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**SFA****BILL ANALYSIS**

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Senate Bill 1307 (Substitute S-2 as reported)  
Senate Bill 1314 (as reported without amendment)  
Sponsor: Senator George A. McManus, Jr. (S.B. 1307)  
Senator Leon Stille (S.B. 1314)  
Committee: Farming, Agribusiness and Food Systems

Date Completed: 11-12-98

### **RATIONALE**

The state of the horse racing industry in Michigan is in flux. Currently, there are seven licensed pari-mutuel race tracks, including four harness race tracks, one thoroughbred track, and one mixed breed track, operating in the State. Live horse racing at one of Michigan's largest tracks, Ladbroke DRC in Livonia, ceased as of November 8 and the simulcasting of races from other tracks will continue at DRC only until December 30 when the track will close permanently. The end of racing at the DRC was preceded by the closure in May 1997 of the Muskegon Race Course. Despite the loss of the Muskegon track, the Office of Racing Commissioner in the Department of Agriculture, reported that wagering at the seven remaining pari-mutuel horse race tracks reached \$474.6 million in 1997, topping the 1996 record set during the first year of legalized full-card simulcasting in Michigan. These increases have been attributed to the enactment of Public Act 279 of 1995, which repealed the Racing Law of 1980 and replaced it with the Horse Racing Law of 1995. The 1995 law made a number revisions to laws regulating horse racing in the State including permitting full-card simulcasting. With simulcasting, Michigan tracks telecast races that are conducted at other race tracks from around the country. Some people are concerned, however, that Michigan race tracks again will be at a competitive disadvantage to tracks in other states if changes are not made to the Horse Racing Law's provisions concerning the filing of applications for a race meeting license, time restrictions on conducting live races and the simulcasting of races, the amount from all forms of multiple wagering that a track may retain as a commission, and funds held for the payment of outstanding uncashed winning tickets.

### **CONTENT**

**Senate Bill 1307 (S-2) would amend the Horse Racing Law to do the following:**

- Require applications for a race meeting license to be filed by September 1 (instead of July 1) of the preceding year; permit a license application for 1999 racing dates to be filed at any time; and permit the Racing Commissioner to issue 1999 thoroughbred race meeting dates at any time (instead of by November 1, 1998).
- Eliminate the time-of-day restrictions on the simulcast of a horse race.
- Allow a licensee to conduct live horse racing after 6:45 p.m. under certain circumstances.
- Provide that a licensee could retain as a commission on all forms of multiple wagering up to 28% without the Commissioner's permission, and up to 35% with the Commissioner's permission, of all money wagered. (Currently, a licensee may retain 20.5%.)
- Require the Commissioner to order the deposit of horsemen's purse pool money in a depository designated by a race meeting licensee upon direction of the affected horsemen's organization, if a thoroughbred track license were surrendered, revoked, or escrowed, or after January 1, 1998, a licensed thoroughbred track were closed.

**Senate Bill 1314** would amend Public Act 90 of 1951, which regulates racing meets, to delete current requirements that a licensee pay to the Racing Commissioner funds held for the payment of outstanding, unclaimed tickets. Instead, unclaimed winnings would have to be paid to licensees, as described in the bill.

A more detailed description of the bills follows.

**Senate Bill 1307 (S-2)**

### Race Meeting License

Currently, a person who wants to conduct a thoroughbred, standardbred, quarter horse, Appaloosa, or Arabian race meeting, or a combination of these race meetings, with pari-mutuel wagering on the results of live and simulcast horse races, must apply each year to the Racing Commissioner for a race meeting license in the manner and form required by the Racing Commissioner. The application must be filed with the Racing Commissioner before July 1 of the preceding year. The bill would require the application to be filed with the Racing Commissioner before September 1 of the preceding year except that applications for 1999 racing dates could be filed at any time.

### Simulcast Race

The Law currently prohibits a licensee from conducting a live or simulcast thoroughbred or standardbred horse race after 6:45 p.m. on any day except Sunday, unless a different agreement is reached by all the race meeting licensees in a city area. The bill would delete simulcast races from this prohibition.

