

underscoring material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 328

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Antonio Maestas

AN ACT

RELATING TO GAMING; REVISING PROVISIONS GOVERNING RACETRACK
LICENSES AND GAMING OPERATOR LICENSES; PROVIDING FOR
CONFIDENTIALITY OF CERTAIN DOCUMENTS; REVISING LICENSE TERMS.

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

SECTION 1. Section 60-1A-4 NMSA 1978 (being Laws 2007,
Chapter 39, Section 4) is amended to read:

"60-1A-4. COMMISSION--POWERS--DUTIES.--

A. The commission may:

(1) grant, deny, suspend or revoke
occupational licenses, secondary licenses and racetrack
licenses, establish the terms for each classification of a
racetrack license and set fees for submitting an application
for a license;

(2) exclude or compel the exclusion of a

underscoring material = new
~~[bracketed material]~~ = delete

1 person from all horse racetracks [~~who~~] whom the commission
2 deems detrimental to the best interests of horse racing or who
3 willfully violates the Horse Racing Act, a rule or order of the
4 commission or a law of the United States or New Mexico;

5 (3) compel the production of documents, books
6 and tangible items, including documents showing the receipts
7 and disbursements of a racetrack licensee;

8 (4) investigate the operations of a licensee
9 and place a designated representative on the licensed premises
10 of a racetrack licensee for the purpose of observing compliance
11 with the Horse Racing Act and rules or orders of the
12 commission;

13 (5) employ staff as required to administer the
14 Horse Racing Act and employ staff with basic law enforcement
15 training to be stationed at racetracks to maintain peace and
16 order, enforce the law, conduct investigations and enforce the
17 Horse Racing Act or rules or orders of the commission; provided
18 that staff employed with law enforcement training may not carry
19 firearms or other deadly weapons while on duty for the
20 commission;

21 (6) summon witnesses;

22 (7) administer oaths for the effective
23 discharge of the commission's authority; and

24 (8) appoint a hearing officer to conduct
25 hearings required by the Horse Racing Act or a rule adopted

.229983.3

underscoring material = new
~~[bracketed material] = delete~~

1 pursuant to that act.

2 B. The commission shall:

3 (1) make rules to hold, conduct and operate
4 all race meets and horse races held in the state and to
5 identify and ~~assign~~ approve racing dates;

6 (2) require the following information for each
7 applicant on an application for a license:

8 (a) the full name, address and contact
9 information of the applicant, and if the applicant is a
10 corporation, the name of the state of incorporation and the
11 names, addresses and contact information of officers, members
12 of the board of directors and managers of the corporation;

13 (b) the exact location at which the
14 applicant desires to conduct a horse race or race meet;

15 (c) whether the horse racetrack is owned
16 or leased, and, if leased, the name and residence of the fee
17 owner of the land or, if the owner is a corporation, the names
18 of the directors and stockholders;

19 (d) a statement of the assets and
20 liabilities of the person or corporation making the
21 application;

22 (e) the kind of racing to be conducted;

23 (f) the beginning and ending dates
24 desired for the race meet and the days during that time period
25 when horse races are to be scheduled; and

.229983.3

underscoring material = new
~~[bracketed material] = delete~~

1 (g) other information determined by the
2 commission to be necessary to assess the potential for success
3 of the applicant;

4 (3) require a statement under oath by the
5 applicant that the information on the application is true;

6 (4) supervise and oversee the making of pari-
7 mutuel pools and the distribution from those pools;

8 (5) make on-site inspections of horse
9 racetracks in New Mexico at reasonable intervals;

10 (6) approve all improvements proposed to be
11 completed on the licensed premises of a horse racetrack,
12 including extensions, additions or improvements of buildings,
13 stables or tracks;

14 (7) monitor and oversee the pari-mutuel
15 machines and equipment at all horse races or race meets held in
16 the state;

17 (8) approve contracts for simulcasting, pari-
18 mutuel wagering and capital improvements funded pursuant to
19 Section 60-1A-20 NMSA 1978 entered into by horse racetracks;

20 (9) regulate the size of the purses to be
21 offered at horse races run in the state;

22 (10) require background investigations of
23 employees of a racetrack licensee as set forth in the rules of
24 the commission; and

25 (11) provide an annual report to the governor

.229983.3

underscored material = new
[bracketed material] = delete

1 regarding the commission's administration of horse racing in
2 the state."

