

ASSEMBLY, No. 1705

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

Assemblyman RONALD S. DANCER

District 30 (Burlington, Mercer, Monmouth and Ocean)

SYNOPSIS

Revises various off-track wagering provisions of the “Off-Track and Account Wagering Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning off-track wagering and amending and
2 supplementing P.L.2001, c.199.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.2001, c.199 (C.5:5-128) is amended to read
8 as follows:

9 2. The Legislature finds and declares that:

10 a. The horse racing industry is economically important to this
11 State, and the general welfare of the people of the State will be
12 promoted by the advancement of horse racing and related projects
13 and facilities in the State.

14 b. It is the intent of the Legislature, by authorizing off-track
15 wagering and account wagering in this State, to promote the
16 economic future of the horse racing industry in this State, to foster
17 the potential for increased commerce, employment and recreational
18 opportunities in this State **[and]**, to preserve the State's open
19 spaces, to preserve and enhance the overall economic well-being of
20 the horse racing and horse breeding industries, and to generate
21 greater interest in the horse racing industry and the sport of horse
22 racing in New Jersey.

23 c. It is the further intent of the Legislature that facilities
24 offering off-track wagering opportunities to the public also offer
25 other amenities such as quality dining and handicapping facilities
26 and that, in doing so, these facilities strive to be of the highest
27 quality in the country.

28 d. The Legislature has determined that the New Jersey Racing
29 Commission is best suited to oversee, license and regulate off-track
30 wagering and account wagering in the State, and that the New
31 Jersey Sports and Exposition Authority, by virtue of its experience
32 in the operation of parimutuel wagering facilities and other
33 entertainment-related projects in this State, is particularly well-
34 suited **[to coordinate with other parties to promote the uniformity**
35 **and success of off-track wagering throughout the State and]** to
36 ensure the fiscal soundness and technical reliability of an account
37 wagering system, and to be licensed, along with other well-suited
38 entities, as off-track wagering licensees pursuant to the terms of this
39 act.

40 e. In establishing off-track wagering facilities, the authority
41 and other licensees will not be performing an essential government
42 function but rather an essentially private business function.
43 Numerous municipalities, residents and businesses will be impacted
44 by the establishment of off-track wagering facilities throughout the

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 State. [A municipality may oppose the placement of an off-track
2 wagering facility within its boundaries at the discretion of the
3 authority and the commission.] A municipality [may want] having
4 an off-track wagering facility sited within its boundaries[, but only
5 if the municipality receives] is therefore entitled to receive an
6 appropriate level of property tax, and additional compensation as
7 provided in this act, for municipal services. [Therefore,
8 fundamental fairness dictates that any municipality be empowered
9 to refuse the siting of a facility within its boundaries.] Fundamental
10 fairness [also] dictates that an off-track wagering facility, even if
11 owned and not leased by the authority, be subject to local property
12 tax requirements and be further required to pay a portion of its
13 wagering revenues to its host municipality pursuant to the terms of
14 this act.

15 f. By regulation of the Division of Alcoholic Beverage
16 Control, there exist special licenses that permit the sale of alcoholic
17 beverages on public property. These special licenses, typically
18 available to the authority, are inexpensive and circumvent the
19 traditional method for obtaining a license to sell alcoholic
20 beverages. Because the establishment of off-track wagering
21 facilities is, in reality, essentially a private business function and
22 not an essential government function, the authority is not permitted
23 to receive a special license. Under this act, only a private holder of
24 a Class C plenary retail consumption license is permitted to provide
25 alcoholic beverages at an off-track wagering facility. However,
26 many municipalities in New Jersey do not have a sufficient number
27 of liquor licenses. Therefore, in order to ensure the establishment
28 of an off-track wagering facility when a private holder of a plenary
29 retail consumption license is not available, it is necessary in this act
30 to allow for the issuance a non-transferable alcoholic beverage
31 license to permit the sale of alcoholic beverages at an off-track
32 wagering facility, under regulation of the Division of Alcoholic
33 Beverage Control, and to provide for financial compensation to
34 alcoholic beverage licensees in the municipality, as further provided
35 in this act.

36 (cf: P.L.2004, c.116, s.3)

37

38 2. Section 3 of P.L.2001, c.199 (C.5:5-129) is amended to read
39 as follows:

40 3. As used in this act:

41 "Account holder" means a resident of this State over age 18 who
42 establishes an account pursuant to this act through which account
43 wagers are placed.