Notwithstanding the 6:45 p.m. time restrictions, the Racing Commissioner, upon a licensee's request, may grant a race meeting license authorizing either a licensee to conduct live horse racing programs that otherwise would be prevented by the 6:45 p.m. time restriction if no other race meeting in a city area is licensed or authorized to conduct live horse racing at the same time the licensee proposes to conduct the requested racing programs; or a waiver of the 6:45 p.m. time restriction pursuant to the written agreement of all race meeting licensees in the city area. The bill would add that the Commissioner could grant a license that authorized the licensee to conduct live horse racing programs after 6:45 p.m., if the licensee were not in a city area and were at least 75 miles from the nearest race meeting licensee authorized to conduct live horse racing.

### Granting/Denying Licenses

Before November 1 of the year preceding the year for which applications are made, the Racing Commissioner is required to grant or deny an application for a race meeting license, allocate or deny the dates on which pari-mutuel wagering on live races may be conducted, and determine whether the applicant may simulcast during the calendar year for which the license is issued. The

bill specifies that the November 1 deadline would not apply to 1999 thoroughbred race meeting dates. In addition, the Racing Commissioner could issue 1999 thoroughbred race meeting dates at any time.

### Retained Wagers

Subject to the Law's provisions permitting pari-mutuel wagering on simulcast horse races, each holder of a race meeting license currently must retain as his or her commission on all forms of straight wagering 17% of all money wagered involving straight wagers, and on all forms of multiple wagering 20.5% of all money wagered on the results of live and simulcast horse races conducted at the licensee's race meetings. Under the bill, a race meeting licensee would have to retain as a commission on all forms of multiple wagering, not more than 28% without the written permission of the Racing Commissioner and not more than 35% with the written permission of the Racing Commissioner.

The bill also would delete provisions allowing the Racing Commissioner to regulate special sweepstakes pari-mutuel pools, and allowing race meeting licensees to retain 25% of all wagers on these races.

### Horsemen's Purse Pool Distribution

If a thoroughbred track license were surrendered, revoked, or escrowed or, after January 1, 1998, a licensed thoroughbred track were closed, the Racing Commissioner would have to order the deposit of horsemen's purse pool money deposited and distributed pursuant to the Law's provisions on the distribution of horsemen's simulcast purse pool to a depository designated by a race meeting licensee upon written direction of the affected certified horsemen's organization regardless of whether there had been racing at the race meeting licensee's location during the previous year.

### Televised Simulcasts

The Law permits the Racing Commissioner to authorize simulcasting of races, subject to certain conditions. Among other things, a licensed race meeting outside a city area may not conduct interstate simulcasts before 6:45 p.m., unless it also receives all intertrack simulcasts from licensed race meetings in a city area that are available before 6:45 p.m. The bill would delete from this provision references to the time requirement. The bill also would delete the current provision that a

licensed race meeting outside a city area may not conduct interstate simulcasts after 6:45 p.m., unless it also receives all intertrack simulcasts from licensed race meetings in a city area that are available after 6:45 p.m.

Currently, a race meeting licensee may not conduct an interstate simulcast of a different breed than it is licensed to race live at its race meeting, unless the licensee has the written permission of all race meeting licensees in a city area that are licensed to race that breed live at their race meetings. A city area race meeting licensee may charge another race meeting licensee a fee for such permission. The bill would delete the provision permitting a licensee to charge a fee and would delete provisions in the Law that pertain to how the fee is calculated.

### **Senate Bill 1314**

Beginning in 1998, all funds held by any licensee for the payment of outstanding winning tickets for any race meeting conducted under the Horse Racing Law, which had not been claimed by the owner of those funds within 365 days after the ticket had been issued, would have to be retained by the licensee and distributed as follows:

- 50% of the funds would be retained by the licensee and 50% would be earmarked for standardbred programs established by the Michigan Agriculture Equine Fund, if the licensee were a standardbred race meeting licensee.
- 100% would be earmarked for the development and capital improvement of a thoroughbred racing facility as approved by a certified thoroughbred horsemen's organization and as licensed by the Racing Commissioner, if the licensee were a thoroughbred race meeting licensee.

