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SECTION 2

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Section 2: Simulcast wagering by racing meeting licensees: restrictions

[Text of section effective until July 31, 2017. Repealed by 2011, 194, Sec. 41. See 2011, 194, Sec. 112 as amended by 2014, 165, Sec. 192 and 2016, 176, Sec. 12B. See also, 2001, 139, Sec. 45 as amended by 2005, 176, Sec. 13; 2006, 54, Sec. 12; 2006, 449, Secs. 19 and 21; 2008, 290, Sec. 12; 2009, 167, Sec. 12; 2010, 203, Sec. 12; 2011, 77, Sec. 12; 2011, 194, Sec. 84; 2014, 264, Sec. 11; and 2016, 176, Sec. 11. Expiration of section does not take effect. See, 1992, 101, Sec. 13 as amended by 1995, 268, Sec. 20; 1999, 163, Sec. 12; 2000, 354, Sec. 14; 2001, 25, Sec. 1; 2001, 54, Sec. 4; 2001, 70, Sec. 4; 2001, 95, Sec. 4; 2001, 108, Sec. 4; 2001, 121, Sec. 4; 2001, 139, Sec. 39; 2005, 176, Sec. 12; 2006, 54, Sec. 11; 2006, 449, Secs. 18 and 21; 2008, 290, Sec. 11; 2009, 167, Sec. 11; 2010, 203, Sec. 11 and 2011, 77, Sec. 11 and as repealed by 2011, 194, Sec. 83. For text effective July 31, 2017, see below.]

Section 2. A racing meeting licensee, except a licensee operating within Berkshire county, shall have the right to simulcast live races, for wagering purposes or otherwise, within the commonwealth except in Berkshire county and to and from pari-mutuel licensees or other licensed wagering facilities located outside the commonwealth. Such right may be exercised only on any calendar day on which the licensee conducts a racing performance, a dark day, or during a dark season. Any violation of this chapter shall be cause for the commission to suspend or revoke a license pursuant to section 11 of chapter 128A. The right to simulcast is subject to the following exceptions and conditions, and each racing meeting licensee shall obtain prior approval from the commission:--

(1) The greyhound dog racing meeting licensee located in Suffolk county shall have the right to simulcast: (a) unlimited greyhound dog racing; (b) on any day of the calendar year, unlimited running horse racing from and after 6:00 p.m., plus the entire racing cards from any 2 running horse racing meetings in the state of California; and (c) a total of 4 harness horse racing performances on any day of the calendar year, provided, further, that the licensee shall (i) simulcast in a fair and equal manner the racing card from the harness horse racing meeting licensee located in Norfolk county and pay therefor at the rate of 11 per cent and (ii) simulcast a minimum of 3 interstate harness horse racing cards, if available, and pay to the harness horse racing meeting licensee located in Norfolk county a 3 per cent premium with respect to any interstate harness horse simulcasts received, over and above the cost of obtaining such simulcasts. The greyhound racing licensee located in Suffolk county may also simulcast, commencing at 6:00 p.m., running horse racing meetings conducted at race tracks located in the Asian- Pacific-Rim region, so-called, that are not located in a territory of the United States; provided, however, that, with respect to such racing meetings only, such simulcasting rights shall extend until the completion of any such racing meeting being simulcast. The greyhound racing licensee located in Suffolk county shall pay to the running horse racing meeting licensee located in Suffolk county a 6 per cent premium with respect to any interstate running horse simulcasts received, over and above the cost of obtaining such simulcasts, except with respect to simulcasts of the 2

California racing cards for which a premium of 7 per cent shall be paid, and except with respect to the special events, so-called, for which no premium need be paid.

