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**SUBSTITUTE SENATE BILL 5791**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** Senate Commerce & Labor (originally sponsored by Senators Fain, Hobbs, Litzow, Eide, Hill, King, Keiser, Murray, Dammeier, Hatfield, Becker, Kohl-Welles, Honeyford, and McAuliffe)

READ FIRST TIME 02/22/13.

1       AN ACT Relating to supporting youth programs through agricultural  
2 fairs and the horse racing industry; and amending RCW 15.76.100,  
3 67.70.240, 15.76.115, 67.16.280, 67.16.105, 67.16.050, and 67.16.170.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       **Sec. 1.** RCW 15.76.100 and 2012 c 221 s 1 are each amended to read  
6 as follows:

7       It is hereby declared that it is in the public interest to hold  
8 agricultural fairs, including the exhibition of livestock and  
9 agricultural produce of all kinds, as well as related arts and  
10 manufactures; including products of the farm home and educational  
11 contest, displays, and demonstrations designed to train youth and to  
12 promote the welfare of farm people and rural living. The legislature  
13 further finds that providing a dedicated source of revenues for state  
14 allocations to the fair fund supports these important training  
15 opportunities for youth. Fairs qualifying ((~~hereunder shall be~~)) under  
16 this section are eligible for allocations from the state fair fund and  
17 for capital funding when appropriated to the department of agriculture,  
18 as provided in this chapter.

1       **Sec. 2.** RCW 67.70.240 and 2011 c 352 s 3 are each amended to read  
2 as follows:

3       (1) The moneys in the state lottery account (~~shall~~) must be used  
4 only:

5       (~~(1)~~) (a) For the payment of prizes to the holders of winning  
6 lottery tickets or shares;

7       (~~(2)~~) (b) For purposes of making deposits into the reserve  
8 account created by RCW 67.70.250 and into the lottery administrative  
9 account created by RCW 67.70.260;

10       (~~(3)~~) (c) For purposes of making deposits into the education  
11 construction fund created in RCW 43.135.045 and the Washington  
12 opportunity pathways account created in RCW 28B.76.526. On and after  
13 July 1, 2010, all deposits not otherwise obligated under this section  
14 (~~shall~~) must be placed in the Washington opportunity pathways  
15 account. Moneys in the state lottery account deposited in the  
16 Washington opportunity pathways account are included in "general state  
17 revenues" under RCW 39.42.070;

18       (~~(4)~~) (d) For distribution to a county for the purpose of paying  
19 the principal and interest payments on bonds issued by the county to  
20 construct a baseball stadium, as defined in RCW 82.14.0485, including  
21 reasonably necessary preconstruction costs. Three million dollars  
22 (~~shall~~) must be distributed under this subsection during calendar  
23 year 1996. During subsequent years, such distributions (~~shall~~) must  
24 equal the prior year's distributions increased by four percent.  
25 Distributions under this subsection (~~shall~~) must cease when the bonds  
26 issued for the construction of the baseball stadium are retired, but  
27 not more than twenty years after the tax under RCW 82.14.0485 is first  
28 imposed;

29       (~~(5)~~) (e) For distribution to the stadium and exhibition center  
30 account, created in RCW 43.99N.060. Subject to the conditions of RCW  
31 43.99N.070, six million dollars (~~shall~~) must be distributed under  
32 this subsection during the calendar year 1998. During subsequent  
33 years, such distribution (~~shall~~) must equal the prior year's  
34 distributions increased by four percent. No distribution may be made  
35 under this subsection after December 31, 1999, unless the conditions  
36 for issuance of the bonds under RCW 43.99N.020(2) are met.  
37 Distributions under this subsection (~~shall~~) must cease when the bonds  
38 are retired, but not later than December 31, 2020;

1       ~~((+6))~~ (f) For transfer to the veterans innovations program  
2 account. The net revenues received from the sale of the annual  
3 Veteran's Day lottery raffle conducted under RCW 67.70.500 must be  
4 deposited into the veterans innovations program account created in RCW  
5 43.60A.185 for purposes of serving veterans and their families. For  
6 purposes under this subsection, "net revenues" means all revenues  
7 received from the sale of veteran lottery raffle tickets less the sum  
8 of the amount paid out in prizes and the actual administration expenses  
9 of the lottery solely related to the veteran lottery raffle;

10       ~~((+7))~~ (g) For the purchase and promotion of lottery games and  
11 game-related services; ~~((and~~

12       ~~(+8))~~ (h) For the payment of agent compensation; and

13       (i) For distribution to the state fair fund created in RCW  
14 15.76.115 and the horse racing commission operating account created in  
15 RCW 67.16.280. Five million dollars must be distributed under this  
16 subsection during calendar year 2013, as follows: (A) Two million five  
17 hundred thousand dollars to the state fair fund established under RCW  
18 15.76.115; and (B) two million five hundred thousand dollars to the  
19 horse racing commission operating account established under RCW  
20 67.16.280. During subsequent years, such distributions must equal the  
21 prior year's distributions increased by two percent. No distribution  
22 may be made under this subsection (1)(i) after June 30, 2023.

23       (2) The office of financial management (~~shall~~) must require the  
24 allotment of all expenses paid from the account and (~~shall~~) must  
25 report to the ways and means committees of the senate and house of  
26 representatives any changes in the allotments.

27       **Sec. 3.** RCW 15.76.115 and 2011 1st sp.s. c 50 s 926 are each  
28 amended to read as follows:

29       (1) The fair fund is created in the custody of the state treasury.

30       (2) As of the effective date of this section until July 30, 2023,  
31 all moneys received by the department of agriculture for the purposes  
32 of this fund (~~and from RCW 67.16.105(7) shall~~) must be deposited into  
33 the fair fund. (~~At the beginning of fiscal year 2002~~)

34       (3) As of June 30, 2023, and each fiscal year thereafter, the state  
35 treasurer (~~shall~~) must transfer into the fair fund from the general  
36 fund the sum of two million dollars(~~, except for fiscal year 2011 the~~  
37 state treasurer shall transfer into the fair fund from the general fund

1 the sum of one million one hundred three thousand dollars, and except  
2 during fiscal year 2012 and fiscal year 2013 the state treasurer shall  
3 transfer into the fair fund from the general fund the sum of one  
4 million seven hundred fifty thousand dollars each fiscal year)).

5 (4) Expenditures from the fund may be used only for assisting fairs  
6 in the manner provided in this chapter. Only the director of  
7 agriculture or the director's designee may authorize expenditures from  
8 the fund. The fund is subject to allotment procedures under chapter  
9 43.88 RCW, but no appropriation is required for expenditures.

10 **Sec. 4.** RCW 67.16.280 and 2011 c 12 s 2 are each amended to read  
11 as follows:

12 (1) The Washington horse racing commission operating account is  
13 created in the custody of the state treasurer. All receipts collected  
14 by the commission under RCW 67.16.105(2) and 67.70.240(1)(i) must be  
15 deposited into the account. The commission must separately account for  
16 the funds it collects under RCW 67.70.240(1)(i) as the "horse industry  
17 support funds"; however, two hundred fifty thousand dollars of the  
18 annual funds collected under RCW 67.70.240(1)(i) must be allocated to  
19 nonprofit race meets as set forth in RCW 67.16.130 and 67.16.105(1).  
20 The commission has the authority to receive such gifts, grants, and  
21 endowments from public or private sources as may be made from time to  
22 time in trust or otherwise for the use and purpose of regulating or  
23 supporting (~~nonprofit race~~) meets as set forth in RCW 67.16.130 and  
24 (~~67.16.105(1)~~) 67.16.170; such gifts, grants, and endowments must  
25 also be deposited into the account and expended according to the terms  
26 of such gift, grant, or endowment. Moneys in the account may be spent  
27 only after appropriation. (~~Except as provided in subsection (2) of~~  
28 ~~this section, expenditures from the account may be used only for~~  
29 ~~operating expenses of the commission. Investment earnings from the~~  
30 ~~account will be retained in the Washington horse racing commission~~  
31 ~~operating account, pursuant to RCW 43.79A.040.)) Expenditures to the  
32 nonprofit race meets must be as set forth in subsection (2) of this  
33 section. Expenditures of the horse industry support funds may be used  
34 for: Operating expenses of the commission; providing educational  
35 opportunities at horse racing facilities for children involved in 4-H  
36 and other horse owners involved in training; increasing the size of  
37 purses at race meets other than nonprofit race meets; maintaining and~~

1 upgrading racing facilities; and marketing and equine industry  
2 educational expenses related to race meets other than nonprofit race  
3 meets.

