

AMENDED IN SENATE AUGUST 29, 2000

AMENDED IN SENATE AUGUST 7, 2000

AMENDED IN SENATE JUNE 14, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2760**

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**Introduced by Assembly Members ~~Wesson, Lowenthal, and Steinberg~~ Member Wesson**

February 25, 2000

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An act to amend Sections ~~19461, 19481.5, 19556~~ *19411, 19461, 19481.5, 19556, 19590, 19595,*, and 19613 of, and to add Article 2.5 (commencing with Section 19455) to Chapter 4 of Division 8 of, and Sections 19461.5, 19526, *19604*, 19613.8, and 19641.2 to, the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2760, as amended, Wesson. Horse racing:—~~backstretch employees.~~

(1) Existing law authorizes wagering on the result of live and simulcast horse races, subject to the regulation and oversight of the California Horse Racing Board, and requires the licensure of various persons and entities associated with this industry. Existing law also imposes specified requirements on the operation of race tracks, backstretch facilities, and stabling and vanning services, and establishes pension funds and welfare funds for the benefit of backstretch personnel and horsemen.

This bill would state findings and declarations of the Legislature regarding the employment rights of racetrack backstretch employees, and direct the California Horse Racing Board to oversee the conduct of a union *and multiemployer collective bargaining agent* recognition procedure subject to specified conditions *and procedures*, provide for resultant labor agreements to be binding on the parties, and establish reasonable rules to regulate the time, place, and manner of representational meetings within the racetrack enclosure. This bill would also *authorize individual trainers to opt out of the multiemployer bargaining process, subject to specified conditions*, and require each trainer to keep accurate payroll records for all of his or her employees, *subject to audit by the Labor Commissioner as specified* containing specified information and signed declarations made under penalty of perjury, which would be available for inspection by, or furnished to, the employee, his or her authorized representative, the board, *the administrators of specified pension and health and welfare funds*, or the Division of Labor Standards Enforcement of the Department of Industrial Relations. By requiring these declarations to be made under penalty of perjury, this bill would create a crime and thereby impose a state-mandated local program.

(2) Existing law provides that every license granted under the Horse Racing Law is subject to suspension or revocation in any case where the board has reason to believe that any condition regarding the license has not been complied with, or that any provision of law or any rule or regulation of the board affecting it has been broken or violated.

This bill would expand this suspension and revocation authority to expressly include violations of the Labor Code and regulations adopted thereunder. This bill would also provide that upon a finding by the Labor Commissioner that a violation of any provision of the Labor Code under his or her jurisdiction has been committed by a person licensed under the Horse Racing Law, that upon expiration of the applicable period for appeal he or she shall notify the board of that finding.

(3) Existing law provides that no license to conduct a horse racing meeting shall be issued unless the track has been



inspected and approved by the board as to specified racetrack safety standards within 30 days prior to the date of application.

This bill would additionally provide that the board shall, within 120 days of the effective date of this act, adopt emergency regulations, as specified, to establish employee housing standards at licensed racetracks, which shall be replaced by final, permanent regulations with 18 months thereafter, which racing associations shall be in compliance with by January 1, 2003, and as of that date would require the board, in conjunction with the Department of Housing and Community Development or a local housing authority *in that jurisdiction*, to annually inspect the living conditions of backstretch employee housing and submit these findings to the board. The bill would provide that no license to conduct a horse racing meeting shall be issued to a racing association unless the board has inspected the housing conditions that exist on that track's backstretch and determined them to be in compliance with these standards.

*(4) Existing law permits any racing association in this state, with the approval of the California Horse Racing Board, to accept out-of-state wagers on a race or races conducted by or disseminated by that association and to transmit live audiovisual signals of the race or races to locations out of state. Existing federal law, the Federal Interstate Wire Act, generally prohibits the transmission in interstate commerce of wagers using a wire communication facility, but allows for the transmission of wagering information as specified.*

*This bill would authorize any racing association or fair to accept advance deposit wagers, or to allow these wagers through a betting system or multijurisdictional wagering hub, during the calendar period of its live racing meeting upon approval by the board, and to form partnerships, joint ventures, or any other affiliation to further this purpose. The bill would provide that an advance deposit wager is a method of making a parimutuel wager in which a person in California or elsewhere establishes an account with a licensee, betting system, or multijurisdictional wagering hub, and subsequently issues wagering instructions concerning the funds in this account, thereby authorizing the entity holding the account to place wagers on the account owner's behalf.*

*The bill would provide that wagering instructions may be communicated by telephone call or through other electronic media, and that the entity holding the account shall ensure the identification of the account's owner by utilizing methods and technologies approved by the board. The bill would require entities holding advance wagering accounts to provide a full accounting of deposits and wagers, as specified, and after the payment of winning wagers and the deduction of contractual compensation and a host fee, where applicable, to pay the remaining amount to various racing entities in California, with specified percentages based on the amount handled on advance deposit wagers that originate in California for each race meeting to be dedicated to the Kenneth L. Maddy Fund for equine health, payment of auditing costs incurred pursuant to (1) the augmentation of compulsive gambling prevention programs, and the augmentation of an existing welfare fund and existing pension plans benefiting backstretch personnel, with the remaining funds to be distributed as commissions, purses, and incentive awards, as specified. The bill would require the board to develop and adopt rules to regulate and license advance deposit wagering operations, security, and advertising, and would require that entities conducting advance deposit wagering conducted in California enter into contractual agreements with labor organizations, as specified.*

*(5) Existing law defines "parimutuel wagering" as wagering where bettors purchase tickets, and provides that lawful parimutuel wagering shall only be conducted within the inclosure of a licensee.*

*This bill would provide that the term "parimutuel wagering" includes the issuance of wagering instructions leading to the placement of wagers, and that wagering instructions concerning funds held in an advance deposit wagering account shall be deemed to be issued within the licensee's inclosure, in accordance with (1).*

*(6) Existing law requires each licensed racing association to designate a certain number of racing days to be conducted as charity days for the purpose of the distribution of the net proceeds therefrom to beneficiaries, and requires that at least*



20% of the distributions therefrom to be made to charities associated with the horse racing industry.

~~This bill would provide that, in addition to this requirement, 30% of the distribution shall go to a specified existing welfare fund established to benefit horsemen and backstretch personnel~~ *increase this distribution requirement to 50%.* This bill would also specify that this fund shall be a health and welfare trust fund administered without prejudice for the benefit of every eligible person ~~by a board consisting of 2 representatives of backstretch personnel, appointed by the labor organizations representing these employees, and 2 representatives of the trainers' organizations.~~ The bill would provide that the fund and benefits shall be administered in accordance with specified standards established in federal law, subject to oversight and regulation ~~by~~ *of* the board, and would ~~direct the board, in the absence of exclusive collective bargaining representatives for backstretch employees, to appoint one bona fide representative who holds a groom/stable license and one representative with expertise in welfare fund administration to represent backstretch personnel for this purpose~~ *provide that the welfare fund board shall be expanded, by March 1, 2001, to include 2 additional groom and stable employee licenses, also would be replaced by designees of a labor union with 60 days of that when having been chosen as the exclusive collective bargaining agent of a statewide majority of backstretch workers.*

(7) Existing law provides that racing associations and fairs shall pay, from the portion deducted for purses, an amount equal to 1% of that portion for a pension plan for backstretch personnel to be administered by the respective trainers' organizations.

