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BILL ANALYSIS



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House Bill 4526 (Substitute H-4)  
Sponsor: Representative Gary Randall  
House Committee: Regulatory Affairs  
Senate Committee: Agriculture and Forestry

Date Completed: 12-5-95

**SUMMARY OF HOUSE BILL 4526 (Substitute H-4) as passed by the House:**

The bill repeal the Racing Law and would create the "Horse Racing Law of 1995", which would reenact many provisions of the Racing Law and would permit the Racing Commissioner to authorize the simulcasting of races; permit race meeting licensees to request authority to conduct and accept telephone account wagering on the results of live and simulcast races; establish the "Michigan Agriculture Equine Industry Development Fund"; and require a licensee to have a contract with a certified horsemen's organization before it could conduct live or simulcast horse races.

Licenses

A person wanting to conduct a thoroughbred, standardbred, quarter horse, Appaloosa, or Arabian race meeting with pari-mutuel wagering on the results of live and simulcast horse races would have to apply each year to the Racing Commissioner for a license. The application would have to be filed before July 1, instead of September 2 as currently required, of the preceding year, except a license issued for 1996 under the Racing Law could be amended by the Racing Commissioner pursuant to a new application within 30 days of the bill's effective date.

A license application would have to specify, in addition to currently required information, the time period requested for licensing, whether telephone account wagering by pari-mutuel method and/or simulcasting would be conducted, and the horse breed for which live racing was proposed.

Racing Dates

The bill would retain the current prohibition against

live or simulcast thoroughbred racing after 6:45 p.m. and standardbred racing before 6:45 p.m. on any day except Sunday. The bill would allow a waiver of this restriction pursuant to a written agreement of all race meeting licensees in the city area. ("City area" would mean a city having a population of 750,000 or more, and would include the counties within 30 miles of the city's limits.)

The bill would require applicants for a thoroughbred, quarter horse, Appaloosa, or Arabian race meeting license, or for a standardbred race meeting license to conduct a specified number of live racing days, with at least nine live horse races programmed. The required number of days would vary according to the location of the race meeting.

If a licensee were unable to program and conduct nine live races on any racing date because there were fewer than five entries in any race, the licensee could not conduct any simulcasting on that day without the written consent of the certified horsemen's organization with which it had contacted. If a race meeting could not be conducted for certain reasons, such as fire, the Commissioner could transfer those dates to another licensee if certain conditions were met, including the consent to the transfer from all licensees that conducted live racing on those dates within 50 miles of the substitute race track.

Horsemen's Organizations

A licensee would be required to have a current written contract with a "certified horsemen's organization" before it could conduct live or simulcast horse races with pari-mutuel wagering on the results of the races. The Commissioner would be required to register and certify all of these organizations that had contracts with

licensees in the State in 1995 or 1994 to conduct pari-mutuel racing, and would have to accept any current contracts these organizations had with licensees that complied with the bill.

("Certified horsemen's organization" would mean an organization registered with the Racing Commissioner, in a manner as required by the Commissioner, that could demonstrate the organization's capacity to supply horses, and its ability to assist a race meeting licensee in conducting the licensee's racing program, monitor and improve physical conditions and controls for individuals and horses participating at licensed race meetings, and protect the financial interests of the individuals participating at licensed race meetings.)

#### Simulcast Horse Races

The Racing Commissioner could authorize simulcasting by race meeting licensees. The holder of a race meeting license could apply to the Commission for a permit to televise simulcasts of horse races to viewing areas within the enclosure of the licensed racetrack at which the applicant was licensed to conduct its race meeting. The Commissioner could issue a permit for individual race and full card simulcasts televised during, between, before, or after programmed live horse races on any day that live racing was conducted by the applicant, and also on other days during the term of the applicant's license when it did not conduct live horse racing, subject to certain conditions in the bill. Among other things, the applicant would have to have a current contract with a certified horseman's organization; being allocated the minimum number of racing dates as specified in the bill; and conduct at least nine live races on each racing date.

