

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 609**

Citations Affected: IC 4-31; IC 4-35.

Synopsis: Horse racing matters. Requires the Indiana horse racing commission (IHRC) to report on the competitive status of the Indiana horse racing industry as compared to the horse racing industries of other states. Provides that the prohibition on members of the IHRC, employees of the IHRC, racing officials, and their respective spouses wagering on horse racing at racetracks and satellite facilities located in Indiana applies after December 31, 2013. Requires the IHRC to post information concerning complaints and disciplinary actions on the IHRC Internet web site. Specifies the following concerning disciplinary action initiated by stewards and judges: (1) That unless appealed within 15 days, a suspension or civil penalty must be imposed within 180 days of the sanctioned violation. (2) That judges and stewards must prove the violation by the preponderance of the evidence. (3) That the IHRC must conduct a hearing on an appealed sanction as required by the administrative adjudication law. Allows the horse racing commission to reduce the percentage that a permit holder is required to retain from amounts wagered if reducing the amount retained is in the best interests of horse racing in Indiana. Authorizes horse racing associations and racino licensees to negotiate an agreement requiring between 10% and 12% of the licensee's adjusted gross receipts to be used to support the horse racing industry. Provides that accounts, books, and records relating to the distributions are subject to audit by the state board of accounts. Recodifies the requirement that each racino pay \$250,000 to the gaming integrity fund. Provides that the racino slot machine wagering tax is imposed on 91.5% of adjusted gross receipts that include amounts used to support the horse racing industry. Makes technical corrections. **(This conference committee report does the following: (1) Allows the IHRC to reduce the percentage that a permit holder is required to retain from amounts wagered if reducing the amount retained is in the best interests of horse racing in Indiana. (2) Authorizes horse racing associations and racino licensees to negotiate an agreement requiring between 10% and 12% of the licensee's adjusted gross receipts to be used to support the horse racing industry. (3) Provides that accounts, books, and records relating to the distributions are subject to audit by the state board of accounts. (4) Recodifies the requirement that each racino pay \$250,000 to the gaming integrity fund. (5) Provides that the racino slot machine wagering tax is imposed on 91.5% of adjusted gross receipts that include amounts used to support the horse racing industry. (6) Deletes**

provisions concerning an independent study of the horse racing industry. (7) Reconciles the bill with HEA 1176-2013 by providing that the prohibition on members of the IHRC, employees of the IHRC, racing officials, and their respective spouses wagering on horse racing at Indiana racetracks and satellite facilities applies after December 31, 2013. (8) Makes technical corrections.)

Effective: Upon passage; July 1, 2013; January 1, 2014.

Adopted Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 609 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 4-31-3-8, AS AMENDED BY P.L.2-2008,
3 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2013]: Sec. 8. The commission shall:
5 (1) prescribe the rules and conditions under which horse racing at
6 a recognized meeting may be conducted;
7 (2) initiate safeguards as necessary to account for the amount of
8 money wagered at each track or satellite facility in each wagering
9 pool;
10 (3) require all permit holders to provide a photographic or
11 videotape recording, approved by the commission, of the entire
12 running of all races conducted by the permit holder;
13 (4) make annual reports concerning: ~~its~~
14 **(A) the competitive status of the Indiana horse racing**
15 **industry as compared to the horse racing industries of**
16 **other states and measured by purse, handle, and any other**
17 **factors determined by the commission;**
18 **(B) the commission's operations; and**
19 **(C) the commission's recommendations;**
20 to the governor and, in an electronic format under IC 5-14-6, to
21 the general assembly; ~~and~~

1 (5) carry out the provisions of IC 15-19-2, after considering
 2 recommendations received from the Indiana standardbred
 3 advisory board under IC 15-19-2;

4 **(6) develop internal procedures for accepting, recording,**
 5 **investigating, and resolving complaints from licensees and the**
 6 **general public; and**

7 **(7) annually post the following information on the**
 8 **commission's Internet web site:**

9 **(A) A summary of the disciplinary actions taken by the**
 10 **commission in the preceding calendar year.**

11 **(B) A summary of the complaints received and resolved in**
 12 **the preceding calendar year.**

13 SECTION 2. IC 4-31-3-13 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 13. (a) The
 15 commission shall employ a director of security who is qualified by
 16 training and experience in law enforcement or security to supervise,
 17 direct, coordinate, and administer the security activities of the
 18 commission.

19 (b) The director of security may do the following:

20 (1) Investigate licensees of the commission, including applicants
 21 for licenses, necessary to ensure the security and integrity of
 22 pari-mutuel racing.

