

## ADVISORY OPINION

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NEXT REVIEW: November 2021

REFERENCES: RCW 42.52.020

SUMMARY OF CHANGES: Updated format only.

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### **Simulcast Races Wagering**

#### **QUESTION**

Whether the Washington Horse Racing Commission (WHRC) employees and commissioners may bet on simulcast races without violating RCW 42.52.020 by merely changing their rule under WAC 260-14-040?

#### **ANSWER**

No, RCW 67.16.160 states in pertinent part: “In no case may a commissioner make any wager on the outcome of a horse race at a race meet conducted under the authority of the commission.” Merely changing the rule would not supersede this statutory prohibition.

#### **ANALYSIS**

Simulcast races are races that are not run live in Washington, but are broadcast from an out-of-state “host track” to a “guest track” located in Washington State. In this case, the guest track is Emerald Downs. Emerald Downs is a Class A racetrack with eleven off-site betting locations, all licensed and regulated by the WHRC under RCW 67.16.

RCW 67.16.160 required the WHRC to adopt, “reasonable rules implementing to the extent applicable to the circumstances of the horse racing commission the conflict of interest laws of the state of Washington as set forth in chapter 42.52 RCW. This statute further states that ‘in no case may a commissioner make any wager on the outcome of a horse race at a race meet conducted under the authority of the commission.’”

To abide by this statutory requirement, the WHRC adopted WAC 260-14-040 that currently states:

A commissioner, employee, or the spouse of a commissioner or employee may not make any wager as follows:

- (1) On the outcome of any race at a facility under the jurisdiction of the commission;
- (2) With an authorized advanced deposit wagering service provider licensed by the commission; or
- (3) On the outcome of any horse race at a race meet under the jurisdiction of the commission.

The WHRC believes that this WAC only addresses “live” races held in Washington, not races simulcast from outside the state, but the black letter of the rule does not imply that it only pertains to live races. Agency filings regarding changes to this rule over the past several years do not indicate that it was only intended to include live races.

To clarify this rule, the WHRC wanted to change it to read:

A commissioner, employee, or the spouse of a commissioner or employee may not make any wager as follows:

- (1) On the outcome of any live horse race held at any race track under the jurisdiction of the commission; or
- (2) With an authorized advanced deposit wagering service provider licensed by the commission.

The Board reviewed several sections of RCW 67.16, Horse Racing, which impacted their opinion:

- RCW 67.16.010(4) defines a “race meet” as “any exhibition of thoroughbred, quarter horse, paint horse, appaloosa horse racing, arabian horse racing, or standard bred harness horse racing, where the parimutuel system is used.” Simulcast races use the parimutuel system, so until this verbiage is changed to only refer to “live” races held in Washington, the Board determined that this definition included simulcast races.
- RCW 67.16.200(6) requires that the WHRC approve all simulcast races transmitted to Washington locations. In fact, a simulcast race cannot be legitimately transmitted to any Washington location without the express permission of the WHRC.
- RCW 67.16.160 prohibits a commissioner from making any wager on the outcome of a horse race at a race meet conducted under *the authority of the commission*. Since the WHRC approves or disapproves the transmission of simulcast races, plus regulates the parimutuel system used to bet on these races, a simulcast race is conducted under the authority of commission.

The Board determined that as RCW 67.16 is currently written:

- (1) simulcast races fall under the current definition of a race meet
- (2) simulcast races are conducted “under the authority of the commission” because WHRC regulates the parimutuel wagering system and are the sole authority to approve or disapprove the transmission of a simulcast race to Washington state locations.

Based upon this determination the Board opined that WHRC Commissioners and employees would violate RCW 42.52.020 if they bet on simulcast races.