

HOUSE BILL No. 5881

May 12, 2004, Introduced by Reps. Julian, Richardville, Shackleton, Stahl, Palsrok, Voorhees, Amos, Taub, Meyer, LaJoy, Garfield, Nitz, Milosch, Pumford, Hummel, Steil, Koetje, Bisbee, Hune, Tabor, Shaffer, DeRossett, Ehardt, Gaffney, Newell, Caswell, Walker, Moolenaar, Acciavatti, Kooiman, Huizenga, Caul, Hoogendyk, Nofs and Sheen and referred to the Committee on Government Operations.

A bill to amend 1995 PA 279, entitled
 "Horse racing law of 1995,"
 by amending sections 9 and 14 (MCL 431.309 and 431.314), section
 9 as amended by 2000 PA 164 and section 14 as amended by 1998 PA
 408.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) The racing commissioner shall issue, without
 2 further application, a track license to any person holding a
 3 valid track license under former 1980 PA 327, and maintaining or
 4 operating a licensed horse racetrack as of ~~the effective date of~~
 5 ~~this act~~ **January 9, 1996** at which wagering by pari-mutuel
 6 methods on the results of horse racing has been conducted by a
 7 race meeting licensee.

8 (2) A track license, once issued, is valid only as long as
 9 the annual license fee is paid, or until the track license is

1 voluntarily surrendered or is revoked as provided in this act or
2 the rules promulgated under this act.

3 (3) An applicant for a track license shall submit an
4 application that is in writing, that demonstrates to the racing
5 commissioner that the applicant has satisfactory financial
6 responsibility, that shows the location of the racetrack or of
7 the proposed racetrack, and that is accompanied by substantially
8 detailed plans and specifications for the racecourse, paddock,
9 grandstand, stable barns, racetrack buildings, fences, electrical
10 service and lighting, plumbing, parking, and other facilities and
11 improvements. The application shall include the name and address
12 of the applicant, and, if a corporation, the place of its
13 incorporation, and any other information required by the rules
14 promulgated under this act by the racing commissioner. Upon the
15 applicant's filing of the application and the payment of the
16 license fee, the racing commissioner shall investigate the
17 applicant and the racetrack or proposed racetrack as the racing
18 commissioner considers necessary. If the racing commissioner
19 determines that the applicant and the racetrack satisfy the
20 requirements of this act and the rules promulgated under this
21 act, the racing commissioner shall grant a license for the
22 racetrack, designating in the license the county or other
23 municipality in which the licensed racetrack shall be or is
24 located. If the racing commissioner determines that the
25 applicant or the racetrack, or both, do not comply with this act
26 and the rules promulgated under this act, the racing commissioner
27 shall deny the license. The action of the racing commissioner in

1 denying a track license may be reviewed by the circuit court
2 pursuant to section 631 of the revised judicature act of 1961,
3 1961 PA 236, MCL 600.631.

4 (4) If an application under this section is filed after the
5 effective date of the amendatory act that added this subsection,
6 the racing commissioner shall grant or deny the application not
7 later than 6 months after the applicant files a complete
8 application. If the racing commissioner determines that an
9 application is incomplete, the commissioner shall notify the
10 applicant in writing within 10 days after receipt of the
11 incomplete application, describing the deficiency and the
12 documents or information required to make the application
13 complete. The 6-month period is tolled from the date the
14 commissioner notifies the applicant that the application is
15 incomplete until the date the additional documents or information
16 is received by the commissioner.

17 (5) If the racing commissioner fails to grant or deny an
18 application within the time required by this section, the
19 commissioner shall return the license fee and shall reduce the
20 applicant's license fee for next year by 15%. The commissioner
21 shall not process, investigate, or consider the application of an
22 applicant whose license fee is returned under this subsection in
23 a time or manner different than other applications.

24 (6) Beginning January 31, 2005, the racing commissioner shall
25 submit a report by January 31 of each year to the standing
26 committees and appropriations subcommittees of the senate and
27 house of representatives concerned with agricultural issues. The

1 commissioner shall include in the report all of the following
2 information for the preceding calendar year:

3 (a) The number of track license applications the commissioner
4 processed within 6 months and the number of applications the
5 commissioner did not process within 6 months.

6 (b) The average length of time it took the commissioner to
7 grant or deny each application not processed within 6 months.

8 (c) The number of track license applications the commissioner
9 denied, reported in summary form in categories describing general
10 reasons for denial.

11 (d) The number of applications that required a request for
12 additional information.

13 (e) The average time for an applicant to respond to a request
14 for additional information.

15 (f) The amount of money returned to applicants under
16 subsection (5).

17 (7) ~~-(4)-~~ A track license may be transferred to a new owner
18 of a racetrack with the consent of the racing commissioner.

19 (8) ~~-(5)-~~ After a track license is issued under this section,
20 the racing commissioner may impose a fine or suspend or revoke
21 the license if the holder of the license, after reasonable notice
22 from the racing commissioner, does not make necessary
23 improvements, additions, or corrections to the licensed premises,
24 fixtures, or equipment as determined and required by the racing
25 commissioner; if the holder of the license violates or is no
26 longer in compliance with the requirements of this act or the
27 rules promulgated under this act; or if the licensed premises are

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

13 (9) ~~-(6)-~~ In a city area, not more than 3 racetracks shall be
14 licensed, except that in a city with a population of 900,000 or
15 more the racing commissioner may issue 1 additional license.

