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HOUSE BILL 370

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

INTRODUCED BY

Gail C. Beam

AN ACT

RELATING TO LICENSING; CHANGING BICYCLE RACING COMMISSION  
MEMBERSHIP; EXPANDING BICYCLE RACING COMMISSION POWERS AND  
DUTIES.

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

Section 1. Section 60-2D-2 NMSA 1978 (being Laws 1991,  
Chapter 233, Section 2) is amended to read:

"60-2D-2. DEFINITIONS.--As used in the Bicycle Racing  
Act:

A. "commission" means the bicycle racing  
commission;

B. "bicycle racing" means racing at Keiren  
velodrome bicycle-racing tracks approved by the commission and  
all other forms of cycling, including road, mountain, BMX and  
cyclo-cross; and

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1 C. "license" means a license for a [ ~~racing~~] Keiran  
2 velodrome bicycle-racing meet issued under the provisions of  
3 the Bicycle Racing Act. [ ~~and~~

4 ~~D. "secretary" means the executive secretary of the~~  
5 ~~commission.]"~~

6 Section 2. Section 60-2D-3 NMSA 1978 (being Laws 1991,  
7 Chapter 233, Section 3) is amended to read:

8 "60-2D-3. COMMISSION CREATED--APPOINTMENTS--  
9 QUALIFICATIONS.--

10 A. The "bicycle racing commission" is created. The  
11 commission shall consist of three commissioners appointed by  
12 the governor, [~~The first commission members shall be appointed~~  
13 ~~for staggered terms, one ending on July 1, 1993 and one ending~~  
14 ~~on July 1 of each of the following two odd-numbered years.~~  
15 ~~Thereafter]~~ one of whom shall be a representative of the  
16 commercial bicycle industry and two of whom shall be  
17 representatives of bicycle organizations. The commission shall  
18 also consist of three ex-officio members:

19 (1) the secretary of transportation or the  
20 secretary's designee;

21 (2) the secretary of economic development or  
22 the secretary's designee; and

23 (3) the secretary of tourism or the  
24 secretary's designee.

25 B. Appointments shall be for terms of six years.

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1 ~~[Vacancies for any unexpired term shall be filled by the~~  
2 ~~governor.]~~ To be eligible for appointment, all persons shall  
3 be citizens, residents of the state and qualified electors."

4 Section 3. Section 60-2D-4 NMSA 1978 (being Laws 1991,  
5 Chapter 233, Section 4) is amended to read:

6 "60-2D-4. COMMISSION ORGANIZATION AND OFFICERS--PER  
7 DIEM.--

8 A. Within thirty days after appointment, the first  
9 commission shall organize for the transaction of business by  
10 selecting one of its members as chairman. The commission shall  
11 meet ~~[annually in September]~~ at least quarterly and may meet as  
12 often as it deems necessary on the call of the chairman or any  
13 ~~[two]~~ four members of the commission. Members of the  
14 commission shall receive per diem and mileage as provided in  
15 the Per Diem and Mileage Act and shall receive no other  
16 compensation, perquisite or allowance.

17 B. The commission shall maintain an office within  
18 the state and keep detailed records of all its meetings and all  
19 business transacted by it. Complete records shall be kept of  
20 all collections and disbursements. The commission shall report  
21 annually on June 30 to the governor on its activities for the  
22 preceding year.

23 C. The expenses of the commission shall be paid out  
24 of the state's allocation of the proceeds from the bicycle-  
25 racing pari-mutuel tax as provided in Section ~~[16 of the~~

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1 ~~Bicycle Racing Act]~~ 60-2D-16 NMSA 1978. The commission may  
2 apply for available grants and accept and use gifts, grants or  
3 donations to aid the commission in carrying out its duties.

4 Payment of expenses by the commission shall be on vouchers  
5 issued and signed by the person designated by the commission,  
6 upon warrants drawn by the department of finance and  
7 administration in accordance with the budget approved by the  
8 department of finance and administration."

