

TEXAS RACING COMMISSION

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COMMITTEE ON RULES

Tuesday, November 2, 2010
1:30 p.m.

Texas Department of Public Safety
Criminal Law Enforcement Building
6100 Guadalupe, Building E, Auditorium
Austin, Texas 78752

Agenda

The Committee will discuss the Rule Reviews of Chapters 307, Proceedings before the Commission, and Chapter 321, Pari-mutuel Wagering.

- The Chapter 307 discussion will focus on a draft proposal to amend Commission Rule § 307.62, Disciplinary Hearings. The draft proposal will address the rules of evidence, the burden of proof, and the grounds for continuances at the hearing of a board of stewards or judges.
- The Chapter 321 discussion will focus on the draft proposal to amend Chapter 321, Pari-mutuel Wagering. The draft proposal will address proposed changes in Subchapters A, General Provisions; C, Regulation of Live Wagering; D, Simulcast Wagering; and E, Ticketless Electronic Wagering. Staff will provide a report on the progress of the proposed changes to Subchapter B, Totalisator Requirements and Operating Environment.

The Committee will hear and discuss reports from the Safety and Medication Working Group on the following items:

- Potential change to the maximum permissible phenylbutazone concentration levels in racehorses.
- Potential changes to the Bleeders and Furosemide Program, including the establishment of minimum and maximum dosage levels for furosemide and a request by TQHA to amend provisions relating to horses voluntarily admitted to the Bleeders and Furosemide program.

The public will be given an opportunity to address the Committee and identify any potential subjects that it would like placed on the agenda for discussion at a future committee meeting.

**TEXAS RULES OF RACING
CHAPTER 307
PROCEEDINGS BEFORE
THE COMMISSION**

Rule Review – Proposed Change

**Chapter 307, Subchapter C,
Proceedings by Stewards and Racing Judges
Section 307.62. Disciplinary Hearings
Discussion Format, pages 1-3
Texas Register Format, pages 4-5**

Proposing Changes to the Rules of Racing

Committee on Rules – This Committee meets to discuss policy change and rule proposals generally two weeks before a Commission meeting. The agenda for these meetings are posted at www.txrc.state.tx.us.

Please email info@txrc.state.tx.us to be notified by email of all Commission meetings. The Committee routinely presents requested policy and rule changes to the Commission for its consideration.

Agency rules are adopted in accordance with the Administrative Procedure Act, Texas Govt. Code, Chapter 2001. A weekly publication, the *Texas Register*, serves as the journal of state agency rulemaking for Texas. Any proposed change to the Rules of Racing must first be voted on to be published in the Texas Register for at least a 30 day comment period. Following the required time period, the Commission considers comments and may vote to publish its intention to adopt the proposed change in the Texas Register.

Commenting on Proposed Changes – Interested parties may attend and comment at both the Committee on Rules and Texas Racing Commission meetings or submit written comment to the Commission regarding proposed changes. Written comments should be submitted to the Texas Racing Commission, P. O. Box 12080, Austin, TX 78711-2080.

Requesting Rule Changes - Under Section 307.102 of the Rules of Racing, a person may request the Commission adopt, amend, or repeal a rule. To assist the Committee on Rules' evaluation of proposed changes, a person should complete the form, ***Request for Proposed Change to an Existing Rule or Addition of a New Rule to the Rules of Racing***, and submit it to the Commission. The form is available at www.txrc.state.tx.us, or by emailing info@txrc.state.tx.us or calling 512-833-6699.

Discussion of Possible Rule Change(s)

Changes to Chapter 307, Proceedings Before the Commission, Subchapter C, Proceedings by Stewards and Judges were considered and discussed at the June 8, 2010, and August 31, 2010 Committee on Rules meetings.

Symbols in proposed rule text: Proposed new language is indicated by underlined text. [Square brackets and strikethrough] indicate existing rule text that is proposed for deletion. "(No change)" indicates the existing rule text at this level is not being amended.

Possible Rule Change(s) to Chapter 307. Proceedings Before the Commission, Subchapter C, Proceedings by Stewards and Judges

Section 307.62 Disciplinary Hearings

(a) Authority to Conduct. On their own motion or on receipt of a complaint regarding the actions of an occupational licensee, the stewards and racing judges may conduct a disciplinary hearing regarding the licensee's actions.

(b) Notice of Hearing. Except as otherwise provided by the Rules, the stewards and racing judges shall provide written notice to a person who is the subject of a disciplinary hearing at least 10 calendar days before the hearing. Notice given under this subsection must state the nature of the charges against the person and the possible penalties that may be imposed. The person may waive his or her right to 10 days notice.

(c) Rights of the Licensee. At a disciplinary hearing conducted by the stewards or racing judges, the person who is the subject of the disciplinary hearing has the following rights, all of which the person may waive:

- (1) the right to counsel;
- (2) the right to present a defense;
- (3) the right to make an opening and closing statement;
- (4) the right to call witnesses; and
- (5) the right to cross-examine witnesses testifying against the person.

(d) Evidence.

(1) Each witness at a disciplinary hearing conducted by the stewards or racing judges must be sworn by the presiding steward or racing judge.

(2) To facilitate participation by licensees, the stewards and racing judges may permit witnesses to testify at a disciplinary hearing via telephone if the stewards or racing judges make reasonable assurances that the person testifying is who he or she purports to be.

(3) The stewards and racing judges shall make a record of a disciplinary hearing.

(4) The stewards and racing judges shall allow a full presentation of evidence and are not bound by the technical rules of evidence. However, the

stewards and racing judges may disallow evidence that is irrelevant or unduly repetitive of other evidence. The stewards shall have the authority to determine, in their sole discretion, the weight and credibility of any evidence and/or testimony. The stewards and racing judges may admit hearsay evidence if the stewards and racing judges determine the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by state law apply in hearings before the stewards and racing judges. Hearsay evidence that is not otherwise admissible under the exceptions of the Texas Rules of Evidence is an insufficient basis alone for a ruling.

(e) Burden of Proof

The burden of proof is on the person bringing the complaint to show, by a preponderance of the evidence, that the licensee has violated or is responsible for a violation of the Act or a Commission rule.

(f) Continuances

(1) Upon receipt of a notice, a person may request a continuance of the hearing.

(2) For good cause shown, the stewards or racing judges may grant a continuance of any hearing for a reasonable period of time.

(3) The stewards or racing judges may at any time order a continuance on their own motion.

(e g) Agreed Settlement. The person who is the subject of the disciplinary hearing may waive the right to a hearing and subsequent appeal and enter into an agreed settlement with the stewards or racing judges.

(f h) Failure to Appear. The stewards or racing judges may suspend the license of a person who fails to appear at a disciplinary hearing after receiving written notice of the hearing until the matter is adjudicated.

(g i) Summary Suspension. If the stewards or racing judges determine that a licensee's actions

constitute an immediate danger to the public health, safety, or welfare, the stewards or racing judges may enter a ruling summarily suspending the license, without a prior hearing. A summary suspension takes effect immediately on issuance of the ruling. If the stewards or racing judges suspend a license under this subsection, the licensee is entitled to a hearing on the suspension not later than three calendar days after the day the license is suspended. The licensee may waive his or her right to a hearing on the summary suspension within the three-day period.

Title 16, Part VIII

Chapter 307. Proceedings Before the Commission

Subchapter C. Proceedings by Stewards and Racing Judges

1 Section 307.62 Disciplinary Hearings:

2 (a) Authority to Conduct. On their own motion or on receipt of a
3 complaint regarding the actions of an occupational licensee, the
4 stewards and racing judges may conduct a disciplinary hearing
5 regarding the licensee's actions.

6 (b) Notice of Hearing. Except as otherwise provided by the
7 Rules, the stewards and racing judges shall provide written
8 notice to a person who is the subject of a disciplinary hearing
9 at least 10 calendar days before the hearing. Notice given under
10 this subsection must state the nature of the charges against the
11 person and the possible penalties that may be imposed. The
12 person may waive his or her right to 10 days notice.

13 (c) Rights of the Licensee. At a disciplinary hearing conducted
14 by the stewards or racing judges, the person who is the subject
15 of the disciplinary hearing has the following rights, all of
16 which the person may waive:

- 17 (1) the right to counsel;
- 18 (2) the right to present a defense;
- 19 (3) the right to make an opening and closing statement;
- 20 (4) the right to call witnesses; and
- 21 (5) the right to cross-examine witnesses testifying against
22 the person.

23 (d) Evidence.

24 (1) Each witness at a disciplinary hearing conducted by the
25 stewards or racing judges must be sworn by the presiding steward
26 or racing judge.

27 (2) To facilitate participation by licensees, the stewards and
28 racing judges may permit witnesses to testify at a disciplinary
29 hearing via telephone if the stewards or racing judges make
30 reasonable assurances that the person testifying is who he or
31 she purports to be.

32 (3) The stewards and racing judges shall make a record of a
33 disciplinary hearing.

34 (4) The stewards and racing judges shall allow a full
35 presentation of evidence and are not bound by the technical
36 rules of evidence. However, the stewards and racing judges may
37 disallow evidence that is irrelevant or unduly repetitive of
38 other evidence. The stewards shall have the authority to
39 determine, in their sole discretion, the weight and credibility
40 of any evidence and/or testimony. The stewards and racing
41 judges may admit hearsay evidence if the stewards and racing
42 judges determine the evidence is of a type that is commonly
43 relied on by reasonably prudent people. The rules of privilege
44 recognized by state law apply in hearings before the stewards
45 and racing judges. Hearsay evidence that is not otherwise

1 admissible under the exceptions of the Texas Rules of Evidence
2 is an insufficient basis alone for a ruling.

