

**ASSEMBLY BILL**

**No. 2215**

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**Introduced by Assembly Member Fuentes**

February 18, 2010

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An act to amend Section 19604 of the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2215, as introduced, Fuentes. Horse racing: advance deposit wagering: wagering account facilities.

Existing law authorizes advance deposit wagering to be conducted, with the approval of the California Horse Racing Board. Existing law requires the board to develop and adopt rules to license and regulate all phases of operation of advance deposit wagering for advance deposit wagering providers operating in California.

This bill would authorize the board to adopt rules and regulations authorizing advance deposit wagering providers to create and administer wagering accounts at facilities located within this state through which persons may deposit cash funds or vouchers, issue wagering instructions, and withdraw cash funds or vouchers, subject to the approval of racing associations or satellite wagering facilities located within 10 miles of a facility administering those accounts, and the approval of the horsemen's organization responsible for negotiating with the racing associations or satellite wagering facilities.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 19604 of the Business and Professions  
2 Code is amended to read:

3 19604. The board may authorize any racing association, racing  
4 fair, betting system, or multijurisdictional wagering hub to conduct  
5 advance deposit wagering in accordance with this section. Racing  
6 associations, racing fairs, and their respective horsemen’s  
7 organizations may form a partnership, joint venture, or any other  
8 affiliation in order to further the purposes of this section.

9 (a) As used in this section, the following definitions apply:

10 (1) “Advance deposit wagering” (ADW) means a form of  
11 parimutuel wagering in which a person residing within California  
12 or outside of this state establishes an account with an ADW  
13 provider, and subsequently issues wagering instructions concerning  
14 the funds in this account, thereby authorizing the ADW provider  
15 holding the account to place wagers on the account owner’s behalf.

16 (2) “ADW provider” means a licensee, betting system, or  
17 multijurisdictional wagering hub, located within California or  
18 outside this state, that is authorized to conduct advance deposit  
19 wagering pursuant to this section.

20 (3) “Betting system” means a business conducted exclusively  
21 in this state that facilitates parimutuel wagering on races it  
22 simulcasts and other races it offers in its wagering menu.

23 (4) “Breed of racing” means as follows:

24 (A) With respect to associations and fairs licensed by the board  
25 to conduct thoroughbred, fair, or mixed breed race meetings, “breed  
26 of racing” shall mean thoroughbred.

27 (B) With respect to associations licensed by the board to conduct  
28 quarter horse race meetings, “breed of racing” shall mean quarter  
29 horse.

30 (C) With respect to associations and fairs licensed by the board  
31 to conduct standardbred race meetings, “breed of racing” shall  
32 mean standardbred.

33 (5) “Contractual compensation” means the amount paid to an  
34 ADW provider from advance deposit wagers originating in this  
35 state. Contractual compensation includes, but is not limited to, hub  
36 fee payments, and may include host fee payments, if any, for  
37 out-of-state and out-of-country races. Contractual compensation  
38 is subject to the following requirements:

1 (A) Excluding contractual compensation for host fee payments,  
2 contractual compensation shall not exceed 6.5 percent of the  
3 amount wagered.

4 (B) The host fee payments included within contractual  
5 compensation shall not exceed 3.5 percent of the amount wagered.  
6 Notwithstanding this provision, the host fee payment with respect  
7 to wagers on the Kentucky Derby, Preakness Stakes, Belmont  
8 Stakes, and selected Breeders' Cup Championship races may be  
9 negotiated by the ADW provider, the racing associations accepting  
10 wagers on those races pursuant to Section 19596.2, and the  
11 horsemen's organization.

12 (C) In order to ensure fair and consistent market access fee  
13 distributions to associations, fairs, horsemen, and breeders, for  
14 each breed of racing, the percentage of wagers paid as contractual  
15 compensation to an ADW provider pursuant to the terms of a hub  
16 agreement with a racing association or fair when that racing  
17 association or fair is conducting live racing shall be the same as  
18 the percentage of wagers paid as contractual compensation to that  
19 ADW provider when that racing association or fair is not  
20 conducting live racing.

