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## HORSE RACING: RELATED GAMING ACTIVITIES

**House Bill 4609**

**Sponsor: Rep. Larry Julian**

**House Bill 4610**

**Sponsor: Rep. Jack Minore**

**House Bill 4611**

**Sponsor: Rep. Joe Hune**

**House Bill 4612**

**Sponsor: Rep. Rich Brown**

**Committee: Agriculture and Resource  
Management**

**Complete to 5-5-03**

### A SUMMARY OF HOUSE BILLS 4609-4612 AS INTRODUCED 5-1-03

Taken together, the bills would permit 1) off-track wagering on telecast horse racing at racing theaters, including at state licensed casinos (i.e., the Detroit casinos); 2) account wagering by telephone and Internet on horse racing; and 3) the placement of video lottery games at racetracks by the Michigan Bureau of State Lottery.

House Bill 4609 would amend the Horse Racing Law of 1995 (MCL 431.302 et al.) to permit account wagering and off-track wagering at racing theaters, and would specify how revenue from video lottery terminals at racetracks would be distributed. House Bill 4610 would amend the McCauley-Traxler-Law-Bowman-McNeely Lottery Act (MCL 432.3 et al.) to authorize the placement of video lottery games at racetracks and to provide detailed regulation of video lottery terminals (VLTs). House Bill 4612 would amend the Michigan Gaming and Revenue Act (MCL 432.209b) to allow a casino licensee to operate a racing theater at which off-track wagering on horse races could take place. House Bill 4611 would amend the Code of Criminal Procedure (MCL 777.14d), generally speaking, to provide statutory maximum penalties for criminal violations of laws governing the newly authorized gaming activities. House Bills 4609, 4610, and 4611 are all tie-barred to each other and to a bill yet to be introduced. House Bill 4612 is tie-barred to all of the other bills.

Following are some key concepts found in the package of bills.

House Bill 4609 would permit race meeting licensees to conduct account wagering, which would be defined as a form of pari-mutuel wagering on a horse race in which a wager is placed by telephone or by electronic means, including but not limited to the Internet. Before an individual could engage in account wagering, he or she would have to establish a wagering account with an authorized race meeting licensee or with a multijurisdictional wagering hub. A hub would be a business conducted in more than one jurisdiction and licensed by the state racing

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commissioner to conduct pari-mutuel wagering on horse racing, including account wagering. An account holder could not accept an account wager in an amount that exceeded the amount in the wagering account.

House Bill 4609 would also permit off-track wagering at racing theaters. A racing theater would be defined as an enclosed facility where patrons could view off-track telecasting and engage in off-track wagering on the results of telecast horse races. A racing theater licensee would have to televise and conduct off-track wagering on all horse races held in the state for which a televised signal was available. A licensee could also, with the approval of the racing commissioner, conduct wagering on the results of horse races held in other states. The racing commissioner could issue up to 15 racing theater licenses each year. Licenses could only be issued to a race meeting licensee, a racing corporation, or a state-licensed casino. A racing theater could not be located within 10 miles of a licensed racetrack or another licensed racing theater (unless the restriction was waived by those licensees).

House Bill 4610 would permit the placement by the state lottery of video lottery games at licensed race meetings. The bill would permit a license holder to install and operate up to 500 VLTs at the holder's racetrack. However, the license holder could apply to the bureau for permission to install and operate more than 500 VLTs. A video lottery game would be defined as a bureau-approved, electronically simulated game of chance displayed on a video lottery terminal that met detailed specifications (as described later). Of the net terminal income, \$150 million each year would be paid to the School Aid Fund. Income beyond that would be distributed 35 percent to the general fund and 65 percent to the racing commissioner. House Bill 4609 would require the racing commissioner to distribute the revenue he or she receives as follows: 54 percent to race meeting licensees (based on the percentage wagered in games conducted by the licensee; 23 percent to pay regular purses at race meetings (based on the amount wagered at a licensee's races); 3 percent to pay breeders awards at race meetings (based on the amount wagered at a licensee's races); and 20 percent to the Department of Agriculture, to be spent as appropriated by the legislature.

A more detailed description of the bills follows.

