

*Chap. 374* AN ACT AUTHORIZING THE LICENSING OF HORSE AND DOG RACES ON WHICH THE PARI-MUTUEL SYSTEM OF BETTING SHALL BE PERMITTED.

Emergency  
preamble.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

G. L. (Ter.  
Ed.), 6, § 17,  
etc., amended.

SECTION 1. Section seventeen of chapter six of the General Laws, as most recently amended by section one of chapter three hundred and thirty-six of the acts of nineteen hundred and thirty-three, is hereby further amended by inserting after the word "library" in the ninth line the words: —, the state racing commission, — so as to read as follows: — *Section 17*. The armory commissioners, the art commission, the commission on administration and finance, the commissioner of state aid and pensions, the commissioners on uniform state laws, the public bequest commission, the state ballot law commission, the board of trustees of the Soldiers' Home in Massachusetts, the milk regulation board, the alcoholic beverages control commission, the trustees of the state library, the state racing commission and the Greylock reservation commission shall serve under the governor and council, and shall be subject to such supervision as the governor and council deem necessary or proper.

Certain  
officers to  
serve under  
governor and  
council.  
State racing  
commission.

G. L. (Ter.  
Ed.), 6, new  
section 48,  
added.

SECTION 2. Said chapter six is hereby further amended by inserting after section forty-seven, inserted therein by section two of said chapter three hundred and thirty-six, under the heading "STATE RACING COMMISSION", the following new section: — *Section 48*. There shall be a commission to be known as the state racing commission, to consist of three persons to be appointed by the governor, with the advice and consent of the council. Not more than two of such members shall be members of the same political party. Said members shall be designated in their original appointments to serve for one, two and three years, respectively, from December first in the year of appointment. Upon the expiration of the term of a member, his successor shall be appointed in the manner aforesaid for three years.

State racing  
commission.

Each member shall hold office until the appointment and qualification of his successor. The governor shall, from time to time, designate one of the members as chairman and, with the advice and consent of the council, may remove any member for cause and, with like advice and consent, shall fill any vacancy for the unexpired term. Whenever any action by the commission is required to be in writing, such writing shall be sufficient when signed by any two of the members. The commission shall make an annual report in January of each year to the general court.

The chairman shall receive a salary of five thousand dollars and each other member shall receive a salary of four

thousand dollars. The members shall also receive their necessary expenses incurred in the discharge of their official duties.

The commission may appoint and remove a secretary and other assistants who shall be exempt from the provisions of chapter thirty-one. The commission, subject to the approval of the governor and council, may fix the salary of such secretary.

SECTION 3. The General Laws are hereby amended by inserting after chapter one hundred and twenty-eight, as appearing in the Tercentenary Edition, the following new chapter: —

G. L. (Ter. Ed.), new chapter 128A, added.

CHAPTER 128A.

HORSE AND DOG RACING MEETINGS.

Section 1. Terms used in this chapter shall, unless the context otherwise requires, be construed as follows: —

Definitions.

“Racing meeting” shall include every meeting within the commonwealth where horses or dogs are raced and where any form of betting or wagering on the speed or ability of horses or dogs shall be permitted, but shall not include any meeting where no such betting or wagering is permitted even though horses or dogs or their owners, are awarded certificates, ribbons, premiums, purses, prizes or a portion of gate receipts for speed or ability shown.

“Race track” shall include the track, grounds, auditorium, amphitheatre and/or bleachers, if any, and adjacent places used in connection therewith, where a horse or dog racing meeting may be held.

Section 2. Any person desiring to hold or conduct a horse or dog racing meeting within the commonwealth shall make an application to the state racing commission, hereinafter called the commission, for a license so to do. Such application shall state

License for race meeting, application for, form of, etc.

(1) The name of the applicant.

(2) The post office address of the applicant, and if a corporation, the name of the state under the laws of which it is incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders.

(3) The location of the race track where it is proposed to hold or conduct such meeting.

(4) The days on which it is intended to hold or conduct such meeting, which days shall be successive week days, Saturday and Monday being considered successive week days.

