

No. 728

AN ACT

Providing for and regulating harness racing with pari-mutuel wagering on the results thereof; creating the State Harness Racing Commission as a departmental administrative commission within the Department of Agriculture and defining its powers and duties; providing for the establishment and operation of harness racing plants subject to local option; imposing taxes on revenues of such plants; disposing of all moneys received by the commission and all moneys collected from the taxes; authorizing penalties; and making appropriations.

**State Harness
Racing.**

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. State Harness Racing Commission.—The State Harness Racing Commission is hereby created as a departmental administrative commission within the Department of Agriculture, and it shall have general jurisdiction over all pari-mutuel harness racing activities in the State and the corporations engaged therein. Such commission shall consist of three members who shall be appointed by the Governor, by and with the advice and consent of the Senate. Each commissioner shall hold office for a term of three years. Such commissioners shall receive no salary but shall be reimbursed for expenses incurred in the performance of their official duties. The commission shall appoint such deputies, secretaries, officers, representatives and counsel as it may deem necessary, who shall serve during its pleasure, and shall also appoint such employes it may deem necessary and whose duties shall be prescribed by the commission and whose compensation shall be fixed by the commission within the appropriations available therefor. It shall be the duty of the secretary to keep a full and faithful record of the proceedings of such commission, preserve at the general office of such commission all books, maps, documents, and papers entrusted to his care, prepare for service such papers and notices as may be required of him by the commission, and perform such other duties as the commission may prescribe. The commission, or such officers, employes or agents of the commission as may be designated by the commission for such purpose, shall have the power to administer oaths and examine witnesses, and may issue subpoenas to compel attendance of witnesses, and the production of all relevant and material reports, books, papers, documents, correspondence, and other evidence. Such commission shall, annually, make a full report to the Secretary of Agriculture of its proceedings for the year ending with the first day of the preceding December and such suggestions and recommendations as it shall deem desirable.

Section 2. General Powers of State Harness Racing Commission.—(a) Pursuant to the provisions of this act, the State Harness Racing Commission shall have power to supervise generally all harness race meetings in this State at which pari-mutuel betting is conducted, the commission may adopt rules and regulations not inconsistent with this act to carry into effect its purposes and provisions and to prevent circumvention or evasion thereof. In order that the rules of harness horse racing may be uniform throughout the United States, the commission may adopt the rules and regulations of The United States Trotting Association, in whole or in part, and may adopt such other or different rules as it deems necessary to carry into effect the purposes and provisions of this act.

(b) Without limiting the generality of the foregoing, and in addition to its other powers:

(1) The State Harness Racing Commission shall have power to fix minimum and maximum charges for admission to harness race meetings at which pari-mutuel betting is conducted, but such minimum charges shall not be less than fifty cents (50¢) for general admission, exclusive of taxes: Provided, however, That the commission shall have power to fix the charge for admission of soldiers, sailors, and marines, in uniform, at one-half of the amount fixed for such admission generally under authority of this section, whether or not such one-half of the amount fixed is less than the minimum prescribed therein.

(2) The State Harness Racing Commission shall prescribe rules and regulations for effectually preventing the use of improper devices, the administration of drugs or stimulants, or other improper acts for the purpose of affecting the speed of harness horses in races in which they are about to participate.

(3) The rules of the commission shall also provide that all winning pari-mutuel tickets must be presented for payment before April first of the year following the year of their purchase and failure to present *any such ticket within the prescribed period of time shall constitute a waiver of the right to participate in the award or dividend. After April first of the year following, all licensees will forward to the State Treasurer all funds so held for such uncashed tickets.

Section 3. Incorporation.—Any number of persons, not less than five, may incorporate for the purpose of

* "and" in original.

