

AMENDED IN SENATE AUGUST 20, 2010

AMENDED IN SENATE AUGUST 17, 2010

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN ASSEMBLY APRIL 15, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2414

Introduced by Assembly Member John A. Pérez

February 19, 2010

An act to add Sections 19601.02 and 19605.74 to, *and to add Article 9.1 (commencing with Section 19604.5) to Chapter 4 of Division 8 of, the Business and Professions Code, relating to horse racing, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2414, as amended, John A. Pérez. Horse racing: thoroughbred racing: Breeders' Cup: wagering deduction: ~~promotion.~~ *promotion: exchange wagering.*

Existing

(1) *Existing* law authorizes a thoroughbred association or fair, subject to approval by the California Horse Racing Board, to deduct from the parimutuel pool for any type of wager, a specified percentage for the meeting of the thoroughbred association or fair that accepts the wager.

~~This bill would authorize a thoroughbred association hosting Breeders' Cup races, upon approval of the board, and with the written agreement of the thoroughbred association and the horsemen's organization, to deduct from the total amount handled in the parimutuel pool for any type of wager made during the days on which Breeders' Cup races are~~

held an amount of not less than 10% nor more than 25%. The bill would require the amount deducted to be distributed as prescribed in the Horse Racing Law.

~~Existing law permits racing associations, fairs, and the organization responsible for contracting with racing associations and fairs with respect to the conduct of racing meetings, to form a private, statewide marketing organization to market and promote thoroughbred and fair horse racing, and to obtain, provide, or defray the cost of workers' compensation coverage for stable employees and jockeys of thoroughbred trainers.~~

~~This bill would, for every year that the organization operating the Breeders' Cup Championship series chooses to conduct the Breeders' Cup Championship series of races in California, require the statewide marketing organization to enter into an agreement, in consultation and cooperation with the California Tourism Commission, with the organization that operates the Breeders' Cup Championship series to sponsor and promote the Breeders' Cup Championship series of races. The bill would require the agreement to provide for assistance with a minimum value of \$2,000,000 annually in support of the organization operating the Breeders' Cup Championship series and to promote the Breeders' Cup Championship series. By~~

This bill would require every thoroughbred association or fair that conducts a live race meeting to deduct an additional 2% of the total amount handled on exotic wagers requiring the selection of 2 wagering interests, and 3% on exotic wagers requiring the selection of 3 or more wagering interests. The bill would require that these funds be distributed into the purse account of the meet conducting racing in the zones in which the wager was placed, to be used to augment overnight purses.

This bill would require any thoroughbred racing association or fair that authorizes betting systems located outside of this state to accept wagers on a race to retain from the total amount received from the out-of-state betting system, less certain specified deductions made pursuant to existing law, the incremental amount received as a result of the 2% or 3% takeout on exotic wagers required by this bill, for distribution as overnight purses. This bill would require that the method utilized to determine the incremental amount received as a result of the takeout increase be established by agreement between the various affected thoroughbred racing associations and fairs, and horsemen's organizations. If these groups are unable to agree as to the method of

determining the incremental amount received, this bill would require the board to determine the allocation method after holding a hearing.

The bill would provide that these new provisions would become operative on December 24, 2010.

For a thoroughbred association hosting the Breeders' Cup Championship series, this bill would require the amounts collected pursuant to the above provisions requiring that 2% or 3% be deducted from the amount handled on exotic wagers be set aside for the purpose of promoting and sponsoring the Breeders' Cup. The bill would require the thoroughbred racing association hosting the Breeders' Cup to enter into an agreement with the organization that operates the Breeders' Cup regarding the expenditure of the funds, as provided, and would require a written report be made to the board regarding how the funds were utilized.

(2) Existing law provides that the California Horse Racing Board shall have all powers necessary to carry out the purposes of the Horse Racing Law, such as adopting rules and regulations to protect the public, allocating dates for, and controlling horse racing and parimutuel wagering, and enforcing all rules and regulations.

This bill would authorize exchange wagering, defined by the bill as a form of parimutuel wagering in which 2 or more persons place identically opposing wagers in a given market, provided that the entity offering exchange wagering is licensed by the board and has entered into an exchange wagering agreement between the licensee, the applicable racing association or fair conducting live racing, and the horsemen's organization responsible for negotiated purse agreements for the breed on which exchange wagers are accepted, as provided.