44 "Account wagering" means a form of parimutuel wagering in
45 which an account holder may deposit money in an account with the
46 account wagering licensee and then use the account balance to pay
47 for parimutuel wagers by the account holder.

1 "Account wagering licensee" means the New Jersey Sports and
2 Exposition Authority or its assignee, provided that the commission
3 has granted its approval for the authority to establish an account
4 wagering system as provided for in this act.

5 "Account wagering system" means the system through which
6 account wagers are processed by the account wagering licensee
7 pursuant to this act.

8 "Applicant" means the New Jersey Sports and Exposition
9 Authority or another entity that submits an application to the
10 commission for a license to establish and conduct an off-track
11 wagering facility pursuant to this act.

12 "Authority" means the New Jersey Sports and Exposition
13 Authority created by section 4 of P.L.1971, c.137 (C.5:10-4).

14 "Backstretch Benevolency" means the Backstretch Benevolency
15 Programs Fund established pursuant to section 1 of P.L.1993, c.15
16 (C.5:5-44.8).

17 "Breeders and Stallions" means the distribution from the special
18 trust account created pursuant to section 46 a. (2) of P.L.1940, c.17
19 (C.5:5-66) for the purposes of subparagraph (c) of that citation.

20 "Breeding and Development" means the New Jersey Horse
21 Breeding and Development Account established pursuant to section
22 5 of P.L.1967, c.40 (C.5:5-88).

23 "Commission" means the New Jersey Racing Commission
24 created by section 1 of P.L.1940, c.17 (C.5:5-22).

25 "Executive Director" means the Executive Director of the
26 commission.

27 "Health and Welfare" means moneys distributed to the
28 Standardbred Breeders' and Owners' Association for the
29 administration of a health benefits program pursuant to section 46 a.
30 (5) of P.L.1940, c.17 (C.5:5-66).

31 "In-State host track" means a racetrack within this State which is
32 operated by a permit holder which conducts a horse race upon
33 which account wagers are placed pursuant to this act.

34 "In-State sending track" means a racetrack within this State
35 which is operated by a permit holder and is equipped to conduct
36 off-track simulcasting.

37 "In-State track" means an in-State host track or an in-State
38 sending track.

39 "Interstate common pool" means the parimutuel pool established
40 within this State or in another state or foreign nation within which
41 is combined parimutuel pools of one or more receiving tracks
42 located in one or more states or foreign nations upon a race at an
43 out-of-State sending track or out-of-State host track for the purpose
44 of establishing payoff prices in the various jurisdictions.

45 "Jockey's Health and Welfare" means a health and welfare trust
46 established by the organization certified by the New Jersey Racing
47 Commission as representing a majority of the active licensed

1 thoroughbred jockeys in New Jersey for the purpose of providing
2 health and welfare benefits to active, disabled and retired New
3 Jersey jockeys and their dependents based upon reasonable criteria
4 by that organization.

5 "New Jersey Racing Industry Special Fund" means the fund
6 established pursuant to section 27 of this act.

7 "New Jersey Thoroughbred Horsemen's Association" means the
8 association representing the majority of New Jersey thoroughbred
9 owners and trainers responsible for receiving and distributing funds
10 for programs designed to aid thoroughbred horsemen.

11 "Off-track simulcasting" means the simultaneous audio or visual
12 transmission of horse races conducted at in-State and out-of-State
13 racetracks to off-track wagering facilities and parimutuel wagering
14 at those off-track wagering facilities on the results of those races.

15 "Off-track wagering" means parimutuel wagering at an off-track
16 wagering facility as authorized under this act.

17 "Off-track wagering facility" means a licensed facility, other
18 than a racetrack, at which parimutuel wagering is conducted
19 pursuant to this act.

20 "Off-track wagering licensee" means the New Jersey Sports and
21 Exposition Authority or its assignee, **【provided that】** or another
22 entity to which the commission has granted its approval **【for the**
23 **authority】** to conduct an off-track wagering facility as provided for
24 in this act.

25 "Out-of-State host track" means a racetrack in a jurisdiction
26 other than the State of New Jersey, the operator of which is lawfully
27 permitted to conduct a horse race meeting and which conducts horse
28 races upon which account wagers may be placed pursuant to this
29 act.

30 "Out-of-State sending track" means a racetrack in a jurisdiction
31 other than the State of New Jersey which is equipped to conduct
32 off-track simulcasting and the operator of which is lawfully
33 permitted to conduct a horse race meeting and to provide simulcast
34 horse races to off-track wagering facilities in this State.

