
LEGISLATURE OF THE STATE OF IDAHO
Sixty-fourth Legislature First Regular Session - 2016

IN THE _____

BILL NO.

BY _____

AN ACT

RELATING TO ADDING A NEW CHAPTER 92, TITLE 67 TO IDAHO CODE CREATING THE GAMING COMMISSION IN THE STATE OF IDAHO, AMENDING 67-7409, IDAHO CODE, AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That a new Section 67-9201, Idaho Code, be, and the same is hereby added as follows:

67-9201. PURPOSE. The purpose of this legislation is to establish an oversight commission to be known as the Idaho Gaming Commission to oversee and certify compliance with Article III, Section 20 of the Idaho State Constitution, and appropriate sections of Idaho Code, including Indian Gaming pursuant to the various compacts and sections 67-429A, 67-429B and 67-429C, Idaho Code, and historical horse racing as authorized by this chapter.

SECTION 2. That a new Section 67-9202, Idaho Code, be, and the same is hereby added as follows:

67-9202. DEFINITIONS. As used in this chapter:

(1) "Director of Gaming" means that person appointed by the Governor of the state of Idaho to serve as the director of gaming pursuant to 67-9203(1), Idaho Code.

(2) "Gaming Commission" means the Idaho Gaming Commission.

(3) "Gaming device" means a device that accepts a wager from a player in exchange for an opportunity to win something of value, including a historical racing terminal, or an electronic gambling device operated by a player on tribal lands, but shall not be construed to include any device within the regulatory jurisdiction of the Idaho State Lottery.

(4) "Gaming device operator" means a licensee of the commission that operates gaming devices.

(5) "Gaming device provider" means the manufacturer or producer of a gaming device used by a licensed gaming device operator.

(6) "Historical horse race" means a race involving live horses that was conducted in the past and that is rebroadcast by electronic means and shown on a delayed or replayed basis for the purpose of wagering.

1 (7) "Indian gaming" means gaming that is authorized pursuant to
2 a compact by and between the Governor and an Idaho tribe, and as
3 further defined at sections 67-429A, 67-429B and 67-429C, Idaho Code.

4 (8) "Licensee" means any gaming device operator authorized by
5 the commission to operate gaming devices.

6 (9) "Pari-mutuel" means any system whereby wagers with respect
7 to the outcome of a race are placed with, or in, a wagering pool
8 conducted by a person licensed or otherwise permitted to do so under
9 state law, and in which the participants are wagering with each other
10 and not against the operator.

11
12 **SECTION 3.** That a new Section 67-9203, Idaho Code, be, and the
13 same is hereby added as follows:

14
15 67-9203. GAMING COMMISSION CREATED - APPOINTMENT - REMOVAL. There
16 is hereby created in the department of self-governing agencies the
17 Idaho Gaming Commission. The commission shall consist of three (3)
18 members. Except for the initial staggered terms described below, the
19 term of a member is four (4) years.

20 (1) Members on the commission shall be appointed by, and serve
21 at the pleasure of the governor, one (1) for a four (4) year term, one
22 (1) for a three (3) year term, and one (1) for a two (2) year term,
23 and thereafter each for four (4) year terms. The appointments to the
24 commission shall be subject to the approval of the Idaho State Senate.
25 The Governor shall appoint a commission chairman from among the
26 appointed members. The Governor shall also appoint a Director of
27 Gaming, who shall serve at the pleasure of the Governor, and whose
28 compensation shall be set and paid by the commission.

29 (2) Vacancies on the commission shall be filled by appointment
30 to be made by the Governor for the unexpired term.

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32
33 **SECTION 4.** That a new Section 67-9204, Idaho Code, be, and the same is
34 hereby added as follows:

35
36 67-9204. Powers and Duties of the Commission. -

37
38 The commission shall be responsible for and shall have the
39 following duties, powers and responsibilities:

40 (1) The commission shall promulgate rules pursuant to the
41 Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho
42 Code. Such rules shall be of temporary effect and must be
43 ratified by the legislature at the regular session first
44 following their adoption. Rules not approved in the above
45 manner shall be rejected, null, void and of no force and effect
46 on July 1, following their submission to the legislature.

