

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

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IN FIVE VOLUMES

VOLUME 2



THE MICHIE COMPANY, Inc.
CHARLOTTESVILLE, VIRGINIA

Chapter 87.

Running Horse Racing Commission.

Legislature may terminate or modify privileges granted.—The legislature has seen fit to legalize gambling, in a limited and regulated manner, under this chapter and chapter 86 and under §§ 21 to 27 of chapter 139, dealing with the game of

beano. The enactment of the laws therein carried constitute no surrender of its right to terminate the privileges granted at any time or to modify them in any manner it might see fit. *Maine State Raceways v. LaFleur*, 147 Me. 367, 87 A. (2d) 674.

Sec. 1. Running horse racing commission.—The state running horse racing commission, as heretofore established and hereinafter in this chapter called the "commission," shall consist of 3 members appointed by the governor with the advice and consent of the council. No more than 2 members shall be of the same political party. Each member shall be appointed for a term of 3 years or until his successor has been appointed and qualified. Any vacancy shall be filled for the unexpired term by the governor with the advice and consent of the council. One member shall be appointed by the governor as chairman and one as secretary. No member shall have any pecuniary interest in any racing or the sale of pari mutuel pools licensed hereunder. (1949, c. 289.)

Cited in *Maine State Raceways v. LaFleur*, 147 Me. 367, 87 A. (2d) 674.

Sec. 2. Office.—The commission shall have an office in Augusta and during the time in which racing is conducted in the state may maintain branch offices elsewhere. (1949, c. 289.)

Sec. 3. Assistants; limitation.—The commission is authorized to employ such assistants and employees as it may deem necessary to provide adequate policing and to carry out the purposes of this chapter at such compensation on a per diem basis as the commission may prescribe, subject to the provisions of the personnel law. It shall be unlawful, however, for the commission to appoint to any position under its jurisdiction any state, county, city or town official or employee whose total annual salary or compensation from said state, county, city or town exceeds \$1,000. (1949, c. 289.)

Sec. 4. Compensation.—Each member of the commission, except the chairman, shall receive a salary of \$1,200 a year and reasonable expenses including transportation. The chairman shall receive \$1,500 a year and his reasonable expenses, including transportation, incurred in the performance of his duties. (1949, c. 289.)

Sec. 5. Report.—The commission shall make an annual report to the governor on or before the 1st day of February in each year, including therein an account of its actions, receipts derived under the provisions hereof, the practical effects of the application of this chapter and any recommendation for legislation which the commission deems advisable. (1949, c. 289.)

Sec. 6. Rules and regulations.—Said commission shall make rules and regulations for the holding, conducting and operating of all running horse races and for the operation of race tracks on which any such running horse race meet is held. No such race meet shall be permitted on Sunday. (1949, c. 289.)

There can be no warrant whatsoever for any licensee to believe that the commission issuing his license might not make rules and regulations without reference to others made by any other, or that the rules and regulations of commissions established

in connection with harness horse racing, on the one hand, and running horse racing, on the other, must be uniform or standardized. Even less is there any foundation for a belief that the legislature which established the commissions, and had full au-

thority to abolish either or both at will, surrendered any part of its authority to make regulations binding upon the commissions themselves, and all licensees operat-

ing under them, or either of them. *Maine State Raceways v. LaFleur*, 147 Me. 367, 87 A. (2d) 674.

Sec. 7. Races. — No person, association, corporation, trust or partnership shall conduct, hold or operate any running horse meet or race for public exhibition, if *pari mutuel* betting is permitted, without a license from the commission. (1949, c. 289.)

The commission is not given jurisdiction over all running horse racing. No license whatsoever is required for anyone who wishes to engage in the business of running horse racing. The law deals with such a

business only when its operators desire to conduct it "if *pari mutuel* betting is permitted." *Maine State Raceways v. LaFleur*, 147 Me. 367, 87 A. (2d) 674.