35 "Out-of-State track" means an out-of-State host track or an out-
36 of-State sending track.

37 "Outstanding parimutuel ticket" means a winning parimutuel
38 ticket which is not claimed within six months of sale.

39 "Parimutuel" means any system whereby wagers with respect to
40 the outcome of a horse race are placed with, or in, a wagering pool
41 conducted by an authorized person, and in which the participants
42 are wagering with each other and not against the person conducting
43 the wagering pool.

44 "Participation agreement" means the written contract entered into
45 prior to the effective date of P.L. , c. (pending before the
46 Legislature as this bill), that provides for the establishment or
47 implementation of either (a) an off-track wagering facility or

1 facilities or (b) an account wagering system. Each such contract
2 shall set forth the manner in which the off-track wagering facility or
3 facilities or the account wagering system shall be managed,
4 operated and capitalized, as well as how expenses and revenues
5 shall be allocated and distributed by and among the authority and
6 the other eligible participants subject to the agreement.

7 "Permit holder" means the holder of an annual permit to conduct
8 a horse race meeting issued by the commission.

9 "Racetrack" means the physical facility where a permit holder
10 conducts a horse race meeting with parimutuel wagering.

11 "Racing costs" means the prospective and actual costs for all
12 licensing, investigation, operation, regulation, supervision and
13 enforcement activities and functions performed by the commission.

14 "Simulcast horse races" means horse races conducted at an in-
15 State sending track or an out-of-State sending track, as the case may
16 be, and transmitted simultaneously by picture to a receiving track or
17 an off-track wagering facility.

18 "Sire Stakes" means the Sire Stakes Program established
19 pursuant to section 1 of P.L.1971, c.85 (C.5:5-91).

20 "Standardbred Drivers' Health and Welfare" means a health and
21 welfare trust established by the Standardbred Breeders' and Owners'
22 Association of New Jersey for the purpose of providing health and
23 welfare benefits to active, disabled and retired New Jersey
24 standardbred drivers and their dependents based upon reasonable
25 criteria by that organization.

26 "Takeout" means that portion of a wager which is deducted from
27 or not included in the parimutuel pool, and which is distributed
28 other than to persons placing wagers.

29 "Thoroughbred Breeders and Stallions" means the special trust
30 account created pursuant to section 46 b.(1)(e) of P.L.1940, c.17
31 (C.5:5-66).

32 (cf: P.L.2004, c.116, s.4)

33

34 3. Section 4 of P.L.2001, c.199 (C.5:5-130) is amended to read
35 as follows:

36 4. a. The commission is authorized to issue a license to the
37 authority to permit off-track wagering at a specified facility, upon
38 application of the authority and in accordance with the provisions of
39 this act. A license issued pursuant to this act shall be valid for a
40 period of one year. The commission shall issue a license pursuant to
41 this subsection only if the permit holder at Monmouth Park and the
42 thoroughbred permit holder at Meadowlands Racetrack schedule at
43 least the minimum number of race dates required in section 30 of
44 this act, P.L.2001, c.199 (C.5:5-156), and it is satisfied that the
45 authority has entered into a participation agreement with each and
46 every other person, partnership, association, corporation, or

1 authority or the successor in interest to such person, partnership,
2 association, corporation or authority that:

3 (1) held a valid permit to hold or conduct a race horse meeting
4 within this State in the calendar year 2000;

5 (2) has complied with the terms of such permit; and

6 (3) is in good standing with the commission and the State of
7 New Jersey.

8 An off-track wagering license may not be transferred or assigned
9 to a successor in interest without the approval of the commission
10 and the Attorney General, which approval may not be unreasonably
11 withheld.

12 b. As part of the license application process, any participation
13 agreement entered into for the purposes of subsection a. of this
14 section, or any modification to the agreement made thereafter, shall
15 be reviewed by the commission and the Attorney General to
16 determine whether the agreement meets the requirements of this act
17 and shall be subject to the approval of the commission and the
18 Attorney General.

