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SENATE BILL 18-035

BY SENATOR(S) Gardner and Cooke, Crowder;
also REPRESENTATIVE(S) Wist, Herod, Lee.

CONCERNING THE NONSUBSTANTIVE RELOCATION OF LAWS RELATED TO
GAMBLING PAYMENT INTERCEPT FROM TITLE 24, COLORADO REVISED
STATUTES, TO A NEW TITLE 44 AS PART OF THE ORGANIZATIONAL
RECODIFICATION OF TITLE 12.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** title 44 as follows:

TITLE 44
ACTIVITIES REGULATED BY THE
DEPARTMENT OF REVENUE

ARTICLE 1
Common Provisions

44-1-101. Short title. THE SHORT TITLE OF THIS TITLE 44 IS THE
"DEPARTMENT OF REVENUE ACTIVITIES REGULATION ACT".

44-1-102. Legislative declaration. (1) THE GENERAL ASSEMBLY

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

HEREBY FINDS AND DECLARES THAT:

(a) BEFORE THE ENACTMENT OF THIS TITLE 44, LAWS ADMINISTERED BY THE DEPARTMENT OF REVENUE THAT REGULATE A VARIETY OF ACTIVITIES WERE CODIFIED IN TWO TITLES OF THE COLORADO REVISED STATUTES, MOST PROMINENTLY IN TITLE 12, WHICH GOVERNS PROFESSIONS AND OCCUPATIONS;

(b) MOST PROFESSIONS AND OCCUPATIONS ARE REGULATED BY THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO TITLE 12, BUT PRIOR TO THE 2017 LEGISLATIVE SESSION, TITLE 12 CONTAINED NUMEROUS LAWS THAT DID NOT PERTAIN TO THE REGULATION OF PROFESSIONS AND OCCUPATIONS AND WERE NOT ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES;

(c) WITH THE ENACTMENT OF SECTION 2-3-510 IN 2016, THE GENERAL ASSEMBLY DIRECTED THE OFFICE OF LEGISLATIVE LEGAL SERVICES TO STUDY AN ORGANIZATIONAL RECODIFICATION OF TITLE 12 OF THE COLORADO REVISED STATUTES, INCLUDING RELOCATING LAWS THAT DO NOT PERTAIN TO PROFESSIONS AND OCCUPATIONS AND ARE NOT ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES;

(d) BASED ON RECOMMENDATIONS FROM THE TITLE 12 RECODIFICATION STUDY, THE GENERAL ASSEMBLY ENACTED SEVERAL BILLS IN THE 2017 LEGISLATIVE SESSION TO RELOCATE OUT OF TITLE 12 MANY LAWS THAT ARE ADMINISTERED BY ENTITIES OTHER THAN THE DEPARTMENT OF REGULATORY AGENCIES;

(e) THE STUDY ALSO RECOMMENDED CREATING A NEW TITLE 44 FOR PURPOSES OF CONSOLIDATING LAWS ADMINISTERED BY THE DEPARTMENT OF REVENUE THAT REGULATE ACTIVITIES INTO A SINGLE TITLE IN ORDER TO FACILITATE BOTH:

(I) THE PUBLIC'S AND REGULATED ENTITIES' UNDERSTANDING OF THE LAWS THAT APPLY TO THEM; AND

(II) THE DEPARTMENT OF REVENUE'S ADMINISTRATION OF THESE LAWS; AND

(f) CREATING A NEW TITLE 44 CONSISTING OF LAWS ADMINISTERED

BY THE DEPARTMENT OF REVENUE THAT REGULATE VARIOUS ACTIVITIES IS NECESSARY TO IMPLEMENT THE RECOMMENDATIONS OF THE TITLE 12 RECODIFICATION STUDY AND FACILITATE THE REORGANIZATION OF TITLE 12 PERTAINING TO THE REGULATION OF PROFESSIONS AND OCCUPATIONS.

44-1-103. Definitions. AS USED IN THIS TITLE 44, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE CREATED IN SECTION 24-1-117.

(2) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

SECTION 2. In Colorado Revised Statutes, **add with amended and relocated provisions** article 33 to title 44 as follows:

ARTICLE 33
Gambling Payment Intercept Act

44-33-101. [Formerly 24-35-601] Short title. ~~This part 6 shall be known and may be cited as~~ THE SHORT TITLE OF THIS ARTICLE 33 IS THE "Gambling Payment Intercept Act".

44-33-102. [Formerly 24-35-602] Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Parents should provide financial support to their minor children who cannot care for themselves.

(b) The state should intervene when parents fail to meet their support obligations.

