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SPORTS & GAMING:
Horse Racing - Power of
Board to License Persons
Employed on Licensee's
Grounds

Mr. Anthony Scariano
Chairman, Illinois Racing Board
Room 100
160 N. LaSalle Street
Chicago, Illinois 60601

Dear Mr. Scariano,

I have your letter in which you ask whether the Illinois Racing Board may license any or all of the following persons whose work, in whole or in part, is conducted on the grounds of an organization authorized by the board to conduct horse racing with pari-mutuel wagering:

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- 1. Security Guards**
- 2. Admission Ticket Sellers**
- 3. Pari-mutuel Clerks**
- 4. Parking Lot Attendants**
- 5. Employees of Concessionaires**

In my opinion the Board has the authority to license all persons in the categories about which you inquire.

You point out in your letter that an apparent conflict exists between sections 9(j) and section 15(a) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1976 Supp., ch. 8, pars. 37-9(j) and 37-15(a)). Section 9(j) provides in relevant part:

"The Board may discharge any State employee who fails or refuses for any reason to comply with the rules and regulations of the Board, or who, in the opinion of the Board, is guilty of fraud, dishonesty or who is proven to be incompetent. The Board shall have no right or power to determine who shall be officers, directors or employees of any organization, or their salaries except the Board may, by rule, require that all or any officials or employees in charge of or whose duties relate to the actual running of races be approved by the Board."

Section 15(a) states, on the other hand, that:

"The Board shall, in its discretion, issue licenses to horse owners, trainers, harness drivers, jockeys, agents, apprentices, grooms,

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stable foremen, exercise persons, veterinarians, valets, blacksmiths, concessionaires and others designated by the Board whose work, in whole or in part, is conducted upon race track grounds within the State which are owned by race track organizations. Such licenses will be obtained prior to the persons engaging in their vocation upon such race track grounds."

You state in your letter that the work of all of the individuals in the categories about which you ask is, in whole or in part, conducted on the grounds of an organization licensed by the Board to conduct horse racing.

Statutes which appear to be in conflict are not to be construed as inconsistent if it is possible to construe them otherwise. (People ex rel. Little v. Peoria & Eastern Ry. Co., 383 Ill. 79.) These two statutes could be construed as consistent if the phrase "whose duties relate to the actual running of races" in the exception clause of section 9(j) is construed to have the same meaning as the phrase "whose work, in whole or in part, is conducted upon race track grounds" in section 15(a). In my opinion there is ample support for such a construction.

Section 15(a) specifically authorizes the Board to license horse owners, trainers, harness drivers, jockeys,

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agents, apprentices, grooms, stable foremen, exercise persons, veterinarians, valets, blacksmiths, and concessionaires. Of that list concessionaires at least are not allowed on the backstretch and thus cannot affect the actual running of the race. Thus they have no more to do with the actual running of the race than the employees about which you inquire. Unless section 15(a) is to be held to be in conflict with section 9(j) the phrase "whose duties relate to the actual running of races" must be read broadly enough to include those categories of persons including concessionaires specifically enumerated in section 15(a) as subject to being licensed by the Board. If the phrase is read broadly enough to cover those specifically enumerated in section 15(a) it would appear to be broad enough to include other persons whose work is conducted, in whole or in part, on race track grounds, including those about which you ask. Thus, section 15(a) and 9(j) can be construed as consistent by construing the exception to the prohibition against the Board determining who shall be employees of an organization to include all those whom the Board is authorized

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to license under section 15(a). Under such a construction the Board would have authority to license the employees about which you ask.

Even if the statutory provisions are determined to be irreconcilably in conflict, however, the answer to your question remains the same. It is a rule of statutory construction that where there are two statutory provisions, one of which is general and designed to apply to cases generally and the other of which is particular and relates to one subject, the particular provision must prevail and must be treated as an exception to the general provision. (Rosehill Cemetery Co. v. Leuder, 406 Ill. 458.) Section 9(j) of the Illinois Horse Racing Act of 1976 contains a general prohibition limiting the power of the Racing Board to determine "who shall be officers, directors or employees" of a regulated organization. Section 15(a) on the other hand specifically authorizes the Board to license persons whose work "in whole or in part, is conducted upon race track grounds". Thus, to the extent of any inconsistency the latter provision prevails.

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I therefore am of the opinion that the Illinois
Racing Board has the authority to license persons in all
of the categories you describe.

Very truly yours,

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