

Chapter 462

1973 REPLACEMENT PART

Racing

LICENSING OF RACE MEETS, TRAINERS, DRIVERS AND JOCKEYS; BETTING AND BOOKMAKING REGULATIONS

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LICENSING OF RACE MEETS, TRAINERS, DRIVERS AND JOCKEYS; BETTING AND BOOKMAKING REGULATIONS

462.010 Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Commission" means the Oregon Racing Commission.

(2) "Race meet" means and includes any exhibition of animal racing where the mutual system is used in conjunction with any race.

(3) "Licensee" means a person holding a license under this chapter.

(4) "Public training track" means any race course the facilities of which are available or open to the public for use in the training or schooling of racing animals.

(5) "Race course" means all the premises used in connection with the conduct of a race meet, including but not limited to, the race track, grandstands, paddock, stables, kennels and all other buildings and grounds adjacent to or appurtenant to the physical limits of the race track.

(6) "Race" shall mean any race conducted in a race meet. Included are races conducted without wagering provided one or more races in the meet are conducted with wagering.

(7) "Drug" means any narcotic, sedative, anesthetic, analgesic, drug or other medication of any kind or description intended for use in any manner—directly or indirectly, internally or externally—in the diagnosis, treatment, mitigation or cure of injury or disease or for use in the prevention of disease, which could affect, in any manner, the racing condition or performance of an animal as a depressant, stimulant, local anesthetic, analgesic, sedative or otherwise. The term also includes substances (other than foods) intended to affect the structure or any function of the body of the animal and all substances recognized as affecting the central nervous system, respiratory system, or blood pressure of any animal other than recognized vitamins or supplemental feeds approved by the commission. Also specifically included is any substance which can affect or interfere with the true and accurate testing and analysis of blood, saliva, urine or other samples taken from racing animals.

[Amended by 1953 c.497 §4; 1955 c.335 §1; 1957 c.313 §1; 1969 c.356 §10]

462.020 Necessity for license of race meets and officials and persons participating in the conduct of race meets; public training track license; licensees to observe rules and orders. (1) No person shall hold any race meet without having first obtained and having in full force and effect a license therefor issued by the commission.

(2) No trainer, driver, jockey, apprentice jockey, horse owner, dog owner, exercise boy, agent, authorized agent, jockey's agent, stable foreman, groom, valet, veterinarian, horseshoer, steward, stable watchman, starter, timer, judge or other person acting as a participant or official at any race meet, including all employes of the pari-mutuel department, shall participate in race meets without having first obtained and having in full force and effect a license issued by the commission, pursuant to such rules and regulations as the commission shall make.

(3) No person shall operate a public training track without having first obtained and having in full force and effect a license issued by the commission.

(4) Each person holding a license under this chapter shall comply with all rules, regulations and orders of the commission. [Amended by 1955 c.454 §1; 1957 c.313 §2; 1969 c.356 §11]

462.025 Notice required to terminate use of license; hearing. No licensee who accepts an engagement or employment or undertakes activities in preparation for or in connection with a race meet shall voluntarily terminate or discontinue his engagement, employment or activities unless he gives the commission notice in writing of his intention to do so at least 15 days prior to such termination or discontinuance. The commission may, upon notice to all interested parties, conduct one or more hearings with respect to any such termination or discontinuance. [1969 c.356 §5]

462.030 Qualifications for eligibility of race meet operator. No person is eligible to operate a race meet with a license issued under this chapter unless he is the owner or controls the possession of a properly constructed race track suitable for the class of races which are proposed to be conducted at such race track and improved with safe and suitable grandstands, equipped with reasonably sanitary accommodations, adequate stables for livestock together with adequate

fire protection equipment, and such other proper improvements as in the judgment of the commission may be required, taking into consideration the location of such race track and the probable capacity requirements to accommodate the crowd and the number of people that will reasonably be expected to occupy the grandstands and attend the race meets.

[Amended by 1955 c.336 §1]

462.040 Race meet licenses, classes, limitations, contents. (1) Race meet licenses granted by the commission shall be limited to:

(a) Licenses for horse race meets (class A).

(b) Licenses for race meets of animals other than horses (class B).

(2) No licensee shall be granted licenses of both classes nor shall licenses be issued for more than one class of racing on the same race course, track or location. The limitations of this subsection shall not govern, however, if the commission does not receive and approve applications for race meet licenses from other qualified applicants so as to allow utilization of the maximum number of racing days authorized under ORS 462.125.

(3) The license shall specify the number of days the race meet shall continue and the number of races per day.

[Amended by 1955 c.639 §1; 1957 c.313 §3; 1969 c.356 §12]

462.050 Application for race meet license; bond; payment of fees; return of deposit. (1) Every person making application for a license to hold a race meet shall file the application with the commission. It shall set forth the time, place and number of days the applicant desires the meet to continue, together with the applicant's estimate of the daily average percentage payment which the applicant will pay to the state upon the gross amount of money wagered per day and such other information as the commission may require.

(2) The commission may, in its discretion, require a performance bond in an amount not to exceed \$10,000, to insure that the licensee operates a race meet on the license days granted.

(3) The application shall be accompanied by a certified check on a bank maintaining an office and licensed to do business in Oregon in an amount equal to the license fee, exclusive of required percentage payments, required for the number of days for which

the license is requested. If the license is not granted, such deposit shall be returned promptly to the applicant. If the license is granted, but for fewer days than applied for, the excess of the deposit shall be returned promptly to the applicant.

462.055 Authority to require applicant to have recommendation of local governing body. (1) The commission may require of every applicant for a license to hold a race meet, except the Oregon State Fair and all county fairs, that has not, within five years prior to making an application for a license to hold a race meet, operated a race meet in the county or the city in which application for a license to hold a race meet is made, a recommendation in writing of the county court or board of county commissioners of said county in the event the race meet is to be held outside of a city, and of the governing body of such city if the race meet is to be held within a city.

(2) The commission may take such recommendation into consideration before granting or refusing such license. The applicant shall pay an investigating fee of \$15 to the recommending authority, if any.

