Chapter 462

1989 EDITION

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 mutuel system is used in conjunction with any race.

(3) "Licensee" means a person, partnership, corporation, political subdivision, municipal corporation or any other body 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 affecting the central nervous system, respiratory system, or blood pressure of any animal other than vitamins or supplemental feeds. Also specifically included is any identified 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.

(8) "Continuous race meet" includes any exhibition of animal racing continuously at the same race course by two or more licensees where the mutuel system is used in conjunction with any race.

(9) "Breaks" means the odd cents remaining after the payoff prices have been computed in accordance with ORS 462.140 (3).

(10) "Fiscal year" means a 12-month year, as described in ORS 293.605.

(11) "Calendar year" means a 12-month year, January 1 through December 31.

(12) "Mutuel" means a system whereby wagers with respect to the outcome of a race are placed with a wagering pool in which the participants are wagering with each other and not against the operator. [Amended by 1953 c.497 §4; 1955 c 335 §1, 1957 c.313 §1, 1969 c.356 §10, 1975 c.550 §1; 1977 c 855 §1; 1981 c 544 §1; 1987 c.913 §7]

462.020 Licensing required for race meets, persons participating in race meets and public training tracks; 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 employees 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 as the commission shall make. The commission by rule may require other employees of a race meet licensee who are engaged in or performing duties at the race course to obtain a license issued by the commission prior to engaging or performing such duties. The commission by rule may also require persons, including corporations, who are not employees of a race meet licensee, but who are authorized to do business at the race course, to obtain a license issued by the commission prior to conducting such business.

(3) No person shall operate a public training track or public kennel for greyhounds participating in a race meet without having first obtained and having in full force and effect a license issued by the commission.

(4) The commission may require each licensee to be fingerprinted and photographed as part of the licensing procedure.

(5) Each person holding a license under this chapter shall comply with all rules and orders of the commission.

(6) Notwithstanding the requirements of subsection (2) of this section, the commission, upon receipt of a written application for a license on forms provided by the commission, may in its sound discretion issue a

temporary license valid for a period not to exceed 10 days pending final approval or disapproval of the written application for a license. [Amended by 1955 c 454 §1; 1957 c 313 §2, 1969 c.356 §11; 1975 c.549 §2, 1983 s s. c.7 §1]

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 the engagement, employment or activities of the licensee or otherwise refuse to cooperate or participate, unless the licensee gives the commission notice in writing of the 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, 1975 c 549 §3]

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 the person 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 and mule race meets (class A).

(b) Licenses for greyhound race meets (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. This subsection does not apply to licensees subject to ORS 462.057.

(3) The commission shall not grant any license for greyhound racing at the Oregon State Fair.

(4) 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, 1975 c.549 §4, 1979 c.720 §1; 1989 c.210 §3]

462.050 Application for race meet license; bond; payment of fees; submission of financial statements and inspection of records; return of deposit; refund of license fee. (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 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 daily deposit shall be returned promptly to the applicant.

(4) No applicant designated in ORS 462.057 is eligible for a return of the license fee unless a race meet license is not granted.

(5) When a licensee under ORS 462.062 or 462.067 is prevented from conducting a race meet for the authorized number of days, the commission, upon written request therefor, may refund to the licensee the daily license fee based upon the number of days lost for good cause shown. A strike or lockout shall not be deemed to be good cause.

(6) In order to assist the commission in determining whether there has been compliance with ORS 462.075 (1)(h), (2)(a) and (4):

(a) The commission may require each holder of a license under ORS 462.062 or 462.067 to submit annually to the commission audited financial statements.

(b) Each licensee under ORS 462.062 or 462.067 shall make available to the commission for examination and audit at all reasonable times, upon notice to the licensee by the commission, complete and accurate financial records of the licensee's operations, including the financial records of any other corporation or business entity owned or controlled by the same parent corporation or individual as the licensee that provides services related

to the licensee's operations. [Amended by 1975 c.549 §5; 1981 c.544 §2; 1983 s s. c.7 §15]

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 fiscal 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 board of county commissioners of the 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 not to exceed $100 to the recommending authority, if any. [1953 c 551 §3; 1969 c 356 §13, 1975 c.549 §6; 1981 c.544 §3, 1987 c.413 §2]

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 — $25 per fiscal year payable to the commission.

(b) A percentage of gross mutuel wagering shall be paid to the commission as follows:

(A) If the race meet is for horses or mules and the average daily gross mutuel wagering during the preceding fiscal year exceeded $150,000 — .9 percent except on any wager requiring the selection of three or more separate wagering interests — 2.9 percent.

(B) If the race meet is for horses or mules by any licensee other than described in subparagraph (A) of this paragraph — 1.2 percent except on any wager requiring the selection of three or more separate wagering interests — 4.2 percent.

(C) If the race meet is for greyhounds — 2.5 percent except on any wager requiring the selection of three or more separate wagering interests — 7.5 percent.

(c) If the race meet is for horses or mules and the average daily gross mutuel wagering during the preceding fiscal year exceeded $150,000, a percentage of the gross mutuel wagering shall be paid as follows:

(A) To purses — 5.4 percent, or such greater amount as the race meet licensee and the horse owners, or mule owners if the race is for mules, may agree upon, except on any wager requiring the selection of three or more separate wagering interests — 7.0 percent, or such greater amount as the race meet licensee and the horse owners, or mule owners if the race is for mules, may agree upon, plus an additional .4 percent. The additional .4 percent shall not become part of the regular purse account but shall be used only to supplement purses of races consisting exclusively of Oregon bred horses or mules;

(B) To the Oregon Thoroughbred Breeders Association, Incorporated, purse supplements for owners of Oregon bred thoroughbred horses — one percent of gross mutuel wagering on thoroughbred horse races, to be apportioned among the owners in the same ratio that each owner's purses for Oregon bred thoroughbred horses for the race meet bears to the total purses for Oregon bred thoroughbred horses for the race meet;

(C) To the Racing Division of the Oregon Quarterhorse Association, Incorporated, purse supplements for owners of Oregon bred quarterhorses — one percent of gross mutuel wagering on quarterhorse races, to be apportioned among the owners in the same ratio that each owner's purses for Oregon bred quarterhorses for the race meet bears to the total purses for Oregon bred quarterhorses for the race meet;

(D) To each association of horse or mule owners, trainers or breeders recognized by the commission as representing the other breeds of horses or mules not designated in subparagraphs (B) and (C) of this paragraph, purse supplements for owners of other Oregon bred horses or mules, not designated in subparagraphs (B) and (C) of this paragraph, one percent of gross mutuel wagering for races of other horses or mules, to be apportioned among the owners in the same ratio that each owner's purses for other Oregon bred horses or mules for the race meet bears to the total purses for other Oregon bred horses or mules for the race meet;

(E) Subject to prior approval of the commission, each horse or mule owners, trainers or breeders association designated in subparagraphs (B), (C) and (D) of this paragraph may use a portion of the purse supplements as operating expenses only for receipt, handling and payment of these funds; and

(F) To a special track fund to be used primarily for improving the race track facilities benefiting the horse and mule owners, trainers or breeders in the barn area — .2 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.

(d) If the race meet is for greyhounds, to a special fund to be used primarily for the development and operation of a training track and related facilities upon which to train greyhounds — 0.1 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 of the race meet licensee.

(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 calendar year 1968 or 1969. [1969 c.356 §6, 1971 c 130 §1; 1973 c 541 §1; 1975 c.550 §2; 1977 c.855 §2, 1979 c 698 §1, 1981 c 544 §4, 1983 c.740 §179a; 1989 c 210 §2, 1989 c 357 §4a]

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 — $100 per racing day, payable to the commission.

(2) Percentage of gross mutuel wagering payable to the commission — 2 percent.

(3) Percentage of gross mutuel wagering for purses, in such amounts as the race meet licensee and the horse owners may agree upon, subject to approval by the commission. In addition, a payment of .1 percent, which shall not become part of the regular purse account, but shall be used only to supplement purses of races consisting exclusively of Oregon bred horses. However, subject to prior approval of the commission, a portion of the percentage of gross mutuel wagering designated by this subsection may be paid to one or more associations of horsemen for operating expenses and other benefits for horsemen.

(4) To the Oregon Thoroughbred Breeders Association, Incorporated, percentage of gross mutuel wagering on thoroughbred horse races for purse supplements for owners of Oregon bred thoroughbred horses — one percent, to be apportioned among the owners in the same ratio that each owner's purses for Oregon bred thoroughbred horses for the race meet bears to the total purses for Oregon bred thoroughbred horses for the race meet.

(5) To the Racing Division of the Oregon Quarterhorse Association, Incorporated, percentage of gross mutuel wagering on quarterhorse races for purse supplements for owners of Oregon bred quarterhorses — one percent, to be apportioned among the owners in the same ratio that each owner's purses for Oregon bred quarterhorses for the race meet bears to the total purses for Oregon bred quarterhorses for the race meet.

(6) To each association of horsemen recognized by the commission as representing the other breeds of horses not designated in subsection (4) or (5) of this section, percentage of gross mutuel wagering on races for any other breed of horses, not designated in subsection (4) or (5) of this section, for purse supplements of owners of other Oregon bred horses — one percent, to be apportioned among the owners in the same ratio that each owner's purses for other Oregon bred horses for the race meet bears to total purses for other Oregon bred horses for the race meet.

(7) Subject to prior approval of the commission, each horsemen's association designated in subsections (4), (5) and (6) of this section may use a portion of the purse supplements as operating expenses only for receipt, handling and payment of these funds.

(8) Percentage of gross mutuel wagering to a special track fund of the type, and for the uses and purposes, and subject to the conditions set forth in ORS 462.057 (1)(c)(F) — .2 percent. [1969 c.356 §7, 1975 c 550 §3, 1977 c 855 §3, 1979 c 698 §2, 1981 c 544 §5; 1987 c 413 §19]

462.065 Bond for association receiving payments under ORS 462.057 or 462.062; fee charged association receiving payments under ORS 462.140. (1) The commission may require any horsemen's association, that receives payments pursuant to ORS 462.057 and 462.062, to submit a bond in an amount not to exceed the sum of the estimated payments to be received by the association. The bond shall be conditioned upon the proper distribution of such payments to owners of Oregon bred horses. In addition to the bond requirement, the commission may prescribe such conditions on the receipt, handling and disbursement of the payments

as the commission determines necessary to insure security of the funds.

(2) Notwithstanding any other provision of this chapter, any horsemen's association that receives payments pursuant to ORS 462.140, prior to issuing breeder awards or stallion awards, may assess the recipient a fee for the receipt, handling and payment of those funds. The fee shall not exceed the current annual dues of the association or five percent of the award, whichever amount is less. [1979 c.698 §10, 1989 c.358 §5]

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 — $100 per racing day, payable to the commission.

(2) Percentage of gross mutuel wagering payable to the commission — 6.3 percent except on any wager requiring the selection of three or more separate wagering interests — 7.08 percent.

