

HOUSE No. 9

So much of the recommendations of the Massachusetts Gaming Commission (House, No. 8) as relates to horse racing and wagering. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act relative to horse racing and wagering.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 7 of chapter 4 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking out clause Tenth and inserting in place thereof
3 the following clause:

4 Tenth, “Illegal Gaming”, a banking or percentage game played with cards, dice, tiles or
5 dominoes or an electronic, electrical or mechanical device or machine for money, property,
6 checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the
7 state lottery commission under sections 24, 24A and 27 of chapter 10; (ii) a game conducted
8 under chapter 23K; (iii) pari-mutuel wagering on horse races and greyhound races under chapter
9 128D; (iv) a game of bingo conducted under chapter 271; and (v) charitable gaming conducted
10 under said chapter 271.

11 SECTION 2. Chapter 128A of the General Laws is hereby repealed.

12 SECTION 3. Said chapter 128C is hereby repealed.

13 SECTION 4. Section 7 of chapter 23K of the General Laws is hereby repealed.

14 SECTION 5. Section 60 of chapter 23K of the General laws is hereby repealed.

15 SECTION 6. The General Laws are hereby amended by inserting after chapter 128C the
16 following chapter:-

17 CHAPTER 128D.

18 HORSE RACING AND WAGERING.

19 Section 1. Preamble. It is the intent of this chapter to grant the Massachusetts Gaming
20 Commission all necessary authority to oversee and regulate all aspects of horse racing and
21 simulcasting in the Commonwealth with the object of promoting its efficient operation, and the
22 honesty and integrity of the wagering process related to it. It is the further intent of this chapter
23 that the Commission utilize best efforts to ensure that the horse racing industry be preserved and
24 sustained for, amongst other reasons, the preservation of open space, the agricultural benefits
25 associated with horse racing, and the creation and preservation of jobs and businesses associated
26 with horse racing.

27 Section 2. Terms used in this chapter shall, unless the context otherwise requires, be
28 construed as follows:

29 “Advance Deposit Wagering”, a form of pari-mutuel wagering in which an individual
30 may deposit money to an account established through an agreement with a holder of a racing
31 meeting license or simulcasting license and use the account balance to make and pay for wagers
32 by the holder of the account which wagers may be made in person, by direct telephone call or by
33 communication through other electronic media by the holder of the account.

34 “Breaks”, in the case of live horse racing meetings conducted in the commonwealth by a
35 racing meeting licensee, the odd cents over any multiple of 10 cents of winnings per \$1 wagered;
36 provided however, that in the case of live horse racing meeting conducted at a race track outside
37 the commonwealth, the amount of the breaks shall be determined in accordance with the laws of
38 the state in which the race track is located.

39 "Commission", the Massachusetts gaming commission established in chapter 23K.

40 “Exotic wager” a bet on the speed or ability of a combination of more than 1 horse in a
41 single race.

42 “Guest track” a racing meeting licensee or an out-of-state pari-mutuel wagering facility
43 which accepts a simulcast wager on a live race conducted at another track which is presented by
44 simulcast at the facility of the racing meeting licensee or the out-of-state pari-mutuel wagering
45 facility.

46 “Host track”, a racing meeting licensee or an out-of-state track which conducts a live race
47 which is the subject of intertrack simulcasting and simulcast wagering.

48 “Pari-mutuel wagering”, a form of wagering on the outcome of an event in which all
49 wagers are pooled and held by an association for distribution of the total amount, less the
50 deductions authorized by law, to holder of tickets on the winning contestants.

51 "Premium", the amount paid to a racing meeting licensee in addition to a host track fee
52 for purposes of providing a simulcast signal.

53 “Race track”, a track where live horse racing meeting are held, including but not limited
54 to, grounds, auditoriums, amphitheaters and bleachers, if any, and adjacent places used in
55 connection therewith.

56 “Racing license”, an authorization awarded by the commission, under specified
57 conditions, to accept wagers on live horse racing conducted on licensed premises in the
58 commonwealth.

59 “Racing licensee”, is a person who holds a racing license.

60 "Rebate" a portion of pari-mutuel wagers, otherwise payable to a racing licensee, that is
61 paid to a holder of a pari-mutuel wagering ticket and that reduces the amount otherwise payable
62 to such licensee, including, but not limited to, refunds to holders of pari-mutuel wagering tickets
63 of any portion or percentage of the full face value of a pari-mutuel wager, paying a bonus on a
64 winning pari-mutuel ticket, awards of merchandise, services such as meals, parking, admission,
65 seating and programs, free or reduced cost pari-mutuel wagers, monetary awards, or any other
66 benefit that the commission deems appropriate to reward horse racing patrons for their
67 patronage.

68 "Simulcast", the broadcast, transmission, receipt or exhibition, by any medium or manner,
69 of a live race conducted live at a race track other than the one at which it is being exhibited at,
70 whether inside or outside the commonwealth, including but not limited to, a system, network, or
71 programmer which transmits, or receives, television or radio signals by wire, satellite, or
72 otherwise.

73 “Simulcasting license”, is an authorization awarded to a person by the commission under
74 specified conditions, to accept simulcast wagers.

75 “Simulcast licensee”, a person who holds a simulcasting license.

76 "Simulcast wager", a wager taken by a simulcast licensee on a race that is simulcast.

77 “Takeout”, monies deducted from a pari-mutuel wager as required by the commission
78 prior to payment of winnings.

79 Section 2. The commission shall have all powers necessary or convenient to effectively
80 regulate horse racing, simulcasting and pari-mutuel wagering including, but not limited to, the
81 power to adopt, amend or repeal regulations for the implementation, administration and
82 enforcement of this chapter. The commission shall not issue a prohibition on horse racing or
83 simulcasting or related wagering thereon; provided, however, that the commission may use its
84 powers to act on each individual licensing decision or in all other decisions in the best interest of
85 horse racing with the object of promoting its efficient operation and the honesty and integrity of
86 the wagering process related to it.

87 The commission shall administer and enforce any general and special law related to pari-
88 mutuel wagering and simulcasting. The commission shall serve as a host racing commission and
89 an off-track betting commission for the purposes of 15 U.S.C. 3001 et seq. The commission
90 shall have all requisite powers afforded in accordance with section 4 of chapter 23K. The power
91 and authority granted to the commission shall be construed as broadly as necessary for the
92 implementation, administration and enforcement of this chapter.

93 Section 3. (a) The commission shall promulgate regulations for the implementation,
94 administration and enforcement of this chapter including, without limitation, regulations that:

95 (i) prescribe the application process and criteria for evaluation of the application and
96 renewal for a racing license; provided, however, in determining whether to award or renew a
97 racing license the commission shall take into consideration the physical location of the race track
98 as it relates other proposed and licensed tracks, whether the race track will maximize benefits to
99 the commonwealth, the support or opposition to each applicant from the public, and any other
100 considerations deemed relevant by the commission;

101 (ii) prescribe the process and criteria for evaluation of the application and renewal of
102 a simulcasting license, provided, however that a simulcasting license shall be limited to a race
103 meeting licensee, a gaming licensee pursuant to chapter 23K or an entity licensed under chapters
104 128A or 128C to conduct simulcasting as of June 1, 2016 and in granting a simulcasting license
105 to a gaming licensee, the commission shall take into consideration the impact on existing
106 facilities previously licensed pursuant to said chapters 128A and 128C;

107 (iii) prescribe the minimum number of live racing days required to be held by a racing
108 licensee;

109 (iv) prescribe rules governing live horse racing, pari-mutuel wagering, simulcasting
110 and simulcast wagering;

111 (v) prescribe requirements that may direct a percentage of wagering received on in-
112 state and out-of-state horse races to the Race Horse Development Fund established in section 8
113 to support purse assistance and breeding programs;

114 (vi) prescribe the amount and manner that premiums, if any, will be assessed upon the
115 racing meeting and/or simulcasting licensees;

- 116 (vii) prescribe the amount and manner of takeouts;
- 117 (viii) prescribe procedures and requirements for the use of breaks and unclaimed
118 wagers;
- 119 (ix) establish uniform standards and requirements for horse racing including, but not
120 limited to, safety standards for horses, jockeys, drivers, and other participants, and for the drug
121 testing of horses and jockeys and drivers;
- 122 (x) prescribe the types of allowable wagers;
- 123 (xi) prescribe procedures for the use of advance deposit wagering accounts including
124 electronic components of advance deposit wagering account, rebates and rewards;
- 125 (xii) prescribe the manner in which judges, stewards and race officials will be qualified
126 and appointed;
- 127 (xiii) develop procedures for the voluntary and involuntary exclusion of patrons from a
128 race track in a manner consistent with section 45 of chapter 23K;
- 129 (xiv) require racing meeting licensees and simulcasting licensees to develop protocols
130 to prevent underage wagering and establish security procedures for ensuring the safety of minors
131 at race tracks;
- 132 (xv) prescribe the minimum internal control procedures for racing meeting licensees
133 and simulcasting licensees including those for effective control over the internal fiscal affairs of
134 a licensee, including provisions for implementation of a uniform standard of accounting, the
135 safeguarding of assets and revenues, the recording of cash and evidence of indebtedness and the

136 maintenance of reliable records, accounts and reports of transactions, operations and events,
137 including reports to the commission;

138 (xvi) establish licensure and registration procedures for employees of racing meeting
139 licensees and simulcasting licensees not working at a gaming establishment pursuant to chapter
140 23K;

141 (xvii) establish licensure and registration provisions for veterinarians, blacksmiths,
142 owners, trainers, jockeys and stable employees performing work at race tracks;

143 (xviii) require that all employees of a racing meeting licensee and simulcasting licensee
144 who have racing or simulcasting responsibilities, be properly trained in their respective
145 professions;

146 (xix) establish procedures governing the operation of the Racehorse Development Fund
147 established pursuant to section 8 of this chapter;

148 (xx) prescribe grounds and procedures for the revocation, termination or suspension of
149 licenses and registrations issued by the commission, and for the issuance of discipline or fines to
150 persons holding licenses and registrations granted by the commission;

151 (xxi) prescribe the allocation of funds from racing meeting licensees and simulcast
152 licensees for the purpose of funding the activities of the commission relative to racing; and

153 (xxii) prescribe any other issues related to the honest conduct of horse racing,
154 simulcasting and wagering related to horse racing and simulcasting.

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156 (b) The commission may, pursuant to section 2 of chapter 30A, promulgate, amend or
157 repeal any regulation promulgated under this chapter as an emergency regulation if such
158 regulation is necessary to protect the interests of the commonwealth in regulating horse racing.

159 Section 4. The commission may inspect and shall have access to the entire race track and
160 premises associated therewith upon which activity is conducted pursuant to a racing meeting
161 license or a simulcasting license issued in accordance with this chapter or chapter 23K including
162 all records, documents, systems, equipment, and supplies on the premises.

163 Section 5. The commission may audit as often as the commission determines necessary
164 the accounts, programs, activities, and functions of all racing meeting licensees and simulcasting
165 licensees. To conduct the audit, authorized officers and employees of the commission or
166 consultants contracted by the commission shall have access to such accounts at reasonable times,
167 upon reasonable notice and the commission may require the production of books, documents,
168 vouchers and other records relating to any matter within the scope of the audit.

169 Section 6. Each racing meeting licensee and simulcasting licensee shall make readily
170 available to the commission all documents, materials, equipment, personnel and any other items
171 requested during an investigation; provided, however, that material that a racing meeting licensee
172 or simulcasting licensee considers a trade secret may, with the commission's approval, be
173 protected from public disclosure and the licensee may require nondisclosure agreements with the
174 commission before disclosing such material.

175 Section 7. The commission shall establish application fees for all licenses, approvals, and
176 renewals awarded under this chapter which shall include costs incurred for conducting a

177 background investigation into an applicant. The commission may seek reimbursement from an
178 applicant for any costs of investigation in excess of the initial application or renewal fee.

179 Section 8. (a) There shall be a Race Horse Development Fund to be administered by the
180 commission which shall be used to support the best interest of the horse racing industry. The
181 fund shall consist of monies deposited under subsection (c) of section 55 of chapter 23K,
182 subclause (l) of clause (2) of section 59 of said chapter 23K and any money and any monies
183 credited to or transferred to the fund from any other fund or source, including gifts, grants and
184 donations. Amounts credited to the fund shall be expended:

185 (i) to fund purses for live horse racing meetings;

186 (ii) to support the general welfare of the horse racing and simulcasting industry in the
187 commonwealth;

188 (iii) for a commission program that supports health, pension, life insurance and other
189 benefits deemed appropriate by the commission for owners, trainers, breeders, jockeys,
190 drivers and other associated with horse racing;

191 (iv) to support the equine economy which shall include but not be limited to
192 commonwealth bred thoroughbred and Standardbred horses and veterinary medicine including
193 but not limited to Tufts University School of Veterinary Medicine, equine care, open space
194 preservation and equestrian sport and therapeutic programs.

195 (b) The commission shall ensure that not less than 50 per cent of amounts credited to
196 the fund are available for purses under clause (i) in any year where live horse racing is conducted

197 in the commonwealth and is sufficient to sustain those purse funds. No expenditure from the
198 fund shall cause it to be in deficiency at the close of a fiscal year.

199 (c) All monies in the Race Horse Development Fund on the effective day of this
200 chapter pursuant to section 60 of chapter 23K of the General Laws shall be transferred to the
201 Race Horse Development Fund established in section 8 of this chapter 128D of the General
202 Laws. On and after the effective date of this chapter, all funds directed by any general or special
203 law to be deposited in the Race Horse Development Fund established in section 60 of chapter
204 23K shall be deposited into the Race Horse Development Fund established in said section 8 of
205 this chapter 128D.

206 Section 9. (a) A racing meeting licensee that conducts pari-mutuel betting on horse races
207 conducted on a licensed race track, shall distribute all sums deposited in any pari-mutuel pool to
208 the holders of winning tickets therein less any takeouts as determined by the commission.

209 (b) A simulcasting licensee acting as a guest track shall return to the winning patrons
210 wagering on such simulcast races all sums so deposited as an award or dividend, less any
211 takeouts as determined by the commission.

212 Section 10. Notwithstanding this chapter or any general or special law to the contrary, no
213 live dog racing meeting or live racing meeting where any form of betting or wagering on the
214 speed or ability of dogs occurs shall be conducted or permitted in this commonwealth and the
215 commission is hereby prohibited from accepting or approving any application or request for
216 racing dates for live dog racing.

217 Any person who violates this section relative to live dog racing shall be subject to a civil
218 penalty of not less than \$20,000 which shall be payable to the commission and used for
219 administrative purposes of the commission.

220 Section 11. Any person who accepts or pays out a wager or bet on the results of any
221 horse race or dog race, or aids or abets any of the foregoing types of wagering or betting, except
222 as permitted by this chapter, shall for a first offence be punished by a fine of not more than
223 \$2000 and imprisonment in the house of correction for not more than 1 year, and for a
224 subsequent offence by a fine of not more than \$10,000 and imprisonment in the house of
225 correction for not more than 2 years or both such fine or imprisonment.

226 Section 12. The commission shall provide an annual report of activity conducted
227 pursuant to this chapter. The report shall include, but not be limited to, an analysis of
228 commission activities designed to further the race horse industry and equine economy; a full and
229 complete statement of revenues, expenditures and the balance of the Race Horse Development
230 Fund; an accounting of funds received from racing meeting licensees and simulcast licensees for
231 the purpose of funding the activities of the commission; and an accounting of projected
232 expenditures from the Race Horse Development Fund in the next year. The report shall be made
233 available on the commission's website and filed annually with the clerks of the house of
234 representatives and the senate, the chairs of the house and senate committees on ways and means
235 and the chairs of the joint committee on economic development and emerging technologies not
236 later than March 1 of each calendar year.