

## Opinion No. 47-5041

June 18, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** New Mexico State Fair Commission P. O. Box 1693 Albuquerque, New Mexico.  
Attention: Mr. Leon H. Harms, Secretary-Manager

{\*60} This will acknowledge receipt of your letter of June 6, 1947, in which you request the opinion of this office as to the effect of changes made by House Bill No 247 (Chapter 192, Laws of 1947).

House Bill 247, enacted by the Eighteenth Legislature (1947), amends Section 62-602, New Mexico Statutes, 1941 Compilation, which relates to appointment of members of the State Racing Commission and prescribes the powers of said Commission. This new bill gives the State Racing Commission broader powers than it heretofore had.

Specifically, House Bill 247 (Chapter 192, Laws of 1947) gives the State Racing Commission power: to grant and/or refuse and revoke licenses for horseracing; make rules and regulations for holding and operating race meets in New Mexico; to supervise and check pari mutuel pools and distributions therefrom; to inspect places where races are held; to make rules governing, restricting or regulating bids on leases; to regulate the rate {\*61} of charge by the licensee for admission to races; to approve all contracts or agreements for the payment of money and all salaries, fees and compensations by any licensee; to regulate the size of the purse, stake or reward to be offered for conducting races; to exclude or compel exclusion from race courses of any person whom the State Racing Commission shall deem detrimental to the best interests of racing; and to place attendants or other persons deemed necessary in the offices, on the race tracks or in places of business of the licensee for the purpose of satisfying itself that the rules and regulations are strictly complied with.

The said law provides that the State Racing Commission may require the removal of any employee or official employed by the licensee.

In addition to the above, House Bill 247 provides as follows:

"And provided further that the New Mexico state racing commission shall have complete supervision and control of the pari mutuel machines and equipment at all races held or operated by the state or any state agency or commission."

In view of the powers placed in the State Racing Commission by the above law, the State Fair Commission wants to know: (1) Whether the law shifts the direct operation of horse races from the State Fair Commission to the State Racing Commission; and (2) Whether the law gives full supervision, control and operation of the pari mutuel plant and machines to the State Racing Commission.

Considering the original laws creating the State Fair Commission and the State Racing Commission, and considering also the 1947 amendment to the State Racing Commission laws, (House Bill 247), I am of the opinion that House Bill 247 did not shift the direct operation of horse races from the State Fair Commission to the State Racing Commission, but that the State Fair Commission may conduct the horse races (but not including the pari mutuel plant and machines) subject to and in accordance with the rules and regulations set up by the State Racing Commission, and subject to the power of the State Racing Commission to supervise and investigate any matters pertaining thereto, and subject further to the power of the State Racing Commission to require removal of any employee or official employed by the State Fair Commission in conducting horse races.

I am further of the opinion that House Bill 247 transferred complete supervision, control and operation of the pari mutuel plant and machines to the State Racing Commission. This power vested in the State Racing Commission would include the authority to contract for the operation thereof and the authority to print, sell and distribute racing programs and betting forms, or to contract therefor.

By WM. R. FERERICI,

Asst. Atty. General