23 (2) Investigate an alleged violation of this article or a rule adopted
 24 by the commission.

25 (3) Enter a permit holder's premises for the performance of the
 26 director's lawful duties.

27 (4) Conduct searches authorized by IC 4-31-13-4.

28 (5) Perform other duties the commission prescribes.

29 **(c) The executive director or the director of security may issue**
 30 **a summons to any licensee who is alleged to have violated this**
 31 **article, the rules of the commission, or an order of the commission.**
 32 **The summons must set forth substantially the nature of the alleged**
 33 **violation and command the licensee to appear before the**
 34 **commission at a stated time and place. However, the stated time**
 35 **for a hearing held under this subsection must be at least thirty (30)**
 36 **days after the issuance of the summons.**

37 SECTION 3. IC 4-31-7-9, AS ADDED BY HEA 1176-2013,
 38 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2013]: Sec. 9. (a) **After December 31, 2013,** the following
 40 individuals may not wager on horse racing at a licensed facility:

41 (1) A member of the commission.

42 (2) An employee of the commission.

43 (3) A racing official.

44 (4) The spouse of any individual listed in subdivisions (1) through
 45 (3).

46 (b) A person who knowingly or intentionally violates this section
 47 commits a Class A misdemeanor.

48 SECTION 4. IC 4-31-9-1.5 IS AMENDED TO READ AS
 49 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. **(a) Except as**
 50 **provided in subsection (b),** a person that holds a permit to conduct a
 51 horse racing meeting or a permit holder licensed to operate a satellite

1 facility shall retain the following amounts from the money withheld
2 under section 1 of this chapter:

3 (1) For pari-mutuel wagers made at a permit holder's racetrack on
4 live races, an amount equal to:

5 (A) eight percent (8%) of the total amount of money wagered
6 on win, place, and show pools on each racing day; plus

7 (B) eleven and one-half percent (11.5%) of the total amount of
8 money wagered on exotic wagering pools on each racing day.

9 (2) For pari-mutuel wagers made at a permit holder's satellite
10 facility on simulcasts of races originating from the permit holder's
11 racetrack, an amount equal to:

12 (A) ten percent (10%) of the total amount of money wagered
13 on win, place, and show pools on each day; plus

14 (B) thirteen and one-half percent (13.5%) of the total amount
15 of money wagered on exotic wagering pools on each day.

16 (3) On the simulcast of races, for the Indiana sending or Indiana
17 receiving track or its satellite facilities, the amount to be retained,
18 after deducting:

19 (A) pari-mutuel tax payments owed to Indiana; and

20 (B) the contractual obligations owed to the racetrack from
21 which the races originated;

22 shall be determined, subject to the approval of the commission, by
23 one (1) or more contracts between the applicable Indiana permit
24 holders and the applicable horsemen's association.

25 **(b) If requested in writing by a horsemen's association, the**
26 **commission may reduce the amount that a permit holder must**
27 **retain under subsection (a)(1), (a)(2), or (a)(3), or any combination**
28 **of those subdivisions. The commission must find that reducing the**
29 **amount retained by the permit holder is in the best interests of**
30 **horse racing in Indiana before granting the horsemen's**
31 **association's request.**

32 SECTION 5. IC 4-31-9-7 IS AMENDED TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) This section does not apply
34 to money wagered on simulcasts of horse races televised under
35 IC 4-31-7-7.

36 (b) Each permit holder shall pay a fee after the completion of each
37 racing meeting. This fee is in addition to the taxes imposed by ~~sections~~
38 **section 3 and 4** of this chapter. Except as provided in subsection (c),
39 the amount of this fee is determined as follows:

40 (1) If the total amount of wagering at the racing meeting is less
41 than five million dollars (\$5,000,000), the fee is one-tenth of one
42 percent (0.1%) of the total amount wagered.

43 (2) If the total amount of wagering at the racing meeting is five
44 million dollars (\$5,000,000) or more, the fee is fifteen-hundredths
45 of one percent (0.15%) of the total amount wagered.

46 (c) The fees collected under this section from any one (1) permit
47 holder may not exceed fifteen thousand dollars (\$15,000) from any one
48 (1) horse racing meeting in a calendar year.

49 (d) Within ten (10) days after the close of each racing meeting, the
50 permit holder shall forward the fee imposed by this section in equal
51 shares to the fiscal officers of the:

- 1 (1) city, if any;
 - 2 (2) town, if any; and
 - 3 (3) county;
- 4 in which the racing meeting took place. The city, town, or county may
 5 use this money as general fund operating revenues.

