

HOUSE BILL No. 4233

February 8, 2005, Introduced by Rep. Hood and referred to the Committee on Judiciary.

A bill to amend 1995 PA 279, entitled
"Horse racing law of 1995,"
by amending section 16 (MCL 431.316).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16. (1) Each person participating in or having to do with
2 pari-mutuel horse racing or pari-mutuel wagering on the results of
3 horse races at a licensed race meeting, including, but not limited
4 to, all racing officials, veterinarians, pari-mutuel clerks or
5 tellers, totalisator company employees, security guards, timers,
6 horse owners, jockeys, drivers, apprentices, exercise riders,
7 authorized agents, trainers, grooms, valets, owners of stables
8 operating under an assumed name, jockey agents, pony riders, hot
9 walkers, blacksmiths, starting gate employees, owners and operators

1 of off-track training centers, farms or stables where racehorses
2 are kept, and vendors operating within the barn area of a licensed
3 racetrack or off-track training center, farm, or stable where
4 racehorses are kept may be licensed by the racing commissioner
5 pursuant to rules promulgated by the racing commissioner under this
6 act. The racing commissioner shall not issue an occupational
7 license to a person who, within the 6 years immediately preceding
8 the date of the person's application for the occupational license,
9 was convicted of a felony involving theft, dishonesty,
10 misrepresentation, fraud, corruption, drug possession, delivery, or
11 use, or other criminal misconduct that is related to the person's
12 ability **TO** and **THE** likelihood ~~to~~ **THAT THE PERSON WILL** perform the
13 functions and duties of the racing related occupation for which the
14 person seeks to be licensed and participate in pari-mutuel horse
15 racing in that licensed occupation in a fair, honest, open, and
16 lawful manner. The racing commissioner shall not issue a pari-
17 mutuel occupational license to a person who, within 2 years
18 immediately preceding the date of the person's application for the
19 occupational license, was convicted of a misdemeanor involving
20 theft, dishonesty, misrepresentation, fraud, corruption, drug
21 possession, delivery, or use, or other criminal misconduct that is
22 related to the person's ability **TO** and **THE** likelihood ~~to~~ **THAT THE**
23 **PERSON WILL** perform the functions and duties of the racing related
24 occupation for which the person seeks to be licensed and
25 participate in pari-mutuel horse racing in that licensed occupation
26 in a fair, honest, open, and lawful manner.

27 (2) A veterinarian is not required to be licensed under this

1 act to provide necessary and appropriate emergency veterinary care
2 or treatment to any horse that is intended to be entered, is
3 entered, or participates in a race with wagering by pari-mutuel
4 methods or a nonbetting race or workout conducted at a licensed
5 race meeting in this state. For purposes of this section,
6 "emergency veterinary care or treatment" means care or treatment
7 necessary and appropriate to save the life of a horse or prevent
8 permanent physical injury or damage to a horse in a situation
9 requiring immediate veterinary action. Only veterinarians licensed
10 under this act may provide nonemergency veterinary care or
11 treatment to a horse in this state that is intended to be entered,
12 is entered, or participates in races at licensed race meetings in
13 this state. Only persons licensed under this act or otherwise
14 authorized by the racing commissioner may enter the restricted
15 grounds of a licensed race meeting where horses are kept that are
16 eligible to race at the race meeting. For the purposes of this
17 section and sections 30 and 31, a horse that is intended to be
18 entered is a horse that has its name put into the draw for a
19 specific race, and a horse that is entered in a race is a horse
20 that has been drawn into a specific race.

21 (3) As conditions precedent to being issued and holding a
22 valid pari-mutuel occupational license, a license applicant shall
23 disclose, in writing, any ownership interest that the applicant has
24 in a racehorse ~~in addition to~~ **AND PROVIDE ANY** other information
25 the racing commissioner considers necessary and proper ~~including~~
26 ~~fingerprints of occupational license applicants~~ and proof of
27 compliance with the worker's disability compensation act of 1969,

~~Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws 1969 PA 317, MCL 418.101 TO 418.941,~~ except that **THE** proof of compliance requirement does not apply to horse owners and trainers not covered under section 115 of ~~Act No. 317 of the Public Acts of 1969, being section 418.115 of the Michigan Compiled Laws~~ **THE WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969 PA 317, MCL 418.115.**

(4) In addition to the requirements of subsection (3), an applicant for a pari-mutuel occupational license shall consent, upon application and for the duration of the occupational license, if issued, to all of the following:

(a) Personal inspections, inspections of the applicant's personal property, and inspections of premises and property related to his or her participation in a race meeting by persons authorized by the racing commissioner.

(b) If the applicant is applying for a racing official, jockey, driver, trainer, or groom license, or for any other license for an occupation that involves contact with or access to the racehorses or the barn areas or stables where racehorses are kept, ~~then the applicant shall agree as a condition of licensure to submit for the duration of the license period to~~ a breathalyzer test, urine test, or other noninvasive fluid test to detect the presence of alcohol or a controlled substance, ~~as defined in section 7104 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7104 of the Michigan Compiled Laws,~~ if directed to do so by the racing commissioner or his or her representative. If the results of a test show that an occupational

1 licensee has more than .05% of alcohol in his or her blood, or has
2 present in his or her body a controlled substance, the person shall
3 not be permitted to continue in his or her duties or participate in
4 horse racing until he or she can produce, at his or her own
5 expense, a negative test result. The licensee may be penalized by
6 the racing commissioner for his or her positive test results, which
7 may include any disciplinary action authorized by this act or rules
8 promulgated under this act. This subsection does not apply to a
9 controlled substance obtained directly from, or pursuant to a valid
10 prescription from, a licensed health care provider, except that the
11 racing commissioner may consider the person's medical need for
12 prescribed controlled substances in determining the person's
13 fitness to be licensed to participate in pari-mutuel horse racing.
14 The racing commissioner shall suspend for not less than 1 year the
15 license of a person who for the third time in a period of not more
16 than 6 consecutive years is relieved of his or her duties ~~for the~~
17 ~~reasons prescribed in~~ **BECAUSE OF** this subsection.