21 (6) "Horsemen's organization" means, with respect to a  
22 particular racing meeting, the organization recognized by the board  
23 as responsible for negotiating purse agreements on behalf of  
24 horsemen participating in that racing meeting.

25 (7) "Hub agreement" means a written agreement providing for  
26 contractual compensation paid with respect to advance deposit  
27 wagers placed by California residents on a particular breed of  
28 racing conducted outside of California. In the event a hub  
29 agreement exceeds a term of two years, then an ADW provider,  
30 one or more racing associations or fairs that together conduct no  
31 fewer than five weeks of live racing for the breed covered by the  
32 hub agreement, and the horsemen's organization responsible for  
33 negotiating purse agreements for the breed covered by the hub  
34 agreement shall be signatories to the hub agreement. A hub  
35 agreement is required for an ADW provider to receive contractual  
36 compensation for races conducted outside of California.

37 (8) "Hub agreement arbitration" means an arbitration proceeding  
38 pursuant to which the disputed provisions of the hub agreement  
39 pertaining to the hub or host fees from wagers on races conducted  
40 outside of California provided pursuant to paragraph (2) of

1 subdivision (b) are determined in accordance with the provisions  
2 of this paragraph. If a hub agreement arbitration is requested, all  
3 of the following shall apply:

4 (A) The ADW provider shall be permitted to accept advance  
5 deposit wagers from California residents.

6 (B) The contractual compensation received by the ADW  
7 provider shall be the contractual compensation specified in the  
8 hub agreement that is the subject of the hub agreement arbitration.

9 (C) The difference between the contractual compensation  
10 specified in subparagraph (B) and the contractual compensation  
11 determined to be payable at the conclusion of the hub agreement  
12 arbitration shall be calculated and paid within 15 days following  
13 the arbitrator’s decision and order. The hub agreement arbitration  
14 shall be held as promptly as possible, but in no event more than  
15 60 days following the demand for that arbitration. The arbitrator  
16 shall issue a decision no later than 15 days following the conclusion  
17 of the arbitration. A single arbitrator jointly selected by the ADW  
18 provider and the party requesting a hub agreement arbitration shall  
19 conduct the hub agreement arbitration. However, if the parties  
20 cannot agree on the arbitrator within seven days of issuance of the  
21 written demand for arbitration, then the arbitrator shall be selected  
22 pursuant to the Streamlined Arbitration Rules and Procedures of  
23 the Judicial Arbitration and Mediation Services, or pursuant to the  
24 applicable rules of its successor organization. In making the hub  
25 agreement arbitration determination, the arbitrator shall be required  
26 to choose between the contractual compensation of the hub  
27 agreement agreed to by the ADW provider or whatever different  
28 terms for the hub agreement were proposed by the party requesting  
29 the hub agreement arbitration. The arbitrator shall not be permitted  
30 to impose new, different, or compromised terms to the hub  
31 agreement. The arbitrator’s decision shall be final and binding on  
32 the parties. If an arbitration is requested, either party may bring  
33 an action in state court to compel a party to go into arbitration or  
34 to enforce the decision of the arbitrator. The cost of the hub  
35 agreement arbitration, including the cost of the arbitrator, shall be  
36 borne in equal shares by the parties to the hub agreement and the  
37 party or parties requesting a hub agreement arbitration. The hub  
38 agreement arbitration shall be administered by the Judicial  
39 Arbitration and Mediation Services pursuant to its Streamlined  
40 Arbitration Rules and Procedures or its successor organization.

1 (9) “Incentive awards” means those payments provided for in  
2 Sections 19617.2, 19617.7, 19617.8, 19617.9, and 19619. The  
3 amount determined to be payable for incentive awards under this  
4 section shall be payable to the applicable official registering agency  
5 and thereafter distributed as provided in this chapter.

6 (10) “Licensee” means any racing association or fair licensed  
7 to conduct a live racing meet in this state, or affiliation thereof,  
8 authorized under this section.

