

Assembly Bill 418

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CHAPTER 138, LAWS OF 1967

AN ACT to amend 176.90 (1), (2), (3), (4) and (9) of the statutes, relating to the revocation of liquor licenses and injunction against horse race gambling.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

176.90 (1), (2), (3), (4) and (9) of the statutes are amended to read:

176.90 (1) A license or permit issued under ~~the provisions of this chapter or s. 66.054~~ to any person who ~~shall after June 30, 1946,~~ knowingly ~~suffer or permit~~ *suffers or permits* any slot machine, roulette wheel, other similar mechanical gambling device, or number jar or other device designed for like form of gambling, ~~or any horse race betting~~ to be set up, kept, managed ~~or~~, used ~~or conducted~~ upon the licensed premises or in connection therewith upon premises controlled directly or indirectly by such person, shall be revoked by the circuit courts by a special proceeding as hereinafter provided. When a license or permit has been revoked no other license or permit of any character provided for by ch. 176 or s. 66.054 shall be issued to the person who held such license or permit, prior to the expiration of one year from the effective date of such revocation. If any appeal ~~shall be~~ is taken from such revocation, any period during which the order is stayed shall be added to the one year.

(2) Any sheriff, undersheriff, deputy sheriff, constable or other municipal police officer or any person authorized to enforce the gambling laws under ~~the provisions of s. 73.035~~ shall within 10 days after acquiring such information report to the district attorney of the county the name and address of any licensee or permittee under ch. 176 or s. 66.054 who to his knowledge has knowingly suffered or permitted any device to which reference is made in sub. (1) ~~or any horse race betting~~ to be set up, kept, managed ~~or~~, used ~~or conducted~~ upon the licensed premises or in connection therewith upon premises controlled directly or indirectly by such licensee or permittee. Such officer or person shall also report to the district attorney his knowledge of the circumstances and the name of the municipality or officer by whom the license or permit has been issued. Any other person may in writing and signed by that person report any such name, address and other information to the district attorney. Within 10 days after any report to him the district attorney shall institute a proceeding as hereinafter provided before the circuit court of his county or shall within such time report to the attorney general the reasons why such a proceeding has not been instituted. If thereafter the attorney general

~~shall so direct~~ *directs*, the district attorney shall institute such proceeding within such reasonable time as the attorney general ~~shall direct~~ *directs* unless the attorney general elects to institute the proceeding, in which case he is authorized to do so.

(3) Such proceeding shall be in the name of the state and the issues may be determined by a jury. It shall be instituted by the filing of a petition and service of a notice as herein provided. The petition shall be directed to the circuit court and shall set forth a clear and concise statement of the grounds that are alleged to exist justifying a revocation of the license or permit under ~~the provisions of sub. (1) hereof~~, and shall request an order revoking such license or permit. It shall also request an injunction restraining the defendant from thereafter knowingly suffering or permitting any such devices *or any horse race betting* to be set up, kept, managed ~~or~~, used *or conducted* upon premises directly or indirectly controlled by him. Upon the filing of such petition the court shall fix a time for hearing not to exceed 30 days from the date of filing at a place within the judicial circuit, and a copy of the petition and a notice of the time and place of hearing shall be served upon the defendant not less than 20 days prior to the date of hearing. Such service shall be made in the same manner as a summons is served in a civil action except that it may also be made by leaving a copy of said petition and notice with any person charged with the operation of the licensed premises under ~~the provisions of s. 176.05 (11)~~. The allegations of the petition shall be deemed controverted and shall be at issue without further pleading by the defendant. No hearing shall be adjourned except for cause. If upon such hearing the court ~~shall find~~ *finds* that the allegations of the petition are true, it shall issue a written order revoking the license or permit and shall likewise enjoin the defendant from thereafter knowingly suffering or permitting any gambling devices referred to in sub. (1) *or any horse race betting* to be set up, kept, managed, ~~or~~, used *or conducted* upon premises directly or indirectly controlled by him. The district attorney shall forthwith cause a copy of the order to be filed with the issuing authority of the license or permit and shall cause a copy to be served upon the defendant as above provided or his attorney. The revocation and injunction shall become effective upon such service. In cases where a license is issued by a town, city or village, a copy of the order shall also be filed with the commissioner of taxation.

(4) The law enforcement officials referred to in sub. (2) ~~hereof~~ shall also report to the district attorney the names and addresses of persons other than licensees under ch. 176 or s. 66.054 who permit devices referred to in sub. (1) *or any horse race betting* to be set up, kept, managed ~~or~~, used *or conducted* upon premises controlled directly or indirectly by such persons. They shall also report their knowledge of the circumstances and the location of such premises. Thereupon the district attorney shall proceed as in the case of licensees or permittees, except that the only request of the petition shall be for the issuance of the injunction referred to in sub. (3) and the other required allegations shall be correspondingly changed. Such proceeding shall be had and such injunctive orders entered and served as ~~are referred to in~~ *under* sub. (3).

(9) A written record shall be kept by every officer and district attorney of reports made by or to him under sub. (2). On the first day of January, April, July and October in each year each district attorney shall report in writing to the governor the name, address and office, if any, of each person who has reported to him knowledge of gambling devices *or any horse race betting* under sub. (2). He shall also set out the disposition of such reports, the status of all cases instituted thereon and the status of cases not shown by any prior report to be finally determined.

Approved November 1, 1967.