

PROPOSED AMENDMENTS TO ASSEMBLY BILL NO. 1974

CALIFORNIA LEGISLATURE—2019—20 REGULAR SESSION

ASSEMBLY BILL

No. 1974

Introduced by Assembly Member Gray

January 22, 2020



Amendment 1

~~An act relating to horse racing.~~ *An act to amend Sections 19440 and 19582 of, and to add Sections 19583.5, 19583.7, 19583.9, 19583.10, and 19620.3 to, the Business and Professions Code, relating to horse racing, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1974, as introduced, Gray. ~~Horse racing: safety and welfare of racehorses and jockeys.~~ *Horse racing: welfare and safety of racehorses and jockeys.*

(1) The Horse Racing Law establishes the California Horse Racing Board within the Business, Consumer Services, and Housing Agency. That law vests the board with all powers necessary and proper to enable it to carry out the Horse Racing Law and makes the board responsible for, among other things, adopting rules and regulations for the protection of the public and the control of horse racing and parimutuel wagering and administration and enforcement of all laws, rules, and regulations affecting horse racing and parimutuel wagering.

This bill would add as a board responsibility the adoption of rules and regulations that protect and advance the health, safety, welfare, and aftercare of racehorses.

(2) The Horse Racing Law also requires the board to adopt regulations to establish policies, guidelines, and penalties relating to equine medication in order to preserve and enhance the integrity of horse racing in the state. That law requires that those policies,

guidelines, and penalties include, at a minimum, provisions that prohibit, among other things, a substance of any kind from being administered by any means to a horse after it has been entered to race in a horse race, unless the board has, by regulation, specifically authorized the use of the substance and its quantity and composition. That law provides that violations of this provision, as determined by the board, are punishable as set forth in regulations adopted by the board. A violation of the Horse Racing Law is a crime.

This bill would prohibit a trainer from administering, directly or indirectly, or otherwise permitting to be administered, any medication to a thoroughbred horse under the trainer's care that is racing or training at a board approved racetrack, unless the medication is prescribed for that specific horse and administered strictly in accordance with board regulations. The bill would also require that all penalty revenues imposed pursuant to the above provisions be directed to horse welfare and safety measures, as described. The bill would require the board to publicly disclose those measures on their internet website.

(3) The Horse Racing Law requires every veterinarian who treats a horse within the inclosure to report, in writing, on a form prescribed by the board, to the official veterinarian in a manner prescribed by the official veterinarian, the name of the horse treated, the name of the trainer of the horse, the time of treatment, any medication administered to the horse, and any other information requested by the official veterinarian.

Existing regulations of the board require that horses that are injured, unsound, or lame are subject to immediate placement on the Veterinarian's List with criteria for removal that may include diagnostic imaging, examination of blood, and counsel with attending veterinarians and that such a horse is prohibited from working out for 72 hours after being placed on the list without the permission of the official veterinarian. The regulations require the official veterinarian to require that any horse placed on the list to undergo a veterinary examination before resuming training at any facility under the jurisdiction of the board. The regulations establish conditions for removal of a horse from the list and require that a horse determined to be unsound or lame for the first, 2nd, 3rd, or 4th time in a 365-day period is ineligible to be removed from the list for a specified period of time.

This bill would codify these regulations as to horses determined to be unsound or lame and would authorize the board to adopt rules and

regulations to carry out the purposes of these provisions. The bill would also prohibit a trainer from entering into any race a thoroughbred horse that is 4 years of age or older that has not competed in a race or has not raced in the preceding 365 days, unless the horse has passed an examination by a board licensed veterinarian and has successfully passed a postwork official blood test. The bill would also require that a thoroughbred horse that has not raced within 120 days but has raced within 365 days have an examination performed by a board-licensed veterinarian within 7 days before entry, and based upon that examination, the board-licensed veterinarian may require the horse to work before being allowed to enter in a race, as specified.