(5) The hours of each day between which it is intended to hold or conduct racing at such meeting, which hours shall be not before twelve o'clock noon nor later than seven o'clock post meridian for horse racing, and not before seven o'clock post meridian nor later than twelve o'clock midnight for dog racing.

(6) Answers to such other questions as the commission may prescribe, and

(7) That the applicant will comply, in case such license be issued, with all applicable laws and with all applicable rules and regulations prescribed by the commission.

Such application shall be filed with the commission at least ten days prior to the first day of the racing meeting which the applicant proposes to hold or conduct. Such application shall be signed and sworn to, if made by an individual, by such individual, if made by two or more individuals or a partnership, by one of such individuals or by a member of such partnership, as the case may be, if made by a trust, by a trustee of such trust, and if made by an association or corporation, by the president or vice-president thereof. The commission may prescribe forms to be used in making such application.

With such application there shall be delivered to the commission a certified check or bank draft, payable to the commission, weekly in advance for the full amount of the license fee required by this chapter.

*Section 3.* If any application for a license, filed as provided by section two, shall be in accordance with the provisions of this chapter, the commission may issue a license to the applicant to conduct a racing meeting, in accordance with the provisions of this chapter, at the race track specified in such application.

Such license shall state —

- (1) The name of the person to whom the same is issued,
- (2) The location of the race track where the racing meeting thereby authorized is to be held,
- (3) The days on which such meeting may be held or conducted,
- (4) The hours of each day between which racing may take place at such meeting, and
- (5) That the required license fee has been received by the commission.

No license shall be issued which would permit a racing meeting to be held or conducted except under the following conditions:

(a) Such meeting shall be on a week day or on successive week days, Saturday and Monday being considered successive week days.

(b) Horse racing at such meeting may be between the hours of twelve o'clock noon and seven o'clock post meridian only.

(c) Dog racing at such meeting may be between the hours of seven o'clock post meridian and twelve o'clock midnight only.

(d) Such horse racing meetings may be held only between the eighteenth day of April and the thirty-first day of October, both dates inclusive, in any year; provided, that no horse racing meeting shall be held between the fifteenth day of August and the thirtieth day of September, both dates inclusive, except in connection with a state or county fair.

(e) Such dog racing meetings may be held only between

the eighteenth day of April and the thirty-first day of October, both dates inclusive, in any year; provided, that no dog racing meeting shall be held between the fifteenth day of August and the thirtieth day of September, both dates inclusive, except in connection with a state or county fair.

(f) No licenses shall be issued for more than an aggregate of seventy racing days in any one year at all running horse race meetings combined, not including running horse racing meetings at state and county fairs.

(g) No licenses shall be issued for more than an aggregate of two hundred racing days in any one year at all dog racing meetings combined, not including dog racing meetings at state and county fairs.

(h) No licenses shall be issued to permit running horse racing meetings to be held or conducted, except in connection with a state or county fair, at the same time at more than one race track within the commonwealth, nor at any time at a race track located within fifty miles of another race track, one mile or more in circumference.

(i) No licenses shall be issued to permit dog racing meetings to be held or conducted, except in connection with a state or county fair, at the same time at more than one race track within the same county or within twenty-five miles of another dog race track, nor at any time at more than four race tracks within the commonwealth, nor at a dog race track having a racing strip of less than three sixteenths of a mile for outdoor tracks and one tenth of a mile for indoor tracks.

(j) No licenses shall be issued for more than an aggregate of forty-two racing days in any one year at the harness horse racing meetings combined, not including harness horse racing meetings at state or county fairs.

(k) No license shall be issued to any person who is in any way in default, under the provisions of this chapter, in the performance of any obligation or in the payment of any debt to the commission.

(l) No license shall be issued to any person who has, within ten years of the time of filing the application for such license, been convicted of violating the provisions of section five of this chapter in retaining more than ten and fifteen per cent of sums deposited by patrons as wagers at a horse or dog racing meeting plus breaks, as defined in said section.

(m) No license shall be transferable, except with the approval of the commission.

