shall serve at the pleasure of the governor. The director shall devote full time to the duties of the office and shall hold no other office or employment. The director shall meet all requirements for appointment as a member of the commission and shall by experience and training possess such management skills as would equip the director to administer an enterprise of the nature of a state lottery. The director shall receive an annual salary in accordance with pay range 48 of section 124.152 of the Revised Code.

(B)(1) The director shall attend all meetings of the commission and shall act as its secretary. The director shall keep a record of all commission proceedings and shall keep such records, files, and documents at the commission's principal office. All records of the commission's meetings shall be available for inspection by any member of the public, upon a showing of good cause and prior notification to the director.

(2) The director shall be the commission's executive officer and shall be responsible for keeping all commission records and supervising and administering the state lottery in accordance with this chapter, and carrying out all commission rules adopted under section 3770.03 of the Revised Code.

(C)(1) The director shall appoint an assistant director and deputy directors of marketing, operations, sales, finance, public relations, security, and administration, and as many regional managers as are required. The director may also appoint such professional, technical, and clerical assistants as are necessary. All such officers and employees shall be appointed and compensated pursuant to Chapter 124. of the Revised Code. Regional and assistant regional managers, sales representatives, and any lottery executive account representatives shall remain in the unclassified service.

(2) The director, in consultation with the director of administrative services, may establish standards of proficiency and productivity for commission field representatives.

(D) The director shall request the bureau of criminal identification and investigation, the department of public

safety, or any other state, local, or federal agency, to supply the director with the criminal records of any job applicant and may periodically request such criminal records of commission employees. At or prior to the time of making such a request, the director shall require a job applicant or commission employee to obtain fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency and the director shall cause these fingerprint cards to be forwarded to the bureau of criminal identification and investigation and the federal bureau of investigation. The commission shall assume the cost of obtaining the fingerprint cards and shall pay to each agency supplying such records for each investigation under this division a reasonable fee, as determined by the agency.

(E) The director shall license lottery sales agents pursuant to section 3770.05 of the Revised Code, and when necessary may revoke or suspend the license of any lottery sales agent when such action is considered necessary.

(F) The director shall confer at least once each month with the commission at which time the director shall advise it of the operation and administration of the lottery. The director shall make available at the request of the commission all documents, files, and other records pertaining to the operation and administration of the lottery. The director shall prepare and make available to the commission each month a complete and accurate accounting of lottery revenues, prize money disbursements and the cost of goods and services awarded as prizes, operating expenses, and all other relevant financial information, including an accounting of all transfers made from any lottery funds in the custody of the treasurer of state to benefit education.

(G) The director may enter into contracts for the operation or promotion of the lottery pursuant to Chapter 125 of the Revised Code. The director may enter into agreements to assist organizations that deal with problem gambling.

(H)(1) Pursuant to rules adopted by the commission under section 3770.03 of the Revised Code, the director shall require any lottery sales agents to either mail directly to the state lottery commission or to deposit to the

credit of the state lottery fund, in banking institutions designated by the treasurer of state, net proceeds due the lottery commission as determined by the director, and to file with the director or the director's designee reports of their receipts and transactions in the sale of lottery tickets in such form as required by the director.

(2) Pursuant to rules adopted by the commission under Chapter 119. of the Revised Code, the director may impose penalties for the failure of a sales agent to transfer funds to the commission in a timely manner. Penalties may include monetary penalties, immediate suspension or revocation of a license, or any other penalty the commission adopts by rule.

(I) The director may arrange for any person, or any banking institution, to perform such functions and services in connection with the operation of the lottery as the director may consider necessary to carry out this chapter.

Session Law from the 122nd from the General Assembly of the State of Ohio that references this section (this information may or may not be already included within this Revised Code section):

House Bill 215

Section 3770.021

General Assembly: 121

Bill Number: Sub.. S.B. 211

Effective Date: 09/26/96

Except as otherwise provided in this section, no person shall be employed by or continue employment with the state lottery commission who has been convicted in any jurisdiction of a felony, or of a misdemeanor of the first, second, or third degree, involving gambling, fraud or misrepresentation, theft, or any crime of moral turpitude, as

long as the record of the conviction has not been sealed pursuant to Chapter 2953. of the Revised Code or pursuant to a statute of another jurisdiction that governs the sealing of criminal records. The director of the commission may adopt internal management rules designating vehicular offenses, conviction of which will disqualify persons from employment with the commission; specifying time periods after which persons who have been convicted of the offenses described in this section may be employed by the commission; and establishing requirements for an applicant or employee to seek a court order to have the records sealed in accordance with law relating to the sealing of criminal records.