The bill would require that all horses at a board-approved racetrack or training facility be subject to veterinary monitoring during morning training, as specified, and would require the use of diagnostic imaging as an accepted component of prerace examinations by an examining veterinarian, as specified. The bill would also require a racing association to provide a location within the inclosure where a horse can be observed jogging in a circle in both directions by an examining veterinarian, if needed, as part of the prerace examination process.

(4) Existing law establishes the Fair and Exposition Fund for the purpose of allocating moneys to provide financial support for the network of California fairs.

The Horse Racing Law provides that any unallocated balance from the total revenue received by the Department of Food and Agriculture pursuant to that law, except as specified, is hereby appropriated without regard to fiscal years for allocation by the Secretary of Food and Agriculture for capital outlay to California fairs for, among other things, fair projects involving public health and safety and projects that are required to protect fair property. That law also provides that a portion of these funds may be allocated to California fairs for general operational support.

This bill would create the Horse and Jockey Safety and Welfare Account in the Fair and Exposition Fund. The bill would, notwithstanding the above provisions, require that moneys from specified license fees imposed pursuant to the Horse Racing Law be deposited in that account and be continuously appropriated without regard to fiscal years to the Department of Finance for allocation by the Secretary of Food and Agriculture to the California Horse Racing Board for equine safety measures to improve the integrity and safety of horse racing that include, among other things, contracting for

additional state veterinarians, safety stewards, and infrastructure support related to the safety and welfare of racehorses and jockeys. Because the bill would create the Horse and Jockey Safety and Welfare Account, a continuously appropriated fund, the bill would make an appropriation.

(5) By imposing new requirements under the Horse Racing Law, a violation of which would be a crime, the bill would create a state-mandated local program.

(6) 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.

~~The Horse Racing Law vests the California Horse Racing Board with jurisdiction and supervision over horse racing meetings in this state on which wagering is held or conducted, and over all persons or things having to do with the operation of those meetings. That law authorizes the board to issue a license to conduct a racing meeting at the racetrack specified in the license, subject to certain conditions, including that the board has inspected and approved the racetrack as conforming to the safety standards established by the board. Existing regulations of the board require that a jockey be licensed.~~

~~This bill would state the intent of the Legislature to enact legislation that will further enhance and strengthen the safety and welfare of racehorses and jockeys in California.~~

~~Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.~~

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

- + SECTION 1. Section 19440 of the Business and Professions
- + Code is amended to read:
- + 19440. (a) The board shall have all powers necessary and
- + proper to enable it to carry out fully and effectually the purposes
- + of this chapter. Responsibilities of the board shall include, but not
- + be limited to, all of the following:
- + (1) Adopting rules and regulations that protect and advance
- + the health, safety, welfare, and aftercare of racehorses.
- + (†)

Amendment 2

+ (2) Adopting rules and regulations for the protection of the public and the control of horse racing and parimutuel wagering.

+ ~~(2)~~

+ (3) Administration and enforcement of all laws, rules, and regulations affecting horse racing and parimutuel wagering.

+ ~~(3)~~

+ (4) Adjudication of controversies arising from the enforcement of those laws and regulations dealing with horse racing and parimutuel wagering.

+ ~~(4)~~

+ (5) Licensing of each racing association and all persons, other than the public at large, who participate in a horse racing meeting with parimutuel wagering.

+ ~~(5)~~

+ (6) Allocation of racing dates to qualified associations in accordance with law.

+ (b) The board may delegate to stewards appointed pursuant to Article 5 (commencing with Section 19510) any of its powers and duties that are necessary to carry out fully and effectuate the purposes of this chapter.

+ *SEC. 2. Section 19582 of the Business and Professions Code is amended to read:*

+ 19582. (a) (1) Violations of Section 19581, as determined by the board, are punishable as set forth in regulations adopted by the board.

+ (2) The board may classify violations of Section 19581 based upon each class of prohibited drug substances, prior violations within the previous three years, and prior violations within the violator's lifetime.

+ (3) (A) The board may provide for the suspension of a license for not more than three years, except as provided in subdivision (b), or a monetary penalty of not more than one hundred thousand dollars (\$100,000), or both, and disqualification from purses, for a violation of Section 19581.

