

[First Reprint]

SENATE, No. 3090

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED OCTOBER 29, 2020

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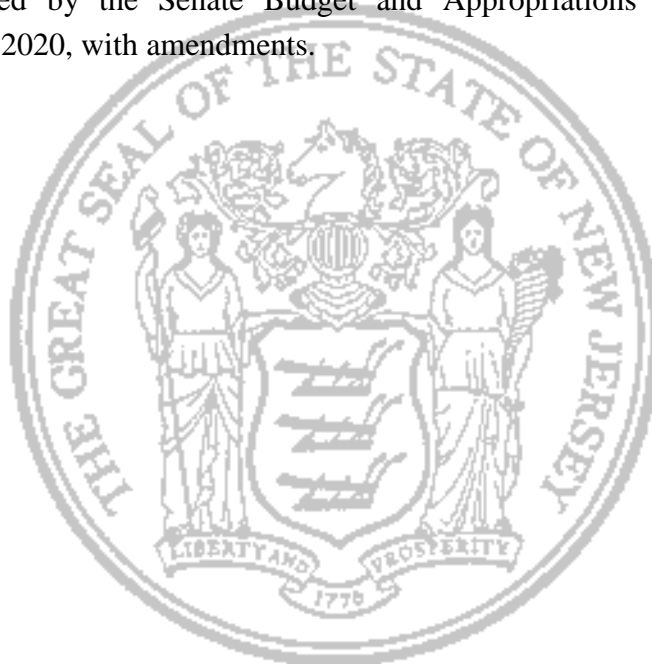
Senators Oroho and O'Scanlon

SYNOPSIS

Authorizes fixed odds wagering on horse races through fixed odds wagering system.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on November 9, 2020, with amendments.



(Sponsorship Updated As Of: 11/9/2020)

1 AN ACT concerning the placement of wagers on horse races, and
2 supplementing chapter 5 of Title 5 of the Revised Statutes and
3 amending P.L.2002, c.89.

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

7
8 1. (New section) This act shall be known and may be cited as
9 the “Fixed Odds Wagering Act.”

10
11 2. (New section) The Legislature finds and declares that:

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

16 b. It is the intent of the Legislature, by authorizing fixed odds
17 wagering, to promote the economic future of the horse racing
18 industry in this State, to foster the potential for increased
19 commerce, employment, and recreational opportunities in this State
20 and to preserve the State's open spaces.

21 c. It is the further intent of the Legislature that fixed odds
22 wagers may be taken in person, by direct telephone call, or by
23 communication through other electronic media from residents of
24 this State on horse races conducted within and outside of this State.

25 d. It is the further intent of the Legislature to permit persons
26 located in New Jersey who are not residents or account holders to
27 wager on fixed odds at racetracks in person or by electronic means.

28 e. The Legislature has determined that the Division of Gaming
29 Enforcement, in consultation with the New Jersey Racing
30 Commission, is best suited to oversee, license, and regulate fixed
31 odds wagering in the State.

32
33 3. (New section) As used in this act:

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

36 “Division” means the New Jersey Division of Gaming
37 Enforcement in the New Jersey Department of Law and Public
38 Safety created by section 55 of P.L.1977, c.110 (C.5:12-55).

39 “Fixed odds wagering” means a form of horse racing wagering
40 against odds offered by a bookmaker in which account holders may
41 lock in their odds when the bet is first placed and no fluctuation in
42 potential payout may occur.

43 “Fixed odds wagering account” means the account established
44 with the fixed odds wagering licensee by a person participating in
45 fixed odds wagering.

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted November 9, 2020.

1 “Fixed odds wagering licensee” means the authority, provided
2 that the division has granted its approval for the authority or a
3 racetrack permit holder to establish fixed odds wagering as
4 provided for in this act, P.L. , c. (pending before the Legislature
5 as this bill).

6 “Fixed odds wagering system” means a system through which
7 fixed odds wagers are processed.

8 “Operating board” means the board established to negotiate,
9 manage, and oversee any agreements made for the purposes of
10 operating an account wagering system, off-track wagering facility,
11 exchange wagering system, or fixed odds wagering system.

12 "Participation agreement" means the written contract entered into
13 pursuant to this act, P.L. , c. (pending before the Legislature as
14 this bill), that shall set forth the manner in which the fixed odds
15 wagering system shall be managed, operated, and capitalized, as
16 well as how expenses and revenues shall be allocated and
17 distributed by and among the authority and the other eligible
18 participants subject to the agreement, including standardbred and
19 thoroughbred permit holders in this State.

20 "Permit holder" means the holder of an annual permit to conduct
21 a horse race meeting issued by the commission.
22

23 4. (New section) Notwithstanding any law, rule, or regulation
24 to the contrary, fixed odds wagering by residents of this State on the
25 results of horse races conducted in this State or jurisdictions outside
26 of this State shall be lawful provided that:

27 a. fixed odds wagering shall only be conducted by the fixed
28 odds wagering licensee pursuant to a valid fixed odds wagering
29 license issued by the division as provided for in this act;

30 b. fixed odds wagering shall be conducted pursuant to and in
31 compliance with the provisions of the Interstate Horse Racing Act
32 of 1978, 15 U.S.C. ss.3001 - 3007, as amended, this act, any related
33 intrastate contracts, and rules and regulations promulgated by the
34 division pursuant to this act;

35 c. in addition to the provisions of the Interstate Horse Racing
36 Act of 1978, 15 U.S.C. ss.3001 – 3007, fixed odds wagering
37 conducted on in-State races shall require a written agreement with
38 the Standardbred Breeders and Owners Association of New Jersey
39 and the New Jersey Thoroughbred Horsemen's Association for such
40 wagering on the associations' respective breeds;

41 d. the division has approved a contract or agreement, if any,
42 with a person or entity to conduct or operate fixed odds wagering
43 and to act as the agent for the authority or racetrack permit holder in
44 all fixed odds wagering matters approved by the division, pursuant
45 to section 5 of this act, P.L. , c. (C.)(pending before the
46 Legislature as this bill), including but not limited to the portion of
47 fixed odds revenues payable to such person or entity conducting or
48 operating fixed odds wagering;

1 e. fixed odds wagers are submitted to and accepted by the fixed
2 odds wagering licensee in person, by direct telephone call, or by
3 communication through other electronic media, as appropriate; and

4 f. fixed odds wagers are placed through the fixed odds
5 wagering system authorized in accordance with the provisions of
6 this act, P.L. , c. (C.)(pending before the Legislature as this
7 bill), and in accordance with division rules, regulations, and
8 conditions established therefor.

9
10 5. (New section) a. The division is hereby authorized to issue
11 a license to the authority, or to the racetrack permit holder, to
12 establish fixed odds wagering in accordance with the provisions of
13 this act, P.L. , c. (C.)(pending before the Legislature as this
14 bill). The licensing process shall include the filing by the authority
15 of a fixed odds wagering license application developed by the
16 division. The division may issue more than one license to the
17 authority for the purpose of establishing additional fixed odds
18 wagering systems. The division may issue an individual license to
19 a racetrack permit holder if the authority and racetrack permit
20 holder have mutually agreed to a transfer of licensing, pursuant to
21 the provisions of section 6 of P.L. , c. (C.)(pending before the
22 Legislature as this bill). Each new wagering system shall require a
23 license. All provisions of law concerning such license and the fixed
24 odds wagering system shall apply to each license and each system
25 established. Any reference in law to the license, the assignee, or the
26 fixed odds wagering system shall refer to all licenses, assignees,
27 and systems. A license issued pursuant to this act shall be valid for
28 a term of one year.

29 Any participation agreement shall include an agreement by the
30 operator to pay a proportional share of the available net project
31 revenues determined by the operating board to the standardbred or
32 thoroughbred permit holder, as the case may be, and a re-
33 negotiation mechanism to adjust a proportional share following the
34 addition or removal of an operator.