Sec. 8. License. — Any person, association, corporation, trust or partnership, desiring to hold a running horse race or meet for public exhibition, shall apply to said commission for a license to do so. The application shall be signed and sworn to by the person or executive officer of the association or corporation and shall contain the following information:

- I. The full name and address of the person, association, corporation, trust or partnership;
- II. If an association, trust or partnership, the names and residences of the members of the organization;
- III. If a corporation, the name of the state under which it is incorporated with its principal place of business and the names and addresses of its directors and stockholders;
- IV. The exact location where it is desired to conduct or hold races or race meets;
- V. Whether or not the racing plant is owned or leased, and if leased, the name and residence of the fee owner, or if a corporation, of the directors and stockholders thereof;
- VI. A statement of the assets and liabilities of the person, association, corporation, trust or partnership making such application; and
- VII. Such other information as the commission may require. (1949, c. 289.)

Sec. 9. Issuance of license; fee.—If the commission is satisfied that all provisions of this chapter and the rules and regulations prescribed by the commission have been and will be complied with by the applicant, it may issue an annual license which shall expire on the 30th day of November.

Racing shall be permitted at Scarborough Downs until the hour of midnight each day from May 15th to November 30th each year, except that no racing shall be permitted each year for a period of 4 weeks, beginning in June on the Monday of the last full week therein which has 7 calendar days; provided, however, that if Gorham Raceways does not hold harness races or meets during said 4-week period, racing under the provisions of this chapter may be permitted at Scarborough Downs until the hour of midnight of each day during said 4-week period. The license shall set forth the name of the licensee, the place where the races or race meets are to be held and the time and number of days during which racing may be conducted by said licensee. Any such license issued shall not be transferable nor assignable. Said commission shall have power to revoke any license for good cause upon reasonable notice and hearing. The license of any corporation shall automatically cease upon the change in ownership, legal or equitable, of 50% or more of the voting stock of the corporation and the corporation shall not hold a running horse meet for public exhibition without a new

license. The fee for such license shall be \$5,000 annually. (1949, c. 289. 1951, c. 404. 1953, c. 423, § 5.)

Constitutionality of section prior to 1953 amendment.—For a discussion of the constitutionality of this section as it stood prior to the 1953 amendment, when it allowed licenses only for daytime racing, see *Maine State Raceways v. LaFleur*, 147 Me. 367, 87 A. (2d) 674.

Sec. 10. Bond.—Every person, association, corporation, trust or partnership, licensed under provisions of this chapter shall, before said license is issued, give a bond to the state in such reasonable sum not exceeding \$100,000, as may be fixed by the commission, with a surety or sureties to be approved by the commission, conditioned to faithfully make the payments prescribed and to keep its books and records and make reports as herein provided and to conduct its racing in conformity with the provisions of this chapter and with the rules and regulations prescribed by the commission. (1949, c. 289.)

Sec. 11. Penalty.—Any person, association, corporation, trust or partnership, holding or conducting, or any persons or person aiding or abetting in the holding or conducting, of any running horse race or meet for public exhibition within the state, without a license duly issued by said commission, or any person, association, corporation, trust or partnership who violates any provisions of this chapter or who violates any of the rules and regulations prescribed by the commission shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 1 year, or by both such fine and imprisonment. (1949, c. 289.)

Sec. 12. Malicious interference with horses. — Any person who willfully or maliciously attempts to or does interfere with, tamper with, injure or destroy by the use of narcotics, drugs, stimulants or appliances of any kind any horse used for the purpose of racing, whether such horse be the property of such person or another, or who willfully or maliciously causes, instigates, counsels or in any way aids or abets any such interference, tampering, injury or destruction shall, upon conviction, be punished by a fine of not more than \$5,000 or by imprisonment for not more than 3 years, or by both such fine and imprisonment, in the discretion of the court, and the owner of any race horse engaged in racing within this state that is found to have been stimulated or doped, or any entry of which such horse is a part, shall be denied any part of the purse offered for such race, and the purse shall be distributed as in the case of a disqualification. (1949, c. 289.)