9 (11) “Market access fee” means the amount of advance deposit  
10 wagering handle remaining after the payment of winning wagers,  
11 and after the payment of contractual compensation, if any, to an  
12 ADW provider. Market access fees shall be distributed in  
13 accordance with subdivision (f).

14 (12) “Multijurisdictional wagering hub” means a business  
15 conducted in more than one jurisdiction that facilitates parimutuel  
16 wagering on races it simulcasts and other races it offers in its  
17 wagering menu.

18 (13) “Racing fair” means a fair authorized by the board to  
19 conduct live racing.

20 (14) “Zone” means the zone of the state, as defined in Section  
21 19530.5, except as modified by the provisions of subdivision (f)  
22 of Section 19601. For these purposes, the central and southern  
23 zones shall together be considered one zone.

24 (b) Wagers shall be accepted according to the procedures set  
25 forth in this subdivision.

26 (1) No ADW provider shall accept wagers or wagering  
27 instructions on races conducted in California from a resident of  
28 California unless all of the following conditions are met:

29 (A) The ADW provider is licensed by the board.

30 (B) A written agreement allowing those wagers exists with the  
31 racing association or fair conducting the races on which the wagers  
32 are made.

33 (C) The agreement referenced in subparagraph (B) shall have  
34 been approved in writing by the horsemen’s organization  
35 responsible for negotiating purse agreements for the breed on  
36 which the wagers are made in accordance with the Interstate  
37 Horseracing Act (15 U.S.C. Sec. 3001, et seq.), regardless of the  
38 location of the ADW provider, whether in California or otherwise,  
39 including, without limitation, any and all requirements contained  
40 therein with respect to written consents and required written

1 agreements of horsemen's groups to the terms and conditions of  
2 the acceptance of those wagers and any arrangements as to the  
3 exclusivity between the host racing association or fair and the  
4 ADW provider. For purposes of this subdivision, the substantive  
5 provisions of the Interstate Horseracing Act shall be taken into  
6 account without regard to whether, by its own terms, that act is  
7 applicable to advance deposit wagering on races conducted in  
8 California accepted from residents of California.

9 (2) No ADW provider shall accept wagers or wagering  
10 instructions on races conducted outside of California from a  
11 resident of California unless all of the following conditions are  
12 met:

13 (A) The ADW provider is licensed by the board.

14 (B) There is a hub agreement between the ADW provider and  
15 one or both of (i) one or more racing associations or fairs that  
16 together conduct no fewer than five weeks of live racing on the  
17 breed on which wagering is conducted during the calendar year  
18 during which the wager is placed, and (ii) the horsemen's  
19 organization responsible for negotiating purse agreements for the  
20 breed on which wagering is conducted.

21 (C) If the parties referenced in clauses (i) and (ii) of  
22 subparagraph (B) are both signatories to the hub agreement, then  
23 no party shall have the right to request a hub agreement arbitration.

24 (D) If only the party or parties referenced in clause (i) of  
25 subparagraph (B) is a signatory to the hub agreement, then the  
26 signatories to the hub agreement shall, within five days of  
27 execution of the hub agreement, provide a copy of the hub  
28 agreement to the horsemen's organization responsible for  
29 negotiating purse agreements for the breed on which wagering is  
30 conducted for each race conducted outside of California on which  
31 California residents may place advance deposit wagers. Prior to  
32 receipt of the hub agreement, the horsemen's organization shall  
33 sign a nondisclosure agreement with the ADW provider agreeing  
34 to hold confidential all terms of the hub agreement. If the  
35 horsemen's organization wants to request a hub agreement  
36 arbitration, it shall send written notice of its election to the  
37 signatories to the hub agreement within 10 days after receipt of  
38 the copy of the hub agreement, and shall provide its alternate  
39 proposal to the hub and host fees specified in the hub agreement  
40 with that written notice. If the horsemen's organization does not

1 provide that written notice within the 10-day period, then no party  
2 shall have the right to request a hub agreement arbitration. If the  
3 horsemen's organization does provide that written notice within  
4 the 10-day period, then the ADW provider shall have 10 days to  
5 elect in writing to do one of the following:

- 6 (i) Abandon the hub agreement.
- 7 (ii) Accept the alternate proposal submitted by the horsemen's  
8 organization.
- 9 (iii) Proceed with a hub agreement arbitration.

