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AN ACT

RELATING TO GAMING; INCREASING THE HOURS OF GAMING MACHINE  
OPERATION AT PREMISES OF RACETRACK GAMING OPERATOR LICENSEES;  
INCREASING THE GAMING TAX.

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  
where live racing is conducted.

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

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

(2) the racetrack fails to maintain a  
minimum of four live race days a week with at least nine live  
races on each race day during its licensed race meet.

C. A gaming operator licensee that is a racetrack  
may have up to six hundred licensed gaming machines, but the

1 number of gaming machines to be located on the licensee's  
2 premises shall be specified in the gaming operator's license.

3 D. By execution of an allocation agreement, signed  
4 by both the allocating racetrack and the racetrack to whom  
5 the allocation is made, a gaming operator licensee that is a  
6 racetrack may allocate any number of its authorized gaming  
7 machines to another gaming operator licensee that is a  
8 racetrack. To be valid, the allocation agreement must bear  
9 the written approval of the board and the state racing  
10 commission, and this approval shall make specific reference  
11 to the meeting at which the action of approval was taken and  
12 the number of votes cast both for and against the approval.  
13 By allocating a number of its authorized machines to another  
14 racetrack, the allocating racetrack automatically surrenders  
15 all rights to operate the number of machines allocated. No  
16 racetrack shall operate or be authorized to operate more than  
17 seven hundred fifty gaming machines.

18 E. Gaming machines on a racetrack gaming operator  
19 licensee's premises may be played only on days when the  
20 racetrack is either conducting live horse races or  
21 simulcasting horse race meets. On days when gaming machines  
22 are permitted to be operated, a racetrack gaming operator  
23 licensee may offer gaming machines for operation for up to  
24 eighteen hours per day; provided that the total number of  
25 hours in which gaming machines are operated does not exceed

1 one hundred twelve hours in a one-week period beginning on  
2 Tuesday at 8:00 a.m. and ending at 8:00 a.m. on the following  
3 Tuesday. A racetrack gaming operator licensee may offer  
4 gaming machines for play at any time during a day; provided  
5 that the total hours of operation in each day from just after  
6 midnight of the previous day until midnight of the current  
7 day does not exceed eighteen hours. A racetrack gaming  
8 operator licensee shall determine, within the limitations  
9 imposed by this subsection, the hours it will offer gaming  
10 machines for operation each day and shall notify the board in  
11 writing of those hours.

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

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

17 "60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

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

21 B. The gaming tax is an amount equal to ten  
22 percent of the gross receipts of manufacturer licensees from  
23 the sale, lease or other transfer of gaming devices in or  
24 into the state, except receipts of a manufacturer from the  
25 sale, lease or other transfer to a licensed distributor for

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

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

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

22 E. In addition to the gaming tax, a gaming  
23 operator licensee that is a racetrack shall pay twenty  
24 percent of its net take to purses to be distributed in  
25 accordance with rules adopted by the state racing commission.

1 An amount not to exceed twenty percent of the interest earned  
2 on the balance of any fund consisting of money for purses  
3 distributed by racetrack gaming operator licensees pursuant  
4 to this subsection may be expended for the costs of  
5 administering the distributions. A racetrack gaming operator  
6 licensee shall spend no less than one-fourth percent of the  
7 net take of its gaming machines to fund or support programs  
8 for the treatment and assistance of compulsive gamblers.

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

13 Section 3. EFFECTIVE DATE.--The effective date of the  
14 provisions of this act is July 1, 2005. \_\_\_\_\_