The bill would invest the board with the full power to prescribe rules, regulations, and conditions under which exchange wagering may be conducted in California, except that the bill would require the board to develop rules that prohibit certain persons associated with an entrant in a particular race from placing an exchange wager on a race involving that entrant, that prohibit the placing of exchange wagers on previously run races, that require the exchange wagering licensee to provide information to the person placing the wager, that prohibit the use of automatic or quick picks to place an exchange wager, and that prohibit the displaying of the results of a wager using casino themes, as provided.

The bill would allow the board to recover any costs associated with the licensing and regulation of exchange wagering by imposing an assessment on the licensee. The bill would require that these funds be

deposited in the Horse Racing Fund, to be available upon appropriation by the Legislature for the sole purpose of regulating exchange wagering.

(3) Existing law provides that unclaimed refunds from horse racing are to be distributed to an organization that is responsible for negotiating business agreements on behalf of horsemen, to be held in trust for the purpose of negotiating an agreement with a jockeys organization to provide health and welfare benefits to California licensed jockeys. Existing law requires that the funds held in trust shall not exceed \$450,000.

Pursuant to the above provision, this bill would require each exchange wagering licensee to annually distribute the greater of \$100,000, or an amount equal to 0.001 multiplied by the total amount of exchange revenue collected by the licensee in that year to be used for the purposes specified above.

By imposing new requirements under the Horse Racing Law, the violation of which would be a crime, this bill would create new crimes and would thereby impose a state-mandated local program.

This bill would also authorize the board to require that a percentage of the takeout that is attributable to the Breeders’ Cup races that otherwise would not have been generated absent the Breeders’ Cup races occurring in this state be made available to support the statewide marketing organization and the state horse racing industry.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The Breeders’ Cup Championship series of races is the
- 4 preeminent series of horse races recognized throughout the world.

1 (2) From the inaugural running in Hollywood Park 26 years
2 ago, the Breeders' Cup has a rich and vibrant tradition in
3 California, having been run here eight times.

4 (3) The Breeders' Cup Championship races have, for 2008 and
5 2009, been held in California and have been an outstanding success,
6 bringing significant revenue and tourism to the State of California.

7 (4) In 2009, the Breeders' Cup was held at Santa Anita racetrack
8 located in Los Angeles County, where it was attended by over
9 96,000 fans and telecast to over 130 countries.

10 (5) The Los Angeles Economic Development Commission,
11 having studied the impact of the Breeders' Cup Championship
12 series being held in California the last two years, has concluded
13 that the events have brought an additional sixty million dollars
14 (\$60,000,000) in economic impact to the State of California and
15 Los Angeles region each year, through added tourism and other
16 economic impact, and created over 500 direct and indirect jobs.

17 (6) The Legislature and the Governor of California recognize
18 the importance of the horse racing industry to this state, including
19 the 50,000 jobs associated with the industry, and have taken
20 significant steps to support the industry, evidenced most recently
21 by the forty million dollars (\$40,000,000) in license fee relief
22 provided in 2009.

23 (7) *An additional concern is that horse owners are not bringing*
24 *their horses to California because of prevailing lower purses and*
25 *horses are leaving the state in order to compete for higher purses*
26 *offered in other states.*

27 (8) *California has one of the lowest takeouts on conventional*
28 *win, place, and show wagering, and the takeout on exotic wagering*
29 *proposed in this bill will be lower than that prevailing in some of*
30 *the most prominent racing jurisdictions.*

31 (b) It is therefore the ~~desire~~ *intent* of the Legislature to encourage
32 the organization operating the Breeders' Cup Championship series
33 to make California the permanent home of the Breeders' Cup
34 Championship series, and it is the intent of the Legislature, through
35 the enactment of this act, to provide substantial support towards
36 that end.