3 (e) Burden of Proof

4 The burden of proof is on the person bringing the complaint to
5 show, by a preponderance of the evidence, that the licensee has
6 violated or is responsible for a violation of the Act or a
7 Commission rule.

8 (f) Continuances

9 (1) Upon receipt of a notice, a person may request a
10 continuance of the hearing.

11 (2) For good cause shown, the stewards or racing judges may
12 grant a continuance of any hearing for a reasonable period of
13 time.

14 (3) The stewards or racing judges may at any time order a
15 continuance on their own motion.

16 ~~(e)~~ (g) Agreed Settlement. The person who is the subject of the
17 disciplinary hearing may waive the right to a hearing and
18 subsequent appeal and enter into an agreed settlement with the
19 stewards or racing judges.

20 ~~(f)~~ (h) Failure to Appear. The stewards or racing judges may
21 suspend the license of a person who fails to appear at a
22 disciplinary hearing after receiving written notice of the
23 hearing until the matter is adjudicated.

24 ~~(g)~~ (i) Summary Suspension. If the stewards or racing judges
25 determine that a licensee's actions constitute an immediate
26 danger to the public health, safety, or welfare, the stewards or
27 racing judges may enter a ruling summarily suspending the
28 license, without a prior hearing. A summary suspension takes
29 effect immediately on issuance of the ruling. If the stewards or
30 racing judges suspend a license under this subsection, the
31 licensee is entitled to a hearing on the suspension not later
32 than three calendar days after the day the license is suspended.
33 The licensee may waive his or her right to a hearing on the
34 summary suspension within the three-day period.

**TEXAS RULES OF RACING
CHAPTER 321
PARI-MUTUEL WAGERING**

Rule Review – Proposed Changes

**Chapter 321, Subchapters A, C, D, and E
Discussion Format, pages 6-14
Texas Register Format, pages 15-38**

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Discussion of Possible Rule Change(s)

Changes to Chapter 321, Pari-Mutuel Wagering, Subchapters A, C, D, and E, were considered and discussed at the Pari-Mutuel Advisory Committee Meetings held on March 4, 2010, June 22, 2010 and August 12, 2010. At the August 31, 2010, meeting of the Committee on Rules, staff provided an overview of the changes.

Symbols in proposed rule text: Proposed new language is indicated by underlined text. [Square brackets and strikethrough] indicate existing rule text that is proposed for deletion. "(No change)" indicates the existing rule text at this level is not being amended.

Possible Rule Change(s) to Chapter 321, Pari-Mutuel Wagering

Subchapter A, Mutuel Operations Division 1. General Provisions

Sec. 321.12 Time Synchronization.

(a) Display and verification of the accurate off time and start of a race is critical. To ensure accurate verification of off time with the close of betting on all races, the association shall ensure:

(1) Tote times shall be synchronized to an atomic clock on a start-of-day basis.

(2) Source video signal shall be synchronized with the atomic clock.

(3) The time of day shall be displayed at the start of the race in the HR:MN:SC format.

(b) Security system video, which monitors mutuel lines, shall be synchronized with the atomic clock.

Sec. 321.15. License to Provide Totalisator Services.

(a) To provide totalisator services to an association in Texas, a totalisator company must be licensed by the Commission as a totalisator vendor. The license application must include:

(1) a copy of a current written contract to provide a totalisator system to an association;

(2) a list of all totalisator personnel assigned to work in Texas, or on behalf of an association operating in Texas, as described in §321.123 of this title (relating to Personnel Requirements);

(3) an affidavit stating that the totalisator company and its employees will comply with the Rules and the Comptroller's rules regarding totalisator operations; and

(4) information of sufficient detail for the Commission to determine that the totalisator company is in compliance with Subchapter B of this chapter.

(b) A contract between the totalisator company and an association must be submitted to the Commission for approval before the contract's effective date.

Division 2. Wagering Information and Results

Sec. 321.23. Wagering Explanations.

(a) An association shall include the following information in the official live programs and simulcast programs and post in ~~conspicuous~~ places easily viewed by patrons and licensees on association grounds:

(1) a general explanation of pari-mutuel wagering;

(2) an explanation of each type of pari-mutuel wagering pool offered; and

(3) the expiration date of mutuel tickets and vouchers.

(b) Wagering explanations must be reviewed and approved by the executive secretary before publication.

Division 3. Mutuel Tickets and Vouchers

Sec. 321.46 Payment on No Ticket Issue. When a ticket issuing machine does not produce a paper ticket due to a mechanical failure, the mutuel manager may validate the wager through totalisator logs. If the transaction is a winning wager and the mutuel manager pays the patron, then the mutuel manager shall report the transaction to the commission on a form prescribed by the commission.

Subchapter C. Regulation of Live Wagering Division 1. General Provisions

Sec. 321.211. Carryover Pools.

(a) With the approval of the executive secretary, an association may declare an amount as a cap or may designate specific dates, days, or performances for a mandatory payout for any pool that may be carried forward to future performances if it is not won. After declaring the amount of the cap for a pool or designating specific dates, days, or performances for a mandatory payout, the association may not change the amount of the cap or a designated mandatory payout day, date, or performance

during a race meeting without prior written approval of the executive secretary.

(b) If, at the end of a performance, the amount accumulated in a pool for which a cap has been declared equals or exceeds the amount of the cap, the pool shall be frozen until it is won in accordance with the Rules.

(c) At each performance at which a pool frozen under this section is not won, all money wagered for that pool at that performance shall be distributed to the holders of tickets that contain the most winners.

(d) If at a performance it is not possible to distribute money wagered for a pool frozen under this section in accordance with the Rule regarding that pool, all money wagered for that pool at that performance shall be refunded.

(e) If an association does not designate a specific date, day, or performance for a mandatory payout of a carryover pool, the pool shall be distributed:

(1) at a horse racetrack, at the last performance of the race meeting; and

(2) at a greyhound racetrack, at the last performance of the calendar year.

(f) If the last performance is canceled, ~~the association shall place the pool~~ shall be deposited in an interest-bearing account approved by the executive secretary. ~~escrow and~~ The pool and all accrued interest shall then be carried over and included with the appropriate pool at the next succeeding performance as an additional amount to be distributed.

Division 2. Distribution of Pari-Mutuel Pools

Sec. 321.312. Pick (N).

(a) The pick (n) wager is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board. All tickets on the pick (n) shall be calculated as a separate pool.

(b) The association may select a distinctive name for the pick (n), with the prior approval of the executive secretary.

(c) The pick (n) pari-mutuel pool consists of amounts contributed for a selection to win only in each of six, seven, eight, nine, or 10 races designated by the association. After designating the number of races comprising the pick (n), the association may not change the number during a race meeting without prior written approval of the executive secretary.

(d) A person purchasing a pick (n) ticket shall designate the winning animal in each of the races comprising the pick (n). The association shall issue to the purchaser of a pick (n) ticket a ticket that reflects each of the purchaser's selections.

(e) A pick (n) ticket is a contract between the holder of the ticket and the association and the ticket constitutes acceptance of this section. The

association, totalisator company, and the State of Texas are not liable to a person for a pick (n) ticket that is not a winning ticket under this section or for a pick (n) ticket that is not delivered.

(f) A coupled entry or mutuel field in a race that is part of the pick (n) races shall race as a single betting interest for the purpose of mutuel pool calculations and payoffs to the public.

(g) The pick (n) pool shall be distributed as provided by this section. The net pool in the pick (n) pool is divided into a major pool and a minor pool. The association may designate the major pool to consist of either 75% or 50% of the net amount wagered on the pick (n). The remaining percentage constitutes the minor pool. The association shall notify the executive secretary in writing before the beginning of each race meeting of its designation regarding the division between the major and minor pools. After designating the division between the major and minor pools, an association may not change the division during a race meeting without prior written approval of the executive secretary.

(h) The major pool shall be distributed among holders of pick (n) tickets which correctly designate the winner in each of the races comprising the pick (n).

(i) Except as otherwise provided by this section, the minor pool shall be distributed to those ticket holders who failed to correctly designate the winner in each of the races comprising the pick (n), but who correctly selected the winners in the most, but not all of, the races comprising the pick (n).

(j) If no ticket is sold that designates the winner in each of the races comprising the pick (n), the major pool shall be carried forward to the next performance to be paid in the major pool of that performance. Except as otherwise provided by this section, the major pool shall be supplemented each performance by the amount added to the pool from all previous performances' major pools that have not been won in accordance with subsection (h) of this section.

(k) If a pick (n) ticket designates a selection and the selection is scratched or otherwise prevented from racing, the favorite, as determined by the largest amount wagered in the win pool at the start of the race, will be substituted for the nonstarting selection for all purposes, including mutuel pool calculations and payoffs to the public. If there are two or more favorites in the win pool, both favorites will be substituted for the nonstarting selection.

(l) If a race in the pick (n) ends in a dead heat for first place, all animals in the dead heat are winners for purposes of calculating the pick (n) pool.

