



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



BILL ANALYSIS

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

Senate Bill 12 (as introduced 1-15-19)
Sponsor: Senator Dan Lauwers
Committee: Agriculture

Date Completed: 12-9-19

CONTENT

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

- **Allow the Racing Commissioner to issue a third party facilitator license for entities contracted to facilitate wagering on live and simulcast horse racing.**
- **Require the Racing Commissioner to establish the terms and conditions and the appropriate fee for a third party facilitator subject to certain provisions.**
- **Provide that any form of pari-mutuel wagering on live or simulcast horse races could be conducted only by a race meeting licensee, which could use a licensed third party facilitator.**
- **Eliminate prohibitions pertaining to participating in an act or transaction relative to placing a wager outside of a race meeting ground.**
- **Specify that only a race meeting licensee or its contracted licensed third party facilitator could process, accept, or solicit wagers on the results of live or simulcast horse races.**
- **Specify that purses paid as described in the Law would have to be based on actual purses awarded in a race.**
- **Modify the percentage of Michigan Agriculture Equine Industry Development Fund deposited into the Compulsive Gaming Prevention Fund.**
- **Apply a prohibition against soliciting or accepting wagers on horse racing results to a person who did not hold a third party facilitator license.**

Third-Party Facilitator License

Under the Law, the Commissioner may issue certain general classes of licenses, including occupational licenses, race meeting licenses, and track licenses. The bill also would allow the Commissioner to issue third party facilitator licenses for entities contracted by race meeting licensees to facilitate wagering on live and simulcast racing. The Commissioner would have to set the terms and conditions and the appropriate fee for the license, and would have to receive from the race meeting license a letter of intent and a certification that the race meeting licensee assumed and acknowledged responsibility for its third-party facilitator's conduct.

The third party facilitator would have to do the following:

- Comply with consumer protections, as determined by the Commissioner.
- Cooperate in any audit of pari-mutuel operations at a racing meeting.

-- Comply with the conditions and suitability standards under Section 10(1)(e) and (f) and rules promulgated under the Law.

(Section 10(1)(e) requires a race meeting license applicant to demonstrate to the Commissioner that the applicant and any person associated with the applicant who holds a beneficial or ownership interest in the applicant's business activities, or otherwise has the ability to influence his or her business decisions is a person of good character, honesty, and integrity, possesses sufficient financial resources to conduct a race meeting, and does not pose a threat to the public. Section 10(1)(f) requires an applicant to provide any other information required by rules or by the Commissioner.)

A third party facilitator license would terminate or expire as follows: a) on the date and at the time set by the Commissioner in the license; b) when the contract with the race meeting licensee to facilitate live and simulcast wagering expired; or c) if the license were suspended or revoked by the Commissioner.

Wagering

The Law allows a race meeting licensee to provide a place in the race meeting grounds or enclosure at which he or she may conduct and supervise pari-mutuel wagering on the results of horse races. The bill would remove this language.

The Law specifies that any form of pari-mutuel wagering on the results of live or simulcast horse races must occur or be permitted to occur only at a licensed race meeting, and prohibits a person from participating in an act or transaction relative to placing a wager or carrying a wager for placement outside of a race meeting ground, or providing messenger service for the placing of bets for people who are not patrons. The bill would eliminate these prohibitions.

Instead, any form of pari-mutuel wagering could be conducted or operated only by a race meeting licensee, which could use its contracted licensed third party facilitator, as determined and approved by the Commissioner. The race meeting license would be responsible for the conduct of its third-party facilitator.

All wagers placed within the State could be placed only in person at a licensed race meeting or electronically through a licensed third party facilitator. Wagers would have to be placed only on live races offered at or live races simulcast to license race meetings at racetracks operated by entities that held track license issued under the Law. The bill would prohibit each race meeting licensee and licensed third-party facilitator from soliciting, offering, accepting, or processing wagers on or in connection with any other horse race, form of horse racing, or other form of gaming or gambling product, including historical horse races, slot machines, or any electronic game of chance that simulated, imitated, or emulated an electronic gaming device such as a video lottery terminal, pulltab dispenser, or any other electronic or mechanical device.

The bill specifies that only a race meeting licensee or its contracted licensed third party facilitator could process, accept, or solicit wagers on the results of simulcast horse races.