3 SECTION 2. Section 60-1A-6 NMSA 1978 (being Laws 2007,
4 Chapter 39, Section 6) is amended to read:

5 "60-1A-6. CLASSIFICATION OF RACETRACK LICENSES--RULES.--

6 [~~A. A license to conduct a race meet in New Mexico
7 shall be classified as either a class A or class B license,
8 determined by the commission as follows:~~

9 ~~(1) a class A racetrack license shall be
10 issued to a racetrack licensee who received from all race meets
11 in the preceding calendar year a gross amount wagered through
12 the pari-mutuel system of ten million dollars (\$10,000,000) or
13 more; and~~

14 ~~(2) a class B racetrack license shall be
15 issued to a racetrack licensee who received from all race meets
16 in the preceding calendar year a gross amount wagered through
17 the pari-mutuel system of less than ten million dollars
18 (\$10,000,000).~~

19 ~~B. A new racetrack license to conduct a race meet
20 in New Mexico shall be given a classification by the commission
21 based on an estimate of the anticipated gross amounts projected
22 to be received by the new racetrack licensee from all pari-
23 mutuel wagering in the racetrack licensee's first full calendar
24 year of racing. After the racetrack licensee's first full
25 calendar year of racing, the commission shall review the~~

.229983.3

underscored material = new
[bracketed material] = delete

1 ~~classification and change it if necessary.~~

2 ~~G. Each class of]~~ Every racetrack license is
3 subject to all provisions of the Horse Racing Act, except as
4 otherwise provided in that act. The commission shall adopt and
5 promulgate rules necessary to provide for license
6 classification."

7 SECTION 3. A new section of the Horse Racing Act, Section
8 60-1A-7.1 NMSA 1978, is enacted to read:

9 "60-1A-7.1. [NEW MATERIAL] COMMUNICATION OR DOCUMENT OF
10 APPLICANT OR LICENSEE--ABSOLUTELY CONFIDENTIAL--CONFIDENTIALITY
11 NOT WAIVED--DISCLOSURE OF CONFIDENTIAL INFORMATION
12 PROHIBITED.--

13 A. Any communication or document of an applicant
14 for a license or a licensee is confidential and does not impose
15 liability for defamation or constitute a ground for recovery in
16 any civil action if the communication or document is required
17 by:

18 (1) law or the rules of the board; or
19 (2) a subpoena issued by the board to be made
20 or transmitted to the board.

21 B. The confidentiality provided for in Subsection A
22 of this section is not waived or lost because the document or
23 communication is disclosed to the board.

24 C. Notwithstanding the powers granted to the board
25 by the Horse Racing Act, the board:

.229983.3

underscored material = new
[bracketed material] = delete

1 (1) may release or disclose any confidential
2 information, documents or communications provided by an
3 applicant or licensee only with the prior written consent of
4 the applicant or licensee or pursuant to a lawful court order
5 after timely notice of the proceedings has been given to the
6 applicant or licensee;

7 (2) shall maintain all confidential
8 information, documents and communications in a secure place
9 accessible only to members of the board; and

10 (3) shall adopt procedures and rules to
11 protect the confidentiality of information, documents and
12 communications provided by an applicant or licensee."

13 SECTION 4. A new section of the Horse Racing Act, Section
14 60-1A-7.2 NMSA 1978, is enacted to read:

15 "60-1A-7.2. [NEW MATERIAL] MOTION FOR RELEASE OF
16 CONFIDENTIAL INFORMATION.--An application to a court for an
17 order requiring the board to release any information declared
18 by law to be confidential shall be made only by petition in
19 district court. A hearing shall be held on the petition not
20 less than ten days and not more than twenty days after the date
21 of service of the petition on the board, the attorney general
22 and all persons who may be affected by the entry of that order.
23 A copy of the petition, all papers filed in support of it and a
24 notice of hearing shall be served."