6 SECTION 6. IC 4-31-11-11 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. Each development
 8 fund consists of:

- 9 (1) breakage and outs paid into the fund under IC 4-31-9-10;
- 10 (2) appropriations by the general assembly;
- 11 (3) gifts;
- 12 (4) stakes payments;
- 13 (5) entry fees; and
- 14 (6) money paid into the fund under ~~IC 4-33-12-6~~ **IC 4-35-7-12**.

15 SECTION 7. IC 4-31-12-15 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 15. (a) The
 17 commission may adopt rules under IC 4-22-2 to delegate to the
 18 stewards and judges of racing meetings the authority to conduct
 19 disciplinary hearings on behalf of the commission. The stewards and
 20 judges shall give at least twelve (12) hours notice of any such hearing.
 21 The stewards and judges, on behalf of the commission, may impose one
 22 (1) or more of the following sanctions against a licensee who violates
 23 sections 2 through 13 of this chapter:

- 24 (1) A civil penalty not to exceed ~~one~~ **five** thousand dollars
 25 ~~(\$1,000)~~ **(\$5,000)**.
- 26 (2) A temporary order or other immediate action in the nature of
 27 a summary suspension where a licensee's actions constitute an
 28 immediate danger to the public health, safety, or welfare.
- 29 (3) Suspension of a license held by the licensee for up to ~~sixty~~
 30 ~~(60) days~~ **one (1) year**. The suspension of a license under this
 31 subdivision is:
 - 32 (A) valid even though the suspension extends beyond the
 33 period of the racing meeting for which the stewards and judges
 34 have been appointed; and
 - 35 (B) effective at all other racing meetings under the jurisdiction
 36 of the commission.
- 37 (4) A rule that a person must stay off the premises of one (1) or
 38 more permit holders if necessary in the public interest to maintain
 39 proper control over recognized meetings.
- 40 (5) Referral of the matter to the commission for its consideration.

41 However, at least two (2) of the stewards or judges must concur in a
 42 sanction.

43 (b) **Unless a suspension of a license or the imposition of a civil**
 44 **penalty under this section is appealed by the person sanctioned not**
 45 **more than fifteen (15) days after being sanctioned**, the suspension
 46 of a license or the imposition of a civil penalty under this section must
 47 occur within ~~sixty (60)~~ **one hundred eighty (180)** days of the date of
 48 the violation.

49 (c) A sanction under this section may be appealed to the
 50 commission. **Judges and stewards imposing sanctions under this**

1 **section must prove the person's violation by a preponderance of**
 2 **the evidence.** The commission shall adopt rules establishing
 3 procedures for appeals and stays of appeals. **The commission shall**
 4 **conduct a hearing on an appeal filed under this section as provided**
 5 **in IC 4-21.5.**

6 SECTION 8. IC 4-31-12-16 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 16. The
 8 commission ~~or the commission's designee, as determined under the~~
 9 ~~rules of the commission, on its own motion or in addition to a penalty~~
 10 ~~assessed by the stewards and judges,~~ may impose one (1) or more of
 11 the following sanctions against a licensee who violates sections 2
 12 through 13 of this chapter:

13 (1) Revocation of a license held by the licensee.

14 (2) Suspension of a license held by the licensee.

15 (3) A civil penalty not to exceed five thousand dollars (\$5,000).

16 SECTION 9. IC 4-31-13-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 1. (a) The
 18 commission ~~or the commission's designee, as determined under the~~
 19 ~~rules of the commission, on its own motion or in addition to a penalty~~
 20 ~~assessed by the stewards and judges,~~ may issue orders under IC 4-21.5
 21 to:

22 (1) ~~issue;~~ deny, suspend, diminish, or revoke permits and licenses
 23 as authorized by this article; **and**

24 (2) impose civil penalties, in addition to any other penalty
 25 imposed by the commission on a person who violates this article
 26 or a rule or an order of the commission. ~~and~~

27 (3)

28 **(b) The commission or the commission's designee, as determined**
 29 **under the rules of the commission, on its own motion or in addition**
 30 **to a penalty assessed by the stewards and judges, may issue orders**
 31 **under IC 4-21.5 to rule a person off one (1) or more permit holders'**
 32 **premises, if necessary in the public interest to maintain proper control**
 33 **over recognized meetings.**

34 ~~(b) Except as provided in IC 4-31-12-16;~~ (c) A civil penalty imposed
 35 against a licensee under subsection (a)(2) may not exceed five
 36 thousand dollars (\$5,000). For purposes of subsection (a)(2), each day
 37 during which a violation of this article or a rule or an order of the
 38 commission continues to occur constitutes a separate offense.

