

Rules and Regulations:
Advance Deposit Wagering
in the United States and Canada
January 2010

Researched and Written by:

Eric Sindler

for

Harness Tracks of America

© 2010



4640 EAST SUNRISE, SUITE 200 / TUCSON, ARIZONA 85718
(520) 529-2525 • Fax / (520) 529-3235 • e-mail: info@harnesstracks.com

Paul J. Estok, General Counsel and Corporate Secretary
paul.estok@azbar.org

Foreword

This Harness Tracks of America (HTA) report was researched and written by Eric Sindler, a graduate student at the University of Arizona Race Track Industry Program (RTIP). Mr. Sindler's project is a product of HTA's continuing close working arrangement with the RTIP, and we thank RTIP faculty members Doug Reed, Wendy Davis and Steve Barham for their cooperation in making such projects possible.

Table of Contents

Introduction	2
Summary Table	3
Alabama	6
Arizona	7
Arkansas	8
California	10
Colorado	11
Connecticut	13
Delaware	15
Florida	16
Idaho	18
Illinois	19
Indiana	20
Iowa	22
Kansas	24
Kentucky	26
Louisiana	27
Maine	28
Maryland	29
Massachusetts	30
Michigan	31
Minnesota	32
Missouri	35
Montana	36
Nebraska	37
Nevada	38
New Hampshire	39
New Jersey	40
New Mexico	42
New York	43
North Dakota	44
Ohio	45
Oklahoma	46
Oregon	48
Pennsylvania	49
Rhode Island	50
South Dakota	51
Tennessee	52
Texas	53
Vermont	54
Virginia	55
Washington	56
West Virginia	57
Wisconsin	58
Wyoming	59
Canada	60

Introduction

This report reflects the current status of Advanced Deposit Wagering (ADW) laws in the United States and Canada. This report is an update to Survey of Advance Deposit Wagering in North America, November 2007, researched and compiled by Robert Little, which was an update to Laws and Rules Pertaining to Account Wagering in the United States and Canada, August 2006, researched and compiled by Tony DeMarco.

This report was put together not as an update to supplement Survey of Advance Deposit Wagering in North America, but rather as an overview of the current law. The laws and regulations pertaining to Advanced Deposit Wagering are very extensive and differ between each state. This report is not intended to give a comprehensive understanding of all the rules and regulations. Rather, this report is intended to give a cursory overview of the current status of ADW laws, rules, and regulations in jurisdictions which have authorized pari-mutuel betting. In the Summary Table, I have listed the relevant statutes and regulations for the states which allow account wagering so one will know where to look to find all the statutes and regulations if s/he so chooses to gain a more comprehensive understanding for a particular state. Also, if applicable, any relevant case law, Attorney General Opinions, or Racing Commission Opinions are discussed.

If a state is not covered, it is because no form of pari-mutuel wagering is allowed, and thus, Advanced Deposit Wagering, would also clearly not be legal since it is a form of pari-mutuel wagering.

Lastly, the citations to code and administrative rules sections are not in a manner as which would appear in a law review article or legal document (except for the Summary Table). Instead I choose to give citation in a very detailed, straightforward and easily understandable way, so one who is not used to reading legal documents can hopefully still find the relevant code or regulation section easily.

Summary Table

State	ADW – Legal	Governing Statute	Governing Regulation
Arizona	No	N/A	N/A
Arkansas	No	N/A	N/A
California	Yes	Cal Bus & Prof Code §19604	4 CCR § 2071 – 4 CCR § 2083
Colorado	No	N/A	N/A
Connecticut	Only Telephone	N/A	CT ADC § 12-574- F59
Delaware	No	N/A	N/A
Florida	No	N/A	N/A
Idaho	Yes	I.C. § 54-2512	IDAPA 11.04.05
Illinois	Yes	230 ILCS 5/3.29	11 IL ADC 321.10 - 11 IL ADC 321.90
Indiana	No	N/A	N/A
Iowa	No	N/A	N/A
Kansas	No	N/A	N/A
Kentucky	Yes	KRS §230.378	810 KAR 1:080
Louisiana	Yes	LSA-R.S. 4:149.5	LA ADC 35-120
Maine	No	N/A	N/A
Maryland	Yes	MD BUS REG § 11-805	MD ADC 09.10.04.24
Massachusetts	Yes	M.G.L.A. 128A § 5C	205 CMR 6.20 - 205 CMR 6.28
Michigan	No	N/A	N/A
Missouri	No	N/A	N/A
Minnesota	No	N/A	N/A

Montana	Yes	MCA 23-4-301	ARM 32.28.2001- ARM 32.28.2009
Nebraska	No	N/A	N/A
Nevada	Yes	N.R.S. 464.020	NV GAM REG 22.145, NV GAM REG 22.147 Also see, NV GAM REG 26C.010 - NV GAM REG 26C.220
New Hampshire	Yes	N.H. Rev. Stat. §284:22	PariPool 525 (See FN ???)
New Jersey	Yes	N.J.S.A. 5:5-127 - N.J.S.A. 5:5-160	N.J.A.C. 13:74-7.1 - N.J.A.C. 13:74-7.18
New Mexico	No	N/A	N/A
New York	Yes	McKinney's Racing, Pari-Mutuel Wagering and Breeding Law § 1012	9 NYCRR 5300.1 – 9 NYCRR 5300.23
North Dakota	Yes	NDCC, 53-06.2-10.1	NDAC 69.5-01-11-11
Ohio	Yes	None	OAC 3769-13-32 and OAC 3769-3-32
Oklahoma	No	N/A	N/A
Oregon	Yes	O.R.S. § 462.142	OAR 462-210-0010 - OAR 462-210-0040
Pennsylvania	Yes	4 P.S. § 325.218	58 PA ADC § 169.1 - 58 PA ADC § 169.5
Rhode Island	No	N/A	N/A
South Dakota	Yes	SDCL § 42-7-56	ARSD 20:04:33:01 - ARSD 20:04:33:80
Tennessee	No	N/A	N/A
Texas	No	N/A	N/A
Vermont	No	N/A	N/A
Virginia	Yes	Va. Code Ann. §59.1- 365 & Va. Code Ann. §59.1-369	11 VAC 10-45-10 - 11 VAC 10-45-70
Washington	Yes	RCWA 67.16.260	WAC 260-49-010 - WAC 260-49-100

West Virginia	No	N/A	N/A
Wisconsin	No	N/A	N/A
Wyoming	Yes	W.S.1977 §11-25-105	WY ADC AI PC Ch. 9 §2
Canada	Yes	R.S.C. 1985, c. C-46, s. 204	SOR/91-365, s. 76 - SOR/91-365, s. 84; SOR/91-365, s. 2

Alabama

Legality: Advanced deposit wagering is **not legal** in Alabama.

§ 11-65-28. Pari-mutuel wagering; generally.¹

(a) Pari-mutuel wagering conducted by an operator shall be conducted in accordance with the provisions of this section. An operator shall provide a place or places at the racing facility operated by it at which such operator shall conduct a pari-mutuel system of wagering by its patrons on the results of horse races or greyhound races, as the case may be, held at such racing facility. Such place or places shall be provided with the electronic or mechanical equipment necessary to issue pari-mutuel tickets, as well as the electronic or mechanical equipment necessary to record the wagering, compute the odds, and determine the awards to winning bettors, all in an accurate and speedy manner. All such equipment shall be approved by the commission licensing such operator before being used, but such commission shall not require the installation of any particular make of such equipment.

Case Law: None

Attorney General Opinions: None

¹ Code of Alabama; Title 11. Counties and Municipal Corporations. Subtitle 2. Provisions Applicable to Municipal Corporations Only. Chapter 65. Horse Racing and Greyhound Racing in Class 1 Municipalities.

Arizona

Legality: Advanced deposit wagering is **not legal**.

On October 27, 1999, The Arizona Department of Racing sent a letter to racetracks and off-track wagering facilities in New York, Connecticut, and Pennsylvania ordering them to cease accepting telephone-account wagering subscribers from Arizona. The letter from department director Jim Higginbottom, stated: “No telephone account wagering of any kind is permitted under Arizona law. Accordingly, your organization shall cease to accept telephone wagering accounts from persons located within this state and shall close all accounts. . .”²

§ 5-112. Wagering legalized; simulcasting of races; unauthorized wagering prohibited; classification; report³

A. Except as provided in subsection L of this section, section 5-101.01, subsection G and title 13, chapter 33, any person **within the enclosure** of a racing meeting held pursuant to this article may wager on the results of a race held at the meeting or televised to the racetrack enclosure by simulcasting pursuant to this section by contributing money to a pari-mutuel pool operated by the permittee as provided by this article. [emphasis added]

K. Except as provided in this article and in title 13, chapter 33, all forms of wagering or betting on the results of a race, including but not limited to buying, selling, cashing, exchanging or acquiring a financial interest in pari-mutuel tickets, except by operation of law, whether the race is conducted in this state or elsewhere, are illegal.

§ 13-3305. Betting and wagering; classification⁴

A. Subject to the exceptions contained in section 5-112, no person may engage for a fee, property, salary or reward in the business of accepting, recording or registering any bet, purported bet, wager or purported wager or engage for a fee, property, salary or reward in the business of selling wagering pools or purported wagering pools with respect to the result or purported result of any race, sporting event, contest or other game of skill or chance or any other unknown or contingent future event or occurrence whatsoever.

Case Law: None

Attorney General Opinions: None

² <http://www.arci.com/newsletters%5C991122.html>

³ Horse and Dog Racing is governed by: Arizona Revised Statute (ARS), Title 5 Amusements and Sports, Chapter 1 Horse and Dog Racing, Article 1 General Provisions

⁴ Arizona Revised Statutes, Title 13; Criminal Code: Chapter 33; Gambling

Arkansas

Legality: Advanced deposit wagering is **not legal**.

The following are selected provisions from the Arkansas Annotated Code (A.C.A) dealing with Pari-Mutuel Wagering. While there is no provision that expressly deems advanced deposit wagering illegal, there is no statute that does deem it legal. However, reading the statutes dealing with Pari-Mutuel Wagering, as a whole, it is clear that advanced deposit wagering is not legal.

Horse Racing is governed by Arkansas Annotated Code Title 23, Subtitle 4, Chapter 110.
Greyhound Racing is governed by Arkansas Annotated Code Title 23, Subtitle 4, Chapter 111.

§ 23-110-102. Inconsistent statutes inapplicable.⁵

Section 5-66-116 and all other acts and parts of acts inconsistent with any of the provisions of this chapter are expressly declared not to apply to any person, partnership, group, association, trust, or corporation engaged or participating in racing, or making or contributing to the pari-mutuel or certificate method of wagering, in manner and form as provided for by this chapter, at any race meeting held or conducted by any franchise holder having a license for the holding or conducting of race meetings as provided by this chapter.

§ 23-110-405. Wagering – Penalty for improper wagering.⁶

(a) (1) Any franchise holder conducting a horse racing meet may provide a place or places **in the race meeting grounds or enclosure** at which it may conduct and supervise the pari-mutuel or certificate system of wagering. [emphasis added]

(2) If conducted under the provisions of this chapter, the pari-mutuel or certificate method of wagering shall not under any circumstances be held or construed to be unlawful, all other laws or parts of laws of the State of Arkansas to the contrary notwithstanding.

(d) (1) (A) However, nothing contained in this section shall be construed to permit the pari-mutuel or certificate method of wagering upon any race track unless the track is licensed as provided by this chapter.

(B) It is declared to be unlawful for any franchise holder to permit, conduct, or supervise upon any race track any pari-mutuel or certificate method of wagering except in accordance with the provisions of this chapter.

⁵ Arkansas Code Annotated; Title 23. Public Utilities and Regulated Industries; Subtitle 4. Miscellaneous Regulated Industries; Chapter 110. Horse Racing; Subchapter 1. General Provisions

⁶ Arkansas Code Annotated; Title 23. Public Utilities and Regulated Industries; Subtitle 4. Miscellaneous Regulated Industries; Chapter 110. Horse Racing; Subchapter 4. Conduct of Meets

(2) (A) There shall be no wagering on the results of any races except under the pari-mutuel or certificate method of wagering as provided for in this section, and then only by the installation and use of equipment approved by the commission.

(B) Any franchise holder using or permitting wagering or any person wagering under any other method at a licensed race track shall be guilty of a Class D felony.

§ 23-111-508. Wagering.⁷

(a) (1) Any franchise holder conducting a greyhound racing meet may provide places **in the race meeting grounds, or enclosure**, at which it may conduct and supervise the pari-mutuel or certificate system of wagering by patrons on the races conducted by the franchise holder at the meeting. [emphasis added]

(2) The pari-mutuel or certificate method of wagering upon races held at the race track, within the race track, and at the racing meet shall not under any circumstances, if conducted under the provisions of this chapter, be held or construed to be unlawful, all other laws or parts of laws of the State of Arkansas to the contrary notwithstanding.

(d) (1) (A) However, nothing contained in this section shall be construed to permit the pari-mutuel or certificate method of wagering upon any race track unless the track is licensed as provided by this chapter.

(B) It is declared to be unlawful for any franchise holder to permit, conduct, or supervise any pari-mutuel or certificate method of wagering upon any race track except in accordance with the provisions of this chapter.

(4) Any franchise holder using or permitting wagering or any person wagering under any other method at a licensed race track shall be guilty of a Class D felony for each such offense.

§ 5-66-117. Horseracing -- Agency service wagering.⁸

(a) (1) It is unlawful for any person, either for himself or herself or as agent or employee of another person, to place, offer, or agree to place, either in person or by messenger, telephone, or telegraph, a wager on behalf of another person, for a consideration paid or to be paid by or on behalf of the other person, on a thoroughbred horse race being conducted in or out of this state.

Case law: None

Attorney General Opinions: None

⁷ Arkansas Code Annotated; Title 23. Public Utilities and Regulated Industries; Subtitle 4. Miscellaneous Regulated Industries; Chapter 111. Dog Racing; Subchapter 5. Conduct of Meets

⁸ Arkansas Code Annotated; Title 5. Criminal Offenses; Subtitle 6. Offenses Against Public Health, Safety, or Welfare; Chapter 66. Gambling

California

Legality: Advanced deposit wagering is **legal**.

§ 19590 Parimutuel method; rules; regulations⁹

The board shall adopt rules governing, permitting, and regulating parimutuel wagering on horse races under the system known as the parimutuel method of wagering. Parimutuel wagering shall be conducted only by a person or persons licensed under this chapter to conduct a horse racing meeting or authorized by the board to conduct advance deposit wagering.

§ 19604 authorizes Advance Deposit Wagering¹⁰

The board may authorize any racing association, racing fair, betting system, or multijurisdictional wagering hub to conduct advance deposit wagering in accordance with this section. Racing associations, racing fairs, and their respective horsemen's organizations may form a partnership, joint venture, or any other affiliation in order to further the purposes of this section.

(a) As used in this section, the following definitions apply:

(1) "Advance deposit wagering" means a form of parimutuel wagering in which a person residing within California or outside of this state establishes an account with an ADW provider, and subsequently issues wagering instructions concerning the funds in this account, thereby authorizing the ADW provider holding the account to place wagers on the account owner's behalf.

(2) "ADW provider" means a licensee, betting system, or multijurisdictional wagering hub, located within California or outside this state, that is authorized to conduct advance deposit wagering pursuant to this section.

2009-10 CRLB 115¹¹:

Effective: April 3, 2009, The Horse Racing Board has filed an action deleting a provision [section 2073(m)] that limited an advance deposit wagering account holder to only one deposit each racing day for wagering purposes.

Case law: None

Attorney General Opinions: None

⁹ California Business and Professional code Division 8. Special Business Regulations, Chapter 4. Horse Racing, Article 9. Wagering

¹⁰ California Business and Professional code Division 8. Special Business Regulations; Chapter 4. Horse Racing; Article 9. Wagering

¹¹ California Regulatory Law Bulletin

Colorado

Legality: Advanced deposit wagering is **not legal**.

§ 12-60-703.5. Limitations on pari-mutuel wagering¹²

(1) Wagers on pari-mutuel horse or greyhound races conducted in or out of this state **may only be placed upon the premises of a racetrack or an in-state simulcast facility licensed by the commission or such out-of-state racetrack or simulcast facility as authorized by the commission**. No wagering or betting on the results of any of the races licensed under this article shall be conducted outside a licensed or approved racetrack or simulcast facility. [emphasis added]

(2) (a) No person or agent or employee of any person shall place, receive, offer, or agree to place or receive a wager on a pari-mutuel horse or greyhound race, conducted in or broadcast in this state, by messenger, telephone, telegraph, facsimile machine, or other electronic device; except that this subsection (2) shall not apply to associations or simulcast facilities licensed by the commission. Nothing in this section shall be construed to prohibit gambling as provided in section 18-10-102 (2) (d), C.R.S.

The Office of the Attorney General has also weighed in on the legality of advanced deposit wagering. On November 21, 2008, John W. Suthers, Colorado Attorney General, issued Opinion No. 08-03.

In the opinion, the question presented by the Division of Racing is:

Does current Colorado law prohibit Youbet.com and XpressBet, Inc., both foreign companies, from taking pari-mutuel wagering made by Colorado residents via the telephone, internet or other electronic device?

Answer:

Yes. Colorado law prohibits companies outside of Colorado from taking pari-mutuel wagering made by Colorado residents via the telephone, internet, or other electronic device.

The Colorado Legislature is attempting to legalize advanced deposit wagering. 1st Regular Session of the 67th General Assembly, House bill 1152 was presented.

¹² Colorado Revised Statutes Title 12 Professions and Occupations, General – Continued, Article 60 Racing, Part 7 Taxes and Fees

SYNOPSIS: Modernizes existing legislation to authorize 2 new methods of conducting pari-mutuel wagering on horse races: Advance deposit account wagering, in which the patron establishes a deposit account with a licensee and directs the placement of wagers from that account via the internet; and Historical horse racing, in which the patron wagers on the outcome of races previously held at licensed horse tracks and digitally recorded.

Below is the current status of House Bill 1152. On February 18, 2009, the bill was postponed indefinitely in the Colorado House Committee on Finance.

STATUS:

01/14/2009 INTRODUCED.
01/14/2009 To HOUSE Committee on TRANSPORTATION AND ENERGY.
01/20/2009 From HOUSE Committee on TRANSPORTATION AND ENERGY: Reported favorably.
01/20/2009 To HOUSE Committee on AGRICULTURE, LIVESTOCK AND NATURAL RESOURCES.
02/04/2009 From HOUSE Committee on AGRICULTURE, LIVESTOCK AND NATURAL RESOURCES: Reported favorably with amendment.
02/04/2009 To HOUSE Committee on FINANCE.
02/18/2009 From HOUSE Committee on FINANCE: Postponed indefinitely.

Case law: None

Connecticut

Legality: Advanced deposit wagering over the **internet is not legal**. However, **telephone** wagering is **legal**.

Sec. 12-574-A14. Pari-mutuel operations¹³

(f) Sales and exchange of tickets. No pari-mutuel tickets shall be sold except through regular ticket windows properly designated by sign showing type of tickets sold at each particular window. All ticket sales shall be for cash. Any claim by a person that a wrong ticket has been delivered to him must be made before leaving the mutuel ticket window. The prevailing provisions of the act are to be enforced in all matters pertaining to tax, breakage, and track commission on pari-mutuel wagering. The method and manner of selling pari-mutuel tickets shall be approved by the commission. The commission's approval shall include the number of windows, the distribution of windows, and the manner and denominations in which pari-mutuel tickets shall be sold.

However, the Connecticut regulations do allow for telephone wagering.

Sec. 12-574-F59. OTB pari-mutuel betting¹⁴

(c) Telephone betting. The association may conduct pari-mutuel betting by telephone. Such telephone betting shall be in accordance with section 12-574-F60 of the Regulations of Connecticut State Agencies.

Sec. 12-574-F60. Telephone betting

(a) Telephone deposit center. The association may operate a telephone deposit center for the purpose of keeping deposit accounts and accepting telephone bets. The association shall establish written procedures for the operation of the telephone deposit center. Said procedures and any subsequent amendments shall be subject to division approval.

On May 2, 2007, Attorney General Richard Blumenthal made it very clear that Connecticut does not allow internet wagering.

Attorney General Richard Blumenthal and Division of Special Revenue (DRS) Executive Director Paul A. Young today sent letters to the New York Racing Association (NYRA) and New York gambling regulators demanding they scuttle an illegal plan to accept Internet horse race wagers from Connecticut residents starting today.

¹³ Title 12, Taxation, Division of Special Revenues, The Operation on Thoroughbred Racing

¹⁴ Regs., Conn. State Agencies

Such wagering violates Connecticut law, which prohibits all Internet gambling, Blumenthal and Young wrote the NYRA and the New York State Racing and Wagering Board, which regulates gambling in New York state.

The plan provides that NYRA, a private organization, accepts bets on races broadcast by TVG, an Internet network. The New York State Racing and Wagering Board approved the arrangement.

"The New York tracks cannot trample our vital rights to prohibit Internet gambling - luring children and compulsive gamblers," Blumenthal said. "Internet gambling is fraught with insidious pitfalls - particularly for children - which is exactly why Connecticut prohibits it. I am hopeful that New York officials cooperate and respect federal and state law. My office will continue to work closely with the Division of Special Revenue to enforce Connecticut gambling laws."¹⁵

Case law: None

Attorney General Opinions: No formal opinions

¹⁵ <http://www.ct.gov/ag/cwp/view.asp?A=2341&Q=379216>

Delaware

Legality: Advanced deposit wagering is **not legal**.

The Delaware Constitution provides for pari-mutuel wagering on horse racing and also specifies where wagering is permitted.

