

SENATE BILL NO. 661

December 03, 2019, Introduced by Senators ANANICH, LAUWERS and DALEY and referred to the Committee on Agriculture.

A bill to amend 1995 PA 279, entitled "Horse racing law of 1995," by amending sections 2, 6a, 8, 9, and 22 (MCL 431.302, 431.306a, 431.308, 431.309, and 431.322), sections 2, 8, 9, and 22 as amended and section 6a as added by 2016 PA 271, and by adding sections 19d and 20a; and to repeal acts and parts of acts.

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

1 a partnership or joint venture relationship with; or is a co-
2 shareholder of a corporation, co-member of a limited liability
3 company, or co-partner in a limited liability partnership with a
4 person who holds or applies for a race meeting or track license
5 under this act. For purposes of this subdivision, a controlling
6 interest is a pecuniary interest of more than 15%.

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

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

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

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

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

19 (iv) The organization's ability to protect the financial
20 interests of the individuals participating at licensed race
21 meetings.

22 (d) "Commissioner" or "racing commissioner" means the
23 executive director of the Michigan gaming control board appointed
24 under section 4 of the Michigan ~~gaming control~~ **Gaming Control** and
25 ~~revenue act, Revenue Act~~, 1996 IL 1, MCL 432.204, who is ordered
26 under Executive Reorganization Order No. 2009-31, MCL 324.99919, to
27 perform all the functions and exercise the powers performed and
28 exercised by the racing commissioner before that position was
29 abolished.

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

3 (f) "Day of operation" means a period of 24 hours beginning at
4 12 noon and ending at 11:59 a.m. the following day.

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

6 (i) A substance intended for use in the diagnosis, cure,
7 mitigation, treatment, or prevention of disease in humans or other
8 animals.

9 (ii) A substance, other than food, intended to affect the
10 structure or condition or any function of the body of humans or
11 other animals.

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

14 (h) "Fair" means a county, district, or community fair or a
15 state fair.

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

20 (j) "Full card simulcast" means an entire simulcast racing
21 program of 1 or more race meeting licensees located in this state,
22 or an entire simulcast racing program of 1 or more races
23 simulcasted from 1 or more racetracks located outside of this
24 state.

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

29 (l) "Member of the immediate family" means the spouse, child,

1 parent, or sibling.

2 (m) "Net commission" means the amount determined under section
3 17(3), after first deducting from the licensee's statutory
4 commission the applicable state tax on wagering due and payable
5 under section 22 and the actual verified fee paid by the licensee
6 to the sending host track to receive the simulcast signal.

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

19 (o) "Pari-mutuel" and "pari-mutuel wagering" mean ~~the form or~~
20 ~~system of gambling in which the winner or winners divide the total~~
21 ~~amount of money bet, after deducting the net commission.~~ **a system by**
22 **which the wagers on the outcome of a live horse race, run in the**
23 **past or to be run in the future, are placed with, or in, a wagering**
24 **pool conducted by an operator licensed or otherwise permitted to do**
25 **so under the laws of this state and in which the participants do**
26 **not wager against the operator. Pari-mutuel and pari-mutuel**
27 **wagering do not include wagering on a banked game in which the race**
28 **meeting licensee is a participant or otherwise holds a stake in the**
29 **outcome of the game, or in which the race meeting licensee**

1 established a bank against which the participants play. However,
2 pari-mutuel and pari-mutuel wagering include a nonrefundable
3 contribution to the pool to serve as a seed or guarantee. Pari-
4 mutuel and pari-mutuel wagering do not include a video lottery that
5 must be authorized under the McCauley-Traxler-Law-Bowman-McNeely
6 lottery act, 1972 PA 239, MCL 432.1 to 432.47, or any other law of
7 this state.

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

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

14 (r) "Standardbred" means a horse registered with the United
15 States Trotting Association that races on designated gaits of pace
16 or trot.

17 (s) "Thoroughbred" means a thoroughbred, quarter, paint,
18 Arabian, or other breed horse. Thoroughbred does not include a
19 standardbred.

20 (t) "Veterinarian" means an individual licensed to practice
21 veterinary medicine under part 188 of the public health code, 1978
22 PA 368, MCL 333.18801 to 333.18838, or under a state or federal law
23 applicable to the individual.

24 Sec. 6a. (1) The horse racing advisory commission is created
25 within the department of agriculture and rural development.

26 (2) The advisory commission consists of the following members,
27 appointed by the governor:

28 (a) An individual who has knowledge about and expertise in
29 horse racing in this state, who shall serve as chairperson of the

1 advisory commission.

2 (b) The director of the department of agriculture and rural
3 development or his or her designee.

4 (c) A veterinarian.

5 (d) Two individuals from 2 different statewide horse racing
6 associations.

7 (e) Two individuals who are owners or operators, or designees
8 of owners or operators, of 2 different horse racetracks in this
9 state.

