(122nd General Assembly)
(Substitute Senate Bill Number 37)

AN ACT

To amend sections 2915.02 and 3769.26 of the Revised Code to eliminate the restriction on the frequency with which a governmental unit may lease certain premises to charitable organizations to conduct festivals at which games of chance are conducted, to allow more frequent leasing of premises to charitable organizations for this purpose by a veteran's or fraternal organization, to prohibit persons convicted of felony gambling offenses or certain other felonies from owning the premises on which a satellite facility that receives simulcasts of horse races is established or from being the operator or an employee of such a satellite facility, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2915.02 and 3769.26 of the Revised Code be amended to read as follows:

Sec. 2915.02. (A) No person shall do any of the following:

(1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking;

(2) Establish, promote, or operate or knowingly engage in conduct that facilitates any scheme or game of chance conducted for profit;

(3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any scheme or game of chance conducted for profit;

(4) Engage in betting or in playing any scheme or game of chance, except a charitable bingo game, as a substantial source of income or livelihood;

(5) With purpose to violate division (A)(1), (2), (3), or (4) of this section, acquire, possess, control, or operate any gambling device.

(B) For purposes of division (A)(1) of this section, a person facilitates

bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of division (A)(2) of this section, a person facilitates a scheme or game of chance conducted for profit if the person in any way knowingly aids in the conduct or operation of any such scheme or game, including, without limitation, playing any such scheme or game.

(C) This section does not prohibit conduct in connection with gambling expressly permitted by law.

(D) This section does not apply to any of the following:

(1) Schemes of chance conducted by a charitable organization that is, and has received from the internal revenue service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, provided that all of the money or assets received from the scheme of chance after deduction only of prizes paid out during the conduct of the scheme of chance are used by, or given, donated, or otherwise transferred to, any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and provided that the scheme of chance is not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to section 2915.12 of the Revised Code;

(2) Games of chance, if all of the following apply:

(a) The games of chance are not craps for money, roulette for money, or slot machines;

(b) The games of chance are conducted by a charitable organization that is, and has received from the internal revenue service a determination letter that is currently in effect, stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

(c) The games of chance are conducted at festivals of the organization that are conducted either for a period of four consecutive days or less and not more than twice a year or for a period of five consecutive days not more than once a year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization

for a period of no less than one year immediately preceding the conducting of the games of chance~~;~~.

A charitable organization shall not lease premises from a veteran's or fraternal organization~~, or lease from a governmental unit premises located in a county with a population exceeding five hundred thousand,~~ to conduct a festival described in division (D)(2)(c) of this section if the veteran's or fraternal organization ~~or governmental unit~~ already has leased the premises ~~twice~~ four times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in division (D)(2)(c) of this section, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under division (A)(3) of section 2915.09 of the Revised Code when it leases premises from another charitable organization to conduct bingo games.

(d) All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated, or otherwise transferred to, any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

(e) The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to section 2915.12 of the Revised Code.

No person shall receive any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, for operating or assisting in the operation of any scheme or game of chance.

(3) Any tag fishing tournament operated under a permit issued under section 1533.92 of the Revised Code, as "tag fishing tournament" is defined in section 1531.01 of the Revised Code.

(E) Division (D) of this section shall not be construed to authorize the sale, lease, or other temporary or permanent transfer of the right to conduct schemes of chance or games of chance, as granted by division (D) of this section, by any charitable organization that is granted that right.

(F) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of any gambling offense, gambling is a felony of the fifth degree.

Sec. 3769.26. (A)(1) Except as otherwise provided in division (B) of this section, each track in existence ~~of~~ on September 27, 1994, regardless of

the number of permit holders authorized to conduct race meetings at the track, may establish, with the approval of the state racing commission and the appropriate local legislative authority, not more than two satellite facilities at which it may conduct pari-mutuel wagering on horse races conducted either inside or outside this state and simulcast by a simulcast host to the satellite facilities.

(2) Prior to a track's establishing satellite facilities under this section, the permit holders at that track shall agree among themselves regarding their respective rights and obligations with respect to those satellite facilities.

(3)(a) Any track that desires to establish a satellite facility shall provide written notification of its intent to the state racing commission and to the appropriate local legislative authority that is required to approve the satellite facility, together with detailed plans and specifications for the satellite facility. The commission shall deliver copies of this notification to all other tracks in this state, and the commission shall, within forty-five days after receiving the notification, hold a hearing on the track's intent to establish a satellite facility. At this hearing the commission shall consider the evidence presented and determine whether the request for establishment of a satellite facility shall be approved.

The commission shall not approve a track's request to establish a satellite facility if the owner of the premises where the satellite facility is proposed to be located or if the proposed operator of the satellite facility has been convicted of or has pleaded guilty to a gambling offense that is a felony or any other felony under the laws of this state, any other state, or the United States that the commission determines to be related to fitness to be the owner of such a premises or to be the operator of a satellite facility. as used in division (A)(3)(a) of this section, "gambling offense" has the same meaning as in section 2915.01 of the Revised Code and "operator" means the individual who is responsible for the day-to-day operations of a satellite facility. the commission shall conduct a background investigation on each person who is the owner of a premises where a satellite facility is proposed to be located or who is proposed to be the operator or an employee of a satellite facility. the commission shall adopt rules in accordance with Chapter 119. of the Revised Code that specify the specific information the commission shall collect in conducting such a background investigation.

