

AMENDED IN ASSEMBLY MAY 28, 2010

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 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 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, *if it determines that it is appropriate to allow advance deposit wagering at minisatellite wagering facilities, to evaluate*

the feasibility of that wagering at those facilities and to undertake a study to determine the appropriate licensing fee sufficient to cover the costs to the board for regulation and oversight.

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.

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

7 (A) Excluding contractual compensation for host fee payments,
8 contractual compensation shall not exceed 6.5 percent of the
9 amount wagered.

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

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

27 (6) “Horsemen’s organization” means, with respect to a
28 particular racing meeting, the organization recognized by the board
29 as responsible for negotiating purse agreements on behalf of
30 horsemen participating in that racing meeting.

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

1 agreement is required for an ADW provider to receive contractual
2 compensation for races conducted outside of California.

3 (8) “Hub agreement arbitration” means an arbitration proceeding
4 pursuant to which the disputed provisions of the hub agreement
5 pertaining to the hub or host fees from wagers on races conducted
6 outside of California provided pursuant to paragraph (2) of
7 subdivision (b) are determined in accordance with the provisions
8 of this paragraph. If a hub agreement arbitration is requested, all
9 of the following shall apply:

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

12 (B) The contractual compensation received by the ADW
13 provider shall be the contractual compensation specified in the
14 hub agreement that is the subject of the hub agreement arbitration.

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

1 agreement arbitration, including the cost of the arbitrator, shall be
2 borne in equal shares by the parties to the hub agreement and the
3 party or parties requesting a hub agreement arbitration. The hub
4 agreement arbitration shall be administered by the Judicial
5 Arbitration and Mediation Services pursuant to its Streamlined
6 Arbitration Rules and Procedures or its successor organization.

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

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

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

20 (12) “Multijurisdictional wagering hub” means a business
21 conducted in more than one jurisdiction that facilitates parimutuel
22 wagering on races it simulcasts and other races it offers in its
23 wagering menu.

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

26 (14) “Zone” means the zone of the state, as defined in Section
27 19530.5, except as modified by the provisions of subdivision (f)
28 of Section 19601. For these purposes, the central and southern
29 zones shall together be considered one zone.

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

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

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

36 (B) A written agreement allowing those wagers exists with the
37 racing association or fair conducting the races on which the wagers
38 are made.

39 (C) The agreement referenced in subparagraph (B) shall have
40 been approved in writing by the horsemen’s organization

1 responsible for negotiating purse agreements for the breed on
2 which the wagers are made in accordance with the Interstate
3 Horseracing Act (15 U.S.C. Sec. 3001, et seq.), regardless of the
4 location of the ADW provider, whether in California or otherwise,
5 including, without limitation, any and all requirements contained
6 therein with respect to written consents and required written
7 agreements of horsemen's groups to the terms and conditions of
8 the acceptance of those wagers and any arrangements as to the
9 exclusivity between the host racing association or fair and the
10 ADW provider. For purposes of this subdivision, the substantive
11 provisions of the Interstate Horseracing Act shall be taken into
12 account without regard to whether, by its own terms, that act is
13 applicable to advance deposit wagering on races conducted in
14 California accepted from residents of California.

15 (2) No ADW provider shall accept wagers or wagering
16 instructions on races conducted outside of California from a
17 resident of California unless all of the following conditions are
18 met:

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

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

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

30 (D) If only the party or parties referenced in clause (i) of
31 subparagraph (B) is a signatory to the hub agreement, then the
32 signatories to the hub agreement shall, within five days of
33 execution of the hub agreement, provide a copy of the hub
34 agreement to the horsemen's organization responsible for
35 negotiating purse agreements for the breed on which wagering is
36 conducted for each race conducted outside of California on which
37 California residents may place advance deposit wagers. Prior to
38 receipt of the hub agreement, the horsemen's organization shall
39 sign a nondisclosure agreement with the ADW provider agreeing
40 to hold confidential all terms of the hub agreement. If the

1 horsemen's organization wants to request a hub agreement
2 arbitration, it shall send written notice of its election to the
3 signatories to the hub agreement within 10 days after receipt of
4 the copy of the hub agreement, and shall provide its alternate
5 proposal to the hub and host fees specified in the hub agreement
6 with that written notice. If the horsemen's organization does not
7 provide that written notice within the 10-day period, then no party
8 shall have the right to request a hub agreement arbitration. If the
9 horsemen's organization does provide that written notice within
10 the 10-day period, then the ADW provider shall have 10 days to
11 elect in writing to do one of the following:

- 12 (i) Abandon the hub agreement.
- 13 (ii) Accept the alternate proposal submitted by the horsemen's
14 organization.
- 15 (iii) Proceed with a hub agreement arbitration.

