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June 9, 1997

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Honorable Deborah Ortiz
2148 State Capitol

Horseracing: Out-of-State Wagers (S.B. 141) - #15435

Dear Ms. Ortiz:

QUESTION

If Senate Bill No. 141, as amended April 15, 1997, is enacted, may a horseracing association in this state accept wagers placed by out-of-state bettors by means of telephone or other communication technology on a race or races conducted or disseminated by the racing association consistent with federal law?

OPINION

If Senate Bill No. 141, as amended April 15, 1997, is enacted, a horseracing association in this state is nonetheless prohibited by federal law from accepting wagers placed by out-of-state bettors by means of telephone or other communication technology on a race or races conducted or disseminated by the racing association.

ANALYSIS

Existing law provides that any racing association in this state, with the approval of the California Horse Racing Board (hereafter the board), may accept out-of-state wagers on a race or races conducted by or disseminated by that association and may transmit live audiovisual signals of the race or races to locations out of state, except that any wagers made pursuant to that authorization are subject to applicable federal laws (Sec. 19603, B. & P.C.).

Federal Law Prohibits placing of Wagers by “wire communication facility.”

18 United States Code

§ 1084. Transmission of wagering information; penalties

(a) Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

(b) Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State where betting on that sporting event or contest is legal into a State in which such betting is legal.

(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia.

(d) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of Federal, State or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

(Added Pub.L. 87-216, § 2, Sept. 13, 1961, 75 Stat. 491.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 87-216, see 1961 U.S. Code Cong. and Adm. News, p. 2631.

18 § 1081

The term “wire communication facility” means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission.

NATIONAL COALITION AGAINST LEGALIZED GAMBLING

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HARVEY N. CHINN, California Director

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(b) Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State where betting on that sporting event or contest is legal into a State in which such betting is legal.

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