10 (E) If only the party referenced in clause (ii) of subparagraph  
11 (B) is a signatory to the hub agreement, then the signatories to the  
12 hub agreement shall, within five days of execution of the hub  
13 agreement, provide written notice of the host and hub fees  
14 applicable pursuant to the hub agreement for each race conducted  
15 outside of California on which California residents may place  
16 advance deposit wagers, which notice shall be provided to all  
17 racing associations and fairs conducting live racing of the same  
18 breed covered by the hub agreement. If any racing association or  
19 fair wants to request a hub agreement arbitration, it shall send  
20 written notice of its election to the signatories to the hub agreement  
21 within 10 days after receipt of the notice of host and hub fees. It  
22 shall also provide its alternate proposal to the hub and host fees  
23 specified in the hub agreement with the notice of its election. If  
24 more than one racing association or fair provides notice of their  
25 request for hub agreement arbitration, those racing associations or  
26 fairs, or both, shall have a period of five days to jointly agree upon  
27 which of their alternate proposals shall be the official proposal for  
28 purposes of the hub agreement arbitration. If one or more racing  
29 associations or fairs that together conduct no fewer than five weeks  
30 of live racing on the breed on which wagering is conducted during  
31 the calendar year during which the wager is placed does not provide  
32 written notice of their election to arbitrate within the 10-day period,  
33 then no party shall have the right to request a hub agreement  
34 arbitration. If a valid hub agreement arbitration request is made,  
35 then the ADW provider shall have 10 days to elect in writing to  
36 do one of the following:

- 37 (i) Abandon the hub agreement.
- 38 (ii) Accept the alternate proposal submitted by the racing  
39 associations or fairs.
- 40 (iii) Proceed with a hub agreement arbitration.

1 The results of any hub agreement arbitration elected pursuant  
2 to this subdivision shall be binding on all other associations and  
3 fairs conducting live racing on that breed.

4 (F) The acceptance thereof is in compliance with the provisions  
5 of the Interstate Horseracing Act (15 U.S.C. Sec. 3001, et seq.),  
6 regardless of the location of the ADW provider, whether in  
7 California or otherwise, including, without limitation, any and all  
8 requirements contained therein with respect to written consents  
9 and required written agreements of horsemen's groups to the terms  
10 and conditions of the acceptance of such wagers and any  
11 arrangements as to the exclusivity between the host racing  
12 association or fair and the ADW provider.

13 (c) An advance deposit wager may be made only by the ADW  
14 provider holding the account pursuant to wagering instructions  
15 issued by the owner of the funds communicated by telephone call  
16 or through other electronic media. The ADW provider shall ensure  
17 the identification of the account's owner by using methods and  
18 technologies approved by the board. Any ADW provider that  
19 accepts wagering instructions concerning races conducted in  
20 California, or accepts wagering instructions originating in  
21 California, shall provide a full accounting and verification of the  
22 source of the wagers thereby made, including the postal ZIP Code  
23 and breed of the source of the wagers, in the form of a daily  
24 download of parimutuel data to a database designated by the board.  
25 The daily download shall be delivered in a timely basis using file  
26 formats specified by the database designated by the board, and  
27 shall include any and all data necessary to calculate and distribute  
28 moneys according to the rules and regulations governing California  
29 parimutuel wagering. Any and all reasonable costs associated with  
30 the creation, provision, and transfer of this data shall be borne by  
31 the ADW provider.

32 (d) (1) (A) The board shall develop and adopt rules to license  
33 and regulate all phases of operation of advance deposit wagering  
34 for ADW providers operating in California.

35 (B) The board shall not approve an application for an original  
36 or renewal license as an ADW provider unless the entity, if  
37 requested in writing by a bona fide labor organization no later than  
38 ~~ninety~~ 90 days prior to licensing, has entered into a contractual  
39 agreement with that labor organization that provides all of the  
40 following:



1 (i) The labor organization has historically represented employees  
2 who accept or process any form of wagering at the nearest horse  
3 racing meeting located in California.

