

## **OREGON**

### **TITLE 10. PROPERTY RIGHTS AND TRANSACTIONS**

#### **CHAPTER 91. TENANCY MATTERS RELATING TO GAMBLING LEASES**

91.240 Gambling leases prohibited; status of rental contracts; termination; recovery of possession.

(1) No person shall let or rent any house, room, shop or other building, or any boat, booth, garden or other place, knowing or having reason to believe it will be used for gambling purposes.

(2) All contracts for the rent of a room, building or place in violation of subsection (1) of this section are void between the parties.

(3) Any person letting or renting any room, building, or place mentioned in subsection (1) of this section which is at any time used by the lessee or occupant thereof, or any other person with the knowledge or consent of the lessee or occupant, for gambling purposes, upon discovery thereof, may avoid and terminate such lease or contract of occupancy, and recover immediate possession of such building or other place by an action at law for that purpose to be brought before any justice of the peace of the county in which the use is permitted. [Formerly 91.410]

91.245 Penalty for letting or renting a place for gambling purposes.

Violation of ORS 91.240 (1) results in a forfeiture of twice the amount of the rent of such building or other place for six months to be recovered by action at law instituted by the district attorney in the name of the state. [Formerly 91.420]

#### **CHAPTER 105. PROPERTY RIGHTS ABATEMENT OF UNLAWFUL GAMBLING PROSTITUTION OR CONTROLLED SUBSTANCE ACTIVITIES**

105.555 Places of prostitution, gambling or controlled substances as nuisances subject to abatement.

(1) The following are declared to be nuisances and shall be enjoined and abated as provided in ORS 105.560, 105.565 and 105.575 to 105.600:

(a) Any place that, as a regular course of business, is used for the purpose of prostitution and any place where acts of prostitution occur;

(b) Any place which is used and maintained for profit and for the purpose of gambling or a lottery, as defined in ORS 167.117, by any person, partnership or corporation organized for profit and wherein take place any of the acts or wherein are kept, stored or located any of the games, devices or things which are forbidden by or made punishable by ORS 167.117 to 167.164; and

(c) Any place where activity involving the unauthorized delivery, manufacture or possession of a controlled substance, as defined in ORS 475.005, occurs or any place wherein are kept, stored or located any of the devices, equipment, things or substances used for unauthorized delivery, manufacture or possession of a controlled substance. As used in this subsection "devices, equipment and things" does not include hypodermic syringes or needles. This subsection shall not apply to acts which constitute violations under ORS 475.992 (2)(b) and (4)(f).

(2) Nothing in ORS 105.550 to 105.600, 166.715 and 167.158 applies to property to the extent that the devices, equipment, things or substances that are used for delivery, manufacture or possession of a controlled substance are kept, stored or located in or on the property for the purpose of lawful sale or use of these items. [1989 c.846 s.3; 1989 c.915 s.24]

# **TITLE 16. CRIMES AND PUNISHMENTS**

## **CHAPTER 163. OFFENSES AGAINST PERSONS**

### **OFFENSES AGAINST FAMILY**

163.575 Endangering the welfare of a minor.

(1) A person commits the crime of endangering the welfare of a minor if the person knowingly:

(a) Induces, causes or permits an unmarried person under 18 years of age to witness an act of sexual conduct or sadomasochistic abuse as defined by ORS 167.060; or

(b) Permits a person under 18 years of age to enter or remain in a place where unlawful activity involving controlled substances is maintained or conducted; or

(c) Induces, causes or permits a person under 18 years of age to participate in gambling as defined by ORS 167.117; or

(d) Distributes, sells, or causes to be sold, tobacco in any form to a person under 18 years of age; or

(e) Sells to a person under 18 years of age any device in which tobacco, marijuana, cocaine or any controlled substance, as defined in ORS 475.005, is burned and the principal design and use of which is directly or indirectly to deliver tobacco smoke, marijuana smoke, cocaine smoke or smoke from any controlled substance into the human body including but not limited to:

(A) Pipes, water pipes, hookahs, wooden pipes, carburetor pipes, electric pipes, air driven pipes, corncob pipes, meerschaum pipes and ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;

(B) Carburetion tubes and devices, including carburetion masks;

(C) Bongs;

(D) Chillums;

(E) Ice pipes or chillers;

(F) Cigarette rolling papers and rolling machines; and

(G) Cocaine free basing kits.

(2) Endangering the welfare of a minor by violation of subsection (1)(a), (b), (c) or (e) of this section, involving other than a device for smoking tobacco, is a Class A misdemeanor.

(3) Endangering the welfare of a minor by violation of subsection (1)(d) of this section or by violation of subsection (1)(e) of this section, involving a device for smoking tobacco, is a violation punishable by a fine of not less than \$100 nor more than \$500. [1971 c.743 s.177; 1973 c.827 s.20; 1979 c.744 s.8; 1981 c.838 s.1; 1983 c.740 s.31; 1991 c.970 s.5; 1995 c.79 s.52]

## **CHAPTER 164. OFFENSES AGAINST PROPERTY**

### **THEFT AND RELATED OFFENSES**

164.115 Value of stolen property.

For the purposes of chapter 743, Oregon Laws 1971, the value of property shall be ascertained as follows:

(1) Except as otherwise specified in this section, value means the market value of the property at the time and place of the crime, or if such cannot reasonably be ascertained, the cost of replacement of the property within a reasonable time after the crime.

(2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value, shall be evaluated as follows:

(a) The value of an instrument constituting an evidence of debt, including, but not limited to, a check, draft or promissory note, shall be considered the amount due or collectible thereon or thereby.

(b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be considered the greatest amount of economic loss which the owner might reasonably suffer because of the loss of the instrument.

- (3) The value of a gambling chip, token, imitation currency or similar device is its face value.
- (4) When the value of property cannot reasonably be ascertained, it shall be presumed to be an amount less than \$50 in a case of theft, and less than \$500 in any other case.
- (5) The value of single theft transactions may be added together if the thefts were committed:
- (a) Against multiple victims by similar means within a 30-day period; or
- (b) Against the same victim, or two or more persons who are joint owners, within a 180-day period. [1971 c.743 s.131; 1987 c.907 s.6; 1993 c.680 s.22; 1997 c.867 s.18]
- Note:** See note under 164.005.

## CHAPTER 166. OFFENSES AGAINST PUBLIC ORDER

### FIREARMS AND OTHER WEAPONS

#### RACKETEERING

166.715 Definitions for ORS 166.715 to 166.735.

As used in ORS 166.715 to 166.735, unless the context requires otherwise:

- (1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.
- (2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust or other profit or nonprofit legal entity, and includes any union, association or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.
- (3) "Investigative agency" means the Department of Justice or any district attorney.
- (4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided at least one of such incidents occurred after November 1, 1981, and that the last of such incidents occurred within five years after a prior incident of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct that constitutes an incident of racketeering activity may be used to establish a pattern of racketeering activity without regard to whether the conduct previously has been the subject of a criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within the jurisdiction of the juvenile court.
- (5) "Person" means any individual or entity capable of holding a legal or beneficial interest in real or personal property.
- (6) "Racketeering activity" includes conduct of a person committed both before and after the person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:
- (a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following provisions of the Oregon Revised Statutes:
- (A) ORS 59.005 to 59.451, 59.660 to 59.830, 59.991 and 59.995, relating to securities;
- (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;
- (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing governmental administration;
- (D) ORS 162.405 to 162.425, relating to abuse of public office;
- (E) ORS 162.465, relating to interference with legislative operation;
- (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;
- (G) ORS 163.160 to 163.205, relating to assault and related offenses;
- (H) ORS 163.225 and 163.235, relating to kidnapping;
- (I) ORS 163.275, relating to coercion;

(J) ORS 163.670 to 163.695, relating to sexual conduct of children;

(K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.125, 164.135, 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and related offenses;

(L) ORS 164.315 to 164.335, relating to arson and related offenses;

(M) ORS 164.345 to 164.365, relating to criminal mischief;

(N) ORS 164.395 to 164.415, relating to robbery;

(O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a recording;

(P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and related offenses;

(Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

(R) ORS 165.485 to 165.515, 165.540 and 165.555, relating to communication crimes;

(S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating to firearms and other weapons;

(T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.062 to 167.080, 167.087, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365 and 167.370, relating to prostitution, obscenity, gambling, computer crimes involving the Oregon State Lottery, animal fighting and related offenses;

(U) ORS 171.990, relating to legislative witnesses;

(V) ORS 260.575 and 260.665, relating to election offenses;

(W) ORS 314.075, relating to income tax;

(X) ORS chapter 323, relating to cigarette taxes;

(Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments, and ORS 411.990 (2) and (3);

(Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

(AA) ORS 463.995, relating to boxing and wrestling, as defined in ORS 463.015;

(BB) ORS 471.205, 471.305, 471.335 to 471.345, 471.360, 471.392 to 471.400, 471.405, 471.425, 471.445, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS chapter 471 relating to licenses issued under the Liquor Control Act;

(CC) ORS 475.005 to 475.285 and 475.940 to 475.995, relating to controlled substances;

(DD) ORS 480.070, 480.210, 480.215 and 480.235 to 480.265, relating to explosives;

(EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;

(FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;

(GG) ORS chapter 706, relating to banking law administration;

(HH) ORS chapter 714, relating to branch banking;

(II) ORS chapter 716, relating to mutual savings banks;

(JJ) ORS chapter 723, relating to credit unions;

(KK) ORS chapter 726, relating to pawnbrokers;

(LL) ORS 166.382 and 166.384, relating to destructive devices;

(MM) ORS 165.074;

(NN) ORS 59.840 to 59.965, relating to mortgage bankers and mortgage brokers;

(OO) ORS chapter 496, 497 or 498, relating to wildlife;

(PP) ORS 163.355 to 163.427, relating to sexual offenses;

(QQ) ORS 166.015, relating to riot;

(RR) ORS 166.155 and 166.165, relating to intimidation;

(SS) ORS chapter 696, relating to real estate and escrow;

(TT) ORS chapter 704, relating to outfitters and guides;

(UU) ORS 165.692, relating to making a false claim for health care payment; or

(VV) ORS 162.117, relating to public investment fraud.

(b) Any conduct defined as "racketeering activity" under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).

(7) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

(A) ORS chapter 462, relating to racing;

(B) ORS 167.117 to 167.164, relating to gambling; or

(C) ORS 82.010 to 82.170, relating to interest and usury.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under federal or state law.

(8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions from what the statute was when this section was enacted, the reference shall extend to and include amendments to the statute. [1981 c.769 s.2; 1983 c.338 s.898; 1983 c.715 s.1; 1985 c.176 s.5; 1985 c.557 s.8; 1987 c.158 s.31; 1987 c.249 s.7; 1987 c.789 s.20; 1987 c.907 s.12; 1989 c.384 s.2; 1989 c.839 s.27; 1989 c.846 s.13; 1989 c.982 s.6; 1991 c.398 s.3; 1991 c.962 s.6; 1993 c.95 s.13; 1993 c.215 s.1; 1993 c.508 s.45; 1993 c.680 s.29; 1995 c.301 s.35; 1995 c.440 s.13; 1995 c.768 s.10; 1997 c.631 s.420; 1997 c.789 s.1; 1997 c.867 s.23]

## CHAPTER 167. OFFENSES AGAINST PUBLIC HEALTH

### OFFENSES AGAINST PUBLIC HEALTH, DECENCY AND ANIMALS

#### GAMBLING OFFENSES

167.117 Definitions for certain provisions of ORS 167.117 to 167.164 and 464.270 to 464.530.

As used in ORS 167.117 to 167.164 and 464.270 to 464.530, unless the context requires otherwise:

(1) "Bingo or lotto" means a game, played with cards bearing lines of numbers, in which a player covers or uncovers a number selected from a container, and which is won by a player who is present during the game and who first covers or uncovers the selected numbers in a designated combination, sequence or pattern.

(2) "Bookmaker" means a person who unlawfully accepts a bet from a member of the public upon the outcome of a future contingent event and who charges or accepts a percentage, fee or vigorish on the wager.

(3) "Bookmaking" means promoting gambling by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events.

(4) "Casino game" means any of the traditional gambling-based games commonly known as dice, faro, monte, roulette, fan-tan, twenty-one, blackjack, Texas hold-'em, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck, Chinese chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panquinqui, red dog, acey-deucey, or any other gambling-based game similar in form or content.

(5)(a) "Charitable, fraternal or religious organization" means any person that is:

(A) Organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal or other nonprofit purposes; and

(B) Exempt from payment of federal income taxes because of its charitable, fraternal or religious purposes.

(b) The fact that contributions to an organization profiting from a contest of chance do not qualify for a charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1986, as amended, constitutes prima facie evidence that the organization is not a bona fide charitable, fraternal or religious organization.

(6) "Contest of chance" means any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(7) "Gambling" means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the control or influence of the person, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. "Gambling" does not include:

(a) Bona fide business transactions valid under the law of contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

(b) Engaging in contests of chance under the following conditions:

(A) The contest is played for some token other than money;

(B) An individual contestant may not purchase more than \$100 worth of tokens for use in the contest during any 24-hour period;

- (C) The tokens may be exchanged only for property other than money;
- (D) Except when the tokens are exchanged for a beverage or merchandise to be consumed on the premises, the tokens are not redeemable on the premises where the contest is conducted or within 50 miles thereof; and
- (E) Except for charitable, fraternal or religious organizations, no person who conducts the contest as owner, agent or employee profits in any manner from operation of the contest.
- (c) Social games.
- (d) Bingo, lotto or raffle games or Monte Carlo events operated in compliance with ORS 167.118, by a charitable, fraternal or religious organization licensed pursuant to ORS 167.118, 464.250 to 464.380 and 464.420 to 464.530 to operate such games.
- (8) "Gambling device" means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine. Lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices within this definition. Amusement devices other than gray machines, that do not return to the operator or player thereof anything but free additional games or plays, shall not be considered to be gambling devices.
- (9)(a) "Gray machine" means any electrical or electro-mechanical device, whether or not it is in working order or some act of manipulation, repair, adjustment or modification is required to render it operational, that:
- (A) Awards credits or contains or is readily adaptable to contain, a circuit, meter or switch capable of removing or recording the removal of credits earned by a player, other than removal during the course of continuous play; or
- (B) Plays, emulates or simulates a casino game, bingo or keno.
- (b) A device is no less a gray machine because, apart from its use or adaptability as such, it may also sell or deliver something of value on the basis other than chance.
- (c) "Gray machine" does not include:
- (A) Any device commonly known as a personal computer, including any device designed and marketed solely for home entertainment, when used privately and not for a fee and not used to facilitate any form of gambling;
- (B) Any device operated under the authority of the Oregon State Lottery;
- (C) Any device manufactured or serviced but not operated in Oregon by a manufacturer who has been approved under rules adopted by the Oregon State Lottery Commission; or
- (D) A slot machine.
- (10) "Handle" means the total amount of money and other things of value bet on the bingo, lotto or raffle games, the value of raffle chances sold or the total amount collected from the sale of imitation money during Monte Carlo events.
- (11) "Lottery" or "policy" means an unlawful gambling scheme in which:
- (a) The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated the winning ones; and
- (b) The winning chances are to be determined by a drawing or by some other method; and
- (c) The holders of the winning chances are to receive something of value.
- (12) "Monte Carlo event" means a gambling event at which wagers are placed with imitation money upon contests of chance in which players compete against the house. As used in this subsection, "imitation money" includes imitation currency, chips or tokens.
- (13) "Numbers scheme or enterprise" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome of a future contingent event otherwise unrelated to the particular scheme.
- (14) "Operating expenses" means those expenses incurred in the operation of a bingo, lotto or raffle game and related concessions, including only the following:
- (a) Salaries, employee benefits, workers' compensation coverage and state and federal employee taxes;
- (b) Security services;
- (c) Legal and accounting services;
- (d) Supplies and inventory;
- (e) Rent, repairs, utilities, water, sewer and garbage;

- (f) Insurance;
- (g) Equipment;
- (h) Printing and promotions;
- (i) Postage and shipping;
- (j) Janitorial services and supplies; and
- (k) Leasehold improvements.

(15) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants therein is a person who does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor and supplying cards or other equipment used therein. A person who engages in bookmaking is not a player.

(16) "Profits from unlawful gambling" means that a person, acting other than solely as a player, accepts or receives money or other property pursuant to an agreement or understanding with another person whereby the person participates or is to participate in the proceeds of unlawful gambling.

(17) "Promotes unlawful gambling" means that a person, acting other than solely as a player, engages in conduct that materially aids any form of unlawful gambling. Conduct of this nature includes, but is not limited to, conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person promotes unlawful gambling if, having control or right of control over premises being used with the knowledge of the person for purposes of unlawful gambling, the person permits the unlawful gambling to occur or continue or makes no effort to prevent its occurrence or continuation.

(18) "Raffle" means a lottery operated by a charitable, fraternal or religious organization wherein the players pay something of value for chances, represented by numbers or combinations thereof or by some other medium, one or more of which chances are to be designated the winning ones or determined by a drawing and the player holding the winning chance is to receive something of value.

(19) "Slot machine" means a gambling device that as a result of the insertion of a coin or other object operates, either completely automatically, or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, it may eject something of value or otherwise entitle the player to something of value. A device so constructed or readily adaptable or convertible to such use is no less a slot machine because it is not in working order or because some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion or workability. Nor is it any less a slot machine because apart from its use or adaptability as such it may also sell or deliver something of value on the basis other than chance.

(20) "Social game" means:

- (a) A game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game; and
- (b) If authorized pursuant to ORS 167.121, a game, other than a lottery, between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

(21) "Something of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein.

(22) "Unlawful" means not specifically authorized by law. [1971 c.669 s.3a; 1971 c.743 s.263; 1973 c.788 s.1; 1974 s.s. c.7 s.1; 1975 c.421 s.1; 1977 c.850 s.1; 1983 c.813 s.1; 1987 c.914 s.1; 1991 c.962 s.7; 1995 c.577 s.2; 1997 c.867 s.1]

167.118 Bingo, lotto or raffle games or Monte Carlo events conducted by charitable, fraternal or religious organizations.

(1) When a charitable, fraternal or religious organization is licensed by the Department of Justice to conduct bingo, lotto or raffle games or Monte Carlo events, only the organization itself or an employee thereof authorized by the department shall receive money or property or otherwise profit in any manner from the operation of the games, except that:

(a) The organization operating the games may present a prize of money or other property to any player not involved in the administration or management of the games; and

(b) An organization licensed to conduct Monte Carlo events may contract with a licensed supplier of Monte Carlo event equipment to operate the event, including the provision of equipment, supplies and personnel, provided that the licensed supplier is paid a fixed fee to conduct the event and the imitation money is sold to players by employees or volunteers of the licensed charitable, fraternal or religious organization.

(2) A charitable, fraternal or religious organization shall not operate bingo, lotto or raffle games or Monte Carlo events except at such locations and upon such days and for such periods of time as the department authorizes pursuant to this section and ORS 464.250 to 464.380, 464.420 and 464.450 to 464.530.

(3) An organization licensed by the department to operate bingo or lotto games shall not award a prize exceeding \$1,500 in value in any one game. An organization licensed by the department to operate a Monte Carlo event may not present any prize of money, or a cash equivalent, to any player.

(4) Each charitable, fraternal or religious organization that maintains, conducts or operates any bingo, lotto or raffle game or Monte Carlo event under license of the department must operate such games in accordance with rules adopted by the department.

(5) It is unlawful for a licensee to permit the operating expenses of the games to exceed 18 percent of the annual handle of its bingo, lotto and raffle operation.

(6) No person or player may wager, in aggregate, more than \$200 at any single Monte Carlo event.

(7) It is unlawful for a charitable, fraternal or religious organization licensed by the department to operate bingo, lotto or raffle games if:

(a) The handle of the games and events exceeds \$250,000 in a year; and

(b) The games and events do not generate for the organization's purposes, after the cost of prizes and operating expenses are deducted from the handle, an amount that equals or exceeds five percent of the handle. [1987 c.914 s.3; 1991 c.274 s.2; 1995 c.331 s.1; 1997 c.867 s.2]

**167.119** [1973 c.788 s.3; repealed by 1974 s.s. c.7 s.2]

**167.120** [Amended by 1955 c.514 s.1; 1969 c.404 s.1; repealed by 1971 c.743 s.432]

167.121 Local regulation of social games.

Counties and cities may, by ordinance, authorize the playing or conducting of a social game in a private business, private club or in a place of public accommodation. Such ordinances may provide for regulation or licensing of the social games authorized. [1974 s.s. c.7 s.3]

**Note:** 167.121 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.122 Unlawful gambling in the second degree.

(1) A person commits the crime of unlawful gambling in the second degree if the person knowingly:

(a) Places a bet with a bookmaker; or

(b) Participates or engages in unlawful gambling as a player.

(2) Unlawful gambling in the second degree is a Class A misdemeanor. [1971 c.743 s.264; 1997 c.867 s.21]

**167.125** [Amended by 1969 c.404 s.2; repealed by 1971 c.743 s.432]

167.127 Unlawful gambling in the first degree.

- (1) A person commits the crime of unlawful gambling in the first degree if the person knowingly promotes or profits from unlawful gambling.
- (2) Unlawful gambling in the first degree is a Class C felony. [1971 c.743 s.265; 1997 c.867 s.22]

**167.130** [Repealed by 1971 c.743 s.432]

167.132 Possession of gambling records in the second degree.

- (1) A person commits the crime of possession of gambling records in the second degree if, with knowledge of the contents thereof, the person possesses any writing, paper, instrument or article:
  - (a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise; or
  - (b) Of a kind commonly used in the operation, promotion or playing of a lottery or numbers scheme or enterprise.
- (2) Possession of gambling records in the second degree is a Class A misdemeanor. [1971 c.743 s.266]

**167.135** [Repealed by 1971 c.743 s.432]

167.137 Possession of gambling records in the first degree.

- (1) A person commits the crime of possession of gambling records in the first degree if, with knowledge of the contents thereof, the person possesses any writing, paper, instrument or article:
  - (a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, and constituting, reflecting or representing more than five bets totaling more than \$500; or
  - (b) Of a kind commonly used in the operation, promotion or playing of a lottery or numbers scheme or enterprise, and constituting, reflecting or representing more than 500 plays or chances therein.
- (2) Possession of gambling records in the first degree is a Class C felony. [1971 c.743 s.267]

**167.140** [Repealed by 1971 c.743 s.432]

167.142 Defense to possession of gambling records.

In any prosecution under ORS 167.132 or 167.137 it is a defense if the writing, paper, instrument or article possessed by the defendant is neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion or playing of a lottery or numbers scheme or enterprise. [1971 c.743 s.268]

**167.145** [Repealed by 1971 c.743 s.432]

167.147 Possession of a gambling device; defense.

- (1) A person commits the crime of possession of a gambling device if, with knowledge of the character thereof, the person manufactures, sells, transports, places or possesses, or conducts or negotiates a transaction affecting or designed to affect ownership, custody or use of:
  - (a) A slot machine; or
  - (b) Any other gambling device, believing that the device is to be used in promoting unlawful gambling activity.
- (2) Possession of a gambling device is a Class A misdemeanor.

(3) It is a defense to a charge of possession of a gambling device if the slot machine or gambling device that caused the charge to be brought was manufactured:

- (a) Prior to 1900 and is not operated for purposes of unlawful gambling; or
- (b) More than 25 years before the date on which the charge was brought and:
  - (A) Is located in a private residence;
  - (B) Is not operated for the purposes of unlawful gambling; and
  - (C) Has permanently affixed to it by the manufacturer, the manufacturer's name and either the date of manufacture or the serial number. [1971 c.743 s.269; 1977 c.264 s.1; 1983 c.403 s.1; 1993 c.781 s.1; 1995 c.577 s.1]

**167.150** [Repealed by 1961 c.579 s.2]

**167.151** [1961 c.579 s.1; 1963 c.480 s.1; repealed by 1971 c.743 s.432]

**167.152** [1955 c.494 s.1; repealed by 1971 c.743 s.432]

167.153 Proving occurrence of sporting event in prosecutions of gambling offenses.

In any prosecution under ORS 167.117 and 167.122 to 167.147 in which it is necessary to prove the occurrence of a sporting event, the following shall be admissible in evidence and shall be prima facie evidence of the occurrence of the event:

- (1) A published report of its occurrence in a daily newspaper, magazine or other periodically printed publication of general circulation; or
- (2) Evidence that a description of some aspect of the event was written, printed or otherwise noted at the place in which a violation of ORS 167.117 and 167.122 to 167.147 is alleged to have been committed. [1971 c.743 s.270]

**167.155** [Repealed by 1961 c.503 s.3]

**167.157** [1969 c.169 s.1; repealed by 1971 c.743 s.432]

167.158 Lottery prizes forfeited to county; exception; action by county to recover.

- (1) Except for bingo or lotto operated by a charitable, fraternal or religious organization, all sums of money and every other valuable thing drawn as a prize in any lottery or pretended lottery, by any person within this state, are forfeited to the use of the county in which it is found, and may be sued for and recovered by a civil action.
- (2) Nothing contained in ORS 105.550 to 105.600 and 465.140 shall interfere with the duty of officers to take possession of property as provided by subsection (1) of this section. [1971 c.743 s.271; 1977 c.850 s.3; 1989 c.846 s.14]

**167.160** [Repealed by 1961 c.503 s.3]

167.162 Gambling device as public nuisance; defense; seizure and destruction.

- (1) A gambling device is a public nuisance.  
Any peace officer shall summarily seize any such device that the peace officer finds and deliver it to the custody of the sheriff, who shall hold it subject to the order of the court having jurisdiction.

