

MAINE STATE LEGISLATURE

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THE MICHIE COMPANY, Inc.
CHARLOTTESVILLE, VIRGINIA

Chapter 86.

Harness 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 87 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.

Chapter cited in *Berger v. State*, 147 Me. 111, 83 A. (2d) 571.

Sec. 1. State harness racing commission. — The state harness racing commission, as heretofore established and hereinafter in this chapter called the "commission," shall consist of 3 members who shall be appointed and may be for cause removed by the governor with the advice and consent of the council. One member shall, in some capacity, be connected with agricultural societies which operate pari mutuel racing. Upon the expiration of the term of office of any member, his successor shall be appointed for a term of 3 years. Any vacancy shall be filled by appointment for the unexpired term. The members shall serve until their successors are appointed and qualified. So far as practicable they shall be persons interested in the establishment and development of a Maine breed of standard bred horses and no member of the commission shall have any pecuniary interest in any racing or the sale of pari mutuel pools licensed under the provisions of this chapter. (R. S. c. 77, § 1. 1951, c. 266, § 95. 1953, c. 402.)

Cross reference.—See c. 32, § 17, re state

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

Sec. 2. Organization. — The commissioners shall select one from their number to be chairman and another to be secretary of the commission. Two of the members of the commission shall constitute a quorum to do business. It shall be the duty of the secretary to keep a record of all proceedings of the commission and to preserve all books, maps, documents, papers and records entrusted to its care. (R. S. c. 77, § 2.)

Sec. 3. 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. (R. S. c. 77, § 4.)

Sec. 4. Assistants.—The commission, with the approval of the governor and council, 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 and fix their compensation on a per diem basis, subject to the provisions of the personnel law. (R. S. c. 77, § 5.)

See c. 16, § 2, re bond of state officials.

Sec. 5. Compensation. — The salary of the chairman of the commission shall be \$1,500 per year and the salary of each of the other members shall be \$1,200 per year, and in addition each member shall be allowed his reasonable expenses, including transportation, incurred in the performance of his duties. (R. S. c. 77, § 6. 1951, c. 399, § 1.)

Sec. 6. Disbursements.—Compensation of the commissioners, their assistants and all other necessary expenses of the commission shall be paid out of such amounts as the legislature may appropriate. (R. S. c. 77, § 7. 1945, c. 297, § 25.)

Sec. 7. Report.—The commission shall make an annual report to the governor on or before the 1st day of December in each year, including therein an account of its actions, receipts derived under the provisions of this chapter, the

practical effects of the application of the provisions of this chapter and any recommendation for legislation which the commission deems advisable. (R. S. c. 77, § 8.)

See c. 16, § 5, re fiscal year.

Sec. 8. Rules and regulations.—The commission shall make rules and regulations for the holding, conducting and operating of all harness horse races or meets for public exhibition held in this state and for the operation of race tracks on which any such race or meet is held. No such race or meet shall be held on Sunday. No meeting shall be allowed for more than 6 days in any 28-day period, except night harness racing as hereinafter defined and except day harness racing as provided in the last paragraph of section 11 and except that between the 1st day of July and the 1st Monday of August, a day meeting may be allowed for not exceeding 18 days on mile tracks. In the event such an 18-day meeting is held, no further day meetings where pari mutuel betting is permitted shall be allowed during the same calendar year. No part of this chapter shall be construed to apply to any racing whatever except harness horse races. (R. S. c. 77, § 9. 1947, c. 358. 1949, c. 388, § 3.)

There can be no warrant whatsoever for any licensee to believe that the commission issuing his license might not make such 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 authority to abolish either or both at will, surrendered any part of its authority to make regulations binding upon the commissions themselves, and all licensees operating under them, or either of them. *Maine State Raceways v. LaFleur*, 147 Me. 367, 87 A. (2d) 674.

Sec. 9. Races.—No person, association or corporation shall hold, conduct or operate any harness horse race or meet for public exhibition, if pari mutuel betting is permitted, within the state without a license from the commission. (R. S. c. 77, § 10.)

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

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

Sec. 10. Licenses.—Any person, association or corporation desiring to hold a harness 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 or corporation.
- II. If an association, the names and residences of the members of the association.
- 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 or corporation making such application.

VII. Such other information as the commission may require. (R. S. c. 77, § 11.)

Sec. 11. Issuance of license.—If the commission is satisfied that all the provisions of this chapter and the rules and regulations prescribed by the commission have been and will be complied with by the person, association or corporation applying for a license, it may issue a license which shall expire on the 31st day of December; and between the dates of the 1st Monday in August and October 20, it may issue a license to an agricultural fair association for a pari mutuel harness meet in connection with its annual fair, but no other person, association or corporation shall be licensed to operate either a day or night pari mutuel harness meet within the same or any adjoining county when an agricultural fair association is operating a pari mutuel harness meet at the time of its annual fair, without the consent of said fair association. The fee for such license shall be \$10 for each 6 days or less of harness racing whether or not pari mutuel pools are sold. 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 or assignable. Said commission shall have power to revoke any license issued at any time 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 harness horse race or meet for public exhibition without a new license.

Not more than 3 licenses shall be issued authorizing the holding of harness horse races or meets for public exhibition with pari mutuel pools on any 1 track in 1 year.

No license shall be granted to any person, firm, association or corporation to hold harness horse races or meets for public exhibition with pari mutuel pools between the dates of November 30th and May 1st.