4 (ii) The agreement establishes the method by which the ADW  
5 provider will agree to recognize and bargain in good faith with a  
6 labor organization which has demonstrated majority status by  
7 submitting authorization cards signed by those employees who  
8 accept or process any form of wagering for which a California  
9 ADW license is required.

10 (iii) The agreement requires the ADW provider to maintain its  
11 neutrality concerning the choice of those employees who accept  
12 or process any form of wagering for which a California ADW  
13 license is required whether or not to authorize the labor  
14 organization to represent them with regard to wages, hours, and  
15 other ~~the~~ terms and conditions of employment.

16 (iv) The agreement applies to those classifications of employees  
17 who accept or process wagers for which a California ADW license  
18 is required whether the facility is located within or outside of  
19 California.

20 (C) (i) The agreement required by subparagraph (B) shall not  
21 be conditioned by either party upon the other party agreeing to  
22 matters outside the requirements of subparagraph (B).

23 (ii) The requirement in subparagraph (B) shall not apply to an  
24 ADW provider which has entered into a collective bargaining  
25 agreement with a bona fide labor organization that is the exclusive  
26 bargaining representative of employees who accept or process  
27 parimutuel wagers on races for which an ADW license is required  
28 whether the facility is located within or outside of California.

29 (D) Permanent state or county employees and nonprofit  
30 organizations that have historically performed certain services at  
31 county, state, or district fairs may continue to provide those  
32 services.

33 (E) Parimutuel clerks employed by racing associations or fairs  
34 or employees of ADW providers who accept or process any form  
35 of wagers who are laid off due to lack of work shall have  
36 preferential hiring rights for new positions with their employer in  
37 occupations whose duties include accepting or processing any  
38 form of wagers, or the operation, repair, service, or maintenance  
39 of equipment that accepts or processes any form of wagering at a  
40 racetrack, satellite wagering facility, or ADW provider licensed

1 by the board. The preferential hiring rights established by this  
2 subdivision shall be conditioned upon the employee meeting the  
3 minimum qualification requirements of the new job.

4 (2) The board shall develop and adopt rules and regulations  
5 requiring ADW providers to establish security access policies and  
6 safeguards, including, but not limited to, the following:

7 (A) The ADW provider shall use board-approved methods to  
8 perform location and age verification confirmation with respect  
9 to persons establishing an advance deposit wagering account.

10 (B) The ADW provider shall use personal identification numbers  
11 (PINs) or other technologies to assure that only the accountholder  
12 has access to the advance deposit wagering account.

13 (C) The ADW provider shall provide for withdrawals from the  
14 wagering account only by means of a check made payable to the  
15 accountholder and sent to the address of the accountholder or by  
16 means of an electronic transfer to an account held by the verified  
17 accountholder or the accountholder may withdraw funds from the  
18 wagering account at a facility approved by the board by presenting  
19 verifiable account identification information.

20 (D) The ADW provider shall allow the board access to its  
21 premises to visit, investigate, audit and place expert accountants  
22 and other persons it deems necessary for the purpose of ensuring  
23 that its rules and regulations concerning credit authorization,  
24 account access, and other security provisions are strictly complied  
25 with. To ensure that the amounts retained from the parimutuel  
26 handle are distributed under law, rules, or agreements, any ADW  
27 provider that accepts wagering instructions concerning races  
28 conducted in California or accepts wagering instructions originating  
29 in California shall provide an independent “agreed-upon  
30 procedures” audit for each California racing meeting, within 60  
31 days of the conclusion of the race meeting. The auditing firm to  
32 be used and the content and scope of the audit, including host fee  
33 obligations, shall be set forth in the applicable agreement. The  
34 ADW provider shall provide the board, horsemen’s organizations,  
35 and the host racing association with an annual parimutuel audit of  
36 the financial transactions of the ADW provider with respect to  
37 wagers authorized pursuant to this section, prepared in accordance  
38 with generally accepted auditing standards and the requirements  
39 of the board. Any and all reasonable costs associated with those  
40 audits shall be borne by the ADW provider.

