



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5546 (Substitute H-1 as passed by the House)

Sponsor: Representative Kevin Daley

House Committee: Agriculture

Senate Committee: Agriculture

Date Completed: 11-28-12

CONTENT

The bill would amend the Horse Racing Law to do the following:

- Eliminate separate regulations for races and tracks in a "city area" and for those not in a city area.
- Add a definition of "pari-mutuel", "pari-mutuel gaming activities", and "pari-mutuel wagering".
- Revise the minimum number of live racing dates that an applicant for a race meeting license must request.
- Limit the number of track licenses to five.
- Require each licensed racetrack to pay an annual license fee of \$1,000.
- Require a race meeting licensee to pay a tax of 15% of its commissions from pari-mutuel wagering and gaming activities other than live horse racing or simulcast horse races.
- Allocate three-fourths of the revenue from the 15% tax to the State, and one-eighth each to the municipality and the county where the licensee's races were conducted.
- Increase a race meeting licensee's commission to 35% of all money wagered on or fees paid to participate in any pari-mutuel wagering and gaming activity.
- Increase breeders awards from 10% to 15% of the gross purse.
- Allow a certified horsemen's organization (CHO) to use its horsemen's purse pool money for specific purposes.
- Require the Racing Commissioner to certify a horsemen's organization biannually if it met specified criteria.
- Allow a participating CHO to receive simulcast purse pool money only if it were generated from racing during a time when the CHO had a contract with a race meeting licensee that offered simulcast racing and was making payments into the purse pool, except as allowed for one year after the expiration of a contract.
- Revise the fee that may be charged for simulcasting a horse race.
- Delete a prohibition against simulcasting events other than horse races for purposes of pari-mutuel wagering.
- Delete a requirement that any activity related to pari-mutuel wagering on live or simulcast horse races take place within the enclosure of a licensed race meeting.
- Revise requirements for the distribution of money if a license is surrendered, revoked, or escrowed.
- Allow a regulated person to indicate that certain information was confidential and to demonstrate that it should not be disclosed, if the information were requested.
- Reflect the transfer of the Racing Commissioner's office and position to the Michigan Gaming Control Board and its Executive Director.

Racing Commissioner

The bill would define "racing commissioner" as the Executive Director of the Michigan Gaming Control Board, who was ordered under Executive Reorganization Order (ERO) 2009-31 to perform all of the functions and exercise the powers performed by the Racing Commissioner before that position was abolished. "Office of the racing commissioner" would mean the horse racing section of the Horse Racing, Audit, and Gaming Technology Division of the Michigan Gaming Control Board, which operates under the direction of the executive director of the Board, to which ERO 2009-31 transferred all of the authority, duties, functions, personnel, and funds of the Office of Racing Commissioner that previously existed under the Horse Racing Law (HRL) and was abolished by the ERO.

The HRL permits the Commissioner to promulgate rules for conducting horse racing, pari-mutuel wagering on horse racing results, and simulcasting. The bill, instead, would require the Commissioner to promulgate rules for conducting live horse racing, simulcast races and events, and pari-mutuel wagering and pari-mutuel gaming activities.

Pari-Mutuel Wagering

The bill would define "pari-mutuel", pari-mutuel gaming activities", and "pari-mutuel wagering" as the form or system of gambling on races, events, games, and activities in which the winner or winners divide the total amount of money bet, after deducting all commissions, fees, and taxes. Pari-mutuel, pari-mutuel gaming activities, and pari-mutuel wagering allowed under the HRL would be limited to wagering on the results of horse races, but would include all technology and innovations related to horse races and wagering on the results of horse races in existence now and in the future.

The terms would not include banked games in which the race meeting licensee is a participant or otherwise holds a stake in the outcome of the game, or in which the licensee establishes a bank against which participants play. The terms also would not include a video lottery that must be authorized under the Lottery Act or any other law of the State.

The bill states that the subdivision adding this definition "is curative, shall be applied retroactively, and is intended to correct any misinterpretation concerning the original intent of the legislature to allow all pari-mutuel wagering on the results of horse races to occur under this act subject to the regulatory authority of the racing commissioner without respect to whether the pari-mutuel wagering on the results of horse races or technology for pari-mutuel wagering on the results of horse races occurred or existed on a specific date".