[1953 c.551 §3; 1969 c.356 §13]

462.057 License and other fees and purses; track fund. (1) A race meet licensee designated in subsection (2) of this section shall make payments as follows:

(a) License fee—\$1 per year payable to the commission.

(b) Percentage of gross mutual wagering payable to the commission—one and one-half percent.

(c) If the race meet is for horses and the average daily gross mutual wagering during the preceding year exceeded \$100,000, a percentage of the gross mutual wagering shall be paid as follows:

(A) To purses—4.8 percent;

(B) To a special track fund to be used primarily for improving the race track facilities benefiting the horsemen in the barn area—two-tenths of one percent. All such funds shall be retained by the licensee in a separate account from all other funds and no disbursements or transfers shall be made therefrom without prior approval of the commission. All physical improvements paid from such funds shall satisfy reasonable fire, health, quality and construction standards established or approved by the commission. Unless the commission provides otherwise, such

improvements shall be made on the race course where the race meet which created the fund was held.

(2) Licensees subject to the provisions of this section are:

(a) The Pendleton Roundup.

(b) The Eastern Oregon Livestock Fair.

(c) The Pacific International Livestock Exposition.

(d) Any county fair.

(e) All other nonprofit, fair-type associations which conducted a licensed race meet in 1968 and 1969.

[1969 c.356 §6; 1971 c.130 §1; 1973 c.541 §1]

462.060 [Amended by 1953 c.551 §2; 1955 c.642 §1; 1963 c.519 §38; repealed by 1969 c.356 §38]

462.062 License and other fees, purses, track fund of race meets not subject to ORS 462.057. All licensees of race meets for horses, except those subject to ORS 462.057, shall make payments as follows:

(1) License fee—\$250 per racing day, payable to the commission.

(2) Percentage of gross mutual wagering payable to the commission—five and two-tenths percent.

(3) Percentage of gross mutual wagering for purses—4.8 percent. However, subject to prior approval of the commission, a portion of the percentage of gross mutual wagering designated by this subsection may be paid to one or more associations of horsemen for operating expenses and other benefits for horsemen.

(4) Percentage of gross mutual wagering to a special track fund of the type, and for the uses and purposes, and subject to the conditions set forth in subparagraph (B) of paragraph (c) of subsection (1) of ORS 462.057—two-tenths of one percent.

[1969 c.356 §7]

462.067 License and other fees for race meets not subject to ORS 462.057 and 462.062. All licensees of race meets except those subject to ORS 462.057 and 462.062 shall make payments as follows:

(1) License fee—\$250 per racing day, payable to the commission.

(2) Percentage of gross mutual wagering payable to the commission—five and eight-tenths percent.

[1969 c.356 §8]

462.070 License fees for officials and persons participating in the conduct of race meets and for operators of public training tracks. (1) The license fees for the entire

racing season in any one year shall be \$3 for trainers of all animals, drivers and jockeys and \$1 for all other persons required to be licensed under subsection (2) of ORS 462.020.

(2) The license fee for operators of public training tracks required to be licensed under subsection (3) of ORS 462.020 shall be:

(a) For the Oregon State Fair or a county or district fair, \$1.

(b) For all other operators of public training tracks, \$25.

[Amended by 1953 c.497 §4; 1955 c.353 §1; 1957 c.313 §4]

462.073 Unclaimed Winnings Account; payment of winners; transfer of account to General Fund. (1) Every licensee who conducts a race meet shall carry on his books for each race meet an account to be known as the Unclaimed Winnings Account showing the total amount due on outstanding winning mutual wagering tickets not presented for payment. A statement of the balance of the Unclaimed Winnings Account shall be furnished to the commission within 24 hours after any change in the account balance.

(2) Any person claiming to be entitled to any part of winnings from a mutual wagering system operated by a licensee, who fails to claim the money due to him prior to the completion of the race meet at which the mutual wagering ticket was purchased, may, within 90 days after the close of the meet, file with the licensee a claim, in such form as the commission shall prescribe, accompanied by the valid winning ticket. If the claimant establishes his right to winnings from the mutual wagering system, the licensee shall pay such winnings to the claimant. At the expiration of such 90-day period, the holder of such a winning ticket shall possess no right to any portion of the wagering and the ticket shall be deemed void.

(3) Ninety days after the close of a race meet conducted by a licensee under this chapter, an amount equal to the outstanding balance of the Unclaimed Winnings Account shall be paid to the commission, which shall immediately deposit such moneys in the General Fund in the State Treasury to the credit of the Oregon Racing Commission Account. The commission shall distribute such moneys in the same manner as the gross receipts of the mutual wagering collected by the commission are distributed.

(4) A race meet licensee shall not at any time make any payment to anyone claiming a part of the winnings from mutual wagering

except upon presentation of a valid, clearly identifiable winning ticket.

[1969 c.356 §37]

462.075 Grounds for refusal to issue licenses; hearing. (1) The commission may refuse to license any applicant if it has reasonable ground to believe that the applicant:

(a) Has been suspended or ruled off a recognized course in another jurisdiction by the racing board or commission thereof.

(b) Is not of good repute and moral character.

(c) Does not have, when previously licensed, a good record of compliance with the racing laws of this state or of any other state and with the regulations of the commission or of any other racing commission.

(d) Is not a citizen of the United States, or if the applicant is a corporation, firm or association, is not duly authorized to conduct business within the State of Oregon.

(e) If an individual, has been convicted of a crime involving moral turpitude, or, if a corporation, firm or association, is in whole or in part controlled or operated directly or indirectly by a person who has been convicted of a crime involving moral turpitude.

(f) If an individual, is engaged in wagering by other than the mutual method or in pool selling or bookmaking in any state of the United States or foreign country or, if a corporation, firm or association, is in whole or in part controlled or operated directly or indirectly by a person who is engaged in wagering by other than the mutual method or in pool selling or bookmaking in any state of the United States or foreign country.

(g) Has been found guilty by the commission of a violation of this chapter or any rules and regulations of the commission.