Penalties

The Law prohibits a person who does not hold a race meeting license from soliciting or accepting wagers on the results of live or simulcast horse races from individuals in the State. A person who violates this prohibition is guilty of a felony punishable by imprisonment for up to five years, a maximum fine of \$10,000, or both. Under the bill, the prohibition would apply to a person who did not hold a race meeting license or a third party facilitator license.

Michigan Agriculture Equine Industry Development Fund; Modifications

The Law establishes the Michigan Agriculture Equine Industry Development Fund and requires money from the Fund to be spent, upon appropriation, to provide funding for agriculture and equine industry development programs enumerated in the Law, including purse supplements and awards for various horse breeding programs. Under the bill, purses paid as described in the Law would have to be based on actual purses awarded in a race. If the actual purses awarded were less than the purse supplement amount requested by a fair or licensed pari-mutuel racetrack when they applied to the Department of Agriculture and Rural Development for the supplement, the supplement would have to be the lesser amount.

The Law also requires a percentage of the Fund equal to 1/100 of 1.0% of the gross wagers made each year in each of the licensed racetracks to be deposited in the Compulsive Gaming Prevention Fund. The bill would increase this percentage to 1/15 of 1.0% of the gross wagers described above. (Money from the Compulsive Gaming Prevention Fund is used for the treatment, prevention, education, training, research, and evaluation of pathological gamblers and their families and to fund the toll-free compulsive gaming helpline number.)

Simulcast Wager Tax; Apply to Wagers Processed by Facilitators

The Law requires a licensed racetrack to pay an annual license fee of \$1,000 to the Commissioner. A race meeting licensee also must pay to the State Treasurer, from the holder's commission, a tax of 3.5% of money wagered on interstate and intertrack simulcast races conducted at its race meetings. Under the bill, the tax would apply to the holder's commission, including any wagers processed through licensed third-party facilitators.

MCL 431.308 et al

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill could result in additional costs to the Office of the Racing Commission, which is located within the Michigan Gaming Control Board, and additional revenue to the State, by allowing third-party facilitator licensees to assist with processing, accepting, or soliciting wagers on live and simulcast races. There is the potential for increased wagers collected from horse races, which would result in additional revenue to the State in the form of the 3.5% tax on the money wagered on races and license fees, which is deposited into the Agriculture and Equine Industry Development Fund (AEIDF). In 2018, 97% of total wagers made were collected under simulcasting, with the remaining collected through live betting. Since the third-party facilitator licensees would assist with simulcast wagers, the total amount of wagers collected from races could increase.

For fiscal year (FY) 2017-18, the Racing Commission collected \$2.7 million in total revenue from horse racing. From FY 2013-14 to FY 2017-18, total revenue from horse racing has decreased every year from \$4.2 million to \$2.7 million, which is a \$1.5 million or 35.7% decrease over five years. Total increases are unknown, but could increase horse gaming revenue in the first full implemented year; however, it is unlikely to increase revenue to previously fiscal year levels because of the overall decreased trends in horse gaming activity in the State. However, any additional revenue collected would increase appropriations to the various equine programs and support the Michigan Department of Agriculture and Rural Development and the Racing Commission.

The bill also likely would increase administrative costs to the Racing Commission to oversee third party licensees and conduct audits. Since the bill would allow the Commission to set the

appropriate fee amount without a cap, the Commission would be able to cover any additional administrative costs through license fees. At this time, it is anticipated that the increased administrative costs would be minimal.

In addition, the bill would increase the amount required to be paid annually into the Compulsive Gaming Prevention Fund (CGPF), created under Public Act 70 of 1997, from the AEIDF. Currently, an amount equal to 1/100 of 1% of the gross wagers made each year in each of the licensed racetracks must be paid into the CGPF. The bill would increase this percentage to 1/15 of 1% of wagers. The amount paid to the CGPF in FY 2017-18 was \$7,678; for FY 2018-19, it was \$6,192. While it is difficult to predict what would result for future deposits into the CGPF, those deposits would depend on the level of wagering activity, which cannot be determined currently. If the proposed percentage increase had been in place for FY 2018-19, the total deposited amount would have been \$37,152.

The bill would have no fiscal impact on local government.

Fiscal Analyst: Bruce Baker
Cory Savino

SAS\S1920\s12sa

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.