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AN ACT
RELATING TO HORSE RACING; REQUIRING A HEARING OFFICER TO
CONDUCT AND DECIDE PRELIMINARY AND ADJUDICATORY HEARINGS HELD
UPON REQUEST OF A LICENSEE WHOSE LICENSE IS SUSPENDED OR
REVOKED BY THE STEWARDS; PROVIDING A HEARING PROCEDURE;
PROVIDING FOR APPEAL ON THE RECORD TO THE DISTRICT COURT;
CREATING THE HORSE RACING APPEAL FUND; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 60-1A-4 NMSA 1978 (being Laws 2007,
Chapter 39, Section 4) is amended to read:

"60-1A-4. COMMISSION--POWERS--DUTIES.--

A. The commission may:

(1) grant or deny, and shall take action
when required pursuant to the Horse Racing Act to suspend,
revoke or not renew, occupational licenses, secondary
licenses and racetrack licenses, establish the terms for each
classification of a racetrack license and set fees for
submitting an application for a license;

(2) exclude or compel the exclusion of a
person from all horse racetracks whom the commission deems
detrimental to the best interests of horse racing or who
willfully violates the Horse Racing Act, a rule or order of
the commission or a law of the United States or New Mexico;

(3) compel the production of documents,
books and tangible items, including documents showing the
receipts and disbursements of a racetrack licensee;

(4) investigate the operations of a licensee
and place a designated representative on the licensed

1 premises of a racetrack licensee for the purpose of observing
2 compliance with the Horse Racing Act and rules or orders of
3 the commission;

4 (5) employ staff as required to administer
5 the Horse Racing Act and employ staff with basic law
6 enforcement training to be stationed at racetracks to
7 maintain peace and order, enforce the law, conduct
8 investigations and enforce the Horse Racing Act or rules or
9 orders of the commission; provided that staff employed with
10 law enforcement training may not carry firearms or other
11 deadly weapons while on duty for the commission;

12 (6) summon witnesses;

13 (7) administer oaths for the effective
14 discharge of the commission's authority; and

15 (8) appoint a hearing officer to conduct
16 hearings required by the Horse Racing Act or a rule adopted
17 pursuant to that act, except for hearings from a violation
18 involving the use of a class 1 or class 2 penalty class A
19 drug as described in Section 60-1A-28 NMSA 1978.

20 B. The commission shall:

21 (1) make rules to hold, conduct and operate
22 all race meets and horse races held in the state and to
23 identify and assign racing dates;

24 (2) require the following information for
25 each applicant on an application for a license:

(a) the full name, address and contact
information of the applicant, and if the applicant is a
corporation, the name of the state of incorporation and the
names, addresses and contact information of officers, members
of the board of directors and managers of the corporation;

1 (b) the exact location at which the
2 applicant desires to conduct a horse race or race meet;

3 (c) whether the horse racetrack is
4 owned or leased, and, if leased, the name and residence of
5 the fee owner of the land or, if the owner is a corporation,
6 the names of the directors and stockholders;

7 (d) a statement of the assets and
8 liabilities of the person or corporation making the
9 application;

10 (e) the kind of racing to be conducted;

11 (f) the beginning and ending dates
12 desired for the race meet and the days during that time
13 period when horse races are to be scheduled; and

14 (g) other information determined by the
15 commission to be necessary to assess the potential for
16 success of the applicant;

17 (3) require a statement under oath by the
18 applicant that the information on the application is true;

19 (4) supervise and oversee the making of
20 pari-mutuel pools and the distribution from those pools;

21 (5) make on-site inspections of horse
22 racetracks in New Mexico at reasonable intervals;

23 (6) approve all improvements proposed to be
24 completed on the licensed premises of a horse racetrack,
25 including extensions, additions or improvements of buildings,
stables or tracks;

(7) monitor and oversee the pari-mutuel
machines and equipment at all horse races or race meets held
in the state;

(8) approve contracts for simulcasting,

1 pari-mutuel wagering and capital improvements funded pursuant
2 to Section 60-1A-20 NMSA 1978 entered into by horse
3 racetracks;

4 (9) regulate the size of the purses to be
5 offered at horse races run in the state;

6 (10) require background investigations of
7 employees of a racetrack licensee as set forth in the rules
8 of the commission;

9 (11) provide an annual report to the
10 governor regarding the commission's administration of horse
11 racing in the state; and

12 (12) contract with a disinterested hearing
13 officer, who shall be an attorney licensed in this state, to
14 make preliminary rulings, set conditions pending an
15 adjudicatory hearing, conduct adjudicatory hearings, make
16 findings of fact and conclusions of law and render final
17 administrative decisions on the commission's behalf regarding
18 decisions or actions of the stewards involving the suspension
19 or revocation of a license for the use of a class 1 or
20 class 2 penalty class A drug as described in Section 60-1A-28
21 NMSA 1978. The commission staff shall provide administrative
22 support to the hearing officer upon a reasonable request made
23 by the hearing officer."

24 SECTION 2. Section 60-1A-5 NMSA 1978 (being Laws 2007,
25 Chapter 39, Section 5, as amended) is amended to read:

"60-1A-5. COMMISSION RULES--ALL LICENSES--SUSPENSION,
REVOCATION OR DENIAL OF LICENSES--PENALTIES.--

A. The commission shall adopt rules to implement
the Horse Racing Act and to ensure that horse racing in
New Mexico is conducted with fairness and that the

1 participants and patrons are protected against illegal
2 practices.

3 B. Every license issued by the commission shall
4 require the licensee to comply with the rules adopted by the
5 commission. A racetrack licensee shall post printed copies
6 of the rules in conspicuous places on the racing grounds and
7 shall maintain them during the period when live horse races
8 are being conducted.

