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FORMAL)
OPINION)
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No: 98-4
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This opinion responds to an inquiry from the Colorado Racing Commission ("Commission") and the Division of Racing Events of the Department of Revenue ("Division") regarding the meaning of the term "purse structure," as that term is used in § 12-60-702(1)(d.5), C.R.S.(1998), and Senate Bill 98-174, relating to greyhound racing.

QUESTIONS PRESENTED AND CONCLUSIONS

1. What does the term "purse structure" mean?

"Purse structure" is the term used to identify the method for determining the portion of the available prize money given to the top finishers of a race (or series of races), relative to the other finishers and each other.

2. Can this term be expanded to encompass matters not strictly identified with or pertaining to the term "purse structure"?

No. "Purse structure" is the method for dividing the available purse money. It is not, in the context of greyhound racing, concerned with the total amount of prize money available for distribution, but rather only to whom and in what proportion it is paid.

3. Is Senate Bill 98-174 pertinent to any matters other than "purse structure"?

No. According to the statute, the required agreement must only specify the "purse structure" to apply at the meet. Any such agreement may, but is not required to cover, such additional items as the parties may desire.

FACTUAL BACKGROUND

The purse in a greyhound race is determined on a weekly basis through a point system which takes into account all the races run during the week. Points are awarded for each race based on the class of race and the order of finish. For example, a certain number of points are awarded for a first place finish in a class "A" race, a second place finish in a class "B" race, or some different combination. The number of points awarded for each position is determined in advance by agreement between the kennel owners and the race track. By statute, five percent of the total "handle" (the amount of money taken in from wagers) must be paid out as winnings to the kennels. This money is distributed to the kennel owners on the basis of the points accumulated by the kennel's dogs during the week. If, for example, a total of 100 points were awarded to all kennels during the week, and the total available money to be distributed were \$1,000.00, then each point would be worth \$10.00.

Section 12-60-702(1), C.R.S. (1997), was amended by Senate Bill 98-174 to add subsection (d.5), which provides:

For each greyhound race meet it conducts, a licensee shall file with its license application with the commission an agreement between such licensee and the organization which represents the majority of kennel owners participating at such race meet. Such agreement shall specify the purse structure which shall apply to the races conducted at such greyhound race meet.

(emphasis added).

The Commission made compliance with this statute a condition for granting a license to Mile High Greyhound Park ("Mile High") for its 1998 racing season. The Colorado Greyhound Kennel Association ("CGKA") has established that it represents a majority of the kennel owners who have entered into contracts to provide dogs for Mile High's 1998 season. The CGKA and Mile High entered into negotiations regarding an agreement to comply with S.B. 98-174. The CGKA and Mile High agreed upon a system for determining the percentage of the purse payable to owners of winning dogs, but were unable to enter into a final agreement due to a dispute over the scope of S.B. 98-174, particularly the meaning of the term "purse structure."

On June 9, 1998, the Commission learned of the dispute between Mile High and the CGKA over the scope of S.B. 98-174. As a result, the Commission asked the Attorney General for a formal opinion on the matter.

STATUTORY ANALYSIS AND LEGISLATIVE HISTORY

There is no case law in Colorado and very little case law in other jurisdictions discussing “purse structure.” None of it is helpful. We look therefore to the statute itself. If the language of a statute clearly conveys the intent of the General Assembly, courts “need look no further and must give effect to the statute as written.” Colby v. Progressive Casualty Ins. Co., 928 P.2d 1298, 1302 (Colo. 1996). Courts examine the language of a statute, and give the words of the statute their commonly understood and accepted meaning. See City of Westminster v. Dogan Construction Co., 930 P.2d 585, 590 (Colo. 1997).

As an initial matter, the overall amount of money available for distribution as prizes to greyhound owners is set by another statutory provision: “Each licensee for the racing of greyhounds shall pay on a weekly basis as purses for the races in any greyhound meet conducted at its in-state host track five percent of the gross receipts from all pari-mutuel wagering on such races.” Section 12-60-702(1)(e)(I), C.R.S. (1998). Thus, the General Assembly has already spoken on the question of how much gaming revenues must be distributed as purses. Accordingly, it would be incongruous to read Senate Bill 98-174 as requiring an agreement on this point.

Looking to the language of Senate Bill 98-174 itself, while the separate terms “purse” and “structure” are common terms which clearly have an ordinarily accepted meaning, the combined term is one which is peculiar to the racing and competition industry. Indeed, Webster’s New Collegiate Dictionary, (1973) does not contain a definition for the term “purse structure.” It does, however, contain definitions for the individual terms “purse” and “structure.” “Purse” is defined, most appropriately for the matter at issue, as “the total amount of money offered in prizes for a given event.” Webster’s New Collegiate Dictionary at 938. “Structure” is defined as the “arrangement or interrelation of parts as dominated by the general character of the whole.” Webster’s New Collegiate Dictionary at 1155. As written, the statute requires an agreement on “purse structure.” The word “purse” is used as an adjective, not a noun. It modifies the term “structure.” Therefore, the plain language of the statute indicates that it is the structure of the purse, and not the purse itself, that must be the subject of the agreement between the licensee and the kennel owners’ representative.¹

¹ The title of an act also offers guidance about the legislative intent behind a statute. See City of Ouray v. Olin, 761 P.2d 784, 789 (Colo. 1988); Conrad v. City of Thornton, 191 Colo. 444, 449, 553 P.2d 822, 826 (1976). The title of an act is “a guide to legislative purpose, a limitation upon the scope of valid enactment and the index of legislative intent”. Blanchard v. Griswold, 121 Colo. 29, 35, 214 P.2d 362, 365 (1949). The title of the bill states:

**A BILL FOR AN ACT CONCERNING ALLOWING PERSONS LICENSED
TO HOLD A RACE MEET OF GREYHOUNDS TO ENTER INTO
AGREEMENTS WITH ORGANIZATIONS THAT REPRESENT A**

The legislative history of Senate Bill 98-174 confirms the apparently plain language of the act. The "most basic source for determining legislative intent is the discussion which takes place in hearings before House and Senate committees concerning the enactment of the legislation." People in Interest of G.W.R., 943 P.2d 466, 468 (Colo. App. 1997).

The Senate Agriculture Committee and the House Agriculture Committee held hearings on S.B. 98-174. See Hearing on S.B. 98-174 before the Senate Committee on Agriculture, 61st General Assembly, 2d Regular Session (Feb. 19, 1998); Hearing on S.B. 174 before the House Committee on Agriculture, 61st General Assembly, 2d Regular Session (Mar. 4, 1998). The statements of legislators and others testifying regarding S.B. 98-174 support the plain meaning suggested by the statute on its face, that is, that "purse structure" is the interrelation of the parts of the purse, as opposed to the total amount of the purse.

At the Senate Agriculture hearing on February 19, 1998, Senator Bishop offered an amendment to the bill which would have included language that required an agreement to specify "the purse structure which shall apply to the races conducted at such greyhound race meet including minimum purse structure." (emphasis added). Larry Huls, the Director of the Division of Racing Events, was present at the hearing. He was asked, "Are we making any mistakes?" Mr. Huls replied: "Did you leave the words minimum purse? You need to understand what you're doing The minimum purse is 4% of the handle. . . . You make minimum purses in there they can negotiate with more of the tracks' money [inaudible] if they want to with that" ² In other words, inclusion of "minimum purse" as a required element of an agreement would likely have included the total amount of the purse money available, not just the manner in which the purse is distributed. Senator Bishop, after further discussion, amended his amendment, and deleted the language that would have required an agreement as to "minimum purse."

David Robinette, the President of the Colorado Greyhound Kennel Association, testified before both the Senate and House Committees in support of S.B. 98-174. He described the scope of this bill as being limited to requiring an agreement on purse structure. He stated that "[a]ll we want is a say in what the points [used in determining the distribution

MAJORITY OF KENNEL OWNERS PARTICIPATING IN A RACE MEET
TO SPECIFY PURSE STRUCTURE.

This title only mentions "purse structure." It does not require an agreement on any other subjects. Assuming that nothing else in the history of the bill suggests that a different meaning for "purse structure" was intended, or that other subjects must be included in the agreement, the title would appear to be consistent with the plain meaning of the terms.

² "Handle" is the term meaning the money generated to a track by patrons betting directly on a race. The testimony refers to four percent; that was the amount specified by statute prior to July 1, 1998.

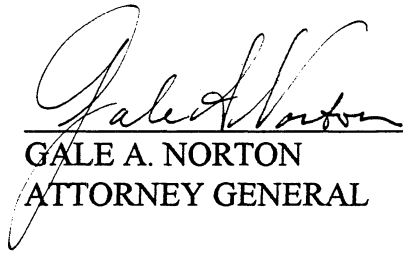
of the purse] are" Hearing on S.B. 174 before the Senate Committee on Agriculture, 61st General Assembly, 2d Regular Session (audio tape, Feb. 19, 1998).³ In response to a question by Senator Wattenberg concerning the reason for the amendment, Mr. Robinette described the purpose of S.B. 98-174 as insuring "that we have a say on what, how that 4% is broke down." Id. Mr. Robinette testified that S.B. 98-174 would only permit the "dog men" to have a say on how the purse "will be distributed, that's all it does." Id.

The testimony of Mr. Robinette establishes that, in considering this bill, the committee had every reason to believe that the effect would be to give the dog owners a say in how the statutory minimum purse was to be distributed, and nothing more. Indeed, Mr. Robinette went to some length to assure the legislative committee that "that's all it does." Since Mr. Robinette's testimony in this regard was not contraverted, there is no reason to believe the committee took a different view. In addition, the fact that Senator Bishop amended the bill, and specifically deleted language that would have required the parties to agree to any item other than "purse structure," strongly suggests that the intent was to limit the required subject matter of the agreement to the method of division of the purse, or "purse structure." Therefore, the testimony before the Senate and House Agriculture committees supports the plain meaning of the act, as well as the title, that "purse structure" is the system or method for distributing the purse, as opposed to the amount of the purse or other aspects of compensation.


CONCLUSION

The intent and meaning of Senate Bill 98-174 is plain and unambiguous, and is supported by the legislative history. The statute requires an agreement between the licensee and the organization representing a majority of the kennel owners participating at the meet. The agreement must specify the "purse structure" which shall apply to the races conducted at the meet. This means the parties must agree on how to distribute the prize money which, by statute, must be paid to the owners of the winning dogs. This statute does not require the parties to reach agreement on any matters other than purse structure. Therefore, that is the only matter which must be included in the agreement. Other matters may be agreed upon as well, but Senate Bill 98-174 does not require any agreement on them.

³ By "points," Mr. Robinette was referring to the system for awarding points to the kennels for the class and finish position of its dogs in each race.



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