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In every aspect of law there are numerous instances of so-called loopholes and technicalities. When a career criminal “beats the rap” or a large corporation files an IRS return showing no taxes due, the general public decries the incidents as ones where exceptions to hard and fast rules were used to provide the undeserving with unwarranted advantage.

Whether wiggle room exists sufficient enough to allow someone to avoid compliance with a law, and also the penalty for its non-compliance, is dependent upon the clarity of the rule’s language and the willingness of the authorities to enforce the strict letter of the law.

In New York, for instance, the State Liquor Authority will license only “bona fide” grocery stores for the sale of retail beer. The rule defines a bona fide grocery store as one where at least 50 percent of the retail floor space is dedicated to consumer commodities other than beer. A grocer with a few bottles of milk, a stack of potato chip bags and hundreds of cases of beer is running an illegal beer store, not a grocery store, and his license will be forfeited sooner rather than later. Why?

First, because the applicable regulation is rather formulaic, meaning that you can take a tape measure to get the total square footage of the store and the section of non-alcohol products. Simple division then determines whether the licensee is over or under the required 50 percent threshold. The rule’s language is clear and objective, and compliance or lack thereof is easily ascertainable.

Second, the SLA, recognizing the dangers of freewheeling alcohol sales to society, is constantly engaged in site visits to licensed premises to ensure obedience of the straightforward regulation. The importance of their mandate is readily apparent, and enforcement is stringent. Lax enforcement would create a nightmare for the legitimate licensees, and probably serve to encourage many of them to cross the line, forego expensive compliance and become illegitimate.

Conversely, when a law is vague and left up to interpretation, the agency charged with its enforcement may be hesitant to take a firm stand. Such is the case in Florida, where, believe it or not, the meaning of the very term “horse racing” appears to be in doubt.

Some time ago, an entity known as Gretna Racing, LLC applied for a permit to conduct Quarter Horse racing in Gadsden County, Fla. The company is 70 percent owned by The Poarch Creek Indian Tribe based in Atmore, Ala. Why would an out-of-state group of Native Americans want to conduct horse racing in the Sunshine State? They don’t; what they want to do is establish a poker room and possibly later a slots parlor at the facility. Pursuant to Florida law, a cardroom license may only be issued to a licensed pari-mutuel permit holder who conducts pari-mutuel wagering activities at the same facility where the cardroom is located.¹ Thus, in order to license their poker room, the tribe intends to conduct Quarter Horse racing -- or do they?

Another section of Florida law states that a horserace permit holder is one that conducts pari-mutuel Thoroughbred or harness racing, "...or any quarter horse entity permitted under this chapter to conduct pari-mutuel wagering meets of quarter horse racing."² The section also defines "Quarter horse" as meaning "...a breed of horse developed in the western United States which is capable of high speed for a short distance and used in quarter horse racing registered with the American Quarter Horse Association."³

Curiously, neither the terms "horse racing" nor "quarter horse racing" are defined in the statutes. Using this absence of clear definitions to its advantage, Gretna Racing applied for and was granted a permit to conduct pari-mutuel barrel racing to satisfy its legal requirement to conduct alternative gaming. Barrel racing is an arena sport where horses and riders complete a cloverleaf around barrels in timed events. While a popular rodeo sport, it is not conducted as a pari-mutuel event anywhere.

While the events employ the use of Quarter Horses as equine participants, the similarities with Quarter Horse racing abruptly end there. Barrel horses actually race -- against the clock, not against each other -- not only more than once in a week, but often up to four times on the same day. The number of horses required to conduct a meet is a quite small in relation to that necessary to conduct legitimate Quarter Horse racing. There is also no need for a racetrack. There are apparently no weight requirements for riders, simulcasting of events or past performance information. Who judges these timed events, determines foul claims, or checks the health of the horses prior to competition appear to be a well-kept secret.

Consider also that the barrel racing meet proposed is only two months long, straddling December 2011 and January 2012. This conveniently allows Gretna Racing to argue that it has been "racing" for two consecutive calendar years; the requirement set forth to obtain a Florida slot machine license.⁴ A slot machine referendum is scheduled to be conducted in Gadsden County on January 31, 2012 during the Florida Presidential Primary. It is clear that Gretna Racing is committed to do as little "racing" as possible to get their card room and slots parlor, even to the extent of conducting an equestrian event having nothing to do with racing.

Moreover, the entire 19 cards scheduled to be conducted during 2011 have a total purse structure of \$40,000. Compare this to a single harness race, the Saturday night Open Pace at Yonkers Raceway, which is presently contested for a \$38,000 purse. Clearly, the rodeo girls competing in these glorified equestrian exhibitions receive little more than experience for their efforts, except if you consider the paltry cheers of the roughly 50 patrons that reportedly showed up in the high school bleacher-like grandstand for the opening card contested on the afternoon of December 1.

