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SECTION 3

GENERAL LAWS

Chapter

Section

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Section 3: Issuance of license; contents; conditions; bond; recording

[Text of section effective until July 31, 2017. Repealed by 2011, 194, Sec. 39. See 2011, 194, Sec. 112 as amended by 2014, 165, Sec. 192 and 2016, 176, Sec. 12B.]

Section 3. If any application for a license, filed as provided by section two, shall be in accordance with the provisions of this chapter, the commission, after reasonable notice and a public hearing in the city or town wherein the license is to be exercised, may issue a license to the applicant to conduct a racing meeting, in accordance with the provisions of this chapter, at the race track specified in such application; provided, that if the commission has already taken action on an application for any calendar year, after such notice and public hearing, no other public hearing need be held on any other application from the same applicant relating to the same premises filed prior to the expiration of said year; and provided, further, that on an application for a license to conduct a horse or dog racing meeting in connection with a state or county fair the applicant shall show a certificate from the commissioner of food and agriculture that (1) such fair is a state or county fair as defined in section one, (2) such fair has been operating for each of the five consecutive years immediately preceding the date of filing such application and had received for each of said five consecutive years assistance from the agricultural purposes fund, (3) such fair is properly qualified as hereinafter in this paragraph provided and (4) the location where such racing meeting is to be held is annually approved by him and by the board of agriculture; and provided, further, that on an application for a license to conduct a horse or dog racing meeting in connection with a state or county fair by an applicant to whom a prior license to conduct such a racing meeting at the race track specified in said application has been granted by the commission, no hearing need be held, unless a request, signed by at least one per cent of the registered voters of the city or town in which the track is located, is filed with the commission not later than thirty days following the granting of said license. In determining whether a fair is properly qualified under this paragraph, the commissioner of food and agriculture shall consider the number of days such fair has operated each previous year, the area of the land used for fair purposes, the number of entries in agricultural show events in previous years, the number and value of prizes offered in such events and whether or not the granting of a racing license would tend to promote the agricultural purposes of the fair.

Such license shall state--

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

(5) That the required license fee has been received by the commission.

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

[Clauses (a) through (q) of third paragraph effective until July 31, 2017. See 2001, 139, Sec. 45 as amended by 2005, 176, Sec. 13; 2006, 54, Sec. 12; 2006, 449, Secs. 19 and 21; 2008, 290, Sec. 12; 2009, 167, Sec. 12; 2010, 203, Sec. 12; 2011, 77, Sec. 12; 2011, 194, Sec. 84; 2014, 264, Sec. 11; and 2016, 176, Sec. 11. For text effective July 31, 2017, see below.]

(a) No license shall be issued for more than an aggregate of 200 days in any 1 year at all running horse racing meetings combined, not including running horse racing meetings held in connection with state or county fairs; provided, however, that up to 200 days may be awarded in Suffolk county only.

(b) No license shall be issued for more than an aggregate of 200 racing days in any 1 year at all harness horse racing meetings combined, including harness horse racing meetings at state or county fairs; provided, however, that up to 200 days may be awarded in Norfolk county only.

(c) No license shall be issued for more than an aggregate of 1,190 racing days in any 1 year at all dog racing meetings combined, excluding dog racing meetings conducted at a race track owned and operated by a state or county fair in Essex county; provided, however, that 210 days may be awarded only for racing in Hampden county during the period between April 15 and October 21, and 520 of the remaining days may be awarded only in Bristol county; provided, further, that the remaining 460 days may be awarded only in Suffolk county; provided, further, that up to 60 additional days may, in the discretion of the commission, be awarded only in Suffolk county; provided, further, that, in addition to the total number of racing days provided above, the commission may issue a license for an additional 60 days of racing in Bristol county.

