

**SUBSTITUTE FOR
SENATE BILL NO. 382**

A bill to amend 1995 PA 279, entitled
"Horse racing law of 1995,"
by amending sections 2, 8, 17, and 22 (MCL 431.302, 431.308,
431.317, and 431.322), as amended by 2016 PA 271.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Affiliate" means a person who, directly or indirectly,
3 controls, is controlled by, or is under common control with; is in
4 a partnership or joint venture relationship with; or is a co-
5 shareholder of a corporation, co-member of a limited liability
6 company, or co-partner in a limited liability partnership with a
7 person who holds or applies for a race meeting or track license
8 under this act. For purposes of this subdivision, a controlling
9 interest is a pecuniary interest of more than 15%.

1 (b) "Breaks" means the cents over any multiple of 10 otherwise
2 payable to a patron on a wager of \$1.00.

3 (c) "Certified horsemen's organization" means an organization
4 that is registered with the office of racing commissioner in a
5 manner and form required by the racing commissioner and that can
6 demonstrate all of the following:

7 (i) The organization's capacity to supply horses.

8 (ii) The organization's ability to assist a race meeting
9 licensee in conducting the licensee's racing program.

10 (iii) The organization's ability to monitor and improve
11 physical conditions and controls for individuals and horses
12 participating at licensed race meetings.

13 (iv) The organization's ability to protect the financial
14 interests of the individuals participating at licensed race
15 meetings.

16 (d) "Commissioner" or "racing commissioner" means the
17 executive director of the Michigan gaming control board appointed
18 under section 4 of the Michigan gaming control and revenue act,
19 1996 IL 1, MCL 432.204, who is ordered under Executive
20 Reorganization Order No. 2009-31, MCL 324.99919, to perform all the
21 functions and exercise the powers performed and exercised by the
22 racing commissioner before that position was abolished.

23 (e) "Controlled substance" means that term as defined in
24 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

25 (f) "Day of operation" means a period of 24 hours beginning at
26 12 noon and ending at 11:59 a.m. the following day.

27 (g) "Drug" means any of the following:

1 (i) A substance intended for use in the diagnosis, cure,
2 mitigation, treatment, or prevention of disease in humans or other
3 animals.

4 (ii) A substance, other than food, intended to affect the
5 structure or condition or any function of the body of humans or
6 other animals.

7 (iii) A substance intended for use as a component of a
8 substance specified in subparagraph (i) or (ii).

9 (h) "Fair" means a county, district, or community fair or a
10 state fair.

11 (i) "Foreign substance" means a substance, or its metabolites,
12 that does not exist naturally in an untreated horse or, if natural
13 to an untreated horse, exists at an unnaturally high physiological
14 concentration as a result of having been administered to the horse.

15 (j) "Full card simulcast" means an entire simulcast racing
16 program of 1 or more race meeting licensees located in this state,
17 or an entire simulcast racing program of 1 or more races
18 simulcasted from 1 or more racetracks located outside of this
19 state.

20 (k) "Horsemen's simulcast purse account" means an account
21 maintained with a financial institution and managed by a designated
22 agent as described in section 19 to receive and distribute money as
23 provided in this act.

24 (l) "Member of the immediate family" means the spouse, child,
25 parent, or sibling.

26 (m) "Net commission" means the amount determined under section
27 17(3), after first deducting from the licensee's statutory

1 commission the applicable state tax on wagering due and payable
2 under section 22 and the actual verified fee paid by the licensee
3 to the sending host track to receive the simulcast signal.

4 (n) "Office of the racing commissioner" means the horse racing
5 section of the horse racing, audit, and gaming technology division
6 of the Michigan gaming control board created by section 4 of the
7 Michigan gaming control and revenue act, 1996 IL 1, MCL 432.204,
8 which operates under the direction of the executive director of the
9 Michigan gaming control board, to which Executive Reorganization
10 Order No. 2009-31, MCL 324.99919, transferred all of the authority,
11 powers, duties, functions, records, personnel, property, unexpended
12 balances of appropriations, allocations, or other funds of the
13 office of racing commissioner that previously existed under this
14 act and that was abolished by that executive reorganization order.

15 (o) "Pari-mutuel" and "pari-mutuel wagering" mean the form or
16 system of gambling in which the winner or winners divide the total
17 amount of money bet, after deducting the net commission.

18 (p) "Person" means an individual, firm, partnership,
19 corporation, association, or other legal entity.

20 (q) "Purse pool" means an amount of money allocated or
21 apportioned to pay prizes for horse races and from which payments
22 may be made to certified horsemen's organizations as provided in
23 this act.

24 **(R) "RACE MEETING" MEANS ACTIVITIES RELATED TO LIVE HORSE**
25 **RACING INCLUDING CONDUCTING AND OVERSEEING PARI-MUTUEL WAGERING ON**
26 **LIVE AND SIMULCAST WAGERING BY A RACE MEETING LICENSEE.**

27 **(S) ~~(r)~~**—"Standardbred" means a horse registered with the

1 United States Trotting Association that races on designated gaits
2 of pace or trot.

3 (T) ~~(s)~~—"Thoroughbred" means a thoroughbred, quarter, paint,
4 Arabian, or other breed horse. Thoroughbred does not include a
5 standardbred.