The bill would add references to "pari-mutuel wagering" or "pari-mutuel gaming activities", or both, as well as references to "events", to provisions throughout the HRL.

Track License

The HRL authorizes the Racing Commissioner to issue track licenses for the maintenance or operation of racetracks where race meeting licensees may conduct licensed race meetings.

The bill specifies that, on and after its effective date, a track license for a racetrack where live horse racing with pari-mutuel wagering under a race meeting license was conducted in 2010 would be valid and remain valid under the terms and requirements of the HRL. A track license in existence in 2010 for a facility that did not offer live horse racing with pari-mutuel wagering under a race meeting license in 2010 would be invalid.

If there were fewer than five valid track licenses in this State at any time, the Commission would have to accept an application for a new track license from any person, regardless of whether the person conducted live horse racing with pari-mutuel wagering under a race meeting license in 2010, if the application were 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.

The Commissioner would have to deny an application for, and could not issue, a new track license if approving the application would increase the number of valid track licenses in the State to more than five or (as currently provided) would cause harmful competition by or among existing tracks.

Currently, a track license may be transferred to a new owner of a racetrack with the consent of the Commissioner. The bill, instead, would allow the licensee to transfer or sell a valid track license with the Commissioner's consent. The Commissioner would have to consent unless the person seeking to acquire the license did not meet the HRL's requirements for a new track licensee. A track license transferred or sold with the Commissioner's consent would be entitled to all privileges and subject to all requirements applicable to other track licenses.

The HRL authorizes the Racing Commissioner to impose a fine or suspend or revoke a track license if the licensed premises are not used to conduct a licensed race meeting for two consecutive years. The bill would delete this provision.

Race Meeting License; Minimum Race Days

The HRL requires a person to apply each year to the Commissioner for a race meeting license if the person wishes to conduct a thoroughbred, standardbred, quarter horse, Appaloosa, American paint horse, or Arabian race meeting, or a combination of those race meetings, with pari-mutuel wagering on the results of live and simulcast horse races.

Under the bill, this requirement would apply to a person who wished to conduct live horse racing, simulcasting of races and events, pari-mutuel wagering and pari-mutuel gaming activities, or a combination of any of those activities under a race meeting license.

An applicant requesting to conduct standardbred racing would have to apply for a minimum of 50 days of live racing. An applicant requesting to conduct thoroughbred racing would have to apply for a minimum of 75 days of live racing.

The license application also would have to specify that the applicant requested to offer at least nine live horse races on each day of live horse racing allocated by the Commissioner in the race meeting license, unless another number of live horse races per day were specified in the applicant's contract with a certified horsemen's organization.

If the Commissioner determined that the applicant, application, and proposed race meeting complied with the licensing requirements of the HRL and the rules promulgated under it, the Commissioner would have to issue the race meeting license. He or she could not deny a license or restrict the lawful activities available under a license because live racing could not be offered or authorized for a reason allowed under the HRL, the rules, or an order of the Commissioner. A race meeting licensee, however, would have to have a contract with a CHO during any year in which the licensee did not conduct live horse racing.

A race meeting licensee could conduct live racing of any breed or breeds of horse named in the HRL and any combination of other activities permitted under the Law.

The bill would delete requirements that an applicant apply to conduct a minimum number of days of live horse racing depending on the type of horse and the location of the race meeting. The minimum numbers of days required are as follows:

- 45 for a thoroughbred, quarter horse, Appaloosa, American paint horse, or Arabian license in a county located outside of a city area.
- 160 for a thoroughbred, quarter horse, Appaloosa, American paint horse, or Arabian license in a city area.
- 75 for standardbred harness horse racing in a county that has a population under 250,000 and is not part of a city area.
- 100 for a standardbred race meeting license in a county that has a population over 250,000 but less than 750,000 and is not part of a city area.
- 120 for a standardbred race meeting license in a city area, for the licensee with the highest pari-mutuel handle in the previous calendar year, and 120 for all others.