(d) Licenses shall permit racing meetings only between the hours of 10:00 a.m. and 12:00 midnight. The commission shall grant authorized dates at such times that are consistent with the best interests of racing and the public; provided, however, that dates for racing meetings held in connection with a state or county fair may only be awarded during the period between June 15 and October 15. The commission may, in its discretion, on written application from a racing licensee made at least 7 days prior to the date of any proposed change of time stated in the racing license and without necessity for further public hearing, change the hours of conducting such racing meeting between any of the aforesaid hours, notwithstanding the hours set forth on the license; provided, however, that, if by reason of state or national emergency, night illumination is forbidden by public authority, then the commission may, in its discretion, issue a license to permit racing at such hours as the commission shall determine between the hours of 10:00 a. m. and 12:00 midnight. For the purpose of imposing the fee provided for in section 4, computing the sums payable to the commission pursuant to section 5 and counting the number of days authorized by clauses (a), (b) and (c), any racing meeting held after 7:00 p.m. on the same day on which a racing meeting is held at the same race track prior to 7:00 p.m. shall be considered a separate day of racing.

(e) No license shall be issued to permit running horse racing meetings to be held or conducted, except in connection with a state or county fair, at the same time of day at more than 1 race track within the commonwealth unless the race tracks are more than 75 miles apart; provided that, no license shall be issued to permit a running horse racing meeting to be held at a racing strip of less than 1 mile, except for a racing meeting in connection with a state or county fair; provided, however, that, in no case, shall more than 2 licenses be issued for meetings to be held or conducted at the same time of day.

(f) No license shall be issued to permit harness horse racing meetings to be held or conducted, except in connection with a state or county fair, at the same time of day at more than 1 race track within the commonwealth unless the race tracks are more than 75 miles apart; provided, however, that, in no case, shall more than 2 licenses be issued for meetings to be held or conducted at the same time of day.

(g) No licenses shall be issued to permit dog racing meetings to be held or conducted at more than 4 race tracks within the commonwealth, excluding dog racing meetings held in connection with a state or county fair at a race track owned and operated by the fair, nor at any location where racing has not been conducted for at least 5 years prior to November 15, 2001 and where the surrounding property is substantially of a residential character, as determined or defined by a zoning ordinance or by-law, if any, controlling such location; provided, however, that 1 license may be issued only for racing in Hampden county; provided, further, that any license issued in Bristol county shall require that racing be held or conducted at a single location which has winterized spectator areas and which has a heated racing surface, if the applicants for the licenses agree that races shall be held or conducted at a single location.

(h) No license shall be issued to any person who is in any way in default, under the provisions of this chapter, in the performance of any obligation or in the payment of any debt to the commission; provided, however, that no license shall

be issued to any person who has, within 10 years of the time of filing the application for the license, been convicted of violating section 5.

(i) In granting authorized dates under this section, the commission shall take into consideration, in addition to any other appropriate and pertinent factors, the following: the financial ability of an applicant to operate a race track; the maximization of state revenues; the suitability of racing facilities for operation at the time of the year for which dates are assigned; the circumstance that large groups of spectators require safe and convenient facilities; the interest of members of the public in racing competition honestly managed and of good quality; the necessity of having and maintaining proper physical facilities for racing meetings and the necessity of according fair treatment to the economic interest and investments of those who in good faith have provided and maintain such facilities. Notwithstanding the foregoing provisions of this section, the racing commission shall have the right to review and reconsider without further notice or public hearing any application made prior to October 1 for which racing dates have been requested for the following year; provided that the application has had a public hearing prior to November 15; and provided, further, that any applicant who has been denied these racing dates makes a written request for review and reconsideration within 90 days of receiving notice of the denial; and provided further, that the commission shall reconsider and review the request within 180 days of the denial.

(j) No licenses shall be issued to permit dog racing meetings to be held or conducted, except in connection with a state or county fair, at the same time at more than 1 race track within the same county or within 25 miles of another dog race track, nor at any time at more than 4 race tracks within the commonwealth, nor at a dog race track having a racing strip of less than $\frac{3}{16}$ of a mile for outdoor tracks and $\frac{1}{5}$ of a mile for indoor tracks.