(m) Except as otherwise provided by this subsection, if one or more races in the pick (n) are canceled or declared a "no race", the amount contributed to the major pool for that performance shall be added to the minor pool for that performance and distributed as an extra amount in the minor pool to the holders of the tickets that designate the most winners in the remaining races. All contributions to the major pool from prior performances shall remain in the major pool, to be carried forward to the next performance to be paid in the major pool for that performance. If the stewards or racing judges cancel or declare as a "no race" three or more of the races comprising a pick six, seven, or eight, four or more of the races comprising the pick nine, or five or more of the races comprising the pick 10, the pick (n) is canceled and the association shall refund all pick (n) tickets. A person may not win the major pool unless the person holds a pick (n) ticket that correctly designates the official winners of all the scheduled races comprising the pick (n) for that performance. On the last performance of a race meeting or on a designated mandatory payout performance, if one or two races comprising the pick (n) are canceled or declared a "no race", the major pool and the minor pool for that performance shall be combined with the prior performance major pool and be paid to those holders of tickets who correctly designated the most winners of the remaining races of the pick (n). If three or more races comprising the pick (n) are canceled or declared a "no race", the association shall refund all pick (n) tickets and the prior performance major pool shall be distributed in accordance with subsection (o) of this section.

(n) If on the last performance of the race meeting or on a designated mandatory payout performance the major pool is not distributable under subsection (h) of this section, the major pool and all money carried forward into that pool from previous performances shall be combined with the minor pool and distributed to the holders of tickets correctly designating the most, but not all, of the races comprising the pick (n) for that performance.

(o) If the final or designated mandatory payoff performance is canceled or the major pool has not been distributed, the major pool shall be ~~eserewed~~ by the association deposited in an interest-bearing account approved by the executive secretary, and The major pool plus all accrued interest shall then be carried over and included in a major pool offered on one of the first five days of the next subsequent race meeting or on the next performance after the undistributed mandatory payout performance, as approved by the executive secretary.

(p) Except for refunds required by this section, a pick (n) ticket may not be sold, exchanged, or canceled after the close of wagering on the first of the pick (n) races.

(q) A person may not disclose the number of tickets sold in the pick (n) pool or the number or amount of tickets selecting winners of the races comprising the pick (n) until the results of the last race comprising the pick (n) are official. The totalisator equipment shall be programmed or constructed to suppress the publication or printing of any such information, except the total number of dollars wagered in the pick (n), until the results of the last race comprising the pick (n) are official.

Sec. 321.313 Select ~~Three~~, Four, or Five

The select ~~three~~, four, or five wager is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board.

(b) A select ~~three~~, four, or five ticket is evidence of a binding contract between the holder of the ticket and the association and the ticket constitutes an acceptance of this section. The association may select a distinctive name for the select ~~three~~, four, or five, with the prior approval of the executive secretary.

(c) The select ~~three~~, four, or five pari-mutuel pool consists of amounts contributed for a selection to win only on each of ~~three~~, four, or five races designated by the association with the approval of the executive secretary. Each person purchasing a select ~~three~~, four, or five ticket shall designate the winning animal in each of the races comprising the select ~~three~~, four, or five.

(d) A coupled entry or mutuel field in a race that is part of the select ~~three~~, four, or five shall race as a single betting interest for the purpose of the select ~~three~~, four, or five pari-mutuel pool calculations and payoffs to the public. If any part of a coupled entry or mutuel field is a starter in a race, the entry or field selection remains as the designated selection to win in that race for the select ~~three~~, four, or five calculation, and the selection may not be deemed a scratch.

(e) The select ~~three~~, four, or five pari-mutuel pool may be a carryover pool or a non-carryover pool. The association, with prior approval of the executive secretary, will decide if the select ~~three~~, four, or five pari-mutuel pool will be offered as a carryover pool or a non-carryover pool.

(f) A non-carryover select ~~three~~, four, or five pari-mutuel pool shall be distributed in accordance with this subsection. One hundred percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which:

(1) Correctly designate the official winner in each of the races comprising the select ~~three~~, four, or five.

(2) If no pari-mutuel ticket is sold combining the winners of all of the races comprising the select ~~three~~, four, or five, 100% of the net amount in the pari-mutuel pool shall be distributed among the holders of pari-mutuel tickets which include the winners of the next highest number of winners of the races in the select ~~three~~, four, or five.

(3) If no pari-mutuel ticket is sold that would require distribution of the select ~~three~~, four, or five pool under paragraphs (1) or (2) of this subsection, the association shall carry over all money wagered in the select ~~three~~, four, or five pool to the next consecutive select ~~three~~, four, or five pool.

(4) If the final day of a race meeting is canceled or the select ~~three~~, four, or five pool has not been distributed, the pool shall be ~~escrowed by the association~~, deposited in an interest-bearing account approved by the executive secretary, and The pool plus all accrued interest shall then be carried over and added to the select ~~three~~, four, or five pari-mutuel pool in the following race meeting on a date and performance designated by the executive secretary.

(5) If ~~one or two of the races comprising a select three is canceled~~, two or three of the races comprising a select four are canceled, or three or four of the races comprising a select five are canceled, the net amount of the pari-mutuel pool shall be distributed as provided in paragraph (2) of this subsection.

(g) A carryover select ~~three~~, four, or five pari-mutuel pool shall be distributed in accordance with this subsection. The net pool in the select ~~three~~, four, or five pool is divided into a major pool and a minor pool. The association shall designate the major pool to consist of 75% of the net amount wagered on the select ~~three~~, four, or five pool. The remaining 25% constitutes the minor pool.

(1) The major pool shall be distributed among holders of select ~~three~~, four, or five tickets, which correctly designate the winner in each of the races comprising the select ~~three~~, four, or five.

(2) Except as otherwise provided by this section, the minor pool shall be distributed to those ticket holders who failed to correctly designate the winner in each of the races comprising the select ~~three~~, four, or five, but who correctly selected the winners in the most, but not all of, the races comprising the select ~~three~~, four, or five. If there are no such tickets, then the minor pool would be added to the major pool and:

(A) Paid out to holders of tickets who correctly designated the winner in each of the races comprising the select ~~three~~, four, or five, but if there are no such tickets,

(B) Carried forward to the next select ~~three~~, four, or five offered.

(3) If no ticket is sold that designates the winner in each of the races comprising the select ~~three~~, four, or five, the major pool shall be carried forward to the next select ~~three~~, four, or five pool offered to be paid in the major pool.

(4) Except as otherwise provided by this section, the major pool shall be supplemented each performance by the amount added to the pool from all previous performances' major pools that have not been won in accordance with paragraph (1) of this subsection.

(5) If on the last performance of the race meeting or on a designated mandatory payout performance the major pool is not distributable under paragraph (1) of this subsection, the major pool and all money carried forward into that pool from previous performances shall be combined with the minor pool and distributed to the holders of tickets correctly designating the most, but not all, of the races comprising the select ~~three~~, four, or five.

(6) Except as otherwise provided by this subsection, if one or more of the races comprising a select ~~three~~, four, or five is canceled or declared a "no race", the amount contributed to the major pool for that select ~~three~~, four, or five shall be added to the minor pool for that same select ~~three~~, four, or five and distributed as an extra amount in the minor pool to the holders of the tickets that designate the most winners in the remaining races. All contributions to the major pool from prior select ~~three~~, four, or five pools shall remain in the major pool, to be carried forward to the next select ~~three~~, four, or five pool to be paid in the major pool later on the race card or on the next performance.

(h) If all of the races comprising the select ~~three~~, four, or five are canceled, the association shall refund the pari-mutuel tickets sold on the select ~~three~~, four, or five on that day. The association shall carry over the remaining amount in the select ~~three~~, four, or five pari-mutuel pool to the next consecutive select ~~three~~, four, or five pari-mutuel pool.

(i) If a selection on a select ~~three~~, four, or five ticket in one or more of the races is scratched or determined by the stewards or racing judges to be a nonstarter in the race, the actual favorite, as shown by the largest amount wagered in the win pool at the time of the start of the race, will be substituted for the non starting selection for all purposes, including pool calculations and payoffs. If there are two or more favorites in the win pool, both favorites will be substituted for the non-starting selection.

(j) In the event of a dead heat for win between two or more animals

~~(4) in a select three, all the animals in the dead heat for win shall be considered as winning animals in the race for the purpose of calculating the major or minor pools and the affected pool is calculated:~~

—(A) As a profit split to those whose selections finished first in each of the three contests; but if there are no such wagers, then

—(B) As a single price pool to those who selected the first place finisher in any two of the three contests; but if there are no such wagers, then

—(C) As a single price pool to those who selected the first place finisher in any one of the three contests; but if there were no such wagers, then in accordance with paragraph (f) of this section.

(2) In a select four or five race, all the animals in the dead heat for win shall be considered as winning animals in the race for the purpose of calculating the major or minor pools and the affected pool is calculated as a win pool.

(k) A pari-mutuel ticket for the select three, four, or five pool may not be sold, exchanged, or canceled after the time wagering closes in the first of the races comprising the select three, four, or five, except for refunds on select three, four, or five tickets as required by subsection (h) of this section. A person may not disclose the number of tickets sold in the select three, four, or five pool or the number or amount of tickets selecting winners of select three, four, or five races until the stewards or racing judges have determined the last race comprising the select three, four, or five to be official.

Sec. 321.319 Select Three Pool.

(a) The select three is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board.

(b) A select three ticket is evidence of a binding contract between the holder of the ticket and the association and the ticket constitutes an acceptance of this section. The association may select a distinctive name for the select three with the prior approval of the executive secretary.

(c) The select three pari-mutuel pool consists of amounts contributed for a selection to win only on each of three races designated by the association with the approval of the executive secretary. Each person purchasing a select three ticket shall designate the winning animal in each of the races comprising the select three pool.