House Bill 4609. The bill would make general amendments to the Horse Racing Law of 1995 and add provisions related to account wagering and off-track wagering.

Existing provisions of the Horse Racing Law would be grouped as Article 1. The bill would add certain definitions pertaining to the conduct of account wagering and off-track wagering, including "account wagering", "multijurisdictional wagering hub", "off-track telecasting", "off track wagering", and "racing theater".

Licensure. The act permits the racing commissioner to issue a race meeting license to a person to conduct live and simulcast racing and pari-mutuel wagering at a licensed race meeting. The bill would extend the activities permissible under a race meeting license to a racing theater. The bill would delete a provision that prohibits the racing commissioner from issuing a race meeting license to a person if that person is already licensed to conduct a licensed race meeting at another licensed track. The bill would also delete provisions that prohibit more than three

racetracks from being licensed in a city area, a person from being issued more than one track license, and a track licensee from being issued if it would result in harmful competition among existing racetracks.

Operations. The bill would eliminate several provisions that, generally speaking, prohibit race meeting licensee in a city area from conducting live racing after 6:45 p.m., unless there is a different arrangement agreed to by all race meeting licensees.

The act requires applicants for race meetings in a city area to apply to conduct a certain number of live racing days. More specifically, the act requires each applicant for a thoroughbred, quarter horse, Appaloosa, American paint horse, or Arabian race meeting license in a city area to apply to conduct at least 160 days of live racing. In addition, the act requires the race meeting applicant for standardbred races with the highest handle during the previous year to apply for at least 140 days, and all other standardbred applicants combined to apply for at least 120 days. The bill would require each applicant for a race meeting in a city area to apply for at least 120 days of live racing. The bill would also require each applicant for a license to conduct races of a combination of horse breeds to apply to conduct at least 160 days of live racing.

Auditing/Disclosure of Information. The bill would extend provisions in the act requiring an audit to also include pari-mutuel wagering at racing theaters and by telephone or electronic account wagering. The bill would also extend provisions regarding the disclosure of information by race meeting licensees to multijurisdictional wagering hubs, which are defined to mean a business conducted in more than one jurisdiction that conducts pari-mutuel wagering on horse races.

The bill would create a new Article 2 of the act, which would establish procedures for, and regulation of, account wagering, which would be defined to mean a form of pari-mutuel wagering on a horse race in which a wager is placed by telephone or electronic means, including, but not limited through the internet. The bill would permit the racing commissioner to authorize a race meeting licensee to conduct account wagering. The licensee would be required to submit to the racing commissioner a description of how the proposed account wagering system would operate.

A race meeting licensee would be permitted to contract with one or more persons to operate the licensee's account wagering system. As such, any prohibitions and obligations on the race meeting licensee would also apply to the person contracted by the licensee. However, a licensee would remain responsible for all obligations and duties under the article and any rules promulgated pursuant to the article. A race meeting licensee would not be permitted to enter into a contract or change an existing contract regarding account wagering without prior approval from the racing commissioner.

Once a race meeting licensee has been initially authorized by the racing commissioner to conduct account wagering, the wagering could begin 90 days after the first days of horse racing after the account wagering authority is granted. Authorization for account wagering would be valid for the balance of the licensee's license, and may be extended in conjunction with the renewal of the race meeting license. The racing commissioner would be permitted to suspend or

revoke a race meeting licensee's authority to conduct account wagering, if it is determined that the licensee (or an agent or employee) violated the act or rule promulgated pursuant to the act. Further, the authority to conduct account wagering would be revoked if the licensee ceases to conduct its race meetings.

Multijurisdictional Wagering Hubs. The racing commissioner would be permitted to license one or more multijurisdictional hubs to conduct account wagering. Account wagering could not be conducted unless the racing commissioner determines that the wagering hub has satisfactory security access policies and safeguards. A wagering hub licensed to conduct account wagering could not conduct wagering until at least 90 days after the license is issued. A license to conduct account wagering would be valid for the remainder of the calendar year, and could be extended, suspended, or revoked.

Deposits to a Wagering Account. Deposits to a wagering account would be submitted or mailed as cash, a negotiable instrument drawn on an account, or charged to the account holder's debit or credit card. Winnings would be posted to the wagering account by the race meeting licensee.

Wagering. An account holder/race meeting licensee could authorize a withdrawal from an account if the owner is present at the racetrack and presents proper identification, the correct personal identification number that was received upon the establishment of the wagering account, and a completed withdrawal slip; and the account owner completes a withdrawal slip. An account holder would not accept a wager unless it is placed directly by the account owner who provides the correct personal identification number. A race meeting licensee conducting account wagering could not accept a wager at a site that is not within the enclosure of the racetrack. An individual could not directly or indirectly place a wager as an intermediary, transmitter, or agency for an account owner, including (though not limited to) using a system whereby funds are deposited to a wagering account from another wagering account or other account. However, this would not necessarily prohibit the use of credit or debit cards specifically approved by the racing commissioner, checks, money orders, or negotiable orders of withdrawal.

Miscellaneous Provisions. A race meeting licensee or wagering hub authorized to conduct account wagering would be required to comply with all applicable auditing requirements set forth in the act, and provide a full accounting of the source of wagers made, and would conduct account wagering with communications systems and other equipment that is approved by the racing commissioner.

The racing commissioner would be permitted to promulgate rules implementing Article 2 establishing standards for authorizing the conduct of account wagering, procedures for suspending or revoking such authorization, establishing application and/or licensee fees, and whatever else the racing commissioner determines to be necessary.

An account wager would be included in the appropriate pari-mutuel pool of the race meeting licensee (if the wager is on a live race) or the appropriate race meeting licensee (if the wager is on a simulcast race). Money placed in the pari-mutuel pool from an account wager

would be subject to the same takeout as the takeout of race meetings conducted under current law.

The bill would create a new Article 3 of the act, which would establish procedures for, and the regulation of, off-track wagering. Under the bill, the racing commissioner would be permitted to issue not more than 15 racing theater licenses each year, with licenses being valid for one year. During the first year of the license, the racing theater could begin to operate 90 days after the first day of racing is completed by the licensee or, if the licensee is a racing corporation, by all licensees that make up that corporation. A racing corporation could be formed by two or more race meeting licensees for the operation of one or more racing theaters.

Application. A racing theater licensee would only be issued to a race meeting licensee, a racing corporation, or to a person licensed to conduct casino gaming under the Michigan Gaming Control and Revenue Act (that is, the Detroit casinos). In determining which applicants would receive a racing theater license, the racing commissioner would give preference to a race meeting licensee that is, or a racing corporation that is composed of race meeting licensees that are, performing ongoing racing operations. For subsequent years, the racing commissioner would grant preference to current racing theater license holders that had not violated the act or any other law or ordinance related to the operation of the racing theater.

In reviewing applications for a racing theater license, the racing commissioner would be required to inspect the facility where an applicant proposes to conduct off-track telecasting and wagering. If a license is approved, the license would state the address at which the licensee would conduct off-track telecasting and wagering.

Wagering. A racing theater licensee could conduct pari-mutuel wagering by patrons on the results of races in Michigan or, if approved by the racing commissioner, other states. No other method of betting, pool making, wagering, or gaming would be used or permitted at licensed racing theaters. A racing theater licensee would not knowingly accept a wager from an individual who is less than 18 years of age, and, likewise, an individual less than 18 years of age would not place or attempt to place a wager at a racing theater.

Telecasts. A racing theater licensee would be required to televise and conduct off-track wagering for all horse races held in the state for which there is a televised signal. Further, the licensee would use any racing information about the race available from the race meeting licensee that is necessary to conduct off-track wagering. The racing theater licensee would compensate, based on a percentage of the money wagered at race at the racing theater, the race meeting licensee holding the race for the telecast and information.

System of Wagering. The pari-mutuel system of wagering at a racing theater would result in the combination of all off-track wagers at a racing theater on a horse race and all wagers included in the pool at the race meeting where the race is held, so as to produce a common pool for the calculation of odds and the determination of payouts, which would be the same for all winning tickets regardless of where the wager is placed.

If approved by the racing commissioner, wagers from other states could be pooled with other wagers on the races pooled at the racetrack where the race is held, where the racing theater licensee conducts its race meetings, or at other racing theaters.