19 c. The commission is also authorized to issue a license to a
20 well-suited entity to permit off-track wagering at a specified
21 facility, upon application of the entity and in accordance with the
22 provisions of this act and the provisions of section 14 of P.L.1940,
23 c.17 (C.5:5-34). A license issued pursuant to this act shall be valid
24 for a period of one year. In assessing the qualifications of an entity
25 to establish and conduct an off-track wagering facility, the
26 commission shall apply substantially similar standards and criteria
27 to those applied to the authority, its assignees, and other permit
28 holders and licensees in the State. These standards and criteria
29 shall enable the commission to determine by clear and convincing
30 evidence in the opinion of the commission that the person or
31 persons applying for licensure on behalf of the entity are well-suited
32 to receive licensure, and shall include, but may not be limited to:

33 (1) proof of financial resources sufficient to enable the entity to
34 establish and conduct a quality off-track wagering facility or
35 facilities with appropriately staffed and managed operations;

36 (2) evidence of good character, honesty, competency and
37 integrity;

38 (3) the absence of a conviction for a crime involving fraud,
39 dishonesty or moral turpitude; and

40 (4) any additional standards and criteria the commission may
41 establish by rule or regulation in accordance with this act.

42 d. (1) The commission, in consultation with the State
43 Treasurer, shall develop a process by which the commission will
44 accept bids for each off-track wagering license to be awarded under
45 this act, P.L.2001, c.199. An off-track wagering licensee and an
46 entity interested in establishing an off-track wagering facility and
47 being licensed as an off-track wagering licensee shall be eligible to

1 submit a bid. The bidding process shall include procedures for the
2 establishment of a minimum bid threshold, for the selection of a
3 successful bidder and, when the successful bidder is not yet
4 licensed as an off-track wagering licensee, for the awarding of a bid
5 to that successful bidder subject to its eligibility to be licensed as an
6 off-track wagering licensee in compliance with the provisions of
7 this act, P.L.2001, c.199. As part of the bidding process, and in
8 addition to submitting a monetary bid, a bidder shall submit to the
9 commission a conceptual plan of the off-track wagering facility the
10 bidder intends to establish, which shall include, but may not be
11 limited to, a description of the proposed facility and the amenities it
12 would offer, and its proposed or intended location. In selecting a
13 successful bidder, the commission shall consider and balance the
14 following: (a) the monetary value of the bid in comparison to other
15 bids submitted; (b) the level of quality of the proposed facility and
16 amenities in striving to be a first-rate experience for the customer;
17 (c) the potential of the proposed facility and amenities to generate
18 greater interest in the horse racing industry and the sport of horse
19 racing in the State; and (d) the proximity of the bidder's proposed
20 or intended location for the off-track wagering facility and its
21 impact on other planned or existing off-track wagering facilities and
22 racetracks in the State. For the purposes of this act, P.L.2001,
23 c.199, a successful bid shall be conditional upon the successful
24 bidder's compliance with all the provisions of this act, P.L.2001,
25 c.199, and the applicable rules and regulations promulgated by the
26 commission.

27 (2) The commission shall consider the amount of a successful
28 bid pursuant to paragraph (1) of this subsection as a license fee in
29 connection with the issuance of an initial license to an off-track
30 wagering facility licensee. The initial license fee need not be
31 uniform for all off-track wagering facility licenses, and may vary
32 depending on the results of the bidding process for each license.
33 The proceeds generated by the initial license fee shall be distributed
34 as follows: 50% to the New Jersey Thoroughbred Horsemen's
35 Association for programs designed to aid the horsemen, and 50% to
36 Sire Stakes.

37 (cf: P.L.2004, c.116, s.5)

38

39 4. Section 5 of P.L.2001, c.199 (C.5:5-131) is amended to read
40 as follows:

41 5. a. At the time of filing an application for an off-track
42 wagering license, the **[authority]** applicant shall submit to the
43 commission a non-refundable filing fee in an amount established by
44 regulation by the commission, and a certification in a form
45 prescribed by the commission which specifies, but is not limited to,
46 the following information:

