

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 229

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO HORSE RACING; REMOVING CERTAIN EXCEPTIONS TO
CONDUCT THAT REQUIRES DENIAL OR REVOCATION OF AN OCCUPATIONAL
LICENSE; PROVIDING FOR AN EQUINE HEALTH AND TESTING ADVISOR TO
REPLACE THE OFFICIAL CHEMIST; CLARIFYING THE DESIGNATION AND
HANDLING OF TESTING SAMPLES; PROVIDING FOR COMPENSATION OF THE
EQUINE HEALTH AND TESTING ADVISOR FROM THE RACEHORSE TESTING
FUND.

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

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

"60-1A-11. GRANTING A LICENSE--STANDARDS--DENIAL AND
REVOCATION--SUSPENSION AND PENALTIES.--

A. A license shall not be issued or renewed unless
the applicant has satisfied the commission that the applicant:

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1 (1) is of good moral character, [~~honesty~~] is
2 honest and has integrity;

3 (2) does not currently have a license
4 suspended by a horse racing licensing authority in another
5 jurisdiction;

6 (3) does not have any prior activities,
7 criminal record, reputation, habits or associations that:

8 (a) pose a threat to the public
9 interest;

10 (b) pose a threat to the effective
11 regulation and control of horse racing; or

12 (c) create or enhance the dangers of
13 unsuitable, unfair or illegal practices, methods and activities
14 in the conduct of horse racing, the business of operating a
15 horse racetrack licensed pursuant to the Horse Racing Act or
16 the financial activities incidental to operating a horse
17 racetrack;

18 (4) is qualified to be licensed consistent
19 with the Horse Racing Act;

20 (5) has sufficient business probity,
21 competence and experience in horse racing as determined by the
22 commission;

23 (6) has proposed financing that is sufficient
24 for the nature of the license and from a suitable source that
25 meets the criteria set forth in this subsection; and

1 (7) is sufficiently capitalized pursuant to
 2 standards set by the commission to conduct the business covered
 3 by the license.

4 B. The commission shall establish by rule
 5 additional qualifications for a licensee as it deems in the
 6 public interest.

7 C. A person issued or applying for an occupational
 8 license who has positive test results for a controlled
 9 substance or who has been convicted of a violation of a federal
 10 or state controlled substance law shall be denied a license or
 11 shall be subject to revocation of an existing license unless
 12 sufficient evidence of rehabilitation is presented to the
 13 commission.

14 ~~D. If the commission finds that an applicant for~~
 15 ~~an occupational license or an occupational licensee has been~~
 16 ~~convicted of any of the provisions of Subsection E of this~~
 17 ~~section, the applicant shall be denied the occupational license~~
 18 ~~or the occupational licensee shall have the occupational~~
 19 ~~license revoked. An occupational license shall not be issued~~
 20 ~~by the commission to an applicant or occupational licensee for~~
 21 ~~a period of five years from the date of denial or revocation~~
 22 ~~pursuant to this subsection.~~

23 ~~E. An occupational license may be denied or~~
 24 ~~revoked]~~

25 D. The commission may deny or revoke an

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1 occupational license if the applicant or occupational licensee,
2 for the purpose of stimulating or depressing a racehorse or
3 affecting its speed or stamina during a race or workout, is
4 found to have [~~(1)~~] administered, attempted to administer or
5 conspired to administer to a racehorse, internally, externally
6 or by injection, a drug, chemical, stimulant or depressant, or
7 other [~~performance-altering~~] prohibited substance as defined by
8 the association of racing commissioners international,
9 incorporated, or a successor organization or, if none, by
10 another nationally recognized organization that has published
11 substantially similar guidelines that are generally accepted in
12 the horse racing industry as determined by the commission
13 [~~unless the applicant or occupational licensee has been~~
14 ~~specifically permitted to do so by the commission or a steward;~~
15 ~~or~~

16 ~~(2) attempted to use, used or conspired with~~
17 ~~others to use an electrical or mechanical device, implement or~~
18 ~~instrument except a commission-approved riding crop, unless the~~
19 ~~applicant or occupational licensee has been specifically~~
20 ~~permitted by the commission or a steward to use the device,~~
21 ~~implement or instrument].~~

22 E. In addition to its authority to deny or revoke
23 an occupational license for the conduct described in Subsection
24 D of this section, the commission may suspend a license and
25 impose fines on a licensee. For suspensions and fines, the

1 commission shall adopt as its own rules the model rules for the
 2 imposition of penalties for the use of prohibited substances
 3 published by the association of racing commissioners
 4 international, incorporated, or a successor organization or, if
 5 none, by another nationally recognized organization that has
 6 published substantially similar rules that are generally
 7 accepted in the horse racing industry as determined by the
 8 commission.

9 F. The commission shall revoke for a period not to
 10 exceed five years an occupational license if the occupational
 11 licensee used, attempted to use or conspired with others to use
 12 an electrical or mechanical device, implement or instrument for
 13 the purpose of affecting the speed or stamina of a racehorse.

14 ~~[F.]~~ G. The burden of proving the qualifications of
 15 an applicant or licensee to be issued a license or have a
 16 license renewed shall be on the applicant or licensee."