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

(l) No license shall be issued to permit horse or dog racing meetings to be held on premises owned by the commonwealth or any political subdivision thereof.

(m) No license shall be issued to hold or conduct a horse or dog racing meeting in connection with a state or county fair or any exhibition for the encouragement or extension of agriculture if the racing meeting is to be conducted at a race track located outside the county, or any county bordering thereon, where the licensee conducted its fair prior to December 31, 1961.

(n) No license shall be issued to any person to hold or conduct a horse or dog racing meeting in connection with a state or county fair or any exhibition for the encouragement or extension of agriculture under the reduced license fee provided in section 4, unless the applicant shall first satisfy the commission that the main purpose of the fair or exhibition is the encouragement or extension of agriculture and that the same constitutes a bona fide exhibition of that character. No license shall be issued to a person to hold or conduct a horse or dog racing meeting in connection with a state or county fair or any exhibition for the encouragement or extension of agriculture for more than 15 days in a calendar year.

(o) No license shall be issued unless the person applying therefor shall have executed and delivered to the commission a bond payable to the commission in the amount of \$125,000 with a surety or sureties approved by the commission conditioned upon the payment of all sums which may become payable to the commission under this chapter; provided, however, that the amount of such bond, in the case of any person holding or conducting a racing meeting in connection with a state or county fair, shall be \$25,000.

(p) Every license shall be recorded in the office of the clerk of the city or town in which the racing meeting is held or conducted at a time not less than 5 days before the first day of the meeting or forthwith upon the issuance of the license if the same shall be issued after that time. After the license is so recorded, a duly certified copy thereof shall forthwith be conspicuously displayed and shall be kept so displayed continuously during the racing meeting in the principal business office at the race track where the meeting is held and at all reasonable times shall be exhibited to any person requesting to see the same.

(q) Every licensee shall keep conspicuously posted in various places on its premises a notice containing the name and numbers of the council on compulsive gambling and a statement of its availability to offer assistance.

[Clauses (a) through (q) of third paragraph effective July 31, 2017 do not take effect. See 2011, 194, Secs. 39 and 112; 2014, 165, Sec. 192; and 2016, 176, Sec. 12B. For text effective until July 31, 2017, see above.]

(a) Such a meeting may be held or conducted on a weekday or weekdays or on a Sunday or Sundays.

(b) Such a meeting as may be for running horses shall be between the hours of ten o'clock ante meridian and seven o'clock post meridian. Such a meeting as may be for harness horses may be between twelve o'clock noon and seven o'clock post meridian or between seven o'clock post meridian and twelve o'clock midnight; provided, however, that the commission may, in its discretion, on written application from a harness horse racing licensee made at least seven days

prior to the date or dates of any proposed change of time stated in said harness horse racing license and without necessity for any further public hearing, change the hours of conducting such harness horse race meeting between any of the aforesaid hours, notwithstanding the hours set forth on the license.

(c) Dog racing at such meeting may be between the hours of seven o'clock post meridian and twelve o'clock midnight only; provided, that if by reason of national emergency night illumination is forbidden by public authority, then the commission may, in its discretion, issue a license to permit dog racing at such hours as said commission may determine, between the hours of twelve o'clock noon and twelve o'clock midnight. In addition to the foregoing, the commission may, in its discretion, issue to any licensee licensed for dog racing in other periods of the year a license for a dog racing meeting between the hours of twelve o'clock noon and seven o'clock post meridian, provided that no such license shall be issued for any day on which a dog racing meeting is to be held in the same location after seven o'clock post meridian. Such dog racing meeting shall hereinafter be referred to as matinee dog racing. Said meeting shall be considered a separate day of racing for the purpose of imposing the fee provided for in section four, for the purpose of computing the sums payable to the commission pursuant to section five, and for purposes of clause (g) of section three.

[There is no clause (d).]

(e) Such dog racing meetings may be held only between the first day of April and the thirtieth day of November, both dates inclusive, in any year; provided, however, that matinee dog racing dates, as defined in clause (c) of this section, may only be awarded between the sixth day of July and the nineteenth day of September, both dates inclusive, in any one year.

