

Ohio Revised Code Horse Racing Law

Chapters 3769.20 to 3769.22

3769.20 Tax reduction for major capital improvement project

(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 into 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. The percentage of the reduction that may be taken each racing day shall equal seventy-five per cent of the amount of the taxes 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 approved prior to the effective date of this amendment expire, any reduction carried forward shall be treated as a reduction as provided for in this section. If the amount of allowable reduction exceeds the amount of taxes derived from a permit holder, the amount of the allowable reduction 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 that 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.

A reduction for a major capital improvement project 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 approved by the state racing commission, except as otherwise provided in division (E) 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, 2014. 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 racing commission shall notify the tax commissioner when the reduction of tax begins and when it ends.

(B) Each fiscal year, the racing commission shall submit a report to the tax commissioner, the office of budget and management, and 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 project, state the tax reduction that resulted from each project during the immediately preceding fiscal year, estimate the tax reduction that will result from each 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.

(C) The tax reduction granted pursuant to this section shall be in addition to any tax reductions for capital improvements and new race tracks provided for in section 3769.08 of the Revised Code and approved by the racing commission.

(D) 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 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 racing 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 racing 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.

(E) If the major capital improvement project is approved by the racing commission and construction has started, the tax reduction 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 racing commission may authorize the continuance of the tax reduction upon the presentation of the additional paid bills in increments of five hundred thousand dollars. The racing commission may terminate the tax reduction 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 the delay. If a permit holder fails to complete the major capital improvement project, the racing 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 racing 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.

(F) 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 that 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 racing surface 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.

(G) The cost and expenses to which the tax reduction granted under this section 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 racing commission or by an independent certified public accountant selected by the permit holder and approved by the commission.

(H) This section and section 3769.201 of the Revised Code govern any tax reduction granted to a permit holder of any cleanup, repair, or improvement required as a result of damage caused by the 1997 Ohio river flood to the place, track, or enclosure for which the permit is issued. *(2001 H 94, eff. 6-6-01; 1999 H 283, eff. 7-1-99; 1996 H 561; 1994 H 361; 1992 S 359; 1988 S 206; 1987 H 171; 1985 H 201; 1984 H 639)*

3769.201 Tax reduction for cost of cleanup, repair or improvement related to 1997 Ohio river flood

The holder of a permit issued under section 3769.06 of the Revised Code may apply to the state racing commission for the tax reduction available under section 3769.20 of the Revised Code for the cost to the permit holder of any cleanup, repair, or improvement required as a result of damage caused by the 1997 Ohio river flood to the place, track, or enclosure for which the permit is issued. As part of the application, the permit holder shall submit evidence of payment of the cost of the cleanup, repair, or improvement. The commission shall approve the tax reduction in the amount of the cost to the permit holder, net of any insurance proceeds, of any cleanup, repair, or improvement the commission determines was required as a result of damage caused by the flood. The permit holder need not have followed unrestricted competitive bidding procedures as required under Section 3769.20 of the Revised Code to qualify for the reduction under this section.

The permit holder shall claim the tax reduction under this section in the same manner as if it were a tax reduction for a major capital improvement project under section 3769.20 of the Revised Code. The percentage of the reduction that may be taken each racing day shall equal the percentage allowed for a reduction under section 3769.20 of the Revised Code. A reduction under this section shall be in addition to, and shall be taken after completion of, a reduction approved

under section 3769.20 or division (J) of section 3769.08 of the Revised Code. A permit holder shall not take a reduction under this section for a repair or improvement for which a reduction is taken under section 3769.20 or division (J) of section 3769.08 of the Revised Code. (1999 H 283, eff. 9-29-99)

3769.21 Corporations to establish horsemen's health and retirement funds

(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 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. (1996 H 561, eff. 9-19-96; 1988 S 206; 1986 H 417; 1984 H 639)

3769.22 National racing compact

(A) The general assembly finds and declares all of the following:

(1) A national racing compact, comprised of states that are party to the compact, exists to provide for the licensure and regulation of individuals involved in the horse racing industry.

(2) The intent of the compact is to prevent individual owners, trainers, jockeys, drivers, backstretch employees, totalizator employees, farriers, concessionaires, veterinarians, and other persons involved in live horse racing upon which pari-mutuel wagering is conducted from having to be licensed in each state in which they may conduct business.

(3) The compact authorizes the individuals described in division (A)(2) of this section to be licensed in occupational categories established by the compact committee that oversees the compact and, thus, to be able to practice their occupation in all states that are parties to the compact.

(4) The purposes of the compact are to do all of the following:

(a) Establish uniform requirements among the states that are parties to the compact for the licensure of the individuals described in division (A)(2) of this section and to ensure that all of those individuals licensed pursuant to the compact meet a uniform minimum standard of honesty and integrity;

(b) Facilitate the growth of the horse racing industry in each state that is a party to the compact and throughout the country by simplifying the licensing process for the individuals described in division (A)(4)(a) of this section and by reducing the duplicative and costly process of separate licensing by the applicable agency in each state that is a party to the compact;

(c) Provide for participation in the compact by officials of the states that are parties to the compact, and permit those officials, through the compact committee established by the compact, to enter into contracts with governmental agencies and nongovernmental persons and entities to carry out the purposes of the compact;

(d) Establish the compact committee as an interstate governmental entity authorized to request and receive criminal record history information from the federal bureau of investigation, other federal law enforcement agencies, the royal Canadian mounted police, law enforcement agencies of other nations, and state and local law enforcement agencies.

(5) Both of the following apply under the compact:

(a) No state that is party to the compact, including that state's racing commission or equivalent agency, is liable for the debts or other financial obligations incurred by the compact committee.

(b) No official of a state that is a party to the compact or employee of the compact committee is personally liable for any act the official or employee performs or omits to perform in good faith while carrying out the official's or employee's responsibilities and duties under the compact.

(B)(1) The state racing commission is hereby authorized to enter into and participate in the compact described in division (A) of this section for the purposes described in that division.

(2) The participation of this state and the commission in the compact shall not have any of the following consequences:

(a) Result in the diminution of any applicable existing standards governing the issuance, denial, suspension, or revocation of a license issued under section 3769.03 of the Revised Code;

(b) Prevent the enforcement of any statute or rule affecting the holder of any such license;

(c) Relieve any individual or entity of its duty to obtain any such license or pay any license fee;

(d) Make the state or the commission liable for the debts or other financial obligations incurred by the compact committee;

(e) Make any officer or employee of this state personally liable for any act the official or employee performs or omits to perform in good faith while carrying out the official's or employee's responsibilities and duties under the compact.

(3) The commission shall designate an individual to represent this state and the commission on the compact committee in the administration of the compact. (2006 H 546, eff. 4-4-07)