This bill would ~~instead direct~~ *provide that within 60 days of a union having been chosen as the exclusive collective bargaining agent for a statewide majority of backstretch workers these funds shall instead be directed to a pension plan for backstretch personnel established by a plan submitted by trainers' organizations as specified and to be administered by a joint labor-management committee in accordance consistent with specified provisions of federal law, comprised*



~~of equal numbers of exclusive bargaining representatives of backstretch employees, appointed by labor organizations, and representatives of the trainers' organizations. The bill would provide that in the absence of exclusive collective bargaining representatives for backstretch employees, the board shall appoint at least one bona fide representative who holds a groom/stable employee license and at least one representative with pension fund administration expertise.~~

*(8) This bill would provide that its provisions are severable as specified.*

*(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 19411 of the Business and*  
2 *Professions Code is amended to read:*

3 19411. *“Parimutuel wagering” is a form of wagering*  
4 ~~*on the outcome of horseraces in which those who wager*~~  
5 *in which bettors either purchase tickets of various*  
6 ~~*denominations on a horse or horses in one or more*~~  
7 *denominations, or issue wagering instructions leading to*  
8 *the placement of wagers, on the outcome of one or more*  
9 *horse races. When the outcome of the race or races has*  
10 *been declared official, the association distributes the total*  
11 *wagers comprising each pool, less the amounts retained*  
12 ~~*for license fees, purses, commissions, breakage, and*~~  
13 ~~*breeder and stallion awards, to holders of winning tickets*~~  
14 ~~*on the winning horse or horses purposes specified in this*~~  
15 ~~*chapter, to winning bettors.*~~

16 SEC. 2. Article 2.5 (commencing with Section 19455)  
17 is added to Chapter 4 of Division 8 of the Business and  
18 Professions Code, to read:

19



1 Article 2.5. Backstretch Worker Labor Relations

2  
3 19455. (a) The Legislature finds and declares that  
4 Section 923 of the Labor Code recognizes that “it is  
5 necessary that the individual worker have full freedom of  
6 association, self-organization, and designation of  
7 representatives of his or her own choosing, to negotiate  
8 the terms and conditions of his or her employment, and  
9 that he or she shall be free from the interference,  
10 restraint, or coercion of employers of labor, or their  
11 agents, in the designation of such representatives or in  
12 self-organization or in other concerted activities for the  
13 purpose of collective bargaining.”

14 (b) The Legislature finds that the National Labor  
15 Relations Board has formally declined to assert  
16 jurisdiction over horse racing because of extensive state  
17 control over the industry, the dominant pattern of  
18 sporadic short-term employment which poses problems  
19 for the effective enforcement of the National Labor  
20 Relations Act, and a unique and special relationship that  
21 has developed between the states and the industry.

22 (c) It is the intent of the Legislature to establish an  
23 orderly procedure for backstretch employees to exercise  
24 their statutory rights to organize a labor union, in order  
25 to reduce the prospect of any strikes, disruptions, or  
26 economic action that would interfere with the operation  
27 of horse racing meetings in California.

28 (d) Except as provided in subdivision (e), the board  
29 shall oversee the conduct of a union recognition  
30 procedure for backstretch employees under the  
31 following conditions:

32 ~~(1) Consistent with the authority granted it in Section~~  
33 ~~19613.1, with respect to thoroughbred racing, the~~  
34 ~~organization of trainers shall represent the trainers in all~~  
35 ~~matters relating to this article. Consistent with the~~  
36 ~~authority granted it in Section 19613.1, with respect to all~~  
37 ~~other horse racing, the organization of horsemen shall~~  
38 ~~represent the horsemen with respect to this article. The~~  
39 ~~organizations of trainers or horsemen shall, in all their~~



1 ~~actions and statements, maintain a neutral position with~~  
2 ~~respect to the~~

3 (1) *Employees shall have the right to join, or refuse to*  
4 *join, a labor organization for purposes of collective*  
5 *bargaining and mutual aid and protection. Existing*  
6 *state-recognized organizations of trainers or horsemen*  
7 *established pursuant to the Horse Racing Law shall not*  
8 *use funds derived or distributed from parimutuel*  
9 *wagering pursuant to state law to advocate or advance*  
10 *any position with respect to unionization of employees.*  
11 Individual trainers and horsemen, and their agents, shall  
12 not coerce or threaten any employee of any trainer or  
13 horseman *in the context of an effort to obtain or revoke*  
14 *an employee authorization card* with respect to selection  
15 by any backstretch employee of any labor union or  
16 collective bargaining agent. No employee shall be  
17 discharged or discriminated against for expressing any  
18 opinion concerning the selection of a labor union or  
19 collective bargaining agent for employees under ~~this~~  
20 ~~article. Nothing in this article shall prohibit an individual~~  
21 ~~trainer or horseman from expressing his or her opinion~~  
22 ~~concerning the selection of a labor union or collective~~  
23 ~~bargaining agent for employees under this article. this~~  
24 ~~article.~~

25 (2) The labor union and its representatives shall not  
26 coerce or threaten any employee of any trainer or  
27 horseman ~~in an effort to obtain~~ *in the context of an effort*  
28 *to obtain or revoke* authorization cards. The union and its  
29 representatives shall not interfere with the work of any  
30 employee, but shall have reasonable access to backstretch  
31 workers within the enclosure during working and  
32 nonworking hours, as determined by the board.

33 (3) Within 30 days of a request, the board shall provide  
34 the labor union with a list of all backstretch workers  
35 including their type of license, their employer, the  
36 location at which they are employed, and their address  
37 and telephone number. The board may require of any  
38 licensee any information in the licensee's possession  
39 necessary to comply with this requirement.



1 (4) The labor union may request board recognition as  
2 the exclusive bargaining agent for employees in any  
3 appropriate bargaining unit. ~~Whenever the union claims~~  
4 ~~to represent a majority of the employees in an~~  
5 ~~appropriate bargaining unit, a disinterested neutral party~~  
6 ~~will be selected by the board to conduct a review of the~~  
7 ~~employee authorization cards submitted by the union in~~  
8 ~~support of its claim to represent a majority of employees~~  
9 ~~in the unit.~~ *bargaining unit or of any employer, subject to*  
10 *the provisions and procedures described in paragraph*  
11 *(5). The Executive Director of the Board, or a*  
12 *disinterested neutral party selected by the Executive*  
13 *Director, shall have the authority to investigate and*  
14 *determine the validity of employee authorization cards*  
15 *submitted pursuant to this section, and shall conduct a*  
16 *review of cards submitted by a union in support of its*  
17 *claim to represent the majority of employees of an*  
18 *individual employer or the majority of employees within*  
19 *a bargaining unit approved by the board pursuant to*  
20 *paragraph (5). In the case of thoroughbred racing, a labor*  
21 *union may request recognition as the exclusive*  
22 *bargaining agent for backstretch employees by racetrack*  
23 *or by geographical zone, as defined in Section 19530.5; in*  
24 *the case of harness and quarter horse racing, a labor union*  
25 *may request recognition as the exclusive bargaining*  
26 *agent for backstretch employees by racetrack; in the case*  
27 *of fairs, a labor union may request recognition as the*  
28 *exclusive bargaining agent for backstretch employees by*  
29 *geographical zone, by fair, or by groups of fairs.*  
30 *“Appropriate bargaining unit” includes any community*  
31 *of interest of backstretch workers, including, but not*  
32 *limited to, geographic, occupational, and type of horse*  
33 *racing. “Backstretch employee” means a groom or stable*  
34 *employee licensed by the board pursuant to subdivision*  
35 *(c) of Section 1481 of Division 4 of Title 4 of the California*  
36 *Code of Regulations.*

37 (5) ~~If a majority of employees in the unit has joined the~~  
38 ~~labor union or designated it as their exclusive~~  
39 ~~representative, the board, shall recognize the union as~~  
40 ~~the exclusive representative of those employees and~~



~~1 designate the appropriate organization of trainers, or  
2 horsemen, who are employers of bargaining unit  
3 employees to be responsible for good faith negotiation of  
4 a multiemployer labor agreement with the union. Any  
5 agreement concluded by an organization of trainers or  
6 horsemen and a union under this section shall be binding  
7 on all applicable trainers or horsemen, and their  
8 employees, pursuant to Section 19455.2.~~

