

HOUSE BILL No. 6203

September 9, 2004, Introduced by Reps. Hood, Smith, Accavitti, Condino, Hunter, Tobocman, Wojno, Farrah, McConico, Phillips, Byrum, Plakas, Sak, Dennis, Vagnozzi, Murphy, Anderson, Gleason and O'Neil and referred to the Committee on Criminal Justice.

A bill to amend 1995 PA 279, entitled
"Horse racing law of 1995,"
by amending section 16 (MCL 431.316).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16. (1) Each person participating in or having to do
2 with pari-mutuel horse racing or pari-mutuel wagering on the
3 results of horse races at a licensed race meeting, including, but
4 not limited to, all racing officials, veterinarians, pari-mutuel
5 clerks or tellers, totalisator company employees, security
6 guards, timers, horse owners, jockeys, drivers, apprentices,
7 exercise riders, authorized agents, trainers, grooms, valets,
8 owners of stables operating under an assumed name, jockey agents,
9 pony riders, hot walkers, blacksmiths, starting gate employees,
10 owners and operators of off-track training centers, farms or
11 stables where racehorses are kept, and vendors operating within

1 the barn area of a licensed racetrack or off-track training
2 center, farm, or stable where racehorses are kept may be licensed
3 by the racing commissioner pursuant to rules promulgated by the
4 racing commissioner under this act. The racing commissioner
5 shall not issue an occupational license to a person who, within
6 the 6 years immediately preceding the date of the person's
7 application for the occupational license, was convicted of a
8 felony involving theft, dishonesty, misrepresentation, fraud,
9 corruption, drug possession, delivery, or use, or other criminal
10 misconduct that is related to the person's ability **to** and **the**
11 likelihood ~~to~~ **that the person will** perform the functions and
12 duties of the racing related occupation for which the person
13 seeks to be licensed and participate in pari-mutuel horse racing
14 in that licensed occupation in a fair, honest, open, and lawful
15 manner. The racing commissioner shall not issue a pari-mutuel
16 occupational license to a person who, within 2 years immediately
17 preceding the date of the person's application for the
18 occupational license, was convicted of a misdemeanor involving
19 theft, dishonesty, misrepresentation, fraud, corruption, drug
20 possession, delivery, or use, or other criminal misconduct that
21 is related to the person's ability **to** and **the** likelihood ~~to~~
22 **that the person will** perform the functions and duties of the
23 racing related occupation for which the person seeks to be
24 licensed and participate in pari-mutuel horse racing in that
25 licensed occupation in a fair, honest, open, and lawful manner.

26 (2) A veterinarian is not required to be licensed under this
27 act to provide necessary and appropriate emergency veterinary

1 care or treatment to any horse that is intended to be entered, is
 2 entered, or participates in a race with wagering by pari-mutuel
 3 methods or a nonbetting race or workout conducted at a licensed
 4 race meeting in this state. For purposes of this section,
 5 "emergency veterinary care or treatment" means care or treatment
 6 necessary and appropriate to save the life of a horse or prevent
 7 permanent physical injury or damage to a horse in a situation
 8 requiring immediate veterinary action. Only veterinarians
 9 licensed under this act may provide nonemergency veterinary care
 10 or treatment to a horse in this state that is intended to be
 11 entered, is entered, or participates in races at licensed race
 12 meetings in this state. Only persons licensed under this act or
 13 otherwise authorized by the racing commissioner may enter the
 14 restricted grounds of a licensed race meeting where horses are
 15 kept that are eligible to race at the race meeting. For the
 16 purposes of this section and sections 30 and 31, a horse that is
 17 intended to be entered is a horse that has its name put into the
 18 draw for a specific race, and a horse that is entered in a race
 19 is a horse that has been drawn into a specific race.

20 (3) As conditions precedent to being issued and holding a
 21 valid pari-mutuel occupational license, a license applicant shall
 22 disclose, in writing, any ownership interest that the applicant
 23 has in a racehorse ~~in addition to~~ **and provide any** other
 24 information the racing commissioner considers necessary and
 25 proper ~~, including fingerprints of occupational license~~
 26 ~~applicants~~ and proof of compliance with the worker's disability
 27 compensation act of 1969, ~~Act No. 317 of the Public Acts of~~

1 ~~1969, being sections 418.101 to 418.941 of the Michigan Compiled~~
 2 ~~Laws~~ **1969 PA 317, MCL 418.101 to 418.941**, except that **the** proof
 3 of compliance requirement does not apply to horse owners and
 4 trainers not covered under section 115 of ~~Act No. 317 of the~~
 5 ~~Public Acts of 1969, being section 418.115 of the Michigan~~
 6 ~~Compiled Laws~~ **the worker's disability compensation act of 1969,**
 7 **1969 PA 317, MCL 418.115.**

8 (4) In addition to the requirements of subsection (3), an
 9 applicant for a pari-mutuel occupational license shall consent,
 10 upon application and for the duration of the occupational
 11 license, if issued, to all of the following:

12 (a) Personal inspections, inspections of the applicant's
 13 personal property, and inspections of premises and property
 14 related to his or her participation in a race meeting by persons
 15 authorized by the racing commissioner.