+ (B) The actual amount of the monetary penalty imposed pursuant to this paragraph shall be determined only after due consideration has been given to all the facts, circumstances, acts, and intent of the licensee, and shall not be solely based on the trainer-insurer rule, as established in Sections 1843 and 1887 of Title 4 of the California Code of Regulations.

+ (4) The punishment for second and subsequent violations of
+ Section 19581 shall be greater than the punishment for a first
+ violation of Section 19581 with respect to each class of prohibited
+ drug substances, unless the administrative law judge, in findings
+ of fact and conclusions of law filed with the board, concludes that
+ a deviation from this general rule is justified.

+ (b) (1) A third violation of Section 19581 during the lifetime
+ of the licensee, determined by the board to be at a class I or class
+ II level, may result in the permanent revocation of the person's
+ license.

+ (2) The administrative law judge shall, after consideration of
+ the circumstances surrounding a violation specified in paragraph
+ (1), file a decision with the board that includes findings of fact and
+ conclusions of law.

+ (c) Any person whose license is suspended or revoked pursuant
+ to this section shall not be entitled to receive any material benefit
+ or remuneration in any capacity or from any business activity
+ permitted or allowed by the license during any period of its
+ suspension or revocation.

+ (d) The penalties provided by this section are in addition to any
+ other civil, criminal, and administrative penalties or sanctions
+ provided by law, and do not supplant, but are cumulative to, other
+ penalties or sanctions.

+ (e) *All penalty revenues under this section shall be directed to
+ horse welfare and safety measures and the board shall publicly
+ disclose those measures on their internet website. Horse welfare
+ and safety measures shall include all of the following:*

- + (1) *Contracting for additional state veterinarians.*
- + (2) *Adding additional safety stewards.*
- + (3) *Improving or adding race track infrastructure to directly
+ improve the safety and welfare of horses and riders.*

+ SEC. 3. *Section 19583.5 is added to the Business and
+ Professions Code, to read:*

+ 19583.5. (a) *Horses that are unsound or lame are subject to
+ immediate placement on the Veterinarian's List with criteria for
+ removal that may include diagnostic imaging, examination of
+ blood, and counsel with attending veterinarians.*

+ (b) *A horse placed on the Veterinarian's List for being unsound
+ or lame shall not workout for seven days after being placed on the
+ list without the permission of the official veterinarian.*

+ (c) *The official veterinarian shall require any horse placed on the Veterinarian's List to undergo a veterinary examination that may include diagnostic imaging before resuming training at any facility under the jurisdiction of the board.*

+ (d) *A horse placed on the Veterinarian's List as unsound or lame shall be removed from the list only after having established or demonstrated to the satisfaction of the official veterinarian that the horse is then raceably sound and in fit physical condition to exert its best effort in a race.*

+ (e) (1) *A horse placed on the Veterinarian's List as unsound or lame for the first time within a 365-day period shall stay on the Veterinarian's List for a minimum of 15 days before the horse is eligible to be removed from the list.*

+ (2) *A horse placed on the Veterinarian's List as unsound or lame for the second time in 365 days shall stay on the Veterinarian's List for a minimum of 45 days before the horse is eligible to be removed from the list.*

+ (3) *A horse placed on the Veterinarian's List as unsound or lame for the third time in 365 days shall stay on the Veterinarian's List for a minimum of 75 days before the horse is eligible to be removed from the list.*

+ (4) *A horse placed on the Veterinarian's List as unsound or lame for the fourth time in 365 days shall stay on the Veterinarian's List for a minimum of 180 days before the horse is eligible to be removed from the list.*

+ (f) *The board may adopt rules and regulations to carry out the purposes of this section.*

+ (g) *As used in this section, "workout" means an exercise session near full speed, or close to full speed.*

+ SEC. 4. *Section 19583.7 is added to the Business and Professions Code, to read:*