- 1 (1) a plan depicting the proposed facility and improvements
- 2 thereon, including information about the size, seating capacity,
- 3 parking and services to be provided at the facility;
- 4 (2) the location of the proposed facility, and relevant
- 5 demographic or other information concerning the municipality and
- 6 surrounding area where the proposed facility is to be located;
- 7 (3) the number of permanent and part-time jobs expected to be
- 8 created at the proposed facility, and gross revenues expected to be
- 9 generated by the facility;
- 10 (4) the fire evacuation plan for the proposed facility;
- 11 (5) the type of food and beverages available; and
- 12 (6) such other information as the commission may require.
- 13 b. The **【authority】** applicant shall file a separate application
- 14 and certification for each proposed off-track wagering facility.
- 15 c. The commission shall charge each off-track wagering
- 16 licensee an annual fee in connection with the renewal of the off-
- 17 track wagering license, and shall establish by regulation procedures
- 18 and conditions for renewal of licenses issued under this act. The
- 19 amount of the annual license renewal fee shall be used by the
- 20 commission to cover commission expenses associated with
- 21 implementation of the provisions of this act, P.L.2001, c.199, and
- 22 shall reasonably reflect those costs.
- 23 d. The commission shall by regulation establish the maximum
- 24 hours of operation of off-track wagering facilities.
- 25 e. (1) Notwithstanding R.S.33:1-42, alcoholic beverages may
- 26 be offered for on-premise consumption at an off-track wagering
- 27 facility only if provided by a Class C plenary retail consumption
- 28 licensee, by an agreement or contract with the **【authority】** off-track
- 29 wagering licensee, pursuant to the provisions of R.S.33:1-1 et seq.
- 30 in accordance with such procedures as established by statute and by
- 31 regulation of the Division of Alcoholic Beverage Control. The
- 32 authority shall not hold a license to provide alcoholic beverages at
- 33 an off-track wagering facility. However, when a Class C plenary
- 34 retail consumption licensee is not available in the municipality, the
- 35 Director of the Division of Alcoholic Beverage Control may issue a
- 36 non-transferable special license to provide alcoholic beverages at
- 37 the off-track wagering facility pursuant to paragraph (2) of this
- 38 subsection.
- 39 (2) The Director of the Division of Alcoholic Beverage Control
- 40 may issue one special license to an individual, corporation, or other
- 41 type of legal entity to serve alcoholic beverages at an off-track
- 42 wagering facility located in the municipality where a Class C
- 43 plenary retail consumption licensee was not available to provide
- 44 alcoholic beverages at the off-track wagering facility pursuant to
- 45 paragraph (1) of this subsection. The license shall authorize the
- 46 sale of alcoholic beverages for immediate consumption on the
- 47 premises of the off-track wagering facility. The director may issue

1 not more than 15 licenses pursuant to this paragraph. Furthermore,
2 licenses issued pursuant to this paragraph shall be subject to the
3 following requirements:

4 (a) No person who would fail to qualify as a licensee under Title
5 33 of the Revised Statutes shall be permitted to hold an interest in a
6 special license under the provisions of this paragraph;

7 (b) Licenses shall be subject to the provisions of Title 33 of the
8 Revised Statutes and rules and regulations promulgated by the
9 director, to the extent those provisions are not inconsistent with the
10 provisions of this act;

11 (c) No license issued pursuant to this paragraph shall be
12 transferred to any other premises;

13 (d) Application for the initial issuance and renewal of each
14 license shall be made to the director on an annual basis. The fee for
15 the initial issuance of the license shall be two and one half times the
16 average sale price for the three most recent sales of plenary retail
17 consumption licenses in the municipality where the license is being
18 issued during the preceding five years. If the off-track wagering
19 facility is located within the boundaries of two or more
20 municipalities, the highest average sale price of the two or more
21 municipalities shall be used. If less than three plenary retail
22 consumption licenses have been sold in the municipality or
23 municipalities, as the case may be, within the previous five years,
24 the director shall obtain an appraisal, at the applicant's expense, to
25 determine the appropriate fee for the license. The appraisal process
26 shall include an examination of previous transactions in the
27 municipality or municipalities, as the case may be, and shall reflect
28 what a willing buyer, under no pressure to buy, would pay a willing
29 seller, under no pressure to sell, for a plenary retail consumption
30 license in that municipality or municipalities, as the case may be.
31 One half of the amount of the application fee for the initial issuance
32 of the license shall be paid upon the issuance of the license and the
33 other half of that amount shall be paid one year later. The director
34 shall establish an annual fee for the license which shall not exceed
35 the fee which may be imposed by a municipality for a plenary retail
36 consumption license pursuant to R.S.33:1-12;

37 (e) The fee for the initial issuance of the license shall be
38 distributed in the following manner:

39 (i) Twenty-five percent shall be paid to the municipality where
40 the off-track wagering facility is located and if the off-track
41 wagering facility is located within the boundaries of two or more
42 municipalities, the fee shall be divided equally among those
43 municipalities;

44 (ii) Twenty-five percent shall be paid to the Director of the
45 Division of Alcoholic Beverage Control;

46 (iii) Fifty percent shall be divided equally among and paid to the
47 plenary retail consumption licensees in the municipality or

1 municipalities where the licensed premises will be located, except
2 that no payment shall be made to the holders of inactive licenses;

3 (f) The individual corporation or entity holding the license shall
4 not be entitled to sell a license issued pursuant to this paragraph,
5 and the license shall expire upon the closure of the off-track
6 wagering facility;

7 (g) The director shall not issue a special concessionaire permit
8 for any off-track wagering facility or premises which is eligible to
9 obtain a license to serve alcoholic beverages under the provisions of
10 this paragraph; and

11 (h) Pursuant to the "Administrative Procedure Act," P.L.1968,
12 c.410 (C.52:14B-1 et seq.), the director shall adopt rules and
13 regulations to effectuate the purposes of this paragraph.

