

HOUSE BILL 626

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

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; AMENDING THE GAMING CONTROL ACT;
INCREASING HOURS OF GAMING MACHINE OPERATION AT PREMISES OF
RACETRACK GAMING OPERATOR LICENSEES; INCREASING THE GAMING TAX;
REDUCING THE DISTRIBUTION TO PURSES.

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

Section 1. Section 60-2E-27 NMSA 1978 (being Laws 1997,
Chapter 190, Section 29, as amended) is amended to read:

"60-2E-27. GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS
FOR RACETRACKS--NUMBER OF GAMING MACHINES--DAYS AND HOURS OF
OPERATIONS.--

A. A racetrack licensed by the state racing
commission pursuant to the Horse Racing Act to conduct live
horse races or simulcast races may be issued a gaming
operator's license to operate gaming machines on its premises

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1 where live racing is conducted.

2 B. A racetrack's gaming operator's license shall
3 automatically become void if:

4 (1) the racetrack no longer holds an active
5 license to conduct pari-mutuel wagering; or

6 (2) the racetrack fails to maintain a minimum
7 of [~~three live race days a week with at least nine live races~~
8 ~~on each race day during its licensed race meet in the 1997~~
9 ~~calendar year and in the 1998 and subsequent calendar years]~~
10 four live race days a week with at least nine live races on
11 each race day during its licensed race meet.

12 C. A gaming operator licensee that is a racetrack
13 may have up to six hundred licensed gaming machines, but the
14 number of gaming machines to be located on the licensee's
15 premises shall be specified in the gaming operator's license.

16 D. By execution of an allocation agreement, signed
17 by both the allocating racetrack and the racetrack to whom the
18 allocation is made, a gaming operator licensee that is a
19 racetrack may allocate any number of its authorized gaming
20 machines to another gaming operator licensee that is a
21 racetrack. To be valid, the allocation agreement must bear the
22 written approval of the board and the state racing commission,
23 and this approval shall make specific reference to the meeting
24 at which the action of approval was taken and the number of
25 votes cast both for and against the approval. By allocating a

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1 number of its authorized machines to another racetrack, the
2 allocating racetrack automatically surrenders all rights to
3 operate the number of machines allocated. No racetrack shall
4 operate or be authorized to operate more than seven hundred
5 fifty gaming machines.

6 E. Gaming machines on a racetrack gaming operator
7 licensee's premises may be played only on days when the
8 racetrack is either conducting live horse races or simulcasting
9 horse race meets. [~~A gaming operator licensee that is a
10 racetrack shall be permitted to conduct such games on only the
11 aforementioned days for a daily period not to exceed twelve
12 hours at the discretion of such licensee.~~] On days when gaming
13 machines are permitted to be operated, a racetrack gaming
14 operator licensee may offer gaming machines for operation for
15 up to eighteen hours per day; provided that the total number of
16 hours in which gaming machines are operated does not exceed one
17 hundred twelve hours in a one-week period beginning on Tuesday
18 at 8:00 a.m. and ending at 8:00 a.m. on the following Tuesday.
19 A racetrack gaming operator licensee may offer gaming machines
20 for play at any time during a day; provided that the total
21 hours of operation in each day from just after midnight of the
22 previous day until midnight of the current day does not exceed
23 eighteen hours. A racetrack gaming operator licensee shall
24 determine, within the limitations imposed by this subsection,
25 the hours it will offer gaming machines for operation each day

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1 and shall notify the board in writing of those hours.

2 F. Alcoholic beverages shall not be sold, served,
3 delivered or consumed in the area restricted pursuant to
4 Subsection F of Section 60-2E-26 NMSA 1978."

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

7 "60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

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

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

25 C. The gaming tax imposed on a licensee is in lieu

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1 of all state and local gross receipts taxes on that portion of
2 the licensee's gross receipts attributable to gaming
3 activities.

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

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

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

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