25 SECTION 5. Section 60-1A-8 NMSA 1978 (being Laws 2007,
.229983.3

underscored material = new
~~[bracketed material] = delete~~

1 Chapter 39, Section 8) is amended to read:

2 "60-1A-8. RACETRACK LICENSES--APPLICATIONS--SPECIFIC
3 REQUIREMENTS.--

4 A. It is a violation of the Horse Racing Act for a
5 person to hold a public horse race or a race meet for profit or
6 gain in any manner unless the person has been issued a
7 racetrack license by the commission and has been authorized by
8 the commission to hold the horse race or race meet on specific
9 dates.

10 B. An application for a racetrack license shall be
11 submitted in writing on forms designated by the commission. An
12 applicant shall affirm that information contained in the
13 application is true and accurate. The application shall be
14 signed by the applicant or the applicant's agent, and the
15 signature shall be notarized.

16 C. A racetrack license shall be valid for a period
17 not to exceed ~~[one year]~~ three years. The commission may renew
18 a racetrack license upon expiration of the term of the license.

19 D. Renewal applications for racetrack licenses
20 shall be filed no later than June 1 of each year. The race
21 dates for the upcoming year shall be set by the commission
22 after the commission receives all renewal applications.

23 E. An application shall specify the dates and days
24 of the week of the race meet that the applicant is requesting
25 the commission to approve.

.229983.3

underscoring material = new
~~[bracketed material]~~ = delete

1 F. An application shall be filed not less than
2 sixty days prior to the first day the proposed horse race or
3 race meet is to be held.

4 G. The fee for a new racetrack license issued
5 pursuant to this section shall not exceed five thousand dollars
6 (\$5,000).

7 H. The commission may schedule a date for a hearing
8 on the application for a new racetrack license to determine the
9 eligibility of the applicant pursuant to the Horse Racing Act
10 or as needed for determining the eligibility for the renewal of
11 a racetrack license. The applicant shall be notified of the
12 hearing at least five days prior to the date of the hearing.
13 The applicant has the right to present testimony in support of
14 the application. Notice shall be mailed to the address of the
15 applicant appearing upon the application for the racetrack
16 license. Notice of the hearing date, time and location shall
17 be postmarked by United States mail five days prior to the date
18 of the hearing. Deposit of the hearing notice in United States
19 mail constitutes notice.

20 I. If, after a hearing on the application, the
21 commission finds the applicant ineligible pursuant to the
22 provisions of the Horse Racing Act or rules adopted by the
23 board, the racetrack license shall be denied.

24 J. If there is more than one application for a
25 racetrack license pending at the same time, the commission

.229983.3

underscoring material = new
~~[bracketed material] = delete~~

1 shall determine the racing days that will be allotted to each
2 successful applicant. Upon renewal, the commission shall
3 determine the racing days that will be allotted to each
4 applicant upon terms and conditions established by the
5 commission.

6 K. A person shall not have a direct, indirect or
7 beneficial interest of any nature, whether or not financial,
8 administrative, policymaking or supervisory, in more than two
9 horse racetracks in New Mexico. For purposes of this
10 subsection, a person shall not be considered to have a direct,
11 indirect or beneficial interest in a horse racetrack if the
12 person owns or holds less than ten percent of the total
13 authorized, issued and outstanding shares of a corporation that
14 is licensed to conduct a race meet in New Mexico, unless the
15 person has some other direct, indirect or beneficial interest
16 of any nature, whether or not financial, administrative,
17 policymaking or supervisory, in more than two licensed horse
18 racetracks.

19 L. To determine interest held in a racetrack, to
20 the extent that the interest is based on stock ownership:

21 (1) stock owned, directly or indirectly, by or
22 for a corporation, partnership, estate or trust shall be
23 considered as being owned proportionately by its shareholders,
24 partners or beneficiaries;

25 (2) an individual shall be considered as

.229983.3

underscored material = new
~~[bracketed material] = delete~~

1 owning the stock, directly or indirectly, if it is held by an
2 immediate family member. For purposes of this paragraph, an
3 "immediate family member" includes only the individual's
4 siblings, spouse or children; and

5 (3) stock constructively owned by a person by
6 reason of the application of Paragraph (1) of this subsection
7 shall be considered to be actually owned by the person; and
8 stock shall be constructively owned by an individual by reason
9 of the application of Paragraph (2) of this subsection if the
10 purpose of the constructive ownership is to make a person other
11 than the individual applicant appear as the owner of the stock.

