

CHAPTER 224

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 93-1034

BY REPRESENTATIVES Owen, Chlouber, Lyle, Martin, Shoemaker, and Taylor;
also SENATOR Wattenberg.

AN ACT

**CONCERNING THE REGULATION OF RACING, AND, IN CONNECTION THEREWITH, CONTINUING THE
DIVISION OF RACING EVENTS AND THE COLORADO RACING COMMISSION.**

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

SECTION 1. 12-60-101 (4.8), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-60-101. Definitions. As used in this article, unless the context otherwise requires:

(4.8) "Licensee" means any person holding a current, valid race meet license issued pursuant to section 12-60-106 AND ANY PERSON HOLDING A CURRENT, VALID LICENSE OR REGISTRATION ISSUED BY THE COMMISSION PURSUANT TO SECTION 12-60-105. THE COMMISSION, BY RULE, SHALL DETERMINE WHICH OCCUPATIONAL CATEGORIES SHALL BE LICENSED AND WHICH SHALL BE REGISTERED.

SECTION 2. 12-60-103, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-60-103. Organization and officers - duties. (6) THE COMMISSION SHALL HAVE THE POWER TO ISSUE SUBPOENAS FOR THE APPEARANCE OF PERSONS AND THE PRODUCTION OF DOCUMENTS AND OTHER THINGS IN CONNECTION WITH APPLICATIONS BEFORE THE COMMISSION OR IN THE CONDUCT OF INVESTIGATIONS.

SECTION 3. 12-60-104 (2), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

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

12-60-104. Commission to regulate race meets and in-state simulcast facilities. (2) In particular, the commission shall, at its own expense, regulate the operations of pari-mutuel machines and equipment, the operations of all money rooms, accounting rooms, and sellers' and cashiers' windows, and the weighing of jockeys and of greyhounds, and shall take or cause to be taken saliva, urine, blood, or other body fluid samples or biopsy or necropsy specimens from horses and greyhounds selected by the commission or its employees on a random, statistically valid basis at race meets provided for under this article OR WHEN CONCERNS ARE RAISED AS TO A PARTICULAR ANIMAL, INCLUDING BUT NOT LIMITED TO THE WINNER OF A RACE, and shall test and determine such samples or specimens or cause such samples or specimens to be tested and determined. For such purposes, the commission, at its expense and in addition to other employees, shall employ or contract with competent veterinary doctors, accountants, chemists, and other persons necessary to supervise the conduct of race meets and to ascertain that this article and the rules and regulations of the commission are strictly complied with.

SECTION 4. 12-60-105 (2) (b), Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

12-60-105. Rules and regulations of the commission - licensing. (2) (b) ~~Notwithstanding any provision of this section to the contrary, in order to encourage the reopening, as tracks, of facilities that previously were licensed to hold race meets but which currently are not so licensed, a person who owns or controls the possession of a facility which previously has been licensed to hold a race meet may operate such facility as an in-state simulcast facility if such person makes application for a race meet license pursuant to section 12-60-106, provides the commission with notice of intention to reopen and conduct race meets at the facility, and provides evidence reasonably satisfactory to the commission that such person, at the time of application, has the financial ability and management expertise required to reopen and operate such facility as a track and if all other requirements for operating an in-state simulcast facility, except the requirement that the person be licensed within the year to hold a race meet, are met, except that authorization to operate as an in-state simulcast facility under this paragraph (b) shall continue for only twelve months after the date on which written notice of such authorization is issued by the commission, and the authorization shall not be renewed. Such authorization may be granted by the commission only until and including July 31, 1992. If a person has been granted authorization pursuant to this paragraph (b) and is otherwise qualified to obtain a license, the commission may assign race dates to such person upon such person's application to the commission for race dates; however, the granting of a license to such person shall be conditional upon such person having a facility which, on or before its first race date, qualifies as a properly constructed racetrack pursuant to section 12-60-108 (1) (a).~~

SECTION 5. 12-60-105.5, Colorado Revised Statutes, 1991 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-60-105.5. Hearings - board of stewards or judges - review. (7) THE COMMISSION MAY DIRECT THAT ANY HEARING BE CONDUCTED BEFORE AN ADMINISTRATIVE LAW JUDGE IN ACCORDANCE WITH ARTICLE 30 OF TITLE 24, C.R.S.