Section 3770.03

General Assembly: 121

Bill Number: Sub.. S.B. 211

Effective Date: 09/26/96

(A) The state lottery commission shall promulgate rules under which a statewide lottery may be conducted. The rules shall be promulgated pursuant to Chapter 119., except that rules pertaining to instant game rules shall be promulgated pursuant to section 111.15 of the Revised Code but are not subject to division (D) of that section.

Subjects covered in such rules shall include but need not be limited to the following:

- (1) The type of lottery to be conducted;
- (2) The prices of tickets in the lottery;
- (3) The number, nature, and value of prize awards, the manner and frequency of prize drawings, and the manner in which prizes shall be awarded to holders of winning tickets.

(B) The commission shall promulgate further rules, in addition to those described in division (A) of this section, pursuant to Chapter 119. of the Revised Code under which a statewide lottery may be conducted. Subjects covered in these rules shall include but not be limited to the following:

(1) The locations at which lottery tickets may be sold and the manner in which they are to be sold. Such rules may authorize the sale of lottery tickets by commission personnel or other licensed individuals from traveling show wagons at the state fair, and at any other expositions the director considers acceptable. Such rules shall prohibit commission personnel or other licensed individuals from soliciting from an exposition the right to sell lottery tickets at that exposition, but shall allow commission personnel or other licensed individuals to sell lottery tickets at an exposition if the exposition requests commission personnel or licensed individuals to do so. Such rules may also address the accessibility of sales agent locations to commission products in accordance with the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 et seq.

(2) The manner in which lottery sales revenues are to be collected, including authorization for the director to impose penalties for failure by sales agents to transfer revenues to the commission in a timely manner;

(3) The amount of compensation to be paid licensed lottery sales agents;

(4) The substantive criteria for the licensing of lottery sales agents consistent with section 3770.05 of the Revised Code, and procedures for revoking or suspending such licenses consistent with Chapter 119. of the Revised Code. If circumstances, such as the nonpayment of funds owed by a sales agent, or other circumstances related to the public safety, convenience, or trust, require immediate action, the director may suspend a license without affording an opportunity for a prior hearing under section 119.07 of the Revised Code.

(C)(1) The state lottery commission shall meet with the director of the commission at least once each month and shall convene other meetings at the request of the chairman or any five of the members. No action taken by the commission shall be binding unless at least five of the members present vote in favor thereof. A written record shall be made of the proceedings of each meeting and shall be transmitted forthwith to the governor, the president of the senate, the senate minority leader, the speaker of the house of representatives, and the house minority leader.

(2) The director shall present to the commission a report each month, showing the total revenues, prize disbursements, and operating expenses of the state lottery for the preceding month. As soon as practicable after the end of each fiscal year, the commission shall prepare and transmit to the governor and the general assembly a report of lottery revenues, prize disbursements, and operating expenses for the preceding fiscal year and any recommendations for legislation considered necessary by the commission.

Section 3770.04

General Assembly: 113.

Bill Number: S.B. 139

Effective Date: 8-1-80

For the purpose of conducting any study or investigation, the state lottery commission may direct that public hearings be held at a time and place, prescribed by the commission, in accordance with section 121.22 of the Revised Code. Hearings shall be held in Columbus, except that if the commission determines that another location is more convenient for those concerned, it may move the hearing to another location within the state. The commission shall give notice of all public hearings in such manner as will give actual or constructive notice to all interested parties.

In the discharge of any duties imposed by this chapter, the state lottery commission may require that testimony be given under oath and administer such oath, issue subpoenas compelling the attendance of witnesses and the production of any papers, books, and accounts, and cause the deposition of any witness residing within the state. In the event of the refusal of any person to comply with the terms of a subpoena issued by the commission or refusal to testify on matters about which he may lawfully be questioned, the prosecutor of the county in which such person resides, upon the petition of the commission, shall bring a proceeding for contempt against such person in the court of common pleas of that county.

Section 3770.05

General Assembly: 121.

Bill Number: Sub. S.B. 211

Effective Date: 09/26/96

(A) As used in this section "person" means any person, association, corporation, partnership, club, trust, estate, society, receiver, trustee, person acting in a fiduciary or representative capacity, instrumentality of the state or any of its political subdivisions, or any other combination of individuals meeting the requirements set forth in this section or established by rule or order of the commission.

(B) The director of the state lottery commission may license any person as a lottery sales agent. No license shall be issued to any person or group of persons to engage in the sale of lottery tickets as the person's or group's sole occupation or business.

Before issuing any license to a lottery sales agent the director shall consider:

- (1) The financial responsibility and security of the person and the person's business or activity;
- (2) The accessibility of the agent's place of business or activity to the public;
- (3) The sufficiency of existing licensed agents to serve the public interest;
- (4) The volume of expected sales by the applicant;
- (5) Any other factors pertaining to the public interest, convenience, or trust.