(c) Children are adversely affected when parents divert their financial support to limited gaming and pari-mutuel wagering.

(d) A parent's winnings from money diverted from a child's support should be applied to the parent's outstanding support obligations.

(e) ~~Section 12-47.1-102(1)(c), C.R.S.~~, SECTION 44-30-102 (1)(c) of

the "Limited Gaming Act of 1991" recognizes that the limited gaming industry must be assisted in protecting the general welfare of the people of the state.

(f) Victims of crime and all the people of the state are adversely affected when criminal offenders divert restitution to limited gaming and pari-mutuel wagering.

(g) A criminal offender's winnings from money diverted from restitution should be applied to the offender's outstanding criminal court obligations.

(h) An uncollected debt to the state should be deducted from a person's winnings.

44-33-103. [Formerly 24-35-603] Definitions. As used in this part 6 ARTICLE 33, unless the context otherwise requires:

(1) "Licensee" means a licensee as defined in section 12-60-102 (17), ~~C.R.S.~~, or an operator or retail gaming licensee under ~~section 12-47.1-501 (1)(b) or (1)(c), C.R.S.~~ SECTION 44-30-501 (1)(b) OR (1)(c).

(2) (a) "Outstanding debt" means:

(I) Unpaid child support debt or child support costs to the state pursuant to section 14-14-104, ~~C.R.S.~~, and arrearages of child support requested as part of an enforcement action pursuant to article 5 of title 14, ~~C.R.S.~~, or arrearages of child support that are the subject of enforcement services provided pursuant to section 26-13-106; ~~C.R.S.~~

(II) Restitution that a person has been ordered to pay pursuant to section 18-1.3-603 or 19-2-918, ~~C.R.S.~~, regardless of the date that the restitution was ordered; and

(III) Any unpaid debt due to the state that is referred pursuant to section 24-30-202.4 (2) to the state controller or the central collection services section of the division of finance and procurement, or any successor section, in the department of personnel, and including the collection fee and any allowable fees and costs pursuant to section 24-30-202.4 (8). "Outstanding debt" does not include any debt collected by

the department of personnel for a political subdivision of the state.

(b) Notwithstanding any provision of ~~paragraph (a) of this subsection~~ (2) SUBSECTION (2)(a) OF THIS SECTION, an outstanding debt shall not be less than three hundred dollars.

(3) "Payment" means cash winnings from limited gaming or from pari-mutuel wagering on horse or greyhound racing payable by a licensee for which the licensee is required to file form W-2G, or a substantially equivalent form, with the United States internal revenue service.

(4) "Registry" means the registry created and maintained by or for the department ~~of revenue~~ pursuant to ~~section 24-35-604~~ SECTION 44-33-104.

(5) "Registry operator" means the department ~~of revenue~~ or the private entity that maintains the registry under the direction and control of the department.

44-33-104. [Formerly 24-35-604] Registry - creation - information. (1) The department ~~of revenue~~ shall create and maintain, or contract with a private entity pursuant to ~~section 24-35-607~~ SECTION 44-33-108 to create and maintain, the registry in accordance with this section.

~~(1.5)~~ (2) On and after the date that the judicial department receives notice from the department ~~of revenue~~ pursuant to ~~section 24-35-605.5~~ ~~(2)(b)(I)~~ SECTION 44-33-106 (2)(b)(I), the judicial department shall certify to the registry operator the information indicated in ~~subsection (4)~~ SUBSECTION (6) of this section regarding persons with an outstanding debt as specified in ~~section 24-35-603 (2)(a)(II)~~ SECTION 44-33-103 (2)(a)(II).

~~(2)~~(3) The department of human services shall certify to the registry operator the information indicated in ~~subsection (4)~~ SUBSECTION (6) of this section regarding each child support obligor with an outstanding debt as specified in ~~section 24-35-603 (2)(a)(I)~~ SECTION 44-33-103 (2)(a)(I).

~~(2.5)~~ (4) On and after January 1, 2012, the department of personnel shall certify to the registry operator the information indicated in ~~subsection (4)~~ SUBSECTION (6) of this section regarding each person with an

outstanding debt as specified in ~~section 24-35-603 (2)(a)(HH)~~ SECTION 44-33-103 (2)(a)(III).

~~(3)~~ (5) The registry operator shall enter in the registry the information certified to the registry operator by the judicial department, the department of human services, and the department of personnel pursuant to ~~subsections (1.5), (2), and (2.5)~~ SUBSECTIONS (2), (3), AND (4) of this section.