LAWS OF PENNSYLVANIA,

conducting harness horse race meetings at which pari-mutuel betting will be conducted, with all the general powers of corporations created under the laws of this State, by making, signing, acknowledging and filing with the Department of State a certificate which shall contain:

- (1) The name of the proposed corporation.
- (2) The objects for which it is to be formed and the location at which it is proposed to conduct its business.
- (3) The amount and description of the capital stock.
- (4) The location of its principal business office.
- (5) Its duration, which shall not exceed fifty years.
- (6) The number of its directors, not less than five nor more than thirteen.
- (7) The names and post office addresses of the directors for the first year.
- (8) The post office addresses of the subscribers and a statement of the number of shares of stock which each agrees to take in the corporation.

Each such certificate shall be accompanied by the fees, bonus and taxes required by law in the case of corporations organized under the "Business Corporation Law" of 1933.

No corporation organized pursuant to this act shall have or be given the right or power to conduct any harness horse race meet pursuant to this act, except on obtaining a license from the commission and at the location *designated in its certificate of incorporation as the place at which it was proposed to conduct its business: Provided, however, That this restriction shall not apply to any such corporation whose racing plant or the usefulness thereof or of any material part thereof, in the discretion of the commission, shall, for any reason beyond the control of such corporation, be totally destroyed or so substantially interfered with or damaged as to render same unfit for continued operation. Pending the rebuilding or restoration of its usefulness, or the making of the required repairs to said plant or the part thereof so destroyed or damaged, the State Harness Racing Commission may license such corporation to conduct its harness horse race meetings at any other suitable location in the same county or in any other county in which a harness racing plant may be located.

* "designed" in original.

Section 4. Filing of Information Concerning Stock Transfers; Necessity for Commission's Approval.—

(a) Whenever a transfer of stock of any corporation which is licensed under this act, or of any corporation which leases to such licensee the track at which it conducts pari-mutuel harness races or which owns twenty-five per centum or more of the stock of such licensee shall be made, there shall be filed, simultaneously, with the corporation which issued such stock the following:

(1) In duplicate, an affidavit executed by the transferee stating that he is to be the sole beneficial owner thereof, and whether or not he: (i) has been convicted of a crime involving moral turpitude, (ii) has been engaged in bookmaking or other forms of illegal gambling, (iii) has been found guilty of any fraud or misrepresentation in connection with racing or breeding, (iv) has been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction, for which suspension from racing might be imposed in such jurisdiction, or (v) has violated any rule, regulation or order of the commission. If the transferee is not, or is not to be, the sole beneficial owner thereof, then there shall be annexed to said affidavit of the transferee, and expressly stated in such affidavit to be deemed a part thereof, a true and complete copy, or if oral, a complete statement of all terms of the agreement or understanding pursuant to which the stock is to be so held by the transferee, including a detailed statement of the interest therein of each person who is to have any interest therein; and

(2) In duplicate, an affidavit executed by each person for whom the said stock, or any interest therein, is to be held by said transferee, setting forth whether or not the affiant (i) has been convicted of a crime involving moral turpitude, (ii) has engaged in bookmaking or other forms of illegal gambling, (iii) has been found guilty of any fraud or misrepresentation in connection with racing or breeding, (iv) has been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction, for which suspension from racing might be imposed in such jurisdiction, or (v) has violated any rule, regulation or order of the commission. To each of such affidavits shall be annexed, and expressly stated in such affidavit to be deemed a part thereof, a true and complete copy, or if oral, a complete statement of all the terms of the agreement or understanding pursuant to which stock is to be so held by the transferee, including a detailed statement of the interest therein of each person who is to have any interest therein. Said corporation shall forthwith file with the commission one of each of said duplicate affidavits.

(b) If, after the filing of any affidavit hereinabove required to be filed, there shall be any change in the status of any such affiant with respect to any of the matters set forth in clause (1) of subsection (a) of the affidavit theretofore filed by him, such affiant shall forthwith file with the corporation with which his affidavit was so filed a new affidavit, executed by him in duplicate, setting forth such change of status, and the corporation shall forthwith file one of said affidavits with the commission.