9 (5) *The board, by regulation, shall establish  
10 procedures for the recognition of collective bargaining  
11 representatives for both backstretch workers and the  
12 employers of those workers. In all matters pertaining to  
13 the rights established pursuant to this article, the board,  
14 upon the complaint of a party, shall have the authority to  
15 fashion an appropriate remedy, including the issuance of  
16 a make-whole remedy in the event of persistent failure of  
17 a party to bargain in good faith. Nothing in this section  
18 shall prohibit the board from requiring the parties to any  
19 dispute to submit the issue to binding arbitration  
20 pursuant to paragraph (8). In addition, the board may  
21 contract with state mediation and conciliation services  
22 for all appropriate purposes, including operations related  
23 to the conduct of recognition procedures and elections.*

24 (A) *With respect to backstretch workers, a labor  
25 organization seeking recognition as the collective  
26 bargaining agent for these workers shall collect signed  
27 cards indicating individual worker's intent to be  
28 represented by that organization for collective  
29 bargaining purposes and submit those cards to the board  
30 for review and validation by the executive director. A  
31 labor union is free to define the characteristics of a  
32 potential collective bargaining unit subject to approval  
33 by the board pursuant to paragraph (4). Upon  
34 submission, review, and validation of cards indicating that  
35 a majority of employees within a defined unit wish to be  
36 represented by that union, the board shall recognize that  
37 union as the exclusive collective bargaining agent for  
38 those workers, and issue an order to affected employers  
39 to begin good faith negotiations for approval of  
40 employment agreements pursuant to the procedures*



1 *described in subparagraphs (B) and (C). Employee*  
2 *authorization cards collected for purposes of this*  
3 *paragraph shall be deposited with the board and shall*  
4 *remain valid for one year starting on the date that the*  
5 *submitting labor organization is granted permission by*  
6 *the board to begin organizing activities in a given*  
7 *location, facility, region, or unit. After the expiration of*  
8 *this period, no further organizing efforts may be*  
9 *conducted with respect to that location, facility, region,*  
10 *or unit for a period of one year. Employee authorization*  
11 *cards may be revoked by the employee at any time prior*  
12 *to final certification of the union as his or her exclusive*  
13 *collective bargaining agent with respect to his or her*  
14 *employer.*

15 *(B) Upon the recognition of a union as the exclusive*  
16 *collective bargaining agent for a given unit of backstretch*  
17 *workers, the Executive Director of the board shall*  
18 *identify the trainers and horsemen employing those*  
19 *workers, provide this information to the union, and may*  
20 *conduct an election among those employers for the*  
21 *selection of a designated agent or agents to represent the*  
22 *interests of participating employers in a multiemployer*  
23 *employment agreement with the union. Each voting*  
24 *employer shall be allotted one vote per employee within*  
25 *the collective bargaining unit, and the agent or agents*  
26 *receiving the largest plurality of votes shall be designated*  
27 *by the board as representing the participating employers.*  
28 *The agent or agents negotiating on behalf of the*  
29 *participating employers are expressly authorized to*  
30 *organize collective bargaining committees, approved by*  
31 *the board, which reflect the differences and*  
32 *circumstances of individual trainers, and are free to*  
33 *negotiate terms that provide varying wages and*  
34 *conditions of employment based on the economic*  
35 *circumstances of individual trainers. Any employer may*  
36 *opt out of these multiemployer bargaining procedures*  
37 *subject to the provisions of subparagraph (C).*

38 *(C) If an individual employer of backstretch workers*  
39 *declines to be represented in the multiemployer*  
40 *collective bargaining procedure described in*



1 subparagraph (B), and a majority of that particular  
2 employer's workers within the identified unit had  
3 submitted valid cards indicating their intent to be  
4 represented by the union, the board shall certify the  
5 union as the collective bargaining agent of those workers  
6 and shall issue an order to begin good faith negotiations  
7 for employment agreements on an individual employer  
8 basis. If less than a majority of the opting-out employer's  
9 workers within the identified unit had submitted valid  
10 cards indicating their intent to be represented by the  
11 union, that employer shall not be subject to a bargaining  
12 order issued by the board, but may voluntarily agree to  
13 negotiate collectively with the union if it so desires, and  
14 an organizing union may continue to seek and submit  
15 employee authorization cards on an individual employer  
16 basis for purposes of recognition and mandatory  
17 negotiation under this subparagraph until the expiration  
18 of the one year period identified in subparagraph (A).  
19 The board may provide mediation and conciliation  
20 services upon request of the parties at any time. If an  
21 employer is required under this subparagraph to  
22 collectively bargain with the union, and the parties do not  
23 reach an agreement within 90 days, the board shall  
24 require the parties to participate in mandatory mediation  
25 and conciliation services for a period of 30 days. If no  
26 agreement results from this mediation, either or both  
27 parties may declare an impasse. Upon a party's  
28 declaration of an impasse, the Executive Director of the  
29 Board shall appoint an arbitrator from a panel of  
30 preselected professional arbitrators with expertise in  
31 labor negotiations to determine the issues and issue a final  
32 and binding order establishing the terms of a collective  
33 bargaining agreement. The cost of this arbitration shall be  
34 shared equally by the union and employer.

35 (6) No labor agreement under this article shall apply  
36 to any trainer or horseman with respect to employment  
37 associated with fair meetings prior to January 1, 2002.  
38 After this date employees shall be added by accretion into  
39 an existing contract where applicable. This section shall  
40 not apply to employers whose trainers, backstretch



1 workers, or both, normally reside and work outside of  
2 California and who are engaged in racing in this state for  
3 a limited period of time not exceeding 90 racing days in  
4 any calendar year.

5 ~~(6) Disputes between the union and the organization~~  
6 ~~of trainers or horsemen over the conduct of union~~  
7 ~~recognition or the application of this law shall be~~  
8 ~~submitted to final and binding arbitration by an arbitrator~~  
9 ~~designated by the board who is mutually accepted by the~~  
10 ~~applicable horsemen's organization or trainers'~~  
11 ~~organization and the labor union, with hearings to be held~~  
12 ~~within 72 hours of written notice to the parties. If the~~  
13 ~~parties are unable to reach an agreement on an arbitrator,~~  
14 ~~the board shall provide the parties a list of qualified~~  
15 ~~arbitrators, from which the parties shall alternately strike~~  
16 ~~an equal number of names until one remains, who shall~~  
17 ~~be the accepted arbitrator. The arbitrator shall have~~  
18 ~~authority to order any remedy, including injunctive~~  
19 ~~relief, damages and attorneys fees, he or she deems~~  
20 ~~warranted. Allegations of a failure to bargain in good faith~~  
21 ~~against a multiemployer bargaining committee may be~~  
22 ~~made jointly or severally. Either party may bring an~~  
23 ~~action in state court to enforce the decision of the~~  
24 ~~arbitrator. Any~~

25 (7) *At any time subsequent to the expiration of an*  
26 *agreement under paragraph (5), when the agreement is*  
27 *not in effect, the board may recognize a majority interest,*  
28 *obtained during this period in the same manner as union*  
29 *recognition of employees, within a unit who no longer*  
30 *desire to be represented by the union, and withdraw the*  
31 *recognition granted pursuant to this section from that*  
32 *union. An employer may inform his or her employees that*  
33 *a process for decertification exists and direct them to the*  
34 *board for information. However any card, signature, vote,*  
35 *or other indicator obtained for this purpose by means of*  
36 *coercion or threat or with the assistance or inducement*  
37 *of any employer shall be invalid.*

38 (8) *Disputes, other than disputes concerning the*  
39 *operation and application of ongoing contracts, disputes*  
40 *subject to binding interest arbitration pursuant to*



