



TEXAS RACING COMMISSION
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Wednesday, September 2, 2020
10:30 a.m.

By videoconference: <https://global.gotomeeting.com/join/867030501>
Phone: (571) 317-3112, access code: 867-030-501

RULES COMMITTEE AGENDA

I. CALL TO ORDER

II. PROCEEDINGS ON RULES

- A. Discussion and possible action to make recommendations to the Commission regarding amendments to the following rules, as proposed in the August 7, 2020, issue of the Texas Register:
 - 1. 16 TAC § 323.101, Administrative Penalties
 - 2. 16 TAC § 323.201, Reporting of Criminal Activity and Convictions
- B. Discussion and possible action to make recommendations to the Commission regarding amendments to the following sections of the Rules of the Texas Racing Commission:
 - 1. 16 TAC § 309.8, Racetrack License Fees
 - 2. 16 TAC § 303.321, Allocations to Breed Registries
 - 3. 16 TAC § 303.323, Modifications to Approved Events

III. PUBLIC COMMENT

IV. ADJOURN

CHAPTER 323 DISCIPLINARY ACTION AND ENFORCEMENT
SUBCHAPTER B CIVIL REMEDIES

1 323.101, Administrative Penalties
2 (a) ~~[If the Commission determines that a person regulated under this Act has violated this~~
3 ~~Act or a rule or order adopted under this Act in a manner that constitutes a ground for a~~
4 ~~disciplinary action under this Act, the Commission may assess an administrative penalty~~
5 ~~against that person as provided by this section.~~
6 ~~(b)]~~ The Commission delegates to the executive secretary the authority to prepare and
7 issue preliminary reports pursuant to the Act, Chapter 2033, Subchapter B ~~[\$ 15-03]~~.

8

9 **SUBCHAPTER C CRIMINAL ENFORCEMENT**

10 323.201 Reporting of Criminal Activity and Convictions
11 (a) A licensee, a Commission employee, or an applicant for a license from the Commission
12 shall report any conviction of a felony or misdemeanor, other than a misdemeanor under
13 ~~[Vernon's Texas Codes Annotated,]~~ Transportation Code, Title 7, Vehicles and Traffic, or a
14 similar misdemeanor traffic offense.
15 (b) A licensee, a Commission employee, or an applicant for a license from the Commission
16 shall promptly report to the Commission any criminal activity observed relating to racing or
17 pari-mutuel wagering.

RULE §309.8

Racetrack License Fees (tracks' proposal)

(a) Purpose of Fees. An association shall pay a license fee to the Commission to pay the Commission's costs to administer and enforce the Act, and to regulate, oversee, and license live and simulcast racing at racetracks.

(b) Annual License Fee. A licensed racing association shall pay an annual license fee by remitting to the Commission 1/12th of the fee on the first business day of each month. The annual license fee for each license type is as follows:

- (1) For a Class 1 racetrack, \$200,000;
- (2) For a Class 2 racetrack, \$95,000;
- (3) For a Class 3 or 4 racetrack, \$25,000; and
- (4) For a Greyhound racetrack, \$140,000.

(c) Adjustment of Fees.

(1) In the event any current license holder refuses or fails to pay any portion of its annual license fee within sixty (60) days of the date such fee or any portion thereof is due, and the racetrack license of such license holder is terminated, the annual license fees of the remaining license holders will be increased by the amount unpaid multiplied by the fraction determined as follows:

- (A) The numerator of the fraction owed by a Class 1 license holder will be at 100;
- (B) The numerator of the fraction owed by a Class 2 license holder will be at 47.5;
- (C) The numerator of the fraction owed by a Class 3 or 4 license holder will be at 12.5;
- (D) The numerator of the fraction owed by a Greyhound racetrack will be 70; and
- (E) The denominator of the fraction will be the sum of all the numerators of each of the remaining license holders as specified in items (A) – (D) above.

(2) In the event that a new racetrack license is issued, the license fees owed by the license holders will be adjusted so that the annual fees paid by each license holder will be decreased by an amount which is calculated in a similar manner to (1) above.

