



Attorney General  
STATE CAPITOL  
Phoenix, Arizona 85007

Robert R. Corbin

April 19, 1979

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

Mr. Frank Popello  
Acting Executive Secretary  
Arizona Racing Commission  
1645 West Jefferson  
Phoenix, Arizona 85007

Re: I79-107 (R78-268)

Dear Mr. Popello:

You have requested that we render an opinion regarding the following question:

Are lessees of greyhounds whelped in Arizona<sup>1</sup> entitled to the benefits of A.R.S. § 5-109.01.A where:

- a) the lessee is an Arizona resident leasing the greyhound from a qualified Arizona resident;
- b) the lessee is an Arizona resident leasing the greyhound from a breeder who is not a qualified Arizona resident;
- c) the lessee is a nonresident leasing the greyhound from a qualified Arizona resident owner.

A.R.S. Section 5-109.01A reads as follows:

A. A permittee, in addition to all other requirements, shall:

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1. In your request you referred to "Arizona Bred Greyhounds". An Arizona bred dog is defined in A.R.S. Section 5-114.C as a dog whelped in this state and which was physically present within this state for not less than six months during its first year of life. Because A.R.S. Section 5-109.01 is applicable to dogs whelped in this state without regard for any durational residency requirement during the first year of life, we have substituted the term "greyhounds whelped in Arizona" for "Arizona Bred Greyhounds".

Mr. Frank Popello  
April 19, 1979  
Page 2

1. Admit to qualifying or official schooling races any horse that is foaled or any dog that is whelped in this state which is of suitable racing age, physically qualified and registered pursuant to racing commission requirements, and which is owned by a resident of this state, who has been engaged for at least two consecutive years, in this state, in the business of breeding, racing, raising or training horses or dogs for racing purposes.

2. Promulgate no rule or regulation which discriminates in any way against a resident of this state and who is engaged in this state in the business of breeding, racing, raising or training horses or dogs for racing purposes.

Assuming that the greyhound is of suitable racing age, physically qualified, and registered pursuant to Racing Commission requirements, it would be entitled to the benefits of A.R.S. Section 5-109.01.A, if it: (1) has been whelped in this state and (2) is owned by a resident of this state who has been engaged for at least two consecutive years in this state in the business of breeding, racing, raising or training horses or dogs for racing purposes.

Since your question assumes that the animal in question has indeed been "whelped" in this state, the only remaining pertinent fact is whether the animal for which one is seeking to obtain the benefits of A.R.S. Section 5-109.01.A is owned by a resident of this state who has been engaged for at least two consecutive years in this state in the business of breeding, racing, raising or training horses or dogs for racing purposes.

The statute in question does not bestow its benefits on the person seeking to enter the greyhound in a race, but rather on the animal itself. Therefore, it may be irrelevant whether the person seeking to enter the animal in a race is an Arizona resident.

Thus, in answer to part (a) of your question, if the greyhound being leased by an Arizona resident is owned by a qualified Arizona resident (a resident of this state who has been engaged for at least two consecutive years in this state in the business of breeding, racing, raising or training horses or dogs for racing purposes), then the animal is entitled to the benefits of A.R.S. Section 5-109.01.A.

Mr. Frank Popello  
April 19, 1979  
Page 3

In answer to part (b), if the animal is being leased from an owner who is not a qualified Arizona resident, the animal is not entitled to the benefits of the aforementioned statute.

Finally, in response to part (c), even if the lessee is a nonresident, so long as he is leasing the animal from a qualified Arizona resident owner, the animal is entitled to the benefits of the statute in question.

It is noted that Arizona Racing Commission Rules R4-27-02.7 and R4-27-42.6 define "breeder" as "the owner or lessee of its dam at the time of [foaling] [whelping]." Those definitions are, of course, inapplicable to the interpretation of A.R.S. Section 5-109.01.A.

Finally, this opinion concerns only A.R.S. Section 5-109.01. It does not mean that lessees are entitled to any benefits under A.R.S. Section 5-114.C, because those benefits are bestowed exclusively upon the owners of the dams of Arizona bred animals.

Sincerely,



BOB CORBIN  
Attorney General

BC/mm