35 b. At the time of filing an application for licensure under this
36 section, the authority shall submit to the division a nonrefundable
37 filing fee in an amount established by regulation by the division,
38 and a certification in a form prescribed by the division which
39 specifies, but is not limited to, information about the operation of
40 the system and the authority's participation therein.

41 c. Within 14 days of receipt of a completed application,
42 certification and applicable fees, the division's director shall
43 determine whether the same is in due form and meets the
44 requirements of law and regulations in all respects. No later than 60
45 days following the receipt of the application, the division shall
46 make a final determination on the application. The division shall
47 approve the application if it determines that the authority has
48 demonstrated by clear and convincing evidence that wagers placed

1 through the proposed fixed odds wagering system will be accurately
2 processed and that there will be sufficient safeguards to maintain
3 the integrity of the horse racing industry in this State.

4 d. The division's determination shall be submitted to the
5 Attorney General for review and approval. The determination of the
6 division shall be deemed approved by the Attorney General if
7 affirmatively approved or not disapproved by the Attorney General
8 within 14 days of the date of submission. The decision of the
9 Attorney General shall be deemed a final decision. Upon approval
10 by the Attorney General, the division shall issue to the authority a
11 license to establish the system. The fixed odds wagering license
12 shall be valid for a term of one year, and shall be subject to renewal
13 annually, unless a different timeframe is otherwise prescribed by
14 regulation of the division.

15 e. With the approval of the division, the authority or racetrack
16 permit holder may enter into a contract or agreement with a person
17 or entity to conduct or operate the system and to act as the agent of
18 the authority in all fixed odds wagering matters approved by the
19 division. The fixed odds wagering license may not be transferred or
20 assigned to a successor in interest without the approval of the
21 division and the Attorney General, which approval may not be
22 unreasonably withheld.

23

24 6. (New section) The authority may transfer the operation and
25 control of a fixed odds wagering operation to an individual
26 racetrack permit holder if both the authority and racetrack permit
27 holder mutually agree to such transfer. The division and the
28 Attorney General shall approve the transfer following the written
29 agreement of the authority and racetrack permit holder. The
30 division and the Attorney General shall review the agreement and
31 determine if the racetrack permit holder has the appropriate
32 apparatus to operate as a licensee of a fixed odds wagering system.
33 If the transfer is not approved by the division and the Attorney
34 General, the authority shall remain the fixed odds wagering
35 licensee. Any agreement between the authority and a racetrack
36 permit holder that does not receive approval from the division and
37 Attorney General for a transfer may not be re-submitted for review
38 until one year following the prior determination by the division and
39 the Attorney General.

40

41 7. (New section) a. The division, in consultation with the New
42 Jersey Racing Commission, shall have full power to prescribe rules,
43 regulations, and conditions under which fixed odds wagering may
44 be conducted in this State, consistent with this act, including the
45 manner in which fixed odds wagers may be accepted, the
46 requirements for any person to participate in fixed odds wagering,
47 and the reasonable approval of any and all agreements made

1 pursuant to subsection c. of section 4 of this act,
2 P.L. , c. (C.)(pending before the Legislature as this bill).

3 b. The division shall have full power to prescribe rules,
4 regulations, and conditions under which the fixed odds wagering
5 license is issued or renewed in this State, including requiring an
6 annual audit of a fixed odds wagering licensee's books and records
7 pertaining to fixed odds wagering, requiring all hub facilities,
8 servers, and technicians related to a fixed odds wagering operation
9 by a licensee in this State be located in this State, and to revoke,
10 suspend, or refuse to renew the license if in the opinion of the
11 division the revocation of, suspension of, or refusal to renew such
12 license is in the public interest; provided, however, that such rules,
13 regulations, and conditions shall be uniform in their application.

14 c. The division shall have no right or power to determine who
15 shall be officers, directors, or employees of any fixed odds
16 wagering licensee, or the salaries thereof; provided, however, that
17 the division may compel the discharge of any official or employee
18 of the fixed odds wagering licensee or the fixed odds wagering
19 system who: (1) fails or refuses for any reason to comply with the
20 rules or regulations of the division; (2) fails or refuses for any
21 reason to comply with any of the provisions of this act; (3) fails to
22 establish by clear and convincing evidence in the opinion of the
23 division good character, honesty, competency, and integrity; or (4)
24 has been convicted of a crime involving fraud, dishonesty, or moral
25 turpitude.