SECTION 6. The introductory portion to 12-60-105.6 (1) and 12-60-105.6 (1)

(c), (1) (m), and (2), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-60-105.6 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-60-105.6. Investigation - letters of admonition - denial, suspension, and revocation actions against licensees. (1) The commission or the board of stewards or judges of a race meet upon its own motion may, and upon ~~verified~~ complaint in writing of any person shall, investigate the activities of any licensee within the state or any person upon the premises of a track, and the commission or board of stewards or judges may ISSUE A LETTER OF ADMONITION TO A LICENSEE, fine a licensee, suspend a license, or deny an application for a license, and the commission may revoke a license, if such person has committed any of the following violations:

(c) ~~Conviction of a felony under the laws of this or any other state or of the United States, subject to the provisions of section 24-5-101, C.R.S.~~ BEEN CONVICTED OF, OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO, A CRIMINAL CHARGE UNDER THE LAWS OF THIS OR ANY OTHER STATE OR OF THE UNITED STATES, OR ENTERED INTO A PLEA BARGAIN FOR ACTS OR OMISSIONS THAT, IF COMMITTED IN COLORADO, WOULD HAVE BEEN GROUNDS FOR DISCIPLINE IN THIS STATE. A certified copy of the judgment of the court in which ANY such conviction occurred shall be presumptive evidence of such conviction in any hearing under this article. THIS PARAGRAPH SHALL BE APPLIED IN ACCORDANCE WITH SECTION 24-5-101, C.R.S.

(m) Being currently under suspension or revocation of a racing license in another racing jurisdiction, OR HAVING BEEN SUBJECT TO DISCIPLINARY ACTION BY THE RACING COMMISSION OR EQUIVALENT AGENCY OF ANOTHER JURISDICTION FOR ACTS OR OMISSIONS THAT, IF COMMITTED IN COLORADO, WOULD HAVE BEEN GROUNDS FOR DISCIPLINE IN THIS STATE; EXCEPT THAT THIS PARAGRAPH SHALL NOT FURNISH THE BASIS FOR THE IMPOSITION OF FINES;

(2) Any person who fails to pay ~~in a timely manner~~ WITHIN THE TIME PERIOD ESTABLISHED BY RULE a fine imposed pursuant to this article shall pay, in addition to the fine due, a penalty amount equal to the fine. Any person who submits to the commission a check in payment of a fine or license fee requirement imposed pursuant to this article, which check is not honored by the financial institution upon which it is drawn, shall pay, in addition to the fine or fee due, a penalty amount equal to the fine or fee. All moneys received pursuant to a penalty amount imposed by this subsection (2) shall be credited to the general fund of the state.

(3) ANY PERSON AGGRIEVED BY A FINAL ACTION OR ORDER OF THE COMMISSION MAY APPEAL SUCH ACTION TO THE COLORADO COURT OF APPEALS.

SECTION 7. 12-60-106 (3), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-60-106. Meet licenses. (3) Except as otherwise limited by the provisions of this article, in considering an application for a license under this section, the commission may give consideration to the number of licenses already granted, and to the location of tracks previously licensed, and to the sentiments and character of the community in which the proposed race meets are to be conducted, and to the ability, character, and experience of each individual applicant or the officers and

directors of each corporate applicant. The commission may require of every applicant for a license to hold a race meet, except a public nonprofit association, nonprofit corporation, or nonprofit fair, including the Colorado state fair and all county fairs, who has not, within five years prior to making an application for a license to hold a race meet, operated a race meet in the county, city, or city and county in which it is proposed to hold such race meet, a recommendation in writing of the board of county commissioners of said county in the event the race meet is to be held in unincorporated areas of said county or of the governing board of a city or city and county if the proposed race meet is to be held within a city or city and county. ~~Beginning July 1, 1977,~~ The commission may deny a license to operate a new racetrack to a person who is already licensed to operate a racetrack within this or any other state if, in the opinion of the commission, the granting of such license would discourage legitimate competition from other qualified applicants.