4 (2) In order to provide funding in support of the legislative  
5 findings in RCW 67.16.101 (1) through (3), and to provide additional  
6 necessary support to the nonprofit race meets beyond the funding  
7 provided by RCW 67.16.101(4) and 67.16.102(2), the commission is  
8 authorized to spend up to three hundred thousand dollars per fiscal  
9 year from its operating account for the purposes of developing the  
10 equine industry, (~~maintaining and upgrading racing facilities~~)  
11 including increasing purses, insurance, providing educational  
12 opportunities at horse racing facilities for children involved in 4-H  
13 and other horse owners involved in training, and assisting equine  
14 health research. When determining how to allocate the funds available  
15 for these purposes, the commission must give first consideration to  
16 uses that regulate and assist the nonprofit race meets and equine  
17 health research. These expenditures may occur only when sufficient  
18 funds remain for the continued operations of the horse racing  
19 commission.

20 **Sec. 5.** RCW 67.16.105 and 2011 c 12 s 1 are each amended to read  
21 as follows:

22 (1) Licensees of race meets that are nonprofit in nature and are of  
23 ten days or less are exempt from payment of a parimutuel tax.

24 (2) Licensees that do not fall under subsection (1) of this section  
25 must withhold and pay to the commission daily for each authorized day  
26 of parimutuel wagering, excluding authorized days of parimutuel  
27 wagering between July 1, 2013, and June 30, 2023, the following  
28 applicable percentage of all daily gross receipts from its in-state  
29 parimutuel machines:

30 (a) If the gross receipts of all its in-state parimutuel machines  
31 are more than fifty million dollars in the previous calendar year, the  
32 licensee must withhold and pay to the commission daily 1.30 percent of  
33 the daily gross receipts; and

34 (b) If the gross receipts of all its in-state parimutuel machines  
35 are fifty million dollars or less in the previous calendar year, the  
36 licensee must withhold and pay to the commission daily 1.803 percent of  
37 the daily gross receipts.

1 (3)(a) In addition to those amounts in subsection (2) of this  
2 section, a licensee must forward one-tenth of one percent of the daily  
3 gross receipts of all its in-state parimutuel machines to the  
4 commission for payment to those nonprofit race meets as set forth in  
5 RCW 67.16.130 and subsection (1) of this section, but the percentage  
6 may not be charged against the licensee.

7 (b) Payments to nonprofit race meets under this subsection must be  
8 distributed on a per-race-day basis and used only for purses at race  
9 tracks that have been operating under RCW 67.16.130 and subsection (1)  
10 of this section in 2010 or for the five consecutive years immediately  
11 preceding the year of payment.

12 (c) As provided in this subsection, the commission must distribute  
13 funds up to fifteen thousand eight hundred dollars per race day from  
14 funds generated under this subsection (3).

15 (4) Beginning July 1, 1999, at the conclusion of each authorized  
16 race meet, the commission must calculate the mathematical average daily  
17 gross receipts of parimutuel wagering that is conducted only at the  
18 physical location of the live race meet at those race meets of  
19 licensees with gross receipts of all their in-state parimutuel machines  
20 of more than fifty million dollars. Such calculation (~~(shall)~~) must  
21 include only the gross parimutuel receipts from wagering occurring on  
22 live racing dates, including live racing receipts and receipts derived  
23 from one simulcast race card that is conducted only at the physical  
24 location of the live racing meet, which, for the purposes of this  
25 subsection, is "the handle." If the calculation exceeds eight hundred  
26 eighty-six thousand dollars, the licensee must within ten days of  
27 receipt of written notification by the commission forward to the  
28 commission a sum equal to the product obtained by multiplying 0.6  
29 percent by the handle. Sums collected by the commission under this  
30 subsection must be forwarded on the next business day following receipt  
31 thereof to the state treasurer to be deposited in the fair fund created  
32 in RCW 15.76.115.