(C) Except as otherwise provided in division (F) of this section, the director shall refuse to grant, or shall suspend or revoke, a license if the applicant or licensee:

- (1) Has been convicted of a felony, or has been convicted of a crime involving moral turpitude;

- (2) Has been convicted of an offense that involves illegal gambling;
- (3) Has been found guilty of fraud or misrepresentation in any connection;
- (4) Has been found to have violated any rule or order of the commission;
- (5) Has been convicted of illegal trafficking in food stamps.

(D) Except as otherwise provided in division (F) of this section, the director shall refuse to grant, or shall suspend or revoke, a license if the applicant or licensee is a corporation:

- (1) Any of whose directors, officers, or controlling shareholders have been found guilty of any of the activities specified in divisions (C)(1) to (4) of this section;
- (2) In which it appears to the director that due to the experience, character, or general fitness of any director, officer, or controlling shareholder the granting of a license as a lottery sales agent would be inconsistent with the public interest, convenience, or trust;
- (3) Not the owner or lessee of the business at which it will conduct a lottery sales agency pursuant to the license applied for, or that any person, firm, association, or corporation other than the applicant shares or will share in the profits of the applicant, other than receiving dividends or distributions as a shareholder, or will participate in the management of the affairs of the applicant.

(E)(1) The director shall refuse to grant a license to an applicant and shall revoke a license of a licensee if the applicant or licensee is or has been convicted of a violation of division (A) or (C)(1) of section 2913.46 of the Revised Code.

(2) The director shall refuse to grant a license to an applicant that is a corporation and shall revoke the license of a licensee that is a corporation, if the corporation is or has been convicted of a violation of division (A) or (C)(1) of a violation of section 2913.46 of the Revised Code.

(F) The director shall request the bureau of criminal identification and investigation, the department of public safety, or any other state, local, or federal agency to supply the director with the criminal records of any

applicant for a lottery sales agent license, and may periodically request such records of any person to whom such a license has been issued. At or prior to the time of making such a request, the director shall require an applicant or licensee to obtain fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency and the director shall cause these fingerprint cards to be forwarded to the bureau of criminal identification and investigation and the federal bureau of investigation. The commission shall assume the cost of obtaining the fingerprint cards. The director shall pay to each agency supplying such records for each investigation a reasonable fee, as determined by the agency. The commission may adopt uniform rules specifying time periods after which the persons described in divisions (C)(1) to (4) and (D)(1) to (3) of this section may be issued a license and establishing requirements for such persons to seek a court order to have records sealed in accordance with law.

(G)(1) Each applicant for a lottery sales agent license shall do both of the following:

(a) Pay to the commission a fee of twenty-five dollars upon approval of the application;

(b) Prior to approval of the application, obtain a surety or, if required, a fidelity bond in an amount to be determined by the director. The bond may be with any company that complies with the bonding and surety laws of this state and the requirements established by rules of the commission pursuant to this chapter.

(2) A lottery sales agent license is effective for one year. A licensed lottery sales agent shall, on or before the date established by the director, renew the agent's license and provide at that time evidence to the director that the surety bond required under division (F)(1)(b) of this section has been renewed. The director shall certify to the commission that the applicant for renewal has the required bond.

The relationship between the state lottery commission and a lottery sales agent is one of trust. A lottery sales agent collects funds on behalf of the commission through the sale of lottery tickets for which the agent receives a compensation.

(H) Pending a final resolution of any question arising under this section, the director may issue a temporary lottery sales agent license, subject to such terms and conditions as the director may consider appropriate.

(I) If a lottery sales agent's rental payments for the agent's premises are determined, in whole or in part, by the amount of retail sales the agent makes and the rental agreement does not expressly provide that the amount of such retail sales includes the amounts the agent receives from lottery ticket sales, only the amounts the lottery sales agent receives as compensation from the state lottery commission for selling lottery tickets shall be considered to be amounts the agent receives from the retail sales the agent makes, for the purpose of computing the agent's rental payments.

Section 3770.051

General Assembly: 121

Bill Number: Sub.. S.B. 211

Effective Date: 09/26/96

(A) The director of the state lottery commission may refuse to enter into any contracts or agreements with vendors whose activities on behalf of the commission could potentially affect the integrity of the state lottery's on-line gaming system or instant ticket gaming system, if any principal of the vendor has been convicted of a crime involving moral turpitude or an offense involving illegal gambling or has been found guilty of fraud or misrepresentation in any manner.

(B) The director shall request the bureau of criminal identification and investigation, the department of public safety, or any other state, local, or federal agency to supply the director with the criminal records of any vendor with whom the commission is considering entering into a contract or agreement, and may periodically request

such records of any vendor with whom the commission has entered into a contract or agreement. At or prior to the time of making such a request, the director shall require a vendor to obtain fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency and the director shall cause these fingerprint cards to be forwarded to the bureau of criminal identification and investigation and the federal bureau of investigation. The commission shall assume the cost of obtaining the fingerprint cards. The director shall pay to each agency supplying such records for each investigation a reasonable fee, as determined by the agency. The commission may adopt uniform rules specifying time periods after which the director may enter into contracts or agreements with vendors described in division (A) of this section and establishing requirements for a vendor to seek a court order to have records sealed in accordance with law.

Section 3770.06

General Assembly: 122

Bill Number: Amended. Sub. House Bill 215

Effective Date: 09/29/97

(A) There is hereby created the state lottery gross revenue fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. All gross revenues received from sales of lottery tickets, fines, fees, and related proceeds shall be deposited into the fund. The treasurer of state shall invest any portion of the fund not needed for immediate use in the same manner as, and subject to all provisions of law with respect to the investment of, state funds. The treasurer of state shall disburse money from the fund on order of the director of the state lottery commission or the director's designee. All revenues of the state lottery gross revenue fund that are not paid to holders of winning lottery tickets, that are not required to meet short-term prize liabilities, that are

not paid to lottery sales agents in the form of agent bonuses, commissions, or reimbursements, and that are not paid to financial institutions to reimburse such institutions for sales agent nonsufficient funds shall be transferred to the state lottery fund, which is hereby created in the state treasury. All investment earnings of the fund shall be credited to the fund. Moneys shall be disbursed from the state lottery fund pursuant to vouchers approved by the director of the state lottery commission. Total disbursements for monetary prize awards to holders of winning lottery tickets and purchases of goods and services awarded as prizes to holders of winning lottery tickets shall be of an amount equal to at least fifty per cent of the total revenue accruing from the sale of lottery tickets.

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, there is hereby established in the state treasury the lottery profits education fund. Whenever, in the judgment of the director of budget and management, the amount to the credit of the state lottery fund is in excess of that needed to meet the maturing obligations of the commission and as working capital for its further operations, the director shall transfer the excess to the lottery profits education fund, provided that the amount to be transferred into the lottery profits education fund shall equal no less than thirty per cent of the total revenue accruing from the sale of lottery tickets. Investment earnings of the lottery profits education fund shall be credited to the fund. There shall also be credited to the fund any repayments of moneys loaned from the educational excellence investment fund. The lottery profits education fund shall be used solely for the support of elementary, secondary, vocational, and special education programs as determined in appropriations made by the general assembly. When determining the availability of money in the lottery profits education fund, the director of budget and management may consider all balances and estimated revenues of the fund.

From the amounts that the director of budget and management transfers in any fiscal year from the state lottery fund to the lottery profits education fund, the director shall transfer the initial ten million dollars of such amounts from the lottery profits education fund to the school building program bond service fund created in division (R) of

section 3318.26 of the Revised Code to be pledged for the purpose of paying bond service charges as defined in division (C) of section 3318.21 of the Revised Code on one or more issuances of obligations, which obligations are issued to provide moneys for the school building program assistance fund created in section 3318.25 of the Revised Code.

(C) There is hereby established in the state treasury the deferred prizes trust fund. With the approval of the director of budget and management, an amount sufficient to fund annuity prizes shall be transferred from the state lottery fund and credited to the trust fund. The treasurer of state shall credit all earnings arising from investments purchased under this division to the fund. Within sixty days after the end of each fiscal year, the director of budget and management shall certify the amount of investment earnings necessary to have been credited to the trust fund during the fiscal year just ending to provide for continued funding of deferred prizes. Any earnings credited in excess of this certified amount shall be transferred to the lottery profits education fund. To provide all or a part of the amounts necessary to fund deferred prizes awarded by the commission, the treasurer of state, in consultation with the commission, may invest moneys contained in the deferred prizes trust fund in accordance with section 135.143 of the Revised Code.

All purchases made under this division shall be effected on a delivery versus payment method and shall be in the custody of the treasurer of state.

The treasurer of state may retain an investment advisor, if necessary. The commission shall pay any costs incurred by the treasurer of state in retaining an investment advisor.

(D) The auditor of state shall conduct annual audits of all funds and such other audits as the auditor of state or the general assembly considers necessary. The auditor of state may examine all records, files, and other documents of the commission, and such records of lottery sales agents as pertain to their activities as agents, for purposes of conducting authorized audits.

