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Senate Bills 396 and 398 (as introduced 4-28-21)
Sponsor: Senator Dan Lauwers (S.B. 396)
Senator Curtis Hertel, Jr. (S.B. 398)
Committee: Agriculture

Date Completed: 4-29-21

CONTENT

Senate Bill 396 would amend the Horse Racing Law to do the following:

- **Modify the definition of "pari-mutuel" and "pari-mutuel wagering".**
- **Prohibit the Racing Commissioner from allowing a holder of a race meeting license to conduct pari-mutuel wagering on the outcome of a live horse race run in the past at a licensed racetrack unless the legislative body for the local unit of government in which the racetrack was located had adopted an ordinance authorizing those activities.**
- **Modify various provisions pertaining to simulcasting to include pari-mutuel wagering.**
- **Require monthly distributions from the pari-mutuel horse racing disbursement account to be divided equally to each race meeting licensee instead of to each track licensee.**
- **Require a race meeting licensee that conducted pari-mutuel wagering on the results of live horse races that were run in the past to pay a tax of 1.0% of all money wagered, and require the tax to be deposited in the Michigan Agriculture and Equine Industry Development Fund (90%) and the Horse Racing Advisory Commission (10%).**

Senate Bill 398 would amend the Lottery Act to specify that a casino licensee could not televise or allow any other person to televise simulcast horse races on the premises of the casino unless the licensee also held a third-party facilitator license issued under the Horse Racing Law.

Senate Bill 398 is tie-barred to Senate Bill 396. Senate Bill 396 also would repeal Section 19b of the Law. (Section 19b pertains to money in escrow for distribution to a certified horsemen's organization.)

"Pari-Mutuel Wagering"

"Pari-mutuel" and "pari-mutuel wagering" mean the form or system of gambling in which the winner or winners divide the total amount of money bet, after deducting the net commission. Under the bill, the term instead would mean a system by which wagers are accepted on the outcome of one or more live horse races, run in the past or to be run in the future, are placed with, or in, a wagering pool, which may include carryover pool money, and are conducted by an operator licensed or otherwise permitted to do so under the laws of the State and in which the patrons do not wager against the operator.

The terms do not include wagering on a banked game in which the race meeting licensee is a participant or otherwise holds a stake in the outcome of the game, or in which the race meeting licensee established a bank against which the participants play. However, the terms include a nonrefundable contribution to the pool to serve as a seed or guarantee. The terms do not include a video lottery that must be authorized under the Lottery Act or any other law of the State.

As used in this definition, "carryover pool" would mean a pool in which nondistributed money is retained and added to a corresponding pool for the same underlying wager, but that may feature different racing events.

Local Authorization; Pari-Mutuel Wagering

The Law specifies that the pari-mutuel system of wagering on the results of horse races is not unlawful. All forms of pari-mutuel wagering must be conducted under a race meeting license preapproved by the Racing Commissioner by rule or written order. The bill specifies that the Commissioner could not allow a holder of a race meeting license to conduct pari-mutuel wagering on the outcome of a live horse race run in the past at a licensed racetrack unless the legislative body for the local unit of government in which the racetrack was located had adopted an ordinance authorizing the activities surrounding the conduct of pari-mutuel wagering on the outcome of a live horse race run in the past at the racetrack.

Live Racing; Pari-Mutuel Wagering

Section 12 of the Law requires an applicant for a license to conduct a thoroughbred race meeting, or a license to conduct a standardbred race meeting, to apply to conduct at least 30 days of the applicable type of racing during its proposed race meeting. Except during the opening and closing week of a race meeting, the applicant would have to apply to conduct live racing at least two days per week, with at least eight live horse races programmed.

If a race meeting licensee is unable to program and conduct eight live horse races on a racing date awarded to the licensee because there are fewer than five entries in a race, the licensee may not conduct any simulcasting on that day without the written consent of the certified horsemen's organization with which it has a contract. Under the bill, the licensee also could not conduct pari-mutuel wagering on that day without the required consent.

If a licensee is unable to conduct racing on a live racing date awarded to the licensee or fewer than eight live horse races on an awarded live racing date because of a labor dispute, fire, adverse weather conditions, or other causes beyond the licensee's control, the race meeting licensee is considered to have conducted those races or that race date and is not precluded from conducting any simulcasts because of the licensee's inability to conduct those races or that race date. Under the bill, a licensee also would not be precluded from conducting pari-mutuel wagering.

