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SENATE BILL 755

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MICHAEL S. SANCHEZ

AN ACT

RELATING TO GAMBLING; PROVIDING FOR OFF-TRACK PARI-MUTUEL
WAGERING ON HORSE RACES; AMENDING SECTIONS OF THE HORSE RACING
ACT.

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

Section 1. Section 60-1-3 NMSA 1978 (being Laws 1933,
Chapter 55, Section 2, as amended by Laws 1989, Chapter 99,
Section 1 and also by Laws 1989, Chapter 377, Section 1) is
amended to read:

"60-1-3. APPLICATION FOR LICENSES--STATE RACING COMMISSION
CREATED--MEMBERS--TERMS OF OFFICE--VACANCIES--POWERS AND
DUTIES.--

A. Any person, firm, association or corporation
desiring to hold a horse race, [~~or to~~] engage in horse race
meetings or provide for off-track pari-mutuel wagering on a

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1 horse race shall apply to the state racing commission for a
2 license.

3 B. There is created the "state racing commission".
4 The state racing commission shall consist of five members, no
5 more than three of whom shall be members of the same political
6 party. They shall be appointed by the governor, and no less
7 than three of them shall be practical breeders of racehorses
8 within the state. Each member shall be an actual resident of
9 New Mexico and of such character and reputation as to promote
10 public confidence in the administration of racing affairs.

11 C. The term of office of each member of the state
12 racing commission shall be six years from his appointment, and
13 he shall serve until his successor is appointed and qualified.
14 In case of any vacancy in the membership of the commission, the
15 governor shall fill the vacancy by appointment for the unexpired
16 term.

17 D. No person shall be eligible for appointment as a
18 member of the state racing commission who is an officer,
19 official or director in any association or corporation
20 conducting racing within the state.

21 E. Members of the state racing commission shall
22 receive no salary, but each member of the commission shall
23 receive per diem and mileage in accordance with the Per Diem and
24 Mileage Act. The commission may appoint a secretary and fix his
25 duties and compensation.

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- 1 F. The state racing commission has the power to:
- 2 (1) grant, refuse and revoke licenses;
- 3 (2) make rules and regulations for the holding,
4 conducting and operating of all race meets, [~~and~~] races and off-
5 track pari-mutuel wagering held in the state and to fix and set
6 racing dates;
- 7 (3) make an annual report to the governor of
8 its administration of the racing laws;
- 9 (4) require of each applicant for a license the
10 full name of the person, association or corporation applying
11 and, if the applicant is a corporation or an association, the
12 name of the state in which incorporated, the nationality and
13 residence of the members of the association and the names of the
14 stockholders and directors of the corporation;
- 15 (5) require of an applicant for a license the
16 exact location where it is desired to conduct or hold a race,
17 [~~or~~] race meeting or off-track pari-mutuel wagering, whether or
18 not the racetrack, [~~or~~] plant or place of business is owned or
19 leased and, if leased, the name and residence of the fee owner
20 or, if the owner is a corporation, the names of the directors
21 and stockholders, a statement of the assets and liabilities of
22 the person, association or corporation making the application,
23 the kind of racing or off-track pari-mutuel wagering to be
24 conducted and the period desired and such other information as
25 the commission may require;

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1 (6) require on each application a statement
2 under oath that the information contained in the application is
3 true;

4 (7) personally or by agents and representatives
5 supervise and check the making of pari-mutuel pools and the
6 distribution from those pools;

7 (8) cause the various places where race meets
8 are held and off-track pari-mutuel wagering is conducted to be
9 visited and inspected at reasonable intervals;

10 (9) make rules governing, restricting or
11 regulating bids on leases;

12 (10) regulate rates charged by the licensee for
13 admission to races or for the performance of any service or the
14 sale of any article on the premises of the licensee at a
15 racetrack;

16 (11) approve all proposed extensions, additions
17 or improvements to the buildings, stables or tracks upon
18 property owned or leased by a licensee at a racetrack and
19 require the removal of any employee or official employed by the
20 licensee;

21 (12) completely supervise and control the pari-
22 mutuel machines and equipment at all races and off-track pari-
23 mutuel wagering held or operated by the state or any state
24 agency or commission;

25 (13) approve all contracts and agreements for

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1 the payment of money and all salaries, fees and compensations by
2 any licensee of a racetrack;

3 (14) regulate the size of the purse, stake or
4 reward to be offered for [~~the conducting of~~] any race;

5 (15) exclude or compel the exclusion of, from
6 all racecourses or off-track pari-mutuel wagering places, any
7 person whom the commission deems detrimental to the best
8 interests of racing or any person who willfully violates the
9 racing laws or any rule, regulation or order of the commission
10 or any law of the United States or of this state;

