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SENATE BILL 39

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

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO TAXATION; GRADUATING THE RATE OF THE GAMING TAX ON  
CERTAIN RACETRACKS BASED ON THE RACETRACK'S NET TAKE.

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) 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:

(1) ten percent of the gross receipts of  
manufacturer licensees from the sale, lease or other transfer  
of gaming devices in or into the state, except receipts of a  
manufacturer from the sale, lease or other transfer to a

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1 licensed distributor for subsequent sale or lease may be  
2 excluded from gross receipts;

3 (2) ten percent of the gross receipts of  
4 distributor licensees from the sale, lease or other transfer of  
5 gaming devices in or into the state;

6 (3) ten percent of the net take of a gaming  
7 operator licensee that is a nonprofit organization; and

8 (4) twenty-six percent of the net take of  
9 every other gaming operator licensee, except, if the total net  
10 take for a racetrack gaming operator licensee in the preceding  
11 fiscal year was less than fourteen million dollars  
12 (\$14,000,000), then the gaming tax is an amount equal to:

13 (a) for fiscal year 2011, twenty percent  
14 of the net take of the gaming operator licensee; provided that  
15 if the cumulative net take for fiscal year 2011 exceeds ten  
16 million dollars (\$10,000,000), the gaming tax for that gaming  
17 operator licensee for the remainder of that fiscal year is  
18 twenty-six percent of that gaming operator licensee's net take;

19 (b) for fiscal year 2012, fifteen  
20 percent of the net take of the gaming operator licensee;  
21 provided that if the cumulative net take for fiscal year 2012  
22 exceeds ten million dollars (\$10,000,000), the gaming tax for  
23 that gaming operator licensee for the remainder of that fiscal  
24 year is twenty-six percent of that gaming operator licensee's  
25 net take; and

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1 any fund consisting of money for purses distributed by  
2 racetrack gaming operator licensees pursuant to this subsection  
3 may be expended for the costs of administering the  
4 distributions. A racetrack gaming operator licensee shall  
5 spend no less than one-fourth percent of the net take of its  
6 gaming machines to fund or support programs for the treatment  
7 and assistance of compulsive gamblers.

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

12 G. To determine the net take in a preceding fiscal  
13 year, a gaming operator licensee shall calculate the cumulative  
14 net take receipts from July 1 through June 30 of the fiscal  
15 year for which the net take is being calculated. The net take  
16 receipts are those reported monthly to the taxation and revenue  
17 department in the twelve-month period beginning on August 25 of  
18 that fiscal year.

19 H. As used in this section:

20 (1) "fiscal year" means the state fiscal year  
21 beginning on July 1 and ending on June 30 of the year  
22 designated in the name of the fiscal year; and

23 (2) "gross receipts" means the total amount of  
24 money or the value of other consideration received from  
25 selling, leasing or otherwise transferring gaming devices."

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1           Section 2. EFFECTIVE DATE.--The effective date of the  
2 provisions of this act is July 1, 2010.

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