No license shall be issued to any person to hold or conduct a horse or dog racing meeting in connection with a state or county fair, or any exhibition for the encouragement or extension of agriculture, under the reduced license fee provided in section four, unless the applicant shall first satisfy the commission that the main purpose of such fair or exhibition is the encouragement or extension of agriculture and that the same constitutes a bona fide exhibition of that character. No such license shall be issued to any person to hold or conduct such a horse or dog racing meeting for more than six days in any calendar year.

No license shall be issued unless the person applying therefor shall have executed and delivered to the commission a bond, payable to the commission, in such amount, not exceeding thirty-five thousand dollars, as the commission may determine, with a surety or sureties approved by the commission conditioned upon the payment of all sums which may become payable to the commission under this chapter; provided that the amount of such bond, in the case of any person holding or conducting a harness horse racing meeting in connection with a state or county fair, any exhibition for the encouragement or extension of agriculture, or a grand circuit harness horse racing meeting shall not exceed five thousand dollars.

Every license shall be recorded in the office of the clerk of the city or town in which such racing meeting is held or conducted at a time not less than five days before the first day of such meeting or forthwith upon the issuance of such license if the same shall be issued after such time. After such license is so recorded, a duly certified copy thereof shall forthwith be conspicuously displayed and shall be kept so displayed continuously during said racing meeting in the principal business office at the race track where such meeting is held and at all reasonable times shall be exhibited to any person requesting to see the same.

Fee.

*Section 4.* The fee for the license provided for in section three shall not exceed one thousand dollars for each day of any running horse racing meeting nor exceed two hundred dollars for each day of any harness horse or dog racing meeting; provided, that the reduced fee, applicable to a license to any person holding or conducting a horse or dog racing meeting in connection with a state or county fair, or any exhibition for the encouragement or extension of agriculture, shall not exceed one hundred dollars for each day of such horse or dog racing meeting.

If for any reason or cause, beyond the control of and through no fault or neglect of any licensee and while such licensee is not in default, it should become impossible or impracticable to conduct racing upon any day or successive days specified in a license issued by the commission, the commission at the request of the licensee may, and upon proper showing shall, request the state treasurer to refund to the licensee an amount equal to the license fees paid for days on which such licensee does not hold or conduct a racing meeting under the terms of the license issued for such purpose. Upon receipt of such request, the state treasurer shall forthwith pay such amount to such licensee.

No other license fee or excise, except as provided in this chapter, shall be assessed or collected from such licensee by the commonwealth or any political subdivision thereof.

*Section 5.* Any licensee holding or conducting a racing meeting may provide a place or places, on the grounds where such meeting is held or conducted, but not elsewhere, at which such licensee may conduct and supervise the pari-

Pari-mutuel  
system  
of wagering  
authorized.

mutuel or certificate system of wagering on the speed or ability of horses or dogs performing in the races held or conducted by such licensee at such meeting and such pari-mutuel or certificate method of wagering upon such races so conducted shall not under any circumstances be held or construed to be unlawful, other statutes of the commonwealth to the contrary notwithstanding.

No other place or method of betting, pool making, wagering or gambling shall be used or permitted by the licensee, nor shall this chapter be deemed to authorize or legalize the pari-mutuel or certificate system of wagering on any races except horse and dog races at the race track where such pari-mutuel or certificate system of wagering is conducted. Each licensee conducting a racing meeting shall become the custodian or depository for such sums as may be deposited with such licensee by patrons as wagers on the speed or ability of any one or more horses or dogs in a race or races and such licensee shall be responsible for such sum so deposited and shall return to the winning patrons so wagering on the speed or ability of any one or more horses or dogs in a race or races all sums so deposited as an award or dividend, according to the acknowledged and recognized rules and method under which such pari-mutuel or certificate system has been operated, less an amount not to exceed ten per cent of the total amount so deposited by the patrons wagering on the speed or ability of horses, and fifteen per cent on the speed or ability of dogs, in a race or races and less the so-called breaks, as defined in this section.