The state lottery commission shall establish an internal audit program before the beginning of each fiscal year,

subject to the approval of the auditor of state. At the end of each fiscal year, the commission shall prepare and submit an annual report to the auditor of state for the auditor of state's review and approval, specifying the internal audit work completed by the end of that fiscal year and reporting on compliance with the annual internal audit program. The form and content of the report shall be prescribed by the auditor of state under division (C) of section 117.20 of the Revised Code.

Session Law from the 122nd from the General Assembly of the State of Ohio that references this section (this information may or may not be already included within this Revised Code section):

House Bill 215

Section 3770.07

General Assembly: 121.

Bill Number: Sub. S.B. 211

Effective Date: 09/26/96

(A)(1) Lottery prize awards shall be claimed by the holder of the winning lottery ticket, or by the executor or administrator, or the trustee of a trust, of the estate of a deceased holder of a winning ticket, in a manner to be determined by the state lottery commission, within one hundred eighty days after the date on which such prize award was announced if the lottery game is an on-line game, and within one hundred eighty days after the close of the game if the lottery game is an instant game. Except as otherwise provided in division (B) of this section, if no valid claim to the prize award is made within the prescribed period, the prize money or the cost of goods and services awarded as prizes, or if such goods or services are resold by the commission, the proceeds from such sale, shall be returned to the state lottery fund and distributed in accordance with section 3770.06 of the Revised Code.

(2) If a person entitled to a prize award is under eighteen years of age, or is under some other legal disability, and the prize money or the cost of goods or services awarded as a prize exceeds one thousand dollars, the director shall order that payment be made to the order of the legal guardian of such winning ticket holder. If the amount of the prize money or the cost of goods or services awarded as a prize is one thousand dollars or less, the director may order that payment be made to the order of the adult member, if any, of such winning ticket holder's family legally responsible for the care of such winning person.

(3) No right of any person to a prize award shall be the subject of a security interest or used as collateral.

(4) No right of any person to a prize award shall be assignable, or subject to garnishment, attachment, execution, withholding, or deduction, except as follows: as provided in sections 3111.23 and 3113.21 of the Revised Code; when the payment is to be made to the executor or administrator or the trustee of a trust of the estate of a winning ticket holder; when the award of a prize is disputed, any person may be awarded a prize award to which another has claimed title, pursuant to the order of a court of competent jurisdiction; or when the director is to make a payment pursuant to section 3770.071 of the Revised Code.

The commission shall adopt rules pursuant to section 3770.03 of the Revised Code concerning the payment of prize awards upon the death of a prize winner. Upon the death of a prize winner, the remainder of the prize winner's prize award may be paid to the executor, administrator, or trustee in the form of a discounted lump sum cash settlement.

(5) No lottery prize award shall be awarded to or for any officer or employee of the state lottery commission, any officer or employee of the auditor of state actively coordinating and certifying commission drawings, or any blood relative or spouse of such officer or employee of the commission or auditor of state living as a member of such officer's or employee's household, nor shall any such employee, blood relative, or spouse attempt to claim a lottery prize award.

(6) The director may prohibit vendors to the commission and their employees from being awarded a lottery prize award.

(7) Upon the payment of prize awards pursuant to this section the director and the commission are discharged from all further liability therefor.

(B) The commission may adopt rules governing the disbursement of unclaimed prize awards as all or part of the prize award in a lottery and may, pursuant to those rules, conduct the lottery and disburse any such unclaimed prize awards. Any lottery in which all or any part of the prize award is paid from unclaimed prize awards shall be conducted in accordance with all of the other requirements of this chapter, including, but not limited to, the time and proof requirements for claiming awards and the disposition of unclaimed prize awards when the prescribed period for claiming the award has passed. A prize award or any part of a prize award that is paid from an unclaimed prize award shall not be reapplied toward the satisfaction of the requirement of division (A) of section 3770.06 of the Revised Code that at least fifty per cent of the total revenues from ticket sales be disbursed for monetary prize awards, if such unclaimed prize award was previously applied toward the satisfaction of that requirement. On or before the last day of January and July each year, the commission shall report to the general assembly the gross sales and net profits the commission obtained from the unclaimed prize awards in lotteries conducted pursuant to this division during the preceding two calendar quarters, including the amount of money produced by the games funded by the unclaimed prize awards and the total revenue accruing to the state from the prize award lotteries conducted pursuant to this division.

There is hereby established in the state treasury the unclaimed lottery prizes fund, to which all unclaimed prize awards shall be transferred. Any interest which accrues on the amounts in the fund shall become a part of the fund and shall be subject to any rules adopted by the commission governing the disbursement of unclaimed prize awards.

Section 3770.071

General Assembly: 122.

Bill Number: Amended Sub. House Bill 352

Effective Date: 01/01/98

(A) If the amount of the prize money or the cost of goods or services awarded as a lottery prize award is six hundred dollars or more, the director of the state lottery commission, or the director's designee, shall require the person entitled to the prize award to affirm in writing, under oath, whether or not the person is in default under a support order. The director or the director's designee also may take any additional appropriate steps to determine if the person entitled to the prize award is in default under a support order. If the person entitled to the prize award affirms that the person is in default under a support order, or if the director or the director's designee determines that the person is in default under a support order, the director or the director's designee shall temporarily withhold payment of the prize award and inform the court that issued the support order that the person is entitled to a prize award, of the amount of the prize award, and, if the prize award is to be paid in annual installments, of the number of installments.

After receipt of the notice from the director or the director's designee, the court shall give the person notice of the director's notice, schedule a hearing to determine if the person is in default and the amount of the default, and give the person notice of the date, time, and location of the hearing. If the court at the hearing determines that the person is in default, it shall issue an order to the director at lottery commission headquarters requiring the director or the director's designee to deduct from any unpaid prize award or any annual installment payment of the prize award, a specified amount for child support or spousal support in satisfaction of the support order under which the person is in default. To the extent possible, the amount specified to be deducted under the order issued under this section shall satisfy the amount ordered for support or spousal support in the support order under which the person is in default. Within thirty days after the date on which the court issues the order under this section to the

director, the director shall pay the amount specified in that order to the division of child support in the department of human services. If the prize award is to be paid in annual installments, the director or the director's designee, on the date the installment payment is due, shall pay the amount specified in the court order issued under this section from that installment and, if necessary, any subsequent annual installments, at the time such installments become due and owing to the prize winner, to the division of child support.

(B) As used in this section, "support order" and "default" have the same meanings as in section 2301.34 of the Revised Code.

(C) No person shall knowingly make a false affirmation or oath required by division (A) of this section.

Session Law from the 122nd from the General Assembly of the State of Ohio that references this section (this information may or may not be already included within this Revised Code section):

House Bill 352

Section 3770.072

General Assembly: 118.

Bill Number: Amended Sub. House Bill 381

Effective Date: 1-1-90

The state lottery commission shall deduct amounts from lottery prize awards and file returns in accordance with section 5747.062 of the Revised Code and any rules adopted by the tax commissioner pursuant to that section.

Section 3770.08

General Assembly: 121.

Bill Number: Sub. S.B. 211

Effective Date: 09/26/96

(A) No person shall sell a lottery ticket at a price greater than that fixed by rule of the state lottery commission.

(B) No person other than a licensed lottery sales agent shall sell lottery tickets, but nothing in this section shall be construed to prevent any person from giving lottery tickets to another as a gift. A transfer of lottery tickets by any person which is made in connection with a marketing, promotional, or advertising program shall be deemed to be a gift for the purposes of this chapter.

(C) No person shall sell a lottery ticket to any person under eighteen years of age, and no person under eighteen years of age shall attempt to purchase a lottery ticket.

(D) No person, directly or indirectly, on behalf of self, or another, nor any organization, shall invite, solicit, demand, offer, or accept any payment, contribution, favor, or other consideration to influence the award, renewal, or retention of a lottery sales agent license.

(E) Except as otherwise provided in this division, no person shall sell lottery tickets on any fairgrounds during any annual exhibition conducted in accordance with Chapter 991. or 1711. of the Revised Code. "Fairgrounds" includes any land or property under the control or management of any agricultural society or of the Ohio expositions commission. This division does not apply to the sale of lottery tickets by the commission at the state fairground during the state fair.

Section 3770.99

General Assembly: 121

Bill Number: Sub.. S.B. 211

Effective Date: 09/26/96

(A) Whoever is prohibited from claiming a lottery prize award under division (A)(5) of section 3770.07 of the Revised Code and attempts to claim or is paid a lottery prize award is guilty of a minor misdemeanor, and shall provide restitution to the state lottery commission of any moneys erroneously paid as a lottery prize award to that person.

(B) Whoever violates division (C) of section 3770.071 or section 3770.08 of the Revised Code is guilty of a misdemeanor of the third degree.

### CHAPTER 3773. BOXING; DISCHARGING FIREARMS; DUELING, [ATHLETIC COMMISSION]

Section 3773.46

General Assembly: 121.

Bill Number: Amended Sub. S.B. 240

Effective Date: 09/03/96

No person who sponsors, promotes, or conducts a public boxing or wrestling match or exhibition shall do any of the following:

(A) Knowingly permit a person less than eighteen years of age to participate in a public boxing or wrestling match or exhibition;

(B) Knowingly permit gambling, betting, or wagering on the result of a contingency in connection with the match or exhibition;

(C) Knowingly conduct or allow to be conducted a sham or fake match or exhibition unless the sport is professional wrestling.

# TITLE 41. LABOR AND INDUSTRY

## CHAPTER 4112. CIVIL RIGHTS COMMISSION

### Section 4112.01

General Assembly: 119.

Bill Number: Amended Sub. House Bill 321

Effective Date: 06/30/92

(A) As used in this chapter:

(1) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons. "Person" also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesman, appraiser, agent, employee, lending institution, and the state and all political subdivisions, authorities, agencies, boards, and commissions of the state.

(2) "Employer" includes the state, any political subdivision of the state, any person employing four or more persons within the state, and any person acting directly or indirectly in the interest of an employer.

(3) "Employee" means an individual employed by any employer but does not include any individual employed in the domestic service of any person.

(4) "Labor organization" includes any organization that exists, in whole or in part, for the purpose of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in relation to employment.

(5) "Employment agency" includes any person regularly undertaking, with or without compensation, to procure opportunities to work or to procure, recruit, refer, or place employees.

(6) "Commission" means the Ohio civil rights commission created by section 4112.03 of the Revised Code.

(7) "Discriminate" includes segregate or separate.

(8) "Unlawful discriminatory practice" means any act prohibited by section 4112.02, 4112.021, or 4112.022 of the Revised Code.

(9) "Place of public accommodation" means any inn, restaurant, eating house, barbershop, public conveyance by air, land, or water, theater, store, other place for the sale of merchandise, or any other place of public accommodation or amusement of which the accommodations, advantages, facilities, or privileges are available to the public.

(10) "Housing accommodations" includes any building or structure, or portion of a building or structure, that is used or occupied or is intended, arranged, or designed to be used or occupied as the home residence, dwelling, dwelling unit, or sleeping place of one or more individuals, groups, or families whether or not living independently of each other; and any vacant land offered for sale or lease. "Housing accommodations" also includes any housing accommodations held or offered for sale or rent by a real estate broker, salesman, or agent, by any other person pursuant to authorization of the owner, by the owner, or by the owner's legal representative.

(11) "Restrictive covenant" means any specification limiting the transfer, rental, lease, or other use of any housing accommodations because of race, color, religion, sex, familial status, national origin, handicap, or ancestry, or any limitation based upon affiliation with or approval by any person, directly or indirectly, employing race, color, religion, sex, familial status, national origin, handicap, or ancestry as a condition of affiliation or approval.

(12) "Burial lot" means any lot for the burial of deceased persons within any public burial ground or cemetery, including, but not limited to, cemeteries owned and operated by municipal corporations, townships, or companies or associations incorporated for cemetery purposes.

(13) "Handicap" means a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking,

breathing, learning, and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment.

(14) Except as otherwise provided in section 4112.021 of the Revised Code, "age" means at least forty years old.

(15) "Familial status" means either of the following:

(a) One or more individuals who are under eighteen years of age and who are domiciled with a parent or guardian having legal custody of the individual or domiciled, with the written permission of the parent or guardian having legal custody, with a designee of the parent or guardian;

(b) Any person who is pregnant or in the process of securing legal custody of any individual who is under eighteen years of age.

(16)(a) Except as provided in division (A)(16)(b) of this section, "physical or mental impairment" includes any of the following:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine;

(ii) Any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) Diseases and conditions, including, but not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction, and alcoholism.

(b) "Physical or mental impairment" does not include any of the following:

(i) Homosexuality and bisexuality;

(ii) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(iii) Compulsive gambling, kleptomania, or pyromania;

(iv) Psychoactive substance use disorders resulting from current illegal use of a controlled substance.

(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.

(18) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.

(19) "Public use areas" means interior or exterior rooms or spaces of a privately or publicly owned building that are made available to the general public.

(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(21) "Handicapped person" means a person with a handicap.

(22) "Handicapped tenant" means a tenant or prospective tenant who is a handicapped person.

(B) For the purposes of divisions (A) to (F) of section 4112.02 of the Revised Code, the terms "because of sex" and "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, any illness arising out of and occurring during the course of a pregnancy, childbirth, or related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in division (B) of section 4111.17 of the Revised Code shall be interpreted to permit otherwise. This division shall not be construed to require an

employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term or except where medical complications have arisen from the abortion, provided that nothing in this division precludes an employer from providing abortion benefits or otherwise affects bargaining agreements in regard to abortion.