(The HRL defines "city area" as a city with a population of 750,000 or more and every county located wholly or partially within 30 miles of its city limits. The bill would delete that definition.)

The bill also would delete requirements specifying the minimum number of racing days per week and the minimum number of

racers programmed, as well as restrictions on the time of day that races may be held.

The HRL requires the Commissioner, before November 1 of the year preceding the year for which applications are made, to grant or deny each application for a race meeting license and allocate or deny the dates on which pari-mutuel wagering on live races may be conducted at each licensed race meeting, as well as determine whether the applicant may simulcast during the year for which the license is issued. Under the bill, by the same deadline, the Commissioner would have to grant or deny each application and allocate or deny any live horse racing dates requested. In granting the license, the Commissioner also would have to authorize the conduct of any other pari-mutuel wagering and gaming activities, including simulcasting and common, linked, or progressive pool wagering, as requested by the applicant during the year for which the license was issued.

As currently provided, if a race meeting license could not conduct live horse racing on any allocated date or could not conduct the number of live horse races per day of racing required because of a labor dispute, a fire, adverse weather conditions, or another cause beyond the licensee's control, the licensee would be considered to have conducted those races or race days. The bill would require the licensee to make a good-faith effort to reschedule live horse races on allocated live racing dates not held for one of the specified reasons unless rescheduling were impracticable.

Currently, subject to the provision described above, all simulcasting authorized by the Commissioner must be conditioned on the licensee's conducting at least nine live horse races on each live racing date allocated, unless this requirement is waived by the Commissioner and the CHO with which the licensee has contracted. The bill would delete this provision.

CHO; Use of Purse Pool Money

The HRL requires a race meeting licensee to have a current written contract with a certified horsemen's organization before it may conduct live horse racing or simulcast horse racing. (A CHO is an organization registered with the Office of Racing Commissioner that can demonstrate its

capacity to supply horses and its abilities to assist a race meeting licensee in conducting the licensee's racing program, to monitor and improve physical conditions and controls for individuals and horses participating at licensed race meetings, and to protect the financial interests of the participating individuals.)

The bill would require the Racing Commissioner to certify a horsemen's organization biannually if the organization demonstrated that it met the definition of "certified horsemen's organization" and submitted documentation that it had provided the consents required by the Federal Interstate Horse Racing Act of 1978 to allow simulcast horse racing and interstate off-track wagering on simulcast horse racing consistent with the HRL at all licensed race meetings in the State that had been licensed to offer simulcast horse racing.

The Commissioner's decision not to certify a horsemen's organization or to revoke its certification would be subject to review under the Administrative Procedures Act and to appeal to the circuit court.

Except as otherwise provided in the HRL, a CHO could use its own horsemen's purse pool money to pay for all of the following:

- Its reasonable annual expenses.
- Purses for live horse races at the track where the race meeting licensee with which it had a contract operated.
- Costs of regulation by the Commissioner at that track.

After the bill's effective date, a CHO also could pay or disburse purse pool money directly to the race meeting licensee with which it had a contract for purposes expressly allowed under the HRL, rules promulgated under the Law, or an order of the Commissioner, and according to the terms of a written contract with the licensee.

A horsemen's purse pool could be audited by the Commissioner, the CHO that established and maintained the purse pool, and the race meeting licensee that provided money for the purse pool. The Commissioner could order an accounting, restitution, and redistribution of money handled in a manner consistent with the HRL. The CHO and the race meeting licensee could seek any

remedy available if purse pool money were handled in a manner inconsistent with the HRL.

Race Meeting Licensee's Commission

Currently, a race meeting licensee may retain as a commission the following percentages of money wagered on the results of live and simulcast horse races conducted at the licensee's race meetings:

- 17% of all money wagered involving straight wagers.
- Up to 28% without the Commissioner's permission, and up to 35% with the Commissioner's permission, of all money wagered involving any form of multiple wager.

(A straight wager is one made on the finishing position of a single specified horse in a single specified race. A multiple wager is one made on the finishing position of more than one horse in a specified race or one or more horses in more than one race.)

