SENATE BILL 378

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

INTRODUCED BY

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

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

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

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

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

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

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

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- 2 -
compensation."

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

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

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

(1) for a class A racetrack licensee:

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

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

(2) for a class B racetrack licensee:

(a) not less than eighteen and three-fourths percent and not greater than twenty-five percent of the
gross amount wagered daily on win, place and show; and

   (b) not less than twenty-one percent and

not greater than thirty percent of the gross amount wagered in
exotic wagers.

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

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

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

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

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

   (2) fifty percent of the total breakage shall
be allocated by the racetrack licensee to enhance the race
purses of established stakes races that include only New
Mexico-bred horses that are registered with the New Mexico horse breeders' association. The New Mexico horse breeders' association shall distribute the percentage designated to purses pursuant to Subsection D of Section 60-1A-24 NMSA 1978, subject to the approval of the commission.

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

(1) for live races:

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

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

(c) thirty-three and thirty-three hundredths percent shall be distributed to the New Mexico horse breeders' association to enhance each racetrack licensee's established overnight purses for races that include only horses registered as New Mexico-bred pursuant to Paragraph (3) of Subsection D of Section 60-1A-24 NMSA 1978, subject to the approval of the commission; and
hundredths percent shall be allocated to the New Mexico horsemen's association for purses; and

(2) for simulcast races:

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

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

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

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

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

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

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

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

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

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

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

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

G. A racetrack licensee shall allocate to the New Mexico horse breeders' association five percent of the daily pari-mutuel tax imposed by Section 60-1A-18 NMSA 1978; the money allocated in this section to the New Mexico horse breeders' association; and the money allocated by this section to the New Mexico horsemen's association.
retainage on interstate common pools received from a guest state by a racetrack licensee. Of the net retainage from all wagers, after deductions:

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

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

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

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

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

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

C. The track purse money generated from wagers on
live and simulcast races deposited with the New Mexico horse breeders' association by a racetrack licensee pursuant to Subsection B of this section shall be paid weekly to the breeder of record as recorded by the New Mexico horse breeders' association upon certification of the commission.

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

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

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

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

(4) the remaining money to be divided among the owners of the first-, second- and third-place finishers during each race meet, provided that the first-, second- and
third-place finishers are registered as New Mexico-bred horses with the New Mexico horse breeders' association and the owners are members of the association.

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

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

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