- (3) The Commission shall notify each license holder of the amounts of any adjustment pursuant to this section (c) and provide the calculation of the adjustment to such license holder.
- (4) If fees are increased pursuant to (c)(1), the first such increased fees shall be due on the first business day of the month which is at least 30 days after the Commission notifies the license holder pursuant to subparagraph (c)(3) and shall be calculated based on all of the unpaid fees resulting from the license termination accruing prior to that due date. Subsequent increased fees shall be based on the amount of fees that will not be paid monthly due to the termination of the license. Any decreased fee shall take effect and apply when the reason for the decrease occurs and shall begin being reflected on the first fee invoice from the Commission after such decrease takes effect.
- (5) If any of the adjustments imposed by paragraphs (c)(1) results in the license fee being paid by any licensee to exceed the fee specified in paragraph (b) by more than 15%, the Commission shall expeditiously undertake rulemaking pursuant to Chapter 307 of these rules and such automatic adjustments shall terminate 90 days after the Commission sends the notices of the adjustments pursuant to paragraph (c)(3).
- (6) Annual fees are calculated using a projected base of 48 days of live horse racing per Class 1 racetrack, 8 days of live horse racing per Class 3 or 4 racetrack, and a total of 36 performances of live greyhound racing per fiscal year. If a Class 1 horse racetrack does not intend to use all of the race days allotted to it, it shall share the unused days with another Class 1 track, provided that the track receiving the unused days is not required to compensate the track sharing the days. To cover the additional regulatory costs in the event additional days or performances are requested by the associations, the executive secretary may:
 - (A) Recalculate a horse racetrack's annual fee by adding an amount not to exceed \$5,345 for each live race day added beyond the base; and
 - (B) Recalculate a greyhound racetrack's annual fee by adding \$750 for each live performance added beyond the base.
- (7) If the simulcast tax revenue collected in any quarter ending November 30, February 28 or 29, May 31, or August 31 is less than the amount specified for that quarter in subsections (7)(A) through (7)(D), below, the 1/12 fee payments specified in subsection (b) for the first month which begins greater than 30 days after notice of this single month fee adjustment is given by the Commission pursuant to (c)(3), shall be increased, on a pro rata basis similar to that specified in (c)(1), in an amount sufficient to generate revenue in the amount of the difference between the amount of

simulcast tax revenue collected in the quarter and the amount that is specified for that quarter in subsections (7)(A) through (7)(D), below:

- (A) For a quarter ending November 30: (insert the dollar amount that is 96% of the amount of simulcast revenue that was collected in the first quarter of fiscal year 2018).
 - (B) For a quarter ending February 28 or 29: (insert the dollar amount that is 96% of the amount of simulcast revenue that was collected in the second quarter of fiscal year 2018).
 - (C) For a quarter ending May 31: (insert the dollar amount that is 96% of the amount of simulcast revenue that was collected in the third quarter of fiscal year 2018).
 - (D) For a quarter ending August 31: (insert the dollar amount that is 96% of the amount of simulcast revenue that was collected in the fourth quarter of fiscal year 2018).
- (8) If the executive secretary determines that the total revenue from the annual fees exceeds the amount needed to pay its costs, the executive secretary shall order a moratorium on all or part of the license fees remitted monthly by any or all of the associations. Before entering a moratorium order, the executive secretary shall develop a formula for imposing the moratorium in an equitable manner among the associations. In developing the formula, the executive secretary shall consider the amount of excess revenue received by the Commission, the source of the revenue, the Commission's costs associated with regulating each association, the Commission's projected receipts for the next fiscal year, and the Commission's projected expenses during the next fiscal year.

CHAPTER 309
SUBCHAPTER A
SUBDIVISION 1

RACETRACK LICENSES AND OPERATIONS
RACETRACK LICENSES
GENERAL PROVISION

(a) Purpose of Fees. An association shall pay a license fee to the Commission to pay the Commission's costs to administer and enforce the Act, and to regulate, oversee, and license live and simulcast racing at racetracks.

(b) Annual License Fee. A licensed racing association shall pay an annual license fee by remitting to the Commission 1/12th of the fee on the first business day of each month. The annual license fee for each license type is as follows:

- (1) for a Class 1 racetrack, \$223,530 [~~\$200,000~~];
- (2) for a Class 2 racetrack, \$106,176 [~~\$95,000~~];
- (3) for a Class 3 or 4 racetrack, \$27,941 [~~\$25,000~~]; and
- (4) for a Greyhound racetrack, \$156,471 [~~\$140,000~~].

(c) Adjustment of Fees.