(h) Should not, in the best interest of the safety, welfare, health, peace and morals of the people of the state, be granted a license.

(2) The commission may refuse to issue a license to conduct a race meet for any ground set forth in subsection (1) of this section or if it has reasonable ground to believe any of the following to be true:

(a) That the applicant is not possessed of or has not demonstrated financial responsibility sufficient to meet adequately the requirements of the enterprise proposed to be licensed.

(b) That the applicant is not the true owner of the enterprise proposed to be licensed, that other persons have ownership in the enterprise which has not been dis-

closed or, if the applicant is a corporation, that any of the stock of such corporation is subject to a contract or option to purchase at any time during the period for which the license is issued.

(c) That the granting of a license in the locality set out in the application is not demanded by public interest or convenience.

(d) That the applicant, if a corporation, transferred any of its stock after an application for a license to hold a race meet was filed with the commission without prior commission approval. The provisions of this paragraph shall not apply to day-to-day transfers of stock of a publicly held corporation whose shares are publicly quoted and regularly traded in the market place unless the transfer, or a combination of transfers, involves a controlling interest in or affects the operational control of the corporation, or involves 10 percent or more of any class of stock of the corporation.

(e) That the applicant lacks, or if the applicant is a corporation, its officers, managerial employes, directors and principal stockholders lack, the requisite character, reputation, general business and managerial competence and ability, and experience in the business of racing so as to justify or command public confidence.

(f) That the granting of the application would adversely and unreasonably affect the economy of the State of Oregon and its people and the revenues of this state and of other beneficiaries of racing funds designated in this chapter.

(3) The commission shall deny a license to any person who has made a false statement of a material fact to the commission.

(4) The commission shall deny a license to any applicant for a race meet license if the applicant has failed to meet any monetary obligation in connection with any race meet held in this state.

(5) Before refusing to license any applicant for a race meet license, the commission shall afford the applicant an opportunity for hearing after reasonable notice as provided in ORS 183.310 to 183.500.

[1955 c.641 §1; 1957 c.313 §5; 1969 c.356 §15; 1973 c.612 §20]

462.080 Exclusion of certain persons from race courses; hearing; penalty. (1) The commission may exclude from any and all race courses any person whom the commission deems detrimental to the best interest of racing or any person who wilfully violates any provision of this chapter or any

rule, regulation or order issued by the commission or any person who violates any law of this state or the United States. The commission may take such action without first providing a hearing and without being subject to either criminal or civil liability. However, if no hearing is provided, then, within 10 days after the board's action and upon demand by the aggrieved party, the commission shall grant a hearing as provided in ORS 183.310 to 183.500, except that such hearing shall take place no later than 20 days following demand.

(2) Any person who has been convicted of or who attempts or conspires to commit touting, pool selling, bookmaking, circulating handbooks or wagering by other than the mutual method whether within or without the state hereby is deemed to be an undesirable person detrimental to the best interest of racing.

(3) Any person who violates a rule, regulation or order of the commission or any person who violates any law of this state or the United States may be ejected from the race course.

(4) Any of the foregoing persons who refuses to leave a race course when ordered to do so by commission inspectors or the stewards, or by any peace officer, is guilty of a misdemeanor.

[Amended by 1955 c.538 §1; 1957 c.313 §6; 1969 c.356 §16; 1973 c.612 §21]

462.090 Revocation of licenses; hearing; monetary penalty. (1) The commission may revoke the license of any licensee upon any of the grounds upon which the commission could refuse to issue a license, as provided in ORS 462.075, or of any licensee who has been convicted by the commission of a violation of this chapter or any rule or regulation made pursuant thereto, or who fails to pay to the commission all sums required under this chapter.

(2) The commission may revoke the license to hold a race meet of any licensee, if a corporation, which transfers any of its stock after a license to hold a race meet is issued and before the termination of the license period except as otherwise authorized in paragraph (d) of subsection (2) of ORS 462.075.

(3) Revocation shall be made only after reasonable notice and an opportunity for hearing as provided in ORS 183.310 to 183.500.

(4) Revocation of a license shall operate

as a forfeiture of all rights and privileges granted by the commission and of all sums of money paid to the commission by the offender.

(5) Any credential or license issued by the commission to licensees, if used by the holder thereof for a purpose other than identification and in the performance of legitimate duties on a race track, shall be automatically revoked whether so used on or off a race track.

(6) When grounds exist for the revocation of a license issued pursuant to this chapter, the commission may, in its discretion, impose a monetary penalty, not in excess of \$1,000, on the licensee in lieu of or in addition to revoking the license. All sums paid the commission pursuant to this subsection shall be deposited as provided in ORS 462.260.

[Subsection (5) enacted as 1953 c.499 §3; 1957 c.313 §7; 1969 c.356 §17; 1973 c.612 §22]

462.100 License fee and tax in lieu of all others; exception. The license fee and tax provided in this chapter for a race meet licensed thereunder shall be in lieu of all other licenses and privilege taxes or charges by the state or any county, city or other municipal corporation for the privilege of conducting the race meet except taxes levied under ORS chapter 267.

[Amended by 1973 c.583 §1]

462.110 Public liability insurance required; bond of licensee; actions on bond.

(1) For the protection of the public, and all members thereof, the exhibitors and visitors, every person licensed to conduct a race meet under this chapter shall carry public liability insurance in a form of contract and with a company to be approved by the commission.

(2) Every person licensed to conduct a race meet shall provide and deliver to the commission a bond signed by a surety company authorized to do business in Oregon in such form as is required by the commission and in a sum of not less than \$5,000, and such further amount as may be required by the commission. The bond shall be conditioned that the licensee will pay to the state all moneys due it under this chapter and will pay and discharge all obligations to the employes, exhibitors, contestants and persons furnishing labor and material in connection with the race meet, or in connection with the construction, maintenance, repair or operations of the race track, buildings and

grounds, and generally that such licensee will conduct the race meet strictly in accordance with this chapter and the rules and regulations of the commission and will not violate any other law of the state while operating under said license.