1 *subparagraph (C) of paragraph (5), and economic*  
2 *disputes arising in the context of multiemployer*  
3 *bargaining pursuant to subparagraph (B) of paragraph*  
4 *(5), but including disputes concerning the rights*  
5 *established in paragraphs (1) and (2), upon complaint*  
6 *shall be adjudicated by the board, and the board may*  
7 *require the parties to submit the issue to binding*  
8 *arbitration subject to judicial review in the same manner*  
9 *as decisions of the board. Disputes subject to this*  
10 *paragraph include disputes involving any backstretch*  
11 *employee or group of employees, and any trainer or*  
12 *group of trainers. Upon submission of a complaint to*  
13 *binding arbitration, the board shall select an arbitrator*  
14 *who is mutually accepted by the affected parties, with*  
15 *hearing to be held within 72 hours of written notice to the*  
16 *parties. If the parties are unable to reach agreement prior*  
17 *to the commencement of arbitration, the board shall*  
18 *provide the parties with a list of qualified arbitrators, from*  
19 *which the parties shall alternately strike an equal number*  
20 *of names until one remains, who shall be the selected*  
21 *arbitrator. The selected arbitrator shall have the*  
22 *authority to order any remedy, including injunctive*  
23 *relief, damages, and attorney's fees. Either party may*  
24 *bring an action in state court to compel a party to go to*  
25 *arbitration or to enforce the decision of the arbitrator,*  
26 *and the board may take administrative action as*  
27 *necessary to ensure this paragraph is complied with. The*  
28 *board may delegate all or part of its authority under this*  
29 *paragraph to the executive director. Costs of arbitration*  
30 *shall be shared equally by the parties, and any party shall*  
31 *be entitled to recover any reasonable fees or costs*  
32 *incurred in securing compliance with or enforcement of*  
33 *an award or order of the arbitrator.*

34 (e) Nothing in this section shall prevent a labor union  
35 ~~and an organization of horsemen, or an organization of~~  
36 ~~and an individual trainer, or any group of~~ trainers, from  
37 entering into a mutually acceptable agreement, which  
38 may substitute for the requirements of subdivision (d),  
39 for union organizing of employees of the horsemen or  
40 trainers. Nothing in this article shall be interpreted to



1 require representative parties in negotiation to enter into  
2 any labor agreement, as long as each party is negotiating  
3 in a good faith effort to reach an agreement.

4 ~~19455.2. Organizations of trainers and organizations~~  
5 ~~of horsemen established pursuant to Section 19613.2 shall~~  
6 ~~have the authority to negotiate and enter into labor~~  
7 ~~agreements with representatives of backstretch~~  
8 ~~employees and with labor unions desiring to represent~~  
9 ~~backstretch employees.~~(a) The board shall provide for  
10 labor agreements under this article to be binding upon  
11 every applicable licensee. No

12 (b) No horseman or trainer who has a separate  
13 agreement with the exclusive representative labor union  
14 shall be required to be a party to a multiemployer  
15 collective bargaining agreement. ~~However, no union~~  
16 ~~subject to this article shall enter into any agreement with~~  
17 ~~any horseman or trainer for less than the terms and~~  
18 ~~conditions of the applicable multiemployer agreement.~~  
19 ~~agreement.~~

20 19455.4. The board may establish reasonable rules to  
21 regulate the time, place, and manner for representatives  
22 of labor unions to meet backstretch workers within the  
23 enclosure during working and nonworking hours. With  
24 the approval of the board, these regulations may be  
25 superceded by collective bargaining agreements  
26 between horsemen's organizations or trainers'  
27 organizations and labor organizations.

28 **SEC. 2.**

29 *SEC. 3.* Section 19461 of the Business and Professions  
30 Code is amended to read:

31 19461. Every license granted under this chapter is  
32 subject to suspension or revocation by the board in any  
33 case where the board has reason to believe that any  
34 condition regarding it has not been complied with, or that  
35 any law, including the Labor Code and the regulations  
36 adopted thereunder, or any rule or regulation of the  
37 board affecting it has been broken or violated.

38 All proceedings to revoke a license shall be conducted  
39 in accordance with Chapter 5 of Part 1 of Division 3 of  
40 Title 2 of the Government Code.



1 ~~SEC. 3.~~

2 SEC. 4. Section 19461.5 is added to the Business and  
3 Professions Code, to read:

4 19461.5. Upon a finding by the Labor Commissioner  
5 that a violation of any provision of the Labor Code, within  
6 the jurisdiction of the Labor Commissioner, has been  
7 committed by a person licensed pursuant to this chapter  
8 in the course of such licensed activity, the Labor  
9 Commissioner shall, upon expiration of the applicable  
10 period for appeal, notify the board of that finding.

11 ~~SEC. 4.~~

12 SEC. 5. Section 19481.5 of the Business and  
13 Professions Code is amended to read:

14 19481.5. (a) Notwithstanding any other provision of  
15 law, no license shall be issued to conduct a horse race  
16 meeting upon a track unless the track has been inspected  
17 by the board within 30 days prior to the date of  
18 application for a license and the track has been approved  
19 by the board as conforming to the racetrack safety  
20 standards set forth in subdivision (a) of Section 19481.

21 (b) The board shall, within 120 days of the effective  
22 date of this subdivision, adopt emergency regulations in  
23 accordance with the Administrative Procedure Act  
24 (Chapter 3.5 (commencing with Section 11340) of Part 1  
25 of Division 3 of Title 2 of the Government Code) to  
26 establish standards governing the employee housing  
27 provided to backstretch personnel at licensed racetracks.  
28 These regulations shall be deemed to be an emergency  
29 and necessary for the immediate preservation of the  
30 public peace, health and safety, or general welfare, shall  
31 be commensurate with the housing standards established  
32 in the Employee Housing Act (commencing with Section  
33 17000 of Division 13 of the Health and Safety Code), and  
34 ~~shall consider the health and safety of the human and~~  
35 ~~equine population. These emergency shall consider the~~  
36 ~~following:~~

37 (1) *The health and safety of the human and equine*  
38 *population and the necessity for humans and horses to*  
39 *live in close proximity.*



1 (2) *The housing needs of state or county facilities with*  
2 *live racing meeting of no more than 43 days in duration*  
3 *that do not operate as year-round training facilities. The*  
4 *board shall specifically consider the different needs of*  
5 *these facilities compared to permanent facilities or other*  
6 *state and county facilities that function on a year-round*  
7 *basis, including state and county fair facilities that operate*  
8 *as a year-round training facilities where horses are stabled*  
9 *and workers live.*

10 (3) *Compliance of facilities with racing meetings of 19*  
11 *days or less to this subdivision shall be contingent on*  
12 *funding in the 2001–02 Budget Act.*

13 *These emergency regulations shall be submitted to the*  
14 *Office of Administrative Law for filing with the Secretary*  
15 *of State and publication in the California Code of*  
16 *Regulations and shall be replaced by final, permanent*  
17 *regulations within 18 months of their adoption. Every*  
18 *racing association shall be in compliance with these*  
19 *housing standards by January 1, 2003.*

20 (c) Commencing January 1, 2003, the board, in  
21 conjunction with the California Department of Housing  
22 and Community Development or a local housing  
23 authority *for the jurisdiction in which the race track is*  
24 *located*, shall annually inspect the living conditions of  
25 backstretch employee housing to ensure compliance with  
26 the housing standards established by the board, the  
27 findings or results of which shall be submitted to the  
28 board. No license shall be issued to a racing association to  
29 conduct a horse race meeting unless the board has  
30 inspected the housing conditions that exist on the race  
31 track's backstretch and determined the living conditions  
32 to be in compliance with the standards established by the  
33 board in subdivision (b).

34 (d) The board may assess a reasonable fee upon racing  
35 associations to defray the costs associated with the  
36 inspections provided for in subdivision (c).

37 ~~SEC. 5.~~

38 SEC. 6. Section 19526 is added to the Business and  
39 Professions Code, to read:



1 19526. (a) Each trainer shall keep accurate payroll  
2 records, showing the name, address, social security  
3 number, work classification, straight time and overtime  
4 hours worked each day and week, paid to each of his or  
5 her employees. Each payroll record shall contain both of  
6 the following signed declarations by the trainer, which  
7 shall be made under penalty of perjury:

8 (1) That the information contained in the payroll  
9 record is true and correct.