17 **SECTION 2.** Section 60-1A-13 NMSA 1978 (being Laws 2007,
 18 Chapter 39, Section 13) is amended to read:

19 "60-1A-13. ~~[OFFICIAL-CHEMIST]~~ EQUINE HEALTH AND TESTING
 20 ADVISOR--QUALIFICATIONS--DUTIES.--The commission shall
 21 ~~[designate at least one official chemist]~~ hire or contract with
 22 an equine health and testing advisor. An ~~[official chemist]~~
 23 equine health and testing advisor shall be a doctor of
 24 veterinary medicine or shall hold a doctorate degree in
 25 chemistry or a related field and shall be knowledgeable and

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1 experienced in the techniques used for testing the [~~blood,~~
2 ~~urine and saliva of horses for drugs, chemicals, stimulants,~~
3 ~~depressants or other foreign substances not naturally occurring~~
4 ~~in a horse. The official chemist may be an employee of a~~
5 ~~private laboratory located in New Mexico or an employee of an~~
6 ~~agency of New Mexico]~~ specimens collected pursuant to Section
7 60-1A-14 NMSA 1978. The [official chemist] equine health and
8 testing advisor shall exercise the duties prescribed by rules
9 of the commission."

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

12 "60-1A-14. TESTING SPECIMENS.--

13 A. The commission shall adopt rules applying to the
14 handling of pre- and post-race, out-of-competition and necropsy
15 testing of blood serum plasma, urine or other appropriate test
16 samples identified by the commission to be taken from
17 racehorses, following guidelines that meet or exceed the
18 standards established in model rules published by the
19 association of racing commissioners international,
20 incorporated, or a successor organization or, if none, by
21 another nationally recognized organization that has published
22 substantially similar guidelines that are generally accepted in
23 the horse racing industry as determined by the commission.

24 B. Each specimen taken from a racehorse shall be
25 divided into two or more [~~equal~~] samples, and:

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1 (1) one sample, designated as the "official
2 sample", shall be tested by the commission or its designated
3 laboratory in order to detect the presence of unauthorized
4 drugs, chemicals, stimulants, depressants or other performance-
5 altering substance as defined in guidelines published by the
6 association of racing commissioners international,
7 incorporated, or a successor organization or, if none, by
8 another nationally recognized organization that has published
9 substantially similar guidelines that are generally accepted in
10 the horse racing industry as determined by the commission; and

11 (2) the [~~second sample shall~~] remaining
12 samples, each designated as a "split sample", may be forwarded
13 by the commission to the scientific laboratory division of the
14 department of health or maintained by the commission in a
15 manner that meets or exceeds the guidelines identified in
16 Paragraph (1) of this subsection.

17 C. After a positive test result on the official
18 sample tested by the commission or its designated laboratory
19 and upon a written request from the president, executive
20 director or manager of the New Mexico horsemen's association on
21 forms designated by the commission, [~~the scientific laboratory~~
22 ~~division shall transmit the corresponding second sample to the~~
23 ~~New Mexico horsemen's association] a corresponding split sample
24 shall be transferred to an independent laboratory in a manner
25 prescribed by commission rule.~~

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1 D. ~~[The scientific laboratory division shall keep]~~
2 All samples shall be kept in a controlled environment for a
3 period of ~~[at least three months]~~ time specified by the
4 commission in each case.

5 E. The commission shall contract with an
6 independent laboratory to maintain a quality assurance program.
7 The laboratory shall meet or exceed the current national
8 laboratory standards for the testing of drugs or other foreign
9 substances in a horse, as established by the association of
10 racing commissioners international, incorporated, or of a
11 successor organization or, if none, of another nationally
12 recognized organization that has published substantially
13 similar guidelines that are generally accepted in the horse
14 racing industry."

15 SECTION 4. Section 60-1A-14.1 NMSA 1978 (being Laws 2013,
16 Chapter 102, Section 1, as amended) is amended to read:

17 "60-1A-14.1. RACEHORSE TESTING FUND--CREATED--
18 PURPOSE.--The "racehorse testing fund" is created in the state
19 treasury. The purpose of the fund is to ensure the testing of
20 racehorses at a laboratory that meets or exceeds the current
21 national laboratory standards for the testing of drugs or other
22 foreign substances not naturally occurring in a horse, as
23 established by the association of racing commissioners
24 international, incorporated, or of a successor organization or,
25 if none, of another nationally recognized organization that has

1 published substantially similar guidelines that are generally
2 accepted in the horse racing industry. The fund consists of
3 one-half of the daily capital outlay tax appropriated and
4 transferred pursuant to Paragraph (4) of Subsection A of
5 Section 60-1A-20 NMSA 1978 and appropriations, gifts, grants
6 and donations made to the fund. Income from investment of the
7 fund shall be credited to the fund. The commission shall
8 administer the racehorse testing fund, and money in the fund is
9 appropriated to the commission for the handling of pre- and
10 post-race, out-of-competition and necropsy testing of blood
11 serum plasma, urine or other appropriate test samples taken
12 from racehorses pursuant to Section 60-1A-14 NMSA 1978
13 ~~[following guidelines that meet or exceed the standards~~
14 ~~established in model rules published by the association of~~
15 ~~racing commissioners international, incorporated, or a~~
16 ~~successor organization or, if none, by another nationally~~
17 ~~recognized organization that has published substantially~~
18 ~~similar guidelines that are generally accepted in the horse~~
19 ~~racing industry as determined by the commission]~~ and to
20 compensate the equine health and testing advisor employed or
21 selected pursuant to Section 60-1A-13 NMSA 1978. Any
22 unexpended or unencumbered balance remaining in the racehorse
23 testing fund at the end of a fiscal year in excess of six
24 hundred thousand dollars (\$600,000) shall revert to the general
25 fund. Expenditures from the fund shall be made on warrant of

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1 the secretary of finance and administration pursuant to
2 vouchers signed by the executive director of the commission."

3 SECTION 5. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2017.

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