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SENATE BILL 5019

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State of Washington

58th Legislature

2003 Regular Session

By Senators Rasmussen, Swecker, Prentice, Winsley, Finkbeiner and Kastama

Read first time 01/13/2003. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to consolidating the functions of the horse racing  
2 commission into the gambling commission; amending RCW 9.46.071,  
3 43.03.028, 51.12.020, 67.16.010, 67.16.101, 67.16.140, 67.16.150, and  
4 82.04.350; reenacting and amending RCW 42.17.2401; creating new  
5 sections; decodifying RCW 67.16.160; repealing RCW 67.16.012,  
6 67.16.014, 67.16.015, and 67.16.017; providing an effective date; and  
7 declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** (1) The horse racing commission is hereby  
10 abolished and its powers, duties, and functions pertaining to  
11 parimutuel betting and wagering are hereby transferred to the gambling  
12 commission.

13 (2)(a) All reports, documents, surveys, books, records, files,  
14 papers, or written material in the possession of the horse racing  
15 commission pertaining to the powers, functions, and duties transferred  
16 shall be delivered to the custody of the gambling commission. All  
17 cabinets, furniture, office equipment, motor vehicles, and other  
18 tangible property employed by the horse racing commission in carrying

1 out the powers, functions, and duties transferred shall be made  
2 available to the gambling commission. All funds, credits, or other  
3 assets held in connection with the powers, functions, and duties  
4 transferred shall be assigned to the gambling commission.

5 (b) Any appropriations made to the horse racing commission for  
6 carrying out the powers, functions, and duties transferred shall, on  
7 the effective date of this section, be transferred and credited to the  
8 gambling commission.

9 (c) If any question arises as to the transfer of any personnel,  
10 funds, books, documents, records, papers, files, equipment, or other  
11 tangible property used or held in the exercise of the powers and the  
12 performance of the duties and functions transferred under this section,  
13 the director of financial management shall make a determination as to  
14 the proper allocation and certify the same to the state agencies  
15 concerned.

16 (3)(a) All employees of the horse racing commission engaged in  
17 performing the powers, functions, and duties transferred are  
18 transferred to the jurisdiction of the gambling commission. All  
19 employees classified under chapter 41.06 RCW, the state civil service  
20 law, are assigned to the gambling commission to perform their usual  
21 duties upon the same terms as formerly, without any loss of rights,  
22 subject to any action that may be appropriate thereafter in accordance  
23 with the laws and rules governing state civil service.

24 (b) The terms of the appointed and ex officio members of the horse  
25 racing commission shall expire July 1, 2003.

26 (4) All rules and all pending business before the horse racing  
27 commission pertaining to the powers, functions, and duties transferred  
28 shall be continued and acted upon by the gambling commission. All  
29 existing contracts and obligations shall remain in full force and shall  
30 be performed by the gambling commission.

31 (5) The transfer of the powers, duties, functions, and personnel of  
32 the horse racing commission shall not affect the validity of any act  
33 performed before the effective date of this section.

34 (6) If apportionments of budgeted funds are required because of the  
35 transfers directed by this section, the director of financial  
36 management shall certify the apportionments to the agencies affected,  
37 the state auditor, and the state treasurer. Each of these shall make

1 the appropriate transfer and adjustments in funds and appropriation  
2 accounts and equipment records in accordance with the certification.

3 (7) Nothing contained in this section may be construed to alter any  
4 existing collective bargaining unit or the provisions of any existing  
5 collective bargaining agreement until the agreement has expired or  
6 until the bargaining unit has been modified by action of the personnel  
7 resources board as provided by law.

8 NEW SECTION. **Sec. 2.** (1) All powers, duties, and functions of the  
9 horse racing commission pertaining to the encouragement of the training  
10 and development of the equine industry in the state of Washington and  
11 the maintenance of race course facilities to ensure the safety of the  
12 public and the horses are transferred to the department of agriculture.

13 (2)(a) All reports, documents, surveys, books, records, files,  
14 papers, or written material in the possession of the horse racing  
15 commission pertaining to the powers, functions, and duties transferred  
16 shall be delivered to the custody of the department of agriculture.  
17 All cabinets, furniture, office equipment, motor vehicles, and other  
18 tangible property employed by the horse racing commission in carrying  
19 out the powers, functions, and duties transferred shall be made  
20 available to the department of agriculture. All funds, credits, or  
21 other assets held in connection with the powers, functions, and duties  
22 transferred shall be assigned to the department of agriculture.