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

1 then the ADW provider shall have 10 days to elect in writing to
2 do one of the following:

3 (i) Abandon the hub agreement.

4 (ii) Accept the alternate proposal submitted by the racing
5 associations or fairs.

6 (iii) Proceed with a hub agreement arbitration.

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

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

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

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

1 (B) The board shall not approve an application for an original
2 or renewal license as an ADW provider unless the entity, if
3 requested in writing by a bona fide labor organization no later than
4 90 days prior to licensing, has entered into a contractual agreement
5 with that labor organization that provides all of the following:

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

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

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

21 (iv) The agreement applies to those classifications of employees
22 who accept or process wagers for which a California ADW license
23 is required whether the facility is located within or outside of
24 California.

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

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

34 (D) Permanent state or county employees and nonprofit
35 organizations that have historically performed certain services at
36 county, state, or district fairs may continue to provide those
37 services.

38 (E) Parimutuel clerks employed by racing associations or fairs
39 or employees of ADW providers who accept or process any form
40 of wagers who are laid off due to lack of work shall have

1 preferential hiring rights for new positions with their employer in
2 occupations whose duties include accepting or processing any
3 form of wagers, or the operation, repair, service, or maintenance
4 of equipment that accepts or processes any form of wagering at a
5 racetrack, satellite wagering facility, or ADW provider licensed
6 by the board. The preferential hiring rights established by this
7 subdivision shall be conditioned upon the employee meeting the
8 minimum qualification requirements of the new job.

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

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

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

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

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

1 the financial transactions of the ADW provider with respect to
2 wagers authorized pursuant to this section, prepared in accordance
3 with generally accepted auditing standards and the requirements
4 of the board. Any and all reasonable costs associated with those
5 audits shall be borne by the ADW provider.

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

11 ~~(4) Notwithstanding any other law, the board may adopt rules
12 and regulations authorizing ADW providers that are licensed to
13 conduct advance deposit wagering pursuant to this section to create
14 and administer wagering accounts at existing satellite wagering
15 facilities or minisatellite wagering facilities through which persons
16 may deposit cash funds or vouchers, issue wagering instructions,
17 and withdraw cash funds or vouchers, subject to the approval of
18 racing associations or satellite wagering facilities located within
19 20 miles of a facility administering those accounts, and the
20 approval of the horsemen's organization responsible for negotiating
21 with the racing associations or satellite wagering facilities.~~

22 *(4) If the board determines that it is appropriate to allow ADW
23 at minisatellite wagering facilities, the board may evaluate the
24 feasibility of allowing ADW at minisatellite wagering facilities
25 and may undertake a study to determine the appropriate licensing
26 fee sufficient to cover the costs to the board for regulation and
27 oversight of ADW activities at minisatellite wagering facilities.*

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

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

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

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

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

6 (2) An amount equal to 0.0003 multiplied by the amount handled
7 on advance deposit wagers originating in California for each racing
8 meeting shall be distributed to the Department of Industrial
9 Relations to cover costs associated with audits conducted pursuant
10 to Section 19526 and for the purposes of reimbursing the State
11 Mediation and Conciliation Service for costs incurred pursuant to
12 this section. However, if that amount would exceed the costs of
13 the Department of Industrial Relations, the amount distributed to
14 the department shall be reduced, and that reduction shall be
15 forwarded to an organization designated by the racing association
16 or fair described in subdivision (a) for the purpose of augmenting
17 a compulsive gambling prevention program specifically addressing
18 that problem.