26 d. Notwithstanding the provisions of the "Administrative
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 90
28 days of the effective date of P.L. , c. (pending before the
29 Legislature as this bill), the director of the division shall adopt,
30 immediately upon filing proper notice with the Office of
31 Administrative Law, such temporary rules and regulations
32 necessary to effectuate the purposes of this act. The rules and
33 regulations so adopted shall be effective for a period not to exceed
34 18 months from the date of the filing. The rules and regulations
35 shall thereafter be amended, adopted, or readopted by the director in
36 accordance with the requirements of the "Administrative Procedure
37 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

38

39 8. (New section) a. A person within this State shall not be
40 permitted to open a fixed odds wagering account, or place a fixed
41 odds wager through the fixed odds wagering system, except in
42 accordance with federal law and this act, and through the fixed odds
43 wagering licensee, and no entity, other than the fixed odds wagering
44 licensee, shall accept a fixed odds wager from a person within this
45 State. A person may not place a fixed odds wager unless the person
46 has established a fixed odds wagering account with the fixed odds
47 wagering licensee and is physically present in New Jersey at the
48 time of placing the account wager, except that persons physically

1 present at a racetrack or off-track wagering facility may place a
2 wager through a teller at a window without opening a fixed odds
3 wagering account. To establish a fixed odds wagering account, a
4 person shall be physically present in New Jersey at the time of
5 establishing the wagering account, at least 18 years of age, except
6 that any person on the self-exclusion list established pursuant to
7 section 1 of P.L.2002, c.89 (C.5:5-65.1) shall be prohibited from
8 establishing a fixed odds wagering account. A resident of this State
9 who has established an account with a fixed odds wagering licensee
10 may place a fixed odds wager through the licensee while physically
11 present in New Jersey, or while physically present in another
12 jurisdiction if placing such a wager is not inconsistent with the law
13 of that jurisdiction or with federal law. The division shall develop
14 protocols to accurately determine a person's location within the
15 State to effectuate the provisions of this subsection.

16 b. The fixed odds wagering account shall be in the name of a
17 natural person and may not be in the name of any beneficiary,
18 custodian, joint trust, corporation, partnership, or other organization
19 or entity.

20 c. A fixed odds wagering account may be established in
21 person, by mail, telephone, or other electronic media, by a person
22 completing an application form approved by the division. The form
23 shall include the address of the principal residence of the
24 prospective fixed odds wagering account holder and a statement
25 that a false statement made in regard to an application may subject
26 the applicant to prosecution. The fixed odds wagering licensee
27 shall verify the identification, residence, and age of the fixed odds
28 wagering account holder using methods and technologies approved
29 by the division.

30 d. The prospective fixed odds wagering account holder shall
31 submit the completed application in person, by mail, telephone, or
32 other electronic media, including the Internet and wireless devices,
33 to the fixed odds wagering licensee or such other person or entity as
34 may be approved by the division. The fixed odds wagering licensee
35 may accept or reject an application after receipt and review of the
36 application and certification, or other proof, of age and residency
37 for compliance with this act.

38 e. Any prospective fixed odds wagering account holder who
39 provides false or misleading information on the application is
40 subject to rejection of the application or cancellation of the fixed
41 odds wagering account by the fixed odds wagering licensee without
42 notice.

43 f. The fixed odds wagering licensee shall have the right to
44 suspend or close any fixed odds wagering account at its discretion.

45 g. Any person not in good standing with the division shall not
46 be entitled to maintain a fixed odds wagering account.

47 h. The address provided by the applicant in the application
48 shall be deemed the proper address for the purposes of mailing

1 checks, fixed odds wagering account withdrawals, notices, and
2 other materials.

3 i. A fixed odds wagering account shall not be assignable or
4 otherwise transferable.