12 M. A corporation holding a racetrack license shall
13 not issue to a person shares of its stock amounting to ten
14 percent or more of the total authorized, issued and outstanding
15 shares, and a corporation holding a racetrack license shall not
16 issue shares of its stock that would, when combined with that
17 stock transferee's existing shares owned, total more than ten
18 percent of the total authorized, issued and outstanding shares
19 of the corporation, unless:

20 (1) the corporation gives written notice to
21 the commission at least sixty days before the contemplated
22 stock transfer that the person to whom the stock is being
23 transferred will become an owner of ten percent or more of the
24 total authorized, issued and outstanding shares of the
25 corporation; and

.229983.3

underscoring material = new
~~[bracketed material] = delete~~

1 (2) the corporation receives written approval
2 from the commission of the proposed transfer.

3 N. A determination made by the commission of a
4 matter pursuant to this section shall be final and not subject
5 to appeal."

6 SECTION 6. Section 60-1A-18 NMSA 1978 (being Laws 2007,
7 Chapter 39, Section 18) is amended to read:

8 "60-1A-18. DAILY PARI-MUTUEL TAX--IMPOSED--RATE.--

9 A. The "daily pari-mutuel tax" is imposed on a
10 racetrack licensee that offers pari-mutuel wagering at the
11 racetrack licensee's licensed premises and shall be remitted to
12 the taxation and revenue department for deposit in the general
13 fund.

14 B. The daily pari-mutuel tax imposed on ~~[class A]~~
15 racetrack licensees pursuant to this section shall be:

16 (1) for each racing day a ~~[class A]~~ racetrack
17 licensee offers pari-mutuel wagering on live on-track horse
18 races, six hundred fifty dollars (\$650); provided, however,
19 that a ~~[class A]~~ racetrack licensee shall deduct from the six
20 hundred fifty dollars (\$650) and remit to the municipality in
21 which the racetrack licensee is located one hundred fifty
22 dollars (\$150) if the racetrack licensee is located in a
23 municipality having a population according to the 2000 federal
24 decennial census of:

25 (a) less than six thousand located in a
.229983.3

underscoring material = new
[bracketed material] = delete

1 county with a population of more than ten thousand but less
2 than fifteen thousand; or

3 (b) more than eight thousand but less
4 than ten thousand located in a county with a population of more
5 than one hundred thousand but less than one hundred fifty
6 thousand; and

7 (2) for each day a [~~class A~~] racetrack
8 licensee offers no pari-mutuel wagering on live on-track horse
9 races and offers solely pari-mutuel wagering on simulcast races
10 pursuant to the Horse Racing Act, one-eighth percent of the
11 racetrack licensee's gross daily handle, not to exceed three
12 hundred dollars (\$300) per racing day.

13 [~~C. The daily pari-mutuel tax imposed on a class B~~
14 ~~racetrack licensee pursuant to this section shall be:~~

15 (1) ~~for each racing day a class B racetrack~~
16 ~~licensee offers pari-mutuel wagering on live on-track horse~~
17 ~~races, one-eighth percent of the racetrack licensee's gross~~
18 ~~daily handle, not to exceed three hundred dollars (\$300) per~~
19 ~~racing day; and~~

20 (2) ~~for each day a class B racetrack licensee~~
21 ~~offers no pari-mutuel wagering on live on-track horse races and~~
22 ~~offers solely pari-mutuel wagering on simulcast races pursuant~~
23 ~~to the Horse Racing Act, one-eighth percent of the class B~~
24 ~~racetrack licensee's gross daily handle, not to exceed three~~
25 ~~hundred dollars (\$300) per racing day.]"~~

.229983.3

underscored material = new
[bracketed material] = delete

1 SECTION 7. Section 60-1A-19 NMSA 1978 (being Laws 2007,
2 Chapter 39, Section 19) is amended to read:

3 "60-1A-19. RETAINAGE--NEW MEXICO HORSE BREEDERS'
4 ASSOCIATION [~~AND NEW MEXICO HORSEMEN'S ASSOCIATION~~]~~--BREAKAGE--~~
5 DISTRIBUTION OF RETAINED AMOUNTS.--

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

12 (1) [~~for a class A racetrack licensee:~~
13 ~~(a)~~] nineteen percent of the gross amount
14 wagered on win, place and show, of which:

15 [~~1~~] (a) eighteen and three-fourths
16 percent shall be retained by the racetrack licensee; and

17 [~~2~~] (b) one-fourth percent shall be
18 remitted to the taxation and revenue department for deposit in
19 the general fund; and

20 [~~b~~] (2) not less than twenty-one percent and
21 not greater than twenty-five percent of the gross amount
22 wagered in exotic wagers. [~~and~~

23 ~~(2) for a class B racetrack licensee:~~
24 ~~(a) not less than eighteen and three-~~
25 ~~fourths percent and not greater than twenty-five percent of the~~

.229983.3

1 ~~gross amount wagered daily on win, place and show; and~~

2 ~~(b) not less than twenty one percent and~~
3 ~~not greater than thirty percent of the gross amount wagered in~~
4 ~~exotic wagers]~~

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

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

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

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

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

23 (2) fifty percent of the total breakage shall
24 be allocated by the racetrack licensee to enhance the race
25 purses of established stakes races that include only New

underscored material = new
[bracketed material] = delete

1 Mexico-bred horses that are registered with the New Mexico
2 horse breeders' association. The New Mexico horse breeders'
3 association shall distribute the percentage designated to
4 purses pursuant to Subsection D of Section [~~60-1-24~~] 60-1A-24
5 NMSA 1978, subject to the approval of the commission.

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

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

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

24 (3) thirty-three and thirty-three hundredths
25 percent shall be allocated [~~to the New Mexico horsemen's~~

.229983.3

underscored material = new
[bracketed material] = delete

1 ~~association]~~ for purses.

2 E. One-half percent of the gross amount wagered on
3 simulcast horse races broadcast to a horse racetrack in New
4 Mexico shall be distributed by the racetrack licensee to the
5 ~~[New Mexico horsemen's association for medical benefits for the~~
6 ~~members of the New Mexico horsemen's association]~~ commission or
7 to an organization designated by the commission that is under
8 the absolute control of the commission. The commission shall
9 by rule provide for the timing and manner of the distribution
10 required pursuant to this subsection and shall audit or arrange
11 for an independent audit of the distributions required.

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

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

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

19 (3) money allocated by this section to ~~[the~~
20 ~~New Mexico horsemen's association]~~ the commission or to an
21 organization designated by the commission that is under the
22 absolute control of the commission;

23 (4) expenses incurred to engage in intrastate
24 simulcasting pursuant to the Horse Racing Act; provided that
25 the deduction for a racetrack licensee shall be a portion of

.229983.3

underscored material = new
~~[bracketed material] = delete~~

1 five percent of the gross amount wagered at all the sites
2 receiving the same simulcast horse races and:

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

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

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

15 G. A racetrack licensee shall allocate to the New
16 Mexico horse breeders' association five percent of the daily
17 retainage on interstate common pools received from a guest
18 state by a racetrack licensee. Of the net retainage from all
19 wagers, after deductions:

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

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

24 SECTION 8. Section 60-1A-20 NMSA 1978 (being Laws 2007,
25 Chapter 39, Section 20, as amended) is amended to read:

.229983.3

underscoring material = new
[bracketed material] = delete

1 "60-1A-20. DAILY CAPITAL OUTLAY TAX--CAPITAL OUTLAY
2 OFFSET--STATE FAIR COMMISSION DISTRIBUTION--DAILY LICENSE
3 FEES.--

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

17 (1) [~~for a class A racetrack licensee~~] not
18 more than one-half of the daily capital outlay tax imposed on
19 the first two hundred fifty thousand dollars (\$250,000) of the
20 daily handle may be offset by the amount that the [~~class A~~]
21 racetrack licensee expends for capital improvements or for
22 long-term financing of capital improvements at the racetrack
23 licensee's existing facility