(2) The greyhound dog racing meeting licensee located in Bristol county shall have the right to simulcast (a) unlimited greyhound dog racing; (b) on any day of the calendar year, unlimited running horse racing from and after 6:00 p.m., plus the entire racing cards from any 2 running horse racing meetings in the state of California; and simulcasts of the Suffolk county running horse racing meeting licensee's live races during its racing season and 2 so-called companion cards; and 6 interstate running horse simulcasts prior to 4:00 p.m. on any day the Suffolk county running horse racing meeting licensee does not conduct live races; and (c) a total of 4 harness horse racing performances on any day of the calendar year, provided, further, that the licensee shall (i) simulcast in a fair and equal manner the racing card from the harness horse racing meeting licensee located in Norfolk county and pay therefor at the rate of 11 per cent and (ii) simulcast a minimum of 3 interstate harness horse racing cards, if available, and pay to the harness horse racing meeting licensee located in Norfolk county a 3 per cent premium with respect to any interstate harness horse simulcasts received, over and above the cost of obtaining such simulcasts. The greyhound dog racing meeting licensee shall pay to the running horse racing meeting licensee located in Suffolk county a fee of 11 per cent for the intrastate running horse simulcasts and shall pay a 3 per cent premium with respect to any interstate running horse simulcasts received, over and above the cost of obtaining such simulcasts, except with respect to the special events, so-called, for which no premium need be paid.

(3) In addition to the rights granted in subparagraphs (1) and (2), the greyhound dog racing meeting licensee located in Suffolk county and the greyhound dog racing meeting licensee located in Bristol county shall have the right to simulcast 15 running horse special events, so-called, through the simulcast hub of the running horse racing meeting licensee located in Suffolk county without paying the premiums required in subparagraphs (1) and (2); provided, further, that said greyhound dog racing meeting licensees shall receive the simulcasts on the same terms as other racing meeting licensees or no Massachusetts racing meeting licensee shall be authorized to simulcast such special events.

(4) The harness horse racing meeting licensee located in Norfolk county shall have the right to simulcast (a) unlimited harness horse racing; (b) on any day during the calendar year, unlimited running horse racing, except during the live racing performances of the running horse racing meeting licensee located in Suffolk county; plus the entire racing cards from any 2 running horse racing meetings in the state of California; and simulcasts of the Suffolk county running horse racing meeting licensee's live races during its racing season and 2 companion cards; and (c) a total of 5 greyhound racing performances on any day of the calendar year, provided, further, that the licensee shall (i) simulcast in a fair and equal manner all racing cards from the greyhound racing meeting licensee located in Bristol county and the greyhound racing meeting licensee located in Suffolk county and pay therefor a fee at the rate of 11 per cent to each greyhound racing meeting licensee and (ii) simulcast up to 3 interstate greyhound dog racing cards and pay to the greyhound dog racing meeting licensee located in Bristol county a 3 per cent premium with respect to any interstate greyhound dog simulcasts received, over and above the costs of obtaining such simulcasts; but if the licensee simulcasts a fifth interstate greyhound simulcast on any single calendar day then the licensee shall pay to the greyhound dog racing meeting licensee in Bristol county a 4 per cent premium for only that fifth interstate greyhound simulcast signal received, over and above the costs of obtaining that signal. The harness horse racing meeting licensee located in Norfolk county shall pay to the running horse racing meeting licensee located in Suffolk county a fee of 11 per cent for its intrastate racing cards, and shall pay a 2 per cent premium with respect to any interstate running horse simulcasts received, over and above the cost of obtaining such simulcasts, except with respect to the special events, so-called, for which no premium need be paid, and except during any 12 weeks per year chosen by the Norfolk county licensee and identified in its annual application for a racing meeting license, during which no premium need be paid.

