SENATE BILL 362

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

INTRODUCED BY

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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;

B. "board" means the gaming control board;
[B.] C. "breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten;

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

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

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

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

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

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

[J.] J. "horse race" means a competition among racehorses on a predetermined course in which the horse completing the course in the least amount of time generally
wins;

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

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

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

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

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

[O.] P. "licensed premises" means land, together with all buildings, other improvements and personal property located on the land, that is under the direct control of a racetrack licensee, including the restricted areas, grandstand and public parking areas;
"licensee" means a person licensed by the commission and includes a holder of an occupational, secondary or racetrack license;

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

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

"pari-mutuel wagering pool" means the total of all money wagered pursuant to a specific wagering and payout condition permitted by the Horse Racing Act on a specific horse race through pari-mutuel wagering systems;

"practical breeder" means a person who has practical experience in breeding horses, although the person may not be actively involved in breeding horses;
"primary residence" means the domicile where a person resides for most of the year, and, if the person is temporarily out of state, the address where a person will return when the person returns to New Mexico or the address that a person uses for purposes of a driver's license, passport or voting;

"quarter horse" means a racehorse that is registered with the American quarter horse association or any successor association;

"race meet" means a period of time within dates specified by the commission in which a racetrack licensee is authorized to conduct live racing on the racing grounds;

"racehorse" means a quarter horse or thoroughbred that is bred and trained to compete in horse races;

"racetrack license" means a license to conduct horse races issued by the commission;

"racetrack licensee" means a person who has been issued a racetrack license;

"racing grounds" means the area of the restricted area of licensed premises used for the purpose of conducting horse races and all activities ancillary to the conduct of horse races, including the track, stable area, jockey's quarters and horse training areas;

"retainage" means money that is retained.
from wagers on win, place and show and on exotic wagers by a
racetrack licensee pursuant to the Horse Racing Act;

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

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

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

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

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

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

  [HI⁺] JJ. "thoroughbred" means a racehorse that is registered with the jockey club;

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

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

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

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

A. A racetrack licensee may conduct pari-mutuel wagering on live horse races or on simulcasted horse races. The commission shall promulgate rules permitting the conduct of wagering on horse races that includes the use of third-party information and technology service providers.

B. Pari-mutuel wagering may be conducted only on the licensed premises where a live horse race is conducted or where a simulcast horse race is televised or projected on the racing grounds of the licensed premises of a racetrack licensee or via advance deposit wagering accounts pursuant to this section."
C. Advance deposit wagering is authorized pari-mutuel wagering on horse races if conducted in compliance with this section and the federal Interstate Horseracing Act of 1978.

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

E. A request to the commission to conduct advance deposit wagering shall contain the following:
   (1) a description of the operational plan to open, fund and disable wagering accounts;
   (2) a description of the identity validation procedures that encompass the restrictions pursuant to the Horse Racing Act; and
   (3) a copy of the proposed agreement by and between the racetrack licensee and its technology service providers, if any, that addresses the requirements of this section.

F. A racetrack licensee or advance deposit wagering service provider conducting advance deposit wagering business in the state pursuant to the Horse Racing Act shall retain an
amount of not more than five percent from wagers on races run
at horse racetracks in New Mexico and that are received from
within the state of New Mexico. The remainder of the retainage
and allowable deductions from an account wagering handle
pursuant to this section on races conducted by a racetrack
licensee shall be apportioned in the same proportions described
in Sections 60-1A-18 and 60-1A-19 NMSA 1978.

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

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

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

(3) five percent to the breeder award fund;
and
(4) five percent to the commission to be added to the racehorse testing fund.

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

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

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

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

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

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

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

C. The commission may permit exporting of a horse race being run by a racetrack licensee to another racetrack.
licensee within New Mexico or exporting of a horse race from a
racetrack licensee to another location holding a pari-mutuel or
gaming license that allows simulcasting of a horse race from
outside of the state or jurisdiction that licenses that out-of-
state facility.

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

E. Except as provided in Subsection G of this
section, pari-mutuel wagering on simulcast horse races shall be
prohibited except on the licensed premises of a racetrack
licensee during the licensee's race meet at the horse racetrack
or when the racetrack licensee is importing a race meet from
another New Mexico-licensed horse racetrack.

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

G. A racetrack licensee may offer pari-mutuel
wagering using advance deposit wagering pursuant to Section
60-1A-15 NMSA 1978 and rules promulgated by the commission."