1 (3) The board shall prohibit advance deposit wagering  
2 advertising that it determines to be deceptive to the public. The  
3 board shall also require, by regulation, that every form of  
4 advertising contain a statement that minors are not allowed to open  
5 or have access to advance deposit wagering accounts.

6 (4) *Notwithstanding any other law, the board may adopt rules*  
7 *and regulations authorizing ADW providers to create and*  
8 *administer wagering accounts at facilities located within this state*  
9 *through which persons may deposit cash funds or vouchers, issue*  
10 *wagering instructions, and withdraw cash funds or vouchers,*  
11 *subject to the approval of racing associations or satellite wagering*  
12 *facilities located within 10 miles of a facility administering those*  
13 *accounts, and the approval of the horsemen's organization*  
14 *responsible for negotiating with the racing associations or satellite*  
15 *wagering facilities.*

16 (e) In order for a licensee, betting system, or multijurisdictional  
17 wagering hub to be approved by the board as an ADW provider,  
18 it shall meet both of the following requirements:

19 (1) All wagers thereby made shall be included in the appropriate  
20 parimutuel pool under a contractual agreement with the applicable  
21 host track.

22 (2) The amounts deducted from advance deposit wagers shall  
23 be in accordance with the provisions of this chapter.

24 (f) After the payment of contractual compensation, the amounts  
25 received as market access fees from advance deposit wagers, which  
26 shall not be considered for purposes of Section 19616.51, shall be  
27 distributed as follows:

28 (1) An amount equal to 0.0011 multiplied by the amount handled  
29 on advance deposit wagers originating in California for each racing  
30 meeting shall be distributed to the Center for Equine Health to  
31 establish the Kenneth L. Maddy Fund for the benefit of the School  
32 of Veterinary Medicine at the University of California at Davis.

33 (2) An amount equal to 0.0003 multiplied by the amount handled  
34 on advance deposit wagers originating in California for each racing  
35 meeting shall be distributed to the Department of Industrial  
36 Relations to cover costs associated with audits conducted pursuant  
37 to Section 19526 and for the purposes of reimbursing the State  
38 Mediation and Conciliation Service for costs incurred pursuant to  
39 this section. However, if that amount would exceed the costs of  
40 the Department of Industrial Relations, the amount distributed to

1 the department shall be reduced, and that reduction shall be  
2 forwarded to an organization designated by the racing association  
3 or fair described in subdivision (a) for the purpose of augmenting  
4 a compulsive gambling prevention program specifically addressing  
5 that problem.

6 (3) An amount equal to 0.00165 multiplied by the amount  
7 handled on advance deposit wagers that originate in California for  
8 each racing meeting shall be distributed as follows:

9 (A) One-half of the amount shall be distributed to supplement  
10 the trainer-administered pension plans for backstretch personnel  
11 established pursuant to Section 19613. Moneys distributed pursuant  
12 to this subparagraph shall supplement, and not supplant, moneys  
13 distributed to that fund pursuant to Section 19613 or any other  
14 provision of law.

15 (B) One-half of the amount shall be distributed to the welfare  
16 fund established for the benefit of horsemen and backstretch  
17 personnel pursuant to subdivision (b) of Section 19641. Moneys  
18 distributed pursuant to this subparagraph shall supplement, and  
19 not supplant, moneys distributed to that fund pursuant to Section  
20 19641 or any other provision of law.

