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SENATE BILL 24

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO RACING; ALLOWING FOR DOG RACE SIMULCASTING AT
LICENSED RACETRACKS.

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

Section 1. Section 60-1A-2 NMSA 1978 (being Laws 2007,
Chapter 39, Section 2) is amended to read:

"60-1A-2. DEFINITIONS.--As used in the Horse Racing Act:

- A. "board" means the gaming control board;
- B. "breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten;
- C. "commission" means the state racing commission;
- D. "exotic wagering" means all wagering other than on win, place or show, through pari-mutuel wagering;
- E. "export" means to send a live audiovisual

1 broadcast of a horse or dog race in the process of being run at
2 a horse racetrack from the originating horse racetrack to
3 another location;

4 F. "guest state" means a jurisdiction, other than
5 the jurisdiction in which a horse race is run, in which a horse
6 racetrack, off-track wagering facility or other facility that
7 is a member of and subject to an interstate common pool is
8 located;

9 G. "guest track" means a horse racetrack, off-track
10 wagering facility or other licensed facility in a location
11 other than the state in which a horse race is run that is a
12 member of and subject to an interstate common pool;

13 H. "handle" means the total of all pari-mutuel
14 wagering sales, excluding refunds and cancellations;

15 I. "horse race" means a competition among
16 racehorses on a predetermined course in which the horse
17 completing the course in the least amount of time generally
18 wins;

19 J. "host state" means the jurisdiction within which
20 a sending track is located, also known as a "sending state";

21 K. "host track" means the horse racetrack from
22 which a horse or dog race subject to an interstate common pool
23 is transmitted to members of that interstate common pool, also
24 known as a "sending track";

25 L. "import" means to receive a live audiovisual

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1 broadcast of a horse or dog race;

2 M. "interstate common pool" means a pari-mutuel
3 pool that combines comparable pari-mutuel pools from one or
4 more locations that accept wagers on a horse or dog race run at
5 a sending track for purposes of establishing payoff prices at
6 the pool members' locations, including pools in which pool
7 members from more than one state simultaneously combine pari-
8 mutuel pools to form an interstate common pool;

9 N. "jockey club" means an organization that
10 administers thoroughbred registration records and registers
11 thoroughbreds;

12 O. "licensed premises" means land, together with
13 all buildings, other improvements and personal property located
14 on the land, that is under the direct control of a racetrack
15 licensee, including the restricted areas, grandstand and public
16 parking areas;

17 P. "licensee" means a person licensed by the
18 commission and includes a holder of an occupational, secondary
19 or racetrack license;

20 Q. "occupational license" means a license issued by
21 the commission to a vendor or to a person having access to a
22 restricted area on the licensed premises, including a horse
23 owner, trainer, jockey, agent, apprentice, groom, exercise
24 person, veterinarian, valet, farrier, starter, clocker, racing
25 secretary, pari-mutuel clerk and other personnel designated by

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1 the commission whose work, in whole or in part, is conducted
2 around racehorses or pari-mutuel betting windows;

3 R. "pari-mutuel wagering" means a system of
4 wagering in which bets on a live horse race or simulcast horse
5 or dog race are pooled and held by the racetrack licensee for
6 distribution of the total amount, less the deductions
7 authorized by law, to holders of winning tickets; "pari-mutuel
8 wagering" does not include bookmaking or pool selling;

9 S. "pari-mutuel wagering pool" means the money
10 wagered on a specific horse or dog race through pari-mutuel
11 wagering;

12 T. "practical breeder" means a person who has
13 practical experience in breeding horses, although the person
14 may not be actively involved in breeding horses;

15 U. "primary residence" means the domicile where a
16 person resides for most of the year, and, if the person is
17 temporarily out of state, the address where a person will
18 return when the person returns to New Mexico or the address
19 that a person uses for purposes of a driver's license, passport
20 or voting;

21 V. "quarter horse" means a racehorse that is
22 registered with the American quarter horse association or any
23 successor association;

24 W. "race meet" means a period of time within dates
25 specified by the commission in which a racetrack licensee is

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1 authorized to conduct live racing on the racing grounds;

2 X. "racehorse" means a quarter horse or
3 thoroughbred that is bred and trained to compete in horse
4 races;

5 Y. "racetrack license" means a license to conduct
6 horse races issued by the commission;

7 Z. "racetrack licensee" means a person who has been
8 issued a racetrack license;

9 AA. "racing grounds" means the area of the
10 restricted area of licensed premises used for the purpose of
11 conducting horse races and all activities ancillary to the
12 conduct of horse races, including the track, stable area,
13 jockey's quarters and horse training areas;