Each licensee shall pay to the commission on the day following each day of a horse or dog racing meeting, a sum equal to three and one half per cent of the total amount deposited on the preceding day by the patrons so wagering, said three and one half per cent to be paid from the ten and fifteen per cent retained, as provided in this section, from the total amount wagered. Each licensee may retain not to exceed six and one half and eleven and one half per cent plus such breaks as the licensee's commission on the total of all sums so deposited, such six and one half and eleven and one half per cent to be retained from the ten and fifteen per cent retained, as provided in this section, from the total amount wagered.

One half of the odd cents over any multiple of ten cents otherwise payable to a patron wagering shall be retained by the licensee, and one half shall be paid to the commission, on the day following each day of a horse or dog racing meeting. Such odd cents shall in this chapter be called the "breaks".

*Section 6.* Accurate records and books shall at all times be kept and maintained by each licensee, showing the number, nature and amount of all wagers made in connection with such meeting. The commission, or its duly authorized representatives, shall at all reasonable times have access to the records and books of any licensee for the purpose of examining and checking the same, and ascertaining whether or

Records, etc.,  
to be kept.

not the proper amount has been or is being paid to the commission as herein provided.

The commission may also from time to time require sworn statements of such wagers and may prescribe blanks upon which such reports shall be made. Any licensee failing or refusing to make such report as herein provided, or failing or refusing to pay the amount found to be due as provided in this chapter, shall be deemed guilty of larceny and upon conviction shall be punished by a fine of not less than one thousand nor more than ten thousand dollars.

Representatives  
of commission  
to attend  
race meetings.

*Section 7.* The commission may appoint one or more representatives to attend each racing meeting held or conducted under a license issued under this chapter, and the appointment of said representatives shall not be subject to chapter thirty-one. The compensation of each such representative shall be fixed by the commission.

Each such representative appointed by the commission to attend a racing meeting shall have full and free access to the space or enclosure where the pari-mutuel or certificate system of wagering is conducted or supervised for the purpose only of ascertaining whether or not the provisions of this chapter are being properly observed. He shall also, for the same purpose only, have full and free access to the books, records and papers pertaining to such pari-mutuel or certificate system of wagering. He shall investigate, ascertain and report to the commission in writing under oath as to whether or not he has discovered any violation at such meeting of any of the provisions of this chapter, and, if so, the nature and character of such violations. Such report shall be made within ten days after the termination of the duties of such representative at any racing meeting.

If any such report shows any violation of this chapter, the commission shall transmit a copy of such report to the attorney general for such action as he shall deem proper.

Local police  
to attend  
race meetings.

*Section 8.* The commission may apply to the local police authorities for, and said authorities shall thereupon assign, such number of police officers to be on duty at any racing meeting permitted by this chapter as the commission may deem proper. Police officers so assigned shall report to the commission and shall perform such duties as may be required by the commission. The licensee shall pay to the commission a sum equal to the salaries of police officers so assigned for the period of such racing meeting. The commission shall also fix an amount to cover the necessary expenses of each police officer so assigned not exceeding ten dollars per diem. A certified check or bank draft, payable weekly in advance to the commission, for the full amount of such salaries and expenses shall be delivered to the commission before twelve o'clock noon of the first day of such racing meeting.

Rules and  
regulations.

*Section 9.* The commission shall have full power to prescribe rules, regulations and conditions under which all horse or dog races at horse or dog racing meetings shall be conducted in the commonwealth.

The commission shall have power to prescribe special rules, regulations and conditions applicable to horse and dog racing meetings held under licenses granted hereunder in connection with a state or county fair, or any exhibition for the encouragement or extension of agriculture.

Rules and regulations so prescribed shall be printed by the commission and furnished in reasonable numbers to any one who may request them.

Any person violating any such rule or regulation shall be punished by a fine of not more than five thousand dollars or by imprisonment for not more than one year, or both.

*Section 10.* Any licensee permitting any minor to participate in the pari-mutuel or certificate system of wagering at a racing meeting held or conducted by such licensee shall be punished by a fine of not more than one hundred dollars. No licensee shall employ any one, in operation of a pari-mutuel or certificate system of wagering at a racing meeting held or conducted by such licensee, except a citizen of the commonwealth.