(3) The Attorney General or the district attorney of the county wherein the race meet is held shall prosecute all actions on such bonds on behalf of the state.

(4) Any person having any claim against any such licensee for any reasons whatever, except cause of action covered by public liability insurance, may prosecute the same in an action in his own behalf brought in the name of the state for his use and benefit and at the expense of such claimant. Any claimant recovering in any such action, suit or proceeding on any such bond shall be entitled to recover such sum as the court may adjudge reasonable for attorney fees there-in for bringing or prosecuting such action, suit or proceeding.

[Amended by 1957 c.313 §8; 1969 c.356 §18]

462.120 [Amended by 1955 c.468 §1; 1961 c.203 §1; 1969 c.93 §§1, 2; repealed by 1969 c.356 §38]

462.125 Commission to determine number and classes of race meets; limitations.

(1) The commission shall determine the number and classes of race meets to be held in any calendar year.

(2) Not more than 130 days of racing, exclusive of racing days authorized to designated licensees pursuant to subsections (4) and (5) of this section, shall be held in any metropolitan area in any year. Sixty-five of such days shall be allocated to race meets for horses (class A) and 65 days to race meets for animals other than horses (class B). If the commission does not receive and approve license applications for all of the 65 days allocated to either class of racing, the unallocated days may be added to the racing days allocated to and available for the other class of racing.

(3) As used in subsection (2) of this section, "metropolitan area" means:

(a) Multnomah, Clackamas and Washington Counties.

(b) Marion and Polk Counties.

(c) Linn and Benton Counties.

(d) A county other than those designated in paragraphs (a), (b) and (c) of this subsection.

(4) Each licensee designated in ORS 462.057 may be granted up to 10 days of racing to be held within the county in which the licensee holds its fair or show.

(5) The Oregon State Fair may be granted up to 30 days of racing to be held at the state fairgrounds commencing with the first day of its annual State Fair and Exposition during the years 1973 and 1974. Such racing shall be sponsored by the Oregon State Fair and the net licensee income of the meet shall be used only for Oregon State Fair programs or capital improvements. The commission shall schedule days of racing for the Oregon State Fair in such manner as to avoid conflict with other race meets previously licensed under ORS 462.057. The Oregon State Fair shall make payments as specified in subsection (1) of ORS 462.057. No other race meet shall be licensed by the commission within a 75-mile radius of Salem for dates which conflict with racing dates granted to the Oregon State Fair during 10 days of the annual State Fair and Exposition unless prior approval is obtained from the Oregon State Fair Commission.

(6) No license shall be granted for any race meet within a county for dates which conflict with racing dates granted to the county fair of such county.

[1969 c.356 §9; 1973 c.541 §2]

462.130 Oregon bred horses to be used exclusively in certain races. For the purpose of encouraging the breeding, within the state, of valuable thoroughbred race horses, at least one race of each day's meet shall consist exclusively of Oregon bred horses.

462.140 Prohibitions concerning bookmaking, betting; track take; computation, use of breaks. (1) No person shall conduct or commit, attempt or conspire to conduct or commit pool selling, bookmaking, or circulate handbooks, or bet or wager on any licensed race meet, other than by the mutual method.

(2) No race meet licensee shall take more than 15 percent of the gross receipts of any mutual wagering system.

(3) A race meet licensee shall compute breaks in the mutual system at 10 cents. One-half of the breaks shall be retained by the licensee. The other one-half shall be used as follows:

(a) By a licensee of a race meet for horses—to augment purses for races consisting exclusively of Oregon-bred horses subject to reasonable regulations prescribed by the commission.

(b) By a licensee of a race meet for animals other than horses:

(A) One-half thereof to augment purses subject to reasonable regulations prescribed by the commission.

(B) The other one-half thereof for benefit and improvement of the breeding, ownership, training and racing of such animals in Oregon, subject to reasonable regulations prescribed by the commission. Included, but not by way of limitation, would be payment of purses for maiden graduation or special schooling races without wagering, and construction and operation of one or more appropriate public training facilities within the state. All such funds shall be retained by the licensee in an account separate from all other funds, and no disbursements or transfers shall be made therefrom without prior approval of the commission.

[Amended by 1955 c.456 §1; 1957 c.313 §9; 1965 c.627 §1; 1969 c.356 §19]

462.150 Regulation of underpayments; effect of government tax. (1) If during any race meet conducted under this chapter, there is an underpayment of the amount actually due to any wagerer, the amount of such underpayment shall revert and belong to the state and be paid to the commission and become a part of its fund and shall not be retained by the licensee under whose license such race is held.

(2) However, if any government or governmental agency imposes a levy on the licensee, by a tax on the money so wagered and upon or against its receipts, the licensee may collect in addition to the percent and the breaks allowed under subsection (2) of ORS 462.140, the amount of the tax so levied.
[Amended by 1969 c.356 §20]

462.160 When race meet is a nuisance. Every race meet held in this state contrary to this chapter is declared to be a public nuisance and may be summarily abated.
[Amended by 1969 c.356 §21]

462.170 Commission rules apply to county fairs; enforcement. The rules of the commission shall apply to all race meets held by county fair associations and shall be enforced by the officers of each association as to race meets held on its grounds.
[Amended by 1955 c.468 §2; 1957 c.313 §10; 1969 c.356 §22]

462.180 [Repealed by 1969 c.356 §38]

462.185 Issuance of licenses to animal owners; conditions; revocation. (1) The commission may require as a condition for the

issuance of a license to an animal owner that the owner establish to the satisfaction of the commission that he:

(a) Is contributing to the State Industrial Accident Fund and is complying with the provisions of ORS chapter 656 with respect to his occupation as an animal owner; or

(b) Has purchased and has in force a policy of insurance affording his employes in his occupation as an animal owner substantially the same protection and benefits as are available under ORS chapter 656.

