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SB-800 Horse racing: veterinary medical records: racehorse fatalities: racehorse drug testing. (2019-2020)

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Senate Bill No. 800

CHAPTER 252

An act to amend Sections 4857 and 19577 of, and to add Section 19431.5 to, the Business and Professions Code, relating to horse racing.

[Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 800, Dodd. Horse racing: veterinary medical records: racehorse fatalities: racehorse drug testing.

(1) Existing law prohibits a veterinarian licensed in this state from disclosing any information concerning an animal receiving veterinary services, the client responsible for the animal receiving veterinary services, or the veterinary care provided to an animal, except under any one of specified circumstances. Existing law subjects a veterinarian to specified criminal penalties for violating these provisions.

This bill would add an exception to that prohibition for care or service for a horse that has participated in the previous year, or is intended to participate, in a licensed horse race. The bill would require, in these situations, that the veterinarian make the entire medical record for the horse available upon request to anyone responsible for the direct medical care of the horse, including the owner, trainer, or veterinarian, the California Horse Racing Board or any other state or local governmental entity, and the racing association or fair conducting the licensed horse race. Because this bill would add new circumstances requiring veterinarian disclosures, the violation of which would be a crime, this bill would impose a state-mandated local program.

(2) The Horse Racing Law provides that the California Horse Racing Board has all powers necessary and proper to enable it to carry out fully and effectually the purposes of the Horse Racing Law, and requires that the board be 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 the administration and enforcement of all laws, rules, and regulations affecting horse racing and parimutuel wagering.

Existing regulations of the board require that, if a horse suffers a fatal injury on a racetrack in training or in competition, or dies or is euthanized within an area under the jurisdiction of the board, the horse undergo a postmortem examination at a diagnostic laboratory that is under contract with the board to determine the injury or sickness that resulted in euthanasia or natural death, as provided.

This bill would require the board to publish, on a weekly basis on its internet website, all racehorse fatalities related to racing or training that occur within a licensed inclosure.

(3) The Horse Racing Law requires that any blood or urine test sample that the California Horse Racing Board requires to be taken from a horse that is entered in any race be divided or taken in duplicate, if there is sufficient sample available after the initial test sample has been taken. That law provides that the initial test sample shall be referred to as the official test sample and the secondary sample shall be referred to as the split sample. That law also requires the executive director of the board to report to

the board a finding of a prohibited drug substance in an official test sample within 24 hours of the confirmation of that prohibited drug substance in the split sample by the independent laboratory, or within 24 hours of waiver of split sample testing by the owner or trainer. That law also requires, except as specified, that the results of the tests be confidential until or unless the board files an official complaint.

This bill would instead require that the results of the tests be kept confidential until or unless the independent laboratory confirms the finding of the prohibited substance in the split sample or waiver of the split sample testing is given by the owner or trainer. The bill would require the board to post on its internet website the results of all nonconfidential official test samples within 5 business days of the confirmation of the split sample or waiver of the split sample testing by the owner or trainer.

(4) 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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 4857 of the Business and Professions Code is amended to read:

4857. (a) A veterinarian licensed under this chapter shall not disclose any information concerning an animal receiving veterinary services, the client responsible for the animal receiving veterinary services, or the veterinary care provided to an animal, except under any one of the following circumstances:

(1) Upon written or witnessed oral authorization by knowing and informed consent of the client responsible for the animal receiving services or an authorized agent of the client.

(2) Upon authorization received by electronic transmission when originated by the client responsible for the animal receiving services or an authorized agent of the client.

(3) In response to a valid court order or subpoena.

(4) As may be required to ensure compliance with any federal, state, county, or city law or regulation, including, but not limited to, the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(5) Nothing in this section is intended to prevent the sharing of veterinary medical information between veterinarians or facilities for the purpose of diagnosis or treatment of the animal that is the subject of the medical records.

