

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672  
5427 SLAB HB 32 - HB 36

99

# Horse Racing At The Fair



**TRIPLE TUFF** leads the field in one of last year's races at the new Alaska State Fair race track south of Palmer.

Riding is Bobby McCarthy Jr. Triple Tuff is now owned by Len and Marshiz Melton.

## Photo Finish At State Fair

Nearly 1,000 people gathered at the Alaska State Fair race track in Palmer over the weekend to watch 22 horses charge across the finish line with one race so close only the photo finish camera could tell the winner. Great interest has generated among the crowd in racing.

Friday night the 220 winner was Pow Wow Gidget owned by Ellis Enterprises and ridden by Dana Richmond; second Thanks Doc, owner Jinx Coster, jockey Sissy Melton; third was Dungere ridden by Steve Clark and owned by Dennis Clark. In the 350, Doc won over Pow Wow Gidget.

The 440 saw Babe's Twig owned and ridden by Cecil Premus take the race with Triple Tuff owned by Len Melton, ridden by Hoot Melton, hot on his heels and Moon's Hotshot, Ellis Enterprises and jockey Dana Richmond taking third. Just a Bird and Mac's Little Kid also ran.

General Bars ridden by Bob McCarthy, owner Dennis Clark, won over Nile Queen ridden by Kris Ruetman, owned by Emmett Roetman. Both are thoroughbreds.

An exciting cow pony race

with eight entries had only a third place winner, Danny owned and ridden by Kelly Wilson. The first and second place animals were disqualified for fouls.

Outstanding weather contributed to standing room only for Saturday afternoon racing. Pow Wow Gidget took Thanks Doc and Ragged Ann owned by Esther Erickson and ridden by Terry Erickson in the 220.

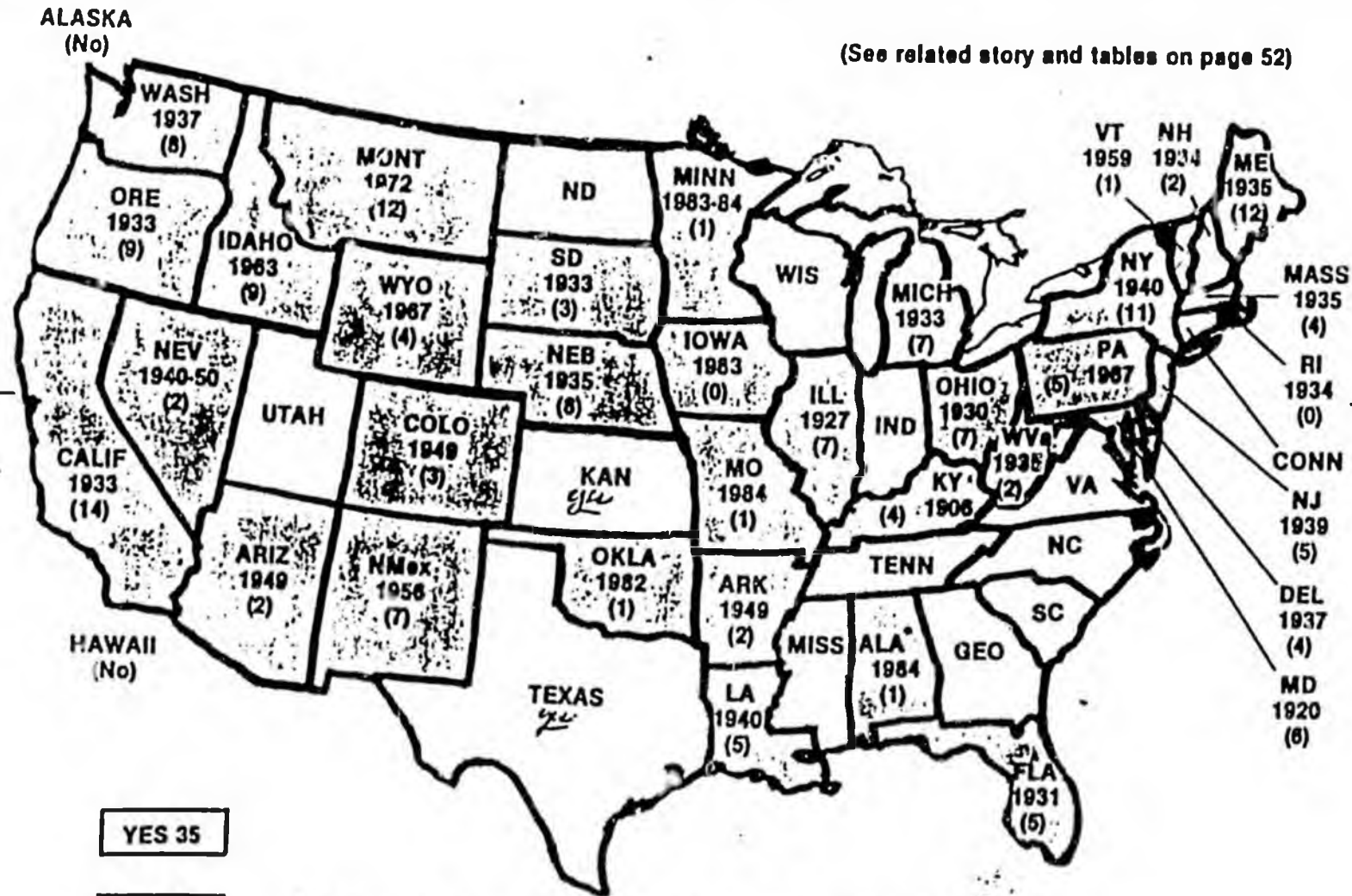
The next racing date will be Saturday and Sunday at 2 p.m. on July 6 and 7. Race horse owners may practice at the Alaska State Fair, Inc. race track one mile from Palmer on Tuesday and Thursday evenings, 7:30-9:30 p.m. and Sunday afternoon from 2-4 p.m. (except on racing days). Ed Premus will be the gate keeper while Vernon Francis is on vacation.

# Performance horse

## *racing*

## Parimutuel wagering: A look at where it's at

(See related story and tables on page 52)



YES 35  
NO 15

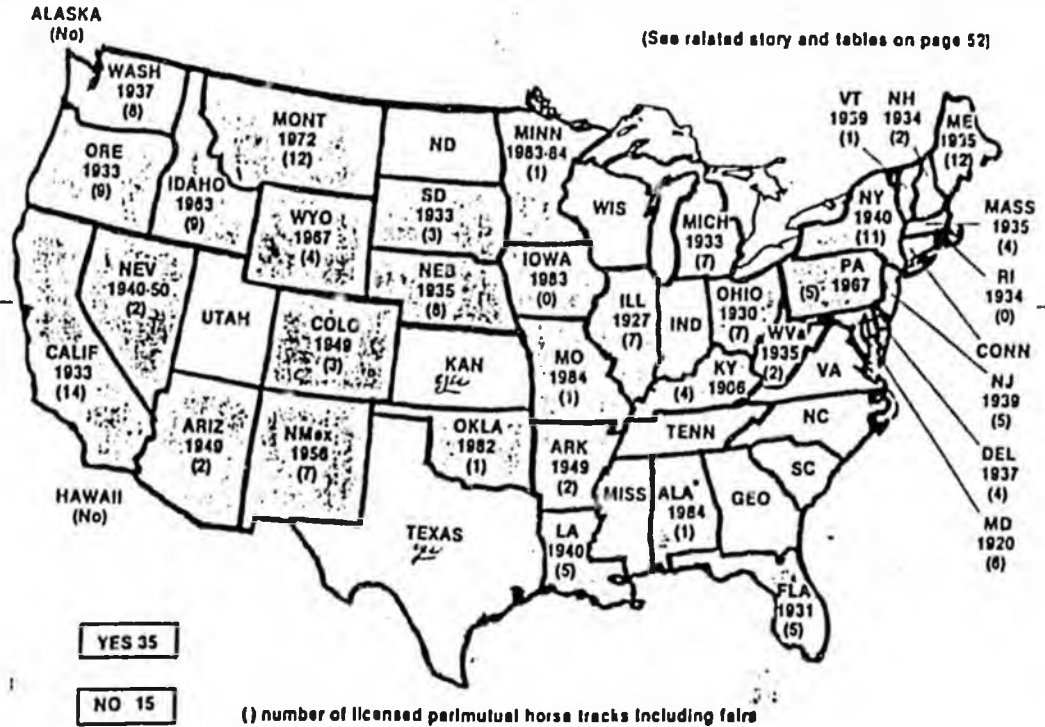
( ) number of licensed parimutuel horse tracks including fairs

# Performance horse

*racing*

## Parimutuel wagering: A look at where it's at

(See related story and tables on page 52)



52/September

## States share in pot

Not only is playing the horses a popular activity among race fans, but it's a profitable one for the states that permit it as well (as illustrated by the table at right).

In 1985, parimutuel wagering generated more than \$625 million in revenue to the state governments, each of which earns a percentage of the total letting handle from each licensed track within that state.

The amount taken in by each state varies. Michigan, for example, receives 6 percent of

the handle and Arkansas receives 5.91 percent, while most states use a sliding scale to determine their respective shares.

In certain states, parimutuel revenue is earmarked for specific purposes, such as in Idaho where as much as 2 1/2 percent goes to the public schools.

The information in this story and the accompanying tables were provided by the National Association of State Racing Commissioners.

### RACES/HANDLES 1985

State No. Races Handle

Arizona	2,092	81,110,896	Nebraska	2,663	214,564,835
Arkansas	608	165,123,545	New Hamp	2,508	87,272,874
California	9,689	222,839,913	New Jers	7,020	1,012,900,808
Colorado	307	1,124,087	New Mex	4,683	144,208,842
Delaware	4,163	107,635,502	New York	18,425	1,595,187,321
Florida	5,126	487,225,823	Ohio	9,858	408,242,568
Idaho	1,135	9,114,842	Oklahoma	1,951	41,892,894
Illinois	11,535	923,234,882	Oregon	2,343	43,080,751
Iowa	265	2,052,408	Penn	10,803	422,420,968
Kentucky	8,735	321,789,843	So Dakota	263	1,166,001
Louisiana	7,811	563,243,912	Vermont	89	726,799
Maine	3,689	35,949,724	Wash	3,656	203,222,843
Maryland	6,584	468,744,808	West Va	4,834	144,391,799
Mass	5,247	271,007,180	Wyoming	777	7,351,855
Michigan	7,291	375,971,988	New York	OTB	1,212,234,768
Minnesota	782	84,210,821	Conn	OTB	180,858,025
Montana	1,330	11,608,856	Totals	182,137	12,222,343,267

## TOTAL REVENUE TO GOVERNMENT

State	Total	Thoroughbred	Harness	Qtr. Horse	Mixed
Arizona	2,794,683				2,794,683
Arkansas	12,041,181	12,041,181			
California	148,502,206	128,309,325	4,191,415	6,725,152	9,276,314
Colorado	192,398			192,398	
Connecticut OTB	12,607,215				12,607,215
Delaware	852,987	13,855	439,132		
Florida	13,131,170	11,909,216	1,200,306	21,648	
Idaho	355,545				355,545
Illinois	60,924,323	35,646,237	25,278,086		
Iowa	73,238			73,238	
Kentucky	12,464,545	10,706,569	1,757,976		
Louisiana	24,326,856	23,643,529		683,327	
Maine	589,583		589,583		
Maryland	10,970,396	9,334,059	1,636,337		
Massachusetts	13,691,695	11,589,409	2,102,286		
Michigan	24,402,929	7,828,492	16,496,776	77,661	
Minnesota	4,567,997	4,567,997			
Montana	233,579				233,579
Nebraska	11,682,057	11,657,787		24,270	
New Hampshire	2,220,295	2,023,488	196,807		
New Jersey	8,693,998	4,108,863	4,585,135		
New Mexico	2,406,455				2,406,455
New York	82,749,528	59,276,216	23,473,312		
New York OTB	128,154,561	98,679,012	29,475,549		
Ohio	16,598,473	9,285,244	7,313,229		
Oklahoma	3,006,377				3,006,377
Oregon	1,378,076				1,378,076
Pennsylvania	12,148,384	7,602,759	4,545,625		
South Dakota	41,358				41,358
Vermont	28,119			28,119	
Washington	9,390,674		3,116		9,387,558
West Virginia	3,805,609	3,805,609			
Wyoming	133,207				133,207
Totals	625,159,697	452,428,847	123,386,027	7,724,456	41,620,367



PUT YOUR  
MONEY ON A

# Parimutuel

Continued from page 311

## Missouri

Legalized in 1984, revised in 1986; one licensed track, the Missouri State Fair in Sedalia, which sponsored harness races last month; 16 developers have expressed interest in building tracks in the state, depending upon which counties approve the measure locally in next month's elections.

## Montana

Legalized in 1972; 12 licensed tracks; never held an Arabian race.

## Nebraska

Legalized in 1935; eight licensed tracks (five Thoroughbred and three Quarter Horse); never held an Arabian parimutuel race.

## Nevada

Legalized in the late 1940s or early 1950s; two licensed tracks; ran Arabians at Elgin in 1975.

## New Hampshire

Legalized in 1939; two licensed tracks (one Thoroughbred and one harness track); never held Arabian races.

## New Jersey

Legalized in 1939; five licensed tracks; never raced Arabians, although permitted to by definition of law.

## New Mexico

Legalized in 1956; seven licensed tracks; raced Arabians at Albuquerque in 1975 and 1979, Santa Fe in 1973-77, and Sunland Park in 1971.

## New York

Legalized in 1940; 11 licensed tracks (four Thoroughbred and seven harness track); never held an Arabian race.

## Ohio

Legalized in approximately 1930; seven licensed tracks; ran Arabians at River Downs in 1982 and Thistle-down in 1982-83.

## Oklahoma

Legalized in 1982; one track (Quarter Horse). Arabians will run at Blue Ribbon Downs in Sulistaw beginning later this month. Remington Park, a track currently under construction in Oklahoma City, is licensed to run parimutuelly beginning in September of 1988.

## Oregon

Legalized in 1933; nine licensed tracks; Arabian meet conducted at Grants Pass Downs this year and last.

## Pennsylvania

Legalized in 1967; five licensed tracks (three Thoroughbred and three harness track); raced Arabians at Community Downs in 1980.

## Rhode Island

Legalized in 1933; one licensed track.

## South Dakota

Legalized in 1933; three licensed tracks; no Arabian races held in the state.

## Vermont

Legalized in 1959; one licensed track; never carded an Arabian race.

## Washington

Legalized in 1937; eight licensed tracks, including five fair tracks; raced Arabians on the fair circuit in 1982 and 1984-86, and at Yakima Meadows in 1986.

## West Virginia

Legalized in 1935; licensed tracks two, both Thoroughbred; never held an Arabian race.

## Wyoming

Legalized in 1967; four licensed tracks (Thoroughbred and Quarter Horse); no Arabian races due to lack of horses on grounds.

## Alabama

Legalized in three counties (Mobile, Macon and Greene) and the city of Birmingham in 1984; Birmingham has only horse (Thoroughbred) track; never conducted an Arabian race.

## The have nots ...

### Alaska

"We don't have too many horses in Alaska," said a spokesman for the House of Representatives, who indicated that parimutuel had not been brought up in the past two years.

### Connecticut

Parimutuel wagering was legalized in the state in 1971, but proposals to construct horse tracks were rejected every year from 1975 to 1976. An ensuing moratorium prohibiting any new licenses expires in June of 1987, but if past history is any indication, it will be re-extended by the state's lawmakers. Although no live horse racing occurs in the state, wagering is permitted at one greyhound track and three jai-alai frontons and off-track betting, via closed circuit television, is allowed on races at Aqueduct, Belmont, and other tracks on the East Coast. In addition, there are nearly 20 branch betting parlors in the state.

### Georgia

The issue was last discussed during the 1986 legislative session, but it never made it out of committee.

### Hawaii

Legislation concerning parimutuel has been introduced periodically for a number of years, most recently in 1986, but has never made it past a first hearing.

### Indiana

Originally outlawed by the constitution, the process by which the provision is under

way. If the measure survives, the state would have parimutuel wagering in 1991 at the earliest.

### Kansas

The issue will be decided by voters in a statewide election in November of this year.

### Mississippi

The question has been a part of bills from the house and senate, but no action has been taken because the measure died in committee.

### North Carolina

The governor of the state is adamantly opposed to the issue.

### North Dakota

Although there is no opposition to the issue, state lawmakers look upon the subject as economically unfeasible.

### South Carolina

Survived first reading in 1986, died in Ways and Means Committee.

### Tennessee

Passing one house in 1986, no further action was taken and the issue is considered "dead" for the time being.

### Texas

Headed for the November ballot after recently being approved by the Senate 7-1 and the House committee 9-1.

### Utah

In 1971, the issue came up as a study item, but it was dimitted from consideration. In 1986, a statewide lottery proposal failed 58-12 in the House.

### Virginia

The issue has surfaced during legislation, but has never threatened to pass.

### Wisconsin

In 1986, a bill containing parimutuel wagering passed both houses. If it passes again, the issue would go before the public in the form of a referendum.

## Keep track of Arabian racing in the Express



The Express is first with features on the people and the horses that are bringing Arabian racing to the forefront.

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# Parimutuel wagering

FIFTEEN QUESTIONS ABOUT HB 32 AND PARI-MUTUEL WAGERING  
by Representative Larson

1. What is Pari-mutuel wagering?

Pari-mutuel wagering is a system of betting, which dates back to the mid 1800's. This type of wagering differs from typical gambling by virtue of the fact that the odds are not arbitrary. Pari-mutuel wagering occurs when all collective bettors pool their money together. The odds are then calculated systematically. The total amount wagered versus the individual bets, determines the total amount, which is divided among the winners.

2. What local support has there been for Pari-mutuel Wagering?

Both the cities of Palmer and Wasilla had an advisory proposition placed on the ballot of the October 7, 1986 general election concerning pari-mutuel wagering on certain horse races. (attachments)

The results in Palmer were 58.2% in favor of the concept of local option pari-mutuel horse racing. (In addition the Palmer Municipal code--chapter 3.32--addresses pari-mutuel wagering by virtue of city ordinance #321, dated August 13, 1985.)

The results in Wasilla showed 62% of the voters approved the concept. (In addition the City of Wasilla has Resolution on the books (W85-J-6) which supports the local option for pari-mutuel gambling.)

The Matanuska-Susitna Borough passed a resolution of support for state controlled, local option, pari-mutuel betting on 3/3/87.

3. What type of benefits will Pari-mutuel racing provide?

The most obvious benefit, initially, would be the generation of the racing business itself by the private sector. Infrastructure, such as breeding, training, and racing facilities will be an incentive for the construction industry. Additionally, racing will create a destination and accompanying services for the tourism trade. This business is a natural spin-off of our historical and agricultural heritage.

Clearly an obvious benefit would be the added state revenue, after the racing commences. The income will come painlessly to the state without burdening the taxpayer. The amount of revenue depends on the frequency of the events authorized by the commission.

4. Is pari-mutuel racing legal elsewhere?  
Currently 36 states allow the pari-mutuel betting system for either horses, dogs or both.
5. What is the development scenario for Pari-mutuel racing?  
After the local endorsement of the voters, preparation time could be six months to several years, depending on the level of development. A racing season might be for approximately 10 weeks, with both the Alaska and Tanana Fairs as the more competitive exhibitions. As participation increases, so would the growth.

Pari-mutuel professionals tell us that an average scenario would include typically eight races a day, with eight entries per field. Estimates indicate that 270 animals would be required for a successful start-up.

The most important thing about this type of racing is the controlled conditions which will guarantee the integrity of the race. Sophisticated racing equipment would be rented from outside; this is very normal procedure elsewhere, where racing is on a similarly small scale.

6. What is the fiscal note for HB 32?  
Our expectation for the fiscal note is relatively small, based on the assumption that this is a 10 week season. The Commission will be providing the initial professional expertise. One and sometimes two staff persons will assist (part-time) in the preparation of regulations, public hearings, and paperwork. Based on the development of races and facilities, the employment requirements would follow the same growth curve.
7. Will team dog racing compete with existing dog races in Alaska?  
No. In fact, the Alaskan Musers feel it would be good for their sport as well. Dog team races would probably occur in the summer when similar training occurs anyway. A team of dogs would use the same racing facility, only under slightly different track conditions. Naturally horses and dogs would not race at the same time.
8. What is the role of the Racing Commission?  
The Commission will regulate racing and pari-mutuel racing. Their wide range of regulatory responsibilities are outlined clearly in the bill, including their specific enforcement powers regarding prohibited acts and penalties.

The Commission shall adopt regulations; appoint officials; supervise and distribute the pool; ascertain standards for veterinaries, equipment, audits, and other related matters; license races; inspect racetracks and animals; establish dates, durations, locations, fees; account for all records, collections and disbursements; hire staff; compel witnesses; and appoint hearing officers.

9. Has there been Pari-mutuel Legislation introduced in Alaska before?  
Pari-mutuel legislation was introduced in the 10th, 11th, and 12th Legislative sessions. It passed the house in the 10th session, but died in the Senate. In both the 11th and 12th Legislative sessions the proposed legislation was never considered by the first committee of referral.
10. How is CSHB32 different from the earlier Pari-mutuel legislation?  
Prior legislation did not require a majority municipal referendum nor did it require a municipal permit.
11. How is para-mutuel wagering different from other games of chance and contests of skill?  
Oversight and regulation is much greater. The complexities of the wagering system and accompanying safeguards were built into it purposefully.  
  
CSHB 32 legislates pari-mutuel guidelines which will disallow abuse. (A "totalisator" is used which is an especially designed electrical device which calculated the bets and determines the winnings--according to the odds.) The regulatory nature of the Commission coupled with the required, sophisticated equipment enhance the pari-mutuel system to offset tampering and to ensure security for the establishment and the bettor.
12. What is a "typical participant" in pari-mutuel wagering?  
Studies have shown that participants are generally white collar workers with one or more years of higher education and an income of \$35,000 or more. Achievers (loosely defined as managers, administrators, business or government leaders, educators or politicians) are common participants in pari-mutuel racing.

13. How would this system affect the non-participants?

It wouldn't, except by choice. First, it would have to be a local decision to allow pari-mutuel wagering within the municipality. Sec. 05.40.120 requires a municipality to have a majority referendum authorizing pari-mutuel racing. Sec. 05.40.120 requires a public hearing before issuance or renewal of a license.

Secondly, and more importantly, it would be an individual choice to partake in wagering. The vulnerability of an individual can not be regulated. Article 3 prohibits a person under the age of 18 to use the pari-mutuel system.

14. How have other states benefited from pari-mutuel wagering?

Other states have benefited by revenues to the general fund, tourism potential, animal sales, construction and real estate purchases (some states constitutionally allow dedicated funds and many specific groups have benefited--such as capital improvement projects, school systems, or rehabilitation).

Texas, another state financially hurt from declining oil revenues, has just recently approved a pari-mutuel racing bill which will allow a statewide referendum regarding the issue. A co-sponsor estimates that if pari-mutuel wagering is approved, the state's general fund will benefit to the tune of \$110 million by 1991.

15. Who would be the monetary beneficiaries?

The licensee (usually a privately owned track) makes money by taking 15% of the pool. This figure is set high at the beginning, so as to allow for a quicker return on the private investment.

The state, which establishes the Commission, also takes a percentage equalling 10% of the pool. In addition the state is the recipient of all licensing revenue and can collect up to \$1.00 of the admission tickets.

The entrants would receive 10% of the pool respectively in the form of purse money.

The participants who have the "winning tickets" share the remaining 65% of the pool.

The municipality would be able to tax the property and collect a portion of the admission and concession fees, resulting in local revenue.

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

INTER-AGENCY ROUTING SLIP

POUCH V, STATE CAPITOL  
JUNEAU, ALASKA 99811  
465-3800

TO John Ringstad Cap 101

REMARKS: I agree with you that 26 USC 4402(1)  
exempts parimutuel wagering enterprises from  
taxes on wagering that are imposed under  
26 USC 4401 - 4424.

FROM George Uttermohe DATE 4/25/88

Cap. 101



Alaska House of Representatives  
RESEARCH AGENCY

TO: John Ringstad  
    Sen. Kelly  
FROM: Karla Hart

DATE: 4/22/98

Barbara Hunt of Rep. Larson's office  
asked that I provide you a copy  
of the attached relating to HB 32.

In particular, refer to 26 § 4402  
U.S.C. re exemptions.

cc: Barbara Hunt

Chapter I (section 901 et seq.) of Title 2, The Congress.

Legislative History. For legislative history and purpose of Pub.L. 100-223, see 1987 U.S. Code Cong. and Adm. News, p. 2533.

**R E—SPECIAL PROVISIONS APPLICABLE TO SERVICES AND FACILITIES TAXES**

Where persons receiving payment must collect tax

4846 et seq. Internal Revenue Code §§ 1149 to 1151.

Provisions for United States and possessions

Library References Internal Revenue Code §§ 1055, 4345 et seq. C.J.S. Internal Revenue § 1017, 1018

**34—POLICIES ISSUED BY FOREIGN INSURERS**

Imposition of tax. Tax imposed, on each policy of insurance, indemnity bond, annuity or other contract of reinsurance issued by any foreign insurer or reinsurer, a tax at the rate of:

(1) On policies of casualty insurance, fire insurance, and indemnity bonds.—4 cents on each dollar, or fraction thereof, of the premium paid on the policy of casualty insurance or indemnity bond, if issued to or for, or in the name of, an insured as defined in section 4372(d);

(2) On policies of marine insurance, sickness and accident policies, and annuity contracts.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of marine insurance, sickness, or accident insurance, or annuity contract, unless the policy is subject to tax under section 842(b); and

(3) On policies of reinsurance.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (1) or (2).

736, 68A Stat. 521; Mar. 13, 1956, c. 83, § 509; 70 Stat. 49; Sept. 2, 1958, c. 411, § 141(a), 72 Stat. 1300; June 25, 1959, Pub.L. 86-69, § 3(f)(3), 73 Stat. 140; L. 89-44, Title VIII, § 804(b), 79 Stat. 160; Oct. 4, 1976, Pub.L. 94-455, Title 90 Stat. 1812; July 18, 1984, Pub.L. 98-369, Title II, § 211(b)(23), 98 Stat. 757; L. 100-203, Title X, § 10242(c)(3), 101 Stat. 1330-423.)

Par. (2) Pub.L. 98-369 in federal tax controversies. Arthur W. Andrews, 28 Ariz.L.Rev. 594 (1986).

1987 Amendment. Amend-242(c)(3) of Pub.L. 100-203 applicable to taxable years beginning after 1987, see section 100-203, set out as a note under this title.

1984 Amendment. Amend-369 to apply to taxable years beginning after 1983, see section 215 of Pub.L. 98-369, set out as a note under section 801.

For legislative history and purpose of Pub.L. 100-223, see 1987 U.S. Code Cong. and Adm. News, p. 2533.

For legislative history and purpose of Pub.L. 100-223, see 1987 U.S. Code Cong. and Adm. News, p. 2533.

Library References Internal Revenue Code §§ 1055, 4345 et seq. C.J.S. Internal Revenue § 1017, 1018

Notes of Decisions Penalties for failure to pay tax 2 Reinsurance contracts 1

1. Reinsurance contracts Where, during years in question, reinsurer maintained no office in United States, was not authorized to do business in United States, and was not engaged in trade or business in United States, premiums ceded to it by surplus lines insurer were not subject to United States income tax; thus, premiums paid to reinsurer were taxable as excise tax under this section governing

Imposition of tax on reinsurance. U.S. v. Northumberland Ins. Co., Ltd., D.C.N.J.1981, 521 F.Supp. 70.

**2. Penalties for failure to pay tax**

Where insurer's failure to pay excise tax on reinsurance premium was based on insured's belief that excise tax did not apply to transaction be-

**§ 4372. Definitions**

Library References Internal Revenue Code §§ 4245. C.J.S. Internal Revenue § 1021

**Notes of Decisions**

Insured 2 Reinsurance policy 1

**1. Reinsurance policy**

Where policy of reinsurance is signed or countersigned by officer or agent of foreign insurer in state in which that reinsurer is authorized to do business, policy of reinsurance is exempt from excise tax. U.S. v. Northumberland Ins. Co., Ltd., D.C.N.J.1981, 521 F.Supp. 70.

**§ 4373. Exemptions**

Library References Internal Revenue Code §§ 4245. C.J.S. Internal Revenue § 1021.

**§ 4374. Liability for tax**

Library References Internal Revenue Code § 4814. C.J.S. Internal Revenue § 1132.

**CHAPTER 35—TAXES ON WAGERING**

**SUBCHAPTER A—TAX ON WAGERS**

**§ 4401. Imposition of tax**

**(a) Wagers.—**

(1) State authorized wagers.—There shall be imposed on any wager authorized under the law of the State in which accepted an excise tax equal to 0.25 percent of the amount of such wager.

(2) Unauthorized wagers.—There shall be imposed on any wager not described in paragraph (1) an excise tax equal to 2 percent of the amount of such wager.

[See main volume for text of (b) and (c)]

(As amended Oct. 25, 1982, Pub.L. 97-362, Title I, § 109(a), 96 Stat. 1731.)

1982 Amendment. Subsec. (a) Pub.L. 97-362, § 109(a), substituted provision that there shall be imposed on any wager authorized under the law of the State in which accepted an excise tax equal to 0.25 percent of the amount of such wager and that there shall be imposed on any other wager an excise tax equal to 2 percent of the amount of such wager, for provision that there be

between two alien companies, and issue of applicability of this section governing imposition of tax on reinsurance to insurance transaction between two foreign companies was not completely free from ambiguity, penalties for failure to file and failure to pay tax under section 6651 of this title would not be enforced against insurer. U.S. v. Northumberland Ins. Co., Ltd., D.C.N.J.1981, 521 F.Supp. 70.

**2. Insured**

Under section 4371 of this title governing imposition of tax, there is no requirement that reinsured qualify as insured to be subject to excise tax, so long as underlying primary policies were issued to "insureds" under statutory definition of insured. U.S. v. Northumberland Ins. Co., Ltd., D.C.N.J.1981, 521 F.Supp. 70.

Where insurer operated as eligible surplus lines insurer in at least 40 states, occupied office space, hired agents and employees, maintained assets in bank account in United States, and filed federal income tax returns as foreign corporation engaged in trade or business in United States, insurer qualified as insured under section 4371 of this title governing policy issued by foreign insured. Id.

imposed on wagers, as defined in section 4421, an excise tax equal to 2 per cent of the amount thereof.

Effective Date of 1982 Amendment. Section 109(c)(1) of Pub.L. 97-362 provided that "The amendment by subsection (a) [amending subsection (a) of this section] shall take effect January 1, 1983."

Note 5

5. Records, admissibility of

Although government charged defendant with being a gambler and adduced daily records detailing volume of his betting business as required by this section, government would not be conclusive-

ly estopped from arguing that records were not kept under compulsion of its own statutory mandate so that they would not be admissible in prosecution for running a wagering business for purposes of U.S.C.A. Const. Amend. 5. *U.S. v. Brian*, D.C.R.I.1981, 507 F.Supp. 761.

§ 4404. Territorial extent

Library References

Internal Revenue §4320.  
C.J.S. Internal Revenue § 1020

SUBCHAPTER B—OCCUPATIONAL TAX

§ 4411. Imposition of tax

(a) In general.—There shall be imposed a special tax of \$500 per year to be paid by each person who is liable for the tax imposed under section 4401 or who is engaged in receiving wagers for or on behalf of any person so liable.

(b) Authorized persons.—Subsection (a) shall be applied by substituting "\$50" for "\$500" in the case of—

(1) any person whose liability for tax under section 4401 is determined only under paragraph (1) of section 4401(a), and

(2) any person who is engaged in receiving wagers only for or on behalf of persons described in paragraph (1).

(As amended Oct. 25, 1982, Pub.L. 97-262, Title I, § 109(b), 96 Stat. 1731.)

1982 Amendment. Pub.L. 97-362, § 109(b), designated existing provisions as subsec. (a) and added subsec. (b).

Effective Date of 1982 Amendment. Section 109(c)(2) of Pub.L. 97-362 provided that: "The amendment made by subsection (b) [amending this section] shall take effect on July 1, 1983."

Legislative History. For legislative history and purpose of Pub.L. 97-362, see 1982 U.S. Code Cong. and Adm. News, p. 3301.

Library References

Internal Revenue §4246.  
C.J.S. Internal Revenue §§ 1001, 1004

Notes of Decisions

7. — Engagement in business of accepting wagers

Payment of special excise tax is a condition precedent to the maintenance of a wagering business. *U.S. v. \$6,500 in U.S. Currency*, D.C.Ark. 1984, 586 F.Supp. 1260.

§ 4412. Registration

Library References

Internal Revenue §4246.  
C.J.S. Internal Revenue §§ 1001, 1004

Notes of Decisions

1. Constitutionality

This section requiring registration of gambling activities with Internal Revenue Service and payment of occupational tax in connection with gambling activities do not violate the privilege against

11. Forfeiture of property

Historically, forfeiture is used against an offending object used in an offending activity. *U.S. v. 1978 Cadillac El Dorado 2-Door Coupe, Red In Color with White Vinyl Top, Motor No. 6L4758Q134633, Utah License No. VHK388*, D.C. Utah, 1980, 489 F.Supp. 532.

13. Searches and seizures

*U.S. v. One 1975 Pontiac Lemans*, 470 F.Supp. 1243 [main volume] affirmed 621 F.2d 444.

14. Persons liable

Even single person shown to be engaged in business of accepting wagers on sports events is obligated to file Service tax forms. *U.S. v. Halsterner*, D.C.Wis.1984, 577 F.Supp. 1532.

15. Indictment and information

Counts of indictment charging defendant with failure to pay tax and with failure to register with Service stated two causes of action which were separately punishable, and thus counts of indictment were not multiplicitous. *U.S. v. Tocco*, D.C. Ill.1984, 581 F.Supp. 379.

self-incrimination under U.S.C.A. Const. Amend. 5. *U.S. v. Spica*, D.C.Mo.1980, 483 F.Supp. 1341.

4. Persons required to register

For conviction of willful failure to file a wagering tax return, it is sufficient that defendant be in the business of accepting wagers for himself or on behalf of another; the "writer" who receives bets for another is subject to this section as well as the "banker" who is engaged in the business of accepting wagers, either by himself or through

"writers." *U.S. v. Hirschhorn*, C.A.Tex.1981, 649 F.2d 360.

8. Forfeiture of property

Although harsh, forfeiture is useful as a governmental weapon to assure compliance with required standards of conduct. *U.S. v. 1978 Cadillac El Dorado 2-Door Coupe, Red In Color with White Vinyl Top, Motor No. 6L4758Q134633, Utah License No. VHK388*, D.C. Utah 1980, 489 F.Supp. 532.

Where a bookie runs a one-man business and has purchased his occupation tax stamp and has registered with Internal Revenue Service and uses his automobile in serving his clientele, the vehicle so used is not subject to forfeiture because the required monthly wagering tax report has not been filed and the tax owed has not been paid. *Id.*

A vehicle is subject to forfeiture when it is used to haul contraband, narcotics, goods in violation of the customs laws, as part of an "organized" crime business, or used by a bookie in his business when he has not registered and paid his special occupation tax. *Id.*

10. Searches and seizure

Anonymous informant's information was adequately corroborated by subsequent surveillance of law enforcement agents; moreover, independent

of the initial tip, specifically established pro-  
rectly named defen-  
as being used as  
wagers on behalf  
individual's unreg-  
*v. Hirschhorn*, C.

11. Indictment a

Counts of indict-  
failure to pay tax.  
Service stated two  
separately punish-  
ment were not ma-  
Ill.1984, 581 F.Su-

15. Immunity fr

Special occupat-  
engaged in busin-  
paid, and the reg-  
immunize the bo-  
local laws, includ-  
officials may an-  
would violate loc-  
registered and st-  
ment. *U.S. v. 1978 Cadillac El Dorado 2-Door Coupe, Red In Color with White Vinyl Top, Motor No. 6L4758Q134633, Utah License No. VHK388*, D.C. L.

SUBCHAPTER C—MISCELLANEOUS PROVISIONS

§ 4421. Definitions

Library References

Internal Revenue §4246, 4320.  
C.J.S. Internal Revenue §§ 1001, 1004, 1020.

Notes of Decisions

5. Wager

For purposes of this title, term "wager" includes any bet with respect to any sports event or contest placed with a person engaged in the business of accepting such bets. *U.S. v. \$6,500 in U.S. Currency*, D.C.Ark.1984, 586 F.Supp. 1260.

§ 4423. Inspection of books

Library References

Internal Revenue §4320, 4493.  
C.J.S. Internal Revenue §§ 1020, 1030, 1217

Notes of Decisions

Prerequisite to inspection 1  
Self-incrimination 2

2. Self-incrimination

Gambling records were not seized in violation of self-incrimination clause of U.S.C.A. Const.

Amend. 5, when  
violating this ch-  
which required  
section provided  
person liable for  
spected as frequ-  
enforcement of th-  
seized was no m-  
defendant to ma-  
1981, 649 F.2d  
84, certiorari de-  
1022, 72 L.Ed.2d

## Code of Federal Regulations

## Applicability, etc.,

Documentary stamp taxes, see 26 CFR 47.0-1 et seq.  
Excise taxes payable by return, see 26 CFR 40.0-1 et seq.

## Notes of Decisions

## 1. Affixing of stamps

Plaintiff insurance companies which purchased certain documentary stamps in connection with purchase of contracts of reinsurance from foreign reinsurers and which glued stamps to sheets of paper and marked stamps "cancelled" because of insufficient space on contracts of the insurance, which noted number and date

of tax used to purchase stamps on sheets, and which cross-indexed stamps in books and records to insurance contracts, "affixed" stamps within requirement of this section, notwithstanding that sheets were not attached to the contracts. *American Bankers Ins. Co. of Fla. v. U. S.*, D.C.Fla.1007, 265 F.Supp. 67, affirmed 388 F.2d 301.

## CHAPTER 35—TAXES ON WAGERING

## Subchapter

- A. Tax on wagers.
- B. Occupational tax.
- C. Miscellaneous provisions.

## SUBCHAPTER A—TAX ON WAGERS

## Sec.

- 4401. Imposition of tax.
- 4402. Exemptions.
- 4403. Record requirements.
- 4404. Territorial extent.
- 4405. Cross references.

## § 4401. Imposition of tax

(a) Wagers.—There shall be imposed on wagers, as defined in section 4421, an excise tax equal to 2 percent of the amount thereof.

(b) Amount of wager.—In determining the amount of any wager for the purposes of this subchapter, all charges incident to the placing of such wager shall be included; except that if the taxpayer establishes, in accordance with regulations prescribed by the Secretary, that an amount equal to the tax imposed by this subchapter has been collected as a separate charge from the person placing such wager, the amount so collected shall be excluded.

(c) Persons liable for tax.—Each person who is engaged in the business of accepting wagers shall be liable for and shall pay the tax under this subchapter on all wagers placed with him. Each person who conducts any wagering pool or lottery shall be liable for and shall pay the tax under this subchapter on all wagers placed in such pool or lottery. Any person required to register under section 4412 who receives wagers for or on behalf of another person without having registered under section 4412 the name and place of residence of such other person shall be liable for and shall pay the tax under this subchapter on all such wagers received by him.

Aug. 16, 1954, c. 736, 68A Stat. 525; Sept. 2, 1958, Pub.L. 85-859, Title I, § 151(a), 72 Stat. 1304; Oct. 29, 1974, Pub.L. 93-499, § 3(a), 88 Stat. 1550; Oct. 4, 1976, Pub.L. 94-455, Title XIX, § 1906(b)(13)(A), 90 Stat. 1834.

## Historical Note

1939 Internal Revenue Code. Similar provisions to this section were contained in section 3255(a), (c), (d) of the 1939 Internal Revenue Code.

1974 Amendment. Subsec. (a). Pub.L. 93-499 substituted "2 percent" for "10 percent".

1976 Amendment. Subsec. (b). Pub.L. 94-455 struck out "or his delegate" following "Secretary".

1958 Amendment. Subsec. (c). Pub.L. 85-859 made all persons required to register under section 4412 of this title who receive wagers for or on behalf of another

## Note 39

collect proposed assessment pending outcome of refund litigation, injunctive relief would not be granted, notwithstanding contentions that tax assessment was based on evidence obtained in an illegal search and seizure, that to make an effective tax protest taxpayer would have to bring forth records and make statements that would tend to incriminate him, and that assessment would deprive him of his property and business without due process of law. *McAllister v. Cohen*, D.C.W.Va.1970, 308 F.Supp. 517, affirmed 436 F.2d 422.

## 46. Record

Record contained substantial evidence that defendant was engaged in business of wagering and jury could well find that evidence excluded every reasonable hypothesis except that of guilt on issue of whether defendant was engaged in the business of accepting wagers and on issue as to whether he was a "banker", within meaning of this chapter and regu-

lations. *Evans v. U. S.*, C.A.Tex.1965, 349 F.2d 653.

## 41. Review

Reviewing court does not frown on trial court's defining such words or phrases as "banker", "proprietary interest" or "writer", and proper definitions of those words or phrases may be of assistance to jury. *Evans v. U. S.*, C.A.Tex.1965, 349 F.2d 653.

Where American Legion Post was assessed and paid a wagering tax on its operation of both a lottery and a baseball pool, and the tax assessed upon the receipts from the baseball pool was far in excess of that paid by the Post and sought to be recovered, question as to taxability of lottery proceeds was of no consequence and would not be determined on review. *Edgewood Am. Legion Post No. 448 v. U. S.*, C.A.Ind.1957, 246 F.2d 1, certiorari denied 78 S.Ct. 363, 353 U.S. 920, 2 L.Ed.2d 357.

## § 4402. Exemptions

No tax shall be imposed by this subchapter—

(1) **Parimutuels.**—On any wager placed with, or on any wager placed in a wagering pool conducted by, a parimutuel wagering enterprise licensed under State law,

(2) **Coin-operated devices.**—On any wager placed in a coin-operated device (as defined in section 4462 as in effect for years beginning before July 1, 1980, or on any amount paid, in lieu of inserting a coin, token, or similar object, to operate a device described in section 4462(a)(2) (as so in effect), or

(3) **State-conducted lotteries, etc.**—On any wager placed in a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such sweepstakes, wagering pool, or lottery, or with its authorized employees or agents.

Aug. 16, 1954, c. 736, 68A Stat. 525; Sept. 2, 1958, Pub.L. 85-859, Title I, § 152(b), 72 Stat. 1305; June 21, 1965, Pub.L. 89-44, Title IV, § 405(a), Title VIII, § 813(a), 79 Stat. 149, 170; Oct. 4, 1976, Pub.L. 94-455, Title XII, § 1208(a), 90 Stat. 1709; Nov. 6, 1978, Pub.L. 95-600, Title V, § 521(c)(1), 92 Stat. 2884.

## Historical Note

1939 Internal Revenue Code. Similar provisions to this section were contained in section 3285(e) of the 1939 Internal Revenue Code.

1978 Amendment. Par. (2). Pub.L. 95-600 substituted "(as defined in section 4462 as in effect for years beginning before July 1, 1980)" for "with respect to

which an occupational tax is imposed by section 4461" and "(as so in effect), or" for "if an occupational tax is imposed with respect to such device by section 4461, or".

1976 Amendment. Par. (3). Pub.L. 94-455, among other changes, substituted in par. catchline "State-conducted lotteries, etc." for "State-conducted sweepstakes", and struck out provision that no tax be imposed on any wager placed in a sweepstakes, wagering pool, or lottery in which the ultimate winners are determined by the results of a horse race.

1965 Amendment. Par. (2). Pub.L. 89-44, § 405(a), substituted "section 4462(a)(2)" for "section 4462(a)(2)(B)".

Par. (3). Pub.L. 89-44, § 813(a), added par. (3).

1958 Amendment. Par. (2). Pub.L. 85-859 inserted provisions exempting from the tax amounts paid to operate a device described in section 4462(a)(2)(B), if an occupational tax is imposed with respect to such device by section 4461 of this title.

Effective Date of 1978 Amendment. Amendment of par. (2) by section 521(c)(1) of Pub.L. 95-600 applicable with respect to years beginning after June 30, 1960, see section 521(d)(2) of Pub.L. 95-600, set out as a note under section 4461 of this title.

Effective Date of 1976 Amendment. Section 1208(c)(1) of Pub.L. 94-455 provided that: "The amendment made by subsection (a) [amending par. (3) of this section] shall apply with respect to wagers placed after March 10, 1961."

Effective Date of 1965 Amendment. Amendment of par. (2) by Pub.L. 89-44 applicable on and after July 1, 1965, see section 701(c)(2) of Pub.L. 89-44, set out in part as a note under section 4461 of this title.

Section 813(b) of Pub.L. 89-44 provided that: "The amendment made by subsection (a) [adding par. (3)] shall apply with respect to wagers placed after March 10, 1961."

Effective Date of 1958 Amendment. For effective date of amendment of this section by Pub.L. 85-859, see section 152(c) of Pub.L. 85-859, set out as a note under section 4462 of this title.

Legislative History. For a comprehensive analysis of this section as contained in House Report No. 1337, Senate Report No. 1622, and Conference Report No. 2543, which accompanied the Internal Revenue Code of 1954, see pp. 4468, 5127 of the 1954 U.S.Code Cong. and Adm.News. See, also, Pub.L. 85-859, 1958 U.S.Code Cong. and Adm.News, p. 4393; Pub.L. 89-44, 1965 U.S.Code Cong. and Adm.News, p. 1645; Pub.L. 94-455, 1976 U.S.Code Cong. and Adm.News, p. 2897; Pub.L. 95-600, 1978 U.S.Code Cong. and Adm.News, p. 6761.

## Library References

Internal Revenue 153, 1133.

C.J.S. Internal Revenue §§ 76, 82f

## Notes of Decisions

## I. Constitutionality

Provision of U.S.C.A.Const. Amend. 3 against discrimination did not require that a tax statute cover all phases of a taxed or licensed business, and, therefore, section 3285 et seq. [I.R.C.1939] were not unconstitutional because they excluded some wagering activities from their purview. *U. S. v. Kahriger*, Pa.1933, 73 S.Ct. 510, 345 U.S. 22, 97 L.Ed. 754, rehearing denied 73 S.Ct. 778, 345 U.S. 931, 97 L.Ed. 1390.

Section 3285 et seq. [I.R.C.1939], which applied to all engaged in receiving wagers, whether such activity was forbidden by state or local law, exempting parimutuel enterprises and coin-operated devices subject to occupational taxes otherwise imposed, were not, by virtue of information required of person subject to said sections, unconstitutional as a regulation of purely intrastate activities. *U. S. v. Nadler*, D.C.Cal.1952, 105 F.Supp. 918.

## § 4403. Record requirements

Each person liable for tax under this subchapter shall keep a daily record showing the gross amount of all wagers on which he is so liable, in addition to all other records required pursuant to section 6001(a).

Aug. 16, 1954, c. 736, 68A Stat. 525.

**Historical Note**

1939 Internal Revenue Code. Similar provisions to this section were contained in section 3287 of the 1939 Internal Revenue Code.

**Legislative History.** For a comprehensive analysis of this section as contained

in House Report No. 1337, Senate Report No. 1622, and Conference Report No. 2543, which accompanied the Internal Revenue Code of 1954, see pp. 4468, 5127 of the 1954 U.S. Code Cong. and Adm. News.

**Library References**

Internal Revenue § 1453.

C.J.S. Internal Revenue § 672.

**Notes of Decisions****Computation of tax 1****Persons required to keep records 1****1. Persons required to keep records**

Responsibility for maintaining accurate records of the gross amount of wagers received is on the person who is liable for federal wagering excise taxes. DeLorenzo v. U. S., C.A.N.Y. 1977, 555 F.2d 27.

**2. Computation of tax**

Where no records are kept as to the gross amount of wagers received, the Commissioner is authorized to make an estimate by any reasonable method, in respect to imposition of federal wagering excise taxes. DeLorenzo v. U. S., C.A.N.Y. 1977, 555 F.2d 27.

Computation and assessment of 10 percent federal excise tax on wagers as to bolita operators by determining total wagers on day of raid based on lottery tickets found and projecting that amount back for previous 62 weeks was proper, and assessment was prima facie correct, where operators had destroyed lottery tickets for prior weeks and refused to estimate their gross receipts or disclose their records until a year and eight months after raid. Pinder v. U. S., C.A. Fla. 1964, 330 F.2d 119.

Procedure used to enforce wagering tax, whereby taxpayer was assessed with the statutory excise tax for months between March and December, 1972, was not unconstitutional where taxpayer had been arrested in March, 1972 for gambling where \$2,000 worth of gambling slips were found on his person when he was arrested in December, 1972, and where tax due was calculated on the basis of a projection, since taxpayer failed to main-

tain a daily record of wagers, as he was required to do by this section. Sciannameo v. Dath, D.C.N.Y. 1974, 373 F.Supp. 1120.

Where constitutionality of wagering tax was established and taxpayer did not contend that he did not owe taxes, so that only question in suit for refund would be amount of wagering tax due, and policy slips upon which Internal Revenue Service based its projection as to amount of taxes due for four-year period had been seized pursuant to warrant and taxpayer could sue for refund after limitation of time for prosecution for gambling, preliminary injunction against assessment and collection of wagering tax would be denied. Hamilton v. U. S., D.C.N.Y. 1969, 309 F.Supp. 468, affirmed 429 F.2d 427, certiorari denied 91 S.Ct. 661, 401 U.S. 913, 27 L.Ed.2d 812.

Where taxpayer, who had been assessed excise taxes on wagers, the occupation of wagering and penalties thereon, had not kept a daily record showing that gross amount of all wagers for which he was liable and had not kept any books or records in connection with the wagering business in which he was engaged, computation of tax based on statement of taxpayer's solicitors, discussion with local police officers and based on Internal Revenue Service agents' own experience in similar cases was proper. Hodoh v. U. S., D.C. Ohio 1957, 155 F.Supp. 822.

For purpose of determining amount due for federal wagering taxes, calculation of a taxpayer's gambling revenue over an extended period of wagering activity may properly stem from projections based upon income data available for a shorter period. U. S. v. Cantrell, D.C. Wis. 1974, 62 F.R.D. 96.

**§ 4404. Territorial extent**

The tax imposed by this subchapter shall apply only to wagers

(1) accepted in the United States, or

(2) placed by a person who is in the United States

(A) with a person who is a citizen or resident of the United States, or

(B) in a wagering pool or lottery conducted by a person who is a citizen or resident of the United States.

Aug. 16, 1954, c. 736, 68A Stat. 525.

**Historical Note**

1939 Internal Revenue Code. Similar provisions to this section were contained in section 3285(f) of the 1939 Internal Revenue Code.

**Legislative History.** For a comprehensive analysis of this section as contained

in House Report No. 1337, Senate Report No. 1622, and Conference Report No. 2543, which accompanied the Internal Revenue Code of 1954, see pp. 4468, 5127 of the 1954 U.S. Code Cong. and Adm. News.

**Library References**

Internal Revenue § 1133.

C.J.S. Internal Revenue § 628.

**§ 4405. Cross references**

For penalties and other administrative provisions applicable to this subchapter, see sections 4421 to 4423, inclusive; and subtitle F.

Aug. 16, 1954, c. 736, 68A Stat. 526.

**Historical Note**

1939 Internal Revenue Code. No similar provisions were contained in the 1939 Internal Revenue Code.

**Legislative History.** For a comprehensive analysis of this section as contained

in House Report No. 1337, Senate Report No. 1622, and Conference Report No. 2543, which accompanied the Internal Revenue Code of 1954, see pp. 4468, 5127 of the 1954 U.S. Code Cong. and Adm. News.

**SUBCHAPTER B—OCCUPATIONAL TAX****Sec.**

4411. Imposition of tax.

4412. Registration.

4413. Certain provisions made applicable.

4414. Cross references.

**§ 4411. Imposition of tax**

There shall be imposed a special tax of \$500 per year to be paid by each person who is liable for tax under section 4401 or who is engaged in receiving wagers for or on behalf of any person so liable.

Aug. 16, 1954, c. 736, 68A Stat. 527; Oct. 29, 1974, Pub.L. 93-499, § 3(b), 88 Stat. 1550.



agents on theory that claimant had used or had intended to use the same in violating this section and section 4411 of this title could be expected to use any money in his establishment to "bank" his gambling pursuits and that currency seized by agents from claimant who allegedly had used or had intended to use the currency in violating this section and section 4411 of this title imposing special tax on business of accepting wagers and requiring gamblers to register was not the proceeds of friendly type bets with customers. *Id.*

Evidence established that defendant was guilty of receiving wagers without paying special gambling tax as required by section 4411 of this title and of unlawful and wilful failure to pay special gambling tax and to register as required by this section. *U. S. v. Massano, D.C. Del. 1965, 248 F.Supp. 1.*

### 23. Suppression of evidence

Under decisional rule that preindictment relief should not be granted on motion to suppress evidence or in injunction proceeding, except in extraordinary circumstances, decisions relating to enforceability of sections 4401, 4411, 4412, 4901, 7203, and 7302 of this title posed pressing problems of unusual nature, and application for relief was entertained before indictment. *Silbert v. U. S., D.C.Md. 1968, 252 F.Supp. 635.*

Evidence seized, pursuant to warrants supported by affidavits based solely on alleged violations of sections 4401, 4411, 4412, 4901, 7203, and 7302 of this title will be suppressed as to persons from whom such evidence was seized, if such persons have asserted privilege. *Id.*

Fact that indictments charging violations of state gambling laws were based on investigations federal Treasury agents had made concerning failure to register and pay occupational tax for engaging in business of accepting wagers did not require that such evidence be suppressed or indictments dismissed, since ability of federal government to prosecute based on federal investigation was not an element of violation of state law based on same investigation. *People v. Calicchio, 1969, 309 N.Y.S.2d 566, 62 Misc.2d 144.*

### 24. Return of evidence

Property and money seized during search predicated on affidavit that property and money were being used in violation of this section were ordered returned, since privilege against self-incrimination under U.S.C.A.Const. Amend. 5 was properly invoked. *U. S. v. One Ol-*

*ivetti Underwood Elec. Adding Mach., C. A.Fla. 1971, 443 F.2d 372.*

### 25. Instructions

Instruction in prosecution for violation of this section wherein trial judge specifically defined in statutory language offenses which were charged and specifically excluded other nontaxed gambling operations from those definitions did not constitute reversible error. *U. S. v. Graham, C.A.Tenn. 1966, 363 F.2d 536.*

In prosecution for engaging in business of accepting wagers and for wilfully failing to register and pay special occupational tax, refusal to give requested instruction defining classes of gamblers in gambling parlance was not reversible error, in view of fact that such terms were not used in this section and there was no evidence that defendant was member of one of such classes. *U. S. v. Johnson, C.A. Ohio 1965, 345 F.2d 457, certiorari denied 80 S.Ct. 83, 352 U.S. 836, 15 L.Ed.2d 79, rehearing denied 80 S.Ct. 531, 352 U.S. 1009, 15 L.Ed.2d 490.*

### 26. Injunctions

Where taxpayer did not maintain that allegedly unlawfully seized materials utilized in assessing unpaid wagering taxes were the only evidence relied on by the government and did not allege that he was not engaged in gambling, taxpayer, seeking to enjoin District Director from using such materials in assessing wagering taxes, had not established that the government could not clearly prevail on the merits; thus, action fell within statutory bar against suits to restrain assessment or collection of any tax, but in any event, equitable relief was not warranted since tax was divisible and taxpayer could pay tax on a single transaction and raise search and seizure claim in suit at law for refund. *McDonough v. Long, D.C.Pa. 1970, 313 F.Supp. 1035.*

Where affidavit of taxpayer, who sought to enjoin assessment against him for unpaid federal wagering tax liabilities, showed ability to pay and absence of any circumstances indicating that payment would work any undue hardship on him, and taxpayer was given written assurances that no steps would be taken to collect proposed assessment pending outcome of refund litigation, injunctive relief would not be granted, notwithstanding contentions that tax assessment was based on evidence obtained in an illegal search and seizure, that to make an effective tax protest taxpayer would have to bring forth records and make statements that would tend to incriminate him, and that assessment would deprive him of his property and business without

due process of law. *McAllister v. Cohen, D.C.W.Va. 1970, 308 F.Supp. 517, affirmed 436 F.2d 422.*

### 27. Record

Record failed to sustain claim that gambling tax return filed by defendant was filed as result of duress of government agent who advised defendant that first filing was unacceptable. *U. S. v. Willox, D.C.La. 1972, 340 F.Supp. 383, affirmed 466 F.2d 492.*

### 28. Review

Order of district court sustaining claim of privilege, not on basis of facts peculiar to case, but on basis of conclusion that U.S.C.A.Const. Amend. 5 provides defense to any prosecution, under section 1001 of Title 18 punishing fraudulent statements made to federal agency, based on misstatements on wagering registration forms amounted to holding that section 1001 of Title 18 as applied to such class of cases, was constitutionally invalid, so that direct appeal was authorized under section 3731 of Title 18. *U. S. v. Knox, Tex. 1960, 90 S.Ct. 363, 396 U.S. 77, 24 L.Ed.2d 275.*

Supreme Court, in reviewing conviction for conspiracy to evade payment of federal occupational tax on wagering and failure to register and pay such tax, would not permit continued enforcement of registration and occupational tax provisions, despite demands of constitutional privilege against self-incrimination, by imposing restrictions on use of information obtained as consequence of compliance with wagering tax requirements, since restrictions would preclude effectuation of element of congressional purpose and would oblige state prosecuting authorities to establish that their evidence was untainted by any connection with information obtained as consequence of wagering taxes. *Marchetti v. U. S., Conn. 1968, 89 S.Ct. 697, 390 U.S. 39, 19 L.Ed.2d 589.*

Under United States Supreme Court decision that proper assertion of privilege

against self-incrimination provides a complete defense of prosecution for failure to comply with this chapter imposing special occupational tax on wagering and requiring filing of special tax return and application for registry-wagering, defendant who moved to dismiss indictment charging him with violating this chapter on ground that this chapter infringed upon his right under U.S.C.A.Const. Amend. 5 against self-incrimination was entitled to reversal of conviction. *U. S. v. Menolascino, C.A.Ill. 1968, 391 F.2d 259.*

In resolving issue of sufficiency of evidence to sustain conviction, court must review evidence, and reasonable inferences which may be drawn therefrom, in light most favorable to the government. *U. S. v. Angelini, C.A.Ill. 1965, 346 F.2d 278, certiorari denied 86 S.Ct. 80, 382 U.S. 939, 15 L.Ed.2d 80.*

Conviction for failing to register, failing to pay special federal gambling tax, and conspiring to commit those crimes was affirmed by court of appeals where, after rehearing en banc, two of judges found that there had been no error in permitting government witness to give, on cross-examination, testimony as to defendant's arrest "for policy" some fifteen years earlier and the other two judges held that permitting such testimony had been error but that such error did not in circumstances, require reversal. *U. S. v. Apuzzo, N.Y. 1957, 245 F.2d 416, certiorari denied 78 S.Ct. 45, 355 U.S. 831, 2 L.Ed.2d 43.*

### 29. Remand

Where court overruled defendant's motion to suppress wagering tax return on ground it had not been freely and voluntarily signed and to admit it would violate his rights under U.S.C.A.Const. Amend. 5, case would be remanded for hearing to determine whether false statements were made wilfully as required by section 7206(1) of this title. *U. S. v. Willox, C.A.La. 1971, 440 F.2d 1321, on remand 310 F.Supp. 383.*

## § 4413. Certain provisions made applicable

Sections 4901, 4902, 4904, 4905, and 4906 shall extend to and apply to the special tax imposed by this subchapter and to the persons upon whom it is imposed, and for that purpose any activity which makes a person liable for special tax under this subchapter shall be considered to be a business or occupation referred to in such sections. No other provision of sections 4901 to 4907, inclusive, shall so extend or apply.

Aug. 16, 1954, c. 736, 68A Stat. 527.

## Historical Note

1939 Internal Revenue Code. Similar provisions to this section were contained in section 3292 of the 1939 Internal Revenue Code.

Legislative History. For a comprehensive analysis of this section as contained

in House Report No. 1337, Senate Report No. 1622, and Conference Report No. 2543, which accompanied the Internal Revenue Code of 1954, see pp. 4468, 5127 of the 1954 U.S. Code Cong. and Adm. News.

## § 4414. Cross references

For penalties and other general and administrative provisions applicable to this subchapter, see sections 4421 to 4423, inclusive; and subtitle F.

Aug. 16, 1954, c. 736, 68A Stat. 527.

## Historical Note

1939 Internal Revenue Code. No similar provisions were contained in the 1939 Internal Revenue Code.

Legislative History. For a comprehensive analysis of this section as contained

in House Report No. 1337, Senate Report No. 1622, and Conference Report No. 2543, which accompanied the Internal Revenue Code of 1954, see pp. 4468, 5127 of the 1954 U.S. Code Cong. and Adm. News.

## SUBCHAPTER C—MISCELLANEOUS PROVISIONS

Sec.

- 4421. Definitions.
- 4422. Applicability of federal and state laws.
- 4423. Inspection of books.
- 4424. Disclosure of wagering tax information.

## Historical Note

1974 Amendment. Pub.L. 93-409, § 3(c)(2), Oct. 29, 1974, 88 Stat. 1551, added item 4424.

## § 4421. Definitions

For purposes of this chapter—

(1) Wager.—The term "wager" means—

(A) any wager with respect to a sports event or a contest placed with a person engaged in the business of accepting such wagers,

(B) any wager placed in a wagering pool with respect to a sports event or a contest, if such pool is conducted for profit, and

(C) any wager placed in a lottery conducted for profit.

(2) Lottery.—The term "lottery" includes the numbers game, policy, and similar types of wagering. The term does not include—

(A) any game of a type in which usually

(i) the wagers are placed,

(ii) the winners are determined, and

(iii) the distribution of prizes or other property is made, in the presence of all persons placing wagers in such game, and

(B) any drawing conducted by an organization exempt from tax under sections 501 and 521, if no part of the net proceeds derived from such drawing inures to the benefit of any private shareholder or individual.

Aug 16, 1954, c. 736, 68A Stat. 528.

## Historical Note

1939 Internal Revenue Code. Similar provisions to this section were contained in section 3285(b) of the 1939 Internal Revenue Code.

Legislative History. For a comprehensive analysis of this section as contained in House Report No. 1337, Senate Report No. 1622, and Conference Report No. 2543,

which accompanied the Internal Revenue Code of 1954, see pp. 4468, 5127 of the 1954 U.S. Code Cong. and Adm. News.

Federal Tax Regulations. For administrative regulations under the Internal Revenue Code, see U.S. Code Cong. and Adm. News.

## Library References

Internal Revenue Code 1955, 1133.

C.J.S. Internal Revenue §§ 511, 528.

## Notes of Decisions

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Constitutionality 1  
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Rules and regulations 4  
Wager 5

## 3. Purpose

It was legislative intent to make "commercialized gambling" help meet need for increased revenue, and whatever ancillary regulatory effect wagering tax might have had, it was intended as revenue measure. U. S. v. D. I. Operating Co., C.A. Nev. 1960, 362 F.2d 305, certiorari denied 87 S.Ct. 742, 385 U.S. 1024, 17 L.Ed. 2d 673.

## 1. Constitutionality

Section 3285 et seq. [I.R.C. 1939] was not unconstitutional because of asserted vagueness in defining the subject of the tax. U. S. v. Kahriger, Pa. 1953, 73 S.Ct. 510, 345 U.S. 22, 97 L.Ed. 754, rehearing denied 73 S.Ct. 778, 345 U.S. 931, 97 L.Ed. 1340.