9 C. The commission shall impose an appropriate
10 civil penalty fine pursuant to Subsection D of this section
11 or suspend, revoke or deny renewal of a license of a person
12 who violates the provisions of the Horse Racing Act or rules
13 adopted pursuant to that act, except as otherwise provided in
14 Section 60-1A-12 NMSA 1978. The commission shall provide a
15 licensee facing suspension, revocation or denial of renewal
16 of a license reasonable notice and an opportunity for a
17 hearing. The suspension, revocation or denial of renewal of
18 a license shall not relieve the licensee from prosecution for
19 the violations or from the payment of fines and penalties
20 assessed the licensee by the commission or by the stewards or
21 a hearing officer pursuant to Section 60-1A-12 NMSA 1978.

22 D. The commission may impose civil penalty fines
23 upon a licensee for a violation of the provisions of the
24 Horse Racing Act or rules adopted by the commission. The
25 fines shall not exceed one hundred thousand dollars
(\$100,000) or one hundred percent of a purse related to the
violation, whichever is greater, for each violation.

E. Fines shall be paid into the current school
fund.

F. When a penalty is imposed pursuant to this

1 section for administering a performance-altering substance as
2 provided in Subsection A of Section 60-1A-28 NMSA 1978, the
3 commission shall direct its executive director to report the
4 violation to the district attorney for the county in which
5 the violation occurred and to the horse racing licensing
6 authority in any other jurisdiction in which the licensee
7 being penalized is also licensed."

8 SECTION 3. Section 60-1A-12 NMSA 1978 (being Laws 2007,
9 Chapter 39, Section 12) is amended to read:

10 "60-1A-12. STEWARDS--POWERS--DUTIES.--

11 A. There shall be three stewards, licensed and
12 employed by the commission, to supervise each horse race
13 meet. One of the stewards shall be designated the presiding
14 official steward of the race meet. Stewards, other than the
15 presiding official steward, shall be employed subject to the
16 approval of the racetrack licensee. All stewards shall be
17 licensed or certified by a nationally recognized horse racing
18 organization. Stewards may issue citations for violations of
19 the Horse Racing Act and suspend or revoke a license. The
20 stewards shall exercise those powers and duties prescribed by
21 commission rules.

22 B. A decision or action of a steward, other than
23 involving a citation for the use of a class 1 or class 2
24 penalty class A drug as described in Section 60-1A-28
25 NMSA 1978, may be reviewed or reconsidered by the commission.

C. If the decision or action of a steward involves
a licensee's use of a class 1 or class 2 penalty class A drug
as described in Section 60-1A-28 NMSA 1978, the steward shall
issue a citation to the licensee setting forth the decision
or action that includes notice of a right to a hearing.

1 D. Within ten days after receipt of a citation, a
2 licensee may request in writing to the commission an
3 adjudicatory hearing before a hearing officer pursuant to
4 Paragraph (12) of Subsection B of Section 60-1A-4 NMSA 1978.
5 The request shall include a hearing fee of five hundred
6 dollars (\$500), which shall be deposited in the horse racing
7 appeal fund.

8 E. A suspension or revocation made by a steward
9 may remain in effect until a final decision of the hearing
10 officer. Prior to the adjudicatory hearing, a licensee may
11 request a preliminary hearing before the hearing officer to
12 determine if reasonable grounds exist to stay the steward's
13 action pending the adjudicatory hearing on the merits of the
14 steward's action. For good cause shown the hearing officer
15 may impose conditions on the licensee pending a final
16 decision following the adjudicatory hearing.

17 F. The hearing pursuant to Subsection D of this
18 section shall be held:

19 (1) in the county where the steward issued
20 the citation imposing suspension or revocation or in a county
21 where a live horse racing meet will be held on the hearing
22 date; and

23 (2) within thirty days after the commission
24 received the request for a hearing, unless the hearing is
25 continued pursuant to Subsection G of this section.

 G. The hearing officer shall cause a record of the
hearing to be made and may summon witnesses, administer oaths
and compel the production of evidence in whatever form. The
hearing officer may continue a hearing on the hearing
officer's own motion or the motion of a party to the hearing

1 for good cause shown for a period not to exceed ninety days
2 from the date of the hearing request or for a longer period
3 of time if the licensee consents.

4 H. Within thirty days after the completion of the
5 hearing, the hearing officer shall serve upon the commission
6 and the parties the hearing officer's findings of fact,
7 conclusions of law and a decision on the merits that may
8 include sanctions and penalties. The decision shall be
9 conclusive on the commission and shall become the
10 commission's final administrative decision. If the licensee
11 requesting the hearing prevails at the adjudicatory hearing,
12 the hearing fee shall be refunded by the commission to the
13 licensee within ten days of the final decision.

14 I. A party aggrieved by the hearing officer's
15 decision may file an appeal in the district court with
16 jurisdiction in the county where the hearing before the
17 hearing officer was held pursuant to the provisions of
18 Section 39-3-1.1 NMSA 1978."

19 SECTION 4. A new section of the Horse Racing Act is
20 enacted to read:

21 "HORSE RACING APPEAL FUND--APPROPRIATION--USES.--The
22 "horse racing appeal fund" is created as a nonreverting fund
23 in the state treasury. The fund consists of appropriations,
24 gifts, grants, donations and hearing fees required by law to
25 be deposited in the fund. Income from investment of the fund
shall be credited to the fund. The commission shall
administer the fund, and money in the fund is appropriated to
the commission to help defray the costs of hearings and to
reimburse hearing fees pursuant to the Horse Racing Act.
Expenditures from the fund shall be made on warrant of the

1 secretary of finance and administration pursuant to vouchers
2 signed by the executive director of the commission."

3 SECTION 5. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2014. _____

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