(d) A coupled entry or mutuel field in a race that is part of the select three shall race as a single betting interest for the purpose of the select three pari-mutuel pool calculations and payoffs to the public. If any part of a coupled entry or mutuel field is a starter in a race, the entry or field selection remains as the designated selection to win in that race for the select three calculation, and the selection may not be deemed a scratch.

(e) The select three pari-mutuel pool may be a carryover pool or a non-carryover pool. The association, with prior approval of the executive secretary, will decide if the select three pari-mutuel pool will be offered as a carryover pool or a non-carryover pool.

(f) A non-carryover select three pari-mutuel pool shall be distributed in accordance with this subsection. One hundred percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which:

(1) Correctly designate the official winner in each of the races comprising the select three.

(2) If no pari-mutuel ticket is sold combining the winners of all of the races comprising the select three, 100% of the net amount in the pari-mutuel pool shall be distributed among the holders of pari-mutuel tickets which include the winners of the next highest number of winners of the races in the select three pool.

(3) If no pari-mutuel ticket is sold that would require distribution of the select three pool under paragraphs (1) or (2) of this subsection, the association shall carry over all money wagered in the select three pool to the next consecutive select three pool.

(4) If the final day of a race meeting is canceled or the select three pool has not been distributed, the pool shall be deposited in an interest-bearing account approved by the executive secretary. The pool plus all accrued interest shall then be carried over and added to the select three pari-mutuel pool in the following race meeting on a date and performance designated by the executive secretary.

(5) If one or two of the races comprising a select three is canceled, the net amount of the pari-mutuel pool shall be distributed as provided in paragraph (2) of this subsection.

(g) A carryover select three pari-mutuel pool shall be distributed in accordance with this subsection. The net pool in the select three pool is divided into a major pool and a minor pool. The association shall designate the major pool to consist of 75% of the net amount wagered on the select three pool. The remaining 25% constitutes the minor pool.

(1) The major pool shall be distributed among holders of select three tickets, which correctly designate the winner in each of the races comprising the select three pool.

(2) Except as otherwise provided by this section, the minor pool shall be distributed to those ticket holders who failed to correctly designate the winner in each of the races comprising the select three, but who correctly selected the winners in the most, but not all of, the races comprising the select three. If there are no such tickets, then the minor pool would be added to the major pool and:

(A) Paid out to holders of tickets who correctly designated the winner in each of the races comprising the select three, but if there are no such tickets,

(B) Carried forward to the next select three pool offered.

(3) If no ticket is sold that designates the winner in each of the races comprising the select three, the major pool shall be carried forward to the next select three pool offered to be paid in the major pool.

(4) Except as otherwise provided by this section, the major pool shall be supplemented each performance by the amount added to the pool from all previous performances' major pools that have not been won in accordance with paragraph (1) of this subsection.

(5) If on the last performance of the race meeting or on a designated mandatory payout performance the major pool is not distributable under paragraph (1) of this subsection, the major pool and all money carried forward into that pool from previous performances shall be combined with the minor pool and distributed to the holders of tickets correctly designating the most, but not all, of the races comprising the select three.

(6) Except as otherwise provided by this subsection, if one or more of the races comprising a select three is canceled or declared a "no race", the amount contributed to the major pool for that select three shall be added to the minor pool for that same select three and distributed as an extra amount in the minor pool to the holders of the tickets that designate the most winners in the remaining races. All contributions to the major pool from prior select three pools shall remain in the major pool, to be carried forward to the next select three pool to be paid in the major pool later on the race card or on the next performance.

(h) If the scratch (which herein after includes being declared a non-starter or a non-betting starter) was made prior to the start of the first leg, all bets containing such scratched betting interest shall be refunded to determine the gross pool and removed from further consideration in the pool;

(i) If the scratch was made in the second leg after the start of the first leg, a consolation payoff shall be computed for those bets combining the winners of the first and third legs with the scratched betting interest as follows: from the gross pool shall be deducted the statutory take-out and then the amount represented by the bets on combinations involving betting interests scratched from the third leg (reduced by the take-out thereon). The resulting remainder shall be divided by the amounts bet on the combination of such first and third leg winners with all betting interests (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and third legs with the betting interest scratched in the second leg. The break shall not be deducted from the pool.

(j) If a betting interest is scratched in the third leg after the start of the first leg, a consolation payoff shall be computed as for those bets combining the winners of the first and second legs with such scratched betting interest as follows: from the

gross pool shall be deducted the statutory take-out and then the amount represented by bets on combinations involving betting interests scratched from the second leg (reduced by the rate of the take-out thereon). The resulting remainder shall be divided by the amount bet on the combination of such first and second leg winners with all betting interests in the third leg (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and second legs with a betting interest scratched in the third leg. The breaks shall not be deducted from the pool.

(k) If betting interests are scratched in both the second and third legs after the start of the first leg, a consolation payoff shall be computed for those bets combining the winner of the first leg with the betting interests scratched in both the second and third legs as follows: from the gross pool shall be deducted the takeout and the remainder shall be divided by the amount bet on the winner of the first leg combined with all other betting interests (less breaks) to determine the consolation price per dollar payable to those tickets combining the winner of the first leg with the scratched betting interests from both the second and third legs.

(l) If all of the races comprising the select three are canceled, the association shall refund the pari-mutuel tickets sold on the select three on that day. The association shall carry over the remaining amount in the select three pari-mutuel pool to the next consecutive select three pari-mutuel pool.

(m) In the event of a dead heat for win between two or more animals:

(1) In a select three all the animals in the dead heat for win shall be considered as winning animals in the race for the purpose of calculating the major or minor pools and the affected pool is calculated:

(A) As a profit split to those whose selections finished first in each of the three contests; but if there are no such wagers, then

(B) As a single price pool to those who selected the first place finisher in any two of the three contests; but if there are no such wagers, then

(C) As a single price pool to those who selected the first place finisher in any one of the three contests; but if there were no such wagers, then in accordance with paragraph (f) of this section.

(n) A pari-mutuel ticket for the select three pool may not be sold, exchanged, or canceled after the time wagering closes in the first of the races comprising the select three, except for refunds on select three tickets as required by subsection (h) of this section. A person may not disclose the number of tickets sold in the select three pool or the number or amount of tickets selecting winners of select three races until the stewards or racing judges have determined the last race comprising the select three to be official.

Sec. 321.320 Super Hi-Five.

(a) The super hi-five is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board. All tickets on the super hi-five shall be calculated as a separate pool.

(b) A person purchasing a super hi-five ticket shall select the five animals that will finish first, second, third, fourth, and fifth in one race. The pool shall be distributed only to the holders of tickets that select the same order of finish as officially posted.

(c) If no super hi-five ticket is sold for the winning combination, then the net pool shall be carried over and paid out in the following manner:

(1) The entire pool shall be carried over and made available on the next consecutive super hi-five pool, and is combined with and added to the net pool for such qualifying pool, and made available for payout, or and unless

(2) An association can, at its option, announce a consolation pool, 25% of the net pool, will be offered. The offering of a consolation pool shall be announced at least 72 hours in advance of the first day upon which a consolation pool will be offered, and shall be publicized. Notice of the consolation pool may be announced, by way of example, via press release, internet, simulcast signal, and on-track announcements.

(3) If there are no ticket holders who selected first-place, second-place, third-place, fourth-place, and fifth-place finishers in order and a consolation pool is offered, then a consolation pool shall be established. The consolation pool shall be equal to 25% of the net pool and distributed as a single price pool among those ticket holders and paid out as follows:

(A) To those who selected first-place, second-place, third-place, and fourth-place finishers in order. If there are no such wagers, then

(B) To those who selected first-place, second-place, and third-place finishers in order. If there are no such wagers, then

(C) To those who selected first-place and second-place finishers in order. If there are no such wagers, then

(D) To those who selected the first-place finishers.

(E) If the super hi-five pool cannot otherwise be distributed in accordance with this section, the money in the super hi-five consolation pool shall be carried forward to the next consecutive super hi-five pool.

(d) The minimum number of wagering interests required to offer super hi-five wagering shall be seven actual starters.

(e) Super hi-five wagers on races in which wagering has been cancelled or the race declared no contest shall be refunded. Any carryover pool added to the net pool of a super hi-five race which is cancelled shall carry forward to be added to the next consecutive super hi-five wagering pool.

(f) If less than five animals finish and the race is declared official by the stewards or judges, then pay off shall be made to ticket holders selecting the finishing animals in order of finish as provided above.

(g) In the event of a dead heat in any finishing position, the wagers be paid as follows:

(1) All wagers selecting either of the dead-heat positions with the correct non-dead-heat position shall be winners and share in the pool;

(2) Payouts will be calculated by splitting the pool equally between each winning combination, then dividing split pools by the number of winning tickets. A dead heat will produce separate and distinct payouts respective to each winning combination.

(h) If the final day of a race meeting is canceled or the super hi-five pool has not been distributed, the pool shall be deposited in an interest-bearing account approved by the executive secretary. The pool plus all accrued interest shall then be carried over and added to the super hi-five pari-mutuel pool in the following race meeting on a date and performance designated by the executive secretary.

(i) If an animal is scratched or declared a nonstarter, no further tickets may be issued designating such animal and all super hi-five tickets previously issued designating such animal shall be refunded and the money deducted from the gross super hi-five pool.

(j) For purposes of statutory deductions and commissions, the net amount does not include any amounts carried over from any previous super hi-five pool.

