

Broadcasting of Breeders' Cup

Number: INFORMAL

Date: October 07, 1999

The Honorable Roberto Casas
Senator, District 39
4821 West 4th Avenue
Hialeah, Florida 33012

Dear Senator Casas:

You ask about a possible conflict between the provisions of sections 550.615(11) and 550.26352, Florida Statutes.

Section 550.615(11), Florida Statutes, provides:

"Notwithstanding any other provision of this section, any thoroughbred permitholder that conducts performances during the period beginning May 23 and ending January 2 must make available any live pari-mutuel event conducted and any simulcast pari-mutuel event received by such permitholder to any thoroughbred permitholder that conducts performances during the period beginning March 17 and ending May 22, and such guest permitholder is authorized to accept wagers on such signals. Notwithstanding s. 550.0951(3)(c), the tax on wagers accepted by the guest permitholder on such events shall be 2 percent, but such amount shall be retained by the host track as compensation for lost revenues and purses. At least 50 percent of the amount retained shall be paid as purses at the host track. This subsection applies only to thoroughbred permitholders located in any area of the state where there are three or more thoroughbred permitholders within 25 miles of each other." (e.s.)

According to your letter, Hialeah Park (Hialeah) conducts races during the period beginning March 17 and ending May 22, and operates as a simulcast facility from May 23 until January 2, receiving the broadcast of live races at Calder Race Course (Calder) and the rebroadcast of any out-of-state races Calder receives. Calder operates in the period beginning May 23 through January 2.

You state that Gulfstream Park (Gulfstream Park) will host the Breeders' Cup races for three days in November and ask whether Hialeah is entitled to receive the broadcast of the race. You note that section 550.615(11), Florida Statutes, quoted above, provides for simulcast broadcasting *notwithstanding any other provision of section 550.615, Florida Statutes*.

This language reflects an intent that the provisions of section 550.615(11), Florida Statutes, will prevail over contrary provisions of section 550.615, Florida Statutes.[1] It does not, however, necessarily mean that its provisions will prevail over other provisions in Chapter 550, Florida Statutes.

Section 550.26352, Florida Statutes, on the other hand, provides for the conduct of the Breeders'

Cup Meet *notwithstanding any provision of Chapter 550, Florida Statutes, to the contrary*, thus indicating an intent by the Legislature that the provisions of section 550.26352, Florida Statutes, will prevail over a contrary provision contained in Chapter 550, Florida Statutes.[2]

Section 550.26352(8)(b), Florida Statutes, provides:

"The permitholder conducting the Breeders' Cup Meet is authorized to transmit broadcasts of the races conducted during the Breeders' Cup Meet to other pari-mutuel facilities located in this state for wagering purposes; however, *the permitholder conducting the Breeders' Cup Meet shall not be required to transmit broadcasts to any pari-mutuel facility located within 25 miles of the facility at which the Breeders' Cup Meet is conducted and, further, shall not transmit broadcasts to any pari-mutuel facility located within 25 miles of the facility at which the Breeders' Cup Meet is conducted without the consent of all operating permitholders in the market area.* Wagers accepted by all pari-mutuel facilities located in the state on any races broadcast under this section shall be included in the pari-mutuel pools of the permitholder conducting the Breeders' Cup Meet." (e.s.)

Thus, the statute states that the permitholder conducting the meet, in this case Gulfstream, is not required to transmit broadcasts to any pari-mutuel facility located within twenty-five miles and, in fact, may not transmit without the consent of all operating permitholders in the market area.

I have been advised by the Division of Pari-Mutuel Wagering of the Department of Business and Professional Regulation that the division concurs in this interpretation.

I trust that the above informal advisory comments may be of assistance to you.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tzg

[1] See, e.g., s. 550.615(6), Fla. Stat.

[2] Section 550.26352(1), Fla. Stat.