

MAINE STATE LEGISLATURE

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April 26, 1965

Mr. Armand G. Sansoucy, State Auditor

Audit

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Attorney General

Auditing Pari Mutuel Pools and Distribution therefrom.

The statutory language dealing with the auditing of pari mutuel pools is clearly mandatory in nature. The language of Title 8, section 277 M.R.S.A. (1964) dealing with harness racing and Title 8, section 337 M.R.S.A. (1964) dealing with horse racing is synonymous and reads as follows:

"Every person, association or corporation conducting a race or race meet under this chapter shall so keep its books and records as to clearly show all financial transactions relating to racing, which books and records shall be subject to audit at any time by the State Department of Audit."

The verb "shall" is used in an imperative rather than a directory sense and is used consistently within the statute to show the necessity of keeping records of all financial transactions, and further, the necessity of subjecting same to audit by the State Department of Audit.

There are no statutory provisions expressly providing for the audit of pari mutuel pools and distribution therefrom by any agency other than the State Department of Audit.

The State Harness Racing Commission and the State Running Horse Racing Commission are given the power to regulate and supervise the making of pari mutuel pools and distribution therefrom as set forth in Title 8, section 279 and Title 8, section 340 M.R.S.A. (1964) respectively. However, such power of regulation in no way pre-empt's the power of audit which is vested in the State Department of Audit.

The language of the Statute ". . . which books and records shall be subject to audit at any time by the State Department of Audit," clearly implies that the Department may conduct an audit at all times during which the tracks are in operation.

Mr. Armand G. Sansoucy

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However, it does not follow that a continuous daily audit at the tracks must be undertaken. Such a procedure is permissible but not mandatory. The frequency and method of audit appear to be matters of discretion to be determined by the State Department of Audit.

Respectfully submitted,

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PMK/all