

# Ohio Revised Code Horse Racing Law

## Chapter 3769.08

### 3769.08 Pari-mutuel system of wagering

(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 the permit holder.

The 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 on live racing programs and simulcast racing programs, 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 a commission an amount not to exceed eighteen per cent of the total of all moneys wagered on live racing programs and simulcast racing programs.

The pari-mutuel wagering authorized by this section is subject to sections 3769.25 to 3769.28 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 in the manner prescribed under section 3769.103 of the Revised Code, 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, 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 of that amount;
- (2) Two per cent of the next one hundred thousand dollars wagered, or any part of that amount;
- (3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;
- (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 nursing home franchise permit fee fund pursuant to this section and section 3769.26 of the Revised Code 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 nursing home franchise permit fee fund under this chapter shall be paid to the general revenue fund of the state. As used in this chapter, "PASSPORT program" has the same meaning as in section 173.51 of the Revised Code.

The total amount paid to the Ohio thoroughbred race fund under this section and division (A) of 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 division (A) of 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 division (A) of 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 division (A) of section 3769.087 of the Revised Code.

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 in the manner prescribed under section 3769.103 of the Revised Code, 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 in the manner prescribed under section 3769.103 of the Revised Code, 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 of that amount;
- (2) Two per cent of the next one hundred thousand dollars wagered, or any part of that amount;
- (3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;
- (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 thoroughbred race fund to support quarter horse development and purses.

(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 division (A) of 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 this division does not apply to county agricultural societies or independent agricultural societies.

The total amount paid to the Ohio standardbred development fund under this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code and the total amount paid to the Ohio thoroughbred race fund to support quarter horse development and purses under this division and division (A) of that section 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 division (A) of 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 mutual 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 that corporation to establish and fund the health and retirement fund. Until that corporation is formed, that 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 mutual 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 that corporation to establish and fund the health and retirement fund. Until that corporation is formed, that 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)(1) 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 those 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 taxes levied under divisions (B) and (C) of this section and section 3769.087 of the Revised Code, 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 of the Revised Code, 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 new race track or 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.

A reduction for a new race track or a capital improvement 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 approved by the racing commission, unless otherwise provided in this section. A reduction for a new race track or a capital improvement shall continue for a period of twenty-five years for new race tracks and for fifteen years for capital improvements if the construction of the capital improvement or new race track commenced prior to March 29, 1988, and for a period of ten years for new race tracks or capital improvements if the construction of the capital improvement or new race track commenced on or after March 29, 1988, but before June 6, 2001, or until the total tax reduction reaches seventy per cent of the approved cost of the new race track or capital improvement, as allocated to each permit holder, whichever occurs first. A reduction for a new race track or a capital improvement approved after June 6, 2001, shall continue until the total tax reduction reaches one hundred per cent of the approved cost of the new race track or capital improvement, as allocated to each permit holder.

A reduction granted for a new race track or a capital improvement, the application for which was approved by the racing commission after March 29, 1988, but before June 6, 2001, 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 capital improvements to a race track may be consolidated in an application if the racing 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 reduction of tax begins and when it ends.

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 division 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.

(2) 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 race track or capital improvement, including a schedule for its construction and completion, and set forth the costs and expenses incurred in connection with it. The racing 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 racing commission shall consider whether the new race 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.

(3) If a new race track or capital improvement 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 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 new race track or capital improvement, the racing commission may authorize the continuation of the tax reduction upon the presentation of the additional paid bills. The total amount of the tax reduction authorized shall not exceed the percentage of the approved cost of the new race track or capital improvement specified in division (J)(1) of this section. The racing commission may terminate any tax reduction immediately if a permit holder fails to complete the new race track or capital improvement, or to substantially comply with the schedule for construction and completion of the new race track or capital improvement. If a permit holder fails to complete a new race track or capital improvement, the racing commission shall order the permit holder to repay to the state the total amount of tax reduced. The normal tax paid by the permit holder shall be increased by three-fourths of one per cent of the total amount wagered until the total amount of the additional tax collected equals the total amount of tax reduced.

(4) As used in this section:

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

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

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

(5) The racing 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 racing 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.

(6) The approved cost 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 racing commission, or by an independent certified public accountant selected by the permit holder and approved by the commission.

(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 nursing home franchise permit fee 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 tax commissioner 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 the 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 the 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, division (A) of section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code shall be paid into the nursing home franchise permit fee fund. The

tax commissioner shall pay any money remaining, after the payment into the nursing home franchise permit fee 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, and state racing commission operating fund as prescribed in this section and division (A) of section 3769.087 of the Revised Code. 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. Subject to section 3769.101 of the Revised Code, the moneys received by the tax commissioner shall be deposited monthly 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 division (A) of section 3769.087 of the Revised Code, as applicable. If, after the payment into the nursing home franchise permit fee fund, sufficient funds are not available from the tax deposited by the tax commissioner to pay the required amounts into the Ohio fairs fund, Ohio standardbred development fund, Ohio thoroughbred race 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 nursing home franchise permit fee fund. 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. (2015 H 64, eff. 9-29-15; 2013 H 59; 2012 H 386; 2011 H 153; 2001 H94; 1997 H 117; 1995 H 561; 1994 H 361, 1991 H 298; 1988 S 206; 1986 H 589; 1985 H 201; 1984 H 639; 1982 S 530; 1981 H 330; 1977 S 317; 1976 H 1223; 1975 H 287; 1971 S 175; 1970 S 345)