## 2. Construction

Quoted phrase, in this section defining taxable wager as including wager placed in wagering pool with respect to sports event or contest if such pool was "conducted for profit", was not so clear and unambiguous as to be closed to construction, and revenue purposes of this section would be best served by construing it broadly. U. S. v. D. I. Operating Co., C. A. Nev. 1960, 362 F.2d 305, certiorari denied 87 S.Ct. 742, 385 U.S. 1024, 17 L.Ed.2d 673.

## 4. Rules and regulations

In action wherein taxpayer, who operated mechanical wagering device, and who paid small part of Commissioner's assessment, sought refund and government intervened and cross-claimed for remainder of deficiency, admission of private revenue ruling, which was not addressed to taxpayer, and in which it was concluded that device in question, if operated in specified manner, would fall within statutory exclusion from definition of a taxable lottery, if error, was harmless, in view of fact that section of ruling was set out verbatim in amended complaint, that all ruling did was describe operations which had to take place to come within exemptions and that government, in objecting to letter at trial, violated stipulation as to admissibility. Thrash v. O'Donnell, C.A. Ala. 1971, 448 F. 2d 886.

applied to defendant against whom detention warrant was issued by justice of the peace after preliminary trial wherein only evidence was possession of the stamp, unconstitutional as depriving of liberty without due process and denying equal protection. *In*.

### § 4423. Inspection of books

Notwithstanding section 7605(b), the books of account of any person liable for tax under this chapter may be examined and inspected as frequently as may be needful to the enforcement of this chapter. Aug. 16, 1954, c. 736, 68A Stat. 528.

#### Historical Note

1959 Internal Revenue Code. Similar provisions to this section were contained in section 3298 of the 1939 Internal Revenue Code. In House Report No. 1337, Senate Report No. 1622, and Conference Report No. 2543, which accompanied the Internal Revenue Code of 1954, see pp. 4469, 5127 of the 1954 U.S. Code Cong. and Adm. News.

Legislative History. For a comprehensive analysis of this section as contained

#### Library References

Internal Revenue § 1453.

C.J.S. Internal Revenue § 672.

#### Notes of Decisions

##### 1. Prerequisite to inspection

Before provisions of this section that books of account of any person liable for wagering tax may be examined and inspected as frequently as may be needful for enforcement of the tax can be applied, it must be shown that such person is liable for the tax imposed. *Lassoff v. Gray*, D.C.Ky.1902, 207 F.Supp. 843.

### § 4424. Disclosure of wagering tax information

(a) General rule.—Except as otherwise provided in this section, neither the Secretary nor any other officer or employee of the Treasury Department may divulge or make known in any manner whatever to any person—

(1) any original, copy, or abstract of any return, payment, or registration made pursuant to this chapter,

(2) any record required for making any such return, payment, or registration, which the Secretary is permitted by the taxpayer to examine or which is produced pursuant to section 7602, or

(3) any information come at by the exploitation of any such return, payment, registration, or record.

(b) Permissible disclosure.—A disclosure otherwise prohibited by subsection (a) may be made in connection with the administration or civil or criminal enforcement of any tax imposed by this title. However, any document or information so disclosed may not be—

(1) divulged or made known in any manner whatever by any officer or employee of the United States to any person except in

connection with the administration or civil or criminal enforcement of this title, nor

(2) used, directly or indirectly, in any criminal prosecution for any offense occurring before the date of enactment of this section.

(c) Use of documents possessed by taxpayer.—Except in connection with the administration or civil or criminal enforcement of any tax imposed by this title—

(1) any stamp denoting payment of the special tax under this chapter,

(2) any original, copy, or abstract possessed by a taxpayer of any return, payment, or registration made by such taxpayer pursuant to this chapter, and

(3) any information come at by the exploitation of any such document, shall not be used against such taxpayer in any criminal proceeding.

(d) Inspection by Committees of Congress.—Section 6103(f) shall apply with respect to any return, payment, or registration made pursuant to this chapter.

Added Pub.L. 93-499, § 3(c)(1), Oct. 29, 1974, 88 Stat. 1550, and amended Pub.L. 94-455, Title XII, § 1202(h)(6), Title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1688, 1834.

#### Historical Note

1976 Amendment. Subsec. (a). Pub.L. 94-455, § 1906(b)(13)(A), struck out "or his delegate" following "Secretary" wherever appearing. wagers placed on or after such date, see section 3(d)(1) of Pub.L. 93-499, set out as a note under section 4401 of this title.

Subsec. (d). Pub.L. 94-455, § 1202(h)(6), substituted "6103(f)" for "6103(d)".

Effective Date. Section effective Dec. 1, 1974, and applicable only with respect to

Legislative History. For legislative history and purpose of Pub.L. 93-499, see 1974 U.S. Code Cong. and Adm. News, p. 6228. See also, Pub.L. 94-455, 1976 U.S. Code Cong. and Adm. News, p. 2897.

#### Library References

Internal Revenue § 1451.

C.J.S. Internal Revenue § 672.

#### Notes of Decisions

##### 1. Constitutionality

Provisions of this section which establish general prohibition of disclosure by Treasury Department of wagering tax information and which prohibit use in any criminal proceeding other than in connection with enforcement of tax code of wagering tax documents in possession of taxpayer are adequate to prevent "substantial and real hazard of incrimination" in connection with disclosure of information required by this chapter and thus this chapter did not compel disclosure by

defendants, who were charged with violating this chapter, of incriminating information in violation of their U.S.C.A. Const. Amend. 5 privilege against self-incrimination. *U. S. v. O'Brien*, D.C.Conn. 1976, 430 F.Supp. 834, affirmed 555 F.2d 136.

Since a defendant may not validly claim his U.S.C.A. Const. Amend. 5 privilege by failing to file and pay wagering taxes, which themselves are not constitutionally prohibited, he has no "free

1986

*30th Report*

of the

*Washington  
Horse Racing Commission*

to

The Governor of Washington  
Booth Gardner

and

The Fiftieth Legislature

STATE OF WASHINGTON



*Thirtieth Report*

of the

*Washington*  
*Horse Racing Commission*  
210 E. Union  
Olympia, WA 98501

to

The Governor of Washington  
Booth Gardner

and

The Fiftieth Legislature

STATE OF WASHINGTON



1986



Governor Booth Gardner  
and  
Members of the Legislature  
State of Washington

Ladies and Gentlemen:

Pursuant to the provisions of the Washington Horse Racing Act, House Bill No. 59, Legislature of the State of Washington, the same being Chapter 55, of the Laws of 1933 as amended (RCW 67.16.010-67.16.900), the Washington Horse Racing Commission herewith submits its thirtieth report for the period beginning January 1, 1986, to and including December 31, 1986.

Respectfully submitted,

WASHINGTON HORSE RACING  
COMMISSION

Barbara Black, *Chairperson*  
Warren Chinn, *Commissioner*  
Lyle Smith, *Commissioner*  
Will Bachofner, *Executive Secretary*

SUMMARY OF PARI-MUTUEL TAXES FROM 1933 — 1986

Racing Season	Pari-Mutuel Tax Collected	Licenses and Registration Fees
1933	\$ 73,805.75	\$ 6,554.00
1934	149,059.90	6,542.00
1935	155,322.60	8,236.00
1936	165,979.45	10,670.00
1937	155,190.05	10,871.00
1938	175,419.75	8,093.00
1939	184,542.45	9,207.00
1940	178,392.75	9,022.00
1941	196,256.60	8,748.00
1942	227,894.40	6,312.00
1943	No Racing	No Racing
1944	458,635.45	9,178.00
1945	730,622.45	10,608.00
1946	885,568.10	11,903.00
1947	700,340.40	10,931.00
1948	678,581.00	11,633.00
1949	608,128.25	11,364.00
1950	587,647.95	11,374.00
1951	679,887.20	11,927.00
1952	776,831.20	12,429.00
1953	832,324.80	11,537.00
1954	854,371.60	11,590.00
1955	873,042.60	11,629.00
1956	967,555.35	12,414.00
1957	1,050,354.05	12,960.00
1958	1,056,130.30	13,314.00
1959	1,166,198.05	13,667.00
1960	1,175,570.05	14,099.00
1961	1,325,027.65	17,001.00
1962	1,354,425.10	16,529.00
1963	1,367,403.15	16,653.00
1964	1,490,287.75	17,024.00
1965	1,579,193.60	18,651.00
1966	1,735,117.35	20,808.00
1967	1,892,697.65	20,075.00
1968	2,147,178.00	21,830.00
1969	2,346,364.52	21,225.00
1970	2,568,801.16	24,322.00
1971	2,943,937.42	27,294.00
1972	3,264,267.45	29,614.00
1973	3,868,486.71	32,025.00
1974	4,302,006.50	31,451.00
1975	4,950,644.60	33,714.00
1976	5,536,718.55	37,106.00
1977	5,913,214.27	39,892.00
1978	6,522,080.81	39,924.00
1979	7,273,352.11	42,246.00
1980	7,817,741.11	52,883.00
1981	9,464,688.53	57,389.00
1982	9,671,268.28	199,282.00
1983	9,782,813.93	245,206.00
1984	9,907,541.32	251,910.00
1985	8,981,259.25	45,402.00
1986	9,271,683.59	506,294.00
	<b>\$143,024,852.86</b>	<b>\$2,352,562.00</b>

## RACING DATES — 1986

LONGACRES AT RENTON	April 2 through November 3.	146 racing days
PLAYFAIR AT SPOKANE	April 30 through October 20.	101 racing days
YAKIMA MEADOWS AT YAKIMA	March 1 through June 29. August 16 through November 30.	43 racing days 35 racing days
SUN DOWNS AT KENNEWICK	March 1 through March 30. April 5 through May 4. June 13 through June 29. September 27 through October 26.	10 racing days 10 racing days 9 racing days 10 racing days
SOUTHEASTERN WASHINGTON FAIR AT WALLA WALLA	May 10 & 11 August 29, 30, 31 & September 1	2 racing days 4 racing days
DAYS OF REAL SPORT AT WAITSBURG	May 17 & 18.	2 racing days
DAYTON DAYS AT DAYTON	May 24, 25 and 26.	3 racing days
GRAYS HARBOR PARK AT ELMA	July 19, 20, 21, 22, 26, 27, 28 & 29.	8 racing days

## PARI-MUTUEL TAXES — 1986

LONGACRES-LONGACRES RACE COURSE, INC. ....	\$8,442,284.64
PLAYFAIR-APPLEWAY LEASING, INC.....	582,175.75
YAKIMA MEADOWS-APPLE TREE RACING ASSN....	198,998.44
SUN DOWNS-BENTON FRANKLIN FAIR AND RODEO .....	35,130.25
WALLA WALLA-SOUTHEASTERN WASHINGTON FAIR & FRONTIER DAYS .....	4,978.01
WAITSBURG-DAYS OF REAL SPORT .....	1,172.76
DAYTON-DAYTON DAYS, INC.....	1,477.11
ELMA-GRAYS HARBOR PARK .....	5,466.63
<b>TOTAL .....</b>	<b>\$9,271,683.59</b>

## REGISTRATION AND LICENSES

	1986
Prospective Owners .....	60
Owners .....	5,765
Trainers .....	985
Jockeys .....	197
Occupationals (one year) .....	1,926
Occupationals (three years) .....	1,593
Veterinarians, Platers .....	103
Authorized Agents .....	383
Jockeys Agents .....	30
Stable Names .....	560
Duplicates .....	9
<b>Total .....</b>	<b>11,611</b>

## LICENSES

The Washington State Legislature amended the horse racing act to enable the Commission to extend the term of the licenses issued up to three years.

Prior to the beginning of the 1986 racing season the Commission amended and/or adopted rules pertaining to the duration of licenses by class.

Three year licenses are issued to the following classes: Owner, Trainer, Jockey, Stable Name, Jockey Agent, Veterinarians, Dentists, Platers and Occupational except Grooms, Concessions and Volunteers.

One year licenses are issued to: Prospective Owners, Authorized Agents, Volunteers, Grooms and Concessions.

## WASHINGTON BRED BONUS FUND

The Washington State Legislature amended the horse racing act to provide a Washington bred bonus fund (RCW 67.16.102) in 1969. This act provided an incentive to Washington horse breeders to produce superior horses allowing them to participate in bonus payments. Owners of Washington bred horses finishing first, second, third or fourth at Washington tracks receive bonus payments over and above the purse monies distributed by the racing association.

The bonus fund authorizes the Washington Horse Racing Commission, to receive daily, from the licensee, one percent of the gross receipts of all pari-mutuel machines which sum is distributed according to the following formula:

The bonus will increase the amount each Washington-bred earns finishing first, second, third or fourth at the meet on or after August 11, 1969, by the same percentage which the total amount accumulated by the one-percent withheld bears to the total amount earned at the meet by Washington-bred horses finishing first, second, third and fourth. In stake races, only added monies will be considered in computing the bonus.

Pursuant to RCW 67.16.102, licensees are not to take into consideration the benefits derived from the Washington-bred bonus fund in establishing purses.

The bonus fund accumulation at each racing association meeting is deposited by the Washington Horse Racing Commission and at the conclusion of the respective race meeting the funds are distributed to the eligible recipients by the Racing Commission. Race meets which are nonprofit in nature, or of ten days or less or which have an average daily handle of less than one hundred twenty thousand dollars are exempted from withholding the one percent of gross receipts for this bonus fund.

Under RCW 67.16.102 the funds, while they are in the custody of the Racing Commission, are invested in interest bearing certificates of deposit and the interest earned is distributed annually on an equal basis to race courses at which independent race meets are held which are nonprofit and of ten days or less. This

money must be used for maintaining and upgrading the respective race courses and equine storage areas of said nonprofit meets.

The fund benefits the breeding industry and the public. It serves to produce higher quality horses and therefore better racing. It also allows the nonprofit meets to upgrade their facilities.

RCW 67.16.102 provides further that interest earned from the Commission's share of pari-mutuel taxes and license fees, as provided for in RCW 67.16.100, shall also be distributed annually to race courses at which nonprofit race meets of ten days or less are held.

#### WASHINGTON BRED BONUS FUND — 1986

	Total Amount Purses Paid Owners of Washington Bred Horses	Number of Recipients	Total Amount 1% W.B. Bonus Fund	Percentage Factor
Longacres Race Course, Inc.—Longacres .....	\$7,479,415.00	954	\$1,654,370.49	22.1189824 %
Appleway Leasing, Inc.—Playfair .....	1,522,340.86	649	246,489.08	16.1914513 %
Apple Tree Racing Assn. Yakima Meadows Spring .....	329,874.82	453	60,500.83	18.3405420 %
Yakima Meadows Fall .....	241,373.00	390	42,608.46	17.6525377 %
	<u>\$9,573,003.68</u>	<u>2,446</u>	<u>\$2,403,968.86</u>	

#### Interest Earned and Paid to Race Courses under R.C.W. 67.16.102

	Total 1985	Total 1986
Dayton Days, Dayton .....	\$ 17,740.03	\$ 10,940.51
Grays Harbor Park, Elma .....	17,740.02	10,940.52
Sun Downs, Kennewick .....	—0—	10,940.51
Days of Real Sport Inc., Waitsburg ...	17,740.02	10,940.52
Southeastern Washington Fair & Frontier Days, Walla Walla .....	17,740.02	10,940.51
Fair Meadows/Southwest Washington Fair, Chehalis .....	17,740.02	—0—
	<u>\$ 88,700.11</u>	<u>\$ 54,702.57</u>

#### COMMISSION MEETINGS

The Washington Horse Racing Commission held 17 formal meetings to conduct Commission business. The meetings were held on January 10, January 22, February 5, February 19, February 28, April 1, April 11, May 9, June 3, June 20, July 10, August 8, August 20, August 29, September 5, November 18 and December 15, 1986. Proceedings of Commission meetings are tape recorded, transcribed, and recorded as permanent records of the Commission.

#### WASHINGTON LAWS CONCERNING HORSE RACING

Substitute Senate Bill Number 3342, Chapter 146, Washington Laws of 1985, passed by the Senate April 15, 1985, passed by the House April 11, 1985, approved by the Governor April 25, 1985 and filed in Office of Secretary of State April 25, 1985 authorized major changes to the racing laws of the state of Washington. Specifically changes were made to RCW 67.16.010, 67.16.020, 67.16.050, 67.16.060, 67.16.090, 67.16.100, 67.16.105, 67.16.130, 67.16.170, 67.16.175, 67.16.180, and 67.16.190 and adding a new section 67.16.075.

#### COMPARISON OF TOTAL HANDLE (Dollars Wagered) for RACING YEARS 1985 and 1986, BY TRACK

TRACKS	1985	1986
Longacres-Longacres Race Course, Inc.	\$158,034,744.00	\$165,437,049.00
Playfair-Appleway Leasing, Inc. ....	27,322,422.00	24,648,908.00
Yakima Meadows-Apple Tree Racing Assn. ....	12,302,326.00	10,310,932.00
Sun Downs-Benton Franklin Fair and Rodeo .....	1,590,679.00	1,781,380.00
Walla Walla-Southeastern Washington Fair and Frontier Days .....	321,232.00	301,362.00
Waitsburg-Days of Real Sport .....	72,130.00	73,302.00
Dayton-Dayton Days, Inc. ....	104,638.00	95,372.00
Elma-Grays Harbor Park .....	364,630.00	369,888.00
Chehalis-Southwest Washington Fair ..	110,032.00	
<b>TOTAL .....</b>	<b>\$201,999,000.00</b>	<b>\$203,018,193.00</b>

CASH RECEIPTS  
January 1, 1986 - December 31, 1986

CASH DISBURSEMENTS  
January 1, 1986 through December 31, 1986

	Total	Remitted To General Fund	Remitted To Trade Fair Fund	Remitted To Fair Fund	Commission Operating Fund
<b>Receipts:</b>					
Tax on Pari-Mutuel					
Longacres Race Course, Inc. (Longacres)	\$ 8,442,284.63	\$4,071,808.11	\$198,398.21	\$2,314,665.64	\$1,857,202.63
Appleway Leasing, Inc. (Playfair)	582,175.75	161,524.91	7,308.34	65,263.83	126,078.67
Apple Tree Racing Assn. (Yakima)	198,998.41	135,241.42	1,577.15	18,400.16	43,779.70
Sam Downs, Ltd. (Kernowick)	35,130.24	23,962.21	271.53	3,167.84	7,798.66
Southeastern Washington Fair Association (Walla Walla)	4,978.01	3,310.27	45.20	527.38	1,085.16
Days of Real Sport (Waitsburg)	1,172.76	773.47	11.00	128.28	258.01
Dayton Days, Inc. (Dayton)	1,477.11	970.94	14.31	166.90	374.96
Grays Harbor Park (Elmer)	5,466.63	3,561.18	55.48	647.31	1,202.66
<b>Total Tax on Pari-Mutuel Handle</b>	<b>\$ 9,271,683.56</b>	<b>\$4,601,284.51</b>	<b>\$207,681.22</b>	<b>\$2,422,947.38</b>	<b>\$2,039,770.45</b>
<b>Association License Fees:</b>					
Longacres Race Course, Inc. (Longacres)	\$ 71,000.00	\$ 29,200.00	\$ 2,190.00	\$ 25,550.00	\$ 16,060.00
Appleway Leasing, Inc. (Playfair)	20,200.00	8,080.00	496.00	7,070.00	4,444.00
Apple Tree Racing Assn. (Yakima)	15,600.00	6,240.00	468.00	5,460.00	3,432.00
Sam Downs, Ltd. (Kernowick)	390.00				390.00
Occupational Permits (one year)	60.00				60.00
Occupational Permits (three years)	20.00				20.00
Veterinarians, Platers	30.00				30.00
Authors of Agents	480.00				480.00
Jockey Accents	42,000.00				42,000.00
Stable Names	45.00				45.00
Duplicates					
<b>Total License Fees</b>	<b>\$ 96,591.00</b>	<b>\$ 136,582.00</b>	<b>\$ 10,243.70</b>	<b>\$ 119,509.50</b>	<b>\$ 130,578.90</b>
<b>Total License and Registration Fees</b>	<b>\$ 506,294.00</b>	<b>\$ 180,102.00</b>	<b>\$ 13,507.70</b>	<b>\$ 157,589.50</b>	<b>\$ 155,094.80</b>
<b>Total All Above</b>	<b>\$ 9,772,977.56</b>	<b>\$4,781,386.51</b>	<b>\$221,188.92</b>	<b>\$2,580,536.88</b>	<b>\$2,194,865.25</b>
<b>Other Receipts:</b>					
Fines and Forfeits	\$ 31,000.00	\$ 12,400.00	\$ 970.00	\$ 10,850.00	\$ 6,820.00
Other Charges for Current Services (Radio & TV)	500.00	200.00	15.00	175.00	110.00
Fund Transfers	(22,275.00)				(22,275.00)
Non-sufficient Fund Checks	(299.00)				(299.00)
Recoveries of Prior Biennium Expenditures	161.00				161.00
<b>Total Other Receipts</b>	<b>\$ 9,787,064.56</b>	<b>\$4,793,986.51</b>	<b>\$222,133.92</b>	<b>\$2,591,561.88</b>	<b>\$ 2,179,382.25</b>

Salaries and Wages	
State Personnel Board Classified	\$ 78,649.56
Exempt	776,397.10
Special (Commissioners)	30,200.00
Terminal Leave	3,331.19
Personnel Services Contracts	
Auditing	59,955.12
Legal Services	9,449.00
Goods and Services	
Supplies and Materials	11,786.47
Communications	19,999.95
Rentals and Leases	16,177.16
Repairs/Alterations/Maintenance	663.99
Printing and Reproduction	4,144.23
Dues/Fees/Memberships/Education and Training	6,094.43
Subscriptions	249.00
Facilities and Services	600.00
Data Processing	9,132.10
Attorney General	87,373.72
Personnel Services	501.74
Insurance	46.99
Purchased Services	701,539.62
Audit Services	18,451.75
Administration Hearings Services	1,122.00
Archives and Records Management	840.00
Other Goods and Services	27,104.37
Travel	
In State	
Subsistence and Lodging	22,387.28
Air Transportation	3,841.00
Private Automobile Mileage	17,457.74
Other Transportation	341.18
All Other	233.22
Out of State	
Subsistence and Lodging	1,998.68
Air Transportation	922.50
Other Transportation	775.32
All Other	16.50
Equipment	
Equipment—Non-Inventoriable/Non-capitalized	270.16
Equipment-Inventoriable/Non-capitalized	1,158.48
Equipment-Capitalized	37,816.53
Employee Benefits	
O.A.S.I.	63,386.28
Retirement and Pensions	59,166.64
Medical Aid and Industrial Insurance	10,280.83
Health, Life and Disability Insurance	47,094.00
Unemployment Compensation	27,470.33
<b>Total Disbursements</b>	<b>\$2,160,426.16</b>
Cash on Hand in Bank December 31, 1986	53,758.38
Excess monies invested	250,000.00

Presented by: Silvers  
Introduced: -03/03/87  
Drafted by: G.L.S.

