

Introduced by Senator Harman

February 27, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

SB 693, as introduced, Harman. Horse racing: advance deposit wagering: satellite wagering facilities.

Existing law authorizes advance deposit wagering to be conducted, with the approval of the California Horse Racing Board. Existing law specifies how the amount received as a market access fee from advance deposit wagers shall be distributed, including the distribution of specified amounts as satellite wagering commissions, which are generally provided to satellite wagering facilities in the same relative proportions as those facilities generated the commissions in the previous calendar year.

This bill would require the satellite wagering commission to be reduced in proportion to the times that satellite wagering is conducted if a satellite wagering facility is unwilling or unable to accept all of the signals that are available to that facility, and would require the satellite wagering commission to be eliminated entirely if a satellite wagering facility is permanently closed. The bill would provide that the satellite wagering commissions not paid shall be distributed equally as purses and commissions.

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 19604 of the Business and Professions Code is amended to read:

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

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

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

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

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

(4) "Breed of racing" means as follows:

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

(B) With respect to associations licensed by the board to conduct quarter horse race meetings, "breed of racing" shall mean quarter horse.

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

(5) "Contractual compensation" means the amount paid to an ADW provider from advance deposit wagers originating in this state. Contractual compensation includes, but is not limited to, hub fee payments, and may include host fee payments, if any, for out-of-state and out-of-country races. Contractual compensation 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

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

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

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

(C) The difference between the contractual compensation specified in subparagraph (B) and the contractual compensation determined to be payable at the conclusion of the hub agreement arbitration shall be calculated and paid within 15 days following the arbitrator's decision and order. The hub agreement arbitration shall be held as promptly as possible, but in no event more than 60 days following the demand for that arbitration. The arbitrator shall issue a decision no later than 15 days following the conclusion of the arbitration. A single arbitrator jointly selected by the ADW provider and the party requesting a hub agreement arbitration shall conduct the hub agreement arbitration. However, if the parties cannot agree on the arbitrator within seven days of issuance of the written demand for arbitration, then the arbitrator shall be selected pursuant to the Streamlined Arbitration Rules and Procedures of the Judicial Arbitration and Mediation Services, or pursuant to the applicable rules of its successor organization. In making the hub agreement arbitration determination, the arbitrator shall be required to choose between the contractual compensation of the hub agreement agreed to by the ADW provider or whatever different terms for the hub agreement were proposed by the party requesting the hub agreement arbitration. The arbitrator shall not be permitted to impose new, different, or compromised terms to the hub agreement. The arbitrator's decision shall be final and binding on the parties. If an arbitration is requested, either party may bring an action in state court to compel a party to go into arbitration or to enforce the decision of the arbitrator. The cost of the hub agreement arbitration, including the cost of the arbitrator, shall be borne in equal shares by the parties to the hub agreement and the party or parties requesting a hub agreement arbitration. The hub agreement arbitration shall be administered by the Judicial Arbitration and Mediation Services pursuant to its Streamlined 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 subdivision (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 subdivision (B)
11 is a signatory to the hub agreement, then the signatories to the hub
12 agreement shall, within five days of execution of the hub
13 agreement, provide written notice of the host and hub fees
14 applicable pursuant to the hub agreement for each race conducted
15 outside of California on which California residents may place
16 advance deposit wagers, which notice shall be provided to all
17 racing associations and fairs conducting live racing of the same
18 breed covered by the hub agreement. If any racing association or
19 fair wants to request a hub agreement arbitration, it shall send
20 written notice of its election to the signatories to the hub agreement
21 within 10 days after receipt of the notice of host and hub fees. It
22 shall also provide its alternate proposal to the hub and host fees
23 specified in the hub agreement with the notice of its election. If
24 more than one racing association or fair provides notice of their
25 request for hub agreement arbitration, those racing associations or
26 fairs, or both, shall have a period of five days to jointly agree upon
27 which of their alternate proposals shall be the official proposal for
28 purposes of the hub agreement arbitration. If one or more racing
29 associations or fairs that together conduct no fewer than five weeks
30 of live racing on the breed on which wagering is conducted during
31 the calendar year during which the wager is placed does not provide
32 written notice of their election to arbitrate within the 10-day period,
33 then no party shall have the right to request a hub agreement
34 arbitration. If a valid hub agreement arbitration request is made,
35 then the ADW provider shall have 10 days to elect in writing to
36 do one of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) One-half of the amount shall be distributed to supplement the trainer-administered pension plans for backstretch personnel

1 established pursuant to Section 19613. Moneys distributed pursuant
2 to this subparagraph shall supplement, and not supplant, moneys
3 distributed to that fund pursuant to Section 19613 or any other
4 provision of law.

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

11 (4) With respect to wagers on each breed of racing that originate
12 in California, an amount equal to two percent of the first two
13 hundred fifty million dollars (\$250,000,000) of handle from all
14 advance deposit wagers originating from within California
15 annually, an amount equal to 1.5 percent of the next two hundred
16 fifty million dollars (\$250,000,000) of handle from all advance
17 deposit wagers originating from within California annually, an
18 amount equal to one percent of the next two hundred fifty million
19 dollars (\$250,000,000) of handle from all advance deposit wagers
20 originating from within California annually, and an amount equal
21 to 0.50 percent of handle from all advance deposit wagers
22 originating from within California in excess of seven hundred fifty
23 million dollars (\$750,000,000) annually, shall be distributed as
24 satellite wagering commissions. Satellite facilities that were not
25 operational in 2001, other than one each in the cities of Inglewood
26 and San Mateo, and two additional facilities each operated by the
27 Alameda County Fair and the Los Angeles County Fair and their
28 partners and other than existing facilities which are relocated, are
29 not eligible for satellite wagering commission distributions under
30 this section. The satellite wagering facility commissions calculated
31 in accordance with this subdivision shall be distributed to each
32 satellite wagering facility and racing association or fair in the zone
33 in which the wager originated in the same relative proportions that
34 the satellite wagering facility or the racing association or fair
35 generated satellite commissions during the previous calendar year.
36 If there is a reduction in the satellite wagering commissions
37 pursuant to this section, the benefits therefrom shall be distributed
38 equitably as purses and commissions to all associations and racing
39 fairs generating advance deposit wagers in proportion to the handle
40 generated by those associations and racing fairs. *If a satellite*

1 *wagering facility is permanently closed, or if a satellite wagering*
2 *facility is unwilling or unable to accept all of the signals that are*
3 *available to that facility, the commissions otherwise provided for*
4 *in this subdivision that are to be paid to that facility shall be*
5 *reduced in proportion to the times that satellite wagering is*
6 *conducted, or the payment of those commissions shall be eliminated*
7 *entirely if the facility is permanently closed, and, in either case,*
8 *the satellite wagering commissions not paid shall be distributed*
9 *equally as purses and commissions. For purposes of this section,*
10 *the purse funds distributed pursuant to Section 19605.72 shall be*
11 *considered to be satellite wagering facility commissions attributable*
12 *to thoroughbred races at the locations described in that section.*

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

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

32 (B) If the provisions of Section 19601.2 apply, then the amount
33 distributed to the applicable racing associations or fairs shall first
34 be divided between those racing associations or fairs in direct
35 proportion to the total amount wagered in the applicable zone on
36 the live races conducted by the respective association or fair.
37 Notwithstanding this requirement, when the provisions of
38 subdivision (b) of Section 19607.5 apply to the 2nd District
39 Agricultural Association in Stockton or the California Exposition
40 and State Fair in Sacramento, then the total amount distributed to

1 the applicable racing associations or fairs shall first be divided
2 equally, with 50 percent distributed to applicable fairs and 50
3 percent distributed to applicable associations.

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

23 (D) Notwithstanding any provisions of this section to the
24 contrary, with respect to wagers on out-of-state and out-of-country
25 nonthoroughbred races conducted before 6 p.m., Pacific time, 50
26 percent of the amount remaining shall be distributed as
27 commissions as provided in subparagraph (C) for licensed quarter
28 horse and harness associations, and the remaining 50 percent shall
29 be distributed as commissions to the applicable thoroughbred
30 associations or fairs, as thoroughbred and fair purses, and as
31 incentive awards in accordance with subparagraph (A).

32 (E) Notwithstanding any provision of this section to the contrary,
33 the distribution of market access fees pursuant to this subparagraph
34 may be altered upon the approval of the board, in accordance with
35 an agreement signed by all parties whose distributions would be
36 affected.

37 (g) A racing association, a fair, or a satellite wagering facility
38 may enter into an agreement with an ADW provider to accept and
39 facilitate the placement of any wager from a patron at its facility
40 that a California resident could make through that ADW provider.

1 Deductions from wagers made pursuant to such an agreement shall
2 be distributed in accordance with the provisions of this chapter
3 governing wagers placed at that facility, except that the board may
4 authorize alternative distributions as agreed to by the ADW
5 provider, the operator of the facility accepting the wager, the
6 association or fair conducting that breed of racing in the zone
7 where the wager is placed, and the respective horsemen's
8 organization.

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

11 (i) Amounts distributed under this section shall be proportionally
12 reduced by an amount equal to 0.00295 multiplied by the amount
13 handled on advanced deposit wagers originating in California for
14 each racing meeting, and shall not exceed two million dollars
15 (\$2,000,000). The method used to calculate the reduction in
16 proportionate share shall be approved by the board. The amount
17 deducted shall be distributed as follows:

18 (1) Fifty percent of the money to the California Horse Racing
19 Board to establish and to administer jointly with the organization
20 certified as the majority representative of California licensed
21 jockeys pursuant to Section 19612.9, a defined contribution
22 retirement plan for California licensed jockeys who retired from
23 racing on or after January 1, 2009, and who, as of the date of their
24 retirement, had ridden in a minimum of 1,250 parimutuel races
25 conducted in California.

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

28 (A) Seventy percent shall be distributed to supplement the
29 trainer-administered pension plans for backstretch personnel
30 established pursuant to Section 19613. Moneys distributed pursuant
31 to this subparagraph shall supplement, and not supplant, moneys
32 distributed to that fund pursuant to Section 19613 or any other
33 provision of law.

34 (B) Thirty percent shall be distributed to the welfare fund
35 established for the benefit of horsemen and backstretch personnel
36 pursuant to subdivision (b) of Section 19641. Moneys distributed
37 pursuant to this subparagraph shall supplement, and not supplant,

- 1 moneys distributed to that fund pursuant to Section 19641 or any
- 2 other provision of law.

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