Wagers accepted by the racing theater would have to conform in denomination, character, terms, conditions, and all other respects to wagers for the same race at the race meeting where the race is held. A racing theater could, with approval from the racing commissioner, establish and accept other wager types on out-of-state races. The takeout at a racing theater would be the same as the takeout at a race meeting.

Audits. The racing commissioner would audit the operations of a racing theater. Daily audit reports on each day's off-track wagering would be forwarded by the racing commissioner to the racing theater licensee. The auditor would have free and full access to the facility where the off-track wagering is conducted, the calculating room where the payoff is determined, the money room and cashier terminals, and all off-track wagering records. The auditor would be responsible for the accuracy of the pay-off calculations; the amount of the racetrack commission, state tax, and breaks; and the amount withheld of the payment of uncashed tickets.

Racing commissioner duties. The racing commissioner would have the authority to promulgate rules necessary to implement the provisions of Article 3, including (though not limited to) the application for a racing theater license, procedures for suspending or revoking a racing theater license, the establishment of license fees and/or application fees, conditions for conducting off-track wagering, and specifications regarding the scope of audits performed.

House Bill 4610 would add a new Article 2 to the McCauley-Traxler-Law-Bowman-McNeely Lottery Act pertaining to the placement of video lottery terminals (VLTs) at horse racetracks. Specifically, the bill states that the state lottery bureau could implement and operate video lottery games at racetracks in the state, and the bureau would have primary responsibility for the control and regulation of a video lottery terminal or game. In addition, the bill would codify existing provisions in the act into "Article 1", which pertain to the current operations of the state lottery. The bill states that the provisions of Article 1 would also apply to video lottery operations, though the provisions in Article 2 would supercede any conflicting or inconsistent provisions of Article 1.

Definitions. The bill defines "video lottery" to mean a lottery that allows a game to be played using an electronic computer and interactive computer terminal device, among other requirements. However, a video lottery would not include a lottery game that merely uses an electronic computer and video screen to operate a game and communicate the results but does not use an interactive electronic terminal device allowing input by a player. Video lottery would be operated exclusively by and under the control of the state lottery bureau.

The bill defines "video lottery game" to mean a bureau-approved electronic game of chance that is displayed on a video lottery terminal that, among other requirements, would not display roulette, dice or baccarat card game themes commonly associated with casino gambling. However, the game could display symbols that appear to roll on drums to simulate a classic casino slot machine or could display other card game or keno game themes.

Further, the bill defines “video lottery terminal” to mean a bureau-approved interactive electronic terminal device that is connected to the central control system and used to play video lottery games authorized by the bureau.

Placement. Each VLT would have to be physically located in an area that meets the following requirements:

- The area is continuously monitored by a closed circuit television system.
- Access to the area is restricted to person legally entitled by age to play the games.
- The license holder has submitted a floor plan of the area detailing the location of the VLTs and security cameras.
- The area is in a building that is located on property that is contiguous to the racetrack’s grandstand.

Before a VLT is placed at a racetrack, the race meeting licensee would negotiate a hosting agreement with the local governmental subdivision in which the track is located. If the two are unable to come to an agreement, the lottery bureau could determine the terms of the hosting agreement or decide no to place VLTs at the racetrack. Further, a VLT could not be conducted at a racetrack until 90 days after the first day of horse racing is completed by the race meeting licensee after the license is granted to operate a video lottery.

Manufacturers. Under the bill, a manufacturer of a VLT or any component of a VLT would be prohibited from selling or leasing a VLT to be placed at a racetrack in the state unless the bureau had approved the terminal. Only a manufacturer with a permit to design or build a VLT or any component of a VLT intended to be sold or leased to a person licensed to conduct video lottery games at a racetrack could apply for approval of the VLT. To apply for approval, a manufacturer would have to supply the bureau with two copies of terminal illustrations, schematics, block diagrams, circuit analysis, technical and operational manuals, and any other information requested by the bureau. The bill contains extensive regulations regarding hardware specifications.

A manufacturer could not place a VLT in operation in the state unless the manufacturer provides service and repair of each approved VLT. A person could not conduct maintenance on a VLT or associated equipment unless the lottery bureau has issued a service technician permit to that person.

