

## Opinion No. 51-5352

April 6, 1951

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** Mr. Thomas C. Closson Chairman, State Racing Commission Santa Fe, New Mexico

{\*30} Your letter of April 5, 1951, requests an official opinion from this office as to the duties and powers of the State Racing Commission, particularly those the Commission has at the State Fair Grounds in Albuquerque during the State Fair meet; and also what supervision the Commission has over the construction, alterations of any type buildings or improvements at the State Fair Grounds.

In 1947, the Eighteenth Legislature passed House Bill No. 247, amending § 62-602 of the New Mexico 1941 Compilation (Chapter 192, Session Laws of 1947, copy enclosed). Under this bill, the State Racing Commission was given broader powers than it heretofore had. Specifically, it gives the State Racing Commission power \* \* \* \* to grant and/or refuse and revoke licenses for horse racing; make rules and regulations for holding, conducting and operating of all race meets and races held in the state; to supervise and check pari mutuel pools and the distribution therefrom; to inspect places where races are held; to make rules governing, restricting or regulating bids on leases; to regulate the rate 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, any person whom the State Racing Commission shall deem detrimental to the best interests of racing; and to place attendants and such 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 same 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 No. 247 (Chapter 192, Session Laws of 1947) provides:

"And provided further that the New Mexico State Racing Commission shall have completed 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, you wish to know whether the direct operation of horse races is shifted from the State Fair Commission to the State Racing Commission; and, second, whether the law gives full

supervision, control and operation of the pari mutuel plant and machines to the State Racing Commission.

Considering the original law creating the State Fair Commission and the State Racing Commission, and also considering the 1947 amendment to the State Racing Commission laws (House Bill No. 247), it is my opinion that House Bill No. 247 (Chapter 192, Session Laws of 1947) 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 powers 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 {\*31} official employed by the State Fair Commission in conducting horse races.

It is my further opinion that House Bill No. 247 (Chapter 192, Session Laws of 1947) 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.

The State Racing Commission is given the additional powers under House Bill No. 247 (Chapter 192, Session Laws of 1947) to approve or propose extensions, additions, or improvements to the buildings, stables, or tracks, upon property owned or leased by the licensee. This, naturally, would apply to the State Fair Association as licensee.

I would also like to suggest that the duties and powers of the State Racing Commission, as incorporated in House Bill No. 247 (Chapter 192, Session Laws of 1947), be included in your Racing Commission pamphlets, in order to inform the other members of the Commission and the licensees as to the duties of the New Mexico Racing Commission.

Trusting that this fully answers your inquiry, I am,