21 (4) With respect to wagers on each breed of racing that originate  
22 in California, an amount equal to two percent of the first two  
23 hundred fifty million dollars (\$250,000,000) of handle from all  
24 advance deposit wagers originating from within California  
25 annually, an amount equal to 1.5 percent of the next two hundred  
26 fifty million dollars (\$250,000,000) of handle from all advance  
27 deposit wagers originating from within California annually, an  
28 amount equal to one percent of the next two hundred fifty million  
29 dollars (\$250,000,000) of handle from all advance deposit wagers  
30 originating from within California annually, and an amount equal  
31 to 0.50 percent of handle from all advance deposit wagers  
32 originating from within California in excess of seven hundred fifty  
33 million dollars (\$750,000,000) annually, shall be distributed as  
34 satellite wagering commissions. Satellite *wagering* facilities that  
35 were not operational in 2001, other than one each in the cities of  
36 Inglewood and San Mateo, and two additional facilities each  
37 operated by the Alameda County Fair and the Los Angeles County  
38 Fair and their partners and other than existing facilities which are  
39 relocated, are not eligible for satellite wagering commission  
40 distributions under this section. The satellite wagering facility

1 commissions calculated in accordance with this subdivision shall  
2 be distributed to each satellite wagering facility and racing  
3 association or fair in the zone in which the wager originated in the  
4 same relative proportions that the satellite wagering facility or the  
5 racing association or fair generated satellite commissions during  
6 the previous calendar year. If there is a reduction in the satellite  
7 wagering commissions pursuant to this section, the benefits  
8 therefrom shall be distributed equitably as purses and commissions  
9 to all associations and racing fairs generating advance deposit  
10 wagers in proportion to the handle generated by those associations  
11 and racing fairs. If a satellite wagering facility is permanently  
12 closed other than for renovation or remodeling, or if a satellite  
13 wagering facility is unwilling or unable to accept all of the signals  
14 that are available to that facility, the commissions otherwise  
15 provided for in this subdivision that would be payable to that  
16 facility shall be proportionately reduced to take into account the  
17 time that satellite wagering is no longer conducted by that facility,  
18 or the payment of those commissions shall be eliminated entirely  
19 if the facility is permanently closed, and, in either case, the satellite  
20 wagering commissions not paid shall be proportionately  
21 redistributed to the other eligible satellite *wagering* facilities. For  
22 purposes of this section, the purse funds distributed pursuant to  
23 Section 19605.72 shall be considered to be satellite wagering  
24 facility commissions attributable to thoroughbred races at the  
25 locations described in that section.

26 (5) After the distribution of the amounts set forth in paragraphs  
27 (1) to (4), inclusive, the remaining market access fees from advance  
28 deposit wagers originating in California shall be as follows:

29 (A) With respect to wagers on each breed of racing, the amount  
30 remaining shall be distributed to the racing association or fair that  
31 is conducting live racing on that breed during the calendar period  
32 in the zone in which the wager originated. That amount shall be  
33 allocated to that racing association or fair as commissions, to  
34 horsemen participating in that racing meeting in the form of purses,  
35 and as incentive awards, in the same relative proportion as they  
36 were generated or earned during the prior calendar year at that  
37 racing association or fair on races conducted or imported by that  
38 racing association or fair after making all deductions required by  
39 applicable law. Notwithstanding any other provision of law, the  
40 distributions with respect to each breed of racing set forth in this

1 subparagraph may be altered upon the approval of the board, in  
2 accordance with an agreement signed by the respective  
3 associations, fairs, horsemen's organizations, and breeders  
4 organizations receiving those distributions.

5 (B) If the provisions of Section 19601.2 apply, then the amount  
6 distributed to the applicable racing associations or fairs shall first  
7 be divided between those racing associations or fairs in direct  
8 proportion to the total amount wagered in the applicable zone on  
9 the live races conducted by the respective association or fair.  
10 Notwithstanding this requirement, when the provisions of  
11 subdivision (b) of Section 19607.5 apply to the 2nd District  
12 Agricultural Association in Stockton or the California Exposition  
13 and State Fair in Sacramento, then the total amount distributed to  
14 the applicable racing associations or fairs shall first be divided  
15 equally, with 50 percent distributed to applicable fairs and 50  
16 percent distributed to applicable associations.