9 Section 4. Section 60-2D-5 NMSA 1978 (being Laws 1991,  
10 Chapter 233, Section 5) is amended to read:

11 "60-2D-5. COMMISSION POWERS AND DUTIES.--The commission  
12 shall ~~[in its discretion and subject to its rules and~~  
13 ~~regulations]~~:

14 A. license all persons desiring to participate,  
15 except as spectators, in bicycle racing at Keiren velodrome  
16 bicycle-racing tracks within this state approved by the  
17 commission;

18 B. supervise all licensees and all Keiren velodrome  
19 races, race meets and racetracks operating under its  
20 jurisdiction;

21 C. set the time, place and duration of all Keiren  
22 velodrome race meets under its jurisdiction;

23 D. suspend or revoke Keiren velodrome licenses for  
24 violation of the law or rules ~~[and regulations]~~ of the  
25 commission;

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1 E. do ~~[all]~~ other things necessary and proper to  
2 fulfill its obligations under the Bicycle Racing Act;

3 F. have all places where Keiren velodrome bicycle-  
4 racing meets are held visited and inspected at least once a  
5 year by its members or employees;

6 G. require all pari-mutuel bicycle-racing meets in  
7 this state to be held at Keiren velodrome bicycle-racing tracks  
8 [~~in this state~~] and in accordance with the rules [~~and~~  
9 ~~regulations~~] of the commission;

10 H. supervise the operations of pari-mutuel machines  
11 and equipment and the operation of all money rooms, accounting  
12 rooms and seller's and cashier's windows;

13 I. supervise the weighing and inspection of  
14 bicycles at Keiren velodrome events; [~~and~~]

15 J. make saliva and urine tests on bicycle racers  
16 selected by the commission or its employees at every Keiren  
17 velodrome race;

18 K. actively encourage and promote the hosting of  
19 bicycle events;

20 L. promote programs and facilities for the safe use  
21 of bicycles;

22 M. advise appropriate agencies of the state on  
23 policies, programs and facilities for promoting bicycle events  
24 and for the safe use of bicycles; and

25 N. confer and consult with local government

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1 agencies on the policies, programs and facilities for promoting  
2 bicycle events and for the safe use of bicycles."

3 Section 5. Section 60-2D-6 NMSA 1978 (being Laws 1991,  
4 Chapter 233, Section 6) is amended to read:

5 "60-2D-6. COMMISSION EMPLOYEES.--The commission shall  
6 hire an executive [~~secretary~~] director and such other employees  
7 as are necessary to fulfill its duties, at salaries to be set  
8 by the commission."

9 Section 6. Section 60-2D-7 NMSA 1978 (being Laws 1991,  
10 Chapter 233, Section 7) is amended to read:

11 "60-2D-7. COMMISSION--RULES [~~AND REGULATIONS~~].--The  
12 commission shall promulgate reasonable rules [~~and regulations~~]  
13 governing bicycle racing in this state. These rules [~~and~~  
14 ~~regulations~~] shall:

15 A. govern the application procedures for all Keiren  
16 velodrome licenses issued by the commission;

17 B. provide for the supervision, direction and  
18 discipline of Keiren velodrome licensees [~~of the commission~~];

19 C. govern, subject to the Uniform Licensing Act,  
20 the issuance, suspension and revocation of Keiren velodrome  
21 licenses issued by the commission;

22 D. provide for the barring from Keiren velodrome  
23 bicycle racing and bicycle-racing tracks of any persons,  
24 including those required to be licensed by the commission;

25 E. determine the distribution of the gross receipts

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1 of all pari-mutuel bicycle-racing wagers that shall be payable  
2 as pari-mutuel winnings, as race purses to the winning bicycle  
3 racers and as commissions to the licensee;

4 F. set standards for the holding, conducting and  
5 operating of all Keiren Velodrome and other bicycle races, race  
6 meets, [~~and~~] racetracks [~~under the supervision of the~~  
7 ~~commission~~] and events; and

8 G. become effective only after they have been filed  
9 in accordance with the State Rules Act."

10 Section 7. Section 60-2D-8 NMSA 1978 (being Laws 1991,  
11 Chapter 233, Section 8) is amended to read:

12 "60-2D-8. COMMISSION--ENFORCEMENT--INVESTIGATION--  
13 SUBPOENA.--The commission shall enforce or secure the  
14 enforcement of, through the proper officials, [~~of~~] all the  
15 laws, rules [~~regulations~~] and orders of the commission. The  
16 commission shall investigate on its own motion [~~or~~] any  
17 information contained or that should be contained in any  
18 application. The commission shall conduct an investigation  
19 upon receipt of any information or complaint concerning any  
20 violation of the Bicycle Racing Act or any rule [~~regulation~~] or  
21 order issued pursuant to that act [~~or upon receipt of any~~  
22 ~~application, any information contained or which should be~~  
23 ~~contained in the application~~]. In enforcement of the Bicycle  
24 Racing Act or in any investigation, the commission may exercise  
25 the power of subpoena. Any member of the commission may

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1 administer oaths or affirmations. If [~~any~~] a person refuses to  
2 obey a subpoena, the commission may present its petition to the  
3 district court in Santa Fe county setting forth the facts, and  
4 the district court shall issue its subpoena to the person."

