

1 HOUSE BILL 229

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Candy Spence Ezzell

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10 AN ACT

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

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

22 "60-1A-11. GRANTING A LICENSE--STANDARDS--DENIAL AND
23 REVOCATION.--

24 A. A license shall not be issued or renewed unless
25 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

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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 shall 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:

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

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

23 E. An occupational license shall not be issued by
24 the commission to an applicant or former occupational licensee
25 for a period of five years from the date of denial or

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1 revocation pursuant to Subsection D of this section.

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

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

7 "60-1A-13. [~~OFFICIAL CHEMIST~~] EQUINE HEALTH AND TESTING
8 ADVISOR--QUALIFICATIONS--DUTIES.--The commission shall
9 [~~designate at least one official chemist~~] hire or contract with
10 an equine health and testing advisor. An [~~official chemist~~]
11 equine health and testing advisor shall be a doctor of
12 veterinary medicine or shall hold a doctorate degree in
13 chemistry or a related field and shall be knowledgeable and
14 experienced in the techniques used for testing [~~the blood,~~
15 ~~urine and saliva of horses for drugs, chemicals, stimulants,~~
16 ~~depressants or other foreign substances not naturally occurring~~
17 ~~in a horse. The official chemist may be an employee of a~~
18 ~~private laboratory located in New Mexico or an employee of an~~
19 ~~agency of New Mexico~~] the specimens collected pursuant to
20 Section 60-1A-14 NMSA 1978. The [~~official chemist~~] equine
21 health and testing advisor shall exercise the duties prescribed
22 by rules of the commission."

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

25 "60-1A-14. TESTING SPECIMENS.--

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1 A. The commission shall adopt rules applying to the
2 handling of pre- and post-race, out-of-competition and necropsy
3 testing of blood serum plasma, urine or other appropriate test
4 samples identified by the commission to be taken from
5 racehorses, following guidelines that meet or exceed the
6 standards established in model rules published by the
7 association of racing commissioners international,
8 incorporated, or a successor organization or, if none, by
9 another nationally recognized organization that has published
10 substantially similar guidelines that are generally accepted in
11 the horse racing industry as determined by the commission.

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

14 (1) one sample, designated as the "official
15 sample", shall be tested by the commission or its designated
16 laboratory in order to detect the presence of unauthorized
17 drugs, chemicals, stimulants, depressants or other performance-
18 altering substance as defined in guidelines 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; and

24 (2) the ~~[second sample shall]~~ remaining
25 samples, each designated as a "split sample", may be forwarded

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1 by the commission to the scientific laboratory division of the
2 department of health or maintained by the commission in a
3 manner that meets or exceeds the guidelines identified in
4 Paragraph (1) of this subsection.

5 C. After a positive test result on the official
6 sample tested by the commission or its designated laboratory
7 and upon a written request from the president, executive
8 director or manager of the New Mexico horsemen's association on
9 forms designated by the commission, [~~the scientific laboratory~~
10 ~~division shall transmit the corresponding second sample to the~~
11 ~~New Mexico horsemen's association] a corresponding split sample
12 shall be transferred to an independent laboratory in a manner
13 prescribed by commission rule.~~

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

18 E. The commission shall contract with an
19 independent laboratory to maintain a quality assurance program.
20 The laboratory shall meet or exceed the current national
21 laboratory standards for the testing of drugs or other foreign
22 substances in a horse, as established by the association of
23 racing commissioners international, incorporated, or of a
24 successor organization or, if none, of another nationally
25 recognized organization that has published substantially

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1 similar guidelines that are generally accepted in the horse
2 racing industry."

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

5 "60-1A-14.1. RACEHORSE TESTING FUND--CREATED--
6 PURPOSE.--The "racehorse testing fund" is created in the state
7 treasury. The purpose of the fund is to ensure the testing of
8 racehorses at a laboratory that meets or exceeds the current
9 national laboratory standards for the testing of drugs or other
10 foreign substances not naturally occurring in a horse, as
11 established by the association of racing commissioners
12 international, incorporated, or of a successor organization or,
13 if none, of another nationally recognized organization that has
14 published substantially similar guidelines that are generally
15 accepted in the horse racing industry. The fund consists of
16 one-half of the daily capital outlay tax appropriated and
17 transferred pursuant to Paragraph (4) of Subsection A of
18 Section 60-1A-20 NMSA 1978 and appropriations, gifts, grants
19 and donations made to the fund. Income from investment of the
20 fund shall be credited to the fund. The commission shall
21 administer the racehorse testing fund, and money in the fund is
22 appropriated to the commission for the handling of pre- and
23 post-race, out-of-competition and necropsy testing of blood
24 serum plasma, urine or other appropriate test samples taken
25 from racehorses pursuant to Section 60-1A-14 NMSA 1978

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1 ~~[following guidelines that meet or exceed the standards~~
2 ~~established in model rules published by the association of~~
3 ~~racing commissioners international, incorporated, or a~~
4 ~~successor organization or, if none, by another nationally~~
5 ~~recognized organization that has published substantially~~
6 ~~similar guidelines that are generally accepted in the horse~~
7 ~~racing industry as determined by the commission]~~ and to
8 compensate the equine health and testing advisor employed or
9 selected pursuant to Section 60-1A-13 NMSA 1978. Any
10 unexpended or unencumbered balance remaining in the racehorse
11 testing fund at the end of a fiscal year in excess of six
12 hundred thousand dollars (\$600,000) shall revert to the general
13 fund. Expenditures from the fund shall be made on warrant of
14 the secretary of finance and administration pursuant to
15 vouchers signed by the executive director of the commission."

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