

OVERVIEW and OBJECTIONS TO SB 324

Greene County racing commission creation:

In 1975, the Alabama Legislature adopted Act No. 376, known as the Racing Act, which created the Greene County Racing Commission and invested this body with regulatory, licensing, and supervisory authority over pari-mutuel wagering on dog races in Greene County. Among its other provisions, the Racing Act provides that licensees must pay the Commission a license fee of up to \$1,000 a year and a **4 percent tax** on the total contributions to **all pari-mutuel pools** conducted or made on any racetrack licensed under the Racing Act.

It is of the opinion that Pari-mutual wagering was voted on statewide and is a statewide issue, SB324 should never have originated as a local bill.

Historical Horse racing machines are CLASS III Machines.

These machines have undergone an evolution of technology that has made the modern versions virtually indistinguishable from traditional slot games. Below is a recent Facebook ad from Greene County Entertainment, formerly GreenTrack

“VEGAS STYLE GAMING, FOR REAL.”



The advertisement features a dark background with a brick wall texture. At the top, a glowing pink rectangular frame contains the text "GREENE COUNTY ENTERTAINMENT" in bold, pink, sans-serif font, with "New Company Alert" written in a pink cursive script below it. Below the frame is a photograph of a row of slot machines. To the right of the photo, the text "GCE GRAND OPENING" is written in bold, white, sans-serif font, followed by "Monday, May 8, 2023" and "Doors open at 10 AM" in a smaller white font. Below this, the phrase "VEGAS STYLE GAMING FOR REAL!" is written in bold, pink, sans-serif font, flanked by pink double arrow symbols. At the bottom, the text "There's no brand better than the GREENE COUNTY ENTERTAINMENT BRAND! We're excited to meet you!" is written in white. In the bottom left corner, it says "Bring all your friends to join the Greene County Entertainment Nation!" in white. In the bottom right corner, a white-bordered box contains the text "FOR MORE INFORMATION 205-372-9318 In the old Greenetrack building!" in black.

Attorney General RESPONSE

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Alabama Attorney General Steve Marshall says the Birmingham Racecourse's new historical horse racing machines are legal - **as long as they are in compliance with existing opinions from his office.**

This week, the course rolled out 301 of the machines, which allow users to place wagers on horse races that have already taken place. Historical pari-mutuel betting, which is allowed in several other states including Kentucky, uses historical information from previously run races, allowing bettors to pick the favorites or handicap for themselves.

“The Office responded to both inquiries by saying that, because there had been no changes to the law since the opinions were issued in 2001 and 2009, the opinions were still in effect,” the statement reads. “If the new machines offered at the Birmingham Racecourse are in compliance with these opinions, then they are presumably legal. If they are not, then the opinions will offer no defense to a violation of the law.”

Under SB324 these new Historical Horse Racing machines are not legal, because they would eliminate the skill of making a pari-mutual wager, eliminate any need of skill, give the operator control of graphics, which in turn would eliminate the use of the actual horse race and finally, since players aren't betting on the same race, IT DOES NOT count as pari-mutuel betting.

Conclusion

It is clear from the Attorney General's opinion (outlined below) that if challenged, according to the statement made by the Attorney General, **“If they are not, then the opinions will offer no defense to a violation of the law.”** These machines would be ILLEGAL.

Below are current machines, used in advertising at Greene County Entertainment. These do not look like Historical Horse Racing Machines, but as advertised, “VEGAS STYLE GAMING, FOR REAL.”





Proposed SB324 Language

- (46) B. “For purpose of this amendment, pari-mutual wagering on historical horse racing computerized machines may be conducted without regard to any of the following:
1. The type of graphics on the machine used to conduct the activity;
 2. Whether the patron chooses a specific horse upon which to wager;
 3. Whether the patron watches all or part of the historical race.

The Creation of a Loophole

The Attorney General opinions of “What is or What is not,” Historical Horse racing is very clear:

1. A computerized machine that replays ACTUAL HISTORICAL RACES. (Ex. A&B)
2. Requires a player to exercise a significant degree of skill in making pari-mutual wager on the outcome of the race. (Ex. A&B)
3. The Alabama Supreme Court has made it clear that, “A significant degree of skill is involved in picking the winning. (Ex. A&B)
4. Requires the player to pick a horse.

Conclusion

This Bill would create a loophole or simply pervert the law to benefit a newly former corporation that is trying to escape tax liabilities owed to the State of Alabama. GreeneTrack, Inc., owes the State of Alabama over \$75,000,000 million dollars in back taxes before penalties and interest. This bill would violate the Attorney General Opinion on Historical Horse Racing, along with all other State Court Rulings.

SB324 would allow Greene County Entertainment, Inc. to have incredible broad authority with games, allowing them to determine the graphic make up of the machine to the end user, would not require the player to even pick a horse, elimination all “skill” and allows the player to not have to wait while the machine “renders” the outcome. The waiting for the “rendering” of the machine is the biggest complaint of players.

These machines even offer an AUTO-BET feature, taking out the player’s need to even pick a horse. In addition, since players aren’t betting on the same race, IT DOES NOT count as pari-mutuel betting. This bill would allow these machines to resemble slots and seem to create, and then exploit a loophole in Alabama that prohibits slot gambling for all practical purposes.

As seen in the pictures used by Greene County Entertainment, Inc. in advertising it is clear that these machines look and feel just like slot machines that are illegal in Alabama. These machines do not even require picking a race. Pictures are attached as (Ex. C.,D.,E).

Tax Rate

(56) Part II SB324 would, “A local tax shall . . . be set by the Greene County Racing Commission at a **rate OF UP to 4%**.”

Conclusion

The current levied tax on pari-mutuel wagering on horse races is **SET** at 4%.



Restraint of Trade, Creating a Monopoly

(83) b. “The Greene County Racing Commission shall not issue any license that would permit any two racetracks in the county to operate on the same day.”

(86) c. “An application to operate a racetrack shall only be granted to an individual who has been a resident of the state of Alabama for at least five years immediately preceding the date on which the license is issued, or to a corporation, association, company, partnership, or other legal entity that has been incorporated, organized, or otherwise established in the State of Alabama for at least five years immediately preceding the date on which the license is issued.

Conclusion

The Greene County Racing Commission has already issued a License to Greene County Entertainment. Effectively, this Legislation would codify into law an EXCLUSIVE MONOPOLY to Greene County Entertainment.

In addition, section (c) WOULD eliminate Greene County Entertainment from applying for a license since GREENE COUNTY ENTERTAINMENT was formed as a corporation on January 20, 2023. According to their own Legislation they would not even be “Qualified” to receive a license.



When in Debt to the State of Alabama, Simply Re-Incorporate

As seen in (Ex. F & G) the State of Alabama Department of Revenue has TWO separate Final Assessment of Sales Tax and Consumer Tax on GreeneTrack, Inc. The Sales Tax assessment is \$75,511,388 and the Consumer Tax assessment \$746,292.00.

It should also be noted that the property that GreeneTrack, Inc., currently resides on and now the new entity that has been re-incorporated by the same owner, is jointly owned by the Greene County Commission.

Prior to the creation of GREENE COUNTY ENTERTAINMENT, the track was owned by over 300 shareholders the majority owner Luther “Nat” Winn. Without any corporate resolution or formal dissolution or vote by the shareholders Nat Winn simply closed the doors and re-incorporated the new Greene County Entertainment to AVOID TAX LIABILITY to the State of Alabama. (Ex. H).

Nat Winn, the President of GreeneTrack, Inc. FAILED in his basic fiduciary Liability to the over 300 shareholders of GreeneTrack, Inc. However, this has worked in Nat Winn’s favor.

Fighting the State of Alabama, shareholders and nonpayment to vendors including Greene County Commission, Nat Winn President of GreeneTrack, Inc. unilaterally closed the track.

On 01/20/2023, GREENE COUNTY ENTERTAINMENT, Inc. formed. The filing included does not list any corporate officers; thus, it is difficult to determine who the new owner could be. However as seen in (Ex. I) a solicitation for “raising capital” for Greene County Entertainment is signed by LUTHER WINN, President. Luther Winn is the former owner and President of Greentrack, Inc. that owes MILLIONS to this STATE.

Questionable Bid Rigging

On or about February 2, 2023 the Greene County Racing Commission, that has their offices located in GREENETRACK, issued a Request For Proposal (RFP) Including Application for License. (Ex. J)

This RFP was issued on February 2, 2023 and closed **11 days** later on February 13th, 2023. It would appear in the eyes of some that this is a classic example of bid rigging. It would be impossible for any serious gaming corporation to prepare an RFP in 11 short days. It is of the opinion that Greene County Racing Commission has engaged in BID RIGGING to benefit NAT WINN and to make sure he was the only person that could win the bid.

What is even more amazing is that Nat Winn previously had submitted an application to the State of New York and did not mention that GreenTrack, Inc. had a tax lien and was immediately thrown out of the application process for falsifying the application with non-disclosure.

What is even more astonishing is that any Gaming Licensing Board would approve a license for a gaming venture, when that company owes over \$76 million dollars to the

State of Alabama and million in unpaid rent to Greene County, would ever be allowed to be awarded a gaming license. Any other legitimate Gaming Commission would immediately remove GreenTrack, Inc. from consideration.

Prior to licensing, Greene County Entertainment had already launched a new advertising campaign in the name of Greene County Entertainment. Furthering the concern that there was a conspiracy to “Bid Rig” to make sure that Nat Winn would remain in control of Pari-Mutual racing in Greene County.

Conclusion

It is troubling and saddening that one of the poorest counties in America continues to get poorer. This Legislative body enacted Legislation for the people of Greene County not ONE person. Gaming revenue in Greene County could be a economic boost to the county, however one person believes he owns and is entitled to all of the Gaming revenue in Greene County.

It is unimaginable, saddening and sickening, to believe the State of Alabama, the Greene County Gaming Commission and now the Alabama Legislative body would reward Luther “Nat” Winn who has been so reckless in his fiduciary duties to the people of Greene County with a piece of Legislation that would so pervert the intent of Historical Horse Racing and reward Nat Winn a Monopoly in Greene County.

**VOTE NO ON SB
324**