5 Section 8. Section 60-2D-9 NMSA 1978 (being Laws 1991,  
6 Chapter 233, Section 9) is amended to read:

7 "60-2D-9. COMMISSION--LICENSES--LIMITATIONS--FEES.--

8 A. The commission shall require licenses of all  
9 bicycle racers, trainers, starters, assistant starters, pari-  
10 mutuel employees, authorized racer's or owner's agents and any  
11 other person, whether operating under [~~his~~] the person's own  
12 name or a trade or assumed name, who wishes to participate,  
13 except as a spectator, in a Keiren velodrome bicycle-racing  
14 meet in this state. This license shall be known as a  
15 [~~general~~] "Keiren velodrome bicycle-racing license" and shall  
16 state on its face the capacity in which the licensee will  
17 participate in bicycle racing in this state. The fee for a  
18 [~~general~~] Keiren velodrome bicycle-racing license shall be set  
19 by the commission in an amount not to exceed fifty dollars  
20 (\$50.00) per year. The fee shall not be prorated for part of a  
21 year.

22 B. The commission shall require a license for any  
23 person to hold bicycle-racing meets with pari-mutuel wagering.  
24 This license shall be known as a "pari-mutuel bicycle-racing  
25 license" and shall state on its face the time, place and

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1 duration of all bicycle-racing meets authorized by that license  
2 and the number of races allowed per day. The fee for [~~such~~] a  
3 pari-mutuel bicycle-racing license shall be set by the  
4 commission and shall not exceed one thousand dollars (\$1,000)  
5 for [~~any~~] one calendar year, regardless of the number of days  
6 of bicycle-racing meets covered by the license.

7 C. The commission may issue a pari-mutuel bicycle-  
8 racing license for:

- 9 (1) a bicycle-racing season; [~~and~~] or  
10 (2) one day, to be known as a charity day, on  
11 which day the licensee shall remit the taxes owed to the state,  
12 deduct an amount equal to the purses and the cost of conducting  
13 the racing on that day and donate the balance to nonprofit  
14 organizations engaged in charitable, benevolent or eleemosynary  
15 activities selected by the licensee and approved by the  
16 commission."

17 Section 9. Section 60-2D-10 NMSA 1978 (being Laws 1991,  
18 Chapter 233, Section 10) is amended to read:

19 "60-2D-10. APPLICATIONS FOR PARI-MUTUEL BICYCLE-RACING  
20 LICENSES.--

21 A. Each initial application for a pari-mutuel  
22 bicycle-racing license shall:

- 23 (1) be made under oath on a form supplied by  
24 the commission and shall be filed on a date set by the  
25 commission by [~~regulation~~] rule;

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1 (2) set forth the time, place and number of  
2 days of the proposed bicycle-racing meet;

3 (3) state the full name and address of the  
4 applicant and, if a corporation, the names and addresses of  
5 [all] its officers and directors and of [all] the holders of  
6 each class of its stock and the amount of stock of each class  
7 owned by each stockholder;

8 (4) present a current financial statement of  
9 the applicant;

10 (5) identify the bicycle-racing track where  
11 the proposed bicycle-racing meet will be held and the names and  
12 addresses of the owners of all property to be used;

13 (6) give a description of the land uses within  
14 a radius of two miles of the proposed meet; and

15 (7) state any other information deemed  
16 necessary by the commission or required by its [regulations]  
17 rules.

18 B. Upon receipt of the initial application, the  
19 commission shall set a date for a hearing on the application  
20 and require the applicant to give public notice of the hearing,  
21 in a form set by the commission, giving the time, place and  
22 purpose of the hearing by publication in a newspaper in general  
23 circulation in the area of the proposed meet, once a week for  
24 three consecutive weeks, and by posting a notice on the site of  
25 the proposed bicycle-racing meet, in a form and size set by the

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1 commission.