Testing of VLTs. The bureau could require that two working models of a VLT be tested. The manufacturer would pay all costs for transporting and testing the VLT models. In addition, the bureau could require the manufacturer to provide specialized equipment or pay for the services of an independent technical expert to test the terminal.

In addition, the bill states that the bureau would be required to conduct a test at its headquarters to determine VLT functions and central control system compatibility, and that the manufacturer would pay for the cost of transporting two VLTs to bureau headquarters. If the

VLT failed the test conducted by the bureau, the manufacturer would have to make all modifications as required by the bureau.

After the completion of testing, the bureau would provide the manufacturer with a report of its findings, conclusions, and results. This report could contain recommendations for modifications to bring the VLT into compliance with the provisions of the bill. Before approving a particular model, the bureau could require a trial period of not more than 60 days for the license holder to test the terminal. Any modifications of the terminal by the manufacturer during this trial period would have to be approved by the bureau.

The license holder and the manufacturer would be jointly liable for the assembly and installation of VLTs. Neither the manufacturer nor the license holder would be permitted to modify the assembly or operation functions of a VLT unless the bureau approves a request for modification. Any request for modification would have to include a detailed description of the type of change, reasons for such change, and technical documentation of the change.

A VLT that is approved for placement would have to conform to the exact specifications of the VLT model tested and approved by the bureau. The bureau would be required to seize and destroy a VLT or modification of a VLT that has not been approved by the bureau and suspend the license of a license holder or the permit of a manufacturer that operates or manufactures a VLT or modification not approved by the bureau.

Theoretical Payout Percentages. A VLT would have to meet the following theoretical payout percentages.

- A minimum of 80 percent of the amount wagered during the expected lifetime of the VLT, as determined by standard methods of probability theory.
- A maximum of 95 percent of the amount wagered during the expected lifetime of the VLT, unless the bureau approves a request by the manufacturer to program the VLT for a payout greater than 95 percent.
- A probability greater than 1 in 17 million of obtaining the maximum payout for each play.

Malfunctions. A VLT would have to be capable of continuing the current game after any malfunction is cleared. If a VLT becomes totally inoperable during a game, the current wager and all credits appearing on the VLT display prior to the malfunction would be returned to the player.

Accounting. A VLT would have to maintain an electronic account at all times, regardless of whether the terminal is being supplied with electrical power. The electronic meter of the VLT would record the number of coins (or its equivalent) inserted by the player; number of credits wagered; number of credits, coins, and tokens won; the number of credits paid out by a printed ticket; the number of times the logic area has been accessed; the number of credits wagered in the current game; the number of credits won in the last complete game; and the number of cumulative credits representing money inserted and credits for games won, but not collected.



In addition, the VLT could not have a mechanism that allows the electronic accounting meters to automatically clear, nor could a person clear a meter without prior approval from the bureau. Further, all meter readings would have to be recorded by bureau employees before and after a meter is cleared.

Central Control System. The bureau would maintain a central control system to monitor VLTs using an on-line or dial-up connection. The control system would have to be capable of monitoring the operation of each VLT and immediately disabling each VLT. The bureau could require the license holder to pay the costs of a central control system as part of the licensing agreement. The bureau would be required to provide a manufacturer, or an applicant of a manufacturer's permit, the protocol documentation data necessary to enable the VLTs to communicate with the central control system.

Application of a license. The bureau would not grant a license to operate VLTs or a permit to manufacture VLTs unless the bureau has determined that the applicant meets all of the following qualifications:

- If the applicant is applying for license to operate VLTs, that the applicant also holds a valid track license issued pursuant to the Horse Racing Law of 1995.
- The applicant has good character and integrity.
- The applicant's background does not pose a threat to the security and integrity of the lottery or to the public interest. An applicant for a license (initial or renewal) would have to provide fingerprints for a criminal background check by the Department of State Police (MSP) and the Federal Bureau of Investigation (FBI). Fingerprints would have to be provided by each individual required to be named in the application, and each individual would have to provide a signed authorization for the release of the information by the MSP or FBI. A person who has been convicted of a crime related to bribery, gambling, or moral turpitude would not be eligible for a license or permit. Similarly, the bureau would revoke the license or permit of a person who is convicted of a crime related to bribery, gambling, or moral turpitude after a license or permit was granted.
- The applicant demonstrates the business ability and experience necessary to establish, operate, and maintain the business of conducting gaming through the operation of VLTs or manufacturing VLTs.
- The applicant has secured adequate financing, which is from a source that meets the qualifications for granting a license of permit.
- The applicant has paid an application fee of \$1,000 (for the initial application only) and provided a surety or fidelity bond in an amount

The license would be valid for one year, with applications for renewal to be made prior to November 1.

