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HOUSE BILL 199

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

INTRODUCED BY

Candy Spence Ezzell and Brian Egolf

AN ACT

RELATING TO HORSE RACING; AMENDING THE HORSE RACING ACT;
PROVIDING FOR ADVANCE DEPOSIT WAGERING.

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

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

"60-1A-2. DEFINITIONS.--As used in the Horse Racing Act:

A. "advance deposit wagering" means a form of
pari-mutuel wagering in which an individual may deposit money
in an account with an authorized licensee and use the account
balance to pay for pari-mutuel wagers made by communication
with the licensed wagering provider through electronic means.
Placing an advance deposit wager is not gambling as defined in
Section 30-19-2 or 30-19-3 NMSA 1978;

~~[A.]~~ B. "board" means the gaming control board;

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1 ~~[B.]~~ C. "breakage" means the odd cents by which the
2 amount payable on each dollar wagered exceeds a multiple of
3 ten;

4 ~~[G.]~~ D. "commission" means the state racing
5 commission;

6 ~~[D.]~~ E. "exotic wagering" means all wagering other
7 than on win, place or show, through pari-mutuel wagering;

8 ~~[E.]~~ F. "export" means to send a live audiovisual
9 broadcast of a horse race in the process of being run at a
10 horse racetrack from the originating horse racetrack to another
11 location;

12 ~~[F.]~~ G. "guest state" means a jurisdiction, other
13 than the jurisdiction in which a horse race is run, in which a
14 horse racetrack, off-track wagering facility or other facility
15 that is a member of and subject to an interstate common pool is
16 located;

17 ~~[G.]~~ H. "guest track" means a horse racetrack, off-
18 track wagering facility or other licensed facility in a
19 location other than the state in which a horse race is run that
20 is a member of and subject to an interstate common pool;

21 ~~[H.]~~ I. "handle" means the total of all pari-mutuel
22 wagering sales, excluding refunds and cancellations;

23 ~~[I.]~~ J. "horse race" means a competition among
24 racehorses on a predetermined course in which the horse
25 completing the course in the least amount of time generally

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1 wins;

2 ~~[J-]~~ K. "host state" means the jurisdiction within
3 which a sending track is located, also known as a "sending
4 state";

5 ~~[K-]~~ L. "host track" means the horse racetrack from
6 which a horse race subject to an interstate common pool is
7 transmitted to members of that interstate common pool, also
8 known as a "sending track";

9 ~~[L-]~~ M. "import" means to receive a live
10 audiovisual broadcast of a horse race;

11 ~~[M-]~~ N. "interstate common pool" means a pari-
12 mutuel pool that combines comparable pari-mutuel pools from one
13 or more locations that accept wagers on a horse race run at a
14 sending track for purposes of establishing payoff prices at the
15 pool members' locations, including pools in which pool members
16 from more than one state simultaneously combine pari-mutuel
17 pools to form an interstate common pool;

18 ~~[N-]~~ O. "jockey club" means an organization that
19 administers thoroughbred registration records and registers
20 thoroughbreds;

21 ~~[O-]~~ P. "licensed premises" means land, together
22 with all buildings, other improvements and personal property
23 located on the land, that is under the direct control of a
24 racetrack licensee, including the restricted areas, grandstand
25 and public parking areas;

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1 [P.] Q. "licensee" means a person licensed by the
2 commission and includes a holder of an occupational, secondary
3 or racetrack license;

4 [Q.] R. "occupational license" means a license
5 issued by the commission to a vendor or to a person having
6 access to a restricted area on the licensed premises, including
7 a horse owner, trainer, jockey, agent, apprentice, groom,
8 exercise person, veterinarian, valet, farrier, starter,
9 clocker, racing secretary, pari-mutuel clerk and other
10 personnel designated by the commission whose work, in whole or
11 in part, is conducted around racehorses or pari-mutuel betting
12 windows;

13 [R.] S. "pari-mutuel wagering" means a system of
14 wagering in which bets on a live or simulcast horse race are
15 pooled and held by the racetrack licensee or its designee for
16 distribution of the total amount, less the deductions
17 authorized by law, to holders of winning tickets; "pari-mutuel
18 wagering" does not include bookmaking or pool selling;

19 [S.] T. "pari-mutuel wagering pool" means the total
20 of all money wagered pursuant to a specific wagering and payout
21 condition permitted by the Horse Racing Act on a specific horse
22 race through pari-mutuel wagering systems;