SECTION 8. 12-60-106.5 (5) (b) (I), (5) (b) (II), and (7), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-60-106.5. Simulcast facilities and simulcast races - unlawful acts - permissible acts. (5) (b) (I) (A) ~~On or after July 1, 1991,~~ and AN in-state simulcast facility which is located on the premises of a horse track which runs a horse race meet of at least fifty live race days or at least sixty live race days if such horse race meet is held during any portion of the track's third or subsequent year of operation may receive, each year, three days of simulcast horse races from an out-of-state host track for each day of live horse racing conducted at such horse track during such year.

(B) ~~On or after July 1, 1991,~~ A facility which is reopening as a track pursuant to section 12-60-105 (2) (b) may receive three days of simulcast horse races from an out-of-state host track for each day of live horse racing for which the commission has granted it a race date for the subsequent year. A day of simulcast horse races, for the purposes of this paragraph (b), shall not include a day on which live horse races are conducted at the horse track at which the simulcast facility is located or a day on which the simulcast facility receives only simulcast races of horses from a race meet conducted at an in-state host track.

(II) ~~On or after October 1, 1991,~~ An in-state simulcast facility which is not located on the premises of a horse track which runs a horse race meet of at least fifty live race days, or at least sixty live race days if such horse race meet is held during any portion of the track's third or subsequent year of operation, may only receive a broadcast signal of a simulcast horse race conducted at an out-of-state host track through an in-state simulcast facility which is located on the premises of a horse track which runs a horse race meet of at least fifty live race days, or at least sixty live race days if such horse race meet is held during any portion of the track's third or subsequent year of operation, or through a facility which is reopening as a track pursuant to section 12-60-105 (2) (b), and which has qualified to receive broadcasts of such simulcast horse race pursuant to the provisions of subparagraph (I) of this paragraph (b).

(7) Notwithstanding any other provision of this article, ~~no simulcast race of horses may be received by any simulcast facility in the state of Colorado during calendar year 1993 unless at least one race meet of horses has been conducted within the state during calendar year 1992;~~ and no simulcast race of horses may be received by any

simulcast facility in the state of Colorado during calendar year 1994 unless at least one race meet of horses has been conducted within the state during calendar year 1993.

SECTION 9. 12-60-107 (2), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-60-107. Duration of meets - acts - unlawful - lawful. (2) For the operation of greyhound tracks, the state shall be divided into one north and one south circuit, which consist, respectively, of the areas north and south of a latitudinal line drawn through the location of the Douglas County courthouse in the town of Castle Rock as of June 6, 1991. The commission shall license greyhound tracks which are located in the north circuit for race meets of a duration of up to one hundred twenty consecutive days, unless the license applicant, in its application, requests nonconsecutive days or a shorter period. The commission shall license greyhound tracks which are located in the south circuit for race meets of a duration of up to one hundred eighty consecutive days, unless the license applicant, in its application, requests nonconsecutive days or a shorter period. ~~Beginning January 1, 1992,~~ Each greyhound track shall be licensed by the commission to conduct only one race meet in any twelve-month period. Upon approval by the commission, a licensed greyhound track shall be permitted to contract with another licensed greyhound track within the same circuit to conduct part or all of the race meet days granted it at such other greyhound track; except that, unless the transferring greyhound track operates a race meet, without any transfer of race days, at its home greyhound track during the twelve-month period immediately following the last race meet day so transferred, such transferred race dates in such following twelve-month period shall be assigned by the commission to the transferee greyhound track, in addition to the race meet dates of the transferee greyhound track which are otherwise authorized pursuant to this subsection (2), upon application by the transferee greyhound track for such race dates if the transferee greyhound track otherwise meets all requirements for conducting a greyhound race meet. The commission shall schedule race meets of greyhounds so that there is a race meet, but not more than one race meet, being conducted at a greyhound track in both the north and the south circuits at all times; except that race meets of greyhounds may be scheduled to run concurrently in the same circuit if the greyhound tracks running the concurrent meets are not closer to each other than one hundred miles.