No track shall knowingly contract with a person as the owner of the premises where a satellite facility is located, or knowingly employ a person as the operator or an employee of a satellite facility, who has been convicted of or pleaded guilty to a gambling offense that is a felony or any other felony under the laws of this state, any other state, or the United States that

the commission determines to be related to fitness to be the owner of such a premises or to be the operator or an employee of a satellite facility. The commission may impose a fine in an amount not to exceed ten thousand dollars on any track that violates any of these prohibitions.

(b) Each track that receives the notification described in division (A)(3)(a) of this section shall notify the commission and the track that desires to establish the satellite facility, within thirty days after receiving the notification from the commission, indicating whether or not it desires to participate in the joint ownership of the facility. Ownership shall be distributed equally among the tracks that choose to participate in the joint ownership of the facility unless the participating tracks agree to and contract otherwise. Tracks that fail to respond to the commission and the track that desires to establish the satellite facility within this thirty-day period regarding the ownership of the particular satellite facility are not eligible to participate in its ownership.

(B) If, within three years after September 27, 1994, a track in existence on September 27, 1994, does not establish both of the satellite facilities it is authorized to establish under division (A) of this section, another track, with the approval of the racing commission, may establish in accordance with this section a number of additional satellite facilities that does not exceed the number of satellite facilities that the first track did not establish. However, no more than fourteen satellite facilities may be established in this state.

(C) Except as otherwise provided in this division, each permit holder in this state shall allow the races that it conducts, and the races conducted outside this state that it receives as a simulcast host, to be simulcast to all satellite facilities operating in this state and shall take all action necessary to supply its simulcast and wagering information to these satellite facilities. A permit holder at a track where the average daily amount wagered for all race meetings during calendar year 1990 did not exceed two hundred fifty thousand dollars may elect not to simulcast its races to the satellite facilities. If a permit holder at such a track chooses to simulcast its races to satellite facilities, it shall allow its races to be simulcast to all satellite facilities operating in this state. Except as otherwise provided in this division, each satellite facility shall receive simulcasts of and conduct pari-mutuel wagering on all live racing programs being conducted at any track in this state and on all agreed simulcast racing programs, as provided in division (D) of section 3769.089 of the Revised Code, conducted in other states that are received by simulcast in this state, without regard to the breed of horse competing in the race or the time of day of the race.

No satellite facility may receive simulcasts of horse races during the same hours that a county fair or independent fair located within the same county as the satellite facility is conducting pari-mutuel wagering on horse races at that county or independent fair.

Except as otherwise provided in this division, the commission shall not approve the establishment of a satellite facility within a radius of fifty miles of any track. The commission may approve the establishment of a satellite facility at a location within a radius of at least thirty-five but not more than fifty miles from one or more tracks if all of the holders of permits issued for those tracks consent in writing to the establishment of the satellite facility. The commission may approve the establishment of a satellite facility at a location within a radius of thirty-five miles of more than one race track if all holders of permits issued for those tracks consent in writing to the establishment of the satellite facility and, if the tracks are located completely within one county and the proposed satellite facility will be located within that county, if both the legislative authority of the municipal corporation in that county with the largest population, and the appropriate legislative authority that is required to approve the satellite facility under division (A)(1) of this section, approve the establishment of the new satellite facility. The commission may approve the establishment of a satellite facility at a location within a radius of less than twenty miles from an existing satellite facility if the owner of the existing satellite facility consents in writing to the establishment of the new satellite facility.

A satellite facility shall not receive simulcasts of horse races conducted outside this state on any day when no simulcast host is operating.

(D) Each simulcast host is responsible for paying all costs associated with the up-link for simulcasts. Each satellite facility is responsible for paying all costs associated with the reception of simulcasts and the operation of the satellite facility.

(E) All money wagered at the simulcast host, and all money wagered at all satellite facilities on races simulcast from the simulcast host, shall be included in a common pari-mutuel pool at the simulcast host. Except as otherwise provided in division (F)(6) of this section, the payment shall be the same for all winning tickets whether a wager is placed at a simulcast host or a satellite facility. Wagers placed at a satellite facility shall conform in denomination, character, terms, conditions, and in all other respects to wagers placed at the simulcast host for the same race.

(F)(1) As used in division (F) of this section, "effective rate" means the effective gross tax percentage applicable at the simulcast host, determined in accordance with sections 3769.08 and 3769.087 of the Revised Code, after

combining the money wagered at the simulcast host with the money wagered at satellite facilities on races simulcast from the host track.