MATANUSKA-SUSITNA BOROUGH

Resolution Serial No. 87-~~032~~

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH SUPPORTING  
HOUSE BILL 32 AND SENATE BILL 63.

WHEREAS, the Alaska State Legislature has pending before it House Bill 32 and Senate Bill 63 that would authorize state controlled parimutuel betting on horse and dog racing where approved at a local option election, and

WHEREAS, the voters in the cities of Palmer and Wasilla have previously approved in an advisory vote the conduct of certain parimutuel wagering within their boundaries, and

WHEREAS, parimutuel wagering would create a direct source of revenue for the state and thereby reduce the need for new or increased state taxes, and

WHEREAS, authorization of parimutuel wagering would make possible a new, non-polluting industry in Alaska, and

WHEREAS, horse and dog racing in the borough would create a demand for feed, pasture and other agricultural products and services related to animal husbandry that are readily available in the borough, and

WHEREAS, horse and dog racing in the borough would be a tourist attraction for Alaska, bringing visitors from other states as well as other areas of Alaska, and

WHEREAS, horse and dog racing in the borough would generate additional use of the Alaska Railroad, and

WHEREAS, construction and operation of a race track and associated facilities and concessions in the borough would provide new employment opportunity for Alaskans;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE MATANUSKA-SUSITNA BOROUGH:

1. That the Assembly supports the concept of state controlled parimutuel wagering on horse and dog racing when locally approved and as generally set out in House Bill 32 and Senate Bill 63 and strongly urges the legislature to adopt legislation authorizing parimutuel wagering on such racing.

2. That copies of this resolution be sent to The Honorable Steve Cowper, Governor of the State of Alaska, and to each member of the Alaska Legislature.

PASSED AND APPROVED by the Assembly of the Matanuska-Susitna Borough this 4th day of March, 1987.

*Dorothy A. Jones*  
Dorothy A. Jones, Mayor

ATTEST:

*Chris Seagraves*  
Chris Seagraves, Clerk

(SEAL)

File with 17B SL

CITY OF PALMER, ALASKA

ORDINANCE NO. 321

AN ORDINANCE CREATING A NEW CHAPTER 3.32 OF TITLE 3 OF THE PALMER MUNICIPAL CODE ENTITLED PARI-MUTUEL WAGERING ON CERTAIN HORSE RACES.

THE CITY OF PALMER, ALASKA, ORDAINS:

Section 1. Classification. This ordinance shall be of a permanent nature and shall become a part of the City of Palmer Code of Ordinances.

Section 2. Severability. If any provisions of this ordinance, or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Chapter 3.32-Pari-Mutuel Wagering of Title 3 of the Palmer Municipal Code is hereby created as follows:

3.32.010 General. Pari-mutuel betting on horse racing may be permitted under this chapter to the extent not prohibited by Alaska State Statutes.

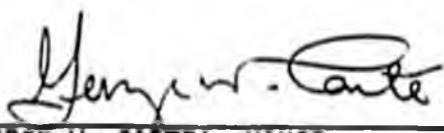
3.32.020 Sales Tax Applicability. A two (2) percent sales tax shall be charged on all gate admissions, concessions and gross monies deposited in the pari-mutuel system, to the extent not prohibited by Alaska State Statutes.

Section 4. Publication and Effective Date. This ordinance shall become effective immediately upon its adoption and publication shall be by posting a copy hereof on the City Hall bulletin board for a period of ten (10) days following its adoption, and it shall be published by being printed and included in the Palmer Municipal Code at its next regular supplementation and printing. A notice of public hearing shall be given by such posting at least five (5) days before final passage.

First Reading: August 1, 1985

Public Hearing & Second Reading: August 13, 1985

Adopted by the City Council of the City of Palmer, Alaska, this 13th day of August, 1985.

  
\_\_\_\_\_  
GEORGE W. CARYE, MAYOR

\_\_\_\_\_  
DAVID L. SOULAK, CITY CLERK

signed his name... the amount and dump in Anchorage... the permit.



17 February 1987

House of Representatives  
State Affairs Committee  
Juneau, Alaska

Dear Committee Members:

I am a 30 years resident of this area, General Manager of Alaska State Fair, Inc. and have the honor of serving on the Palmer City Council. My family has been heavily involved in Agriculture for over 25 years and I think I have an excellent grasp on this area with regard to economy, leisure time facilities, quality of life and agricultural outlook.

As an individual, I do not think that the annual dividend is a good idea, I am in favor of personal income tax and I favor state sales tax as well. While I realize that even these avenues of income will not cover all state expenditures, I feel they would be a beginning. I also feel that the legalization of Pari-Mutuel wagering as described in HB32 would be an excellent source of additional income to assist in the shortfall.

Gambling is going on in our state now and has been for many years. At this time the state has no control over it nor does the state derive any income with respect to it.

I feel that HB32 Pari-Mutuel Wagering "on a local option basis" is the best such bill to have ever been presented to the legislature.

The people of Alaska must have a hand in determining their own destiny and this could very well be the first step.

If I can be of assistance to you in any way, please don't hesitate to call on me. I would appreciate your vote of "do pass" on HB 32.

Sincerely,

Marsha M. Melton  
General Manager

# Mat-Su says OK to legal gambling

By Margaret Haight  
Times Valley Bureau

WASILLA — Reactions were mixed in other parts of the state, but Matanuska-Susitna Borough participants in a teleconference Wednesday were solidly behind proposals to legalize gambling in Alaska.

The teleconference was the first public hearing on two measures which would loosen the state's prohibition on gambling. A piece of legislation which would allow parimutuel betting on horse or sled dog racing in the Mat-Su Borough received unanimous support from teleconference participants here.

Horse racing would encourage a flagging agriculture industry in the Mat-Su region, said Rep. Ron Larson D-Palmer, sponsor of the

bill. With a small race track in the Valley, prime farmland could be used to raise stock and feed, Larson said. The associated tourism and boost to the construction industry would help alleviate the Valley's 15.2 percent unemployment rate, Larson said.

A second measure currently under review by the House State Affairs Committee, would allow gambling in communities that can demonstrate an historical precedent. Municipalities which depend on tourist dollars and which had a substantial history of gambling during the gold rush era of 1890 to 1910 could permit local games of chance under a measure sponsored by Rep. Robin Taylor, R-Wrangell.

Both bills would require municipalities to put the issue to a

vote before sanctioning gambling operations.

"Alaska was settled by gamblers," said Mike Graf of Fairbanks, speaking in favor of the bill. "It's probably fair to say that it's part of the Alaskan character to gamble."

But the Rev. Don Hicks from Skagway said historical precedent and economic need may not outweigh the social evils of alcohol and crime often associated with gambling. "I wonder, are we making the same mistake as the proverbial drowning man who grasped for the straw?" he asked.

Sally Smith, director of the state Division of Public Services under the Revenue Department, told the committee she was concerned about the "broad brush"

approach of both bills. Without more detail, the state could be asking for problems by legalizing gambling, Smith said.

Minimum qualifications for game operators and a system for reporting proceeds need to be addressed, among other considerations, she said. Millions of dollars are skimmed off proceeds from legal charity gaming because regulations are too loose, Smith said.

The teleconference hearing before the committee is scheduled to continue Friday at 3 p.m. Both bills are in the early stages of consideration by the House. Each bill will be heard by several other committees before returning to the House floor for a vote.

## Valley officials may contract out unprofitable sewage operations

By Margaret Haight  
Times Valley Bureau

PALMER — Matanuska-Susitna Borough officials say they are considering contracting operations of an unprofitable \$1.4 million septage treatment facility to the private sector.

The Houston Septage Facility has been a thorn in the side of the assembly since nearly the day it began operating in May 1984. The facility, constructed with a state grant, was to generate enough in user fees to pay its annual \$112,000 operating expenses. But Valley septage haulers have chosen to

gallon, hoping to woo the Valley haulers back. But Tuesday, Helen Munoz, owner of A-1, said she will hold out for 1.5 cents.

At that rate, borough taxpayers can expect to subsidize the treatment facility through non-area-wide taxes, said Dave McClelland, chief of road maintenance and plant supervisor for the borough.

The Municipality of Anchorage has banned Valley pumpers from using its sewer system, but an unmanned dump site at Turpin provides easy, cheap access. A permit to dump in Anchorage costs \$17 a year for a 1,000-gallon truck. In the past, some Valley haulers have not bothered with the permit.

## Greene to become Kotzebue mayor

KOTZEBUE (AP) — Chuck Greene of Kotzebue was the overwhelming choice as Northwest Arctic Borough voters chose among five candidates to replace resigning Mayor John Schaeffer.

Greene, who has worked the last four years as assistant to the governor for the NATNA region, received 662 votes in Tuesday's special election. That gave him a commanding 204-vote lead over his closest rival, Frank Stein.

Stein received 368 votes, Tommy Fields received 185, Steve Lie received 151, and O.J. Hasne received 51.

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A 1-111 -51000

# Alaska State Legislature

Senator Mitch Abood  
CHAIRMAN

INTERIM OFFICE  
1024 WEST SIXTH AVENUE  
ANCHORAGE, ALASKA 99501  
(907) 274-2843

IN SESSION  
POUCH V  
JUNEAU ALASKA 99811  
(907) 465-4714

## Senate Committee on State Affairs

### PARIMUTUEL WAGERING

#### FACT SHEET

"Pari-mutuel" is a French term freely translated as "betting among ourselves." This system of betting was devised in the late 19th century as an alternative to the on-course bookmaking which was then the common form of betting on horse races. Instead of placing a bet with the bookmaker at his odds, parimutuel bettors buy tickets on individual entries in a race and contribute their bets to a pool which is distributed to holders of winning tickets, after the track takes out a percentage. Unlike the bookmaker, the track has no interest in which horses win or lose. The odds are determined not by the bookmaker but by the number of winning tickets on each race, and the payoff is decided after the race instead of before.

People wager into a common pool, held by an impartial third party, then after the race, the money is repaid to the winning ticket holders. The impartial party (Race Track), deducts a percentage of the total amount wagered (Gross Handle) for providing the service and the facilities. The percentage deducted (Take Out) is a percentage of the Gross Handle.

The most significant figure in the racing industry is the retained percentage of the gross pool, or the Take Out. The Take Out is what pays the bills, provides revenue in the form of: (1) State and/or municipal tax ; (2) The race track's primary source of income; and (3) The Purses for Horsemen.

SECTIONAL ANALYSIS OF CSHB 32 (Finance)

"An Act establishing the Alaska Racing Commission and authorizing parimutuel wagering at sanctioned events."

Section 1

AS 05.40.010 Adds a new chapter to Title 5 entitled, "Horse Racing and Team Dog Racing".

Establishes an Alaska Racing Commission in the Dept. of Revenue, composed of five members who are appointed by the governor. (Note: the bill originally provided for legislative confirmation of the appointments, but it was deleted by the House State Affairs Committee.)

The composition of the commission is as follows:

- one member must have experience in the regulation, supervision, or conduct of parimutuel wagering, horse or dog team racing;
- one member must have experience in law enforcement;
- one member must have accounting or book-keeping experience and;
- two members are public members.

Provides that individuals be residents of the State at the time of their appointment, and cannot have been convicted of a felony or a gambling offense defined in AS 11.66.200 -280 or a comparable provision of the law of another state.

Requires the Dept. of Public Safety to conduct an investigation to ascertain whether a person appointed to the commission by the governor, has been convicted of a felony or a violation of the parimutuel law, a gambling offense, or a comparable provision of municipal, state or federal law.

Enables the commission to elect a chairman, and requires a quorum of three members to transact business.

Section 05.40.020 Provides for a four year, staggered term of office.

Section 05.40.030 Establishes procedures for the removal and suspension of commission members.

Section 05.40.040 Provides for the compensation and per diem of commission members. Members are eligible for per diem, travel expenses and are entitled to compensation of \$100 per day for each day the member is engaged in the actual performance of duties as a race meet observer.

Section 05.40.050 Sets out the duties and powers of the commission, in consultation with the Attorney General. Provides for the adoption of regulations concerning license renewal, and the immediate suspension of the license of a person during an investigation of a violation of the racing law or a regulation.

Enables the commission to set license and special permit fees; and requires the commission to make an annual report to the Legislature and the Commissioner of Revenue prior to April 15th of each year.

Allows the commission to hire staff, issue subpoena compel witnesses to appear before them, and appoint hearing officers.

Allows the commission by regulation, to impose an additional surcharge for a race meet not to exceed \$1.00.

- Section 05.40.060 The attorney general shall enforce the regulations of the commission.
- Section 05.40.070 Provides that all records of the commission are public records and are subject to public inspection.
- Section 05.40.080 Fees and other money received by the commission shall be paid into the general fund.
- Section 05.40.100 Provides that a race meet operator's license is valid for three years unless it is revoked or suspended. A license cannot be issued until an investigation by the Dept. of Public Safety is completed.
- A race meet operator has the exclusive right to operate or contract for the operation of concessions at the site of the race meet.
- Section 05.40.110. Requires special permits for individuals employed during a race meet.  
The special permit is valid for one year and may not be issued until an investigation by the Dept. of Public Safety is completed.
- Section 05.40.120 Provides that the commission may not sanction a race within a municipality unless a majority of voters has approved a referendum authorizing parimutuel wagering; and until the municipality approves the issuance or renewal of a race operator's license after a public hearing on the matter.

Section 05.40.130 Sets out the distribution of the parimutuel pool as follows:

- (1) at least 65 percent to the holders of winning tickets;
- (2) 15 percent to the race meet operator conducting the race meet;
- (3) 10 percent as purse money; and
- (4) 10 percent to the Alaska Racing Commission

Provides that the commission may adjust by regulation, the distribution of the pool as necessary to promote efficient and successful race meets.

Section 05.40.140 Requires the race meet operator to report to the commission within 30 days after each race on the distribution of the parimutuel pool and 30 days after the race meet, on the operation and proceeds of concessions at the sight of the race meet.

Section 05.40.150 Allows the commission to appoint a member of the commission or other person to observe the conduct of race meets. Requires an observer to be present at each meet on the day before, the day after, and during the race meet.

Section 05.40.200 Sets out prohibited acts and penalties.

Section 05.40.900 The operation of the commission is subject to the Administrative Procedures Act (AS 44.62).

Section 05.40.910 Provides that the commission is subject to AS 39.50 (conflict of interest).

Section 05.40.990 Definitions.

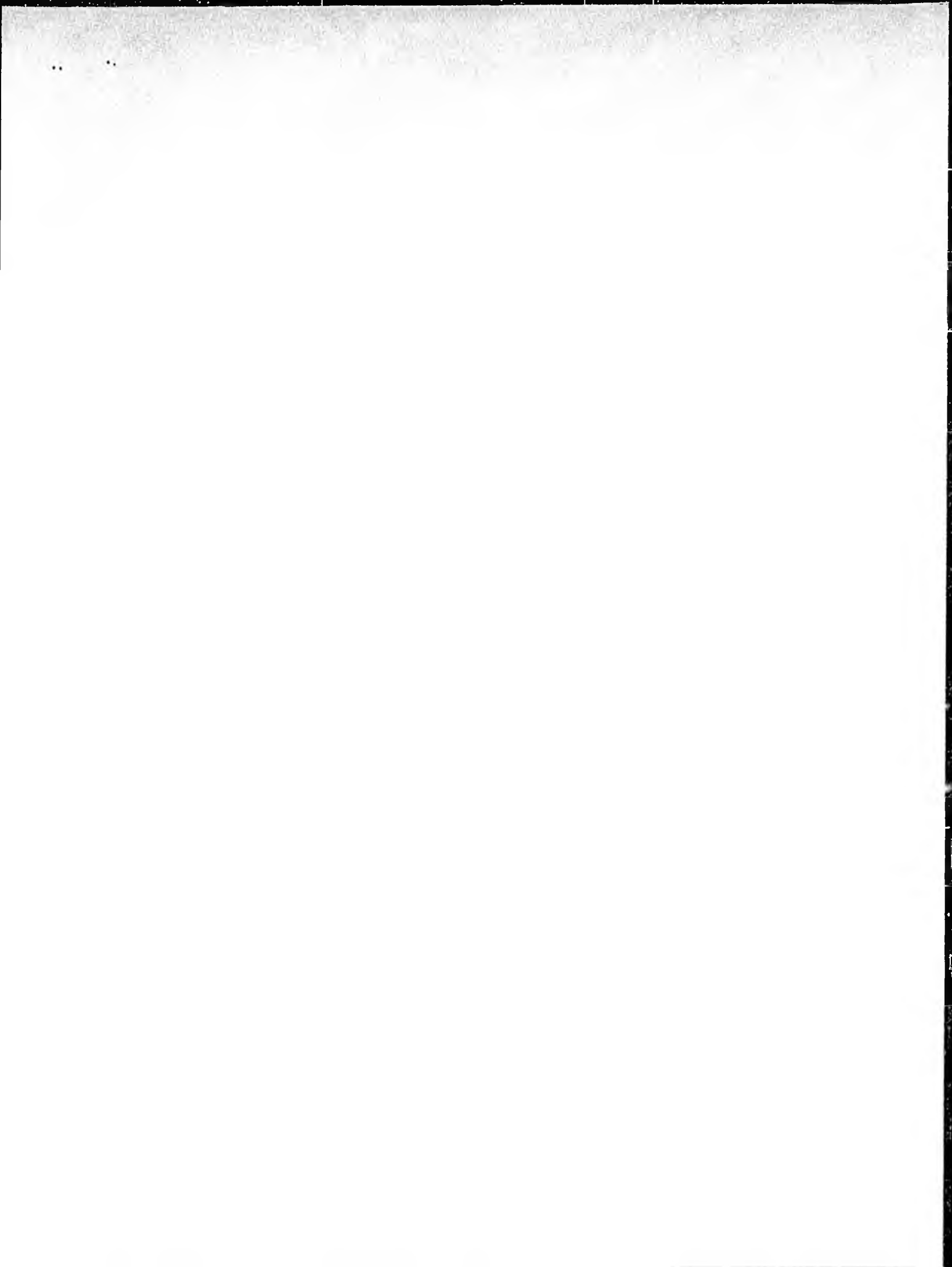
Section 18.65.080 Adds a new subsection authorizing the Dept. of Public Safety to conduct investigations as required for members appointed to and employed by the commission; race officials; race operators, or individuals applying for special permits.

Section 5 Provides that the governor make the initial appointment of commission members within 120 days after the Act goes into effect.

PARI-MUTUEL BETTING \*

An Analysis of the Implications  
of Legalizing Pari-Mutuel Betting  
in Alaska, in terms of possible  
Underworld Involvement and General  
Economic Considerations.

\*The following is a summary of a report  
prepared for Alaska State Fair, Inc. in  
1974.



## PARI-MUTUEL BETTING

### What It Is

Pari-Mutuel betting is a system of wagering used most often by race tracks. Odds are determined according to the approximate ratio of the amount bet on all horses to the amount bet on each individual horse. Wagers are collected, held by a racing association until the race has been decided, at which time the total amount bet (called the pool), minus the percentage allowed the state and association, is divided among the winning bettors. (See footnote<sup>1</sup>). At the present time, thirty-one states allow pari-mutuel betting for horse racing. In eight of those thirty-one states, pari-mutuels for dog races are legal and in three states, Florida, Connecticut, and California, pari-mutuels exist for jai-alai games.

### How It Works

The pari-mutuel system was invented in 1865 by a Frenchman named Pierre Oller. Under his system the odds were computed from the amount of the bet on the winning horse in relation to the amount bet on all the horses in the race, instead of allowing a bookmaker to freely determine odds on his own.<sup>2</sup> Since odds are determined by the bettors themselves, they are in effect betting against each other, hence the name pari-mutuel. (Pari is French for bet, mutuel means between us.)<sup>3</sup> All the money in the pari-mutuel pool less a 15-20% fee for state and track, is distributed to winning bettors according to their original bets.