~~(4)~~ (6) The registry shall contain the following information:

(a) The name of each person with an outstanding debt;

(b) The social security number of each person with an outstanding debt;

(c) The account or case identifier assigned to the outstanding debt by the department that certified the information to the registry operator;

(d) The name, telephone number, and address of the department that certified the information to the registry operator regarding each person with an outstanding debt; and

(e) The amount of the outstanding debt.

~~(5)~~ (7) On and after the date that the judicial department receives notice from the department of revenue pursuant to ~~section 24-35-605.5 (2)(b)(F)~~ SECTION 44-33-106 (2)(b)(I), the registry operator shall add a fee of twenty-five dollars to each outstanding debt certified by a department pursuant to this section.

44-33-105. [Formerly 24-35-605] Payments - limited gaming and pari-mutuel wagering licensees - procedures. (1) On and after July 1, 2008:

(a) A licensee shall have the means to communicate with the registry operator.

(b) Before making a payment to a winner, the licensee shall obtain the name, address, and social security number of the winner from form

W-2G, or a substantially equivalent form, to be filed with the United States internal revenue service and submit the required information to the registry operator. The registry operator shall inform the licensee whether the winner is listed in the registry. The licensee shall comply with subsection (2) of this section.

(2) (a) If the registry operator replies that the winner is not listed in the registry or if the licensee is unable to receive information from the registry operator after attempting in good faith to do so, the licensee may make the payment to the winner.

(b) If the registry operator replies that the winner is listed in the registry:

(I) The reply from the registry operator to the licensee shall indicate the name, telephone number, and address of the department that certified the information to the registry and the amount of the winner's outstanding debt.

(II) The licensee shall withhold from the amount of the payment an amount equal to the amount certified pursuant to ~~section 24-35-604~~ SECTION 44-33-104. If the amount of the payment is less than or equal to the amount certified, the licensee shall withhold the entire amount of the payment. The licensee shall refer the winner to the department that reported the outstanding debt to the registry.

(III) Within twenty-four hours after withholding a payment pursuant to ~~subparagraph (H) of this paragraph (b)~~ SUBSECTION (2)(b)(II) OF THIS SECTION, the licensee shall send the amount withheld to the registry operator and report to the registry operator the full name, address, and social security number of the winner, the account or case identifier assigned by the department that reported the outstanding debt to the registry, the date and amount of the payment, and the name and location of the licensee.

(IV) The registry operator shall send to the certifying department the ~~moneys~~ MONEY and information received from a licensee pursuant to ~~subparagraph (H) of this paragraph (b)~~ SUBSECTION (2)(b)(III) OF THIS SECTION. If more than one department certified a winner, the registry operator shall send the information to each certifying department and distribute the ~~moneys~~ MONEY among the departments as follows:

(A) The registry operator shall send to the department of human services any amount certified by the department of human services.

(B) Of any ~~moneys~~ MONEY remaining after the distribution, if any, to the department of human services pursuant to ~~sub-subparagraph (A) of this subparagraph (IV)~~ SUBSECTION (2)(b)(IV)(A) OF THIS SECTION, the registry operator shall send to the judicial department any amount certified by the judicial department.

(C) Of any ~~moneys~~ MONEY remaining after the distribution, if any, to the judicial department pursuant to ~~sub-subparagraph (B) of this subparagraph (IV)~~ SUBSECTION (2)(b)(IV)(B) OF THIS SECTION, the registry operator shall send to the department of personnel any amount certified by the department of personnel.

(V) The department of human services shall process ~~moneys~~ MONEY received from the registry operator pursuant to ~~subparagraph (IV) of this paragraph (b)~~ SUBSECTION (2)(b)(IV) OF THIS SECTION in accordance with section 26-13-118.7. ~~C.R.S.~~ The judicial department shall process ~~moneys~~ MONEY received from the registry operator pursuant to ~~subparagraph (IV) of this paragraph (b)~~ SUBSECTION (2)(b)(IV) OF THIS SECTION in accordance with the rules of the department. The department of personnel shall process ~~moneys~~ MONEY received from the registry operator pursuant to ~~subparagraph (IV) of this paragraph (b)~~ SUBSECTION (2)(b)(IV) OF THIS SECTION in accordance with the rules of the department of personnel, with the understanding that any state agency or state-supported institution of higher education debt will be paid before any debt for a political subdivision of the state assigned to central collection services.

(3) The registry operator shall deduct an amount equal to the fee added to the outstanding debt pursuant to ~~section 24-35-604 (5)~~ SECTION 44-33-104 (7) from each payment received from a licensee and forward ~~such~~ THE amount to the state treasurer for deposit in the gambling payment intercept cash fund created in ~~section 24-35-605.5~~ SECTION 44-33-106.

