

SENATE TAX, BUSINESS AND TRANSPORTATION
COMMITTEE SUBSTITUTE FOR
SENATE BILL 336

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO GAMING CONTROL; ALLOWING THE USE OF RACETRACK FUNDS TO OFFSET THE COSTS OF JOCKEY AND EXERCISE RIDER INSURANCE AND THE COSTS OF COMPLYING WITH FEDERAL LAW; TEMPORARILY DECREASING THE PERCENTAGE OF NET TAKE THAT IS ALLOCATED TO THE GAMING TAX; DIRECTING THE STATE RACING COMMISSION TO REVIEW AND PROVIDE LEGISLATIVE RECOMMENDATIONS ON CHANGES RELATING TO THE USE OF NET TAKE FOR PURSES; DECLARING AN EMERGENCY.

.225475.5AIC March 14, 2023 (6:46pm)

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

SECTION 1. Section 60-2E-47 NMSA 1978 (being Laws 1997, Chapter 190, Section 49, as amended) is amended to read:

"60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

A. An excise tax is imposed on the privilege of engaging in gaming activities in the state. This tax shall be known as the "gaming tax".

B. The gaming tax is an amount equal to ten percent of the gross receipts of manufacturer licensees from the sale, lease or other transfer of gaming devices in or into the state, except receipts of a manufacturer from the sale, lease or other transfer to a licensed distributor for subsequent sale or lease may be excluded from gross receipts; ten percent of the gross receipts of distributor licensees from the sale, lease or other transfer of gaming devices in or into the state; ten percent of the net take of a gaming operator licensee that is a nonprofit organization; and [~~twenty-six~~] SFC→~~twenty-one and four-~~ ~~tenths~~←SFC SFC→~~twenty-four and eight-tenths~~←SFC percent of the net take of every other gaming operator licensee. For the purposes of this section, "gross receipts" means the total amount of money or the value of other consideration received from selling, leasing or otherwise transferring gaming devices.

C. The gaming tax imposed on a licensee is in lieu of all state and local gross receipts taxes on that portion of

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the licensee's gross receipts attributable to gaming activities.

D. The gaming tax is to be paid on or before the fifteenth day of the month following the month in which the taxable event occurs. The gaming tax shall be administered and collected by the taxation and revenue department in cooperation with the board. The provisions of the Tax Administration Act apply to the collection and administration of the tax.

E. In addition to the gaming tax, a gaming operator licensee that is a racetrack shall pay:

(1) twenty percent of its net take solely to purses [~~to be distributed~~] in accordance with rules adopted by the state racing commission; and

(2) SFC → ~~four and six-tenths~~ ← SFC SFC → one and two-tenths ← SFC percent of its net take solely to offset the costs of jockey and exercise rider insurance and to comply with federal and state laws affecting horse racing.

F. An amount not to exceed twenty percent of the interest earned on the balance of any fund consisting of money for purses distributed by racetrack gaming operator licensees pursuant to this subsection may be expended for the costs of administering the distributions. Sfill → The state racing commission is responsible for regulatory oversight of funds withdrawn for exercise rider and jockey insurance and compliance with federal and state laws affecting horse racing.

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The state racing commission is also responsible for regulatory oversight of the twenty percent and one and two-tenths percent fees funding from gaming.

Sf11 A racetrack gaming operator licensee shall spend no less than one-fourth percent of the net take of its gaming machines to fund or support programs for the treatment and assistance of compulsive gamblers.

[F-] G. A nonprofit gaming operator licensee shall distribute at least sixty percent of the balance of its net take, after payment of the gaming tax and any income taxes, for charitable or educational purposes."

SECTION 2. Section 60-2E-47 NMSA 1978 (being Laws 1997, Chapter 190, Section 49, as amended) is repealed and a new Section 60-2E-47 NMSA 1978 is enacted to read:

"60-2E-47. [NEW MATERIAL] GAMING TAX--IMPOSITION--ADMINISTRATION.--

A. An excise tax is imposed on the privilege of engaging in gaming activities in the state. This tax shall be known as the "gaming tax".

B. The gaming tax is an amount equal to ten percent of the gross receipts of manufacturer licensees from the sale, lease or other transfer of gaming devices in or into the state, except receipts of a manufacturer from the sale, lease or other transfer to a licensed distributor for subsequent sale or lease may be excluded from gross receipts; ten percent of the gross receipts of distributor licensees from the sale, lease or other

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transfer of gaming devices in or into the state; ten percent of the net take of a gaming operator licensee that is a nonprofit organization; and twenty-six percent of the net take of every other gaming operator licensee. For the purposes of this section, "gross receipts" means the total amount of money or the value of other consideration received from selling, leasing or otherwise transferring gaming devices.

C. The gaming tax imposed on a licensee is in lieu of all state and local gross receipts taxes on that portion of the licensee's gross receipts attributable to gaming activities.

D. The gaming tax is to be paid on or before the fifteenth day of the month following the month in which the taxable event occurs. The gaming tax shall be administered and collected by the taxation and revenue department in cooperation with the board. The provisions of the Tax Administration Act apply to the collection and administration of the tax.

E. In addition to the gaming tax, a gaming operator licensee that is a racetrack shall pay twenty percent of its net take to purses in accordance with rules adopted by the state racing commission. An amount not to exceed twenty percent of the interest earned on the balance of any fund consisting of money for purses distributed by racetrack gaming operator licensees pursuant to this subsection may be expended for the costs of administering the distributions. A racetrack

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gaming operator licensee shall spend no less than one-fourth percent of the net take of its gaming machines to fund or support programs for the treatment and assistance of compulsive gamblers.

F. A nonprofit gaming operator licensee shall distribute at least sixty percent of the balance of its net take, after payment of the gaming tax and any income taxes, for charitable or educational purposes."

SECTION 3. TEMPORARY PROVISION--STATE RACING COMMISSION--REVIEW EFFECTIVENESS OF USING NET TAKE FOR PURSES TO OFFSET THE COSTS OF JOCKEY INSURANCE AND TO COMPLY WITH FEDERAL AND STATE LAWS AFFECTING HORSE RACING.--The state racing commission shall review the effectiveness of the amendments to Section 60-2E-47 NMSA 1978 enacted in Section 1 of this act and shall, no earlier than July 1, 2026 and no later than December 1, 2026, provide the conclusions of its review and any legislative recommendations to the interim legislative committees that address taxation and horse racing.

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of Section 2 of this act is July 1, 2027.

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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