(3) To a special fund to be used primarily for the development and operation of a training track and related facilities upon which to train greyhounds — 0.1 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 of the race meet licensee. [1969 c.356 §8; 1975 c.550 §4; 1977 c.855 §8, 1979 c.698 §3, 1981 c.544 §6; 1987 c.413 §21]

462.070 License fees for officials, track operators and other race meet participants. (1) The license fees for any one fiscal year shall be $10 for any person required to be licensed under ORS 462.020 (2). For a person who qualifies for and desires a license in more than one category, the fee shall be $2 for each additional category so licensed. Notwithstanding the foregoing, the total collective fee for all persons who act as employees of a race meet licensee at a race meet in which the average daily gross mutuel wagering during the preceding fiscal year did not exceed $150,000 shall be $100. The commission also may charge a reasonable fee for claiming certificates in an amount not to exceed $10.

(2) The license fee per fiscal year for operators of public training tracks or kennels required to be licensed under ORS 462.020 (3) shall be:

(a) For the Oregon State Fair or a county or district fair, $10.

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

(3) Notwithstanding the provisions of this section, on and after July 1, 1983, the commission may by rule provide for the issuance of licenses as required under subsection (1) of this section valid for one, two or three years from date of issuance. The commission may fix the expiration date thereof and charge a fee at not less than the annual rate for each year, or part thereof, the license is determined valid. [Amended by 1953 c.497 §4; 1955 c.353 §1; 1957 c.313 §4, 1975 c.550 §5, 1977 c.855 §4; 1979 c.698 §12, 1981 c.544 §7, 1983 s.s. c.7 §4, 1987 c.413 §3]

462.073 Unclaimed Winnings Account; payment of winning or refund tickets; transfer to General Fund. (1) Every licensee who conducts a race meet shall carry on the books for each race meet an account to be known as the Unclaimed Winnings Account showing the total amount due on outstanding winning mutuel wagering tickets and refund tickets not presented for payment. All funds in the Unclaimed Winnings Account shall be retained by the licensee and deposited in a separate account from all other funds. No payments shall be made by the licensee from this account except to a person who presents a valid, clearly identifiable winning or refund ticket. A statement of the balance of the Unclaimed Winnings Account shall be furnished to the commission within 72 hours after any change in the account balance during the race meet and, after the completion of the race meet, within five days following the last day of each month in which there is any change in the account balance.

(2) Any person claiming to be entitled to any part of winnings or refunds from a mutuel wagering system operated by a licensee, who fails to claim the money due prior to the completion of the race meet at which the mutuel wagering or refund 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 or refund ticket. If the claimant establishes the right to winnings or refunds from the mutuel wagering system, the licensee shall pay such moneys to the claimant. At the expiration of such 90-day period, the holder of such a winning or refund ticket shall possess no right to any portion of the wagering or refund and the ticket shall be deemed void.

(3) One hundred twenty 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 commis-

sion, 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 mutuel wagering collected by the commission are distributed. The licensee shall be subject to a penalty of not less than $25 per day after 120 days for failure to pay moneys due to the commission in accordance with this subsection.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section, if a continuous race meet is designated by the commission, the 90-day period referred to in subsection (2) of this section shall commence after the close of the continuous race meet at the race course.

(5) Notwithstanding the provisions of subsection (2) of this section, if the 90th day prescribed therein falls upon a Saturday, Sunday or legal holiday, then the holder shall file such claim with the licensee on the first business day thereafter. [1969 c.356 §37, 1975 c.549 §10, 1981 c.544 §8, 1983 s.s. c.7 §5, 1989 c 357 §1]

Note: Section 5, chapter 357, Oregon Laws 1989, provides:

Sec. 5. The amendments to ORS 462 073 by section 1 of this Act apply to all distributions or dispositions of money made pursuant to ORS 462 073 prior to the effective date of section 1 of this Act [October 3, 1989]. [1989 c 357 §5]

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 rules of the commission or of any other racing commission.

(d) 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 mutuel 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 mutuel 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 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 disclosed 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 employees, 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 may deny a license to any person who has made a false statement of a material fact to the commission.

(4) The commission may 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 183.550. When the commission refuses to license an applicant on the basis of grounds provided in paragraph (b), (c) or (h) of subsection (1) of this section, the commission shall specify the particular activities that constitute the grounds for refusal and shall give the applicant written notice thereof. [1955 c.641 §1, 1957 c.313 §5; 1969 c.356 §15; 1973 c.612 §20, 1979 c.330 §2; 1981 c.544 §18, 1987 c.413 §4]

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 or order issued by the commission or any person who has been found guilty of violating any laws of this state, another state or the United States related to gambling or wagering or which adversely reflects on the person's honesty. 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 183.550, 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 mutuel 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 or order of the commission or any person who fails to obey reasonable directives of the commission's security personnel or any person having been excluded by order of the commission under subsection (1) or (2) of this section or is found engaging in or attempting to engage in touting, pool selling, bookmaking, circulating handbooks or wagering by other than the mutuel method or is disturbing the peace may be ejected from the race course.

(4) A race meet licensee may eject or exclude any person from the race course for any reason and in any manner that is not contrary to law.

(5) 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, 1979 c.330 §3; 1983 s.s. c.7 §6; 1987 c.413 §5]

462.090 Revocation and suspension of licenses; hearing; monetary penalty. (1) The commission may revoke or suspend 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 made pursuant thereto, or who fails to pay to the commission all sums required under this chapter.

(2) The commission may revoke or suspend 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 ORS 462.075 (2)(d).

(3) Notwithstanding any other provision of law, the commission or board of stewards or board of judges may suspend, prior to any hearing, the license of any person whose license has been duly suspended by an official body of another state or country for violation of the racing laws or regulations of that jurisdiction. However, at the time of the license suspension in Oregon, the person must be notified of the right to request an immediate hearing to contest the suspension.

(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) When grounds exist for the revocation or suspension 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 or suspending 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; 1981 c.544 §19; 1983 s.s. c.7 §7; 1987 c.413 §6]

462.100 License fee and tax in lieu of all others; exception. (1) The State of Oregon hereby pre-empts the imposition of

taxes on or measured by income on, and the regulation of, race meets.

(2) Except for taxes levied under ORS 267.010 to 267.390, the license fee and tax provided in this chapter for a race meet licensed thereunder shall be in lieu of:

(a) All other licenses and privilege taxes or charges by the state or any county, city or other municipal corporation; and

(b) All other taxes on or measured by income imposed by any county, city or other municipal corporation. [Amended by 1973 c 583 §1, 1987 c.655 §1]

Note: Section 2, chapter 655, Oregon Laws 1987, provides.

Sec. 2. This Act applies to tax years beginning on or after January 1, 1988 [1987 c 655 §2]

462.110 Public liability insurance required; bond of licensee; actions on bond; insurance. (1) For the protection of the public, and all members thereof, the exhibitors and visitors, every race meet licensee shall carry public liability insurance written on an approved form by a company licensed to do business in Oregon and in an amount 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 an amount determined by the commission. The bond shall be conditioned that the licensee will pay to the state all moneys due it under this chapter, including moneys which escheat pursuant to ORS 462.073 and any fines imposed by any court or by any state agency; to horsemen or greyhound owners, all moneys owing and all moneys required to be paid for breakage, purses and Oregon-bred purse supplements; to persons presenting valid winning tickets, the amounts owing to them; and to the special track fund or training track fund, all moneys required to be paid to those funds by statute or rule. In lieu of a surety bond the commission may accept a certificate of deposit, an irrevocable letter of credit, or equivalent which will assure that the obligations described above are paid, up to the designated amount.

(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 a claim against the licensee for any obligation covered by the bond or bond substitute, except cause of action covered by public liability insurance, may prosecute the same in an action in behalf of the claimant brought in the name of the state for the 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 at trial and on appeal therein for bringing or prosecuting such action, suit or proceeding. If the amount of the bond or bond substitute is insufficient to cover all obligations, amounts owing to and for the benefit of the state pursuant to ORS 462.073 (3) shall have priority over any other claims. No action may be brought for recovery on the bond or bond substitute unless written notice of the claim is made to the commission and to the race meet licensee within 120 days after the last day of the race meet or continuous race meet in which the obligation arose. The notice must be by registered mail or personal service to the licensee or to the licensee's registered agent. Any action for recovery on the bond or bond substitute must be brought no earlier than 60 days and no later than 180 days after service of the written notice on the race meet licensee or on the licensee's registered agent. These limitations shall not apply to claims for valid winning tickets if the claimant has made a timely claim pursuant to ORS 462.073 (2).

(5) Every person licensed to conduct a race meet for horses shall carry insurance to protect jockeys and, if appropriate, drivers. The type, form and amount of insurance, and the carrier, must be approved by the commission. [Amended by 1957 c 313 §8; 1969 c.356 §18; 1975 c 549 §11, 1981 c.897 §53, 1983 s s c.7 §8, 1985 c 48 §1]

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; limitation; unused race days. (1) The commission shall determine the number and classes of race meets to be held in any fiscal year, and the total number of racing dates to be granted to a licensee subject to provisions of ORS 462.062 and 462.067.

(2) Not more than 160 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 fiscal year. Eighty of such days shall be allocated to race meets for horses (class A) and 80 days to race meets for greyhounds (class B). Notwithstanding the 80-day limit, if a licensee fails, for good cause, to complete all of the allocated days in a licensed race meet or if the commission does not receive and approve license applications for all of the 80 days allocated to either class of racing, the commission may add the unused or unallocated days no later than June 30 of the fol-

lowing fiscal year, to the racing days allocated to and available to the licensee or, in the discretion of the commission, to any other licensee of either class of racing in the metropolitan area. However, the additional racing days granted by the commission to any eligible licensee shall not exceed the total of the unused or unallocated racing days in any one fiscal year. However, if an emergency occurs on the day of racing, and a night racing program should run past the hour of midnight, such time after midnight shall not be considered an additional racing day.

(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 12 days of horse, mule or greyhound racing to be held within the county in which the licensee holds its fair or show or at a race course owned by a governmental agency or a nonprofit corporation in an adjoining county. If a licensee does not use all of its allocated race days during the fiscal year, the commission, in its discretion, may allow that licensee to use the leftover days in the next fiscal year. If a licensee referred to in this subsection wishes to make application to the commission to schedule racing days that conflict with racing days previously scheduled by another such licensee, at least 30 days prior to the date of a meeting of the commission, the governing bodies of the applicant and the previous licensee shall meet at a time and place prescribed by the previous licensee to discuss the applicant's proposed racing day schedule. The conclusion of the parties regarding the proposals for conflicting racing days and the matters upon which the parties agree or disagree shall be reduced to writing signed by the parties and submitted to the commission not later than 14 days prior to a meeting of the commission. The commission may approve or disapprove proposals for conflicting racing days upon such terms and conditions as the commission considers appropriate.

(5) The Oregon State Fair may be granted up to 65 days of racing to be held at the state fairgrounds. 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 ORS 462.057 (1).

(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; 1975 c.105 §1, 1975 c.550 §6, 1979 c.330 §4; 1979 c 698 §13a; 1981 c.544 §9; 1983 s s c 7 §9, 1985 c 675 §8, 1987 c 413 §7, 1989 c 210 §1]

462.127 Oregon Quarterhorse Association and Oregon Division Horsemen's Benevolent and Protective Association racing; exception to ORS 462.125. Notwithstanding any other provision of this chapter:

(1) The Racing Division of the Oregon Quarterhorse Association, Incorporated, and the Oregon Division Horsemen's Benevolent and Protective Association, may each be granted up to 15 days of racing per fiscal year at locations approved by the commission. Such racing will be sponsored by the Racing Division of the Oregon Quarterhorse Association, Incorporated, or the Oregon Division Horsemen's Benevolent and Protective Association, and the net licensee income shall be used only for the payment of purses to horsemen participating at the meeting. The commission shall schedule the racing for the Racing Division of the Oregon Quarterhorse Association, Incorporated, and the Oregon Division Horsemen's Benevolent and Protective Association, in such a manner as to avoid conflict with other race meets previously licensed under ORS 462.057. The Racing Division of the Oregon Quarterhorse Association, Incorporated, and the Oregon Division Horsemen's Benevolent and Protective Association, shall make payments as specified in ORS 462.057 (1).

(2) Racing days granted pursuant to this section shall not be included in the number of racing days counted for purposes of the 160-day limitation referred to in ORS 462.125 (2). [1979 c 698 §9; 1981 c.544 §10, 1985 c 54 §1]

462.130 Oregon bred horses to be used exclusively in certain races. For the purpose of encouraging the breeding and enhancing the quality, within the state, of thoroughbred race horses, at least one race of each day's meet shall consist exclusively of Oregon bred thoroughbred horses. [Amended by 1981 c.544 §11]

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 mutuel method.

(2) Except for the Oregon State Fair and Exposition Center, no horse race meet licensee or race meet licensee referred to in ORS 462.057 shall take more than 22 percent of the gross receipts of any mutuel wagering system subject to approval by the commission. The Oregon State Fair and Exposition Center may take up to a maximum of 19 percent from gross mutuel wagering requiring the selection of fewer than three separate wagering interests and up to a maximum of 25 percent from gross mutuel wagering requiring the selection of three or more separate wagering interests. Race meet licensees referred to in ORS 462.067 may take up to a maximum of 16.5 percent from gross mutuel wagering requiring the selection of fewer than three separate wagering interests and up to a maximum of 18.5 percent from gross mutuel wagering requiring the selection of three or more separate wagering interests.

(3) A race meet licensee shall compute breaks in the mutuel system at 10 cents for each dollar wagered in a specific mutuel pool except, when the breaks in the mutuel system compute to less than 10 cents total for each dollar wagered, the race meet licensee shall compute the breaks on that specific mutuel pool at five cents. When the breaks in the mutuel system compute at 10 cents or more for each dollar wagered, the race meet licensee shall pay in increments of 10 cents for each dollar wagered. When the breaks in the mutuel system compute to less than 10 cents for each dollar wagered, the race meet licensee shall pay five cents for each dollar wagered. For horses, 45 percent of the breaks shall be retained by the licensee. For greyhounds, 33-1/3 percent shall be retained by the licensee. The other 55 percent for horses and 66-2/3 percent for greyhounds shall be paid as follows:

(a) For thoroughbred horse races, to the Oregon Thoroughbred Breeders Association, Incorporated, to be used by that association subject to prior approval of the commission, in such amounts and for such of the following purposes as the association deems desirable:

(A) For breeders awards;

(B) For stallion awards;

(C) For education of the members of the association and other horsemen regarding the breeding and racing of thoroughbred horses; or

(D) For the promotion and development of thoroughbred horse breeding and racing in Oregon.

(b) For quarterhorse races, to the Racing Division of the Oregon Quarterhorse Association, Incorporated, to be used by that association subject to prior approval of the commission, in such amounts and for such of the following purposes as the association deems desirable:

(A) For breeders awards;

(B) For stallion awards;

(C) For education of the members of the association and other horsemen regarding the breeding and racing of quarterhorses; or

(D) For the promotion and development of quarterhorse breeding and racing in Oregon.

(c) For races for any other horses not designated in paragraphs (a) and (b) of this subsection, to each association of horsemen recognized by the commission as representing the other breeds of horses, to be used by that association subject to prior approval of the commission, in such amounts and for such of the following purposes as each recognized association deems desirable:

(A) For breeders awards;

(B) For stallion awards;

(C) For education of the members of the association and other horsemen regarding the breeding and racing of horses; or

(D) For the promotion and development of horse breeding and racing in Oregon.

(d) By a licensee of a race meet for greyhounds:

(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 greyhounds 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, 1975 c.550 §7; 1977 c.855 §5; 1979 c 698 §4; 1981 c 544 §12; 1985 c.675 §7; 1987 c.413 §20]

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 ORS 462.140 (2), 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 or trainers; conditions; revocation. (1) The commission may require as a condition for the issuance of a license to an animal owner or trainer that the owner or trainer establish to the satisfaction of the commission that the owner or trainer:

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

(b) Has purchased and has in force a policy of insurance affording the employees of the owner or trainer in the occupation as an animal owner or trainer 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 the license of the licensee. [1957 c.313 §16; 1977 c.855 §6]

462.190 Restrictions on minors; selling wagering tickets to minors or drunks. (1) No person under 18 years of age shall enter upon a race course at any time 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 the person's parent, guardian or spouse; or

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

(2) Notwithstanding subsection (1) of this section, no person under 12 years of age shall after 6 p.m. enter upon a race course where races are being conducted in which wagering is permitted, except this section shall not apply to any annual state or county fair or exposition in progress on the same premises where a race meet is being conducted by the same licensee.

(3) No person under 18 years of age shall, except when in the performance of a duty incident to 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.

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

(5) No person shall purchase a mutuel wagering ticket or receipt for or on behalf of a person under 18 years of age. [1957 c.313 §17; 1973 c.827 §45; 1979 c.698 §5, 1983 s.s. c.7 §11]

462.195 Written statement of age from purchaser of mutuel wagering ticket or receipt. (1) A licensee conducting a race meet, before selling a mutuel wagering ticket or receipt to any person about whom there is any reasonable doubt of the person having reached the age of 18 years, shall require such person to make a written statement of age and furnish evidence of the true age and identity of the person. 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 No._____ (_____)
State

Military Record No._____
Liquor Permit No._____
Other _____
(Fill in license or card number of any one or more of above)

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(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 of animals participating in race meets or persons required to be

licensed; costs. (1) The commission by rule may require that chemical analysis be made of the urine, saliva, blood or other body substances of animals participating in race meets or persons required to obtain a license pursuant to this chapter. 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, including the cost of the photo finish, shall be an expense of the commission. [1957 c.313 §20, 1969 c.356 §23, 1979 c.698 §6, 1987 c.413 §8]

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

462.210 Oregon Racing Commission; appointment; confirmation. (1) There is created the Oregon Racing Commission to consist of five commissioners who shall be citizens, residents and 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 calendar years and until the successor is appointed and qualified.

(3) All appointments of members of the commission by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution. [Amended by 1973 c.792 §16; 1981 c.544 §13]

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 the last-known address of the commissioner 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 executive director 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; 1987 c.413 §17]

462.250 Organization of commission; employees 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 an executive director, who may be a member of the commission or an employee of the commission in another capacity, a chief state steward and such other employees 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 executive director and shall fix and pay the compensation of the chief state steward and other employees 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 Personnel Relations Law.

(4) The commission may combine in a single person the duties of one or more employees 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 the absence of the chief state steward 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, 1987 c 413 §16]

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 January 31 of each calendar year. This report shall cover the activities of the commission for the preceding fiscal year. [Amended by 1961 c 488 §2, 1975 c.549 §14, 1981 c.544 §14]

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 employees 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 each fiscal year.

(2) The commission shall be the sole judge of whether or not a race meet shall be licensed. The application for a race meet license shall specify the duration of each race meet, the number of race days the race meet shall continue and the number of races per day. The commission, in its sole discretion, is authorized either to accept or reject any application for a race meet license, and the decision of the commission is a final order which can be contested only on the basis that the commission abused its discretionary authority.

(3) The commission shall prepare and promulgate a complete set of rules 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 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 in accordance with the Administrative Procedures Act then in effect.

(4) The commission shall announce the place, the number of race days and dates and duration of each race meet for which license fees shall be exacted. [Amended by 1953 c 497 §4; 1955 c.455 §1, 1981 c.544 §20]

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, may issue subpenas 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 provided in ORS 44.415 (2).

(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; 1987 c.413 §9, 1989 c.980 §14a]

462.273 Prohibited activities of commission, staff and family members. No member, employee or appointee of the commission, or the immediate family member of such a person, may:

(1) Own or have any other financial interest in any animal participating in any race meet in Oregon.

(2) Own or have any other financial interest in any race meet, public training track or race course in Oregon.

(3) 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, 1979 c.330 §5, 1987 c.413 §10]

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 authority to serve and execute warrants of arrest and search warrants in the manner provided by law [1957 c.313 §14, 1987 c.413 §11]

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 mutuel wagering collected by the commission under this chapter:

(a) 12.7 percent 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) In each fiscal year, the sum of $24,000 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.

(e) Not more than $9,000 in any one fiscal year, for the Eastern Oregon Livestock Show, held at Union.

(f) Not more than $6,350 in any one fiscal year, for the Mid-Columbia Livestock Show, held at The Dalles.

(g) Not more than $9,000 in any one fiscal year, for the Pendleton Roundup, held at Pendleton.

(h) Not more than $1,200 in any one fiscal year for the Klamath Basin Potato Festival held at Merrill, and not more than $5,100 in any one fiscal year for the Jefferson State Stampede held in Klamath County.

(i) Not more than $3,700 in any one fiscal year for the Spring Lamb and Dairy Show held at Canby.

(j) Not more than $3,600 in any one fiscal year for the McMinnville Turkeyrama held in McMinnville.

(k) Not more than $2,000 in any one fiscal year for the Linn County Lamb and Wool Show held at Scio, and not more than $2,000 in any one fiscal year for the Marion County Lamb Show held at Turner.

(L) Not more than $2,000 in any one fiscal year for the Tri-County Lamb Show (Columbia, Multnomah and Washington Counties) held in Washington County.

(m) Not more than $2,000 in any one fiscal year for the Lane County Lamb Show.

(n) Not more than $1,000 in any one fiscal year for the Douglas County Lamb Show.

(o) Not more than $1,000 in any one fiscal year for the Douglas County Ram Show.

(p) In each fiscal year beginning July 1, 1983, not more than one-tenth of one percent of the total gross mutuel wagering during the preceding fiscal year, to the Oregon State University School of Veterinary Medicine for research related to racing animals. No funds may be expended for any project without prior approval of the commission.

(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.

(4) If any beneficiary in paragraphs (e) to (o) of subsection (1) of this section does not hold its annual event during the fiscal year, the beneficiary shall not be eligible to receive funds for that fiscal year. [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; 1975 c 550 §9, 1977 c.281 §4; 1977 c.855 §7; 1979 c.698 §7; 1981 c 544 §15; 1983 s.s. c.7 §12; 1987 c.413 §12]

462.290 Use of moneys distributed by commission. (1) The moneys distributed under ORS 462.280 (1)(b) and (e) to (o) 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, 1975 c.550 §10; 1977 c.281 §6, 1977 c.855 §17, 1987 c.413 §13]

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 ORS 462.280 (1)(e) to (o) shall furnish the Secretary of State a surety bond running to the state conditioned upon the faithful performance of the duties of 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 fiscal year.

