

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 187

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

AN ACT

RELATING TO HORSE RACING; CREATING THE RACEHORSE TESTING FUND;  
PROVIDING A NATIONAL STANDARD FOR RACEHORSE TESTING; DEDICATING  
A PORTION OF THE DAILY CAPITAL OUTLAY TAX TO TEST RACEHORSES;  
MAKING AN APPROPRIATION.

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

SECTION 1. A new section of the Horse Racing Act is  
enacted to read:

"[NEW MATERIAL] RACEHORSE TESTING FUND--CREATED--  
PURPOSE.--The "racehorse testing fund" is created in the state  
treasury. The purpose of the fund is to ensure the testing of  
racehorses at a laboratory that meets or exceeds the current  
national laboratory standards for the testing of drugs or other  
foreign substances not naturally occurring in a horse, as  
established by the association of racing commissioners

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1 international, incorporated. The fund consists of one-half of  
2 the daily capital outlay tax appropriated and transferred  
3 pursuant to Paragraph (4) of Subsection A of Section 60-1A-20  
4 NMSA 1978 and appropriations, gifts, grants and donations made  
5 to the fund. Income from investment of the fund shall be  
6 credited to the fund. The commission shall administer the  
7 racehorse testing fund, and money in the fund is appropriated  
8 to the commission for the handling and testing of blood serum  
9 plasma, urine or other appropriate test samples taken from  
10 racehorses pursuant to Section 60-1A-14 NMSA 1978. Any  
11 unexpended or unencumbered balance remaining in the racehorse  
12 testing fund at the end of a fiscal year in excess of six  
13 hundred thousand dollars (\$600,000) shall revert to the general  
14 fund. Expenditures from the fund shall be made on warrant of  
15 the secretary of finance and administration pursuant to  
16 vouchers signed by the executive director of the commission."

17 SECTION 2. Section 60-1A-14 NMSA 1978 (being Laws 2007,  
18 Chapter 39, Section 14) is amended to read:

19 "60-1A-14. TESTING SPECIMENS.--

20 A. The commission shall adopt rules applying to the  
21 handling ~~[and testing of urine and other specimens]~~ of pre- and  
22 post-race, out-of-competition and necropsy testing of both  
23 blood serum plasma and urine as well as other appropriate  
24 samples identified by the commission to be taken from  
25 racehorses.

1           B. Each specimen taken from a racehorse shall be  
2 divided into two or more equal samples, and:

3                   (1) one sample shall be tested by the  
4 commission or its designated laboratory in order to detect the  
5 presence of unauthorized drugs, chemicals, stimulants,  
6 depressants or other foreign substances [~~not naturally~~  
7 ~~occurring in a horse~~] as defined by the association of racing  
8 commissioners international, incorporated, classification  
9 guidelines as class 1 or class 2, penalty class A drugs; and

10                   (2) the second sample shall be forwarded by  
11 the commission to the scientific laboratory division of the  
12 department of health.

13           C. After an inconclusive or positive test result on  
14 the sample tested by the commission or its designated  
15 laboratory and upon a written request from the president,  
16 executive director or manager of the New Mexico horsemen's  
17 association on forms designated by the commission, the  
18 scientific laboratory division shall transmit the corresponding  
19 second sample to the New Mexico horsemen's association.

20           D. The scientific laboratory division shall keep  
21 all samples in a controlled environment for a period of at  
22 least three months.

23           E. The commission shall contract with an  
24 independent laboratory to maintain a quality assurance program.  
25 The designated laboratory of the commission shall meet or

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1 exceed the current national laboratory standards for the  
2 testing of drugs or other foreign substances in a horse, as  
3 established by the association of racing commissioners  
4 international, incorporated."

5 SECTION 3. Section 60-1A-20 NMSA 1978 (being Laws 2007,  
6 Chapter 39, Section 20, as amended) is amended to read:

7 "60-1A-20. DAILY CAPITAL OUTLAY TAX--CAPITAL OUTLAY  
8 OFFSET--STATE FAIR COMMISSION DISTRIBUTION--DAILY LICENSE  
9 FEES.--

10 A. A "daily capital outlay tax" of two and three-  
11 sixteenths percent is imposed on the gross amount wagered each  
12 day at a racetrack where horse racing is conducted on the  
13 premises of a racetrack licensee and also on the gross amount  
14 wagered each day when a racetrack licensee is engaged in  
15 simulcasting pursuant to the Horse Racing Act. After deducting  
16 the amount of offset allowed pursuant to this section, any  
17 remaining daily capital outlay tax shall be paid by the  
18 commission to the taxation and revenue department from the  
19 retainage of a racetrack licensee from on-site wagers made on  
20 the licensed premises of the racetrack licensee for deposit in  
21 the general fund. Of the daily capital outlay tax imposed  
22 pursuant to this subsection:

23 (1) for a class A racetrack licensee, not more  
24 than one-half of the daily capital outlay tax imposed on the  
25 first two hundred fifty thousand dollars (\$250,000) of the

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1 daily handle may be offset by the amount that the class A  
2 racetrack licensee expends for capital improvements or for  
3 long-term financing of capital improvements at the racetrack  
4 licensee's existing facility;

5 (2) for a class B racetrack licensee, not more  
6 than one-half of the daily capital outlay tax imposed on the  
7 first two hundred fifty thousand dollars (\$250,000) of the  
8 daily handle may be offset:

9 (a) in an amount not to exceed one-half  
10 of the offset allowed, the amount expended by the class B  
11 racetrack licensee for capital improvements; and

12 (b) in an amount not to exceed one-half  
13 of the offset allowed, the amount expended by the class B  
14 racetrack licensee for advertising, marketing and promoting  
15 horse racing in the state;

16 (3) through December 31, 2014, for both class  
17 A and class B racetrack licensees, an amount equal to one-half  
18 of the daily capital outlay tax is appropriated and transferred  
19 to the state fair commission for expenditure on capital  
20 improvements at the state fairgrounds and for expenditure on  
21 debt service on negotiable bonds issued for the state  
22 fairgrounds' capital improvements; and

23 (4) on and after January 1, 2015, for both  
24 class A and class B racetrack licensees, an amount equal to  
25 one-half of the daily capital outlay tax is appropriated and

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1 transferred to the [~~general~~] racehorse testing fund.

2 B. An additional daily license fee of five hundred  
3 dollars (\$500) shall be paid to the commission by the racetrack  
4 licensee for each day of live racing on the premises of the  
5 racetrack licensee.

6 C. Accurate records shall be kept by the racetrack  
7 licensee to show gross amounts wagered, retainage, breakage and  
8 amounts received from interstate common pools and distributions  
9 from gross amounts wagered, retainage, breakage and amounts  
10 received from interstate common pools, as well as other  
11 information the commission may require. Records shall be open  
12 to inspection and shall be audited by the commission, its  
13 authorized representatives or an independent auditor selected  
14 by the commission. The commission may prescribe the method in  
15 which records shall be maintained. A racetrack licensee shall  
16 keep records that are accurate, legible and easy to understand.

17 D. Notwithstanding any other provision of law, a  
18 political subdivision of the state shall not impose an  
19 occupational tax on a horse racetrack owned or operated by a  
20 racetrack licensee. A political subdivision of the state shall  
21 not impose an excise tax on a horse racetrack owned or operated  
22 by a racetrack licensee. Local option gross receipts taxes  
23 authorized by the state may be imposed to the extent authorized  
24 and imposed by a subdivision of the state on a horse racetrack  
25 owned or operated by a racetrack licensee."

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