23 [T.] U. "practical breeder" means a person who has
24 practical experience in breeding horses, although the person
25 may not be actively involved in breeding horses;

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1 ~~[U.]~~ V. "primary residence" means the domicile
2 where a person resides for most of the year, and, if the person
3 is temporarily out of state, the address where a person will
4 return when the person returns to New Mexico or the address
5 that a person uses for purposes of a driver's license, passport
6 or voting;

7 ~~[V.]~~ W. "quarter horse" means a racehorse that is
8 registered with the American quarter horse association or any
9 successor association;

10 ~~[W.]~~ X. "race meet" means a period of time within
11 dates specified by the commission in which a racetrack licensee
12 is authorized to conduct live racing on the racing grounds;

13 ~~[X.]~~ Y. "racehorse" means a quarter horse or
14 thoroughbred that is bred and trained to compete in horse
15 races;

16 ~~[Y.]~~ Z. "racetrack license" means a license to
17 conduct horse races issued by the commission;

18 ~~[Z.]~~ AA. "racetrack licensee" means a person who
19 has been issued a racetrack license;

20 ~~[AA.]~~ BB. "racing grounds" means the area of the
21 restricted area of licensed premises used for the purpose of
22 conducting horse races and all activities ancillary to the
23 conduct of horse races, including the track, stable area,
24 jockey's quarters and horse training areas;

25 ~~[BB.]~~ CC. "retainage" means money that is retained

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1 from wagers on win, place and show and on exotic wagers by a
2 racetrack licensee pursuant to the Horse Racing Act;

3 ~~[GG-]~~ DD. "restricted areas" means the stable area,
4 the area behind the pari-mutuel betting windows and anywhere on
5 the racing grounds;

6 ~~[DD-]~~ EE. "secondary licensee" means all officers,
7 directors, shareholders, lenders or holders of evidence of
8 indebtedness of a corporation or legal entity owning a horse
9 racetrack, and all persons holding a direct or indirect
10 interest of any nature whatsoever in the horse racetrack,
11 including interests or positions that deal with the funds of
12 the racetrack or that are administrative, policymaking or
13 supervisory;

14 ~~[EE-]~~ FF. "simulcast" means a transmission of a
15 live audiovisual broadcast of a horse race being run at a horse
16 racetrack other than the horse racetrack or other licensed
17 facility at which the broadcast is being received for viewing
18 pursuant to a simulcasting contract;

19 ~~[FF-]~~ GG. "stakes race" means a horse race in which
20 nominations or entry or starting fees contribute to the purse;
21 an overnight race is not a stakes race;

22 ~~[GG-]~~ HH. "steward" means an employee of the
23 commission who supervises horse races and oversees a race meet
24 while in progress, including holding hearings regarding
25 licensees and enforcing the rules of the commission and the

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1 horse racetrack;

2 ~~[HH-]~~ II. "takeout" means amounts authorized by
3 statute to be deducted from the pari-mutuel wagers;

4 ~~[HH-]~~ JJ. "thoroughbred" means a racehorse that is
5 registered with the jockey club;

6 ~~[JJ-]~~ KK. "track" means the surfaced oval area on
7 which horse races are conducted; and

8 ~~[KK-]~~ LL. "vendor" means a person who provides
9 goods or services to or in the racing grounds or restricted
10 area of the licensed premises of a horse racetrack."

11 **SECTION 2.** Section 60-1A-15 NMSA 1978 (being Laws 2007,
12 Chapter 39, Section 15) is amended to read:

13 "60-1A-15. PARI-MUTUEL WAGERING AUTHORIZED--ADVANCE
14 DEPOSIT WAGERING--GAMBLING STATUTES DO NOT APPLY.--

15 A. A racetrack licensee may conduct pari-mutuel
16 wagering on live horse races or on simulcasted horse races.
17 The commission shall promulgate rules to conduct wagering on
18 horse races that include the use of third-party information and
19 technology service providers.

20 B. Pari-mutuel wagering may be conducted only on
21 the licensed premises where a live horse race is conducted or
22 where a simulcast horse race is televised or projected on the
23 racing grounds of the licensed premises of a racetrack licensee
24 or via advance deposit wagering accounts pursuant to this
25 section.

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1 C. Advance deposit wagering is authorized
2 pari-mutuel wagering on horse races if conducted in compliance
3 with this section and the federal Interstate Horseracing Act of
4 1978.