(1) In the event that any current racetrack licenseholder ceases to be licensed:

(A) the fees in subsection (b) of this section shall be increased proportionally in order that the fee increases to be paid by the remaining racetrack license holders make up the amount of the terminated license holder's fee; and

(B) the fees in subsection (b) of this section as modified by subparagraph (c)(1)(A) of this section shall be increased on a one-time, pro rata basis as necessary so that the Commission does not lose any racetrack license fee revenue due to the termination of the license.

(2) Any fee increases imposed by paragraph (c)(1) of this section shall be effective upon 30 days notice to the racetracks.

(3) In the event that a new racetrack license is issued, the license fees owed by the licenseholders shall be reduced proportionally in order that the total of the racetrack license fees remains constant.

(4) If any of the adjustments imposed by this subsection cause the base annual license fee owed by any licensee to exceed the fee specified in subsection (b) of this section by more than 15%, the Commission shall undertake rulemaking to amend this section within 90 days after the Commission sends notice of the adjustment.

(5) [(4)] Annual fees are calculated using a projected base of 48 days of live horse racing per Class 1 racetrack, 8 days of live horse racing per Class 3 or 4 racetrack, and a total of 36 performances of live greyhound racing per fiscal year. If a Class 1 horse racetrack does not intend to use all of the race days allotted to it, it shall share the unused days with another Class 1 track, provided that the track receiving the unused days is not required to compensate the track sharing the days. To cover the additional regulatory cost in the event additional days or performances are requested by the associations, the executive secretary may:

(A) recalculate a horse racetrack's annual fee by adding an amount not to exceed \$5,345 for each live race day added beyond the base; and

(B) recalculate a greyhound racetrack's annual fee by adding \$750 for each live performance added beyond the base.

(6) [(2)] If the simulcast tax revenue collected in any quarter ending November 30, February 28 or 29, May 31, or August 31 is less than ~~[96 percent of]~~ the amount specified in subparagraphs (c)(6)(A) through (c)(6)(D) of this section, [collected in the same period the year before,] the fees in subsection (b) of this section shall be increased, for the third ~~[second]~~ month of the following quarter, on a pro rata basis in an amount sufficient to generate revenue in the amount of the difference between the amount of simulcast tax revenue collected in the quarter and the following amount: ~~[that is 96 percent of the amount collected in the same quarter the year before.]~~

(A) for a quarter ending November 30, \$599,620;

(B) for a quarter ending February 28 or 29, \$630,955;

(C) for a quarter ending May 31, \$750,560; and

(D) for a quarter ending August 31, \$688,090.

(7) Any fee increase owed by a racetrack licenseholder under paragraph (c)(6) of this section, as it existed on September 1, 2020 as paragraph (c)(2) of this section, shall be due on November 1, 2020.

(8) [(3)] If the executive secretary determines that the total revenue from the annual fees exceeds the amount needed to pay its costs, the executive secretary shall order a moratorium on all or part of the license fees remitted monthly by any or all of the associations. Before entering a moratorium order, the executive secretary shall develop

a formula for imposing the moratorium in an equitable manner among the associations. In developing the formula, the executive secretary shall consider the amount of excess revenue received by the Commission, the source of the revenue, the Commission's costs associated with regulating each association, the Commission's projected receipts for the next fiscal year, and the Commission's projected expenses during the next fiscal year.

CHAPTER 303
SUBCHAPTER G
DIVISION 3

GENERAL PROVISIONS
HORSE INDUSTRY ESCROW ACCOUNT
BREED REGISTRIES

303.321 Allocations to Breed Registries

(a) – (f) (No change.)

(g) For any request for allocation that does not exceed \$50,000, the executive director may act on behalf of the Commission to approve the request or may forward it to the Commission for consideration.

303.323 Modifications to Approved Events

(a) A breed registry seeking to make a modification to the date, description, or budget for an event for which funds have been allocated from the horse industry escrow account shall submit a request to:

(1) the executive director for [~~changes to one or more of the following~~]:

(A) a change to an event that, after the change, would qualify for approval by the executive director; or

(B) for an event that does not qualify for approval by the executive director, a change to one or more of the following:

(i) the date, if the proposed new date is within six months of the original date;

(ii) [~~(B)~~] the description, if the change does not materially change the nature or scope of the event; or

(iii) [~~(C)~~] the budget, if the proposed new budget is within ten percent of the original budget for the event; or

(2) the Commission, for all other changes.

(b) The request must explain the proposed change, the reason for the change, and the anticipated economic impact of the event as modified on the horse industry.

(c) The executive director may approve or deny a change requested under subsection (a)(1) of this section or may forward the request to the Commission for consideration.