16 (10) ~~-(7)-~~ A person shall not be issued more than 1 track
17 license. Controlling ownership and interlocking directorates
18 among the holders of track licenses are prohibited.

19 (11) ~~-(8)-~~ A track license shall not be issued under this
20 section if the new license would result in harmful competition
21 among existing racetracks.

22 Sec. 14. (1) ~~Except as provided in subsection (8), before~~
23 **Before** November 1 of the year preceding the year for which
24 applications are made, the racing commissioner shall grant or
25 deny each application for a race meeting license, allocate or
26 deny the dates ~~, for which application has been made, on which~~
27 ~~pari-mutuel wagering on live races may be conducted at each~~

1 ~~licensed race meeting in this state~~ **for live horse racing**
2 **applied for by the applicant under section 12,** and ~~shall also~~
3 determine whether the applicant may simulcast under section 18
4 during the calendar year for which the license is issued. The
5 racing commissioner may ~~grant~~ **issue** a race meeting license for
6 any time period up to 1 year during which the licensee may
7 conduct live and simulcast horse races with pari-mutuel wagering
8 on the results of ~~such~~ **the** races.

9 (2) Subject to section 12(7), all simulcasting authorized by
10 the racing commissioner shall be conditioned upon the ~~holder of~~
11 ~~the license~~ **licensee** conducting at least 9 live horse races on
12 each live racing date allocated in the ~~holder's~~ **licensee's** race
13 meeting license, unless this requirement is waived in writing by
14 both the racing commissioner and the certified horsemen's
15 organization with which the licensee has contracted.

16 (3) The racing commissioner shall not issue a race meeting
17 license to an organization organized for a charitable purpose or
18 organized for the purpose of distributing its profits or income
19 to charitable organizations.

20 (4) **If an application under section 10 is the first**
21 **application for a race meeting license by the applicant, is filed**
22 **after the effective date of the amendatory act that added this**
23 **subsection, and is not granted or denied by the racing**
24 **commissioner by November 1 as required by subsection (1), the**
25 **commissioner shall return any application fee and, if the**
26 **application is later granted, shall reduce the fee for the next**
27 **race meeting license application by the licensee, if any, by**

1 15%. The commissioner shall not process, investigate, or
2 consider the application of an applicant whose license fee is
3 returned under this subsection in a time or manner different than
4 other applications.

5 (5) Beginning January 31, 2005, the racing commissioner shall
6 submit a report by January 31 of each year to the standing
7 committees and appropriations subcommittees of the senate and
8 house of representatives concerned with agricultural issues. The
9 commissioner shall include in the report all of the following
10 information for the preceding calendar year:

11 (a) The number of first-time and subsequent race meeting
12 license applications the commissioner processed by November 1 and
13 the number of applications the commissioner did not process by
14 November 1.

15 (b) The number of first-time and subsequent race meeting
16 license applications the commissioner denied, reported in summary
17 form in categories describing general reasons for denial.

18 (c) The amount of money returned to applicants under
19 subsection (4).

20 (6) ~~-(4)-~~ Except as provided in section 12(7), (8), and (9),
21 if, after the issuance of a race meeting license, the racing
22 commissioner determines upon further investigation that the
23 ~~holder of a~~ race meeting ~~license~~ **licensee** has not met ~~—~~ or
24 will be unable to meet ~~—~~ the requirements of the license, the
25 racing commissioner may impose a fine or suspend or revoke the
26 race meeting license, or both, for all or part of the remainder
27 of the time period for which the license was granted. Before

1 ~~making the required determination to impose~~ **imposing** a fine or
2 ~~suspend or revoke~~ **suspending or revoking** a race meeting license
3 under this subsection, the racing commissioner shall consider
4 whether the race meeting licensee's inability or failure to meet
5 the requirements of its license is due to a cause beyond the
6 control of the race meeting licensee.

7 (7) ~~(5)~~ Any action taken by the racing commissioner under
8 subsection ~~(4) shall become~~ **(6) is** effective 10 days after the
9 ~~holder of the~~ race meeting ~~license~~ **licensee** has received
10 written notice unless the commissioner finds that the public
11 health, safety, or welfare requires emergency action and
12 immediate effect of the commissioner's order.

13 (8) ~~(6)~~ A denial of a race meeting license under subsection
14 (3) may be appealed to the circuit court for judicial review
15 pursuant to section 631 of the revised judicature act of 1961,
16 1961 PA 236, MCL 600.631. A suspension or revocation of a race
17 meeting license may be appealed pursuant to the administrative
18 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

19 (9) ~~(7)~~ Each ~~applicant issued a~~ race meeting ~~license~~
20 **licensee** shall maintain an interest bearing account used
21 exclusively for **the** deposit of all ~~funds due~~ **money required to**
22 **be paid to** horsemen's purse pools under this act. All ~~funds~~
23 ~~due~~ **money required to be deposited into** this account shall be
24 deposited within a reasonable time after receipt by the race
25 meeting licensee. The name of the depository and the
26 identification number of the account shall be designated in each
27 race meeting license application and all interest earned by the

1 account shall be credited to the **applicable** purse pool and
2 deposited in the account.

3 ~~(8) The November 1 deadline provided in subsection (1) does~~
4 ~~not apply to 1999 thoroughbred race meeting dates. The racing~~
5 ~~commissioner may issue 1999 thoroughbred race meeting dates at~~
6 ~~any time.~~