14 BB. "retainage" means money that is retained from
15 wagers on win, place and show and on exotic wagers by a
16 racetrack licensee pursuant to the Horse Racing Act;

17 CC. "restricted areas" means the stable area, the
18 area behind the pari-mutuel betting windows and anywhere on the
19 racing grounds;

20 DD. "secondary licensee" means all officers,
21 directors, shareholders, lenders or holders of evidence of
22 indebtedness of a corporation or legal entity owning a horse
23 racetrack, and all persons holding a direct or indirect
24 interest of any nature whatsoever in the horse racetrack,
25 including interests or positions that deal with the funds of

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1 the racetrack or that are administrative, policymaking or
2 supervisory;

3 EE. "simulcast" means a transmission of a live
4 audiovisual broadcast of a horse race or dog being run at a
5 horse racetrack other than the horse racetrack or other
6 licensed facility at which the broadcast is being received for
7 viewing pursuant to a simulcasting contract;

8 FF. "stakes race" means a horse race in which
9 nominations or entry or starting fees contribute to the purse;
10 an overnight race is not a stakes race;

11 GG. "steward" means an employee of the commission
12 who supervises horse races and oversees a race meet while in
13 progress, including holding hearings regarding licensees and
14 enforcing the rules of the commission and the horse racetrack;

15 HH. "takeout" means amounts authorized by statute
16 to be deducted from the pari-mutuel wagers;

17 II. "thoroughbred" means a racehorse that is
18 registered with the jockey club;

19 JJ. "track" means the surfaced oval area on which
20 horse races are conducted; and

21 KK. "vendor" means a person who provides goods or
22 services to or in the racing grounds or restricted area of the
23 licensed premises of a horse racetrack."

24 Section 2. Section 60-1A-15 NMSA 1978 (being Laws 2007,
25 Chapter 39, Section 15) is amended to read:

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1 "60-1A-15. PARI-MUTUEL WAGERING AUTHORIZED--GAMBLING
2 STATUTES DO NOT APPLY.--

3 A. A racetrack licensee may conduct pari-mutuel
4 wagering on live horse races or on simulcasted horse or dog
5 races.

6 B. Pari-mutuel wagering may be conducted only on
7 the licensed premises where a live horse race is conducted or
8 where a simulcast horse or dog race is televised or projected
9 on the racing grounds of the licensed premises of a racetrack
10 licensee.

11 C. The sale to patrons present on the licensed
12 premises of a racetrack licensee of pari-mutuel tickets or
13 certificates is not gambling as defined in Section 30-19-2 or
14 30-19-3 NMSA 1978.

15 D. Placing a wager while on the licensed premises
16 of a racetrack licensee is not placing a bet pursuant to
17 Section 30-19-1 NMSA 1978.

18 E. The licensed premises of a horse racetrack is
19 not a gambling place as defined in Section 30-19-1 NMSA 1978."

20 Section 3. Section 60-1A-16 NMSA 1978 (being Laws 2007,
21 Chapter 39, Section 16) is amended to read:

22 "60-1A-16. SIMULCASTING.--

23 A. All simulcasting of horse or dog races shall
24 have prior approval of the commission, and the commission shall
25 adopt rules concerning the simulcasting of horse and dog races

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1 as provided in this section.

2 B. A racetrack licensee shall not be allowed to
3 simulcast horse or dog races unless that racetrack licensee
4 offers at least seventeen days per year of pari-mutuel wagering
5 on live horse races run on the premises of the racetrack
6 licensee.

7 C. The commission may permit exporting of a horse
8 race being run by a racetrack licensee to another racetrack
9 licensee within New Mexico or exporting of a horse race from a
10 racetrack licensee to another location holding a pari-mutuel or
11 gaming license that allows simulcasting of a horse race from
12 outside of the state or jurisdiction that licenses that out-of-
13 state facility.

14 D. The commission may permit importing by a
15 racetrack licensee of horse or dog races that are being run at
16 racetracks outside of the state licensed by a host state.

17 E. Pari-mutuel wagering on simulcast horse or dog
18 races shall be prohibited except on the licensed premises of a
19 racetrack licensee during the licensee's race meet at the horse
20 racetrack or when the racetrack licensee is importing a race
21 meet from another New Mexico-licensed horse racetrack.

22 F. A New Mexico-licensed horse racetrack that is
23 within a radius of eighty miles of any other New Mexico-
24 licensed horse racetrack with a race meet in progress may only
25 conduct pari-mutuel wagering on imported horse or dog races if

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1 there is a written agreement between the two racetrack
2 licensees allowing pari-mutuel wagering on imported horse or
3 dog races during the period of time that the live horse races
4 are taking place."

5 Section 4. Section 60-1A-17 NMSA 1978 (being Laws 2007,
6 Chapter 39, Section 17) is amended to read:

7 "60-1A-17. INTERSTATE COMMON POOL WAGERING--AUTHORIZED.--

8 A. Subject to the federal Interstate Horseracing
9 Act of 1978, the commission may permit a racetrack licensee to
10 participate in interstate common pools. All provisions of the
11 Horse Racing Act that govern pari-mutuel wagering apply to
12 pari-mutuel wagering in interstate common pools except as
13 otherwise provided in this section.

14 B. Daily pari-mutuel tax and daily capital outlay
15 tax shall not be imposed upon amounts wagered in an interstate
16 common pool other than upon amounts wagered within New Mexico.

17 C. Subject to prior approval of the commission, the
18 following provisions apply when a racetrack licensee
19 participates in interstate common pools on a horse or dog race
20 that originates outside of New Mexico:

21 (1) a racetrack licensee may combine its pari-
22 mutuel pools at the host track and other locations. The types
23 of wagering, takeout, distribution of winnings and rules of
24 racing in effect for pari-mutuel pools at the host track shall
25 govern wagers placed in New Mexico and merged into the

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1 interstate common pool. Breakage for interstate common pools
2 shall be calculated in accordance with the rules governing the
3 host track and shall be distributed in a manner agreed upon by
4 the racetrack licensee in New Mexico and the host track;

5 (2) with the concurrence of the host track, an
6 interstate common pool that excludes the host track may be
7 formed with the racetrack licensee in New Mexico and other
8 locations outside of the host state. When an interstate common
9 pool is formed pursuant to this paragraph, the commission may
10 approve types of wagering, takeout, distribution of winnings,
11 rules of racing and calculation of breakage that are different
12 from those that are in effect in New Mexico; provided that the
13 rules are applied consistently to all persons in the interstate
14 common pool;

15 (3) the racetrack licensee may deduct from
16 retainage resulting from an interstate common pool a reasonable
17 fee to be paid to the person conducting the horse or dog race
18 at the host track for the privilege of conducting pari-mutuel
19 wagering on the race and participating in the interstate common
20 pool and for payment of costs incurred to transmit the
21 simulcast horse or dog race; and

22 (4) provisions of New Mexico law or contracts
23 governing the distribution of daily pari-mutuel tax and daily
24 capital outlay tax and breeders' or other awards and purses
25 from the takeout from wagers placed in New Mexico shall remain

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1 in effect for wagers placed in an interstate common pool;
2 provided that if the commission approves an adjustment in the
3 takeout rate, the distribution of the takeout within New Mexico
4 shall be adjusted proportionately to reflect the adjustment in
5 the takeout rate; and provided further that with the
6 concurrence of the racetrack licensee and the organization
7 representing a majority of the breeders, horsemen or other
8 persons entitled to shares of the distribution and subject to
9 approval of the commission, the respective shares to breeders'
10 or other awards or purses may be modified.

11 D. Subject to prior approval of the commission, the
12 following provisions apply when a racetrack licensee in New
13 Mexico participates in interstate common pools as a host track:

14 (1) a racetrack licensee may permit one or
15 more of its horse races to be used for pari-mutuel wagering at,
16 and may export a horse race to, one or more licensed sites
17 outside of New Mexico. The racetrack licensee may also permit
18 pari-mutuel pools in other locations to be combined with the
19 racetrack licensee's comparable pari-mutuel wagering pools or
20 with wagering pools established in other jurisdictions. The
21 commission may modify its rules and adopt separate rules for
22 the interstate common pools and their calculation of breakage;
23 and

24 (2) except as otherwise provided in this
25 section, New Mexico law or contracts governing the distribution

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1 of shares of the takeout for daily pari-mutuel tax or daily
2 capital outlay tax and breeders' or other awards and purses
3 shall remain in effect for amounts wagered within New Mexico in
4 interstate common pools; provided that with the concurrence of
5 the racetrack licensee of the host track and the organization
6 representing a majority of the breeders, horsemen or other
7 persons entitled to shares of the distribution, and subject to
8 approval of the commission, the respective shares to breeders'
9 or other awards or purses may be modified.

10 E. When the laws and rules of the host state and
11 guest states permit, an interstate common pool may be
12 established on a regional or other basis between two or more
13 guest states and not include a merger into the host state's
14 pari-mutuel wagering pool, in which case, one of the guest
15 state's tracks shall serve as if it were the host track for the
16 purposes of calculating the pari-mutuel wagering pool. An
17 interstate common pool may include members located outside of
18 the United States. Except as otherwise set forth in commission
19 rules, participation by a person in an interstate common pool
20 with wagering facilities in one or more states or jurisdictions
21 shall not cause the participating person to be deemed to be
22 doing business in a jurisdiction other than the jurisdiction in
23 which that person is physically located.

24 F. The commission may adopt rules necessary to
25 implement this section."

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1 Section 5. Section 60-1A-18 NMSA 1978 (being Laws 2007,
2 Chapter 39, Section 18) is amended to read:

3 "60-1A-18. DAILY PARI-MUTUEL TAX--IMPOSED--RATE.--

4 A. The "daily pari-mutuel tax" is imposed on a
5 racetrack licensee that offers pari-mutuel wagering at the
6 racetrack licensee's licensed premises and shall be remitted to
7 the taxation and revenue department for deposit in the general
8 fund.

9 B. The daily pari-mutuel tax imposed on class A
10 racetrack licensees pursuant to this section shall be:

11 (1) for each racing day a class A racetrack
12 licensee offers pari-mutuel wagering on live on-track horse
13 races, six hundred fifty dollars (\$650); provided, however,
14 that a class A racetrack licensee shall deduct from the six
15 hundred fifty dollars (\$650) and remit to the municipality in
16 which the racetrack licensee is located one hundred fifty
17 dollars (\$150) if the racetrack licensee is located in a
18 municipality having a population according to the 2000 federal
19 decennial census of:

20 (a) less than six thousand located in a
21 county with a population of more than ten thousand but less
22 than fifteen thousand; or

23 (b) more than eight thousand but less
24 than ten thousand located in a county with a population of more
25 than one hundred thousand but less than one hundred fifty

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1 thousand; and

2 (2) for each day a class A racetrack licensee
3 offers no pari-mutuel wagering on live on-track horse races and
4 offers solely pari-mutuel wagering on simulcast races pursuant
5 to the Horse Racing Act, one-eighth percent of the racetrack
6 licensee's gross daily handle, not to exceed [~~three hundred~~
7 ~~dollars (\$300)~~] six hundred dollars (\$600) per racing day.

8 C. The daily pari-mutuel tax imposed on a class B
9 racetrack licensee pursuant to this section shall be:

10 (1) for each racing day a class B racetrack
11 licensee offers pari-mutuel wagering on live on-track horse
12 races, one-eighth percent of the racetrack licensee's gross
13 daily handle, not to exceed three hundred dollars (\$300) per
14 racing day; and

15 (2) for each day a class B racetrack licensee
16 offers no pari-mutuel wagering on live on-track horse races and
17 offers solely pari-mutuel wagering on simulcast races pursuant
18 to the Horse Racing Act, one-eighth percent of the class B
19 racetrack licensee's gross daily handle, not to exceed [~~three~~
20 ~~hundred dollars (\$300)~~] six hundred dollars (\$600) per racing
21 day."

22 Section 6. Section 60-1A-19 NMSA 1978 (being Laws 2007,
23 Chapter 39, Section 19) is amended to read:

24 "60-1A-19. RETAINAGE--NEW MEXICO HORSE BREEDERS'
25 ASSOCIATION AND NEW MEXICO HORSEMEN'S ASSOCIATION--BREAKAGE--
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1 DISTRIBUTION OF RETAINED AMOUNTS.--

2 A. Each racetrack licensee shall notify the
3 commission at least thirty days prior to each race meet of the
4 amount of exotic wager retainage that the racetrack licensee
5 will retain pursuant to Paragraph (1) or (2) of this
6 subsection. There shall be an amount retained by the racetrack
7 licensee equal to:

8 (1) for a class A racetrack licensee:
9 (a) nineteen percent of the gross amount
10 wagered on win, place and show, of which: 1) eighteen and
11 three-fourths percent shall be retained by the racetrack
12 licensee; and 2) one-fourth percent shall be remitted to the
13 taxation and revenue department for deposit in the general
14 fund; and

15 (b) not less than twenty-one percent and
16 not greater than twenty-five percent of the gross amount
17 wagered in exotic wagers; and

18 (2) for a class B racetrack licensee:
19 (a) not less than eighteen and three-
20 fourths percent and not greater than twenty-five percent of the
21 gross amount wagered daily on win, place and show; and

22 (b) not less than twenty-one percent and
23 not greater than thirty percent of the gross amount wagered in
24 exotic wagers.