+ 19583.7. *In addition to any criteria set forth by a racing association, a trainer shall not enter into any race a thoroughbred horse that is four years of age or older that has not competed in a race or has not raced in the preceding 365 days, unless the horse has passed an examination by a board-licensed veterinarian and has successfully passed a postwork official blood test. A thoroughbred horse that has not raced within 120 days but has raced within 365 days shall have an examination performed by a board-licensed veterinarian within seven days before entry. Based*

+ upon that examination, the board-licensed veterinarian may require
+ the horse to work before being allowed to enter in a race. If the
+ horse is required to work, it shall meet the same requirements as
+ a horse that is working to be taken off the Official Veterinarian's
+ List, as specified in Section 19583.5 or any regulation adopted by
+ the board pursuant to that section.

+ SEC. 5. Section 19583.9 is added to the Business and
+ Professions Code, to read:

+ 19583.9. (a) All horses at a board-approved racetrack or
+ training facility shall be subject to veterinary monitoring during
+ morning training. A licensed trainer and their staff shall be
+ required to cooperate fully with all requests made by
+ board-licensed veterinarians and outriders. All examining
+ veterinarians at a race meet conducting live racing shall be under
+ the direct supervision of the official veterinarian or the equine
+ medical director.

+ (b) A trainer shall not administer, directly or indirectly, or
+ otherwise permit to be administered, any medication to a
+ thoroughbred horse under the trainer's care that is racing or
+ training at a board-approved racetrack, unless the medication is
+ prescribed for that specific horse and administered strictly in
+ accordance with board regulations.

+ (c) The use of diagnostic imaging shall be an accepted
+ component of prerace examinations by an examining veterinarian.
+ The official veterinarian may order the diagnostic imaging if they
+ believe that the use is warranted. In addition, video footage may
+ be utilized and maintained by the official veterinarian for the
+ purpose of comparison when a horse is removed from the
+ Veterinarian's List.

+ SEC. 6. Section 19583.10 is added to the Business and
+ Professions Code, to read:

+ 19583.10. A racing association shall provide a location within
+ the inclosure where a horse can be observed jogging in a circle
+ in both directions by an examining veterinarian, if needed, as part
+ of the prerace examination process.

+ SEC. 7. Section 19620.3 is added to the Business and
+ Professions Code, to read:

+ 19620.3. The Horse and Jockey Safety and Welfare Account
+ is hereby created in the Fair and Exposition Fund. Notwithstanding
+ Sections 19606.1, 19616.51, 19620, 19620.1, and 19632, Section

+ 13340 of the Government Code, or any other law, moneys from
+ license fees imposed pursuant to Article 3 (commencing with
+ Section 19460) shall be deposited in the Horse and Jockey Safety
+ and Welfare Account and be continuously appropriated without
+ regard to fiscal years to the Department of Finance for allocation
+ by the Secretary of Food and Agriculture to the board for equine
+ safety measures to improve the integrity and safety of horse racing
+ that shall include, but are not limited to, contracting for additional
+ state veterinarians, safety stewards, and infrastructure support
+ related to the safety and welfare of racehorses and jockeys.

+ SEC. 8. No reimbursement is required by this act pursuant to
+ Section 6 of Article XIII B of the California Constitution because
+ the only costs that may be incurred by a local agency or school
+ district will be incurred because this act creates a new crime or
+ infraction, eliminates a crime or infraction, or changes the penalty
+ for a crime or infraction, within the meaning of Section 17556 of
+ the Government Code, or changes the definition of a crime within
+ the meaning of Section 6 of Article XIII B of the California
+ Constitution.

1 SECTION 1. ~~It is the intent of the Legislature to enact~~
2 ~~legislation that will further enhance and strengthen the safety and~~
3 ~~welfare of racehorses and jockeys in California.~~

Amendment 3

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AMENDMENTS TO ASSEMBLY BILL NO. 1974

Amendment 1

In the title, strike out line 1 and insert:

An act to amend Sections 19440 and 19582 of, and to add Sections 19583.5, 19583.7, 19583.9, 19583.10, and 19620.3 to, the Business and Professions Code, relating to horse racing, and making an appropriation therefor.