14 (3) Nothing in this subsection shall be construed to allow the
15 Director of the Division of Alcoholic Beverage Control to issue a
16 special concessionaire permit or a special license described in
17 paragraph (2) of this subsection to the authority pursuant to this act,
18 P.L.2001, c.199, or to issue a special license to any individual,
19 corporation, or other type of legal entity to serve alcoholic
20 beverages in a municipality that prohibits the retail sale of alcoholic
21 beverages within its boundaries.

22 f. Persons under the age of 18 years shall not be permitted in
23 any off-track wagering facility, except in dining areas if
24 accompanied by a parent or guardian.

25 g. The commission shall by regulation establish minimum
26 standards for off-track wagering facilities and timelines for their
27 establishment and completion, including, but not limited to,
28 standards for quality, size, seating capacity, parking and services to
29 be provided, as well as expected dates of construction, renovations
30 and opening. The failure of an off-track wagering licensee to meet
31 these standards shall be sufficient cause for the commission to
32 revoke, suspend or refuse to renew a license pursuant to the
33 provisions of section 8 of P.L.2001, c.199 (C.5:5-134).

34 h. **【**The authority, in lieu of obtaining municipal zoning and
35 planning approvals that may otherwise be required in connection
36 with the off-track wagering facility, shall submit a written notice of
37 its intention to site an off-track wagering facility to the governing
38 body of the municipality within which the facility would be sited.
39 The notice shall identify the proposed site of the facility by street
40 address, if any, or by reference to lot and block numbers as shown
41 on the current tax duplicate in the municipal tax assessor's offices.
42 Within 45 days of its receipt of the authority's notice of intention,
43 the municipal governing body may disapprove of the proposed site
44 of an off-track wagering facility by adopting a resolution which
45 shall be valid and binding upon the authority and the commission
46 upon delivery of a duly certified copy of the resolution to the
47 authority and the commission. Whenever a municipality determines

1 to consider a resolution disapproving a proposed off-track wagering
2 facility, the authority shall be given an opportunity to offer a public
3 presentation of the proposed facility prior to consideration of the
4 resolution. A resolution disapproving a proposed off-track
5 wagering facility shall state the reasons for disapproval.

6 In the event the governing body shall not adopt such a resolution,
7 the authority] Notwithstanding the provisions of any law, rule, or
8 regulation to the contrary, the applicant shall submit its plans to the
9 municipal planning board and shall comply with the planning board
10 approval process pursuant to the "Municipal Land Use Law,"
11 P.L.1975, c.291 (C. 40:55D-1 et seq.). The applicant may seek a
12 license for an off-track wagering facility in that municipality and
13 the commission may grant the [authority] applicant the license
14 provided that:

15 (1) the proposed off-track wagering facility site is not in an area
16 zoned residential;

17 (2) the [authority] applicant has submitted its plans to the
18 municipal planning board, [and complied with] notwithstanding the
19 provisions of section 22 of P.L.1975, c.291 (C.40:55D-31) or any
20 law, rule, or regulation to the contrary; and

21 (3) the [authority] applicant has [made reasonable efforts to
22 address the reasonable concerns expressed] obtained site plan
23 approval by the municipal planning board.

24 i. In evaluating an application for an off-track wagering license,
25 the commission shall consider the proximity of the applicant's
26 proposed site to other planned or existing off-track wagering
27 facilities and to racetracks in this State. If, in the opinion of the
28 commission, the establishment of the facility at its proposed
29 location would be inimical to the interests of another planned or
30 established off-track wagering facility, or to a State racetrack, the
31 commission shall require the applicant to consider alternative sites
32 for the proposed facility.