11 (16) compel the production of all documents
12 showing the receipts and disbursements of any licensee and
13 determine the manner in which such financial records shall be
14 kept;

15 (17) investigate the operations of any
16 licensee, and the commission has authority to place attendants
17 and such other persons as may be deemed necessary in the
18 offices, on the tracks or in places of business of any licensee
19 for the purpose of satisfying itself that the rules and
20 regulations are strictly complied with; and

21 (18) employ staff as peace officers for the
22 purpose of conducting investigations and for enforcing rules and
23 regulations of the state racing commission and the laws of the
24 state and to obtain documents and information from other
25 agencies in order to assist the [~~racing~~] commission. Staff

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1 employed as peace officers shall be required to satisfactorily
2 complete a basic law enforcement training program but such peace
3 officers shall not carry firearms or other deadly weapons while
4 on duty.

5 G. The state racing commission shall publicly state
6 its reasons for refusing an application for a license. The
7 reasons shall be included in the minute book of the commission,
8 and the minute book shall be subject to public inspection at all
9 reasonable times.

10 H. The state racing commission has the power to
11 summon witnesses, books, papers, documents or tangible things
12 and to administer oaths for the effectual discharge of the
13 commission's duties. The commission may appoint a hearing
14 officer to conduct any hearing required by the Horse Racing Act
15 or any rule or regulation promulgated pursuant to that act. "

16 Section 2. Section 60-1-10 NMSA 1978 (being Laws 1933,
17 Chapter 55, Section 6, as amended) is amended to read:

18 "60-1-10. PARI-MUTUEL METHOD LEGALIZED--MAXIMUM
19 COMMISSIONS--HORSEMEN'S COMMISSION--GAMBLING STATUTES NOT
20 REPEALED--COMMISSION DISTRIBUTION.--

21 A. Within the enclosure where any horse races are
22 conducted, either as live on-track horse races or as horse races
23 simulcast pursuant to Section 60-1-25 NMSA 1978, [and] or where
24 [the] a licensee has been licensed to use the pari-mutuel method
25 or system of wagering on races, including off-track pari-mutuel

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1 ~~wagering.~~ the pari-mutuel system is lawful [~~but only within the~~
2 ~~enclosure where races are conducted~~].

3 B. The sale to patrons [~~present on the grounds~~] of
4 pari-mutuel tickets or certificates on the races or the use of
5 the pari-mutuel system shall not be construed to be betting,
6 gambling or pool selling and is authorized under the conditions
7 provided by law.

8 C. There shall be for each class A licensee
9 racetrack and for each licensee of off-track pari-mutuel
10 wagering of horse races from a class A licensee racetrack, a
11 commission of nineteen percent of the gross amount wagered on
12 win, place and show through the pari-mutuel system, of which
13 eighteen and three-fourths percent shall be retained by [~~a class~~
14 A] the licensee and one-fourth of one percent shall be allocated
15 to the general fund. A commission in an amount determined by
16 the licensee of not less than eighteen and six-eighths percent
17 and not greater than twenty-five percent of the gross amount
18 wagered on win, place and show through the pari-mutuel system
19 shall be retained by a class B licensee racetrack. Each class B
20 licensee shall advise the state racing commission not less than
21 thirty days in advance of each horse racing meeting of the
22 percentage the licensee shall retain as commission. Each
23 licensee of off-track pari-mutuel wagering of horse races from a
24 class B licensee shall retain the same commission as that
25 designated by the class B licensee. From [~~that~~] its commission,

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1 each class A and class B licensee shall allocate five-eighths of
2 one percent to the New Mexico horse breeders' association weekly
3 for distribution pursuant to the provisions of Subsection C of
4 Section 60-1-17 NMSA 1978.

5 D. Except as otherwise provided in this subsection,
6 a commission shall be retained by the licensee at the election
7 of each class A licensee racetrack of not less than twenty-one
8 percent and not greater than twenty-five percent of the gross
9 amount wagered on exotic wagering and at the election of each
10 class B licensee racetrack, and with the approval of the state
11 racing commission, of not less than twenty-one percent and not
12 greater than thirty percent of the gross amount wagered on
13 exotic wagering. For the purpose of this subsection, "exotic
14 wagering" means all wagering other than win, place and show,
15 through the pari-mutuel system. Each licensee shall advise the
16 state racing commission not less than thirty days in advance of
17 each horse racing meeting of the amount of the commission of the
18 gross amount wagered on exotic wagering to be retained by the
19 licensee. Each licensee of off-track pari-mutuel wagering shall
20 retain the same commission on exotic wagering as that designated
21 by the licensee racetrack that conducts the horse race. From
22 [that] its commission, the licensee shall allocate one and
23 three-eighths percent to the New Mexico horse breeders'
24 association weekly for distribution pursuant to the provisions
25 of Subsection C of Section 60-1-17 NMSA 1978.

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1 E. The odd cents of all redistributions to the
2 wagerer over the next lowest multiple of ten from the gross
3 amount wagered through the pari-mutuel system shall be retained
4 by the licensee, with fifty percent of the total being allocated
5 to enhance the race purses of established stake races that
6 include only horses registered as New Mexico bred with the New
7 Mexico horse breeders' association, to be distributed by the New
8 Mexico horse breeders' association pursuant to Paragraph (3) of
9 Subsection C of Section 60-1-17 NMSA 1978 subject to the
10 approval of the state racing commission.

11 F. All money resulting from the failure of patrons
12 who purchased winning pari-mutuel tickets during the meeting to
13 redeem their winning tickets before the end of the sixty-day
14 period immediately succeeding the closing day of the meeting and
15 all money resulting from the failure of patrons who purchased
16 pari-mutuel tickets that were entitled to refund but were not
17 refunded during the same sixty-day period shall be apportioned
18 as follows:

19 (1) thirty-three and thirty-three hundredths
20 percent shall be retained by the licensee;

21 (2) thirty-three and thirty-four hundredths
22 percent shall be distributed to the New Mexico horse breeders'
23 association to enhance each track's established overnight purses
24 for races that include only horses registered as New Mexico bred
25 with the New Mexico horse breeders' association pursuant to

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1 Paragraph (3) of Subsection C of Section 60-1-17 NMSA 1978,
2 subject to the approval of the state racing commission; and

3 (3) thirty-three and thirty-three hundredths
4 percent shall be allocated to [~~horseman's~~] horsemen's race
5 purses.

6 G. To promote and improve the quality of horse
7 racing and simulcasting and the participation of interested
8 persons in horse racing in New Mexico, one-half of one percent
9 of the gross amount wagered on simulcast horse races [~~at each~~
10 ~~licensed racetrack in New Mexico that receives simulcast horse~~
11 ~~raees~~] in New Mexico shall be allocated by each licensee for
12 distribution to the New Mexico horsemen's association, provided
13 that at least one-quarter of one percent of the gross amount
14 wagered on simulcast races that is so allocated is used solely
15 for medical benefits for the members of the New Mexico
16 horsemen's association, and provided further that the remaining
17 one-quarter of one percent of the gross amount wagered on
18 simulcast races that is so allocated shall be used to enhance
19 purses at each [~~such~~] licensed racetrack. The state racing
20 commission shall by regulation provide for the timing and manner
21 of the distribution required by this subsection and shall audit,
22 or arrange for an independent audit of, the disbursement
23 required by this subsection.

24 H. Fifty percent of the net retainage of each
25 licensee shall be allocated to race purses. For purposes of

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1 this section, "net retainage" of the licensee means the
2 commission retained by the licensee on all forms of wagers
3 minus:

4 (1) the taxes delineated in Sections 60-1-8 and
5 60-1-15 NMSA 1978;

6 (2) money allocated to the New Mexico horse
7 breeders' association by this section and Section 60-1-17 NMSA
8 1978;

9 (3) money allocated to the New Mexico
10 horsemen's association by this section; and

11 (4) a deduction for expenses incurred to engage
12 in intrastate simulcasting pursuant to Section 60-1-25 NMSA
13 1978, provided that:

14 (a) the deduction for each licensee shall
15 be a portion of five percent of the gross amount wagered at all
16 the sites receiving the same simulcast horse races;

17 (b) the deduction portion for each
18 licensee shall be an amount allocated to the licensee by
19 agreement voluntarily reached among all the licensees sending or
20 receiving the same simulcast horse races; and

21 (c) the deduction portion for each
22 licensee shall be an amount allocated to the licensee by the
23 state racing commission if all the licensees sending or
24 receiving the same simulcast horse races fail to reach a
25 voluntary agreement under Subparagraph (b) of this paragraph

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1 [and

2 ~~(5) a deduction for fees and commissions~~
3 ~~incurred to receive interstate simulcasts pursuant to Section~~
4 ~~60-1-25 NMSA 1978].~~

5 I. Existing statutes of this state against horse
6 racing on Sundays or on bookmaking, pool selling or other
7 methods of wagering on the racing of horses are not repealed but
8 are hereby expressly continued in effect, with the exception
9 that the operation of the pari-mutuel method or system in
10 connection with the racing of horses, when used as provided by
11 law, is lawful.