(c) Whenever any change shall be made in the amount, nature, or otherwise, of the interest of any person having an interest in stock of any such corporation, or any new interest shall be created therein, without a transfer thereof as hereinabove provided, the record owner of such stock, and each person whose interest therein has been so attempted to be changed or created, shall file with the corporation which issued such stock, in duplicate, affidavits as provided by clauses (1) and (2) of subsection (a) of this section, except that such affidavits need not include the matter referred to in subsection (a) unless then required pursuant to subsection (b) of this section, and one copy thereof shall forthwith be filed by the corporation with the commission.

(d) If the commission determines that it is inconsistent with the public interest, convenience, or necessity, or with the best interest of racing generally, that any person continue to be a stockholder of record, or the beneficial owner of any interest in stock standing in the name of another in any corporation licensed under this act, or of any corporation which leases to such licensee the track at which it conducts pari-mutuel harness racing or which owned twenty-five per centum or more of the stock of such licensee, the commission shall have full power and authority to order or direct each such stockholder or beneficial owner to dispose of his stock or interest therein within a period of time to be specified by the commission, which period the commission shall have full power and authority to extend from time to time.

(e) If the commission shall make any order or direction as provided in subsection (d) of this section, the person aggrieved thereby shall be given notice of the time and place of a hearing before the commission, at which the commission will hear such person in reference thereto. The action of the commission in making any such order or direction shall be reviewable in the Court of Common Pleas of Dauphin County.

Section 5. Pari-mutuel Betting at Harness Races.— No more than four corporations shall be licensed by the State Harness Racing Commission in any one year to conduct a pari-mutuel meet or meets. No corporation

shall be licensed to conduct harness racing for more than fifty days in any calendar year. Said pari-mutuel betting conducted at such meeting shall be under the general supervision and control of the State Harness Racing Commission which shall make rules regulating the conduct of such pari-mutuel betting in accordance with the provisions of this act. The Department of Revenue is charged with the financial administration of pari-mutuel betting as prescribed in this act and as supplemented by the rules and regulations of the State Harness Racing Commission. The Department of Revenue shall have authority to prescribe the forms and the system of accounting to be employed, and through its representatives shall, at all times, have power of access to, and examination of, any equipment relating to such betting.

Section 6. State Admission Tax.—(a) Every corporation holding a harness horse race meeting pursuant to this act shall collect, in addition to the admission price of tickets sold or otherwise disposed of, for each such meeting held by such corporation, a tax equivalent to five per centum of such admission price, which tax is hereby imposed. In case of failure to collect such tax, the same shall be imposed upon the corporation holding the race meeting. Such tax shall be paid to the Department of Revenue within ten days after the close of each such race meeting. The amounts so collected shall be paid into the State Treasury to the credit of the State Harness Racing Fund. Before any corporation liable to pay the tax hereby imposed shall hold any race meeting, or exercise any of the powers conferred by this act, it or he shall pay all taxes theretofore due, and shall file a statement with the Department of Revenue containing the name of the place and stating the time when such races are to be held.

Nothing in this section shall apply to a race meeting conducted by any State, county, or other agricultural association.

(b) The Department of Revenue shall have the power to examine, or cause to be examined, the books and records of the corporation so conducting any such harness horse race meeting, and may hear testimony and take proofs *and material for its information ** therefrom, or from any other data which shall be satisfactory to it, the Department of Revenue may order and state an account for the tax due the State, together with the expense of such examination. A penalty of five per centum and interest at the rate of one per centum per month from the due date to the date of payment of the tax shall be payable in case any tax imposed by this section is not paid when due.

* "and" not in original.

** "and" in original.

Section 7. Licenses for Harness Race Meetings.—

(a) Any corporation desiring to conduct harness race meetings at which pari-mutuel betting shall be permitted may apply, annually, to the State Harness Racing Commission for a license to do so. If, in the judgment of the State Harness Racing Commission, the public interest, convenience or necessity will be served thereby and a proper case for the issuance of such license is shown consistent with the purposes of this act and the best interests of racing generally, it may grant such license for a term ending not later than the fifteenth day of November next succeeding the granting thereof, specifying dates and hours during which, and the place where, the licensee may operate.