Section 321.321 Fortune Pick (N).

(a) The fortune pick (n) wager is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board. All tickets on the fortune pick (n) shall be calculated as a separate pool.

(b) The fortune pick (n) pari-mutuel pool consists of amounts contributed for a selection to win only in each of six, seven, eight, nine, or 10 races designated by the association. After designating the number of races comprising the fortune pick (n), the association may not change the number during a race meeting without prior written approval of the executive secretary.

(c) A person purchasing a fortune pick (n) ticket shall designate the winning animal in each of the races comprising the fortune pick (n). The association shall issue to the purchaser of fortune pick (n) ticket a ticket that reflects each of the purchaser's selections.

(d) A fortune pick (n) ticket is a contract between the holder of the ticket and the association and the ticket constitutes acceptance of this section. The association, totalisator company, and the State of Texas are not liable to a person for a fortune pick

(n) ticket that is not a winning ticket under this section or for a fortune pick (n) ticket that is not delivered.

(e) A coupled entry or mutuel field in a race that is part of the fortune pick (n) races shall race as a single betting interest for the purpose of mutuel pool calculations and payoffs to the public.

(f) The fortune pick (n) pool shall be distributed as provided by this section. The net pool in the fortune pick (n) pool is divided into a major pool and a minor pool. The association may designate the major pool to consist of either 75% or 50% of the net amount wagered on the fortune pick (n). The remaining percentage constitutes the minor pool. The association shall notify the executive secretary in writing before the beginning of each race meeting of its designation regarding the division between the major and minor pools. After designating the division between the major and minor pools, an association may not change the division during a race meeting without prior written approval of the executive secretary.

(g) Fortune pick (n) with minor pool and carryover with unique wager: the entire net fortune pick (n) pool and carryover, if any, shall be distributed to the holder of a unique wager selecting the first place finisher in each of the selected fortune pick (n) contests, based upon the official order of finish. If there is no unique wager selecting the first place finisher in all fortune pick (n) contests, the minor share of the net fortune pick (n) pool shall be distributed as a single price pool to those who selected the first place finisher in the greatest number of fortune pick (n) contests; and the major share shall be added to the carryover.

(h) Unique wager, as used in this rule, shall be defined as having occurred when the total amount wagered on a winning combination selecting the first place finisher in each of the selected fortune pick (n) contests, based upon the official order of finish, is equal to the minimum allowable wager.

(i) If there is a dead heat for first in any of the fortune pick (n) contests involving:

(1) Contestants representing the same betting interest, the fortune pick (n) pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the fortune pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(j) Should a betting interest in any of the fortune pick (n) contests be scratched, excused or determined to be a non-starter, all tickets sold containing the scratched animal shall be refunded. The money refunded will be deducted from the gross pool.

(k) Except as otherwise provided by this subsection, if one or more races in the fortune pick (n) are canceled or declared a "no race", the amount contributed to the major pool for that

performance shall be added to the minor pool for that performance and distributed as an extra amount in the minor pool to the holders of the tickets that designate the most winners in the remaining races. All contributions to the major pool from prior performances shall remain in the major pool, to be carried forward to the next performance to be paid in the major pool for that performance. If the stewards or racing judges cancel or declare as a "no race" three or more of the races comprising a fortune pick six, seven, or eight, four or more of the races comprising the pick nine, or five or more of the races comprising the pick 10, the fortune pick (n) is canceled and the association shall refund all pick (n) tickets. A person may not win the major pool unless the person holds a fortune pick (n) ticket that correctly designates the official winners of all the scheduled races comprising the fortune pick (n) for that performance. On the last performance of a race meeting or on a designated mandatory payout performance, if one or two races comprising the pick (l) are canceled or declared a "no race", the major pool and the minor pool for that performance shall be combined with the prior performance major pool and be paid to those holders of tickets who correctly designated the most winners of the remaining races of the fortune pick (n). If three or more races comprising the fortune pick (n) are canceled or declared a "no race", the association shall refund all fortune pick (n) tickets and the prior performance major pool shall be distributed in accordance with subsection (m) of this section.

(l) If on the last performance of the race meeting or on a designated mandatory payout performance the major pool is not distributable under subsection (g) of this section, the major pool and all money carried forward into that pool from previous performances shall be combined with the minor pool and distributed to the holders of tickets correctly designating the most, but not all, of the races comprising the fortune pick (n) for that performance.

(m) If the final or designated mandatory payoff performance is canceled or the major pool has not been distributed, the major pool shall be deposited in an interest-bearing account approved by the executive secretary. The major pool plus all accrued interest shall then be carried over and included in a major pool offered on one of the first five days of the next subsequent race meeting or on the next performance after the undistributed mandatory payout performance, as approved by the executive secretary.

(n) Except for refunds required by this section, a fortune pick (n) ticket may not be sold, exchanged, or canceled after the close of wagering on the first of the fortune pick (n) races.

(o) A person may not disclose the number of tickets sold in the fortune pick (n) pool or the

number or amount of tickets selecting winners of the races comprising the fortune pick (n) until the results of the last race comprising the fortune pick (n) are official. The totalisator equipment shall be programmed or constructed to suppress the publication or printing of any such information, except the total number of dollars wagered in the fortune pick (n), until the results of the last race comprising the fortune pick (n) are official.

Subchapter D. Simulcast Wagering Division 1. General Provisions

Sec. 321.417. Emergency Procedures.

(a) If an association is unable to establish or to maintain the audio or video signal from a host racetrack, the association shall immediately notify the host racetrack of the lost signal and may continue to accept wagers for ~~30 minutes~~ four hours while attempting to establish the signal.

(b) If after ~~30 minutes~~ four hours the audio or video signal cannot be established the association may continue to accept wagers on the signal provided:

(1) the mutuel manager makes an announcement to the public informing them that due to technical difficulties the audio or video signal has been lost;

(2) the association transmits the odds on the affected race to the video department to be displayed to the patrons; and

(3) the totalisator operator locks all wagering on the affected race at zero minutes to post to ensure the integrity and transfer of the wagering pools.

(c) If the host racetrack loses the ability to transmit the audio or video signal, the host racetrack:

(1) shall notify all guest racetracks of the technical difficulties being experienced;

(2) may continue to accept wagers from the guest racetracks on that day's races; and

(3) may not accept wagers from the guest racetracks for subsequent race days until the technical difficulties have been corrected.

Division 3. Simulcasting at Horse Racetracks

Sec. 321.503. Purses.

(a) To be approved by the executive secretary, an association's request for approval to import a simulcast must allocate for purses as follows:

(1) for a same species simulcast, as provided by the Act, §6.08; and

(2) for a cross-species simulcast, as provided in the contract with the officially recognized horsemen's organization.

~~(b) To be approved by the executive secretary, a~~
An association's request for approval to export a simulcast must allocate a minimum 37.0% for purses from the simulcast fee charged to the guest racetrack, unless otherwise approved by the recognized horsemen's organization and the executive secretary.

(c) An association shall distribute the funds derived for purses from a simulcast during the 12-month period immediately following the simulcast.

Subchapter E. Ticketless Electronic Wagering. Division 1. Conduct of E-Wagering.

Sec. 321.605. E-Wagering Plan.

(a) To be approved to conduct E-wagering, an association must submit a plan to the Commission. The plan must include:

(1) the procedures for opening an account;
(2) the procedures for establishing identity of account holder;

(3) the procedures for making deposits to the account;

(4) the procedures for making withdrawals from the account;

(5) the procedures for closing an account; ~~and~~
(6) the procedures for suspending an account;

and

(7) a description of the wagering system and E-wagering access system.

(b) The Executive Director may approve a plan to conduct E-wagering if the Executive Director determines that the association's plan meets the requirements of this section and does not conflict with the Rules or the Act.

Sec. 321.12 Time Synchronization.

(a) Display and verification of the accurate off time and start of a race is critical. To ensure accurate verification of off time with the close of betting on all races, the association shall ensure:

(1) Tote times shall be synchronized to an atomic clock on a start-of-day basis.

(2) Source video signal shall be synchronized with the atomic clock.

(3) The time of day shall be displayed at the start of the race in the HR:MN:SC format.

(b) Security system video, which monitors mutuel lines, shall be synchronized with the atomic clock.

1 Sec. 321.15. License to Provide Totalisator Services.
2 (a) To provide totalisator services to an association in Texas,
3 a totalisator company must be licensed by the Commission as a
4 Totalisator Vendor. The license application must include:
5 (1) a copy of a current written contract to provide a
6 totalisator system to an association;
7 (2) a list of all totalisator personnel assigned to work in
8 Texas, or on behalf of an association operating in Texas, as
9 described in §321.123 of this title (relating to Personnel
10 Requirements);
11 (3) an affidavit stating that the totalisator company and its
12 employees will comply with the Rules and the Comptroller's rules
13 regarding totalisator operations; and.
14 (4) information of sufficient detail for the Commission to
15 determine that the totalisator company is in compliance with
16 Subchapter B of this chapter.
17 (b) A contract between the totalisator company and an
18 association must be submitted to the Commission for approval
19 before the contract's effective date.

Title 16, Part VIII

Chapter 321. Pari-Mutuel Wagering

Subchapter A. Mutuel Operations

Division 2. Wagering Information and Results

1 Sec. 321.23. Wagering Explanations.

2 (a) An association shall include the following information in
3 the official live programs and simulcast programs and post in
4 ~~eonspicious~~ places easily viewed by patrons and licensees on
5 association grounds:

6 (1) a general explanation of pari-mutuel wagering;

7 (2) an explanation of each type of pari-mutuel wagering pool
8 offered; and

9 (3) the expiration date of mutuel tickets and vouchers.