47 (2) The commission shall approve major procurements.

48 (3) The commission shall have the authority to enter into
49 written agreements or contracts, negotiated and prepared by the

1 commission, with any other state or states, in order to carry
2 out the provisions of this chapter. Additionally, the
3 commission shall have the authority to issue subpoenas in order
4 to compel the provision of any information it deems necessary
5 in order to carry out the provisions of this chapter.
6 (4) The commission shall have the authority to license and
7 inspect gaming devices as defined in 67-9202(3), Idaho Code;
8 (5) The commission shall not supplant those various authorities
9 conferred upon the Racing Commission, pursuant to Chapter 25,
10 Title 54, Idaho Code, but shall hereafter be the exclusive
11 authority to regulate, license and confirm continuing compliance of
12 all gaming devices as defined at 67-9202(3), Idaho Code,
13 operating in the State of Idaho;
14 (6) The commission shall have the authority to confirm, in
15 compliance with this chapter, that all historical horse racing
16 terminals, as defined in this chapter conform to the national
17 standards for pari-mutuel wagering, and further may require that
18 such terminals be inspected by such national testing laboratories
19 who may be responsible to make such certifications;
20 (7) The commission shall have the authority to approve all gaming
21 devices provided by a gaming device provider, and further to
22 review and approve the games provided on such gaming device; and
23 (8) The commission shall perform all other acts necessary to
24 carry out the purposes and provisions of this act, including, but
25 not limited to, the hiring of such employees as the commission
26 deems necessary, and the hiring, appointing or otherwise
27 enlisting of regulators or other professionals to conduct review
28 of gaming devices.

29
30 **SECTION 5.** That a new Section 67-9205, Idaho Code, be, and the same is
31 hereby added as follows:

32
33 67-9205. - Powers and Duties of the Director. -

34
35 The director shall be responsible for the daily operations of the
36 gaming commission, and shall have the following duties, powers and
37 responsibilities in addition to others herein granted:

38 (1) The director shall:

39 (a) Operate and administer gaming in accordance with the
40 provisions of this chapter and the policies and rules of
41 the commission; and

42 (b) Confer regularly with the commission on the operation
43 and administration of gaming;

44 (c) Make available for inspection by the commission, on
45 request, all books, records, files, and other information
46 and documents of gaming; and

1 (d) Advise the commission and make such recommendations as
2 the director considers necessary and advisable to improve
3 the operation and administration of gaming.

4 (2) The director shall:

5 (a) Submit quarterly financial statements to the
6 commission, the governor, the state treasurer, and the
7 legislature. Such financial statements shall be prepared in
8 accordance with generally accepted accounting principles
9 and shall include a balance sheet, a statement of
10 operations, a statement of changes in financial position,
11 and related footnotes. Such financial statements are to be
12 provided within forty-five (45) days of the last day of
13 each quarter;

14 (b) Submit annual financial statements to the commission,
15 the governor, the state treasurer, and each member of the
16 legislature. Such financial statements shall be prepared in
17 accordance with generally accepted accounting principles
18 and shall include a balance sheet, a statement of
19 operations, a statement of changes in financial position,
20 and related footnotes. Such financial statements shall have
21 been examined by the legislative services office or a firm
22 of independent certified public accountants in accordance
23 with generally accepted auditing standards and shall be
24 provided within ninety (90) days of the last day of
25 gaming's fiscal year;

26 (c) Report to the governor and the legislature any matters
27 which require immediate changes in the laws of this state
28 in order to prevent abuses and evasions of this chapter or
29 the rules of the commission or to rectify undesirable
30 conditions in connection with administration or operation
31 of gaming;

32 (3) The director shall perform all other acts necessary to
33 carry out the purposes and provisions of this chapter.

34 **SECTION 6.** That a new Section 67-9206, Idaho Code, be, and the same is
35 hereby added as follows:

36
37 67-9206. Restricted Players. -

38 No member of the commission shall have a direct or indirect
39 pecuniary interest in any contract or agreement entered into by
40 the commission relating to the licensing and compliance review of
41 any gaming device operated in the state. No commission member or
42 gaming commission employee may operate a gaming device for
43 entertainment purposes. A commission member or employee may

1 operate a gaming device for purposes of testing, licensing, or
2 ensuring compliance with this chapter.

3
4 **SECTION 7.** That a new Section 67-9206, Idaho Code, be, and the same is
5 hereby added as follows:

6
7 67-9207. Conflict of Interest. -

8
9 Members of the commission, the director, and the employees of the
10 gaming commission shall not directly or indirectly, individually, or
11 as a member of a partnership, or as a shareholder of a corporation, or
12 as a participant in a joint venture or association with any other
13 person, have an interest in dealing in a gaming device, or in the
14 ownership or leasing of property used by or for the operation of any
15 gaming device. Any member of the commission or employee of the gaming
16 commission who violates the provisions of this section shall be
17 immediately removed by the governor from any position with the gaming
18 commission.

19
20 **SECTION 8.** That a new Section 67-9207, Idaho Code, be, and the same is
21 hereby added as follows:

22
23 Section 67-9208. DUTY TO REVIEW. -- The commission shall conduct a
24 review of all gaming devices currently in operation in the state, or
25 proposed to be operated in the state, to determine their compliance
26 with the requirements of this chapter. Thereafter, each licensed
27 gaming device shall be required to renew the license annually to
28 ensure continuing compliance. Any gaming device found not to be in
29 compliance shall be denied a license and shall be required to be
30 removed by the gaming device operator. If the operator does not remove
31 the gaming device as ordered by the commission, the commission has the
32 authority to impound and remove the gaming device at the operator's
33 expense. It shall be a violation of this act for any new gaming device
34 to be placed in operation prior to receiving a license from the
35 commission. The duty to review gaming devices shall be a continuing
36 duty of the commission and shall be conducted at such other times as
37 the commission deems necessary and appropriate.

38 The commission is the state gaming agency as defined by those
39 several compacts made and effective by and between the State of Idaho
40 and the various Tribal governments within the State, and the
41 commission shall, in conformance with the terms of those compacts,
42 monitor Class III gaming operations to ensure compliance with the
43 provisions of the Compacts, the Gaming Code and regulations.

44
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46 **SECTION 9.** That a new Section 67-9208, Idaho Code, be and the same is
47 hereby added:

48
49 67-9209. HISTORICAL HORSE RACING AUTHORIZED. --Wagering on an
50 historical horse race is declared to be lawful and such wagering may

1 only be conducted at a facility located within the grounds or
2 enclosure where at least ten (10) live horse race days will be held
3 annually, commencing in 2017 and in each year thereafter, or were held
4 in the preceding year, or as otherwise provided by 54-2514A, Idaho
5 Code. Wagering on an historical horse race shall be conducted in
6 accordance with the pari-mutuel system pursuant to the provisions of
7 chapter 25, Title 54, Idaho Code and in accordance with all rules
8 promulgated by the commission.

9 Licenses authorizing historical horse racing will be regulated by
10 the commission, in addition to its other responsibilities, for the
11 purpose of enhancing, promoting, and protecting the live horse race
12 industry in the state of Idaho. No license authorizing historical
13 horse racing shall be issued to or renewed for persons that are not
14 also licensed to conduct live race meets in the state of Idaho.
15 Persons applying for a historical horse racing license shall have an
16 agreement reached voluntarily or pursuant to binding arbitration in
17 conformance with chapter 9, title 7, Idaho Code, with a horsemen's
18 group as the term "horsemen's group" is defined in section 54-2502,
19 Idaho Code. The agreement shall address, but not be limited to, number
20 of live race days and percentage of the live race, historical horse
21 race and simulcast handle that is dedicated to the live horse race
22 purse structure. In addition, the agreement shall provide that all
23 historical horse racing purse moneys that are accrued as required by
24 the horsemen's agreement be held in the historical horse race moneys
25 fund created pursuant to the provisions of 67-9213, Idaho Code.

26 Provided further, that for those live horse racing facilities
27 that conduct historical horse racing pursuant to their licenses, once
28 the total handle for live races, historical horse racing, and
29 simulcast exceeds forty-two million dollars (\$42,000,000) during the
30 last calendar year, the number of days of racing shall not be less
31 than fifteen (15).