39 ~~(c)~~ (d) Civil penalties imposed under this article shall be deposited
 40 in the state general fund.

41 SECTION 10. IC 4-31-13-2 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 2. (a) The
 43 commission may adopt rules under IC 4-22-2 to delegate to the
 44 stewards and judges of racing meetings under the jurisdiction of the
 45 commission the power to conduct disciplinary hearings on behalf of the
 46 commission. The stewards and judges shall give at least twelve (12)
 47 hours notice of any such hearing. The stewards and judges, on behalf
 48 of the commission, may impose one (1) or more of the following
 49 sanctions against a licensee who violates this article or the rules or
 50 orders of the commission:

- 1 (1) A civil penalty not to exceed ~~one~~ **five** thousand dollars
 2 ~~(\$1,000)~~: **(\$5,000)**.
 3 (2) A temporary order or other immediate action in the nature of
 4 a summary suspension if a licensee's actions constitute an
 5 immediate danger to the public health, safety, or welfare.
 6 (3) Suspension of a license held by the licensee for not more than
 7 ~~sixty (60) days~~: **one (1) year**. The suspension of a license under
 8 this subdivision is:
 9 (A) valid even though the suspension extends beyond the
 10 period of the racing meeting for which the stewards and judges
 11 have been appointed; and
 12 (B) effective at all other racing meetings under the jurisdiction
 13 of the commission.
 14 (4) A rule that a person must stay off the premises of one (1) or
 15 more permit holders if necessary in the public interest to maintain
 16 proper control over recognized meetings.
 17 (5) Referral of the matter to the commission for its consideration.

18 However, at least two (2) of the stewards or judges at a racing meeting
 19 must concur in a suspension or civil penalty.

20 (b) **Unless a suspension of a license or the imposition of a civil**
 21 **penalty under this section is appealed by the person sanctioned not**
 22 **more than fifteen (15) days after being sanctioned**, the suspension
 23 of a license or the imposition of a civil penalty under this section must
 24 occur within ~~sixty (60)~~ **one hundred eighty (180)** days after the date
 25 of the violation.

26 (c) A suspension or civil penalty under this section may be appealed
 27 to the commission. **Judges and stewards imposing sanctions under**
 28 **this section must prove the person's violation by a preponderance**
 29 **of the evidence**. The commission shall adopt rules establishing
 30 procedures for appeals and stays of appeals. **The commission shall**
 31 **conduct a hearing on an appeal filed under this section as provided**
 32 **in IC 4-21.5**.

33 SECTION 11. IC 4-31-13-7 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) This section
 35 applies to the following persons:

- 36 (1) Judges.
 37 (2) Racing secretaries.
 38 (3) Employees in the racing secretary's office.
 39 (4) Starters.
 40 (5) Assistant starters.
 41 (6) Assistants to the state veterinarian.
 42 (7) Any other racing official. ~~of a permit holder whose~~
 43 ~~appointment must be reported to and approved by the commission~~
 44 ~~under IC 4-31-5-5~~.

45 (b) When a person listed in subsection (a) is serving in an official
 46 capacity at a racetrack, a horse in which the person (or the person's
 47 spouse or child) has a direct or indirect interest may not be raced at that
 48 racetrack.

49 SECTION 12. IC 4-35-2-2, AS ADDED BY P.L.233-2007,
 50 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2013]: Sec. 2. "Adjusted gross receipts" means:

2 (1) the total of all cash and property (including checks received
3 by a licensee, whether collected or not) received by a licensee
4 from gambling games, **including amounts that are distributed
5 by a licensee under IC 4-35-7-12**; minus

6 (2) the total of:

7 (A) all cash paid out to patrons as winnings for gambling
8 games; and

9 (B) uncollectible gambling game receivables, not to exceed the
10 lesser of:

11 (i) a reasonable provision for uncollectible patron checks
12 received from gambling games; or

13 (ii) two percent (2%) of the total of all sums, including
14 checks, whether collected or not, less the amount paid out to
15 patrons as winnings for gambling games.

16 For purposes of this section, a counter or personal check that is invalid
17 or unenforceable under this article is considered cash received by the
18 licensee from gambling games.

19 SECTION 13. IC 4-35-7-12, AS AMENDED BY P.L.229-2011,
20 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2013]: Sec. 12. (a) The Indiana horse racing commission shall
22 enforce the requirements of this section.