23 (b) Any appropriations made to the horse racing commission for  
24 carrying out the powers, functions, and duties transferred shall, on  
25 the effective date of this section, be transferred and credited to the  
26 department of agriculture.

27 (c) Whenever any question arises as to the transfer of any  
28 personnel, funds, books, documents, records, papers, files, equipment,  
29 or other tangible property used or held in the exercise of the powers  
30 and the performance of the duties and functions transferred, the  
31 director of financial management shall make a determination as to the  
32 proper allocation and certify the same to the state agencies concerned.

33 (3) All employees of the horse racing commission engaged in  
34 performing the powers, functions, and duties transferred are  
35 transferred to the jurisdiction of the department of agriculture. All  
36 employees classified under chapter 41.06 RCW, the state civil service  
37 law, are assigned to the department of agriculture to perform their

1 usual duties upon the same terms as formerly, without any loss of  
2 rights, subject to any action that may be appropriate thereafter in  
3 accordance with the laws and rules governing state civil service.

4 (4) All rules and all pending business before the horse racing  
5 commission pertaining to the powers, functions, and duties transferred  
6 shall be continued and acted upon by the department of agriculture.  
7 All existing contracts and obligations shall remain in full force and  
8 shall be performed by the department of agriculture.

9 (5) The transfer of the powers, duties, functions, and personnel of  
10 the horse racing commission shall not affect the validity of any act  
11 performed before the effective date of this section.

12 (6) If apportionments of budgeted funds are required because of the  
13 transfers directed by this section, the director of financial  
14 management shall certify the apportionments to the agencies affected,  
15 the state auditor, and the state treasurer. Each of these shall make  
16 the appropriate transfer and adjustments in funds and appropriation  
17 accounts and equipment records in accordance with the certification.

18 (7) Nothing contained in this section may be construed to alter any  
19 existing collective bargaining unit or the provisions of any existing  
20 collective bargaining agreement until the agreement has expired or  
21 until the bargaining unit has been modified by action of the personnel  
22 board as provided by law.

23 **Sec. 3.** RCW 9.46.071 and 1994 c 218 s 6 are each amended to read  
24 as follows:

25 The legislature recognizes that some individuals in this state are  
26 problem or compulsive gamblers. Because the state promotes and  
27 regulates gambling through the activities of the state lottery  
28 commission(~~(, the Washington horse racing commission,~~) and the  
29 Washington state gambling commission, the state has the responsibility  
30 to continue to provide resources for the support of services for  
31 problem and compulsive gamblers. Therefore, the Washington state  
32 gambling commission(~~(, the Washington horse racing commission,~~) and  
33 the state lottery commission shall jointly develop informational signs  
34 concerning problem and compulsive gambling which include a toll-free  
35 hot line number for problem and compulsive gamblers. The signs shall  
36 be placed in the establishments of gambling licensees, horse racing  
37 licensees, and lottery retailers.

1       **Sec. 4.** RCW 42.17.2401 and 2001 c 36 s 1 and 2001 c 9 s 1 are each  
2 reenacted and amended to read as follows:

3       For the purposes of RCW 42.17.240, the term "executive state  
4 officer" includes:

5       (1) The chief administrative law judge, the director of  
6 agriculture, the administrator of the Washington basic health plan, the  
7 director of the department of services for the blind, the director of  
8 the state system of community and technical colleges, the director of  
9 community, trade, and economic development, the secretary of  
10 corrections, the director of ecology, the commissioner of employment  
11 security, the chairman of the energy facility site evaluation council,  
12 the secretary of the state finance committee, the director of financial  
13 management, the director of fish and wildlife, the executive secretary  
14 of the forest practices appeals board, the director of the gambling  
15 commission, the director of general administration, the secretary of  
16 health, the administrator of the Washington state health care  
17 authority, the executive secretary of the health care facilities  
18 authority, the executive secretary of the higher education facilities  
19 authority, (~~the executive secretary of the horse racing commission,~~)  
20 the executive secretary of the human rights commission, the executive  
21 secretary of the indeterminate sentence review board, the director of  
22 the department of information services, the director of the interagency  
23 committee for outdoor recreation, the executive director of the state  
24 investment board, the director of labor and industries, the director of  
25 licensing, the director of the lottery commission, the director of the  
26 office of minority and women's business enterprises, the director of  
27 parks and recreation, the director of personnel, the executive director  
28 of the public disclosure commission, the director of retirement  
29 systems, the director of revenue, the secretary of social and health  
30 services, the chief of the Washington state patrol, the executive  
31 secretary of the board of tax appeals, the secretary of transportation,  
32 the secretary of the utilities and transportation commission, the  
33 director of veterans affairs, the president of each of the regional and  
34 state universities and the president of The Evergreen State College,  
35 each district and each campus president of each state community  
36 college;