The bill would delete these provisions, and would allow a race meeting licensee to retain up to 35% of all money wagered on or fees paid to participate in any pari-mutuel wagering and pari-mutuel gaming activity under the HRL.

As currently required, unless a different percentage were stated in a written contract between the race meeting licensee and a CHO, 50% of the net commission from wagering on the results of live horse racing at the racetrack where the racing was conducted would have to be paid to the horsemen's purse pool at that track.

The Commissioner could request and the licensee and CHO would have to provide information concerning any commission retained or withheld by the licensee and any net commission paid into a horsemen's purse pool.

Payments to Horsemen's Purse Pool

The HRL requires each race meeting licensee that receives an interstate simulcast or an intertrack simulcast to pay to the horsemen's simulcast purse pool a sum equal to 40% of the licensee's net commission from all money wagered on the interstate or intertrack simulcast, after first

deducting from the licensee's statutory commission the applicable State tax on wagering and the actual verified fee paid by the licensee to the sending host track to receive the interstate simulcast signal.

The HRL also requires each race meeting licensee that sends an intertrack simulcast to pay 50% of the simulcast fee that it receives for sending the simulcast signal to the horsemen's purse pool at the sending track.

The bill would delete these provisions, but would continue to require each race meeting licensee that received an interstate simulcast or intertrack simulcast to pay to the horsemen's purse pool an amount equal to 40% of the licensee's net commission from all money wagered on the interstate or intertrack simulcast.

A race meeting licensee also would have to pay to the horsemen's purse pool at its track 15% of the net commission retained from all pari-mutuel wagering and gaming activities other than live horse racing or simulcast horse races. The CHO would have to use this money as follows:

- Spend 1/15th for marketing and promotion of live racing at the track for the licensee that generated the money.
- Spend 1/15th for capital improvements at the track for the licensee that generated the money (with the licensee's agreement), by paying for the improvements directly or by reimbursing the licensee for them.
- Use 2/15th for purses or purse supplements for Michigan-bred two- and three-year-old horses that race at fairs or pari-mutuel racetracks in Michigan.
- Use 1/15th for awards to breeders of Michigan-bred horses that race at fairs or pari-mutuel tracks in Michigan.

The remainder of the money would have to be distributed and used as provided above (for expenses, purses for live horse races, and costs of regulation).

All purse pools and accounts established under these provisions could be audited by the Commissioner, the CHO named on the account, and the race meeting licensee that provided money for the account. The Commissioner could order an accounting, restitution, and redistribution of money

handled in a manner consistent with the HRL. The CHO and the race meeting licensee could seek any remedy available if purse pool money were handled in a manner inconsistent with the HRL.

Horsemen's Simulcast Purse Pool

The bill would retain requirements that money designated for the horsemen's simulcast purse pool be deposited in a depository designated by participating CHOs and distributed as follows:

- 50% generated from thoroughbred simulcasts for horsemen's purses and 35% generated from standardbred simulcasts for horsemen's purses must be divided between all thoroughbred purse pools.
- 50% generated from thoroughbred simulcasts for horsemen's purses and 65% generated from standardbred simulcasts for horsemen's purses must be divided between all standardbred purse pools.

Currently, the CHOs and race meeting licensees may audit these funds. The bill also would allow the Commissioner to audit the funds, to order an accounting, restitution, and redistribution of money handled inconsistently with the HRL, and to take all actions necessary to require the establishment of the accounts necessary for the simulcast purse pool.

The bill specifies that a participating CHO would be entitled to simulcast purse pool money generated from simulcast horse racing only during a time in which it had a contract with a race meeting licensee that offered simulcast horse racing and was making the payments required by the HRL into the simulcast purse pool. For one year after the expiration of a contract with a race meeting licensee, however, a CHO would be entitled to its allocation of money from the simulcast purse pool for administrative expenses. During that year, the simulcast purse pool money for live horse racing purses would have to be placed in escrow and disbursed to the CHO if it obtained a new contract.