(5) The running horse racing meeting licensee located in Suffolk county may simulcast: (a) unlimited running horse racing; (b) on any day during the calendar year, unlimited harness horse racing, except during live racing performances of the harness horse racing licensee located in Norfolk county; and (c) on any day during the calendar year prior to 5:30 p.m., a total of 4 greyhound racing performances, including the racing performance of the Bristol county greyhound racing licensee, when available within the authorized time, which shall be mandatory, and shall pay a fee of 3 per cent for the racing performances to the Bristol county greyhound racing licensee, and 3 interstate greyhound dog racing simulcasts. The Suffolk county horse racing licensee shall simulcast the racing cards of the harness horse racing licensee located in Norfolk county and shall pay a fee of 11 per cent for the intrastate racing cards, and shall pay a 2 per cent premium with respect to any interstate harness horse simulcasts received, over and above the costs of obtaining such simulcasts, except during any 12 weeks per year chosen by the Suffolk county licensee and identified in its annual application for a racing meeting license, during which no premium need be paid. The running horse racing meeting licensee located in Suffolk county shall pay to the greyhound dog racing meeting licensee located in Suffolk county an 8 per cent premium with respect to any intrastate or interstate greyhound dog simulcasts received, over and above the cost of obtaining such simulcasts.

All premiums received by a running horse racing meeting licensee, harness horse racing meeting licensee or greyhound racing meeting licensee pursuant to this section shall be paid into the purse accounts of the horsemen or dogmen, respectively, at the race track licensee where the premiums were received and paid to the horsemen or dogmen as purses or, with the approval of the appropriate horsemen's association representing the horse owners racing at that meeting, used for payment of administrative and horseracing operations; provided, however, that the premiums shall be in addition to all other amounts required to be paid into purses in accordance with chapter 128A and chapter 128C. Each race track licensee shall file with the commission, within 90 days of the end of each calendar year, an accounting of the use and disbursement during such calendar year of any and all premiums paid into such purse accounts. The commission is authorized, in any case it deems appropriate, to conduct an audit of any such purse accounts and shall report the findings of any such audit within 30 days of the conclusion thereof to the house and senate chairs of the joint committee on government regulations.

All racing meeting licensees, whether acting as a host or guest track for simulcasting purposes, shall file with the commission, the clerk of the senate and the clerk of the house of representatives a copy of all contracts, agreements, or conditions pursuant to which simulcast events are broadcast, transmitted or received which shall include provisions for takeout, commissions and charges.

No racing meeting licensee, whether acting as a guest track or host track, shall simulcast live races unless the licensee conducts a full schedule of live racing performances during a racing season except that, if the commission determines that a licensee cannot conduct a full schedule of live racing performances due to weather conditions, race track conditions, strikes, work stoppages, sickness or quarantine not within the control of the licensee, the commission may permit the licensee to continue simulcasting and, if it appears that a racing meeting licensee is or will become unable to conduct a full schedule of live racing performances, the commission shall suspend such right to simulcast until the licensee conducts or resumes a full schedule of live racing performances; provided, however, that no racing meeting licensee shall simulcast live races in any racing season unless the racing meeting licensee is licensed to and actually conducts at least 900 live races over the course of not less than 100 calendar days during that racing season with no fewer than 7 races completed on any of those 100 calendar days.

All simulcasts shall comply with the provisions of the Interstate Horse Racing Act of 1978, 15 U.S.C. Sec. 3001 et seq. or other applicable federal law; provided, however, that all simulcasts from states which have racing associations that do not require approval in compliance with the Interstate Horse Racing Act of 1978, 15 U.S.C. Sec. 3004 (a) (1) (A), except simulcasts during the month of August, shall require the approval of the New England Horsemen's Benevolent and Protective Association prior to being simulcast to any racing meeting licensee within the commonwealth; provided further, that, if the association agrees to approve the simulcast for 1 racing meeting licensee, it shall approve the simulcast for all otherwise eligible racing meeting licensees.

Each racing meeting licensee shall pay a fee for those days, whether a dark day, a day during a dark season, or any day between the periods of racing pursuant to an operating license, when no live races are conducted but simulcast races are shown and simulcast wagers are accepted. Such fee shall be determined by the commission in accordance with the license fees charged pursuant to the provisions of chapter 128A. No other daily fees shall be assessed.