(6) If the care or service was for a horse that has participated in the previous year, or is intended to participate, in a licensed horse race. In these situations, the entire medical record for the horse shall be made available upon request to anyone responsible for the direct medical care of the horse, including the owner, trainer, or veterinarian, the California Horse Racing Board or any other state or local governmental entity, and the racing association or fair conducting the licensed horse race.

(7) As otherwise provided in this section.

(b) This section shall not apply to the extent that the client responsible for an animal or an authorized agent of the client responsible for the animal has filed or caused to be filed a civil or criminal complaint that places the veterinarian's care and treatment of the animal or the nature and extent of the injuries to the animal at issue, or when the veterinarian is acting to comply with federal, state, county, or city laws or regulations.

(c) A veterinarian shall be subject to the criminal penalties set forth in Section 4831 or any other provision of this code for a violation of this section. In addition, any veterinarian who negligently releases confidential information shall be liable in a civil action for any damages caused by the release of that information.

(d) Nothing in this section is intended to prevent the sharing of veterinary medical information between veterinarians and peace officers, humane society officers, or animal control officers who are acting to protect the welfare of animals.

SEC. 2. Section 19431.5 is added to the Business and Professions Code, to read:

19431.5. The board shall publish, on a weekly basis on its internet website, all racehorse fatalities related to racing or training that occur within a licensed inclosure.

SEC. 3. Section 19577 of the Business and Professions Code is amended to read:

19577. (a) (1) Any blood or urine test sample required by the board to be taken from a horse that is entered in any race shall be divided or taken in duplicate, if there is sufficient sample available after the initial test sample has been taken. The initial test sample shall be referred to as the official test sample, and the secondary sample shall be referred to as the split sample. All samples immediately become and remain the property of the board. The board shall adopt regulations to ensure the security of obtaining and testing of all samples.

(2) Paragraph (1) does not apply to total carbon dioxide testing. The board shall adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to establish policies, guidelines, and procedures that include a split sample process related to total carbon dioxide testing. These regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations, and shall be replaced by final, permanent regulations within 120 days of their adoption.

(b) If the official test sample is found to contain a prohibited drug substance, the executive director, after consulting with and agreeing with the equine medical director that the official test sample contains a prohibited substance, shall confidentially inform the owner and trainer of those results. The owner or the trainer of the horse, upon being so informed, may request that the split sample be tested by an independent laboratory selected from a list of laboratories provided by and approved by the board. The owner or trainer of the horse shall pay the cost of testing the split sample.

(c) If the split sample test results fail to confirm the finding of the prohibited drug substance found in the official test sample, a presumption affecting the burden of producing evidence pursuant to Section 603 of the Evidence Code of no evidentiary prohibited drug substance in the animal shall exist for purposes of this chapter.

(d) The executive director shall report to the board a finding of a prohibited drug substance in an official test sample within 24 hours of the confirmation of that prohibited drug substance in the split sample by the independent laboratory, or within 24 hours of waiver of the split sample testing by the owner or trainer. Any recommendation to the board by the executive director to dismiss the matter shall be by mutual agreement with the equine medical director. The authority for the disposition of the matter shall be the responsibility of the board.

(e) The executive director shall maintain responsibility for all test samples until the executive director refers the matter to the board. Notwithstanding any other law, and except as provided in subdivision (a), the results of the tests from the official testing laboratory, the Kenneth L. Maddy Equine Analytical Chemistry Laboratory, and the independent laboratory shall be confidential until or unless the independent laboratory confirms the finding of the prohibited substance in the split sample or waiver of the split sample testing is given by the owner or trainer. Nothing in this subdivision shall be construed to be retroactive or affect the confidentiality of test results collected before January 1, 2021.

(f) The board shall post on its internet website the results of all nonconfidential official test samples within five business days of the confirmation of the split sample or waiver of the split sample testing by the owner or trainer.

(g) If the owner or trainer does not request that the split sample be tested within the time limits set by the board, the owner and trainer waive all rights to that sample and the board assumes all jurisdiction over the split sample.

(h) The board shall contract with the Regents of the University of California to be the primary drug testing laboratory performing the equine drug testing required by this section.

SEC. 4. 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.