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SB-820 Horse racing: state-designated fairs: allocation of revenues: gross receipts for sales and use tax. (2021-2022)

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Senate Bill No. 820

CHAPTER 393

An act to amend Section 19620.15 of the Business and Professions Code, relating to horse racing.

[Approved by Governor September 28, 2021. Filed with Secretary of State September 28, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 820, Committee on Governmental Organization. Horse racing: state-designated fairs: allocation of revenues: gross receipts for sales and use tax.

Existing law requires a tax return filed with the California Department of Tax and Fee Administration (CDTFA) that reports 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 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. Existing law requires, on or before November 1 of each year, the CDTFA to report to the Department of Finance the amount of the total gross receipts segregated on these tax returns, and that $\frac{3}{4}$ of 1% of the total gross receipts be included in the next annual Governor's Budget for use by the Department of Food and Agriculture for allocation to fairs and that those funds be transferred by the Controller to the Fair and Exposition Fund in the State Treasury, as prescribed. Existing law requires, that for the 2019–20 fiscal year and all subsequent fiscal years, the total gross receipts be subject to review by the CDTFA for errors. Existing law requires the CDTFA to note any identified errors and the approximate impact of those errors on the total gross receipts in its report to the Department of Finance to allow an adjusted total gross receipt amount to be determined for the purpose of calculating the amount to be included in the Governor's Budget for use by the Department of Food and Agriculture for allocation to fairs.

This bill would require, on or before November 1 of each year, the CDTFA to report to the Department of Finance the amount of the total gross receipts segregated on these tax returns filed for the prior fiscal year. The bill would delete the requirement that, for the 2019–20 fiscal year and all subsequent fiscal years, the review by the CDTFA for errors to allow an adjusted total gross receipt amount to be determined, be for the purpose of calculating the amount to be included in the Governor's Budget for use by the Department of Food and Agriculture for allocation to fairs. The bill would also make clarifying changes and delete obsolete provisions.

Vote: majority Appropriation: no 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 form, or develop a separate form for purposes of this section.

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

(2) The total gross receipts shall be subject to review by the CDTFA for errors. The review may be a review of a sample of returns. The CDTFA shall note any errors identified in the review and the approximate impact of those errors on the total gross receipts in its report to the Department of Finance to allow an adjusted total gross receipt amount to be determined.

(e) An amount equal to three-quarters of 1 percent of the total amount of gross receipts, or adjusted gross receipts, for the prior fiscal year reported to the Department of Finance by the CDTFA as 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. No later than 30 days after 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 available to be allocated pursuant to Section 19620.2.

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

(g) (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.