33 (cf: P.L.2004, c.116, s.6)

34
35 5. Section 6 of P.L.2001, c.199 (C.5:5-132) is amended to read
36 as follows:

37 6. Within 14 days of receipt of a completed application,
38 certification and applicable fees, the executive director shall
39 determine whether the same is in due form and meets the
40 requirements of law in all respects, and upon being satisfied thereof,
41 the commission, within 45 days of receipt of a completed
42 application, certification and applicable fees, shall hold a public
43 hearing in the municipality in which the proposed off-track
44 wagering facility is to be located. The costs of the public hearing
45 shall be paid by the [authority] applicant. The executive director
46 shall cause a display advertisement, approximately 11 inches by 8
47 inches in size, to be published at least once in a daily newspaper,

1 and at least once in a weekly newspaper, published, or circulated if
2 none is published, in the county where the municipality is located at
3 least 15 days before the date of the public hearing and to be
4 published again in that daily newspaper on the third day preceding
5 the public hearing and in the latest edition of that weekly newspaper
6 that will be in circulation on the third day preceding the public
7 hearing. The advertisement shall contain sufficient information to
8 apprise the public as to the purpose of the hearing, the time and
9 place thereof, and the nature of the license applied for. The
10 advertisement shall be prepared and placed by the executive
11 director, but shall be paid for by the **【authority】** applicant.

12 (cf: P.L.2001, c.199, s.6)

13

14 6. Section 7 of P.L.2001, c.199 (C.5:5-133) is amended to read
15 as follows:

16 7. a. No sooner than 30 days nor later than 60 days following
17 the public hearing, the commission shall make a final determination
18 on the license application. The commission shall approve the
19 application if it determines that the plan for the proposed facility
20 includes appropriate standards of quality for the premises and
21 services it will provide and that the **【authority】** applicant has
22 demonstrated by clear and convincing evidence that establishment
23 of the proposed off-track wagering facility will not be inimical to
24 the interests of the public and the horse racing industry in this State.
25 The commission shall submit its determination to the Attorney
26 General for review and approval. The determination of the
27 commission shall be deemed approved by the Attorney General if
28 not affirmatively approved or disapproved by the Attorney General
29 within 14 days of the date of submission. The decision of the
30 Attorney General shall be deemed a final decision. Upon approval
31 by the Attorney General, the commission shall issue to the
32 **【authority】** applicant an off-track wagering license specifying the
33 location, the periods of time during a calendar year and the hours of
34 operation during which off-track wagering is permitted at the
35 facility, and prescribing any other conditions or terms the
36 commission deems appropriate.

37 b. With the approval of the commission, the authority may
38 assign an off-track wagering license to a permit holder, provided
39 that the authority shall retain responsibility for license renewals. In
40 the event the authority assigns an off-track wagering license, the
41 assignee shall reimburse the authority for its costs associated with
42 the application for the license. With the approval of the
43 commission, **【the】** an off-track wagering licensee may enter into a
44 contract or agreement with a person or entity to conduct or operate
45 an off-track wagering facility for the licensee and to act as the agent

1 of the licensee in all off-track wagering matters approved by the
2 commission.

3 (cf: P.L.2004, c.116, s.7)

4
5 7. (New Section) a. An off-track wagering licensee, or its
6 assignee, operating an off-track wagering facility pursuant to the
7 provisions of the "Off-Track and Account Wagering Act,"
8 P.L.2001, c.199 (C.5:5-127 et seq.), shall pay annually to the
9 municipality where the off-track wagering facility is located a sum
10 equal to 4% of the net proceeds remaining from the amounts
11 received by the licensee pursuant to subsection f. of section 21 of
12 P.L.2001, c.199 (C.5:5-147) and subsection b. of section 25 of
13 P.L.2001, c.199 (C.5:5-151).

14 b. The payment requirement established pursuant to subsection
15 a. of this section shall apply to an off-track wagering licensee, or its
16 assignee, opening an off-track wagering facility for business on or
17 after the effective date of this act, P.L. , c. (C.) (pending
18 before the Legislature as this bill), and to an existing off-track
19 wagering licensee, or its assignee, commencing on the license
20 renewal date immediately following the effective date of this act.
21 Thereafter, as a condition for the annual renewal of an off-track
22 wagering license, the New Jersey Racing Commission shall verify
23 that the licensee or its assignee has paid to the municipality the
24 amounts required pursuant to subsection a. of this section. The
25 commission shall not renew the off-track wagering license unless
26 and until the licensee has complied with the payment requirement.

27 c. The amount paid to the municipality pursuant to subsection
28 a. of this section shall be used by the municipality to fund any
29 increase in municipal infrastructure and service costs brought about
30 by the off-track wagering facility, and for general municipal
31 purposes.