(b) Every such license shall be issued upon condition :

(1) That every harness horse race meeting at which pari-mutuel betting is conducted shall be subject to the supervision of and to the reasonable rules and regulations from time to time prescribed by the State Harness Racing Commission, and

(2) That pari-mutuel betting conducted thereunder shall also be subject to the supervision of and to the reasonable regulations from time to time prescribed by the Department of Revenue. Any such license may also be issued upon any other condition that the State Harness Racing Commission shall determine to be necessary or desirable to insure that the public interest, convenience or necessity is served.

(c) Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. Each application for renewal of a license shall be deemed to be an application for a new license. The term "racing week" shall not include Sunday, and no racing shall be authorized or permitted on that day.

(d) In considering an application for a license under this section, the State Harness Racing Commission may give consideration to the number of licenses already granted. No such license shall be granted to any track located within ten miles of a State, county or other political subdivision fair conducting harness racing unless the association, corporation, society, political subdivision or State agency conducting such fair shall affirmatively waive objection to the issuance of such license for dates within such period.

(e) The commission may refuse to grant a license to a corporation, if it shall determine that :

(1) Any officer, director, member or stockholder of such corporation applying for a license or of any cor-

poration which owns stock in or shares in the profits, or participates in the management of the affairs of such applicant, or which leases to such applicant the track where it shall operate: (i) has been convicted of a crime involving moral turpitude, (ii) has engaged in bookmaking or other forms of illegal gambling, (iii) has been found guilty of any fraud or misrepresentation in connection with racing or breeding, (iv) has been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction, for which suspension from racing might be imposed in such jurisdiction, (v) has violated any rule, regulation or order of the commission.

(2) The experience, character, or general fitness of any officer, director, or stockholder of any of the aforesaid corporations is such that the participation of such person in harness racing or related activities would be inconsistent with the public interest, convenience or necessity or with the best interests of racing generally, but if the commission determines that the interest of any stockholder referred to in this clause or in clause (1) of this subsection is sufficient, in the opinion of the commission, to affect adversely the conduct of pari-mutuel harness racing by such corporation in accordance with the provisions of this act, the commission may disregard such interest in determining whether or not to grant a license to such corporation.

(3) The applicant is not the owner of the track at which it will conduct pari-mutuel harness racing pursuant to the license applied for, or that any person, firm, association, or corporation other than the applicant shares, or will share, in the profits of the applicant, other than by dividends as a stockholder, or participates, or will participate, in the management of the affairs of the applicant.

(f) The commission shall also have power to refuse to grant a license:

(1) To any corporation, the charter or certificate of incorporation of which shall fail to contain a provision requiring any stockholder, upon written demand of the corporation, to sell his stock to the corporation at a price to be fixed by the commission, provided such demand be made pursuant to written direction of the commission, and from and after the date of the making of such demand prohibiting the transfer of such certificate of stock except to the corporation.

(2) To any corporation which, having been a licensee, has failed, in the opinion of the commission, to properly maintain its track and plant in good condition or has failed to make adequate provision for rehabilitation and capital improvements to its track and plant.

(g) Pending final determination of any question under this section, the commission may issue a temporary license upon such terms and conditions as it may deem necessary, desirable or proper to effectuate the provisions of this act.

(h) The commission shall have power to direct that every certificate of stock of a corporation licensed under the provisions of this act shall bear a legend, plainly and prominently imprinted upon the face of the certificate, reading: "This certificate of stock is transferable only subject to the provisions of the Pennsylvania Harness Racing Law."

Section 8. Officials at Harness Horse Race Meetings.—At all harness race meetings licensed by the State Harness Racing Commission in accordance with the provisions of this act, qualified judges and starters shall be approved by the commission. No person shall be approved as a judge or starter unless he shall be licensed by The United States Trotting Association as a duly qualified pari-mutuel race meeting official. Such officials shall enforce the rules and regulations of the State Harness Racing Commission and shall render regular written reports of the activities and conduct of such race meetings to the State Harness Racing Commission. The compensation of such judges and starters shall be fixed by the State Harness Racing Commission and paid by the corporation conducting such race meeting.

