

Act No. 7
Public Acts of 2005
Approved by the Governor
April 25, 2005
Filed with the Secretary of State
April 25, 2005
EFFECTIVE DATE: April 25, 2005

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005**

Introduced by Rep. Hood

ENROLLED HOUSE BILL No. 4233

AN ACT to amend 1995 PA 279, entitled "An act to license and regulate the conducting of horse race meetings in this state with pari-mutuel wagering on the results of horse races and persons involved in horse racing and pari-mutuel gaming activities at such race meetings; to create the office of racing commissioner; to prescribe the powers and duties of the racing commissioner; to prescribe certain powers and duties of the department of agriculture and the director of the department of agriculture; to provide for the promulgation of rules; to provide for the imposition of taxes and fees and the disposition of revenues; to impose certain taxes; to create funds; to legalize and permit the pari-mutuel method of wagering on the results of live and simulcast races at licensed race meetings in this state; to appropriate the funds derived from pari-mutuel wagering on the results of horse races at licensed race meetings in this state; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending section 16 (MCL 431.316).

The People of the State of Michigan enact:

Sec. 16. (1) Each person participating in or having to do with pari-mutuel horse racing or pari-mutuel wagering on the results of horse races at a licensed race meeting, including, but not limited to, all racing officials, veterinarians, pari-mutuel clerks or tellers, totalisator company employees, security guards, timers, horse owners, jockeys, drivers, apprentices, exercise riders, authorized agents, trainers, grooms, valets, owners of stables operating under an assumed name, jockey agents, pony riders, hot walkers, blacksmiths, starting gate employees, owners and operators of off-track training centers, farms or stables where racehorses are kept, and vendors operating within the barn area of a licensed racetrack or off-track training center, farm, or stable where racehorses are kept may be licensed by the racing commissioner pursuant to rules promulgated by the racing commissioner under this act. The racing commissioner shall not issue an occupational license to a person who, within the 6 years immediately preceding the date of the person's application for the occupational license, was convicted of a felony involving theft, dishonesty, misrepresentation, fraud, corruption, drug possession, delivery, or use, or other criminal misconduct that is related to the person's ability to and the likelihood that the person will perform the functions and duties of the racing related occupation for which the person seeks to be licensed and participate in pari-mutuel horse racing in that licensed occupation in a fair, honest, open, and lawful manner. The racing commissioner shall not issue a pari-mutuel occupational license to a person who, within 2 years immediately preceding the date of the person's application for the occupational license, was convicted of a misdemeanor involving theft, dishonesty, misrepresentation, fraud, corruption, drug possession, delivery, or use, or other criminal misconduct that is related to the person's ability to and the likelihood that the person will perform the functions and duties of the racing related occupation for which the person seeks to be licensed and participate in pari-mutuel horse racing in that licensed occupation in a fair, honest, open, and lawful manner.

(2) A veterinarian is not required to be licensed under this act to provide necessary and appropriate emergency veterinary care or treatment to any horse that is intended to be entered, is entered, or participates in a race with wagering by pari-mutuel methods or a nonbetting race or workout conducted at a licensed race meeting in this state. For purposes of this section, “emergency veterinary care or treatment” means care or treatment necessary and appropriate to save the life of a horse or prevent permanent physical injury or damage to a horse in a situation requiring immediate veterinary action. Only veterinarians licensed under this act may provide nonemergency veterinary care or treatment to a horse in this state that is intended to be entered, is entered, or participates in races at licensed race meetings in this state. Only persons licensed under this act or otherwise authorized by the racing commissioner may enter the restricted grounds of a licensed race meeting where horses are kept that are eligible to race at the race meeting. For the purposes of this section and sections 30 and 31, a horse that is intended to be entered is a horse that has its name put into the draw for a specific race, and a horse that is entered in a race is a horse that has been drawn into a specific race.

(3) As conditions precedent to being issued and holding a valid pari-mutuel occupational license, a license applicant shall disclose, in writing, any ownership interest that the applicant has in a racehorse and provide any other information the racing commissioner considers necessary and proper and proof of compliance with the worker’s disability compensation act of 1969, 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 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, a breathalyzer test, urine test, or other noninvasive fluid test to detect the presence of alcohol or a controlled substance, if directed to do so by the racing commissioner or his or her representative. If the results of a test show that an occupational licensee has more than .05% of alcohol in his or her blood, or has present in his or her body a controlled substance, the person shall not be permitted to continue in his or her duties or participate in horse racing until he or she can produce, at his or her own expense, a negative test result. The licensee may be penalized by the racing commissioner for his or her positive test results, which may include any disciplinary action authorized by this act or rules promulgated under this act. This subsection does not apply to a controlled substance obtained directly from, or pursuant to a valid prescription from, a licensed health care provider, except that the racing commissioner may consider the person’s medical need for prescribed controlled substances in determining the person’s fitness to be licensed to participate in pari-mutuel horse racing. The racing commissioner shall suspend for not less than 1 year the license of a person who for the third time in a period of not more than 6 consecutive years is relieved of his or her duties because of this subsection.

(5) When applying for an occupational license, an applicant shall provide the racing commissioner with 1 or more sets of his or her fingerprints and the appropriate fees as requested by the racing commissioner. The racing commissioner shall send the applicant’s fingerprints and the appropriate fees to either the department of state police or the federal bureau of investigation in a manner acceptable to the federal bureau of investigation. If the fingerprints and fees are sent to the department of state police, the department of state police shall forward the fingerprints and the fees to the federal bureau of investigation for a criminal history check. Information obtained under this subsection shall only be used to determine the character and fitness of the applicant for licensing purposes.

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

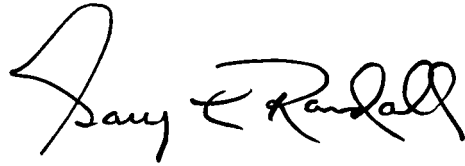
(7) Upon the filing of a written complaint, under oath, in the office of the racing commissioner, or upon the written motion of the racing commissioner regarding the actions or omissions of a person issued a pari-mutuel occupational license, the racing commissioner may summarily suspend the occupational license of the person for a period of not more than 90 days pending a hearing and final determination by the racing commissioner regarding the acts or omissions complained of in the written complaint or motion, if the commissioner determines from the complaint or motion that the public health, safety, or welfare requires emergency action. The racing commissioner shall schedule the complaint or motion to be heard within 14 business days after the occupational license is summarily suspended and notify the holder of the occupational license of the date, time, and place of the hearing not less than 5 days before the date of the hearing.

The hearing shall be conducted in accordance with the contested case provisions of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The action of the racing commissioner in revoking or suspending a pari-mutuel occupational license may be appealed to the circuit court pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the racing commissioner's order is predicated upon a series of acts, the review by the circuit court may be in the county in which any of the alleged acts or failures to act took place.

(8) A decision by the racing commissioner or a deputy commissioner or state steward of racing to deny an application for an occupational license may be appealed to the circuit court and reviewed pursuant to section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631. A suspension or revocation of an occupational license may be appealed and reviewed pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor