CHAPTER 183--H.F.No. 3211

An act relating to pari-mutuel horse racing; authorizing advance deposit wagering; providing for horse-racing revenue; appropriating money;amending Minnesota Statutes 2014, sections 240.08, subdivision 1; 240.13, subdivision 4; 240.15, subdivision 2; 240.25, subdivision 1; Minnesota Statutes 2015 Supplement, sections 240.01, by adding subdivisions; 240.08, subdivision 2; 240.10; 240.15, subdivisions 1, 6; 240.22; proposing coding for new law in Minnesota Statutes, chapter 240.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2015 Supplement, section 240.01, is amended by adding a subdivision to read:

Subd. 1a. **Account holder.** "Account holder" means a natural person not otherwise prohibited from wagering who applies for and opens an account with an authorized ADW provider.

Sec. 2. Minnesota Statutes 2015 Supplement, section 240.01, is amended by adding a subdivision to read:

Subd. 1b. **Advance deposit wager.** "Advance deposit wager" means a wager placed through an advance deposit wagering provider on a horse race that is conducted outside of the state.

Sec. 3. Minnesota Statutes 2015 Supplement, section 240.01, is amended by adding a subdivision to read:

Subd. 1c. **Advance deposit wagering; ADW.** "Advance deposit wagering" or "ADW" means a system of pari-mutuel wagering in which wagers and withdrawals are debited and winning payoffs and deposits are credited to an account held by an authorized ADW provider on behalf of an account holder.

Sec. 4. Minnesota Statutes 2015 Supplement, section 240.01, is amended by adding a subdivision to read:

Subd. 1d. **Authorized advance deposit wagering provider; ADW provider.** "Authorized advance deposit wagering provider" or "ADW provider" means a person who holds a class C license under this chapter as a racing or gaming-related vendor and has entered into a commission-approved contract with a class A or class B licensee to provide advance deposit wagering on horse racing under this chapter.

Sec. 5. Minnesota Statutes 2015 Supplement, section 240.01, is amended by adding a subdivision to read:

Subd. 10a. **Minnesota resident.** "Minnesota resident" means a person who provides a physical address or post office box address in the state of Minnesota as the person's primary residence when applying for and opening an ADW account.

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Sec. 6. Minnesota Statutes 2015 Supplement, section 240.01, is amended by adding a subdivision to read:

Subd. 20a. **Source market fee.** "Source market fee" means a percentage of the amount wagered by a Minnesota resident through an authorized advance deposit wagering provider that is paid by the ADW provider to a class A or class B licensee.

Sec. 7. Minnesota Statutes 2014, section 240.08, subdivision 1, is amended to read:

Subdivision 1. **Authority.** The commission may issue class C occupational licenses to persons who wish to be employed in horse racing where pari-mutuel betting is conducted as:

(a) horse owners or lessees;

(b) jockeys or drivers;

(c) exercise riders;

(d) grooms;

(e) trainers and their assistants;

(f) pari-mutuel personnel;

(g) security officers;

(h) vendors; and

(i) other occupations the commission by rule determines require licensing to ensure the integrity of horse racing in Minnesota.

Sec. 8. Minnesota Statutes 2015 Supplement, section 240.08, subdivision 2, is amended to read:

Subd. 2. **Application.** (a) An application for a class C license must be on a form the commission prescribes and must be accompanied by an affidavit of qualification that the applicant:

(1) is not in default in the payment of an obligation or debt to the state under Laws 1983, chapter 214;

(2) does not have a felony conviction of record in a state or federal court and does not have a state or federal felony charge pending;

(3) is not and never has been connected with or engaged in an illegal business;

(4) has never been found guilty of fraud or misrepresentation in connection with racing or breeding;

(5) has never been found guilty of a violation of law or rule relating to horse racing, pari-mutuel betting or any other form of gambling which is a serious violation as defined by the commission's rules; and

(6) has never been found to have knowingly violated an order of the commission or a law or rule of Minnesota or another jurisdiction relating to horse racing, pari-mutuel betting, or any other form of gambling.; and

(7) has never been convicted of or entered a guilty plea, Alford plea, or plea of no contest to an offense under chapter 343 or 346 or a similar law in another jurisdiction pertaining to mistreatment of animals.

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(b) The application must also contain an irrevocable consent statement, to be signed by the applicant, which states that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleading authorized by the laws of this state. If any summons, process, or pleading is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the Office of the Secretary of State and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission.

Sec. 9. Minnesota Statutes 2015 Supplement, section 240.10, is amended to read:

240.10 LICENSE FEES.

(a) The fee for a class A license is $253,000 per year and must be remitted on July 1. The fee for a class B license is $500 for each assigned racing day and $100 for each day on which simulcasting is authorized and must be remitted on July 1. The fee for a class D license is $50 for each assigned racing day on which racing is actually conducted. Fees imposed on class D licenses must be paid to the commission at a time and in a manner as provided by rule of the commission.

(b) The commission shall by rule establish an annual license fee for each occupation it licenses under section 240.08.

(c) The initial annual license application fee for a class C license to provide advance deposit wagering on horse racing under this chapter is $10,000 and an annual license fee of $2,500 applies thereafter.

Sec. 10. Minnesota Statutes 2014, section 240.13, subdivision 4, is amended to read:

Subd. 4. **Takeout; distribution of winnings.** A class B or class D licensee conducting pari-mutuel betting must deduct from a straight pari-mutuel pool, before payments to holders of winning tickets, an amount equal to not more than 17 percent of the total money in that pool. The class B or class D licensee must deduct from a multiple pari-mutuel pool, before payments to the holders of winning tickets, an amount equal to not more than 23 percent of the total money in that pool. The remaining money in each pool must be distributed among the holders of winning tickets in a manner the commission by rule prescribes for each type of pool. Breakage must be computed on the basis of payoffs rounded down to the next lowest increment of 10 cents, with a minimum payoff of $1.10 on a $1 ticket, except that the licensee may reduce the minimum payoff to $1.05 on a $1 ticket if there is not a sufficient amount in a pool to make a minimum payoff of $1.10.

Sec. 11. **[240.131] ADVANCE DEPOSIT WAGERING.**

Subdivision 1. **Advance deposit wagering authorized.** Advance deposit wagering is authorized pari-mutuel betting on horse racing under this chapter if conducted in compliance with this section and the Interstate Horseracing Act of 1978, United States Code, title 15, section 3001 et seq.

Subd. 2. **Prohibited acts.** It is unlawful for any person to accept an advance deposit wager from a Minnesota resident unless the person is an authorized advance deposit wagering provider as defined in section 240.01, subdivision 1d, and conducts advance deposit wagering under the terms of a contract that meets the requirements in subdivision 3 and other requirements of this chapter.

Subd. 3. **Contract required.** Before accepting an advance deposit wager from a Minnesota resident, an authorized advance deposit wagering provider must have a written contract in place with the licensed racetrack that conducts racing of the breed on which wagers will be accepted. The contract must be approved

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by the commission and by the horsepersons' organization representing the majority of horsepersons racing the breed involved at the licensed racetrack. The contract must, at a minimum:

(1) provide for the payment of a source market fee for advance deposit wagers placed by Minnesota residents. The payment must be made, at a minimum, on a quarterly basis;

(2) specify the manner in which the amount of the source market fee is determined;

(3) govern all other aspects of the business relationship between the licensed racetrack and the ADW provider;

(4) provide for what will happen if either party to the contract discontinues operations or ceases to be licensed in Minnesota;

(5) provide that the contract is enforceable only in the state courts of Minnesota; and

(6) provide for a term of agreement of not more than three years.

Subd. 4. **Bond required.** Before accepting an advance deposit wager from a Minnesota resident, an authorized advance deposit wagering provider shall demonstrate evidence of financial responsibility in a format prescribed by the commission through a surety bond executed and issued by an insurer authorized to issue surety bonds in this state, an irrevocable letter of credit, or other form of financial guarantee in an amount to be determined by the commission. The commission may also accept, as evidence of financial responsibility, a surety bond, an irrevocable letter of credit, or other form of financial guarantee in accordance with this subdivision filed with one or more states where the applicant is licensed as an advance deposit wagering provider. The commission may ask for additional evidence of financial responsibility at any time the commission deems necessary. Any surety bond, an irrevocable letter of credit, or other form of financial guarantee issued under this subdivision shall be in favor of this state and shall specifically authorize recovery by the commission for the payment of all fees required by this chapter, including source market fees, regulatory fees, and breeders fund fees, as well as payments due to Minnesota resident account holders.

Subd. 5. **Plan of operation.** (a) The commission shall not license or authorize a person to conduct advance deposit wagering under this section unless the person has submitted, and the commission approved, a plan of operation for advance deposit wagering. At a minimum, the plan of operation must provide for:

(1) methods of resolving disputes with account holders and licensed racetracks;

(2) procedures to protect the security of account holders' accounts and information;

(3) methods to verify the identity of account holders and ensure that all account holders are natural persons who are at least 18 years of age;

(4) procedures to ensure that wagers are only accepted from account holders who have sufficient funds on deposit and that no credit is extended by the person to an account holder;

(5) procedures for keeping accurate records of all contests, wagers, and payouts;

(6) annually contracting with an independent third party to conduct an audit and submit the results of the audit to the commission; and

(7) other requirements established by the commission in rule.

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(b) A plan of operation must be submitted in a manner prescribed by the commission. A plan of operation may only be amended with the approval of the commission. The commission may withdraw approval of a plan of operation.

Subd. 6. **Source market fees; payment; distribution.** (a) It is the intent of the legislature that the proceeds of advance deposit wagering authorized by this chapter be used to support and improve the horse racing industry in Minnesota by improving purses, supporting breeding, and ensuring that the industry is adequately regulated for the protection of all participants.

(b) Source market fees shall be established by contract and are in addition to other contractual fees such as host fees.

(c) Except as provided in paragraph (e), a class A or class B licensee shall pay all source market fees it receives from an ADW provider as follows:

(1) 28 percent to a licensed racetrack that primarily conducts standardbred horse racing; and

(2) 72 percent to a licensed racetrack that primarily conducts thoroughbred and quarter horse racing.

(d) Of the total source market fees received by a licensed racetrack under paragraph (c), at least 50 percent must be set aside for breeders awards and purses. Of the amount set aside: (1) at least 33 percent shall be paid by the racetrack to the state for deposit to the breeders fund and must be expended solely for breeders awards in accordance with section 240.18, subdivisions 2, paragraph (d), clause (2), and 3, paragraph (b), clause (2); and (2) the remainder shall be paid by the racetrack to purse accounts for races held at the racetrack pursuant to agreements between the racetrack and the horsepersons' associations that represent a majority of the type of breed that races at the track.

(e) No source market fees shall be paid by a class A or class B licensee to a licensed racetrack whose license has been revoked or not renewed under this chapter. In the event that a racetrack's license has been revoked or not renewed, source market fees otherwise payable to that racetrack by a class A or class B licensee under this section shall be paid to the other licensed racetrack.

Subd. 7. **Payments to state.** (a) A regulatory fee is imposed at the rate of one percent of all amounts wagered by Minnesota residents with an authorized advance deposit wagering provider. The fee shall be declared on a form prescribed by the commission. The ADW provider must pay the fee to the commission no more than seven days after the end of the month in which the wager was made. Fees collected under this paragraph must be deposited in the state treasury and credited to a racing and card-playing regulation account in the special revenue fund and are appropriated to the commission to offset the costs associated with regulating horse racing and pari-mutuel wagering in Minnesota.

(b) A breeders fund fee is imposed in the amount of one-quarter of one percent of all amounts wagered by Minnesota residents with an authorized advance deposit wagering provider. The fee shall be declared on a form prescribed by the commission. The ADW provider must pay the fee to the commission no more than seven days after the end of the month in which the wager was made. Fees collected under this paragraph must be deposited in the state treasury and credited to a racing and card-playing regulation account in the special revenue fund and are appropriated to the commission to offset the cost of administering the breeders fund and promote horse breeding in Minnesota.

Subd. 8. **Enforcement.** (a) A class A or class B licensee shall have a private right of action against any person who accepts a pari-mutuel wager from a Minnesota resident that is not authorized by this chapter.

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The class A or class B licensee is entitled to injunctive relief and to presumptive damages equal to ten percent of the total of wagers accepted in violation of this section, as well as reasonable costs and attorney fees. Presumptive damages recovered under this subdivision shall be distributed as source market fees as provided in subdivision 6.

(b) The commission shall have a right of action against any person who accepts a pari-mutuel wager that is not authorized by this chapter. The commission is entitled to injunctive relief and to recovery of all amounts that would have been payable to the state under subdivision 7, as well as reasonable costs and attorney fees. The commission may also fine the person under section 240.22.

Subd. 9. **Rules.** The commission may adopt rules to implement this section using the expedited process in section 14.389.

Sec. 12. Minnesota Statutes 2015 Supplement, section 240.15, subdivision 1, is amended to read:

Subdivision 1. **Taxes imposed.** (a) There is imposed a tax at the rate of six percent of the amount in excess of $12,000,000 annually withheld from all pari-mutuel pools by ~~the~~ a class B or class D licensee, including breakage and amounts withheld under section 240.13, subdivision 4. For the purpose of this subdivision, "annually" is the period from July 1 to June 30 of the next year.

In addition to the above tax, ~~the~~ a class B or class D licensee must designate and pay to the commission a tax of one percent of the handle for live races conducted at a class A facility, for deposit in the Minnesota breeders fund.

The taxes imposed by this clause must be paid from the amounts permitted to be withheld by a licensee under section 240.13, subdivision 4.

(b) The commission may impose an admissions tax of not more than ten cents on each paid admission at a licensed racetrack on a racing day if:

(1) the tax is requested by a local unit of government within whose borders the track is located;

(2) a public hearing is held on the request; and

(3) the commission finds that the local unit of government requesting the tax is in need of its revenue to meet extraordinary expenses caused by the racetrack.

Sec. 13. Minnesota Statutes 2014, section 240.15, subdivision 2, is amended to read:

Subd. 2. **Payment.** The licensee must remit the tax to the commission or its representative within seven days ~~of the day on~~ after the end of the month in which it was collected. The payments must be accompanied by a detailed statement of the remittance on a form the commission prescribes. The commission may by rule provide for the direct deposit of required payments in the commission's account in a financial institution within the state and for determining the time of applicability of different tax rates under subdivision 1.

Sec. 14. Minnesota Statutes 2015 Supplement, section 240.15, subdivision 6, is amended to read:

Subd. 6. **Disposition of proceeds; account.** The commission shall distribute all money received under this section, and, except as provided otherwise by section 240.131, all money received from license fees and fines it collects, according to this subdivision. All money designated for deposit in the Minnesota breeders fund must be paid into that fund for distribution under section 240.18 except that all money generated

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by simulcasts must be distributed as provided in section 240.18, subdivisions 2, paragraph (d), clauses (1), (2), and (3); and 3. Revenue from an admissions tax imposed under subdivision 1 must be paid to the local unit of government at whose request it was imposed, at times and in a manner the commission determines. Taxes received under this section ~~and fines collected under section 240.22~~ must be paid to the commissioner of management and budget for deposit in the general fund. All revenues from licenses and other fees imposed by the commission must be deposited in the state treasury and credited to a racing and card playing regulation account in the special revenue fund. Receipts in this account are available for the operations of the commission up to the amount authorized in biennial appropriations from the legislature.

Sec. 15. Minnesota Statutes 2015 Supplement, section 240.22, is amended to read:

240.22 FINES.

(a) The commission shall by rule establish a ~~graduated~~ schedule of civil fines for violations of laws related to horse racing or of the commission's rules. The schedule must ~~include minimum and maximum fines for each violation and~~ be based on and reflect the culpability, frequency and severity of the violator's actions. The commission may impose a fine from this schedule on a licensee for a violation of those rules or laws relating to horse racing. The fine is in addition to any criminal penalty imposed for the same violation. Fines imposed by the commission must be paid to the commission and except as provided in paragraph ~~(b)~~ (c), forwarded to the commissioner of management and budget for deposit in the ~~general fund~~ state treasury and credited to a racing and card-playing regulation account in the special revenue fund and appropriated to the commission to support racehorse adoption, retirement, and repurposing. ~~A fine in excess of $5,000 is a contested case under the Administrative Procedure Act.~~

(b) If the commission issues a fine in excess of $5,000, the license holder has the right to request a contested case hearing under chapter 14, to be held as set forth in Minnesota Rules, chapter 1400. The appeal of a fine must be made in writing to the commission by certified mail or personal service. An appeal sent by certified mail must be postmarked within ten days after the license holder receives the fine order from the commission. An appeal sent by personal service must be received by the commission within ten days after the license holder receives the fine order from the commission.

~~(b)~~ (c) If the commission is the prevailing party in a contested case proceeding, the commission may recover, from amounts to be forwarded under paragraph (a), reasonable attorney fees and costs associated with the contested case.

Sec. 16. Minnesota Statutes 2014, section 240.25, subdivision 1, is amended to read:

Subdivision 1. **Illegal bets.** No person may place or accept a bet as defined in section 609.75 on or off the premises of a licensed racetrack other than a bet made with an approved pari-mutuel system authorized under this chapter.

Sec. 17. **EFFECTIVE DATE; APPLICATION.**

This act is effective July 1, 2016, except that: (1) the enforcement provisions in Minnesota Statutes, section 240.131, subdivision 8, paragraphs (a) and (b), are effective November 1, 2016, and apply to the acceptance of pari-mutuel wagers from Minnesota residents on or after that date; and (2) Minnesota Statutes, section 240.131, subdivision 9, granting rulemaking authority, is effective the day following final enactment.

Presented to the governor May 24, 2016

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