32 Historical horse racing is conducted under the pari-mutuel system
33 and as such, when conducted pursuant to a license issued pursuant to
34 this chapter, and in conformity with the rules of the commission, is
35 not to be held or construed to be unlawful, other statutes of this
36 state to the contrary notwithstanding.

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38
39 **SECTION 10.** That a new Section 67-9209, Idaho Code, be and the same is
40 hereby added:

41
42
43 67-9210. AUTHORIZED HISTORICAL HORSE RACING TERMINALS. - (1)
44 Historical horse racing terminals may be used to conduct gaming only
45 at facilities licensed by the commission pursuant to the terms of 67-
46 9208, Idaho Code, where authorized live horse race meets are
47 conducted, or as otherwise provided by 54-2514A, Idaho Code.
48 Historical horse racing terminals are not activated by a handle or
49 lever, do not dispense coins, currency, tokens, or chips, and perform
50 only the following functions:

51 (a) Accepts currency or other representation of value to
52 qualify a player to participate in one or more games;

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1 (b) Dispenses at the player's request, a cash out ticket that
2 has printed upon it the game identifier and the player's credit
3 balance;
4 (c) Shows on a video screen or other electronic display, rather
5 than on a paper ticket, the results of each game played;
6 (d) Shows on a video screen or other electronic display, in an
7 area separate from the game results, the player's credit balance;
8 (e) Only the pari-mutuel form of wagering is permitted as
9 defined by 67-9202(8), Idaho Code, and operated by a totalizator
10 that complies with recognized national and international rules of
11 auditing and testing.

12 (2) Notwithstanding any other provision of Idaho law, an historical
13 horse racing terminal as described in subsection (1) above is not a
14 slot machine or an electronic or electromechanical imitation or
15 simulation of any form of casino gambling.

16
17 **SECTION 11.** That a new Section 67-9210, Idaho Code, be and the same is
18 hereby added:

19
20 67-9211 LOCAL APPROVAL. - Prior to receiving a license from the
21 commission, approval to conduct historical horse racing at a live
22 horse race facility must be obtained from the board of county
23 commissioners or from such other governmental entity having primary
24 jurisdiction over the facility at which the historical racing
25 terminals are located.

26
27 **SECTION 12.** That a new Section 67-9211, Idaho Code, be and the same is
28 hereby added:

29
30 Section 67-9212. DISTRIBUTION OF HISTORICAL HORSE RACING PROCEEDS AND
31 COMMISSION FUNDING FOR LICENSING AND COMPLIANCE REVIEW OF GAMING
32 DEVICES.-- Each licensee conducting the pari-mutuel system for
33 historical horse races shall distribute and pay all sums deposited in
34 any historical horse race pool as follows:

35 (a) No less than eighty-nine percent (89%) of gross daily
36 receipts in various wagering pools established to fund
37 reserves and payoffs for distribution and payment to
38 winning wagers;

39 (b) One and one half percent (1.50%) of gross daily
40 receipts to the Idaho state racing commission for
41 distribution and deposit as follows in the following
42 designated accounts:

43 (i) Four-tenths of one percent (0.40%) of gross daily
44 receipts to the racing commission account within
45 the state regulatory fund;

46 (ii) One-fifth of one percent (0.20%) of gross daily
47 receipts to a commission account within the state
48 regulatory fund dedicated to licensing and
49 compliance review of gaming devices to fund the
50 commission's hiring of an executive director, and
51 such other expenses as are incurred in licensing
52 and compliance review of gaming devices;

1 (iii) One-fifth of one percent (0.20%) of gross daily
2 receipts to the track distribution account within
3 the pari-mutuel distribution fund. Distributions to
4 recipient horse racing tracks shall be weighted
5 proportionately on the number of days raced during
6 the year of distribution. No licensed facility that
7 conducts historical horse racing, with a combined
8 handle from live, simulcast and historical horse
9 racing in excess of thirty three million dollars
10 (\$33,000,000.00) shall be entitled to participate
11 in distributions from the pari-mutuel distribution
12 fund;