12 J. In the event any money paid or allocated to the
13 New Mexico horse breeders' association or the New Mexico
14 Appaloosa racing association pursuant to the Horse Racing Act
15 cannot be paid to or allocated or administered by such
16 associations, then the state racing commission, or such other
17 organization as may be designated, retained or absolutely
18 controlled by the state racing commission, shall receive all
19 such money and shall pay, allocate and administer all such money
20 pursuant to the provisions of Section 60-1-17 NMSA 1978. If the
21 state racing commission or its controlled designee is required
22 to pay, allocate or administer money on behalf of the New Mexico
23 horse breeders' association or the New Mexico Appaloosa racing
24 association pursuant to this subsection, then the maximum
25 percentage of funds set forth in Paragraph (3) of Subsection C

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1 of Section 60-1-17 NMSA 1978 shall be paid by the state racing
2 commission to the New Mexico horse breeders' association or the
3 New Mexico Appaloosa racing association as a fee to obtain the
4 certification of the registry of the dam and stud of the New
5 Mexico bred horse.

6 K. In the event any money paid or allocated to the
7 New Mexico horsemen's association pursuant to the Horse Racing
8 Act cannot be paid to or allocated or administered by the
9 association, then the state racing commission, or such other
10 organization as may be designated, retained or absolutely
11 controlled by the state racing commission, shall receive all
12 such money and shall pay, allocate and administer all such money
13 to achieve the purposes of the provisions of this section. "

14 Section 3. Section 60-1-25 NMSA 1978 (being Laws 1991,
15 Chapter 195, Section 6) is amended to read:

16 "60-1-25. SIMULCASTING. --

17 A. As used in this section, "simulcasting" means a
18 live audio-visual broadcast of an actual horse race at the time
19 it is run.

20 B. The state racing commission may permit
21 simulcasting of races being run at licensed New Mexico
22 racetracks to racetracks outside the state, as well as to other
23 licensed New Mexico racetracks and licensees of off-track pari-
24 mutuel wagering, and of races being run at racetracks outside
25 New Mexico to licensed racetracks and licensees of off-track

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1 pari-mutuel wagering in this state. Pari-mutuel wagering on
2 simulcasted races shall be prohibited [~~except~~] at licensed New
3 Mexico racetracks except on days that such racetracks have race
4 meets in progress or on days that such racetracks do not have
5 race meets in progress but are simulcasting races from another
6 licensed New Mexico racetrack; provided, however, that pari-
7 mutuel wagering on simulcasted races shall only be allowed at
8 any licensed New Mexico racetrack within a radius of eighty
9 miles of any other licensed New Mexico racetrack with race meets
10 in progress if there is mutual agreement of the two licensees,
11 and provided further that no licensed New Mexico racetrack shall
12 be allowed to receive broadcasts of simulcast races unless that
13 racetrack offers at least seventeen days per year of pari-mutuel
14 wagering on on-track live horse races. The commission shall
15 promulgate rules and regulations concerning the simulcasting of
16 racing as provided in this section.

17 C. All simulcasting of races shall have prior
18 approval of the state racing commission. "

1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

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6 March 15, 1997

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8 Mr. President:

9
10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
11 referred

12
13 SENATE BILL 755

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 FINANCE COMMITTEE.
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20 Respectfully submitted,

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Shannon Robinson, Chairman

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Adopted _____ Not Adopted _____

1 (Chief Clerk) (Chief Clerk)

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4 Date _____

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7 The roll call vote was 6 For 0 Against

8 Yes: 6

9 No: 0

10 Excused: Smith, Garcia, Vernon

11 Absent: None

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1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

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6 March 17, 1997

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8 Mr. President:

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10 Your FINANCE COMMITTEE, to whom has been referred

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12 SENATE BILL 755

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14 has had it under consideration and reports same with
15 recommendation that it DO PASS.
16

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18 Respectfully submitted,

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23 Ben D. Altamirano, Chairman
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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Carraro, Eisenstadt, Lyons, McKibben, Smith

Absent: None

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State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 21, 1997

Mr. Speaker:

Your **BUSINESS AND INDUSTRY COMMITTEE**, to whom has
been referred

SENATE BILL 755

has had it under consideration and reports same with
recommendation that it **DO PASS**.

Respectfully submitted,

Fred Luna, Chairman

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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

HBI C/SB 755

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 1 Against

Yes: 7

No: Hobbs

Excused: Alwin, Gubbels, Olguin, J. G. Taylor

Absent: Getty

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