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Authorizing, Regulating and Providing for Licensing the Racing of Horses and Other Animals with Pari Mutuel Wagering

Colorado General Assembly

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CHAPTER 256

RACING

PARI MUTUEL WAGERING

(House Bill No. 439. By Representatives Baker, Magill, Kleckner, Cullig, Brown, Kennedy, Hill, Gast, Strain and Abe; Senators Bishop, Collins, Murphy, Gill, Gardner and Preston)

AN ACT

AUTHORIZING, REGULATING AND PROVIDING FOR LICENSING THE RACING OF HORSES AND OTHER ANIMALS WITH PARI MUTUEL WAGERING.

Be It Enacted by the General Assembly of the State of Colorado:

Section 1. *Definitions.* Unless the context otherwise requires, words and phrases as used herein shall mean: Definitions

“Commission” shall mean the Colorado Racing Commission, hereinafter created.

“Person” shall mean and include individuals, firms, corporations and associations.

“Race meet” shall mean and include any exhibition of horse and other animal racing where the pari mutuel system of wagering is used.

The singular shall include the plural, and the plural shall include the singular; any word importing one gender shall be regarded as including all other genders.

Section 2. There is hereby created the Colorado Racing Commission, to consist of three (3) commissioners, each of whom shall be a citizen and a resident and a qualified elector of the State of Colorado. On or before December thirty-first (31st), 1948, the Governor of the State of Colorado, hereafter designated the Governor, shall appoint the three (3) Commissioners, one to serve for a term of two (2) years to expire on the thirty-first (31st) day of December 1950, one to serve for a term of four (4) years to expire on the thirty-first (31st) day of December 1952, and one to serve for a term of six (6) years to expire on the thirty-first (31st) day of December 1954. Upon the expiration of the term of any member, the Governor shall

Colorado
Racing
Commission
Created—
Appointment—
Qualifications—
Terms

Vacancies	<p>appoint a successor for the full term of six (6) years. Each member shall hold office until his successor is appointed and qualified. Vacancies in the office of the commissioner shall be filled by appointment to be made by the Governor for the unexpired term. Any commissioner may be removed by the Governor for cause after a public hearing.</p>
Organization	<p>Section 3. The commission appointed hereunder shall, within thirty (30) days after the first appointment of the commissioners as hereinabove provided, and each January thereafter, organize, by electing one of its members chairman, and by electing one of its members secretary and shall appoint and employ an attorney, office and other help, employees and officials as the commission shall deem necessary in the performance of the duties imposed upon it by this Act. Each member of the commission shall receive an annual salary of Twelve Hundred Dollars (\$1,200.00) payable at the rate of One Hundred Dollars (\$100.00) per month. An additional amount, to be agreed upon by the commission, to be paid to the commission member selected to serve as secretary.</p>
Compensation	<p>The salaries, wages and compensation of the attorney, and other employees and officials employed and appointed by the commission shall be fixed by the commission, but the aggregate of all obligations created by the commission shall in no event exceed one-fifth (1/5) of the receipts by the commission under this law.</p>
Obligations Limited to 1/5 of Receipts	<p>The secretary of the commission shall furnish an official bond signed by a surety company authorized to do business within this State and approved by the Governor and the Attorney General, payable to the State of Colorado in the penal sum of Ten Thousand Dollars (\$10,000.00), conditioned upon the faithful performance of his duties and the correct accounting and payment of all sums received and coming within his control under this Act. All money payable to the commission shall be paid to the secretary and deposited in a bank selected by the commission and in an account to the credit of the commission, subject only to the check or checks signed by the chairman or secretary.</p>
Secretary—Bond	<p>The commission may maintain an office within the State and shall keep detailed records of all meetings and of all the business transacted and of all the collections and disbursements, reports of which shall be embodied in an annual report which the commission shall prepare and submit to the Governor on or before the 31st day of December of each year, which shall cover all the activities of the commission for said year.</p>
Records	<p>The commission may maintain an office within the State and shall keep detailed records of all meetings and of all the business transacted and of all the collections and disbursements, reports of which shall be embodied in an annual report which the commission shall prepare and submit to the Governor on or before the 31st day of December of each year, which shall cover all the activities of the commission for said year.</p>
Report to Governor	<p>The commission may maintain an office within the State and shall keep detailed records of all meetings and of all the business transacted and of all the collections and disbursements, reports of which shall be embodied in an annual report which the commission shall prepare and submit to the Governor on or before the 31st day of December of each year, which shall cover all the activities of the commission for said year.</p>