13 ~~(ii)~~ (iv) One-fifth of one percent (0.20%) of gross daily
14 receipts to the breed distribution account within
15 the pari-mutuel distribution fund, to be split
16 equally between the Idaho Thoroughbred Association
17 and Idaho Quarter Horse Association Racing
18 Division;

19 ~~(iii)~~ (v) One-fifth of one percent (0.20%) of gross daily
20 receipts to fund maintenance and capital
21 improvements to county fairgrounds or other such
22 governmental entity having jurisdiction over live
23 horse racing facilities within the state of Idaho;

24 ~~(iv)~~ (vi) One-tenth of one percent (0.10%) of gross daily
25 receipts to fund Idaho Horse Council programs,
26 which include youth development, education,
27 promotion, research and industry communication. The
28 account shall be called the Idaho horse council
29 youth and education programs account, which is
30 hereby created within the pari-mutuel distribution
31 fund;

32 ~~(v)~~ (vii) One-tenth of one percent (0.10%) of gross daily
33 receipts to the Idaho Future Farmers of America
34 (FFA) Foundation for the purpose of youth
35 agriculture education, leadership, and equine
36 industry development;

37 ~~(vi)~~ (viii) One-tenth of one percent (0.10%) of gross daily
38 receipts to the University of Idaho Foundation for
39 the purpose of supporting 4-H youth agriculture and
40 equine programs; and

41 (c) If the fiscal year-end balance in the commission account
42 dedicated to licensing and compliance review of gaming
43 devices exceeds two-hundred fifty thousand dollars (\$250,000),
44 the excess shall be transferred by the office of the state controller
45 to be redistributed to fund maintenance and capital improvements
46 to county fairgrounds or other such governmental entity having
47 jurisdiction over live horse racing facilities within the state
48 of Idaho. Immediately upon passage of this act the racing
49 commission, one time only, shall transfer into the gaming
50 commission account twenty-five thousand dollars (\$25,000) to provide
51 for the initial formation of the commission.

1 (d) For those organizations set forth in this section at (b) (vi),
2 (b) (vii), and (b) (viii), each organization is required to submit
3 a report annually to the commission, on or before July 1, setting
4 forth the manner in which the funds were used in that year.

5 (e) Additional distributions that are not expressly addressed in
6 the horsemen's agreement, but that are otherwise authorized by
7 67-9211, Idaho Code, shall be distributed in the amounts authorized
8 herein by the Idaho state racing commission as directed by this
9 section.

10
11 **SECTION 13.** That a new Section 67-9212, Idaho Code, be and the same is
12 hereby added:

13
14 67-9213. Historical Horse Racing Terminals Not Amusement Devices. --
15 Historical horse racing terminals are not amusement devices and not
16 subject to the amusement device tax as defined at section 63-3623B,
17 Idaho Code.

18
19 **SECTION 14.** That a new Section 67-9213, Idaho Code, be and the same is
20 hereby added:

21
22 67-9214. CREATION OF HISTORICAL HORSE RACE PURSE MONEYS FUND. -- The
23 historical horse race purse moneys fund is hereby created in the state
24 treasury. Moneys in the fund shall consist of all historical horse
25 race moneys that are accrued as required by horsemen's agreements.
26 Moneys in the fund are hereby perpetually appropriated to the Idaho
27 state racing commission for distribution pursuant to 67-9211, Idaho
28 Code and the rules of the commission. The commission is authorized to
29 promulgate rules providing for the receipt, deposit, withdrawal and
30 distribution of such moneys in conformance with 67-9211, Idaho Code.

31
32 **SECTION 15.** That Section 67-7409, Idaho Code, be, and the same is
33 hereby amended as follows:

34
35 67-7409. Powers and Duties of the Director. -- The director shall
36 be responsible for the daily operations of the lottery, and shall
37 have the following duties, powers and responsibilities in addition
38 to others herein granted:

39 (1) The director shall:

40 (a) Operate and administer the lottery in accordance with
41 the provisions of this chapter and the policies and rules
42 of the lottery;

43 (b) Appoint deputy directors, sales personnel and security
44 staff, who shall be exempt from the provisions of chapter
45 53, title 67, Idaho Code, as may be required to carry out
46 the functions and duties of his office; and

47 (c) Hire professional, technical and other employees as
48 may be necessary to perform the duties of his office

1 subject to the provisions of chapter 53, title 67, Idaho
2 Code.