Notwithstanding any general or special law to the contrary, any host track that simulcasts a race to any out-of-state wagering facility that is within 100 miles of the host track shall pay to the representative breeders' association of the same class as is simulcast, a sum equal to 0.25 per cent of the total amount wagered at the receiving wagering facility.

Chapter 128C: Section 2. Simulcast wagering by racing meeting licensees; restrictions

[Text of section effective July 31, 2017 does not take effect. See 2011, 194, Secs. 41 and 112; 2014, 165, Sec. 192; and 2016, 176, Sec. 12B. For text effective until July 31, 2017, see above.]

Section 2. A racing meeting licensee shall have the right to simulcast live races, for wagering purposes or otherwise, within the commonwealth and to and from pari-mutuel licensees or other licensed wagering facilities located outside the commonwealth. Such right shall only be exercised on any calendar day on which it conducts a racing performance, a dark day or during a dark season; provided, however, that any violation of the provisions of this chapter shall be cause for the commission to invoke its power to suspend or revoke its operating license pursuant to section eleven of chapter one hundred and twenty-eight A. Where two racing meeting licensees in Norfolk county use the same track during a calendar year, each of said licensees shall have the same rights to simulcast during any period of time between racing meetings. A racing meeting licensee shall make simulcasts of live races conducted by such racing meeting licensee available to all otherwise eligible racing meeting licensees, including greyhound racing meeting licensees who have successfully made application to the commission to simulcast, on the same terms, to include economic terms, and conditions. Such right to simulcast is subject to the following exceptions and conditions:

Each racing meeting licensee shall comply with the following applicable provisions.

All licensees licensed to conduct running horse racing meetings in Suffolk county, and, all licensees licensed to conduct running horse racing meetings or harness horse racing meetings in Norfolk county, not including running horse or harness horse racing meetings held in connection with a state or county fair, may simulcast live running horse or live harness horse races which are conducted at a host track, only.

All licensees licensed to conduct greyhound dog racing meetings, not including greyhound dog racing meetings held in connection with a state or county fair, may simulcast greyhound dog racing with the permission of the state racing commission. With respect to horse racing, the greyhound racing meeting licensee located in Suffolk county may simulcast up to fifty racing cards and up to fifteen special events of national significance as determined by the commission; provided, however, that said fifteen special events shall be in addition to any special events simulcast by said licensee which are shown as part of a live program from a host track, during a racing season only; provided, further, that each of these racing cards or special events shall be subject to application to and approval by the commission. Said greyhound racing meeting licensee located in Suffolk county shall not be permitted to simulcast any thoroughbred or harness horse racing cards from a host track, whether within or without the commonwealth, in any calendar year, during the running horse racing meetings held in Suffolk county. With respect to horse racing, the greyhound racing meeting licensee located in Bristol county may simulcast with the permission of the commission every live running horse racing card of the running horse racing meeting licensee located in Suffolk county. With the permission of the running horse racing meeting licensee located in Suffolk county, and subject to the approval of the commission, the greyhound racing meeting licensee located in Bristol county may simulcast a companion card from a pari-mutuel running horse facility located outside the commonwealth; provided, however, that if the running horse racing meeting licensee located in Suffolk county grants a companion card to the greyhound racing meeting licensee located in Bristol county, the running horse racing meeting licensee in Suffolk county shall grant an identical companion card to the harness horse racing meeting licensee located in Norfolk county. Said greyhound racing meeting licensee located in Bristol county shall be prohibited from simulcasting any running horse race during the dark days and dark season of the running horse racing meeting licensee in Suffolk county; provided, however, that such greyhound racing meeting licensee located in Bristol county may simulcast up to fifteen special events of national significance as determined by the commission; provided, further, that said fifteen special events shall be in addition to any special events simulcast by said licensee which are shown as part of a live program from a host track.