44-33-106. [Formerly 24-35-605.5] Gambling payment intercept cash fund - creation - gifts, grants, donations - intercepts for restitution.

(1) There is hereby created in the state treasury the gambling payment intercept cash fund, referred to in this section as the "fund". The fund shall consist of any ~~moneys~~ MONEY deposited in the fund pursuant to ~~section~~

~~24-35-605 (3)~~ SECTION 44-33-105 (3), any allocations made to the fund pursuant to section 24-33.5-506 (1)(c.5)(I), any other ~~moneys~~ MONEY appropriated to the fund by the general assembly, and any gifts, grants, or donations from private or public sources, ~~which~~ THAT the department of ~~revenue~~ is hereby authorized to seek and accept for the purposes set forth in this section. All private and public funds received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the fund. The state treasurer shall also credit to the fund any ~~moneys~~ MONEY that ~~are~~ IS allocated thereto pursuant to section 24-33.5-506 (1)(c.5)(I).

(2) (a) The ~~moneys~~ MONEY in the fund shall be continuously appropriated to the department of ~~revenue~~ for the purpose of expanding the program established by this ~~part 6~~ ARTICLE 33 to include intercepts of restitution that a person has been ordered to pay pursuant to section 18-1.3-603 or 19-2-918, ~~C.R.S.~~, as certified by the judicial department. As soon as there ~~are~~ IS sufficient ~~moneys~~ MONEY in the fund, the department of ~~revenue~~ shall expand the program for ~~such~~ THAT purpose.

(b) Once the intercept program has been expanded as described in ~~paragraph (a) of this subsection~~ (2) SUBSECTION (2)(a) OF THIS SECTION:

(I) The department of ~~revenue~~ shall notify the judicial department and the registry operator that the judicial department may begin certifying outstanding debt pursuant to ~~section 24-35-604 (1.5)~~ SECTION 44-33-104 (2); and

(II) ~~Moneys~~ MONEY in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the administration of this ~~part 6~~ ARTICLE 33.

(c) Any ~~moneys~~ MONEY in the fund not expended for the purposes set forth in ~~paragraphs (a) and (b) of this subsection~~ (2) SUBSECTIONS (2)(a) AND (2)(b) OF THIS SECTION may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of ~~moneys~~ MONEY in the fund shall be credited to the fund. Any unexpended and unencumbered ~~moneys~~ MONEY remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred or revert to the general fund or any other fund.

44-33-107. [Formerly 24-35-606] Liability - immunity. (1) A licensee that fails to comply with the provisions of ~~section 24-35-605~~ SECTION 44-33-105 shall be subject to sanctions by its licensing authority pursuant to ~~sections 12-47.1-525 (1) and 12-60-507 (1), C.R.S.~~ SECTIONS 44-30-524 (1) AND 12-60-507 (1).

(2) A licensee that makes a payment to a winner in violation of ~~section 24-35-605~~ SECTION 44-33-105 shall not be liable to the person to whom the winner owes an outstanding debt.

(3) Except as provided in THIS section, ~~24-35-606~~, a licensee shall be immune from civil and criminal liability for acting in compliance with the provisions of this ~~part 6~~ ARTICLE 33.

44-33-108. [Formerly 24-35-607] Contracting authority - memoranda of understanding - rules. (1) The executive director of ~~the department of revenue~~ may enter into a contract with a private entity, in accordance with the "Procurement Code", articles 101 to 112 of ~~this title~~ TITLE 24, to create and maintain the registry.

(2) The department of ~~revenue~~ may enter into memoranda of understanding with the judicial department, the department of human services, and the department of personnel to implement this ~~part 6~~ ARTICLE 33. If the registry is operated by a private entity pursuant to this section, the registry operator may enter into memoranda of understanding with the judicial department, the department of human services, and the department of personnel to implement this ~~part 6~~ ARTICLE 33.

(3) The executive director of ~~the department of revenue~~ shall promulgate rules in accordance with article 4 of ~~this title~~ TITLE 24 to implement this ~~part 6~~ ARTICLE 33. The rules shall include, but need not be limited to, rules regarding:

(a) The removal from the registry of information regarding persons who satisfy their outstanding debts;

(b) The manner in which a licensee shall communicate with the registry, including the information a licensee shall submit to the registry and the procedures to be followed if the registry is inaccessible due to technical or other problems;

(c) The protection of the confidentiality of information in the registry; and

(d) The circumstances and means by which an outstanding debt may be collected from a licensee pursuant to ~~section 24-35-605 (2)(b)(IV)~~ SECTION 44-33-105 (2)(b)(IV).

