

CHAPTER 11

AN ACT concerning workers' compensation coverage for certain horse racing industry employees and amending P.L.1995, c.329 and P.L.1999, c.378 and supplementing P.L.1995, c.329 (C.34:15-129 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1995, c.329 (C.34:15-130) is amended to read as follows:

C.34:15-130 Findings, declarations.

2. The Legislature finds and declares that, whereas current law already requires virtually all employers to provide for the payment of workers' compensation benefits to injured employees, because of the unique nature of the horse racing industry, difficulties have arisen in ensuring that coverage is provided to employees. For example, out-of-State horse owners are sometimes unaware of their obligation to provide such coverage, or because a jockey may ride the horses of more than one owner, there may be confusion as to who the responsible employer is. As a result, serious injuries have been sustained for which there is no coverage.

It is, therefore, in the public interest to ensure that workers' compensation coverage is available to persons employed in the thoroughbred and standardbred horse racing industries in New Jersey by collectively securing workers' compensation insurance coverage for certain designated horse racing industry employees who are eligible to receive that coverage pursuant to the provisions of this act, the costs of which shall be funded by the horse racing industry, and the assessments for funding that coverage shall be calculated separately for the thoroughbred and standardbred industries, based on their respective experience.

It is also in the public interest for the Legislature to provide, through this act, sufficient guidance and clarity regarding which horse racing industry employees are eligible for coverage secured by the New Jersey Horse Racing Injury Compensation Board pursuant to this act, and the circumstances that must exist for that coverage to be applicable.

2. Section 3 of P.L.1995, c.329 (C.34:15-131) is amended to read as follows:
C.34:15-131 Definitions relative to the New Jersey Horse Racing Injury Compensation Board.

3. As used in this act:

"Board" means the New Jersey Horse Racing Injury Compensation Board established by section 4 of P.L.1995, c.329 (C.34:15-132).

"Commission" means the New Jersey Racing Commission established pursuant to section 1 of P.L.1940, c.17 (C.5:5-22).

"Horse racing industry employee" means:

- a. the driver of a standardbred horse, who is licensed or is required to be licensed by the commission, while that driver is engaged in performing those services for which that driver is or is required to be licensed at a permitted New Jersey racetrack in connection with the racing of a horse. That standardbred driver shall be considered to be the horse racing industry employee of a standardbred owner for the purposes of calculating, allocating and assessing the cost of workers' compensation insurance coverage;

- b. the jockey, jockey apprentice or exercise rider of a thoroughbred horse, who is licensed or is required to be licensed by the commission, while engaged in performing those services for which that jockey, jockey apprentice or exercise rider is or is required to be licensed at a permitted New Jersey racetrack in connection with the racing or exercising of a horse. That jockey, jockey apprentice or exercise rider shall be considered to be the horse

racetrack industry employee of a thoroughbred owner for the purposes of calculating, allocating and assessing the cost of workers' compensation insurance coverage; and

c. the stable employees of a thoroughbred trainer, who are licensed or are required to be licensed by the commission, while those stable employees are engaged in performing those services for which those stable employees are licensed or are required to be licensed at a permitted New Jersey racetrack, during the period of time the trainer's horses are stabled at the permitted New Jersey racetrack. Stable employees as defined herein shall include assistant trainers, grooms, and hot walkers.

A "horse racing industry employee" shall not mean a standardbred owner, standardbred trainer, thoroughbred owner, or thoroughbred trainer.

"Permitted New Jersey racetrack" means a New Jersey racetrack that has been approved by the commission to hold a horse race meeting as evidenced by a valid permit issued pursuant to section 18 of P.L.1940, c.17 (C.5:5-38) for the year in which the race meeting is held.

"Stabled" means the long-term placement of horses in assigned stalls in barns located on the grounds of a permitted New Jersey racetrack, in which stalls the horses reside continuously for the purpose of racing at any permitted racetrack in New Jersey, or the short-term placement of those horses in stalls located on the grounds of an out-of-State racetrack in connection with the pre-race detention requirements of that out-of-State racetrack, provided the horses are returned to their permanent stabled location at the permitted New Jersey racetrack within a maximum of 48 hours after that out-of-State race.

3. Section 6 of P.L.1995, c.329 (C.34:15-134) is amended to read as follows:

C.34:15-134 Insurance coverage; assessments.

6. a. The board shall secure workers' compensation insurance coverage for horse racing industry employees.

b. The board shall assess and collect sufficient funds to pay the costs of the insurance or self insurance coverage required by this act and by the workers' compensation laws of this State and to pay any additional costs necessary to carry out its other duties. The board shall ascertain the total funding necessary, establish the sums that are to be paid and establish by regulation the method of assessing and collecting these moneys. Assessments shall include, but shall not be limited to, deductions from gross overnight purses paid to owners, so long as such deductions do not exceed 3% of standardbred purses or 4% of thoroughbred purses, as applicable, and additional assessments may be collected as needed from standardbred owners, thoroughbred owners and thoroughbred trainers who are licensed or are required to be licensed by the commission. Track owners shall not be assessed for such costs.

c. Assessments for workers' compensation insurance coverage pursuant to this act shall be calculated and allocated separately for the thoroughbred and standardbred industries, based on their respective loss experience, and any assessments pursuant to subsection b. of this section shall be allocated accordingly. No public funds, other than the moneys collected pursuant to subsection b. of this section, shall be used for the purpose of self insurance or for paying the costs of workers' compensation insurance or workers' compensation benefits pursuant to this act.

4. Section 2 of P.L.1999, c.378 (C.34:15-134.1) is amended to read as follows:

C.34:15-134.1 Trainer to carry compensation insurance for employees, eligibility for coverage.

2. Notwithstanding any provision of P.L.1995, c.329 (C.34:15-129 et seq.), as amended:

a. A standardbred trainer who is licensed or is required to be licensed by the commission shall carry compensation insurance covering the standardbred trainer's employees as required by R.S.34:15-1 et seq., regardless of where the standardbred trainer's horses are stabled;

b. With respect to the stable employees of a thoroughbred trainer, the workers' compensation policy secured by the board shall cover only those stable employees who are licensed or are required to be licensed by the commission when they are employed to work at a permitted New Jersey racetrack to care for the horses located there. To be eligible for coverage and benefits under the workers' compensation policy secured by the board, those stable employees shall be injured at a permitted New Jersey racetrack while they are engaged in performing services for which they are licensed or are required to be licensed. Those thoroughbred trainer's stable employees shall remain eligible for coverage under the workers' compensation policy secured by the board, if the trainer requires them to accompany a horse that is transported from the permitted New Jersey racetrack where it is stabled to compete in a race at an out-of-State racetrack. Those stable employees shall remain eligible for coverage under the board's policy for that period of time in which the out-of-State racetrack requires the horse to be present prior to the race, provided that the horse is returned to stabling at a permitted New Jersey racetrack within a maximum of 48 hours after the race. The workers' compensation policy of the board shall not cover those stable employees who are licensed or are required to be licensed by the commission who work with horses that the trainer has stabled at a location other than a permitted New Jersey racetrack;

c. A thoroughbred trainer who is licensed or is required to be licensed by the commission shall carry compensation insurance covering the thoroughbred trainer's employees as required by R.S.34:15-1 et seq. when the trainer's horses are not stabled at a permitted New Jersey racetrack. A thoroughbred trainer whose horses are stabled at a permitted New Jersey racetrack and whose stable employees receive workers' compensation coverage through the policy secured by the board shall immediately obtain compensation insurance covering these stable employees as required by R.S.34:15-1 et seq. if and when that trainer's horses are no longer stabled at a permitted New Jersey racetrack; and

d. A thoroughbred trainer whose stable employees receive workers' compensation coverage through the policy secured by the board shall ascertain and comply with the workers' compensation requirements of any other state to which that thoroughbred trainer is subject to jurisdiction. In such cases when a state other than New Jersey requires a thoroughbred trainer to obtain workers' compensation insurance coverage pursuant to the terms and conditions of its laws, any workers' compensation coverage provided through the policy secured by the board shall be secondary to the coverage required by the other state.

5. Section 7 of P.L.1995, c.329 (C.34:15-135) is amended to read as follows:

C.34:15-135 Employee, employer relationship under the act.

7. a. For the purposes of this act and R.S.34:15-36, a horse racing industry employee shall be deemed to be in the employment of the New Jersey Horse Racing Injury Compensation Board and in the employment of all standardbred owners, thoroughbred owners, or thoroughbred trainers, as the case may be, who are licensed or are required to be licensed by the commission and whose horses are stabled at a permitted New Jersey racetrack at the time of any occurrence for which workers' compensation benefits are payable pursuant to

R.S.34:15-1 et seq. as supplemented by this act, and not solely in the employment of a particular owner or trainer. A horse racing industry employee shall not be deemed to be in the employment of the New Jersey Horse Racing Injury Compensation Board for any other purpose.

b. For the purposes of this act and R.S.34:15-36, the New Jersey Horse Racing Injury Compensation Board and all standardbred owners, thoroughbred owners, or thoroughbred trainers who are licensed or are required to be licensed by the commission and whose horses are stabled at a permitted New Jersey racetrack shall be deemed the employer of a horse racing industry employee at the time of any event for which workers' compensation benefits are payable pursuant to R.S.34:15-1 et seq., as supplemented by this act. The New Jersey Racing Injury Compensation Board shall not be deemed the employer of a horse racing industry employee for any other purpose.

c. With respect to horse racing industry employees, the requirements of R.S.34:15-1 et seq. regarding the provision of workers' compensation insurance by employers are satisfied in full by compliance with the requirements imposed upon standardbred owners, thoroughbred owners, and thoroughbred trainers by this act and any rules or regulations promulgated hereunder. If the responsible owner or trainer fails to comply with the requirements of this act or any rules or regulations promulgated hereunder and if the board is still required to pay the award on behalf of that owner or trainer who has been found to have violated this act or any rule or regulation promulgated hereunder, then the board is hereby authorized to impose a penalty on that owner or trainer in an amount not to exceed \$10,000 per violation.

d. The provisions of this act shall not apply to employees of an owner or trainer who are not horse racing industry employees.

C.34:15-136.1 Documentation, maintenance of complete and accurate records of wages paid.

6. a. A thoroughbred trainer shall document and maintain complete and accurate records of all wages paid, whether by check or in cash, to stable employees and, notwithstanding the provisions of subsection b. of the definition of "Horse racing industry employee" in section 3 of P.L.1995, c.329 (C.34:15-131), to exercise riders who are hired in connection with the exercising or racing of a horse the trainer trains, who receive workers' compensation coverage through the policy secured by the board. A thoroughbred trainer shall produce these records within five days when directed to do so by the board or a designated agent of the board. The board is hereby authorized to impose a penalty in an amount not to exceed \$1,000 per violation on any trainer who fails to produce complete and accurate records within the time period allotted by this subsection.

b. The appropriate horseman's bookkeeper, consistent with regulations promulgated by the New Jersey Racing Commission, shall document and maintain complete and accurate records of all wages paid, whether by check or in cash, to a jockey or jockey apprentice or driver who receives workers' compensation coverage through the policy secured by the board.

7. This act shall take effect immediately.

Approved April 11, 2008.