Funds for 1996 and 1997 held by the Department of Treasury that were remitted by licensees would have to be returned to the licensees and distributed as provided above.

The bill would delete current provisions that require all funds held by any licensee for the payment of outstanding winning tickets for any race meeting, which have not been claimed by the lawful owners within 60 days following the close of the race, be paid by the licensee to the Racing Commissioner by certified or cashier's check together with the licensee's original records or certified copies of all records pertaining to the outstanding tickets.

The bill also would repeal sections that require the Racing Commissioner to deliver funds and records of outstanding tickets to the State Treasurer, as provided in the Uniform Unclaimed Property Act. (Under that Act, property that remains unclaimed by an owner for more than five years after it becomes payable is presumed abandoned and is subject to the custody of the State as unclaimed property. Funds received under the Act are deposited in the General Fund. A person claiming an interest in property paid or delivered to the Treasurer may file a claim and, if it is allowed, the Treasurer must pay the claimant.)

MCL 431.310 et al. (S.B. 1307)  
431.252 et al. (S.B. 1314)

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Until the Horse Racing Law permitted the simulcasting of races at Michigan race tracks, the State's horse racing industry in general, and the tracks located in metropolitan Detroit in particular, faced stiff competition from race tracks located in Windsor, Ontario, which were simulcasting horse races from Canada and the United States. With simulcasting, a Windsor track was able to offer patrons 25 races a day, while Michigan tracks were limited to conducting 25 races per track per year. The launch of simulcasting at Michigan tracks resulted in a 50% increase in the total amount of pari-mutuel wagering for 1996 over the amount wagered in 1995, according to the Office of Racing Commissioner. In addition to increases in wagering, full-card simulcasting has resulted in an increase in money for purses (prizes) and has transformed Michigan tracks into year-round operations.

Despite the success of simulcasting, Michigan tracks still are at a competitive disadvantage to tracks in other states due to cumbersome provisions that remain in the law. For example, a licensee currently can retain as a commission 20.5% of all money wagered on the results of live and simulcast horse races conducted at the licensee's race meeting. Senate Bill 1307 (S-2) would increase this amount, known as the take-out rate, to not more than 28% without permission of the Racing Commissioner and up to 35% with permission. When a race is simulcast, the track telecasting the race accepts the take-out rate in effect in the state where the televised race

originates. Thus, a track outside of the State that telecasts a race from a track in Detroit, for example, must set the take-out rate at the amount established in Michigan. Some states set take-out rates at 25% or higher. Increasing the take-out rate on wagers would make races in Michigan more attractive to other tracks around the country that simulcast races.

The bill also would eliminate time restrictions on the simulcasting of races and allow a licensee to conduct live horse racing after 6:45 p.m. under certain circumstances. This would give tracks more flexibility in scheduling live races and would allow Michigan tracks to simulcast full-card programs originating from tracks located in the Pacific time zone where races are run in the afternoon but cannot be simulcast in Michigan because the three-hour time difference results in the races being conducted here after the current 6:45 p.m. restriction.

In addition, the bill also would revise filing dates for race meeting licenses, permit license applications for 1999 racing dates to be filed at any time, and permit the Racing Commissioner to issue 1999 thoroughbred race meeting dates at any time. These revisions would give the horse racing industry more time for planning future racing dates and eliminate competition among tracks for the limited number of quality racing horses to appear on a racing program. The bill also would allow the Racing Commissioner to issue 1999 thoroughbred race meeting dates at any time, instead of by November 1, 1998. Efforts are under way to reopen the former Muskegon Race Course as Great Lakes Downs, a thoroughbred race course. The new track reportedly has scheduled 141 race dates for the 1999 live racing season. The bill would enable the Racing Commissioner to adjust racing dates to add races at this track and others in the State.