(2) If the commission requires contribution to the State Industrial Accident Fund or insurance, as provided in subsection (1) of this section, failure of the licensee to continue contribution or to keep such insurance in force is ground for revocation of his license.
[1957 c.313 §16]

462.190 Restrictions on minors; selling wagering tickets to minors or drunks. (1) No person under 18 years of age shall after 6 p.m. enter upon a race course where races are being conducted in which wagering is permitted, except:

(a) When accompanied by a person 18 years of age or older who is his parent, guardian or spouse; or

(b) When in the performance of a duty incident to his employment.

(2) No person under 18 years of age shall, except when in the performance of a duty incident to his employment, loiter in the wagering area of a race course. The commission shall designate and require the marking of the wagering area at each race course.

(3) No licensee conducting a race meet shall sell a mutual wagering ticket or receipt to a person under 18 years of age or to a person who is visibly intoxicated.

(4) No person shall purchase a mutual wagering ticket or receipt for or on behalf of a person under 18 years of age.
[1957 c.313 §17; 1973 c.827 §45]

462.195 Written statement of age from purchaser of mutual wagering ticket or receipt. (1) A licensee conducting a race meet, before selling a mutual wagering ticket or receipt to any person about whom there is any reasonable doubt of his having reached the age of 18 years, shall require such person to make a written statement of age and furnish evidence of his true age and identity.

The written statement of age shall be on a form furnished by the commission, substantially as follows:

Date _____

I am 18 years of age or over.

Signature _____

Evidence in support of age and identity:

Driver's License # _____ (_____)
State

Military Record # _____

Liquor Permit # _____

Other _____

(Fill in license or card number of any one or more of above)

(2) A licensee who, in good faith and with reasonable cause to believe in its truth, accepts a written statement of age, as provided in subsection (1) of this section, may rely on the truth of the statement as conclusive evidence of the age of the person by whom it is signed.

(3) No person shall make a statement of age, as provided in subsections (1) and (2) of this section, that is false in whole or in part, or produce any evidence that would falsely indicate his or her age.
 [1957 c.313 §§18, 19; 1973 c.827 §46]

462.200 Tests on animals participating in race meets; costs. (1) The commission by rule or regulation may require that chemical analysis be made of the urine, saliva, blood or other body substances of animals participating in race meets. The cost of such a test shall be paid by the commission.

(2) The costs of photo patrol of races which the commission may require to assist the stewards in resolving disputes or claims or as being in the public interest, but not including the cost of the photo finish, shall be an expense of the commission.
 [1957 c.313 §20; 1969 c.356 §23]

**THE OREGON RACING COMMISSION;
 ALLOCATION OF FUNDS TO FAIRS
 AND PUBLIC SHOWS**

462.210 Oregon Racing Commission; appointment and confirmation of members; tenure. (1) There is created the Oregon Racing Commission to consist of five commissioners who shall be citizens, residents and qualified electors of this state.

(2) Upon the expiration of the term of any member the Governor shall appoint a successor for a term of four years and until his successor is appointed and qualified.

(3) All appointments of members of the commission by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.
 [Amended by 1973 c.792 §16]

Note: Section 50, chapter 792 Oregon Laws 1973, provides:

Sec. 50. Nothing in this Act that reduces the term of office of a person to four years is intended to affect the term of any person appointed prior to and holding office on the effective date of this Act [July 25, 1973]. However, any person appointed prior to the effective date of this Act to fill a vacancy in office, the term of which is reduced by this Act to four years, shall serve for a term not longer than four years.

462.220 Compensation and expenses of members. The members of the commission are entitled to compensation and expenses as provided in ORS 292.495.
 [Amended by 1969 c.314 §49]

462.230 Vacancies and removal. (1) Vacancies in the office of commissioner shall be filled by appointment to be made by the Governor for the unexpired term.

(2) Any commissioner may be removed by the Governor for cause after a public hearing. Notice of the hearing shall fix the time and place for the hearing and shall specify the charges. Copy of the notice shall be served on the commissioner by mailing it to the commissioner at his last-known address at least 10 days before the date fixed for the hearing.

462.240 Bonds of officers; oath of office. (1) Before entering upon the duties of their respective offices, the chairman, the vice chairman and the secretary of the commission shall each separately enter into a surety company bond, to be approved by the Governor and the Attorney General, payable to the state, in the penal sum of \$10,000, conditioned upon the faithful performance of their duties and the correct accounting and payment of all sums received and within their control under this chapter.

(2) Each commissioner shall take and subscribe to an oath of office of the same form as that prescribed by law for the elective state offices.

[Amended by 1969 c.356 §24]

462.250 Organization of commission; employes of commission and appointed officials to conduct race meets; commission to fix compensation; rules and regulations. (1) The commission shall organize by electing one of its members chairman and one vice chairman.

(2) The commission shall appoint a secretary, who may be a member of the commission or an employe of the commission in another capacity, a chief state steward and such other employes as are necessary in the performance of the commission's duties. The commission shall fix, within the limits provided by law, and pay the compensation of the secretary and shall fix and pay the compensation of the chief state steward and other employes of the commission.

(3) The commission shall appoint for each race meet stewards, deputy stewards, stewards' reporters, auditors, judges, inspectors, security personnel, chemists, veterinarians, plate inspectors and such other officials as are necessary for the proper conduct of the race meet. The duties of such officials shall be fixed by the commission and their compensation shall be paid by the commission or the race meet licensee, as the commission may prescribe by regulation. The compensation of officials paid by the commission shall be reasonable and shall be fixed by the commission. In fixing such compensation, the commission shall take into account the compensation customarily paid like officials at race meets of a similar type and size. The officials appointed by the commission under this subsection shall not be subject to the State Merit System Law.

(4) The commission may combine in a single person the duties of one or more employes or officials, as efficiency and economy may require.

(5) The commission shall appoint a board of stewards for each race meet.

(a) The board shall consist of the chief state steward, ex officio, and not more than four other persons. For any race meet, the commission may appoint a deputy state steward to act in behalf or as assistant to the chief state steward. The compensation of the chief state steward and deputy state stewards shall be paid by the commission; the compensation of the other stewards shall be paid by the race meet licensee.

