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FILE NO. S-782

**HORSE RACING:
Pari-mutuel Wagering
at State Fairs**

Anthony Scariano, Chairman
Illinois Racing Board
State of Illinois Building
160 North LaSalle Street
Chicago, Illinois 60601

Dear Chairman Scariano:

I have your letter wherein you state, in part:

"The Illinois State Fair Agency, today, applied for a license to conduct five days of harness racing with pari-mutuel wagering at the State Fair in Springfield from August 12 through August 16. Essentially, this application is for permission to conduct pari-mutuel wagering on the harness races which have been traditionally conducted at the State Fair for many years.

* * *

We respectfully request that you give us an official legal opinion as to whether the Board can lawfully issue a license to the State Fair Agency which would permit pari-mutuel wagering on the races conducted at the State Fair. * * * "

Harness racing meets and pari-mutuel wagering at
harness racing meets are regulated by the Illinois Harness

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Racing Act. Ill. Rev. Stat. 1973, ch. 8, par. 37s, et seq.

You accurately note that harness racing has been conducted at the Illinois State Fair for many years. See, Ill. Rev. Stat. 1973, ch. 8, par. 37s19a.

Sections 5, 7, 22 and 28 of the Illinois Harness Racing Act (Ill. Rev. Stat. 1973, ch. 8, pars. 37s.4, 37s.6, 37s.21 and 37s.27) are most pertinent to your inquiry. Section 5 reads as follows:

"The jurisdiction, powers and duties of the Board shall extend to any and all persons who may hereafter hold or conduct any harness racing meet, except harness racing meets at any state, county, township, agricultural or other fair. None of the provisions of the "Illinois Horse Racing Act",¹ except for those creating the Illinois Racing Board and defining its powers and duties, shall govern or have any application whatsoever to harness racing or harness racing meets conducted pursuant to the provisions of this Act."

Section 7 reads as follows:

"No person shall hold or conduct a harness racing meet except at a state, county, township, agricultural or other fair without a valid and unrevoked license, issued pursuant to the provisions of this Act¹ authorizing the holding of such meet at the time and place held."

Section 22 reads as follows:

"Nothing in this Act¹ shall be construed as authorizing or legalizing pari-mutuel wagering or the certificate system of wagering or any other gambling on harness races conducted at any state, county, township, agricultural or other fair."

Section 28 reads as follows:

"Nothing in this Act¹ shall be construed to prevent in any way the use of any grounds, enclosure or

track owned or controlled by any licensee for any state, county, township, agricultural or other fair, even though harness racing be conducted thereat, provided no betting, wagering, pool selling or gambling upon the result of such harness racing held thereat is permitted with the knowledge or acquiescence of the persons conducting the same, and provided that the pari-mutuel or certificate method of wagering is not conducted."

Section 5 specifically exempts harness racing meets held or conducted at state fairs from the jurisdiction, powers and duties of the Illinois Racing Board. Section 7 exempts harness racing meets held or conducted at state fairs from the licensing requirements of the Illinois Harness Racing Act. Thus, the State Fair Agency does not require a license to hold or conduct a harness racing meet at the Illinois State Fair.

You state in your letter that the object and purpose of the State Fair Agency application for a license is to conduct pari-mutuel wagering at the Illinois State Fair. Section 22 of the Illinois Harness Racing Act specifically states that nothing in the Act shall be construed as authorizing or legalizing pari-mutuel wagering on harness races conducted at any state fair. Section 28-1(b)(3) of the Illinois Criminal Code of 1961 (Ill. Rev. Stat. 1973, (Supp.) ch. 38, par. 28-1(b)(3)) provides:

"(b) Participants in any of the following activities shall not be convicted of gambling;

* * *

(3) Pari-mutuel betting as authorized by the laws of this State;"

Since section 22 specifically states that pari-mutuel

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wagering at harness racing meets conducted at state fairs is not authorized or legalized, the exception to conviction for gambling, as authorized by section 28-1(b)(3), is therefore not operable. Thus, pari-mutuel wagering at a state fair would be in violation of the gambling laws as delineated in section 28-1(a) of the Illinois Criminal Code of 1961 (Ill. Rev. Stat. 1973, (Supp.) ch. 38, par. 28-1(a), (2) and (5)) which provides in pertinent part:

"(a) A person commits gambling when he:

* * *

(2) Makes a wager upon the result of any game, contest, or any political nomination, appointment or election; or

* * *

(5) Knowingly owns or possesses any book, instrument or apparatus by means of which bets or wagers have been, or are, recorded or registered, or knowingly possesses any money which he has received in the course of a bet or wager;

* * * "

The policy, as enunciated by the Illinois Harness Racing Act, is that there shall not be allowed any pari-mutuel wagering at a harness racing meet held or conducted at a state fair. This policy is once again reiterated by section 28 of the Act. Section 28 authorizes the use of any grounds, enclosure or track owned by a licensee of the Illinois Racing Board for a state fair even though harness racing is to be held at the fair. Section 28 goes on to specifically provide that there shall be no pari-mutuel wagering

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on the harness races held or conducted at such a fair.

Sections 18, 26 and 27 of the Illinois Harness Racing Act (Ill. Rev. Stat. 1973, ch. 8, pars. 37s.17, 37s.25 and 37s.26) have been construed, in light of the four sections of the Act quoted herein, and found to be consistent with the determination that it is unlawful to engage in pari-mutuel wagering on harness races held or conducted at a state fair.

In answer to your question, the Illinois Racing Board may not lawfully issue a license to the State Fair Agency to permit pari-mutuel wagering on the harness races conducted at the Illinois State Fair.

Very truly yours,

A T T O R N E Y G E N E R A L