

SUPREME COURT OF LOUISIANA

No. 96-CA-2890

LIVINGSTON DOWNS RACING ASSOCIATION, INC.

Versus

STATE OF LOUISIANA ET AL.

LEMMON, J., Dissenting

The effect of La. Rev. Stat. 4:211(5)'s restrictive definition of "pari-mutuel facility" is to grant the privilege of offtrack wagering only to those facilities existing at the time of the statutory enactment and to deny the privilege to subsequently licensed pari-mutuel facilities, including those which replace pari-mutuel facilities that were in existence at the pertinent time. While the limitation of offtrack wagering to pari-mutuel facilities that conduct race meetings is rationally related to the legitimate governmental purpose of permitting maximum development of the horse racing industry and of stabilizing the shaky economy of that industry, the further limitation to pari-mutuel facilities existing in 1987 is not. The additional limitation, which denies to pari-mutuel facilities licensed after 1987 the attractive income of offtrack wagering that was deemed necessary to the continued successful operation of all pari-mutuel facilities, does not further any legitimate governmental objective, and actually is contrary to the goal of maximizing development of the industry.¹ The discriminatory classification

¹The Fair Grounds, an intervenor, argues that an additional purpose of the legislation is to prevent new race tracks from becoming a "front" for other forms of gambling. However, numerous safeguards in the licensing of pari-mutuel facilities render the discriminatory classification superfluous.

created by the additional limitation therefore violates the constitutionally required equal protection of the law.