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AB-1499 Horse racing: state-designated fairs: allocation of revenues: gross receipts for sales and use tax. (2017-2018)

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Assembly Bill No. 1499

CHAPTER 798

An act to add Section 19620.15 to the Business and Professions Code, relating to horse racing, and making an appropriation therefor.

[Approved by Governor October 14, 2017. Filed with Secretary of State October 14, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1499, Gray. Horse racing: state-designated fairs: allocation of revenues: gross receipts for sales and use tax.

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, including state-designated 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, beginning July 1, 2018, require a return filed with the California Department of Tax and Fee Administration (CDTFA) to report gross receipts for sales and use tax purposes to segregate the gross receipts of the seller and the sales price of the property on a line or a separate form as prescribed by the CDTFA when the place of sale in this state or for use in this state is on or within the real property of a state-designated fair, as defined, or any real property of a state-designated fair that is leased to another party. The bill would require the CDTFA to report the amount of the total gross receipts segregated on the returns filed pursuant to these provisions to the Department of Finance on or before November 1 of each year. The bill would require the CDTFA to estimate the total gross receipts segregated for the 2019–20 fiscal year by January 31, 2019, based on the 3rd quarter of 2018, and would require that an amount equal to $\frac{3}{4}$ of 1% of this estimated amount be included in the Governor's revised budget in May 2019 for allocation to fairs pursuant to the provisions described above. The bill would require the CDTFA to reconcile this first-year estimate with actual return data from the full 2018–19 fiscal year, and to then adjust this figure as appropriate as the amount to be reported to the Department of Finance on November 1, 2019.

The bill would require that an amount equal to $\frac{3}{4}$ of 1% of the total amount of gross receipts reported to the Department of Finance be included in the next annual Governor's Budget for the Department of Food and Agriculture for allocation to fairs pursuant to the provisions described above. The bill would require, upon the enactment of the annual Budget Act, that this amount be transferred by the Controller to the Fair and Exposition Fund, which is continuously appropriated, and would allocate these moneys to state-designated fairs for specified fair projects and subject to certain conditions. The bill would require the CDTFA to be paid the actual cost for administering those provisions, as specified.

By creating a new source of revenue to be deposited into a continuously appropriated fund, the bill would make an appropriation.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 19620.15 is added to the Business and Professions Code, to read:

19620.15. (a) Notwithstanding any other law, a return filed with the California Department of Tax and Fee Administration (CDTFA) to report gross receipts for sales and use tax purposes shall segregate the gross receipts of the seller and the sales price of the property on a line or a separate form as prescribed by the CDTFA when the place of sale in this state or for use in this state is on or within the real property of a state-designated fair or any real property of a state-designated fair that is leased to another party.

(b) For purposes of this section, "state-designated fair" means a state-designated fair as defined in Sections 19418, 19418.1, 19418.2, and 19418.3.

(c) The CDTFA shall add a line to a current return, or develop a separate form for purposes of this section.

(d) The CDTFA shall report the amount of the total gross receipts segregated on the returns filed pursuant to subdivision (a) to the Department of Finance on or before November 1 of each year.

(e) The CDTFA shall estimate the total gross receipts segregated for the 2019–20 fiscal year by January 31, 2019, based on the third quarter of 2018. An amount equal to three-quarters of 1 percent of this estimated amount shall be included in the Governor's revised budget in May 2019 for allocation to fairs pursuant to Section 19620.2. The CDTFA shall reconcile this first-year estimate with actual return data from the full 2018–19 fiscal year, and then adjust this figure as appropriate as the amount to be reported to the Department of Finance on November 1, 2019.

(f) An amount equal to three-quarters of 1 percent of the total amount of gross receipts reported to the Department of Finance specified in subdivision (d) shall be included in the next annual Governor's Budget for the Department of Food and Agriculture for allocation to fairs pursuant to Section 19620.2. Upon the enactment of the annual Budget Act, the amount appropriated by the Legislature to the Department of Food and Agriculture pursuant to this section shall be transferred by the Controller to the Fair and Exposition Fund in the State Treasury, and shall be continuously appropriated and allocated pursuant to Section 19620.2.

(g) The CDTFA shall be paid the actual cost for administering the provisions of this section from the funds appropriated pursuant to subdivision (f) before any allocation is made to fairs in accordance with Section 19620.2.

(h) (1) Any revenues deposited into the Fair and Exposition Fund pursuant to this section shall only be allocated to a state-designated fair if nonmanagement employees at that state-designated fair, or nonmanagement employees at any real property of that state-designated fair that is leased to another party, are provided the following working conditions:

(A) The employee receives a meal period of not less than 30 minutes for a work period of more than five hours per day, unless the work period per day of the employee is less than six hours and the meal period is waived by mutual consent of both the employer and the employee.

(B) The employee receives a second meal period of not less than 30 minutes for a work period of more than 10 hours per day, unless the work period per day of the employee is less than 12 hours, the second meal period is waived by mutual consent of both the employer and the employee, and the first meal period was not waived.

(C) Any work in excess of eight hours in one workday, any work in excess of 40 hours in any one workweek, and the first eight hours worked on the seventh day of work in any one workweek is compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.

(D) Any work in excess of 12 hours in one day is compensated at the rate of no less than twice the regular rate of pay for an employee.

(E) Any work in excess of eight hours on any seventh day of a workweek is compensated at the rate of no less than twice the regular rate of pay for an employee.

(2) This subdivision shall not apply to full-time carnival ride operators employed by a traveling carnival.

(i) This section shall become operative on July 1, 2018.