February 5, 2013

SENATE BILL No. 609

DIGEST OF SB 609 (Updated January 31, 2013 11:00 am - DI 58)

Citations Affected: IC 4-31; noncode.

Synopsis: Horse racing. 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. Prohibits members of the IHRC, employees of the IHRC, and racing officials from wagering on horse racing at racetracks and satellite facilities located in Indiana. 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; and (3) that the IHRC must conduct a hearing on an appealed sanction as required by the administrative adjudication law. Requires the IHRC to commission an independent study of the economic impact of horse racing in Indiana. Makes technical corrections to the code.

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

Kenley

January 17, 2013, read first time and referred to Committee on Appropriations.
February 4, 2013, amended, reported favorably — Do Pass.

C o p y

February 5, 2013

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

C o p y

SENATE BILL No. 609

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-31-2-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: **Sec. 9.5. "Licensed facility" refers to the following:**

(1) A racetrack at which live horse racing is conducted in accordance with a permit issued by the commission under IC 4-31-5.

(2) A satellite facility licensed under IC 4-31-5.5.

SECTION 2. IC 4-31-2-19.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: **Sec. 19.5. "Racing official" refers to either of the following:**

(1) An individual employed by a permit holder during a racing meeting whose employment must be reported to the commission under IC 4-31-5-5 or the rules of the commission.

(2) An individual who:

(A) is employed as an assistant to an individual described

in subdivision (1); and

(B) performs duties integral to the conduct of pari-mutuel horse racing.

SECTION 3. IC 4-31-3-8, AS AMENDED BY P.L.2-2008, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. The commission shall:

(1) prescribe the rules and conditions under which horse racing at a recognized meeting may be conducted;

(2) initiate safeguards as necessary to account for the amount of money wagered at each track or satellite facility in each wagering pool;

(3) require all permit holders to provide a photographic or videotape recording, approved by the commission, of the entire running of all races conducted by the permit holder;

(4) make annual reports concerning: ~~its~~

(A) the competitive status of the Indiana horse racing industry as compared to the horse racing industries of other states and measured by purse, handle, and any other factors determined by the commission;

(B) the commission's operations; and

(C) its recommendations;

to the governor and, in an electronic format under IC 5-14-6, to the general assembly; ~~and~~

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

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

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

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

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

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

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

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

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

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

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

(5) Perform other duties the commission prescribes.

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

SECTION 5. IC 4-31-7-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: **Sec. 9. The following individuals may not wager on horse racing at a licensed facility:**

(1) A member of the commission.

(2) An employee of the commission.

(3) A racing official.

SECTION 6. IC 4-31-12-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 15. (a) The commission may adopt rules under IC 4-22-2 to delegate to the stewards and judges of racing meetings the authority to conduct disciplinary hearings on behalf of the commission. The stewards and judges shall give at least twelve (12) hours notice of any such hearing. The stewards and judges, on behalf of the commission, may impose one (1) or more of the following sanctions against a licensee who violates sections 2 through 13 of this chapter:

(1) A civil penalty not to exceed ~~one~~ **five** thousand dollars ~~($1,000).~~ **($5,000).**

(2) A temporary order or other immediate action in the nature of a summary suspension where a licensee's actions constitute an immediate danger to the public health, safety, or welfare.

(3) Suspension of a license held by the licensee for up to ~~sixty (60) days.~~ **one (1) year.** The suspension of a license under this subdivision is:

(A) valid even though the suspension extends beyond the

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period of the racing meeting for which the stewards and judges have been appointed; and

(B) effective at all other racing meetings under the jurisdiction of the commission.

(4) A rule that a person must stay off the premises of one (1) or more permit holders if necessary in the public interest to maintain proper control over recognized meetings.

(5) Referral of the matter to the commission for its consideration. However, at least two (2) of the stewards or judges must concur in a sanction.

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

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

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

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

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

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

SECTION 8. IC 4-31-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 1. (a) The commission ~~or the commission's designee, as determined under the rules of the commission, on its own motion or in addition to a penalty assessed by the stewards and judges,~~ may issue orders under IC 4-21.5 to:

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

(2) impose civil penalties, in addition to any other penalty

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imposed by the commission on a person who violates this article or a rule or an order of the commission. ~~and~~

~~(3)~~

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

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

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

SECTION 9. IC 4-31-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 2. (a) The commission may adopt rules under IC 4-22-2 to delegate to the stewards and judges of racing meetings under the jurisdiction of the commission the power to conduct disciplinary hearings on behalf of the commission. The stewards and judges shall give at least twelve (12) hours notice of any such hearing. The stewards and judges, on behalf of the commission, may impose one (1) or more of the following sanctions against a licensee who violates this article or the rules or orders of the commission:

(1) A civil penalty not to exceed ~~one~~ **five** thousand dollars ~~($1,000).~~ **($5,000).**

(2) A temporary order or other immediate action in the nature of a summary suspension if a licensee's actions constitute an immediate danger to the public health, safety, or welfare.

(3) Suspension of a license held by the licensee for not more than ~~sixty (60) days.~~ **one (1) year.** The suspension of a license under this subdivision is:

(A) valid even though the suspension extends beyond the period of the racing meeting for which the stewards and judges have been appointed; and

(B) effective at all other racing meetings under the jurisdiction of the commission.

(4) A rule that a person must stay off the premises of one (1) or more permit holders if necessary in the public interest to maintain proper control over recognized meetings.

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(5) Referral of the matter to the commission for its consideration. However, at least two (2) of the stewards or judges at a racing meeting must concur in a suspension or civil penalty.

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

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

SECTION 10. [EFFECTIVE JULY 1, 2013] **(a) The Indiana horse racing commission shall commission an independent study concerning the economic impact of horse racing in Indiana through an open, objective, competitive process and procedure adopted by the Indiana horse racing commission.**

(b) This SECTION expires January 1, 2016.

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 609, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 2 with "[EFFECTIVE JANUARY 1, 2014]".

Replace the effective date in SECTION 6 with "[EFFECTIVE JANUARY 1, 2014]".

Page 3, delete lines 17 through 27.

Page 4, line 23, delete "ten (10)" and insert "**fifteen (15)**".

Page 4, line 25, strike "sixty (60)" and insert "**one hundred eighty (180)**".

Page 4, line 31, delete "not more" and insert "**as provided in IC 4-21.5.**".

Page 4, delete lines 32 through 33.

Page 5, line 8, strike "issue,".

Page 6, line 16, delete "ten (10)" and insert "**fifteen (15)**".

Page 6, line 18, strike "sixty (60)" and insert "**one hundred eighty (180)**".

Page 6, line 24, delete "not more" and insert "**as provided in IC 4-21.5.**".

Page 6, delete lines 25 through 26.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 609 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 12, Nays 0.

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