Section 4. It shall be the duty of the commission, as soon as possible after its organization, to prepare and promulgate a complete set of rules and regulations to cover the race meets in this State. It shall determine and announce the place, time and duration of race meets, for which license fees shall be exacted. It shall be the duty of each person holding a license issued under the authority of this Act, and of every owner or trainer of any horse or other animal entered or licensed to enter any racing contest licensed under this Act, to comply with all rules and regulations promulgated and all orders issued by the commission. It shall be unlawful for any person to hold any race meet with pari mutuel wagering without first having obtained and having in force and effect a license issued by the commission; and it shall be unlawful for any trainer, driver, jockey, apprentice jockey or trainer of any other animal, to participate in any race meet in this State without first securing a license therefor, the fee for which shall be Ten Dollars (\$10.00) for horse drivers, trainers, jockeys and animal trainers, and One Dollar (\$1.00) for apprentice jockeys for the entire racing season in any one (1) year. The laws of the State of Colorado and the rules of the commission shall be enforced by all licensees conducting races under license from said commission, and shall also be enforced by said commission, its officials and employees.

Make
Rules and
Regulations

Unlawful to
Hold Race
Meet Without
License

License Fees
for Drivers,
Jockeys,
Trainers, etc.

Section 5. The commission shall license, regulate and supervise all race meets held in this State with pari mutuel wagering at which horses or other animals participate, and shall cause the places where such race meets are held to be visited and inspected at least once a year by the commission by its officers or employees, and it shall require all such places to be constructed, maintained and operated in accordance with the laws of this State and the rules of said commission.

Commission
License,
Regulate and
Supervise
Race Meets

Section 6. Every person making application for a license to hold a race meet shall file the same with the commission on or before a day fixed by the commission and shall set forth in such application the time, the place and the number of days such meet shall continue, and such application shall contain such other information as the commission may require. No person who has been convicted of any crime involving moral turpitude, or who has been found guilty by the commission of violating any of the provisions of this Act or any rules and regulations of the commission, or who has failed to pay any of the sums required under this Act, shall be issued a license. The license issued hereunder shall specify the number of days the licensed race meet shall continue and the number of races per day.

Application

License Fees
for Conducting
Racing Meet

Section 7. *License Fees.* For the privilege of conducting racing under a license issued under this Act, the licensee shall pay to the commission, five per cent (5%) of the gross receipts of the pari mutuel wagering at any such race meet. For the purpose of encouraging the breeding, within the State, of valuable thoroughbred race horses, at least one race of each day's meet shall consist exclusively of Colorado bred horses, providing Colorado bred horses are available.

Requirements
for Eligibility
to Operate
Race Meet

Section 8. No person shall be eligible to operate a race meet under a license issued under the provisions of this Act unless such person is the owner or controls the possession of a properly constructed race track suitable for the conduct of racing and improved with safe and suitable grandstands, equipped with reasonably sanitary accommodations and also such accommodations as the commission may require for the care and control of the animals racing at such meet, and also such other proper improvements as, in the opinion of the commission, may be required for the protection of the public and others likely to be present at such race meet. In consideration of the location of such track and other structures and erections and the probable capacity requirements to accommodate the crowd and the number of people who will be reasonably expected to occupy such grandstands and attend such race meets, a license shall not be issued for the racing of horses within forty (40) miles of any other racing operation licensed under this law for the racing of horses.

A license shall not be issued for the racing of animals other than horses within forty (40) miles of any other racing operation licensed under this law for the racing of animals other than horses. This provision shall not apply to races conducted by any state, county or other fair association holding not more than one meeting annually, and for a period not exceeding six (6) days.

Renewal
of License

In the event any person is granted a license to hold a race meet, such license shall be renewed upon application of the licensee yearly for the same date allotted to such licensee during the preceding year, and/or for such other dates as such licensee shall request, but not less than the total number of days allotted during preceding year; provided, however, such license has not violated any of the provisions of this Act.

Revocation—
Hearing—
Notice

Any unexpired license held by any person who has been convicted by the commission for violating any of the provisions of this Act or who fails to pay to the commission any and all sums required under the provisions of this Act, shall be subject to cancellation or revocation by

the commission. Such cancellation shall be made only after a summary hearing before the commission, of which three (3) days' notice in writing shall be given the licensee, specifying the grounds for the proposed cancellation, and at which hearing the licensee shall be given an opportunity to be heard in person and by counsel in opposition to the proposed cancellation. No license shall be granted or continued to any licensee for any race meet licensed hereunder who has made default in any payment of any premium or prizes on any race meets held under this Act, or who has failed to meet any monetary obligations in connection with any race meet held in this State.