Section 9. License for Participants and Employes at Harness Race Meetings.—(a) For the purpose of maintaining a proper control over harness race meetings conducted pursuant to this act, the State Harness Racing Commission may license drivers and such other persons participating in harness horse race meets, as the commission may by rule prescribe, including, if the commission deems it necessary to do so, owners and some or all persons exercising their occupation or employed at harness race meets. The State Harness Racing Commission may, by rule, fix the license fees to be paid by persons or corporations so licensed: Provided, That such occupational license fees so fixed shall not exceed five dollars (\$5), which fees shall be paid to the commission and by it paid into the State Treasury through the Department of Revenue and credited to the State Harness Racing Fund. All such licenses, unless revoked for cause, shall be for the period of one year from April first of the year in which the same shall be issued. The application shall be in such form and contain such information as the commission may require.

(b) If the State Harness Racing Commission shall find that the experience, character, and general fitness of the applicant are such that the participation of such person

in harness horse race meets will be consistent with the public interest, convenience and necessity, and with the best interests of racing generally in conformity with the purposes of this act, it may thereupon grant a license.

Without limiting the generality of the foregoing, the commission may refuse to issue a license pursuant to this section, if it shall find that the applicant:

- (1) Has been convicted of a crime involving moral turpitude.
- (2) Has engaged in bookmaking or other form of illegal gambling.
- (3) Has been found guilty of any fraud or misrepresentation in connection with racing, or breeding.
- (4) Has been found guilty of any violation or attempt to violate any law, rule or regulation of racing in any jurisdiction, for which suspension from racing might be imposed in such jurisdiction.
- (5) * Has violated any rule, regulation or order of the commission.

The commission may suspend or revoke a license issued pursuant to this section, if it shall determine that:

(1) The applicant or licensee (i) has been convicted of a crime involving moral turpitude, (ii) has engaged in bookmaking or other form of illegal gambling, (iii) has been found guilty of any fraud in connection with racing or breeding, (iv) has been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction, for which suspension from racing might be imposed in such jurisdiction, or (v) who has violated any rule, regulation or order of the commission.

(2) That the experience, character, or general fitness of any applicant or licensee is such that the participation of such person in harness racing or related activities would be inconsistent with the public interest, convenience or necessity or with the best interests of racing generally.

(c) Pending final determination of any question under this section, the commission may issue a temporary license upon such terms and conditions as it may deem necessary, desirable or proper to effectuate the provisions of this act.

Section 10. Power of Harness Racing Commission to Impose Fines and Penalties.—In addition to its power to suspend or revoke licenses granted by it, the State Harness Racing Commission is hereby authorized and empowered to impose fines upon any corporation, association, or person participating in any way in any harness race meet at which pari-mutuel betting is conducted,

* "Who" in original.

other than as a patron, and whether licensed by the commission or not, for a violation of any provision of this act or the rules promulgated by the commission pursuant thereto, not exceeding five thousand dollars (\$5000) for each violation, which fines shall be paid into the *State Treasury through the Department of Revenue and credited to the General Fund. The action of the commission in imposing any monetary fine shall be subject to appeal to the Court of Common Pleas of Dauphin County and as approved by that court, or if no appeal is taken, then as imposed, may be collected in an action of assumpsit.

Section 11. Refunds.—Moneys received by the commission pursuant to this act may, within one year from the receipt thereof, be refunded, to the party for whose account the same were received, on proof satisfactory to the commission that:

(1) Such moneys were in excess of the amount required by law.

(2) The license for which application was made has been refused by the commission.

(3) Such moneys were received as a fine and the commission has, after review, reduced the amount of such fine.

(4) Upon appeal, the court reduced or remitted the fine imposed and paid.

Such refunds shall, upon approval by the commission and after approval by the Board of Finance and Revenue, be paid from any moneys in the State Harness Racing Fund and as much of such moneys as may be necessary from time to time is hereby appropriated for that purpose.

