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HOUSE BILL 239

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

INTRODUCED BY

Georgene Louis and Doreen Y. Gallegos and Candy Spence Ezzell

AN ACT

RELATED TO GAMING; ALLOWING ALCOHOL ON THE GAMING FLOOR OF A HORSE RACETRACK CASINO IF IT IS ALLOWED ON THE GAMING FLOOR OF A TRIBAL CASINO.

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

**SECTION 1.** Section 60-2E-27 NMSA 1978 (being Laws 1997, Chapter 190, Section 29, as amended) is amended to read:

"60-2E-27. GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS FOR RACETRACKS--NUMBER OF GAMING MACHINES--DAYS AND HOURS OF OPERATIONS.--

A. A racetrack licensed by the state racing commission pursuant to the Horse Racing Act to conduct live horse races or simulcast races may be issued a gaming operator's license to operate gaming machines on its premises where live racing is conducted.

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1           B. A racetrack's gaming operator's license shall  
2 automatically become void if:

3                   (1) the racetrack no longer holds an active  
4 license to conduct pari-mutuel wagering;

5                   (2) the racetrack paid gaming tax to the state  
6 on its net take in an amount greater than eight million dollars  
7 (\$8,000,000) in the prior fiscal year pursuant to Section  
8 60-2E-47 NMSA 1978 and fails to maintain a minimum of four live  
9 race days a week with at least nine live races on each race day  
10 during its licensed race meet, except as provided in Subsection  
11 F of this section; or

12                   (3) the racetrack paid gaming tax to the state  
13 on its net take in an amount equal to eight million dollars  
14 (\$8,000,000) or less in the prior fiscal year pursuant to  
15 Section 60-2E-47 NMSA 1978 and fails to maintain a minimum of  
16 three live race days a week with at least ten live races on  
17 each day during its licensed race meets, except as provided in  
18 Subsection F of this section.

19           C. Unless a larger number is allowed pursuant to  
20 Subsection D of this section, a gaming operator licensee that  
21 is a racetrack may have up to six hundred licensed gaming  
22 machines.

23           D. By execution of an allocation agreement, signed  
24 by both the allocating racetrack and the racetrack to which the  
25 allocation is made, a gaming operator licensee that is a

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1 racetrack may allocate any number of its authorized gaming  
2 machines to another gaming operator licensee that is a  
3 racetrack. To be valid, the allocation agreement ~~[must]~~ shall  
4 bear the written approval of the board and the state racing  
5 commission, and this approval shall make specific reference to  
6 the meeting at which the action of approval was taken and the  
7 number of votes cast both for and against the approval. By  
8 allocating a number of its authorized machines to another  
9 racetrack, the allocating racetrack automatically surrenders  
10 all rights to operate the number of machines allocated. No  
11 racetrack shall operate or be authorized to operate more than  
12 seven hundred fifty gaming machines.

13 E. Gaming machines on a racetrack gaming operator  
14 licensee's premises may be played only on days when the  
15 racetrack is either conducting live horse races or simulcasting  
16 horse race meets. On days when gaming machines are permitted  
17 to be operated, a racetrack gaming operator licensee may offer  
18 gaming machines for operation for up to eighteen hours per day;  
19 provided that the total number of hours in which gaming  
20 machines are operated does not exceed one hundred twelve hours  
21 in a one-week period beginning on Tuesday at 8:00 a.m. and  
22 ending at 8:00 a.m. on the following Tuesday. A racetrack  
23 gaming operator licensee may offer gaming machines for play at  
24 any time during a day; provided that the total hours of  
25 operation in each day from just after midnight of the previous

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1 day until midnight of the current day does not exceed eighteen  
2 hours. A racetrack gaming operator licensee shall determine,  
3 within the limitations imposed by this subsection, the hours it  
4 will offer gaming machines for operation each day and shall  
5 notify the board in writing of those hours.

6 F. Maintaining fewer live race days or fewer live  
7 races on each race day during a licensed race meet does not  
8 constitute a failure to maintain the minimum number of live  
9 race days or races as required by Paragraphs (2) and (3) of  
10 Subsection B of this section if the licensee submits to the  
11 board written approval by the state racing commission for the  
12 licensee to vary the minimum number of live race days or races,  
13 and the variance is due to:

14 (1) the inability of a racetrack gaming  
15 operator licensee to fill races as published in the licensee's  
16 condition book as long as the same type of canceled race is run  
17 within the following two race weeks as the race season permits;

18 (2) severe weather or other act, event or  
19 occurrence resulting from natural forces;

20 (3) a strike or work stoppage by jockeys or  
21 other persons necessary to conduct a race or meet;

22 (4) a power outage, electrical failure or  
23 failure or unavailability of any equipment or supplies  
24 necessary to conduct a race or meet;

25 (5) hazardous conditions or other threats to

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1 the public health or safety; or

2 (6) any other act, event or occurrence that  
3 the board finds is not within the control of the licensee even  
4 with the exercise of reasonable diligence or care.

5 G. Unless, pursuant to a tribal-state class III  
6 gaming compact, alcoholic beverages are allowed to be sold,  
7 served, delivered or consumed in the physical area reserved for  
8 gaming within a tribal gaming facility, alcoholic beverages  
9 shall not be sold, served, delivered or consumed in the area  
10 restricted pursuant to Subsection F of Section 60-2E-26 NMSA  
11 1978."

12 SECTION 2. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2018.

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