Whenever a racing meeting licensee within the commonwealth is conducting a full schedule of live racing performances of horses of either class, any other racing meeting licensee, whether during his racing season or his dark season, shall, if the licensee chooses to simulcast, simulcast the live racing performance from within the commonwealth and shall not simulcast any other race of the same class as the live racing performance until the end of the live racing performances within the commonwealth for that day; provided, however, that the harness horse racing meeting licensee located in Norfolk county may simulcast an entire racing card from a running horse racing meeting located in the state of California during the live racing performance of the running horse racing meeting licensee located in Suffolk county; provided, further, that, with the permission of the running horse racing meeting licensee located in Suffolk county, and subject to the approval of the commission, the harness horse racing meeting licensee located in Norfolk county may simulcast a companion card from a pari-mutuel running horse facility located outside the commonwealth; provided, further, that if the running horse racing meeting licensee located in Suffolk county grants a companion card to the harness horse racing meeting licensee located in Norfolk county, the running horse racing meeting licensee located in Suffolk county shall grant an identical companion card to the greyhound racing meeting licensee located in Bristol county, unless, there is a special event of the same class as the live racing performance, in which case, the special event shall be available to all otherwise eligible racing meeting licensees, including greyhound racing meeting licensees who have successfully made application to the commission to receive said special events, on the same terms, to include economic terms, and conditions that the out-of-state track makes the simulcast available to any other guest track.

All racing meeting licensees, whether acting as a host or guest track for simulcasting purposes shall file with the commission, clerk of the senate and clerk of the house of representatives a copy of all contracts, agreements, or conditions pursuant to which simulcast events are broadcast, transmitted or received which shall include provisions for takeout, commissions and charges.

No racing meeting licensee, whether acting as a guest track or a host track shall simulcast live races unless said licensee conducts a full schedule of live racing performances during a racing season except that if the commission determines that a licensee cannot conduct a full schedule of live racing performances due to weather conditions, race track conditions, strikes, work stoppages, sickness or quarantine not within the control of the licensee, the commission may permit the licensee to continue simulcasting, and if it appears that a racing meeting licensee is or will become unable to

conduct a full schedule of live racing performances, the commission shall suspend such right to simulcast until said licensee conducts or resumes a full schedule of live racing performances; provided, further, that no racing meeting licensee shall simulcast live races in the 2000 to 2001, inclusive racing seasons unless each said racing meeting licensee, in each of those racing seasons, is licensed to conduct no fewer than a total of one hundred and fifty racing performances; provided, however, that where two racing meeting licensees in Norfolk county use the same track during the calendar year, each thoroughbred horse racing meeting licensee, in each of those racing seasons, shall be licensed to conduct no fewer than a total of fifty racing performances and each harness horse racing meeting licensee, in each of those racing seasons, shall be licensed to conduct no fewer than a total of one hundred racing performances.

All simulcasts shall comply with the provisions of the Interstate Horseracing Act of 1978, 15 U.S.C. Sec. 3001 et seq. or other applicable federal law; provided, however, that all simulcasts from states whose racing associations do not require approval in compliance with the Interstate Horseracing Act of 1978, 15 U.S.C. Sec. 3004 (a) (1) (A), except simulcasts during the month of August, shall require the approval of the New England Horsemen's Benevolent and Protective Association prior to being simulcast to any racing meeting licensee within the commonwealth; provided, further, that if said association agrees to approve such simulcast for one racing meeting licensee, it shall approve the simulcast for all otherwise eligible racing meeting licensees.

Each racing meeting licensee shall pay a fee for those days, whether a dark day, a day during a dark season, or any day between periods of racing pursuant to an operating license, when no live races are conducted but simulcast races are shown and simulcast wagers are accepted. Such fee shall be determined by the commission in accordance with the license fees charged pursuant to the provisions of chapter one hundred and twenty-eight A. No other daily fee shall be assessed.

Notwithstanding any general or special law to the contrary, any host track that simulcasts a race to any out-of-state wagering facility that is within one hundred miles of said host track shall pay to the representative breeders association of the same class as is simulcast, a sum equal to one-quarter of one percent of the total amount wagered at the receiving wagering facility.

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