Sec. 13. Pari mutuel pools.—Within the enclosure of any race track where is held a race or race meet licensed and conducted under the provisions of this chapter, but not elsewhere, the sale of pari mutuel pools by the licensee under such regulations as may be prescribed by said commission is permitted and authorized. Commissions on such pools shall in no event and at no track exceed 16% of each dollar wagered, plus the odd cents of all redistribution to be based on each dollar wagered exceeding a sum equal to the next lowest multiple of ten, known as "breakage," ½ of which breakage shall be retained by the licensee and the balance shall be paid to the treasurer of state. Said maximum shall include the 5½% tax hereinafter prescribed. A sum equal to ½% of such total contributions shall be paid to the treasurer of state to be credited to the "stipend" fund provided by section 17 of chapter 32. (1949, c. 289. 1953, c. 423, § 6.)

Cross reference.—See note to c. 139, § 1. controlling and inclusive. *Maine State Raceways v. LaFleur*, 147 Me. 367, 87 A. (2d) 674.
Police power of state controlling on sale of pools.—The sale of pari mutuel pools lies in a field wherein the police power of the state has always been recognized as *Cited in Berger v. State*, 147 Me. 111, 83 A. (2d) 571.

Sec. 14. Tax.—Each person, association, corporation, trust or partnership licensed to conduct a race or race meet under the provisions of this chapter shall

pay to the treasurer of state, to be credited to the general fund, a sum equal to 5½% of the total contributions to all pari mutuel pools conducted or made at any race or race meets licensed hereunder. Each person, association, corporation, trust or partnership licensed to conduct a race or race meet under the provisions of this chapter shall also pay to the city or town treasurer in which the racing plant is located the sum of \$25 for each day of racing, provided such person, association, corporation, trust or partnership has a license to conduct races or race meets for more than 8 days during the year for which the license is issued. (1949, c. 289. 1953, c. 423, § 7.)

Sec. 15. Payments.—Payments under the provisions of the preceding section shall be made not later than 7 days after each racing day and shall be accompanied by a report under oath showing the total of all said contributions to pari mutuel pools covered by such report and such other information as the commission may require. (1949, c. 289.)

Sec. 16. Unclaimed ticket money.—On or before the 1st Monday in December of each year, every person, association, corporation, trust or partnership, conducting a race or race meet hereunder, shall pay to the treasurer of state all moneys collected during the year for pari mutuel pool tickets which have not been redeemed. Said moneys shall be retained by the treasurer of state and he shall pay the amount due on any ticket to the holder thereof upon an order from the commission. After the expiration of 3 months, ½ of such moneys still in the custody of the treasurer of state shall be credited to the general fund and ½ of such moneys shall be paid to the licensee. (1949, c. 289.)

Sec. 17. Records.—Every person, association, corporation, trust or partnership, conducting a race or race meet hereunder, shall so keep its books and records as to clearly show the total amount of money contributed to every pari mutuel pool on each race separately, and within 60 days after the conclusion of every race meeting shall submit to the commission a complete audit of its accounts, certified by a public accountant qualified to practice in the state and approved by the commission. (1949, c. 289.)

Sec. 18. Minors.—No minor shall be permitted to participate in any pari mutuel pool or be admitted to any pari mutuel enclosure. (1949, c. 289.)

Sec. 19. Employees.—At least 80% of all the persons employed by a person, association, corporation, trust or partnership, conducting a racing plant under the provisions of this chapter, shall have resided in this state for a period of not less than 1 year. The provisions of this section shall not apply to the construction of a racing plant or its equipment. (1949, c. 289.)

Sec. 20. Supervision.—The commission shall have the power and authority to regulate, supervise and check the making of pari mutuel pools and the distributions therefrom. (1949, c. 289.)

Sec. 21. Enforcement.—It shall be the duty of the attorney general with the aid of the county attorneys of the several counties to enforce the provisions of this chapter upon notification from the commission of any violations thereof. (1949, c. 289.)

Stated in *Maine State Raceways v. La-Fleur*, 147 Me. 367, 87 A. (2d) 674.