

HORSE RACING AMENDMENTS

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House Bill 5546

Sponsor: Rep. Kevin Daley

Committee: Agriculture

Complete to 4-24-12

A SUMMARY OF HOUSE BILL 5546 AS INTRODUCED 4-19-12

The bill would make several changes to the Horse Racing Law of 1995 (MCL 431.302 et al.). Among other things, the bill would:

- Require the Racing Commissioner to appoint additional deputy commissioners or special deputies as necessary. [The Racing Commissioner is defined in the act as the Executive Director of the Michigan Gaming Control Board, who was ordered under Executive Reorganization Order 2009-31 to perform those duties.]
- Requires, rather than allows, the Racing Commissioner to promulgate rules for conducting live horse racing, simulcast races and events, and pari-mutuel gaming activities.
- Require rules be promulgated to provide a process by which race meeting licensees can request and obtain approval from the Commissioner to conduct and offer pari-mutuel wagering and pari-mutuel game activities.
- Specify that a track license for a racetrack where live racing with pari-mutuel wagering under a race meeting license was conducted in 2010 is valid and would remain valid under the Horse Racing Law. Licenses in existence in 2010 for facilities that did not offer live horse racing with pari-mutuel racing would be invalid.
- Specify that, if at any time there are fewer than 5 valid track licenses, the Commissioner would be required to accept applications for new track licenses from any person, regardless of whether the person conducted live horse racing with pari-mutuel wagering under a race meeting license in 2010, as long as the application is for a license for a track located where live horse racing with pari-mutuel wagering occurred in 2010 or at least 100 miles away from any other licensed track.
- Allow, rather than require, the Commissioner to grant a new license if an applicant and the racetrack satisfy the act and the promulgated rules.

- Require the Commissioner to deny an application for a new track license if approving the application would increase the number of valid licenses to more than 5 or would cause harmful competition by or among existing tracks.
- Clarify that licenses may be transferred or sold by the licensee with the consent of the Commissioner, unless the person seeking the sale or transfer does not meet the requirements for a new license. Transferred or sold licenses would be entitled to all privileges and subject to all requirements applicable to other licenses.
- Eliminate a provision allowing the Commissioner to suspend or revoke a license if a licensed premise does not conduct a licensed race meeting for two consecutive years.
- Eliminate a provision that prohibits a person from being issued more than one track license.
- Clarify that each holder of a track license must post a toll-free compulsive gambling helpline number at each entrance and in prominent places in other areas where pari-mutuel wagering and pari-mutuel gaming is allowed.
- Require applicants for a race meeting license to specify whether the applicant is requesting or will be requesting to conduct other pari-mutuel wager or pari-mutuel gaming and simulcasting of races and events; and what pari-mutuel wagering will be conducted on live horse racing simulcast races and events, and gaming activities, including any pari-mutuel wagering with common, linked or progressive pools.
- Require applicants requesting to conduct standard-bred racing to apply for a minimum of 50 days of live racing.
- Require applicants requesting to conduct thoroughbred racing to apply for a minimum of 75 days of live racing.
- Require an application to specify that the applicant requests to offer at least 9 live horse races on each day of live racing allocated by the Commissioner in the race meeting license, unless another number of races per day is specified in the applicant's contract with a certified horsemen's organization.
- Eliminate time restrictions on when standard-bred and thoroughbred races can be held in city areas.
- Require race meeting licensees to make a good-faith effort to reschedule live races on allocated live racing dates that are not held because of labor disputes, fires, adverse weather, or other causes.

- Allow certified horsemen's organizations to use their own horsemen's purse pool to pay for (1) reasonable annual expenses, (2) purses for live horse races at the track where the race meeting licensee with which it has a contract operates, and (3) costs of regulation by the Commissioner.
- Allow certified horsemen's organizations to pay purse pool money directly to the race meeting licensee with which it has a contract.
- Require the Commissioner to determine each year whether to certify a horseman's organization. A decision to not certify or revoke certification would be subject to review under the Administrative Procedures Act.
- Allow a horsemen's purse pool to be audited by the Commissioner, by the horsemen's organization that maintains the pool, and by the race meeting licensee.
- Specify that race meeting licensees will retain as commission up to 35% of all money wagered on or fees paid to participate in any pari-mutuel wagering.
- Specify that 50% of net commission from wagering on the results of live racing must be paid to the horsemen's purse pool.
- Require the licensee and the horsemen's organization to provide information concerning any commission retained or withheld and any net commission paid at the request of the Commissioner.
- Modify conditions under which a license to televise simulcasts can be issued.
- Allow for the auditing of the horsemen's simulcast purse pool.
- Provide for the distribution of money if a race meeting license is surrendered, revoked, or escrowed.
- Specify that money generated from the Horse Racing Law must first be used to pay the actual costs incurred by the Department of Agriculture and Rural Development and the Office of the Commissioner in carrying out their official duties. Money generated under the act that remains at the end of the fiscal year would be deposited into the Agriculture Equine Industry Development Fund. [The Office of the Racing Commissioner is the Michigan Gaming Control Board.]
- Eliminate provisions related to wagering on simulcast horse races.
- Modify payments that are made to standard-bred and fair programs.
- Transfer authority to approve presiding judges and clerks of the course at fairs to the director of the Department of Agriculture and Rural Development.