5 D. Advance deposit wagering shall only be conducted
6 by a racetrack licensee per commission approval. The
7 commission shall approve the racetrack licensee's request to
8 conduct advance deposit wagering in conjunction with its
9 racetrack license either through the use of an approved
10 wagering hub or through an agreement with an advance deposit
11 wagering service provider.

12 E. A request to the commission to conduct advance
13 deposit wagering shall contain the following:

14 (1) a description of the operational plan to
15 open, fund and disable wagering accounts;

16 (2) a description of the identity validation
17 procedures that encompass the restrictions pursuant to the
18 Horse Racing Act; and

19 (3) a copy of the proposed agreement by and
20 between the racetrack licensee and its technology service
21 providers, if any, that addresses the requirements of this
22 section.

23 F. A racetrack licensee or advance deposit wagering
24 service provider conducting advance deposit wagering business
25 in the state pursuant to the Horse Racing Act shall retain an

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1 amount of not more than five percent from wagers on races run
2 at horse racetracks in New Mexico and that are received from
3 within the state of New Mexico. The remainder of the retainage
4 and allowable deductions from an account wagering handle
5 pursuant to this section on races conducted by a racetrack
6 licensee shall be apportioned in the same proportions described
7 in Sections 60-1A-18 and 60-1A-19 NMSA 1978.

8 G. A racetrack licensee or advance deposit wagering
9 service provider conducting advance deposit wagering business
10 in the state pursuant to the Horse Racing Act shall pay a
11 source market fee of five percent of the total of all wagers
12 accepted from a New Mexico resident on horse races conducted
13 outside the state of New Mexico. Funds collected pursuant to
14 this subsection shall be deposited to a trust account held by
15 the New Mexico horsemen's association and allocated to the
16 following entities quarterly as follows:

17 (1) forty-five percent to the racetrack
18 licensees based on a number of live racing days allocated in
19 the current fiscal year basis to be used as purses at those
20 tracks;

21 (2) forty-five percent to the racetrack
22 licensees based on a number of live racing days allocated in
23 the current calendar year basis as revenue;

24 (3) five percent to the breeder award fund;
25 and

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1 (4) five percent to the commission to be added
2 to the racehorse testing fund.

3 [~~G.~~] H. The sale to patrons present on the licensed
4 premises of a racetrack licensee of pari-mutuel tickets or
5 certificates is not gambling as defined in Section 30-19-2 or
6 30-19-3 NMSA 1978.

7 [~~D.~~] I. Placing a wager while on the licensed
8 premises of a racetrack licensee is not placing a bet pursuant
9 to Section 30-19-1 NMSA 1978.

10 [~~E.~~] J. The licensed premises of a horse racetrack
11 is not a gambling place as defined in Section 30-19-1 NMSA
12 1978."

13 **SECTION 3.** Section 60-1A-16 NMSA 1978 (being Laws 2007,
14 Chapter 39, Section 16) is amended to read:

15 "60-1A-16. SIMULCASTING.--

16 A. All simulcasting of horse races shall have prior
17 approval of the commission, and the commission shall adopt
18 rules concerning the simulcasting of horse races as provided in
19 this section.

20 B. A racetrack licensee shall not be allowed to
21 simulcast horse races unless that racetrack licensee offers at
22 least seventeen days per year of pari-mutuel wagering on live
23 horse races run on the premises of the racetrack licensee.

24 C. The commission may permit exporting of a horse
25 race being run by a racetrack licensee to another racetrack

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1 licensee within New Mexico or exporting of a horse race from a
2 racetrack licensee to another location holding a pari-mutuel or
3 gaming license that allows simulcasting of a horse race from
4 outside of the state or jurisdiction that licenses that out-of-
5 state facility.

6 D. The commission may permit importing by a
7 racetrack licensee of horse races that are being run at
8 racetracks outside of the state licensed by a host state.

9 E. Pari-mutuel wagering on simulcast horse races
10 shall be prohibited except on the licensed premises of a
11 racetrack licensee during the licensee's race meet at the horse
12 racetrack, [øæ] when the racetrack licensee is importing a race
13 meet from another New Mexico-licensed horse racetrack or via
14 advance deposit wagering pursuant to Section 60-1A-15 NMSA 1978
15 and rules promulgated by the commission.

16 F. A New Mexico-licensed horse racetrack that is
17 within a radius of eighty miles of any other New Mexico-
18 licensed horse racetrack with a race meet in progress may only
19 conduct pari-mutuel wagering on imported horse races if there
20 is a written agreement between the two racetrack licensees
21 allowing pari-mutuel wagering on imported horse races during
22 the period of time that the live horse races are taking place."