

AMENDED IN SENATE MAY 20, 2009

SENATE BILL

No. 254

Introduced by Senator Wiggins

February 24, 2009

An act to repeal and add Section 19525 of the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

SB 254, as amended, Wiggins. Horses: sale, purchase, or transfer.

Existing law prohibits a person from receiving any form of compensation in connection with the sale or purchase of a racehorse, prospective racehorse, stallion, or broodmare, unless the purchaser and seller have agreed in writing to the payment of that compensation.

This bill instead would require any sale, purchase, or transfer of an equine, as defined, to be accompanied by a written bill of sale or acknowledgment of purchase, ~~and a security agreement~~ setting forth the purchase price, and signed by both the purchaser and seller or their duly authorized agents, as specified. The bill would provide that it is unlawful for any person to act as a dual agent, as defined, unless certain conditions are met, and would make it unlawful for a person acting as an agent to receive in excess of \$500 in compensation or in other items of value, related to that transaction, other than from the agent's principal, unless certain conditions are met. The bill would allow any person injured by a violation of its provisions to recover treble damages, ~~plus other expenses~~. The bill would provide that the board may suspend or revoke the license of any person who violates its provisions.

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

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

SECTION 1. Section 19525 of the Business and Professions Code is repealed.

SEC. 2. Section 19525 is added to the Business and Professions Code, to read:

19525. (a) For purposes of this section, “equine” means a horse of any breed used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, yearlings, or weanlings, or any interest therein.

(b) Any sale, purchase, or transfer of an equine shall be both of the following:

(1) Accompanied by a written bill of sale or acknowledgment of purchase ~~and a security agreement~~ setting forth the purchase price.

(2) Signed by both the purchaser and the seller or their duly authorized agents or, in a transaction solely relating to a season or fractional interest in a stallion, signed by the syndicate manager or stallion manager.

(c) When a transaction described in subdivision (b) is accomplished through a public auction, the bill of sale requirement may be satisfied by the issuance of an auction receipt generated by the auction house and signed by the purchaser or an agent whom the purchaser has authorized.

(d) It is unlawful for a person to act as a “dual agent,” which is hereby defined as a person acting as an agent for both the purchaser and the seller, in a transaction involving the sale, purchase, or transfer of an interest in an equine without the prior knowledge of both the purchaser and seller, and the written consent of both the purchaser and seller.

(e) It is unlawful for a person acting as an agent for either a purchaser or a seller or acting as a dual agent in a transaction involving the sale, purchase, or transfer of an equine to receive in excess of five hundred dollars (\$500) worth of compensation, fees, gratuities, or other items of value, related directly or indirectly to that transaction, from an individual or entity, including any consigner involved in the transaction, other than the agent’s principal, unless both of the following occur:

1 (1) The agent receiving the item of value and the individual or
2 entity giving the item of value disclose the transfer of that item of
3 value in writing to both the purchaser and seller *the principal or*
4 *principals for whom the agent is acting.*

5 (2) ~~The purchaser and seller each consent~~ *Each principal for*
6 *whom the agent is acting consents* thereto in writing.

7 (f) Any person acting as an agent for a purchaser or seller or
8 acting as a dual agent in a transaction involving the sale, purchase,
9 or transfer of an equine shall, upon request by his or her principal
10 or principals, provide to the requesters; copies of all financial
11 records in the possession or control of the agent pertaining to the
12 transaction. For purposes of this subdivision, financial records
13 shall not include the agent's or owner's work product used to
14 internally evaluate the equine.

15 (g) Any person injured by a violation of this section shall recover
16 treble damages from persons or entities violating this section, ~~and~~
17 ~~the prevailing party in any litigation under this section shall be~~
18 ~~entitled to an award of costs of the suit, reasonable litigation~~
19 ~~expenses, and attorney's fees. As used in this section, treble~~
20 ~~damages shall equal three times the sum of both of the following:~~

21 (1) ~~The difference, if any, between the price paid for the equine~~
22 ~~and the actual value of the equine at the time of sale.~~

23 (2) ~~Any payment made in violation of subdivision (e).~~

24 (h) No contract or agreement for payment of a commission, fee,
25 gratuity, or any other form of compensation in connection with
26 any sale, purchase, or transfer of an equine shall be enforceable
27 by way of an action or defense unless both of the following occur:

28 (1) The contract or agreement is in writing and is signed by the
29 party against whom enforcement is sought.

30 (2) The recipient of the compensation provides a written bill of
31 sale or auction receipt for the transaction in accordance with
32 paragraph (1) of subdivision (b) and subdivision (c) respectively.

33 (i) The board may suspend or revoke the license of any person
34 who violates this section.

35 (j) Subdivisions (g) and (h) shall not apply to the acts or
36 omissions of an entity or individual engaged in conducting a public
37 auction of an equine, or the entity or individual's employees or
38 agents, if both of the following conditions apply:

- 1 (1) The acts or omissions of the entity, individual, employee,
2 or agent are in furtherance of or pursuant to the conduct of the
3 public auction of an equine.
- 4 (2) The entity or individual is appropriately licensed or
5 authorized to conduct that specific public auction by the California
6 Horse Racing Board and any other governmental entity whose
7 permission or authorization is required to conduct the auction.

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