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SENATE BILL 378

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

George K. Munoz

AN ACT

RELATING TO HORSE RACING; CHANGING THE REQUIREMENTS FOR MEMBERS OF THE STATE RACING COMMISSION; SETTING APPORTIONMENT OF MONEY FROM CERTAIN PURCHASES OF PARI-MUTUEL TICKETS FOR SIMULCAST HORSE RACES; LIMITING RETAINAGE OF CERTAIN WAGERS; CLARIFYING MONEY TO BE PAID INTO A FUND CREATED BY THE NEW MEXICO HORSE BREEDERS' ASSOCIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 60-1A-3 NMSA 1978 (being Laws 2007, Chapter 39, Section 3) is amended to read:

"60-1A-3. COMMISSION CREATED--APPOINTMENT OF MEMBERS--TERMS OF OFFICE.--

A. The "state racing commission" is created and is administratively attached to the tourism department.

B. The commission shall consist of five members, no

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1 more than three of whom shall be members of the same political
2 party. The commission members shall be appointed by the
3 governor and be confirmed by the senate. All members of the
4 commission shall hold at-large positions on the commission.

5 C. ~~[At least three]~~ No more than two of the members
6 of the commission shall be practical breeders of racehorses
7 within New Mexico.

8 D. A commission member shall have primary residence
9 in New Mexico and shall be of high character and reputation so
10 that public confidence in the administration of horse racing is
11 maintained.

12 E. The term of each member of the commission shall
13 be six years from the date of the member's appointment. The
14 member shall serve until a successor is appointed. In the case
15 of a vacancy in the membership of the commission, the governor
16 shall fill the vacancy by appointment for the unexpired term.

17 F. A person shall not be eligible for appointment
18 as a member of the commission who is an officer, official or
19 director in a corporation conducting horse racing within the
20 state.

21 G. Members of the commission shall receive no
22 salary, but each member of the commission shall receive per
23 diem and mileage pursuant to the Per Diem and Mileage Act.

24 H. The commission may appoint an executive director
25 and establish the executive director's duties and

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1 compensation."

2 SECTION 2. Section 60-1A-19 NMSA 1978 (being Laws 2007,
3 Chapter 39, Section 19) is amended to read:

4 "60-1A-19. RETAINAGE--NEW MEXICO HORSE BREEDERS'
5 ASSOCIATION AND NEW MEXICO HORSEMEN'S ASSOCIATION--BREAKAGE--
6 DISTRIBUTION OF RETAINED AMOUNTS.--

7 A. Each racetrack licensee shall notify the
8 commission at least thirty days prior to each race meet of the
9 amount of exotic wager retainage that the racetrack licensee
10 will retain pursuant to Paragraph (1) or (2) of this
11 subsection. There shall be an amount retained by the racetrack
12 licensee equal to:

13 (1) for a class A racetrack licensee:
14 (a) nineteen percent of the gross amount
15 wagered on win, place and show, of which: 1) eighteen and
16 three-fourths percent shall be retained by the racetrack
17 licensee; and 2) one-fourth percent shall be remitted to the
18 taxation and revenue department for deposit in the general
19 fund; and

20 (b) not less than twenty-one percent and
21 not greater than twenty-five percent of the gross amount
22 wagered in exotic wagers; and

23 (2) for a class B racetrack licensee:
24 (a) not less than eighteen and three-
25 fourths percent and not greater than twenty-five percent of the

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1 gross amount wagered daily on win, place and show; and

2 (b) not less than twenty-one percent and
3 not greater than thirty percent of the gross amount wagered in
4 exotic wagers.

5 B. There shall be retained by a racetrack licensee
6 for allocation to the New Mexico horse breeders' association
7 amounts equal to:

8 (1) five-eighths percent of the gross amount
9 wagered on win, place and show to be allocated weekly to the
10 New Mexico horse breeders' association for further distribution
11 pursuant to the provisions of Subsection D of Section 60-1A-24
12 NMSA 1978; and

13 (2) one and three-eighths percent of the gross
14 amount wagered in exotic wagers to be allocated weekly to the
15 New Mexico horse breeders' association for further distribution
16 pursuant to the provisions of Subsection D of Section 60-1A-24
17 NMSA 1978.