For these purposes, the bill would define "participating certified horsemen's organization" as an organization certified

under the HRL that has a contract with either of the following:

- A race meeting licensee that conducts its race meetings at a track located in a county with a population of less than 500,000 and that offers simulcast horse racing on at least 240 days in a year.
- A race meeting licensee that conducts its race meetings at a track located in a county with a population of more than 500,000 and that offers simulcast horse racing on at least 350 days in a year.

The licensee could offer simulcast horse racing on fewer than 240 days or fewer than 350 days, as applicable, if the CHO and the licensee agreed in writing to decrease the number of days and the Commissioner authorized the decreased number by order or in the race meeting license.

Simulcasting Conditions & Fees

Currently, simulcasting events other than horse races for purposes of pari-mutuel wagering is prohibited. The bill would delete this prohibition.

The HRL allows the Racing Commissioner to authorize simulcasting by race meeting licensees. A licensee may apply to the Commissioner for a permit to televise simulcast of races to viewing areas within the enclosure of the track, and the Commissioner may issue a permit subject to conditions listed in the HRL. Under the bill, a licensee could apply for a license to televise simulcasts of "races and events" to viewing areas within the enclosure of the licensed track.

The bill would require the applicant, if it transmitted a simulcast signal of its live horse races, to make the video and audio signals of its live horse races available for intertrack simulcasting to all licensed race meetings in the State located more than 12 miles from the applicant's race meeting. Currently, this requirement applies only to an applicant that conducts its race meeting in a city area.

The bill also would require the applicant to receive all available intertrack simulcasts from licensed race meetings located more than 12 miles from the licensee's race meeting. This requirement currently applies to a licensee in a city area.

The bill would delete the following conditions for obtaining a permit:

- The applicant must have a current contract with a CHO.
- The applicant must have applied for and been allocated the minimum of live racing dates required by the HRL, subject to the availability of horses.
- The applicant must make a continuing good faith effort to program and conduct at least nine live races on each live racing date allocated to it.
- The CHO must have consented to the requested simulcasts on any live racing date when the applicant cannot program and conduct at least nine live horse races because there are fewer than five entries in each race (under a provision that the bill would delete).

The bill also would delete several other conditions that depend on whether a licensee is in a city area.

Currently, the applicant must charge each race meeting licensee the same fee to receive its live signals for intertrack simulcasting, and the fee may not exceed 3% of the total amount wagered on the intertrack simulcast at each race meeting that receives the simulcast. The bill would delete these conditions.

Under the bill, the applicant could not charge or pay a fee for the signal of a simulcast horse race that exceeded 5% of the total amount wagered on the race unless it were a race with a purse that exceeded \$200,000 or the Commissioner determined that the higher rate was not excessive in comparison to the amount of money expected to be wagered on the race and authorized the fee in an order.

Currently, a race meeting licensee licensed to conduct pari-mutuel horse racing in a city area must provide the necessary equipment to send intertrack simulcasts of the live horse races conducted at its race meeting to all other licensees in the State, and must send its intertrack simulcast signals to those licensees upon request for an agreed fee, which may not exceed 3% of the total amount wagered on the race at the receiving track. Under the bill, these requirements would apply to any race meeting licensee that conducts live horse

racing and transmits a simulcast signal of its live horse races.

The bill would allow a race meeting licensee to charge a separate fee for distributing simulcast signals for another licensee.

Track License Fee & Licensee Tax

The HRL requires each licensed racetrack located in a city area to pay a \$1,000 fee to the Commissioner annually, and requires any other licensed racetrack to pay a \$200 annual fee. Under the bill, the \$1,000 fee would apply to all licensed racetracks.

The bill would retain a requirement that each race meeting licensee pay a tax in the amount of 3.5% of all money wagered in interstate and intertrack simulcast races at its race meetings. The tax would have to be paid to the State Treasurer for deposit in the Michigan Agriculture Equine Industry Development Fund (AEIDF), for appropriation as described in the HRL.

Each race meeting licensee also would have to pay a tax in the amount of 15% of its commissions on pari-mutuel wagering and pari-mutuel gaming activities other than wagering and gaming activities on which the 3.5% tax was paid. The licensee would have to pay the 15% tax follows:

- Three-fourths to the State Treasurer for deposit in the State General Fund and appropriation by the Legislature.
- One-eighth to the city, township, or village in which the licensee conducted race meetings at a licensed facility.
- One-eighth to the county in which the licensee conducted race meetings at a licensed facility.