Amendment 2

On page 2, before line 1, insert:

SECTION 1. Section 19440 of the Business and Professions Code is amended to read:

19440. (a) The board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the board shall include, but not be limited to, all of the following:

(1) Adopting rules and regulations that protect and advance the health, safety, welfare, and aftercare of racehorses.

~~(1)~~

(2) Adopting rules and regulations for the protection of the public and the control of horse racing and parimutuel wagering.

~~(2)~~

(3) Administration and enforcement of all laws, rules, and regulations affecting horse racing and parimutuel wagering.

~~(3)~~

(4) Adjudication of controversies arising from the enforcement of those laws and regulations dealing with horse racing and parimutuel wagering.

~~(4)~~

(5) Licensing of each racing association and all persons, other than the public at large, who participate in a horse racing meeting with parimutuel wagering.

~~(5)~~

(6) Allocation of racing dates to qualified associations in accordance with law.

(b) The board may delegate to stewards appointed pursuant to Article 5 (commencing with Section 19510) any of its powers and duties that are necessary to carry out fully and effectuate the purposes of this chapter.

SEC. 2. Section 19582 of the Business and Professions Code is amended to read:

19582. (a) (1) Violations of Section 19581, as determined by the board, are punishable as set forth in regulations adopted by the board.

(2) The board may classify violations of Section 19581 based upon each class of prohibited drug substances, prior violations within the previous three years, and prior violations within the violator's lifetime.

(3) (A) The board may provide for the suspension of a license for not more than three years, except as provided in subdivision (b), or a monetary penalty of not more



than one hundred thousand dollars (\$100,000), or both, and disqualification from purses, for a violation of Section 19581.

(B) The actual amount of the monetary penalty imposed pursuant to this paragraph shall be determined only after due consideration has been given to all the facts, circumstances, acts, and intent of the licensee, and shall not be solely based on the trainer-insurer rule, as established in Sections 1843 and 1887 of Title 4 of the California Code of Regulations.

(4) The punishment for second and subsequent violations of Section 19581 shall be greater than the punishment for a first violation of Section 19581 with respect to each class of prohibited drug substances, unless the administrative law judge, in findings of fact and conclusions of law filed with the board, concludes that a deviation from this general rule is justified.

(b) (1) A third violation of Section 19581 during the lifetime of the licensee, determined by the board to be at a class I or class II level, may result in the permanent revocation of the person's license.

(2) The administrative law judge shall, after consideration of the circumstances surrounding a violation specified in paragraph (1), file a decision with the board that includes findings of fact and conclusions of law.

(c) Any person whose license is suspended or revoked pursuant to this section shall not be entitled to receive any material benefit or remuneration in any capacity or from any business activity permitted or allowed by the license during any period of its suspension or revocation.

(d) The penalties provided by this section are in addition to any other civil, criminal, and administrative penalties or sanctions provided by law, and do not supplant, but are cumulative to, other penalties or sanctions.

(e) All penalty revenues under this section shall be directed to horse welfare and safety measures and the board shall publicly disclose those measures on their internet website. Horse welfare and safety measures shall include all of the following:

(1) Contracting for additional state veterinarians.

(2) Adding additional safety stewards.

(3) Improving or adding race track infrastructure to directly improve the safety and welfare of horses and riders.

SEC. 3. Section 19583.5 is added to the Business and Professions Code, to read:

19583.5. (a) Horses that are unsound or lame are subject to immediate placement on the Veterinarian's List with criteria for removal that may include diagnostic imaging, examination of blood, and counsel with attending veterinarians.

(b) A horse placed on the Veterinarian's List for being unsound or lame shall not workout for seven days after being placed on the list without the permission of the official veterinarian.

(c) The official veterinarian shall require any horse placed on the Veterinarian's List to undergo a veterinary examination that may include diagnostic imaging before resuming training at any facility under the jurisdiction of the board.

