



1-1-2001

Power and Public Utilities / Horse Racing in the Dark? - Legislation to Compensate Horse Racing Associations for Decreased Number of Wager-Accepted Races Due to Power Crisis

Holly Jo Bohannon

Follow this and additional works at: <https://scholarlycommons.pacific.edu/mlr>



Part of the [Legislation Commons](#)

Recommended Citation

Holly J. Bohannon, *Power and Public Utilities / Horse Racing in the Dark? - Legislation to Compensate Horse Racing Associations for Decreased Number of Wager-Accepted Races Due to Power Crisis*, 33 McGEORGE L. REV. 369 (2002).

Available at: <https://scholarlycommons.pacific.edu/mlr/vol33/iss2/19>

Horse Racing in the Dark? Legislation to Compensate Horse Racing Associations for Decreased Number of Wager-Accepted Races Due to Power Crisis

Holly Jo Bohannon

Code Sections Affected

Business and Professions Code §§ 19596.2, 19605.61
(amended), § 19596.4 (new).
SB 590 (Perata); 2001 STAT. Ch. 936.

I. INTRODUCTION

California's recent power failures and rolling blackouts not only affected residential and commercial electric consumers; the power shortage also crippled the horse racing industry by interrupting or threatening to interrupt live horse races in California.¹ Whenever a blackout or threatened rolling blackout occurred at a time when a live race was scheduled, the wagers accepted for that race were disrupted and the number of wager-accepted races was reduced.² A reduction in the number of live, in-state, wager-accepted races resulted in a substantial reduction of revenue for California's horse racing industry.³

Chapter 936 gives thoroughbred associations⁴ and racing fairs an opportunity to increase the number of satellite races on which wagers may be placed as compensation for a reduction in the number of races.⁵ The reduction is caused by a California Horse Racing Board (CHRB) determination that it is in the State's best interest to conserve energy by reducing the number of live races within the State.⁶ Power outages also cause a reduction in the number of live races.⁷ Chapter 936 provides for increased importation of audiovisual signals from out-of-state

1. See ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF SB 590, at 3 (Aug. 28, 2001) (noting that the power shortage decreased the number of live horse races and continues to pose a threat to the horse racing industry).

2. See CAL. BUS. & PROF. CODE § 19596.2(a) (amended by Chapter 936) (defining a wager-accepted race as one where the thoroughbred association or fair conducting the race may accept wagers (bets) on the results of live races or races in which the audiovisual signal has been distributed).

3. ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF SB 590, at 3 (Aug. 28, 2001).

4. CAL. BUS. & PROF. CODE § 19805(ae) (West Supp. 2002) (defining a qualified racing association as a "corporation licensed to conduct horse racing and simulcast wagering" that is a wholly owned subsidiary of a corporation whose stock is publicly traded).

5. ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF SB 590, at 3 (Aug. 28, 2001).

6. *Id.*

7. *Id.*

and international races so that thoroughbred associations and fairs may continue to accept wagers and generate revenue despite the State's power crisis.⁸

II. EXISTING LAW

A thoroughbred racing association or fair may distribute the audiovisual signal and accept wagers on out-of-state and international horse races, without the consent of the race participants,⁹ as long as the total number of races in a given year does not exceed the total number of races in 1998.¹⁰ The number of imported thoroughbred races is further limited to twenty-three per day on days when live, in-state thoroughbred or fair racing occurs.¹¹

To prevent out-of-state simulcasts from competing with live races for wagers, a thoroughbred association or fair conducting a live race in Orange or Sacramento Counties may not accept wagers on out-of-state or international races commencing after 7:00 p.m.¹² without the consent of the harness or quarter horse racing association conducting the live race.¹³ A harness or quarter horse racing association may not accept wagers on out-of state or international harness or quarter horse races commencing before 5:30 p.m.¹⁴ without the consent of any thoroughbred association or fair conducting the live race.¹⁵

If a natural disaster¹⁶ interrupts or disrupts live racing or audiovisual signals, the executive director of CHRB may temporarily authorize satellite wagering from any zone within or outside of the State.¹⁷ However, a power outage does not fall within the definition of a natural disaster.¹⁸

8. *Id.*

9. CAL. BUS. & PROF. CODE § 19596.2(a) (amended by Chapter 936).

10. *Id.*

11. *Id.*; but see *id.* at §§ 19596.2(a)(2)-(4) (providing an exception to the twenty-three race limit for: races imported as a part of the race card of the Kentucky Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont Stakes, the Jockey Club Gold Cup, the Breeders' Cup, or the Haskell Invitational, and races imported into the Northern or combined Southern and Central zones when no live racing is being conducted).

12. See *id.* § 19596.2(d) (establishing Pacific Standard Time as the standard for determining the time deadline).

13. *Id.*

14. *Id.*

15. CAL. BUS. & PROF. CODE § 19596.2(d)

16. See *id.* § 19605.61(b) (amended by Chapter 936) (defining "natural disasters" as events arising from fire, flood, storm, epidemic, riot, or earthquake).

17. *Id.* § 19605.61(a) (amended by Chapter 936).

18. *Id.* § 19605.61(b) (amended by Chapter 936).

III. CHAPTER 936

Existing law restricts the number of wager-accepted thoroughbred and fair races to less than the number of races in the year 1998.¹⁹ However, under Chapter 936,

if the total number of thoroughbred and fair racing days allocated by the [CHRB] in the northern zone, . . .²⁰ commencing with the calendar year 2001 is less than the total number of thoroughbred and fair racing days allocated . . . in calendar year 2000, a thoroughbred racing association or fair that has been allocated fewer racing days in the northern zone may distribute the audiovisual signal and accept wagers on out-of-state and out-of-country thoroughbred races during the calendar period the association or fair is licensed to conduct a live race.²¹

The purpose of authorizing wager-accepted simulcasts is to prevent the General Fund²² and California racing participants from losing revenue.²³ Therefore, the total number of wager-accepted simulcasts should be sufficient to prevent such a loss.²⁴ Further, existing law authorizes the executive director of CHRB to import satellite wagering from any zone, within or outside of the State, in the event of a natural disaster.²⁵ However, Chapter 936 limits the total number of imported, wage-accepted races to three simulcasts for every live race eliminated by CHRB.²⁶

19. *Id.* § 19596.2(a) (West 1997 & Supp. 2002).

20. *Id.* § 19530.5 (West 1997) (establishing California's racing zones into three geographical zones: (1) the "[S]outhern zone," which consists of the following counties: Imperial, Orange, Riverside, and San Diego; (2) the "[C]entral zone," which consists of the following counties: Kern, Los Angeles, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura; and (3) the "[N]orthern zone," which consists of the remaining counties in the state).

21. CAL. BUS. & PROF. CODE § 19596.4(a) (enacted by Chapter 936).

22. *See* CAL GOVT. CODE § 16300 (West 1995 & Supp. 2002) (establishing the General Fund and stating that the "Fund consists of money received into the treasury that is not required by law to be credited to any other fund.").

23. CAL. BUS. & PROF. CODE § 19596.4(b) (enacted by Chapter 936).

24. *Id.*

25. *Id.* § 19605.61(a) (amended by Chapter 936).

26. *Id.* § 19596.4(b) (enacted by Chapter 936).

IV. ANALYSIS OF CHAPTER 936

Existing law allows up to twenty-three imported simulcasts per day.²⁷ However, the amount of revenue generated from wagers accepted on a live race is substantially greater than wagers accepted for races received via audiovisual signal.²⁸ Therefore, approximately four audiovisual simulcasts would need to be imported for every live race canceled.²⁹ Chapter 936 provides for importing only three audiovisual simulcasts for every one live race canceled in order to earn the same amount of revenue.³⁰ Thus, if a live racing day was scheduled to have nine live races, at least thirty-six audiovisual simulcasts would need to be imported to compensate for the loss of revenue from the live races in the event of a power failure or threat of power failure.³¹ However, under Chapter 936, only twenty-seven imported simulcast races would be authorized.³²

Chapter 936 received initial support³³ when legislators and participants in the horse racing industry faced the looming threat of blackouts and power outages.³⁴ However, when the threat of power outages was no longer imminent, support for Chapter 936 waned.³⁵ A decision by CHRB to reduce the number of live races, regardless of power outages and the passage of Chapter 936, also reduced the racing industry's need for the additional imported races provided by Chapter 936.³⁶

27. *Id.* § 19596.2(a) (amended by Chapter 936).

28. Telephone Interview with Steve Hardy, Assistant to Senator Perata (July 26, 2001) [hereinafter Hardy Interview] (notes on file with the *McGeorge Law Review*).

29. *Id.*

30. CAL. BUS. & PROF. CODE §19596.4(b) (enacted by Chapter 936).

31. Hardy Interview, *supra* note 28.

32. CAL. BUS. & PROF. CODE at §19596.4(b) (enacted by Chapter 936).

33. See ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF SB 590, at 4 (July 9, 2001) (listing support for the Bill from Magna Entertainment and Bay Meadows Operating Company).

34. Telephone Interview with George Wiley, Governor's Office, in Sacramento, Cal. (July 26, 2001) (notes on file with the *McGeorge Law Review*).

35. Hardy Interview, *supra* note 28.

36. See ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF SB 590, at 3 (Aug. 28, 2001) (stating that the CHRB reduced the number of live races in an effort to increase racing field sizes, which have "suffered" due to the limited availability racehorses in California).

V. CONCLUSION

Even though the ratio of live races to audiovisual simulcasts is not equal, Chapter 936 is an effective way to increase the number of audiovisual simulcasts of out-of state and international races imported into California in the event of a power outage.³⁷ However, the immediate need for the legislation subsided with CHRB's decision to reduce the annual number of live races in California.³⁸ The fading threat of power outages also makes Chapter 936 less potent.³⁹

37. ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF SB 590, at 3 (Aug. 28, 2001).

38. Hardy Interview, *supra* note 28.

39. *Id.*