10 (2) That the employer has complied with the  
11 requirements of Labor Code and Applicable Wage  
12 Orders of the Industrial Welfare Commission.

13 (b) The payroll records enumerated under  
14 subdivision (a) shall be certified and shall be available for  
15 inspection at all reasonable hours at the principal office  
16 of the trainer on the following basis:

17 (1) A certified copy of an employee's payroll record  
18 shall be made available for inspection or furnished to the  
19 employee or his or her authorized representative upon  
20 request.

21 (2) A certified copy of all payroll records enumerated  
22 in subdivision (a) shall be made available for inspection  
23 or furnished upon request to the board and the Division  
24 of Labor Standards Enforcement of the Department of  
25 Industrial Relations.

26 (3) *On or before January 31 of each year, each trainer*  
27 *shall provide copies of federal W-2 and 1099 tax forms for*  
28 *his or her backstretch employees for the previous*  
29 *calendar year to the administrator of the pension fund for*  
30 *backstretch employees.*

31 (c) The certified payroll records described in this  
32 section shall be on forms provided by the Division of  
33 Labor Standards Enforcement or shall contain the same  
34 information as the forms provided by the division.

35 (d) A trainer shall file a certified copy of the records  
36 enumerated in subdivision (a) ~~with the entity that~~  
37 ~~requested the records~~ *to an employee or his or her*  
38 *authorized representative* within 10 days after receipt of  
39 a written request.



1 (e) The trainer shall inform the board of the location  
2 of the records enumerated under subdivision (a),  
3 including the street address, city and county, and shall,  
4 within five working days, provide a notice of a change of  
5 location and address.

6 ~~(f) The trainer shall have 10 days in which to comply~~  
7 ~~subsequent to receipt of a written notice requesting the~~  
8 ~~records enumerated in subdivision (a). In the event that~~  
9 ~~the trainer fails to comply within the 10-day period, he or~~  
10 ~~she shall, as a penalty to the state or political subdivision~~  
11 ~~on whose behalf the contract is made or awarded, forfeit~~  
12 ~~twenty-five dollars (\$25) for each calendar day, or portion~~  
13 ~~thereof, for each worker, until complete compliance is~~  
14 ~~effectuated.~~

15 ~~(g) Except for trainers covered by an operative~~  
16 ~~collective bargaining agreement pursuant to Section~~  
17 ~~19613.7, the board will require, as a condition of issuing a~~  
18 ~~trainer's license or a renewal of a trainer's license, that a~~  
19 ~~certified copy of all payroll records specified in~~  
20 ~~subdivision (a) be filed with the board. The Labor~~  
21 ~~Commissioner shall establish and maintain a program to~~  
22 ~~audit the certified payroll records under this section in a~~  
23 ~~manner to ensure that each licensee is audited at least~~  
24 ~~once every three years.~~

25 ~~(h)~~

26 *(f) In addition to any other penalty imposed by law,*  
27 *any trainer who fails to provide access to the records*  
28 *enumerated in subdivision (a) to the board, the*  
29 *employee or his or her authorized representative, the*  
30 *administrator of the pension or welfare funds, or to the*  
31 *Division of Labor Standards enforcement as required by*  
32 *law shall be subject to suspension of his or her license.*

33 *(g) Except for trainers covered by an operative*  
34 *collective bargaining agreement pursuant to Section*  
35 *19613.7, the board shall require, as a condition of issuing*  
36 *or renewing a trainer's license, that the trainer annually*  
37 *submit a certified declaration that they have maintained*  
38 *true and correct payroll records and have complied with*  
39 *the requirements of the Labor Code and applicable wage*  
40 *orders of the Industrial Welfare Commission.*



1 (h) The Labor Commissioner shall establish and  
2 maintain a program to audit the certified payroll records  
3 of trainers who are not parties to a collective bargaining  
4 agreement entered pursuant to Article 2.5 (commencing  
5 with Section 19455) and who operate in California for 90  
6 or more racing days in a calendar year, in a manner to  
7 ensure that every subject licensee is audited at least once  
8 prior to January 1, 2005, and as necessary thereafter to  
9 ensure that at least 15 percent of subject trainers are  
10 audited each year as part of an ongoing program.  
11 Evidence of substantial noncompliance with the  
12 ~~requirements of this section~~ Labor Code and applicable  
13 wage orders of the Industrial Welfare Commission shall  
14 be referred by the board to the Labor Commissioner.

15 ~~(i) The fees for registration of a trainer under this~~  
16 ~~chapter shall be established by the board in an amount~~  
17 ~~determined to be sufficient to defray the costs of~~  
18 ~~administering this section.~~

19 ~~SEC. 6.~~

20 SEC. 7. Section 19556 of the Business and Professions  
21 Code is amended to read:

22 19556. (a) The distribution shall be made by the  
23 distributing agent to beneficiaries qualified under this  
24 article. For the purposes of this article, a beneficiary shall  
25 be all of the following:

26 (1) A nonprofit corporation or organization entitled  
27 by law to receive a distribution made by a distributing  
28 agent.

29 (2) Exempt or entitled to an exemption from taxes  
30 measured by income imposed by this state and the United  
31 States.

32 (3) Engaged in charitable, benevolent, civic, religious,  
33 educational, or veterans' work similar to that of agencies  
34 recognized by an organized community chest in the State  
35 of California, except that the funds so distributed may be  
36 used by the beneficiary for capital expenditures.

37 (4) Approved by the board.

38 (b) At least ~~20~~ 50 percent of the distribution shall be  
39 made to charities associated with the horse racing  
40 industry, and ~~30 percent of the distribution shall go to the~~



1 ~~welfare fund established in subdivision (b) of Section~~  
2 ~~19641 industry.~~ No beneficiary otherwise qualified under  
3 this section to receive charity day net proceeds shall be  
4 excluded on the basis that the beneficiary provides  
5 charitable benefits to persons connected with the care,  
6 training, and running of racehorses, except that type of  
7 beneficiary shall make an accounting to the board within  
8 one calendar year of the date of receipt of any  
9 distribution.

10 ~~SEC. 7.—~~

11 *SEC. 8. Section 19590 of the Business and Professions*  
12 *Code is amended to read:*

13 19590. The board shall adopt rules governing,  
14 permitting, and regulating ~~mutuel~~ *parimutuel* wagering  
15 on horse races under the system known as the parimutuel  
16 method of wagering. ~~Such~~ *Parimutuel* wagering shall be  
17 conducted only by a person licensed under this chapter  
18 to conduct a horse racing meeting, and only within the  
19 inclosure and on the dates for which horse racing has  
20 been authorized by the board. *Wagering instructions*  
21 *concerning funds held in an advance deposit wagering*  
22 *account shall be deemed to be issued within the licensee's*  
23 *inclosure.*

24 *SEC. 9. Section 19595 of the Business and Professions*  
25 *Code is amended to read:*

26 19595. Any form of wagering or betting on the result  
27 of a horse race other than that permitted by this chapter  
28 is illegal. Also illegal is any wagering or betting on horse  
29 races outside an inclosure where the conduct of horse  
30 racing is licensed by the board. *Wagering instructions*  
31 *concerning funds held in an advance deposit wagering*  
32 *account shall be deemed to be issued within the licensee's*  
33 *inclosure.*

34 *SEC. 10. Section 19604 is added to the Business and*  
35 *Professions Code, to read:*

36 19604. *Notwithstanding any other provision of law, in*  
37 *addition to parimutuel wagering otherwise authorized by*  
38 *this chapter, advance deposit wagering may be*  
39 *conducted upon approval of the board. The board may*  
40 *authorize any racing association or fair, during the*



1 calendar period it is licensed by the board to conduct a  
2 live racing meeting in accordance with the provisions of  
3 Article 4 (commencing with Section 19480), to accept  
4 advance deposit wagers or to allow these wagers through  
5 a betting system or a multijurisdictional wagering hub in  
6 accordance with the following:

7 (a) Racing associations and racing fairs may form a  
8 partnership, joint venture, or any other affiliation in  
9 order to further the purposes of this section.