Section 12. Place and Manner of Conducting Pari-mutuel Betting.—Any corporation licensed to conduct pari-mutuel betting at a harness race meeting shall provide a place or places within race meeting grounds or enclosure, at which such licensee shall conduct the pari-mutuel system of betting by its patrons on the result of the harness horse races at such meetings. Such licensee shall cause to be erected a sign or board upon which shall be displayed the approximate straight odds on each horse in any race; the value of a two dollar (\$2) winning mutuel ticket, straight, place or show on the first three horses in the race; the elapsed time of the race; the value of a two dollar (\$2) winning daily double ticket, if a daily double be conducted, and any other information that the State Harness Racing Commission may deem necessary for the guidance of the general public. The commission may prescribe, by rule, the type and

* "State" not in original.

kind of equipment to be used for the display of the foregoing information or any part thereof.

Section 13. Books and Records of Pari-mutuel Betting.—Every corporation, conducting a harness horse race meeting at which pari-mutuel betting is authorized, shall keep its books and records so as to clearly show by separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any. The Department of Revenue or its duly authorized representative shall, at all reasonable times, have access to all such books and records for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due to the State of Pennsylvania are being paid by such licensed corporation.

Section 14. Filing of Certain Agreements with the State Harness Racing Commission.—Every corporation licensed to conduct harness race meetings at which pari-mutuel betting is permitted shall, promptly, after entering any lease agreement concerning any concession, labor management relation, the hiring of designated classes of officers, employes, or contractors specified by the commission, or any such other contract, agreement or arrangements as the State Harness Racing Commission may from time to time prescribe, file with the State Harness Racing Commission a true and correct copy, or an accurate summary, if oral, thereof.

Section 15. Disposition of Pari-mutuel Pools.—Every corporation authorized under this act to conduct pari-mutuel betting at a harness horse race meeting on races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment before April first of the year following the year of their purchase, less fifteen per centum of the total deposits plus the breaks. At the close of each racing day, the permit holder out of the amount retained on said day by said permit holder, shall pay, through the Department of Revenue into the State Treasury for credit to the State Harness Racing Fund, a tax of five per centum of the amount wagered each day, which tax is hereby imposed.

In addition, each permit holder shall be allowed to retain the odd cents of all redistribution to be made on all mutuel contributions exceeding a sum equal to the next lowest multiple of ten, subject to a tax of fifty per centum of the total sum of such odd cents, which tax is hereby imposed and shall be paid by the permit holder to the Department of Revenue for credit to the State Harness Racing Fund.

Section 16. Disposition and Appropriation of Funds Accruing under the Provisions of this Act.—(a) All moneys paid into the State Treasury under the provisions of this act shall be paid into a special fund hereby created and to be known as the State Harness Racing Fund.

(b) As much as may be necessary of such moneys *is hereby appropriated to pay:

(1) The salaries of employes of the commission employed by or for **it in accordance with the provisions of the act of April 9, 1929 (P. L. 177), known as "The Administrative Code of 1929," and its amendments, and

(2) To pay all other expenses incurred by the commission in administering this act.

(c) ***Three-fourths of all moneys, remaining in the State Harness Racing Fund and not required for payments under subsection (b) shall be paid into the General Fund.

(d) The balance of said moneys shall be paid into a fund known as the Pennsylvania Fair Fund. Moneys in the Pennsylvania Fair Fund are hereby appropriated to the Department of Agriculture and shall be distributed by the Secretary of Agriculture, annually, on or before the first day of March beginning with the year 1960, as follows:

(1) To each county agricultural society and to each independent agricultural society conducting an annual fair, the sum of two thousand dollars (\$2000), annually, to be used in the general operations of such fairs, including, but not limited to, junior club work, school displays, livestock premiums and agricultural stock improvements.

(2) To each county agricultural society and each independent agricultural society conducting harness horse racing during their annual fair, the sum of two thousand five hundred dollars (\$2500) to be used as purse money for harness horse racing conducted during their annual fair.

(3) To each county agricultural society and each independent agricultural society conducting races for two and three-year-old colts and fillies, a sum of five hundred dollars (\$500) for each such race. All entrance fees collected for each such race shall be added to the sum above provided.

In the event there is an excess over the above amount, it shall be paid into the General Fund. In the event the amount in this fund collected is less than required for the above, the amount granted to each participating fair shall be reduced proportionately.

* "is" omitted in original.
 ** "them" in original.
 *** "Three-fourth" in original.

The Secretary of Agriculture shall provide forms for application for the distribution of the funds to the county and independent fairs and shall prescribe such rules and regulations as are necessary for carrying out the provisions of this section, and may make such investigations as are necessary to determine the validity of any claims and applications for distribution of moneys hereunder.

Section 17. Revocation of License.—The State Harness Racing Commission may revoke or suspend a license for the conduct of harness race meetings at which pari-mutuel betting is conducted :

(1) For any cause which would permit or require its refusal to issue a license, or

(2) If it shall determine that the corporation, to which such license shall have been issued, or its officers or directors fail to conduct racing at its track, including pari-mutuel betting on the races thereat, in accordance with the terms and conditions of such license, the rules of such commission or of the Department of Revenue, or the provisions of this act, or if such corporation or its officers or directors shall knowingly permit on its grounds or within the enclosure of its race track, lotteries, pool selling or bookmaking, or any other kind of gambling, in violation of this act or of the act of June 24, 1939 (P. L. 872), known as "The Penal Code."

Section 18. Hearing of Refusal or Revocation of License.—If the State Harness Racing Commission shall refuse to grant a license applied for under this act, or shall revoke or suspend such a license granted by it, the applicant or licensee may demand, within ten days after notice of the said act of the commission, a hearing before the commission and the commission shall give prompt notice of a time and place for such hearing at which the commission will hear such applicant or licensee in reference thereto. Pending such a hearing and final determination thereon, the action of the commission in refusing to grant or in revoking or suspending a license shall remain in full force and effect. The commission may continue such hearing from time to time for the convenience of any of the parties. Any of the parties affected by such hearing may be represented by counsel, and the commission shall be represented by the Attorney General, or a deputy attorney general. In the conduct of such hearing, the commission shall not be bound by technical rules of evidence, but all evidence offered before the commission shall be reduced to writing, and such evidence, together with the exhibits, if any, and the findings of the commission shall be permanently preserved and shall constitute the record of the commission in such case. In connection with such hearing, the commission shall have the power to administer oaths and

examine witnesses, and may issue subpoenas to compel attendance of witnesses, and the production of all material and relevant reports, books, papers, documents, correspondence and other evidence. The commission may, if occasion shall require, by order, refer to one or more of its officers the duty of taking testimony in such matter, and to report thereon to the commission, but no determination shall be made therein except by the commission. Within thirty days after the conclusion of such hearing, the commission shall make a final order in writing, setting forth the reasons for the action taken by it and a copy thereof shall be served on such applicant or licensee, as the case may be. The action of the commission in refusing to grant a license or in revoking or suspending a license shall be reviewable by the Court of Common Pleas of Dauphin County as provided in the act of June 4, 1945 (P. L. 1388), known as the "Administrative Agency Law."

Section 19. Approval of Plans of Corporation.—The State Harness Racing Commission shall not grant to a corporation hereafter formed pursuant to this act a license to conduct a harness race meeting at which parimutuel betting may be conducted within the State, until such corporation shall have submitted to the commission a statement of the location of its proposed grounds and race track, together with a plan of such race track and plans of all buildings, seating stands, and other structures, in such form as the commission may prescribe, and such plans shall have been approved by the commission.

Section 20. Local Option. — (a) The commission shall not consider an application for a license to conduct harness race meetings, until a majority of the electorate of the county in which the racing plant is located, shall have voted in favor of locating a racing plant within the county at an election held on that question. Only one such election shall be held in any county.