16 (b) If the applicant is applying for a racing official,
 17 jockey, driver, trainer, or groom license, or for any other
 18 license for an occupation that involves contact with or access to
 19 the racehorses or the barn areas or stables where racehorses are
 20 kept, ~~then the applicant shall agree as a condition of licensure~~
 21 ~~to submit for the duration of the license period to a~~
 22 breathalyzer test, urine test, or other noninvasive fluid test to
 23 detect the presence of alcohol or a controlled substance, ~~as~~
 24 ~~defined in section 7104 of the public health code, Act No. 368 of~~
 25 ~~the Public Acts of 1978, being section 333.7104 of the Michigan~~
 26 ~~Compiled Laws,~~ if directed to do so by the racing commissioner
 27 or his or her representative. If the results of a test show that

1 an occupational licensee has more than .05% of alcohol in his or
2 her blood, or has present in his or her body a controlled
3 substance, the person shall not be permitted to continue in his
4 or her duties or participate in horse racing until he or she can
5 produce, at his or her own expense, a negative test result. The
6 licensee may be penalized by the racing commissioner for his or
7 her positive test results, which may include any disciplinary
8 action authorized by this act or rules promulgated under this
9 act. This subsection does not apply to a controlled substance
10 obtained directly from, or pursuant to a valid prescription from,
11 a licensed health care provider, except that the racing
12 commissioner may consider the person's medical need for
13 prescribed controlled substances in determining the person's
14 fitness to be licensed to participate in pari-mutuel horse
15 racing. The racing commissioner shall suspend for not less than
16 1 year the license of a person who for the third time in a period
17 of not more than 6 consecutive years is relieved of his or her
18 duties ~~for the reasons prescribed in~~ **because of** this
19 subsection.

20 **(5) When applying for an occupational license, an applicant**
21 **shall provide the racing commissioner with 1 or more sets of his**
22 **or her fingerprints as requested by the racing commissioner. To**
23 **determine whether the applicant has been convicted of a crime in**
24 **this or another state, the racing commissioner shall submit the**
25 **fingerprints and the appropriate state and federal fees to the**
26 **department of state police for a criminal history check. The**
27 **department of state police may forward the fingerprints to the**

1 federal bureau of investigation for a criminal history check.
2 Information obtained under this subsection shall only be used to
3 determine the character and fitness of the applicant for
4 licensing purposes.

5 (6) ~~—(5)—~~ A person who is issued a pari-mutuel occupational
6 license as a trainer is responsible for and absolute insurer of
7 the condition, fitness, eligibility, and qualification of the
8 horses entered to race for the person by whom the trainer is
9 employed, except as prescribed by the rules promulgated by the
10 racing commissioner under this act. This subsection shall not be
11 construed or interpreted to determine civil tort liability of any
12 racehorse owner or trainer but shall be for purposes of
13 enforcement of this act only. A trainer shall not start a horse
14 that has in its body a drug or foreign substance unless permitted
15 pursuant to section 30 and the rules promulgated under that
16 section. A trainer is strictly liable and subject to
17 disciplinary action if a horse under the trainer's actual or
18 apparent care and control as trainer has a drug or foreign
19 substance in its body, in violation of section 30 and the rules
20 promulgated under that section.

21 (7) ~~—(6)—~~ Upon the filing of a written complaint, under oath,
22 in the office of the racing commissioner, or upon the written
23 motion of the racing commissioner regarding the actions or
24 omissions of a person issued a pari-mutuel occupational license,
25 the racing commissioner may summarily suspend the occupational
26 license of the person for a period of not more than 90 days
27 pending a hearing and final determination by the racing

1 commissioner regarding the acts or omissions complained of in the
2 written complaint or motion, if the commissioner determines from
3 the complaint or motion that the public health, safety, or
4 welfare requires emergency action. The racing commissioner shall
5 schedule the complaint or motion to be heard within 14 business
6 days after the occupational license is summarily suspended and
7 notify the holder of the occupational license of the date, time,
8 and place of the hearing not less than 5 days before the date of
9 the hearing. The hearing shall be conducted in accordance with
10 the contested case provisions of the administrative procedures
11 act of 1969, ~~Act No. 306 of the Public Acts of 1969, being~~
12 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws~~ **1969 PA**
13 **306, MCL 24.201 to 24.328.** The action of the racing commissioner
14 in revoking or suspending a pari-mutuel occupational license may
15 be appealed to the circuit court pursuant to ~~Act No. 306 of the~~
16 ~~Public Acts of 1969~~ **the administrative procedures act of 1969,**
17 **1969 PA 306, MCL 24.201 to 24.328.** If the racing commissioner's
18 order is predicated upon a series of acts, the review by the
19 circuit court may be in the county in which any of the alleged
20 acts or failures to act took place.

21 **(8)** ~~—(7)—~~ A decision by the racing commissioner or ~~his or~~
22 ~~her deputies or appointed state stewards~~ **a deputy commissioner**
23 **or state steward** of racing to deny an application for an
24 occupational license may be appealed to the circuit court and
25 reviewed pursuant to section 631 of the revised judicature act of
26 1961, ~~Act No. 236 of the Public Acts of 1961, being section~~
27 ~~600.631 of the Michigan Compiled Laws~~ **1961 PA 236, MCL 600.631.**

1 A suspension or revocation of an occupational license may be
2 appealed and reviewed pursuant to the administrative procedures
3 act of 1969, ~~Act No. 306 of the Public Acts of 1969, being~~
4 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws~~ **1969 PA**
5 **306, MCL 24.201 to 24.328.**

6 **(9)** ~~—(8)—~~ Each pari-mutuel occupational licensee shall pay a
7 license fee of not less than \$10.00 or more than \$100.00 as
8 determined by the racing commissioner.