(4) The executive director ~~of the department of revenue~~ shall promulgate a rule in accordance with article 4 of ~~this title~~ TITLE 24 allowing a licensee to retain at least thirty dollars of each payment withheld pursuant to this ~~part 6~~ ARTICLE 33 to cover the licensee's costs of compliance with this ~~part 6~~ ARTICLE 33, which amount shall be added to the debtor's outstanding debt.

SECTION 3. Repeal of relocated provisions in this act. In Colorado Revised Statutes, **repeal** part 6 of article 35 of title 24.

SECTION 4. In Colorado Revised Statutes, 12-14-103, **amend** the introductory portion and (2)(b)(IX) as follows:

12-14-103. Definitions. As used in this ~~article~~ ARTICLE 14, unless the context otherwise requires:

(2) (b) "Collection agency" does not include:

(IX) A limited gaming or racing licensee acting pursuant to ~~part 6 of article 35 of title 24, C.R.S.~~ ARTICLE 33 OF TITLE 44.

SECTION 5. In Colorado Revised Statutes, 12-60-507, **amend** (1) introductory portion and (1)(w)(I) as follows:

12-60-507. Investigation - denial, suspension, and revocation actions against licensees - unlawful acts. (1) The commission upon its own motion may, and upon complaint in writing of any person shall, investigate the activities of any licensee or applicant within the state or any person upon the premises of any facility licensed pursuant to this ~~article~~ ARTICLE 60. In addition to its authority under any other provision of this ~~article~~ ARTICLE 60, the commission may issue a letter of admonition to a licensee, fine a licensee, suspend a license, deny an application for a license, or revoke a license, if ~~such~~ THE person has committed any of the

following violations:

(w) (I) Failing to comply with the requirements of ~~part 6 of article 35 of title 24, C.R.S.~~, ARTICLE 33 OF TITLE 44 or any rule promulgated by the executive director of the department of revenue pursuant to ~~section 24-35-607(3), C.R.S.~~ SECTION 44-33-108 (3).

SECTION 6. In Colorado Revised Statutes, 12-60-513, **amend** (1) as follows:

12-60-513. Payments of winnings - intercept. (1) Before making a payment of cash winnings from pari-mutuel wagering on horse or greyhound racing for which the licensee is required to file form W-2G, or a substantially equivalent form, with the United States internal revenue service, the licensee shall comply with the requirements of ~~part 6 of article 35 of title 24, C.R.S.~~ ARTICLE 33 OF TITLE 44.

SECTION 7. In Colorado Revised Statutes, 26-13-118.7, **amend** (1), (2), and (3) as follows:

26-13-118.7. Gambling winnings - interception - rules. (1) Pursuant to ~~section 24-35-604(2), C.R.S.~~ SECTION 44-33-104 (3), the state department shall periodically certify to the registry operator information regarding persons who owe a child support debt or child support costs to the state pursuant to section 14-14-104, ~~C.R.S.~~, or who owe child support arrearages requested as part of an enforcement action pursuant to article 5 of title 14, ~~C.R.S.~~, or who owe child support arrearages or child support costs that are the subject of enforcement services provided pursuant to section 26-13-106. The information shall include the social security number of the person owing the child support debt, arrearages, or child support costs, the amount owed, and the other information required by the registry operator pursuant to ~~section 24-35-604(4), C.R.S.~~ SECTION 44-33-104 (6).

(2) Upon receipt from the registry operator of a payment and accompanying information pursuant to ~~section 24-35-605(2)(b), C.R.S.~~ SECTION 44-33-105 (2)(b), the state department shall notify the obligated parent in writing that the state intends to offset the parent's child support debt, child support arrearages, or child support costs against the parent's winnings from limited gaming or from pari-mutuel wagering on horse or

greyhound racing. The notice shall include information on the parent's right to object to the offset and to request an administrative review pursuant to the rules of the state board.

(3) Upon receipt of a payment from the registry operator pursuant to ~~section 24-35-605 (2)(b), C.R.S.~~ SECTION 44-33-105 (2)(b), the state department shall deposit the payment with the family support registry created pursuant to section 26-13-114. After the final disposition of any administrative review requested pursuant to subsection (2) of this section, the state department shall disburse the payment for processing or for distribution to the individual receiving support enforcement services pursuant to section 26-13-106, as appropriate.

SECTION 8. Act subject to petition - effective date. This act takes effect October 1, 2018; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be

held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO