

**SUBSTITUTE FOR
SENATE BILL NO. 661**

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
- 4 a partnership or joint venture relationship with; or is a co-
- 5 shareholder of a corporation, co-member of a limited liability
- 6 company, or co-partner in a limited liability partnership with a



1 person who holds or applies for a race meeting or track license
2 under this act. For purposes of this subdivision, a controlling
3 interest is a pecuniary interest of more than 15%.

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

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

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

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

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

16 (iv) The organization's ability to protect the financial
17 interests of the individuals participating at licensed race
18 meetings.

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

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

29 (f) "Day of operation" means a period of 24 hours beginning at



1 12 noon and ending at 11:59 a.m. the following day.

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

3 (i) A substance intended for use in the diagnosis, cure,
4 mitigation, treatment, or prevention of disease in humans or other
5 animals.

6 (ii) A substance, other than food, intended to affect the
7 structure or condition or any function of the body of humans or
8 other animals.

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

11 (h) "Fair" means a county, district, or community fair or a
12 state fair.

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

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

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

26 (l) "Member of the immediate family" means the spouse, child,
27 parent, or sibling.

28 (m) "Net commission" means the amount determined under section
29 17(3), after first deducting from the licensee's statutory



1 commission the applicable state tax on wagering due and payable
2 under section 22 and the actual verified fee paid by the licensee
3 to the sending host track to receive the simulcast signal.

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

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



1 mutuel and pari-mutuel wagering do not include a video lottery that
2 must be authorized under the McCauley-Traxler-Law-Bowman-McNeely
3 lottery act, 1972 PA 239, MCL 432.1 to 432.47, or any other law of
4 this state.

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

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

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

14 (s) "Thoroughbred" means a thoroughbred, quarter, paint,
15 Arabian, or other breed horse. Thoroughbred does not include a
16 standardbred.

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

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

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

25 (a) An individual who has knowledge about and expertise in
26 horse racing in this state, who shall serve as chairperson of the
27 advisory commission.

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



1 (c) A veterinarian.

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

4 (e) Two individuals who are owners or operators, or designees
5 of owners or operators, of 2 different horse racetracks in this
6 state.

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

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

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

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

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

26 (8) A majority of the members of the advisory commission
27 constitute a quorum for the transaction of business at a meeting of
28 the advisory commission. A majority of the members present and
29 serving are required for official action of the advisory



1 commission.

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

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

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

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

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

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

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

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

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

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

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

29 (13) The racing commissioner shall take under consideration



1 the procedures established by the advisory commission under
2 subsection (12)(a) in performing his or her duties under this act.

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

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

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

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

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

21 **(3) If, after the effective date of the amendatory act that**
22 **added this subsection, the racing commissioner issues a race**
23 **meeting license to a person that has previously held a race meeting**
24 **license but that will be conducting all or part of its race meeting**
25 **under the new license at a different racetrack than under the**
26 **previous licenses, the person shall not conduct pari-mutuel**
27 **wagering at a licensed racetrack that is within 35 miles of another**
28 **licensed racetrack at which 1 or more race meeting licensees may**
29 **conduct pari-mutuel wagering.**



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

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

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

23 (3) An applicant for a track license shall submit an
24 application that is in writing, that demonstrates to the racing
25 commissioner that the applicant has satisfactory financial
26 responsibility, that shows the location of the racetrack or of the
27 proposed racetrack, and that is accompanied by substantially
28 detailed plans and specifications for the racecourse, paddock,
29 grandstand, stable barns, racetrack buildings, fences, electrical



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

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

22 (5) After a track license is issued under this section, the
23 racing commissioner may impose a fine or suspend or revoke the
24 license if the holder of the license, after reasonable notice from
25 the racing commissioner, does not make necessary improvements,
26 additions, or corrections to the licensed premises, fixtures, or
27 equipment as determined and required by the racing commissioner; if
28 the holder of the license violates or is no longer in compliance
29 with the requirements of this act or the rules promulgated under



1 this act; or if the licensed premises are not used to conduct a
2 licensed race meeting for 2 consecutive years. In addition to the
3 suspension or revocation of the license, the racing commissioner
4 may impose a fine or bring an action in circuit court seeking an
5 order of the court requiring the licensee to make reasonable and
6 necessary racetrack improvements or additions as determined by the
7 commissioner if the licensee fails to make improvements or
8 corrections that comply with the applicable construction code or
9 local ordinances. In suspending or revoking a track license, the
10 racing commissioner shall comply with the administrative procedures
11 act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The action of the
12 racing commissioner is subject to appeal.

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

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

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

26 **Sec. 20a. The tax imposed under section 22(4) must be**
27 **allocated as follows:**

28 (a) Ninety percent to be deposited in the Michigan agriculture
29 equine industry development fund created under section 20.



1 **(b) Ten percent to the horse racing advisory commission**
2 **created in section 6a to be expended as provided in section**
3 **6a(12) (d) .**

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

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

10 (3) By eliminating the pari-mutuel wagering tax on live racing
11 programs and altering the calculation of the tax on simulcast horse
12 racing, it is not the intent of the legislature to diminish the
13 funding and appropriations for the Michigan agriculture equine
14 industry **development** fund and related programs described in section
15 20. The pari-mutuel tax alteration effected by this section is
16 intended to generally allow for the improvement of the pari-mutuel
17 horse racing and breeding industry in this state by increasing
18 purses at licensed race meetings and making additional pari-mutuel
19 revenues available for capital improvements at licensed racetracks
20 in this state.

21 **(4) A race meeting licensee that conducts pari-mutuel wagering**
22 **on the results of live horse races that are run in the past shall**
23 **pay to the state treasurer a tax in the amount of 1% of all money**
24 **wagered on the pari-mutuel wagering in a manner and time as**
25 **required by the racing commissioner.**

26 Enacting section 1. Section 19b of the horse racing law of
27 1995, 1995 PA 279, MCL 431.319b, is repealed.