(d) A horse placed on the Veterinarian's List as unsound or lame shall be removed from the list only after having established or demonstrated to the satisfaction of the official veterinarian that the horse is then raceably sound and in fit physical condition to exert its best effort in a race.

(e) (1) A horse placed on the Veterinarian's List as unsound or lame for the first time within a 365-day period shall stay on the Veterinarian's List for a minimum of 15 days before the horse is eligible to be removed from the list.

(2) A horse placed on the Veterinarian's List as unsound or lame for the second time in 365 days shall stay on the Veterinarian's List for a minimum of 45 days before the horse is eligible to be removed from the list.

(3) A horse placed on the Veterinarian's List as unsound or lame for the third time in 365 days shall stay on the Veterinarian's List for a minimum of 75 days before the horse is eligible to be removed from the list.

(4) A horse placed on the Veterinarian's List as unsound or lame for the fourth time in 365 days shall stay on the Veterinarian's List for a minimum of 180 days before the horse is eligible to be removed from the list.

(f) The board may adopt rules and regulations to carry out the purposes of this section.

(g) As used in this section, "workout" means an exercise session near full speed, or close to full speed.

SEC. 4. Section 19583.7 is added to the Business and Professions Code, to read:

19583.7. In addition to any criteria set forth by a racing association, a trainer shall not enter into any race a thoroughbred horse that is four years of age or older that has not competed in a race or has not raced in the preceding 365 days, unless the horse has passed an examination by a board-licensed veterinarian and has successfully passed a postwork official blood test. A thoroughbred horse that has not raced within 120 days but has raced within 365 days shall have an examination performed by a board-licensed veterinarian within seven days before entry. Based upon that examination, the board-licensed veterinarian may require the horse to work before being allowed to enter in a race. If the horse is required to work, it shall meet the same requirements as a horse that is working to be taken off the Official Veterinarian's List, as specified in Section 19583.5 or any regulation adopted by the board pursuant to that section.

SEC. 5. Section 19583.9 is added to the Business and Professions Code, to read:

19583.9. (a) All horses at a board-approved racetrack or training facility shall be subject to veterinary monitoring during morning training. A licensed trainer and their staff shall be required to cooperate fully with all requests made by board-licensed veterinarians and outriders. All examining veterinarians at a race meet conducting live racing shall be under the direct supervision of the official veterinarian or the equine medical director.

(b) A trainer shall not administer, directly or indirectly, or otherwise permit to be administered, any medication to a thoroughbred horse under the trainer's care that is racing or training at a board-approved racetrack, unless the medication is prescribed for that specific horse and administered strictly in accordance with board regulations.

(c) The use of diagnostic imaging shall be an accepted component of prerace examinations by an examining veterinarian. The official veterinarian may order the diagnostic imaging if they believe that the use is warranted. In addition, video footage may be utilized and maintained by the official veterinarian for the purpose of comparison when a horse is removed from the Veterinarian's List.

SEC. 6. Section 19583.10 is added to the Business and Professions Code, to read:

19583.10. A racing association shall provide a location within the inclosure where a horse can be observed jogging in a circle in both directions by an examining veterinarian, if needed, as part of the prerace examination process.

SEC. 7. Section 19620.3 is added to the Business and Professions Code, to read:

19620.3. The Horse and Jockey Safety and Welfare Account is hereby created in the Fair and Exposition Fund. Notwithstanding Sections 19606.1, 19616.51, 19620, 19620.1, and 19632, Section 13340 of the Government Code, or any other law, moneys from license fees imposed pursuant to Article 3 (commencing with Section 19460) shall be deposited in the Horse and Jockey Safety and Welfare Account and be continuously appropriated without regard to fiscal years to the Department of Finance for allocation by the Secretary of Food and Agriculture to the board for equine safety measures to improve the integrity and safety of horse racing that shall include, but are not limited to, contracting for additional state veterinarians, safety stewards, and infrastructure support related to the safety and welfare of racehorses and jockeys.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Amendment 3

On page 2, strike out lines 1 to 3, inclusive