37       (2) Each professional staff member of the office of the governor;

38       (3) Each professional staff member of the legislature; and

1 (4) Central Washington University board of trustees, board of  
2 trustees of each community college, each member of the state board for  
3 community and technical colleges, state convention and trade center  
4 board of directors, committee for deferred compensation, Eastern  
5 Washington University board of trustees, Washington economic  
6 development finance authority, The Evergreen State College board of  
7 trustees, executive ethics board, forest practices appeals board,  
8 forest practices board, gambling commission, Washington health care  
9 facilities authority, each member of the Washington health services  
10 commission, higher education coordinating board, higher education  
11 facilities authority, (~~horse racing commission,~~) state housing  
12 finance commission, human rights commission, indeterminate sentence  
13 review board, board of industrial insurance appeals, information  
14 services board, interagency committee for outdoor recreation, state  
15 investment board, commission on judicial conduct, legislative ethics  
16 board, liquor control board, lottery commission, marine oversight  
17 board, Pacific Northwest electric power and conservation planning  
18 council, parks and recreation commission, personnel appeals board,  
19 board of pilotage commissioners, pollution control hearings board,  
20 public disclosure commission, public pension commission, shorelines  
21 hearing board, public employees' benefits board, salmon recovery  
22 funding board, board of tax appeals, transportation commission,  
23 University of Washington board of regents, utilities and transportation  
24 commission, Washington state maritime commission, Washington personnel  
25 resources board, Washington public power supply system executive board,  
26 Washington State University board of regents, Western Washington  
27 University board of trustees, and fish and wildlife commission.

28 **Sec. 5.** RCW 43.03.028 and 2001 c 302 s 2 are each amended to read  
29 as follows:

30 (1) There is hereby created a state committee on agency officials'  
31 salaries to consist of seven members, or their designees, as follows:  
32 The president of the University of Puget Sound; the chairperson of the  
33 council of presidents of the state's four-year institutions of higher  
34 education; the chairperson of the Washington personnel resources board;  
35 the president of the Association of Washington Business; the president  
36 of the Pacific Northwest Personnel Managers' Association; the president  
37 of the Washington State Bar Association; and the president of the

1 Washington State Labor Council. If any of the titles or positions  
2 mentioned in this subsection are changed or abolished, any person  
3 occupying an equivalent or like position shall be qualified for  
4 appointment by the governor to membership upon the committee.

5 (2) The committee shall study the duties and salaries of the  
6 directors of the several departments and the members of the several  
7 boards and commissions of state government, who are subject to  
8 appointment by the governor or whose salaries are fixed by the  
9 governor, and of the chief executive officers of the following agencies  
10 of state government:

11 The arts commission; the human rights commission; the board of  
12 accountancy; the board of pharmacy; the eastern Washington historical  
13 society; the Washington state historical society; the interagency  
14 committee for outdoor recreation; the criminal justice training  
15 commission; the department of personnel; the state library; the traffic  
16 safety commission; (~~the horse racing commission;~~) the advisory  
17 council on vocational education; the public disclosure commission; the  
18 state conservation commission; the commission on Hispanic affairs; the  
19 commission on Asian Pacific American affairs; the state board for  
20 volunteer fire fighters and reserve officers; the transportation  
21 improvement board; the public employment relations commission; the  
22 forest practices appeals board; and the energy facilities site  
23 evaluation council.

24 The committee shall report to the governor or the chairperson of  
25 the appropriate salary fixing authority at least once in each fiscal  
26 biennium on such date as the governor may designate, but not later than  
27 seventy-five days prior to the convening of each regular session of the  
28 legislature during an odd-numbered year, its recommendations for the  
29 salaries to be fixed for each position.

30 (3) Committee members shall be reimbursed by the department of  
31 personnel for travel expenses under RCW 43.03.050 and 43.03.060.

32 **Sec. 6.** RCW 51.12.020 and 1999 c 68 s 1 are each amended to read  
33 as follows:

34 The following are the only employments which shall not be included  
35 within the mandatory coverage of this title:

36 (1) Any person employed as a domestic servant in a private home by

1 an employer who has less than two employees regularly employed forty or  
2 more hours a week in such employment.

3 (2) Any person employed to do gardening, maintenance, or repair, in  
4 or about the private home of the employer. For the purposes of this  
5 subsection, "maintenance" means the work of keeping in proper  
6 condition, "repair" means to restore to sound condition after damage,  
7 and "private home" means a person's place of residence.

8 (3) A person whose employment is not in the course of the trade,  
9 business, or profession of his or her employer and is not in or about  
10 the private home of the employer.

11 (4) Any person performing services in return for aid or sustenance  
12 only, received from any religious or charitable organization.

13 (5) Sole proprietors or partners.

14 (6) Any child under eighteen years of age employed by his or her  
15 parent or parents in agricultural activities on the family farm.

16 (7) Jockeys while participating in or preparing horses for race  
17 meets licensed by the (~~Washington horse racing~~) gambling commission  
18 pursuant to chapter 67.16 RCW.

19 (8)(a) Except as otherwise provided in (b) of this subsection, any  
20 bona fide officer of a corporation voluntarily elected or voluntarily  
21 appointed in accordance with the articles of incorporation or bylaws of  
22 the corporation, who at all times during the period involved is also a  
23 bona fide director, and who is also a shareholder of the corporation.  
24 Only such officers who exercise substantial control in the daily  
25 management of the corporation and whose primary responsibilities do not  
26 include the performance of manual labor are included within this  
27 subsection.

28 (b) Alternatively, a corporation that is not a "public company" as  
29 defined in RCW 23B.01.400(~~(+21)~~) may exempt eight or fewer bona fide  
30 officers, who are voluntarily elected or voluntarily appointed in  
31 accordance with the articles of incorporation or bylaws of the  
32 corporation and who exercise substantial control in the daily  
33 management of the corporation, from coverage under this title without  
34 regard to the officers' performance of manual labor if the exempted  
35 officer is a shareholder of the corporation, or may exempt any number  
36 of officers if all the exempted officers are related by blood within  
37 the third degree or marriage. If a corporation that is not a "public



1 company" elects to be covered under subsection (8)(a) of this section,  
2 the corporation's election must be made on a form prescribed by the  
3 department and under such reasonable rules as the department may adopt.

4 (c) Determinations respecting the status of persons performing  
5 services for a corporation shall be made, in part, by reference to  
6 Title 23B RCW and to compliance by the corporation with its own  
7 articles of incorporation and bylaws. For the purpose of determining  
8 coverage under this title, substance shall control over form, and  
9 mandatory coverage under this title shall extend to all workers of this  
10 state, regardless of honorary titles conferred upon those actually  
11 serving as workers.

12 (d) A corporation may elect to cover officers who are exempted by  
13 this subsection in the manner provided by RCW 51.12.110.

14 (9) Services rendered by a musician or entertainer under a contract  
15 with a purchaser of the services, for a specific engagement or  
16 engagements when such musician or entertainer performs no other duties  
17 for the purchaser and is not regularly and continuously employed by the  
18 purchaser. A purchaser does not include the leader of a group or  
19 recognized entity who employs other than on a casual basis musicians or  
20 entertainers.

21 (10) Services performed by a newspaper carrier selling or  
22 distributing newspapers on the street or from house to house.

23 (11) Services performed by an insurance agent, insurance broker, or  
24 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and  
25 48.17.030, respectively.

26 (12) Services performed by a booth renter as defined in RCW  
27 18.16.020. However, a person exempted under this subsection may elect  
28 coverage under RCW 51.32.030.

29 (13) Members of a limited liability company, if either:

30 (a) Management of the company is vested in its members, and the  
31 members for whom exemption is sought would qualify for exemption under  
32 subsection (5) of this section were the company a sole proprietorship  
33 or partnership; or

34 (b) Management of the company is vested in one or more managers,  
35 and the members for whom the exemption is sought are managers who would  
36 qualify for exemption under subsection (8) of this section were the  
37 company a corporation.

1       **Sec. 7.** RCW 67.16.010 and 1991 c 270 s 1 are each amended to read  
2 as follows:

3       Unless the context otherwise requires, words and phrases as used  
4 herein shall mean:

5       "Commission" (~~shall mean the Washington horse racing commission,~~  
6 ~~hereinafter created~~) means the gambling commission.

