

SENATE BILL REPORT

SB 5598

As of February 22, 2023

Title: An act relating to providing supplementary funding to legalized horse racing and the recreational use of horses in Washington state.

Brief Description: Providing supplementary funding to legalized horse racing and the recreational use of horses in Washington state. [**Revised for 1st Substitute:** Concerning funding of legalized horse racing and the recreational use of horses in Washington state.]

Sponsors: Senators Mullet, Fortunato, Nguyen, Keiser, Schoesler, Kauffman, Hunt, Padden, Wilson, J., Conway, Dozier, Stanford and Van De Wege.

Brief History:

Committee Activity: Business, Financial Services, Gaming & Trade: 2/07/23, 2/16/23
[DPS-WM, w/oRec].

Ways & Means: 2/22/23.

Brief Summary of First Substitute Bill

- Creates an exemption to the parimutuel tax from July 1, 2023 up until July 1, 2030.
- Requires an annual appropriation of \$6 million from the General Fund to the Washington Horse Racing Commission Operating Account through July 1, 2029.
- Establishes a grant program at the Washington Horse Racing Commission (Commission) for certain entities with programs related to horse racing and horse racing employees, fairs, and shows.
- Provides the Commission the authority to impose fees, as reasonable and appropriate, in compliance with the federal Horseracing Integrity and Safety Act of 2020.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES, GAMING & TRADE

Majority Report: That Substitute Senate Bill No. 5598 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Stanford, Chair; Frame, Vice Chair; Dozier, Ranking Member; Boehnke, Gildon, Lovick, MacEwen and Mullet.

Minority Report: That it be referred without recommendation.

Signed by Senator Hasegawa.

Staff: Kellee Gunn (786-7429)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Tianyi Lan (786-7432)

Background: Washington Horse Racing Commission. The Washington Horse Racing Commission (Commission) is responsible for licensing, regulating, and supervising all horse race meets held in Washington where the parimutuel system of betting is used. Parimutuel betting, or pool betting, is when those who bet and finish in the first four places share the total amount bet minus a percentage for management.

Betting or wagering on a horse race is lawful in Washington only if it is by the parimutuel method.

Parimutuel Tax. There is a tax on parimutuel betting in Washington State. The tax rate is dependent on the gross receipts of the previous calendar year on in-state parimutuel machines. The tax rate that must be withheld and paid to the commission daily is either:

- 1.3 percent if gross receipts from the previous calendar year are greater than \$50 million; or
- 1.803 percent if gross receipts from the previous calendar year are less than \$50 million.

Gross receipts from the parimutuel tax are deposited into a nonappropriated account for the Commission's operating expenses. If sufficient funds are available for operating, then the Commission may spend up to \$300,000 per fiscal year for the equine industry.

If a licensee is a nonprofit, and meets less than ten days a year, they are not subject to the parimutuel tax.

Race Fee. Every person wanting to hold a horse race with betting and wagering must apply to the Horse Racing Commission for a license. The licensee shall provide certain information on the race meet. The number of days the horse race meets as well as the gross receipts from parimutuel betting from the previous calendar year shall determine the daily

fee. Licensees which had gross receipts from parimutuel machines in excess of \$50 million in the previous year must pay a \$500 daily fee, those at or below that must pay a \$200 daily fee. There must be at least six, but no more than 11, races per day for each licensee subject to the daily fee.

Horseracing Integrity and Safety Act. The Horseracing Integrity and Safety Act (HISA) is a federal law that nationalizes governance of the horse racing industry. Under HISA, the Horseracing Integrity and Safety Authority, under the Federal Trade Commission, oversees certain aspects of horse racing throughout the United States. California is the only state currently in compliance with HISA. In November of 2022, the United States Court of Appeals for the Fifth Circuit found HISA facially unconstitutional. In March 2023, the United States Court of Appeals for the Sixth Circuit found the amended version of the HISA constitutional.

Summary of Bill (First Substitute): The Commission has the authority to impose fees, as deemed reasonable and appropriate, in compliance with the federal Horseracing Integrity and Safety Act of 2020.

Annually, beginning July 1, 2023, through July 1, 2029, \$6 million shall be appropriated from the general fund into the Washington Horse Racing Commission Operating Account for commission activities and operating expenses.

After paying for operating costs of the Commission, remaining account funds shall be distributed annually as grants to the following:

- 60 percent to class 1 racing associations;
- 20 percent to certain nonprofits with programs to improve working conditions for employees and families at the stable area at covered tracks;
- 10 percent to certain nonprofit entities involved with certain programs related to equines; and
- 10 percent for class C race meets.

On December 1, 2023, and annually thereafter, the Commission must report to the appropriate committees of the Legislature on the use of grant funds and criteria used to determine grant awards.

Licensees subject to the parimutuel tax are exempt from paying the tax until July 1, 2030.

A \$200 per day live race day fee is required of all licensees holding a race meet, irrespective of previous years gross receipts.

If specific funding for the purpose of this act is not provided in the omnibus appropriations act by June 30, 2023, this act is null and void.