18 C. The breakage from the gross amount wagered
19 through pari-mutuel wagering shall be retained by the licensee
20 and allocated as follows:

21 (1) fifty percent of the total breakage shall
22 be retained by the racetrack licensee; and

23 (2) fifty percent of the total breakage shall
24 be allocated by the racetrack licensee to enhance the race
25 purses of established stakes races that include only New

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1 Mexico-bred horses that are registered with the New Mexico
2 horse breeders' association. The New Mexico horse breeders'
3 association shall distribute the percentage designated to
4 purses pursuant to Subsection D of Section [~~60-1-24~~] 60-1A-24
5 NMSA 1978, subject to the approval of the commission.

6 D. All money resulting from the failure of patrons
7 who purchased winning pari-mutuel tickets during a race meet to
8 redeem their winning tickets before the end of the sixty-day
9 period immediately succeeding the closing day of the race meet
10 or from all money resulting from the failure of patrons who
11 purchased pari-mutuel tickets that were entitled to a refund
12 but were not refunded by the end of the sixty-day period
13 immediately following the race meet shall be apportioned as
14 follows:

15 (1) for live races:

16 (a) thirty-three and thirty-three
17 hundredths percent shall be retained by the racetrack licensee;

18 [~~(2)~~] (b) thirty-three and thirty-four
19 hundredths percent shall be distributed to the New Mexico horse
20 breeders' association to enhance each racetrack licensee's
21 established overnight purses for races that include only horses
22 registered as New [~~Mexico-bred~~] Mexico-bred pursuant to
23 Paragraph (3) of Subsection D of Section 60-1A-24 NMSA 1978,
24 subject to the approval of the commission; and

25 [~~(3)~~] (c) thirty-three and thirty-three

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1 hundredths percent shall be allocated to the New Mexico
2 horsemen's association for purses; and

3 (2) for simulcast races:

4 (a) sixty percent shall be retained by
5 the racetrack licensee;

6 (b) twenty percent shall be distributed
7 to the New Mexico horse breeders' association to enhance each
8 racetrack licensee's established overnight purses for races
9 that include only horses registered as New Mexico-bred pursuant
10 to Paragraph (3) of Subsection D of Section 60-1A-24 NMSA 1978,
11 subject to the approval of the commission; and

12 (c) twenty percent shall be allocated to
13 the New Mexico horsemen's association for purses.

14 E. One-half percent of the gross amount wagered on
15 simulcast horse races broadcast to a horse racetrack in New
16 Mexico shall be distributed by the racetrack licensee to the
17 New Mexico horsemen's association for medical benefits for the
18 members of the New Mexico horsemen's association. The
19 commission shall by rule provide for the timing and manner of
20 the distribution required pursuant to this subsection and shall
21 audit or arrange for an independent audit of the distributions
22 required.

23 F. Amounts to be deducted from the retainage by the
24 racetrack licensee from any form of wager made on the licensed
25 premises of the racetrack licensee are:

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1 (1) the daily pari-mutuel tax imposed by
2 Section 60-1A-18 NMSA 1978;

3 (2) money allocated in this section to the New
4 Mexico horse breeders' association;

5 (3) money allocated by this section to the New
6 Mexico horsemen's association;

7 (4) expenses incurred to engage in
8 [~~intrastate~~] simulcasting pursuant to the Horse Racing Act;
9 provided that the deduction for a racetrack licensee shall be
10 [~~a portion of~~] five percent of the gross amount wagered at all
11 the sites receiving the same simulcast horse races and:

12 (a) the deduction for a racetrack
13 licensee shall be an amount allocated to the racetrack licensee
14 by agreement voluntarily reached between all the racetracks
15 sending or receiving the same simulcast horse races; or

16 (b) the deduction for a racetrack
17 licensee shall be an amount identified by the commission if all
18 the racetracks sending or receiving the same simulcast horse
19 races fail to reach a voluntary agreement on the level at which
20 to set the rate of the deduction for expenses incurred for
21 engaging in intrastate simulcasting; and

22 (5) fees incurred to receive interstate
23 simulcasts pursuant to the Horse Racing Act.

24 G. A racetrack licensee shall allocate to the New
25 Mexico horse breeders' association five percent of the daily

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1 retainage on interstate common pools received from a guest
2 state by a racetrack licensee. Of the net retainage from all
3 wagers, after deductions:

4 (1) fifty percent shall be allocated to
5 purses; and

6 (2) fifty percent shall be retained by the
7 racetrack licensee."

8 SECTION 3. Section 60-1A-24 NMSA 1978 (being Laws 2007,
9 Chapter 39, Section 24, as amended) is amended to read:

10 "60-1A-24. BREEDERS' AWARDS.--

11 A. The New Mexico horse breeders' association shall
12 create a fund to pay horse breeders of New Mexico-bred horses
13 merit and incentive awards.

14 B. A racetrack licensee shall pay into a fund
15 created by the New Mexico horse breeders' association an amount
16 equal to ten percent of the first money of a purse won that is
17 generated from wagering on live and simulcast races, except for
18 stakes-race purses, at a horse race in New Mexico by a horse
19 registered with the New Mexico horse breeders' association as a
20 New Mexico-bred horse. From stakes-race purses, a racetrack
21 licensee shall pay into the fund created by the New Mexico
22 horse breeders' association an amount equal to ten percent of
23 the added money generated from wagering on live and simulcast
24 races.

25 C. The track purse money generated from wagers on

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1 live and simulcast races deposited with the New Mexico horse
2 breeders' association by a racetrack licensee pursuant to
3 Subsection B of this section shall be paid weekly to the
4 breeder of record as recorded by the New Mexico horse breeders'
5 association upon certification of the commission.

6 D. In addition to the money distributed pursuant to
7 Subsection B of this section, the New Mexico horse breeders'
8 association shall distribute the money allocated to the New
9 Mexico horse breeders' association pursuant to Subsections B, C
10 and D of Section 60-1A-19 NMSA 1978 in the following manner and
11 pursuant to rules adopted by the commission:

12 (1) forty-five percent of the money to the
13 breeders of record as recorded by the New Mexico horse
14 breeders' association of the first-, second- and third-place
15 finishers;

16 (2) seven percent of the money to the owners
17 of the stallions that sired the first-place winners at the time
18 the winners were conceived;

19 (3) no more than eight percent of the money to
20 be retained by the New Mexico horse breeders' association for
21 the purpose of administering the distribution program set forth
22 in this section; and

23 (4) the remaining money to be divided among
24 the owners of the first-, second- and third-place finishers
25 during each race meet, provided that the first-, second- and

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1 third-place finishers are registered as New Mexico-bred horses
2 with the New Mexico horse breeders' association and the owners
3 are members of the association.

4 E. The commission shall establish by rule
5 fiduciary, security and insurance safeguards for the money
6 deposited with and paid out or distributed by the New Mexico
7 horse breeders' association pursuant to the Horse Racing Act.

8 F. A check or other negotiable instrument
9 representing a payment pursuant to Subsection D of this section
10 that is not negotiated within one year from the date of
11 issuance is no longer valid and negotiable. The money
12 represented by the check or other negotiable instrument shall
13 revert to the fund created pursuant to Subsection A of this
14 section and the recipient shall no longer be eligible for the
15 payment.

16 G. A person otherwise eligible for a payment
17 pursuant to Subsection D of this section shall not be eligible
18 if the person does not provide within ninety days of
19 eligibility for a merit and incentive award information
20 necessary for the New Mexico horse breeders' association to
21 comply with state and federal tax law."