- Provide new definitions for "Michigan bred American Paint Horse," "Michigan bred Appaloosa Horse," "Michigan bred Arabian Horse," "Michigan bred Quarter Horse," and "Michigan bred Thoroughbred Horse."
- Require that each licensed racetrack pay a license fee of \$1,000. [This currently applies only to racetracks located in a city area.]
- Impose a 16% tax on race meeting licensees on its commissions on the simulcasting of horse races it conducts with the money being deposited into the Agriculture Equine Industry Development Fund and appropriated as provided for in Section 20 of the act.
- Impose a 15% tax on race meeting licensees on their commissions on pari-mutuel wagering and pari-mutuel gaming activities other than wagering and gaming activities on which the 16% tax is paid, and distributed as follows:
 - 3/4 of the tax collected would be deposited in the General Fund.
 - 1/8 of the tax collected would be paid to the city, township, or village in which the licensee conducts races.
 - 1/8 of the tax collected would be paid to the county in which the licensee conducts races.
- Allow a person regulated under the act to designate certain information for the confidential use of the Commissioner only and provides for a process if information that is designated as confidential is subsequently requested as part of a request for public records under the Freedom of Information Act. Specifically, the regulated person has 30 days to demonstrate the information should not be disclosed for reasons contained in the act. The Commissioner would be required to release the information unless the regulated person makes a satisfactory demonstration that the information should be kept confidential.
- Specify the act does not apply to authorized casino games, lottery games, bingo or millionaire parties; gambling on Native American land; or allowable recreational card playing, bowling, redemption games, or other promotional activities.
- Repeal two obsolete provisions. One requires the Racing Commissioner to take the constitutional oath of office; as mentioned earlier, the duties of that office now reside in the Executive Director of the Gaming Control Board. The second repeals the Section 35 of the current Horse Racing Law; that section repealed the prior act governing horse racing.

FISCAL IMPACT:

The State of Michigan does not tax live horse racing wagering. The state currently does impose a 3.5% wagering tax on simulcast racing wagers. That tax, imposed in Section 22 of the Horse Racing Act of 1995, is estimated to generate \$4.6 million in FY 2011-12 for

credit to the state-restricted Agriculture Equine Industry Development Fund (AEIDF). Current year (FY 2011-12) AEIDF appropriations are follows: \$2.3 million in the General Government budget for regulatory activities of the Racing Commission within the Michigan Gaming Control Board, and related information technology costs; \$1.0 million for Agriculture and Rural Development budget for laboratory, information technology, and administrative costs related to horse racing programs; \$2.8 million in the Agriculture and Rural Development budget for horse racing grants and purse supplements.

House Bill 5546 would eliminate the current 3.5% tax on simulcast wagers. The bill would instead impose a 16% tax on race meeting licensee commissions on simulcast races, and a 15% tax on commissions on other forms of pari-mutuel gaming authorized under the bill – forms of pari-mutuel wagering in addition to live horse racing and simulcasting.

With regard to the tax on simulcast wagering commissions, the bill would retain the earmark for the AEIDF. With regard to the 15% tax on commissions on other forms of pari-mutuel gaming that would be authorized by the bill, the bill would earmark 3/4ths of that revenue for the state General Fund, 1/8th to the city, township, or village in which the race meeting licensee conducts race meetings at a licensed track, and 1/8th to the county in which the race meeting licensee conducts race meetings at a licensed track.

The amount of tax revenue which might be generated from the tax changes proposed by House Bill 5546 cannot be reasonably estimated at this time. The amounts would depend on the amounts wagered on simulcast racing and the related race meeting licensee commissions. The amount of state tax revenue generated would also depend on the other forms of pari-mutuel gaming that would be authorized under the bill and the amounts wagered on those other forms of pari-mutuel games, and the related licensee commissions.

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