The commission is directed to assign such dates for holding harness horse races or meets for public exhibition with pari mutuel pools as will best serve the interests of the agricultural associations of Maine and may accordingly refuse to issue a permit if the issuance of the permit would in the opinion of the racing commission be detrimental to the interests of said agricultural associations or any of them.

Notwithstanding anything in this chapter to the contrary, the commission shall issue a license, where pari mutuel betting is permitted, to hold day or night harness races or meets for a period of 8 weeks and no more between June 15th and October 15th of each year, daily except Sundays. The commission shall grant such licenses for night harness racing to such applicants only, who shall have and maintain adequate pari mutuel facilities, which facilities shall include a totalizator or its equivalent where odds will change at least once every 2 minutes, adequate stable facilities for not less than 400 horses and shall have and maintain a track adequate in width to start 8 horses abreast. Said licensees shall also pay purses at least equal to minimum purses paid at any other New England harness racing track.

During the remaining time of the period, if any, between June 15th and October 15th, the commission may grant to a track or tracks a license to operate day or night harness racing for no more than 2 weeks in any 4-week period without necessarily meeting the specifications set forth in the preceding paragraph.

Notwithstanding anything in this chapter to the contrary, the commission shall issue a license where pari mutuel betting is permitted to Gorham Raceways to hold day or night harness races or meets in Gorham each year for a period of 4 weeks, and no more, beginning in June on the Monday of the last full week therein which has 7 calendar days; provided, however, that if no running racing is held at Scarborough Downs after Labor Day each year, Gorham Raceways may be per-

mitted to hold harness races or meets at Gorham. (R. S. c. 77, § 12. 1949, c. 388, §§ 4, 5. 1951, c. 105. 1953, c. 419; c. 423, §§ 2, 2-A.)

Commission directed to license racing at night.—Under this section, the members of the commission established to license harness horse racing where pari mutuel betting is permitted are expressly directed to license such racing at night. *Maine State Raceways v. LaFleur*, 147 Me. 367, 87 A. (2d) 674.

Sec. 12. Bond.—Every person, association or corporation licensed under the provisions of this chapter shall, before said license is issued, give bond to the state in such reasonable sum, not exceeding \$50,000, 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 by this chapter 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 the rules and regulations prescribed by the commission. (R. S. c. 77, § 13.)

Sec. 13. Penalty.—Any person, association or corporation holding or conducting, or any person or persons aiding or abetting in the holding or conducting of any harness horse race or meet for public exhibition within the state without a license duly issued by said commission, or any person, association or corporation who violates any of the 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. (R. S. c. 77, § 14.)

Sec. 14. Pari mutuel pools.—Within the enclosure and on the grounds 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 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% and the odd cents of all redistribution to be made on all mutuel contributions exceeding a sum equal to the next lowest multiple of 5. 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. (R. S. c. 77, § 15. 1949, c. 388, § 6. 1953, c. 423, § 3.)

Cross reference.—See note to c. 139, § 1.

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

controlling and inclusive. *Maine State Raceways v. LaFleur*, 147 Me. 367, 87 A. (2d) 674.

Cited in *Berger v. State*, 147 Me. 111, 83 A. (2d) 571.

Sec. 15. Tax.—Each person, association or corporation 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 of the state, a sum equal to 5½% of the total contributions to all pari mutuel pools conducted or made at any race or race meet licensed under the provisions of this chapter. (R. S. c. 77, § 16. 1945, c. 297, § 26. 1949, c. 388, § 7. 1953, c. 423, § 4.)

See c. 32, § 17, re state stipend to agricultural societies.

Sec. 16. Payment.—The payment under the preceding section shall be made not later than 7 days after each race 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. (R. S. c. 77, § 17.)

Sec. 17. Records.—Every person, association or corporation conducting a race or race meet under the provisions of 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. (R. S. c. 77, § 18. 1945, c. 361, § 2. 1947, c. 45.)

Sec. 18. Minors.—No minor whether attending a race or employed in any manner on or about a race track shall be permitted to participate in any pari mutuel pool or be admitted to any pari mutuel enclosure. (R. S. c. 77, § 19.)

Sec. 19. Supervision.—The commission shall have the power and authority to regulate, supervise and check the making of pari mutuel pools and the distribution therefrom. Said commission shall have the further power and authority to investigate as to the direct and indirect ownership and control of any licensee and any expense incurred by the commission in so doing shall be at the expense of such licensee or of the applicant for a license. (R. S. c. 77, § 20.)

Sec. 20. Use of drugs or appliances.—Any person who attempts to or does interfere with, tamper, injure, destroy, stimulate or depress 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 causes or instigates, counsels or in any way aids or abets such interference, tampering, injury or destruction or any person who shall influence or have any understanding, arrangement or connivance with any person associated with or interested in any stable, horse, track or race in which any horse participates to pre-arrange the results of any such race shall 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. The owner of any horse which is found to have been stimulated or doped shall be denied any part of the purse offered for such a race, and the purse shall be distributed as in case of a disqualification and all horses of such owner shall be barred from racing in this state for the balance of the racing season. (1945, c. 254.)

Sec. 21. Standard bred horses. — The commission shall also encourage and promote the breeding of a strain of Maine standard bred horses and make provision to encourage donations of the same by licensees or others to persons or institutions within the state for breeding purposes. (R. S. c. 77, § 21.)

Sec. 22. 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 said commission of any violations thereof. (R. S. c. 77, § 22.)