STATE OF NEW YORK

1591

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Racing and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to commission hearings of racetrack ejectments and denials of access of commission licensees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 321 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 243 of the laws of 2020, is amended to read as follows:

§ 321. Hearing of refusal or revocation of license **or ejectment or denial of access of licensee in good standing**. If the **gaming** commission refuses to grant a license applied for under sections two hundred twenty-two through seven hundred five of this chapter, or revokes or suspends such a license granted by it, or imposes a monetary fine upon a participant in harness racing**, or any corporation or association created under or subject to the provisions of this chapter licensed to conduct pari-mutuel harness meets shall eject or deny access to a licensee from the grounds of and/or participation in a pari-mutuel harness meet,** the applicant or licensee or party fined may demand, within ten days after notice of such act of the commission, **corporation or association,** a hearing before the commission and the commission shall give prompt notice of a time and place for such hearing at which the commission will hear such applicant or licensee or party fined in reference thereto. Pending such hearing and final determination, the action of the commission in refusing to grant or in revoking or suspending a license or in imposing a monetary fine shall remain in full force and effect**, but a licensee ejected or denied access shall be permitted access to the grounds of and/or participation in a pari-mutuel harness meet pending final determination by the commission on his or her appeal for a hearing**. The commission may continue such hearing from time to time for

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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the convenience of any of the parties. Any of the parties affected by such hearing may be represented by counsel, and the commission may be represented by the attorney general, a deputy attorney general or its counsel. In the conduct of such hearing the commission shall not be bound by technical rules of evidence, but all evidence offered before the commission shall be reduced to writing, and such evidence together with the exhibits, if any, and the findings of the commission, shall be permanently preserved and shall constitute the record of the commission in such case. In connection with such hearing, each member of the commission shall have the power to administer oaths and examine witnesses, and may issue subpoenas to compel attendance of witnesses, and the production of all material and relevant reports, books, papers, documents, correspondence and other evidence. The commission may, if occasion shall require, by order, refer to one or more of its members or officers, the duty of taking testimony in such matter, and to report thereon to the commission, but no determination shall be made therein except by the commission. Within thirty days after the conclusion of such hearing, the commission shall make a final order in writing, setting forth the reasons for the action taken by it and a copy thereof shall be served on such applicant or licensee or party fined, as the case may be. **In the case of an ejectment or denial of access of a licensee, the respective corporation or association shall have the burden of proof to establish that the presence and participation of the licensee is detrimental to the best interests of racing or to the orderly conduct of a race meet.** The action of the commission in refusing to grant a license or in revoking or suspending a license or in imposing a monetary fine**, or affirming, modifying or reversing the ejectment or denial of access of a licensee,** shall be reviewable in the supreme court in the manner provided by the provisions of article seventy-eight of the civil practice law and rules.

§ 2. This act shall take effect immediately.