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AN ACT

RELATING TO HORSE RACING; INCREASING CIVIL PENALTIES FOR VIOLATIONS OF THE HORSE RACING ACT; PROVIDING FOR THE REPORT OF VIOLATIONS TO THE DISTRICT ATTORNEY; ADDING A CONDITION TO THE QUALIFICATIONS FOR A LICENSE; PROVIDING A NATIONALLY RECOGNIZED CLASSIFICATION OF PROHIBITED SUBSTANCES; PROVIDING AN INDEPENDENT STANDARD FOR DRUG TESTING.

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

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

"60-1A-5. COMMISSION RULES--ALL LICENSES--SUSPENSION, REVOCATION OR DENIAL OF LICENSES--PENALTIES.--

A. The commission shall adopt rules to implement the Horse Racing Act and to ensure that horse racing in New Mexico is conducted with fairness and that the participants and patrons are protected against illegal practices.

B. Every license issued by the commission shall require the licensee to comply with the rules adopted by the commission. A racetrack licensee shall post printed copies of the rules in conspicuous places on the racing grounds and shall maintain them during the period when live horse races are being conducted.

C. The commission may suspend, revoke or deny renewal of a license of a person who violates the provisions

1 of the Horse Racing Act or rules adopted pursuant to that
2 act. The commission shall provide a licensee facing
3 suspension, revocation or denial of renewal of a license
4 reasonable notice and an opportunity for a hearing. The
5 suspension, revocation or denial of renewal of a license
6 shall not relieve the licensee from prosecution for the
7 violations or from the payment of fines and penalties
8 assessed the licensee by the commission.

9 D. The commission may impose civil penalty fines
10 upon a licensee for a violation of the provisions of the
11 Horse Racing Act or rules adopted by the commission. The
12 fines shall not exceed one hundred thousand dollars
13 (\$100,000) or one hundred percent of a purse related to the
14 violation, whichever is greater, for each violation.

15 E. Fines shall be paid into the current school
16 fund.

17 F. When a penalty is imposed pursuant to this
18 section for administering a performance-altering substance as
19 provided in Subsection A of Section 60-1A-28 NMSA 1978, the
20 commission shall direct its executive director to report the
21 violation to the district attorney for the county in which
22 the violation occurred and to the horse racing licensing
23 authority in any other jurisdiction in which the licensee
24 being penalized is also licensed."

1 Chapter 39, Section 11) is amended to read:

2 "60-1A-11. GRANTING A LICENSE--STANDARDS.--

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

6 (1) is of good moral character, honesty and
7 integrity;

8 (2) does not currently have a license
9 suspended by a horse racing licensing authority in another
10 jurisdiction;

11 (3) does not have prior activities, criminal
12 record, reputation, habits or associations that:

13 (a) pose a threat to the public
14 interest;

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

17 (c) create or enhance the dangers of
18 unsuitable, unfair or illegal practices, methods and
19 activities in the conduct of horse racing, the business of
20 operating a horse racetrack licensed pursuant to the Horse
21 Racing Act or the financial activities incidental to
22 operating a horse racetrack;

23 (4) is qualified to be licensed consistent
24 with the Horse Racing Act;

25 (5) has sufficient business probity,

1 competence and experience in horse racing as determined by
2 the commission;

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

7 (7) is sufficiently capitalized pursuant to
8 standards set by the commission to conduct the business
9 covered by the license.

10 B. The commission shall establish by rule
11 additional qualifications for a licensee as it deems in the
12 public interest.

13 C. A person issued or applying for an occupational
14 license who has positive test results for a controlled
15 substance or who has been convicted of a violation of a
16 federal or state controlled substance law shall be denied a
17 license or shall be subject to revocation of an existing
18 license unless sufficient evidence of rehabilitation is
19 presented to the commission.

20 D. If the commission finds that an applicant for
21 an occupational license or an occupational licensee has been
22 convicted of any of the provisions of Subsection E of this
23 section, the applicant shall be denied the occupational
24 license or the occupational licensee shall have the
25 occupational license revoked. An occupational license shall

1 not be issued by the commission to an applicant or
2 occupational licensee for a period of five years from the
3 date of denial or revocation pursuant to this subsection.

4 E. An occupational license may be denied or
5 revoked if the applicant or occupational licensee, for the
6 purpose of stimulating or depressing a racehorse or affecting
7 its speed or stamina during a race or workout, is found to
8 have:

9 (1) administered, attempted to administer or
10 conspired to administer to a racehorse, internally,
11 externally or by injection, a drug, chemical, stimulant or
12 depressant, or other performance-altering substance as
13 defined by the association of racing commissioners
14 international, incorporated, or a successor organization or,
15 if none, by another nationally recognized organization that
16 has published substantially similar guidelines that are
17 generally accepted in the horse racing industry as determined
18 by the commission, unless the applicant or occupational
19 licensee has been specifically permitted to do so by the
20 commission or a steward; or

21 (2) attempted to use, used or conspired with
22 others to use an electrical or mechanical device, implement
23 or instrument, except a commission-approved riding crop,
24 unless the applicant or occupational licensee has been
25 specifically permitted by the commission or a steward to use

1 the device, implement or instrument.

2 F. The burden of proving the qualifications of an
3 applicant or licensee to be issued or have a license renewed
4 shall be on the applicant or licensee."

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

7 "60-1A-14. TESTING SPECIMENS.--

8 A. The commission shall adopt rules applying to
9 the handling and testing of blood serum plasma, urine or
10 other appropriate test samples identified by the commission
11 to be taken from racehorses.

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

14 (1) one sample shall be tested by the
15 commission or its designated laboratory in order to detect
16 the presence of unauthorized drugs, chemicals, stimulants,
17 depressants or other performance-altering substance as
18 defined by the association of racing commissioners
19 international, incorporated, or a successor organization or,
20 if none, by another nationally recognized organization that
21 has published substantially similar guidelines that are
22 generally accepted in the horse racing industry as determined
23 by the commission; and

24 (2) the second sample shall be forwarded by
25 the commission to the scientific laboratory division of the

1 department of health.

2 C. After a positive test result on the sample
3 tested by the commission or its designated laboratory and
4 upon a written request from the president, executive director
5 or manager of the New Mexico horsemen's association on forms
6 designated by the commission, the scientific laboratory
7 division shall transmit the corresponding second sample to
8 the New Mexico horsemen's association.

9 D. The scientific laboratory division shall keep
10 all samples in a controlled environment for a period of at
11 least three months.

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

22 SECTION 4. Section 60-1A-28 NMSA 1978 (being Laws 2007,
23 Chapter 39, Section 28) is amended to read:

24 "60-1A-28. AFFECTING SPEED OR STAMINA OF A RACE HORSE--
25 PENALTIES.--

1 A. A person administering, attempting to
2 administer or conspiring with others to administer to a
3 racehorse a drug, chemical, stimulant or depressant or other
4 performance-altering substance defined as a class 1 or class
5 2 penalty class A drug by the association of racing
6 commissioners international, incorporated, or a successor
7 organization or, if none, by another nationally recognized
8 organization that has published substantially similar
9 guidelines that are generally accepted in the horse racing
10 industry as determined by the commission whether internally,
11 externally or by injection for the purpose of stimulating or
12 depressing the racehorse or affecting the speed or stamina of
13 the racehorse during a horse race or workout is guilty of a
14 fourth degree felony and upon conviction shall be sentenced
15 pursuant to Section 31-18-15 NMSA 1978.

16 B. A person who uses, attempts to use or conspires
17 with others to use during a horse race or workout an
18 electrically or mechanically prohibited device, implement or
19 instrument, other than a commission-approved riding crop, is
20 guilty of a fourth degree felony and upon conviction shall be
21 sentenced pursuant to Section 31-18-15 NMSA 1978.

22 C. A person who sponges the nostrils or trachea of
23 a racehorse or who uses anything to injure a racehorse for
24 the purpose of stimulating or depressing the racehorse or
25 affecting the speed or stamina of the racehorse during a

1 horse race or workout is guilty of a fourth degree felony and
2 upon conviction shall be sentenced pursuant to Section 31-18-
3 15 NMSA 1978.

4 D. It is prima facie evidence of intent to commit
5 any of the crimes set forth:

6 (1) in Subsection A of this section for a
7 person to be found within the racing grounds of a racetrack
8 licensee, including the stands, stables, sheds or other areas
9 where racehorses are kept, who possesses with the intent to
10 use, sell, give away or otherwise transfer to another person
11 a drug, chemical, stimulant or depressant or other
12 performance-altering substance defined as a class 1 or class
13 2 penalty class A drug by the association of racing
14 commissioners international, incorporated, or a successor
15 organization or, if none, by another nationally recognized
16 organization that has published substantially similar
17 guidelines that are generally accepted in the horse racing
18 industry as determined by the commission, to stimulate or
19 depress a racehorse or to affect the speed or stamina of a
20 racehorse;

21 (2) in Subsection B of this section for a
22 person to be found within the racing grounds of a racetrack
23 licensee, including the stands, stables, sheds or other areas
24 where racehorses are kept, who possesses with the intent to
25 use, sell, give away or otherwise transfer to another person

1 an electrically or mechanically prohibited device, implement
2 or instrument, other than a commission-approved riding crop;
3 and

4 (3) in Subsection C of this section for a
5 person to be found within the racing grounds of a racetrack
6 licensee, including the stands, stables, sheds or other areas
7 where racehorses are kept, who possesses with the intent to
8 use, sell, give away or otherwise transfer to another person
9 paraphernalia or substances used to sponge the nostrils or
10 trachea of a racehorse or that may be used to injure a
11 racehorse for the purpose of stimulating or depressing the
12 racehorse or affecting its speed or stamina during a horse
13 race or workout."

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