(3) This section does not require a county treasurer to furnish a surety bond if the county treasurer has given an official undertaking pursuant to ORS 204.020 (3). [1963 c.495 §4, 1965 c 513 §1; 1967 c 275 §1, 1969 c.298 §17; 1971 c.688 §5, 1975 c 550 §11; 1977 c.281 §7; 1977 c.855 §17a; 1981 c 41 §2; 1987 c.413 §14]

462.300 Annual audit of beneficiaries of racing funds; exception; accounting system. (1) The commission shall cause an annual audit to be made, covering each fiscal year, of the financial records of all beneficiaries of moneys distributed under ORS 462.280 (1)(b) and (e) to (o). Upon receipt of a request from the commission, the Secretary of State may permit the use of the facilities of the Division of Audits of the office of the Secretary of State in making these audits unless the beneficiaries of those distributed moneys shall have submitted to the commission not later than 180 days after the end of their fiscal year an audit report prepared by accountants, as defined in ORS 297.405, and satisfactory to the commission as to format and uniform classification of revenue and expenditures prescribed as provided for by subsection (3) of this section.

(2) The annual audit required by subsection (1) of this section does not apply to those beneficiaries of moneys distributed under ORS 462.280 (1)(e) to (o) that receive such distributions in the amount of $4,000 or less in any fiscal year and that submit to the commission, within 90 days following the end of the fiscal year, financial statements for that year in such form as the commission prescribes.

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

(4) All costs and expenses of the commission incurred in causing the audits to be made as required by subsection (1) of this section shall be borne on a distributed cost basis by the beneficiary of moneys distributed under ORS 462.280 (1)(b) and (e) to (o) that is audited. All costs and expenses pertaining to the installing of accounting systems for beneficiaries of moneys distributed under ORS 462.280 (1)(b) and (e) to (o) 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. [1955 c.328 §§1, 2, 3; 1957 c.475 §1; 1963 c.495 §3; 1969 c 298 §18; 1971 c 688 §6; 1975 c.536 §1; 1975 c.550 §12; 1977 c.281 §8; 1977 c.774 §25; 1977 c.855 §18; 1983 s.s. c.7 §13, 1987 c.413 §15]

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 and rules 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 $500 per offense.

(b) No license suspension shall be for a period longer than 365 calendar days from the date of issuance of the order of the board of stewards.

(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) In lieu of the board of stewards conducting any inquiry and hearing provided for by subsection (1) of this section, the board of stewards may request the commission to appoint and designate a person to conduct such inquiry and hearing who shall be known as a hearings master. The hearings master shall have the same authority and power as the board of stewards in conducting the inquiry and hearing. Any person adversely affected by any hearings master ruling has the right to appeal to the commission as provided for in subsection (4) of this section.

(4) 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 183.550. Such review shall be perfected by filing a written notice of appeal with the executive director 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, 1977 c 855 §11, 1981 c 544 §16; 1987 c.413 §18, 1989 c 357 §2]

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, on race day, either prior to or 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 the person 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. The trainer 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. If the animal is disqualified, 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 mutuel payoff to the public.

(5) Notwithstanding this section or any other section in this chapter, the commission may, by rule, adopt a medication program subject to commission control and supervision that it finds to be in the best interest of racing. Notification to the public that an animal is currently using a drug shall be left to the discretion of the commission.

(6) Testing of samples from racing animals may be performed only at laboratory facilities certified by the commission as having the capability to provide timely, accurate test results. [1969 c 356 §4, 1975 c 550 §8, 1977 c 855 §12, 1989 c.357 §3]

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 Prohibitions concerning influencing results of races. (1) 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 ability 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.

(2) Possession, within the confines of a race course, of any electrical device or equipment or of any mechanical or other device not sanctioned by the commission, either prior to, during or after a race, by a person associating with a racing animal, shall be deemed as attempting to affect the result of any race.

(3) No person shall possess, transport or use, within the confines of a race course, any syringe or needle used for medication purposes or any electrical, mechanical or other device, unless sanctioned by the commission or the stewards, which could affect the racing performance of an animal. [1953 c.498 §2; 1969 c 356 §31, 1977 c.855 §13]

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

462.450 Regulation of possession, transportation or use of drugs at race course. (1) No person shall possess, transport or use any drug within the confines of a race course, 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 commission veterinarian of the race meet, and such prescription shall be used only with the approval of the said commission veterinarian. [1953 c 498 §7; 1969 c.356 §32; 1975 c 549 §16; 1979 c 698 §14]

462.460 Racing animal under name or designation other than registered name or designation or altering license prohibited. (1) 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.

(2) No person shall knowingly alter, modify or change any license issued by the commission, or knowingly possess any license issued by the commission which has been altered, modified or changed.

(3) No person shall knowingly aid, abet, counsel, instigate, engage in or in any way further any act by which a license issued by the commission is altered, modified or changed. [1953 c.498 §5, 1981 c.544 §17]

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; how predictions on race outcome may be sold. (1) 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.

(2) Predictions on the outcome of horse races and greyhound races may be sold on the licensee's premises in accordance with rules promulgated by the commission. [1953 c.499 §1; 1975 c.549 §17]

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]

OFF-RACE COURSE MUTUEL WAGERING

462.700 Authorization; procedure. In addition to mutuel wagering authorized by this chapter to be conducted upon the premises of a race course, off-race course mutuel wagering may also be conducted in accordance with ORS 462.700 to 462.740 and the rules adopted pursuant thereto. [1987 c 913 §2]

462.710 Application; contents; conditions; revocation of authority. (1) Any race meet licensee may make written application to the commission for the conduct of off-race course mutuel wagering:

(a) On races held at the licensee's race course; or

(b) On races held at race courses outside this state.