(b) The chief state steward, or in his absence the deputy state steward, shall preside over the board of stewards. The board of stewards shall, under the supervision and

direction of the commission, enforce the provisions of this chapter, the rules and regulations of the commission and the customs of the course at the race meet for which it is appointed, and in such enforcement may exercise such power and authority of the commission as the commission may by regulation prescribe.

(6) The commission shall prescribe rules and regulations not inconsistent with the provisions of this chapter.

[Amended by 1955 c.640 §1; 1957 c.313 §11; 1969 c.356 §25]

462.260 Oregon Racing Commission Account; office, records and annual report of commission. (1) All money payable to the commission shall be deposited in the General Fund in the State Treasury to the credit of the Oregon Racing Commission Account. This account is appropriated continuously to the commission for the purposes authorized by law.

(2) The commission may maintain an office and shall keep detailed records of all meetings and of all business transacted, and of all the collections and disbursements, reports of which shall be embodied in an annual report which the commission shall prepare, publish and submit to the Governor and members of the legislature on or before December 31 of each year. This report shall cover the activities of the commission for the preceding year.

[Amended by 1961 c.488 §2]

462.265 Commission subject to state budget procedures and laws governing supervision of expenditures. (1) The commission is subject to the provisions of ORS 291.202 to 291.222, including but not limited to the provisions of those sections relating to changes and revisions by the Governor in budget estimates and requests.

(2) The commission and its officers and employes are subject to the provisions of ORS 291.232 to 291.260 and 291.990.

[1959 c.284 §§1, 2; 1969 c.356 §35]

462.270 Duties of the commission. (1) The commission shall license, regulate and supervise all race meets held in this state and cause the various places where race meets are to be held to be visited and inspected at least once a year.

(2) The commission shall be the sole judge of whether or not a race meet shall be licensed and shall specify the days and dates and number of days the meet shall continue and the number of races per day.

(3) The commission shall prepare and promulgate a complete set of rules and regulations to govern the race meets in every phase of operation consistent with the provisions of this chapter, public safety, health, welfare and any other matter pertaining to the good conduct of racing and shall make rules and regulations to govern public training tracks consistent with this chapter and with public health, safety, welfare, humane practices, and any other matter pertaining to the good conduct of racing. The commission shall also prepare and promulgate rules for the conduct of hearings held and shall establish the procedure to be followed.

(4) The commission shall determine and announce the place, time and duration of race meets for which license fees shall be exacted.

[Amended by 1953 c.497 §4; 1955 c.455 §1]

462.272 Power of commission to administer oaths, take depositions, issue subpoenas.

(1) In administering the provisions of this chapter, any member of the commission, or an agent authorized by the commission, has power on behalf of the commission to:

(a) Issue subpoenas for the attendance of witnesses and the production of books, records and documents relating to matters before the commission.

(b) Administer oaths.

(c) Take or cause to be taken depositions within or without this state, as provided by law.

(2) The commission, upon request of any person interested in a matter before the commission, shall issue subpoenas for the attendance of witnesses or the production of books, records or documents on behalf of such person.

(3) The commission's subpoenas may be served by any person appointed by the commission. They shall be served, and witness fees and mileage shall be paid, as in civil cases in the circuit court.

(4) If a person refuses to attend to give testimony or to produce books, records or documents, pursuant to a subpoena issued by the commission, the circuit court of the county where attendance is required, upon application of the commission, shall compel obedience to the subpoena and shall punish refusal to obey or to testify in the same manner as is punished a refusal to obey a subpoena or to testify pursuant to a subpoena issued from the circuit court.

[1957 c.313 §13]

462.273 Prohibited activities of commission and staff. No member, employe or appointee of the commission may:

(1) Own or have any other financial interest in any animal participating in any race meet, as defined in ORS 462.010, in Oregon.

(2) Bet or wager, in any manner, on any race meet held under the license and supervision of the commission if such individual acts in an official capacity in connection with that race meet.

[1961 c.632 §2; 1969 c.356 §36]

462.275 Commission activities concerning betterment of racing; establishment of library. The commission may:

(1) Cooperate with the racing commissions or boards of other jurisdictions and with racing organizations in enforcing laws regulating racing, in exchanging information relating to racing, in studying and detecting drugs and in carrying out programs for the betterment of racing.

(2) Establish a library of materials relating to racing, and for that purpose accept gifts of books, periodicals and library equipment.

[1957 c.313 §15]

462.277 Service and execution of warrants of arrest and search warrants. Enforcement agents, designated as such by the commission, shall have the same authority with respect to service and execution of warrants of arrest and search warrants as is conferred upon peace officers of this state.

[1957 c.313 §14]

462.280 Distribution and allocation of racing funds. The money in the Oregon Racing Commission Account shall be distributed by the commission as follows:

(1) Of the percentage of the gross receipts of the mutual wagering collected by the commission under this chapter:

(a) One-tenth shall be paid into the State Treasury and deposited in the General Fund to the credit of the County Fair Account created by ORS 565.445.

(b) The sum of \$20,000 shall be paid to each county to be used in the manner provided in ORS 462.290.

(c) The sum of \$112,000 shall be apportioned annually as provided in ORS 565.280.

(d) The commission shall reserve in the Oregon Racing Commission Account money sufficient for payment of the current expenses of the commission not at any time in excess of \$25,000.

(e) The remainder of such money shall be distributed and divided as follows:

(A) Not more than \$75,000 in any one year, for the Oregon State Fair.

(B) Not more than \$100,000 in any one year, for the Higher Education Isolation Facility Bond Sinking Fund created by ORS 351.545.

(C) Not more than \$7,500 in any one year, for the Eastern Oregon Livestock Show, held at Union.

(D) Not more than \$5,000 in any one year, for the Mid-Columbia Livestock Show, held at The Dalles.

(E) Not more than \$7,500 in any one year, for the Pendleton Roundup, held at Pendleton.

(F) Not more than \$1,000 in any one year for the Merrill Potato Festival held at Merrill, and not more than \$4,000 in any one year for the Klamath Basin Roundup Association held in Klamath County.