5 j. The fixed odds wagering licensee may at any time declare
6 the fixed odds wagering system closed for receiving any wagers on
7 any race or closed for all fixed odds wagering.

8

9 9. (New section) a. Credits to a fixed odds wagering account
10 shall be made as follows:

11 (1) The fixed odds wagering account holder's deposits to the
12 fixed odds wagering account shall be submitted by the fixed odds
13 wagering account holder to the fixed odds wagering licensee and
14 shall be in the form of one of the following:

15 (a) cash given to the fixed odds wagering licensee;

16 (b) check, money order, negotiable order of withdrawal, or wire
17 or electronic transfer, payable and remitted to the fixed odds
18 wagering licensee; or

19 (c) charges made to a fixed odds wagering account holder's
20 debit or credit card upon the fixed odds wagering account holder's
21 direct and personal instruction, which instruction may be given by
22 telephone communication or other electronic means to the fixed
23 odds wagering licensee or its agent by the fixed odds wagering
24 account holder if the use of the card has been approved by the fixed
25 odds wagering licensee.

26 (2) Credit for winnings from wagers placed with funds in a fixed
27 odds wagering account shall be posted to the fixed odds wagering
28 account by the fixed odds wagering licensee.

29 (3) The fixed odds wagering licensee shall have the right to
30 refuse for any reason all or part of any fixed odds wager or deposit
31 to the fixed odds wagering account.

32 (4) Funds deposited in the fixed odds wagering account shall not
33 bear interest to the fixed odds wagering account holder.

34 b. Debits to a fixed odds wagering account shall be made as
35 follows:

36 (1) Upon receipt by the fixed odds wagering licensee of a fixed
37 odds wager properly placed pursuant to section 10 of this act,
38 P.L. , c. (C.)(pending before the Legislature as this bill), the
39 fixed odds wagering licensee shall determine whether there are
40 sufficient funds in the fixed odds wagering account holder's fixed
41 odds wagering account to cover the total liability resulting from the
42 fixed odds wager, taking into consideration other fixed odds wagers
43 made by the fixed odds wagering account holder in the same
44 market, and any additional applicable transaction or other fees due
45 to the fixed odds wagering licensee under the division's rules and
46 regulations, and deduct such amounts from the fixed odds wagering
47 account holder's fixed odds wagering account.

1 (2) The fixed odds wagering licensee may authorize a
2 withdrawal from a fixed odds wagering account when the fixed
3 odds wagering account holder submits to the fixed odds wagering
4 licensee, the fixed odds wagering licensee's agent, or such other
5 entity as may be approved by the division, his or her fixed odds
6 wagering account number and proper means of identification
7 pursuant to procedures approved by the division. Fixed odds
8 wagering account holders may request a withdrawal in person, by
9 mail, by telephone, or by other electronic means. If there are
10 sufficient funds in the fixed odds wagering account to cover the
11 withdrawal, after taking into consideration any existing fixed odds
12 wagers made by the fixed odds wagering account holder, the fixed
13 odds wagering licensee shall make payment within three business
14 days of receipt of the fixed odds wagering account holder's
15 withdrawal request. Notwithstanding the foregoing, the fixed odds
16 wagering licensee may decline or delay fulfilling a withdrawal
17 request if the fixed odds wagering licensee reasonably suspects: (a)
18 fraud; (b) that the fixed odds wagering account holder was
19 ineligible to make one or more of the fixed odds wagers made from
20 the fixed odds wagering account; or (c) any other conditions which
21 the division may prescribe or approve. At the discretion of the
22 fixed odds wagering licensee, withdrawals may be payable in cash,
23 by a check sent to the fixed odds wagering account holder's verified
24 residence address, by wire transfer, or by other electronic transfer.
25 Withdrawals shall be made payable only to the holder of the fixed
26 odds wagering account and in no more than the amount of the
27 requested withdrawal.