(2) For the purposes of calculating the amount of taxes to be paid and the amount of commissions to be retained by permit holders, fifty per cent of the amount wagered at satellite facilities on a live racing program simulcast from a simulcast host shall be allocated to the permit holder's live race wagering at that simulcast host that conducts the live racing program, and fifty per cent of the amount wagered at satellite facilities on simulcast racing programs conducted outside this state shall be allocated to, and apportioned equally among, the permit holders acting as simulcast hosts for the out-of-state simulcast racing programs. The remainder of the amount wagered at a satellite facility on races simulcast from a simulcast host shall be allocated to the satellite facility. In computing the tax due on the amount allocated to the satellite facility, if there is more than one simulcast host for out-of-state simulcast racing programs, the effective rate applied by the satellite facility shall be the tax rate applicable to the simulcast host that pays the highest effective rate under section 3769.08 of the Revised Code on such simulcast racing programs.

(3) The portion of the amount wagered that is allocated to a simulcast host under division (F)(2) of this section shall be treated, for the purposes of calculating the amount of taxes to be paid and commissions to be retained, as having been wagered at the simulcast host on a live racing program or on a simulcast racing program. The permit holder at the simulcast host shall pay, by check, draft, or money order to the state tax commissioner, as a tax, the tax specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable, except that the tax shall be calculated using the effective rate, and the permit holder may retain as a commission the percentage of the amount wagered as specified in those sections. From the tax collected, the tax commissioner shall make distributions to the respective funds, and in the proper amounts, as required by sections 3769.08 and 3769.087 of the Revised Code, as applicable.

(4) From the portion of the amount wagered that is allocated to a satellite facility under division (F)(2) of this section, the satellite facility may retain as a commission the amount specified in section 3769.08 or 3769.087 of the Revised Code, as applicable. The portion of the amount wagered that is allocated to a satellite facility shall be subject to tax at the effective rate as follows:

(a) One per cent of such amount allocated to the satellite facility shall be paid as a tax each racing day to the tax commissioner for deposit into the PASSPORT fund.

(b) The remaining balance of the taxes calculated at the effective rate, after payment of the tax specified in division (F)(4)(a) of this section, shall be retained by the satellite facility to pay for those costs associated with the reception of the simulcasts.

(5) From the commission retained by a satellite facility after the deduction of the tax paid at the effective rate under division (F)(4) of this section, the satellite facility shall retain an amount equal to two and three-eighths per cent of the amount wagered that day on simulcast racing programs and the balance shall be divided as follows:

(a) One-half shall be paid to the owner of the satellite facility;

(b) One-half shall be paid to the state racing commission for deposit into the Ohio combined simulcast horse racing purse fund.

(6) In addition to the commission retained under this section, a satellite facility shall retain two and one-half per cent of the amount that would otherwise be paid on each winning wager unless the retention of this amount would either cause or add to a minus pool. As used in division (F)(6) of this section, "minus pool" means a wagering pool in which a winning wager is paid off at less than one hundred ten per cent of the amount of the wager. The amount retained shall be paid each racing day to the tax commissioner for deposit into the PASSPORT fund.

(7) At the close of each day, each satellite facility shall pay, by check, draft, or money order, or by wire transfer of funds, out of the money retained on that day to the collection and settlement agent the required fee to be paid by the simulcast host to the tracks, racing associations, or state regulatory agencies located outside this state for simulcasts into this state computed and based on one-half of the amount wagered at the satellite facility that day on interstate simulcast racing programs.

(G) No license, fee, or excise tax, other than as specified in division (F)(6) of this section, shall be assessed upon or collected from a satellite facility, the owners of a satellite facility, or the holders of permits issued for a track that has established a satellite facility by any county, township, municipal corporation, district, or other body having the authority to assess or collect a tax or fee.

(H) In no case shall that portion of the commissions designated for purses from satellite facilities be less than that portion of those commissions designated for purses at the simulcast host.

(I) It is the intention of the general assembly in enacting this section not to adversely affect the amounts paid into the Ohio thoroughbred race fund created under section 3769.083 of the Revised Code. Therefore, each track that acts as a simulcast host under this section shall calculate, on a

semi-annual basis during calendar years 1994, 1995, and 1996, its average daily contribution to the Ohio thoroughbred race fund created under section 3769.083 of the Revised Code on those days on which the track conducted live horse racing. If this average daily contribution to the fund is less than the average daily contribution from the same track to the fund during the same six-month period of calendar year 1992, there shall be contributed to the fund an amount equal to the average daily shortfall multiplied by the number of days of live racing conducted during the six-month period in calendar year 1994, 1995, or 1996, as applicable. The amount of such contribution shall be allocated among the simulcast host, the purse program at the simulcast host, and the satellite facilities for which the track served as the simulcast host, on a pro rata basis in proportion to the amounts contributed by them to the fund during such six-month period in calendar year 1994, 1995, or 1996, as applicable.

SECTION 2. That existing sections 2915.02 and 3769.26 of the Revised Code are hereby repealed.

SECTION 3. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity lies in the fact that this act must be effective soon so that its provisions governing the leasing of premises for festivals can apply to the 1997 summer festival season. Therefore, this act shall go into immediate effect.

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Speaker _____ of the House of Representatives.

_____

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

_____

Governor.

This act is not of a general and permanent nature and does not require a code section number.

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Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____