Minors  
not to be  
employed, etc.

*Section 11.* The commission shall have full discretion to refuse to grant a license to any applicant for a license or to suspend or revoke the license of any licensee. If any license is suspended or revoked, the commission shall make a record of its reasons for doing so and such record shall be made available to any person requesting to inspect the same.

Suspension,  
etc., of license.

*Section 12.* No person shall hold or conduct, or assist, aid or abet in holding or conducting, any horse or dog racing meeting within the commonwealth unless such person shall comply with the provisions of this chapter.

Penalty for  
holding un-  
licensed race  
meeting, etc.

Any person holding or conducting or any person aiding or abetting in holding or conducting, any horse or dog racing meeting within the commonwealth in violation of any of the provisions of this chapter shall, unless some other penalty for such violation is provided in this chapter, be punished for each such offence by a fine of not more than ten thousand dollars or by imprisonment for not more than one year, or both. For the purpose of this section, each day on which any horse or dog racing meeting shall be held or conducted in violation of any of the provisions of this chapter shall be considered a separate and distinct offence.

*Section 13.* Any person making a handbook, at any race track within the commonwealth, or holding or conducting a gambling pool or managing any other type of wagering or betting on the results of any horse or dog race, or aiding or abetting any of the foregoing types of wagering or betting, except as permitted by this chapter, shall for a first offence be punished by a fine of not more than two thousand dollars and imprisonment for not more than one year, and for a subsequent offence by a fine of not more than ten thousand dollars and imprisonment for not more than two years. Any jockey, trainer or owner of horses participating in horse or dog racing, if found guilty by the commission of unfair riding or crooked tactics, shall be barred from further participation in racing throughout the commonwealth.

Penalty for  
conducting  
unauthorized  
wagering, etc.



Referendum to counties.

*Section 14.* Licenses shall not be granted under this chapter for the holding or conducting of any horse racing meeting or any dog racing meeting within any county unless a majority of the registered voters of such county voting on the questions of granting such licenses when said questions were last submitted to them, as hereinafter provided, have voted in the affirmative.

The state secretary shall cause to be placed on the official ballot to be used in the cities and towns at the biennial state election in the year nineteen hundred and thirty-four the following questions: —

1. Shall the pari-mutuel system of betting on licensed horse races be permitted in this county?

YES.	<input type="checkbox"/>
NO.	<input type="checkbox"/>

2. Shall the pari-mutuel system of betting on licensed dog races be permitted in this county?

YES.	<input type="checkbox"/>
NO.	<input type="checkbox"/>

Upon petition of five per cent of the registered voters of any county filed with the state secretary not less than thirty days prior to a biennial state election after the year nineteen hundred and thirty-six the state secretary shall also cause said questions to be placed on the official ballot to be used in the cities and towns in said county at said biennial election; provided, that said questions shall not be submitted under this section to the voters of any county oftener than once in four years.

If a majority of the votes cast in a county in answer to question 1 are in the affirmative, such county shall be taken to have authorized the licensing of horse races therein at which the pari-mutuel system of betting shall be permitted.

If a majority of the votes cast in a county in answer to question 2 are in the affirmative, such county shall be taken to have authorized the licensing of dog races therein at which the pari-mutuel system of betting shall be permitted.

Receipts of state, how distributed.

*Section 15.* Twenty-five per cent of the receipts paid into the state treasury under this chapter, after deducting therefrom the amount of expenses incurred by the commission in carrying out the provisions of this chapter, shall, on or before December first each year be distributed by the state treasurer to the several cities and towns, in proportion to the amounts of state tax imposed upon such cities and towns in that year and one half of all money received by cities and towns hereunder shall be expended by it for the old age assistance and one half to public welfare relief.

Constitutionality.

*Section 16.* The invalidity of any section or sections or parts of any section or sections of this chapter shall not affect the validity of the remainder of this chapter.

*Approved June 29, 1934.*