EFFECT OF CHANGES MADE BY BUSINESS, FINANCIAL SERVICES,

GAMING & TRADE COMMITTEE (First Substitute):

- Provides the Horse Racing Commission the authority to impose fees, as reasonable and appropriate, in compliance with the federal Horseracing Integrity and Safety Act of 2020.
- Revises the annual grant distributions to certain entities, to the following:
 1. 60 percent to class 1 racing associations;
 2. 20 percent to certain nonprofits with programs to improve working conditions for employees and families at the stable area at covered tracks;
 3. 10 percent to certain nonprofit entities involved with certain programs related to equines; and
 4. 10 percent for class C race meets.
- Requires the Commission to report annually to the Legislature on the use of grant funds and the criteria used to determine grant awards.
- Establishes a parimutuel tax exemption for licensees subject to the tax until July 1, 2030.
- Requires the Legislature to directly appropriate \$6 million GF-S into the Horse Racing Commission's Operating Account annually—\$12 million per biennium, through July 1, 2029.
- Removes language regarding the sales tax transfer on taxes derived from equine-related sales, and language establishing the Washington equine industry reinvestment account.
- Adds a null and void clause.
- Changes the emergency clause's effective date from immediately to July 1, 2023.

Appropriation: The bill contains an appropriation totaling \$6 million per year.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect July 1, 2023.

Staff Summary of Public Testimony on Original Bill (Business, Financial Services, Gaming & Trade): *The committee recommended a different version of the bill than what was heard.* PRO: Last year's bill provided funding to the purses, and this bill does not do that. This is about encouraging and supporting the horse industry.

The cost of running the commission is about \$1 million per year. The parimutuel tax collects about \$1.1 million per year. The remaining funds, after paying for the commission's costs, will go to support things like nonprofit class C meets; race days in Dayton and Walla Walla, whose cities have functional racetracks; Washington horse breeders and back stretch employees; class 1 racing, to ensure the racetrack surface meets quality standards; and other investments related to horses and horse racing. These investments will more than pay for

themselves. Once upon a time, Washington was 6th in horse breeding and racing - now the state isn't even in the top 20. The revenue from the parimutuel tax isn't enough to do the work that the Commission is required to do. The money raised from equine sales should support the equine industry.

The Washington Horsemen's Benevolent and Protective Association offers health and welfare benefits for those who work at Emerald Downs. Our Association assists in workers compensation claims between Labor and Industries and those who work in horse racing. It is a rarity that an association is put in this place. Due to a variety of factors the amount that our association has received from the parimutuel tax has dwindled down from \$300,000 to \$20,000. The programs we offer help everyone in the horse racing community. These are life changing benefits that this bill can restore. I started as a dishwasher at Emerald Downs 15 years ago and am now the head chef. My job allows me to support my family. Please support this bill and the people who work in this industry.

Using the tax money from the money spent on horses to support horse racing and activities will be wonderful. These events help small towns. When horse events come into a town, it supports that town's local economy as well as those involved in those shows. We provide equine therapy to children, veterans, and people with disabilities. Without the support of people in this industry, we would not exist. Equine therapy works. All Washington residents should have the opportunity to participate in horse related activities. From the agency standpoint, this money will stabilize the commission's operating account and staff at the adequate level needed for consumer protection and protection of those in the industry. Supporting Washington bred horses is an important function of the commission, and one that will be helped by this bill. If this bill passes, the Commission will be able to do their work and support other things such as equine therapy.

Persons Testifying (Business, Financial Services, Gaming & Trade): PRO: Senator Mark Mullet, Prime Sponsor; Rocio Reyes, Emerald Downs; Boone McCanna, Down The Stretch Ranch; Doug Moore, Washington Horse Racing Commission; MaryAnn O'Connell, WA Horsemen's Benevolent & Protective Assn; Pat LePley, WA Horsemen's Benevolent & Protective Assn; Sara Stewart, Evergreen Equestrian Club; Dennis Eagle, WA Federation of State Employees; Bret Christopherson.

Persons Signed In To Testify But Not Testifying (Business, Financial Services, Gaming & Trade): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means) (Regular Session 2023): PRO: For a variety of reasons the revenue from the fees collected by the Horse Racing Commission (HRC) is no longer sufficient for the horse racing activities in Washington State. This legislation stabilizes operations of HRC to ensure adequate regulation on the industry. It provides public confidence by funding health and safety programs at the appropriate level and ensures the safe for the horses. It also supports programs providing retired racehorses with second careers or re-homing. HRC would

establish a fair and transparent grant application process to meet the legislative intent. The bill helps horsemen and their families and helps growing industry which has brought economic impact across the state.

CON: The majority of funds in the bill will directly go to the industry that causes severe injury and death for horses in the first place. This is a non-essential entertainment industry in which the players cannot consent and are forced to live a life of violence and early death. Horses do suffer and die prematurely because of the racing industry. Tradition is not a justification to continue putting animals in positions where they're often painfully and even fatally harmed. We need to be thinking holistically and respectfully to find ways to entertain ourselves and to make a profit without putting animals in danger.

Persons Testifying (Ways & Means): PRO: Senator Mark Mullet, Prime Sponsor; Mike Lydon, Dayton Days; Doug Moore, Washington Horse Racing Commission; Sara Stewart, Evergreen Equestrian Club; MARYANN O'CONNELL, WA Horsemen's Benevolent & Protective Assn; Dennis Eagle, WA Federation of State Employees; LEA SUAFA, Emerald Downs.

CON: Amanda Fox, Animal Rights Initiative; Wendy Linton.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.