(G) Not more than \$2,500 in any one year for the Spring Lamb and Dairy Show held at Canby.

(H) Not more than \$2,400 in any one year for the Pacific Coast Turkey Exhibit, held in Yamhill County.

(2) The amount remaining after the distributions required by subsection (1) of this section shall be credited to the General Fund for general governmental expenses.

(3) Subject to ORS 462.290 and 462.300, the county court or board of county commissioners of the counties receiving moneys under paragraph (b) of subsection (1) of this section shall determine the respective amounts of such moneys received in any year that shall be distributed to and for the benefit of their county fairs or established special or regional agricultural shows in which the county residents participate.

[Amended by 1955 c.20 §1; 1955 c.642 §2; 1959 c.279 §1; 1961 c.488 §3; 1963 c.495 §1; 1967 c.275 §3; 1969 c.298 §1; 1971 c.688 §1]

462.290 Use of moneys distributed by commission. (1) The moneys distributed under paragraph (b) and subparagraphs (A) and (C) to (H) of paragraph (e) of subsection (1) of ORS 462.280 shall be limited to use by the beneficiaries designated therein to disseminate knowledge concerning and to encourage the growth and prosperity of all agricultural, stock-raising, horticultural, mining, mechanical, artistic and industrial pursuits.

(2) The moneys distributed under ORS 462.280 shall constitute appropriations for

the support, benefit and maintenance of the beneficiaries designated therein and shall be paid to them on warrants drawn and paid as other public funds of the state are paid.

(3) Any accumulation of funds so distributed that may remain as unexpended balance or surplus held by, or for the benefit of, the beneficiaries named in ORS 462.280, may be used for the purchase, construction and maintenance of buildings, grounds and equipment for the beneficiaries by or for which the accumulation, balance or surplus is held.

[Amended by 1963 c.495 §2; 1969 c.298 §16; 1971 c.688 §4]

462.295 Treasurer to furnish bond. (1) In addition to other bonds that may be required by law, the treasurer of each beneficiary of moneys distributed under subparagraphs (A) and (C) to (H) of paragraph (e) of subsection (1) of ORS 462.280 shall furnish the Secretary of State a surety bond running to the state conditioned upon the faithful performance of the duties of his office.

(2) The amount of the surety bond required under subsection (1) of this section in effect for any calendar year shall be a sum at least equal to the amount the beneficiary received under ORS 462.280 during the preceding calendar year.

(3) This section does not require a county treasurer to furnish a surety bond if he has given his official undertaking under ORS 204.035.

[1963 c.495 §4; 1965 c.513 §1; 1967 c.275 §1; 1969 c.298 §17; 1971 c.688 §5]

462.300 Annual audit of beneficiaries of racing funds; accounting system. (1) The Secretary of State shall cause an annual audit to be made, covering each fiscal year ending June 30, of the financial records of all beneficiaries of moneys distributed under paragraph (b) or subparagraphs (A) and (C) to (H) of paragraph (e) of subsection (1) of ORS 462.280. The Secretary of State shall use the facilities of the Division of Audits of his office in making these audits unless the beneficiaries of those distributed moneys shall have submitted to the Division of Audits not later than September 30 of each year an audit report prepared by accountants, as defined in subsection (3) of ORS 297.610, and satisfactory to the Division of Audits as to format and uniform classification of revenue and expenditures prescribed

as provided for by subsection (3) of this section.

(2) The Secretary of State shall prepare a summarization report of the audits made under subsection (1) of this section and shall mail a copy of the summarization report to every member of the incoming Legislative Assembly not less than 30 days before it convenes.

(3) The Secretary of State shall prepare and prescribe uniform classification of revenues and expenditures for use by the beneficiaries of moneys distributed under paragraph (b) or subparagraphs (A) and (C) to (H) of paragraph (e) of subsection (1) of ORS 462.280 at such times and in such manner as will, in his judgment, be most effective in securing uniformity of classification and accounting practices. Each beneficiary of moneys distributed under paragraph (b) or subparagraphs (A) and (C) to (H) of paragraph (e) of subsection (1) of ORS 462.280, its officers and employes shall cooperate and assist the Secretary of State in every way possible in expediting the installation and maintenance of the accounting systems.

(4) The costs and expenses of the Division of Audits in conducting the audits, preparation of audit reports, the preparation and prescribing of uniform classification of revenues and expenditures as provided for by subsection (3) of this section and the summarization report of audits and its distribution as provided for by subsection (2) of this section shall be borne on a distributed cost basis by the beneficiary of moneys distributed under paragraph (b) or subparagraphs (A) and (C) to (H) of paragraph (e) of subsection (1) of ORS 462.280 that is audited. All costs and expenses pertaining to the installing of accounting systems for beneficiaries of moneys distributed under paragraph (b) or subparagraphs (A) and (C) to (H) of paragraph (e) of subsection (1) of ORS 462.280 shall be borne by the beneficiary for which the installation is made. These costs shall be deducted from the moneys distributed under ORS 462.280, prior to distribution. The amount of the deductions shall be transferred and credited to the Division of Audits Account.

[1955 c.328 §§1, 2, 3; 1957 c.475 §1; 1963 c.495 §3; 1969 c.298 §18; 1971 c.688 §6]

GENERAL REGULATIONS RESPECTING ANIMAL RACING

462.405 Board of stewards' authority; sanctions; review of actions by commission; hearing. (1) The board of stewards appointed by the commission for a race meet may, after an inquiry and hearing, impose appropriate sanctions for failure to comply with the laws, rules and regulations of racing and with the authorized commission or board directives applicable to said race meet, subject to the following limitations:

(a) No fine shall exceed \$250 per offense.

(b) No license suspension shall be for a period longer than the remainder of the race meet plus 15 days.

(2) Any sanction imposed by the board of stewards shall take effect on the date so indicated in the board's ruling unless the effective date is stayed for good cause shown by specific order of the commission pending commission review.

