

23-113-201. Wagering on electronic games of skill conducted by franchise holders — Limitations.

(a) (1) In addition to pari-mutuel wagering on horse racing and greyhound racing authorized by the Arkansas Horse Racing Law, § [23-110-101](#) et seq., and the Arkansas Greyhound Racing Law, § [23-111-101](#) et seq., respectively, any franchise holder may conduct wagering on electronic games of skill in accordance with this chapter at any time or times during the calendar year at locations on the grounds of the franchise holder's racetrack park site where the franchise holder is authorized by the Arkansas Racing Commission to conduct pari-mutuel wagering on horse racing or greyhound racing pursuant to the Arkansas Horse Racing Law, § [23-110-101](#) et seq., or the Arkansas Greyhound Racing Law, § [23-111-101](#) et seq., as the case may be.

(2) (A) (i) The franchise holder may not conduct wagering on electronic games of skill under this chapter unless the question of the wagering on electronic games of skill under this chapter has been submitted to the electors of the city, town, or county in which the franchise holder's racetrack park site is located and where the wagering on electronic games of skill is to be conducted, at any special or general election, and a majority of the electors voting on the question have approved at the election wagering on electronic games of skill under this chapter.

(ii) If the racetrack park is located within the corporate limits of a city or town, the question shall be submitted to the electors of either the city, town, or county in which the racetrack park is located, as requested by the franchise holder, and if the racetrack park is not located within the corporate limits of a city or town, then the question shall be submitted to the electors of the county in which the racetrack park is located.

(B) (i) The governing body of the city, town, or county, as the case may be, shall by ordinance submit the question to the electors if requested by the franchise holder.

(ii) If the franchise holder makes a request for an election, the franchise holder shall present to the governing body evidence of anticipated benefits to economic development, job creation, tourism, and agribusiness which may result, directly or indirectly, from the authorization of wagering on electronic games of skill at the franchise holder's racetrack park site under this chapter, if approved by the local voters at the election.

(iii) The franchise holder may make requests on one (1) or more occasions, and elections so requested from time to time by the franchise holder may be held during any one (1) or more calendar years as requested from time to time by the franchise holder, but not more than one (1) special election shall be held for such purposes by the same city, town, or county during any particular calendar year.

(iv) The cost incurred by the city, town, or county involved in conducting each special election pursuant to the franchise holder's request shall be paid by the franchise holder. The election shall be held and conducted under the general election laws of the state, except as otherwise provided in this section.

(C) The ordinance shall set forth the ballot question substantially as follows:

“For wagering on electronic games of skill conducted by [name of franchise holder] on the grounds of its racetrack park site in [city, town, or county] [] Against wagering on electronic games of skill conducted by [name of franchise holder] on the grounds of its racetrack park site in [city, town, or county] [] As authorized by Arkansas Code Section [23-113-201](#) , the question presented is whether or not wagering on electronic games of skill may be conducted by [name of franchise holder] on the grounds of its racetrack park site in [city, town, or county] under the provisions of Chapter [113](#) of Title [23](#) of the Arkansas Code. Vote for or against the question by marking the appropriate box above. ‘Electronic games of skill’ means games played through any electronic device or machine that afford an opportunity for the exercise of skill or judgment when the outcome is not completely controlled by chance alone.”

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(D) Notice of the election shall be given by the clerk of the city, town, or county involved by one (1) publication in a newspaper having general circulation within the city, town, or county involved not less than ten (10) calendar days before the election. No other publication or posting of a notice by any other public official shall be required.

(E) The election shall be held no earlier than thirty-one (31) calendar days, and no later than one hundred twenty (120) calendar days, after the effective date of the ordinance in which the election is called by the governing body.

(F) (i) Within thirty (30) calendar days after completion of the tabulation of the votes, the mayor of the city or town or the county judge of the county, as the case may be, shall proclaim the results of the election by issuing a proclamation and publishing it one (1) time in a newspaper having general circulation within the city, town, or county involved.

(ii) The results of the election as stated in the proclamation shall be conclusive unless a suit contesting the proclamation is filed in the circuit court in the county where the election took place within twenty (20) calendar days after the date of publication of the proclamation.

(G) If the wagering on electronic games of skill is approved at any election as provided in this section, that approval shall be final and shall continue in effect thereafter as long as wagering on electronic games of skill at the location involved is authorized by the other provisions of this chapter, other than this section.

(b) (1) In order to conduct wagering on electronic games of skill during a calendar year, the franchise holder must have been licensed by the Arkansas Racing Commission to conduct a live racing meet within the calendar year or the immediately preceding calendar year of either:

(A) Horse racing under the Arkansas Horse Racing Law, § [23-110-101](#) et seq.; or

(B) Greyhound racing under the Arkansas Greyhound Racing Law, § [23-111-101](#) et seq.

(2) However, the commission may waive the requirement of subdivision (b)(1) of this section if the license was not issued because of events such as fire, storm, accident or other casualty, epidemic, shortages of horses or greyhounds, war, sabotage, acts of a public enemy, civil disturbances, strikes, labor disputes, work stoppages, or similar events.

(c) (1) Wagering on electronic games of skill conducted by a franchise holder in accordance with this chapter shall be lawful, notwithstanding any laws or parts of laws of the State of Arkansas to the contrary.

(2) However, this chapter is not intended to authorize a lottery or the sale of lottery tickets prohibited by Arkansas Constitution, Article 19, § 14.

(d) (1) In order to constitute an electronic game of skill under this chapter, the game must not be completely controlled by chance alone.

(2) A game is not completely controlled by chance alone if the betting public may attain through the exercise of skill or judgment a better measure of success in playing the game than could be mathematically expected on the basis of pure luck, that is, on the basis of pure random chance alone.

(e) For each electronic game of skill, the Arkansas Racing Commission shall provide by appropriate rule or regulation the specifications for establishing that patrons, in the aggregate, exercising some degree of skill or judgment, over the expected lifetime of the electronic game of skill, will obtain a payout of at least eighty-three percent (83%) of the aggregate amounts wagered on the electronic game of skill.

(f) (1) Prior to conducting wagering on an electronic game of skill, the franchise holder shall present to the Arkansas Racing Commission:

(A) A complete description of the game and the electronic device or machine to be utilized in the play of the game, the proposed rules of play, and such further information as the commission determines is necessary or appropriate in order to effectively carry out its regulatory functions in accordance with this chapter; and

(B) Evidence of anticipated economic benefits to the horse racing or greyhound racing industries in Arkansas, including Arkansas horse or greyhound farms and breeding operations and related agribusinesses, which may result, directly or indirectly, from the authorization of wagering on the electronic game of skill.

(2) (A) Within sixty (60) calendar days after the submission of the information required by subdivision (f)(1) of this section, the commission shall make a finding as to whether:

(i) The game and electronic device or machine constitutes an electronic game of skill authorized by this chapter; and

(ii) Economic benefits to the horse racing or greyhound racing industries in Arkansas, including Arkansas horse or greyhound farms and breeding operations and related agribusinesses, may result, directly or indirectly, from the authorization of wagering on the electronic game of skill.

(B) The finding shall further either approve the proposed rules of play or recommend modifications as the commission determines are necessary in the public interest in carrying out its regulatory functions in accordance with this chapter.

(3) The franchise holder may commence conducting wagering on the electronic game of skill subject to the other provisions of this chapter and other applicable rules of the commission adopted pursuant to this chapter if:

(A) The finding concludes that:

(i) Economic benefits to the horse racing or greyhound racing industries in Arkansas, including Arkansas horse or greyhound farms and breeding operations and related agribusinesses, may result, directly or indirectly, from the authorization of wagering on the electronic game of skill; and

(ii) The game and electronic device or machine constitutes an electronic game of skill authorized by this chapter; and

(B) The commission approves the rules of play or, if applicable, the franchise holder incorporates the changes recommended by the commission into the final rules of play.

(4) If the finding concludes that the game and electronic device or machine does not constitute an electronic game of skill authorized by this chapter, recommends changes in the proposed rules of play, or concludes that neither direct nor indirect economic benefits to the horse racing or greyhound racing industries in Arkansas, including Arkansas horse or greyhound farms and breeding operations and related agribusinesses, will result from the authorization of wagering on the electronic game of skill, the commission shall provide the franchise holder with the opportunity for a hearing by the commission before the finding is made final by the commission.

(g) Wagers on electronic games of skill may be made only by individuals physically present at the location on the grounds of the franchise holder's authorized racetrack park site as set forth in subsection (a) of this section where electronic games of skill are located and being operated in accordance with this chapter.

(h) No individual under twenty-one (21) years of age shall be intentionally allowed to place wagers on electronic games of skill, and the commission shall provide by rule or regulation appropriate supervisory procedures for

franchise holders to follow in order to safeguard against individuals under twenty-one (21) years of age placing wagers on electronic games of skill.

History. Acts 2005, No. 1151, § 1.