18 **(5) WHEN APPLYING FOR AN OCCUPATIONAL LICENSE, AN APPLICANT**
19 **SHALL PROVIDE THE RACING COMMISSIONER WITH 1 OR MORE SETS OF HIS OR**
20 **HER FINGERPRINTS AS REQUESTED BY THE RACING COMMISSIONER. TO**
21 **DETERMINE WHETHER THE APPLICANT HAS BEEN CONVICTED OF A CRIME IN**
22 **THIS OR ANOTHER STATE, THE RACING COMMISSIONER SHALL SUBMIT THE**
23 **FINGERPRINTS AND THE APPROPRIATE STATE AND FEDERAL FEES TO THE**
24 **DEPARTMENT OF STATE POLICE FOR A CRIMINAL HISTORY CHECK. THE FEES**
25 **SHALL BE PAID BY THE APPLICANT AND SHALL ACCOMPANY THE SUBMISSION**
26 **OF THE FINGERPRINTS TO THE RACING COMMISSIONER. THE DEPARTMENT OF**
27 **STATE POLICE MAY FORWARD THE FINGERPRINTS TO THE FEDERAL BUREAU OF**

1 **INVESTIGATION FOR A CRIMINAL HISTORY CHECK. INFORMATION OBTAINED**
2 **UNDER THIS SUBSECTION SHALL ONLY BE USED TO DETERMINE THE CHARACTER**
3 **AND FITNESS OF THE APPLICANT FOR LICENSING PURPOSES.**

4 **(6) —(5)—** A person who is issued a pari-mutuel occupational
5 license as a trainer is responsible for and absolute insurer of the
6 condition, fitness, eligibility, and qualification of the horses
7 entered to race for the person by whom the trainer is employed,
8 except as prescribed by the rules promulgated by the racing
9 commissioner under this act. This subsection shall not be construed
10 or interpreted to determine civil tort liability of any racehorse
11 owner or trainer but shall be for purposes of enforcement of this
12 act only. A trainer shall not start a horse that has in its body a
13 drug or foreign substance unless permitted pursuant to section 30
14 and the rules promulgated under that section. A trainer is strictly
15 liable and subject to disciplinary action if a horse under the
16 trainer's actual or apparent care and control as trainer has a drug
17 or foreign substance in its body, in violation of section 30 and
18 the rules promulgated under that section.

19 **(7) —(6)—** Upon the filing of a written complaint, under oath,
20 in the office of the racing commissioner, or upon the written
21 motion of the racing commissioner regarding the actions or
22 omissions of a person issued a pari-mutuel occupational license,
23 the racing commissioner may summarily suspend the occupational
24 license of the person for a period of not more than 90 days pending
25 a hearing and final determination by the racing commissioner
26 regarding the acts or omissions complained of in the written
27 complaint or motion, if the commissioner determines from the

1 complaint or motion that the public health, safety, or welfare
 2 requires emergency action. The racing commissioner shall schedule
 3 the complaint or motion to be heard within 14 business days after
 4 the occupational license is summarily suspended and notify the
 5 holder of the occupational license of the date, time, and place of
 6 the hearing not less than 5 days before the date of the hearing.
 7 The hearing shall be conducted in accordance with the contested
 8 case provisions of the administrative procedures act of 1969, ~~Act~~
 9 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328~~
 10 ~~of the Michigan Compiled Laws~~ **1969 PA 306, MCL 24.201 TO 24.328.**
 11 The action of the racing commissioner in revoking or suspending a
 12 pari-mutuel occupational license may be appealed to the circuit
 13 court pursuant to ~~Act No. 306 of the Public Acts of 1969~~ **THE**
 14 **ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO**
 15 **24.328.** If the racing commissioner's order is predicated upon a
 16 series of acts, the review by the circuit court may be in the
 17 county in which any of the alleged acts or failures to act took
 18 place.

19 **(8)** ~~(7)~~ A decision by the racing commissioner or ~~his or her~~
 20 ~~deputies or appointed state stewards~~ **A DEPUTY COMMISSIONER OR**
 21 **STATE STEWARD** of racing to deny an application for an occupational
 22 license may be appealed to the circuit court and reviewed pursuant
 23 to section 631 of the revised judicature act of 1961, ~~Act No. 236~~
 24 ~~of the Public Acts of 1961, being section 600.631 of the Michigan~~
 25 ~~Compiled Laws~~ **1961 PA 236, MCL 600.631.** A suspension or revocation
 26 of an occupational license may be appealed and reviewed pursuant to
 27 the administrative procedures act of 1969, ~~Act No. 306 of the~~

1 ~~Public Acts of 1969, being sections 24.201 to 24.328 of the~~
2 ~~Michigan Compiled Laws~~ **1969 PA 306, MCL 24.201 TO 24.328.**

3 **(9)** ~~—(8)—~~ Each pari-mutuel occupational licensee shall pay a
4 license fee of not less than \$10.00 or more than \$100.00 as
5 determined by the racing commissioner.