37 (c) *It is also the intent of the Legislature to make it more*
38 *advantageous for horses to compete in California racing by*
39 *increasing the amount of funds available for purses. The increased*
40 *purses will result in a higher caliber of racing with larger and*

1 *more competitive fields, which, in turn, will improve the*
2 *attractiveness of California's racing product and generate*
3 *additional funds for reinvestment in the industry.*

4 ~~SEC. 2. Section 19601.02 is added to the Business and~~
5 ~~Professions Code, to read:~~

6 ~~19601.02. Notwithstanding any other law, a thoroughbred~~
7 ~~association hosting the series of thoroughbred championship races~~
8 ~~known as the "Breeders' Cup" races may, upon approval of the~~
9 ~~board, and with the written agreement of the thoroughbred~~
10 ~~association and the horsemen's organization for the meeting of~~
11 ~~the thoroughbred association accepting the wager, deduct from~~
12 ~~the total amount handled in the parimutuel pool for any type of~~
13 ~~wager made during the days on which Breeders' Cup races are~~
14 ~~held an amount of not less than 10 percent nor more than 25~~
15 ~~percent. The amount deducted shall be distributed as prescribed~~
16 ~~in this chapter, including the provisions of Section 19605.74.~~

17 ~~SEC. 3. Section 19605.74 is added to the Business and~~
18 ~~Professions Code, to read:~~

19 ~~19605.74. (a) For every year that the organization operating~~
20 ~~the Breeders' Cup Championship series chooses to conduct the~~
21 ~~Breeders' Cup Championship series of races in California, the~~
22 ~~private, statewide marketing organization formed pursuant to~~
23 ~~subdivision (a) of Section 19605.73 shall enter into an agreement,~~
24 ~~in consultation and cooperation with the California Tourism~~
25 ~~Commission, with the organization that operates the Breeders'~~
26 ~~Cup Championship series to sponsor and promote the Breeders'~~
27 ~~Cup Championship series of races. The agreement shall provide~~
28 ~~for assistance with a minimum value of two million dollars~~
29 ~~(\$2,000,000) annually in support of the organization operating the~~
30 ~~Breeders' Cup Championship series and to promote the Breeders'~~
31 ~~Cup Championship series.~~

32 ~~(b) The board may require that a percentage of the takeout that~~
33 ~~is attributable to the Breeders' Cup races that otherwise would not~~
34 ~~have been generated absent the Breeders' Cup races occurring in~~
35 ~~this state be made available to support the statewide marketing~~
36 ~~organization formed pursuant to subdivision (a) of Section~~
37 ~~19605.73 and the state horse racing industry.~~

38 ~~SEC. 2. Section 19601.02 is added to the Business and~~
39 ~~Professions Code, to read:~~

1 19601.02. (a) Notwithstanding Section 19610, every
2 thoroughbred association or fair that conducts a live race meeting
3 shall deduct an additional 2 percent of the total amount handled
4 on exotic wagers requiring the selection of two wagering interests,
5 and 3 percent of the total amount handled on exotic wagers
6 requiring the selection of three or more wagering interests.

7 (b) The funds collected pursuant to subdivision (a) from wagers
8 placed within the inclosure of a thoroughbred association or fair
9 conducting a race meeting, at satellite locations within this state,
10 and from account wagers originating within this state, shall be
11 distributed to the purse account of the meet conducting racing in
12 the zone in which the wager was placed, and distributed in
13 accordance with subdivision (d).

14 (c) Any thoroughbred racing association or fair, when it
15 authorizes betting systems located outside this state to accept
16 wagers on a race, shall retain from the total amount received by
17 the association or fair from the out-of-state betting system, the
18 incremental amount received as a result of the takeout specified
19 in subdivision (a) for distribution as overnight purses in
20 accordance with subdivision (d) without regard to the provisions
21 of paragraph (1) of subdivision (b) of Section 19602. The method
22 utilized to determine the incremental amount received as a result
23 of the takeout increase specified in subdivision (a) shall be
24 established by agreement between the various affected
25 thoroughbred racing associations and fairs and the applicable
26 horsemen's organization. Should the thoroughbred racing
27 association or fair and the applicable horsemen's organization
28 be unable to reach an agreement as to the method of making such
29 determination, the board shall determine the appropriate allocation
30 method after a hearing on the matter.

31 (d) The amounts collected pursuant to subdivisions (b) and (c)
32 shall be utilized solely to augment and not supplant overnight
33 purses. Within ninety 90 days after the conclusion of a given meet,
34 the thoroughbred association or fair receiving funds pursuant to
35 subdivisions (b) and (c) shall report to the board the manner in
36 which the funds were used to augment and not supplant overnight
37 purses at that meet.

38 (e) The Board shall have the authority to postpone or revoke
39 the implementation of the takeout increase specified in subdivision
40 (a) if the Board determines that the incremental amount described

1 in subdivision (c) that results from the negotiations with the
2 out-of-state betting systems is insufficient to achieve the objective
3 described in this section.

4 (f) This section shall become operative on December 24, 2010.

5 SEC. 3. Sections 4 and 5 of this act shall be known and may
6 be cited as the Exchange Wagering Act.

7 SEC. 4. The Legislature finds and declares all of the following:

8 (a) The horse racing industry is economically important to
9 California, and the general welfare of the people of California
10 will be promoted by the advancement of horse racing and related
11 projects and facilities in California.

12 (b) It is the intent of the Legislature, by authorizing exchange
13 wagering in California, to promote the economic future of the
14 horse racing industry in California, and to foster the potential for
15 increased commerce, employment, and recreational opportunities
16 in California.

17 (c) The Legislature has determined that the California Horse
18 Racing Board is best suited to oversee, license, and regulate
19 exchange wagering in California.

20 SEC. 5. Article 9.1 (commencing with Section 19604.5) is added
21 to Chapter 4 of Division 8 of the Business and Professions Code,
22 to read:

23
24 Article 9.1. Exchange Wagering

25
26 19604.5. (a) As used in this section, the following definitions
27 apply:

28 (1) "Back" means to wager on a selected outcome occurring
29 in a given market.

30 (2) "Board" means the California Horse Racing Board.

31 (3) "Corrective wager" means an exchange wager placed by
32 the exchange wagering licensee in a given market, under
33 circumstances approved by the board, in order to address the
34 impact on that market of the cancellation or voiding of a given
35 matched wager or a given part of a matched wager.

36 (4) "Exchange" means a system operated by an exchange
37 wagering licensee in which the exchange wagering licensee
38 maintains one or more markets in which persons may back or lay
39 a selected outcome.

1 (5) “Exchange revenues” means all charges, fees, income,
2 payments, revenues, and deductions of any kind assessed or
3 collected by, or paid or delivered to, an exchange wagering
4 licensee in connection with the submission of any exchange wagers
5 to the exchange wagering licensee by residents of California and
6 residents of jurisdictions outside of California on the results of
7 horse races conducted in California, and by residents of California
8 on the results of horse races conducted outside of California.

9 (6) “Exchange wagers” means wagers submitted to an exchange
10 wagering licensee to be posted in a market on an exchange.

11 (7) “Exchange wagering” means a form of parimutuel wagering
12 in which two or more persons place identically opposing wagers
13 in a given market.

14 (8) “Exchange wagering account” means the account
15 established with an exchange wagering licensee by a person
16 participating in exchange wagering.

17 (9) “Exchange wagering agreement” means a written agreement
18 by and among the applicable exchange wagering licensee, the
19 applicable racing association or racing fair conducting live racing
20 in this state, and the horsemen’s organization responsible for
21 negotiating purse agreements for the breed on which exchange
22 wagers are accepted, provided that the terms and conditions for
23 the permitted use of signal by the exchange wagering licensee,
24 and the compensation to the applicable racing association or
25 racing fair and the horsemen’s organization, include provisions
26 for, but are not limited to all of the following:

27 (A) Calculation of any and all amounts earned and payable to
28 the applicable racing association or racing fair and horsemen’s
29 organization.

30 (B) Audit rights and conditions.

31 (C) Duration terms.

32 (D) Contractual remedies.

33 (10) “Exchange wagering licensee” means a person located
34 within or outside of California that is authorized to offer exchange
35 wagering to residents of California pursuant to this section.

36 (11) “Identically opposing wagers” means wagers in which
37 one or more persons offer to lay a selected outcome at the same
38 price at which one or more persons offer to back that same
39 outcome, with the amount subject to the lay being proportionately
40 commensurate to the amount subject to the back.

1 (12) “Lay” means to wager on a selected outcome not occurring
2 in a given market.

3 (13) “Market” means, in relation to a given horse race or a
4 given set of horse races, a particular outcome that is subject to
5 exchange wagering as determined by an exchange wagering
6 licensee.

7 (14) “Matched wager” means the wager that is formed when
8 two or more persons are confirmed by the exchange operator as
9 having placed identically opposing wagers in a given market on
10 the exchange.

11 (15) “Net winnings” means the aggregate amounts payable to
12 a person as a result of that person’s winning matched wagers in
13 a pool less the aggregate amount paid by that person as a result
14 of that person’s losing matched wagers in that pool.