2 C. The commission shall conduct the public hearing,  
3 and any interested person may be heard. Among other things,  
4 the commission may hear evidence concerning:

5 (1) the number of licenses already granted;

6 (2) the location of tracks previously  
7 licensed; and

8 (3) the desires of the residents of the  
9 county."

10 Section 10. Section 60-2D-12 NMSA 1978 (being Laws 1991,  
11 Chapter 233, Section 12) is amended to read:

12 "60-2D-12. LIABILITY INSURANCE--BOND--PARI-MUTUEL  
13 BICYCLE-RACING LICENSEE.--Every pari-mutuel bicycle-racing  
14 licensee shall, as a condition to receiving a license to  
15 conduct bicycle-racing meets:

16 A. carry public liability insurance, in a form, in  
17 an amount and with a company approved by the commission, for  
18 the protection of the public, exhibitors, contestants,  
19 visitors, other licensees and spectators; and

20 B. provide and deliver to the commission a bond in  
21 a form required by the commission, in favor of the state, in a  
22 penal sum of not less than fifty thousand dollars (\$50,000) and  
23 any further amount required by the commission, conditioned  
24 upon:

25 (1) the payment by the licensee to the state

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1 of all money due it under the provisions of the Bicycle Racing  
2 Act;

3 (2) the licensee's discharging all obligations  
4 to his employees, exhibitors, contestants and persons  
5 furnishing labor and material in connection with any race meet  
6 or in connection with the construction, maintenance, repair or  
7 operation of the racetrack or buildings or grounds connected  
8 therewith; and

9 (3) generally, [~~that~~] the licensee [~~will~~  
10 ~~conduct~~] conducting the bicycle-racing meet strictly in  
11 accordance with the provisions of the Bicycle Racing Act and  
12 the rules [~~and regulations~~] of the commission and [~~will~~] not  
13 [~~violate~~] violating any other law of this state while operating  
14 under a license issued by the commission."

15 Section 11. Section 60-2D-13 NMSA 1978 (being Laws 1991,  
16 Chapter 233, Section 13) is amended to read:

17 "60-2D-13. [~~LICENSE~~] KEIREN VELODROME AND PARI-MUTUEL  
18 LICENSES--REFUSAL TO ISSUE.--The commission, using the  
19 procedures of the Uniform Licensing Act:

20 A. when dealing with a [~~general~~] Keiren velodrome  
21 bicycle-racing license, shall refuse to issue a license if the  
22 applicant:

23 (1) as an individual or, if a partnership,  
24 joint venture or corporation, if any partner, joint venturer,  
25 officer or director has been convicted of [~~any~~] a crime [~~which~~]

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1 that if committed in New Mexico is or would have been a felony  
2 or of the violation of [~~any~~] a law of the United States or of  
3 [~~any~~] a state concerning gambling or racing or of any rule [~~or~~  
4 ~~regulation~~] of this or any other racing commission; or

5 (2) fails to pay the required fees or [~~any~~]  
6 other payment required by the Bicycle Racing Act;

7 B. when dealing with a pari-mutuel bicycle-racing  
8 license, shall refuse to issue the license for the reasons  
9 given in Subsection A of this section or, in addition, if the  
10 applicant:

11 (1) is not a bona-fide resident of New Mexico;

12 (2) is a foreign corporation;

13 (3) is a corporation and does not have a  
14 provision in its charter that none of the voting stock of the  
15 corporation shall be sold, mortgaged or otherwise pledged or  
16 transferred without ten days' prior written notice to the  
17 commission;

18 (4) is a corporation any of the voting stock  
19 of which is held for an undisclosed principal, unless the  
20 corporation is listed on a national stock exchange and the  
21 named stockholder is a recognized nominee; or

22 (5) refuses to agree that [~~he~~] the applicant  
23 will not thereafter sell, mortgage or otherwise pledge or  
24 dispose of [~~any of~~] the assets listed and described on the  
25 application for license without giving the commission ten days'

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1 written notice;

2 C. when dealing with a [~~general~~] Keiren velodrome  
3 bicycle-racing license, may refuse to issue the license if the  
4 applicant makes [~~any~~] a false or fraudulent statement of a  
5 material nature in the application; or