10 (b) Wagering explanations must be reviewed and approved by the
11 executive secretary before publication.

Title 16, Part VIII

Chapter 321. Pari-Mutuel Wagering

Subchapter A. Mutuel Operations

Division 3. Mutuel Tickets and Vouchers

Sec. 321.46 Payment on No Ticket Issue.

When a ticket issuing machine does not produce a paper ticket due to a mechanical failure, the mutuel manager may validate the wager through totalisator logs. If the transaction is a winning wager and the mutuel manager pays the patron, then the mutuel manager shall report the transaction to the commission on a form prescribed by the commission.

Title 16, Part VIII

Chapter 321. Pari-Mutuel Wagering

Subchapter C. Regulation of Live Wagering

Division 1. General Provisions

1 Sec. 321.211. Carryover Pools.

2 (a) With the approval of the executive secretary, an association
3 may declare an amount as a cap or may designate specific dates,
4 days, or performances for a mandatory payout for any pool that
5 may be carried forward to future performances if it is not won.
6 After declaring the amount of the cap for a pool or designating
7 specific dates, days, or performances for a mandatory payout,
8 the association may not change the amount of the cap or a
9 designated mandatory payout day, date, or performance during a
10 race meeting without prior written approval of the executive
11 secretary.

12 (b) If, at the end of a performance, the amount accumulated in a
13 pool for which a cap has been declared equals or exceeds the
14 amount of the cap, the pool shall be frozen until it is won in
15 accordance with the Rules.

16 (c) At each performance at which a pool frozen under this
17 section is not won, all money wagered for that pool at that
18 performance shall be distributed to the holders of tickets that
19 contain the most winners.

20 (d) If at a performance it is not possible to distribute money
21 wagered for a pool frozen under this section in accordance with
22 the Rule regarding that pool, all money wagered for that pool at
23 that performance shall be refunded.

24 (e) If an association does not designate a specific date, day,
25 or performance for a mandatory payout of a carryover pool, the
26 pool shall be distributed:

27 (1) at a horse racetrack, at the last performance of the
28 race meeting; and

29 (2) at a greyhound racetrack, at the last performance of the
30 calendar year.

31 (f) If the last performance is canceled, ~~the association shall~~
32 ~~place the pool~~ shall be deposited in an interest-bearing account
33 approved by the executive secretary. ~~eserow and~~ The pool and
34 all accrued interest shall then be carried over and included
35 with the appropriate pool at the next succeeding performance as
36 an additional amount to be distributed.

Title 16, Part VIII

Chapter 321. Pari-Mutuel Wagering

Subchapter C. Regulation of Live Wagering

Division 2. Distribution of Pari-Mutuel Pools

1 Sec. 321.312. Pick (N).

2 (a) The pick (n) wager is not a parlay and has no connection
3 with or relation to the win, place, and show pools shown on the
4 tote board. All tickets on the pick (n) shall be calculated as a
5 separate pool.

6 (b) The association may select a distinctive name for the pick (n),
7 with the prior approval of the executive secretary.

8 (c) The pick (n) pari-mutuel pool consists of amounts
9 contributed for a selection to win only in each of six, seven,
10 eight, nine, or 10 races designated by the association. After
11 designating the number of races comprising the pick (n), the
12 association may not change the number during a race meeting
13 without prior written approval of the executive secretary.

14 (d) A person purchasing a pick (n) ticket shall designate the
15 winning animal in each of the races comprising the pick (n). The
16 association shall issue to the purchaser of a pick (n) ticket a
17 ticket that reflects each of the purchaser's selections.

18 (e) A pick (n) ticket is a contract between the holder of the
19 ticket and the association and the ticket constitutes acceptance
20 of this section. The association, totalisator company, and the
21 State of Texas are not liable to a person for a pick (n) ticket
22 that is not a winning ticket under this section or for a pick (n)
23 ticket that is not delivered.

24 (f) A coupled entry or mutuel field in a race that is part of
25 the pick (n) races shall race as a single betting interest for
26 the purpose of mutuel pool calculations and payoffs to the
27 public.

28 (g) The pick (n) pool shall be distributed as provided by this
29 section. The net pool in the pick (n) pool is divided into a
30 major pool and a minor pool. The association may designate the
31 major pool to consist of either 75% or 50% of the net amount
32 wagered on the pick (n). The remaining percentage constitutes
33 the minor pool. The association shall notify the executive
34 secretary in writing before the beginning of each race meeting
35 of its designation regarding the division between the major and
36 minor pools. After designating the division between the major
37 and minor pools, an association may not change the division
38 during a race meeting without prior written approval of the
39 executive secretary.

40 (h) The major pool shall be distributed among holders of pick (n)
41 tickets which correctly designate the winner in each of the races
42 comprising the pick (n).

43 (i) Except as otherwise provided by this section, the minor pool
44 shall be distributed to those ticket holders who failed to
45 correctly designate the winner in each of the races comprising

Title 16, Part VIII

Chapter 321. Pari-Mutuel Wagering

Subchapter C. Regulation of Live Wagering

Division 1. General Provisions

1 the pick (n), but who correctly selected the winners in the
2 most, but not all of, the races comprising the pick (n).
3 (j) If no ticket is sold that designates the winner in each of the
4 races comprising the pick (n), the major pool shall be carried
5 forward to the next performance to be paid in the major pool of
6 that performance. Except as otherwise provided by this section,
7 the major pool shall be supplemented each performance by the
8 amount added to the pool from all previous performances' major
9 pools that have not been won in accordance with subsection (h)
10 of this section.

11 (k) If a pick (n) ticket designates a selection and the
12 selection is scratched or otherwise prevented from racing, the
13 favorite, as determined by the largest amount wagered in the win
14 pool at the start of the race, will be substituted for the
15 nonstarting selection for all purposes, including mutuel pool
16 calculations and payoffs to the public. If there are two or more
17 favorites in the win pool, both favorites will be substituted
18 for the nonstarting selection.

19 (l) If a race in the pick (n) ends in a dead heat for first
20 place, all animals in the dead heat are winners for purposes of
21 calculating the pick (n) pool.

22 (m) Except as otherwise provided by this subsection, if one or
23 more races in the pick (n) are canceled or declared a "no race",
24 the amount contributed to the major pool for that performance
25 shall be added to the minor pool for that performance and
26 distributed as an extra amount in the minor pool to the holders
27 of the tickets that designate the most winners in the remaining
28 races. All contributions to the major pool from prior
29 performances shall remain in the major pool, to be carried
30 forward to the next performance to be paid in the major pool for
31 that performance. If the stewards or racing judges cancel or
32 declare as a "no race" three or more of the races comprising a
33 pick six, seven, or eight, four or more of the races comprising
34 the pick nine, or five or more of the races comprising the pick
35 10, the pick (n) is canceled and the association shall refund all
36 pick (n) tickets. A person may not win the major pool unless the
37 person holds a pick (n) ticket that correctly designates the
38 official winners of all the scheduled races comprising the
39 pick (n) for that performance. On the last performance of a race
40 meeting or on a designated mandatory payout performance, if one
41 or two races comprising the pick (n) are canceled or declared a
42 "no race", the major pool and the minor pool for that performance
43 shall be combined with the prior performance major pool and be
44 paid to those holders of tickets who correctly designated the
45 most winners of the remaining races of the pick (n). If three or

1 more races comprising the pick (n) are canceled or declared a "no
2 race", the association shall refund all pick (n) tickets and the
3 prior performance major pool shall be distributed in accordance
4 with subsection (o) of this section.

5 (n) If on the last performance of the race meeting or on a
6 designated mandatory payout performance the major pool is not
7 distributable under subsection (h) of this section, the major
8 pool and all money carried forward into that pool from previous
9 performances shall be combined with the minor pool and
10 distributed to the holders of tickets correctly designating the
11 most, but not all, of the races comprising the pick (n) for that
12 performance.

13 (o) If the final or designated mandatory payoff performance is
14 canceled or the major pool has not been distributed, the major
15 pool shall be ~~escrowed by the association~~ deposited in an
16 interest-bearing account approved by the executive secretary.
17 ~~and~~ The major pool plus all accrued interest shall then be
18 carried over and included in a major pool offered on one of the
19 first five days of the next subsequent race meeting or on the
20 next performance after the undistributed mandatory payout
21 performance, as approved by the executive secretary.

22 (p) Except for refunds required by this section, a pick (n)
23 ticket may not be sold, exchanged, or canceled after the close
24 of wagering on the first of the pick (n) races.

25 (q) A person may not disclose the number of tickets sold in the
26 pick (n) pool or the number or amount of tickets selecting
27 winners of the races comprising the pick (n) until the results
28 of the last race comprising the pick (n) are official. The
29 totalisator equipment shall be programmed or constructed to
30 suppress the publication or printing of any such information,
31 except the total number of dollars wagered in the pick (n),
32 until the results of the last race comprising the pick (n) are
33 official.

Title 16, Part VIII

Chapter 321. Pari-Mutuel Wagering

Subchapter C. Regulation of Live Wagering

Division 1. General Provisions

1 Sec. 321.313 Select ~~Three~~, Four, or Five

2 (a) The select ~~three~~, four, or five wager is not a parlay and
3 has no connection with or relation to the win, place, and show
4 pools shown on the tote board.