24 [~~(2) for a class B racetrack licensee, not~~
25 ~~more than one-half of the daily capital outlay tax imposed on~~

.229983.3

underscored material = new
~~[bracketed material] = delete~~

1 ~~the first two hundred fifty thousand dollars (\$250,000) of the~~
2 ~~daily handle may be offset:~~

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

6 ~~(b) in an amount not to exceed one-half~~
7 ~~of the offset allowed, the amount expended by the class B~~
8 ~~racetrack licensee for advertising, marketing and promoting~~
9 ~~horse racing in the state;~~

10 ~~(3) through December 31, 2014, for both class~~
11 ~~A and class B racetrack licensees, an amount equal to one-half~~
12 ~~of the daily capital outlay tax is appropriated and transferred~~
13 ~~to the state fair commission for expenditure on capital~~
14 ~~improvements at the state fairgrounds and for expenditure on~~
15 ~~debt service on negotiable bonds issued for the state~~
16 ~~fairgrounds' capital improvements; and~~

17 ~~(4) on and after January 1, 2015, for both~~
18 ~~class A and class B racetrack licensees]; and~~

19 (2) an amount equal to one-half of the daily
20 capital outlay tax is appropriated and transferred to the
21 racehorse testing fund.

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

.229983.3

underscoring material = new
~~[bracketed material]~~ = delete

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

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

22 SECTION 9. Section 60-1A-21 NMSA 1978 (being Laws 2007,
23 Chapter 39, Section 21) is amended to read:

24 "60-1A-21. INABILITY TO RECEIVE OR ADMINISTER
25 DISTRIBUTIONS--NEW MEXICO HORSE BREEDERS' ASSOCIATION [NEW
.229983.3

underscoring material = new
[bracketed material] = delete

1 ~~MEXICO HORSEMEN'S ASSOCIATION]~~--COMMISSION AUTHORITY--NEW
2 MEXICO-BRED HORSE REGISTRY.--~~[A.]~~ In the event that money
3 allocated to the New Mexico horse breeders' association
4 pursuant to Section 60-1A-19 NMSA 1978 cannot be received or
5 administered by the New Mexico horse breeders' association, the
6 commission or another organization designated by the commission
7 and under the absolute control of the commission shall receive
8 and administer the money that is allocated to be distributed by
9 the New Mexico horse breeders' association pursuant to Section
10 60-1A-24 NMSA 1978. If the commission or its designee
11 organization is required to receive, administer and distribute
12 money on behalf of the New Mexico horse breeders' association,
13 the maximum percentage of retainage from Paragraph (3) of
14 Subsection D of Section 60-1A-24 NMSA 1978 shall be distributed
15 by the commission to the New Mexico horse breeders' association
16 as a fee to certify the dam and stud of New Mexico-bred horses
17 from the registry maintained by the New Mexico horse breeders'
18 association.

19 ~~[B. In the event that money allocated to the New~~
20 ~~Mexico horsemen's association pursuant to the Horse Racing Act~~
21 ~~cannot be received or administered by the New Mexico horsemen's~~
22 ~~association, the commission or another organization designated~~
23 ~~by the commission and under the absolute control of the~~
24 ~~commission shall receive and administer the money that is~~
25 ~~allocated by Section 60-1A-19 NMSA 1978 to the New Mexico~~

.229983.3

underscoring material = new
~~[bracketed material] = delete~~

1 ~~horsemen's association and distribute the money as required by~~
2 ~~Section 60-1A-19 NMSA 1978.]"~~

3 SECTION 10. Section 60-2E-14 NMSA 1978 (being Laws 1997,
4 Chapter 190, Section 16, as amended) is amended to read:

5 "60-2E-14. LICENSURE--APPLICATION.--

6 A. The board shall establish and issue the
7 following categories of licenses:

- 8 (1) manufacturer;
9 (2) distributor;
10 (3) gaming operator; and
11 (4) gaming machine.

12 B. The board shall issue certifications of findings
13 of suitability for key executives and other persons for whom
14 certification is required.