(2) Whenever it appears to the court that the gambling device has been possessed in violation of ORS 167.147, the court shall adjudge forfeiture thereof and shall order the sheriff to destroy the device and to deliver any coins taken therefrom to the county treasurer, who shall deposit them to the general fund of the county. However, when the defense provided by ORS 167.147 (3) is raised by the defendant, the gambling device or slot machine shall not be forfeited or destroyed until after a final judicial determination that the defense is not applicable. If the defense is applicable, the gambling device or slot machine shall be returned to its owner.

(3) The seizure of the gambling device or operating part thereof constitutes sufficient notice to the owner or person in possession thereof. The sheriff shall make return to the court showing that the sheriff has complied with the order.

(4) Whenever, in any proceeding in court for the forfeiture of any gambling device except a slot machine seized for a violation of ORS 167.147, and such forfeiture is decreed, the court shall have exclusive jurisdiction to remit or mitigate the forfeiture.

(5) In any such proceeding the court shall not allow the claim of any claimant for remission or mitigation unless and until the claimant proves (a) that the claimant has an interest in such gambling device, as owner or otherwise, which the claimant acquired in good faith, (b) that the claimant had at no time any knowledge or reason to believe that it was being or would be used in violation of law relating to gambling.

(6) In any proceeding in court for the forfeiture of any gambling device except a slot machine seized for a violation of law relating to gambling, the court may in its discretion order delivery thereof to any claimant who shall establish the right to the immediate possession thereof, and shall execute, with one or more sureties, or by a surety company, approved by the court, and deliver to the court, a bond in such sum as the court shall determine, running to the State of Oregon, and conditioned to return such gambling device at the time of trial, and conditioned further that, if the gambling device be not returned at the time of trial, the bond may in the discretion of the court stand in lieu of and be forfeited in the same manner as such gambling device. [1971 c.743 s.272; 1977 c.264 s.2]

#### 167.164 Possession of gray machine; penalty; defense.

(1) On and after December 1, 1991, a person commits the crime of possession of a gray machine if the person manufactures, sells, leases, transports, places, possesses or services a gray machine or conducts or negotiates a transaction affecting or designed to affect the ownership, custody or use of a gray machine.

(2) Possession of a gray machine is a Class C felony.

(3) Violation of, solicitation to violate, attempt to violate or conspiracy to violate subsection (1) of this section constitutes prohibited conduct for purposes of ORS chapter 475A and ORS 167.243, 167.248, 205.246, 471.666, 475A.010, 475A.040, 475A.050 and 475A.135, and shall give rise to civil in rem forfeiture as provided in ORS chapter 475A and ORS 167.243, 167.248, 205.246, 471.666, 475A.010, 475A.040, 475A.050 and 475A.135. A judgment providing for forfeiture may direct that the machine be destroyed.

(4) It is a defense to a charge of possession of a gray machine if the machine that caused the charge to be brought was manufactured prior to 1958 and was not operated for purposes of unlawful gambling. [1991 c.962 s.5]

#### **167.165** [Repealed by 1963 c.340 s.1 (167.170 enacted in lieu of 167.165)]

#### 167.166 Removal of unauthorized video lottery game terminal.

On and after December 1, 1991, any video lottery game terminal that is not authorized by the Oregon State Lottery Commission must be removed from the State of Oregon. [1991 c.962 s.8]

**Note:** 167.166 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### 167.167 Cheating.

(1) A person commits the crime of cheating if the person, while in the course of participating or attempting to participate in any legal or illegal gambling activity, directly or indirectly:

- (a) Employs or attempts to employ any device, scheme or artifice to defraud any other participant or any operator;
  - (b) Engages in any act, practice or course of operation that operates or would operate as a fraud or deceit upon any other participant or any operator;
  - (c) Engages in any act, practice or course of operation with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator; or
  - (d) Causes, aids, abets or conspires with another person to cause any other person to violate paragraphs (a) to (c) of this subsection.
- (2) As used in this section, "deceit," "defraud" and "fraud" are not limited to common law deceit or fraud.  
(3) Cheating is a Class C felony. [1997 c.867 s.20]

## **TITLE 18. EXECUTIVE BRANCH; ORGANIZATION**

### **CHAPTER 180. ATTORNEY GENERAL**

#### **DEPARTMENT OF JUSTICE**

#### **INVESTIGATION OF ORGANIZED CRIME**

180.600 Definitions for ORS 180.600 to 180.630. As used in ORS 180.600 to 180.630:

- (1) "Department" means the state Department of Justice.
- (2) "Organized crime" means any combination or conspiracy of two or more persons to engage in criminal activity as a significant source of income or livelihood, or to violate, aid or abet the violation of criminal laws relating to prostitution, gambling, loan sharking, theft, abuse of controlled substances, illegal alcohol or controlled substance distribution, counterfeiting, extortion or corruption of law enforcement officers or other public officers or employees. [1977 c.754 s.1; 1979 c.744 s.10]

### **CHAPTER 181. STATE POLICE; CRIME REPORTING AND RECORDS; PUBLIC SAFETY STANDARDS AND TRAINING**

#### **CRIME REPORTING**

181.538 Criminal identification information available to Native American tribe.

- (1) Upon the request of a Native American tribe, and in compliance with procedures adopted by the Department of State Police under ORS 181.555, the Department of State Police shall furnish to the authorized staff of the Native American tribe such information on a subject individual or contractor as the Department of State Police may have in its possession from its central bureau of criminal identification, including but not limited to manual or computerized criminal offender information. With the approval of the Department of State Police, a local law enforcement agency may furnish the information described in this subsection to a Native American tribe.
- (2)(a) Subsequent to furnishing the information required under subsection (1) of this section, the Department of State Police shall conduct nationwide criminal records checks of the subject individual or contractor through the Federal Bureau of Investigation by use of the subject individual's or contractor's fingerprints and shall report the results to the staff of the Native American tribe, who must be specifically authorized to receive the information. In accordance with the procedures of the Department of State Police,

a local law enforcement agency may conduct the criminal records check described in this paragraph if the local law enforcement agency has received approval under subsection (1) of this section.

(b) The Department of State Police shall return the fingerprint cards to the Native American tribe.

(3) For purposes of requesting and receiving the information and data described in subsections (1) and (2) of this section, Native American tribes are designated agencies for purposes of ORS 181.010 to 181.560 and 181.715 to 181.730.

(4) As used in this section:

(a) "Contractor" means any natural person or corporation, trust, association, partnership, joint venture, subsidiary or other business entity with whom a Native American tribe intends to contract for the purpose of providing supplies or services related to tribal gaming, or any control person of a contractor.

(b) "Control person" means:

(A) In a privately owned corporation, the officers, directors and stockholders of the parent company and, if applicable, each of its subsidiaries.

(B) In a publicly owned corporation, the officers and directors of the parent company, each of its subsidiaries and stockholders owning at least 15 percent of the company's stock.

(C) In a trust, the trustee and all persons entitled to receive income or benefit from the trust.

(D) In an association, the members, officers and directors.

(E) In a partnership or joint venture, the general partners, limited partners or joint venturers.

(F) A member of the immediate family of any of the persons listed in subparagraphs (A) to (E) of this paragraph if the person is involved in the business.

(G) A subcontractor of a contractor, if the subcontractor performs more than 50 percent of the contractor's contract with the Native American tribe.

(c) "Native American tribe" means any recognized Native American tribe or band of tribes authorized by the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. 2701 et seq., and the State of Oregon to conduct gambling operations on tribal land.

(d) "Subject individual" means a person who is applying for employment at a tribal gaming facility as a key employee, high security employee, low security employee or management employee. [1995 c.723 s.1]

**Note:** 181.538 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## TITLE 21. CITIES

### CHAPTER 221. ORGANIZATION AND GOVERNMENT OF CITIES

#### THE 1893 INCORPORATION ACT

##### 221.916 Powers of council generally.

The mayor and aldermen shall compose the common council of any city organized under sections 1 to 6, pages 119 to 123, Oregon Laws 1893. At any regular council meeting, it may:

(1) Provide for lighting the streets and furnishing such city and its inhabitants with gas or other lights, and with pure and wholesome water. For such purpose it may construct such water, gas or other works, within or without the city limits, as may be necessary or convenient therefor. It may allow the use of the city streets and alleys to any person, company or corporation who may desire to establish works for supplying the city and inhabitants thereof with such water or lights upon such reasonable terms and conditions as the council may prescribe.

(2) Permit, allow and regulate the laying down of tracks for streetcars and other railroads upon such streets as the council may designate, and upon such terms and conditions as the council may prescribe; and allow and regulate the erection and maintenance of poles, or poles and wires, for telegraph, telephone, electric light or other purposes, upon or through the streets, alleys or public grounds of such city; permit and regulate the use of alleys, streets and public grounds of the city for the laying down or repairing gas and water mains, for building and repairing sewers, and the erection of gas or other lights.

- (3) Preserve the streets, lights, side and crosswalks, bridges, and public grounds from injury, prevent the unlawful use of the same, and regulate their use.
- (4) Fix the maximum rate of wharfage, rates for gas or other lights, for carrying passengers on street railways, and water rates. No city shall ever deprive itself of the right through its common council of regulating and adjusting any such rates, so that the same shall be reasonable for the service rendered, at least once in any period of two years.
- (5) License, tax, regulate, restrain and prohibit barrooms and tippling houses, and all places where spirituous, vinous or malt liquors are sold, or in any manner disposed of contrary to law. No license shall be issued for a less sum than that provided by law.
- (6) Prevent and suppress gaming and gambling houses, and all games of chance, including lotteries and poolselling; prevent and suppress bawdyhouses, and lewd, lascivious cohabitation, opium-smoking houses, and places occupied or kept therefor. Nothing contained in ORS 221.901 to 221.930 shall be so construed as to oust the state courts of jurisdiction to indict or punish persons for offenses against any law of the state committed within the limits of any such city.
- (7) License, regulate and control any lawful business, trade, occupation, profession or calling, carried on or conducted within the corporate limits of any such city.
- (8) Suppress and prohibit anything which is injurious to the public morals, public safety or the public health of the inhabitants of any such city, including the power to define, suppress and prohibit nuisances of every kind, including those arising out of the receipt, sale or disposal of intoxicating liquor in violation of law.
- (9) Regulate, suppress and prohibit the running at large within the corporate limits of any and all domestic animals, including fowls, and provide for the impoundment and sale, after notice, of such animals.
- (10) Exercise any and all police regulations concerning the public morals, public safety, public health and public convenience of the inhabitants of any such city.
- (11) Provide for the surveying of blocks and streets of the city and for marking the boundary lines of such blocks and streets, and the establishing of grades of the streets, sidewalks and crosswalks.
- (12) Prevent and punish trespass on real and personal property within the corporate limits of such city.
- (13) Make bylaws and ordinances not inconsistent with the laws of the United States or of this state to carry into effect the provisions of ORS 221.901 to 221.928.
- (14) Provide, in addition to such action as may be appropriate to carry into full effect the object to be achieved, for the punishment of persons violating any bylaws or ordinances by fine or imprisonment, or both, and the working of such persons on the city streets or at any other work. No fine shall exceed the sum of \$50, nor shall any imprisonment exceed 20 days.

## **TITLE 22. PUBLIC OFFICERS AND EMPLOYEES**

### **CHAPTER 244. GOVERNMENT STANDARDS AND PRACTICES**

#### **GENERALLY**

##### **244.045 Regulation of subsequent employment of public officials.**

(1) A person who has been a Public Utility Commissioner, the Director of the Department of Consumer and Business Services, the Administrator of the Division of Finance and Corporate Securities, the Administrator of the Insurance Division, the Administrator of the Oregon Liquor Control Commission or the Director of the Oregon State Lottery shall not:

- (a) Within one year after the public official ceases to hold the position become an employee of or receive any financial gain, other than reimbursement of expenses, from any private employer engaged in the activity, occupation or industry over which the former public official had authority; or
- (b) Within two years after the public official ceases to hold the position:
  - (A) Be a lobbyist for or appear as a representative before the agency over which the person exercised authority as a public official;
  - (B) Influence or try to influence the actions of the agency; or
  - (C) Disclose any confidential information gained as a public official.

(2) A person who has been a Deputy Attorney General or an assistant attorney general shall not, within two years after the person ceases to hold the position, lobby or appear before an agency that the person represented while employed by the Department of Justice.

(3) A person who has been the State Treasurer or the Chief Deputy State Treasurer shall not, within one year after ceasing to hold office:

(a) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council negotiated or to whom either awarded a contract providing for payment by the state of at least \$25,000 in any single year during the term of office of the treasurer;

(b) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council placed at least \$50,000 of investment moneys in any single year during the term of office of the treasurer; or

(c) Be a lobbyist for an investment institution, manager or consultant, or appear before the office of the State Treasurer or Oregon Investment Council as a representative of an investment institution, manager or consultant.

(4) A public official who as part of the official's duties invested public funds shall not within two years after the public official ceases to hold the position:

(a) Be a lobbyist or appear as a representative before the agency, board or commission for which the former public official invested public funds;

(b) Influence or try to influence the agency, board or commission; or

(c) Disclose any confidential information gained as a public official.

(5)(a) A person who has been a member of the Department of State Police, who has held a position with the department with the responsibility for supervising, directing or administering programs relating to gaming by a Native American tribe or the Oregon State Lottery and who has been designated by the Superintendent of State Police by rule shall not, within one year after the member of the Department of State Police ceases to hold the position:

(A) Accept employment from or be retained by or receive any financial gain related to gaming from the Oregon State Lottery or any Native American tribe;

(B) Accept employment from or be retained by or receive any financial gain from any private employer selling or offering to sell gaming products or services;

(C) Influence or try to influence the actions of the Department of State Police; or

(D) Disclose any confidential information gained as a member of the Department of State Police.

(b) This subsection does not apply to:

(A) Appointment or employment of a person as an Oregon State Lottery Commissioner or as a Tribal Gaming Commissioner or regulatory agent thereof;

(B) Contracting with the Oregon State Lottery as a lottery game retailer;

(C) Financial gain received from personal gaming activities conducted as a private citizen; or

(D) Subsequent employment in any capacity by the Department of State Police.

(c) As used in this subsection, "Native American tribe" means any recognized Native American tribe or band of tribes authorized by the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. 2701 et seq., to conduct gambling operations on tribal land. [1987 c.360 s.1; 1993 c.743 s.10; 1995 c.79 s.86; 1997 c.750 s.1]

## **TITLE 29. REVENUE AND TAXATION**

### **CHAPTER 320. AMUSEMENT DEVICE TAXES**

#### **320.005 Definitions.**

As used in this chapter, unless the context requires otherwise:

(1) "Amusement device" means any mechanical, electronic, mechanical-electronic or nonmechanical mechanism which is designed for the amusement of the player or operator and is complete in itself having as its purpose the production or creation of a game of chance.

(2) "Department" means the Department of Revenue.

(3) "Display or operation" means the display by a person for gain, benefit or advantage of any amusement device for use by the public or for the operation by the public of the device and includes but is not limited to a device that is displayed or operated by or for the use of the members of any private club, lodge, fraternal society or other like organization whose membership is limited to a portion of the public.

(4)(a) "Game of chance" means any contest, game, gaming scheme or gaming mechanism or other amusement device in which the outcome depends in a material degree upon an element of chance as opposed to an element of knowledge, expertise, physical ability or other skill of the user which may affect the outcome in a material way notwithstanding that chance may also be a factor. Game of chance does not include an on-line terminal of the Oregon State Lottery used to sell lottery game tickets or a game of knowledge, expertise, physical ability or other skill.

(b) A game of chance is exemplified by poker, blackjack, keno, roulette, racing or other gaming device.

(c) A game of knowledge, expertise, physical ability or other skill is exemplified by a pinball machine, shuffleboard, video or other game where the user has control of any object, for example a human character, space ship, car, ball or coin in order that the user may direct the object to a destination or cause the object to assume a particular or different form.

(d) "Game of chance" may be defined further by the department by rule.

(5)(a) "Person" means every individual, partnership (limited or not), corporation (for-profit or not-for-profit), company, cooperative, joint stock company, joint venture, firm, business trust, association, organization, institution, club, society, receiver, assignee, trustee in bankruptcy, auctioneer, syndicate, trust, trustee, estate, personal representative or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

(b) "Person" includes this or another state, a municipal corporation, quasi-municipal corporation or political subdivision of this or another state, and the agencies, departments and institutions of this or another state, irrespective of the nature of the activities engaged in or functions performed, but does not include the United States or a foreign government or any agency, department or instrumentality of the United States or of any foreign government. [1957 c.384 s.2; 1975 c.651 s.1; 1985 c.476 s.1; 1991 c.459 s.267; 1993 c.803 s.1]

## **TITLE 32. MILITARY AFFAIRS; EMERGENCY SERVICES**

### **CHAPTER 399. ORGANIZED MILITIA, ORGANIZATION, TRAINING, ADMINISTRATION AND OPERATIONS**

399.115 Trespassers and disturbers to be placed in arrest; sales and gambling prohibited.

(1) Any person who trespasses upon any armory, arsenal, camp, range, base or other facility of the organized militia or other place where any unit of the organized militia is performing military duty, including training, or who in any way or manner interrupts or molests the discharge of military duties by any member of the organized militia or of the Armed Forces of the United States or who trespasses or prevents the passage of troops of the organized militia or of the Armed Forces of the United States in the performance of their military duties may be placed in arrest by the commanding officer, or the designated representative of the commanding officer, of the unit performing such military duty at the place where the offense is committed and may be held in arrest during the continuance of the performance of such military duty, but not to exceed 12 hours.

(2) The commanding officer or the designated representative of the commanding officer, of any unit of the organized militia performing military duty in or at any armory, arsenal, camp, range, base or other facility of the organized militia or other place where such unit is performing military duty may prohibit persons who hawk, peddle, vend or sell goods, wares, merchandise, food products or beverages upon the streets and highways from conducting sales or auctions, and may prohibit all gambling within the limits of such armory, arsenal, camp, range, base or other facility of the organized militia or other place where such unit is performing military duty or within such limits not exceeding one mile therefrom as the commanding officer may prescribe. Such commanding officer may in the discretion of the commanding officer abate as common nuisances all such sales, actions and gambling. [1961 c.454 s.74]

# TITLE 36. PUBLIC HEALTH AND SAFETY

## CHAPTER 461. OREGON STATE LOTTERY

### GENERAL PROVISIONS

#### 461.010 Definitions.

Unless the context requires otherwise, the definitions contained in this chapter shall govern the construction of this chapter.

- (1) "Lottery" or "state lottery" means the Oregon State Lottery established and operated pursuant to the Constitution of the State of Oregon and this chapter.
- (2) "Commissioner" means one of the members of the lottery commission appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter to oversee the state lottery.
- (3) "Director" means the Director of the Oregon State Lottery appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter as the chief administrator of the Oregon State Lottery.
- (4) "Lottery commission" or "commission" means the five-member body appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter to oversee the lottery and the director.
- (5) "Lottery game" or "game" means any procedure authorized by the commission whereby prizes are distributed among persons who have paid, or unconditionally agreed to pay, for tickets or shares which provide the opportunity to win such prizes.
- (6) "Person" means any natural person or corporation, trust, association, partnership, joint venture, subsidiary or other business entity.
- (7) "Lottery game retailer" means a person with whom the lottery commission has contracted for the purpose of selling tickets or shares in lottery games to the public.
- (8) "Lottery vendor" or "vendor" means any person who submits a bid, proposal or offer to provide goods or services to the commission or lottery.
- (9) "Lottery contractor" means a person with whom the state lottery has contracted for the purpose of providing goods and services for the state lottery. [1985 c.2 s.1(7); 1985 c.302 s.1(7)]

#### 461.015 Short title.

This chapter shall be known as the Oregon State Lottery Act of 1984. [1985 c.2 s.1(1); 1985 c.302 s.1(1)]

#### 461.020 Purpose.

The people of the State of Oregon declare that the purpose and intent of this chapter is to provide additional moneys for the public purpose described in section 4, Article XV of the Constitution of the State of Oregon through the operation of a state lottery without the imposition of additional or increased taxes. [1985 c.2 s.1(2); 1985 c.302 s.1(2)]

#### 461.030 Local laws preempted; applicability of other laws; severability.

- (1) This chapter shall be applicable and uniform throughout the state and all political subdivisions and municipalities therein, and no local authority shall enact any ordinances, rules or regulations in conflict with the provisions hereof.
- (2) Any other state or local law or regulation providing any penalty, disability or prohibition for the manufacture, transportation, distribution, advertising, possession or sale of any lottery tickets or shares shall not apply to the tickets or shares of the state lottery. The gambling laws of the State of Oregon shall not apply to lottery tickets or shares, or to the operation of the state lottery established by the Constitution of the State of Oregon and this chapter.
- (3) If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

(4) This chapter is dependent and is conditioned upon the passage by the voters at the November 6, 1984, general election of an amendment to section 4, Article XV of the Oregon Constitution authorizing state operation of a lottery.

(5) The Oregon State Lottery is subject to:

(a) Statewide financial reporting required in ORS 291.040.

(b) The mass transit assessment under ORS 291.405.

(c) The deposit of state money to the State Treasurer under ORS 293.265. [1985 c.2 s.8(2), (3), (5), (6), (9); 1985 c.302 s.8(2), (3), (5), (6), (9)]

#### 461.040 Effect on other gambling laws.

Nothing contained in this chapter shall be construed to repeal or modify existing state laws with respect to gambling, except that the state-operated lottery established by the Constitution of the State of Oregon and this chapter shall not be subject to such laws. [1985 c.2 s.1(3); 1985 c.302 s.1(3)]

#### 461.050 Location of offices.

The Oregon State Lottery shall have its principal offices in the capital city. [1985 c.302 s.8(7)]

#### 461.055 Emergency database center at Burns; contract requirements; transfer of excess capacity.

(1) As used in this section:

(a) "Advanced digital communications" means equipment, facilities and capability to distribute digital communications signals for the transmission of voice, data, images and video over distance.

(b) "Commission" means the Oregon State Lottery Commission.

(c) "Telecommunications provider" means any person capable of providing advanced digital communications including, but not limited to, a telecommunications utility as defined in ORS 759.005, a competitive telecommunications provider as defined in ORS 759.005, a cable television provider or an interstate telecommunications provider.

(2) Notwithstanding any other law, not later than October 1, 1998, the commission shall establish an emergency lottery computer database center at a location that is within 10 miles of the City of Burns.

(3) All telecommunications services for the emergency lottery computer database center shall be procured on public switched networks, insofar as the use of public switched networks does not compromise data security requirements.

(4) Notwithstanding ORS 279.005 to 279.111 and 279.310 to 279.321, the commission by contract shall acquire an advanced digital communications service for the emergency lottery computer database center from a telecommunications provider or a consortium of telecommunications providers capable of providing a network that meets the data security requirements of the commission. Contracts under this section shall provide that all responsibility for construction, installation, operation and maintenance of the network shall remain with the contracting telecommunications provider.

(5) A telecommunications provider providing contract services to the commission according to subsection (4) of this section may sell or otherwise transfer any excess capacity of the network, if the sale or transfer does not compromise data security requirements of the commission. [1995 c.341 s.2'; 1997 c.645 s.1]

## **ADMINISTRATION**

(Oregon State Lottery Commission)

#### 461.100 Oregon State Lottery Commission; members; duties; meetings.

(1) The Oregon State Lottery Commission is hereby created in state government.

(2)(a) The Oregon State Lottery Commission shall consist of five members appointed by the Governor and confirmed by the Senate who shall serve at the pleasure of the Governor.

(b) The members shall be appointed for terms of four years.

- (c) Vacancies shall be filled within 30 days by the Governor, subject to confirmation by the Senate, for the unexpired portion of the term in which they occur.
- (3) At least one of the commissioners shall have a minimum of five years' experience in law enforcement and at least one of the commissioners shall be a certified public accountant. No person shall be appointed as a lottery commissioner who has been convicted of a felony or a gambling related offense. No more than three members of the commission shall be members of the same political party.
- (4) The commission shall exercise all powers necessary to effectuate the purpose of this chapter. In all decisions, the commission shall take into account the particularly sensitive nature of the lottery and shall act to promote and insure integrity, security, honesty and fairness in the operation and administration of the state lottery.
- (5) Lottery commissioners shall be eligible for compensation and expenses under ORS 292.495.
- (6) Lottery commissioners shall file a verified statement of economic interest with the Oregon Government Standards and Practices Commission and shall be subject to the provisions of ORS chapter 244.
- (7) The Governor shall select annually from the membership of the commission a chairperson who serves at the pleasure of the Governor. The chairperson or a majority of the members of the commission then in office shall have the power to call special meetings of the commission.
- (8) Meetings of the commission shall be open and public in accordance with state law. Records of the commission shall be open and available to the public in accordance with state law. The commission shall meet with the Director of the Oregon State Lottery not less than monthly to make recommendations and set policy, to approve or reject reports of the director, to adopt rules and to transact other business.
- (9) A quorum of the commission shall consist of a majority of the members of the commission then in office. All decisions of the commission shall be made by a majority vote of all of the commissioners then in office.
- (10) The commission shall prepare quarterly and annual reports of the operation of the state lottery. Such reports shall include a full and complete statement of state lottery revenues, prize disbursements, expenses, net revenues and all other financial transactions involving state lottery funds. The commission shall, not less than annually, contact interested parties, including those named in ORS 461.180 (3), and provide them with such quarterly and annual reports as they may request. [1985 c.2 s.2(1) to (10); 1985 c.302 s.2(1) to (10); 1991 c.30 s.1]

#### 461.110 Criminal identification information available to lottery; fingerprints; service and execution of warrants.

- (1) Upon the request of the Oregon State Lottery Commission or the Director of the Oregon State Lottery, the office of the Attorney General and the Oregon State Police shall furnish to the director and to the Assistant Director for Security such information as may tend to assure security, integrity, honesty and fairness in the operation and administration of the Oregon State Lottery as the office of the Attorney General and the Oregon State Police may have in their possession, including, but not limited to, manual or computerized information and data.
- (2) In order to determine an applicant's suitability to enter into a contract with or to be employed by the Oregon State Lottery, each applicant identified in this subsection shall be fingerprinted. The Assistant Director for Security may submit to the Department of State Police Bureau of Criminal Identification and to the Federal Bureau of Investigation, for the purpose of verifying the identity of the following persons and obtaining records of their arrests and criminal convictions, fingerprints of:
- (a) With respect to video game retailers, each person for whom ORS 461.300 or an administrative rule of the Oregon State Lottery Commission requires disclosure of the person's name and address;
- (b) With respect to lottery vendors and lottery contractors, each person for whom ORS 461.410 or an administrative rule of the Oregon State Lottery Commission requires disclosure of the person's name and address;
- (c) Applicants for employment with the Oregon State Lottery; and
- (d) With respect to other persons and entities that apply for contracts or have contracts with the Oregon State Lottery, each person for whom ORS 461.300 requires disclosure of the person's name and address and for whom the Assistant Director for Security has prepared written reasons, approved in writing by the director, for requiring the confirmation of the person's identity and records.

(3) For the purpose of requesting and receiving the information described in subsections (1) and (2) of this section, the Oregon State Lottery Commission is a state agency and a criminal justice agency and its enforcement agents are peace officers pursuant to ORS 181.010 to 181.705 and rules adopted thereunder.  
(4) Enforcement agents, designated as such by the commission, shall have the same authority with respect to service and execution of warrants of arrest and search warrants as is conferred upon peace officers of this state. [1985 c.2 s.2(11), (12); 1985 c.302 s.2(11), (12); 1995 c.291 s.1]

#### 461.120 Commission exempt from certain laws; rulemaking; applicability of Administrative Procedures Act.

(1)(a) Except as otherwise provided by law, the provisions of ORS chapters 279, 282 and 283 do not apply to the Oregon State Lottery Commission unless otherwise provided by this chapter.  
(b) Officers and employees of the Oregon State Lottery Commission are in the exempt service for purposes of ORS chapter 240 and other related statutes.  
(c) ORS 276.004 (2), 276.021, 276.037, 276.093 to 276.097, 276.410 to 276.426, 276.428, 276.440, 291.038, 291.201 to 291.260, 291.355 and 292.210 to 292.250 do not apply to the Oregon State Lottery Commission.  
(d) ORS 293.075, 293.190, 293.205 to 293.225 and 293.275 do not apply to the Oregon State Lottery Commission.  
(e) ORS 279.053, 659.010 to 659.110 and 659.505 to 659.545 apply to the Oregon State Lottery Commission.  
(f) Notwithstanding paragraph (a) of this subsection, the provisions of ORS 282.210 shall apply to the Oregon State Lottery Commission.  
(2) The commission shall, in accordance with ORS 183.310 to 183.550, adopt and enforce rules to carry out the provisions of this chapter. [1985 c.2 s.2(13), (14); 1985 c.302 s.2(13), (14); 1991 c.76 s.2]

#### 461.130 Authority of commission; delegation; contracts for security services.

(1) Whenever a power is granted to the commission, the power may be exercised by such officer or employee within the Oregon State Lottery as is designated in writing by the commission. Any such designation shall be filed in the office of the Secretary of State.  
(2) The commission shall contract with the Department of State Police to obtain necessary security services. A contract is not intended to preclude the assistance of other law enforcement agencies as the need arises.  
(3) The commission shall have the authority to conduct investigations, including the authority to issue subpoenas to compel the attendance of witnesses and documents, to take testimony under oath, to take depositions within or outside the state and to require answers to interrogations. [1985 c.302 s.2 (15) to (17)]

#### 461.140 Biennial budget report to Legislative Assembly.

(1) The Oregon State Lottery Commission shall prepare in each even-numbered year a budget report for the biennium beginning July 1 of the following year.  
(2) The commission estimates and requests and appropriation measures shall be prepared in a manner approved by the Legislative Fiscal Officer.  
(3) Not later than November 10 of each even-numbered year, the commission shall cause its budget estimates and requests to be made available to the Governor, the Legislative Fiscal Officer and to the Legislative Revenue Officer. Before December 1, the Legislative Fiscal Officer or staff and the Legislative Revenue Officer or staff shall not reveal to any other person the contents or nature of the budget and other materials, except with the written consent of the commission.  
(4) The commission shall furnish the Legislative Assembly any further information required concerning its budget. The commission, upon request, shall furnish a representative to assist the Legislative Assembly, its Joint Committee on Ways and Means, appointed under ORS 171.555, and the Legislative Revenue Officer in the consideration of its budget and any accompanying measures.  
(5) In all other respects the budget of the Oregon State Lottery Commission shall be treated in the same manner as the budgets of all other state agencies. [1985 c.302 s.15]

(State Lottery Director)

#### 461.150 State lottery director; appointment; assistant directors; duties and powers.

- (1) The Governor shall appoint a Director of the Oregon State Lottery, subject to confirmation by the Senate, who shall serve at the pleasure of the Governor. The director shall implement and operate a state lottery pursuant to the rules, and under the guidance, of the commission.
- (2) The director shall be qualified by training and experience to direct the operations of a state-operated lottery. No person shall be appointed as lottery director who has been convicted of a felony or any gambling related offense.
- (3) The director shall receive such salary as may be set by the commission with the approval of the Governor, and shall be reimbursed for all expenses actually and necessarily incurred in the performance of official duties. The director shall render full-time service to the duties of office.
- (4) The director shall, subject to the approval of the commission, perform all duties, exercise all powers and jurisdiction, assume and discharge all responsibilities and carry out and effect the purposes of this chapter. The director shall act as secretary and executive officer of the commission. The director shall supervise and administer the operation of the Oregon State Lottery in accordance with this chapter, and the rules adopted by the commission. In all decisions, the director shall take into account the particularly sensitive nature of the state lottery, and shall act to promote and insure integrity, security, honesty and fairness of the operation and administration of the state lottery.
- (5) The director shall recommend to the commission the establishment of rules pertaining to the employment, termination and compensation of all commission staff. The rules shall conform to generally accepted personnel practices based upon merit principles. Under the rules so established, the director may set the compensation, prescribe the duties and supervise persons so hired. The director may terminate or otherwise discipline persons so hired. No person shall be employed by the state lottery who has been convicted of a felony or any gambling related offense.
- (6) If a lottery employee transfers to a state agency that is subject to ORS chapter 240, the employee is entitled to transfer accrued sick leave, adjusted if necessary to reflect the accrual rate in use for management and unrepresented employees under rules of the Personnel Division.
- (7) Subject to approval of the commission, the director may appoint, prescribe the duties of and terminate or otherwise discipline no more than four assistant directors as the director deems necessary. The compensation of each assistant director shall be established by the director subject to approval of the commission. The director shall supervise the assistant directors.
- (8) The director and each assistant director shall file a verified statement of economic interest with the Oregon Government Standards and Practices Commission and shall be subject to the provisions of ORS chapter 244. [1985 c.2 s.3(1) to (7); 1985 c.302 s.3(1) to (8)]

#### 461.160 Authority of director to contract for services.

Under the rules of the commission, the Director of the Oregon State Lottery may contract with any state agency or political subdivision for the performance of such duties, functions and powers as the director considers appropriate. [1985 c.302 s.7(8)]

#### 461.170 Coordination between director and commission.

The Director of the Oregon State Lottery shall confer as frequently as necessary or desirable, but not less than monthly, with the commission, regarding the operation and administration of the Oregon State Lottery. The director shall make available for inspection by the commission, upon request, all books, records, files and other information and documents of the state lottery, and shall advise the commission and recommend such matters as deemed necessary and advisable to improve the operation and administration of the state lottery. [1985 c.2 s.3(9); 1985 c.302 s.3(10)]

#### 461.180 Studies; accountability; audits.

(1) The Director of the Oregon State Lottery shall make an ongoing study of the operation and the administration of the lotteries which may be in operation in other states or countries, of available literature on the subject, of federal laws which may affect the operation of the Oregon State Lottery and of the reaction of citizens of the state to existing or proposed features in lottery games, with a view toward recommending improvements that will tend to serve the purposes of this chapter. The director may make recommendations to the commission, Governor and Legislative Assembly on any matters concerning the secure and efficient operation and administration of the state lottery and the convenience of the purchasers of tickets and shares.

(2) The director shall make and keep books and records which accurately and fairly reflect each day's transactions, including but not limited to, the distribution of tickets or shares to lottery game retailers, receipt of funds, prize claims, prize disbursements or prizes liable to be paid, expenses and all other financial transactions involving state lottery funds necessary so as to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain daily accountability.

(3) The director shall make a monthly financial report to the commission, and upon request provide copies of such reports to the Governor, the Attorney General, the Secretary of State, the State Treasurer and the Legislative Assembly. Such report shall include a full and complete statement of state lottery revenues, prize disbursements, expenses, net revenues and all other financial transactions involving state lottery funds for the month.

(4) After the first six months of sales of tickets or shares to the public, the director shall engage an independent firm experienced in demographic analysis to conduct a special study which shall ascertain the demographic characteristics of the players of each lottery game, including but not limited to their income, age, sex, education and frequency of participation. This report shall be presented to the commission, the Governor, the Attorney General, the Secretary of State, the State Treasurer and the Legislative Assembly. Similar studies shall be conducted after the first such study from time to time as determined by the director.

(5) After the first full year of sales of tickets or shares to the public, the director shall engage an independent firm experienced in the analysis of advertising, promotion, public relations, incentives, public disclosures of odds and numbers of winners in lottery games and other aspects of communications to conduct a special study of the effectiveness of such communications activities by the state lottery and make recommendations to the commission on the future conduct and future rate of expenditure for such activities. This report shall be presented to the commission, the Governor, the Attorney General, the Secretary of State, the State Treasurer and the Legislative Assembly. Until the presentation of such report and action by the commission, the state lottery shall expend as close to three and one-half percent as practical of the projected sales of all tickets and shares for advertising, promotion, public relations, incentives, public disclosures of odds and numbers of winners in lottery games and other aspects of communications. Similar studies shall be conducted from time to time after the first such study as determined by the director.

(6) After the first nine months of sales of tickets or shares to the public, the commission shall engage an independent firm experienced in security procedures, including but not limited to computer security and systems security, to conduct a comprehensive study and evaluation of all aspects of security in the operation of the state lottery. Such study shall include, but not be limited to, personnel security, lottery game retailer security, lottery contractor security, security of manufacturing operations of lottery contractors, security against ticket counterfeiting and alteration and other means of fraudulently winning, security of drawings among entries or finalists, computer security, data communications security, database security, security in distribution, security involving validation and payment procedures, security involving unclaimed prizes, security aspects applicable to each particular lottery game, security of drawings in lottery games where winners are determined by drawings of numbers, the completeness of security against locating winners in lottery games with preprinted winners by persons involved in their production, storage, distribution or sale and any other aspects of security applicable to any particular lottery game and to the state lottery and its operations. The portion of the report containing the overall evaluation of the state lottery in terms of each aspect of security shall be presented to the commission, the Governor, the Attorney General, the Secretary of State, the State Treasurer and the Legislative Assembly. Notwithstanding other provisions of state law, the portion of the report containing specific recommendations shall be confidential and shall be presented only to the commission, the Governor and the director. Similar studies of security shall be conducted biennially thereafter.

(7) The director may delegate to any of the employees of the Oregon State Lottery the exercise or discharge in the director's name of any power, duty or function of whatever character, vested in or imposed by law upon the director. The official act of any such person so acting in the director's name and by the authority of the director shall be considered to be an official act of the director. [1985 c.2 s.3(10) to (16); 1985 c.302 s.3(11) to (17); 1991 c.30 s.2; 1997 c.625 s.1]

#### 461.190 Assistant Director for Security.

The Assistant Director for Security appointed pursuant to the Constitution of the State of Oregon and this chapter shall be responsible for a security division to assure integrity, security, honesty and fairness in the operation and administration of the Oregon State Lottery, including but not limited to, an examination of the background of all prospective employees, lottery game retailers, lottery vendors and lottery contractors. The Assistant Director for Security shall be qualified by training and experience, including at least five years of law enforcement experience, and knowledge and experience in computer security, to fulfill these responsibilities. The Assistant Director for Security shall, in conjunction with the Director of the Oregon State Lottery, confer with the Attorney General or designee as the Assistant Director of Security deems necessary and advisable to promote and insure integrity, security, honesty and fairness of the operation and administration of the state lottery. The Assistant Director for Security, in conjunction with the director, shall report any alleged violation of law to the Attorney General and any other appropriate law enforcement authority for further investigation and action. [1985 c.2 s.3(8); 1985 c.302 s.3(9)]

## **OPERATION OF LOTTERY**

#### 461.200 Operation of lottery.

Within 105 days after the confirmation by the Senate of the Director of the Oregon State Lottery and at least three commissioners, the director shall begin public sales of tickets or shares. The Oregon State Lottery shall be initiated and shall continue to be operated so as to produce the maximum amount of net revenues to benefit the public purpose described in section 4, Article XV of the Constitution of the State of Oregon, commensurate with the public good. Other state government departments, boards, commissions, agencies and their officers shall cooperate with the lottery commission so as to aid the lottery commission in fulfilling these objectives. [1985 c.2 s.4(1); 1985 c.302 s.4(1); 1985 c.458 s.1(1); 1985 c.520 s.1(1)]

#### 461.210 Security measures; ticket content; rules.

Upon recommendation of the Director of the Oregon State Lottery, the Oregon State Lottery Commission shall adopt rules specifying the types of lottery games to be conducted by the Oregon State Lottery, provided:

(1) Each lottery game shall contain security measures that are designed to prevent the redemption of fraudulent tickets. Every lottery ticket or stub printed after September 29, 1991, shall include a lottery fact which refers to a specific lottery funded project or the benefits and jobs created for a specific area of economic activity.

(2) No name of an elected official shall appear on the tickets of any lottery game. [1985 c.2 s.4(2); 1985 c.302 s.4(2); 1985 c.458 s.1(2); 1985 c.520 s.1(2); 1991 c.76 s.1; 1991 c.613 s.1; 1991 c.962 s.1]

#### 461.213 Sports-related lottery games.

(1) The Oregon State Lottery Commission shall establish an electronic lottery game or games that are based upon the results of sporting events, the net proceeds from which shall be transferred to the Administrative Services Economic Development Fund for allocation as provided in ORS 461.543 (4) and (5). For the purposes of this section, games that are based on the results of greyhound or horse races shall not be considered to be games which are based upon the results of sporting events.

(2) The Oregon State Lottery Commission shall separately record and account for the costs and net proceeds of electronic games operated under this section and ORS 461.543 (4) and (5). At such time as the

commission makes the quarterly transfer of net proceeds provided for by ORS 461.540, it shall certify to the Oregon Department of Administrative Services the amount of such transfer which represents the net proceeds of games provided for in subsection (1) of this section. [1989 c.828 s.4 (1), (2); 1991 c.345 s.1; 1991 c.613 s.3]

#### 461.215 Video lottery games.

(1) The Oregon State Lottery Commission may initiate a game or games using video devices, the proceeds from which shall be transferred to the Administrative Services Economic Development Fund for allocation as provided by law.

(2) In the approval and purchase of video lottery games, game terminals and equipment, the lottery commission and any game operator, distributor, retailer or owner shall prefer goods or services that have been manufactured in this state if price, fitness and quality are otherwise equal.

(3) The lottery commission shall separately record and account for the costs and net proceeds of games operated under this section. At such time as the lottery commission makes the quarterly transfer of net proceeds provided for by ORS 461.540, it shall certify to the Oregon Department of Administrative Services the amount of such transfer which represents the net proceeds of games provided for in subsection (1) of this section.

(4) Video lottery terminals operated under authority of the lottery commission are specifically exempted from the provisions of 15 U.S.C. s.1172. [1989 c.828 s.6; 1991 c.461 s.80; 1991 c.962 s.2; 1993 c.18 s.117]

#### 461.217 Video lottery game regulation; limitation on placement of terminals.

(1) A video lottery game terminal that offers a video lottery game authorized by the Director of the Oregon State Lottery shall be placed for operation only on the premises of an establishment that has a contract with the Oregon State Lottery as a video lottery game retailer. The terminal must be within the control of an employee of the video lottery game retailer. It shall not be placed in any other business or location.

(2) A video lottery game terminal shall be placed only on the premises of an establishment licensed by the Oregon Liquor Control Commission with a Class A dispenser, Class B dispenser, Retail Malt Beverage, Restaurant or Seasonal dispenser license. A video lottery game terminal shall be placed only in that part of the premises that is restricted to minors and that is used primarily for the consumption of alcoholic beverages.

(3) No more than five video lottery machines shall be placed in or on premises described in subsection (2) of this section. [1991 c.962 s.10]

#### 461.220 Number and value of prizes; rules; advertising.

Upon recommendation of the Director of the Oregon State Lottery, the commission shall adopt rules which specify the number and value of prizes for winning tickets or shares in each lottery game including, without limitation, cash prizes, merchandise prizes, prizes consisting of deferred payments or annuities and prizes of tickets or shares in the same lottery game or other lottery games conducted by the Oregon State Lottery, provided:

(1) In lottery games utilizing tickets, the close approximation of the odds of winning some prize or some cash prize as appropriate for such lottery game shall be printed on each ticket;

(2) A detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each lottery game and the close approximation of the odds of winning such prizes, shall be available at each location at which tickets or shares in such lottery games are offered for sale to the public; and

(3) All television, radio and newspaper advertising of lottery games made pursuant to ORS 461.180 (5) shall include a disclaimer explaining the odds of winning some prize in the following words: "The odds of winning some prize are one in (some number)" where the number stated represents a close approximation of the odds of winning some prize. However, this subsection does not apply to advertising the purpose of which is to advertise the location where tickets may be purchased or to provide information about the winners. [1985 c.2 s.4(3); 1985 c.302 s.4(3); 1985 c.458 s.1(3); 1985 c.520 s.1(3); 1991 c.63 s.1]

#### 461.230 Method for determining winners.

(1) Upon recommendation of the Director of the Oregon State Lottery, the Oregon State Lottery Commission shall adopt rules that specify the method for determining winners in each lottery game, provided that, if a lottery game utilizes a drawing of winning numbers, a drawing among entries or a drawing among finalists:

- (a) The drawing shall always be open to the public;
  - (b) The drawing shall be witnessed by an independent certified public accountant or a professional representative of an independent certified public accounting firm;
  - (c) Any equipment used in the drawing must be inspected by the independent certified public accountant or the professional representative of an independent certified public accounting firm and an employee of the lottery both before and after the drawing;
  - (d) When a drawing is held out of this state in conjunction with other state lotteries, the Oregon State Lottery shall conduct periodic studies of such drawing's security procedures. Any equipment used in such drawing must be inspected both before and after the drawing by a professional representative of an independent certified public accounting firm and a representative of the state lottery designated by the director; and
  - (e) The drawing and such inspections shall be recorded on both video and audio tape.
- (2) The lottery may use any of a variety of existing or future methods or technologies in determining winners. [1985 c.2 s.4(4); 1985 c.302 s.4(4); 1985 c.458 s.1(4); 1985 c.520 s.1 (4); 1991 c.613 s.2; 1997 c.146 s.1; 1997 c.625 s.2]

#### 461.240 Sale price of tickets and shares; rules.

Upon recommendation of the Director of the Oregon State Lottery, the commission shall adopt rules specifying the retail sales price for each ticket or share for each lottery game. However, no ticket or share shall be sold for more than the retail sales price established by the commission. [1985 c.2 s.4 (5); 1985 c.302 s.4 (5); 1985 c.458 s.1 (5); 1985 c.520 s.1 (5); 1989 c.418 s.2]

#### 461.250 Validation and payment of prizes; tabulation of sales and prizes; assignment of prizes; payment on behalf of deceased winner; claim period; ineligibility of lottery employees.

Upon recommendation of the Director of the Oregon State Lottery, the Oregon State Lottery Commission shall adopt rules to establish a system of verifying the validity of tickets or shares claimed to win prizes and to effect payment of such prizes, provided:

- (1) For the convenience of the public, lottery game retailers may be authorized by the commission to pay winners of up to \$5,000 after performing validation procedures on their premises appropriate to the lottery game involved.
- (2) No prize shall be paid to any person under 18 years of age.
- (3) No prize may be paid arising from claimed tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the Oregon State Lottery by applicable deadlines, lacking in captions that confirm and agree with the lottery play symbols as appropriate to the lottery game involved or not in compliance with such additional specific rules or with public or confidential validation and security tests of the lottery appropriate to the particular lottery game involved.
- (4) No particular prize in any lottery game may be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.
- (5) The commission may specify that winners of less than \$25 claim such prizes from either the same lottery game retailer who sold the winning ticket or share or from the lottery itself and may also specify that the lottery game retailer who sold the winning ticket or share be responsible for directly paying that prize.
- (6) Holders of tickets or shares shall have the right to claim prizes for one year after the drawing or the end of the lottery game or play in which the prize was won. The commission may define shorter time periods to claim prizes and for eligibility for entry into drawings involving entries or finalists. If a valid claim is not made for a prize payable directly by the lottery commission within the applicable period, the unclaimed

prize shall remain the property of the commission and shall be allocated to the benefit of the public purpose.

(7)(a) The right of any person to a prize shall not be assignable, except that:

(A) Payment of any prize may be made according to the terms of a deceased prize winner's signed beneficiary designation form filed with the commission or, if no such form has been filed, to the estate of the deceased prize winner.

(B) Payment of any prize shall be made to a person designated pursuant to an appropriate judicial order or pursuant to a judicial order approving the assignment of the prize in accordance with ORS 461.253.