SECTION 10. 12-60-111 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-60-111. Unlawful to wager, exception - excess - taxes. (1) It is unlawful to conduct pool selling or bookmaking, or to circulate handbooks, or to bet or wager on any race meet licensed under the provisions of this article other than by pari-mutuel method. It is unlawful for any licensee for the racing of greyhounds or any operator of an in-state simulcast facility which receives simulcast races of greyhounds to take more than eighteen percent, and on and after July 1, 1994, seventeen and one-half percent, of the gross receipts of any pari-mutuel wagering on such races or simulcast races or for a licensee for the racing of horses or an operator of an in-state simulcast facility which receives simulcast races of horses to take more than eighteen and one-half percent of the gross receipts on win, place, and show wagering on such races or simulcast races or more than twenty-five percent of the gross receipts from all

other pari-mutuel wagering on such races or simulcast races. Each licensee for the racing of horses shall pay as purses for the races in any horse race meet conducted at its in-state host track fifty percent of the gross receipts from all pari-mutuel wagering on such races, after deduction of the amounts specified in sections 12-60-109 (2) (a) and (2) (b) and 12-60-119 (2) (a). For each horse race meet it conducts, a licensee shall file with its license application with the commission an agreement between such licensee and the organization which represents the majority of the horsemen participating at such race meet. Such agreement shall specify the purse structure which shall apply to the races conducted at such horse race meet, including minimum purses per race AND ANY CONDITIONS RELATING TO OVERPAYMENTS OR UNDERPAYMENTS. Each licensee for the racing of greyhounds shall pay on a weekly basis as purses for the races in any greyhound race meet conducted at its in-state host track four percent of the gross receipts from all pari-mutuel wagering on such races. Each operator of an in-state simulcast facility which receives simulcast races of horses or greyhounds shall pay to one or more purse funds, where applicable, and to such in-state or out-of-state tracks and simulcast facilities, as described in the simulcast agreement filed with the commission, such percentages of the gross pari-mutuel wagering on such simulcast races, after deduction of the applicable amounts specified in subsection (2) (b) of this section, in section 12-60-109 (1) (a), (2) (a), (2) (b), and (2) (c), and in section 12-60-119 (2) (a), as shall be specified in such simulcast agreement. Horse purse funds and greyhound purse funds payable by a licensee or an operator pursuant to this section shall be retained by such licensee or operator in a trust account in a commercial bank located in Colorado until such date as the purse funds are paid to the horse or greyhound owners or to the host track for payment to the horse or greyhound owners; except that the amount in any such trust account shall not exceed the maximum amount of such accounts which is insured in full by the federal deposit insurance corporation; AND, SUBJECT TO PRIOR APPROVAL BY THE COMMISSION, THE OPERATOR OF A HORSE TRACK MAY WITHDRAW MONEYS FROM SUCH TRUST ACCOUNT TO MAKE UP FOR SHORTFALLS IN THE AMOUNTS OF REVENUE DERIVED FROM OTHER SOURCES WHICH WERE REASONABLY ANTICIPATED TO COVER PAYMENTS MADE ON PURSES DURING A LICENSED RACE MEET HELD AT SUCH TRACK IN THE CURRENT YEAR OR A PRIOR YEAR. It is unlawful for any licensee to compute breaks in the pari-mutuel system ~~other than at ten cents~~ IN EXCESS OF TEN CENTS. If, during any race meet conducted under this law, there are underpayments of the amount actually due to the wagerers, the amount of the excess of such underpayments over and above overpayments to wagerers, at the expiration of thirty days from the end of said meet, shall revert and belong to the state of Colorado and be paid to the commission and become a part of its funds, and it shall not be retained by the licensee under whose license such race meet was held. Fifty percent of the breakage at any horse race meet shall be retained by the licensee under whose license such horse race meet was held and the remainder shall be paid as purses for the races conducted at such race meet. The breakage at any greyhound race meet shall be retained by the licensee under whose license such greyhound race meet was held. The breakage on any simulcast race of horses or greyhounds received by an in-state simulcast facility shall be retained by the operator of such in-state simulcast facility; except that, in the case of simulcast races of horses received from an in-state host track, fifty percent of the breakage shall be paid to the licensee of such in-state host track within sixty days after the end of the race meet from which such simulcast race was broadcast and the remainder shall be paid as purses for the races conducted at such in-state host track. The proceeds derived from all unclaimed pari-mutuel tickets for each greyhound race

meet shall be retained by the licensee under whose license such greyhound race meet was held and, after a period of one year following the end of such race meet, shall revert and belong to such licensee and shall be used by the licensee for capital improvements to the track at which the race meet was held. The proceeds derived from all unclaimed pari-mutuel tickets for each simulcast race of greyhounds received by an in-state simulcast facility shall be retained by the operator of such simulcast facility and, after a period of one year following such simulcast race, shall revert and belong to such operator; except that, in the case of simulcast races received from an in-state host track, such proceeds shall be paid to the licensee of such in-state host track within sixty days after the end of the race meet from which the simulcast race was broadcast and, after a period of one year following the end of such race meet, shall revert and belong to such licensee and shall be used by the licensee for capital improvements to the track at which the race meet was held.