(f) No license shall be issued for more than an aggregate of two hundred race days in any one year at all running horse racing meetings combined, not including running horse racing meetings held or conducted at state or county fairs.

(g) No licenses shall be issued for more than three hundred and thirty-five days in any one year nor for more than two hundred and ten racing days in any one county at all dog racing meetings combined, not including dog racing meetings at state and county fairs; provided, however, that not more than two hundred and seventy-five such racing days in any one year nor more than one hundred and fifty racing days in any one county shall be issued for all dog racing meetings combined which are held between the hours of seven o'clock post meridian and twelve o'clock midnight, not including dog racing meetings at state and county fairs; and not more than sixty such racing days may be awarded for all dog racing meetings combined conducted between the hours of twelve o'clock noon and seven o'clock post meridian.

(h) No licenses shall be issued to permit running horse racing meetings to be held or conducted, except in connection with a state or county fair, at the same time at more than one race track within the commonwealth, nor at any time at a race track located within fifty miles of another race track within the commonwealth, one mile or more in circumference; provided, that licenses may be issued to permit such meetings to be held or conducted at the same time at not more than two race tracks if such tracks are seventy-five miles apart.

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

(j) No licenses shall be issued for more than an aggregate of two hundred and twenty-four racing days in any one year at the harness horse racing meetings combined; not including harness horse racing meetings at state or county fairs; provided, however, that sixty such racing days may only be awarded for racing in Hampden, Hampshire or Franklin counties; and provided, further, that of the remaining one hundred and sixty-four days, not less than one hundred and four racing days shall be held during the months of January, February, March and December in any calendar year.

No license shall be issued to permit harness horse racing meetings to be held at the same time that a dog racing meeting or a running horse racing meeting is being held at a race track within ten miles of the track at which such harness horse racing meeting is to be held. Except for harness horse racing meetings at state or county fairs, no license shall be issued to permit harness horse racing meetings to be held or conducted at the same time within twenty-five miles of another harness horse racing meeting.

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

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

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

(n) No licenses shall be issued to permit horse or dog racing meetings to be held on premises owned by the commonwealth or any political subdivision thereof.

(o) No licenses shall be issued to permit dog racing meetings to be held or conducted in any location where the surrounding property is substantially of a residential character, as determined by or defined by a zoning ordinance or by-law, if any, controlling such location.

[There is no clause (p).]

(q) No license shall be issued to hold or conduct a horse or dog racing meeting in connection with a state or county fair, or any exhibition for the encouragement or extension of agriculture if said racing meeting is to be conducted at a race track located outside of the county, or any county bordering thereon, where said licensee conducted its fair prior to December thirty-first, nineteen hundred and sixty-one.

[Fourth through seventh paragraphs effective July 31, 2017 do not take effect. See 2011, 194, Secs. 39 and 112; 2014, 165, Sec. 192; and 2016, 176, Sec. 12B. See, also, 2001, 139, Sec. 45 as amended by 2005, 176, Sec. 13; 2006, 54, Sec. 12; 2006, 449, Secs. 19 and 21; 2008, 290, Sec. 12; 2009, 167, Sec. 12; 2010, 203, Sec. 12; 2011, 77, Sec. 12; 2011, 194, Sec. 84; 2014, 264, Sec. 11; and 2016, 176, Sec. 11.]

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

No license shall be issued unless the person applying therefor shall have executed and delivered to the commission a bond, payable to the commission in the amount of one hundred and twenty-five thousand dollars, with a surety or sureties approved by the commission conditioned upon the payment of all sums which may become payable to the commission under this chapter; provided that the amount of such bond, in the case of any person holding or conducting a racing meeting in connection with a state or county fair shall be twenty-five thousand dollars.

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

Every licensee shall keep conspicuously posted in various places on its premises a notice containing the name and numbers of the council on compulsive gambling and a statement of its availability to offer assistance.

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