In effect, the tribe intends to conduct a bare-bones equine activity on the cheap and call it horse racing.

This form of nonsense is not new. In December 2009, investor Eric Spector attempted to persuade the regulators in Wyoming to approve his application for team steer roping as a substitute for the live racing requirement of his lucrative simulcast license. His ploy was rejected, though by a slim margin. In New Jersey, the Atlantic City Race Course is permitted to conduct year round simulcasting despite having live annual meets with as

few as six dates. When it comes to live racing, the “less is more” idea is almost always put forth by the entity that retains more profit when racing is reduced, and Gretna Racing is no exception.

No legitimate horse racing group favors what Gretna racing is attempting to pull off. In addition to the American Quarter Horse Association, the barrel racing ploy is opposed by the Florida Quarter Horse Racing Association; Florida Quarter Horse Breeders and Owners Association; the Florida Horsemen’s Benevolent and Protective Association; The Florida Thoroughbred Breeders’ and Owners’ Association; the Florida Standardbred Breeders and Owners Association and our own United States Trotting Association.

Maybe more importantly, the ploy is also opposed by two other horse groups; the National Barrel Horse Association and the Florida Barrel Horse Association. Both of these groups are fearful that permissible wagering on their beloved events will threaten the family-oriented atmosphere the sport presently enjoys. They also point out some very relevant facts. For instance, there is no medication regulation in barrel racing. Also, a large portion of barrel racing enthusiasts are under the legal age for wagering. In sum, even the barrel racing industry is opposed to pari-mutuel barrel racing.

Florida law prohibits card room licenses to be issued to a permit holder unless it has a binding written agreement governing the payment of purses with either the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the facility.⁵ Since every legitimate horsemen’s association of any breed oppose the ploy, Gretna Racing simply created its own group, the North Florida Horsemen’s Association, Inc. Formed as a non profit corporation in 2009, the group’s registered agent is Marc W. Dunbar and its sole listed officer/director is David S. Romanik. Both Dunbar and Romanik are partners with the Poarch Creek Indian Tribe in Gretna Racing. The group has no independent website, but has several pages listed on the Gretna Racing [website](#).⁶ Unfortunately, the establishment by a track management of a house horsemen’s organization is not a new phenomenon, having been attempted more than once in the racing industry.

On November 18, the Florida Division of Pari-Mutuel Wagering refused to grant an administrative hearing on whether Gretna Racing’s attempt to use its Quarter Horse license for pari-mutuel barrel racing is legal. The Florida Division of Administrative Hearings has scheduled hearings for mid-December on the issue of whether the Division of Pari-Mutuel Wagering had authority to issue a barrel racing license in the first place. On November 30, a state judge signed an emergency order requiring Gretna Racing to show cause by Tuesday, December 6, why the court should not prohibit Gretna from conducting any further barrel events until the administrative hearings are held. The affected horsemen’s organizations and their supporters contemplate even more legal action.

Concurrently, Hamilton Downs, also in northern Florida, has also requested a pari-mutuel barrel racing license. Despite the name, Hamilton Downs is nothing more than a Jai-Alai fronton and simulcast center with a poker room. Is it possible that conducting a barrel racing event is even cheaper than conducting a Jai-Alai event? In any event, remember that every epidemic starts with just a handful of infections.

Pari-mutuel barrel racing is a farce. It is as illegal as a beer store masquerading as a grocery store. It is the attempt of a non-Florida group to establish a Florida racino without racing by conducting unprecedented wagering on Quarter Horse rodeo barrel events with paltry rules and without the required consent of the Quarter Horse industry, much less the barrel racing industry or any other sovereign horsemen's group. Pari-mutuel barrel racing is a sham that makes a mockery of the intent and spirit, if not the precise letter of the carefully crafted Florida gaming protocol. Gretna Racing is attempting to legitimize its hand in the eventual destruction of Florida's horse racing and breeding industries by offering low-end casino jobs in one of Florida's most depressed economic areas. They are helping no one but themselves at the extreme expense of some of America's strongest and most expansive horse industries and representative groups.

If Florida's pari-mutuel regulators are content to stand idly by while Gretna Racing exploits all available loopholes, it is then incumbent upon the 2012 Florida legislature to fill those holes with the specific statutory language required to ensure that Quarter Horse racing is understood to be what absolutely everybody except gaming opportunists and apprehensive regulators know it to be.

1- Florida Statute 849.086 (5)(a)

2- Florida Statute 550.002 (15)

3- Florida Statute 550.002 (28)

4- Florida Statute 551.102 (4)

5- Florida Statute 849.086 (13)(d)(3)

6- See, jobsforgretna.com

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