10 (b) As used in this section, “advance deposit  
11 wagering” means a form of parimutuel wagering in  
12 which a person residing within California or outside of  
13 this state establishes an account with a licensee, a  
14 board-approved betting system, or a board-approved  
15 multijurisdictional wagering hub located within  
16 California or outside of this state, and subsequently issues  
17 wagering instructions concerning the funds in this  
18 account, thereby authorizing the entity holding the  
19 account to place wagers on the account owner’s behalf.  
20 An advance deposit wager may be made only by the  
21 entity holding the account pursuant to wagering  
22 instructions issued by the owner of the funds  
23 communicated by telephone call or through other  
24 electronic media. The licensee, a betting system, or a  
25 multijurisdictional wagering hub shall ensure the  
26 identification of the account’s owner by utilizing methods  
27 and technologies approved by the board. Further, at the  
28 request of the board, any licensee, betting system, or  
29 multijurisdictional wagering hub located in California,  
30 and any betting system or multijurisdictional wagering  
31 hub located outside of this state that accepts wagering  
32 instructions concerning races conducted in California or  
33 accepts wagering instructions from California residents,  
34 shall provide a full accounting and verification of the  
35 source of the wagers thereby made, including the zone  
36 and breed, in the form of a daily download of parimutuel  
37 data to a database designated by the board. Additionally,  
38 when the board approves a licensee, a betting system, or  
39 a multijurisdictional wagering hub, whether located  
40 within California or outside of this state, to accept



1 advance deposit wagering instructions on any race or  
2 races from California residents, the licensee, betting  
3 system, or multijurisdictional wagering hub may be  
4 compensated pursuant to a contractual agreement with  
5 a California licensee, in an amount not to exceed 6.5  
6 percent of the amount handled on a race or races  
7 conducted in California, and in the case of a race or races  
8 conducted in another jurisdiction, may be compensated  
9 in an amount not to exceed 6.5 percent, plus a fee to be  
10 paid to the host racing association not to exceed 3.5  
11 percent, of the amount handled on that race or races. The  
12 amount remaining after the payment of winning wagers  
13 and after payment of the contractual compensation and  
14 host fee, if any, shall be distributed as a market access fee  
15 in accordance with subdivision (g). As used in this  
16 section, “market access fee” means the contractual fee  
17 paid by a betting system or multijurisdictional wagering  
18 hub to the California licensee for access to the California  
19 market for wagering purposes. As used in this section,  
20 “licensee” means any racing association or fair, or  
21 affiliation thereof authorized in subdivision (a).

22 (c) (1) The board shall develop and adopt rules to  
23 license and regulate all phases of operation of advance  
24 deposit wagering for licensees, betting systems, and  
25 multijurisdictional wagering hubs located in California.  
26 Betting systems and multijurisdictional wagering hubs  
27 located and operating in California shall be approved by  
28 the board prior to establishing advance deposit wagering  
29 accounts or accepting wagering instructions concerning  
30 those accounts and shall enter into a written contractual  
31 agreement with the bona fide labor organization that has  
32 historically represented the same or similar classifications  
33 of employees at the nearest horse racing meeting.  
34 Permanent state or county employees and nonprofit  
35 organizations that have historically performed certain  
36 services at county, state, or district fairs may continue to  
37 provide those services, notwithstanding this  
38 requirement.

39 (2) The board shall develop and adopt rules and  
40 regulations requiring betting systems and



1 *multijurisdictional wagering hubs to establish security*  
2 *access policies and safeguards, including, but not limited*  
3 *to, the following:*

4 (A) *The betting system or wagering hub shall utilize*  
5 *the services of a board-approved independent third party*  
6 *to perform identity, residence, and age verification*  
7 *services with respect to persons establishing an advance*  
8 *deposit wagering account.*

9 (B) *The betting system of wagering hub shall utilize*  
10 *personal identification numbers (PINs) and other*  
11 *technologies to assure that only the accountholder has*  
12 *access to the advance deposit wagering account.*

13 (C) *The betting system or wagering hub shall allow*  
14 *the board access to its premises to visit, investigate, and*  
15 *place expert accountants and other persons it deems*  
16 *necessary for the purpose of ensuring that its rules and*  
17 *regulations concerning credit authorization, account*  
18 *access, and other security provisions are strictly complied*  
19 *with.*

20 (3) *The board shall prohibit advance deposit*  
21 *wagering advertising that it determines to be deceptive*  
22 *to the public or specifically directed towards minors.*

23 (d) *As used in this section, a “multijurisdictional*  
24 *wagering hub” is a business conducted in more than one*  
25 *jurisdiction that facilitates parimutuel wagering on races*  
26 *it simulcasts and other races it offers in its wagering*  
27 *menu.*

28 (e) *As used in this section, a “betting system” is a*  
29 *business conducted exclusively in this state that facilitates*  
30 *parimutuel wagering on races it simulcasts and other*  
31 *races it offers in its wagering menu.*

32 (f) *In order for a licensee, betting system, or*  
33 *multijurisdictional wagering hub to be approved by the*  
34 *board to conduct advance deposit wagering, it shall meet*  
35 *both of the following requirements:*

36 (1) *All wagers thereby made shall be included in the*  
37 *appropriate parimutuel pool of the host racing association*  
38 *or fair under a contractual agreement with the applicable*  
39 *California licensee, in accordance with the provisions of*  
40 *this chapter.*



1 (2) *The amounts deducted from advance deposit*  
2 *wagers shall be in accordance with the provisions of this*  
3 *chapter.*

4 (g) *The amount received as a market access fee from*  
5 *advance deposit wagers shall be distributed as follows:*

6 (1) *An amount equal to .0011 percent of the amount*  
7 *handled on advance deposit wagers originating in*  
8 *California for each race meeting shall be distributed to*  
9 *the Center for Equine Health to establish the Kenneth L.*  
10 *Maddy Fund for the benefit of the School of Veterinary*  
11 *Medicine at the University of California at Davis.*

12 (2) *An amount equal to .0003 percent of the amount*  
13 *handled on advance deposit wagers originating in*  
14 *California for each race meeting shall be distributed to*  
15 *the Department of Industrial Relations to cover costs*  
16 *associated with audits conducted pursuant to Section*  
17 *19526, however, if that amount would exceed the costs of*  
18 *the Department of Industrial Relations, the amount*  
19 *distributed to the department shall be reduced, and that*  
20 *reduction shall be forwarded to an organization*  
21 *designated by the racing association or fair described in*  
22 *subdivision (a) for the purpose of augmenting a*  
23 *compulsive gambling prevention program specifically*  
24 *addressing that problem.*

25 (3) *An amount equal to .00165 of the amount handled*  
26 *on advance deposit wagers that originate in California for*  
27 *each race meeting shall be distributed as follows:*

28 (A) *One-half of the amount shall be distributed to*  
29 *supplement the trainer-administered pension plans for*  
30 *backstretch personnel established pursuant to Section*  
31 *19613. Moneys distributed pursuant to this subparagraph*  
32 *shall supplement, and not supplant, moneys distributed*  
33 *to that fund pursuant to Section 19613 or any other*  
34 *provision of law.*

35 (B) *One-half of the amount shall be distributed to the*  
36 *welfare fund established for the benefit of horsemen and*  
37 *backstretch personnel pursuant to subdivision (b) of*  
38 *Section 19641. Moneys distributed pursuant to this*  
39 *subparagraph shall supplement, and not supplant,*



1 moneys distributed to that fund pursuant to Section 19641  
2 or any other provision of law.