15 C. The board shall issue work permits for gaming
16 employees.

17 D. A licensee shall not be issued more than one
18 type of license, but this provision does not prohibit a
19 licensee from owning, leasing, acquiring or having in the
20 licensee's possession licensed gaming machines if that activity
21 is otherwise allowed by the provisions of the Gaming Control
22 Act. A licensee shall not own a majority interest in, manage
23 or otherwise control a holder of another type of license issued
24 pursuant to the provisions of that act.

25 E. An applicant for a license, a certification of

.229983.3

underscored material = new
[bracketed material] = delete

1 finding of suitability or a work permit shall apply ~~[on]~~ using
2 forms provided by the board and shall furnish to the board two
3 sets of fingerprint cards and all other information requested
4 by the board. Submission of an application constitutes consent
5 to a national criminal background check of the applicant, a
6 credit check of the applicant and all persons having a
7 substantial interest in the applicant and any other background
8 investigations required pursuant to the Gaming Control Act or
9 deemed necessary by the board. The board may obtain from the
10 taxation and revenue department copies of tax returns filed by
11 or on behalf of the applicant or its affiliates and information
12 concerning liens imposed on the applicant or its affiliates by
13 the taxation and revenue department.

14 F. All licenses issued by the board pursuant to the
15 provisions of this section shall be reviewed for renewal
16 ~~[annually]~~ every three years unless revoked, suspended,
17 canceled or terminated.

18 G. All certifications of findings of suitability
19 and work permits issued by the board pursuant to this section
20 shall be reviewed for renewal every three years unless revoked,
21 suspended, canceled or terminated.

22 ~~[G.]~~ H. A license shall not be transferred or
23 assigned.

24 ~~[H.]~~ I. The application for a license shall
25 include:

.229983.3

underscoring material = new
[bracketed material] = delete

- 1 (1) the name of the applicant;
- 2 (2) the location of the proposed operation;
- 3 (3) the gaming devices to be operated,
- 4 manufactured, distributed or serviced;
- 5 (4) the names of all persons having a direct
- 6 or indirect interest in the business of the applicant and the
- 7 nature of such interest; and
- 8 (5) such other information and details as the
- 9 board may require.

10 [~~F.~~] J. The board shall furnish to the applicant
11 supplemental forms that the applicant shall complete and file
12 with the application. The supplemental forms shall require two
13 sets of fingerprint cards and complete information and details
14 with respect to the applicant's antecedents, habits, immediate
15 family, character, state and federal criminal records, business
16 activities, financial affairs and business associates, covering
17 at least a ten-year period immediately preceding the date of
18 filing of the application.

19 [~~J.~~] K. In conducting a background investigation
20 and preparing an investigative report on the applicant, the
21 board's law enforcement officers may request and receive
22 criminal history information from the federal bureau of
23 investigation or any other law enforcement agency or
24 organization. The board's law enforcement officers shall
25 maintain confidentiality regarding information received from a

.229983.3

underscoring material = new
[bracketed material] = delete

1 law enforcement agency that may be imposed by the agency as a
2 condition for providing the information to the board."

3 SECTION 11. Section 60-2E-27 NMSA 1978 (being Laws 1997,
4 Chapter 190, Section 29, as amended) is amended to read:

5 "60-2E-27. GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS
6 FOR RACETRACKS--NUMBER OF GAMING MACHINES--DAYS AND HOURS OF
7 OPERATIONS.--

8 A. A racetrack licensed by the state racing
9 commission pursuant to the Horse Racing Act to conduct live
10 horse races or simulcast races may be issued a gaming
11 operator's license to operate gaming machines at the
12 racetrack's licensed premises. The gaming operator's license
13 issued pursuant to this subsection shall allow the licensee
14 to conduct live racing either on its licensed premises [where
15 live racing is conducted] or at another licensed premises
16 that has been authorized by the state racing commission.

17 B. A racetrack's gaming operator's license shall
18 [~~automatically~~] become void only upon a decision of the board
19 and if:

20 (1) the racetrack no longer holds an active
21 license to conduct pari-mutuel wagering; or

22 (2) the racetrack [~~paid gaming tax to the~~
23 ~~state on its net take in an amount greater than eight million~~
24 ~~dollars (\$8,000,000) in the prior fiscal year pursuant to~~
25 ~~Section 60-2E-47 NMSA 1978 and]~~ fails to maintain a minimum

.229983.3

underscoring material = new
~~[bracketed material] = delete~~

1 of [~~four~~] three live race days a week with at least [~~nine~~]
2 ten live races on each race day during its licensed race
3 meet, except as provided in [~~Subsection F~~] Subsections E and
4 F of this section [~~or~~

5 ~~(3) the racetrack paid gaming tax to the~~
6 ~~state on its net take in an amount equal to eight million~~
7 ~~dollars (\$8,000,000) or less in the prior fiscal year~~
8 ~~pursuant to Section 60-2E-47 NMSA 1978 and fails to maintain~~
9 ~~a minimum of three live race days a week with at least ten~~
10 ~~live races on each day during its licensed race meets, except~~
11 ~~as provided in Subsection F of this section].~~

12 C. Unless a larger number is allowed pursuant to
13 Subsection D of this section, a gaming operator licensee that
14 is a racetrack may have up to six hundred licensed gaming
15 machines.

16 D. By execution of an allocation agreement,
17 signed by both the allocating racetrack and the racetrack to
18 which the allocation is made, a gaming operator licensee that
19 is a racetrack may allocate any number of its authorized
20 gaming machines to another gaming operator licensee that is a
21 racetrack. To be valid, the allocation agreement must bear
22 the written approval of the board and the state racing
23 commission, and this approval shall make specific reference
24 to the meeting at which the action of approval was taken and
25 the number of votes cast both for and against the approval.

.229983.3

underscoring material = new
~~[bracketed material] = delete~~

1 By allocating a number of its authorized machines to another
2 racetrack, the allocating racetrack automatically surrenders
3 all rights to operate the number of machines allocated. No
4 racetrack shall operate or be authorized to operate more than
5 seven hundred fifty gaming machines.

6 E. Gaming machines on a racetrack gaming operator
7 licensee's premises may be played only on days when the
8 racetrack is either conducting live horse races or
9 simulcasting horse race meets, unless there are no live or
10 simulcast race meets due to acts, events or occurrences that
11 the board finds are not within the control of the licensee,
12 even with the licensee's exercise of reasonable diligence or
13 care. On days when gaming machines are permitted to be
14 operated, a racetrack gaming operator licensee may offer
15 gaming machines for operation for up to eighteen hours per
16 day; provided that the total number of hours in which gaming
17 machines are operated does not exceed one hundred twelve
18 hours in a one-week period beginning on Tuesday at 8:00 a.m.
19 and ending at 8:00 a.m. on the following Tuesday. A
20 racetrack gaming operator licensee may offer gaming machines
21 for play at any time during a day; provided that the total
22 hours of operation in each day from just after midnight of
23 the previous day until midnight of the current day does not
24 exceed eighteen hours. A racetrack gaming operator licensee
25 shall determine, within the limitations imposed by this

.229983.3

underscored material = new
[bracketed material] = delete

1 subsection, the hours it will offer gaming machines for
2 operation each day and shall notify the board in writing of
3 those hours.

4 F. Maintaining fewer live race days or fewer live
5 races on each race day during a licensed race meet does not
6 constitute a failure to maintain the minimum number of live
7 race days or races as required by [~~Paragraphs~~] Paragraph (2)
8 [~~and (3)~~] of Subsection B of this section if the licensee
9 submits to the board written approval by the state racing
10 commission for the licensee to vary the minimum number of
11 live race days or races, and the variance is due to:

12 (1) the inability of a racetrack gaming
13 operator licensee to fill races as published in the
14 licensee's condition book as long as the same type of
15 canceled race is run within the following two race weeks as
16 the race season permits;

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

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

21 (4) a power outage, electrical failure or
22 failure or unavailability of any equipment or supplies
23 necessary to conduct a race or meet;

24 (5) hazardous conditions or other threats to
25 the public health or safety; or

.229983.3

underscoring material = new
~~[bracketed material] = delete~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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