The bill specifies that a tax imposed by the HRL would not apply to or be imposed on money wagered on or commissions retained from live horse racing.

As used in these provisions, the bill would define "commission" as the money retained by the race meeting licensee from pari-mutuel wagering under the HRL after winning wagers are deducted. Winning wagers would include wagers paid by the licensee in the form of cash, prizes, awards, or other things of value. Money retained by the licensee as commission would include any money paid by participants to engage in

pari-mutuel wagering, including a fee to participate in a pari-mutuel card game.

AEIDF; Breeder's Awards

Currently, money received by the Racing Commissioner and the State Treasurer under the HRL must be paid promptly into the State Treasury and placed in the AEIDF.

The bill, instead, would require money generated under the HRL from licensing fees, fines, and the simulcast horse racing tax (which the bill would impose on race meeting licensees) that was received by the Department of Agriculture and Rural Development (MDARD), the Racing Commissioner, the Office of Racing Commissioner, and the State Treasurer, to be used first to pay the actual costs incurred by MDARD, the Commissioner, and the Office in carrying out their duties under the HRL, and then to fund the programs listed in the Law (standardbred and fair programs, thoroughbred programs, quarter horse programs, Appaloosa programs, Arabian programs, American paint horse programs, and the Equine Industry Research, Planning, and Development Grant Fund program).

At the end of each fiscal year, money generated from those sources that was appropriated for and exceeded the actual costs incurred by MDARD, the Commissioner, and the Office in carrying out their duties under the HRL would have to be paid promptly to the State Treasury and placed in the AEIDF.

Currently, money appropriated for the AEIDF must be spent by the MDARD Director with the advice and assistance of the Racing Commissioner to provide funding for agriculture and equine industry development programs. The bill specifies, however, that any money appropriated from the AEIDF to the Racing Commissioner or Office of Racing Commissioner would be administered only by the Commissioner.

The HRL describes amounts that must be paid to each of the equine industry programs listed in the Law (standardbred and fair, thoroughbred, quarter horse, etc.). These allocations include a sum to pay breeders awards in an amount up to 10% of the gross purse to breeders of the particular types of horses, for each time such a horse

wins a race. The bill would increase the breeders awards to 15% of the gross purse.

In regard to standardbred and fair programs, the amounts that must be paid include a sum for purse supplements to licensed pari-mutuel harness race meetings for special four-year-old filly and colt horse races. The bill would extend this to two- and three-year-old filly and colt horse races.

License Surrender, Revocation, or Escrow

Currently, if a thoroughbred track license is surrendered, revoked, or escrowed, or a licensed thoroughbred track is closed, the Racing Commissioner must order the deposit of horsemen's purse pool money deposited and distributed as required by the HRL upon written direction of the affected CHO regardless of whether there was racing at the licensee's location during the previous year. The bill would delete this requirement.

Under the bill, if a track license or race meeting license were surrendered, revoked, or escrowed, the Commissioner would have to issue an order to pay, distribute, reallocate, or refund money due or owing between the affected licensee and its CHO. The order could not reallocate or refund money approved for the reasonable annual expenses of the affected CHO, money paid to the State for regulatory costs at the affected licensee's track, or money already disbursed or payable as purses for live horse races already conducted at the licensee's race meeting.

The Commissioner would have to take all actions and issue all orders necessary to deal with the closure or suspension of operations by the licensee and could compel the production and preservation of books, receipts, and other information that could be necessary to this process.

The Attorney General could institute a civil action or intervene in any action to enforce an order issued by the Commissioner under these provisions.