6 D. when dealing with a pari-mutuel bicycle-racing  
7 license, may refuse to issue the license for the reason given  
8 in Subsection C of this section or if:

9 (1) the financial standing of the applicant  
10 and [~~his~~] the applicant's ability or, if a partnership, joint  
11 venture or corporation, the financial standing of the  
12 partnership, joint venture or corporation or the ability of the  
13 partners, joint venturers, officers or directors of the  
14 corporation are such that in the opinion of the commission it  
15 is not in the best interest of the state to grant the license;

16 (2) the sentiments of the residents of the  
17 area and the county in which it is proposed to conduct the  
18 bicycle-racing meet are against the license; or

19 (3) for any other reason it is not in the best  
20 interest of the state, the racing industry and the area and  
21 county in which it is proposed to conduct the bicycle-racing  
22 meets to grant the license."

23 Section 12. Section 60-2D-14 NMSA 1978 (being Laws 1991,  
24 Chapter 233, Section 14) is amended to read:

25 "60-2D-14. COMMISSION REVOCATION AND SUSPENSION.--The  
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1 commission, using the procedures of the Uniform Licensing Act:

2 A. when dealing with a [~~general~~] Keiren velodrome  
3 bicycle-racing license, may revoke or suspend the license if  
4 the licensee:

5 (1) as an individual or, if a partnership,  
6 joint venture or corporation, if any partner, joint venturer,  
7 officer or director has been convicted of [~~any~~] a crime which  
8 if committed in New Mexico is or would have been a felony or of  
9 the violation of [~~any~~] a law of the United States or of [~~any~~] a  
10 state concerning gambling or racing or of [~~any~~] a rule [~~or~~  
11 ~~regulation~~] of this or any other racing commission; or

12 (2) has made [~~any~~] a false or fraudulent  
13 statement of a material nature in [~~his~~] the licensee's  
14 application; or

15 B. when dealing with a pari-mutuel bicycle-racing  
16 license, may revoke or suspend the license for any reason given  
17 in Subsection A of this section or if the licensee:

18 (1) incorporates as a foreign corporation;

19 (2) loses [~~his~~] the licensee's residence in  
20 New Mexico;

21 (3) is a corporation and amends its charter to  
22 allow its voting stock to be sold, mortgaged or otherwise  
23 pledged or transferred without ten days' prior written notice  
24 to the commission;

25 (4) is a corporation and sells, mortgages or

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1 otherwise pledges or transfers [~~any of~~] the voting stock of the  
2 corporation without ten days' prior written notice to the  
3 commission;

4 (5) is a corporation and allows [~~any of~~] its  
5 voting stock to be held for an undisclosed principal, unless  
6 the corporation is listed on a national stock exchange and the  
7 named stockholder is a recognized nominee; or

8 (6) sells, mortgages or otherwise pledges or  
9 disposes of [~~any of~~] the assets listed and described on the  
10 application for license without approval of the commission."

11 Section 13. Section 60-2D-17 NMSA 1978 (being Laws 1991,  
12 Chapter 233, Section 17) is amended to read:

13 "60-2D-17. VIOLATIONS.--It is unlawful:

14 A. for any [~~licensee or any trainer of any person~~  
15 ~~licensed to enter any racing contest supervised by the~~  
16 ~~commission]~~ person to fail to comply with all rules  
17 [~~regulations~~] and orders issued by the commission;

18 B. for any person to participate except as a  
19 spectator in any [~~racing~~] Keiren velodrome bicycle-racing  
20 contest supervised by the commission without first obtaining  
21 the required license;

22 C. for any person to hold a bicycle-racing meet  
23 with pari-mutuel wagering without obtaining the required  
24 license;

25 D. for any person holding or participating in any

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1 racing contest supervised by the commission to fail to inform  
2 the commission or its employees of any violation of any law,  
3 rule [~~regulation~~] or order of the commission;

4 E. for any licensee to permit any person who has  
5 not reached his twenty-first birthday to wager at a bicycle-  
6 racing meet;

7 F. to conduct pool-selling bookmaking or to conduct  
8 handbooks or to bet or wager on any bicycle-racing meet  
9 licensed by the commission, other than by the pari-mutuel  
10 method; or

11 G. for any pari-mutuel bicycle-racing licensee to  
12 compute breaks in the pari-mutuel system other than at ten  
13 cents (\$.10)."

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