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**AB-635 Horse racing: state-designated fairs: employees.** (2019-2020)

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**Assembly Bill No. 635**

**CHAPTER 353**

An act to amend Section 19620.15 of the Business and Professions Code, relating to horse racing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[ Approved by Governor September 27, 2019. Filed with Secretary of State September 27, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 635, Bigelow. Horse racing: state-designated fairs: employees.

Existing law requires any revenues deposited into the Fair and Exposition Fund, a continuously appropriated fund established in the State Treasury containing, among other things, a percentage of gross receipts for sales and use taxes on state-designated fair property, to 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 certain working conditions, including that the employees receive a meal period of not less than 30 minutes, as provided.

This bill would provide that an employee, for purposes of the above paragraph, does not include an employee covered by a valid collective bargaining agreement if the agreement expressly provides for certain things, including meal periods for those employees. By expanding the use of continuously appropriated funds, the bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

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

**SECTION 1.** Section 19620.15 of the Business and Professions Code is amended 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.

(3) For purposes of this subdivision, an employee shall not include an employee covered by a valid collective bargaining agreement if that agreement expressly provides for all of the following:

(A) Wages, hours of work, and working conditions of the employees.

(B) Meal periods for the employees, including final and binding arbitration of disputes concerning application of its meal period provisions.

(C) Premium wage rates for all overtime hours worked, and a regular hourly rate of pay of not less than 30 percent more than the state minimum wage.

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

**SEC. 2.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for a state-designated fair to take advantage of this act's provisions relating to employees, the Department of Food and Agriculture needs to develop regulations before the end of 2019, and therefore it is necessary that this act take effect immediately.