Del. Const. art II, § 17

(c) Wagering or betting by the use of pari-mutuel machines or totalizators on horse races conducted at racetracks within or without the State, provided that such wagering or betting may be conducted only either:

(1) **within the enclosure** of any racetrack licensed under the laws of the State to conduct a race meeting, or [emphasis added]

(2) **within the enclosure** of any racetrack licensed under the laws of the State to receive and accept wagers or bets on electronically televised simulcasts of horse races. Thoroughbred racing

Delaware Code sections that deal with wagering on harness racing:

Title 3 Agriculture, Part X Horse Racing, Chapter 100 Harness Racing, Subchapter IV Wagering or betting by pari-mutuel machines or totalizators, § 10052 Place for wagering;

Delaware Code sections that deal with wagering on thoroughbred racing:

Title 3 Agriculture, Part X Horse Racing, Chapter 101 Horse Racing, Subchapter IV Wagering or betting by pari-mutuel machines or totalizators, § 10161 Place of conducting pari-mutuel betting,

Case law: None

Attorney General Opinions: None

Florida

Legality: Advanced deposit wagering is **not legal**.

§ 550.155. Pari-mutuel pool within track enclosure; takeouts; breaks; penalty for purchasing part of a pari-mutuel pool for or through another in specified circumstances¹⁶

(1) Wagering on the results of a horserace, dog race, or on the scores or points of a jai alai game and the sale of tickets or other evidences showing an interest in or a contribution to a pari-mutuel pool are **allowed within the enclosure** of any pari-mutuel facility licensed and conducted under this chapter but are not allowed elsewhere in this state, must be supervised by the division, and are subject to such reasonable rules that the division prescribes. [emphasis added]

§ 550.3551. Transmission of racing and jai alai information; commingling of pari-mutuel pools

(1) (a) It is unlawful for any person to transmit, by any means, racing information to any person or to relay the same to any person by word of mouth, by signal, or by use of telephone, telegraph, radio, or any other means when the information is knowingly used or intended to be used for illegal gambling purposes or in furtherance of illegal gambling.

Florida Attorney General's Office Advisory Legal Opinion Number AGO 95-70

RE: GAMBLING--WIRE COMMUNICATIONS--LOTTERIES--use of Internet or wire communications to conduct gambling; cruises to nowhere. Ch. 849, Fla. Stat.

(1) Is a Florida resident prohibited from gambling on the Internet or using a telephone to place bets outside of the state?

In sum:

(1) Federal law currently prohibits an individual engaged in the business of betting or wagering from using wire communications for the transmission of information that assists in the placing of bets or wagers, while Florida law prohibits an individual within this state from placing a bet or wager...

In order for a violation of this federal provision to occur, the transmitted information must have assisted in the placement of bets or wagers and the individual charged must have been engaged in the business of wagering or betting at the time of the offense. While 18 U.S.C. section 1084(b) allows for the

¹⁶ Fla. Stat. § 550.155 (2009)

transmission in interstate or foreign commerce of information assisting in the placement of bets or wagers on a sporting event or contest from a state or foreign country where such betting is legal into a state or foreign country in which such betting is legal, in light of Florida's prohibition against gambling, the exception would not be applicable to gambling activities in Florida, including those taking place by wire communications or via the Internet.

Case law: None

Idaho

Legality: Advanced deposit wagering is **legal**.

The Idaho Code authorizes advanced deposit wagering.

§ 54-2512. Pari-mutuel betting -- Other betting illegal ¹⁷

(5) Advance deposit wagering on live and/or simulcast horse racing conducted by licensees is hereby declared to be lawful and within the scope of the licensee's license. As used in this section, "advance deposit wagering" means a form of wagering in which an account holder may deposit money with a licensee and then use the balance to fund wagers. The bettor can then contact the licensee from a location without actually being physically present at the licensee's premises in order to communicate the desired use of those funds for wagering purposes. However, no wager can be accepted by the licensee that exceeds the amount in the account held by the licensee for the person placing the wager. Any advance deposit wagering conducted by a person with a provider outside of the state by telephone or other electronic means shall be illegal unless that provider is licensed by the Idaho state racing commission and provides a source market fee of not less than ten percent (10%) of the handle forwarded monthly to the commission...

The Idaho Administrative Code also regulates advanced deposit wagering. (IDAPA 11.04.05.000-11.04.05.999)

Case law: None

Attorney General Opinion: None

¹⁷ Idaho Code Annotated; Title 54. Professions, Vocations, and Businesses; Chapter 25. Horse Racing

Illinois

Legality: Advanced deposit wagering is **legal**.

5/3.29. Advance deposit wagering¹⁸

§ 3.29. Advance deposit wagering. “Advance deposit wagering” means a method of pari-mutuel wagering in which an individual may establish an account, deposit money into the account, and use the account balance to pay for pari-mutuel wagering authorized by this Act. An advance deposit wager may be placed in person at a wagering facility or from any other location via a telephone-type device or any other electronic means.

321.10 General¹⁹

- a) A licensee may offer a system of account wagering to its patrons whereby wagers are debited and payouts are credited to a sum, deposited in an account by the patron, and held by the licensee. The licensee shall request authorization from the State Director of Mutuels before a system of account wagering is offered.
- b) The licensee shall notify the patron, at the time of opening the account, of any rules the licensee has made concerning deposits, withdrawals, cancellations, average daily balance, user fees, interest payments, provisions for closing accounts and any other aspect of the operation of the account. The licensee shall notify the State Director of Mutuels and the patron whenever rules governing the account are changed, such notification occurring before the new rules are applied to the account and including the opportunity for the patron to close or cash in the account.

Case Law: None

Attorney General Opinion: None since the passage of 230 ILCS 5/3.29. Before 230 ILCS 5/3.29, in 2001, Attorney General James E. Ryan issued an opinion that suggests account wagering is illegal in Illinois.²⁰

¹⁸ Illinois Compiled Statutes Annotated; Chapter 230. Gaming; Act 5. Illinois Horse Racing Act of 1975

¹⁹ Illinois Administrative Code; Title 11. Alcohol, Horse racing and Lottery; Subtitle B. Horse Racing; Chapter I. Illinois Racing Board; Subchapter A. General Rules; Part 321. Account Wagering

²⁰ FILE No. 01-010

Indiana

Legality: Advanced deposit wagering is **not legal**.

Pari-mutuel wagering is permitted by Indiana Code 4-31-1-2²¹

The purpose of this article is to permit pari-mutuel wagering on horse races in Indiana and to ensure that pari-mutuel wagering on horse races in Indiana will be conducted with the highest of standards and the greatest level of integrity.

4-31-7-1²² specifies where wagering may legally take place:

(a) A person holding a permit to conduct a horse racing meeting or a license to operate a satellite facility may provide **a place in the racing meeting grounds or enclosure** or the satellite facility at which the person may conduct and supervise the pari-mutuel system of wagering by patrons of legal age on the horse races conducted or simulcast by the person. The person may not permit or use:

- (1) another place other than that provided and designated by the person; or
- (2) another method or system of betting or wagering. [emphasis added]

35-45-5-2²³ makes it illegal to bet over the internet.

(c) An operator who knowingly or intentionally uses the Internet to engage in unlawful gambling:

- (1) in Indiana; or
 - (2) with a person located in Indiana;
- commits a Class D felony.

²¹ Title 4 State Offices and Administration; Article 31 Pari-mutuel Wagering on Horse Races; Chapter 1 Purpose and Application

²² Title 4 State Offices and Administration ; Article 31 Pari-mutuel Wagering on Horse Races; Chapter 7 Pari-Mutuel Wagering

²³ Title 35 Criminal Law and Procedure; Article 45 Offenses Against Public Health, Order and Decency; Chapter 5 Gambling

Section 71 IAC 9-2.5-1²⁴ of Indiana Administrative Code also declares that account wagering is illegal.

(c) Account wagering, other than a commission-approved totalizator voucher system, is prohibited.

(d) Licensees shall not make a wager based upon instructions received by telephone, facsimile, or similar device.

In 1998, Indiana Attorney General issued an opinion which suggested wagering over the internet is illegal.²⁵

It is inescapable, however, that an internet-gambling Hoosier--sitting at her computer, her feet firmly planted on Indiana soil, and her credit-card number close at hand--is doing the things necessary to gamble unlawfully in Indiana. For that Hoosier to gamble over the internet from her home, office, or favorite tavern is not legally or practically different from wagering over the telephone. That is true even if the person (or computer) taking the bet is in an exotic location.

Case Law: None

²⁴ Title 71; Indiana Horse Racing Commission; Article 9. Pari-Mutuel Wagering; Rule 2.5. Wagering Rules and Patron Checks

²⁵ Official Opinion No. 98-8

Iowa

Legality: Advanced deposit wagering is **not legal**.

99D.4 Pari-mutuel wagering legalized.²⁶

The system of wagering on the results of horse or dog races as provided by this chapter is legal, when conducted **within the racetrack enclosure** at a licensed horse-race or dog-race meeting. [emphasis added]

99D.24 Prohibited activities -- penalty.²⁷

3. A person wagering or accepting a wager at any location outside the wagering area is subject to the penalties in section 725.7.

725.7 Gaming and betting -- penalty.²⁸

1. Except as permitted in chapters 99B and 99D, a person shall not do any of the following:

d. For a fee, deliver anything of value which has been received outside the enclosure of a racetrack licensed under chapter 99D to be placed as wagers in the pari-mutuel pool or other authorized systems of wagering.

8.2(4) Pari-mutuel ticket sales.²⁹

a. Pari-mutuel tickets shall not be sold by anyone other than an association licensed to conduct pari-mutuel wagering.

The various horsemen's groups are trying to get ADW legalized in Iowa. This is an excerpt from the minutes of the July 16, 2009 Iowa Racing and Gaming Commission meeting.³⁰

Mr. Gessman (President of Iowa Horsemen's Benevolent & Protective Association) advised that that the four horsemen's groups have been meeting weekly in an attempt to put together a joint racing plan for 2010 and beyond that would be an alternative to the one proposed by PMR&C.

²⁶ Iowa Code; Title III. Public Services and Regulations; Subtitle 4. Gambling; Chapter 99D. Pari-Mutuel Wagering

²⁷ Ibid

²⁸ Title XVI. Criminal Law and Procedure; Subtitle 1. Crime Control and Criminal Acts; Chapter 725. Vice

²⁹ Iowa Administrative Code, Agency 491 Racing and Gaming Commission; Chapter 8 Wagering and Simulcasting; 491-8.4(99D) Simulcast wagering.

³⁰ <http://www.state.ia.us/irgc/July%2009%20Min.pdf>

Mr. Gessman stated that there are issues in the simulcasting area and account wagering that would require some changes in the law. He noted that nationally there is more money available; that more individuals are using their computers to make wagers and not actually going to the tracks. Mr. Gessman stated that the groups would like to explore that avenue in order to capture more of that revenue.

Case Law: None

Attorney General Opinions: None

Kansas

Legality: Advanced deposit wagering is **not legal**.

74-8819. Parimutuel wagering.³¹

(a) Organizations licensed pursuant to K.S.A. 74-8813 or 74-8814, and amendments thereto, may conduct parimutuel wagering on the results of horse and greyhound races held on dates and at racetrack facilities approved by the commission and on simulcast races as provided by K.S.A. 74-8836, and amendments thereto. **All persons participating in such wagering shall be present within the confines** of the approved racetrack facility. [emphasis added]

112-9-3. Parimutuel wagering.³²

Each form of wagering shall be used only with permission of the commission and in accordance with the provisions of the Kansas parimutuel racing act.