5 (b) A select ~~three~~, four, or five ticket is evidence of a
6 binding contract between the holder of the ticket and the
7 association and the ticket constitutes an acceptance of this
8 section. The association may select a distinctive name for the
9 select ~~three~~, four, or five, with the prior approval of the
10 executive secretary.

11 (c) The select ~~three~~, four, or five pari-mutuel pool consists of
12 amounts contributed for a selection to win only on each of
13 ~~three~~, four, or five races designated by the association with
14 the approval of the executive secretary. Each person purchasing
15 a select ~~three~~, four, or five ticket shall designate the winning
16 animal in each of the races comprising the select ~~three~~, four,
17 or five.

18 (d) A coupled entry or mutuel field in a race that is part of
19 the select ~~three~~, four, or five shall race as a single betting
20 interest for the purpose of the select ~~three~~, four, or five
21 pari-mutuel pool calculations and payoffs to the public. If any
22 part of a coupled entry or mutuel field is a starter in a race,
23 the entry or field selection remains as the designated selection
24 to win in that race for the select ~~three~~, four, or five
25 calculation, and the selection may not be deemed a scratch.

26 (e) The select ~~three~~, four, or five pari-mutuel pool may be a
27 carryover pool or a non-carryover pool. The association, with
28 prior approval of the executive secretary, will decide if the
29 select ~~three~~, four, or five pari-mutuel pool will be offered as
30 a carryover pool or a non-carryover pool.

31 (f) A non-carryover select ~~three~~, four, or five pari-mutuel pool
32 shall be distributed in accordance with this subsection. One
33 hundred percent of the net amount in the pari-mutuel pool
34 subject to distribution among winning ticket holders shall be
35 distributed among the holders of pari-mutuel tickets which:

36 (1) Correctly designate the official winner in each of the
37 races comprising the select ~~three~~, four, or five.

38 (2) If no pari-mutuel ticket is sold combining the winners of
39 all of the races comprising the select ~~three~~, four, or five,
40 100% of the net amount in the pari-mutuel pool shall be
41 distributed among the holders of pari-mutuel tickets which
42 include the winners of the next highest number of winners of the
43 races in the select ~~three~~, four, or five.

44 (3) If no pari-mutuel ticket is sold that would require
45 distribution of the select ~~three~~, four, or five pool under

1 paragraphs (1) or (2) of this subsection, the association shall
2 carry over all money wagered in the select ~~three~~, four~~7~~ or five
3 pool to the next consecutive select ~~three~~, four~~7~~ or five pool.

4 (4) If the final day of a race meeting is canceled or the
5 select ~~three~~, four~~7~~ or five pool has not been distributed, the
6 pool shall be ~~escrowed by the association~~, deposited in an
7 interest-bearing account approved by the executive secretary.
8 ~~and~~ The pool plus all accrued interest shall then be carried
9 over and added to the select ~~three~~, four~~7~~ or five pari-mutuel
10 pool in the following race meeting on a date and performance
11 designated by the executive secretary.

12 (5) If ~~one or two of the races comprising a select three is~~
13 ~~canceled~~, two or three of the races comprising a select four are
14 canceled~~7~~, or three or four of the races comprising a select five
15 are canceled, the net amount of the pari-mutuel pool shall be
16 distributed as provided in paragraph (2) of this subsection.

17 (g) A carryover select ~~three~~, four~~7~~ or five pari-mutuel pool
18 shall be distributed in accordance with this subsection. The net
19 pool in the select ~~three~~, four~~7~~ or five pool is divided into a
20 major pool and a minor pool. The association shall designate the
21 major pool to consist of 75% of the net amount wagered on the
22 select ~~three~~, four~~7~~ or five pool. The remaining 25% constitutes
23 the minor pool.

24 (1) The major pool shall be distributed among holders of
25 select ~~three~~, four~~7~~ or five tickets, which correctly designate
26 the winner in each of the races comprising the select ~~three~~,
27 four~~7~~ or five.

28 (2) Except as otherwise provided by this section, the minor
29 pool shall be distributed to those ticket holders who failed to
30 correctly designate the winner in each of the races comprising
31 the select ~~three~~, four~~7~~ or five, but who correctly selected the
32 winners in the most, but not all of, the races comprising the
33 select ~~three~~, four~~7~~ or five. If there are no such tickets, then
34 the minor pool would be added to the major pool and:

35 (A) Paid out to holders of tickets who correctly designated
36 the winner in each of the races comprising the select ~~three~~,
37 four~~7~~ or five, but if there are no such tickets.

38 (B) Carried forward to the next select ~~three~~, four~~7~~ or five
39 offered.

40 (3) If no ticket is sold that designates the winner in each of
41 the races comprising the select ~~three~~, four~~7~~ or five, the major
42 pool shall be carried forward to the next select ~~three~~, four~~7~~ or
43 five pool offered to be paid in the major pool.

44 (4) Except as otherwise provided by this section, the major
45 pool shall be supplemented each performance by the amount added

1 to the pool from all previous performances' major pools that
2 have not been won in accordance with paragraph (1) of this
3 subsection.

4 (5) If on the last performance of the race meeting or on a
5 designated mandatory payout performance the major pool is not
6 distributable under paragraph (1) of this subsection, the major
7 pool and all money carried forward into that pool from previous
8 performances shall be combined with the minor pool and
9 distributed to the holders of tickets correctly designating the
10 most, but not all, of the races comprising the select ~~three,~~
11 ~~four,~~ or five.

12 (6) Except as otherwise provided by this subsection, if one or
13 more of the races comprising a select ~~three,~~ ~~four,~~ or five is
14 canceled or declared a "no race", the amount contributed to the
15 major pool for that select ~~three,~~ ~~four,~~ or five shall be added
16 to the minor pool for that same select ~~three,~~ ~~four,~~ or five and
17 distributed as an extra amount in the minor pool to the holders
18 of the tickets that designate the most winners in the remaining
19 races. All contributions to the major pool from prior select
20 ~~three,~~ ~~four,~~ or five pools shall remain in the major pool, to be
21 carried forward to the next select ~~three,~~ ~~four,~~ or five pool to
22 be paid in the major pool later on the race card or on the next
23 performance.

24 (h) If all of the races comprising the select ~~three,~~ ~~four,~~ or
25 five are canceled, the association shall refund the pari-mutuel
26 tickets sold on the select ~~three,~~ ~~four,~~ or five on that day. The
27 association shall carry over the remaining amount in the select
28 ~~three,~~ ~~four,~~ or five pari-mutuel pool to the next consecutive
29 select ~~three,~~ ~~four,~~ or five pari-mutuel pool.

30 (i) If a selection on a select ~~three,~~ ~~four,~~ or five ticket in
31 one or more of the races is scratched or determined by the
32 stewards or racing judges to be a nonstarter in the race, the
33 actual favorite, as shown by the largest amount wagered in the
34 win pool at the time of the start of the race, will be
35 substituted for the non starting selection for all purposes,
36 including pool calculations and payoffs. If there are two or
37 more favorites in the win pool, both favorites will be
38 substituted for the non-starting selection.

39 (j) In the event of a dead heat for win between two or more
40 animals

41 ~~(1) in a select three, all the animals in the dead heat for~~
42 ~~win shall be considered as winning animals in the race for the~~
43 ~~purpose of calculating the major or minor pools and the affected~~
44 ~~pool is calculated: (A) As a profit split to those whose~~

1 ~~selections finished first in each of the three contests, but if~~
2 ~~there are no such wagers, then~~

3 ~~— (B) As a single price pool to those who selected the first~~
4 ~~place finisher in any two of the three contests, but if there~~
5 ~~are no such wagers, then~~

6 ~~— (C) As a single price pool to those who selected the first~~
7 ~~place finisher in any one of the three contests, but if there~~
8 ~~were no such wagers, then in accordance with paragraph (f) of~~
9 ~~this section.~~

10 ~~(2)~~ in a select four or five race, all the animals in the dead
11 heat for win shall be considered as winning animals in the race
12 for the purpose of calculating the major or minor pools and the
13 affected pool is calculated as a win pool.

14 (k) A pari-mutuel ticket for the select ~~three~~, four, or five
15 pool may not be sold, exchanged, or canceled after the time
16 wagering closes in the first of the races comprising the select
17 ~~three~~, four, or five, except for refunds on select ~~three~~, four,
18 or five tickets as required by subsection (h) of this section. A
19 person may not disclose the number of tickets sold in the select
20 ~~three~~, four, or five pool or the number or amount of tickets
21 selecting winners of select ~~three~~, four, or five races until the
22 stewards or racing judges have determined the last race
23 comprising the select ~~three~~, four, or five to be official.

1 Sec. 321.319 Select Three Pool.

2 (a) The select three is not a parlay and has no connection with
3 or relation to the win, place, and show pools shown on the tote
4 board.

5 (b) A select three ticket is evidence of a binding contract
6 between the holder of the ticket and the association and the
7 ticket constitutes an acceptance of this section. The
8 association may select a distinctive name for the select three
9 with the prior approval of the executive secretary.

10 (c) The select three pari-mutuel pool consists of amounts
11 contributed for a selection to win only on each of three races
12 designated by the association with the approval of the executive
13 secretary. Each person purchasing a select three ticket shall
14 designate the winning animal in each of the races comprising the
15 select three pool.