25 B. There shall be retained by a racetrack licensee

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1 for allocation to the New Mexico horse breeders' association
2 amounts equal to:

3 (1) five-eighths percent of the gross amount
4 wagered on win, place and show to be allocated weekly to the
5 New Mexico horse breeders' association for further distribution
6 pursuant to the provisions of Subsection D of Section 60-1A-24
7 NMSA 1978; and

8 (2) one and three-eighths percent of the gross
9 amount wagered in exotic wagers to be allocated weekly to the
10 New Mexico horse breeders' association for further distribution
11 pursuant to the provisions of Subsection D of Section 60-1A-24
12 NMSA 1978.

13 C. The breakage from the gross amount wagered
14 through pari-mutuel wagering shall be retained by the licensee
15 and allocated as follows:

16 (1) fifty percent of the total breakage shall
17 be retained by the racetrack licensee; and

18 (2) fifty percent of the total breakage shall
19 be allocated by the racetrack licensee to enhance the race
20 purses of established stakes races that include only New
21 Mexico-bred horses that are registered with the New Mexico
22 horse breeders' association. The New Mexico horse breeders'
23 association shall distribute the percentage designated to
24 purses pursuant to Subsection D of Section [~~60-1-24~~] 60-1A-24
25 NMSA 1978, subject to the approval of the commission.

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1 D. All money resulting from the failure of patrons
2 who purchased winning pari-mutuel tickets during a race meet to
3 redeem their winning tickets before the end of the sixty-day
4 period immediately succeeding the closing day of the race meet
5 or from all money resulting from the failure of patrons who
6 purchased pari-mutuel tickets that were entitled to a refund
7 but were not refunded by the end of the sixty-day period
8 immediately following the race meet shall be apportioned as
9 follows:

10 (1) thirty-three and thirty-three hundredths
11 percent shall be retained by the racetrack licensee;

12 (2) thirty-three and thirty-four hundredths
13 percent shall be distributed to the New Mexico horse breeders'
14 association to enhance each racetrack licensee's established
15 overnight purses for races that include only horses registered
16 as New Mexico bred pursuant to Paragraph (3) of Subsection D of
17 Section 60-1A-24 NMSA 1978, subject to the approval of the
18 commission; and

19 (3) thirty-three and thirty-three hundredths
20 percent shall be allocated to the New Mexico horsemen's
21 association for purses.

22 E. One-half percent of the gross amount wagered on
23 simulcast horse or dog races broadcast to a horse racetrack in
24 New Mexico shall be distributed by the racetrack licensee to
25 the New Mexico horsemen's association for medical benefits for

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1 the members of the New Mexico horsemen's association. The
2 commission shall by rule provide for the timing and manner of
3 the distribution required pursuant to this subsection and shall
4 audit or arrange for an independent audit of the distributions
5 required.

6 F. Amounts to be deducted from the retainage by the
7 racetrack licensee from any form of wager made on the licensed
8 premises of the racetrack licensee are:

9 (1) the daily pari-mutuel tax imposed by
10 Section 60-1A-18 NMSA 1978;

11 (2) money allocated in this section to the New
12 Mexico horse breeders' association;

13 (3) money allocated by this section to the New
14 Mexico horsemen's association;

15 (4) expenses incurred to engage in intrastate
16 simulcasting pursuant to the Horse Racing Act; provided that
17 the deduction for a racetrack licensee shall be a portion of
18 five percent of the gross amount wagered at all the sites
19 receiving the same simulcast horse or dog races and:

20 (a) the deduction for a racetrack
21 licensee shall be an amount allocated to the racetrack licensee
22 by agreement voluntarily reached between all the racetracks
23 sending or receiving the same simulcast horse or dog races; or

24 (b) the deduction for a racetrack
25 licensee shall be an amount identified by the commission if all

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1 the racetracks sending or receiving the same simulcast horse or
2 dog races fail to reach a voluntary agreement on the level at
3 which to set the rate of the deduction for expenses incurred
4 for engaging in intrastate simulcasting; and

5 (5) fees incurred to receive interstate
6 simulcasts pursuant to the Horse Racing Act.

7 G. A racetrack licensee shall allocate to the New
8 Mexico horse breeders' association five percent of the daily
9 retainage on interstate common pools received from a guest
10 state by a racetrack licensee. Of the net retainage from all
11 wagers, after deductions:

12 (1) fifty percent shall be allocated to
13 purses; and

14 (2) fifty percent shall be retained by the
15 racetrack licensee."

16 Section 7. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2010.