

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO HORSE RACING; REQUIRING A HEARING OFFICER TO
CONDUCT AND DECIDE PRELIMINARY AND ADJUDICATORY HEARINGS HELD
UPON REQUEST OF A LICENSEE WHOSE LICENSE IS SUSPENDED OR
REVOKED BY THE STEWARDS; PROVIDING A HEARING PROCEDURE;
PROVIDING FOR APPEAL ON THE RECORD TO THE DISTRICT COURT;
CREATING THE HORSE RACING APPEAL FUND; MAKING AN
APPROPRIATION.

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

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

"60-1A-4. COMMISSION--POWERS--DUTIES.--

A. The commission may:

(1) grant or deny, and shall take action
when required pursuant to the Horse Racing Act to suspend,
revoke or not renew, occupational licenses, secondary
licenses and racetrack licenses, establish the terms for each
classification of a racetrack license and set fees for
submitting an application for a license;

(2) exclude or compel the exclusion of a
person from all horse racetracks whom the commission deems
detrimental to the best interests of horse racing or who
willfully violates the Horse Racing Act, a rule or order of
the commission or a law of the United States or New Mexico;

1 (3) compel the production of documents,
2 books and tangible items, including documents showing the
3 receipts and disbursements of a racetrack licensee;

4 (4) investigate the operations of a licensee
5 and place a designated representative on the licensed
6 premises of a racetrack licensee for the purpose of observing
7 compliance with the Horse Racing Act and rules or orders of
8 the commission;

9 (5) employ staff as required to administer
10 the Horse Racing Act and employ staff with basic law
11 enforcement training to be stationed at racetracks to
12 maintain peace and order, enforce the law, conduct
13 investigations and enforce the Horse Racing Act or rules or
14 orders of the commission; provided that staff employed with
15 law enforcement training may not carry firearms or other
16 deadly weapons while on duty for the commission;

17 (6) summon witnesses;

18 (7) administer oaths for the effective
19 discharge of the commission's authority; and

20 (8) appoint a hearing officer to conduct
21 hearings required by the Horse Racing Act or a rule adopted
22 pursuant to that act, except for hearings from a violation
23 involving the use of a class 1 or class 2 penalty class A
24 drug as described in Section 60-1A-28 NMSA 1978.

25 B. The commission shall:

1 (1) make rules to hold, conduct and operate
2 all race meets and horse races held in the state and to
3 identify and assign racing dates;

4 (2) require the following information for
5 each applicant on an application for a license:

6 (a) the full name, address and contact
7 information of the applicant, and if the applicant is a
8 corporation, the name of the state of incorporation and the
9 names, addresses and contact information of officers, members
10 of the board of directors and managers of the corporation;

11 (b) the exact location at which the
12 applicant desires to conduct a horse race or race meet;

13 (c) whether the horse racetrack is
14 owned or leased, and, if leased, the name and residence of
15 the fee owner of the land or, if the owner is a corporation,
16 the names of the directors and stockholders;

17 (d) a statement of the assets and
18 liabilities of the person or corporation making the
19 application;

20 (e) the kind of racing to be conducted;

21 (f) the beginning and ending dates
22 desired for the race meet and the days during that time
23 period when horse races are to be scheduled; and

24 (g) other information determined by the
25 commission to be necessary to assess the potential for

1 success of the applicant;

2 (3) require a statement under oath by the
3 applicant that the information on the application is true;

4 (4) supervise and oversee the making of
5 pari-mutuel pools and the distribution from those pools;

6 (5) make on-site inspections of horse
7 racetracks in New Mexico at reasonable intervals;

8 (6) approve all improvements proposed to be
9 completed on the licensed premises of a horse racetrack,
10 including extensions, additions or improvements of buildings,
11 stables or tracks;

12 (7) monitor and oversee the pari-mutuel
13 machines and equipment at all horse races or race meets held
14 in the state;

15 (8) approve contracts for simulcasting,
16 pari-mutuel wagering and capital improvements funded pursuant
17 to Section 60-1A-20 NMSA 1978 entered into by horse
18 racetracks;

19 (9) regulate the size of the purses to be
20 offered at horse races run in the state;

21 (10) require background investigations of
22 employees of a racetrack licensee as set forth in the rules
23 of the commission;

24 (11) provide an annual report to the
25 governor regarding the commission's administration of horse

1 racing in the state; and

2 (12) contract with a disinterested hearing
3 officer, who shall be an attorney licensed in this state, to
4 make preliminary rulings, set conditions pending an
5 adjudicatory hearing, conduct adjudicatory hearings, make
6 findings of fact and conclusions of law and render final
7 administrative decisions on the commission's behalf regarding
8 decisions or actions of the stewards involving the suspension
9 or revocation of a license for the use of a class 1 or
10 class 2 penalty class A drug as described in Section 60-1A-28
11 NMSA 1978. The commission staff shall provide administrative
12 support to the hearing officer upon a reasonable request made
13 by the hearing officer."

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

16 "60-1A-5. COMMISSION RULES--ALL LICENSES--SUSPENSION,
17 REVOCATION OR DENIAL OF LICENSES--PENALTIES.--

18 A. The commission shall adopt rules to implement
19 the Horse Racing Act and to ensure that horse racing in
20 New Mexico is conducted with fairness and that the
21 participants and patrons are protected against illegal
22 practices.

23 B. Every license issued by the commission shall
24 require the licensee to comply with the rules adopted by the
25 commission. A racetrack licensee shall post printed copies

1 of the rules in conspicuous places on the racing grounds and
2 shall maintain them during the period when live horse races
3 are being conducted.