(b) The director, commission and state shall be discharged of all further liability with respect to a specific prize payment upon making that prize payment in accordance with this subsection or ORS 461.253.

(8) A ticket or share shall not be purchased by, and a prize shall not be paid to, a member of the commission, the director, the assistant directors or any employee of the state lottery or to any spouse, child, brother, sister or parent of such person.

(9) Payments made according to the terms of a deceased prize winner's signed beneficiary designation form filed with the commission are effective by reason of the contract involved and this statute and are not to be considered as testamentary devices or subject to ORS chapter 112. The director, commission and state shall be discharged of all liability upon payment of a prize.

(10) In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C.A. app. 525), a person while in active military service may claim exemption from the one-year ticket redemption requirement under subsection (6) of this section. However, the person must notify the commission by providing satisfactory evidence of possession of the winning ticket within the one-year period, and must claim the prize or share no later than one year after discharge from active military service. [1985 c.2 s.4(6); 1985 c.302 s.4(6); 1985 c.458 s.1(6); 1985 c.520 s.1(6); 1987 c.268 s.1; 1991 c.22 s.1; 1991 c.613 s.4; 1993 c.206 s.1; 1995 c.478 s.3; 1997 c.249 s.160]

#### 461.253 Voluntary assignment of prizes; petition for judicial order; issuance of order; commission intervention in proceeding.

(1) Payment of a prize may be made to any person pursuant to a voluntary assignment of the right to receive future periodic prize payments, in whole or in part. Payment of a prize pursuant to an assignment made under this section must be made to a person designated as assignee under an appropriate judicial order of the circuit court for the county in which the assignor resides or in which the headquarters of the Oregon State Lottery Commission are located.

(2) A copy of the petition for an order described in subsection (1) of this section and copies of all notices of any hearing in the matter shall be served on the commission not later than 10 days prior to any hearing or entry of any order. A nonrefundable processing fee of \$500 for each assignee shall be paid to the commission when the copy of the petition is served on the commission.

(3) The commission may intervene in a proceeding to protect the interests of the commission but shall not be considered an indispensable or necessary party. Notwithstanding the failure or refusal of the commission to appear in any proceeding, the Director of the Oregon State Lottery, the commission and the state shall be immune from liability for, and shall be discharged of all further liability with respect to, any amounts paid according to the terms of an order issued under this section.

(4) A circuit court receiving a petition may issue an order approving the assignment and directing the commission to pay to the assignee all future prize payments so assigned upon finding that all of the following conditions have been met:

(a) The assignment has been memorialized in writing and executed by the assignor and is subject to Oregon law;

(b) The assignor provides a sworn declaration to the court attesting that the assignor is represented by independent legal counsel in connection with the assignment, has had the opportunity to receive independent financial and tax advice concerning the effects of the assignment, is of sound mind and is not acting under duress;

(c) The proposed assignment does not and will not include or cover payments or portions of payments that are subject to a 30-day hold under ORS 461.715, unless appropriate provision is made in the order to satisfy the obligations giving rise to the hold; and

(d) The proposed assignment and court order shall not require the commission to divide any prize payment so that portions of a single prize payment must be made to more than three persons at a time.

(5) After receipt of a certified copy of a court order granted under this section, the commission shall acknowledge in writing to both the assignor and the assignee the agreement of the commission to make the prize payments in accordance with the provisions of the order. The commission shall thereafter make the prize payments in accordance with the order.

(6) No modification or amendment to any assignment authorized by this section, and no additional or subsequent assignment of any prize, shall be valid or binding on the commission unless the modification, amendment or assignment is authorized by a separate judicial order issued in compliance with this section. [1995 c.478 s.2]

#### 461.257 Judicial order suspending voluntary assignment laws upon finding of adverse tax consequences for all prize winners.

Notwithstanding ORS 461.250 (7) or 461.253, if it is ever determined that prize winners who do not seek to assign their prize payments are subject to immediate income taxes on the prize payments just as if those prize winners had so assigned their prizes, the Oregon State Lottery Commission may intervene in a proceeding commenced under ORS 461.253 in order to raise the issue of adverse tax consequences in the proceeding. If the court determines that ORS 461.250 (7) and 461.253 or the issuance of an order approving an assignment of prize payments subjects prize winners who do not seek assignment of prize payments to immediate income taxes on their prize payments, the court shall refuse to authorize an assignment and shall issue an order that ORS 461.250 (7) and 461.253 are suspended and are of no force or effect so long as such determination and adverse tax consequences are in effect. An order issued by a court under this section shall suspend ORS 461.250 (7) and 461.253 throughout this state. An order issued under this section shall be final and shall remain in effect unless or until overturned or modified by a subsequent court order or the order of a reviewing court. [1995 c.478 s.5]

**Note:** 461.257 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 461 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

#### 461.260 Distribution of tickets and shares; rules.

Upon recommendation of the Director of the Oregon State Lottery, the commission shall adopt rules specifying the manner of distribution, dissemination or sale of lottery tickets or shares to lottery game retailers or directly to the public, and the incentives, if any, for Oregon State Lottery employees, if any, engaged in such activities. [1985 c.2 s.4(7); 1985 c.302 s.4(7); 1985 c.458 s.1(7); 1985 c.520 s.1(7)]

## LOTTERY GAME RETAILERS

#### 461.300 Selection of retailers; contracts.

(1) The Oregon State Lottery Commission shall adopt rules specifying the terms and conditions for contracting with lottery game retailers so as to provide adequate and convenient availability of tickets or shares to prospective buyers of each lottery game as appropriate for each such game. The foregoing shall not preclude the lottery from selling tickets or shares directly to the public.

(2)(a) The Director of the Oregon State Lottery shall, pursuant to this chapter, and the rules of the commission, select as lottery game retailers such persons as deemed to best serve the public convenience and promote the sale of tickets or shares. No person under the age of 18 shall be a lottery game retailer. In the selection of a lottery game retailer, the director shall consider factors such as financial responsibility, integrity, reputation, accessibility of the place of business or activity to the public, security of the premises, the sufficiency of existing lottery game retailers for any particular lottery game to serve the public convenience and the projected volume of sales for the lottery game involved.

(b) Prior to the execution of any contract with a lottery game retailer, the lottery game retailer shall disclose to the lottery the names and addresses of the following:

(A) If the lottery game retailer is a corporation but not a private club as defined in ORS 472.100, the officers, directors and each stockholder in such corporation; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own five percent or more of such securities need be disclosed.

(B) If the lottery game retailer is a trust, the trustee and all persons entitled to receive income or benefit from the trust.

(C) If the lottery game retailer is an association but not a private club as defined in ORS 472.100, the members, officers and directors.

(D) If the lottery game retailer is a subsidiary but not a private club as defined in ORS 472.100, the officers, directors and each stockholder of the parent corporation thereof; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own five percent or more of such securities need be disclosed.

(E) If the lottery game retailer is a partnership or joint venture, all of the general partners, limited partners or joint venturers.

(F) If the parent company, general partner, limited partner or joint venturer of any lottery game retailer is itself a corporation, trust association, subsidiary, partnership or joint venturer, then all of the information required in this section shall be disclosed for such other entity as if it were itself a lottery game retailer to the end that full disclosure of ultimate ownership be achieved.

(G) If any member, 18 years of age or older, of the immediate family of any video lottery game retailer, or any member, 18 years of age or older, of the immediate family of any individual whose name is required to be disclosed under this paragraph, is involved in the video lottery game retailer's business in any capacity, then all of the information required in this section shall be disclosed for such immediate family member as if the family member were a video lottery game retailer.

(H) If any member, 18 years of age or older, of the immediate family of any lottery game retailer, other than a video lottery game retailer, is involved in the lottery game retailer's business in any capacity, then the lottery game retailer shall identify the immediate family member to the Oregon State Lottery, and shall report the capacity in which the immediate family member is involved in the lottery game retailer's business. Full disclosure of immediate family members working in the business may only be required as provided in paragraph (c) of this subsection.

(I) If the lottery game retailer is a private club as defined in ORS 472.100, the treasurer, officers, directors and trustees who oversee or direct the operation of the food, beverage, lottery or other gambling-related activities of the private club and each manager in charge of the food, beverage, lottery or other gambling-related activities of the private club.

(c) The director may require full disclosure of any immediate family member of any lottery game retailer who is involved in the lottery game retailer's business as if the family member were a lottery game retailer if the director has just cause for believing the family member may be a threat to the integrity, honesty, fairness or security of the lottery and its games.

(d) The commission may refuse to grant a lottery game retail contract to any lottery game retailer or any natural person whose name is required to be disclosed under paragraph (b) of this subsection, who has been convicted of violating any of the gambling laws of this state, general or local, or has been convicted at any time of any crime. The lottery may require payment by each lottery game retailer to the lottery of an initial nonrefundable application fee or an annual fee, or both, to maintain the contract to be a lottery game retailer.

(e) No person shall be a lottery game retailer who is engaged exclusively in the business of selling lottery tickets or shares. A person lawfully engaged in nongovernmental business on state or political subdivision property or an owner or lessee of premises which lawfully sells alcoholic beverages may be selected as a lottery game retailer. State agencies, except for the state lottery, political subdivisions or their agencies or departments may not be selected as a lottery game retailer. The director may contract with lottery game retailers on a permanent, seasonal or temporary basis.

(3) The authority to act as a lottery game retailer shall not be assignable or transferable.

(4) The director may terminate a contract with a lottery game contractor for such bases of termination as shall be included in such contract, which bases shall include, but not be limited to, the knowing sale of lottery tickets or shares to any person under the age of 18 years.

(5) Notwithstanding subsection (4) of this section, when a lottery game retail contract requires the lottery game retailer to maintain a minimum weekly sales average, the lottery game retailer may avoid termination of the contract for failure to meet the minimum weekly sales average by agreeing, prior to termination, to

pay the state lottery the difference between the actual weekly cost incurred by the lottery to maintain the contract and the weekly proceeds that are collected by the lottery from the sales of that lottery game retailer, less expenses that are dedicated by statute, rule or contract to other purposes. The director may not terminate the contract of a lottery game retailer for failure to meet a minimum weekly sales average unless the director first allows the lottery game retailer an opportunity to make the payment described in this subsection. [1985 c.2 s.5(1) to (4); 1985 c.302 s.5(1) to (4); 1995 c.728 s.1; 1997 c.483 ss.1,2]

#### 461.310 Compensation for retailers.

Upon recommendation of the Director of the Oregon State Lottery, the commission shall determine the compensation to be paid to lottery game retailers for their sales of lottery tickets or shares. Until the commission shall otherwise determine, the compensation paid to lottery game retailers shall be five percent of the retail price of the tickets or shares plus an incentive bonus of one percent based on attainment of sales volume or other objectives specified by the director for each lottery game. In cases of a lottery game retailer whose rental payments for premises are contractually computed in whole or in part, on the basis of a percentage of retail sales, and where such computation of retail sales is not explicitly defined to include sales of tickets or shares in a state-operated lottery, the compensation received by the lottery game retailer from the Oregon State Lottery shall be deemed to be the amount of the retail sale for the purposes of such contractual computation. [1985 c.2 s.5(5); 1985 c.302 s.5(5)]

#### 461.330 Display of certificate of authority; bond or letter of credit; payments for tickets or shares.

(1) No lottery tickets or shares shall be sold by a lottery game retailer unless the lottery game retailer has on display on the premises a certificate of authority signed by the Director of the Oregon State Lottery to sell lottery tickets or shares.

(2) The director may require a bond or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 from any lottery game retailer in an amount specified in the Oregon State Lottery rules adopted by the commission or may purchase a blanket bond or a blanket letter of credit issued by an insured institution as defined in ORS 706.008 covering the activities of all or a selected group of lottery game retailers.

(3) No payment by lottery game retailers to the lottery for tickets or shares shall be in cash. All such payments shall be in the form of a check, bank draft, electronic fund transfer or other recorded financial instrument as determined by the director. [1985 c.2 s.5(7) to (9); 1985 c.302 s.5(7) to (9); 1991 c.331 s.66; 1997 c.631 s.476]

## **LOTTERY VENDORS AND CONTRACTORS**

#### 461.400 Procurements.

Notwithstanding other provisions of law, the Director of the Oregon State Lottery may purchase or lease such goods or services as are necessary for effectuating the purposes of this chapter. The commission may not contract with any private party or nongovernmental entity for the operation and administration of the Oregon State Lottery established by this chapter. However, the foregoing shall not preclude procurements which integrate functions such as lottery game design, supply of goods and services, advertising and public relations. In all procurement decisions, the director and Oregon State Lottery Commission shall take into account the particularly sensitive nature of the state lottery, shall consider the lottery's potential contribution to the development of and citizen's access to the state's telecommunications infrastructure, and shall act to promote and insure integrity, security, honesty and fairness in the operation and administration of the state lottery and the objective of raising net revenues for the benefit of the public purpose described in section 4, Article XV of the Constitution of the State of Oregon. [1985 c.2 s.6(1); 1985 c.302 s.6(1); 1991 c.962 s.11]

#### 461.410 Vendor disclosure for major procurements.

(1) In order to allow an evaluation by the Oregon State Lottery of the competence, integrity, background, character and nature of the true ownership and control of lottery vendors, any person who submits a bid, proposal or offer as part of a procurement for a contract for the printing of tickets used in any lottery game, any goods or services involving the receiving or recording of number selection in any lottery game, or any goods or services involving the determination of winners in any lottery game, which are hereby referred to as major procurements, shall first disclose at the time of submitting such bid, proposal or offer to the state lottery all of the following items:

(a) A disclosure of the lottery vendor's name and address and, as applicable, the name and address of the following:

(A) If the vendor is a corporation, the officers, directors and each stockholder in such corporation; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 15 percent or more of such securities need be disclosed.

(B) If the vendor is a trust, the trustee and all persons entitled to receive income or benefit from the trust.

(C) If the vendor is an association, the members, officers and directors.

(D) If the vendor is a subsidiary, the officers, directors and each stockholder of the parent corporation thereof; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 15 percent or more of such securities need be disclosed.

(E) If the vendor is a partnership or joint venture, all of the general partners, limited partners or joint venturers.

(F) If the parent company, general partner, limited partner or joint venturer of any vendor is itself a corporation, trust, association, subsidiary, partnership or joint venture, then all of the information required in this section shall be disclosed for such other entity as if it were itself a vendor to the end that full disclosure of ultimate ownership be achieved.

(G) If any member of the immediate family of any vendor is involved in the vendor's business in any capacity, then all of the information required in this section shall be disclosed for such immediate family member as if the family member were a vendor.

(H) If the vendor subcontracts any substantial portion of the work to be performed to a subcontractor, then all of the information required in this section shall be disclosed for such subcontractor as if it were itself a vendor.

(I) The persons or entities in subparagraphs (A) to (H) of this paragraph, along with the vendor itself, shall be referred to as control persons.

(b) A disclosure of all the states and jurisdictions in which each control person does business, and the nature of that business for each such state or jurisdiction.

(c) A disclosure of all the states and jurisdictions in which each control person has contracts to supply gaming goods or services, including, but not limited to, lottery goods and services and the nature of the goods or services involved for each such state or jurisdiction.

(d) A disclosure of all the states and jurisdictions in which each control person has applied for, has sought renewal of, has received, has been denied, has pending or has had revoked a gaming license of any kind, and the disposition of such in each such state or jurisdiction. If any gaming license has been revoked or has not been renewed or any gaming license application has been either denied or is pending and has remained pending for more than six months, all of the facts and circumstances underlying this failure to receive such a license must be disclosed.

(e) A disclosure of the details of any conviction or judgment of a state or federal court of each control person of any felony and any other criminal offense other than traffic offenses.

(f) A disclosure of the details of any bankruptcy, insolvency, reorganization or any pending litigation of each control person.

(g) A disclosure for each control person who is a natural person of employment, residence, education and military history since the age of 18 years, and any federal, state or local elective position ever held by such person.

(h) A disclosure consolidating all reportable information on all reportable contributions by each control person to any local, state or federal political candidate or political committee in this state for the past five years that is reportable under any existing state or federal law.

(i) A disclosure of the identity of any entity with which each control person has a joint venture or other contractual arrangement to supply any state or jurisdiction with gaming goods or services, including a

disclosure with regard to such entity of all of the information requested under paragraphs (a) to (h) of this subsection.

(j) A disclosure consisting of financial statements of the lottery vendor for the past three years.

(k) A disclosure of any economic interest as contemplated by ORS 244.060 to 244.080, known to the lottery vendor to be held by any of the persons named in ORS 244.050 (1)(a), any lottery commissioner, the lottery director, or the assistant directors of the state lottery, in any lottery vendor or its control persons.

(L) Such additional disclosures and information as the director may determine to be appropriate for the procurement involved.

(2) No contract for a major procurement with any vendor who has not complied with the disclosure requirements described in this section for each of its control persons shall be entered into or be enforceable. Any contract with any lottery contractor who does not comply with such requirements for periodically updating such disclosures from each of its control persons during the tenure of such contract as may be specified in such contract may be terminated by the commission. [1985 c.2 s.6(2); 1985 c.302 s.6(2)(a) to (m)]

#### 461.420 Contract with vendor convicted of crime prohibited.

No contract for a major procurement with any lottery vendor shall be entered into if any control person of that lottery vendor has been convicted of a crime, unless, after investigation, the finding of the commission determines that the crime bears no relationship to the lottery vendor's ability to perform honestly in carrying out the contract. [1985 c.2 s.6(2)(m); 1985 c.302 s.6(2)(n)]

#### 461.430 Contractor required to comply with applicable laws; performance bond.

(1) Each lottery contractor shall perform its contract consistent with the laws of this state, federal law, and laws of the state or states in which such lottery contractor is performing or producing, in whole or in parts, any of the goods or services contracted for hereunder.

(2) Each lottery contractor for the printing of tickets used in any lottery game, for providing goods or services involving the receiving or recording of number selections in any lottery game or for providing goods or services involving the determination of winners in any lottery game shall, at the time of executing the contract with the commission, post a performance bond with the commission, using a surety acceptable to the commission, in an amount acceptable to the commission. [1985 c.2 s.6(3), (4); 1985 c.302 s.6(3), (4); 1989 c.418 s.1]

#### 461.440 Commission's authority to contract; rules.

Subject to rules adopted by the commission, the Director of the Oregon State Lottery may enter into all contracts necessary to accomplish the purposes of this chapter. The rules shall cover contracts for materials, supplies, equipment, services and professional services and to the extent that is reasonable shall follow the public policy of open competitive procurement. The commission shall also consider security, competence, experience, timely performance and maximization of net revenues in developing rules governing procurement actions. All contract awards for major procurements shall be approved by the commission. [1985 c.2 s.6(5); 1985 c.302 s.6(5)]

#### 461.445 Policy on payment to contractors.

In establishing its schedule of payments to contractors, the Oregon State Lottery Commission shall undertake to develop a system that maximizes the net revenue to the state for the public purpose consistent with providing a reasonable rate of return for contractors. [1991 c.962 s.12]

**Note:** 461.445 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 461 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## LOTTERY FINANCES

### 461.500 Lottery to be self-supporting; allocation of revenues.

(1) Except for such moneys as are necessary to temporarily fund the start-up of the state-operated lottery established by the Constitution of the State of Oregon and this chapter, the Oregon State Lottery shall operate as a self-supporting revenue-raising agency of state government and no appropriations, loans or other transfers of state funds shall be made to it.

(2) At least 84 percent of the total annual revenues from the sale of state lottery tickets or shares shall be returned to the public in the form of prizes and net revenues benefiting the public purpose described in section 4, Article XV of the Constitution of the State of Oregon. At least 50 percent of the total annual revenues shall be returned to the public in the form of prizes as described in this chapter. All unclaimed prize money shall remain the property of the commission and shall be allocated to the benefit of the public purpose. No more than 16 percent of the total annual revenues shall be allocated for payment of expenses of the state lottery as described in this chapter. To the extent that expenses, including the contingency reserve, of the state lottery are less than 16 percent of the total annual revenues as described in this chapter, any surplus funds shall also be allocated to the benefit of the public purpose. [1985 c.2 s.1(4) (5); 1985 c.302 s.1(4), (5)]

### 461.510 State Lottery Fund; types of disbursements.

(1) All money payable to the commission shall be deposited in an account known as the State Lottery Fund. The State Lottery Fund shall receive all proceeds from the sale of lottery tickets or shares, the temporary loan for initial start-up costs, interest and all other moneys credited to the Oregon State Lottery from any other lottery-related source. The State Lottery Fund is continuously appropriated for the purpose of administering and operating the commission and the state lottery.

(2) Disbursements shall be made from the State Lottery Fund for any of the following purposes:

(a) The payment of prizes to the holders of valid winning lottery tickets or shares;

(b) Expenses of the commission and the state lottery;

(c) Repayment of any funds advanced from the temporary loan for initial start-up costs and the interest on any such funds advanced; and

(d) Transfer of funds from the State Lottery Fund to the benefit of the public purpose described in section 4, Article XV of the Constitution of the State of Oregon.

(3) As nearly as practical, at least 50 percent of the total projected revenue, computed on a year-round basis, accruing from the sales of all state lottery tickets or shares shall be apportioned for payment of prizes.

(4) Expenses of the state lottery shall include all costs incurred in the operation and administration of the state lottery and all costs resulting from any contracts entered into for the purchase or lease of goods or services required by the commission including, but not limited to, the costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, compensation paid to lottery game retailers, bonding for lottery game retailers, printing, distribution of tickets and shares, reimbursing other governmental entities for services provided to the state lottery, transfers to a contingency reserve, and for any other goods and services necessary for effectuating the purposes of this chapter. No more than 16 percent of the total annual revenues accruing from the sale of all lottery tickets and shares from all lottery games shall be allocated for the payment of the expenses of the state lottery. The commission shall determine the amount necessary for a reasonable contingency reserve within the amount allocated for payment of expenses.

(5) The state lottery shall pay all prizes and all of its expenses out of the revenues it receives from the sale of tickets and shares to the public and turn over the net proceeds therefrom to a fund to be established by the Legislative Assembly from which the Legislative Assembly shall make appropriations for the benefit of the public purpose described in section 4, Article XV of the Constitution of the State of Oregon. [1985 c.2 s.7(1) to (5); 1985 c.302 s.7(1) to (5); 1987 c.268 s.2; 1989 c.966 s.52]

### 461.520 Establishment of checking accounts and petty cash fund.

(1) The Director of the Oregon State Lottery is authorized to establish in the State Treasury checking accounts as may be required to disburse by check the payment of any disbursement authorized by ORS 461.510 (2) from the State Lottery Fund as well as any transfer to the State Lottery Fund as may be required.

(2) Notwithstanding the provisions of ORS 461.510 (1), the director is authorized to direct the deposit of any and all moneys payable to the commission to the credit of any checking account in the State Treasury created for processing State Lottery Fund moneys.

(3) The commission is authorized to establish a petty cash fund in an amount not to exceed \$1,000 from any funds made available to the commission. The petty cash fund shall operate in accordance with the procedures defined in ORS 293.180. [1985 c.302 s.7(6)]

#### 461.530 Oregon State Lottery Fund.

There is hereby created within the General Fund the Oregon State Lottery Fund which is continuously appropriated for the purpose of administering and operating the commission and the Oregon State Lottery. [1985 c.2 s.1(6); 1985 c.302 s.1(6)]

#### 461.535 Intercollegiate Athletic Fund.

The Intercollegiate Athletic Fund is created separate and distinct from the General Fund. The fund shall consist of revenues credited to the Sports Lottery Account under ORS 461.213 and 461.543 (4) and (5) and any other revenues available to the fund. [1989 c.828 s.1; 1991 c.461 s.81; 1991 c.962 s.3]

#### 461.540 Administrative Services Economic Development Fund.

(1) There hereby is established in the General Fund of the State Treasury the Administrative Services Economic Development Fund. All moneys transferred from the State Lottery Fund, interest earnings credited to this fund and other moneys authorized to be transferred to this fund from whatever source are appropriated continuously for any of the following public purposes:

- (a) Creating jobs;
- (b) Furthering economic development in Oregon; or
- (c) Financing public education.

(2) Moneys shall be transferred from the Administrative Services Economic Development Fund to the Education Endowment Fund created under ORS 348.696 as described in section 4, Article XV of the Oregon Constitution, as amended by House Joint Resolution 15 (1995).