Section 112-9-28 of the Kansas Administrative Rules specifically outlaws wagering by telephone.

112-9-28. Acceptance of wagers from outside enclosure.³³

Each organization licensee shall accept no mail or telephone wagers, nor knowingly accept any wagers by or for a person who is prohibited from participating in parimutuel wagering.

On March 25, 1996, the Kansas Attorney Generals Office issued an opinion number 96-31 regarding gambling over the internet.³⁴

As chairperson for the senate committee on federal and state affairs, you request our opinion regarding the legality of gambling via telephone lines. Specifically you question whether gambling over the Internet at virtual casinos located outside Kansas would be legal if the computer from which the bet is made is located within this state.

Clearly, placing, receiving or forwarding a bet, or conducting a lottery, over the telephone or the Internet is illegal, with few exceptions, just as if the bet were exchanged or lottery conducted in person. There is no requirement that the participants be in each other's presence. However, it may appear more difficult to determine where the crime occurs if the commercial establishment is outside the

³¹ Kansas Statutes Annotated; Chapter 74. State Boards, Commissions and Authorities; Article 88. Parimutuel Racing

³² Kansas Administrative Regulations; Agency 112. Racing and Gaming Commission; Article 9. Parimutuel Wagering

³³ Ibid

³⁴ Office of the Attorney General of the State of Kansas; Attorney General Opinion No. 96-31

state of Kansas and the bet is placed or the lottery entered from a computer terminal within the state.

In our opinion, if a bet is placed or a lottery entered into via a computer located in the state of Kansas, then the crime is committed partly within this state and participants in the crime may be prosecuted in this state.

Case Law: None

Kentucky

Legality: Advanced deposit wagering is **legal**.

230.210. Definitions for chapter.³⁵

As used in this chapter, unless the context requires otherwise:

(16) “Telephone account wagering” means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track;

(19) “Advance deposit account wagering” means a form of pari-mutuel wagering in which an individual may establish an account with a person or entity licensed by the authority, and may place a pari-mutuel wager through that account that is permitted by law

230.379. Telephone account wagering -- Use of credit card.³⁶

(1) A track may engage in telephone account wagering, if all moneys used to place telephone account wagers are on deposit in an amount sufficient to cover the wagers at the track where the account is opened. All moneys wagered by telephone account wagering shall be subject to the applicable pari-mutuel tax levied in KRS 138.510 and shall form a common pool with other pari-mutuel pools at the track for each posted race. The authority shall have authority to promulgate necessary and reasonable administrative regulations to regulate the conduct of telephone account wagering, including regulations for the deposit of funds by credit or debit cards or other means of electronic funds transfer.

(3) Telephone account wagering conducted in accordance with the provisions of this section shall not be considered a violation of KRS 528.110.

Case Law: None

Attorney General Opinion: OAG No. 04-005. In relevant part:

Whether it is legal in Kentucky to provide a service enabling individuals to bet on horse races via telephone or personal computer?

Kentucky law allows betting on horse races via telephone and personal computer under specified conditions.

³⁵ Kentucky Revised Statutes; Title XIX Public Safety and Morals; Chapter 230 Horse Racing and Showing General Provisions

³⁶ Ibid

Louisiana

Legality: Advanced deposit wagering is **legal**.

§ 4:149.5. Account wagering³⁷

A. As used in this Chapter, “account wagering” means a form of pari-mutuel wagering in which an individual may deposit money in an account with an authorized licensee and then use the account balance to pay for pari-mutuel wagers made in person, by telephone call, or by communication through other electronic means.

B. (1) Notwithstanding any other provisions of law to the contrary, the commission shall adopt rules regulating account wagering and shall authorize account wagering to be conducted by a licensee operating a pari-mutuel live horse racing facility located in any municipality having a population in excess of four hundred fifty thousand persons as of the 1990 federal decennial census.

F. No system of account wagering located outside of this state shall accept wagers from residents or other persons located within this state, nor shall residents or other persons located within this state place wagers through account wagering systems located outside of this state, except with the permission of either one of the following:

- (1) A licensee of race meetings, concerning wagers on races conducted in this state by that licensee.
- (2) A licensee of race meetings authorized to conduct account wagering in this state, if the races are not conducted in this state.

The regulations for account wagering can be found in Louisiana Administrative Code, Title 35 Horse Racing, Part XIII Wagering; Chapter 120 Account Wagering.

Case Law: None

Attorney General Opinions: None

³⁷ Louisiana Revised Statutes; Title 4. Amusement and Sports; Chapter 4. Racing. Part 1. Horse Racing

Maine

Legality: Advanced deposit wagering is **not legal**.

In Maine, only harness racing is legal.

§ 275-B. Sale of pari-mutuel pools³⁸

The following persons may sell pari-mutuel pools on horse racing in accordance with this chapter and rules adopted by the commission.

1. Racetracks. A person licensed pursuant to section 271 to conduct harness horse racing with pari-mutuel betting may sell pari-mutuel pools and common pari-mutuel pools for simulcast races. **The seller must be within the enclosure of the racetrack** where the licensed race or race meet is conducted. [emphasis added]

2. Off-Track Betting Facility. A person licensed pursuant to section 275-D to operate an off-track betting facility may sell pari-mutuel pools at that licensed facility.

On December 10, 2001, Attorney General G. Steven Rowe issued an opinion on telephone wagering (i.e. account wagering).³⁹

OPINION:

You have asked for an opinion from this office as to whether the Maine Harness Racing Commission may authorize telephone wagering at facilities licensed by the Commission through rules adopted pursuant to Title 8 M.R.S.A. §§ 275-B and 275-C (1997 & Supp. 2000) absent express statutory approval of telephone wagering. For the reasons that follow, I have determined that the Commission lacks the authority to authorize telephone wagering.

Case Law: None

³⁸ Maine Revised Statutes; Title 8. Amusement and Sports; Chapter 11. Harness Racing

³⁹ Office of the Attorney General of the State of Maine, No. 01-2

Maryland

Legality: Advanced deposit wagering is **legal**. (Note: In Maryland, account wagering is referred to as “telephone betting.”)

§ 11-805. Telephone betting⁴⁰

(a) System established. -- Except for racing held by the Maryland-National Capital Park and Planning Commission, the Commission may authorize telephone betting at any track where racing is authorized.

The administrative regulations specify who can be an ADW provider as well as all other regulations regarding ADW.

“Telephone account betting system (TABS)” means a system, established by a licensed racing association and approved by the Commission, by which an individual may open an account in order to bet on horse races by telephonic, electronic, or other means of communication.⁴¹

However, “A racing association may contract with one or more entities to conduct betting through the TABS established by the racing association.”⁴²

Case Law: None

Attorney General Opinions: On June 18, 2001, Maryland Attorney General J. Joseph Curran, Jr. issued an opinion about Youbet.com. However, the gist of the opinion is that ADW providers need to follow the law.⁴³

⁴⁰ Business Regulation; Title 11. Horse Racing; Subtitle 8. Pari-Mutuel Betting; Part 1. In General

⁴¹ MD ADC 09.10.04.24(A)(3)

⁴² MD ADC 09.10.04.24(U)(1)

⁴³ Office of the Attorney General of the State of Maryland; Opinion No. 01-015

Massachusetts

Legality: Advanced deposit wagering is **legal**.

§ 5C. Betting Accounts. [Effective until Dec 31, 2009.]⁴⁴

Notwithstanding section 17A of chapter 271, each person licensed to conduct a running horse, harness horse or dog racing meeting, not including racing meetings held or conducted at a state or county fair, may establish and maintain betting accounts with individuals for use in connection with account wagering on races offered by the licensee, as the licensee is otherwise authorized to accept in accordance with this chapter and chapter 128C, including those fees, payments, commissions and premiums. As used in this section, “account wagering” shall mean a form of pari-mutuel wagering in which an individual may deposit money to an account established through an agreement with a person licensed to conduct a running horse, harness horse or dog racing meeting and use the account balance to make and pay for wagers by the holder of the account which wagers may be made in person, by direct telephone call or by communication through other electronic media by the holder of the account to the licensee.

6.20: General Account Wagering⁴⁵

Associations may, either directly or through a service provider authorized and licensed by the Commission, offer a system of account wagering to its patrons whereby wagers are debited and payoffs credited to a sum of money, deposited in an account by the patron that is held by the association.

Case Law: None

Attorney General Opinions: None

⁴⁴ Annotated laws of Massachusetts; Part I Administration of the Government; Title XIX Agriculture and Conservation; Chapter 128A Horse and Dog Racing Meetings

⁴⁵ Code of Massachusetts Regulations; Title 205: State Racing Commission; Chapter 6.00: Pari-Mutuel Rules for Thoroughbred Racing; Harness Racing, and Greyhound Racing

Michigan

Legality: Advanced deposit wagering is **not legal**.

§ 431.317. Lawful forms of pari-mutuel wagering⁴⁶

Sec. 17. (1) The pari-mutuel system of wagering upon the results of horse races as permitted by this act shall not be held or construed to be unlawful. All forms of pari-mutuel wagering conducted at a licensed race meeting shall be preapproved by the racing commissioner pursuant to rule or written order of the commissioner.

(2) A holder of a race meeting license may provide a place **in the race meeting grounds or enclosure** at which he or she may conduct and supervise the pari-mutuel system of wagering on the results of horse races as permitted by this act. [emphasis added]

§ 431.327. Wagering prohibited; exception⁴⁷

Sec. 27. A person shall not participate in racing involving wagering of any kind except as permitted under this act.

While there have been no formal opinions on the legality of account wagering in Michigan, on April 19, 2001, Michigan Attorney General Jennifer Granholm issued a letter to account wagering operations that telephone wagering is not legal.

The Michigan Attorney General has notified an account-wagering operation owned by Magna Entertainment that accepting telephone wagers from Michigan residents is illegal, the state attorney general's office said Wednesday. The attorney general's office sent a letter to Youbet.com, Ladbroke at the Meadows, and Magna Entertainment requesting that the operations "immediately cease accepting wagers from persons within Michigan."

In a statement, Jennifer Granholm, the Michigan attorney general said that the companies were "actively encouraging Michigan residents, through mailing and software, to wager on horse races." The statement said that Michigan law prohibited any form of off-track betting, and that federal law also prohibited account wagering.⁴⁸

Case Law: None

Attorney General Opinions: None Formal Opinion

⁴⁶ Michigan Compiled Law Service; Chapter 431 Racing, Boxing, and Exhibitions Horse Racing Law of 1995

⁴⁷ Ibid

⁴⁸ <http://espn.go.com/horse/news/2001/0419/1175991.html>

Minnesota

Legality: Advanced deposit wagering is **not legal**.

240.13 Pari-Mutuel Betting⁴⁹

Subdivision 1. Authorized.

(a) Class B and class D licenses give the licensees authority to conduct pari-mutuel betting on the results of races run at the licensed racetrack, and on other races as authorized by the commission under this section.

(b) A class B or class D license gives the licensee the authority to transmit and receive telecasts and conduct pari-mutuel betting on the results of horse races run at its class A facility, and of other horse races run at other locations, as authorized by the commission. The class B or class D licensee may present racing programs separately or concurrently.

On March 16, 2009, Minnesota H.B. 1755 was introduced. Subdivision 10(E-F) are the most interesting sections with respect to account wagering. 10(E) allows the client to communicate through “communication technology.” 10(F) allows the client to fund the account but prohibits the agent from extending credit. Every state which allows for account wagering has language in the account wagering regulation which is very similar to 10(F).

A bill for an act: relating to gambling; providing for agent wagering; amending Minnesota Statutes 2008, section 240.13, by adding a subdivision.

Section 1. Minnesota Statutes 2008, section 240.13, is amended by adding a subdivision to read:

[A> SUBD. 10. AGENT WAGERING. <A]

[A> (B) AN AGENT MAY ENTER INTO AN AGREEMENT WITH CLIENTS WHO ARE LEGALLY QUALIFIED TO WAGER IN MINNESOTA. THE AGREEMENTS MAY ALLOW THE CLIENT TO FUND THE WAGERING ACTIVITIES OF THE AGENT, AND THE AGREEMENT SHALL SPECIFY THE TERMS OF ANY DISTRIBUTION BETWEEN THE CLIENT AND THE AGENT OF ANY REVENUES RECEIVED BY THE AGENT FROM WAGERING ACTIVITIES AND THE BASIS FOR THEM. <A]

⁴⁹ Minnesota Annotated Statutes; Sports; Chapter 240 Pari-Mutuel Horse Racing

[A> (C) THE WAGERING ACTIVITIES OF THE AGENT ARE LIMITED TO PARI-MUTUEL HORSE RACE WAGERS PRESENTLY BEING ACCEPTED AT THE LICENSEE'S FACILITY, AND THE AGENT OR EMPLOYEE OF THE AGENT MUST BE PHYSICALLY PRESENT AT THE FACILITY WHEN THE WAGER IS PLACED. ALL WAGERS MUST BE PLACED INTO THE CLASS B LICENSEE'S PARI-MUTUEL WAGERING SYSTEM. <A]

[A> (D) FOR PURPOSES OF PAYOUT OBLIGATIONS, PARI-MUTUEL TICKET OWNERSHIP AND ANY OTHER LAWS OR RULES RELATED TO THE PLACEMENT OF A WAGER, THE WAGERING RELATIONSHIP, FOR AGENT-PLACED WAGERS, IS BETWEEN THE AGENT AND THE CLASS B LICENSE. <A]

[A> (E) THE AGENT AND CLIENT MAY EXCHANGE PROPERTY, COMMUNICATIONS, DIRECTIVES, AND ENTER INTO AGREEMENTS IN PERSON, BY LETTER, OR BY ANY OTHER COMMUNICATION TECHNOLOGY. <A]

[A> A RECORD OF ALL ACTIVITY IN A CLIENT'S ACCOUNT MUST BE MAINTAINED BY THE AGENT. PRIOR TO ESTABLISHING AN ACCOUNT, AN AGENT SHALL VERIFY THAT THE CLIENT IS LEGALLY QUALIFIED TO WAGER IN MINNESOTA AND SHALL ESTABLISH A METHODOLOGY FOR PROTECTING THE SECURITY OF THE CLIENT'S ACCOUNT. FOR PURPOSES OF AGE VERIFICATION, RECORD MAINTENANCE, AND ACCOUNT SECURITY, THE AGENT MUST FILE A PLAN WITH THE COMMISSION FOR ITS APPROVAL. <A]

[A> (F) THE CLIENT MAY FUND THE ACCOUNT BY ANY MEANS ACCEPTABLE TO THE AGENT, BUT THE AGENT SHALL NOT EXTEND CREDIT TO THE CLIENT. <A]

[A> (G) ACTIVITIES CONDUCTED IN COMPLIANCE WITH THIS SECTION SHALL NOT BE DEEMED TO BE VIOLATIONS OF SECTION 240.25, 609.755, OR 609.76. <A]

STATUS:

03/16/2009 INTRODUCED.

03/16/2009 To HOUSE Committee on COMMERCE AND LABOR.

In 1992, the Minnesota Supreme Court ruled on the issue of account wagering.⁵⁰

Taxpayer petitioned for writ of quo warranto. The Supreme Court, Keith, C.J., held that: (1) petitions for writ of quo warranto and information in the nature of quo warranto shall be filed in first instance in district court, and (2) legislation

⁵⁰ Rice v. Connolly, 488 N.W.2d 241 (Minn., 1992.).

authorizing teleracing and regulations authorizing telephone betting were beyond scope of activities authorized by constitutional amendment allowing on-track parimutuel betting on horseraces.⁵¹

The Syllabus reads:

By its terms, Minn. Const. art. X, § 8 explicitly limits legislative prerogative to the authorization of “on-track parimutuel betting on horseracing” and, therefore, to the extent that Minn.Stat. §§ 240.01-240.29 (Supp.1991) and Minnesota R. 7873.0400 (1991) constitute legislative action in excess of that constitutionally permissible, they are declared unconstitutional. Accordingly, any actions of the Minnesota Racing Commission in reliance upon the invalid legislation are held unauthorized and invalid.⁵²

In the opinion, the court writes:

In its literal sense, the word “on” as a part of the phrase “on-track” is more precisely defined as “at” to denote a location for the placement of a parimutuel bet. Because the voters of the State of Minnesota specifically approved the only question posed to them with regard to “on-track parimutuel betting on horseracing,” we are compelled to give the phrase that narrow but literal and unambiguous meaning. As a practical matter then, bets not physically placed at the racetrack cannot be, by definition, “on-track,” no matter how they are transmitted to the track, electronically recorded or accepted into the pool of funds.⁵³

Since Minn H.B. 1755 mandates that the agent place the bet at the race track, it would not violate the state constitution. Additionally, the proposed legislation would be consistent with the ruling in Rice since the bet would physically be placed at the racetrack.

Attorney General Opinions: None

⁵¹ *Rice*, 488 N.W.2d at 241.

⁵² *Ibid.*

⁵³ *Rice*, 488 N.W.2d at 247.

Missouri

Legality: Advanced deposit wagering is **not legal**.

313.652. Pari-mutuel wagering--deductions from pool--payment of tax, amount due--permitted use of breakage and unclaimed winnings--breed incentive moneys not to lapse into general revenue⁵⁴

1. Any organization licensed by the commission to conduct a horse race meeting may provide places **in the race meeting grounds or enclosure** and may conduct and supervise therein the pari-mutuel system of wagering by patrons of the horse races conducted by such organization licensee at such meeting. [emphasis added]

2. No other place or method of betting, pool making, wagering or gambling shall be used or permitted by the race track licensee

313.660. Off-track wagering prohibited, penalty⁵⁵

1. No individual shall for a fee, directly or indirectly, accept anything of value to be wagered or to be transmitted or delivered for wager in any pari-mutuel system of wagering on horse racing or for a fee deliver anything of value which has been received outside of the enclosure of a race track holding a horse race licensed under sections 313.500 to 313.710 to be placed as wagers in the pari-mutuel pool within such enclosure.

2. Any individual violating the provisions of this section shall upon conviction be guilty of a class C felony.

⁵⁴ Annotated Missouri Statutes; Title XXI. Public Safety and Morals; Chapter 313. Licensed Gaming Activities, Horse Racing

⁵⁵ Ibid.

Montana

Legality: Advanced deposit wagering is **legal**.

23-4-301 Parimutuel betting -- other betting illegal.⁵⁶

(7) The board may license an advance deposit wagering hub operator to conduct advance deposit wagering. Advance deposit wagering is prohibited and illegal unless it is conducted through an advance deposit wagering hub operator licensed by the board. A licensed advance deposit wagering hub operator:

(a) may accept advance deposit wagering money for races conducted by a licensed race meet;

Case Law: None

Attorney General Opinions: None Formal Opinion

⁵⁶ Montana Code Annotated; Title 23 parks, Recreation, Sports, and Gambling; Chapter 4 Horseracing; Part 3 Parimutuel Betting

Nebraska

Legality: Advanced deposit wagering is **not legal**.

Nebraska did enact legislation to allow for “telephonic wagering.” However, the Nebraska Supreme Court has held that L.B 718 (the statutes which allow for “telephonic wagering”) is unconstitutional.

A few excerpts from the case are below.

Constitutionality of L.B. 718

This court has previously been asked to consider the constitutionality of portions of L.B. 718. In 1994, upon an original action filed by the relator, we held that the provisions of L.B. 718 which authorized teleracing facilities to conduct telewagering were unconstitutional in violation of article III, § 24. See *State ex rel. Stenberg v. Douglas Racing Corp.*, 246 Neb. 901, 524 N.W.2d 61 (1994).⁵⁷

We next examine whether telephonic wagering is unconstitutional.⁵⁸

As noted earlier, article III, § 24, does not prohibit wagering on horseracing by the parimutuel method “when such wagering is conducted by licensees within a licensed racetrack enclosure.” (Emphasis supplied.) The key issue here is whether telephonic wagering occurs within a licensed racetrack enclosure.⁵⁹

In attempting to allow different forms of parimutuel wagering, the Legislature stated that “[w]agers placed ... by approved telephonic wagering as authorized by sections 2-1230 to 2-1242 shall be deemed to be wagers placed and accepted within the enclosure of any racetrack.” See § 2-1207 (Reissue 1997). However, as the relator notes, the Legislature may not circumvent or nullify the constitution by defining terms in statutes.⁶⁰

We have held that “[a]n unconstitutional statute is a nullity, is void from its enactment, and is incapable of creating any rights or obligations.” *Douglas Racing Corp.*, 246 Neb. at 906, 524 N.W.2d at 65. The statutes purporting to authorize telephonic wagering, §§ 2-1230 to 2-1242, are unconstitutional. The licenses issued to the respondents to conduct telephonic wagering are void because they were issued pursuant to these statutes.⁶¹

⁵⁷ *State ex rel. Stenberg v. Omaha Exposition and Racing, Inc.*, 263 Neb. 991, 996 (Neb.,2002)

⁵⁸ *Stenberg*, 263 Neb. at 996.

⁵⁹ *Ibid*

⁶⁰ *Stenberg*, 263 Neb. at 999.

⁶¹ *Stenberg*, 263 Neb. at 1002.

Nevada

Legality: Advanced deposit wagering is **legal**.

464.020. Administration by Nevada gaming commission: Issuance of licenses; times and places for wagering; regulations; authority and procedure for appointing off-track pari-mutuel wagering committee; inspection of books and records of licensees.⁶²

3. The wagering must be conducted only by the licensee at the times determined by the Nevada Gaming Commission and only:

(a) Within the enclosure wherein the race or other sporting event which is the subject of the wagering occurs; or

(b) Within a licensed gaming establishment which has been approved to conduct off-track pari-mutuel wagering.

This subsection does not prohibit a person licensed to accept, pursuant to regulations adopted by the Nevada Gaming Commission, off-track pari-mutuel wagers from accepting wagers made by wire communication from patrons within the State of Nevada, from other states in which such wagering is legal or from places outside the United States in which such wagering is legal.

22.010 Definitions.⁶³

1. “Account wagering system” means a system of wagering using telephone, computer or other method of wagering communication as approved by the chairman whose components shall be located in this State. The components shall include, but not be limited to, the systems operator, permanent information databases, system monitoring equipment, writers, and patron service representatives.

22.060 Acceptance of wagers.⁶⁴

2. A book shall accept wagers only on its licensed premises, and only at betting stations approved by the chairman or through an account wagering system that has been approved by the chairman.

Case Law: None

Attorney General Opinions: None

⁶² Nevada Revised Statutes Annotated; Title 41. Gaming; Horse Racing; Sporting Events. CHAPTER 464. Pari-Mutuel Wagering.

⁶³ Nevada gaming Commission and State Gaming Control Board; Regulation of Nevada Gaming Commission and State Gaming Control Board; Regulation 22: Race Books and Sports Pools

⁶⁴ Ibid

New Hampshire

Legality: Advanced deposit wagering is **legal**.

284:22 Pari-Mutuel Pools.⁶⁵

During the calendar years of 1941-2029, a licensee under this chapter may sell pari-mutuel pools in accordance with this chapter and rules adopted by the commission. Pari-mutuel pools shall be sold within the enclosure of the racetrack where a licensed race or race meet is held or as provided in RSA 284:22-a, and not elsewhere.

PariPool 525.01(a) Accepting Account Wagers⁶⁶

Licensees may accept account wagers on any pari-mutuel pool the licensee offers.

PariPool 525.02(a) Placing and accepting wagers⁶⁷

Wagers shall be placed to the licensee's pari-mutuel system by the holder of an account. All pari-mutuel wagers shall be reported as wagered through the licensee's New Hampshire pari-mutuel computer system and the appropriate pari-mutuel tax and breakage shall be paid as required under RSA 284. An account wager may be made in person, by telephone call or by communication through other electronic media by the holder of the account to the licensee. The account holder placing the wager shall provide the licensee with the correct account number and personal identification number.

Note: For some reason, the PariPool rules cannot be found in administrative code. The rules can be accessed through the commission website, <http://www.racing.nh.gov/laws/index.htm>.

Case Law: None

Attorney General Opinions: None

⁶⁵ Revised Statutes Annotated of the State of New Hampshire; Title XXIV. Games, Amusements, and Athletic Exhibitions; Chapter 284. Horse and Dog Racing; Pari-Mutuel Pools, and Distribution of Tax Thereon

⁶⁶ <http://www.racing.nh.gov/laws/documents/PariPool525AccountWageringRules1-13-09.pdf>

⁶⁷ Ibid

New Jersey

Legality: Advanced deposit wagering is **legal**.

5:5-128. Legislative findings⁶⁸

The Legislature finds and declares that:

b. It is the intent of the Legislature, by authorizing off-track wagering and account wagering in this State, to promote the economic future of the horse racing industry in this State, to foster the potential for increased commerce, employment and recreational opportunities in this State and to preserve the State's open spaces.

d. The Legislature has determined that the New Jersey Racing Commission is best suited to oversee, license and regulate off-track wagering and account wagering in the State, and that the New Jersey Sports and Exposition Authority, by virtue of its experience in the operation of parimutuel wagering facilities and other entertainment-related projects in this State, is particularly well-suited to coordinate with other parties to promote the uniformity and success of off-track wagering throughout the State and to ensure the fiscal soundness and technical reliability of an account wagering system, pursuant to the terms of this act.

§ 5:5-139. Issuance of license to establish account wagering system⁶⁹

a. The commission is authorized to issue a license to the authority to establish an account wagering system in accordance with the provisions of this act, P.L. 2001, c. 199 (C. 5:5-127 et seq.). A license issued pursuant to this act shall be valid for a term of one year...

§ 5:5-141. Powers of commission relative to account wagering⁷⁰

a. The commission shall have full power to prescribe rules, regulations and conditions under which all account wagering licenses are issued or renewed in this State, including requiring an annual audit of the account wagering licensee's books and records pertaining to account wagering, and to revoke, suspend or refuse to renew a license if in the opinion of the commission the revocation of, suspension of or refusal to renew such license is in the public interest; provided, however, that such rules, regulations and conditions shall be uniform in their application.

⁶⁸ New Jersey Statutes Annotated; Title 5. Amusements, Public Exhibitions and Meetings; Chapter 5. Breeding and Racing of Horses

⁶⁹ Ibid.

⁷⁰ Ibid.

13:74-7.10 Facilities at or through which an account holder may place wagers⁷¹

(a) Subject to the right of the account wagering licensee to refuse all or part of any wager for any reason, the account wagering licensee may accept account wagers from account holders through a closed loop system in the following manners and at the following premises, consistent with the Act, this chapter, and the internal control procedures of the account wagering licensee:

1. By telephone;
2. By computer;
3. At the premises of an off-track wagering facility, including through self-service pari-mutuel machines and other wagering devices at such premises as approved and determined by the Commission to be consistent with the Act and this chapter;
4. At the premises of a racetrack facility or successor in interest, including through self-service pari-mutuel machines and other wagering devices at such premises as approved and determined by the Commission to be consistent with the Act and this chapter; and
5. By such electronic or other means and at such other premises upon application to and a determination by the Commission that such would be consistent with the Act and this chapter.

Case Law: None

Attorney General Opinions: None

⁷¹ New Jersey Administrative code; Title 13. Law and Public Safety; Chapter 74. Off-Track Wagering and Account Wagering; Subchapter 7. Standards for Account Wagering System

New Mexico

Legality: Advanced deposit wagering is **not legal**.

§ 60-1A-15. Pari-mutuel wagering authorized; gambling statutes do not apply.⁷²

B. Pari-mutuel wagering may be conducted **only on the licensed premises** where a live horse race is conducted or where a simulcast horse race is televised or projected on the racing grounds of the licensed premises of a racetrack licensee. [emphasis added]

15.2.7.9 Account Wagering:⁷³

B. Account Opening: The association may offer to open for its patrons:

(2) long-term accounts that are operational for any performance offered by the association, whereby wagers are placed by the account holder at a self-service terminal **or by telephone within the enclose of the racetrack** [emphasis added]

The idea of account wagering has been around in New Mexico since at least 1965. In 1965, the Attorney General was asked to decide if telephone wagering under the conditions hereinafter set forth is legal in this state?⁷⁴ The Attorney General wrote:

Our statute still restricts pari-mutuel wagering to "patrons present on the grounds."

Based on our research and the rules of statutory construction as we understand them, we must conclude that telephone wagering of the type here involved is not permitted by our racing statutes.

We are cognizant of the impact that eliminating such a long standing practice may have on tracks and their management. Therefore, persons who feel aggrieved by the opinion stated herein might wish to initiate a declaratory judgment action in order to obtain a decision from our courts on the matter. This office would cooperate in an effort to get an expeditious judicial determination of this question.

No declaratory judgment opinion on the subject was ever published.

Case Law: None

⁷² New Mexico Statutes Annotated; Chapter 60. Business Licenses; Article 1A. Horse Racing Act

⁷³ Code of New Mexico; Title 15. Gambling and Liquor Control; Chapter 2. Horese Racing; Part 7. Pari Mututel Wagering

⁷⁴ 1965 Op. Atty Gen. N.M. 166

New York

Legality: Advanced deposit wagering is **legal**.

§ 1012. Telephone accounts and telephone wagering⁷⁵

Any regional off-track betting corporation, and any franchised corporation, harness, thoroughbred, quarter horse racing association or corporation licensed to conduct pari-mutuel racing may maintain telephone betting accounts for wagers placed on races and special events offered by such corporation or association.

4-a. For the purposes of this section, “telephone betting accounts” and “telephone wagering” shall mean and include all those wagers which utilize any wired or wireless communications device, including but not limited to wireline telephones, wireless telephones, and the internet, to transmit the placement of wagers on races and special events offered by any regional off-track betting corporation, and any harness, thoroughbred, quarter horse racing association or corporation licensed or franchised to conduct pari-mutuel racing in New York state.

5. The provisions of this section shall expire and be of no further force and effect after June thirtieth, two thousand ten.

§ 5300.2 Account wagering, general⁷⁶

An authorized pari-mutuel wagering entity may offer a system of account wagering whereby wagers and withdrawals are debited and winning payoffs and deposits are credited to an account held by an authorized pari-mutuel wagering entity on behalf of an account holder provided:

- (1) Prior board approval is granted for the account wagering system.
- (2) Accounts are restricted for wagering purposes only.
- (3) Account wagers are deemed to be on-track wagers for those wagering entities licensed or franchised pursuant to Articles II, III or IV and Section 1007 of the Racing, Pari-Mutuel Wagering and Breeding Law, and are deemed to be simulcast wagers for those entities licensed pursuant to Sections 1008 or 1009 of the Racing, Pari-Mutuel Wagering and Breeding Law.

⁷⁵ Consolidated Laws of New York Annotated; Racing, Pari-Mutuel Wagering and Breeding Law; Chapter 47-A. Of the Consolidated Laws; Article X. Simulcast of Horse Races

⁷⁶ New York Code, Rules and Regulations; Title 9. Executive Department; Subtitle T. New York State Racing and Wagering Board; Chapter II. Wagering Systems; Subchapter B. Off-Track Pari-Mutuel Betting; Part 5300. Internet and Telephone Account Wagering

North Dakota

Legality: Advanced deposit wagering is **legal**

53-06.2-10.1. Simulcast wagering.⁷⁷

In addition to racing under the certificate system, as authorized by this chapter, and conducted upon the premises of a racetrack, simulcast parimutuel wagering may be conducted in accordance with this chapter or rules adopted by the commission under this chapter in accordance with chapter 28-32. Any organization qualified under section 53-06.2-06 to conduct racing may make written application to the commission for the conduct of simulcast parimutuel wagering on races held at licensed racetracks inside the state or racetracks outside the state, or both. Licensure of service providers, totalizator companies, site operators, or organizations applying to conduct or conducting simulcast or account wagering must be approved by the attorney general. ... The certificate system also permits parimutuel wagering to be conducted through account wagering. As used in this section, "account wagering" means a form of parimutuel wagering in which an individual deposits money in an account and uses the account balance to pay for parimutuel wagers. An account wager made on an account established in this state may only be made through the licensed simulcast service provider approved by the attorney general and authorized by the commission to operate the simulcast parimutuel wagering system under the certificate system. The attorney general may not grant a license denied by the commission. An account wager may be made in person, by direct telephone communication, or through other electronic communication in accordance with rules adopted by the commission.

The administrative rules can be found at:

North Dakota Administrative Code; Title 69.5. Racing Commission North Dakota; Article 1. North Dakota Racing Commission Rules; Chapter 11 Simulcasting; 69.5-01-11-11. Account wagering.

Case Law: None

Attorney General Opinions: None

⁷⁷ North Dakota Century Code Annotated; Title 53. Sports and Amusements; Chapter 53-06.2. Pari-Mutuel Horse Racing

Ohio

Legality: Advanced deposit wagering is **legal**.

3769-3-32. Telephone account wagering.⁷⁸

(A) Holders of horse racing permits issued by the Ohio state racing commission may manage a telephone account wagering system for the purpose of keeping telephone deposit accounts and accepting telephone wagers.

(1) Individuals who have a deposit account with the telephone account wagering system shall be permitted to wager by telephone. The telephone account wagering system shall accept wagers up to the amount posted to the credit of such account at the time the wager is placed. Any racing official whose appointment must be approved by the commission, or any licensee who is denied access to the grounds pursuant to rules 3769-2-08 and 3769-4-06 of the Administrative Code may not open or have in his/her name a telephone account.

In 1995, Attorney General Montgomery issued Opinion No. 95-034.⁷⁹ In the opinion, the Attorney General wrote:

To permit telephone wagering would expand by rule what the General Assembly refused to do by statute. The enactment of such rules exceeds the scope of the Commission's rule-making authority. In my opinion, the telephone wagering rules contained in rules 3769-3-32 and 3769-13-32 are beyond the rule-making authority of the Commission, and I would advise that they be rescinded.

However, since 1995, 3769-3-32 and 3769-13-32 have not been rescinded.

In 2001, an Ohio judge on Friday ruled that Beulah Park can continue operating an online wagering service that the state first approved, then tried to shut down.⁸⁰

⁷⁸ Ohio Administrative Code; 3769 Racing Commission. Chapter 3769-3 Wagering

⁷⁹ 1995 Ohio Op. Atty. Gen. 2-176

⁸⁰ <https://www.bloodhorse.com/horse-racing/articles/2448/judge-protects-beulah-parks-online-wagering>

Oklahoma

Legality: Advanced deposit wagering is **not legal**.

ATTORNEY GENERAL OPINION 02-25

OPINION:

This office has received your request for an official Attorney General Opinion in which you ask the following questions:

1. Does Oklahoma law permit pari-mutuel wagering on horse races via telephone or the Internet?

I. OKLAHOMA LAW DOES NOT PERMIT PARI-MUTUEL WAGERING ON HORSE RACES VIA TELEPHONE OR THE INTERNET.

B. THE OKLAHOMA HORSE RACING ACT ONLY PERMITS PARI-MUTUEL WAGERS ON HORSE RACES THAT ARE EITHER PLACED AT A COMMISSION-LICENSED RACETRACK, OR AT AN OFF-TRACK WAGERING FACILITY OF A COMMISSION-LICENSED RACETRACK. THE ACT DOES NOT PROVIDE FOR WAGERS PLACED BY TELEPHONE OR ON THE INTERNET.

The Oklahoma Horse Racing Act provides for the licensing of racetracks, which the Act refers to as “organization licensees.” Under the provisions of 3A O.S. 2001, § 205.6, organization licensees -- licensed racetracks—“may provide places on the race meeting grounds” to conduct the pari-mutuel system of wagering on horse races. That section further provides that the licensed racetrack can employ no other method of betting, at no other place:

In short, the Commission’s administrative rules only permit account wagering with prior authorization of the Commission, the account wagering that can be authorized under the rules must be permitted by law, and the rules make it clear that telephone wagering will only be approved if permitted by law. As concluded above, current Oklahoma law does not authorize telephone or Internet wagering. Accordingly, the Commission's administrative rules cannot be read to authorize such gambling.

§ 205.6. Pari-mutuel system of wagering authorized--Distribution of funds retained from money wagered--Revenue bond financing of racetrack or facility prohibited⁸¹

A. Any organization licensee conducting a race meeting may provide **places on the race meeting grounds** at which it may conduct and supervise the pari-mutuel system of wagering on the horse races conducted by the organization licensee at the race meeting. No other place or method of betting, pool making, wagering, or gambling shall be used or permitted by the organization licensee. The pari-mutuel system of wagering shall be permitted only on horse races conducted at a racetrack where such pari-mutuel system of wagering is authorized pursuant to the provisions of the Oklahoma Horse Racing Act. [emphasis added]

Case Law: None

⁸¹ Oklahoma Statutes Annotated; Title 3A. Amusements and Sports; Chapter 2. Horse Racing

Oregon

Legality: Advanced deposit wagering is **legal**.

462.142. Account wagering.⁸²

(1) In addition to mutuel wagering otherwise authorized by this chapter, account wagering may be conducted upon such conditions as the Oregon Racing Commission determines appropriate. The commission may authorize only a race meet licensee who is the holder of a license issued under ORS 462.057, 462.062 or 462.067 to conduct account wagering.

(2) As used in this section, “account wagering” means a form of mutuel wagering in which an individual may deposit money in an account with a race meet licensee and then use the account balance to pay for mutuel wagering conducted by the licensee. An account wager may be made in person, by direct telephone call or by communication through other electronic media by the holder of the account to the race course.

462-210-0020 Authorization for Account Wagering⁸³

(1) A race meet licensee who is the holder of or applicant for a license issued under ORS 462.057, ORS 462.062, or ORS 462.067 may request authorization from the commission to conduct account wagering in accordance with ORS 462.142 and these rules...

Case Law: None

Attorney General Opinions: None

⁸² Oregon Revised Statutes Annotated; Title 36. Public Health and Safety; Chapter 462. Racing; Licensing of Race Meets, Trainers, Drivers and Jockeys; Betting and Bookmaking Regulations

⁸³ Oregon Administrative Rules Compilation, Chapter 462. Racing Commission; Division 210. Account Wagering

Pennsylvania

Legality: Advanced deposit wagering is **legal**.

§ 325.218. Place and manner of conducting pari-mutuel wagering⁸⁴

(b) Each commission may upon request by any licensed corporation grant permission to the licensed corporation to conduct a telephone account wagering system; provided, however, that all telephone messages to place wagers must be to a place within the race track enclosure: And further provided, That all moneys used to place telephone wagers be on deposit in an amount sufficient to cover the wager at the race track where the account is opened. Each commission may promulgate rules or regulations to regulate telephone account wagering. All moneys wagered as a result of telephone account wagering shall be included in the amount wagered each racing day for purposes of taxation under section 222 and shall be included in the same pari-mutuel pools for each posted race. All telephone account wagering systems shall be solely operated by the licensed corporations.

(c) A licensed corporation shall only accept and tabulate a wager by a direct telephone call from the holder of a telephone wagering account. No person shall directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for a holder of a telephone wagering account. No person shall in any manner place any wager by telephone to a facility in the race track enclosure on behalf of a holder of a telephone wagering account. Only the holder of a telephone wagering account shall place a telephone wager. Any person violating this subsection shall be guilty of a misdemeanor of the first degree.

§ 169.1. Permission to conduct telephone account wagering⁸⁵

(a) Request for permission. A licensed corporation may request permission from the Commission to conduct a telephone wagering system under section 218 of the act (4 P. S. § 325.218)...

Case Law: None

Attorney General Opinions: 1984 Op. Atty Gen. Pa. 88 (OFFICIAL OPINION No. 84-2)

In conclusion, it is my opinion and you are hereby advised, that the Legislature has authorized the Horse and Harness Racing Commissions to supervise horse racing and pari-mutuel wagering in this Commonwealth. The addition of telephone account wagering systems to the permissible activities in this area is subject to the approval and regulatory control of the Commissions.

⁸⁴ Pennsylvania Statutes and Consolidated Statutes; Title 4 P.S. Amusements; Chapter 9A. Race Horse Industry Reform; Chapter 2. State Horse Racing Commission and State Harness Racing Commission

⁸⁵ Pennsylvania Administrative Code; Title 58 Recreation; part IV. Horse racing Commission; Chapter 169. Telephone Account Wagering

Rhode Island

Legality: Advanced deposit wagering is **not legal**.

§ 41-3-9. Rules as to betting and track operation -- Deputies⁸⁶

The division of racing and athletics may make rules and regulations governing the operation of the tracks and stables. The division may make rules regulating betting at the horse racing events. The division may, at its discretion, appoint deputies, not exceeding twenty-two (22), to perform such duties as the rules and regulations of the division may require.

§ 41-4-2. Betting only at track -- Minors prohibited⁸⁷

The pari-mutuel system, so-called, or other form of betting system authorized by this chapter, **shall not be used or permitted at any location other than the race track** at which the horse racing event is licensed to be conducted. [emphasis added]

Case Law: None

Attorney General Opinions: None

⁸⁶ General Laws of Rhode Island Annotated; Title 41. Sports, Racing, and Athletics; Chapter 3. Horse Racing

⁸⁷ General Laws of Rhode Island Annotated; Title 41. Sports, Racing, and Athletics; Chapter 4. Mutuel Betting and License Fees

South Dakota

Legality: Advanced deposit wagering is **legal**.

§ 42-7-56. Powers and responsibilities of commission on gaming⁸⁸

The commission shall:

(15) Promulgate rules pursuant to chapter 1-26 for the authorization, regulation, and auditing of account wagering on horse and dog racing authorized by this chapter;

20:04:33:01. Definitions⁸⁹

(4) "Account wagering," a process of making pari-mutuel wagers in which a natural person may deposit money in an account with a hub licensee and then uses the current balance to pay for pari-mutuel wagering conducted by the hub licensee;

(8) "Closed-loop subscriber based system," a device or combination of inter-connected devices authorized and operated exclusively for the purpose of receiving wagering information, placing, receiving, or otherwise making a wager; and to which a person must subscribe to be able to send wagering information to and have that information used to place, receive, or otherwise make a wager;

(19) "Multi-jurisdictional totalizator hub," any business through which a wager can be placed and entered into an intrastate or interstate pari-mutuel pool that is carried on the business's wagering menu, by an individual who sends wagering transaction information either telephonically or by other electronic means to the business and who has deposited funds into an account with the business prior to sending the wagering transaction information;

Case Law: None

Attorney General Opinions: None

⁸⁸ South Dakota Codified Laws; Title 42. Recreation and Sports; Chapter 42-7. Horse and Dog Racing

⁸⁹ Administrative Rules of South Carolina; Department of Revenue and Regulation; Article 20:04 Gaming Commission-Racing; Chapter 20:04:33 Multi-Jurisdictional Hubs

Tennessee

Legality: Advanced deposit wagering is **not legal**.

4-36-103. Chapter definitions.⁹⁰

(5) “Enclosure” means the real property and appurtenances and improvements to real property that are contiguous or adjacent to the association's racing surface and are owned, leased or otherwise possessed by the association for purposes related to its conduct of pari-mutuel wagering;

4-36-303. Pari-mutuel wagering races.⁹¹

(a) The commission may prescribe rules and regulations under which a live race may be run or a simulcast race may be presented at a recognized race meeting in this state upon which results the pari-mutuel style of wagering is solely permitted.

(b) (1) Only those persons licensed by the commission to conduct race meetings in this state may conduct pari-mutuel wagering, and **such wagering shall be conducted only on the association's premises**, notwithstanding any other statutes of this state to the contrary. [emphasis added]

The Tennessee state racing commission was deleted in 1998 as obsolete pursuant to the June 30, 1998, termination and the winding up of the affairs of the commission as stated in § 4-29-218.

Case Law: None

Attorney General Opinions: None

⁹⁰ Tennessee Code Annotated; Title 4. State Government; Chapter 36. Racing Control Act of 1987; Part 1. General Provisions

⁹¹ Tennessee Code Annotated; Title 4. State Government; Chapter 36. Racing Control Act of 1987; Part 3 Race Meetings

Texas

Legality: Advanced deposit wagering is **not legal**.

ARTICLE 11. WAGERING⁹²

Sec. 11.01. (a) The commission shall adopt rules to regulate wagering on greyhound races and horse races under the system known as pari-mutuel wagering. Wagering may be conducted only by an association within its enclosure.

Wagering inside enclosure

Sec. 11.04. (a) Only a person **inside the enclosure** where both live and simulcast race meetings are authorized may wager on the result of a live or simulcast race presented by the association in accordance with commission rules. The commission shall adopt rules to prohibit wagering by employees of the commission and to regulate wagering by persons licensed under this Act. [emphasis added]

(b) The commission shall adopt rules **prohibiting an association from accepting wagers by telephone**. [emphasis added]

Case Law: None

Attorney General Opinions: None

⁹² Texas Statutes and Codes Annotated; Civil Statutes; Title 6. Amusements--Public Houses of; Art. 179e. Texas Racing Act

Vermont

Legality: Advanced deposit wagering is **not legal**.

§ 615. Pari-mutuel pools⁹³

(a) **Within the enclosure** of any race track where is held a race or race meet licensed and conducted under this chapter, and within the enclosure of any place wherein a licensee licensed under this chapter to hold and conduct races or race meets is authorized by the commission to simulcast races or race meets, but not elsewhere, the sale of pari-mutuel pools by the licensee is permitted and authorized under such regulations as may be prescribed by the commission. [emphasis added]

Case Law: None

Attorney General Opinions: None

⁹³ Vermont Statutes Annotated; Title Thirty-One. Recreation and Sports; Chapter 13. Horse Racing

Virginia

Legality: Advanced deposit wagering is **legal**.

§ 59.1-365. Definitions⁹⁴

“Advance deposit account wagering” means a method of pari-mutuel wagering conducted in the Commonwealth that is permissible under the Interstate Horseracing Act, § 3001 et seq. of Chapter 57 of Title 15 of the United States Code, and in which an individual may establish an account with an entity, licensed by the Commission, to place pari-mutuel wagers in person or electronically.

§ 59.1-369. Powers and duties of the Commission⁹⁵

5. The Commission shall promulgate regulations and conditions regulating and controlling advance deposit account wagering. Such regulations shall include, but not be limited to, (i) standards, qualifications, and procedures for the issuance of a license to any such entity or entities pursuant to § 59.1-375 to operate pari-mutuel wagering in the Commonwealth; (ii) provisions regarding access to books, records, and memoranda, and submission to investigations and audits, as authorized by subdivisions 2 and 10 of this section; and (iii) provisions regarding the collection of all revenues due to the Commonwealth from the placing of such wagers. No pari-mutuel wager may be made on or with any computer owned or leased by the Commonwealth, or any of its subdivisions, or at any public elementary or secondary school, or any public college or university. The Commission also shall ensure that, except for this method of pari-mutuel wagering, all wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

All the regulation with respect to Advanced Deposit Wagering can be found at:

Virginia Administrative Code; Title 11. Gaming; VAC Agency NO. 10 Virginia Racing Commission; Chapter 45. Advanced Deposit Account Wagering

Case Law: None

Attorney General Opinions: None

⁹⁴ Annotated Code of Virginia; Title 59.1. Trade and Commerce; Chapter 29. Horse Racing and Pari-Mutuel Wagering; Article 1. Virginia Racing Commission

⁹⁵ Ibid.

Washington

Legality: Advanced deposit wagering is **legal**.

§ 67.16.260. Advance deposit wagering⁹⁶

(1) The horse racing commission may authorize advance deposit wagering to be conducted by:

(a) A licensed class 1 racing association operating a live horse racing facility; or

(b) The operator of an advance deposit wagering system accepting wagers pursuant to an agreement with a licensed class 1 racing association. The agreement between the operator and the class 1 racing association must be approved by the commission.

(3) As used in this section, “advance deposit wagering” means a form of parimutuel wagering in which an individual deposits money in an account with an entity authorized by the commission to conduct advance deposit wagering and then the account funds are used to pay for parimutuel wagers made in person, by telephone, or through communication by other electronic means.

260-49-010. Definitions.⁹⁷

(9) “Communications by other electronic means” includes communications by any electronic communication device or combination of devices including, but not limited to, the following: Personal computers, the internet, private networks, interactive televisions and wireless communication technologies or other technologies approved by the commission.

Case Law: None

Attorney General Opinions: None

⁹⁶ Revised Code of Washington Annotated; Title 67. Sports and Recreation--Convention Facilities; Chapter 67.16. Horse Racing

⁹⁷ Washington Administrative Code; Title 260. horse Racing Commission; Chapter 260-49. Advance Deposit Wagering

West Virginia

Legality: Advanced deposit wagering is **not legal**.

§19-23-9. Pari-mutuel system of wagering authorized; licensee authorized to deduct commissions from pari-mutuel pools; retention of breakage; auditing; minors.⁹⁸

(a) The pari-mutuel system of wagering upon the results of any horse or dog race at any horse or dog race meeting conducted or held by any licensee is hereby authorized if, and only if, such pari-mutuel wagering is conducted by the licensee **within the confines of the licensee's horse racetrack or dog racetrack** ... A licensee shall permit or conduct only the pari-mutuel system of wagering within the confines of the licensee's racetrack at which any horse or dog race meeting is conducted or held. [emphasis added]

§ 178-5-5. Account Wagering.⁹⁹

5.1. General

The association may offer a system of account wagering to its patrons whereby wagers are debited and payouts credited to a sum of money, deposited in an account by the patron, that is held by the association.

5.2. Account Opening

5.2.1. The association may offer to open for its patrons:

5.2.1.2. Long-term accounts that are operational for any performance offered by the association, whereby wagers are placed by the account holder at a self-service terminal or by telephone;

§19-23-9 requires the pari-mutuel wagering to be conducted by the licensee within the confines of the licensee's horse racetrack or dog racetrack. However, § 178-5-5.2.1.2 allows for account wagering by telephone. Unlike New Mexico which has a very similar "Long-Term Account" provision, West Virginia does not include the stipulation that wager "by telephone [be] within the enclose of the racetrack."

Case Law: None

Attorney General Opinions: None

⁹⁸ Annotated Code of West Virginia; Chapter 19. Agriculture; Article 23. Horse and Dog Racing; Part VI. Pari-Mutuel System of Wagering Authorized; Commissions Deducted from Pari-Mutuel Pools

⁹⁹ West Virginia Code of State Rules; Title 178. Racing Commission; Legislative RULe; Series 5. Pari-Mutuel Wagering

Wisconsin

Legality: Advanced deposit wagering is **not legal**.

562.11. Prohibited wagering activities.¹⁰⁰

No person may:

(1) Place any wager on a race at any location except at a racetrack.

Game 8.12 Sale of pari-mutuel tickets.¹⁰¹

(1) Time of Sale.

(a)...All wagering shall be conducted **only within the racetrack facility** in which authorized wagering is permitted pursuant to a license issued under s. 562.05 (1), Stats. [emphasis added]

(c) No pari-mutuel facility shall allow wagers to be accepted over the telephone, computer or other device not approved by the division. All wagers shall be made in person at the racetrack.

(2) Ticket Windows. No pari-mutuel tickets may be issued except through clerk windows clearly designated by number.

Game 16.07 Telephone and internet wagering.¹⁰²

No licensee shall place or cause to be placed any wager through a telephone or internet service provider on association grounds.

Case Law: None

Attorney General Opinions: None

¹⁰⁰ Wisconsin Statutes Annotated; Gaming (Ch. 561 to 599); Chapter 562. Regulation of Racing and On-Track Pari-Mutuel Wagering

¹⁰¹ Wisconsin Administrative Code; Division of Gaming; Chapter Game 8. Pari-Mutuel Operations

¹⁰² Wisconsin Administrative Code; Division of Gaming; Chapter Game 16. Prohibited Activities of Employees of Licensees

Wyoming

Legality: Advanced deposit wagering is **legal**.

§11-25-105. Pari-mutuel permits; fees and reports; disposition of funds; enforcement of provisions¹⁰³

(k) The commission may authorize advance deposit pari-mutuel wagering at any premise where a pari-mutuel event is authorized, provided that the licensee shall:

SECTION 2. Advance Deposit Wagering¹⁰⁴

(a) Definitions

(iv) Advance Deposit Wagering, a form of parimutuel wagering in which an account holder, residing within or outside Wyoming, establishes an account and then authorizes a Commission approved Permittee, Betting System or WY Hub, by telephone or other electronic media, to place wagers on racing on the account holder's behalf. Only the Permittee, Betting System, or Wyoming Hub that holds the account can make an advance deposit wager for the account holder. Wagering instructions that concern funds held in an account shall be deemed issued within the enclosure of the Permittee.

(xvi) Other Electronic Media any electronic communication device or combination of devices including, but not limited to, personal computers, the Internet, private networks, interactive television and wireless communication technologies.

Case Law: None

Attorney General Opinions: None

¹⁰³ Wyoming Statutes Annotated; Title 11. Agriculture, Livestock and Other Animals; Chapter 25. Pari-Mutuel Wagering

¹⁰⁴ Wyoming Rules and Regulations; Department of Administration and Information; Pari-Mutuel Commission; Chapter 9. Rules for Pari-Mutuel Betting

Canada

Legality: Advanced deposit wagering is **legal**.

s. 204.¹⁰⁵

204(2) Presumption

For the purposes of paragraph (1)(c), bets made, in accordance with the regulations, in a betting theatre referred to in paragraph (8)(e), or by any means of telecommunication to the race-course of an association or to such a betting theatre, are deemed to be made on the race-course of the association.

s 76.¹⁰⁶

76(1) An association that proposes to conduct telephone account betting shall apply in writing to the Executive Director each year for a home market area. The association shall include the recommendation of the appropriate Commission with its application.

76(2) [Repealed SOR/2003-218, s. 18.]

76(3) No association shall conduct telephone account betting unless

- (a) the association has been issued a permit;
- (b) the services, facilities and equipment for conducting telephone account betting have been inspected and authorized by an officer; and
- (c) the association has been assigned a home market area.

s 2.¹⁰⁷

In these Regulations

“telephone” means any telecommunication device that can be used to record and verify a bet made by an account holder;

“telephone account betting” means pari mutuel betting conducted by an account holder by means of a telephone;

¹⁰⁵ Canada Federal Statutes; Criminal Code; Part VII — Disorderly Houses, Gaming and Betting; Gaming and Betting;

¹⁰⁶ Canada Federal Regulations; Criminal Code; Can. Reg. 91-365 — Pari-Mutuel Betting Supervision Regulations; Part III — Pari-Mutuel Betting Operations; Telephone Account Betting

¹⁰⁷ Canada Federal Regulations; Criminal Code; Can. Reg. 91-365 — Pari-Mutuel Betting Supervision Regulations; Interpretation