4 C. The commission shall impose an appropriate
5 civil penalty fine pursuant to Subsection D of this section
6 or suspend, revoke or deny renewal of a license of a person
7 who violates the provisions of the Horse Racing Act or rules
8 adopted pursuant to that act, except as otherwise provided in
9 Section 60-1A-12 NMSA 1978. The commission shall provide a
10 licensee facing suspension, revocation or denial of renewal
11 of a license reasonable notice and an opportunity for a
12 hearing. The suspension, revocation or denial of renewal of
13 a license shall not relieve the licensee from prosecution for
14 the violations or from the payment of fines and penalties
15 assessed the licensee by the commission or by the stewards or
16 a hearing officer pursuant to Section 60-1A-12 NMSA 1978.

17 D. The commission may impose civil penalty fines
18 upon a licensee for a violation of the provisions of the
19 Horse Racing Act or rules adopted by the commission. The
20 fines shall not exceed one hundred thousand dollars
21 (\$100,000) or one hundred percent of a purse related to the
22 violation, whichever is greater, for each violation.

23 E. Fines shall be paid into the current school
24 fund.

25 F. When a penalty is imposed pursuant to this

1 section for administering a performance-altering substance as
2 provided in Subsection A of Section 60-1A-28 NMSA 1978, the
3 commission shall direct its executive director to report the
4 violation to the district attorney for the county in which
5 the violation occurred and to the horse racing licensing
6 authority in any other jurisdiction in which the licensee
7 being penalized is also licensed."

8 SECTION 3. Section 60-1A-12 NMSA 1978 (being Laws 2007,
9 Chapter 39, Section 12) is amended to read:

10 "60-1A-12. STEWARDS--POWERS--DUTIES.--

11 A. There shall be three stewards, licensed and
12 employed by the commission, to supervise each horse race
13 meet. One of the stewards shall be designated the presiding
14 official steward of the race meet. Stewards, other than the
15 presiding official steward, shall be employed subject to the
16 approval of the racetrack licensee. All stewards shall be
17 licensed or certified by a nationally recognized horse racing
18 organization. Stewards may issue citations for violations of
19 the Horse Racing Act and suspend or revoke a license. The
20 stewards shall exercise those powers and duties prescribed by
21 commission rules.

22 B. A decision or action of a steward, other than
23 involving a citation for the use of a class 1 or class 2
24 penalty class A drug as described in Section 60-1A-28
25 NMSA 1978, may be reviewed or reconsidered by the commission.

1 C. If the decision or action of a steward involves
2 a licensee's use of a class 1 or class 2 penalty class A drug
3 as described in Section 60-1A-28 NMSA 1978, the steward shall
4 issue a citation to the licensee setting forth the decision
5 or action that includes notice of a right to a hearing.

6 D. Within ten days after receipt of a citation, a
7 licensee may request in writing to the commission an
8 adjudicatory hearing before a hearing officer pursuant to
9 Paragraph (12) of Subsection B of Section 60-1A-4 NMSA 1978.
10 The request shall include a hearing fee of five hundred
11 dollars (\$500), which shall be deposited in the horse racing
12 appeal fund.

13 E. A suspension or revocation made by a steward
14 may remain in effect until a final decision of the hearing
15 officer. Prior to the adjudicatory hearing, a licensee may
16 request a preliminary hearing before the hearing officer to
17 determine if reasonable grounds exist to stay the steward's
18 action pending the adjudicatory hearing on the merits of the
19 steward's action. For good cause shown the hearing officer
20 may impose conditions on the licensee pending a final
21 decision following the adjudicatory hearing.

22 F. The hearing pursuant to Subsection D of this
23 section shall be held:

24 (1) in the county where the steward issued
25 the citation imposing suspension or revocation or in a county

1 where a live horse racing meet will be held on the hearing
2 date; and

3 (2) within thirty days after the commission
4 received the request for a hearing, unless the hearing is
5 continued pursuant to Subsection G of this section.

6 G. The hearing officer shall cause a record of the
7 hearing to be made and may summon witnesses, administer oaths
8 and compel the production of evidence in whatever form. The
9 hearing officer may continue a hearing on the hearing
10 officer's own motion or the motion of a party to the hearing
11 for good cause shown for a period not to exceed ninety days
12 from the date of the hearing request or for a longer period
13 of time if the licensee consents.

14 H. Within thirty days after the completion of the
15 hearing, the hearing officer shall serve upon the commission
16 and the parties the hearing officer's findings of fact,
17 conclusions of law and a decision on the merits that may
18 include sanctions and penalties. The decision shall be
19 conclusive on the commission and shall become the
20 commission's final administrative decision. If the licensee
21 requesting the hearing prevails at the adjudicatory hearing,
22 the hearing fee shall be refunded by the commission to the
23 licensee within ten days of the final decision.

24 I. A party aggrieved by the hearing officer's
25 decision may file an appeal in the district court with

1 jurisdiction in the county where the hearing before the
2 hearing officer was held pursuant to the provisions of
3 Section 39-3-1.1 NMSA 1978."

4 SECTION 4. A new section of the Horse Racing Act is
5 enacted to read:

6 "HORSE RACING APPEAL FUND--APPROPRIATION--USES.--The
7 "horse racing appeal fund" is created as a nonreverting fund
8 in the state treasury. The fund consists of appropriations,
9 gifts, grants, donations and hearing fees required by law to
10 be deposited in the fund. Income from investment of the fund
11 shall be credited to the fund. The commission shall
12 administer the fund, and money in the fund is appropriated to
13 the commission to help defray the costs of hearings and to
14 reimburse hearing fees pursuant to the Horse Racing Act.
15 Expenditures from the fund shall be made on warrant of the
16 secretary of finance and administration pursuant to vouchers
17 signed by the executive director of the commission."

18 SECTION 5. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2014. _____