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HOUSE BILL 508

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Candy Spence Ezzell

AN ACT

RELATING TO HORSE RACING; AMENDING THE TIME FRAME FOR THE  
NUMBER OF LIVE RACE DAYS NECESSARY FOR A RACETRACK TO MAINTAIN  
A GAMING OPERATOR'S LICENSE.

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. "board" means the gaming control board;
- B. "breakage" means the odd cents by which the  
amount payable on each dollar wagered exceeds a multiple of  
ten;
- C. "commission" means the state racing commission;
- D. "exotic wagering" means all wagering other than  
on win, place or show, through pari-mutuel wagering;

1           E. "export" means to send a live audiovisual  
2 broadcast of a horse race in the process of being run at a  
3 horse racetrack from the originating horse racetrack to another  
4 location;

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

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

14          H. "handle" means the total of all pari-mutuel  
15 wagering sales, excluding refunds and cancellations;

16          I. "horse race" means a competition among  
17 racehorses on a predetermined course in which the horse  
18 completing the course in the least amount of time generally  
19 wins;

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

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

1 L. "import" means to receive a live audiovisual  
2 broadcast of a horse race;

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

10 N. "jockey club" means an organization that  
11 administers thoroughbred registration records and registers  
12 thoroughbreds;

13 O. "licensed premises" means land, together with  
14 all buildings, other improvements and personal property located  
15 on the land, that is under the direct control of a racetrack  
16 licensee, including the restricted areas, grandstand and public  
17 parking areas;

18 P. "licensee" means a person licensed by the  
19 commission and includes a holder of an occupational, secondary  
20 or racetrack license;

21 Q. "occupational license" means a license issued by  
22 the commission to a vendor or to a person having access to a  
23 restricted area on the licensed premises, including a horse  
24 owner, trainer, jockey, agent, apprentice, groom, exercise  
25 person, veterinarian, valet, farrier, starter, clocker, racing

1 secretary, pari-mutuel clerk and other personnel designated by  
2 the commission whose work, in whole or in part, is conducted  
3 around racehorses or pari-mutuel betting windows;

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

10 S. "pari-mutuel wagering pool" means the money  
11 wagered on a specific horse race through pari-mutuel wagering;

12 T. "practical breeder" means a person who has  
13 practical experience in breeding horses, although the person  
14 may not be actively involved in breeding horses;

15 U. "primary residence" means the domicile where a  
16 person resides for most of the year, and, if the person is  
17 temporarily out of state, the address where a person will  
18 return when the person returns to New Mexico or the address  
19 that a person uses for purposes of a driver's license, passport  
20 or voting;

21 V. "quarter horse" means a racehorse that is  
22 registered with the American quarter horse association or any  
23 successor association;

24 W. "race meet" means a period of time within dates  
25 specified by the commission in which a racetrack licensee is

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1 authorized to conduct and does conduct live racing on the  
2 racing grounds;

3 X. "racehorse" means a quarter horse or  
4 thoroughbred that is bred and trained to compete in horse  
5 races;

6 Y. "racetrack license" means a license to conduct  
7 horse races issued by the commission;

8 Z. "racetrack licensee" means a person who has been  
9 issued a racetrack license;

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

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

18 CC. "restricted areas" means the stable area, the  
19 area behind the pari-mutuel betting windows and anywhere on the  
20 racing grounds;

21 DD. "secondary licensee" means all officers,  
22 directors, shareholders, lenders or holders of evidence of  
23 indebtedness of a corporation or legal entity owning a horse  
24 racetrack, and all persons holding a direct or indirect  
25 interest of any nature whatsoever in the horse racetrack,

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1 including interests or positions that deal with the funds of  
2 the racetrack or that are administrative, policymaking or  
3 supervisory;

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

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

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

16 HH. "takeout" means amounts authorized by statute  
17 to be deducted from the pari-mutuel wagers;

18 II. "thoroughbred" means a racehorse that is  
19 registered with the jockey club;

20 JJ. "track" means the surfaced oval area on which  
21 horse races are conducted; and

22 KK. "vendor" means a person who provides goods or  
23 services to or in the racing grounds or restricted area of the  
24 licensed premises of a horse racetrack."

25 SECTION 2. A new section of the Horse Racing Act is

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1 enacted to read:

2 "[NEW MATERIAL] RACE MEETS--LIVE RACING DAYS.--Live racing  
3 shall begin on the first day of a race meet authorized for a  
4 racetrack licensee and shall conclude on the final day of the  
5 authorized race meet. A race meet shall be composed of three  
6 live race days for each week of the race meet with at least ten  
7 live races per day for a racetrack licensee that paid gaming  
8 tax to the state on its net take in an amount equal to eight  
9 million dollars (\$8,000,000) or less in the prior fiscal year  
10 pursuant to Section 60-2E-47 NMSA 1978 or four live race days  
11 for each week of the race meet with at least nine live races  
12 per day for a racetrack licensee that paid gaming tax to the  
13 state on its net take in an amount greater than eight million  
14 dollars (\$8,000,000) in the prior fiscal year pursuant to  
15 Section 60-2E-47 NMSA 1978. There shall be a lapse of no more  
16 than three consecutive days in live racing from the date a race  
17 meet ends at the racing grounds of one racetrack licensee and  
18 the beginning of a race meet for another racetrack licensee."