Since the amount of profit depends upon the number of winning bettors in a certain pool, some French bettors lost money on winning tickets when too many people won. The United States protects its bettors from such a situation by requiring a profit of at least ten to twenty cents on all winning two dollar tickets.<sup>4</sup> If there is not enough money in the pool to provide this 10-20¢ profit to all winning bettors, then the racing association must make up the difference.<sup>5</sup> In this situation, there is said to be a "Minus Pool".

In North America, there are three different pari-mutuel pools, Win, Place, and Show. Europe uses Win and Place but not Show. If you bet Win, you will collect if your horse wins the race. For Place, the bettor collects when his horse wins or comes in second. For Show, he wins if his horse comes in either first, second, or third. The money is distributed to winning bettors in the total pool, minus the state and racing association's fee of 15-20%. Payoffs are calculated according to the odds.

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<sup>1</sup>The California Business and Professions Code defines pari-mutuel betting as: "a form of wagering on the outcome of horse races in which those who wager purchase tickets of various denominations on a horse and all wagers are pooled and held by the racing association for distribution. When the outcome of the race has been decided, the association distributes the total wagers comprising the pool, less the percentage allowed the State and Association, to holders of tickets on the winning horse or horses."

EXAMPLE: Taken from Oswald Jacoby's "Oswald Jacoby on Gambling"

Post 1	WIN POOL	PLACE	SHOW
1. Swizzlestick	\$ 10,000	\$ 5,000	\$ 6,000
2. Black Beauty	10,000	8,000	8,000
3. Baba	15,000	6,000	7,000
4. Cayuse	4,000	2,000	1,800
5. Sweet Patootie	35,000	16,000	20,000
6. Caramel	1,500	800	700
7. Out of Work	8,000	4,500	4,000
8. Silver	12,500	5,700	6,500
TOTALS	\$ 96,000	\$ 48,000	\$ 54,000

The total amount bet to win is \$96,000. Fifteen per cent, or \$14,400 is taken out for the state and track (this percentage may be as high as 20 per cent, and is occasionally slightly less than 15) leaving \$81,600 to be divided among the holders of tickets on Swizzlestick if that noble animal happens to get under the finish wire first. Since the total amount bet on him is \$10,000 there will be a profit of \$7.16 for each dollar bet. The machine calculates this and shows the closest simple odds, 7-1. In the event that Swizzlestick wins, the machine will flash a win price of \$16.30. It will be noted that the correct value for a \$2.00 ticket (all pari-mutuel prices are based upon the lowest priced ticket sold, the \$2.00 ticket) would be \$16.32. The difference, 2¢ in this case, between the correct value and the next lower multiple of ten cents (multiple of twenty cents at some tracks) is known as breakage and goes to the track and state. It does not seem like much but it adds up. Here is a complete list covering each possible winner that shows the approximate odds, the pay-off per \$2.00 ticket, the total pay-off, and the breakage.

HORSE	Odds Shown on Board	\$2 payoff	Total Payoff	Breakage
Swizzlestick	7 to 1	\$ 16.30	\$ 81,500	\$100
Black Beauty	7 to 1	16.30	81,500	100
Baba	4 to 1	10.80	81,000	600
Cayuse	19 to 1	40.80	81,600	0
Sweet Patootie	1 to 5	4.60	80,500	1,100
Caramel	50 to 1	108.80	81,600	0
Out of Work	9 to 1	20.40	81,600	0
Silver	6 to 1	13.00	81,250	350

Let us assume that the race is over and Swizzlestick won, the favorite, Sweet Patootie came in second, and the long shot Cayuse came in third. The price places are calculated as follows:

The total amount bet for place was \$48,000. Fifteen per cent or \$7,200 is taken for the track and state cut leaving \$40,800. The total amount bet on these two horses to place was \$21,000 which, when subtracted from \$40,800, leaves a profit of \$19,800 to be divided equally among the two horses. The \$5,000 bet on Swizzlestick to place represents 2,500 \$2 tickets. By dividing the sum of the original amount bet, \$5,000,

## UNDERWORLD INVOLVEMENT

The totalisator makes pari-mutuel betting the cleanest form of gambling in the United States. Before the machinery was in use, race track bettors never knew whether or not the race track was juggling the number of bettors or the amount bet to fatten one's own wallet. Nowadays, however, total bets and bettors are computed and posted instantaneously by machines too closely regulated to allow for deception at any level.

According to Rufus King, former chairman of the American Bar Association, Criminal Law Section and legislative counsel to the Senate Committee on Organized Crime, pari-mutuel betting is honestly what it purports to be. Track operations are so carefully supervised, policed, and double checked that there is little reason to suspect widespread skullduggery, and there have been no major scandals in recent years involving the defrauding of the public. The bettor is, of course, vulnerable to manipulations with the races themselves, but everything pertaining to the schedules, riders, mounts, and the actual running is also rigorously policed. Except for the rare phenomena of the minus pool, the track management has no interest in the outcome of any race; and this justifies the conclusion that race track betting—besides being legal and probably necessarily to some extent because it is legal—remains the cleanest form, per se, among all categories of gambling activity currently popular on the American scene. The possibility of direct tampering with the totalisator, says King, is remote.<sup>11</sup>

It was during the 1800's that American horse racing was gripped by a large criminal element that bribed jockeys, doped horses, and managed to profit financially from both the track and bookmaking. "Gate-money, concessions, and fraudulent races made tracks very profitable. They therefore attracted the protection racket, from gangsters, police and politicians. Only a very few rich tracks were rich enough, and run by men honourable and influential enough to escape this."<sup>12</sup> As a result, state after state banned racing during the early nineteen hundreds. The number of tracks in the United States went from 314 in 1897 to a bare 25 at one point.<sup>13</sup>

Finally in 1908, horse racing began to recover with the establishment of the Kentucky State Racing Commission as an effective authority over the racing associations.<sup>14</sup> States that were willing to legalize racing again soon established their own racing commissions to supervise and control the associations and pari-mutuel betting. The possibility of bringing the mob under control by regulating racing commissions has been a major argument in favor of legalizing pari-mutuel betting.

A second major argument frequently advanced in favor of pari-mutuel betting is that it brings in additional revenue without burdening the taxpayer. John Lindsay estimated that off-track betting alone would bring in as much as \$50 million dollars annually in New York City.

The promise of easy revenue moved state after state, hard hit by the depression, to legalize pari-mutuels at the race track in 1933.<sup>15</sup> By 1946, the horse racing industry had grown to such an extent that nearly 27 million people paid admissions to major race tracks, and

and the amount won, \$9,900, by 2,500, we get the resultant value of each ticket as \$5.96. Swizzlestick, therefore pays the next lower multiple of 10 cents, or \$5.90 to place, and the breakage is \$150.00.

\$16,000 was bet on Sweet Patootie to place. \$25,900 (\$16,000 plus \$9,900=\$25,900) is therefore available to be divided among the 3000 theoretical holders of \$2 tickets. The correct amount is \$3,2375. The actual price is therefore \$3.20, and the breakage is \$300.00.

The calculation of show money is similar. First the track and state 15 per cent are set aside leaving \$45,900 to be divided (\$54,800- $9,900=45,900$ ) among the holders of tickets on the three horses. The total bet to show on the three horses was \$27,800 (\$6,000 + \$20,000 + \$1,800= \$27,800) making the total profit \$18,100 (\$45,900-\$27,800= \$18,100) or \$6,033.33 per horse. Computing the price as above now gives us:

Swizzlestick pays \$4.00 to show and the breakage is \$33.33  
Sweet Patootie pays \$2.60 to show and the breakage is \$33.33  
Cayuse pays \$8.70 to show and the breakage is \$3.33

All of these complex calculations are made and displayed by a portable assembly of especially designed electrical equipment called a totalisator.<sup>8</sup> Betting Pools are usually illegal without the use of a totalisator, which consists of:

1. Standard (win, place and show), daily double and Quinella ticket issuers, which register and total each ticket as it is issued. (See Footnote\*).
2. Adding machines which total the sales registered by the standard issuers.
3. An automatic odds computer.
4. Electric indicators which show on the display boards the approximate odds during wagering and the order of finish of the first four entries (result) by program number, entry and pool totals obtained by the adding machines, the prices paid on a \$2 winning mutual ticket, race numbers, time of day, post time, etc.

When you buy your ticket at the pari-mutuel window, the operator (seller) pushes a button and records the sale. His ticket-issuing machine prints and delivers the ticket. At the same time, it registers the amount of the bet with the totalisator, which is an adaption of the dial phone system. This electronic brain adds, sorts and transmits the totals of all bets to the infield tote board at intervals of about ninety seconds until the closing of the pari-mutuel windows.<sup>10</sup>

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\*"Daily Double" is when purchaser must pick winner of two races, usually the first and second races.

"Quinella operates mainly at jai alai games and dog tracks. Bettor must pick two horses, players, or dogs in the same race or game to finish either first or second".<sup>9</sup>

where horse races are authorized, or from specified portions of such inclosure of any known bookmaker, known tout, person who has been convicted of a violation of any provision of this chapter of any law prohibiting bookmaking or any other illegal form of wagering on horse races, or any other person whose presence in the inclosure would, in the opinion of the board, be inimical to the interests of the state, of legitimate horse racing or both. No such rule shall provide for the exclusion or ejection of any person on the ground of race, creed or sex."<sup>29</sup>

*Safeguards*

All horses are given a saliva test by state veterinarians immediately before their race to detect any drugs to speed them up or slow them down. All races are filmed and reviewed for illegal behavior, such as jostling or the jockey holding his mount back. Additionally, the registry number of each race horse is tattooed on his upper lip as a safeguard against the introduction of ringers in races.<sup>30</sup>

There are several federal laws operating to curtail illegal gambling activity, in addition to state regulations such as the above. These 1962 laws make it a federal crime for any person to move in interstate travel to promote or participate in a racketeering enterprise. Two other laws make it a felony to transmit bets and wagers between states by wire or telephone or to transport wagering paraphernalia to another state. As defined by Congress, this includes tickets, slips, or paper used in bookmaking, sports pools or the numbers racket.<sup>31</sup>

#### CONSIDERATIONS FOR ALASKA

The State of Alaska received almost one billion dollars from oil leases signed in 1969. Approximately 400 million remains. Without pipeline revenue, Alaska could be financially bankrupt by 1976, given its current expenditure rate of some \$300 million annually.

State income in 1973-74 amounted to 280 million dollars. Expenditures came to \$364,559,000, leaving a \$114,559,000 deficit last year. For the last four years the State has spent \$373,528,900 more than it received in revenues. Official projections show the money from the North Slope leases will be gone in 1977.

In an effort to raise revenue, Alaska has authorized \$448,927,000 in General Obligation Bonds, \$348,842,000 of which has been issued as of January 1, 1974. Remaining to be issued is \$100,085,000. \$45,424,000 has been paid. This leaves the State with a General Obligation Bond liability or debt of \$303,418,000.

To issue another \$500,000,000 in a 20-year General Obligation Bonds at 5.2% would cost each taxpayer about \$6,037.

The Alaskan pipeline could dramatically change conditions in Alaska. "Building the pipeline and a 370 mile access road would pump 1.6 billion into the state economy."<sup>37</sup>

Legalized pari-mutuel betting is another way for Alaska to obtain revenue. The following statistics show amounts of revenue raised nationally through pari-mutuels;

collectively, just under 47 million persons wagered a staggering 3.3 billion dollars.

The National Association of State Racing Commissioners reported that the States received \$508 million in revenue from pari-mutuel racing in 1971: \$1,300,000 from track licenses, \$1,460,000 from occupational licenses, \$461 million from pari-mutuel taxes, \$8 million from breaks, and \$5 million from miscellaneous sources including concessions.<sup>18</sup> (For state revenues from pari-mutuels for 1971 see Appendix Two.)

The number of states with legal pari-mutuel betting is up to thirty-one at the present time. Forty states now tax individual income, forty-six tax corporate income, and forty-five have general sales taxes. State expenditures still exceed revenues in most states.<sup>19</sup> From 1959-1968, fifty states enacted three hundred and nine separate legislative tax measures, each of which levied a new tax or increased and old one.<sup>20</sup>

Pari-mutuel revenue, since it is obtained through voluntary contributions of tax payer's money, is much less painfully extracted from the tax payers than a property tax. 300,000 bookies currently receive across the country money that could be collected by the states. Illegal gambling bets are estimated to be near \$20 billion annually.

#### VOLUME OF BETTING

"In the era between the repeal of Prohibition in 1933 and the Kefauver investigations in 1950-61, illegal bookmaking grew right along with the spread of pari-mutuel track racing, quickly reaching proportions which made it indisputably the largest criminal monopoly of its day. Applying one authoritatively sanctioned rule of thumb, illegal bets on the pari-mutuel track races had an estimated volume of \$3.00 for every \$1.00 bet directly through the pari-mutuel windows, so that by 1948, with legal bets amounting to \$1.6 billion, a total of nearly \$5 billion was being staked each year with other forms of wagering, particularly bets on college and professional sports, has reduced substantially illegal gambling in the area of horse races. Less than 3% of current underworld gambling activity is involved with horserace betting. The illusion of massive underworld activity nevertheless persists in the minds of many. This misunderstanding has been a major barrier to the legalization of pari-mutuel betting.

In terms of numbers, "twenty-five million Americans, of whom eleven million were women, made at least a \$2 bet on races during 1966 either with their favorite bookie or at one of the country's 150 odd Thoroughbred or harness tracks-of these 11 million women, 83% are housewives and salaried employees, 10% are businesswomen, professional women, or retired, 2% are gamblers, operators of gambling ventures, hustlers, and easy money gals."<sup>22</sup>

Even though illegal gambling is a main source of revenue for organized crime, bookies rely upon horse race bets for less than twenty-five per cent of their business. The bulk of their bookmaking consists of bets placed upon sports events. In terms of profit to the bookmaker, \$1 bet on horse racing is worth \$3.80 wagered on football, since the bookie keeps the 17% of the pari-mutuel pool normally given to the state and track.<sup>24</sup> The comparative volume of betting is so slight however, that it reduces this overwhelming

financial advantage to the point of insignificance. One New York bookie estimated that 50% of his business is done on college and professional football, 35% on major league baseball, 12% on college basketball and 3% on horse racing, championship fights, golf tournaments and general elections.<sup>25</sup>

Pari-mutuel betting will not eliminate bookies, since bookmakers offer a number of advantages: they give credit, while tracks do not; they are in every neighborhood; they take exotic wagers (parlays and the like) while state organizations are confined to official odds; and the big gamblers, whether professionals or affluent amateurs, prefer bookies, using money from tax evasion to gamble with.<sup>26</sup>

Pari-mutuel betting will tend to minimize the involvement of bookies in horse racing, by offering a legitimate outlet for bets. The advantage to bettors at the window is the insurance of payment, of honest odds and state regulation. The danger of corruption can be minimized with the use of such equipment as totalisators.

#### INSTITUTIONAL SAFEGUARD

A copy of California code covering pari-mutuel betting is included in appendix two. As spelled out in the Code, there is a California Horse Racing Board to supervise and jurisdicit all matters dealing with horse racing in the state. The three Board members are the Governor's appointees serving terms of four years. They are disqualified from membership for;

a) Holding any financial interest in a horse race track or in the operation of any such track or in the operation of any such track within this state, or in the operation of authorized wagering on the results of horse races.

b) Accepting any pecuniary reward other than authorized salary, from any horse race track in this state or in respect to its operation of authorized wagering on the results of horse races.<sup>27</sup>

The board appoints all its employees who are subject to these same disqualifications.

Licenses must be obtained from the Board to operate a race track. All licenses are subject to suspension or revocation for non-compliance with Board regulations-state racing regulations. All licensees must be residents or registered voters of the state for two years.

The number of racing days for each racing association of the state is allocated by the Board. Depending upon the size of the county the number of racing days varies, ranging from 100 for a county of one million to 14 for a county of less than 500,000 people.

The Board has the power to "compel productions of any and all books, memoranda or documents showing the receipts and disbursements of any person licensed under this chapter".<sup>28</sup> It may also subpoena any members.

As concerns bookmaking, section E 19572 states, "Board may, by rule, provide for the exclusion or ejection from any inclosure

PARI-MUTUEL ATTENDANCE AND TURNOVER, 1955-1969

	Number of Racing Days	Total Attendance (thousands)	Pari-Mutuel Turnover
1955	4,899	38,503	\$2,592,000,000
1960	6,099	46,879	\$3,358,000,000
1965	8,051	62,887	\$4,615,000,000
1966	8,384	63,577	\$4,784,000,000
1967	8,621	63,373	\$4,922,000,000
1968	9,051	65,460	\$5,316,000,000
1969	9,539	68,099	\$5,723,000,000

Source: Statistical abstract of the United States, 1970

A table showing pari-mutuel revenue by state is included in Appendix Two.

Games of chance are legal in Alaska when restricted to non-profit organizations to allow them to raise money for educational and patriotic purposes. The concept of gambling is acceptable to The Alaskan Legal Code if the intent has merit.

"Alaska maintains the smallest state population of any state in the Union. Alaskan unemployment is a high 13% and of those who are employed, nearly 50% work on military bases.<sup>34</sup> Nearly one-half of the state's people live within a fifty mile radius around Anchorage (pp46, 137)<sup>35</sup> Tourists in Alaska annually number about 100,000. "The State badly needs highways, railroads, hotels, ski areas, and more public parks-new lures for urban Americans as well as Japanese, who are relatively near."<sup>36</sup>

(According to the latest statistics from the Department of Tourism, Juneau (October 7, 1974) there were 252,000 tourists visiting Alaska in 1974. Tourism was up 19% for the first six months of 1974. (M.J. Ryder)

The role of pari-mutuel betting in attracting settlers, providing entertainment and culture, employment at the tracks, and a more diverse economic base should be considered. Population distribution would seem to suggest centering Alaskan Horseracing in the Greater Anchorage area.

Alaska currently has two horse racing tracks, one in Soldotna and one in Palmer. The latter is probably the only one capable of supporting pari-mutuel horse-racing at this time. The Palmer grounds seat 1000 and accomodate over 2,500. (See newspaper article in Appendix Four).

The Pari-Mutuel Attendance and Turnover chart indicates that each bettor generates approximately \$67 worth of revenue for each racing day. Without track improvements to expand capacity, the Palmer track could theoretically generate approximately \$67,000 a day under existing conditions.

If horse racing revenues were running at the low estimate level, Alaska could operate on a percentage basis, as has been done in Wyoming.

Wyoming has a population which approximates Alaska's, and supports two to four racetracks. Jack Miller, Director of Cheyenne Frontier Days Rodeo, allowed as how totalisator equipment rental proved no problem when pari-mutuel betting was in operation. The Rodeo dropped pari-mutuel betting in 1972 to concentrate more fully on the non-racing horse events which were more central to their operation. Crowds for the Rodeo and Horse Racing averaged 16,000 at that time, 40-50% of which were in-state residents. Miller said that multiple considerations are involved in making betting profitable, but that it could be if sufficient emphasis is given to it. Cheyenne Frontier Days dealt with Lloyd Shellhammer of Montana for their equipment, which cost 4 to 5% of the total take (well below the \$100,000 fee of large operations like California's).

Central Wyoming Fair in Casper generally turns significant profits, according to one employee, whose estimate of crowd composition was as high as 75% local. As few as 30% of the horses are in-state, she reported. Central Wyoming Fair runs about ten horses in each of ten races a day during their eight day racing season. Underworld involvement was non-existent, in the opinion of the track.

One Wyoming couple was interviewed. They went to the race track on occasion, felt it was interesting entertainment. The couple, retired for some years, felt that it was a good idea to legalize pari-mutuel betting in order to keep control over it and bring money to the state. They thought the majority of the crowds were local and were not aware of any underworld involvement.

Unlike Alaska, Wyoming borders on five states with legal pari-mutuels, namely Montana, Idaho, Colorado, Nebraska and South Dakota. A significant number of horses come to Wyoming from Colorado. Alaska is approximately 1,500 miles from the closest racing state. Transportation systems are comparatively poor. The main highway to Alaska from the continental United States travels 1,523 miles between Dawson Creek, British Columbia, and Fairbanks, Alaska. All but 300 miles of it lie in Canada. Most is unpaved.

Alaska could expect to raise sufficient crowds of spectators and it is anticipated that horses from the Lower 48 and Canada would be shipped into Alaska to assure a satisfactory racing program. In the embryonic stages of development it is estimated that three hundred horses would be required to run a racing program that would be economically sound. Money must be spent building stables, obtaining feed, employing veterinarians, jockeys, saddle and harness makers, blacksmiths, stewards, underwriters and state inspectors.

Initially, many of the amenities usually associated with horse racing tracks would be missing, but the basic plant could be provided to meet minimum standards. Similarly, a fair could work without totalisators, using modern computers not in existence at the time when totalisators were conceived. One Anchorage business equipment firm has indicated that it could provide small computers, complete with pari-mutuel program for under \$3,000 (total cost of purchasing equipment and program). Such computers might be more viable under current conditions.

Dog racing might be a more desirable form of pari-mutuel betting in Alaska. The following quote tells about the Wonderland dog racing track in Revere, Massachusetts.