Amended License

Notwithstanding anything in the Law to the contrary, if the Racing Commissioner determines that the licensee is capable of conducting simulcast horse racing and one or more listed conditions apply and the contracted certified horsemen's organization is in agreement, the Commissioner may amend an existing race meeting license and simulcast permit to allow the licensee to continue simulcasting during the remaining period of the race meeting license. Under the bill, the Racing Commissioner could amend an existing license to allow the licensee to continue conducting pari-mutuel wagering if the Commissioner determined the licensee was capable of doing so and those listed conditions applied.

In order to obtain an amended license and satisfy the Law's live racing requirements, the licensee must have a written contract with a certified horsemen's organization to pay a percentage of its net commission from simulcasting to the live racing purse pool at another licensed racetrack while the amended license is in effect. Unless otherwise provided in the contract, the payment must be at least 25% of net commission from simulcasting if only one certified horsemen's organization has a contract for live race days for the calendar year. Under the bill, these provisions would apply to the net commission from simulcasting *or from conducting pari-mutuel wagering*.

The amended license provisions apply only to amendments to a race meeting license for the purpose of allowing simulcast-only operations and are not limitations on or requirements for other race meeting license amendments the Commissioner may approve or deny. Under the bill, this provision also would apply to amendments to a license for the purpose of allowing pari-mutuel wagering-only.

Payment to Pari-Mutuel Horse Racing Account

A race meeting licensee must pay the net commission generated from wagering on live and simulcast racing through the race meeting licensee's third-party facilitator to the pari-mutuel horse racing disbursement account. On the first day of each month, money paid into the pari-mutuel horse racing disbursement account must be distributed as follows: a) 50% to be divided equally to each certified horsemen's organization, and b) 50% to be divided equally to each track licensee. The bill would require 50% to be divided equally to each race meeting licensee instead of to each track licensee.

Taxes & Distribution of Revenue

The Law requires each holder of a race meeting licensee to pay to the State Treasurer, from the holder's commission, as follows:

- A tax of 3.5% of money wagered on interstate and intertrack simulcast races conducted at the holder's licensed race meetings.
- A tax of 1.0% of wagers processed through licensed third-party facilitators operating under the Law.

Under the bill, a race meeting licensee that conducted pari-mutuel wagering on the results of live horse races that were run in the past also would have to pay to the State Treasurer a tax of 1.0% of all money wagered on the pari-mutuel wagering in a manner and time as required by the Commissioner.

Generally, money received by the Commissioner and the State Treasurer under the Law must be placed in the Michigan Agriculture and Equine Industry Development Fund. However, the tax imposed on wagers processed through licensed third-party facilitators must be allocated as follows:

- 90%, to the Fund.
- 10%, to the Horse Racing Advisory Commission to be spent for promotion and marketing of horse racing, equine-related research, and grants for equine-related support and aftercare and programs related to horse racing.

Under the bill, the 1.0% tax of all money wagered on pari-mutuel wagering also would have to be allocated in this manner.

(Money from the Fund must be spent, upon appropriation, to provide funding for agriculture and equine industry development programs, as specified in the Law. Items for which money may be spent include purse supplements, awards for various horse breeding programs, laboratory analysis, and industry research, planning, and development grant fund programs.)

Senate Bill 398

Generally, under the Michigan Gaming Control and Revenue Act, a person that holds a casino license may not televise or allow any other person to televise simulcast horse races on the premises of the casino. Under the bill, this would apply unless the person that held the casino license also held a third-party facilitator license issued under Section 8 of the Horse Racing Law. (That section allows the Racing Commissioner to issue third-party facilitator licenses issued to entities that have contracts with race meeting licensees to facilitate wagering on live and simulcast racing.)

MCL 431.302 et al. (S.B. 396)
432.209b & 432.212 (S.B. 398)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

Senate Bill 396

The bill would have a fiscal impact on the State and Michigan Gaming Control Board and no fiscal impact on local units of government. The bills would allow an increase in pari-mutuel wagering to occur during live horse races. This could increase the amount of wagers that occurred during each live horse race. The 1.0% tax on pari-mutuel wagering would result in additional revenue generated during each live horse racing event. The overall fiscal impact to State revenue would depend on the number of the live horse racing event that occurred during the year.

The Michigan Gaming Control Board could experience additional administrative costs for oversight and collection of revenue from pari-mutuel wagering. Any additional costs would be covered by additional fee revenue from facilitators.

Senate Bill 398

The bill would have no fiscal impact on State or local units of government.

Fiscal Analyst: Cory Savino

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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.