(3) As used in this section and section 4, Article XV of the Oregon Constitution:

(a) "Creating jobs" includes, but is not limited to:

- (A) Supporting the creation of new jobs in Oregon;
- (B) Helping prevent the loss of existing jobs in Oregon;
- (C) Assisting with work transition to new jobs in Oregon; or
- (D) Training or retraining workers.

(b) "Education" includes, but is not limited to, the Education Endowment Fund created under ORS 348.696 and specific programs that support the following:

- (A) Prekindergartens;
- (B) Elementary and secondary schools;
- (C) Community colleges;
- (D) Higher education;
- (E) Continuing education;
- (F) Workforce training and education programs; or
- (G) Financial assistance to Oregon students.

(c) "Furthering economic development" includes, but is not limited to, providing:

- (A) Services or financial assistance to for-profit and nonprofit businesses located or to be located in Oregon;
- (B) Services or financial assistance to business or industry associations to promote, expand or prevent the decline of their businesses; or

(C) Services or financial assistance for facilities, physical environments or infrastructure projects, as defined in ORS 285B.410, that benefit Oregon's economy. [1985 c.302 s.7(7); 1995 c.12 s.7]

#### 461.543 Sports Lottery Account; distribution of revenues.

(1) Except as otherwise specified in subsection (5) of this section, the Sports Lottery Account is continuously appropriated to and shall be used by the State Board of Higher Education to fund sports programs at state institutions of higher education. Seventy percent of the revenues in the fund shall be used to fund nonrevenue producing sports and 30 percent shall be used for revenue producing sports. Of the total amount available in the fund, at least 50 percent shall be made available for women's athletics.

(2) The State Board of Higher Education shall allocate moneys in the Sports Lottery Account among the institutions of higher education under its jurisdiction giving due consideration to:

(a) The athletic conference to which the institution belongs and the relative costs of competing in that conference.

(b) The level of effort being made by the institution to generate funds and support from private sources.

(3) As used in subsections (1) to (3) of this section, "revenue producing sport" is a sport that produces net revenue over expenditures during a calendar year or if its season extends into two calendar years, produces net revenue over expenditures during the season.

(4) An amount equal to the net proceeds of games provided for in ORS 461.213 (1) shall be allocated from the Administrative Services Economic Development Fund to the Sports Lottery Account.

(5) The amounts received by the Sports Lottery Account shall be allocated as follows:

(a) Eighty-eight percent for the purposes specified in subsections (1) to (3) of this section, but not to exceed \$8 million annually, adjusted annually pursuant to the Consumer Price Index, as defined in ORS 327.006.

(b) Twelve percent for the purpose of scholarships, to be distributed equally between scholarships based on academic merit and scholarships based on need, as determined by rule of the State Board of Higher Education, but not to exceed \$1,090,909 annually.

(c) After the maximum allowable allocations under paragraphs (a) and (b) of this subsection are made, the next \$3 million annually to the State Scholarship Commission for scholarships, as defined and administered in ORS 344.355.

(d) All additional money to the State Scholarship Commission for the need grant program. [1989 c.828 ss.2,4 (3) and (4); 1991 c.461 s.82; 1991 c.780 s.28]

#### 461.544 Use of proceeds of video lottery games.

All net proceeds from video lottery games shall be allocated to the Administrative Services Economic Development Fund. [1991 c.461 ss.1,78; 1993 c.18 s.118; 1995 c.814 s.9]

**Note:** 461.544 to 461.549, 461.555, 461.725 and 461.740 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 461 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**461.545** [1989 c.828 s.7; repealed by 1991 c.461 s.79 and 1991 c.962 s.15]

**461.546** [1991 c.962 s.2a; 1993 c.18 s.119; repealed by 1995 c.814 s.4]

#### 461.547 Distribution of certain video lottery revenues to counties for economic development.

(1) The Oregon State Lottery Commission shall transfer an amount equal to 2.5 percent of the net receipts from video lottery games from the State Lottery Fund to counties for economic development activities. Ninety percent of the moneys shall be distributed to each county in proportion to the gross receipts from video lottery games from each county. Ten percent of the moneys shall be distributed in equal amounts to each county.

(2) As used in this section:

(a) "Gross receipts from lottery games" means the amount of money inserted into video lottery games plus the value of any free game prizes used by players for subsequent games.

(b) "Net receipts from video lottery games" means the amount of money that is received from the operation of video lottery games and devices after the payment of prizes but prior to any other payment. [1991 c.461 s.94; 1993 c.18 s.118a]

**Note:** See note under 461.544.

461.548 Video lottery proceeds to be treated separately from other lottery proceeds.

Notwithstanding any other provision of law, the Oregon State Lottery Commission shall meet the constitutional requirements for prizes and administrative costs separately for video and all other lottery games. The lottery commission shall not intermingle the results of video lottery games for the purpose of calculating the allowable limit on administrative expenses of other lottery games. [1991 c.962 s.14]

**Note:** See note under 461.544.

461.549 Use of video lottery proceeds for treatment of gambling-related behavioral problems.

The Legislative Assembly finds that emotional and behavioral problems related to gambling may impose additional costs on state government and on the state economy, such as additional mental health expenditures, increased law enforcement costs and lost economic output. The use of a portion of the net receipts from video lottery games to pay the costs of preventing and treating emotional and behavioral problems related to gambling promotes the creation of jobs and this state's economic development by offsetting and treating the negative economic consequences of such behavior. [1995 c.814 s.1]

**Note:** See note under 461.544.

461.550 Expenditure limitation not applicable to lottery.

All expenditures from the State Lottery Fund or the fund established by the Legislative Assembly to disburse net lottery proceeds are exempt from any state expenditure limitation. [1985 c.302 s.8(8)]

461.555 Capital Construction Trust Fund; sources; uses.

(1) There is established in the State Treasury a Capital Construction Trust Fund separate and distinct from the General Fund. Interest on the fund shall accrue to the fund.

(2) The fund shall consist of amounts allocated to it from the Administrative Services Economic Development Fund.

(3) The fund is to be used to meet capital construction costs. [1991 c.461 s.77]

**Note:** See note under 461.544.

461.560 Taxation of sales and prizes.

(1) No state or local taxes shall be imposed upon the sale of lottery tickets or shares of the Oregon State Lottery established by this chapter or any net prize awarded by the state lottery established by this chapter that does not exceed \$600. A net prize awarded by the state lottery that is greater than \$600 shall be subject to tax under ORS chapters 314 to 318 and any other applicable state or local tax.

(2) A city, county or other political subdivision in this state may not impose, by charter provision or ordinance, or collect a tax that is imposed on lottery game retailers only and that is measured by or based upon the amount of the commissions or other compensation received by lottery game retailers for selling tickets or shares in lottery games. However, if a city, county or other political subdivision levies or imposes generally on a nondiscriminatory basis throughout the jurisdiction of the taxing authority an income, gross income or gross receipts tax, as otherwise provided by law, such tax may be levied or imposed upon lottery game retailers.

(3) As used in this section, "net prize" means the total amount of the lottery prize minus the purchase price of the lottery ticket or share entitling the prize recipient to payment. [1985 c.2 s.8(1); 1985 c.302 s.8(1); 1995 c.95 s.1; 1997 c.849 s.1]

## **PROHIBITED CONDUCT**

### **461.600 Sales to minors.**

No tickets or shares in lottery games shall be sold to persons under the age of 18 years. In the case of lottery tickets or shares sold by lottery game retailers or their employees, such persons shall establish safeguards to help assure that such sales are not made to persons under the age of 18 years. In the case of sales of tickets or shares sold by vending machines or other devices, the commission shall establish safeguards to help assure that such vending machines or devices are not operated by persons under the age of 18 years. [1985 c.2 s.5(6); 1985 c.302 s.5(6)]

## **MISCELLANEOUS**

### **461.700 Additional disclosure requirements; costs of investigation.**

(1) Any person required to submit disclosure information under this chapter, in addition to the requirements specifically listed in this chapter, shall also submit for each individual the true name, as well any other name used, date of birth, place of birth, Social Security number, current residence address, and residence address for the last 10 years, current marital status including how long, spouse's name, address, date of birth and Social Security number. The person required to disclose must submit an individual sworn statement as to any criminal convictions and the nature thereof. The sworn statement must also contain authorization for the Attorney General and the Assistant Director for Security to confirm with the Oregon Department of Revenue and the United States Internal Revenue Service the truthfulness of the sworn statement with regard to tax matters. The commission shall develop a disclosure form which identifies the information required to be disclosed, including a certification that the information provided is correct. The form shall be sworn and bear the warning that the applicant bears responsibility for excessive investigation costs and that the providing of false information constitutes the crime of false swearing under ORS 162.075 which is a Class A misdemeanor.

(2) If the costs of investigation of any applicant exceeds the usual costs of such investigations, the applicant shall be billed for the excessive costs. The payment thereof shall be credited to the State Lottery Fund as a reimbursement of administrative costs. [1985 c.302 s.14]

### **461.710 [Formerly 284.430; renumbered 280.518 in 1991]**

### **461.715 Holding of certain lottery prizes for child support; procedure.**

(1) The Oregon State Lottery Commission, by rule, shall develop procedures whereby a lottery prize in excess of \$600 that is won by a person who is in arrears in a court ordered child support obligation shall not be paid out to the person but shall be held for a minimum of 30 days in order to allow support enforcement entities to institute garnishment proceedings. The rules shall provide that:

(a) Upon presentation of a ticket or share for payment of a prize in excess of \$600, the name and social security number of the ticket or share holder shall be checked against a computer database containing the names and social security numbers of obligors who are delinquent in paying child support obligations.

(b) When the ticket or share holder is listed in the database, the lottery commission shall:

(A) Place a 30-day hold on the prize;

(B) Inform the ticket or share holder of the hold; and

- (C) Notify the Adult and Family Services Division of the Department of Human Resources that a delinquent obligor has won a lottery prize.
- (c) If a garnishment proceeding is initiated within the 30-day hold period, the lottery commission shall continue to hold the prize pending disposition of the proceeding.
- (d) If a garnishment proceeding is not initiated within the 30-day hold period, the prize shall be paid to the ticket or share holder at the end of the 30-day hold period.
- (2) The lottery commission shall establish a computer link with the Adult and Family Services Division computer database that contains the names of delinquent child support obligors. The only information available to the lottery commission through the computer link shall be whether the name and social security number of a lottery prize winner are on the delinquent child support obligor database.
- (3) The Support Enforcement Division of the Department of Justice and the Adult and Family Services Division of the Department of Human Resources shall assist the Oregon State Lottery Commission in developing the procedures required by subsections (1) and (2) of this section. [1991 c.613 ss.6,7]

**461.720** [1985 c.829 s.1; 1987 c.506 s.27; renumbered 171.845 in 1991]

**461.725** Enforcement officers to enforce prohibition on gray machines.

Out of the funds available to the Oregon State Lottery Commission to meet the administrative expenses of the Oregon State Lottery, the lottery commission shall employ or contract for at least three undercover enforcement officers to enforce the prohibition on gray machines imposed by ORS 162.305, 164.377, 166.715, 167.117, 167.164, 167.166, 167.715, 461.210, 461.215, 461.217, 461.400, 461.445, 461.535, 461.548, 461.725 and 464.250. [1991 c.962 s.18; 1995 c.814 s.3]

**Note:** See note under 461.544.

**461.730** [1989 c.909 s.49; renumbered 447.255 in 1991]

**461.740** Policy on hiring by firms receiving lottery-funded benefits.

- (1) It is the policy of the State of Oregon that any firm receiving benefit from state lottery-funded programs should undertake a good faith effort to hire and retain as employees low-income individuals who have received job training assistance from publicly funded job training providers.
- (2) The Economic Development Department may require any firm receiving benefit from state lottery-funded programs the department administers to enter into a first-source hiring agreement with publicly funded job training providers.
- (3) Publicly funded job training providers shall coordinate their services and establish an agreement outlining the process by which they will respond to firms receiving benefit. This agreement shall be submitted to the department for its review and approval.
- (4) As used in this section:
- (a) "Firm receiving benefit" means any business that benefits directly or substantially from any program financed by state lottery funds and is certified as such a firm by the state agency that administers the lottery-funded program.
- (b) "First-source hiring agreement" means an agreement between a firm receiving benefits and a publicly funded job training provider whereby the job provider refers qualified candidates to the firm for new jobs and job openings, excluding professional, managerial, technical and seasonal positions which the Director of the Economic Development Department determines cannot be filled by persons likely to be referred by publicly funded job training providers.
- (c) "Publicly funded job training provider" includes, but is not limited to, community colleges, Job Training Partnership Act service providers and other similar programs. [1989 c.778 s.1; 1991 c.105 s.1]

**Note:** See note under 461.544.

## **TITLE 36. PUBLIC HEALTH AND SAFETY**

### **CHAPTER 462. RACING, LICENSING OF RACE MEETS, TRAINERS, DRIVERS AND JOCKEYS**

#### **LICENSING OF RACE MEETS, TRAINERS, DRIVERS AND JOCKEYS;**

#### **BETTING AND BOOKMAKING REGULATIONS**

##### 462.010 Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) "Commission" means the Oregon Racing Commission.
- (2) "Race meet" means and includes any exhibition of animal racing where the mutuel system is used in conjunction with any race.
- (3) "Licensee" means a person, partnership, corporation, political subdivision, municipal corporation or any other body holding a license under this chapter.
- (4) "Public training track" means any race course or other facility that is available or open to the public for use in the training or schooling of racing animals.
- (5) "Race course" means all the premises used in connection with the conduct of a race meet, including but not limited to, the race track, grandstands, paddock, stables, kennels and all other buildings and grounds adjacent to or appurtenant to the physical limits of the race track.
- (6) "Race" shall mean any race conducted in a race meet. Included are races conducted without wagering provided one or more races in the meet are conducted with wagering.
- (7) "Drug" means any narcotic, sedative, anesthetic, analgesic, drug or other medication of any kind or description intended for use in any manner -- directly or indirectly, internally or externally -- in the diagnosis, treatment, mitigation or cure of injury or disease or for use in the prevention of disease, which could affect, in any manner, the racing condition or performance of an animal as a depressant, stimulant, local anesthetic, analgesic, sedative or otherwise. The term also includes substances (other than foods) intended to affect the structure or any function of the body of the animal and all substances affecting the central nervous system, respiratory system, or blood pressure of any animal other than vitamins or supplemental feeds. Also specifically included is any identified substance which can affect or interfere with the true and accurate testing and analysis of blood, saliva, urine or other samples taken from racing animals.
- (8) "Continuous race meet" includes any exhibition of animal racing continuously at the same race course by two or more licensees where the mutuel system is used in conjunction with any race.
- (9) "Breaks" means the odd cents remaining after the payoff prices have been computed in accordance with ORS 462.140 (3).
- (10) "Fiscal year" means a 12-month year, as described in ORS 293.605.
- (11) "Calendar year" means a 12-month year, January 1 through December 31.
- (12) "Mutuel" means a system whereby wagers with respect to the outcome of a race are placed with a wagering pool in which the participants are wagering with each other and not against the operator.  
[Amended by 1953 c.497 s.4; 1955 c.335 s.1; 1957 c.313 s.1; 1969 c.356 s.10; 1975 c.550 s.1; 1977 c.855 s.1; 1981 c.544 s.1; 1987 c.913 s.7; 1997 c.865 s.1]

##### 462.020 Licensing required for race meets, persons participating in race meets and public training tracks; licensees to observe rules and orders.

- (1) No person shall hold any race meet without having first obtained and having in full force and effect a license therefor issued by the Oregon Racing Commission.
- (2) No trainer, driver, jockey, apprentice jockey, horse owner, dog owner, exercise boy, agent, authorized agent, jockey's agent, stable foreman, groom, valet, veterinarian, horseshoer, steward, stable watchman, starter, timer, judge or other person acting as a participant or official at any race meet, including all employees of the pari-mutuel department, shall participate in race meets without having first obtained and

having in full force and effect a license issued by the commission, pursuant to such rules as the commission shall make. The commission by rule may require other employees of a race meet licensee who are engaged in or performing duties at the race course to obtain a license issued by the commission prior to engaging or performing such duties. The commission by rule may also require persons, including corporations, who are not employees of a race meet licensee, but who are authorized to do business at the race course, to obtain a license issued by the commission prior to conducting such business.

(3) No person shall operate a public training track or public kennel for greyhounds participating in a race meet without having first obtained and having in full force and effect a license issued by the commission.

(4) The commission may require each licensee to be fingerprinted and photographed as part of the licensing procedure.

(5) Each person holding a license under this chapter shall comply with all rules and orders of the commission.

(6) Notwithstanding the requirements of subsection (2) of this section, the commission, upon receipt of a written application for a license on forms provided by the commission, may in its sound discretion issue a temporary license valid for a period not to exceed 10 days pending final approval or disapproval of the written application for a license. [Amended by 1955 c.454 s.1; 1957 c.313 s.2; 1969 c.356 s.11; 1975 c.549 s.2; 1983 s.s. c.7 s.1]

#### 462.025 Notice required to terminate use of license; hearing.

No licensee who accepts an engagement or employment or undertakes activities in preparation for or in connection with a race meet shall voluntarily terminate or discontinue the engagement, employment or activities of the licensee or otherwise refuse to cooperate or participate, unless the licensee gives the Oregon Racing Commission notice in writing of the intention to do so at least 15 days prior to such termination or discontinuance. The commission may, upon notice to all interested parties, conduct one or more hearings with respect to any such termination or discontinuance. [1969 c.356 s.5; 1975 c.549 s.3]

#### 462.030 Qualifications for eligibility of race meet operator.

No person is eligible to operate a race meet with a license issued under this chapter unless the person is the owner or controls the possession of a properly constructed race track suitable for the class of races which are proposed to be conducted at such race track and improved with safe and suitable grandstands, equipped with reasonably sanitary accommodations, adequate stables for livestock together with adequate fire protection equipment, and such other proper improvements as in the judgment of the Oregon Racing Commission may be required, taking into consideration the location of such race track and the probable capacity requirements to accommodate the crowd and the number of people that will reasonably be expected to occupy the grandstands and attend the race meets. [Amended by 1955 c.336 s.1]

#### 462.040 Race meet licenses, classes, limitations, contents.

(1) Race meet licenses granted by the Oregon Racing Commission shall be limited to:

(a) Licenses for horse and mule race meets (Class A).

(b) Licenses for greyhound race meets (Class B).

(2)(a) Except as the commission otherwise may provide by rule, no licensee shall be granted licenses of both classes nor shall licenses be issued for more than one class of racing on the same race course, track or location.

(b) In adopting rules to carry out the provisions of this subsection, the commission shall consider, among other matters, the impact on existing race meet licensees in the county in which application for a license referred to in paragraph (a) of this subsection is made.

(3) The commission shall not grant any license for greyhound racing at the Oregon State Fair.

(4) The license shall specify the number of days the race meet shall continue and the number of races per day. [Amended by 1955 c.639 s.1; 1957 c.313 s.3; 1969 c.356 s.12; 1975 c.549 s.4; 1979 c.720 s.1; 1989 c.210 s.3; 1997 c.865 s.2]

462.050 Application for race meet license; bond; payment of fees; submission of financial statements and inspection of records; return of deposit; refund of license fee.

(1) Every person making application for a license to hold a race meet shall file the application with the Oregon Racing Commission. The application shall set forth the time, place and number of days the applicant desires the meet to continue, together with the applicant's estimate of the daily average payment that the applicant will pay to the state upon the gross amount of money wagered per day and such other information as the commission may require.

(2) The commission may, in its discretion, require a performance bond in an amount not to exceed \$10,000, to insure that the licensee operates a race meet on the license days granted.

(3) The application shall be accompanied by a check on a financial institution maintaining an office and licensed to do business in Oregon in an amount equal to the license fee, exclusive of required percentage payments, required for the number of days for which the license is requested. If the license is not granted, such deposit shall be returned promptly to the applicant. If the license is granted, but for fewer days than applied for, the excess of the daily deposit shall be returned promptly to the applicant.

(4) No applicant designated in ORS 462.057 is eligible for a return of the license fee unless a race meet license is not granted.

(5) When a licensee under ORS 462.062 or 462.067 is prevented from conducting a race meet for the authorized number of days, the commission, upon written request therefor, may refund to the licensee the daily license fee based upon the number of days lost for good cause shown. The commission is the sole judge of good cause.

(6) In order to assist the commission in determining whether there has been compliance with ORS 462.075 (1)(h), (2)(a) and (4):

(a) The commission may require each holder of a license under ORS 462.062 or 462.067 to submit annually to the commission audited financial statements.

(b) Each licensee under ORS 462.062 or 462.067 shall make available to the commission for examination and audit at all reasonable times, upon notice to the licensee by the commission, complete and accurate financial records of the licensee's operations, including the financial records of any other corporation or business entity owned or controlled by the same parent corporation or individual as the licensee that provides services related to the licensee's operations. [Amended by 1975 c.549 s.5; 1981 c.544 s.2; 1983 s.s. c.7 s.15; 1997 c.631 s.477; 1997 c.865 s.3]

462.055 Authority to require applicant to have recommendation of local governing body.

(1) The Oregon Racing Commission may require of every applicant for a license to hold a race meet, except the Oregon State Fair and all county fairs, that has not, within five fiscal years prior to making an application for a license to hold a race meet, operated a race meet in the county or the city in which application for a license to hold a race meet is made, a recommendation in writing of the board of county commissioners of the county in the event the race meet is to be held outside of a city, and of the governing body of such city if the race meet is to be held within a city.

(2) The commission may take such recommendation into consideration before granting or refusing such license. The applicant shall pay an investigating fee not to exceed \$100 to the recommending authority, if any. [1953 c.551 s.3; 1969 c.356 s.13; 1975 c.549 s.6; 1981 c.544 s.3; 1987 c.413 s.2]

462.057 License and other fees and purses; track fund.

(1) A race meet licensee designated in subsection (2) of this section shall make payments as follows:

(a) License fee -- \$25 per fiscal year payable to the Oregon Racing Commission.

(b) A percentage of gross mutuel wagering shall be paid to the commission as follows:

(A) If the race meet is for horses or mules -- one percent.

(B) If the race meet is for greyhounds -- 1.6 percent.

(c) If the race meet is for horses or mules and the average daily gross mutuel wagering during the preceding fiscal year exceeded \$150,000, a percentage of the gross mutuel wagering shall be paid as follows:

(A) To purses -- such amount, subject to prior approval by the commission, as the race meet licensee and the horse owners, or mule owners if the race is for mules, may agree upon, plus an additional .1 percent.

The additional .1 percent shall not become part of the regular purse account but shall be used only to supplement purses of races consisting exclusively of Oregon bred horses or mules;

(B) To the Oregon Thoroughbred Breeders Association, Incorporated, purse supplements for owners of Oregon bred thoroughbred horses -- one percent of gross mutuel wagering on thoroughbred horse races, to be apportioned among the owners in the same ratio that each owner's purses for Oregon bred thoroughbred horses for the race meet bears to the total purses for Oregon bred thoroughbred horses for the race meet;

(C) To the Racing Division of the Oregon Quarterhorse Association, Incorporated, purse supplements for owners of Oregon bred quarterhorses -- one percent of gross mutuel wagering on quarterhorse races, to be apportioned among the owners in the same ratio that each owner's purses for Oregon bred quarterhorses for the race meet bears to the total purses for Oregon bred quarterhorses for the race meet;

(D) To each association of horse or mule owners, trainers or breeders recognized by the commission as representing the other breeds of horses or mules not designated in subparagraphs (B) and (C) of this paragraph, purse supplements for owners of other Oregon bred horses or mules, not designated in subparagraphs (B) and (C) of this paragraph, one percent of gross mutuel wagering for races of other horses or mules, to be apportioned among the owners in the same ratio that each owner's purses for other Oregon bred horses or mules for the race meet bears to the total purses for other Oregon bred horses or mules for the race meet;

(E) Subject to prior approval of the commission, each horse or mule owners, trainers or breeders association designated in subparagraphs (B), (C) and (D) of this paragraph may use a portion of the purse supplements as operating expenses only for receipt, handling and payment of these funds; and

(F) To a special track fund to be used primarily for improving the race track facilities benefiting the horse and mule owners, trainers or breeders in the barn area -- .2 percent. All such funds shall be retained by the licensee in a separate account from all other funds and no disbursements or transfers shall be made therefrom without prior approval of the commission. All physical improvements paid from such funds shall satisfy reasonable fire, health, quality and construction standards established or approved by the commission. Unless the commission provides otherwise, such improvements shall be made on the race course where the race meet which created the fund was held.