(2) The application shall be in such form, shall contain such information and shall be submitted at such time and in such manner as the commission may require. Information required by the commission may include, but is not limited to:

(a) A description of the facilities, equipment and method of operation whereby the applicant proposes to conduct off-race course mutuel wagering activities.

(b) If the application is for authority to conduct mutuel wagering on horse races held at race courses outside this state, such evidence as the commission considers appropriate regarding the ability of the applicant to comply with the federal Interstate Horse Racing Act, 15 U.S.C.§§3001 to 3007, as amended.

(3) The commission shall authorize off-race course mutuel wagering upon such terms and conditions regarding the time, location and manner of operation as the commission considers appropriate. The commission shall not authorize more than 12 locations for off-race course mutuel wagering to be in operation at any one time and shall permit off-race course mutuel wagering only at an authorized location. The commission shall not authorize the conduct of off-race course mutuel wagering at any time or place or in any manner which the commission determines would have substantial adverse impact upon mutuel wagering on races held at a race course in this state. The commission shall not authorize a race meet licensee to conduct off-race course mutuel wagering within the boundaries of any city or county that has adopted an ordinance prohibiting the conduct of that activity within the city or county. The commission shall not authorize a race meet licensee to conduct off-race course mutuel wagering in any county with a population of less than 250,000 at a location that is within 40 miles of any other location where another race meet licensee is conducting a live race event.

(4) In addition to other grounds provided in this chapter, the commission may refuse to issue or renew or may revoke or suspend the license of any race meet licensee, or any employee thereof, for failure to comply with ORS 462.700 to 462.740, or the rules adopted pursuant thereto.

(5) If a race meet licensee proposes to conduct off-race course mutuel wagering at a physical facility separate from the race course:

(a) Individuals working at the separate facility must obtain a license for such employment from the commission if the individuals are performing duties for which a license would be required if the duties were performed at a race course. The fee for any such license shall be the same as the fee for the license required if the individual were working at a race course.

(b) ORS 462.080, 462.190 and 462.195 apply to the race meet licensee and to individuals at the facility in the same manner as if the mutuel wagering activity were being conducted at a race course.

(6) In addition to other requirements of ORS 462.700 to 462.740, the commission may authorize a race meet licensee to conduct off-race course mutuel wagering on a particular race that is held at a race course outside this state subject to the following conditions:

(a) The commission may authorize only one such race meet licensee, that is the holder of a license under ORS 462.062 or 462.067, to conduct off-race course mutuel wagering on the race.

(b) The commission may authorize off-race course mutuel wagering only during that time when the licensee is authorized to conduct mutuel wagering on races at the licensee's race course.

(c) The commission may authorize such off-race course mutuel wagering to be conducted at the licensee's race course.

(d) The commission may authorize a race meet licensee to conduct off-race course mutuel wagering on either horse races or greyhound races. [1987 c.913 §3, 1989 c 358 §1]

462.720 Wagered moneys as part of mutuel pool; surcharge on wagering by licensee. (1) All moneys wagered in off-race course mutuel wagering on races held at race courses in this state shall be included in the computation of the mutuel pool for that race at the race course. All moneys wagered in off-race course mutuel wagering on races held at race courses outside this state shall be held and computed in a mutuel pool for that race administered by the race meet licensee.

(2) A race meet licensee that is authorized to conduct off-race course mutuel wagering may exact a surcharge on each wager in an amount not exceeding five percent of the amount wagered. The surcharge shall be paid by the wagerer to the race meet licensee at the time the wager is made. The surcharge shall not be considered part of the amount wagered and shall not be included in the computation of the mutuel pool. All surcharges collected by the race meet licensee shall be reported to the commission at such

time and in such manner as the commission may require. [1987 c.913 §4; 1989 c.358 §2]

462.730 Payments by licensee to commission. A race meet licensee that conducts off-race course mutuel wagering shall make payments to the commission in the same manner as if the mutuel wagering were being conducted at the race course. [1987 c.913 §5; 1989 c.358 §3]

Note: Section 2, chapter 1093, Oregon Laws 1989, is repealed October 1, 1991, and provides:

Sec. 2. Notwithstanding ORS 462.067 (2), 462.280 (1)(a) and 462.730, when a race meet licensee referred to in ORS 462.067 conducts off-race course mutuel wagering at any site other than the licensee's race course, the percentage of off-race course mutuel wagering at any such site payable to the commission shall be 2.43 percent, all amounts in excess of two percent of which shall be paid to the County Fair Account. [1989 c.1093 §2]

462.740 Rules; compliance with federal law. (1) In accordance with ORS 183.310 to 183.550, the commission shall promulgate rules to carry out the provisions of ORS 462.700 to 462.740. Such rules shall be designed to promote the best interests and the good conduct of racing, with due regard for the public health, safety and welfare.

(2) In order to provide for the lawful operation of off-race course mutuel wagering for wagering on horse races at race courses outside this state, the commission is authorized to enter into contracts or agreements with other governmental or private agencies or associations and to perform all other acts necessary to comply with the federal Interstate Horse Racing Act, 15 U.S.C. §§ 3001 to 3007, as amended. [1987 c.913 §6; 1989 c.358 §4]

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 462.415 (2) shall, upon conviction, be guilty of a felony and punished by imprisonment in the custody of the Department of Corrections 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 ORS 462.140 (1) shall be punished upon conviction by imprisonment in the county jail for not more than one year or by imprisonment in the custody of the Department of Corrections 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, 1955 c.538 §2, 1969 c.356 §34, 1969 c.528 §§1, 2, 1987 c.320 §235]