

AMENDED IN ASSEMBLY APRIL 28, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2215

Introduced by Assembly Member Fuentes

February 18, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2215, as amended, 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 *existing satellite wagering facilities or minisatellite wagering 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~~ 20 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 90 days prior to licensing, has entered into a contractual agreement
39 with that labor organization that provides all of the 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 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 *that are licensed to*
8 *conduct advance deposit wagering pursuant to this section* to create
9 and administer wagering accounts at ~~facilities located within this~~
10 ~~state existing satellite wagering facilities or minisatellite wagering~~
11 *facilities* through which persons may deposit cash funds or
12 vouchers, issue wagering instructions, and withdraw cash funds
13 or vouchers, subject to the approval of racing associations or
14 satellite wagering facilities located within ~~10~~ 20 miles of a facility
15 administering those accounts, and the approval of the horsemen's
16 organization responsible for negotiating with the racing
17 associations or satellite wagering facilities.

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

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

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

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

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

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

1 this section. However, if that amount would exceed the costs of
2 the Department of Industrial Relations, the amount distributed to
3 the department shall be reduced, and that reduction shall be
4 forwarded to an organization designated by the racing association
5 or fair described in subdivision (a) for the purpose of augmenting
6 a compulsive gambling prevention program specifically addressing
7 that problem.

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

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

17 (B) One-half of the amount shall be distributed to the welfare
18 fund established for the benefit of horsemen and backstretch
19 personnel pursuant to subdivision (b) of Section 19641. Moneys
20 distributed pursuant to this subparagraph shall supplement, and
21 not supplant, moneys distributed to that fund pursuant to Section
22 19641 or any other provision of law.

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

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

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

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

1 applicable law. Notwithstanding any other provision of law, the
2 distributions with respect to each breed of racing set forth in this
3 subparagraph may be altered upon the approval of the board, in
4 accordance with an agreement signed by the respective
5 associations, fairs, horsemen's organizations, and breeders
6 organizations receiving those distributions.

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

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

38 (D) Notwithstanding any provisions of this section to the
39 contrary, with respect to wagers on out-of-state and out-of-country
40 nonthoroughbred races conducted before 6 p.m., Pacific time, 50

1 percent of the amount remaining shall be distributed as
2 commissions as provided in subparagraph (C) for licensed quarter
3 horse and harness associations, and the remaining 50 percent shall
4 be distributed as commissions to the applicable thoroughbred
5 associations or fairs, as thoroughbred and fair purses, and as
6 incentive awards in accordance with subparagraph (A).

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

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

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

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

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

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

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

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

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