Responsibilities of the license or permit holder. A license or permit holder would be required to do all of the following:

- Promptly report to the bureau any facts or circumstances related to VLTs that constitute a violation of state or federal law.

- Conduct all video lottery activities and functions in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of the state, and that does not adversely impact the security or integrity of the state lottery.

- Hold the bureau and the state harmless from, and defend and pay for, the defense of a claim against a license holder, the bureau, the state, or any one of their employees, arising from the license holder's participation in video lottery.

- Assist the bureau in maximizing video lottery revenue.

- Maintain all records required by the bureau.

- Provide the bureau, upon request, access to all records and physical premises of the business where the license or permit holder's activities occur so that the bureau is permitted to monitor the video lottery activities, games, and terminals, and associated equipment.

- Remain current in all payments and other obligations to the bureau.

- Maintain general liability insurance coverage for all VLTs of at least \$2 million.

Gross Terminal Income. The bill would require a license holder to remit its gross terminal income to the bureau by electronic transfer on dates established by the bureau. The bureau would deduct from the gross terminal income an amount to reimburse the bureau for administrative costs. Any amount deducted that exceeds actual administrative costs would be returned to each license holder in proportion to the administrative costs deducted from each license holder. The bill defines 'gross terminal income' to mean the total amount of cash, vouchers, and tokens inserted into a VLT, less the total value of the cash and tokens won by players and game credits cleared from the VLT's in exchange for winning redemption tickets.

In addition, the bill would require a license holder to maintain in the bank account from which funds are transferred to the bureau an amount greater than or equal to the gross terminal income from its video lottery operations. A failure to maintain this balance could prompt the bureau to disable all of the license holder's VLTs until payments of all amounts due.

Payment for Credits. Payment for credits awarded on a VLT would not be made unless the ticket is legible, printed on bureau-approved paper, and contains all information required in the bill; has not been altered, mutilated, or otherwise tampered with; is not counterfeit; and is presented by a person authorized to play the video lottery games.

Penalties. Absent authorization granted by the bureau, a person who manipulates the outcome, payoff, or operation of a game (and with the intent to do so) would be guilty of a felony that is punishable by imprisonment not exceeding 10 years or a fine not less than \$10,000, or both. In addition, if the person is licensed under the article to operate video lottery terminals, the bureau would revoke the license.

House Bill 4611 would amend the Code of Criminal Procedure (MCL 777.14d) to classify the manipulation of the outcome, prize, or operation of a video lottery game or keno game to be a crime against the public trust and a Class D felony punishable by imprisonment for a maximum of 10 years. The bill would define the improper distribution of money from uncashed tickets to be a crime against the public trust and a Class G felony punishable by imprisonment for a maximum of two years.

House Bill 4612 would amend the Michigan Gaming Control and Revenue Act to permit a casino license to display a televised horse race at the casino or as part of the licensee's casino operation. [Note: Current law prohibits a casino license from televising or allowing another person to televise simulcast races on the premises of the casino.]

Upon approval from the Control Board, a casino licensee could apply for and possess a license to operate a racing theater under the Horse Racing Law. Such a racing theater would be under the primary control of the racing commissioner, though the theater would be considered to be part of the licensee's casino operation and subject to the provisions of the act and control of the board. The board would be permitted to take disciplinary action under the act against a casino licensee that holds a racing theater license for a violation of, or the rule pursuant to, the Horse Racing Law.

A casino licensee would be entitled to the same commission from any wagers on horse races televised at the licensee's racing theater as a race meeting licensee is entitled to under article 3 of the Horse Racing Law.

Analyst: M. Wolf

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.