23 (b) ~~Except as provided in subsection (j)~~; A licensee shall before the
24 fifteenth day of each month distribute **the following amounts for the
25 support of the Indiana horse racing industry:**

26 (1) An amount equal to fifteen percent (15%) of the adjusted
27 gross receipts of the slot machine wagering from the previous
28 month at the licensee's racetrack as provided in this subsection.
29 **each casino operated by the licensee with respect to adjusted
30 gross receipts received after June 30, 2013, and before
31 January 1, 2014.**

32 (2) **The percentage of the adjusted gross receipts of the slot
33 machine wagering from the previous month at each casino
34 operated by the licensee that is determined under section 16
35 or 17 of this chapter with respect to adjusted gross receipts
36 received after December 31, 2013.**

37 (c) The Indiana horse racing commission may not use any of ~~this the~~
38 money **distributed under this section** for any administrative purpose
39 or other purpose of the Indiana horse racing commission. ~~and the entire~~
40 ~~amount of the money shall be distributed as provided in this section. A~~
41 ~~licensee shall pay the first one million five hundred thousand dollars~~
42 ~~(\$1,500,000) distributed under this section in a state fiscal year to the~~
43 ~~treasurer of state for deposit in the Indiana tobacco master settlement~~
44 ~~agreement fund for the purposes of the tobacco use prevention and~~
45 ~~cessation program. A licensee shall pay the next two hundred fifty~~
46 ~~thousand dollars (\$250,000) distributed under this section in a state~~
47 ~~fiscal year to the Indiana horse racing commission for deposit in the~~
48 ~~gaming integrity fund established by IC 4-35-8.7-3. After this money~~
49 ~~has been distributed to the treasurer of state and the Indiana horse~~
50 ~~racing commission;~~

1 **(d)** A licensee shall distribute the ~~remaining~~ money devoted to horse
2 racing purses and to horsemen's associations under this subsection as
3 follows:

4 (1) Five-tenths percent (0.5%) shall be transferred to horsemen's
5 associations for equine promotion or welfare according to the
6 ratios specified in subsection ~~(e)~~: **(g)**.

7 (2) Two and five-tenths percent (2.5%) shall be transferred to
8 horsemen's associations for backside benevolence according to
9 the ratios specified in subsection ~~(e)~~: **(g)**.

10 (3) Ninety-seven percent (97%) shall be distributed to promote
11 horses and horse racing as provided in subsection ~~(d)~~: **(f)**.

12 ~~(e)~~ **(e)** A horsemen's association shall expend the amounts
13 distributed to the horsemen's association under subsection ~~(b)~~~~(1)~~ **(d)(1)**
14 through ~~(b)~~~~(2)~~ **(d)(2)** for a purpose promoting the equine industry or
15 equine welfare or for a benevolent purpose that the horsemen's
16 association determines is in the best interests of horse racing in Indiana
17 for the breed represented by the horsemen's association. Expenditures
18 under this subsection are subject to the regulatory requirements of
19 subsection ~~(f)~~: **(h)**.

20 ~~(d)~~ **(f)** A licensee shall distribute the amounts described in
21 subsection ~~(b)~~~~(3)~~ **(d)(3)** as follows:

22 (1) Forty-six percent (46%) for thoroughbred purposes as follows:

23 (A) Sixty percent (60%) for the following purposes:

24 (i) Ninety-seven percent (97%) for thoroughbred purses.

25 (ii) Two and four-tenths percent (2.4%) to the horsemen's
26 association representing thoroughbred owners and trainers.

27 (iii) Six-tenths percent (0.6%) to the horsemen's association
28 representing thoroughbred owners and breeders.

29 (B) Forty percent (40%) to the breed development fund
30 established for thoroughbreds under IC 4-31-11-10.

31 (2) Forty-six percent (46%) for standardbred purposes as follows:

32 (A) Three hundred seventy-five thousand dollars (\$375,000)
33 to the state fair commission to be used by the state fair
34 commission to support standardbred racing and facilities at the
35 state fairgrounds.

36 (B) One hundred twenty-five thousand dollars (\$125,000) to
37 the state fair commission to be used by the state fair
38 commission to make grants to county fairs to support
39 standardbred racing and facilities at county fair tracks. The
40 state fair commission shall establish a review committee to
41 include the standardbred association board, the Indiana horse
42 racing commission, and the Indiana county fair association to
43 make recommendations to the state fair commission on grants
44 under this clause.

45 (C) Fifty percent (50%) of the amount remaining after the
46 distributions under clauses (A) and (B) for the following
47 purposes:

48 (i) Ninety-six and five-tenths percent (96.5%) for
49 standardbred purses.