10 (3) The governor shall appoint the members first appointed to
11 the advisory commission ~~within 90 days after the effective date of~~
12 ~~this section.~~ **by September 29, 2016.**

13 (4) Members of the advisory commission under subsection
14 (2)(c), (d), and (e) shall serve for terms of 4 years or until a
15 successor is appointed, whichever is later.

16 (5) If a vacancy occurs on the advisory commission, the
17 governor shall make an appointment for the unexpired term in the
18 same manner as the original appointment.

19 (6) The governor may remove a member of the advisory
20 commission for incompetence, dereliction of duty, malfeasance,
21 misfeasance, or nonfeasance in office, or any other good cause.

22 (7) The chairperson of the advisory commission appointed under
23 subsection (2)(a) shall call the first meeting of the advisory
24 commission. At the first meeting, the advisory commission shall
25 elect from among its members other officers as it considers
26 necessary or appropriate. After the first meeting, the advisory
27 commission shall meet at the call of the chairperson or if
28 requested by 3 or more members.

29 (8) A majority of the members of the advisory commission

1 constitute a quorum for the transaction of business at a meeting of
2 the advisory commission. A majority of the members present and
3 serving are required for official action of the advisory
4 commission.

5 (9) The advisory commission shall conduct its business at
6 public meetings held in compliance with the open meetings act, 1976
7 PA 267, MCL 15.261 to 15.275.

8 (10) A writing prepared, owned, used, in the possession of, or
9 retained by the advisory commission in the performance of an
10 official function is subject to the freedom of information act,
11 1976 PA 442, MCL 15.231 to 15.246.

12 (11) Members of the advisory commission shall serve without
13 compensation. However, members of the advisory commission may be
14 reimbursed for their actual and necessary expenses incurred in the
15 performance of their official duties as members of the advisory
16 commission.

17 (12) The advisory commission shall do all of the following:

18 (a) Establish for the **racing** commissioner procedures governing
19 the operation and promotion of horse racing in this state.

20 (b) Make recommendations to the legislature on amendments to
21 this act that would improve the regulatory structure of horse
22 racing in this state with a goal of maintaining the long-term
23 viability of horse racing in this state.

24 (c) Annually submit a report to the legislature detailing its
25 recommendations under subdivisions (a) and (b).

26 (d) **Expend money received under section 20a, as appropriated**
27 **by the legislature, for the following purposes:**

28 (i) **Promotion and marketing of horse racing.**

29 (ii) **Equine-related research.**

1 **(iii) Grants for equine-related support and aftercare and**
2 **programs related to horse racing.**

3 (13) The racing commissioner shall take under consideration
4 the procedures established by the advisory commission under
5 subsection (12)(a) in performing his or her duties under this act.

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

8 (a) Occupational licenses issued to individuals participating
9 in, involved in, or otherwise having to do with horse racing, pari-
10 mutuel wagering, or simulcasting at a licensed race meeting in this
11 state.

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

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

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

24 **(3) If, after the effective date of the amendatory act that**
25 **added this subsection, the racing commissioner issues a race**
26 **meeting license to a person that has previously held a race meeting**
27 **license but that will be conducting all or part of its race meeting**
28 **under the new license at a different racetrack than under the**
29 **previous licenses, the person shall not conduct pari-mutuel**

1 wagering at a licensed racetrack that is within 35 miles of another
2 licensed racetrack at which 1 or more race meeting licensees may
3 conduct pari-mutuel wagering.

4 (4) If, after the effective date of the amendatory act that
5 added this subsection, the racing commissioner issues a race
6 meeting license to a person that has not held a race meeting
7 license before the effective date of the amendatory act that added
8 this subsection, the person shall not conduct pari-mutuel wagering
9 at a licensed racetrack that is within 50 miles of another licensed
10 racetrack at which 1 or more race meeting licensees may conduct
11 pari-mutuel wagering.

12 Sec. 9. (1) The racing commissioner shall issue, without
13 further application, a track license to any person holding a valid
14 track license under former 1980 PA 327, and maintaining or
15 operating a licensed horse racetrack as of January 9, 1996 at which
16 wagering by pari-mutuel methods on the results of horse racing has
17 been conducted by a race meeting licensee. **After the effective date**
18 **of the amendatory act that added this sentence, the racing**
19 **commissioner may issue, without further application, a track**
20 **license to a local unit of government that holds or has previously**
21 **held a track license issued under this act.**

22 (2) A track license, once issued, is valid only as long as the
23 annual license fee is paid, or until the track license is
24 voluntarily surrendered or is revoked as provided in this act or
25 the rules promulgated under this act.