28

29 10. (New section) a. The fixed odds wagering licensee may
30 accept fixed odds wagers from anyone physically present in New
31 Jersey who holds a valid account with a fixed odds wagering
32 licensee or residents of New Jersey who hold a valid account and
33 who are physically present in another jurisdiction where placing
34 such a wager is not inconsistent with the law of that jurisdiction or
35 with federal law, only in accordance with this act, federal law, and
36 as follows:

37 (1) A wager to back or lay a particular outcome in a given
38 market, specifying the price of the wager, shall be placed directly
39 with the fixed odds wagering licensee by the holder of the fixed
40 odds wagering account.

41 (2) The fixed odds wagering account holder placing the wager
42 shall provide the fixed odds wagering licensee with the correct
43 personal identification number of the holder of the fixed odds
44 wagering account.

45 (3) A fixed odds wagering licensee may not accept a fixed odds
46 wager, or series of fixed odds wagers, when the results of which
47 would create a liability for the fixed odds wagering account holder

1 in excess of funds on deposit in the fixed odds wagering account of
2 that holder.

3 (4) Only the holder of a fixed odds wagering account shall place
4 a wager. Unless otherwise approved by the division, no person,
5 corporation, or other entity shall directly or indirectly act as an
6 intermediary, transmitter, or agent in the placing of wagers for a
7 holder of an fixed odds wagering account; provided, however, that
8 the use of credit or debit cards specifically approved by the fixed
9 odds wagering licensee or the use of checks, money orders, or
10 negotiable orders of withdrawal or the use of telephonic, computer,
11 or electronic means by the fixed odds wagering account holder to
12 place such wagers shall not be prohibited.

13 (5) The fixed odds wagering account holder may place a wager
14 in person, by direct telephone call or by communication through
15 other electronic media.

16 b. A fixed odds wager may also be placed at a racetrack or off-
17 track wagering facility in person without opening a fixed odds
18 wagering account through a teller who shall issue a tote ticket for
19 the wager which may then be cashed by the teller.

20

21 11. (New section) Subject to the approval of the division, the
22 fixed odds wagering licensee shall be permitted to collect fixed
23 odds revenues in the manner and amounts determined by the fixed
24 odds wagering licensee, including but not limited to assessing a
25 surcharge on any person's net winnings.

26

27 12. (New section) Notwithstanding any other law, rule, or
28 regulation to the contrary, the division shall require each fixed odds
29 wagering licensee to:

30 a. pay such portions of the fixed odds wagering licensee's fixed
31 odds revenues as may be required pursuant to ¹subsections b. and
32 c. of ¹section 4 of this act, P.L. , c. (C.)(pending before the
33 Legislature as this bill);

34 b. pay to overnight purses to standardbred and thoroughbred
35 permit holders for wagering on races for the permit holder's
36 respective breed in this State 50 percent of fixed odds revenues
37 retained by the fixed odds wagering licensee after the payments
38 required pursuant to subsection a. of this section are made, and after
39 deducting all reasonable and necessary expenses incurred by the
40 licensee in administering, marketing, and operating the fixed odds
41 wagering system; and

42 c. reach a business agreement with all standardbred and
43 thoroughbred permit holders within this State as it pertains to
44 wagering on the permit holder's respective breed, within one year
45 from the date when the fixed odds wagering system becomes
46 operational, for the distribution of the net fixed odds wagering
47 revenues remaining after the payments are made pursuant to
48 subsections a. and b. of this section and after the payment of

1 operating expenses, subject to approval by the division; provided
2 that, if an agreement is not reached within that time frame, the
3 division shall distribute the fixed odds wagering revenues among
4 the fixed odds wagering licensees and the standardbred and
5 thoroughbred permit holders in this State based on wagering on the
6 permit holder's respective breed.

7
8 13. (New section) Of the monies distributed to overnight purses
9 pursuant to subsection b. of section 12 of this act,
10 P.L. , c. (C.)(pending before the Legislature as this bill), all
11 moneys derived from fixed odds wagering on thoroughbred races
12 shall be paid to overnight purses for thoroughbred races and all
13 monies derived from fixed odds wagering on standardbred races
14 shall be paid to overnight purses for standardbred races. The
15 formula for allocating overnight purse monies from fixed odds
16 wagering to overnight purses set forth in this section may only be
17 modified by the mutual agreement of the Standardbred Breeders and
18 Owners Association of New Jersey and the New Jersey
19 Thoroughbred Horsemen's Association. Nothing contained in this
20 section shall be construed as a precedent for establishing the
21 division of overnight purse amounts between standardbred races
22 and thoroughbred races.