**Response:** Michigan horse racing is a \$1.2 billion industry responsible for creating 42,000 jobs, \$233 million in personal income, \$439 million yearly in total economic output, and \$31 million annually in State tax revenues, according to the Department of Agriculture. Horse racing is a labor-intensive activity and creates jobs on and off the tracks. An important part of the State's economy, Michigan's horse racing industry is struggling to survive. Horse racing is competing for the entertainment dollar with casinos, the lottery, and other forms of entertainment. While the bill would make necessary changes in the Horse Racing Law, more are needed. According to the Racing Commissioner's office, race tracks in Windsor soon

will feature slot machines with proceeds going to purses for harness racing. With tracks in Windsor offering purses larger than those offered at Michigan tracks, there is concern that quality horses and riders will compete at tracks in Windsor instead of tracks in Michigan. Other changes in the Horse Racing Law that would help to level the playing field for Michigan tracks when competing with tracks not only in Windsor but around the country include permitting slot machines and other gaming activities at race tracks as well as allowing telephone account wagering.

### **Supporting Argument**

Senate Bill 1314 would delete current provisions that require all funds held by a licensee for unclaimed winning tickets, to be paid by the licensee to the Racing Commissioner, and that require the Commissioner to deliver the funds to the State Treasurer pursuant to the Uniform Unclaimed Property Act. Under the bill, beginning in 1998, all funds held by any licensee for the payment of outstanding winning tickets, which had not been claimed by the owners one year after the tickets had been issued, would be retained by the licensee and distributed as outlined in the bill. If the licensee were a standardbred race track, one-half of the funds would be retained by the licensee and the remaining funds would be earmarked for standardbred programs. If a licensee were a thoroughbred race track, all of the funds would be earmarked for the development and capital improvement of a thoroughbred racing facility. The bill would turn over "outs", which are funds received from outstanding uncashed winning pari-mutuel tickets, to the licensees, who could use them to promote the industry as well as to increase purses and upgrade tracks--all of which would make for a stronger racing industry in the State.

**Response:** The Department of Agriculture's 1998-99 budget includes \$1.8 million anticipated from the passage of legislation that would deposit unclaimed winnings into the Agriculture Equine Development Fund. By directing this revenue to licensees, the bill could result in a revenue shortfall to the Department, a decrease in racing programs and support provided by the State, and a reduction in State oversight. In addition, by requiring the payment to licensees of unclaimed winnings from 1996, 1997, and future races, the bill would reduce present and future General Fund revenue, since very little of unclaimed winnings historically have been claimed by the ticket holders. Also, if unclaimed winnings are considered State funds, the bill could be providing State funds to private parties, which would require the approval of two-thirds of the members of each house of the

Legislature.

### **Opposing Argument**

According to the Office of the Racing Commissioner, economic studies in other states have shown that increases in the amount retained by tracks (or simulcasting parlors in other states) can result in a greater decrease in the amount of wagering. If that occurred in Michigan under Senate Bill 1307 (S-2), it would reduce the amount of horseracing revenue deposited into the Agriculture Equine Development Fund.

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### **FISCAL IMPACT**

#### **Senate Bill 1307 (S-2)**

The bill could generate an indeterminate increase in revenue to the Agriculture Equine Development Fund due to easing restrictions on standardbred and thoroughbred simulcasting.

#### **Senate Bill 1314**

The bill would result in a reduction of approximately \$3.5 million in unclaimed property funds (which currently revert to the General Fund). This could represent a State appropriation to private parties, and pursuant to Section 30, Article 4 of the State Constitution, require a two-thirds vote. For ensuing years, the bill would annually reduce State revenues by an estimated \$1.8 million.

The FY 1998-99 Department of Agriculture budget includes appropriation of \$14.3 million in horse racing revenues. This amount includes the anticipated receipt of \$1.8 million in additional horse racing revenue from unclaimed winnings, based on discussions with the industry regarding pending legislation to change current law. This bill as written would directly provide funds to the industry, instead of to the Agriculture Equine Development Fund, and a commensurate revenue shortfall in State horse racing programs is anticipated. The Legislature used these anticipated revenues to partially restore the Governor's cuts as follows:

<b>FY 1998-99 DEPARTMENT OF AGRICULTURE Agriculture Equine Development Fund Unclaimed Winnings Appropriation</b>	<b>Potential Reduction from S.B. 1314</b>
Building & Track Improvements - Fairs	\$ (152,600)
Purses/Supplements - Fairs & Licensed Tracks	(476,200)
Standardbred Purses	(31,600)
Standardbred Purses/Supplements	(52,400)