3 (4) With respect to wagers on each breed of racing  
4 that originate in California, an amount equal to 2 percent  
5 of the first two hundred fifty million dollars  
6 (\$250,000,000) of handle from all advance deposit wagers  
7 originating from within California annually, an amount  
8 equal to 1.5 percent of the next two hundred fifty million  
9 dollars (\$250,000,000) of handle from all advance deposit  
10 wagers originating from within California annually, and  
11 an amount equal to 1 percent of handle from all advance  
12 deposit wagers originating from within California in  
13 excess of five hundred million dollars (\$500,000,000)  
14 annually, shall be distributed as satellite wagering  
15 commissions. The satellite wagering facility commissions  
16 calculated in accordance with this subdivision shall be  
17 distributed to each satellite wagering facility and racing  
18 association or fair in the zone in which the wager  
19 originated in the same relative proportions that the  
20 satellite wagering facility or the racing association or fair  
21 generated satellite commissions during the previous  
22 calendar year. For purposes of this section, the purse  
23 funds distributed pursuant to Section 19605.72 shall be  
24 considered to be satellite wagering facility commissions  
25 attributable to thoroughbred races at the locations  
26 described in that section.

27 (5) With respect to wagers on each breed of racing  
28 that originate in California for each race meeting, after  
29 the payment of contractual obligations to the licensee,  
30 the betting system, or the multijurisdictional wagering  
31 hub, and the distribution of the amounts set forth in  
32 paragraphs (1) through (4), inclusive, the amount  
33 remaining shall be distributed to the racing association or  
34 fair that is conducting live racing on that breed during the  
35 calendar period in the zone in which the wager  
36 originated, and this amount shall be allocated to that  
37 racing association or fair as commissions, to horsemen  
38 participating in that racing meeting in the form of purses,  
39 and as incentive awards, in the same relative proportion  
40 as they were generated or earned during the prior



1 calendar year at that racing association or fair on races  
2 conducted or imported by that racing association or fair  
3 after making all deductions required by applicable law.  
4 Purse funds generated pursuant to this section may be  
5 utilized to pay 50 percent of the total costs and fees  
6 incurred due to the implementation of advance deposit  
7 wagering. "Incentive awards" shall be those payments  
8 provided for in Sections 19617.2, 19617.7, 19617.8, 19617.9,  
9 and 19619. The amount determined to be payable for  
10 incentive awards shall be payable to the applicable  
11 official registering agency and thereafter distributed as  
12 provided in this chapter. If the provisions of Section  
13 19601.2 apply, then the amount distributed to the  
14 applicable racing associations or fairs from advance  
15 deposit wagering shall first be divided between those  
16 racing associations or fairs in direct proportion to the total  
17 amount wagered in the applicable zone on the live races  
18 conducted by the respective association or fair.  
19 Notwithstanding this requirement, when the provisions  
20 of subdivision (b) of Section 19607.5 apply to the 2nd  
21 District Agricultural Association in Stockton or the  
22 California Exposition and State Fair in Sacramento, then  
23 the total amount distributed to the applicable racing  
24 associations or fairs shall first be divided equally, with 50  
25 percent distributed to applicable fairs and 50 percent  
26 distributed to applicable associations. For purposes of this  
27 subdivision, the zones of the state shall be as defined in  
28 Section 19530.5, except as modified by the provisions of  
29 subdivision (f) of Section 19601, and the combined  
30 central and southern zones shall be considered one zone.

31 Notwithstanding any provision of this section to the  
32 contrary, the distribution of the market access fee, other  
33 than the distributions specified in paragraph (1) or (2),  
34 may be altered upon the approval of the board, in  
35 accordance with an agreement signed by all parties  
36 receiving a distribution under paragraphs (4) and (5).

37 (h) Notwithstanding any provisions of this section to  
38 the contrary, all funds derived from advance deposit  
39 wagering that originate from California for each race  
40 meeting on out-of-state and out-of-country thoroughbred



1 races conducted after 6 p.m., Pacific Time, shall be  
2 distributed in accordance with this subdivision. With  
3 respect to these wagers, 50 percent of the amount  
4 remaining after the payment of contractual obligations to  
5 the multijurisdictional wagering hub, betting system, or  
6 licensee and the amounts set forth in paragraphs (1)  
7 through (5), inclusive, of subdivision (g) shall be  
8 distributed as commissions to thoroughbred associations  
9 and racing fairs, as thoroughbred and fair purses, and as  
10 incentive awards in accordance with subdivision (g), and  
11 the remaining 50 percent, together with all funds derived  
12 for each race meeting from advance deposit wagering  
13 originating from California out-of-state and  
14 out-of-country harness and quarter horse races  
15 conducted after 6 p.m. Pacific Time shall be distributed  
16 as commissions on a pro rata basis to the applicable  
17 licensed quarter horse association and the applicable  
18 licensed harness association, based upon the amount  
19 handled instate, both on- and off-track, on each breed's  
20 own live races in the previous year by that association, or  
21 its predecessor association. One-half of the amount  
22 thereby received by each association shall be retained by  
23 that association as a commission, and the other half of the  
24 money received shall be distributed as purses to the  
25 horsemen participating in its current or next-scheduled  
26 licensed racing meeting.

27 (i) Notwithstanding any provisions of this section to  
28 the contrary, all funds derived from advance deposit  
29 wagering which originate from California for each race  
30 meeting on out-of-state and out-of-country  
31 nonthoroughbred races conducted before 6 p.m., Pacific  
32 time, shall be distributed in accordance with this  
33 subdivision. With respect to these wagers, 50 percent of  
34 the amount remaining after the payment of contractual  
35 obligations to the multijurisdictional wagering hub,  
36 betting system, or licensee and the amounts set forth in  
37 paragraphs (1) through (5), inclusive, of subdivision (g)  
38 shall be distributed as commissions as provided in  
39 subdivision (h) for licensed quarter horse and harness  
40 associations, and the remaining 50 percent shall be



1 distributed as commissions to the applicable  
2 thoroughbred associations or fairs, as thoroughbred and  
3 fair purses, and as incentive awards in accordance with  
4 subdivision (g).

5 (j) A racing association, a fair, or a satellite wagering  
6 facility may accept and facilitate the placement of any  
7 wager from a patron at its facility that a California  
8 resident could make through a betting system or  
9 multijurisdictional wagering hub duly offering advance  
10 deposit wagering in this state, and the facility accepting  
11 the wager shall receive a 2 percent commission on that  
12 wager in lieu of any distribution for satellite commissions  
13 pursuant to subdivision (g).

14 (k) Any disputes concerning the interpretation or  
15 application of this section shall be resolved by the board.

16 SEC. 11. Section 19613 of the Business and Professions  
17 Code is amended to read:

18 19613. (a) Except as provided in subdivisions (b),  
19 (c), (d), (e), and (f), the portion deducted for purses  
20 pursuant to this chapter shall be paid to or for the benefit  
21 of the horsemen at the racing meeting.

22 (b) Any association other than a fair that conducts a  
23 thoroughbred racing meeting shall pay to the owners'  
24 organization contracting with the association with  
25 respect to the conduct of racing meetings for  
26 administrative expenses and services rendered to owners,  
27 an amount not to exceed two-thirds of 1<sup>1</sup>/<sub>2</sub> percent of the  
28 portion, and to a trainers' organization for administrative  
29 expenses and services rendered to trainers and  
30 backstretch employees an amount equivalent to  
31 one-third of 1<sup>1</sup>/<sub>2</sub> percent of the portion. That association  
32 shall also pay an amount for a pension plan for backstretch  
33 personnel to be administered pursuant to Section 19613.8  
34 equivalent to an additional 1 percent of the portion. The  
35 remainder of the portion shall be distributed as purses.

36 (c) Any other association may pay to the horsemen's  
37 organization contracting with the association with  
38 respect to the conduct of racing meetings for  
39 administrative expenses and services rendered to  
40 horsemen an amount out of the portion as may be



1 determined by the association by agreement or  
2 otherwise, but, in all events, shall include, relative to a  
3 thoroughbred horsemen's organization racing, 1 percent  
4 of the portion for a pension plan for backstretch  
5 personnel pursuant to Section 19613.8. The remainder of  
6 the portion shall be distributed as purses.