(d) If the race meet is for greyhounds, a percentage of the gross mutuel wagering shall be paid as follows:

(A) To a special fund to be used primarily for the development and operation of a training track and related facilities upon which to train greyhounds -- .1 percent. All such funds shall be retained by the licensee in a separate account from all other funds and no disbursements or transfers shall be made therefrom without prior approval of the commission. All physical improvements paid from such funds shall satisfy reasonable fire, health, quality and construction standards established or approved by the commission. Unless the commission provides otherwise, such improvements shall be made on the race course of the race meet licensee; and

(B) To the Oregon Greyhound Breeders Association, Incorporated, purse supplements for owners of Oregon bred greyhounds -- .5 percent of gross mutuel wagering, to be apportioned among the owners, in accordance with the rules of the commission and subject to approval by the commission, in the same ratio that each owner's purses for Oregon bred greyhounds for the race meet bears to the total purses for Oregon bred greyhounds for the race meet.

(2) Licensees subject to the provisions of this section are:

(a) The Pendleton Roundup.

(b) The Eastern Oregon Livestock Fair.

(c) The Pacific International Livestock Exposition.

(d) Any county fair.

(e) All other nonprofit, fair-type associations which conducted a licensed race meet in calendar year 1968 or 1969.

(f) The Pine Valley Fair Association. [1969 c.356 s.6; 1971 c.130 s.1; 1973 c.541 s.1; 1975 c.550 s.2; 1977 c.855 s.2; 1979 c.698 s.1; 1981 c.544 s.4; 1983 c.740 s.179a; 1989 c.210 s.2; 1989 c.357 s.4a; 1993 c.682 s.1; 1997 c.865 s.4]

**462.060** [Amended by 1953 c.551 s.2; 1955 c.642 s.1; 1963 c.519 s.38; repealed by 1969 c.356 s.38]

462.062 License and other fees, purses, track fund of race meets not subject to ORS 462.057.

All licensees of race meets for horses, except those subject to ORS 462.057, shall make payments as follows:

- (1) License fee -- \$100 per racing day, payable to the Oregon Racing Commission.
- (2) Percentage of gross mutuel wagering payable to the commission -- one percent.
- (3) Percentage of gross mutuel wagering for purses, in such amounts as the race meet licensee and the horse owners may agree upon, subject to approval by the commission. In addition, a payment of .1 percent, which shall not become part of the regular purse account, but shall be used only to supplement purses of races consisting exclusively of Oregon bred horses. However, subject to prior approval of the commission, a portion of the percentage of gross mutuel wagering designated by this subsection may be paid to one or more associations of horsemen for operating expenses and other benefits for horsemen.
- (4) To the Oregon Thoroughbred Breeders Association, Incorporated, percentage of gross mutuel wagering on thoroughbred horse races for purse supplements for owners of Oregon bred thoroughbred horses -- one percent, to be apportioned among the owners in the same ratio that each owner's purses for Oregon bred thoroughbred horses for the race meet bears to the total purses for Oregon bred thoroughbred horses for the race meet.
- (5) To the Racing Division of the Oregon Quarterhorse Association, Incorporated, percentage of gross mutuel wagering on quarterhorse races for purse supplements for owners of Oregon bred quarterhorses -- one percent, to be apportioned among the owners in the same ratio that each owner's purses for Oregon bred quarterhorses for the race meet bears to the total purses for Oregon bred quarterhorses for the race meet.
- (6) To each association of horsemen recognized by the commission as representing the other breeds of horses not designated in subsection (4) or (5) of this section, percentage of gross mutuel wagering on races for any other breed of horses, not designated in subsection (4) or (5) of this section, for purse supplements of owners of other Oregon bred horses -- one percent, to be apportioned among the owners in the same ratio that each owner's purses for other Oregon bred horses for the race meet bears to total purses for other Oregon bred horses for the race meet.
- (7) Subject to prior approval of the commission, each horsemen's association designated in subsections (4), (5) and (6) of this section may use a portion of the purse supplements as operating expenses only for receipt, handling and payment of these funds.
- (8) Percentage of gross mutuel wagering to a special track fund of the type, and for the uses and purposes, and subject to the conditions set forth in ORS 462.057 (1)(c)(F) -- .2 percent. [1969 c.356 s.7; 1975 c.550 s.3; 1977 c.855 s.3; 1979 c.698 s.2; 1981 c.544 s.5; 1987 c.413 s.19; 1993 c.682 s.2]

462.065 Security for association receiving payments under ORS 462.057 or 462.062; fee charged association receiving payments under ORS 462.140.

- (1) The Oregon Racing Commission may require any horsemen's association, that receives payments pursuant to ORS 462.057 and 462.062, to submit a bond or an irrevocable letter of credit submitted by an insured institution as defined in ORS 706.008 in an amount not to exceed the sum of the estimated payments to be received by the association. The bond or letter of credit shall be conditioned upon the proper distribution of such payments to owners of Oregon bred horses. In addition to the requirement for a bond or letter of credit, the commission may prescribe such conditions on the receipt, handling and disbursement of the payments as the commission determines necessary to insure security of the funds.
- (2) Notwithstanding any other provision of this chapter, any horsemen's association that receives payments pursuant to ORS 462.140, prior to issuing breeder awards or stallion awards, may assess the recipient a fee for the receipt, handling and payment of those funds. The fee shall not exceed the current annual dues of the association or five percent of the award, whichever amount is less. [1979 c.698 s.10; 1989 c.358 s.5; 1991 c.331 s.67; 1997 c.631 s.478]

462.067 License and other fees for race meets not subject to ORS 462.057 and 462.062.

All licensees of race meets except those subject to ORS 462.057 and 462.062 shall make payments as follows:

- (1) License fee -- \$100 per racing day, payable to the Oregon Racing Commission.

(2) Percentage of gross mutuel wagering payable to the commission -- 1.6 percent.

(3) Percentage of gross mutuel wagering on greyhound races payable to the Oregon Greyhound Breeders Association, Incorporated -- .5 percent for purse supplements for owners of Oregon bred greyhounds, to be apportioned among the owners, in accordance with the rules of the commission and subject to approval by the commission, in the same ratio that each owner's purses for Oregon bred greyhounds for the race meet bears to the total purses for Oregon bred greyhounds for the race meet. Subject to the prior written approval of the commission, the Oregon Greyhound Breeders Association, Incorporated, may use a portion of the funds received pursuant to this section and ORS 462.057 (1)(d)(B) to offset expenses for receipt, accounting, handling and payment of those funds.

(4) To a special fund to be used primarily for the development and operation of a training track and related facilities upon which to train greyhounds -- .1 percent. All such funds shall be retained by the licensee in a separate account from all other funds and no disbursements or transfers shall be made therefrom without prior approval of the commission. All physical improvements paid from such funds shall satisfy reasonable fire, health, quality and construction standards established or approved by the commission. Unless the commission provides otherwise, such improvements shall be made on the race course of the race meet licensee. [1969 c.356 s.8; 1975 c.550 s.4; 1977 c.855 s.8; 1979 c.698 s.3; 1981 c.544 s.6; 1987 c.413 s.21; 1993 c.682 s.3; 1996 c.15 s.1]

#### 462.070 License fees for officials, track operators and other race meet participants.

(1) The license fees for any one fiscal year shall be \$10 for any person required to be licensed under ORS 462.020 (2). For a person who qualifies for and desires a license in more than one category, the fee shall be \$2 for each additional category so licensed. Notwithstanding the foregoing, the total collective fee for all persons who act as employees of a race meet licensee at a race meet in which the average daily gross mutuel wagering during the preceding fiscal year did not exceed \$150,000 shall be \$100. The Oregon Racing Commission also may charge a reasonable fee for claiming certificates in an amount not to exceed \$10.

(2) The license fee per fiscal year for operators of public training tracks or kennels required to be licensed under ORS 462.020 (3) shall be:

(a) For the Oregon State Fair or a county or district fair, \$10.

(b) For all other operators of public training tracks or kennels, \$25.

(3) Notwithstanding the provisions of this section, on and after July 1, 1983, the commission may by rule provide for the issuance of licenses as required under subsection (1) of this section valid for one, two or three years from date of issuance. The commission may fix the expiration date thereof and charge a fee at not less than the annual rate for each year, or part thereof, the license is determined valid. [Amended by 1953 c.497 s.4; 1955 c.353 s.1; 1957 c.313 s.4; 1975 c.550 s.5; 1977 c.855 s.4; 1979 c.698 s.12; 1981 c.544 s.7; 1983 s.s. c.7 s.4; 1987 c.413 s.3]

#### 462.073 Unclaimed Winnings Account; payment of winning or refund tickets; disposition of proceeds.

(1) Every licensee who conducts a race meet shall carry on the books for each race meet an account to be known as the Unclaimed Winnings Account showing the total amount due on outstanding winning mutuel wagering tickets and refund tickets not presented for payment. All funds in the Unclaimed Winnings Account shall be retained by the licensee and deposited in a separate account from all other funds in a bank maintaining an office located in and licensed to do business in Oregon. No payments shall be made by the licensee from this account except to a person who presents a valid, clearly identifiable winning or refund ticket. A statement of the balance of the Unclaimed Winnings Account shall be furnished to the Oregon Racing Commission within 72 hours after any change in the account balance during the race meet and, after the completion of the race meet, within five days following the last day of each month in which there is any change in the account balance.

(2) Any person claiming to be entitled to any part of winnings or refunds from a mutuel wagering system operated by a licensee, who fails to claim the money due prior to the completion of the race meet at which the mutuel wagering or refund ticket was purchased, may, within 90 days after the close of the meet, file with the licensee a claim, in such form as the commission shall prescribe, accompanied by the valid

winning or refund ticket. If the claimant establishes the right to winnings or refunds from the mutuel wagering system, the licensee shall pay such moneys to the claimant. At the expiration of such 90-day period, the holder of such a winning or refund ticket shall possess no right to any portion of the wagering or refund and the ticket shall be deemed void.

(3) One hundred twenty days after the close of a race meet conducted by a licensee under this chapter, an amount equal to the outstanding balance of the Unclaimed Winnings Account shall be paid to the commission, which shall immediately deposit such moneys in the General Fund in the State Treasury to the credit of the Oregon Racing Commission Account. The licensee shall be subject to a civil penalty of not less than \$25 per day after 120 days for failure to pay moneys due to the commission in accordance with this subsection. Civil penalties under this subsection shall be imposed as provided in ORS 183.090.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section, if a continuous race meet is designated by the commission, the 90-day period referred to in subsection (2) of this section shall commence after the close of the continuous race meet at the race course.

(5) Notwithstanding the provisions of subsection (2) of this section, if the 90th day prescribed therein falls upon a Saturday, Sunday or legal holiday, then the holder shall file such claim with the licensee on the first business day thereafter.

(6) Notwithstanding the provisions of subsection (3) of this section, a race meet licensee who holds a license under ORS 462.057 shall retain that licensee's unclaimed winnings to finance physical improvements to the licensee's race course facility and enclosure. This subsection does not apply to the unclaimed winnings from those race meets which the licensee holds at the race course of a licensee who is the holder of a license under ORS 462.062 or 462.067.

(7) Notwithstanding the provisions of subsection (3) of this section, when a race meet is conducted at the state fairgrounds by a licensee of the Oregon State Fair and Exposition Center, unclaimed winnings from the race meet shall be expended for physical improvements to the race course facility and enclosure at the state fairgrounds. This subsection does not apply to unclaimed winnings from pari-mutuel wagering on races conducted pursuant to ORS 462.700 to 462.740 by a licensee of the Oregon State Fair and Exposition Center. [1969 c.356 s.37; 1975 c.549 s.10; 1981 c.544 s.8; 1983 s.s. c.7 s.5; 1989 c.357 s.1; 1991 c.734 s.31a; 1993 c.302 s.1; 1993 c.682 s.7; 1997 c.865 s.5]

#### 462.075 Grounds for refusal to issue or renew licenses; hearing.

(1) The Oregon Racing Commission may refuse to issue to or renew the license of any applicant if it has reasonable ground to believe that the applicant:

(a) Has been suspended or ruled off a recognized course in another jurisdiction by the racing board or commission thereof.

(b) Is not of good repute and moral character.

(c) Does not have, when previously licensed, a good record of compliance with the racing or gaming laws of this state or of any other state and with the rules of the commission or of any other racing or gaming commission.

(d) If the applicant is a corporation, firm or association, is not duly authorized to conduct business within the State of Oregon.

(e) If an individual, has been convicted of a crime involving moral turpitude or of any gambling or gambling-related offense, or, if a corporation, firm or association, is in whole or in part controlled or operated directly or indirectly by a person who has been convicted of a crime involving moral turpitude or of any gambling or gambling-related offense.

(f) If an individual, is engaged in wagering by other than the mutuel method or in pool selling or bookmaking in any state of the United States or foreign country or, if a corporation, firm or association, is in whole or in part controlled or operated directly or indirectly by a person who is engaged in wagering by other than the mutuel method or in pool selling or bookmaking in any state of the United States or foreign country.

(g) Has been found guilty by the commission of a violation of this chapter or any rules of the commission.

(h) Should not, in the best interest of the safety, welfare, health, peace and morals of the people of the state, be granted a license.

(2) The commission may refuse to issue or renew a license to conduct a race meet for any ground set forth in subsection (1) of this section or if it has reasonable ground to believe any of the following to be true:

- (a) That the applicant is not possessed of or has not demonstrated financial responsibility sufficient to meet adequately the requirements of the enterprise proposed to be licensed.
  - (b) That the applicant is not the true owner of the enterprise proposed to be licensed, that other persons have ownership in the enterprise which has not been disclosed or, if the applicant is a corporation, that any of the stock of such corporation is subject to a contract or option to purchase at any time during the period for which the license is issued.
  - (c) That the granting of a license in the locality set out in the application is not demanded by public interest or convenience.
  - (d) That the applicant, if a corporation, transferred any of its stock after an application for a license to hold a race meet was filed with the commission without prior commission approval. The provisions of this paragraph shall not apply to day-to-day transfers of stock of a publicly held corporation whose shares are publicly quoted and regularly traded in the market place unless the transfer, or a combination of transfers, involves a controlling interest in or affects the operational control of the corporation, or involves 10 percent or more of any class of stock of the corporation.
  - (e) That the applicant lacks, or if the applicant is a corporation, its officers, managerial employees, directors and principal stockholders lack, the requisite character, reputation, general business and managerial competence and ability, and experience in the business of racing so as to justify or command public confidence.
  - (f) That the granting of the application would adversely and unreasonably affect the economy of the State of Oregon and its people and the revenues of this state and of other beneficiaries of racing funds designated in this chapter.
- (3) The commission may refuse to issue or renew a license to any person who has made a false statement of a material fact to the commission.
- (4) The commission may refuse to issue or renew a license to any applicant for a race meet license if the applicant has failed to meet any monetary obligation in connection with any race meet held in this state.
- (5) The commission may deny a license to any applicant for a race meet license under ORS 462.067 unless the applicant for the license and the greyhound kennel owners, or their representative association, have previously agreed upon a purse schedule.
- (6) Before refusing to license any applicant for a race meet license, the commission shall afford the applicant an opportunity for hearing after reasonable notice as provided in ORS 183.310 to 183.550. When the commission refuses to license an applicant on the basis of grounds provided in subsection (1)(b), (c) or (h) of this section, the commission shall specify the particular activities that constitute the grounds for refusal and shall give the applicant written notice thereof. [1955 c.641 s.1; 1957 c.313 s.5; 1969 c.356 s.15; 1973 c.612 s.20; 1979 c.330 s.2; 1981 c.544 s.18; 1987 c.413 s.4; 1995 c.260 s.1; 1997 c.865 s.6]

#### 462.080 Exclusion of certain persons from race courses; hearing; penalty.

- (1) The Oregon Racing Commission may exclude from any and all race courses any person whom the commission deems detrimental to the best interest of racing or any person who willfully violates any provision of this chapter or any rule or order issued by the commission or any person who has been found guilty of violating any laws of this state, another state or the United States related to gambling or wagering or which adversely reflects on the person's honesty. The commission may take such action without first providing a hearing and without being subject to either criminal or civil liability. However, if no hearing is provided, then, within 10 days after the board's action and upon demand by the aggrieved party, the commission shall grant a hearing as provided in ORS 183.310 to 183.550, except that such hearing shall take place no later than 20 days following demand.
- (2) Any person who has been convicted of or who attempts or conspires to commit touting, pool selling, bookmaking, circulating handbooks or wagering by other than the mutuel method whether within or without the state hereby is deemed to be an undesirable person detrimental to the best interest of racing.
- (3) Any person who violates a rule or order of the commission or any person who fails to obey reasonable directives of the commission's security personnel or any person having been excluded by order of the commission under subsection (1) or (2) of this section or is found engaging in or attempting to engage in touting, pool selling, bookmaking, circulating handbooks or wagering by other than the mutuel method or is disturbing the peace may be ejected from the race course.

(4) A race meet licensee may eject or exclude any person from the race course for any reason and in any manner that is not contrary to law.

(5) Any of the foregoing persons who refuses to leave a race course when ordered to do so by commission inspectors or the stewards, or by any peace officer, is guilty of a misdemeanor. [Amended by 1955 c.538 s.1; 1957 c.313 s.6; 1969 c.356 s.16; 1973 c.612 s.21; 1979 c.330 s.3; 1983 s.s. c.7 s.6; 1987 c.413 s.5]

#### 462.090 Revocation, suspension and refusal to renew licenses; hearing; civil penalty.

(1) The Oregon Racing Commission may revoke, suspend or refuse to renew the license of any licensee upon any of the grounds upon which the commission could refuse to issue a license, as provided in ORS 462.075, or of any licensee who has been convicted by the commission of a violation of this chapter or any rule made pursuant thereto, or who fails to pay to the commission all sums required under this chapter.

(2) The commission may revoke, suspend or refuse to renew the license to hold a race meet of any licensee, if a corporation, which transfers any of its stock after a license to hold a race meet is issued and before the termination of the license period except as otherwise authorized in ORS 462.075 (2)(d).

(3) Notwithstanding any other provision of law, the commission or board of stewards or board of judges may suspend, prior to any hearing, the license of any person whose license has been duly suspended by an official body of another state or country for violation of the racing or gaming laws or regulations of that jurisdiction. However, at the time of the license suspension in Oregon, the person must be notified of the right to request an immediate hearing to contest the suspension.

(4) Revocation of a license shall operate as a forfeiture of all rights and privileges granted by the commission and of all sums of money paid to the commission by the offender.

(5) When grounds exist for the revocation or suspension of a license issued pursuant to this chapter, the commission may, in its discretion, impose a civil penalty, not in excess of \$1,000, on the licensee in lieu of or in addition to revoking or suspending the license. All sums paid the commission pursuant to this subsection shall be deposited as provided in ORS 462.260.

(6) Civil penalties under this section shall be imposed as provided in ORS 183.090. [Subsection (5) enacted as 1953 c.499 s.3; 1957 c.313 s.7; 1969 c.356 s.17; 1973 c.612 s.22; 1981 c.544 s.19; 1983 s.s. c.7 s.7; 1987 c.413 s.6; 1991 c.734 s.33; 1997 c.865 s.7]

#### 462.100 License fee and tax in lieu of all others; exception.

(1) The State of Oregon hereby preempts the imposition of taxes on or measured by income on, and the regulation of, race meets.

(2) Except for taxes levied under ORS 267.010 to 267.390, the license fee and tax provided in this chapter for a race meet licensed thereunder shall be in lieu of:

(a) All other licenses and privilege taxes or charges by the state or any county, city or other municipal corporation; and

(b) All other taxes on or measured by income imposed by any county, city or other municipal corporation. [Amended by 1973 c.583 s.1; 1987 c.655 s.1]

#### 462.110 Public liability insurance required; bond of licensee; actions on bond; insurance.

(1) For the protection of the public, and all members thereof, the exhibitors and visitors, every race meet licensee shall carry public liability insurance written on an approved form by a company licensed to do business in Oregon and in an amount approved by the Oregon Racing Commission.

(2) Every person licensed to conduct a race meet shall provide and deliver to the commission a bond signed by a surety company authorized to do business in Oregon in such form as is required by the commission and in an amount determined by the commission. The bond shall be conditioned that the licensee will pay to the state all moneys due it under this chapter, including moneys which escheat pursuant to ORS 462.073 and any fines imposed by any court or by any state agency; to horsemen or greyhound owners, all moneys owing and all moneys required to be paid for breakage, purses and Oregon-bred purse supplements; to persons presenting valid winning tickets, the amounts owing to them; and to the special track fund or training track fund, all moneys required to be paid to those funds by statute or rule. In lieu of a surety bond

the commission may accept a certificate of deposit, an irrevocable letter of credit, or equivalent which will assure that the obligations described above are paid, up to the designated amount.

(3) The Attorney General or the district attorney of the county wherein the race meet is held shall prosecute all actions on such bonds on behalf of the state.

(4) Any person having a claim against the licensee for any obligation covered by the bond or bond substitute, except cause of action covered by public liability insurance, may prosecute the same in an action in behalf of the claimant brought in the name of the state for the use and benefit and at the expense of such claimant. The court may award reasonable attorney fees to the prevailing party in an action under this subsection. If the amount of the bond or bond substitute is insufficient to cover all obligations, amounts owing to and for the benefit of the state pursuant to ORS 462.073 (3) shall have priority over any other claims. No action may be brought for recovery on the bond or bond substitute unless written notice of the claim is made to the commission and to the race meet licensee within 120 days after the last day of the race meet or continuous race meet in which the obligation arose. The notice must be by registered mail, certified mail with return receipt or personal service to the licensee or to the licensee's registered agent. Any action for recovery on the bond or bond substitute must be brought no earlier than 60 days and no later than 180 days after service of the written notice on the race meet licensee or on the licensee's registered agent. These limitations shall not apply to claims for valid winning tickets if the claimant has made a timely claim pursuant to ORS 462.073 (2).

(5) Every person licensed to conduct a race meet for horses shall carry insurance to protect jockeys and, if appropriate, drivers. The type, form and amount of insurance, and the carrier, must be approved by the commission. [Amended by 1957 c.313 s.8; 1969 c.356 s.18; 1975 c.549 s.11; 1981 c.897 s.53; 1983 s.s. c.7 s.8; 1985 c.48 s.1; 1991 c.249 s.38; 1995 c.618 s.73]

**462.120** [Amended by 1955 c.468 s.1; 1961 c.203 s.1; 1969 c.93 ss.1, 2; repealed by 1969 c.356 s.38]

462.125 Commission to determine number and classes of race meets; limitation; unused race days.

(1) The Oregon Racing Commission shall determine the number and classes of race meets to be held in any fiscal year, and the total number of racing dates to be granted to a licensee subject to provisions of ORS 462.062 and 462.067.

(2) Not more than 350 days of racing, exclusive of racing days authorized to designated licensees pursuant to subsections (4) and (5) of this section, shall be held in any metropolitan area in any fiscal year. Race days shall be allocated to race meets for horses (class A) and to race meets for greyhounds (class B) in a manner not inconsistent with allocations made by the commission for calendar years 1992 and 1993. However, not fewer than nine live races must occur on 40 percent of all days on which the commission authorizes pari-mutuel wagering for horse races, or on 80 days, whichever is greater. None of the days allocated in any metropolitan area to race meets for horses and to race meets for greyhounds shall overlap. Notwithstanding the race days allocations required by this subsection, if a licensee fails, for good cause, to complete all of the allocated days in a licensed race meet or if the commission does not receive and approve license applications for all of the days allocated to either class of racing, the commission may add the unused or unallocated days no later than June 30 of the following fiscal year, to the racing days allocated to and available to the licensee or, in the discretion of the commission, to any other licensee of either class of racing in the metropolitan area. However, the additional racing days granted by the commission to any eligible licensee shall not exceed the total of the unused or unallocated racing days in any one fiscal year. However, if an emergency occurs on the day of racing, and a night racing program should run past the hour of midnight, such time after midnight shall not be considered an additional racing day.

(3) As used in subsection (2) of this section, "metropolitan area" means:

(a) Multnomah, Clackamas and Washington Counties.

(b) Marion and Polk Counties.

(c) Linn and Benton Counties.

(d) A county other than those designated in paragraphs (a), (b) and (c) of this subsection.

(4) Each licensee designated in ORS 462.057 may be granted up to 12 days of horse, mule or greyhound racing to be held within the county in which the licensee holds its fair or show or at a race course owned by a governmental agency or a nonprofit corporation in an adjoining county. If a licensee does not use all of its allocated race days during the fiscal year, the commission, in its discretion, may allow that licensee to use the leftover days in the next fiscal year. If a licensee referred to in this subsection wishes to make application to the commission to schedule racing days that conflict with racing days previously scheduled by another such licensee, at least 30 days prior to the date of a meeting of the commission, the governing bodies of the applicant and the previous licensee shall meet at a time and place prescribed by the previous licensee to discuss the applicant's proposed racing day schedule. The conclusion of the parties regarding the proposals for conflicting racing days and the matters upon which the parties agree or disagree shall be reduced to writing signed by the parties and submitted to the commission not later than 14 days prior to a meeting of the commission. The commission may approve or disapprove proposals for conflicting racing days upon such terms and conditions as the commission considers appropriate.

(5) The Oregon State Fair may be granted up to 65 days of racing to be held at the state fairgrounds. Such racing shall be sponsored by the Oregon State Fair and the net licensee income of the meet shall be used only for Oregon State Fair programs or capital improvements. The commission shall schedule days of racing for the Oregon State Fair in such manner as to avoid conflict with other race meets previously licensed under ORS 462.057. The Oregon State Fair shall make payments as specified in ORS 462.057 (1).

(6) No license shall be granted for any race meet within a county for dates which conflict with racing dates granted to the county fair of such county. [1969 c.356 s.9; 1973 c.541 s.2; 1975 c.105 s.1; 1975 c.550 s.6; 1979 c.330 s.4; 1979 c.698 s.13a; 1981 c.544 s.9; 1983 s.s. c.7 s.9; 1985 c.675 s.8; 1987 c.413 s.7; 1989 c.210 s.1; 1993 c.682 s.5]

#### 462.127 Oregon Quarterhorse Association and Oregon Division Horsemen's Benevolent and Protective Association racing; exception to ORS 462.125.

Notwithstanding any other provision of this chapter:

(1) The Racing Division of the Oregon Quarterhorse Association, Incorporated, and the Oregon Division Horsemen's Benevolent and Protective Association, may each be granted up to 15 days of racing per fiscal year at locations approved by the Oregon Racing Commission. Such racing will be sponsored by the Racing Division of the Oregon Quarterhorse Association, Incorporated, or the Oregon Division Horsemen's Benevolent and Protective Association, and the net licensee income shall be used only for the payment of purses to horsemen participating at the meeting. The commission shall schedule the racing for the Racing Division of the Oregon Quarterhorse Association, Incorporated, and the Oregon Division Horsemen's Benevolent and Protective Association, in such a manner as to avoid conflict with other race meets previously licensed under ORS 462.057. The Racing Division of the Oregon Quarterhorse Association, Incorporated, and the Oregon Division Horsemen's Benevolent and Protective Association, shall make payments as specified in ORS 462.057 (1).

(2) Racing days granted pursuant to this section shall not be included in the number of racing days counted for purposes of the 160-day limitation referred to in ORS 462.125 (2). [1979 c.698 s.9; 1981 c.544 s.10; 1985 c.54 s.1]

#### 462.130 Oregon bred horse races.

For the purpose of encouraging the breeding and enhancing the quality, within the state, of thoroughbred race horses, at least one race of each day's meet shall consist exclusively of Oregon bred thoroughbred horses. [Amended by 1981 c.544 s.11]

#### 462.135 Oregon bred greyhound races.

For the purpose of encouraging greyhound breeding within the state and enhancing the quality of Oregon bred greyhounds, all licensees of race meets for greyhounds shall conduct at least one race consisting exclusively of Oregon bred greyhounds at each live racing performance. If there is not a sufficient number of qualifying Oregon bred greyhounds to fill the Oregon bred greyhound race for a performance as required by this section, the licensee may enter other greyhounds in the race in addition to the available qualifying

Oregon bred greyhounds. As used in this section, "performance" means a card or a single set of races.  
[1993 c.682 s.11]

#### 462.140 Prohibitions concerning bookmaking, betting; track take; computation, use of breaks.

(1) No person shall conduct or commit, attempt or conspire to conduct or commit pool selling, bookmaking, or circulate handbooks, or bet or wager on any licensed race meet, other than by the mutuel method. All moneys wagered in Oregon must be accounted for through a computerized mutuel wagering system in use by an operating race meet in this state and approved by the Oregon Racing Commission. Wagering into pools outside of Oregon via telephone or other device is prohibited unless the wagering information is transmitted by a licensee that conducts off-race course mutuel wagering pursuant to ORS 462.700 to 462.740.

(2) Except for the Oregon State Fair and Exposition Center, no race meet licensee shall take more than 22 percent of the gross receipts of any mutuel wagering system subject to approval by the commission. The Oregon State Fair and Exposition Center may take up to a maximum of 19 percent from gross mutuel wagering requiring the selection of fewer than three separate wagering interests and up to a maximum of 25 percent from gross mutuel wagering requiring the selection of three or more separate wagering interests.

(3) A race meet licensee shall compute breaks in the mutuel system at 10 cents for each dollar wagered in a specific mutuel pool except, when the breaks in the mutuel system compute to less than 10 cents total for each dollar wagered, the race meet licensee shall compute the breaks on that specific mutuel pool at five cents. When the breaks in the mutuel system compute at 10 cents or more for each dollar wagered, the race meet licensee shall pay in increments of 10 cents for each dollar wagered. When the breaks in the mutuel system compute to less than 10 cents for each dollar wagered, the race meet licensee shall pay five cents for each dollar wagered. For horses, 45 percent of the breaks shall be retained by the licensee. For greyhounds, 33-1/3 percent shall be retained by the licensee. The other 55 percent for horses and 66-2/3 percent for greyhounds shall be paid as follows:

(a) For thoroughbred horse races, to the Oregon Thoroughbred Breeders Association, Incorporated, to be used by that association subject to prior approval of the commission, in such amounts and for such of the following purposes as the association deems desirable:

(A) For breeders awards;

(B) For stallion awards;

(C) For education of the members of the association and other horsemen regarding the breeding and racing of thoroughbred horses; or

(D) For the promotion and development of thoroughbred horse breeding and racing in Oregon.

(b) For quarterhorse races, to the Racing Division of the Oregon Quarterhorse Association, Incorporated, to be used by that association subject to prior approval of the commission, in such amounts and for such of the following purposes as the association deems desirable:

(A) For breeders awards;

(B) For stallion awards;

(C) For education of the members of the association and other horsemen regarding the breeding and racing of quarterhorses; or

(D) For the promotion and development of quarterhorse breeding and racing in Oregon.

(c) For races for any other horses not designated in paragraphs (a) and (b) of this subsection, to each association of horsemen recognized by the commission as representing the other breeds of horses, to be used by that association subject to prior approval of the commission, in such amounts and for such of the following purposes as each recognized association deems desirable:

(A) For breeders awards;

(B) For stallion awards;

(C) For education of the members of the association and other horsemen regarding the breeding and racing of horses; or

(D) For the promotion and development of horse breeding and racing in Oregon.

(d) By a licensee of a race meet for greyhounds:

(A) One-half thereof to augment purses subject to reasonable regulations prescribed by the commission.

(B) The other one-half thereof for benefit and improvement of the breeding, ownership, training and racing of greyhounds in Oregon, subject to reasonable regulations prescribed by the commission. Included, but not

by way of limitation, would be payment of purses for maiden graduation or special schooling races without wagering, and construction and operation of one or more appropriate public training facilities within the state. All such funds shall be retained by the licensee in an account separate from all other funds, and no disbursements or transfers shall be made therefrom without prior approval of the commission. [Amended by 1955 c.456 s.1; 1957 c.313 s.9; 1965 c.627 s.1; 1969 c.356 s.19; 1975 c.550 s.7; 1977 c.855 s.5; 1979 c.698 s.4; 1981 c.544 s.12; 1985 c.675 s.7; 1987 c.413 s.20; 1993 c.682 s.6; 1997 c.865 s.8]

#### 462.142 Account wagering; rules; limitations.

(1) In addition to mutuel wagering otherwise authorized by this chapter, account wagering may be conducted upon such conditions as the Oregon Racing Commission determines appropriate. The commission may authorize only a race meet licensee who is the holder of a license issued under ORS 462.057, 462.062 or 462.067 to conduct account wagering.

(2) As used in this section, "account wagering" means a form of mutuel wagering in which an individual may deposit money in an account with a race meet licensee and then use the account balance to pay for mutuel wagering conducted by the licensee. An account wager may be made in person, by direct telephone call or by communication through other electronic media by the holder of the account to the race course. [1997 c.865 s.15]

#### 462.145 Handicapping contests.

Notwithstanding ORS 167.117 to 167.164, a race meet licensee, with the prior approval of the Oregon Racing Commission, may conduct handicapping contests for race meet patrons. Such contests may include, but are not limited to, competitions for prizes for the highest percentage of correct selection of the order of finish of animals from among predetermined races that are live races conducted at the licensee's race course or simulcast races offered by the licensee, or any combination thereof. Prizes offered for handicapping contests are not part of the pari-mutuel wagering system. [1993 c.682 s.12]

#### 462.150 Regulation of underpayments; effect of government tax.

(1) If during any race meet conducted under this chapter, there is an underpayment of the amount actually due to any wagerer, the amount of such underpayment shall revert and belong to the state and be paid to the Oregon Racing Commission and become a part of its fund and shall not be retained by the licensee under whose license such race is held.

(2) However, if any government or governmental agency imposes a levy on the licensee, by a tax on the money so wagered and upon or against its receipts, the licensee may collect in addition to the percent and the breaks allowed under ORS 462.140 (2), the amount of the tax so levied. [Amended by 1969 c.356 s.20]

#### 462.160 When race meet is a nuisance.

Every race meet held in this state contrary to this chapter is declared to be a public nuisance and may be summarily abated. [Amended by 1969 c.356 s.21]

#### 462.170 Commission rules apply to county fairs; enforcement.

The rules of the Oregon Racing Commission shall apply to all race meets held by county fair associations and shall be enforced by the officers of each association as to race meets held on its grounds. [Amended by 1955 c.468 s.2; 1957 c.313 s.10; 1969 c.356 s.22]

#### **462.180** [Repealed by 1969 c.356 s.38]

462.185 Issuance of licenses to animal owners or trainers; conditions; revocation.

(1) The Oregon Racing Commission may require as a condition for the issuance of a license to an animal owner or trainer that the owner or trainer establish to the satisfaction of the commission that the owner or trainer:

(a) Is contributing to the State Industrial Accident Fund and is complying with the provisions of ORS chapter 656 with respect to the occupation as an animal owner or trainer; or

(b) Has purchased and has in force a policy of insurance affording the employees of the owner or trainer in the occupation as an animal owner or trainer substantially the same protection and benefits as are available under ORS chapter 656.

(2) If the commission requires contribution to the State Industrial Accident Fund or insurance, as provided in subsection (1) of this section, failure of the licensee to continue contribution or to keep such insurance in force is ground for revocation of the license of the licensee. [1957 c.313 s.16; 1977 c.855 s.6]

462.190 Restrictions on minors; selling wagering tickets to minors or visibly intoxicated persons.

(1) No person under 18 years of age shall enter upon a race course at any time where races are being conducted in which wagering is permitted, except:

(a) When accompanied by a person 18 years of age or older who is the person's parent, guardian or spouse; or

(b) When persons 14 years of age or older are in the performance of a duty incident to employment.

(2) Notwithstanding subsection (1) of this section, no person under 12 years of age shall after 6 p.m. enter upon a race course where races are being conducted in which wagering is permitted, except this section shall not apply to any annual state or county fair or fair-type exposition on the same premises where a race meet is being conducted by the same licensee.

(3) No person under 18 years of age shall, except when in the performance of a duty incident to employment, loiter in the wagering area of a race course. The Oregon Racing Commission shall designate and require the marking of the wagering area at each race course.

(4) No licensee conducting a race meet shall sell a mutuel wagering ticket or receipt to a person under 18 years of age or to a person who is visibly intoxicated.

(5) No person shall purchase a mutuel wagering ticket or receipt for or on behalf of a person under 18 years of age. [1957 c.313 s.17; 1973 c.827 s.45; 1979 c.698 s.5; 1983 s.s. c.7 s.11; 1997 c.865 s.9]

462.195 Written statement of age from purchaser of mutuel wagering ticket or receipt.

(1) A licensee conducting a race meet, before selling a mutuel wagering ticket or receipt to any person about whom there is any reasonable doubt of the person having reached the age of 18 years, shall require such person to make a written statement of age and furnish evidence of the true age and identity of the person. The written statement of age shall be on a form furnished by the Oregon Racing Commission, substantially as follows:

Date \_\_\_\_\_

I am 18 years of age or over.

\_\_\_\_\_  
Signature

Evidence in support of age and identity:

Driver's License No. \_\_\_\_\_ (\_\_\_\_\_)

State

Military Record No. \_\_\_\_\_

Liquor Permit No. \_\_\_\_\_

Other \_\_\_\_\_

(Fill in license or card number of any one or more of above)

\_\_\_\_\_

(2) A licensee who, in good faith and with reasonable cause to believe in its truth, accepts a written statement of age, as provided in subsection (1) of this section, may rely on the truth of the statement as conclusive evidence of the age of the person by whom it is signed.

(3) No person shall make a statement of age, as provided in subsections (1) and (2) of this section, that is false in whole or in part, or produce any evidence that would falsely indicate his or her age. [1957 c.313 ss.18, 19; 1973 c.827 s.46]

462.200 Tests of animals participating in race meets or persons required to be licensed; costs.

(1) The Oregon Racing Commission by rule may require that chemical analysis be made of the urine, saliva, blood or other body substances of animals participating in race meets or persons required to obtain a license pursuant to this chapter. The cost of such a test shall be paid by the commission.

(2) The costs of photo patrol of races which the commission may require to assist the stewards in resolving disputes or claims or as being in the public interest, including the cost of the photo finish, shall be an expense of the commission. [1957 c.313 s.20; 1969 c.356 s.23; 1979 c.698 s.6; 1987 c.413 s.8]

## **OREGON RACING COMMISSION**

462.210 Oregon Racing Commission; appointment; confirmation.

(1) There is created the Oregon Racing Commission to consist of five commissioners who shall be citizens, residents and electors of this state.

(2) Upon the expiration of the term of any member the Governor shall appoint a successor for a term of four calendar years and until the successor is appointed and qualified.

(3) All appointments of members of the commission by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution. [Amended by 1973 c.792 s.16; 1981 c.544 s.13]

462.220 Compensation and expenses of members.

The members of the Oregon Racing Commission are entitled to compensation and expenses as provided in ORS 292.495. [Amended by 1969 c.314 s.49]

462.230 Vacancies and removal.

(1) Vacancies in the office of commissioner shall be filled by appointment to be made by the Governor for the unexpired term.

(2) Any commissioner may be removed by the Governor for cause after a public hearing. Notice of the hearing shall fix the time and place for the hearing and shall specify the charges. Copy of the notice shall be served on the commissioner by mailing it to the commissioner at the last-known address of the commissioner at least 10 days before the date fixed for the hearing.

462.240 Oath of office.

Each member of the Oregon Racing Commission shall take and subscribe to an oath of office of the same form as that prescribed by law for the elective state offices. [Amended by 1969 c.356 s.24; 1987 c.413 s.17; 1997 c.865 s.10]

462.250 Organization of commission; employees of commission and appointed officials to conduct race meets; commission to fix compensation; rules and regulations.

(1) The Oregon Racing Commission shall organize by electing one of its members chairperson and one vice chairperson.

(2) The commission shall appoint an executive director, who may be a member of the commission or an employee of the commission in another capacity, a chief state steward and such other employees as are necessary in the performance of the commission's duties. The commission shall fix, within the limits provided by law, and pay the compensation of the executive director and shall fix and pay the compensation of the chief state steward and other employees of the commission.

(3) The commission shall appoint for each race meet stewards, deputy stewards, stewards' reporters, auditors, judges, inspectors, security personnel, chemists, veterinarians, plate inspectors and such other officials as are necessary for the proper conduct of the race meet. The duties of such officials shall be fixed by the commission and their compensation shall be paid by the commission or the race meet licensee, as the commission may prescribe by regulation. The compensation of officials paid by the commission shall be reasonable and shall be fixed by the commission. In fixing such compensation, the commission shall take into account the compensation customarily paid like officials at race meets of a similar type and size. The officials appointed by the commission under this subsection shall not be subject to the State Personnel Relations Law.

(4) The commission may combine in a single person the duties of one or more employees or officials, as efficiency and economy may require.

(5) The commission shall appoint a board of stewards for each race meet.

(a) The board shall consist of the chief state steward, ex officio, and not more than four other persons. For any race meet, the commission may appoint a deputy state steward to act in behalf or as assistant to the chief state steward. The compensation of the chief state steward and deputy state stewards shall be paid by the commission; the compensation of the other stewards shall be paid by the race meet licensee.

(b) The chief state steward, or in the absence of the chief state steward the deputy state steward, shall preside over the board of stewards. The board of stewards shall, under the supervision and direction of the commission, enforce the provisions of this chapter, the rules and regulations of the commission and the customs of the course at the race meet for which it is appointed, and in such enforcement may exercise such power and authority of the commission as the commission may by regulation prescribe.

(6) The commission shall prescribe rules and regulations not inconsistent with the provisions of this chapter. [Amended by 1955 c.640 s.1; 1957 c.313 s.11; 1969 c.356 s.25; 1987 c.413 s.16]

#### 462.260 Oregon Racing Commission Account; office, records and annual report of commission.

(1) All money payable to the Oregon Racing Commission shall be deposited in the General Fund in the State Treasury to the credit of the Oregon Racing Commission Account. This account is appropriated continuously to the commission for the purposes authorized by law.

(2) The commission may maintain an office and shall keep detailed records of all meetings and of all business transacted, and of all the collections and disbursements, reports of which shall be embodied in an annual report which the commission shall prepare, publish and submit to the Governor and members of the legislature on or before January 31 of each calendar year. This report shall cover the activities of the commission for the preceding fiscal year.

(3) After payment of all current expenses of the commission, the amount remaining in the account shall be credited to the General Fund for general governmental expenses. [Amended by 1961 c.488 s.2; 1975 c.549 s.14; 1981 c.544 s.14; 1993 c.682 s.4]

#### 462.265 Commission subject to state budget procedures and laws governing supervision of expenditures.

(1) The Oregon Racing Commission is subject to the provisions of ORS 291.201 to 291.222, including but not limited to the provisions of those sections relating to changes and revisions by the Governor in budget estimates and requests.

(2) The commission and its officers and employees are subject to the provisions of ORS 291.232 to 291.260 and 291.990. [1959 c.284 ss.1, 2; 1969 c.356 s.35]

#### 462.270 Duties of commission.

(1) The Oregon Racing Commission shall license, regulate and supervise all race meets held in this state and cause the various places where race meets are to be held to be visited and inspected at least once each fiscal year.

(2) The commission shall be the sole judge of whether or not a race meet shall be licensed. The application for a race meet license shall specify the duration of each race meet, the number of race days the race meet shall continue and the number of races per day. The commission, in its sole discretion, is authorized either to accept or reject any application for a race meet license, and the decision of the commission is a final order which can be contested only on the basis that the commission abused its discretionary authority.

(3) The commission shall prepare and promulgate a complete set of rules to govern the race meets in every phase of operation consistent with the provisions of this chapter, public safety, health, welfare and any other matter pertaining to the good conduct of racing and shall make rules to govern public training tracks consistent with this chapter and with public health, safety, welfare, humane practices, and any other matter pertaining to the good conduct of racing. The commission shall also prepare and promulgate rules for the conduct of hearings held and shall establish the procedure to be followed in accordance with the Administrative Procedures Act then in effect.

(4) The commission shall announce the place, the number of race days and dates and duration of each race meet for which license fees shall be exacted. [Amended by 1953 c.497 s.4; 1955 c.455 s.1; 1981 c.544 s.20]

#### 462.272 Power of commission to administer oaths, take depositions, issue subpoenas.

(1) In administering the provisions of this chapter, any member of the Oregon Racing Commission, or an agent authorized by the commission, has power on behalf of the commission to:

(a) Issue subpoenas for the attendance of witnesses and the production of books, records and documents relating to matters before the commission.

(b) Administer oaths.

(c) Take or cause to be taken depositions within or without this state, as provided by law.

(2) The commission, upon request of any person interested in a matter before the commission, may issue subpoenas for the attendance of witnesses or the production of books, records or documents on behalf of such person.

(3) The commission's subpoenas may be served by any person appointed by the commission. They shall be served, and witness fees and mileage shall be paid, as provided in ORS 44.415 (2).

(4) If a person refuses to attend to give testimony or to produce books, records or documents, pursuant to a subpoena issued by the commission, the circuit court of the county where attendance is required, upon application of the commission, shall compel obedience to the subpoena and shall punish refusal to obey or to testify in the same manner as is punished a refusal to obey a subpoena or to testify pursuant to a subpoena issued from the circuit court. [1957 c.313 s.13; 1987 c.413 s.9; 1989 c.980 s.14a]

#### 462.273 Prohibited activities of commission, staff and family members.

No member, employee or appointee of the Oregon Racing Commission, or the immediate family member of such a person, may:

(1) Own or have any other financial interest in any animal participating in any race meet in Oregon.

(2) Own or have any other financial interest in any race meet, public training track or race course in Oregon.

(3) Bet or wager, in any manner, on any race meet held under the license and supervision of the commission if such individual acts in an official capacity in connection with that race meet. [1961 c.632 s.2; 1969 c.356 s.36; 1979 c.330 s.5; 1987 c.413 s.10]

#### 462.275 Commission activities concerning betterment of racing; establishment of library.

The Oregon Racing Commission may:

(1) Cooperate with the racing commissions or boards of other jurisdictions and with racing organizations in enforcing laws regulating racing, in exchanging information relating to racing, in studying and detecting drugs and in carrying out programs for the betterment of racing.

(2) Establish a library of materials relating to racing, and for that purpose accept gifts of books, periodicals and library equipment. [1957 c.313 s.15]

#### 462.277 Service and execution of warrants of arrest and search warrants.

Enforcement agents, designated as such by the Oregon Racing Commission, shall have the authority to serve and execute warrants of arrest and search warrants in the manner provided by law. [1957 c.313 s.14; 1987 c.413 s.11]

#### 462.280

[Amended by 1955 c.20 s.1; 1955 c.642 s.2; 1959 c.279 s.1; 1961 c.488 s.3; 1963 c.495 s.1; 1967 c.275 s.3; 1969 c.298 s.1; 1971 c.688 s.1; 1975 c.550 s.9; 1977 c.281 s.4; 1977 c.855 s.7; 1979 c.698 s.7; 1981 c.544 s.15; 1983 s.s. c.7 s.12; 1987 c.413 s.12; repealed by 1993 c.682 s.13]

#### 462.290

[Amended by 1963 c.495 s.2; 1969 c.298 s.16; 1971 c.688 s.4; 1975 c.550 s.10; 1977 c.281 s.6; 1977 c.855 s.17; 1987 c.413 s.13; repealed by 1993 c.682 s.13]

#### 462.295

[1963 c.495 s.4; 1965 c.513 s.1; 1967 c.275 s.1; 1969 c.298 s.17; 1971 c.688 s.5; 1975 c.550 s.11; 1977 c.281 s.7; 1977 c.855 s.17a; 1981 c.41 s.2; 1987 c.413 s.14; repealed by 1993 c.682 s.13]

#### 462.300

[1955 c.328 ss.1, 2, 3; 1957 c.475 s.1; 1963 c.495 s.3; 1969 c.298 s.18; 1971 c.688 s.6; 1975 c.536 s.1; 1975 c.550 s.12; 1977 c.281 s.8; 1977 c.774 s.25; 1977 c.855 s.18; 1983 s.s. c.7 s.13; 1987 c.413 s.15; repealed by 1993 c.682 s.13]

## **GENERAL REGULATIONS RESPECTING ANIMAL RACING**

#### 462.405 Board of stewards' authority; sanctions; review of actions by commission; hearing.

(1) The board of stewards appointed by the Oregon Racing Commission for a race meet may, after an inquiry and hearing, impose appropriate sanctions for failure to comply with the laws and rules of racing and with the authorized commission or board directives applicable to said race meet, subject to the following limitations:

(a) No fine shall exceed \$500 per offense.

(b) No license suspension shall be for a period longer than 365 calendar days from the date of issuance of the order of the board of stewards.

(2) Any sanction imposed by the board of stewards shall take effect on the date so indicated in the board's ruling unless the effective date is stayed for good cause shown by specific order of the executive director of the commission, or a member of the commission, pending commission review.

(3) In lieu of the board of stewards conducting any inquiry and hearing provided for by subsection (1) of this section, the board of stewards may request the commission to appoint and designate a person to conduct such inquiry and hearing who shall be known as a hearings master. The hearings master shall have the same authority and power as the board of stewards in conducting the inquiry and hearing. Any person adversely affected by any hearings master ruling has the right to appeal to the commission as provided for in subsection (4) of this section.

(4) The board of stewards may refer any matter before it to the commission for appropriate review or action either before or after a board hearing or ruling. A person adversely affected by any board ruling has the right to appeal to the commission for a review and hearing as provided in ORS 183.310 to 183.550. Such review shall be perfected by filing a written notice of appeal with the executive director within 10 days after the board ruling is issued. The commission is not limited in its actions or in the sanctions it may impose by any ruling of the board or by any limitation imposed upon the board by commission rule or regulation or by subsection (2) of this section. [1969 c.356 s.3; 1973 c.612 s.23; 1977 c.855 s.11; 1981 c.544 s.16; 1987 c.413 s.18; 1989 c.357 s.2; 1997 c.865 s.11]

**462.410** [1953 c.498 s.1; repealed by 1969 c.356 s.38]

**462.415** Animals that may be barred from races; prohibited acts.

(1) No animal is entitled to participate in any race if:

(a) It has been administered any drug after entry in the race.

(b) It possesses in its system, on race day, either prior to or at the time of the race any drug detected by any of the testing methods approved by the Oregon Racing Commission or customarily employed in the testing of urine, saliva, blood or other samples from racing animals.

(c) Its performance was stimulated, depressed or otherwise affected in any manner by use prior to or during the race of any electrical, mechanical or other device not sanctioned by the commission.

(d) It fails to satisfy all of the conditions of the race prescribed by the racing secretary.

(2) No person shall enter or allow to be entered in any race any animal if the person knows, or by exercise of reasonable diligence should have known, that its participation is prohibited under subsection (1) of this section.

(3) A trainer, upon entering an animal and allowing it to participate in a race, represents that the animal is in a fit condition and that its participation is not prohibited under subsection (1) of this section. The trainer is responsible for and the absolute insurer of the condition of the animal regardless of the acts of third parties.

(4) An animal which participates in violation of subsection (1) of this section shall be disqualified and the order of finish revised. If the animal is disqualified, its owner shall not share or participate in any purse, earnings, trophies or other emoluments of the race. Any revision in the order of finish after a race has been declared "official" by the stewards shall not affect the mutuel payoff to the public.

(5) Notwithstanding this section or any other section in this chapter, the commission may, by rule, adopt a medication program subject to commission control and supervision that it finds to be in the best interest of racing. Notification to the public that an animal is currently using a drug shall be left to the discretion of the commission.

(6) Testing of samples from racing animals may be performed only at laboratory facilities certified by the commission as having the capability to provide timely, accurate test results.

(7) Notwithstanding any other provision of this chapter, the commission, by rule, may adopt tolerances for medication, or residues thereof, that may be detected through tests approved under subsection (6) of this section. [1969 c.356 s.4; 1975 c.550 s.8; 1977 c.855 s.12; 1989 c.357 s.3; 1991 c.472 s.1]

**462.417** Schedule of purses to have prior approval of commission.

The schedule of purses to be paid during a race meet, including the number of animals sharing in the purse of a race, shall be fair and reasonable. The purse schedule must be submitted to and approved by the Oregon Racing Commission prior to commencement of the race meet. [1969 c.356 s.2]

**462.420** Stimulating or depressing participating animal prohibited.

No person shall stimulate or depress any animal involved in any race or otherwise affect in any way the animal's ability to perform therein, either prior to or during a race, by the administration of drugs or by the

use of any electrical device or equipment or by any mechanical or other device not sanctioned by the Oregon Racing Commission. [1953 c.498 s.3; 1969 c.356 s.30]

**462.430 Prohibitions concerning influencing results of races.**

(1) No person shall influence or conspire or attempt to influence or conspire with any other person to affect the result of any race in which an animal participates by stimulating or depressing any animal involved in such race or otherwise affecting in any way the animal's ability to perform therein, either prior to or during a race, through the administration of any drug to such animal, or by the use of any electrical device or equipment or by any mechanical or other device not sanctioned by the Oregon Racing Commission.

(2) Possession, within the confines of a race course, of any electrical device or equipment or of any mechanical or other device not sanctioned by the commission, either prior to, during or after a race, by a person associating with a racing animal, shall be deemed as attempting to affect the result of any race.

(3) No person shall possess, transport or use, within the confines of a race course, any syringe or needle used for medication purposes or any electrical, mechanical or other device, unless sanctioned by the commission or the stewards, which could affect the racing performance of an animal. [1953 c.498 s.2; 1969 c.356 s.31; 1977 c.855 s.13]

**462.440** [1953 c.498 s.4; repealed by 1969 c.356 s.38]

**462.450 Regulation of possession, transportation or use of drugs at race course.**

(1) No person shall possess, transport or use any drug within the confines of a race course, except upon a bona fide veterinarian's prescription with a complete statement of the uses and purposes of such prescription upon the container of such prescription.

(2) A copy of such prescription shall be filed with the Oregon Racing Commission veterinarian of the race meet, and such prescription shall be used only with the approval of the said commission veterinarian. [1953 c.498 s.7; 1969 c.356 s.32; 1975 c.549 s.16; 1979 c.698 s.14]

**462.460 Racing animal under name or designation other than registered name or designation or altering license prohibited.**

(1) No person shall knowingly enter or race any animal in any race under any name or designation other than that name or designation assigned to such animal by and registered with such club or association or other governing body recognized by the Oregon Racing Commission for such purpose.

(2) No person shall knowingly alter, modify or change any license issued by the commission, or knowingly possess any license issued by the commission which has been altered, modified or changed.

(3) No person shall knowingly aid, abet, counsel, instigate, engage in or in any way further any act by which a license issued by the commission is altered, modified or changed. [1953 c.498 s.5; 1981 c.544 s.17]

**462.470 Aiding or abetting the racing of an animal under name or designation other than registered name or designation prohibited.**

No person shall aid, abet, counsel, instigate, engage or in any way further any act by which any animal is entered or raced in any race under any name or designation other than that name or designation assigned to such animal by and registered with such club or association or other governing body recognized by the Oregon Racing Commission for such purpose. [1953 c.498 s.6]

**462.510 Demand or acceptance of compensation for furnishing racing information as touting; how predictions on race outcome may be sold.**

(1) Any person who attempts to, or does persuade, procure or cause another person to wager on an animal participating in a race, and upon which money is wagered, and who asks or demands, or accepts compensation as a reward for information or purported information given in such case is a tout, and is guilty of touting.

(2) Predictions on the outcome of horse races and greyhound races may be sold on the licensee's premises in accordance with rules promulgated by the Oregon Racing Commission. [1953 c.499 s.1; 1975 c.549 s.17]

**462.520** Penalty for falsely using name of racing official as source of information in commission of touting.

Any person who in the commission of touting falsely uses the name of any official of the Oregon Racing Commission, its inspectors or attaches, or of any official of any race track association, or the names of any owner, trainer, jockey or other person licensed by the commission as the source of any information or purported information is guilty of a misdemeanor. [1953 c.499 s.2; 1969 c.356 s.33]

**462.530** [1953 c.499 s.4; repealed by 1969 c.356 s.38]

## **OFF-RACE COURSE MUTUEL WAGERING**

**462.700** Authorization; procedure.

In addition to mutuel wagering authorized by this chapter to be conducted upon the premises of a race course, off-race course mutuel wagering may also be conducted in accordance with ORS 462.700 to 462.740 and the rules adopted pursuant thereto. [1987 c.913 s.2]

**462.710** Application; contents; conditions; revocation of authority.

(1) Any race meet licensee may make written application to the Oregon Racing Commission for the conduct of off-race course mutuel wagering:

- (a) On races held at the licensee's race course; or
- (b) On races held at race courses outside this state.

(2) The application shall be in such form, shall contain such information and shall be submitted at such time and in such manner as the commission may require. Information required by the commission may include, but is not limited to, a description of the facilities, equipment and method of operation whereby the applicant proposes to conduct off-race course mutuel wagering activities.

(3) The commission shall authorize off-race course mutuel wagering upon such terms and conditions regarding the time, location and manner of operation as the commission considers appropriate. The commission shall not authorize more than 20 locations for off-race course mutuel wagering to be in operation at any one time and shall permit off-race course mutuel wagering only at an authorized location. The commission shall not authorize the conduct of off-race course mutuel wagering at any time or place or in any manner which the commission determines would have substantial adverse impact upon mutuel wagering on races held at a race course in this state. The commission shall not authorize a race meet licensee to conduct off-race course mutuel wagering within the boundaries of any city or county that has adopted an ordinance prohibiting the conduct of that activity within the city or county. The commission shall not authorize a race meet licensee to conduct off-race course mutuel wagering in any county with a population of less than 250,000 at a location that is within 40 miles of any other location where another race meet licensee is conducting a live race meet without written consent of the live race meet licensee.

(4) In addition to other grounds provided in this chapter, the commission may refuse to issue or renew or may revoke or suspend the license of any race meet licensee, or any employee thereof, for failure to comply with ORS 462.700 to 462.740, or the rules adopted pursuant thereto.

- (5) If a race meet licensee proposes to conduct off-race course mutuel wagering at a physical facility separate from the race course:
- (a) Individuals working at the separate facility must obtain a license for such employment from the commission if the individuals are performing duties for which a license would be required if the duties were performed at a race course. The fee for any such license shall be the same as the fee for the license required if the individual were working at a race course.
  - (b) ORS 462.080, 462.190 and 462.195 apply to the race meet licensee and to individuals at the facility in the same manner as if the mutuel wagering activity were being conducted at a race course.
- (6) In addition to other requirements of ORS 462.700 to 462.740, the commission may authorize a race meet licensee to conduct off-race course mutuel wagering on a particular race that is held at a race course outside this state subject to the following conditions:
- (a) The commission may authorize only one such race meet licensee, that is the holder of a license under ORS 462.062 or 462.067, to conduct off-race course mutuel wagering on the race.
  - (b) The commission may authorize off-race course mutuel wagering only during that time when the licensee is authorized to conduct mutuel wagering on races at the licensee's race course.
  - (c) The commission may authorize such off-race course mutuel wagering to be conducted at the licensee's race course and any off-race course wagering site approved by the commission.
  - (d) The commission may authorize a race meet licensee to conduct off-race course mutuel wagering on either horse races or greyhound races.
  - (e) If a licensee applies for authority to conduct mutuel wagering on horse races held at race courses outside this state, the commission may require that the licensee provide such evidence as the commission considers appropriate regarding the ability of the licensee to comply with the federal Interstate Horse Racing Act, 15 U.S.C. 3001 to 3007, as amended. [1987 c.913 s.3; 1989 c.358 s.1; 1993 c.682 s.8; 1997 c.865 s.12]

#### 462.720 Pooling wagered moneys; surcharge on wagering by licensee.

- (1) All moneys wagered in off-race course mutuel wagering on races held at race courses in this state shall be included in the computation of the mutuel pool for that race at the race course. Subject to rules adopted by the Oregon Racing Commission and upon application of the race meet licensee, the commission may authorize:
- (a) Moneys wagered in off-race course mutuel wagering at locations outside this state on races held at race courses in this state to be included in the computation of the mutuel pool for the race at the Oregon race course.
  - (b) Moneys wagered in off-race course mutuel wagering at locations in this state on races held at race courses outside this state to be included in the computation of the mutuel pool for the race at the race course.
- (2) Notwithstanding ORS 462.140, in the case of moneys wagered in off-race course mutuel wagering at a location in this state and included in the mutuel pool of a race held at a race course outside this state, the amount taken from the mutuel pool by the race meet licensee to pay taxes, purses, compensation for the licensee and other payments shall be the amount required by statute at the race course outside this state.
- (3) A race meet licensee that is authorized to conduct off-race course mutuel wagering may exact a surcharge on off-race course mutuel wagering at a rate not exceeding five percent. At the discretion of the race meet licensee, the surcharge shall be paid by the wagerer on the amount wagered to the race meet licensee at the time the wager is made, or the surcharge shall be paid on the winnings and shall be deducted at the time winnings are paid. All surcharges collected by the race meet licensee shall be reported to the commission at such time and in such manner as the commission may require. [1987 c.913 s.4; 1989 c.358 s.2; 1991 c.252 s.1; 1993 c.682 s.9; 1997 c.865 s.13]

#### 462.725 Multi-jurisdictional simulcasting and wagering; rules.

- (1) Notwithstanding any other provision of this chapter, the Oregon Racing Commission may develop and adopt rules to license and regulate all phases of operation of "Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs" located in Oregon. In addition to the other rules of operation

adopted by the commission, the commission shall adopt a rule setting the amount that may be taken from the gross receipts of the multi-jurisdictional mutuel system.

(2) All employees working in Oregon and all officers of any "Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs" located and operating in Oregon must obtain a license from the Oregon Racing Commission prior to the commencement of business or employment. The fees for such licenses shall be the same as set forth in ORS 462.070.

(3) Payments to be made to the Oregon Racing Commission include:

(a) "Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub" license fee not more than \$200 per operating day.

(b) Not more than one percent of total gross mutuel wagering receipts recorded by the totalizator system.

[1997 c.867 s.27]

#### 462.730 Payments by licensee to commission.

A race meet licensee that conducts off-race course mutuel wagering shall make payments to the Oregon Racing Commission in the same manner as if the mutuel wagering were being conducted at the race course.

[1987 c.913 s.5; 1989 c.358 s.3]

#### 462.740 Rules; compliance with federal law.

(1) In accordance with ORS 183.310 to 183.550, the Oregon Racing Commission shall promulgate rules to carry out the provisions of ORS 462.700 to 462.740. Such rules shall be designed to promote the best interests and the good conduct of racing, with due regard for the public health, safety and welfare.

(2) In order to provide for the lawful operation of off-race course mutuel wagering for wagering on horse races at race courses outside this state, the commission is authorized to enter into contracts or agreements with other governmental or private agencies or associations and to perform all other acts necessary to comply with the federal Interstate Horse Racing Act, 15 U.S.C. ss.3001 to 3007, as amended. [1987 c.913 s.6; 1989 c.358 s.4]

## **PENALTIES**

#### 462.990 Penalties.

(1) Except as hereinafter provided in this section, violations of any provision of this chapter is a misdemeanor.

(2) Any person violating the provisions of ORS 462.420, 462.430, 462.450, 462.460, 462.470 or 462.415 (2) shall, upon conviction, be guilty of a felony and punished by imprisonment in the custody of the Department of Corrections for not more than two years or by a fine of not more than \$5,000, or by both.

(3) Any person who conspires or attempts to commit or commits any act of touting as defined in ORS 462.510 shall, upon conviction, be fined not more than \$500 or be imprisoned for not more than six months, or both.

(4) Any person violating the provisions of ORS 462.140 (1) shall be punished upon conviction by imprisonment in the county jail for not more than one year or by imprisonment in the custody of the Department of Corrections for not more than five years or by a fine of not more than \$5,000, or both such fine and imprisonment. [Part of subsection (1) derived from 1957 c.313 s.22; subsection (2) enacted as 1953 c.498 s.8; subsection (3) enacted as 1953 c.499 s.5; 1955 c.538 s.2; 1969 c.356 s.34; 1969 c.528 ss.1, 2; 1987 c.320 s.235]

## CHAPTER 464. GAMES

### ADMINISTRATION

464.310 Eligibility to participate in management or operation of games.

(1) A licensee of the Department of Justice under ORS 167.117 and 167.118 and this chapter, or an applicant for a license under ORS 167.118, 464.250 to 464.380, 464.420 and 464.450 to 464.530, without approval of the department, shall not knowingly permit any person to participate in the management or operation of any bingo, lotto or raffle game or Monte Carlo event for which a license from the department is required if that person:

(a) Has been convicted of or forfeited bond upon, or has been granted diversion upon a charge involving forgery, theft, willful failure to make required payments or reports to a government agency at any level, or filing false reports to such an agency, or of any similar offense, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or a misdemeanor, involving any gambling activity or physical injury to any person, or involving moral turpitude; or

(b) Has violated, failed to comply with, or refused to comply with provisions, requirements, conditions, limitations or duties imposed by ORS 167.118, 464.250 to 464.380, 464.420 and 464.450 to 464.530 or the rules of the department.

(2) No person other than a member or employee of a licensed organization, or any other person authorized under the rules of the Department of Justice, may participate in the management or operation of a licensed bingo, lotto, raffle or Monte Carlo event operation. No person who participates in the management or operation of any such bingo, lotto, raffle, Monte Carlo event, concession or related operation may concurrently participate in the management or operation of any other operation unless such participation is approved by the department. [1987 c.914 ss.17(1), 21; 1997 c.867 s.8]

### DISCIPLINE

464.470 Grounds for denial or refusal to renew license; civil penalty.

(1) The Department of Justice may deny an application for or refuse to renew a bingo, lotto, raffle or Monte Carlo event license or permit, and it may suspend or revoke any license or permit, for grounds stated in this section. Grounds for denial, renewal, suspension, revocation or civil penalty include, but are not limited to, cases in which the applicant, licensee or permit holder, or any person with an interest in the bingo, lotto, raffle or Monte Carlo event operation or proposed operation of the license applicant or licensee:

(a) Has continued to operate bingo, lotto, raffles or Monte Carlo events after losing the tax exempt status of the licensee as required under ORS 167.117 or ceases to exercise independent control over its activities or budget as required under ORS 464.290.

(b) Has violated or has failed or refused to comply with ORS 167.117 to 167.164, 464.270 to 464.380, 464.420 or 464.450 to 464.530, or has violated a rule adopted by the department, or has allowed such a violation to occur upon premises over which the applicant, licensee or interested person has substantial control.

(c) Has knowingly caused, aided or abetted, or conspired with another to cause, any person to fail or refuse to comply with the provisions, requirements, conditions, limitations or duties imposed by ORS 167.117 to 167.164, 464.270 to 464.380, 464.420 or 464.450 to 464.530, or to fail or refuse to comply with a rule adopted by the department.

(d) Has obtained a license or permit by fraud, misrepresentation or concealment, or through inadvertence or mistake.

(e) Has been convicted of or forfeited bond upon, or has been granted diversion upon a charge involving forgery, theft, willful failure to make required payments or reports to a government agency at any level, or filing false reports to a government agency, or any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime,

whether a felony or misdemeanor, involving gambling activity, physical injury to individuals or moral turpitude.

(f) Denies the department or its designee access to any place where a licensed game is conducted, denies such access by any law enforcement officer, or fails promptly to produce for inspection or audit any records or items it is required by law or by department rule to produce.

(g) Fails to display the appropriate license or permit on the premises where the licensed game is conducted at all times during the conduct of the game.

(h) Misrepresents or fails to disclose to the department any material fact.

(i) Fails to demonstrate to the department, by clear and convincing evidence, qualifications for the license or permit according to state law and the rules of the department establishing such qualifications.

(j) Is subject to current prosecution or pending charges, or to a conviction regardless of whether it has been appealed, for any offense described in paragraph (e) of this subsection. At the request of an applicant for an original license, the department may defer decision upon the application during the pendency of the prosecution or appeal.

(k) Has pursued or is pursuing economic gain in a manner or context which violates criminal or civil public policy of this state and creates a reasonable belief therefor that the participation of such person in bingo, lotto, raffle or Monte Carlo event operations would be inimical to the proper operation of a lawful bingo, lotto, raffle or Monte Carlo event operation.

(2) The department may also impose a civil penalty not to exceed \$10,000 for any violation of any provision of subsection (1) of this section. [1987 c.914 s.12; 1997 c.867 s.14]

## **ENFORCEMENT**

464.520 Injunctive relief; when other licenses may be voided; investigation of off-race course mutuel wagering applicant or licensee.

(1) A bingo, lotto or raffle game or Monte Carlo event conducted in violation of state gambling law or in violation of rules adopted by the Department of Justice may be enjoined in an action commenced by:

(a) The department;

(b) The district attorney of the county in which the game is conducted;

(c) The governing body of any county in which the game is conducted; or

(d) The governing body of any city in which the game is conducted.

(2) When a violation of state law relating to the conduct of bingo, lotto or raffle games or Monte Carlo events, or a violation of any rule of the department relating thereto, occurs on premises for which a license, permit or certificate issued by this state, or by a political subdivision or public agency of this state, is in effect, any such license, permit or certificate may be voided by the issuing authority. No license, permit or certificate so voided shall be issued or reissued for the premises for a period of at least 60 days thereafter.

(3) The Department of Justice or its designee may conduct investigations into the operation of any off-race course mutuel wagering applicant or licensee. For that purpose, the department may subpoena witnesses, compel attendance, take depositions and testimony and require the production of material relevant to the investigation. [1987 c.914 s.19; 1997 c.867 s.17]

## **TITLE 37. ALCOHOLIC LIQUORS**

### ***CONTROLLED SUBSTANCES***

#### ***DRUGS***

### **CHAPTER 471. ALCOHOLIC LIQUORS GENERALLY**

#### **ENFORCEMENT OF LIQUOR LAWS**

471.610 Confiscation of liquor and property by commission.

Whenever any officer arrests any person for violation of the Liquor Control Act, the officer may take into possession all alcoholic liquor and other property which the person so arrested has in possession, or on the premises, which is apparently being used in violation of that statute. If the person so arrested is convicted, and it is found that the liquor and other property has been used in violation of the law, the same shall be forfeited to the Oregon Liquor Control Commission, and shall be delivered by the court or officer to the commission. The commission is authorized to destroy or make such other disposition thereof as it considers to be in the public interest. In any such case, all alcoholic liquor purchased or acquired from any source, and all property, including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices, gambling devices, furniture, furnishings, equipment and facilities for the mixing, storing, serving or drinking of alcoholic liquor shall be confiscated and forfeited to the state, and the clear proceeds shall be deposited with the State Treasury in the Common School Fund in the manner provided in this section. [Amended by 1981 c.601 s.1; 1987 c.858 s.5]

471.657 Confiscation and forfeiture for violation of ORS 471.475.

Upon conviction for violation of ORS 471.475, the premises upon which the violation has occurred shall be declared to be a common nuisance and subject to abatement proceedings as provided by ORS 471.605 to 471.655. Any person who knowingly suffers or permits such nuisance to exist or be kept or maintained in a private or public club or place of which the person is the owner, manager or lessor, may be a party defendant to such abatement proceedings. In any such case, upon conviction, all alcoholic liquor, whether purchased or acquired from any other source, and all property, including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices, gambling devices, and all facilities for the mixing, storing, serving or drinking of alcoholic liquor shall be declared to be a common nuisance and shall be subject to confiscation and forfeiture as provided for by ORS 471.610. No claim of ownership or of any right, title, or interest in or to any of the personal property enumerated in this section or ORS 471.475 shall be held valid unless claimant shows to the satisfaction of the court that claimant is in good faith the owner of the claim and had no knowledge that the personal property was used in violation of ORS 471.475.

## **TITLE 51. LABOR AND INDUSTRIAL RELATIONS**

### **CHAPTER 659. CIVIL RIGHTS; UNLAWFUL EMPLOYMENT PRACTICES; GENETIC PRIVACY**

#### **DISCRIMINATION AGAINST DISABLED PERSONS IN EMPLOYMENT**

659.446 Conditions that do not constitute impairment.

(1) For the purposes of ORS 659.436 to 659.449, homosexuality and bisexuality are not physical or mental impairments. A person who is homosexual or bisexual is not a disabled person for the purposes of ORS 659.436 to 659.449 solely by reason of being homosexual or bisexual.

(2) For the purposes of ORS 659.436 to 659.449, the following conditions are not physical or mental impairments, and a person with one or more of the following conditions is not a disabled person for the purposes of ORS 659.436 to 659.449 solely by reason of that condition:

(a) Transvestism, pedophilia, exhibitionism, voyeurism or other sexual behavior disorders.

(b) Compulsive gambling, kleptomania or pyromania.

(c) Psychoactive substance use disorders resulting from current illegal use of drugs. [1997 c.854 s.8]