If the requested simulcasts were interstate, the applicant would have to waive any right that he or she could have under the Federal Interstate Horse Racing Act of 1978 to restrict interstate simulcasts by other licensees in the State. An applicant, if it conducted its races in a city area, would have to make the video and audio signals of the live races available for intertrack simulcasting to all licensed race meetings in the State located more than 12 miles from the applicant's race meeting. A licensee in a city area would have to receive all available intertrack simulcasts from licensed races in the city area located more than 12 miles from the licensee's race meeting.

A licensee could not conduct an interstate

simulcast of a different breed than it was licensed to race live, unless the licensee had written permission of other licensees in the city area that were licensed to race that breed live.

All forms of pari-mutuel wagering provided for live racing would be allowed on simulcast horse races authorized under the bill. All money wagered on these horse races would be included in computing the total amount of money wagered at the licensed race meeting. The bill would require a licensee that received an interstate simulcast to pay to the horsemen's simulcast purse pool established under the bill a sum as computed in the bill.

("Simulcast" would mean the live transmission of video and audio signals conveying a horse race held either inside or outside the State to a licensed race meeting in the State. "Intertrack simulcast" would mean a simulcast from one racetrack in the State to another racetrack in the State. "Interstate simulcast" would mean a simulcast from a racetrack outside the State to a racetrack inside the State.)

#### Telephone Account Wagering

The bill would permit race meeting licenses to include a request for authority to conduct and accept telephone account wagering on the results of live and simulcast races programmed and conducted at the licensed race meeting. Telephone account wagering would have to be conducted by the pari-mutuel method of wagering in accordance with the bill. ("Telephone account wagering" would mean pari-mutuel wagering on the results of horse races received within the enclosure of a racetrack by telephone or any other electronic signal.)

All money wagered by telephone, would have to be included with other money wagered on the results of live and simulcast races to compute the total amount of all money wagered at the race meeting for determining the licensee's commission under the bill and the taxes owed the State.

A licensee could accept and tabulate a telephone account wager only from the holder of a telephone wagering account who had funds on deposit at the licensed meet.

#### Equine Industry Fund

Money received by the Racing Commissioner and the State Treasurer under the bill would have to be paid into the State Treasury and placed in the

Michigan Agriculture Equine Industry Development Fund, which would be created in the Treasury Department.

The Fund would be administered by the Director of the Department of Agriculture, with assistance and advice from the Racing Commissioner. Money could not be spent from the Fund, except as appropriated by the Legislature, and would have to be used to fund agriculture and equine industry development programs, as provided in the bill.

License Fee

Currently, each licensed racetrack located in a city area must pay annually to the Racing Commissioner a license fee of \$1,000, and any other licensed racetrack must pay an annual fee of \$200.

The bill would add that during 1996, each holder of a license would have to pay to the State Treasurer, from the holder's commission, a tax in the amount of 2.5% of all money wagered on interstate and intertrack simulcast races conducted at the holder's race meetings. For 1997 and each year thereafter, the tax rate would increase to 3.5% of all money wagered in that year. Not more than four years after the bill's effective date, the Racing Commissioner would be required to report to the chairpersons of the Senate and House Committees responsible for horse racing legislation the effect on the horse racing industry of this reduction in tax.

Other Other Provisions

Currently, the Racing Commissioner may assess

a penalty, including a fine of not more than \$5,000 for each violation of the Law or rule promulgated under it. Under the bill, the Commissioner could issue sanctions including revocation or suspension of a license, exclusion from racetrack grounds, or a fine of up to \$25,000.

Currently, a person who fails to appear before the Racing Commissioner as specified in a summons from the Commissioner or who refuses to testify, without just cause, in answer to a summons is guilty of a misdemeanor punishable by a fine of up to \$5,000 or imprisonment for up to six months. The bill would reduce the fine to \$1,000.

The Racing Commissioner currently is required to appoint two deputy commissioners and two State stewards of racing as special deputies for each licensed race meeting in the State. The bill would permit the Commissioner to appoint three State stewards.

The bill would delete a current provision that permits a specified sum from thoroughbred and harness racing to be returned to a county or city in which or adjoining which a licensed racetrack is located, and requires the funds to be used to pay the annual rental on a stadium and facilities (MCL 431.73).

Legislative Analyst: L. Arasim

**FISCAL IMPACT**

**CURRENT STATUS**

Horse racing revenues to the State have steadily declined. The revenues for the past five fiscal years are as follows:

<u>FY 1990-91</u>	<u>FY 1991-92</u>	<u>Percent Change</u>	<u>FY 1992-93</u>	<u>Percent Change</u>	<u>FY 1993-94</u>	<u>Percent Change</u>	<u>FY 1994-95</u>	<u>Percent Change</u>
\$19,940,700	\$19,972,900	.16	\$18,904,100	(5.4)	\$17,415,400	(7.8)	\$14,753,100	(15.3)

The Office of Racing Commissioner and the Senate Fiscal Agency anticipate that without major change, a majority of the tracks, if not all, will stop running races within the next year. This would

mean a direct loss of revenue to the State of \$6 million to \$14 million in FY 1995-96. Revenues for October 1995 are down 18% from a year ago.

Figure 2 illustrates appropriations to the Department of Agriculture pursuant to Public Act 145 of 1995 that were traditionally funded with horse racing revenues. The appropriations for FY 1995-96, in large part, are financed with State

General Fund/General Purpose revenues. Grants funded with restricted horse racing revenues include the sire stakes programs and the grants to cities with race tracks.

<b>Figure 2 APPROPRIATIONS TRADITIONALLY FUNDED BY HORSE RACING REVENUES</b>	
	<b><u>FY 1995-96 Appropriations</u></b>
Grants traditionally funded with horse racing revenue	\$8,475,400
Grants funded with restricted horse racing revenue	2,969,600
Office of Racing Commissioner	3,242,100
Laboratory Support	723,500
Equine Monitoring	87,600
<b>TOTAL APPROPRIATIONS</b>	<b>\$15,498,200</b>
Sec. 708 Lapse	1,543,000
<b>TOTAL ALL</b>	<b>\$17,041,200</b>
FY 1994-95 Revenue	\$14,753,113
Revenue Shortfall	\$2,288,087

**REVENUES TO STATE**

The bill provides that the State would receive 2.5% of the total amount wagered from simulcasting for calendar year 1996 and 3.5% for 1997 and each year thereafter. There would be no revenue received from live racing nor revenue from one-half the breaks as is the current law. ("Breaks" means the cents over any multiple of 10 otherwise

payable to a patron on a wager of \$1). This analysis assumes that the bill will be given a January 1, 1996 effective date. If the bill is not given a January 1 effective date, and takes effect in early December, the State could lose \$250,000 to \$600,000 in revenues as the current Act would be repealed, thereby negating revenue that might normally be expected in December.

Figure 3 projects two different ranges. The projection in Range 1 assumes that the total amount wagered for simulcasting is equal to the total amount wagered in live racing for FY 1994-95 or \$313,387,900. Adjustments were then made for the partial year under the old Act for FY 1995-96 and the partial year using 2.5%. For FY 1996-97, adjustments were made using 2.5% for three months and 3.5% for nine months. Fiscal year 1997-98 would be the first full year at 3.5%.

Range 2 assumes that total wagering doubles and that the split between live racing and simulcasting is one-third to two thirds. This seems to be the general experience of other states, especially Pennsylvania (according to information provided by the Office of Racing Commissioners). Similar adjustments were made as in Range 1. The money received by the State would be credited to a new fund called the Michigan Agriculture Equine Industry Development Fund.

<b>Figure 3 PROJECTION OF RACING REVENUE TO THE STATE</b>		
Range 1 based on \$313,387,900 simulcasting total wagering.		
<b>FY 1995-96 Projection</b>	<b>FY 1996-97 Projection</b>	<b>FY 1997-98 Projection</b>
\$8,736,323	\$10,304,194	\$10,968,577
Range 2 based on \$419,939,786 simulcasting total wagering.		
<b>FY 1995-96 Projection</b>	<b>FY 1996-97 Projection</b>	<b>FY 1997-98 Projection</b>
\$10,835,396	\$13,807,620	\$14,697,893

In addition, the bill would authorize the Commissioner to issue sanctions for violation of the Act or rules, which would increase the fines from the current \$5,000 to \$25,000. This increase could generate \$25,000 to \$50,000 annually. These fines would be credited to the Library Fund pursuant to Article VIII, Section 9 of the State Constitution of 1963.

**STATE EXPENSES**

The State would incur additional expenses to regulate simulcasting. The Racing Commissioner is requesting \$400,000 to \$600,000 for 10.0 FTEs.

The State would have to pick up the expenses of a third State steward, which currently is the expense of the tracks. This would cost a minimum of \$187,000 (\$220 per racing day as a per diem x 850 minimum number of live racing days required under the Act).

For FY 1995-96, the grants for sires stakes programs (\$800,000 standardbred and \$424,000 thoroughbred) would have little restricted funds to support them. A supplemental would be required to correct the funding source. Also, the grants to cities would no longer be funded, a savings to the State of \$1,745,600.

**REVENUES TO LOCAL GOVERNMENTS**

Figure 4 shows the projections of increased revenues to townships and cities having racetracks. The townships and cities would receive all the breaks under the bill. Figure 4 also shows what the townships and cities are now

receiving. The projections are based on doubling the total wagering for FY 1994-95 and similar adjustments made for split years as calculated in Figure 3. The townships and cities would receive an increase of \$1,923,847 by FY 1996-97.

<b>Figure 4 GRANTS TO CITIES WITH RACETRACKS</b>					
<u>City</u>	<u>Track</u>	<u>FY 1994-95 Actual Payment</u>	<u>1994* Breakage Paid to State</u>	<u>FY 1995-96 Projected Payment</u>	<u>FY 1996-97 Projected Payment</u>
Fruitport	Muskegon	\$47,386	\$25,201	\$100,804	\$100,804
Hazel Park	Hazel Park	480,069	297,245	929,180	1,188,980
Isabella Township	Mt. Pleasant	3,986	4,000	16,000	16,000
Jackson	Jackson	59,776	105,381	111,003	144,160
Livonia	Ladbroke DRC	480,069	299,930	954,737	1,199,720
Northville	Northville	436,509	104,918	419,672	697,032
Saginaw	Saginaw	53,394	23,829	95,316	95,316
Swartz Creek	Sports Creek	184,412	56,859	146,483	227,436
<b>Totals</b>		<b>\$1,745,601</b>	<b>\$917,363</b>	<b>\$2,773,195</b>	<b>\$3,669,448</b>

\* Breakages were paid on a calendar year basis and Mt. Pleasant's was estimated.

**SUMMARY**

**State**

The State received \$14,753,100 from horse racing revenues for FY 1994-95. For October 1996, revenues were down 18% from the same period in 1995. If this trend continues, the State will receive \$12,097,542 horse racing revenues in FY 1995-96. Under the proposed bill, the State would receive \$10,835,396 (Range 2 projection, Figure 3) for FY 1995-96 but would increase to \$14,697,900 by FY 1997-98. See the following table for the net revenue loss and expenditure adjustments.

**State Net Revenues and Expenses:**

FY 1995-96 Current (Estimate)	\$12,097,542
FY 1995-96 H.B. 4526 (Estimate)	<u>10,835,396</u>
Net Revenue Loss	\$ (1,262,146)
Revenue from Fines	+ 25,000
Grants to Cities with Racetracks	+ 1,745,600
10.0 FTEs	- 600,000
1 Steward	<u>- 187,000</u>
<b>Net Effect to the State for FY 1995-96</b>	<b>\$ (278,546)</b>

**Local**

The townships and cities shown in Figure 4 would receive an increase totaling \$1,027,600 for FY 1995-96 and \$1,923,800 for FY 1996-97. In addition, all revenues from the breaks would be paid directly to the cities and townships in lieu of being appropriated annually as is the case currently.

Fiscal Analyst: A. Rich

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.