Section 9. Each licensee licensed hereunder shall withhold from the pari mutuel wagers made, and pay to the commission, said five per cent (5%) of the gross receipts of all pari mutuel wagers at each such race meet, which sum shall be paid daily to the commission. All sums paid to the commission, including all sums collected for license fees under the provisions of this Act, shall be disposed of by the commission as follows:

5% of Mutuel
Wagers Paid to
Commission

One-fifth (1/5) thereof shall be paid to and retained by the commission for the payment of the salaries of its members and of its secretary and the salaries and other compensation of all other clerical, office and other help employed by the commission, together with all expenses in connection with the carrying out of the provisions of this Act, except that no payment need be made for office accommodations furnished by the State; provided, however, that no salary, wages, expenses, or compensation of any kind shall be paid by the State of Colorado from any other funds for or in connection with the work of the commission in carrying out the provisions of this Act. At the end of each calendar year the unexpended balance of the funds in the hands of said commission shall be paid to the State Treasurer.

Apportionment
of Funds

The remaining four-fifths (4/5) of all sums collected by the commission shall, on the next business day following the receipt thereof, be paid to the State Treasurer and by him placed in the General Fund of the State of Colorado.

Section 10. It shall be unlawful to conduct any racing meet at which wagering is permitted except under the provisions of this law. The duration of any horse race meet licensed hereunder shall not exceed twenty (20) days, excluding Sundays. Subject to the provisions of this Act, the number and kind of race meets to be held in any one county in any one year shall be determined by the commission, provided that not more than two licensed horse race meets shall be held on any one track in any one year.

Unlawful
Acts

Duration
of Meets

Not more than two race meets for animals other than horses shall be licensed in any county in any one year, and no such race meet for animals other than horses by any licensee shall be held for a duration longer than thirty (30) days. No licensed race meet conducted under the provisions of this law shall be conducted on any Sunday.

Unlawful to
Bet or Wager
Except by
Pari Mutuel
Method

Section 11. It shall be unlawful to conduct pool selling, bookmaking or to circulate handbooks or to bet or wager on any race meet licensed under the provisions of this Act, other than by the pari mutuel method, or for any licensee to take more than fifteen per cent (15%) of the gross receipts of any pari mutuel wagering conducted hereunder; it shall be unlawful for any licensee to compute breaks in the pari mutuel system otherwise than at ten cents (10c). If, during any race meet conducted under this law, there shall be underpayments of the amount actually due to the wagerers, the amount of the excess of such underpayments over and above overpayments to wagerers shall, at the expiration of thirty (30) days from the end of said meet, revert and belong to the State of Colorado and be paid to the commission and become a part of its fund, and shall not be retained by the licensee under whose license such race meet was held.

Excess of
Underpayments
Above
Overpayments
Revert to
Fund1% of Winnings
Withheld for
Income Tax
Purposes

To secure collection of the income tax due to the State of Colorado on the winnings received by any participant in pari mutuel wagering, there shall be deducted by the operator of any race meet as defined in this Act an amount equal to one per cent (1%) of each winning wager, and the total amount so withheld shall be remitted by the operator of said race meet to the Department of Revenue within ten (10) days after the conclusion of said meet.

Licensee May
Collect Tax
Levied by
Federal
Government

In the event any government or governmental agency imposes a levy on said licensee by a tax on the money so wagered and upon and against its receipts, the said licensee may collect, in addition to the percentage and breaks herein allowed, the amount of the tax so levied. The tax and breaks and license fee herein provided for shall be in lieu of all other licenses and privilege taxes or charges by the State of Colorado or any county, city, town or other municipality or taxing body for the privilege of conducting any race meet provided for herein and licensed by authority hereof.

Cancellation
of License and
Forfeiture of
Rights for
Violation
of Law

Section 12. In case of a violation of this law by a person holding a license hereunder, the commission, upon conviction of the offender, may cancel his license, and such cancellation shall operate as a forfeiture of all rights and privileges granted by the commission and of all sums of money paid to the commission by the offender, and the

action of the commission in this respect shall be final. The commission shall have the power to exclude from any and all race courses licensed hereunder any person whom the commission shall deem detrimental to the best interests of racing, and the commission may also exclude any person from such race meets who shall wilfully violate any of the provisions of this Act or of any rule or regulation issued by the commission, or who shall violate any law of the United States or the State of Colorado.