19 SECTION 3. Section 60-2E-27 NMSA 1978 (being Laws 1997,  
20 Chapter 190, Section 29, as amended) is amended to read:

21 "60-2E-27. GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS  
22 FOR RACETRACKS--NUMBER OF GAMING MACHINES--DAYS AND HOURS OF  
23 OPERATIONS.--

24 A. A racetrack licensed by the state racing  
25 commission pursuant to the Horse Racing Act to conduct live

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1 horse races or simulcast races may be issued a gaming  
2 operator's license to operate gaming machines on its premises  
3 where live racing is conducted.

4 B. A racetrack's gaming operator's license shall  
5 automatically become void if:

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

8 (2) the racetrack paid gaming tax to the  
9 state on its net take in an amount greater than eight million  
10 dollars (\$8,000,000) in the prior fiscal year pursuant to  
11 Section 60-2E-47 NMSA 1978 and fails to maintain a minimum of  
12 four live race days a week with no more than three  
13 consecutive days elapsing between live race days and with at  
14 least nine live races on each race day during its licensed  
15 race meet, except as provided in Subsection F of this  
16 section; or

17 (3) the racetrack paid gaming tax to the  
18 state on its net take in an amount equal to eight million  
19 dollars (\$8,000,000) or less in the prior fiscal year  
20 pursuant to Section 60-2E-47 NMSA 1978 and fails to maintain  
21 a minimum of three live race days a week with no more than  
22 four consecutive days elapsing between live race days and  
23 with at least ten live races on each day during its licensed  
24 race meets, except as provided in Subsection F of this  
25 section.

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1           C. Unless a larger number is allowed pursuant to  
2 Subsection D of this section, a gaming operator licensee that  
3 is a racetrack may have up to six hundred licensed gaming  
4 machines.

5           D. By execution of an allocation agreement,  
6 signed by both the allocating racetrack and the racetrack to  
7 which the allocation is made, a gaming operator licensee that  
8 is a racetrack may allocate any number of its authorized  
9 gaming machines to another gaming operator licensee that is a  
10 racetrack. To be valid, the allocation agreement must bear  
11 the written approval of the board and the state racing  
12 commission, and this approval shall make specific reference  
13 to the meeting at which the action of approval was taken and  
14 the number of votes cast both for and against the approval.  
15 By allocating a number of its authorized machines to another  
16 racetrack, the allocating racetrack automatically surrenders  
17 all rights to operate the number of machines allocated. No  
18 racetrack shall operate or be authorized to operate more than  
19 seven hundred fifty gaming machines.

20           E. Gaming machines on a racetrack gaming operator  
21 licensee's premises may be played only on days when the  
22 racetrack is either conducting live horse races or  
23 simulcasting horse race meets. On days when gaming machines  
24 are permitted to be operated, a racetrack gaming operator  
25 licensee may offer gaming machines for operation for up to

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1 eight hours per day; provided that the total number of  
2 hours in which gaming machines are operated does not exceed  
3 one hundred twelve hours in a one-week period beginning on  
4 Tuesday at 8:00 a.m. and ending at 8:00 a.m. on the following  
5 Tuesday. A racetrack gaming operator licensee may offer  
6 gaming machines for play at any time during a day; provided  
7 that the total hours of operation in each day from just after  
8 midnight of the previous day until midnight of the current  
9 day does not exceed eighteen hours. A racetrack gaming  
10 operator licensee shall determine, within the limitations  
11 imposed by this subsection, the hours it will offer gaming  
12 machines for operation each day and shall notify the board in  
13 writing of those hours.

14 F. Maintaining fewer live race days or fewer live  
15 races on each race day or allowing more than the permitted  
16 number of days to elapse between live race days during a  
17 licensed race meet does not constitute a failure to maintain  
18 the minimum number of live race days or races or a failure to  
19 restrict the elapsed period between live race days as  
20 required by Paragraphs (2) and (3) of Subsection B of this  
21 section if the licensee submits to the board written approval  
22 by the state racing commission for the licensee to vary the  
23 minimum number of live race days or races or expand the  
24 elapsed period between live race days, and the variance is  
25 due to:

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

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

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

10                   (4) a power outage, electrical failure or  
11 failure or unavailability of any equipment or supplies  
12 necessary to conduct a race or meet;

13                   (5) hazardous conditions or other threats to  
14 the public health or safety; or

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

18                   G. Alcoholic beverages shall not be sold, served,  
19 delivered or consumed in the area restricted pursuant to  
20 Subsection F of Section 60-2E-26 NMSA 1978."