(3) The board of stewards may refer any matter before it to the commission for appropriate review or action either before or after a board hearing or ruling. A person adversely affected by any board ruling has the right to appeal to the commission for a review and hearing as provided in ORS 183.310 to 183.500. Such review shall be perfected by filing a written notice of appeal with the commission secretary within 10 days after the board ruling is issued. The commission is not limited in its actions or in the sanctions it may impose by any ruling of the board or by any limitation imposed upon the board by commission rule or regulation or by subsection (2) of this section.

[1969 c.356 §3; 1973 c.612 §23]

462.410 [1953 c.498 §1; repealed by 1969 c.356 §38]

462.415 Animals that may be barred from races; prohibited acts. (1) No animal is entitled to participate in any race if:

(a) It has been administered any drug after entry in the race.

(b) It possesses in its system at the time of the race any drug detected by any of the testing methods approved by the commission or customarily employed in the testing of urine, saliva, blood or other samples from racing animals.

(c) Its performance was stimulated, depressed or otherwise affected in any manner by use prior to or during the race of any

electrical, mechanical or other device not sanctioned by the commission.

(d) It fails to satisfy all of the conditions of the race prescribed by the racing secretary.

(2) No person shall enter or allow to be entered in any race any animal if he knows, or by exercise of reasonable diligence should have known, that its participation is prohibited under subsection (1) of this section.

(3) A trainer, upon entering an animal and allowing it to participate in a race, represents that the animal is in a fit condition and that its participation is not prohibited under subsection (1) of this section. He is responsible for and the absolute insurer of the condition of the animal regardless of the acts of third parties.

(4) An animal which participates in violation of subsection (1) of this section shall be disqualified and the order of finish revised. Its owner shall not share or participate in any purse, earnings, trophies or other emoluments of the race. Any revision in the order of finish after a race has been declared "official" by the stewards shall not affect the mutual payoff to the public.
[1969 c.356 §4]

462.417 Schedule of purses to have prior approval of commission. The schedule of purses to be paid during a race meet, including the number of animals sharing in the purse of a race, shall be fair and reasonable. The purse schedule must be submitted to and approved by the commission prior to commencement of the race meet.
[1969 c.356 §2]

462.420 Stimulating or depressing participating animal prohibited. No person shall stimulate or depress any animal involved in any race or otherwise affect in any way the animal's ability to perform therein, either prior to or during a race, by the administration of drugs or by the use of any electrical device or equipment or by any mechanical or other device not sanctioned by the commission.
[1953 c.498 §3; 1969 c.356 §30]

462.430 Attempting to affect or affecting race result by stimulating or depressing participating animal prohibited. No person shall influence or conspire or attempt to influence or conspire with any other person to affect the result of any race in which an animal participates by stimulating or depressing any animal involved in such race or otherwise affecting in any way the animal's abil-

ity to perform therein, either prior to or during a race, through the administration of any drug to such animal, or by the use of any electrical device or equipment or by any mechanical or other device not sanctioned by the commission.

[1953 c.498 §2; 1969 c.356 §31]

462.440 [1953 c.498 §4; repealed by 1969 c.356 §38]

462.450 Regulation of possession, transportation or use of drugs within racing inclosure. (1) No person shall possess, transport or use any drug within the racing inclosure, except upon a bona fide veterinarian's prescription with a complete statement of the uses and purposes of such prescription upon the container of such prescription.

(2) A copy of such prescription shall be filed with the presiding steward of the race meet, and such prescription shall be used only with the approval of the said presiding steward and under the direct supervision of a veterinarian representing the commission.
[1953 c.498 §7; 1969 c.356 §32]

462.460 Racing animal under name or designation other than registered name or designation prohibited. No person shall knowingly enter or race any animal in any race under any name or designation other than that name or designation assigned to such animal by and registered with such club or association or other governing body recognized by the commission for such purpose.
[1953 c.498 §5]

462.470 Aiding or abetting the racing of an animal under name or designation other than registered name or designation prohibited. No person shall aid, abet, counsel, instigate, engage or in any way further any act by which any animal is entered or raced in any race under any name or designation other than that name or designation assigned to such animal by and registered with such club or association or other governing body recognized by the commission for such purpose.
[1953 c.498 §6]

462.510 Demand or acceptance of compensation for furnishing racing information as touting. Any person who attempts to, or does persuade, procure or cause another person to wager on an animal participating in a race, and upon which money is wagered, and who asks or demands, or accepts compensation as a reward for information or

purported information given in such case is a tout, and is guilty of touting.

[1953 c.499 §1]

462.520 Penalty for falsely using name of racing official as source of information in commission of touting. Any person who in the commission of touting falsely uses the name of any official of the commission, its inspectors or attaches, or of any official of any race track association, or the names of any owner, trainer, jockey or other person licensed by the commission as the source of any information or purported information is guilty of a misdemeanor.

[1953 c.499 §2; 1969 c.356 §33]

462.530 [1953 c.499 §4; repealed by 1969 c.356 §38]

PENALTIES

462.990 Penalties. (1) Except as hereinafter provided in this section, violations of any provision of this chapter is a misdemeanor.

(2) Any person violating the provisions of ORS 462.420, 462.430, 462.450, 462.460, 462.470 or subsection (2) of ORS 462.415 shall, upon conviction, be guilty of a felony and punished by imprisonment in the Oregon State Penitentiary for not more than two years or by a fine of not more than \$5,000, or by both.

(3) Any person who conspires or attempts to commit or commits any act of touting as defined in ORS 462.510 shall, upon conviction, be fined not more than \$500 or be imprisoned for not more than six months, or both.

(4) Any person violating the provisions of subsection (1) of ORS 462.140 shall be punished upon conviction by imprisonment in the county jail for not more than one year or by imprisonment in the penitentiary for not more than five years or by a fine of not more than \$5,000, or both such fine and imprisonment.

[Part of subsection (1) derived from 1957 c.313 §22; subsection (2) enacted as 1953 c.498 §8; subsection (3) enacted as 1953 c.499 §5; amended by 1955 c.538 §2; 1969 c.356 §34; 1969 c.528 §§1, 2]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 1, 1973.

Thomas G. Clifford
Legislative Counsel