Every race meet held in this State contrary to the provisions of this Act hereby is declared to be a public nuisance and may be summarily abated.

Section 13. For the protection of the public and all members thereof, the exhibitors, contestants and visitors, every person licensed to conduct a race meet under the provisions of this Act shall carry public liability insurance in a form of contract and with a company to be approved by the commission.

Licensee to
Carry Public
Liability
Insurance

Every licensee licensed to conduct a race meet under the provisions of this Act shall provide and deliver to the commission a bond signed by a surety company authorized to do business in this State, in such form as shall be required by the commission, in a sum of not less than Five Thousand Dollars (\$5,000.00), and such further amount as may be required by the commission, conditioned that said licensee will pay to the State of Colorado all moneys due it under the provisions of this Act, and will pay and discharge all obligations to the employees, exhibitors, contestants and persons furnishing labor and material in connection with any race meet licensed hereunder or in connection with the construction, maintenance, repair or operation of the race track, buildings and grounds thereon or connected therewith, and generally that such licensee will conduct said race meet strictly in accordance with the provisions of this Act and the rules and regulations of the commission, and will not violate any other law of this State while operating under such license.

Bond of
Licensee—
Amount—
Conditions

It shall be the duty of the Attorney General of this State or the prosecuting attorney of the county wherein such race meet is held to prosecute all actions on such bonds on behalf of this State; any person having any claim against any such licensee for any reason whatever, save and except a cause of action covered by public liability insurance, may prosecute the same in an action in his own behalf brought in the name of the State of Colorado for his use and benefit and the expense of such claimant; and any claimant recovering in any such action, suit for proceeding on any such bond shall be entitled to recover such sum as

the court may adjudge reasonable for attorney's fees therein for bringing or prosecuting such action, suit or proceeding.

Violation
of Act—
Penalty

Section 14. Any person who shall violate any of the provisions of this Act, upon conviction thereof shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished accordingly.

Repealing
Clause

Section 15. All Acts and parts of Acts in conflict herewith are expressly repealed.

Severability
Clause

Section 16. If any provision of this Act or the application thereof to any person or circumstance be held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable, the General Assembly expressly declaring that it would have passed this Act, and every section, sub-section, sentence, clause and phrase thereof irrespective of the fact that any one or more of the other sections, sub-sections, sentences, clauses or phrases thereof may be declared unconstitutional.

Submission
Clause

Section 17. This Act shall be submitted to a vote of the qualified electors of the State of Colorado at the next biennial regular general election, for their approval or rejection, under the provisions of the referendum as provided for in Section 1 of Article V of the Constitution of the State of Colorado, and in Chapter 86, 1935 Colorado Statutes Annotated, as amended. Each elector voting at said election and desirous of voting for or against said Act, shall deposit in the ballot box a ballot whereon shall be printed the words "For the authorization, regulation and licensing of the racing of horses and other animals with pari mutuel wagering," and the words "Against the authorization, regulation and licensing of the racing of horses and other animals with pari mutuel wagering," and shall indicate his choice by putting a cross (X) opposite one or the other of said groups of words. The vote cast for the adoption or rejection of said Act shall be canvassed and the result determined in the manner provided by the laws of the State of Colorado in the canvassing of votes for Representatives in Congress.

Ballot
Title

Canvass
of Vote

STATE OF COLORADO
EXECUTIVE CHAMBERS
DENVER

EXECUTIVE ORDER
TRANSMITTAL

Honorable Walter F. Morrison,
Secretary of State of Colorado,
Denver, Colorado.

Dear Sir:—

I hereby transmit to you for filing House Bill No. 439 being a bill for an Act entitled:

“AN ACT AUTHORIZING, REGULATING AND PROVIDING FOR LICENSING THE RACING OF HORSES AND OTHER ANIMALS WITH PARI MUTUEL WAGERING.”

I am transmitting this bill without affirmative or negative executive action, for the reason that this measure by its terms is to be referred to the vote of the people as provided by Section 1 of Article V of the Constitution, and as a referred measure under the terms of the constitutional provision above mentioned, properly may be neither vetoed nor approved by me.

For the foregoing reason I hereby transmit this bill without signature.

GIVEN under my hand and the Executive Seal this 18th day of May, A. D. 1947.

Signed, LEE KNOUS,
Governor.