50 (ii) Three and five-tenths percent (3.5%) to the horsemen's

- 1 association representing standardbred owners and trainers.
 2 (D) Fifty percent (50%) of the amount remaining after the
 3 distributions under clauses (A) and (B) to the breed
 4 development fund established for standardbreds under
 5 IC 4-31-11-10.
- 6 (3) Eight percent (8%) for quarter horse purposes as follows:
 7 (A) Seventy percent (70%) for the following purposes:
 8 (i) Ninety-five percent (95%) for quarter horse purses.
 9 (ii) Five percent (5%) to the horsemen's association
 10 representing quarter horse owners and trainers.
 11 (B) Thirty percent (30%) to the breed development fund
 12 established for quarter horses under IC 4-31-11-10.
- 13 Expenditures under this subsection are subject to the regulatory
 14 requirements of subsection ~~(f)~~: **(h)**.
- 15 ~~(e)~~ **(g)** Money distributed under subsection ~~(b)(1)~~ **(d)(1)** and ~~(b)(2)~~
 16 **(d)(2)** shall be allocated as follows:
 17 (1) Forty-six percent (46%) to the horsemen's association
 18 representing thoroughbred owners and trainers.
 19 (2) Forty-six percent (46%) to the horsemen's association
 20 representing standardbred owners and trainers.
 21 (3) Eight percent (8%) to the horsemen's association representing
 22 quarter horse owners and trainers.
- 23 ~~(f)~~ **(h)** Money distributed under ~~subsection (b)(1); (b)(2); or (b)(3)~~
 24 **this section** may not be expended unless the expenditure is for a
 25 purpose authorized in this section and is either for a purpose promoting
 26 the equine industry or equine welfare or is for a benevolent purpose
 27 that is in the best interests of horse racing in Indiana or the necessary
 28 expenditures for the operations of the horsemen's association required
 29 to implement and fulfill the purposes of this section. The Indiana horse
 30 racing commission may review any expenditure of money distributed
 31 under ~~subsection (b)(1); (b)(2); or (b)(3)~~ **this section** to ensure that the
 32 requirements of this section are satisfied. The Indiana horse racing
 33 commission shall adopt rules concerning the review and oversight of
 34 money distributed under ~~subsection (b)(1); (b)(2); or (b)(3)~~ **this section**
 35 and shall adopt rules concerning the enforcement of this section. The
 36 following apply to a horsemen's association receiving a distribution of
 37 money under ~~subsection (b)(1); (b)(2); or (b)(3)~~: **this section**:
 38 (1) The horsemen's association must annually file a report with
 39 the Indiana horse racing commission concerning the use of the
 40 money by the horsemen's association. The report must include
 41 information as required by the commission.
 42 (2) The horsemen's association must register with the Indiana
 43 horse racing commission.
- 44 **The state board of accounts shall annually audit the accounts,**
 45 **books, and records of the Indiana horse racing commission, each**
 46 **horsemen's association, a licensee, and any association for backside**
 47 **benevolence containing any information relating to the distribution**
 48 **of money under this section.**
- 49 ~~(g)~~ **(i)** The commission shall provide the Indiana horse racing
 50 commission with the information necessary to enforce this section.

1 (†) (j) The Indiana horse racing commission shall investigate any
 2 complaint that a licensee has failed to comply with the horse racing
 3 purse requirements set forth in this section. If, after notice and a
 4 hearing, the Indiana horse racing commission finds that a licensee has
 5 failed to comply with the purse requirements set forth in this section,
 6 the Indiana horse racing commission may:

- 7 (1) issue a warning to the licensee;
 8 (2) impose a civil penalty that may not exceed one million dollars
 9 (\$1,000,000); or
 10 (3) suspend a meeting permit issued under IC 4-31-5 to conduct
 11 a pari-mutuel wagering horse racing meeting in Indiana.

12 (†) (k) A civil penalty collected under this section must be deposited
 13 in the state general fund.

14 (j) For a state fiscal year beginning after June 30, 2011, the sum of
 15 the amount of money dedicated to the distribution to the Indiana horse
 16 racing commission for deposit in the gaming integrity fund and the
 17 amount of money dedicated to the purposes described in subsection
 18 (b)(1); (b)(2); and (b)(3) for a particular state fiscal year is equal to the
 19 lesser of:

- 20 (1) the result of:
 21 (A) fifteen percent (15%) of the licensee's adjusted gross
 22 receipts for the state fiscal year; minus
 23 (B) one million five hundred thousand dollars (\$1,500,000); or

- 24 (2) the result of:
 25 (A) in the state fiscal year beginning July 1, 2011, and ending
 26 June 30, 2012:

27 (i) the sum of the amount dedicated to the distribution to the
 28 Indiana horse racing commission for deposit in the gaming
 29 integrity fund and the amount dedicated to the purposes
 30 described in subsection (b)(1); (b)(2); and (b)(3) in the
 31 previous state fiscal year; minus

32 (ii) one million five hundred thousand dollars (\$1,500,000);
 33 and

34 (B) in a state fiscal year beginning after June 30, 2012; the
 35 sum of the amount dedicated to the distribution to the Indiana
 36 horse racing commission for deposit in the gaming integrity
 37 fund and the amount dedicated to the purposes described in
 38 subsection (b)(1); (b)(2); and (b)(3) in the previous state fiscal
 39 year;

40 increased by a percentage that does not exceed the percent of
 41 increase in the United States Department of Labor Consumer
 42 Price Index during the year preceding the year in which an
 43 increase is established.

44 If the amount specified in subdivision (1) for the state fiscal year
 45 exceeds the amount specified in subdivision (2); the licensee shall
 46 transfer the amount of the excess to the commission for deposit in the
 47 state general fund. The licensee shall adjust the transfers required
 48 under this section in the final month of the state fiscal year to comply
 49 with the requirements of this subsection.

50 SECTION 14. IC 4-35-7-15 IS ADDED TO THE INDIANA CODE

1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2013]: **Sec. 15. (a) This section applies to slot machine wagering
3 occurring after June 30, 2013.**

4 **(b) For each casino operated under this article, a licensee shall
5 on July 15 of each year pay two hundred fifty thousand dollars
6 (\$250,000) to the Indiana horse racing commission for deposit in
7 the gaming integrity fund established by IC 4-35-8.7-3.**

8 SECTION 15. IC 4-35-7-16 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2013]: **Sec. 16. (a) The amount of slot machine revenue that must
11 be distributed under section 12(b)(2) of this chapter must be
12 determined in a distribution agreement entered into by negotiation
13 committees representing all licensees and the horsemen's
14 associations having contracts with licensees that have been
15 approved by the Indiana horse racing commission.**

16 **(b) Each horsemen's association shall appoint a representative
17 to a negotiation committee to negotiate the distribution agreement
18 required by subsection (a). If there are an even number of
19 horsemen's associations appointing representatives to the
20 committee, the members appointed by each horsemen's association
21 shall jointly appoint an at-large member of the negotiation
22 committee to represent the interests of all of the horsemen's
23 associations. The at-large member is entitled to the same rights and
24 privileges of the members appointed by the horsemen's
25 associations.**

26 **(c) Each licensee shall appoint a representative to a negotiation
27 committee to negotiate the distribution agreement required by
28 subsection (a). If there are an even number of licensees, the
29 members appointed by each licensee shall jointly appoint an
30 at-large member of the negotiation committee to represent the
31 interests of all of the licensees. The at-large member is entitled to
32 the same rights and privileges of the members appointed by the
33 licensees.**

34 **(d) If a majority of the members of each negotiation committee
35 are present, the negotiation committees may negotiate and enter
36 into a distribution agreement binding all horsemen's associations
37 and all licensees as required by subsection (a).**

38 **(e) The initial distribution agreement entered into by the
39 negotiation committees:**

40 **(1) must be in writing;**

41 **(2) must be submitted to the Indiana horse racing commission
42 before October 1, 2013;**

43 **(3) must be approved by the Indiana horse racing commission
44 before January 1, 2014; and**

45 **(4) may contain any terms determined to be necessary and
46 appropriate by the negotiation committees, subject to
47 subsection (f) and section 12 of this chapter.**

48 **(f) A distribution agreement must provide that at least ten
49 percent (10%) and not more than twelve percent (12%) of a
50 licensee's adjusted gross receipts must be distributed under section
51 12(b)(2) of this chapter. A distribution agreement applies to**

1 adjusted gross receipts received by the licensee after December 31
2 of the calendar year in which the distribution agreement is
3 approved by the Indiana horse racing commission.

4 (g) A distribution agreement may expire on December 31 of a
5 particular calendar year if a subsequent distribution agreement
6 will take effect on January 1 of the following calendar year. A
7 subsequent distribution agreement:

8 (1) is subject to the approval of the Indiana horse racing
9 commission; and

10 (2) must be submitted to the Indiana horse racing commission
11 before October 1 of the calendar year preceding the calendar
12 year in which the distribution agreement will take effect.

13 (h) The Indiana horse racing commission shall annually report
14 to the budget committee on the effect of each distribution
15 agreement on the Indiana horse racing industry before January 1
16 of the following calendar year.

