

Legislative Analysis



RACING COMMISSIONER: PROHIBIT WAGERS

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Senate Bill 1052 as passed by the Senate

Sponsor: Sen. Jason E. Allen

House Committee: Government Operations

Senate Committee: Gaming and Casino Oversight

First Analysis (6-7-06)

BRIEF SUMMARY: The bill would amend the Horse Racing Law to prohibit the Racing Commissioner and employees of the Office of Racing Commissioner and their immediate family from participating in wagering allowed under the law.

FISCAL IMPACT: The bill would have no apparent fiscal impact on the state or local units of government.

THE APPARENT PROBLEM:

Under the Horse Racing Law, the Officer of the Racing Commissioner oversees all licensed pari-mutuel racing in the state. By administrative rule, the racing commissioner and employees within the ORC are prohibited from wagering on races conducted by associations licensed under the Horse Racing Law. However, there is no statutory provision prohibiting such wagering. Moreover, it has been noted that the State Lottery Act prohibits lottery employees and members of their immediate family from purchasing lottery tickets. It has been suggested that the Horse Racing Law be amended to prohibit the racing commissioner and employees within the ORC and their immediate families from participating in wagering permitted under the act.

THE CONTENT OF THE BILL:

The bill would amend the Horse Racing Law (HRL) to prohibit the racing commissioner, an employee of the Office of Racing Commissioner, or a member of the immediate family of the racing commissioner or an ORC employee from participating in wagering allowed under the law or conducted by a person or an affiliate of a person licensed or applying for a license under the HRL. The bill would permit wagering that is part of surveillance, security, or other official duties of the Office of Racing Commissioner.

The bill defines "member of the immediate family" to mean a spouse, child, parent, or sibling. It defines "affiliate" to mean a person who, directly or indirectly, controls, is controlled by, or is under common control with; is in a partnership or joint venture with a person who holds or applies for a race meeting or track license under the HRL. A controlling interest would be a pecuniary interest of more than 15 percent.

MCL 431.302 and 304

BACKGROUND INFORMATION:

Administrative Rule R 431.1145 currently prohibits the racing commissioner and the commissioner's appointees and employees from wagering on races conducted by an association licensed by the commissioner. The State Lottery Act (MCL 432.31) prohibits state lottery employees and their spouses, children, siblings, and parents residing in the same household from purchasing tickets. The Michigan Gaming Control and Revenue Act (MCL 432.204d) prohibits member of the Michigan Gaming Control Board, and the board's agents and employees from participating in or wagering on any gambling game conducted by any licensee or applicant or any affiliate of an applicant or licensee in Michigan or in any other jurisdiction, with certain exceptions, including wagering undertaken as part of the surveillance, security, or other official duties of the board.

ARGUMENTS:

For:

The bill would codify the current prohibition that administrative rules impose on the racing commissioner and ORC employees against wagering on races. Both the State Lottery Act and the Michigan Gaming Control and Revenue Act include similar prohibitions. Further, the bill would extend the prohibition to include immediate family members of ORC employees as well, similar to the prohibition in the State Lottery Act. Wagering on races by ORC employees and family members gives the appearance of impropriety, and may give rise to suspicions among the racing public that race outcomes are fraudulent. The separation between regulators and the industry protects the integrity of horse racing and promotes the effectiveness of state regulation.

Against:

The bill appears to extend the prohibition against wagering on horse racing beyond the prohibition against betting on lottery games under the State Lottery Act and on casino games under the Michigan Gaming Control and Revenue Act. The Michigan Gaming Control and Revenue Act does not prohibit an employee's family member from wagering on casino games. The State Lottery Act's prohibition applies to immediate family members residing in the same household as the employee. This bill, by contrast, prohibits wagering by immediate family members of ORC employees irrespective of where they reside. Is it necessary to prohibit, for example, the parent of an ORC employee who lives far from the employee from waging on a horse race?

Additionally, the current administrative rule prohibits wagering by employees on races conducted by associations licensed by the commissioner. By extending this to family members, the bill could have the effect of preventing an immediate family member of an ORC employee (a sibling or parent) from wagering on the Preakness Stakes in Maryland because the race is conducted by the entity that conducts races at Great Lakes Downs in Muskegon. Is this the intent? Further, the bill extends the prohibition to apply to all wagering permitted under the Horse Racing Law, which presumably would not only include live races, but simulcast races as well. This is appears comparable to the state lottery prohibiting employees and their families from purchasing lottery tickets in Ohio or

Indiana, which the State Lottery Act does not prohibit. And, in yet another expansion of the current administrative rule, the prohibition in the bill applies not only to current licensees but to applicants for licenses. This means, it appears, that family members of ORC employees could not wager at events conducted in other states by entities who are in the process of *applying* for licensure in Michigan.

POSITIONS:

The Department of Agriculture supports the bill. (6-6-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.