32
33 8. This act shall take effect immediately.

34

35

36

STATEMENT

37

38 This bill revises various provisions of the "Off-Track and
39 Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.) to
40 facilitate the establishment of off-track wagering facilities in this
41 State.

42 The bill revises six aspects related to the establishment of these
43 facilities. First, the bill expands the types of entities who may
44 apply to the New Jersey Racing Commission for a license to
45 establish and conduct an off-track wagering facility. Under current
46 law, the only entities eligible to receive an off-track wagering
47 license are the New Jersey Sports and Exposition Authority

1 (NJSEA) and the two private horse racetrack operators in the State.
2 The bill allows the commission to issue an off-track wagering
3 license to a qualified, well-suited entity that meets standards and
4 criteria provided in the bill and further developed by the
5 commission. As part of the license application process, the
6 commission is to require that a criminal history record background
7 check is conducted in connection with an entity's application for an
8 off-track wagering license. The commission is also to consider the
9 proximity of the proposed facility to other planned or existing off-
10 track wagering facilities or racetracks in New Jersey, and to require
11 the applicant to consider alternative sites for the proposed facility if
12 its proposed location would be detrimental to those planned or
13 existing facilities and racetracks. The bill does not affect the
14 licenses of entities licensed prior to its effective date, who were
15 required to enter into a participation agreement, but establishes a
16 new licensing process and eliminates the need for a participation
17 agreement for all licenses issued after the effective date.

18 Second, the bill requires that off-track wagering licenses be
19 subject to a bidding process, to be developed by the commission in
20 consultation with the State Treasurer. An existing licensee or an
21 entity interested in receiving an off-track wagering license would
22 submit a bid for each license desired. The off-track wagering
23 license would be awarded to a successful bidder, conditional upon
24 the bidder's eligibility to be licensed as an off-track wagering
25 licensee and complying with all of the provisions of the off-track
26 wagering law.

27 Third, the bill authorizes the commission to charge an initial
28 license fee and an annual renewal fee in connection with the initial
29 issuance and annual renewal of the off-track wagering licenses.
30 The amount bid for each license under the bill would be considered
31 the initial license fee. Thereafter, licensees would pay to the
32 commission a renewal fee each year. The proceeds of the annual
33 renewal fee are dedicated to the commission to cover off-track
34 wagering law implementation costs. The bill also authorizes the
35 commission to revoke, suspend or deny the renewal of an off-track
36 wagering license for failure of the licensee to meet quality,
37 timeliness, and other standards.

38 Fourth, the bill allows the Director of the Division of Alcoholic
39 Beverage Control (ABC) to issue a non-transferable special liquor
40 license to provide alcoholic beverages on the off-track wagering
41 facility premises when a private holder of a plenary retail
42 consumption liquor license is not available to partner with the off-
43 track wagering facility licensee to provide such beverages at the
44 facility. The initial fee for the license would be two and a half
45 times the sales price of a liquor license in the municipality, with
46 25% of the proceeds going to the municipality, 25% to the ABC,
47 and 50% to the plenary retail consumption alcoholic beverage

1 licensees in the municipality, excluding the licensees that hold
2 inactive licenses. The special license would not be transferable to
3 another premises, could not be sold, and would expire upon closure
4 of the off-track wagering facility.

5 Fifth, the bill removes from existing law the provision that
6 currently allows a municipality to reject the establishment of an off-
7 track wagering facility within its boundaries within 45 days of
8 receiving a notice of intention to site from the off-track wagering
9 license applicant. Instead, the bill requires municipal planning
10 board approval of each off-track wagering facility to be sited.

11 Sixth, the bill requires an off-track wagering facility licensee to
12 annually pay to the municipality where the off-track wagering
13 facility is located a sum equal to 4% of the net wagering profits
14 made by the off-track wagering facility each year. The bill
15 authorizes the municipality to use these moneys to cover any
16 increase in municipal infrastructure and service costs brought about
17 by the off-track wagering facility, and for general municipal
18 purposes.

19 Revision of these off-track wagering provisions would facilitate
20 the establishment of these facilities, which has progressed at a very
21 slow pace since the law was enacted in 2001 following voter
22 approval of a constitutional amendment in 1998. Although in 2001
23 the act authorized the establishment of 15 off-track wagering
24 facilities by the NJSEA and the two private racetrack owners in this
25 State, only three facilities have been established to date.