17 SECTION 16. IC 4-35-7-17 IS ADDED TO THE INDIANA CODE
18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
19 1, 2013]: Sec. 17. (a) Subject to subsection (b), if:

20 (1) a distribution agreement is not submitted to the Indiana
21 horse racing commission before the deadlines imposed by
22 section 16 of this chapter; or

23 (2) the Indiana horse racing commission is unable to approve
24 a distribution agreement;

25 the Indiana horse racing commission shall determine the
26 percentage of a licensee's adjusted gross receipts that must be
27 distributed under section 12(b)(2) of this chapter.

28 (b) The Indiana horse racing commission shall give the
29 negotiation committees an opportunity to correct any deficiencies
30 in a proposed distribution agreement before making a
31 determination of the applicable percentage under subsection (a).

32 (c) The Indiana horse racing commission shall consider the
33 factors used to evaluate a distribution agreement under section 18
34 of this chapter when making a determination under subsection (a).

35 SECTION 17. IC 4-35-7-18 IS ADDED TO THE INDIANA CODE
36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
37 1, 2013]: Sec. 18. The Indiana horse racing commission shall
38 evaluate any proposed distribution agreement submitted under
39 section 16 of this chapter using the following criteria:

40 (1) The best interests of pari-mutuel horse racing in Indiana.

41 (2) Maintenance of the highest standards and greatest level of
42 integrity.

43 (3) Fairness to all parties.

44 (4) The financial stability of licensees.

45 (5) Any other factor considered relevant by the Indiana horse
46 racing commission.

47 SECTION 18. IC 4-35-8-1, AS AMENDED BY P.L.172-2011,
48 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
49 JULY 1, 2013]: Sec. 1. (a) A graduated slot machine wagering tax is
50 imposed as follows on one hundred percent (100%) of the adjusted
51 gross receipts received before July 1, 2012; and on ninety-nine percent

1 (99%) of the adjusted gross receipts received after June 30, 2012, and
 2 **before July 1, 2013, and on ninety-one and five-tenths percent**
 3 **(91.5%) of the adjusted gross receipts received after June 30, 2013,**
 4 from wagering on gambling games authorized by this article:

5 (1) Twenty-five percent (25%) of the first one hundred million
 6 dollars (\$100,000,000) of adjusted gross receipts received during
 7 the period beginning July 1 of each year and ending June 30 of
 8 the following year.

9 (2) Thirty percent (30%) of the adjusted gross receipts in excess
 10 of one hundred million dollars (\$100,000,000) but not exceeding
 11 two hundred million dollars (\$200,000,000) received during the
 12 period beginning July 1 of each year and ending June 30 of the
 13 following year.

14 (3) Thirty-five percent (35%) of the adjusted gross receipts in
 15 excess of two hundred million dollars (\$200,000,000) received
 16 during the period beginning July 1 of each year and ending June
 17 30 of the following year.

18 (b) A licensee shall remit the tax imposed by this section to the
 19 department before the close of the business day following the day the
 20 wagers are made.

21 (c) The department may require payment under this section to be
 22 made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

23 (d) If the department requires taxes to be remitted under this chapter
 24 through electronic funds transfer, the department may allow the
 25 licensee to file a monthly report to reconcile the amounts remitted to
 26 the department.

27 (e) The payment of the tax under this section must be on a form
 28 prescribed by the department.

29 **SECTION 19. [EFFECTIVE UPON PASSAGE] (a) This**
 30 **SECTION applies to slot machine wagering conducted under**
 31 **IC 4-35.**

32 **(b) The following apply to the adjusted gross receipts of slot**
 33 **machine wagering occurring before July 1, 2013:**

34 **(1) Subject to subdivision (2), a licensee shall make the**
 35 **transfers required by IC 4-35-7-12 (as in effect on January 1,**
 36 **2013) with respect to the adjusted gross receipts of slot**
 37 **machine wagering occurring in June 2013.**

38 **(2) A licensee shall adjust the transfers required by**
 39 **subdivision (1) in accordance with IC 4-35-7-12(j) (as in effect**
 40 **on January 1, 2013).**

41 **(3) A licensee shall make the transfers required by subdivision**
 42 **(1) before July 15, 2013.**

43 **(c) This SECTION expires January 1, 2014.**

44 **SECTION 20. An emergency is declared for this act.**

(Reference is to ESB 609 as reprinted March 26, 2013.)

Conference Committee Report
on
Engrossed Senate Bill 609

Signed by:

Senator Kenley
Chairperson

Representative Eberhart

Senator Hume

Representative Austin

Senate Conferees

House Conferees