



Ohio Revised Code

Section 3769.26 Establishing satellite facilities.

Effective: October 1, 2013

Legislation: House Bill 59 - 130th General Assembly

(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, in the manner



prescribed under section 3769.103 of the Revised Code, 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 nursing home franchise permit fee 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 nursing home franchise permit fee 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.