(b) An election on the question shall be conducted when at least five thousand registered electors in any county petition the State Harness Racing Commission therefor. Upon receipt of such petition, the commission shall give notice of such proposed location by public advertisement in two newspapers of general circulation in such county. The petition shall be certified by the commission to the county board of elections in such county and at the first primary election occurring at least sixty days after such certification, the question shall be submitted to the electorate in the manner provided by the election laws of the Commonwealth. Such question shall be in the following form:

Do you favor the location of a Harness Racing Plant with pari-mutuel betting in this county? Yes No

The question shall be printed on separate official ballots in bound form by the county board of elections of each county where it is proposed a racing plant shall be located, and a sufficient number of ballots shall be furnished to the election officers in each election district of any such county so that one ballot may be supplied to each voter at such election. In districts where voting machines are used, such question shall appear on the face of the machine where the machine is properly equipped for such purposes.

The vote at such election shall be canvassed and returned in the manner provided by the election laws of the Commonwealth.

Section 21. Prohibition of Wagering by Certain Officials, Employes and Minors.—No commissioner, secretary, deputy, officer, representative, employe or counsel of the commission shall bet upon the outcome of any harness horse race conducted at a track at which pari-mutuel betting is conducted by any licensee of the commission, and no corporation which is licensed under this act shall permit any person who is actually and apparently under twenty-one years of age to bet at a harness race meeting conducted by it.

Section 22. Free Passes, Cards, or Badges.—A corporation licensed to conduct pari-mutuel betting on harness horse races run at its race track shall not issue free passes, cards, or badges except to persons hereafter described: Officers and employes of the corporation conducting the race meeting; members, officers and employes of the State Harness Racing Commission; members of harness racing associations of other states and foreign countries; public officers engaged in the performance of their duties; persons actually employed and accredited by the press to attend such meetings; owners, stable managers, trainers, drivers, concessionaires, and other persons whose actual duties require their presence at such race track. The issuance of tax-free passes, cards, or badges shall be under the rules and regulations of the State Harness Racing Commission and a list of all persons to whom free passes, cards, or badges are issued shall be filed with the State Harness Racing Commission.

Section 23. Political Subdivision Agricultural Fairs and Harness Race Meetings Not Licensed to Conduct Pari-mutuel Betting.—Pari-mutuel betting on harness races at any county, or other political subdivision agricultural or other fair held within the State, shall not be authorized, and no lottery, pool selling, bookmaking, or any other kind of gambling upon the results of races,

heats, or contests of speed of harness horses *shall be allowed at such fair, or at any harness race meeting conducted in the State, except such as may be licensed to operate pari-mutuel betting, pursuant to the provisions of this act, which said form of betting as herein provided shall alone be legalized and allowed.

Section 24. **Employes at Harness Race Meetings.**—At least eighty-five per centum of the persons, exclusive of racing officials, employed each day in the operation and conduct of the pari-mutuel betting at harness race meets licensed pursuant to this act, shall be citizens of the United States of America and residents of the State of Pennsylvania for at least two years immediately prior to the commencement of such employment in the operation and conduct of pari-mutuel betting at harness race meets, and each employe shall be required to execute and submit, to the corporation by which he is employed, a duly verified affidavit setting forth his qualifications for employment pursuant to the provisions of this section.

APPROVED—The 22nd day of December, A. D. 1959.

DAVID L. LAWRENCE

No. 729

AN ACT

Prohibiting mining in certain areas without prior approval by the Department of Mines and Mineral Industries; establishing standards for the approval of plans for mining in such areas; imposing powers and duties on the mine foremen and the Department of Mines and Mineral Industries; and providing penalties.

Department
of Mines and
Mineral
Industries.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. **Establishment of Safety Zones.**—A safety zone is hereby established beneath and adjacent to every stream, river and natural or artificial body of water in the Commonwealth that is sufficiently large to constitute a hazard to mining in the opinion and in the discretion of the department. Such safety zone shall, in the case of such streams and rivers, extend horizontally two hundred feet from the high water mark of each bank. In the case of any other body of water sufficiently large to constitute a hazard to mining in the opinion and in the discretion of the department, it shall extend horizontally two hundred feet from the known perimeter. In any case, the zone shall extend downward to the limit of the workable beds.

* "shall be" omitted in original.