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

22 (A) One-half of the amount shall be distributed to supplement
23 the trainer-administered pension plans for backstretch personnel
24 established pursuant to Section 19613. Moneys distributed pursuant
25 to this subparagraph shall supplement, and not supplant, moneys
26 distributed to that fund pursuant to Section 19613 or any other
27 provision of law.

28 (B) One-half of the amount shall be distributed to the welfare
29 fund established for the benefit of horsemen and backstretch
30 personnel pursuant to subdivision (b) of Section 19641. Moneys
31 distributed pursuant to this subparagraph shall supplement, and
32 not supplant, moneys distributed to that fund pursuant to Section
33 19641 or any other provision of law.

34 (4) With respect to wagers on each breed of racing that originate
35 in California, an amount equal to two percent of the first two
36 hundred fifty million dollars (\$250,000,000) of handle from all
37 advance deposit wagers originating from within California
38 annually, an amount equal to 1.5 percent of the next two hundred
39 fifty million dollars (\$250,000,000) of handle from all advance
40 deposit wagers originating from within California annually, an

1 amount equal to one percent of the next two hundred fifty million
2 dollars (\$250,000,000) of handle from all advance deposit wagers
3 originating from within California annually, and an amount equal
4 to 0.50 percent of handle from all advance deposit wagers
5 originating from within California in excess of seven hundred fifty
6 million dollars (\$750,000,000) annually, shall be distributed as
7 satellite wagering commissions. Satellite wagering facilities that
8 were not operational in 2001, other than one each in the cities of
9 Inglewood and San Mateo, and two additional facilities each
10 operated by the Alameda County Fair and the Los Angeles County
11 Fair and their partners and other than existing facilities which are
12 relocated, are not eligible for satellite wagering commission
13 distributions under this section. The satellite wagering facility
14 commissions calculated in accordance with this subdivision shall
15 be distributed to each satellite wagering facility and racing
16 association or fair in the zone in which the wager originated in the
17 same relative proportions that the satellite wagering facility or the
18 racing association or fair generated satellite commissions during
19 the previous calendar year. If there is a reduction in the satellite
20 wagering commissions pursuant to this section, the benefits
21 therefrom shall be distributed equitably as purses and commissions
22 to all associations and racing fairs generating advance deposit
23 wagers in proportion to the handle generated by those associations
24 and racing fairs. If a satellite wagering facility is permanently
25 closed other than for renovation or remodeling, or if a satellite
26 wagering facility is unwilling or unable to accept all of the signals
27 that are available to that facility, the commissions otherwise
28 provided for in this subdivision that would be payable to that
29 facility shall be proportionately reduced to take into account the
30 time that satellite wagering is no longer conducted by that facility,
31 or the payment of those commissions shall be eliminated entirely
32 if the facility is permanently closed, and, in either case, the satellite
33 wagering commissions not paid shall be proportionately
34 redistributed to the other eligible satellite wagering facilities. For
35 purposes of this section, the purse funds distributed pursuant to
36 Section 19605.72 shall be considered to be satellite wagering
37 facility commissions attributable to thoroughbred races at the
38 locations described in that section.

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

4 (A) With respect to wagers on each breed of racing, the amount
5 remaining shall be distributed to the racing association or fair that
6 is conducting live racing on that breed during the calendar period
7 in the zone in which the wager originated. That amount shall be
8 allocated to that racing association or fair as commissions, to
9 horsemen participating in that racing meeting in the form of purses,
10 and as incentive awards, in the same relative proportion as they
11 were generated or earned during the prior calendar year at that
12 racing association or fair on races conducted or imported by that
13 racing association or fair after making all deductions required by
14 applicable law. Notwithstanding any other provision of law, the
15 distributions with respect to each breed of racing set forth in this
16 subparagraph may be altered upon the approval of the board, in
17 accordance with an agreement signed by the respective
18 associations, fairs, horsemen's organizations, and breeders
19 organizations receiving those distributions.

20 (B) If the provisions of Section 19601.2 apply, then the amount
21 distributed to the applicable racing associations or fairs shall first
22 be divided between those racing associations or fairs in direct
23 proportion to the total amount wagered in the applicable zone on
24 the live races conducted by the respective association or fair.
25 Notwithstanding this requirement, when the provisions of
26 subdivision (b) of Section 19607.5 apply to the 2nd District
27 Agricultural Association in Stockton or the California Exposition
28 and State Fair in Sacramento, then the total amount distributed to
29 the applicable racing associations or fairs shall first be divided
30 equally, with 50 percent distributed to applicable fairs and 50
31 percent distributed to applicable associations.

32 (C) Notwithstanding any provisions of this section to the
33 contrary, with respect to wagers on out-of-state and out-of-country
34 thoroughbred races conducted after 6 p.m., Pacific time, 50 percent
35 of the amount remaining shall be distributed as commissions to
36 thoroughbred associations and racing fairs, as thoroughbred and
37 fair purses, and as incentive awards in accordance with
38 subparagraph (A), and the remaining 50 percent, together with the
39 total amount remaining from advance deposit wagering originating
40 from California out-of-state and out-of-country harness and quarter

1 horse races conducted after 6 p.m., Pacific time, shall be distributed
2 as commissions on a pro rata basis to the applicable licensed
3 quarter horse association and the applicable licensed harness
4 association, based upon the amount handled in state, both on- and
5 off-track, on each breed's own live races in the previous year by
6 that association, or its predecessor association. One-half of the
7 amount thereby received by each association shall be retained by
8 that association as a commission, and the other half of the money
9 received shall be distributed as purses to the horsemen participating
10 in its current or next scheduled licensed racing meeting.

11 (D) Notwithstanding any provisions of this section to the
12 contrary, with respect to wagers on out-of-state and out-of-country
13 nonthoroughbred races conducted before 6 p.m., Pacific time, 50
14 percent of the amount remaining shall be distributed as
15 commissions as provided in subparagraph (C) for licensed quarter
16 horse and harness associations, and the remaining 50 percent shall
17 be distributed as commissions to the applicable thoroughbred
18 associations or fairs, as thoroughbred and fair purses, and as
19 incentive awards in accordance with subparagraph (A).

20 (E) Notwithstanding any provision of this section to the contrary,
21 the distribution of market access fees pursuant to this subparagraph
22 may be altered upon the approval of the board, in accordance with
23 an agreement signed by all parties whose distributions would be
24 affected.

25 (g) A racing association, a fair, or a satellite wagering facility
26 may enter into an agreement with an ADW provider to accept and
27 facilitate the placement of any wager from a patron at its facility
28 that a California resident could make through that ADW provider.
29 Deductions from wagers made pursuant to such an agreement shall
30 be distributed in accordance with the provisions of this chapter
31 governing wagers placed at that facility, except that the board may
32 authorize alternative distributions as agreed to by the ADW
33 provider, the operator of the facility accepting the wager, the
34 association or fair conducting that breed of racing in the zone
35 where the wager is placed, and the respective horsemen's
36 organization.

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

39 (i) Amounts distributed under this section shall be proportionally
40 reduced by an amount equal to 0.00295 multiplied by the amount

1 handled on advanced deposit wagers originating in California for
2 each racing meeting, and shall not exceed two million dollars
3 (\$2,000,000). The method used to calculate the reduction in
4 proportionate share shall be approved by the board. The amount
5 deducted shall be distributed as follows:

6 (1) Fifty percent of the money to the board to establish and to
7 administer jointly with the organization certified as the majority
8 representative of California licensed jockeys pursuant to Section
9 19612.9, a defined contribution retirement plan for California
10 licensed jockeys who retired from racing on or after January 1,
11 2009, and who, as of the date of their retirement, had ridden in a
12 minimum of 1,250 parimutuel races conducted in California.

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

15 (A) Seventy percent shall be distributed to supplement the
16 trainer-administered pension plans for backstretch personnel
17 established pursuant to Section 19613. Moneys distributed pursuant
18 to this subparagraph shall supplement, and not supplant, moneys
19 distributed to that fund pursuant to Section 19613 or any other
20 provision of law.

21 (B) Thirty percent shall be distributed to the welfare fund
22 established for the benefit of horsemen and backstretch personnel
23 pursuant to subdivision (b) of Section 19641. Moneys distributed
24 pursuant to this subparagraph shall supplement, and not supplant,
25 moneys distributed to that fund pursuant to Section 19641 or any
26 other provision of law.