23 Notwithstanding the foregoing, the sum derived from fixed odds
24 wagering on standardbred races pursuant to subsection b. of section
25 12 of P.L. , c. (C.)(pending before the Legislature as this bill)
26 may be distributed as provided by a contractual agreement
27 authorized under section 11 of P.L.2013, c.266 (C.5:5-188).
28 Notwithstanding the foregoing, the sum derived from fixed odds
29 wagering on thoroughbred races pursuant to subsection b. of section
30 12 of P.L. , c. (C.)(pending before the Legislature as this
31 bill) may be distributed as provided by a contractual agreement
32 authorized under section 12 of P.L.2013, c.266 (C.5:5-189).

33
34 14. (New section) All amounts remaining in fixed odds
35 wagering accounts inactive or dormant for such period and under
36 such conditions as established by regulation shall be distributed in
37 accordance with the division's rules and regulations.

38
39 15. (New section) All persons engaged in conducting wagering-
40 related activities through the fixed odds wagering system, whether
41 employed directly by the fixed odds wagering licensee or by a
42 person or entity conducting or operating the system pursuant to a
43 contract or agreement with the fixed odds wagering licensee, shall
44 be licensed or registered in accordance with such regulations as
45 may be promulgated by the division hereunder. All other
46 employees of the system shall be licensed or registered in
47 accordance with regulations of the division. The division shall have
48 full power to prescribe rules, regulations, and conditions under

1 which all such licenses are issued, or registrations made, in this
2 State and to revoke or refuse to issue a license, or revoke or refuse
3 to accept a registration, if in the opinion of the division the
4 revocation or refusal is in the public interest, provided, however,
5 that such rules, regulations, and conditions shall be uniform in their
6 application, and further provided that no fee shall be in excess of
7 \$50 for each license so granted or registration accepted.

8
9 16. (New section) The provisions of this act shall be deemed to
10 be severable, and if any phrase, clause, sentence, or provision of
11 this act is declared to be unconstitutional or the applicability thereof
12 to any person is held invalid, the remainder of this act shall not
13 thereby be deemed to be unconstitutional or invalid.

14
15 17. (New section) The division shall promulgate rules and
16 regulations pursuant to the "Administrative Procedure Act,"
17 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
18 this act, P.L. , c. (pending before the Legislature as this bill).

19
20 18. Section 1 of P.L.2002, c.89 (C.5:5-65.1) is amended to read
21 as follows:

22 1. a. The commission shall provide by regulation for the
23 establishment of a list of persons who voluntarily seek to be
24 excluded from entry into permitted racetracks and licensed off-track
25 wagering facilities located in this State and from opening or
26 maintaining a wagering account with the account wagering system
27 **[or]** , with the exchange wagering system, or with the fixed odds
28 wagering system established in this State. A person may request
29 placement on the self-exclusion list by acknowledging in a manner
30 to be established by the commission that the person is a problem
31 gambler and by agreeing that, during a period of voluntary
32 exclusion, the person may not collect winnings or recover losses
33 resulting from wagering at a racetrack or off-track wagering facility
34 or from account wagering **[or]** , exchange wagering, or fixed odds
35 wagering.

36 b. The commission shall promulgate regulations to: (1)
37 establish procedures for placements on, and removals from, the list
38 of self-excluded persons; (2) establish procedures for the transmittal
39 to the permitted racetracks, licensed off-track wagering facilities,
40 the account wagering system, **[and]** the exchange wagering
41 licensee, and the fixed odds wagering licensee of identifying
42 information concerning persons on the self-exclusion list; and (3)
43 require permitted racetracks, licensed off-track wagering facilities,
44 the account wagering system, **[and]** the exchange wagering
45 licensee, and the fixed odds wagering licensee to establish
46 procedures designed, at a minimum, to remove persons on the self-
47 exclusion list from targeted mailings or other forms of advertising
48 or promotions and deny such persons access to credit,

1 complimentary, check cashing privileges, club programs, and
2 other similar benefits.