"A dog track bears absolutely no resemblance to an oriental palace. It looks more like something you race kiddie-cars

on. The back area required to kennel the dogs is relatively meager, and Worlerland was paying the almost negligible Revere taxes. Unlike the horsemen, the dog owners are very reasonable people, possibly because nobody ever told them they were the heirs to the Sport of Kings. The upkeep on a Greyhound is no more than you would expect it to be; there are no jockeys to split the purse with; the owners are sometimes their own trainers; and there are only a few states in which they can race. Taken altogether, they are more willing to take what they can get. The total purses on any given night are a percentage of the handle on that day; that's right, the winning owner doesn't know what he's won until the night is over."39

There are seven states that have pari-mutuel dog races; Florida (17 tracks, 5,923,000 attendance and a pari-mutuel handle of \$303,056,000 in 1967-68), Arizona (5 tracks), Massachusetts (6), Colorado (4), Oregon (1), Arkansas (1), and South Dakota (2).

One possibility unique to Alaska would be Pari-mutuels on sled dog racing, the kind which is currently run annually by the Anchorage Fur Rendezvous.

#### CONCLUSION

Pari-mutuel betting is currently legal in thirty-one out of fifty states. The experience of these states has been that pari-mutuel betting is usually profitable, resulting in additional state revenue. Population does not seem to be a handicap for Alaska, as indicated by the example of Wyoming, whose population is roughly equivalent. If legalized, pari-mutuel betting should be profitable and in other ways beneficial to Alaska under normal conditions.

Fears of underworld involvement in legal pari-mutuel betting stem from past experiences which no longer hold true. Today less than three per cent of illegal bookmaking involves horseracing. With the correct equipment and legal safeguards, most experts would agree that criminal bookmaking poses no threat to horseracing in Alaska.

A variety of other considerations exist which argue for legalization: badly needed funds for state government, attracting settlers and tourists, providing recreation and amusement, creating much needed jobs and stimulating a variety of new supporting industries, to name a few. Arguments against legalizing pari-mutuel betting center largely on the unfounded fear of criminal involvement and moral objections which are not objectively verifiable.

Several questions remain: Can Alaska ultimately provide the horses for large scale pari-mutuel operations? Should Alaska simply remain at a low level of operations, using it's own horses and computers? How will the myriad of special conditions unique to Alaska affect the situation as a whole?

These questions in no way present obstacles to legalization and will be easily answerable on investigation once pari-mutuel betting is approved. The conclusion of this report is that neither economic considerations nor the possibility of underworld involvement stand in the way of such approval.

Respectfully submitted  
*Josiah Henson*

Josiah Douglas Henson  
JOSIAH HENSON ASSOCIATES  
Special Consultants to the  
Alaska State Fair, inc.  
Horse Racing Commission

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LIST OF FOOTNOTES

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- 35) Ibid.
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## BY-LAWS

ARTICLE I

PURPOSE: The purposes for which this Corporation is formed and the powers it may exercise are set forth in the Articles of Incorporation of the Association.

ARTICLE II

OFFICES: The principal offices of the Corporation shall be in the Sitka Borough, in the State of Alaska.

ARTICLE III

SEAL: The Corporate Seal shall have inscribed thereon: "Alaska Pari-Mutuel, Inc. Corporate Seal, State of Alaska." Said seal may be used by causing it, or a facsimile thereof, to be impressed or affixed or reproduced or otherwise.

ARTICLE IVMEMBERSHIP:

- A. Any person of the age of 18 years or older, who is a legal resident of the State of Alaska may become a member of this Corporation by paying the annual membership fee hereinafter specified and agreeing to comply with and be bound by the Articles of Incorporation and the By-laws of this organization. The membership year of this Corporation shall begin the 1st day of January each year and end on the 31st day of December.
- B. The annual membership fee will be: Regular membership, twenty-five dollars (\$25.00) and Corporate memberships will be one hundred dollars (\$100.00).
- C. NON LIABILITY FOR DEBTS OF THE CORPORATION: The private property of the members shall be exempt from execution for the debts of the Corporation and no member shall be personally liable or responsible for any debts or liabilities of the Corporation unless he voluntarily agrees to be so bound.
- D. MEMBERSHIP NOT TRANSFERRABLE: The transfer of membership is prohibited.
- E. CERTIFICATES OF MEMBERSHIP: The certificates of membership shall be entered in the books of the Corporation as they are issued. They shall exhibit the holder's name and shall be signed by the President or Vice-President and attested by the Secretary.
- F. REQUIREMENTS FOR MEMBERS TO VOTE AND HOLD OFFICE: No member may be a candidate or be elected a director or vote at any membership meeting unless his annual membership fee has been paid on or before December 31 of the current year (no exceptions).

Directors shall choose a President for a term of thirty (30) days, who shall hold office until he is replaced by or until the next election of Directors. Any Director may be removed from office by the affirmative vote of a majority of the members present at a meeting for that purpose. Any Director may be removed by a majority vote of Directors for unexcused absences from three consecutive regular meetings of the Board.

- E. The property and business of the Corporation shall be managed by its Board of Directors which may exercise all such powers, do all such lawful acts and things as are not by Statute or by the Certificate of Incorporation or by these By-Laws directed or required to be exercised or done by the members.
- F. The Directors shall have control of all expenditures. No officer, director, committee, agent or employee shall have the power to obligate the Corporation for any indebtedness, purchase or thing whatsoever, without first having been approved by the majority of the Directors present at a regular or special meeting. No bills shall be paid without first having been approved by a majority of the Board of Directors present at a regular or special meeting.
- G. The Directors may appoint such agents or employees as it shall deem necessary, who shall exercise such powers and perform such duties as shall be determined by the Board.

#### ARTICLE VII

##### COMPENSATION:

- A. Compensation will be pursuant to Article VII of the Articles of Incorporation.
- B. The salaries of any designated agent or employee shall be fixed by the Board of Directors.

#### ARTICLE VIII

##### MEETINGS OF THE BOARD OF DIRECTORS:

- A. Regular meetings may be held at such time and place as determined by the Board.
- B. Special meetings may be called by the President on two (2) days notice to each Director, either personally or by telephone, mail or telegram. Special meetings shall be called by the President or Secretary in a like manner and on like notice on the written request of any Director. Unless otherwise indicated, in the notice thereof, any and all business may be transacted at a special meeting. No notice of any adjourned meeting need be given.
- C. A majority of the Directors shall constitute a quorum for the transaction of business. The act of a majority present at any meeting at which there is a quorum shall be an act of the Board of Directors, except as may be otherwise specifically provided by Statute, Article of Incorporation or these By-Laws.



HORSE RACING, INC.  
ARTICLES OF INCORPORATION

ARTICLES I

The name of this corporation shall be HORSE RACING, INCORPORATED

ARTICLE II

The principle office and place of business of this corporation shall be in Palmer, in the Matanuska Susitna Borough, Alaska.

ARTICLE III

This Corporation is organized exclusively for charitable and educational purposes, including for such purposes the making of distributions to organizations that qualify as exempt organizations under section 501 (c) (4) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law). The object and purposes of this Corporation are:

- a. To engage in the business of creating an Alaskan Horse Racing Commission and authorizing pari-mutuel wagering at sanctioned events.
- b. To borrow money, to buy, own, build, erect, construct, lease and otherwise acquire, manage, occupy, maintain, and operate buildings, grandstands, pavilions, booths, stables, sheds, corrals, exhibition grounds, storerooms, office buildings and business structures of all kinds and character.
- c. To employ or contract for services necessary in carrying out the purposes of the corporation.
- d. To hold meetings of the Board of Directors of the Corporation in such places within the State of Alaska, as the Board of Directors may from time to time determine.
- e. To maintain, do, perform, execute, acquire, own, hold and dispose of each, all and everything incidental to or necessary, convenient, or proper, to carry out or perform any of the matters, things, or purposes aforesaid, and to exercise any and all rights and privileges which may be necessary, requisite, useful, convenient, or proper, or which may be incidental or auxiliary to any of the purposes of objects hereinbefore expressed, or that in the judgement of the Board of Directors of the Corporation may be necessary, requisite, useful, convenient, proper, incidental, or auxiliary, to any of said purposes or objects or be deemed to tend to advance the interest of the Corporation and the objects for which it is created.

## ARTICLE VIII

The affairs of the Corporation shall be managed by a Board of Directors, which shall have the power to engage such employees as it deems necessary to carry out the functions of the Corporation.

The number of directors of this Corporation shall be a minimum of five (5) and a maximum of nine (9). Directors shall be elected by the membership at the annual meeting of the Corporation. The date of the annual meeting shall be determined by the By-Laws. In the event of a vacancy on the Board of Directors, the remaining board members shall choose a replacement who will serve until the next annual meeting of the membership.

The Board of Directors shall select from among themselves the officers prescribed by the By-Laws.

## ARTICLE IX

Before transacting any business or acquiring any property, the persons constituting the membership of the corporation must meet and adopt By-Laws. The vote of a majority of all the members in good standing of the Corporation shall be necessary to the adoption of such By-Laws and when adopted the same must be written in a book kept by the Corporation, to be duly signed by all persons thereafter becoming members of said Corporation.

## ARTICLE X

The Corporation reserves the right to amend or repeal any provision of these Articles in the manner provided by law, and all rights conferred upon members are granted subject to this reservation, with the exception, however, that no amendment or repeal shall so change the objects and purposes of the Corporation as set forth in these Articles as to permit any of the assets or net income to inure to the benefit of any private individual, officers, or member of this Corporation.

## ARTICLE XI

The address of this Corporation shall be General Delivery, Palmer, Alaska 99645,

## ARTICLE XII

The number of directors constituting the original Board of Directors is three (3). The names and addresses of the persons who are to serve as the initial incorporators are as follows:

Joseph W. Berberich - 508 Falcon Court - Palmer, AK 99645  
Marsha M. Melton - P. O. Box 891 - Palmer, AK 99645  
Curtiss R. Anderson - P. O. Box 882 - Palmer, AK 99645

Executed by the undersigned incorporators of Horse Racing, Incorporated, originals at Palmer, Alaska on \_\_\_\_\_  
1986.

\_\_\_\_\_  
Joseph W. Berberich, Incorporator

\_\_\_\_\_  
Marsha M. Melton, Incorporator

\_\_\_\_\_  
Curtiss R. Anderson, Incorporator

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DIST. )

THIS IS TO CERTIFY that Joseph W. Berberich and Curtiss R. Anderson personally appeared before me to sign the foregoing Articles of Incorporation of Horse Racing, Inc., as their voluntary act and deed on this \_\_\_\_\_, 1986.

\_\_\_\_\_  
NOTARY PUBLIC in and for Alaska  
My Commission expires:

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DIST. )

THIS IS TO CERTIFY that Marsha M. Melton personally appeared before me to sign the foregoing Articles of Incorporation of Horse Racing, Inc., as her voluntary act and deed on this \_\_\_\_\_, 1986.

\_\_\_\_\_  
NOTARY PUBLIC in and for Alaska  
My Commission expires:

HB

36

Original sponsors: Grussendorf and  
Gruenberg

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 36 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act requiring certain motor vehicle insurance  
7 policies to provide reduced rates for certain per-  
8 sons; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 21.89.020 is amended by adding new subsections to read:

11 (f) An insurer shall provide an appropriate reduction in the  
12 premium charged for a motor vehicle casualty insurance policy when the  
13 principal operator of the motor vehicle covered by the insurance  
14 policy

15 (1) is 55 years of age or older;

16 (2) requests the insurer to provide the reduction;

17 (3) provides the insurer with proof satisfactory to the  
18 director that the operator has within the three years before request-  
19 ing the reduction taken and successfully completed a motor vehicle  
20 accident prevention course approved by the Department of Public Safety  
21 under AS 28.05.035; and

22 (4) did not take and complete the accident prevention  
23 course described in (3) of this subsection as a result of an order or  
24 sentence imposed by a court.

25 (g) An insurer may cancel a rate reduction provided under (f) of  
26 this section if during the policy period the principal operator of the  
27 insured motor vehicle is

28 (1) involved in an accident caused by the operator; or

29 (2) convicted of a moving traffic violation.

1 (h) The reduced rate provided for an operator under (f) of this  
2 section may not extend beyond three years after the last day of the  
3 operator's most recently successfully completed motor vehicle accident  
4 prevention course described in (f)(3) of this section.

5 \* Sec. 2. AS 28.05 is amended by adding a new section to read:

6 Sec. 28.05.035. COMMISSIONER MAY APPROVE ACCIDENT PREVENTION  
7 COURSES. For the purposes of AS 21.89.020(f)(3), the commissioner may  
8 approve driver education courses intended to prevent motor vehicle  
9 accidents and promote safe driving practices.

10 \* Sec. 3. APPLICABILITY. This Act applies to policies of motor vehicle  
11 casualty insurance entered into or renewed after October 1, 1987.

12 \* Sec. 4. This Act takes effect October 1, 1987.  
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The proposed legislation mandates an appropriate premium reduction of not less than 5% for a driver over age 55 who requests the reduction and has within the previous three years completed a motor vehicle accident prevention course approved by the Department of Public Safety.

The principal issue of concern with this legislation is not whether persons meeting the conditions in the bill should receive a credit in their automobile insurance for that condition, but whether the amount of credit should be established in legislation. While such an action would be appropriate where the state is the insurer, it is subject to question in those cases where that insurance is provided by private insurers.

The State of Alaska has not previously mandated specific rates, rate levels or rate values for insurance written in this state. To do so conflicts with the insurance rate law (AS 21.39.010 et seq.) which requires that a rate shall be neither excessive, inadequate, nor unfairly discriminatory. If rate reductions or changes occur due to particular conditions, the law now requires that the credit should actually reflect the experience of the insurer or a group of insurers or persons who meet the conditions for the particular credit.

To the degree that a particular level of mandated credit is incorrect, a subsidy is created. When that occurs, the subsidized business finds it difficult to find a standard market. Alaska expends a considerable effort in maintaining a marketplace for a vast variety of kinds of insurance. This is complicated by the fact that Alaska represents about 1/2% of the premium in the United States. To the degree that insurers perceive that Alaska provides a favorable climate and the opportunity for profit (real or imagined), insurers are willing to participate in the Alaska marketplace. When that perception changes due to conditions wrought by regulation or legislation, insurers tend to migrate to more profitable jurisdictions.

A rate reduction may or may not be warranted for the conditions in the bill depending on a number of other factors that a statutorily mandated rate would be unable to consider. An extreme example for sake of illustration would be where an insurer writes only drivers over 55 who meet the conditions set forth in the bill, and whose rates are adequate for that selection of business. In such a case, this proposal would force the insurer to charge a rate that would be inadequate to cover this class of insured. Further, the selection of age 55 may be unfairly discriminatory if other age groups have a similar experience when meeting similar conditions.

We are concerned that the very group this legislation intends to assist, may be hurt by its presence.

An alternative approach that would likely to be less disruptive in terms of our efforts to promote Alaska as a good place for insurers to do business would be to mandate the rule but not the value of the rule.

AMENDMENTS

On page 1, line 11 and 12, remove the words "of not less than 5 percent"

Or, page 1, line 13, delete the word "casualty" and insert the words "bodily injury liability, property damage liability, and collision"

REPRESENTATIVE  
BEN GRUSSENDORF

P O Box 828  
SITKA, ALASKA 99835  
(907) 747-8458

RULES COMMITTEE  
LEGISLATIVE COUNCIL

DISTRICT 3  
ELFIN COVE  
PELICAN  
PORT ALEXANDER  
SITKA  
TENAKEE

# Alaska State Legislature



House of Representatives  
SPEAKER OF THE HOUSE

WHILE IN JUNEAU  
P O Box V  
JUNEAU ALASKA 99811  
(907) 485-3824  
(907) 485-3720

## MEMORANDUM

TO: Sen. Tim Kelly, Chairman  
Senate Labor and Commerce Committee

FROM: Rep. Ben Grussendorf

DATE: April 7, 1987

RE: HB 36

Please find attached the position paper of the American Association of Retired Persons. The original bill provided for at least a 10 percent reduction in premiums charged for a motor vehicle casualty insurance policy for drivers 55 or older. The House Labor and Commerce Committee changed this language to read: ". . . an appropriate reduction of not less than 5 percent." Also this committee added (f)(4) to Section 1 of the bill, which takes into account those drivers who were offered the option of taking a driver improvement course in lieu of a conviction by a court. The House Judiciary Committee added the language regarding the effective date which makes the Act effective October 1, 1987. This was in response to the insurance industries' request, since many policies are written three months in advance.

The main purpose of the bill is to have safer drivers 55 and over. Research shows that driving patterns do change around age 55. Drivers over 55 need a driver improvement course that will take into account the changing response time, loss of night vision, etc. that older drivers experience. As of January 1, 1986, there were 40,835 Alaska licenses issued to drivers 55 and older out of the total 385,401 licenses issued.

AARP charges \$7 per course to help cover the cost of the book, all other costs are covered by AARP. The course is taught by volunteers. You do not have to be a member of AARP to take the course. The Alaska Division of Motor Vehicles has already certified the course.

BG/kb

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# Alaska State Legislature



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## House of Representatives SPEAKER OF THE HOUSE

### MEMORANDUM

TO: Rep. Ben Grussendorf  
FROM: Katherine Buchanan  
DATE: February 19, 1987  
RE: HB 36

According to Steve Stiles of the National AARP the following state have already passed similar legislation:

Connecticut	Illinois	Rhode Island
Minnesota	New York	North Dakota
Delaware	Arkansas	Kentucky
Louisiana	Virginia	Oklahoma
Florida	Texas	Tennessee
Wyoming	and Washington, D.C.	

The following states recently passed this legislation:

effective July 1, 1986: Washington and West Virginia

effective July 1, 1987: Montana, South Dakota and California

## Position Paper

### Automobile Insurance Discount

The State Legislative Committee of the American Association of Retired Persons proposes that legislative steps be taken to reduce automobile insurance premiums for motor vehicle operators age 55 and older who complete a state-approved driver education course.

Rationale: Motor vehicle operators age 55 and older are a unique population and have specific physiological considerations and driving problems. How do these individuals compare with age brackets in safe driving practice and incidence of accidents?

In order to obtain an accurate picture it is not enough to consider only age and number of accidents, its necessary to factor in the annual number of miles driven per year. Research shows that the number of annual miles driven by motor vehicle operators begins to decline significantly after age 55. Therefore, an important consideration with regard to the safe driving practices and abilities of older persons is the criteria used to determine accident involvement statistics.

The record of the older driver is good when calculated on the basis of accidents per driver. When the same figures are examined on the basis of miles driven annually, a different picture emerges. This more significant and meaningful statistic highlights the urgent need for corrective measures to re-educate older drivers.

Because older persons drive fewer miles, corrections must be made for driving exposure. When this factor is included in accident involvement rates, and the involvement per exposure is determined, a U-shaped curve of accidents versus age results. Violation and accident rates per mile are higher for the youngest and oldest drivers and lower for those in the middle ranges. Although one can quibble over the exact placement of the curve, a general "U" configuration has emerged in every major study undertaken during the past 10 years.

The National Safety Council reports that when the number of miles driven is taken into account, drivers age 55 and over have a poorer accident record than drivers in their middle years.

The U. S. Department of Transportation identifies the older driver as being age 60 and older and in a group which requires special consideration in the development of driver improvement training procedures. The National Highway Safety Forecast points out that the older driver is adjudged at fault more than middle aged drivers, and due to the population age shifting currently underway in America, is perhaps one of the fastest growing highway safety problem areas.

Older drivers have problems when involved in driving situations requiring quick response, full vision and interaction with other drivers. Typical violations include failure to yield right-of-way, improper turning, incorrect lane changing, passing, and entering and leaving expressways.

The older driver learned to drive during the first forty years of this century, well before the advent of formal driver education programs in the public school systems. The older driver that has completed a formal driver training course is the exception rather than the rule.

These individuals may experience physical changes which affect driving abilities and attitudes. People age at different rates, so age alone is not a fair criterion for determining driving competence. There is no question, however, that driving ability can be affected by the aging process. The gradual failure of sensory acuity associated with aging reduces the quantity and accuracy of information capable of being processed. This reduces the ability of the individual to respond or react to his environment with the speed and judgment current traffic often requires.

Eighty-five to ninety percent of all sensory input needed to drive comes via the eye. Unfortunately, as one ages the need for more illumination increases, glare sensitivity rises, dark adaptation lessens, and peripheral vision narrows. Hearing loss also presents problems for older drivers. It is also broadly accepted that as one ages muscles tend to weaken or atrophy.

Primary Objective: By passage of this legislation, will create an economic incentive for older drivers to take a driver improvement course and thereby improve their driving capabilities. This reduces their chances of accident and accident claim filings, and creates a safer driving environment for all. Notably, the proposed legislation brings this about without cost to the state.

The older driver earns the driver improvement discount by taking a positive, preventive step. This incentive discount is given in addition to any other marketing discounts, such as for non-smokers, seat-belt wearers, those reaching a certain age, etc.

The automobile insurance industry writes policies on accidents per age group, and thus considers older drivers to be a reduced risk because of the fewer miles that they drive. In fact, some insurance companies reduce premiums for drivers after age 55 or 65, much the same as they do for drivers after age 25. The issue is not whether some automobile insurance companies may or may not reduce rates for older drivers as a marketing tool. The primary issue is reducing accidents per mile involving drivers age 55 and older.