17 (C) Notwithstanding any provisions of this section to the  
18 contrary, with respect to wagers on out-of-state and out-of-country  
19 thoroughbred races conducted after 6 p.m., Pacific time, 50 percent  
20 of the amount remaining shall be distributed as commissions to  
21 thoroughbred associations and racing fairs, as thoroughbred and  
22 fair purses, and as incentive awards in accordance with  
23 subparagraph (A), and the remaining 50 percent, together with the  
24 total amount remaining from advance deposit wagering originating  
25 from California out-of-state and out-of-country harness and quarter  
26 horse races conducted after 6 p.m., Pacific time, shall be distributed  
27 as commissions on a pro rata basis to the applicable licensed  
28 quarter horse association and the applicable licensed harness  
29 association, based upon the amount handled in state, both on- and  
30 off-track, on each breed's own live races in the previous year by  
31 that association, or its predecessor association. One-half of the  
32 amount thereby received by each association shall be retained by  
33 that association as a commission, and the other half of the money  
34 received shall be distributed as purses to the horsemen participating  
35 in its current or next scheduled licensed racing meeting.

36 (D) Notwithstanding any provisions of this section to the  
37 contrary, with respect to wagers on out-of-state and out-of-country  
38 nonthoroughbred races conducted before 6 p.m., Pacific time, 50  
39 percent of the amount remaining shall be distributed as  
40 commissions as provided in subparagraph (C) for licensed quarter

1 horse and harness associations, and the remaining 50 percent shall  
2 be distributed as commissions to the applicable thoroughbred  
3 associations or fairs, as thoroughbred and fair purses, and as  
4 incentive awards in accordance with subparagraph (A).

5 (E) Notwithstanding any provision of this section to the contrary,  
6 the distribution of market access fees pursuant to this subparagraph  
7 may be altered upon the approval of the board, in accordance with  
8 an agreement signed by all parties whose distributions would be  
9 affected.

10 (g) A racing association, a fair, or a satellite wagering facility  
11 may enter into an agreement with an ADW provider to accept and  
12 facilitate the placement of any wager from a patron at its facility  
13 that a California resident could make through that ADW provider.  
14 Deductions from wagers made pursuant to such an agreement shall  
15 be distributed in accordance with the provisions of this chapter  
16 governing wagers placed at that facility, except that the board may  
17 authorize alternative distributions as agreed to by the ADW  
18 provider, the operator of the facility accepting the wager, the  
19 association or fair conducting that breed of racing in the zone  
20 where the wager is placed, and the respective horsemen's  
21 organization.

22 (h) Any issues concerning the interpretation or application of  
23 this section shall be resolved by the board.

24 (i) Amounts distributed under this section shall be proportionally  
25 reduced by an amount equal to 0.00295 multiplied by the amount  
26 handled on advanced deposit wagers originating in California for  
27 each racing meeting, and shall not exceed two million dollars  
28 (\$2,000,000). The method used to calculate the reduction in  
29 proportionate share shall be approved by the board. The amount  
30 deducted shall be distributed as follows:

31 (1) Fifty percent of the money to the ~~California Horse Racing~~  
32 ~~Board~~ *board* to establish and to administer jointly with the  
33 organization certified as the majority representative of California  
34 licensed jockeys pursuant to Section 19612.9, a defined  
35 contribution retirement plan for California licensed jockeys who  
36 retired from racing on or after January 1, 2009, and who, as of the  
37 date of their retirement, had ridden in a minimum of 1,250  
38 parimutuel races conducted in California.

39 (2) The remaining 50 percent of the money shall be distributed  
40 as follows:

1 (A) Seventy percent shall be distributed to supplement the  
2 trainer-administered pension plans for backstretch personnel  
3 established pursuant to Section 19613. Moneys distributed pursuant  
4 to this subparagraph shall supplement, and not supplant, moneys  
5 distributed to that fund pursuant to Section 19613 or any other  
6 provision of law.

7 (B) Thirty percent shall be distributed to the welfare fund  
8 established for the benefit of horsemen and backstretch personnel  
9 pursuant to subdivision (b) of Section 19641. Moneys distributed  
10 pursuant to this subparagraph shall supplement, and not supplant,  
11 moneys distributed to that fund pursuant to Section 19641 or any  
12 other provision of law.