3 c. The commission, a permitted racetrack, a licensed off-track
4 wagering facility, the account wagering system, the exchange
5 wagering licensee, the fixed odds wagering licensee, or an
6 employee thereof shall not be liable to a person on the self-
7 exclusion list or to another party in a judicial proceeding for harm,
8 monetary or otherwise, which may arise as a result of:

9 (1) the failure of a permitted racetrack, licensed off-track
10 wagering facility or the account wagering system or the exchange
11 wagering licensee or the fixed odds wagering licensee to withhold
12 wagering privileges from, or restore wagering privileges to, a
13 person on the self-exclusion list; or

14 (2) permitting a person on the self-exclusion list to engage in
15 wagering activity at a permitted racetrack or licensed off-track
16 wagering facility, or through the account wagering system, or
17 through the exchange wagering system, or through the fixed odds
18 wagering system.

19 d. Notwithstanding the provisions of section 8 of P.L.1940,
20 c.17 (C.5:5-28), the commission's self-exclusion list shall be
21 privileged and confidential and shall not be accessible to the public
22 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and
23 supplemented.

24 e. The commission, a permitted racetrack, a licensed off-track
25 wagering facility, the account wagering system, the exchange
26 wagering licensee, the fixed odds wagering licensee, or an
27 employee thereof shall not be liable to a person on the self-
28 exclusion list or to another party in a judicial proceeding for harm,
29 monetary or otherwise, which may arise as a result of disclosure or
30 publication, other than a willfully unlawful disclosure or
31 publication, of the identity of a self-excluded person.

32 (cf: P.L.2011, c.15, s.19)

33

34 19. Section 2 of P.L.2002, c.89 (C.5:5-65.2) is amended to read
35 as follows:

36 2. a. A person on the self-exclusion list established pursuant to
37 section 1 of P.L.2002, c.89 (C.5:5-65.1), shall not collect, in any
38 manner or proceeding, winnings or recover losses arising as a result
39 of wagering activity at a permitted racetrack or licensed off-track
40 wagering facility, or through the account wagering system, **[or]**
41 through the exchange wagering system, or through the fixed odds
42 wagering system.

43 b. Money or a thing of value which has been obtained by, or is
44 owed to, a person on the self-exclusion list from a permitted
45 racetrack, licensed off-track wagering facility or account wagering
46 system **[or]** , exchange wagering system, or fixed odds wagering
47 system as a result of wagers made by that person shall be subject to
48 forfeiture by order of the executive director of the commission,

1 following notice to the person on the self-exclusion list and
2 opportunity to be heard.

3 Money or a thing of value forfeited shall be deposited into the
4 State General Fund for appropriation by the Legislature to the
5 Department of Human Services to provide funds for compulsive
6 gambling treatment and prevention programs in the State.

7 c. In a proceeding brought by the commission against a live
8 racing permit holder, the off-track wagering licensee, the account
9 wagering licensee, **[or]** the exchange wagering licensee, or the
10 fixed odds wagering licensee for a willful violation of the
11 commission's self-exclusion regulations, the commission may order
12 in addition to a permit or license suspension, a fine not to exceed
13 \$5,000 per wagering incident, the forfeiture of money or a thing of
14 value obtained by the permit holder, off-track wagering licensee,
15 account wagering licensee, **[or]** exchange wagering licensee, or
16 fixed odds wagering licensee from a person on the self-exclusion
17 list and other remedial conditions the commission deems
18 appropriate. Money or a thing of value so forfeited shall be
19 disposed of in the same manner as money or a thing of value
20 forfeited pursuant to subsection b. of this section.

21 (cf: P.L.2011, c.15, s.20)

22

23 20. This act shall take effect immediately.