

Opinion No. 38-2045

September 10, 1938

BY: FRANK H. PATTON, Attorney General

TO: Major E. G. Cullum, Secretary State Racing Commission Santa Fe, New Mexico

{*272} I have your letter of September 9th which was just delivered to me by special messenger regarding rights and responsibilities of the State Racing Commission in licensing trainers, jockeys, exercise boys, etc., and I understand that you desire an answer on or before Monday morning for presentation to the Commission.

The State Racing Commission is created by Section 2 of Chapter 203 of the Session Laws of 1937, and by Section 6 of said Act we find that the State Racing Commission has the {*273} power to adopt reasonable rules and regulations in writing to the end that "all horse races shall be conducted with fairness, and that the participants therein and the patrons thereof shall be protected against all wrongful, unlawful or unfair conduct and practices of any and every kind on the grounds where such races are held."

These rules and regulations must be in writing and reasonable public notice thereof must be given, and all licenses issued to hold race meets shall require that the applicant is to abide by the rules and regulations promulgated by the Commission, and the holder of the license is to post printed copies of said rules and regulations in conspicuous places upon the grounds where the race meet is being held.

Other than the foregoing, I find no other provision in regard to the rule-making power of the Racing Commission and therefore, in answer to your first question as to whether you have the right to charge a license fee from professional horsemen engaged in training and general handling of horses at the race track, I feel that it should be answered in the negative.

Your second question must of necessity also be answered in the negative. If the Commission has no authority to collect this fee, naturally they would have no authority to prepare rules for disbursement of same.

Your third question inquires as to the responsibility of the State Racing Commission for injuries to professional horsemen engaged in the handling and racing of horses.

I am unable to find where any responsibility of this nature devolves upon the Racing Commission, the law being absolutely silent upon matters of this kind.

Your fourth question is whether the Commission may legally require individuals or organizations licensed by the Commission to carry liability and accident insurance on professionals handling horses at the race meet.

I am compelled to answer this question in the negative also and if there is any responsibility, it is that of the owners employing the necessary help.

The Commission only has the power to collect the fees prescribed by the Statute, and its duties and powers in the conduct of the race meet are of necessity confined to those enumerated by the statute.