7       "Parimutuel machine" shall mean and include both machines at the  
8 track and machines at the satellite locations, that record parimutuel  
9 bets and compute the payoff.

10       "Person" shall mean and include individuals, firms, corporations  
11 and associations.

12       "Race meet" shall mean and include any exhibition of thoroughbred,  
13 quarter horse, paint horse, appaloosa horse racing, arabian horse  
14 racing, or standard bred harness horse racing, where the parimutuel  
15 system is used.

16       Singular shall include the plural, and the plural shall include the  
17 singular; and words importing one gender shall be regarded as including  
18 all other genders.

19       **Sec. 8.** RCW 67.16.101 and 1977 ex.s. c 372 s 1 are each amended to  
20 read as follows:

21       The legislature finds that:

22       (1) (~~A primary~~) One responsibility of the (~~horse racing~~  
23 ~~commission~~) department of agriculture is the encouragement of the  
24 training and development of the equine industry in the state of  
25 Washington whether the result of this training and development results  
26 in legalized horse racing or in the recreational use of horses;

27       (2) The (~~horse racing commission~~) department of agriculture has  
28 a further major responsibility to assure that any facility used as a  
29 race course should be maintained and upgraded to insure the continued  
30 safety of both the public and the horse at any time the facility is  
31 used for the training or contesting of these animals;

32       (3) Small race courses within the state have difficulty in  
33 obtaining sufficient funds to provide the maintenance and upgrading  
34 necessary to assure this safety at these facilities, or to permit  
35 frequent use of these facilities by 4-H children or other horse owners  
36 involved in training; and

1 (4) The one percent of the parimutuel machine gross receipts used  
2 to pay a special purse to the licensed owners of Washington bred horses  
3 is available for the purpose of drawing interest, thereby obtaining  
4 sufficient funds to be disbursed to achieve the necessary support to  
5 these small race courses.

6 **Sec. 9.** RCW 67.16.140 and 1973 1st ex.s. c 216 s 3 are each  
7 amended to read as follows:

8 No employee of the ((~~horse racing~~)) commission shall serve as an  
9 employee of any track at which that individual will also serve as an  
10 employee of the commission.

11 **Sec. 10.** RCW 67.16.150 and 1973 1st ex.s. c 216 s 4 are each  
12 amended to read as follows:

13 No employee nor any commissioner of the ((~~horse racing~~)) commission  
14 shall have any financial interest whatsoever, other than an ownership  
15 interest in a community venture, in any track at which said employee  
16 serves as an agent or employee of the commission or at any track with  
17 respect to a commissioner.

18 **Sec. 11.** RCW 82.04.350 and 1961 c 15 s 82.04.350 are each amended  
19 to read as follows:

20 This chapter shall not apply to any person in respect to the  
21 business of conducting race meets for the conduct of which a license  
22 must be secured from the ((~~horse racing~~)) gambling commission.

23 NEW SECTION. **Sec. 12.** The following acts or parts of acts are  
24 each repealed:

25 (1) RCW 67.16.012 (Washington horse racing commission--Creation--  
26 Terms--Vacancies--Bonds--Oaths) and 1998 c 345 s 4, 1987 c 453 s 2,  
27 1973 1st ex.s. c 216 s 1, 1969 ex.s. c 233 s 1, & 1933 c 55 s 2;

28 (2) RCW 67.16.014 (Washington horse racing commission--Ex officio  
29 nonvoting members) and 1991 c 270 s 2 & 1987 c 453 s 3;

30 (3) RCW 67.16.015 (Washington horse racing commission--  
31 Organization--Secretary--Records--Annual reports) and 1977 c 75 s 80 &  
32 1933 c 55 s 3; and

33 (4) RCW 67.16.017 (Washington horse racing commission--Compensation

1 and travel expenses) and 1984 c 287 s 100, 1975-'76 2nd ex.s. c 34 s  
2 155, & 1969 ex.s. c 233 s 2.

3 NEW SECTION. **Sec. 13.** RCW 67.16.160 is decodified.

4 NEW SECTION. **Sec. 14.** This act is necessary for the immediate  
5 preservation of the public peace, health, or safety, or support of the  
6 state government and its existing public institutions, and takes effect  
7 July 1, 2003.

--- END ---