3 **(2)** The director shall:

4 **(a)** Confer regularly with the commission on the operation
5 and administration of the lottery;

6 **(b)** Make available for inspection by the commission, on
7 request, all books, records, files, and other information
8 and documents of the lottery; and

9 **(c)** Advise the commission and make such recommendations as
10 the director considers necessary and advisable to improve
11 the operation and administration of the lottery.

12 **(3)** The director may enter into contracts for marketing,
13 advertising, promotion, research and studies for the lottery
14 and for products and services for effectuating the purposes of
15 this chapter, however, contracts for major procurements must be
16 approved by the commission. The director may not enter into
17 contracts for the administration of the lottery.

18 **(4)** The director shall:

19 **(a)** Submit quarterly financial statements to the
20 commission, the governor, the state treasurer, and the
21 legislature. Such financial statements shall be prepared in
22 accordance with generally accepted accounting principles
23 and shall include a balance sheet, a statement of
24 operations, a statement of changes in financial position,
25 and related footnotes. Such financial statements are to be
26 provided within forty-five (45) days of the last day of
27 each quarter;

28 **(b)** Submit annual financial statements to the commission,
29 the governor, the state treasurer, and each member of the
30 legislature. Such financial statements shall be prepared in
31 accordance with generally accepted accounting principles
32 and shall include a balance sheet, a statement of
33 operations, a statement of changes in financial position,
34 and related footnotes. Such financial statements shall have
35 been examined by the legislative services office or a firm
36 of independent certified public accountants in accordance
37 with generally accepted auditing standards and shall be
38 provided within ninety (90) days of the last day of the
39 lottery's fiscal year;

40 **(c)** Report to the governor and the legislature any matters
41 which require immediate changes in the laws of this state
42 in order to prevent abuses and evasions of this chapter or

1 the rules of the lottery or to rectify undesirable
2 conditions in connection with administration or operation
3 of the lottery;

4 (d) Carry on a continuous study and investigation of the
5 lottery to:

6 (i) Identify any defects in the provisions of this
7 chapter or in the rules and regulations of the
8 commission leading to an abuse in the administration or
9 operation of the lottery or an evasion of this act or
10 the rules of the lottery;

11 (ii) Make recommendations for changes in this chapter
12 or the rules of the lottery to prevent abuses or
13 evasions or to improve the efficiency of the lottery;

14 (iii) Ensure that the provisions of this chapter and
15 the rules of the lottery are administered and formulated
16 to serve the purposes of this chapter;

17 (iv) Prevent the use of the lottery, the provisions of
18 this chapter, or the rules of the lottery from fostering
19 professional gambling or crime;

20 (e) Make a continuous study and investigation of:

21 (i) The operation and administration of similar laws
22 and lotteries in other states and countries;

23 (ii) The available information on the subject of
24 lotteries and related subjects;

25 (iii) Any federal laws which may affect the operation
26 of the lottery; and

27 (iv) The reaction of citizens of this state to existing
28 and potential features of the lottery with a view to
29 recommending or effecting changes that will tend to
30 serve the purposes of this chapter.

31 (5) The director shall provide for secure lottery facilities
32 and lottery systems, including data processing facilities and
33 systems.

34 ~~(6) The director shall be responsible for monitoring class III~~
35 ~~gaming on Indian reservations as may be required by compacts~~
36 ~~entered into by the state in accordance with state statutory~~
37 ~~law and pursuant to the Indian Gaming Regulatory Act, 25 U.S.C.~~
38 ~~section 2701 et seq. and 18 U.S.C. sections 1166-1168.~~

39 (7) (6) The director shall perform all other acts necessary to
40 carry out the purposes and provisions of this chapter.

1 **SECTION 16.** An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and
3 after its passage and approval.

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STATEMENT OF PURPOSE

The proposal is to establish a Gaming Commission for the purpose of regulating legalized gaming activity in Idaho under Article III, Section 20 of the Idaho Constitution.

FISCAL NOTE

There is no fiscal impact.