15 (16) “Parimutuel” means any system whereby wagers with
16 respect to the outcome of a horse race are placed with, or in, a
17 wagering pool conducted by an authorized person, and in which
18 the participants are wagering with each other and not against the
19 person conducting the wagering pool.

20 (17) “Person” means any individual, partnership, corporation,
21 limited liability company, or other association or organization.

22 (18) “Pool” means the total of all matched wagers in a given
23 market.

24 (19) “Price” means the odds for a given exchange wager.

25 (20) “Unmatched wager” means a wager or portion of a wager
26 placed in a given market within an exchange that does not become
27 part of a matched wager because there are not one or more
28 available exchange wagers in that market with which to form one
29 or more identically opposing wagers.

30 (21) “Zone” has the same meaning as defined in Section
31 19530.5, as modified by the provisions of subdivision (f) of Section
32 19601, except that for the purposes of this act the combined central
33 and southern zones shall be considered one “central/southern”
34 zone.

35 (b) Notwithstanding any other law, rule, or regulation, exchange
36 wagering by residents of California and residents of jurisdictions
37 outside of California on the results of horse races conducted in
38 California, and by residents of California on the results of horse
39 races conducted outside of California, shall be lawful provided
40 that all of the following apply:

1 (1) *Exchange wagering shall only be conducted by an exchange*
2 *wagering licensee pursuant to a valid exchange wagering license*
3 *issued by the board.*

4 (2) *No exchange wagering licensee shall accept exchange*
5 *wagers on races conducted in California from a resident of*
6 *California or a resident of a jurisdiction outside California, or*
7 *conducted outside California from a resident of California, unless*
8 *an exchange wagering agreement exists allowing these wagers.*

9 (3) *Exchange wagering shall be conducted pursuant to and in*
10 *compliance with the provisions of the Interstate Horse Racing Act*
11 *of 1978 (15 U.S.C. Secs. 3001 to 3007, incl.), as amended, this*
12 *section, and rules and regulations promulgated by the board*
13 *pursuant to this section.*

14 (4) *An exchange wagering licensee may only offer exchange*
15 *wagering on thoroughbred horse races, whether these*
16 *thoroughbred races are conducted within or outside of this state,*
17 *to persons whose primary residence address is in the northern*
18 *zone of this state if it has an exchange wagering agreement with*
19 *(A) the racing association or racing fair located in the northern*
20 *zone authorized by the board to conduct a live thoroughbred racing*
21 *meeting in accordance with the provisions of Article 4*
22 *(commencing with Section 19480) at that time, or during the*
23 *calendar period, when the exchange wagering licensee is offering*
24 *exchange wagering to persons whose primary residence is in the*
25 *northern zone of this state, and (B) the horsemen's organization*
26 *responsible for negotiating purse agreements for a live*
27 *thoroughbred racing meeting.*

28 (5) *An exchange wagering licensee may only offer exchange*
29 *wagering on thoroughbred horse races, whether these*
30 *thoroughbred races are conducted within or outside of this state,*
31 *to persons whose primary residence address is in the*
32 *central/southern zone of this state if it has an exchange wagering*
33 *agreement with (A) the racing association or racing fair located*
34 *in the central/southern zone authorized by the board to conduct a*
35 *live thoroughbred racing meeting in accordance with the provisions*
36 *of Article 4 (commencing with Section 19480) at that time, or*
37 *during the calendar period, when the exchange wagering licensee*
38 *is offering exchange wagering to persons whose primary residence*
39 *is in the central/southern zone of this state, and (B) the horsemen's*

1 organization responsible for negotiating purse agreements for a
2 live thoroughbred racing meeting.

3 (6) An exchange wagering licensee may only offer exchange
4 wagering on quarter horse races, whether these quarter horse
5 races are conducted within or outside of this state, to persons
6 whose primary residence address is in this state if it has an
7 exchange wagering agreement with (A) the racing association or
8 racing fair located in the state authorized by the board to conduct
9 a live quarter horse racing meeting in accordance with the
10 provisions of Article 4 (commencing with Section 19480) at that
11 time, or during the calendar period, when the exchange wagering
12 licensee is offering exchange wagering to persons whose primary
13 residence is this state, and (B) the horsemen's organization
14 responsible for negotiating purse agreements for such live quarter
15 horse racing meeting.

16 (7) An exchange wagering licensee may only offer exchange
17 wagering on standardbred horse races, whether these standardbred
18 horse races are conducted within or outside of this state, to persons
19 whose primary residence address is in this state if it has an
20 exchange wagering agreement with (A) the racing association or
21 racing fair located in the state authorized by the board to conduct
22 a live standardbred racing meeting in accordance with the
23 provisions of Article 4 (commencing with Section 19480) at that
24 time, or during the calendar period, when the exchange wagering
25 licensee is offering exchange wagering to persons whose primary
26 residence is this state, and (B) the horsemen's organization
27 responsible for negotiating purse agreements for such live
28 standardbred racing meeting.

29 (8) Exchange wagers are submitted to, and accepted by, an
30 exchange wagering licensee in person, by direct telephone call,
31 or by communication through other electronic media.

32 (c) A person shall not be permitted to open an exchange
33 wagering account, or place an exchange wager, except in
34 accordance with federal law, this section, and rules and regulations
35 promulgated by the board. Only persons with valid exchange
36 wagering accounts may place wagers through an exchange. To
37 establish an exchange wagering account, a person shall be at least
38 18 years of age and a resident of California or of another
39 jurisdiction within which the placement of exchange wagers would

1 *not be unlawful under United States federal law or the law of that*
2 *jurisdiction.*

3 *(d) The board shall approve, as part of the exchange wagering*
4 *licensee's application for an exchange wagering license, security*
5 *policies and safeguards to ensure player protection and integrity,*
6 *including, but not limited to, provisions governing the acceptance*
7 *of electronic applications for persons establishing exchange*
8 *wagering accounts, location and age verification confirmation for*
9 *persons establishing exchange wagering accounts, the use of*
10 *identifying factors to ensure security of individual accounts, and*
11 *the requirements for management of funds in exchange wagering*
12 *accounts. An exchange wagering licensee may not accept a wager,*
13 *or series of wagers, if the results of the wager or wagers would*
14 *create a liability for the exchange wagering account holder that*
15 *is in excess of the funds on deposit in the exchange wagering*
16 *account of that holder.*

17 *(e) Notwithstanding any other law, rule, or regulation:*

18 *(1) The board shall have full power to prescribe rules,*
19 *regulations, and conditions under which exchange wagering may*
20 *be conducted in California consistent with this section, including*
21 *the manner in which exchange wagers may be accepted and the*
22 *requirements for any person to participate in exchange wagering.*

23 *(2) Notwithstanding paragraph (1), the board shall adopt the*
24 *following rules:*

25 *(A) An owner, authorized agent, trainer, jockey, jockey's agent,*
26 *driver, or stable employee shall not place an exchange wager to*
27 *lay any entrant in a horse race that is owned in whole or part by*
28 *that owner or the owner represented by that authorized agent,*
29 *trained by that trainer or stable employee, ridden by that jockey*
30 *or the jockey represented by that jockey's agent, or driven by that*
31 *driver.*

32 *(B) No exchange wagers shall be placed on a market after the*
33 *conclusion of a live race. Exchange wagering on previously run*
34 *races is prohibited.*

35 *(C) The exchange wagering licensee shall provide a person*
36 *with information on the race, including the track where the race*
37 *will take place and the names of the participating horses before*
38 *the person may place an exchange wager.*

39 *(D) The exchange wagering licensee shall require the person*
40 *making the exchange wager to select the specific race and horse*

1 *for the wager. The use of automatic, quick-pick, or similar features*
2 *to aid in the placing of a wager shall be prohibited.*

3 *(E) The results of a wager shall not be displayed through the*
4 *use of video or mechanical reels or other slot machine or casino*
5 *game themes, including, but not limited to, dice games, wheel*
6 *games, card games, and lotto.*

7 *(3) The board shall have full power to prescribe rules,*
8 *regulations, and conditions under which all exchange wagering*
9 *licenses are issued or renewed in California, including requiring*
10 *an annual audit of the exchange wagering licensee's books and*
11 *records pertaining to exchange wagering, and to revoke, suspend,*
12 *or refuse to renew a license pursuant to the authority granted to*
13 *the board in this chapter.*

14 *(4) The board may reasonably require licensure or registration*
15 *of officers or directors of any exchange wagering licensee.*

16 *(5) The board may recover any costs associated with the*
17 *licensing or regulation of exchange wagering from the exchange*
18 *wagering licensee by imposing an assessment on the exchange*
19 *wagering licensee in an amount that does not exceed the*
20 *reasonable costs associated with the licensing or regulation of*
21 *exchange wagering. Funds received pursuant to this subdivision*
22 *shall be deposited in the Horse Racing Fund, to be available upon*
23 *appropriation by the Legislature for the sole purpose of regulating*
24 *exchange wagering.*

25 *(f) (1) The board shall not approve an application for an*
26 *original or renewal license as an exchange wagering licensee*
27 *unless the entity, if requested in writing by a bona fide labor*
28 *organization no later than 90 days prior to licensing, has entered*
29 *into a contractual agreement with that labor organization that*
30 *provides all of the following:*

31 *(A) The labor organization has historically represented*
32 *employees who accept or process any form of wagering at the*
33 *nearest horse racing meeting located in California.*

34 *(B) The agreement establishes the method by which the exchange*
35 *wagering licensee will agree to recognize and bargain in good*
36 *faith with a labor organization which has demonstrated majority*
37 *status by submitting authorization cards signed by those employees*
38 *who accept or process any form of wagering for which a California*
39 *exchange wagering license is required.*

1 (C) *The agreement requires the exchange wagering licensee to*
2 *maintain its neutrality concerning the choice of those employees*
3 *who accept or process any form of wagering for which a California*
4 *exchange wagering license is required and whether or not to*
5 *authorize the labor organization to represent them with regard to*
6 *wages, hours, and other terms and conditions of employment.*

7 (D) *The agreement applies to those classifications of employees*
8 *who accept or process wagers for which a California exchange*
9 *wagering license is required whether the facility is located within*
10 *or outside of California.*

11 (2) (A) *The agreement required by paragraph (1) shall not be*
12 *conditioned by either party upon the other party agreeing to*
13 *matters outside the requirements of paragraph (1).*

14 (B) *The requirement in paragraph (1) shall not apply to an*
15 *exchange wagering licensee which has entered into a collective*
16 *bargaining agreement with a bona fide labor organization that is*
17 *the exclusive bargaining representative of employees who accept*
18 *or process parimutuel wagers on races for which an exchange*
19 *wagering license is required, whether the facility is located within*
20 *or outside of California.*

21 (3) *Permanent state or county employees and nonprofit*
22 *organizations that have historically performed certain services at*
23 *county, state, or district fairs may continue to provide those*
24 *services.*

25 (4) *Parimutuel clerks employed by racing associations or fairs*
26 *or employees of exchange wagering licensees who accept or*
27 *process any form of wagers who are laid off due to lack of work*
28 *shall have preferential hiring rights for new positions with their*
29 *employer in occupations whose duties include accepting or*
30 *processing any form of wagers, or the operation, repair, service,*
31 *or maintenance of equipment that accepts or processes any form*
32 *of wagering at a racetrack, satellite wagering facility, or exchange*
33 *wagering licensee licensed by the board. The preferential hiring*
34 *rights established by this paragraph shall be conditioned upon the*
35 *employee meeting the minimum qualification requirements of the*
36 *new job.*

37 (g) *Notwithstanding any other law, rule, or regulation, an*
38 *exchange wagering licensee shall not be required to include any*
39 *pools of exchange wagers in the wagering pools at the racing*
40 *association or racing fair conducting the races, nor shall an*

1 exchange wagering licensee be required to retain, withhold, or
2 take out any amounts from any exchange wagers, except as
3 expressly set forth in the applicable exchange wagering agreement.

4 (h) Subject to the approval of the board, an exchange wagering
5 licensee shall be permitted to collect exchange revenues in the
6 manner and amounts determined by the exchange wagering
7 licensee, including, but not limited to, assessing a surcharge on
8 any person's net winnings.

9 (i) Notwithstanding any other law, rule, or regulation, the board
10 shall require all of the following:

11 (1) Each exchange wagering licensee shall distribute all moneys
12 in each pool, net of any fees, charges, or deductions of any kind
13 assessed or collected by the exchange wagering licensee in
14 connection with matched wagers in that pool, at the conclusion of
15 the race or races associated with that pool.

16 (2) Each exchange wagering licensee shall distribute the
17 portions of the exchange wagering licensee's exchange revenues
18 as may be required pursuant to the exchange wagering agreement
19 pursuant to paragraphs (2) to (7), inclusive, of subdivision (b).

20 (3) Fifty percent of the amounts received by a racing association
21 or racing fair from exchange wagering shall be paid to horsemen
22 participating in the meetings conducted by that racing association
23 or racing fair in the form of purses. The allocation of amounts
24 received by a racing association or racing fair from exchange
25 wagering between that racing association or racing fair and the
26 horsemen participating in the meetings conducted by that racing
27 association or racing fair may be modified by a written agreement
28 between those entities.

29 (4) In addition to payments set forth in paragraphs (1) and (2),
30 each exchange wagering licensee shall distribute, on an annual
31 basis, an amount equal to the greater of (A) one hundred thousand
32 dollars (\$100,000), or (B) an amount equal to 0.001 multiplied by
33 the total amount of exchange revenues collected by the exchange
34 wagering licensee in that calendar year. The distribution shall be
35 made at the direction of the board pursuant to Section 19612.9.
36 This paragraph shall become inoperative on January 1, 2021, and,
37 as of that date, is repealed, unless a later enacted statute that is
38 enacted before January 1, 2021, deletes or extends that date.

39 (j) An exchange wagering licensee may cancel or allow to be
40 canceled any unmatched wagers, without cause, at any time.

1 (k) *The board may prescribe rules governing when an exchange*
2 *wagering licensee may cancel or void a matched wager or part of*
3 *a matched wager, and the actions which an exchange wagering*
4 *licensee may take when all or part of a matched wager is canceled*
5 *or voided. The rules may include, but are not limited to, permitting*
6 *the exchange wagering licensee to place corrective wagers under*
7 *circumstances approved in the rules adopted by the board.*
8 *Exchange wagers placed on a market after the start of a race shall*
9 *be lawful if authorized by the board, racing association, or racing*
10 *fair conducting the races, and the horsemen's organization*
11 *responsible for negotiating purse agreements for the breed on*
12 *which the exchange wager is made.*

13 (l) *The provisions of this section shall be deemed to be severable,*
14 *and if any phrase, clause, sentence, or provision of this section is*
15 *declared to be unconstitutional or the applicability thereof to any*
16 *person is held invalid, the remainder of this section shall not*
17 *thereby be deemed to be unconstitutional or invalid.*

18 (m) *The board shall promulgate administrative rules and*
19 *regulations to effectuate the purposes of this section.*

20 SEC. 6. *Section 19605.74 is added to the Business and*
21 *Professions Code, to read:*

22 19605.74. *For every year that the organization operating the*
23 *Breeders' Cup Championship series chooses to conduct the*
24 *Breeders' Cup at a race meeting in California, the following,*
25 *notwithstanding any other provision of law, shall apply to the race*
26 *meeting conducting the Breeders' Cup races on days during which*
27 *Breeders' Cup races are conducted:*

28 (a) *The amounts that would have otherwise been distributed to*
29 *a purse account pursuant to subdivisions (a), (b), (c), and (d) of*
30 *Section 19601.02 shall be made available for the purpose of*
31 *promoting and sponsoring the Breeders' Cup.*

32 (b) *The thoroughbred racing association hosting the Breeders'*
33 *Cup shall enter into a written agreement, in consultation and*
34 *cooperation with the California Tourism Commission and the*
35 *statewide marketing organization formed pursuant to Section*
36 *19605.73, with the organization that operates the Breeders' Cup*
37 *regarding the manner in which the funds set aside to support and*
38 *promote the Breeders' Cup are to be expended.*

39 (c) *Within 90 days after the holding of each Breeders' Cup, a*
40 *written report shall be made to the board detailing the manner in*

1 *which the set aside funds were utilized to promote and support the*
2 *Breeders' Cup.*

3 ~~SEC. 4.~~

4 *SEC. 7.* No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.

13 *SEC. 8. This act is an urgency statute necessary for the*
14 *immediate preservation of the public peace, health, or safety within*
15 *the meaning of Article IV of the Constitution and shall go into*
16 *immediate effect. The facts constituting the necessity are:*

17 *In order to assure that the provisions of this bill are in effect for*
18 *the beginning of the horse racing calendar for 2011, to assist in*
19 *stemming the flow of race horses out of California and to assure*
20 *that the California Horse Racing Board has all appropriate*
21 *authority to regulate the activities authorized by this act on a timely*
22 *basis, it is necessary that this act take effect immediately.*