6 (U) ~~(t)~~—"Veterinarian" means an individual licensed to
7 practice veterinary medicine under part 188 of the public health
8 code, 1978 PA 368, MCL 333.18801 to 333.18838, or under a state or
9 federal law applicable to the individual.

10 Sec. 8. (1) The racing commissioner may issue the following
11 general classes of licenses:

12 (a) Occupational licenses issued to individuals participating
13 in, involved in, or otherwise having to do with horse racing, pari-
14 mutuel wagering, or simulcasting at a licensed race meeting in this
15 state.

16 (b) Race meeting licenses issued annually for the succeeding
17 year to persons to conduct live horse racing, simulcasting, and
18 pari-mutuel wagering on the results of live and simulcast horse
19 races at a licensed race meeting in this state under this act.

20 (c) Track licenses issued to persons to maintain or operate a
21 racetrack at which 1 or more race meeting licensees may conduct
22 licensed race meetings in this state.

23 (D) THIRD PARTY FACILITATOR LICENSES ISSUED TO PERSONS
24 CONTRACTED BY RACE MEETING LICENSEES TO FACILITATE WAGERING ON LIVE
25 AND SIMULCAST RACING. THE RACING COMMISSIONER SHALL ESTABLISH THE
26 TERMS AND CONDITIONS AND THE APPROPRIATE FEE FOR A THIRD PARTY
27 FACILITATOR LICENSE SUBJECT TO THE FOLLOWING:

(i) THE THIRD PARTY FACILITATOR MUST COMPLY WITH CONSUMER PROTECTIONS, AS DETERMINED BY THE RACING COMMISSIONER, TO PROTECT THE PUBLIC.

(ii) THE THIRD PARTY FACILITATOR MUST COOPERATE IN ANY AUDIT NECESSARY TO COMPLY WITH SECTION 23.

(iii) THE THIRD PARTY FACILITATOR MUST COMPLY WITH THE CONDITIONS AND SUITABILITY STANDARDS UNDER SECTION 10(1)(E) TO (F) AND RULES PROMULGATED UNDER THIS ACT.

(iv) A LICENSE ISSUED TO A THIRD PARTY FACILITATOR UNDER THIS SUBDIVISION IS TERMINATED IF ANY OF THE FOLLOWING OCCUR:

(A) ON THE DATE AND AT THE TIME SET BY THE RACING COMMISSIONER IN THE LICENSE.

(B) THE CONTRACT WITH THE RACE MEETING LICENSEE TO FACILITATE LIVE AND SIMULCAST WAGERING EXPIRES.

(C) THE LICENSE IS SUSPENDED OR REVOKED BY THE RACING COMMISSIONER.

(2) The racing commissioner shall not issue a race meeting license to a person if the person is licensed to conduct a licensed race meeting at another licensed racetrack in this state and the person has a controlling interest in or co-ownership of the other licensed racetrack.

Sec. 17. (1) The pari-mutuel system of wagering upon the results of horse races as permitted by this act shall not be held or construed to be unlawful. All forms of pari-mutuel wagering **MUST BE** conducted ~~at a licensed~~ **UNDER A** race meeting ~~shall be~~ **LICENSE** preapproved by the racing commissioner ~~under~~ **BY** rule or written order of the commissioner.

1 (2) ~~A holder of a race meeting license may provide a place in~~
2 ~~the race meeting grounds or enclosure at which he or she may~~
3 ~~conduct and supervise pari-mutuel wagering on the results of horse~~
4 ~~races as permitted by this act.~~ If pari-mutuel wagering is used at
5 a race meeting, a totalisator or other device that is equal in
6 accuracy and clearness to a totalisator and approved by the racing
7 commissioner must be used. The odds display of the totalisator or
8 other device must be placed in full view of the patrons.

9 (3) Subject to section 18(3), each holder of a race meeting
10 license shall retain as his or her commission on all forms of
11 straight wagering 17% of all money wagered involving straight
12 wagers on the results of live and simulcast horse races conducted
13 at the licensee's race meetings. Subject to section 18(3), each
14 holder of a race meeting license shall retain as his or her
15 commission on all forms of multiple wagering, without the written
16 permission of the racing commissioner not more than 28% and with
17 the written permission of the racing commissioner not more than 35%
18 of all money wagered involving any form of multiple wager on the
19 results of live and simulcast horse races conducted at the
20 licensee's race meeting. Except as otherwise provided by contract,
21 50% of all commissions from wagering on the results of live racing
22 at the racetrack where the live racing was conducted shall be paid
23 to the horsemen's purse pool at the racetrack where the live racing
24 was conducted. As used in this subsection:

25 (a) "Straight wagering" means a wager made on the finishing
26 position of a single specified horse in a single specified race.

27 (b) "Multiple wagering" means a wager made on the finishing

1 positions of more than 1 horse in a specified race or the finishing
2 positions of 1 or more horses in more than 1 specified race.

3 (4) All breaks shall be retained by the race meeting licensee
4 and paid directly to the city or township in which the racetrack is
5 located as a fee for services provided under section 21.

6 (5) Payoff prices of tickets of a higher denomination must be
7 calculated as even multiples of the payoff price for a \$1.00 wager.
8 Each holder of a race meeting license shall distribute to the
9 persons holding winning tickets, as a minimum, a sum not less than
10 \$1.10 calculated on the basis of each \$1.00 deposited in a pool,
11 except that each race meeting licensee may distribute a sum of not
12 less than \$1.05 to persons holding winning tickets for each \$1.00
13 deposited in a minus pool. As used in this subsection, "minus pool"
14 means any win, place, or show pool in which the payout would exceed
15 the total value of the pool.

16 (6) A holder of a race meeting license shall not knowingly
17 permit a person less than 18 years of age to be a patron of the
18 pari-mutuel wagering conducted or supervised by the holder.

19 (7) Any act or transaction relative to pari-mutuel wagering on
20 the results of live or simulcast horse races may be conducted by a
21 race meeting licensee under this act for the race meeting licensee
22 to comply with the auditing requirements of section 23. A person
23 shall not provide messenger service for the placing of a bet for
24 another person who is not a patron. However, this subsection does
25 not prevent simulcasting or intertrack or interstate common pool
26 wagering inside or outside this state as permitted by this act or
27 the rules promulgated under this act.

1 (8) Any form of pari-mutuel wagering on the results of live or
2 simulcast horse races ~~must only occur or be permitted to occur at a~~
3 ~~licensed race meeting. A person shall not participate or be a party~~
4 ~~to any act or transaction relative to placing a wager or carrying a~~
5 ~~wager for placement outside of a race meeting ground. A person~~
6 ~~shall not provide messenger service for the placing of a bet for~~
7 ~~another person who is not a patron. However, this subsection does~~
8 ~~not prevent simulcasting or intrastate or interstate common pool~~
9 ~~wagering inside or outside this state as permitted by this act or~~
10 ~~the rules promulgated under this act.~~ **MAY ONLY BE CONDUCTED OR**
11 **OPERATED BY A RACE MEETING LICENSEE OR ITS CONTRACTED LICENSED**
12 **THIRD PARTY FACILITATORS, AS DETERMINED AND APPROVED BY THE RACING**
13 **COMMISSIONER. ALL WAGERS PLACED BY PERSONS WITHIN THIS STATE MAY BE**
14 **PLACED ONLY IN PERSON AT A LICENSED RACE MEETING OR ELECTRONICALLY**
15 **THROUGH A LICENSED THIRD PARTY FACILITATOR.**

16 (9) A person that does not hold a race meeting license **OR A**
17 **THIRD PARTY FACILITATOR LICENSE** that solicits or accepts wagers on
18 the results of live or simulcast horse races from individuals in
19 this state is guilty of a felony punishable by imprisonment for not
20 more than 5 years or a fine of not more than \$10,000.00, or both.
21 Each act of solicitation or wager that is accepted in violation of
22 this section is a separate offense.

23 (10) **ONLY A RACE MEETING LICENSEE OR ITS CONTRACTED LICENSED**
24 **THIRD PARTY FACILITATOR MAY PROCESS, ACCEPT, OR SOLICIT WAGERS ON**
25 **THE RESULTS OF LIVE OR SIMULCAST HORSE RACES AS DETERMINED AND**
26 **APPROVED BY THE RACING COMMISSIONER.**

27 (11) ~~(10)~~ As used in this section, "act or transaction

1 relative to pari-mutuel wagering on the results of live or
2 simulcast horse races" means those steps taken by a race meeting
3 licensee to accept a wager and process it within the ordinary
4 course of its business and in accordance with this act.

5 Sec. 22. (1) A licensed racetrack shall pay a license fee to
6 the racing commissioner of \$1,000.00 annually.

7 (2) Each holder of a race meeting license shall pay to the
8 state treasurer, from the holder's commission, **INCLUDING ANY WAGERS**
9 **RECEIVED BY LICENSED THIRD PARTY FACILITATORS OPERATING PURSUANT TO**
10 **THIS ACT**, a tax in the amount of 3.5% of money wagered on
11 interstate and intertrack simulcast races conducted at the holder's
12 licensed race meetings.

13 (3) By eliminating the pari-mutuel wagering tax on live racing
14 programs and altering the calculation of the tax on simulcast horse
15 racing, it is not the intent of the legislature to diminish the
16 funding and appropriations for the Michigan agriculture equine
17 industry **DEVELOPMENT** fund and related programs described in section
18 20. The pari-mutuel tax alteration effected by this section is
19 intended to generally allow for the improvement of the pari-mutuel
20 horse racing and breeding industry in this state by increasing
21 purses at licensed race meetings and making additional pari-mutuel
22 revenues available for capital improvements at licensed racetracks
23 in this state.