Action in other states: Legislation has been enacted in 16 states and the District of Columbia which require all automobile insurance companies conducting business in those states to provide a premium reduction to graduates of state-approved driver improvement courses. The list now includes:

<u>State</u>	<u>Discount</u>	<u>Age</u>	<u>Effective Date</u>
AR	Approp. 5-20%	55+	1981
CT	Approp. Min. 5%	62+	1993
DE	10% on liab. & personal injury protection	66+	1982
DC	Approp. 5-10%	55+	1985
FL	Approp. reduction	65+	1986
KY	Approp. reduction	55+	1984

<u>State</u>	<u>Discount</u>	<u>Age</u>	<u>Effective Date</u>
IL	Approp. 5-10%	55+	1982
LA	Approp. 5-10%	55+	1984
MN	Approp. reduction	65+	1985
ND	Approp. 8-10%	55+	1983
NY	Min. 10% on liability	16+	1981
OK	Approp. reduction	55+	1986
RI	Approp. reduction	55+	1984
TN	Approp. 8-10%	55+	1984
TX	10% of premium	16+	1974
VA	Approp. reduction	55+	1985
WY	Not less than 10% of premium	60+	1983

Many other state legislatures are considering this legislation. It is hoped that will add this legislation to its statutes.

CONCERNS AND RESPONSES REGARDING OLDER  
DRIVER DISCOUNT LEGISLATION

Prepared by AARP's State Legislative Committee

- A. CONCERN: Since statistics seem to show drivers age 55 and older among the safest on the road, what is the rationale for legislation that would encourage participation at a driver improvement course?

RESPONSE: The National Safety Council finds that drivers age 55 and older have a poorer accident record, considering the number of miles driven, than do drivers in their middle years. The U. S. Department of Transportation statistics agree: older drivers are at fault more frequently than middle age drivers in accidents and violations reported by law enforcement officials.

It is not enough to consider only age and the number of accidents. From this limited perspective one sees that drivers 55 and older make up 24% of the driving population, yet are involved in only 18% of the accidents. But when driving exposure is considered, measured by the number of miles driven, older drivers have a higher percentage of accidents than their population warrants. Violation and accident rates per mile is higher for the youngest and oldest drivers, and lower for those in the middle range.

Research shows that the aging processes that affect driving generally become significant when persons reach their fifties. The U. S. Department of Transportation recommends that special consideration be given to older drivers when driver improvement courses are developed.

- B. CONCERN: Since a number of driver improvement courses already exist, why aren't older drivers enrolling?

RESPONSE: Older drivers do enroll in driver improvement courses, nationwide and here in . . . Many more will do so, however, when an economic incentive is available through legislative mandate. Experience in other states that have passed this type of legislation has shown that most people need an economic incentive to actively seek improvement of their driving skills. In . . . of our neighboring states, . . . experience with this legislation and . . . of older drivers are now enrolling there. Should . . . enact this bill, there will be accident claim reductions and fewer injuries and fatalities on our roads as well.

- C. CONCERN: It seems that older drivers are being singled out for special consideration. Isn't this age discrimination? Why not allow drivers of all ages to participate in any mandated insurance incentive program?

## CONCERNS AND RESPONSES

Page Two

RESPONSE: The American Association of Retired Persons is interested in resolving problems of older persons. However, if will pass legislation allowing discounts for all drivers attending driver improvement courses, we would not be opposed. We have been informed by numerous insurance companies and insurance trade associations that they are against legislation involving the younger driver. In fact they have fought against including drivers below age 55 in many states where legislation has been enacted for drivers age 55 and over. This legislation does not establish a special category of drivers in any discriminating sense. It simply recognizes an area of need and provides an incentive to help older drivers and the insurance industry reduce accidents and accident claims.

- D. CONCERN: Many automobile insurance companies already offer discounts for older drivers based on accidents per age group. Would this legislation jeopardize these discounts?

RESPONSE:

Sixteen states and the District of Columbia have already enacted similar legislation. The discount provided to graduates of approved driver improvement courses is the last discount applied. The automobile insurance industry writes policies on accidents per age group and thus considers older drivers a good risk, due to the fewer miles that they drive. In fact, some insurance companies reduce premiums for drivers after age 55 or 65, much the same as they do for drivers after age 25.

The goal of mandated legislation, however, is to provide an incentive discount on automobile insurance premiums that encourages older drivers to take a driver improvement course and to reduce the chances of accidents and claim filings. The driver earns the discount by taking a positive prevention step, unrelated to any other discount.

The discount given graduates of approved driver education courses is given in addition to any other marketing discounts provided to non smokers, seat belt wearers, those reaching a certain age, etc. None of these marketing discounts was dropped when states mandated this legislation.

- E. CONCERN: Would drivers not involved in driver improvement courses have to subsidize the discount provided to those who complete one of the approved courses by paying higher premiums?

RESPONSE: This has not been the case in the other mandated states. In Texas where the insurance discount has been in effect for 10 years, the phrase used by insurance companies is that the discount is "fully earned". Although most states recently enacted this legislation, it is our belief that time will show a accident and violation reduction. The insurance companies will save money by

## CONCERNS AND RESPONSES

Page Three

to fewer accident claim filings. As a consequence drivers not participating in the mandated insurance driver improvement program will not pay a higher premium, but will be encouraged by their insurance companies to enroll in a driver improvement course.

- F. CONCERN: Why must the word mandated to be included in the language? Can't the language be changed to allow voluntary participation?

RESPONSE: Any company may provide a voluntary discount at present. Unfortunately, few have chosen to do so. If all are required to participate, insurance companies have said that they would go along.

- G. CONCERN: The legislation includes the term "appropriate reduction" and contains a retake feature. What does this mean?

RESPONSE: The term "appropriate reduction" would allow competition within the insurance industry of \_\_\_\_\_ to set the reduction percentage. In other words, if the bill becomes law, no one would dictate the terms of an "appropriate reduction" to the state's insurance industry. Each company in the state would set its own discount rate and be able to raise or lower the percentage each year based on the accident claims experience of policyholders that graduate from approved driver improvement courses.

Experience in other states with similar legislation has demonstrated the competitiveness of this feature. Companies have selectively increased refresher course discounts as a marketing tool to attract new clients.

The insurance trade associations also feel that any individual graduating from an approved course should retake an approved curriculum every two or three years. This keeps information current, and also refreshes the driver on necessary skills and techniques to remember.

- H. CONCERN: What research is available to prove driver improvement courses work?

RESPONSE: Numerous studies have been conducted on the well known courses, and the results demonstrate effectiveness. It is worth noting that no state has rescinded this type of legislation, and to remember the 10 years' experience in Texas that finds discounts to be "fully earned".

The insurance industry, however, considers these variations to be limited tests that do not demonstrate 'statistical significance' in their accident or violation reduction statistics. In order to

## CONCERNS AND RESPONSES

Page Four

satisfy the insurance industry, and demonstrate 'statistical significance', an older driver course evaluation must involve 20,000-30,000 students, randomly assigned to a control group that doesn't take the course and a treatment group that completes the course. Both groups need to be followed for a period of time via questionnaires and a sample of Department of Motor Vehicle records must be accessed to validate self report forms. Financially and logistically, this has proved impossible for course developers. The insurance industry has not been willing to initiate a study of this size or to work with course developers.

I. CONCERN: Does AARP make money on its driver improvement course?

RESPONSE: No. AARP actually subsidizes approximately two-thirds of overall program costs, and charges each participant a minimal fee to offset the balance of expenses. Sponsors' purpose behind driver improvement courses, at least for the major well-known programs, is education rather than financial reward. But AARP is not in a position to speak conclusively for other organizations.

J. CONCERN: Why is it that several of the states which have passed this legislation have only a small percentage of eligible drivers participating to date?

RESPONSE: Although approved courses are widely publicized, they need help from the insurance companies to notify potential participants. Automobile insurance companies doing business in [redacted] should be requested to notify their eligible policyholders that the discount can be obtained upon completion of an approved course.

K. CONCERN: How would the legislation be implemented?

RESPONSE: In the proposed legislation, an appropriate state agency is designated to select the courses that will be approved for the mandated insurance discount program. In most states the Department of Motor Vehicles has been selected. Program regulations and guidelines are usually drawn up in consultation with officials of states which have already passed similar legislation.

L. CONCERN: Will this legislation cost the state anything?

RESPONSE: There is no fiscal note for the state.

FOR FURTHER INFORMATION REGARDING THIS PROGRAM WITH:

AARP  
Traffic & Driver Safety Program  
1209 K Street, N.W.  
Washington, D.C. 20049

# Summary Analysis 55 Alive/Mature Driving

Rank Among 52  
Jurisdictions

REA	IX	2,208	3,725	6,212	2,487	579	1123	# Grads	# +/-	# +/-	Penetration
		# of 1983 Graduates	# of 1984 Graduates	# of 1985 Graduates	# + or - 1984-1985	# + or - 1984-1985	Penetration Rate (% Grads to 50+ Driver Population)				
AZ		871	900	1,461	561	523	12493	12	21	37	13
CA		1,212	2,561	4,599	1,038	733	10004	3	5	34	15
HI		113	70	76	5	33	10333	17	47	47	35
NV		12	34	76	-13	-103	10437	13	48	50	33
REA	X	710	1,087	2,973	1,386	1743	11753	1	4	3	1
AK		-	28	128	100	357	11797	4	39	3	13
ED		33	19	79	51	323	11887	1	11	10	11
OR		130	390	1,165	175	203	12003	1	11	15	11
WA		547	650	1,510	160	1093	11717	1	10	25	13
TOTAL		51,179	50,177	98,941	38,754	543	10129				



## 55 ALIVE/MATURE DRIVING

### Background

The AMERICAN ASSOCIATION OF RETIRED PERSONS was founded in 1958. Today the Association is the nation's leading nonprofit, nonpartisan organization that provides a vital fellowship for men and women age 50 and over whether they are still actively employed, semi-retired or retired.

Currently the Association's membership stands at just over 19 million and continues to grow at a rate of 200,000 new members each month. Approximately 1 out of every 3 Americans age 50 and over belongs to AARP. For interested members there are more than 5,000 chapters nationwide which work for local community welfare, carry on programs to support the goals of the national organization, and provide educational and social programs.

One of AARP's most significant services is to inform and rally members around legislative issues being considered by older persons.

Recognizing the need to help older drivers improve their skills and prevent traffic accidents, AARP offers 55 ALIVE/MATURE DRIVING to all motorists age 50 and over. The eight hour classroom refresher is the first nationwide, comprehensive curriculum designed especially for the older motorist. 55 ALIVE/MATURE DRIVING is available to both Association members and non-members.

AARP's involvement in Driver Improvement education for older Americans began in 1969. In that year the Association commenced teaching the National Safety Council's (NSC) Defensive Driving Course (DDC) to older Americans nationwide. The program grew dramatically each year and by 1979, when the DDC was phased out, more than 400,000 older Americans had completed the course. In addition, the National Safety Council honored AARP as the number one civilian trainer of drivers every year between 1969 and 1979. The ten consecutive awards cite outstanding contributions to adult driver education.

One reason for the program's extraordinary growth rate was the enthusiastic response from Association members who volunteered to become instructors. More than 4,000 instructors age 50 and over were trained by AARP during the involvement with DDC.

Beneficial as this training effort was, the DDC program had some limitations for older motorists. It was felt that another program was needed. The DDC was not geared to compensate for the age-related physical changes of older persons. It was designed for all drivers age 16 and over. As such, areas which are not seen as serious problems for the older driver are given considerable emphasis. Age-related areas of importance are not covered in detail during the DDC presentation. In developing a specific classroom refresher curriculum for older motorists it was concluded that age-related physical changes, declining perceptual skills, rules of the road, local driving problems and license renewal merited prime consideration.

An additional change deemed necessary was in the manner of program presentation. Older adults learn best and have the greatest retention rate when the opportunity to participate in the learning process is maximized.

Convinced that older drivers should have a training program of their own, AARP decided to create one. Data was collected from all the nation's state departments of motor vehicles, state agencies on aging, state offices of highway safety and state departments of transportation. Along with that canvassing, materials were reviewed and contributions received from Safety Councils, Associations, Universities and various agencies of the federal government. Discussions were held with many of the nation's distinguished traffic safety educators to obtain their views regarding the needs of older drivers. During this process a total of 12 older driver courses were uncovered that had been developed since 1961. Most were shortlived but they were examined for their successes and failures. The result is the first comprehensive driver education program fashioned specifically to meet the needs of older motorists. The new program is titled 55 ALIVE/MATURE DRIVING.

## Development

55 ALIVE/MATURE DRIVING concentrates on those driver education concerns important for older Americans.

In the United States, there are approximately 45 million registered drivers age 50 and over. This constitutes 30% of all drivers on the nation's roadways. According to U.S. Government figures this is expected to increase significantly by 1990. It is anticipated that women drivers over age 65 will increase 129% over the next five years.

Drivers over age 50 are a unique population and have specific physiological considerations and driving problems. 55 ALIVE/MATURE DRIVING is aimed at this target population. How do these individuals compare with other age brackets in safe driving practice and incidence of accidents? In order to obtain an accurate picture it is not enough to consider only age and number of accidents, it is necessary to factor in the annual number of miles driven per year. Research shows that the number of annual miles driven by motor vehicle operators begins to decline significantly after age 55. Therefore, an important consideration with regard to the safe driving practices and abilities of older persons is the criteria used to determine accident involvement statistics. The record of the older driver is good when calculated on the basis of accidents per driver. When the same figures are examined on the basis of miles driven annually a different picture emerges. This more significant and meaningful statistic highlights the urgent need for corrective measures to re-educate older drivers.

Since older persons drive fewer miles, corrections must be made for driving exposure. When this factor is included in accident involvement rates, and the involvement per exposure is determined, a U-shaped curve of accidents versus age results. Violation and accident rates per mile are higher for the youngest and oldest drivers and lower for those in the middle ranges. Although one can quibble over the exact placement of the curve, a general "U" configuration has emerged in every major study undertaken during the past 30 years.

The National Safety Council reports that when the number of miles driven is taken into account, drivers age 55 and over have a poorer accident record than drivers in their middle years.

The U.S. Department of Transportation identifies the older driver as being age 60 and older and a group which requires special consideration in the development of driver improvement training procedures. The National Highway Safety Forecast points out that the older driver is adjudged at fault more frequently than middle aged drivers, and due to the population age shifting currently underway in America, is perhaps *one of the fastest growing highway safety problem areas*.

Older drivers do not commit traffic violations such as speeding, drunk driving or reckless driving to any significant degree.

Older drivers do have problems when involved in driving situations requiring quick response, full vision and interaction with other drivers. Typical violations include failure to yield right-of-way, improper turning, incorrect lane changing, passing, and entering and leaving expressways.

The older driver learned to drive during the first forty years of this century, well before the advent of formal driver education programs in the public school systems. The older driver that has completed a formal driver training course is the exception rather than the rule.

These individuals may experience physical changes which affect driving abilities and attitudes. People age at different rates so age alone is not a fair criterion for determining driving competence, and there is no question that driving ability can be affected by the aging process. The gradual failure of sensory acuity associated with aging reduces the quantity and accuracy of information capable of being processed. This reduces the ability of the individual to respond or react to his environment with the speed and judgement current traffic often requires.

Eighty-five to ninety percent of all sensory input needed to drive comes via the eye. Unfortunately, as one ages the need for more illumination increases, glare sensitivity rises, dark adaption lessens, and peripheral vision narrows. Hearing loss also presents problems for older drivers. It is also broadly accepted that as one ages muscles tend to weaken or atrophy.

Research shows that normal age related physical changes begin to accelerate at age 55. Accidents per mile driven begin to increase at this same age. This is the reason we call the course 55 ALIVE/MATURE DRIVING. The course title has nothing to do with the 55 mph speed limit.

We accept all motor vehicle drivers age 50 and over because this action allows the 50-54 year old age group to prepare for the normal age related physical changes and anticipate accident behavior. It gives them a head start.

## **Curriculum: Edition II**

The 55 ALIVE/MATURE DRIVING curriculum consists of six separate sessions. The course is given three sessions at a time over a two day period. Each three session segment lasts four hours.

### **Session One: Overview**

To define course content, a series of slides describes the characteristics of the driver age 55 and over and establishes the relevance of the curriculum that will follow. Group discussion centers on driving frustrations and effects of aging on individual driving behavior.

### **Session Two: Physical Changes**

Discussion is held on the many unrecognized but normal losses in vision, hearing and reaction time as they relate to driving performance. The session concludes with an examination of the effects of alcohol and medication on driving.

### **Session Three: Interacting with Traffic**

Basic rules of driving particularly pertinent to the 55 + driver are discussed. These include right-of-way, intersections, turning and passing. A review of the shapes, colors and types of road signs as well as pavement markings is featured.

### **Session Four: Interacting with Traffic Continued . . . and Safety Belts**

A discussion of the rules of the road continues with entering and leaving freeways, parking and backing. Safety belt usage and nonusage is considered as well as what a driver can expect if involved in an accident while not wearing a safety belt.

### **Session Five: Accident Prevention Measures, Adverse Driving Conditions, Other Road Users and Auto Maintenance**

Accident prevention measures and the effect of adverse driving conditions such as night, inclement weather and rush hour driving are considered. Discussion of other road users spotlights pedestrians, bicycles, trucks, motorcycles, towed vehicles, and stray animals. Proper techniques for handling unexpected driving emergencies are reviewed. Fuel economy measures are recommended. Suggestions are made regarding comparison shopping for automobile insurance. The proper way to maintain your automobile is discussed.

### **Session Six: Perception and Course Wrap-up**

A series of slides present perceptual problems likely to be encountered in various driving environments. Group discussion focuses on major driving hazards in specific driving environments. A brief review of the previous sessions conclude the course.

## **Conduct Of Courses**

Courses are conducted by volunteers aged 50 and over utilizing the peer concept. These volunteers are recruited and trained by AARP in a three phase process. An Instructor Training Session provides the overall training to conduct educational discussion groups and review educational learning skills. In the second phase the Instructor's first course is conducted as a practice teaching session in that it is monitored by the trainer. The last phase is an on-going supervision process supplemented by in-service training workshops held regularly. All of these costs are subsidized by the Association.

Each participant in 55 ALIVE/MATURE DRIVING is charged a minimal fee to help offset overall program costs which include instructor recruitment and training, instructor out-of-pocket expenses, ongoing supervisory training nationwide, and program materials and their distribution. AARP subsidizes the remaining expenses amounting to 50%. Each Instructor volunteers his/her time and recruits sponsors who provide a rental free facility and slide projector.

## **Evaluation**

Between 1979 and 1981 55 ALIVE/MATURE DRIVING was subjected to one of the most exhaustive, independent and penetrating evaluations of any driver education curriculum on the market today by the U.S. Department of Transportation.

The two-year evaluation included random assignment of participants into a control group and treat-

ment group. The control group did not take the course but filled out a series of questionnaires, at one year intervals, on their driving behavior and attitudes; personal accident and violation data were requested for the last three years. The control group also completed several knowledge tests during this same period.

The treatment group completed 55 ALIVE/MATURE DRIVING and filled out the same questionnaires as the control group in the same one-year intervals over a two-year period. Project staff accessed state DMV records on a good sample of treatment and control group members to validate the self-report questionnaires completed by both groups.

Evaluation staff members have been concerned from the outset that, due to reduced annual mileage after age 55, older drivers take longer to have accidents, and it would be difficult in this limited evaluation to demonstrate statistical significance in accident and violation reduction. This proved to be the case.

Project researchers found a large and statistically significant increase in knowledge in the treatment group that was retained during the entire evaluation period. Drivers taking the 55 ALIVE/MATURE DRIVING course showed a trend in violation reduction; although numbering several thousand, the evaluation participants were not large enough in numbers to demonstrate statistical significance regarding accidents.

### Insurance Reduction

Currently several automobile insurance companies voluntarily provide premium reductions to graduates of 55 ALIVE/MATURE DRIVING in selected states. In addition legislation has been enacted in 14 states and the District of Columbia which require all Automobile Insurance companies conducting business in those states to provide a premium discount to graduates of state-approved Driver Improvement courses. AARP's 55 ALIVE/MATURE DRIVING is approved in every state.

The list now includes:

<i>State</i>	<i>Discount</i>	<i>Age</i>	<i>Effective Date</i>
AR	Approp. 5-20%	55 +	1981
CT	Approp. Min. 5%	62 +	1983
DE	10% on liab. & personal injury protection	16 +	1982
DC	Approp. 5-10%	55 +	1985
KY	Approp. reduction	55 +	1984
IL	Approp. 5-10%	55 +	1982
LA	Approp. 5-10%	55 +	1984
MN	Approp. reduction	65 +	1985
ND	Approp. 8-10%	55 +	1983
NY	Min. 10% on liability	16 +	1981
RI	Approp. reduction	55 +	1984
TN	Approp. 8-10%	55 +	1984
TX	10% of premium	16 +	1974
VA	Approp. reduction	55 +	1985
WY	Not less than 10% of premium	60 +	1983

Many other states are currently considering this mandated legislation.

We know that 55 ALIVE/MATURE DRIVING will substantially improve the driving skills of older motorists. We're convinced the program will help older drivers update driving knowledge, sharpen skills and remain on the road longer. Under this program we will be able to reach out to the entire community and offer the services to all people age 50 and over, not just Association members. As a result, a lot more people will benefit. In fact, we believe in time the program could emerge as a national model for traffic safety officials.

**For Further Information Regarding This Program Write:**

AARP  
 Traffic & Driver Safety Program  
 Program Department  
 1909 K Street, N.W.  
 Washington, DC 20049