26 (3) An applicant for a track license shall submit an
27 application that is in writing, that demonstrates to the racing
28 commissioner that the applicant has satisfactory financial
29 responsibility, that shows the location of the racetrack or of the

1 proposed racetrack, and that is accompanied by substantially
2 detailed plans and specifications for the racecourse, paddock,
3 grandstand, stable barns, racetrack buildings, fences, electrical
4 service and lighting, plumbing, parking, and other facilities and
5 improvements. The application must include the name and address of
6 the applicant, if the applicant is a corporation, the place of its
7 incorporation, and any other information required by the rules
8 promulgated under this act. On the applicant's filing of the
9 application and payment of the license fee, the racing commissioner
10 shall investigate the applicant and the racetrack or proposed
11 racetrack as the racing commissioner considers necessary. If the
12 racing commissioner determines that the applicant and the racetrack
13 satisfy the requirements of this act and the rules promulgated
14 under this act, the racing commissioner shall grant a license for
15 the racetrack, designating in the license the county or other
16 municipality in which the licensed racetrack will be or is located.
17 If the racing commissioner determines that the applicant or the
18 racetrack, or both, do not comply with this act and the rules
19 promulgated under this act, the racing commissioner shall deny the
20 license. The action of the racing commissioner in denying a track
21 license may be reviewed by the circuit court under section 631 of
22 the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

23 (4) A track license may be transferred to a new owner of a
24 racetrack with the consent of the racing commissioner.

25 (5) After a track license is issued under this section, the
26 racing commissioner may impose a fine or suspend or revoke the
27 license if the holder of the license, after reasonable notice from
28 the racing commissioner, does not make necessary improvements,
29 additions, or corrections to the licensed premises, fixtures, or

1 equipment as determined and required by the racing commissioner; if
2 the holder of the license violates or is no longer in compliance
3 with the requirements of this act or the rules promulgated under
4 this act; or if the licensed premises are not used to conduct a
5 licensed race meeting for 2 consecutive years. In addition to the
6 suspension or revocation of the license, the racing commissioner
7 may impose a fine or bring an action in circuit court seeking an
8 order of the court requiring the licensee to make reasonable and
9 necessary racetrack improvements or additions as determined by the
10 commissioner if the licensee fails to make improvements or
11 corrections that comply with the applicable construction code or
12 local ordinances. In suspending or revoking a track license, the
13 racing commissioner shall comply with the administrative procedures
14 act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The action of the
15 racing commissioner is subject to appeal.

16 (6) The racing commissioner shall not issue a track license
17 under this section if the new license would result in harmful
18 competition among existing racetracks.

19 **Sec. 19d. (1) If the racing commissioner determines that all**
20 **of the requirements of this act for issuing a race meeting license**
21 **are met, the racing commissioner shall issue a race meeting license**
22 **to the holder of a casino license issued under section 6 of the**
23 **Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.206.**

24 (2) The holder of a race meeting license issued under this
25 section shall not conduct pari-mutuel wagering at a licensed
26 racetrack that is within 50 miles of another licensed racetrack at
27 which 1 or more race meeting licensees may conduct pari-mutuel
28 wagering.

29 **Sec. 20a. The tax imposed under section 22(4) must be**

1 allocated as follows:

2 (a) Twenty percent to be deposited in the state school aid
3 fund established under section 11 of article IX of the state
4 constitution of 1963.

5 (b) Twenty percent to be deposited in the Michigan
6 transportation fund created under section 10 of 1951 PA 51, MCL
7 247.660, to be disbursed as provided in section 10(1) (l) of 1951 PA
8 51, MCL 247.660.

9 (c) Ten percent to be deposited in the general fund of this
10 state.

11 (d) Forty percent to be deposited in the Michigan agriculture
12 equine industry development fund created in section 20.

13 (e) Ten percent to the horse racing advisory commission
14 created in section 6a to be expended as provided in section
15 6a(12) (d) .

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

18 (2) Each holder of a race meeting license shall pay to the
19 state treasurer, from the holder's commission, a tax in the amount
20 of 3.5% of money wagered on interstate and intertrack simulcast
21 races conducted at the holder's licensed race meetings.

22 (3) By eliminating the pari-mutuel wagering tax on live racing
23 programs and altering the calculation of the tax on simulcast horse
24 racing, it is not the intent of the legislature to diminish the
25 funding and appropriations for the Michigan agriculture equine
26 industry **development** fund and related programs described in section
27 20. The pari-mutuel tax alteration effected by this section is
28 intended to generally allow for the improvement of the pari-mutuel
29 horse racing and breeding industry in this state by increasing

1 purses at licensed race meetings and making additional pari-mutuel
2 revenues available for capital improvements at licensed racetracks
3 in this state.

4 **(4) A race meeting licensee that conducts pari-mutuel wagering**
5 **on the results of live horse races that are run in the past shall**
6 **pay to the state treasurer a tax in the amount of 2% of all money**
7 **wagered on the pari-mutuel wagering in a manner and time as**
8 **required by the racing commissioner.**

9 Enacting section 1. Section 19b of the horse racing law of
10 1995, 1995 PA 279, MCL 431.319b, is repealed.