SECTION 11. 12-60-112 (2.5) (a), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-60-112. Liability insurance - bond for horse races. (2.5) (a) Notwithstanding the provisions of subsection (2) of this section, every person licensed to conduct a race meet other than a horse race meet who has been licensed in this state for five consecutive years and who, during this period, has not had any actions on the bond or other evidence DEMONSTRATING A LACK of financial responsibility required in subsection (2) of this section ~~shall be exempt~~ MAY BE EXEMPTED from the requirement to file such bond or other evidence of financial responsibility.

SECTION 12. 12-60-115, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-60-115. Penalty. Any person who ~~violates any of the provisions of this article~~ COMMITS ANY OF THE ACTS ENUMERATED IN SECTION 12-60-105.6 (1) OTHER THAN THOSE WHICH ALSO CONSTITUTE CRIMES UNDER THE "COLORADO CRIMINAL CODE", TITLE 18, C.R.S., ~~upon conviction thereof, is guilty of~~ COMMITS a CLASS 2 misdemeanor and shall be punished as provided in section ~~18-1-109~~ 18-1-106, C.R.S.

SECTION 13. 12-60-121, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-60-121. Repeal of article. This article is repealed, effective July 1, ~~1993~~ 1999. Prior to such repeal, the ~~committee~~ DIVISION and its ~~licensing~~ functions shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 14. 13-4-102 (2), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13-4-102. Jurisdiction. (2) The court of appeals shall have initial jurisdiction to:

(ee) REVIEW FINAL ACTIONS AND ORDERS APPROPRIATE FOR JUDICIAL REVIEW OF THE COLORADO RACING COMMISSION, AS PROVIDED IN SECTION 12-60-105.6 (3), C.R.S.

SECTION 15. 24-1-117 (4), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-1-117. Department of revenue - creation. (4) (a) The department of revenue shall consist of the following divisions:

(I) Division of enforcement;

(II) Motor vehicle division;

(III) Ports of entry division;

(IV) Liquor enforcement division;

(V) State lottery division;

(VI) DIVISION OF RACING EVENTS, INCLUDING THE COLORADO RACING COMMISSION;

(VII) Division of gaming, including the Colorado limited gaming control commission; and

(VIII) Such other divisions, sections, and units as the executive director of the department of revenue may create pursuant to section 24-35-103.

(b) The lottery division shall be headquartered in the city of Pueblo in facilities provided at lottery division expense at a location to be determined by the department of revenue. After 1992, the general assembly will review whether such headquarters should remain in the city of Pueblo in facilities provided at lottery division expense at a location to be determined by the department of revenue.

SECTION 16. 24-1-122 (2) (f), Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

24-1-122. Department of regulatory agencies - creation. (2) The department of regulatory agencies shall consist of the following divisions:

~~(f) Division of racing events, the head of which shall be the director of the division of racing events. The Colorado racing commission, the division of racing events, and the office of the director of the division of racing events, created by article 60 of title 12, C.R.S., and their powers, duties, and functions are transferred by a **type 1** transfer to the department of regulatory agencies as the division of racing events.~~

SECTION 17. 24-34-104 (22) (a) (II), Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (22) (a) The following divisions in the department of regulatory agencies shall terminate on July 1, 1993:

~~(II) The division of racing events, including the Colorado racing commission;~~

~~created by article 60 of title 12, C.R.S.;~~

SECTION 18. 24-34-104 (28), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (28) (c) THE FOLLOWING DIVISION IN THE DEPARTMENT OF REVENUE SHALL TERMINATE ON JULY 1, 1999: THE DIVISION OF RACING EVENTS, INCLUDING THE COLORADO RACING COMMISSION, CREATED BY ARTICLE 60 OF TITLE 12, C.R.S.

SECTION 19. Effective date. This act shall take effect July 1, 1993.

SECTION 20. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 2, 1993