

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 159

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

AN ACT

RELATING TO GAMING; REMOVING ALLOWABLE GAMING EXPENSES FROM THE
NET TAKE CALCULATION FOR NONPROFIT GAMING OPERATOR LICENSEES;
MAKING THE EXISTING REQUIRED DISTRIBUTION PERCENTAGE FOR
CHARITABLE OR EDUCATIONAL PURPOSES PERMANENT.

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 by Laws 2023, Chapter 122,
Section 1 and by Laws 2023, Chapter 154, Section 2) 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

.227584.1

underscored material = new
[bracketed material] = delete

1 of the gross receipts of manufacturer licensees from the sale,
2 lease or other transfer of gaming devices in or into the state,
3 except receipts of a manufacturer from the sale, lease or other
4 transfer to a licensed distributor for subsequent sale or lease
5 may be excluded from gross receipts; ten percent of the gross
6 receipts of distributor licensees from the sale, lease or other
7 transfer of gaming devices in or into the state; ten percent of
8 the net take of a gaming operator licensee that is a nonprofit
9 organization; and twenty-four and eight-tenths percent of the
10 net take of every other gaming operator licensee. For the
11 purposes of this section, "gross receipts" means the total
12 amount of money or the value of other consideration received
13 from selling, leasing or otherwise transferring gaming devices.

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

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

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

.227584.1

1 (1) twenty percent of its net take solely to
 2 purses in accordance with rules adopted by the state racing
 3 commission; and

4 (2) one and two-tenths percent of its net take
 5 solely to offset the costs of jockey and exercise rider
 6 insurance and to comply with federal and state laws affecting
 7 horse racing.

8 F. An amount not to exceed twenty percent of the
 9 interest earned on the balance of any fund consisting of money
 10 for purses distributed by racetrack gaming operator licensees
 11 pursuant to this subsection may be expended for the costs of
 12 administering the distributions. The state racing commission
 13 is responsible for regulatory oversight of funds withdrawn for
 14 exercise rider and jockey insurance and compliance with federal
 15 and state laws affecting horse racing. The state racing
 16 commission is also responsible for regulatory oversight of the
 17 twenty percent and one and two-tenths percent fees funding from
 18 gaming. A racetrack gaming operator licensee shall spend no
 19 less than one-fourth percent of the net take of its gaming
 20 machines to fund or support programs for the treatment and
 21 assistance of compulsive gamblers.

22 G. A nonprofit gaming operator licensee shall
 23 distribute at least twenty percent of the balance of its net
 24 take, after payment of the gaming tax and any income taxes [~~and~~
 25 ~~allowable gaming expenses~~], for charitable or educational

.227584.1

underscored material = new
 [bracketed material] = delete

1 purposes."

2 SECTION 2. That version of Section 60-2E-47 NMSA 1978
3 (being Laws 2023, Chapter 122, Section 2) that is to become
4 effective on July 1, 2027 is amended to read:

5 "60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

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

9 B. The gaming tax is an amount equal to ten percent
10 of the gross receipts of manufacturer licensees from the sale,
11 lease or other transfer of gaming devices in or into the state,
12 except receipts of a manufacturer from the sale, lease or other
13 transfer to a licensed distributor for subsequent sale or lease
14 may be excluded from gross receipts; ten percent of the gross
15 receipts of distributor licensees from the sale, lease or other
16 transfer of gaming devices in or into the state; ten percent of
17 the net take of a gaming operator licensee that is a nonprofit
18 organization; and twenty-six percent of the net take of every
19 other gaming operator licensee. For the purposes of this
20 section, "gross receipts" means the total amount of money or
21 the value of other consideration received from selling, leasing
22 or otherwise transferring gaming devices.

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

.227584.1

1 activities.

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

8 E. In addition to the gaming tax, a gaming operator
 9 licensee that is a racetrack shall pay twenty percent of its
 10 net take to purses in accordance with rules adopted by the
 11 state racing commission. An amount not to exceed twenty
 12 percent of the interest earned on the balance of any fund
 13 consisting of money for purses distributed by racetrack gaming
 14 operator licensees pursuant to this subsection may be expended
 15 for the costs of administering the distributions. A racetrack
 16 gaming operator licensee shall spend no less than one-fourth
 17 percent of the net take of its gaming machines to fund or
 18 support programs for the treatment and assistance of compulsive
 19 gamblers.

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

24 SECTION 3. EFFECTIVE DATE.--The effective date of the
 25 provisions of this act is July 1, 2024.

.227584.1

underscored material = new
 [bracketed material] = delete