33 (5) Licensees of race meets that do not fall under subsection (1)  
34 of this section must promote the lottery with any combination of in-  
35 kind advertising, sponsorship, or prize promotions, valued at fifteen  
36 percent of the amount distributed to the horse racing commission  
37 operating account pursuant to RCW 67.70.240(1)(i) annually beginning  
38 September 2013 for the purpose of increasing lottery sales of games

1 authorized under chapter 67.70 RCW. The content and value of the  
2 advertising sponsorship or prize promotions are subject to reasonable  
3 approval in advance by the lottery commission. The obligation of this  
4 subsection must cease when the distributions under RCW 67.70.240(1)(i)  
5 end, but not later than June 30, 2023.

6 **Sec. 6.** RCW 67.16.050 and 1997 c 87 s 2 are each amended to read  
7 as follows:

8 (1) Every person making application for license to hold a race  
9 meet, under the provisions of this chapter (~~shall~~) must file an  
10 application with the commission (~~which shall~~) that sets forth the  
11 time, the place, the number of days such meet will continue, and such  
12 other information as the commission may require. The commission  
13 (~~shall be~~) is the sole judge of whether or not the race meet  
14 (~~shall~~) will be licensed and the number of days the meet (~~shall~~)  
15 will continue.

16 (2) No person who has been convicted of any crime involving moral  
17 turpitude (~~shall~~) may be issued a license, nor (~~shall~~) may any  
18 license be issued to any person who has violated the terms or  
19 provisions of this chapter, or any of the rules and regulations of the  
20 commission made pursuant thereto, or who has failed to pay to the  
21 commission any or all sums required under the provisions of this  
22 chapter.

23 (3) The license (~~shall~~) must specify the number of days the race  
24 meet (~~shall~~) will continue and the number of races per day, which  
25 (~~shall~~) must include not less than six nor more than eleven live  
26 races per day, and beginning on July 1, 2023, for which a fee (~~shall~~)  
27 must be paid daily in advance of five hundred dollars for each live  
28 race day for those licensees (~~which~~) that had gross receipts from  
29 parimutuel machines in excess of fifty million dollars in the previous  
30 year and two hundred dollars for each day for meets (~~which~~) that had  
31 gross receipts from parimutuel machines at or below fifty million  
32 dollars in the previous year(~~+~~). In addition any newly authorized  
33 live race meets (~~shall~~) must pay two hundred dollars per day for the  
34 first year(~~÷~~—PROVIDED, That)). However, if unforeseen obstacles  
35 arise(~~∇~~—which) that prevent the holding(~~∇~~) or completion of any  
36 race meet, the license fee for the meet, or for (~~a~~) the portion

1 ((which)) that cannot be held, may be refunded the licensee, if the  
2 commission deems the reasons for failure to hold or complete the race  
3 meet sufficient.

4 (4) Any unexpired license held by any person who violates any of  
5 the provisions of this chapter, or any of the rules or regulations of  
6 the commission made pursuant thereto, or who fails to pay to the  
7 commission any and all sums required under the provisions of this  
8 chapter, ((shall be)) is subject to cancellation and revocation by the  
9 commission. Such cancellation ((shall)) may be made only after a  
10 summary hearing before the commission, of which three days' notice, in  
11 writing, ((shall)) must be given the licensee, specifying the grounds  
12 for the proposed cancellation, and at which hearing the licensee  
13 ((shall)) must be given an opportunity to be heard in opposition to the  
14 proposed cancellation.

15 **Sec. 7.** RCW 67.16.170 and 1998 c 345 s 7 are each amended to read  
16 as follows:

17 (1) Licensees of race meets that are nonprofit in nature and are of  
18 ten days or less may retain daily for each authorized day of racing  
19 fifteen percent of daily gross receipts of all parimutuel machines at  
20 each race meet.

21 (2) Licensees of race meets that do not fall under subsection (1)  
22 of this section may retain daily for each authorized day of parimutuel  
23 wagering the following percentages from the daily gross receipts of all  
24 its in-state parimutuel machines:

25 (a) If the daily gross receipts of all its in-state parimutuel  
26 machines are more than fifty million dollars in the previous calendar  
27 year, the licensee may retain daily ((13.70)) 15.0 percent of the daily  
28 gross receipts; and

29 (b) If the daily gross receipts of all its in-state parimutuel  
30 machines are fifty million dollars or less in the previous calendar  
31 year, the licensee may retain daily ((14.48)) 15.78 percent of the  
32 daily gross receipts.

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