Confidentiality

The bill would allow a person regulated under the HRL to designate all or part of a record, license application, other information furnished to or obtained by the Racing Commissioner or his or her agents or

employees as being only for the confidential use of the Commissioner. The Commissioner would have to notify the person of a request for public records under the Freedom of Information Act if the scope of the request included information designated as confidential. The person would have 30 days after receiving that notice to demonstrate to the Commissioner that the information should not be disclosed because it was a trade secret or secret process; was operational, commercial, or financial information whose disclosure would jeopardize the person's competitive position and make available information not otherwise publicly available; related to security or the internal controls of a racetrack; or was of a personal nature, whose release would constitute a clearly unwarranted invasion of a person's privacy or otherwise cause harm.

The Commissioner would have to grant the request for the information unless the regulated person made a satisfactory demonstration that it should not be disclosed. If the Commissioner decided to grant a request for information, it could not be released before three business days had elapsed since the decision was made.

Location of Wagering

Currently, any act or transaction related to pari-mutuel wagering on the results of live or simulcast horse races may take place only within the enclosure of a licensed race meeting. A person may not participate in or be a party to any act or transaction related to placing a wager outside of a race meeting ground. The bill would delete these provisions.

The HRL allows a race meeting licensee to provide a place in the race meeting grounds or enclosure where he or she may conduct and supervise the pari-mutuel system of wagering in the results of horse races. The bill, instead, would allow a licensee to provide a place in the race meeting grounds, enclosure, or facility at a licensed racetrack where he or she could conduct and supervise the pari-mutuel system of wagering.

Scope of the Act

The HRL prohibits a person from participating in racing involving wagering of

any kind except as permitted under the Law. The bill, instead, would prohibit a person from participating in live horse racing, simulcast races and event, or other gaming activities involving wagering of any kind except as permitted under the HRL or otherwise permitted by law.

The bill specifies that live horse racing, simulcast races and events, and gaming and activities with pari-mutuel wagering, including the placing of pari-mutuel wagers and collection of winning pari-mutuel wagers, would be authorized to the extent that they were conducted in accordance with the HRL and not prohibited by Federal law.

The bill states that the HRL would not apply to any of the following:

- Casino gaming authorized under the Michigan Gaming Control and Revenue Act.
- Lottery games authorized under the Lottery Act.
- Bingo or millionaire parties or any other activities authorized under the Bingo Act.
- Gaming on Native American land and land held in trust by the United States for a federally recognized Indian tribe on which gaming may be conducted under the Indian Gaming Regulatory Act.
- Recreational card playing, bowling, redemption games, and occasional promotional activities allowed under the Michigan Penal Code.

MCL 431.302 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would create a new tax of 15% of commissions on pari-mutuel wagering and pari-mutuel gaming activities, excluding simulcasting and live horse racing, which would increase State and local revenue by an unknown amount. The proposed tax would apply to the pari-mutuel gaming activities that would be authorized by the bill. The revenue from this new tax would depend on the structure and frequency of pari-mutuel gaming activities. Revenue from the proposed tax would be distributed as follows: 75.0% to the General Fund, 12.5% to the city, township, or village where the track was located, and 12.5% to the county where the track was located.

The bill would change the method of distributing the revenue from the simulcast horse racing tax and also license fee and fine revenue. Currently, revenue from the simulcast horse racing tax, fines, and license fees is deposited directly in the Agriculture Equine Industry Development Fund (AEIDF) and then appropriated from that Fund. Under the bill, the revenue would be used first for the actual costs of the Department of Agriculture and Rural Development (MDARD), the Racing Commissioner, and the Office of Racing Commissioner, and then to fund other programs authorized in the statute including purse supplements, a portion of costs of racing at fairs, and other specified programs, with the balance at year-end deposited into the AEIDF. This appears to be a change from the current appropriations practice.

Revenue credited to the AEIDF in the current fiscal year (FY 2012-13) is used by MDARD for racing-related laboratory costs (\$592,400), information technology (\$80,800), and horse racing grants and purse supplements and administration (\$3,161,700). An additional \$2,472,000 in FY 2012-13 is appropriated to the Michigan Gaming Control Board within the Department of Treasury for regulatory activities associated with horse racing. Whether these appropriated amounts would change would depend upon the amounts wagered on racing and the amount of revenue produced from race meeting license commissions, which cannot be determined at this time.

Fiscal Analyst: Bruce Baker
Elizabeth Pratt

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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.