## **TITLE 43. LIQUOR**

### **CHAPTER 4301. LIQUOR CONTROL LAW, [SUSPENSION OR CANCELLATION OF PERMIT]**

Section 4301.252

General Assembly: 122.

Bill Number: Amended Sub. House Bill 402

Effective Date: 03/30/99

(A)(1) Except as provided in divisions (B) and (C) of this section, when the liquor control commission determines that the permit of any permit holder is to be suspended under Title XLIII of the Revised Code or any rule of the commission, the commission may issue an order allowing a permit holder to elect to pay a forfeiture for each day of the suspension in accordance with division (A)(2) of this section, rather than to suspend operations under the permit holder's permit issued for the premises at which the violation occurred.

(2)(a) If the permit holder has not violated, at the premises for which the permit holder's permit was issued, any provision of Title XLIII of the Revised Code or rule of the commission during the preceding two years, the amount of the forfeiture for each day for the suspension shall be from one hundred to two hundred dollars.

(b) If the permit holder has violated, at the premises for which the permit holder's permit was issued, any provision of Title XLIII of the Revised Code or rule of the commission for which the permit holder has been disciplined by the commission not more than one other time during the preceding two years, the amount of the

forfeiture for each day of the suspension shall be from two hundred to four hundred dollars.

(c) Except as provided under division (A)(2)(e) of this section, if the permit holder has subsequently violated, at the premises for which the permit holder's permit was issued, any provision of Title XLIII of the Revised Code or rule of the commission for which the permit holder has been disciplined by the commission more than once, but not more than twice, during the preceding two years, the commission shall establish the amount of the forfeiture for each day of the suspension, but the amount shall be not less than three hundred dollars for each day of suspension.

(d) If the permit holder has subsequently violated, at the premises for which the permit holder's permit was issued, any provision of Title XLIII of the Revised Code or rule of the commission for which the permit holder has been disciplined by the commission more than twice during the preceding two years, the commission may suspend or revoke the permit issued for the premises at which the violation occurred, but shall not allow the permit holder to pay a forfeiture instead of suspending or revoking the permit holder's permit operations.

(e) If the permit holder has committed, at the premises for which the permit holder's permit was issued, a gambling offense as defined in section 2915.01, a drug abuse offense as defined in section 2925.01, an offense described in section 2907.07, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, division (A) or (B) of section 4301.22, or section 4301.69 of the Revised Code or a municipal ordinance substantially equivalent to any offense defined or described in a section listed in division (A)(2)(e) of this section for which the permit holder has been disciplined by the commission more than once but not more than twice during the preceding two years, the commission may suspend or revoke the permit issued for the premises at which the violation occurred, but shall not allow the permit holder to pay a forfeiture instead of suspending or revoking the permit holder's permit operations. A person does not have to plead guilty to or be convicted of an offense defined or described in a section listed in division (A)(2)(e) of this section in order for this division to apply.

(3) When the commission issues an order allowing a permit holder the option of paying a forfeiture rather than suspending operations under the permit holder's permit issued for the premises at which the violation occurred, the order shall notify the permit holder of the option of paying a forfeiture. The order shall state the number of days for which the permit may be suspended, and that the permit holder has twenty-one days after the date on which the order was sent to pay the full amount of the forfeiture by certified check and that if the permit holder does not do so, the permit holder's permit issued for the premises at which the violation occurred shall be suspended for the period stated in the order. If the permit holder fails to pay the full amount of the forfeiture by certified check within twenty-one days after the date on which the order was sent, the commission shall issue an order suspending the permit holder's permit issued for the premises at which the violation occurred for the period stated in the order allowing payment of a forfeiture. The suspension shall be effective on the twenty-eighth day after the date on which the order allowing the payment of a forfeiture was sent. Even a permit holder who pays a forfeiture may file an appeal under section 119.12 of the Revised Code. A permit holder shall be considered to have paid a forfeiture when the permit holder's certified check is received by the commission in Columbus. Upon receipt of a permit holder's certified check under this division, the commission shall promptly notify the division of liquor control of its receipt.

(B) No permit holder shall be permitted to pay a forfeiture instead of having the permit holder's permit issued for the premises at which the violation occurred suspended if the suspension is ordered for the reasons stated in division (A)(6) of section 4301.25 of the Revised Code.

(C) When the evidence and the nature of any violation of Title XLIII of the Revised Code show that continued operation of the permit premises presents a clear and present danger to public health and safety, or if the commission finds, upon reliable, probative, and substantial evidence, that the statutory elements of a felony committed in connection with the operation of the permit premises are present in the action for which the permit holder is being disciplined, the commission may suspend the permit issued for the premises at which the violation

occurred and shall not allow the permit holder to pay a forfeiture instead of suspending the permit holder's permit operations.