7 (d) Notwithstanding subdivisions (b) and (c), any  
8 association conducting a fair racing meeting or  
9 conducting a mixed breed racing meeting shall pay to the  
10 horsemen's organizations contracting with the  
11 association with respect to the conduct of races for their  
12 respective breeds of horses at the meetings for  
13 administrative expenses and services rendered to their  
14 respective horsemen those amounts out of the portion as  
15 determined by the horsemen's organization for the  
16 respective breeds with the approval of the board.

17 Pursuant to this subdivision, amounts not to exceed 3  
18 percent of the portion for the owners' and trainers'  
19 organizations shall be distributed to any thoroughbred  
20 owners' and trainers' organizations contracting with an  
21 association for a fair racing meeting or participating in  
22 mixed breed racing meetings as follows: two-thirds of 1  
23 percent to the owners' organization and one-third of 1  
24 percent to the trainers' organization for administrative  
25 expenses and services rendered to both owners and  
26 trainers, 1 percent for welfare funds, and 1 percent for a  
27 pension program for backstretch personnel, to be  
28 administered pursuant to Section 19613.8.

29 (e) Any association other than a fair that conducts a  
30 quarter horse racing meeting, except a mixed breed  
31 meeting, shall pay to the horsemen's organization  
32 contracting with the association with respect to the  
33 conduct of racing meetings for administrative expenses  
34 and services rendered to horsemen, an amount not to  
35 exceed 3 percent of the portion. The remainder of the  
36 portion shall be distributed as purses.

37 (f) For racing meetings other than thoroughbred  
38 meetings, if no contract has been signed between the  
39 association conducting the racing meeting and the  
40 organization representing the horsemen by the time the



1 racing meeting commences, the distribution of purses  
2 shall be governed by the following:

3 (1) If the association conducted a racing meeting  
4 within the past 15 months and a contract was in existence  
5 for that meeting with the horsemen's organization and  
6 the association is conducting a subsequent meeting for  
7 the same breed or mixed breeds, the amounts payable to  
8 the horsemen's organization under subdivision (c) shall  
9 be computed under the provisions of the last signed  
10 contract between the parties.

11 (2) This subdivision applies regardless of the cause of  
12 the failure to execute a contract, whether that failure is  
13 a result of inadvertence or otherwise.

14 (3) For racing meetings that do not come within  
15 paragraph (1), the board shall, within 15 days after the  
16 commencement of the racing meeting, determine the  
17 amounts payable to the horsemen's organization for  
18 administrative expenses and services, and provide for the  
19 direct payment of those amounts.

20 (g) Amounts distributed pursuant to this section are  
21 derived from owners' purses.

22 (h) For the purposes of this section, the following  
23 definitions shall apply:

24 (1) "Owner" means a person currently licensed by the  
25 board as an owner of a thoroughbred racehorse.

26 (2) "Trainer" means a person currently licensed by  
27 the board as an owner and trainer or as a trainer of a  
28 thoroughbred racehorse.

29 ~~SEC. 8.~~

30 *SEC. 12.* Section 19613.8 is added to the Business and  
31 Professions Code, to read:

32 ~~19613.8. The pension plan for backstretch personnel  
33 shall be administered by a joint labor-management  
34 committee in accordance with the standards established  
35 by Section 302 of the Taft-Hartley Act (29 U.S.C. Sec.  
36 5186). One half of the representatives shall be members  
37 of labor organizations who are the exclusive bargaining  
38 representatives for the backstretch employees,  
39 appointed by the labor organizations, and one half shall  
40 be representatives of the trainers' organizations. The~~



1 board shall, in the absence of exclusive bargaining  
 2 representatives for backstretch employees, appoint at  
 3 least one bona fide representative who holds a  
 4 groom/stable employee license and at least one  
 5 representative with expertise in administration of union  
 6 pension funds from a bona fide labor organization  
 7 representing employees who works at a California horse  
 8 racing facility.

9 19613.8. Within 60 days of a statewide majority of  
 10 backstretch workers having chosen to be represented by  
 11 an exclusive collective bargaining agent pursuant to  
 12 Article 2.5 (commencing with Section 19455) or any other  
 13 law, the respective organization of horsemen, or in the  
 14 case of the thoroughbred industry the organization of  
 15 trainers, shall submit a plan to the board for the  
 16 administration of the pension program by a joint  
 17 labor-management committee, consistent with the  
 18 standards established by Section 302 of the Taft-Hartley  
 19 Act (29 U.S.C. Sec. 5186). Notwithstanding Section 19613,  
 20 upon approval by the board, a joint labor-management  
 21 committee shall administer the pension program.

22 ~~SEC. 9.~~

23 *SEC. 13.* Section 19641.2 is added to the Business and  
 24 Professions Code to read:

25 ~~19641.2. The welfare fund established by Section~~  
 26 ~~19641 shall be a health and welfare trust fund~~  
 27 ~~administered without prejudice for the benefit of every~~  
 28 ~~eligible person by a board consisting of two~~  
 29 ~~representatives of backstretch personnel, appointed by~~  
 30 ~~the labor organizations representing these employees,~~  
 31 ~~and two representatives of the trainers' organizations.~~

32 19641.2. (a) *The nonprofit foundation authorized to*  
 33 *receive funds pursuant to Section 19641 shall use those*  
 34 *funds to administer a health and welfare trust fund*  
 35 *without prejudice and for the benefit of every eligible*  
 36 *person. The welfare fund and benefits shall be*  
 37 *administered in accordance consistent with the*  
 38 *standards established by the federal Employee*  
 39 *Retirement Income Security Act of 1974 (29 U.S.C. Sec.*  
 40 *1001 and following) subject to the oversight and*

1 regulation of the board. The board shall, in the absence  
2 of exclusive bargaining representatives for backstretch  
3 employees, appoint at least one bona fide representative  
4 who holds a groom/stable employee license and one  
5 representative with expertise in welfare fund  
6 administration from a bona fide labor organization  
7 representing employees who works at a California horse  
8 racing facility. and regulation of the board.

9 (b) Every employer of backstretch workers shall,  
10 upon request, submit or provide access to the  
11 administrator of the welfare program for backstretch  
12 workers any employment records necessary for prompt  
13 payment of benefits and proper administration of the  
14 program.

15 (c) On or before March 1, 2001, the welfare fund board  
16 shall be expanded to include two additional holders of  
17 groom or stable employee licenses who are currently  
18 employed in these occupations at a California horse  
19 racing facility. Within 60 days of a statewide majority of  
20 backstretch workers having chosen to be represented by  
21 an exclusive bargaining agent pursuant to Article 2.5  
22 (commencing with Section 19455) or any other law, that  
23 agent shall designate two representatives to replace the  
24 board members appointed pursuant to this subdivision.

25 (d) Nothing in this section is intended to affect the  
26 status of the welfare fund as a charity under Section  
27 501(c)(3) of the federal Internal Revenue Code or its  
28 compliance with the Charitable Purposes Act (Article 7  
29 (commencing with Section 12580) of Chapter 6 of Part 2  
30 of Division 3 of Title 2 of the Government Code).

31 ~~SEC. 10.~~

32 SEC. 14. The provisions of this act are severable. If  
33 any provision of this act or its application is held invalid,  
34 that invalidity shall not affect other provisions or  
35 applications that can be given effect without the invalid  
36 provision or application. No reimbursement is required  
37 by this act pursuant to Section 6 of Article XIII B of the  
38 California Constitution because the only costs that may  
39 be incurred by a local agency or school district will be  
40 incurred because this act creates a new crime or



1 infraction, eliminates a crime or infraction, or changes  
2 the penalty for a crime or infraction, within the meaning  
3 of Section 17556 of the Government Code, or changes the  
4 definition of a crime within the meaning of Section 6 of  
5 Article XIII B of the California Constitution.

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