16 (d) A coupled entry or mutuel field in a race that is part of
17 the select three shall race as a single betting interest for the
18 purpose of the select three pari-mutuel pool calculations and
19 payoffs to the public. If any part of a coupled entry or mutuel
20 field is a starter in a race, the entry or field selection
21 remains as the designated selection to win in that race for the
22 select three calculation, and the selection may not be deemed a
23 scratch.

24 (e) The select three pari-mutuel pool may be a carryover pool or
25 a non-carryover pool. The association, with prior approval of
26 the executive secretary, will decide if the select three pari-
27 mutuel pool will be offered as a carryover pool or a non-
28 carryover pool.

29 (f) A non-carryover select three pari-mutuel pool shall be
30 distributed in accordance with this subsection. One hundred
31 percent of the net amount in the pari-mutuel pool subject to
32 distribution among winning ticket holders shall be distributed
33 among the holders of pari-mutuel tickets which:

34 (1) Correctly designate the official winner in each of the
35 races comprising the select three.

36 (2) If no pari-mutuel ticket is sold combining the winners of
37 all of the races comprising the select three, 100% of the net
38 amount in the pari-mutuel pool shall be distributed among the
39 holders of pari-mutuel tickets which include the winners of the
40 next highest number of winners of the races in the select three
41 pool.

42 (3) If no pari-mutuel ticket is sold that would require
43 distribution of the select three pool under paragraphs (1) or
44 (2) of this subsection, the association shall carry over all

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1 money wagered in the select three pool to the next consecutive
2 select three pool.

3 (4) If the final day of a race meeting is canceled or the
4 select three pool has not been distributed, the pool shall be
5 deposited in an interest-bearing account approved by the
6 executive secretary. The pool plus all accrued interest shall
7 then be carried over and added to the select three pari-mutuel
8 pool in the following race meeting on a date and performance
9 designated by the executive secretary.

10 (5) If one or two of the races comprising a select three is
11 canceled, the net amount of the pari-mutuel pool shall be
12 distributed as provided in paragraph (2) of this subsection.

13 (g) A carryover select three pari-mutuel pool shall be
14 distributed in accordance with this subsection. The net pool in
15 the select three pool is divided into a major pool and a minor
16 pool. The association shall designate the major pool to consist
17 of 75% of the net amount wagered on the select three pool. The
18 remaining 25% constitutes the minor pool.

19 (1) The major pool shall be distributed among holders of
20 select three tickets, which correctly designate the winner in
21 each of the races comprising the select three pool.

22 (2) Except as otherwise provided by this section, the minor
23 pool shall be distributed to those ticket holders who failed to
24 correctly designate the winner in each of the races comprising
25 the select three, but who correctly selected the winners in the
26 most, but not all of, the races comprising the select three. If
27 there are no such tickets, then the minor pool would be added to
28 the major pool and:

29 (A) Paid out to holders of tickets who correctly designated
30 the winner in each of the races comprising the select three, but
31 if there are no such tickets,

32 (B) Carried forward to the next select three pool offered.

33 (3) If no ticket is sold that designates the winner in each of
34 the races comprising the select three, the major pool shall be
35 carried forward to the next select three pool offered to be paid
36 in the major pool.

37 (4) Except as otherwise provided by this section, the major
38 pool shall be supplemented each performance by the amount added
39 to the pool from all previous performances' major pools that
40 have not been won in accordance with paragraph (1) of this
41 subsection.

42 (5) If on the last performance of the race meeting or on a
43 designated mandatory payout performance the major pool is not
44 distributable under paragraph (1) of this subsection, the major
45 pool and all money carried forward into that pool from previous

1 performances shall be combined with the minor pool and
2 distributed to the holders of tickets correctly designating the
3 most, but not all, of the races comprising the select three.

4 (6) Except as otherwise provided by this subsection, if one or
5 more of the races comprising a select three is canceled or
6 declared a "no race", the amount contributed to the major pool
7 for that select three shall be added to the minor pool for that
8 same select three and distributed as an extra amount in the
9 minor pool to the holders of the tickets that designate the most
10 winners in the remaining races. All contributions to the major
11 pool from prior select three pools shall remain in the major
12 pool, to be carried forward to the next select three pool to be
13 paid in the major pool later on the race card or on the next
14 performance.

15 (h) If the scratch (which herein after includes being declared a
16 non-starter or a non-betting starter) was made prior to the
17 start of the first leg, all bets containing such scratched
18 betting interest shall be refunded to determine the gross pool
19 and removed from further consideration in the pool;

20 (i) If the scratch was made in the second leg after the start of
21 the first leg, a consolation payoff shall be computed for those
22 bets combining the winners of the first and third legs with the
23 scratched betting interest as follows: from the gross pool shall
24 be deducted the statutory take-out and then the amount
25 represented by the bets on combinations involving betting
26 interests scratched from the third leg (reduced by the take-out
27 thereon). The resulting remainder shall be divided by the
28 amounts bet on the combination of such first and third leg
29 winners with all betting interests (less breaks) to determine
30 the consolation price per dollar payable to those bets combining
31 winners of the first and third legs with the betting interest
32 scratched in the second leg. The break shall not be deducted
33 from the pool.

34 (j) If a betting interest is scratched in the third leg after
35 the start of the first leg, a consolation payoff shall be
36 computed as for those bets combining the winners of the first
37 and second legs with such scratched betting interest as follows:
38 from the gross pool shall be deducted the statutory take-out and
39 then the amount represented by bets on combinations involving
40 betting interests scratched from the second leg (reduced by the
41 rate of the take-out thereon). The resulting remainder shall be
42 divided by the amount bet on the combination of such first and
43 second leg winners with all betting interests in the third leg
44 (less breaks) to determine the consolation price per dollar
45 payable to those bets combining winners of the first and second

1 legs with a betting interest scratched in the third leg. The
2 breaks shall not be deducted from the pool.

3 (k) If betting interests are scratched in both the second and
4 third legs after the start of the first leg, a consolation
5 payoff shall be computed for those bets combining the winner of
6 the first leg with the betting interests scratched in both the
7 second and third legs as follows: from the gross pool shall be
8 deducted the takeout and the remainder shall be divided by the
9 amount bet on the winner of the first leg combined with all
10 other betting interests (less breaks) to determine the
11 consolation price per dollar payable to those tickets combining
12 the winner of the first leg with the scratched betting interests
13 from both the second and third legs.

14 (l) If all of the races comprising the select three are
15 canceled, the association shall refund the pari-mutuel tickets
16 sold on the select three on that day. The association shall
17 carry over the remaining amount in the select three pari-mutuel
18 pool to the next consecutive select three pari-mutuel pool.

19 (m) In the event of a dead heat for win between two or more
20 animals:

21 (1) In a select three all the animals in the dead heat for win
22 shall be considered as winning animals in the race for the
23 purpose of calculating the major or minor pools and the affected
24 pool is calculated:

25 (A) As a profit split to those whose selections finished
26 first in each of the three contests; but if there are no such
27 wagers, then

28 (B) As a single price pool to those who selected the first
29 place finisher in any two of the three contests; but if there
30 are no such wagers, then

31 (C) As a single price pool to those who selected the first
32 place finisher in any one of the three contests; but if there
33 were no such wagers, then in accordance with paragraph (f) of
34 this section.

35 (n) A pari-mutuel ticket for the select three pool may not be
36 sold, exchanged, or canceled after the time wagering closes in
37 the first of the races comprising the select three, except for
38 refunds on select three tickets as required by subsection (h) of
39 this section. A person may not disclose the number of tickets
40 sold in the select three pool or the number or amount of tickets
41 selecting winners of select three races until the stewards or
42 racing judges have determined the last race comprising the
43 select three to be official.

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Chapter 321. Pari-Mutuel Wagering

Subchapter C. Regulation of Live Wagering

Division 1. General Provisions

1 Sec. 321.320 Super Hi-Five

2 (a) The super hi-five is not a parlay and has no connection with
3 or relation to the win, place, and show pools shown on the tote
4 board. All tickets on the super hi-five shall be calculated as a
5 separate pool.

6 (b) A person purchasing a super hi-five ticket shall select the
7 five animals that will finish first, second, third, fourth, and
8 fifth in one race. The pool shall be distributed only to the
9 holders of tickets that select the same order of finish as
10 officially posted.

11 (c) If no super hi-five ticket is sold for the winning
12 combination, then the net pool shall be carried over and paid
13 out in the following manner:

14 (1) The entire pool shall be carried over and made available
15 on the next consecutive super hi-five pool, and is combined with
16 and added to the net pool for such qualifying pool, and made
17 available for payout, or and unless

18 (2) An association can, at its option, announce a consolation
19 pool, 25% of the net pool, will be offered. The offering of a
20 consolation pool shall be announced at least 72 hours in advance
21 of the first day upon which a consolation pool will be offered,
22 and shall be publicized. Notice of the consolation pool may be
23 announced, by way of example, via press release, internet,
24 simulcast signal, and on-track announcements.

25 (3) If there are no ticket holders who selected first-place,
26 second-place, third-place, fourth-place, and fifth-place
27 finishers in order and a consolation pool is offered, then a
28 consolation pool shall be established. The consolation pool
29 shall be equal to 25% of the net pool and distributed as a
30 single price pool among those ticket holders and paid out as
31 follows:

32 (A) To those who selected first-place, second-place, third-
33 place, and fourth-place finishers in order. If there are no such
34 wagers, then

35 (B) To those who selected first-place, second-place, and
36 third-place finishers in order. If there are no such wagers,
37 then

38 (C) To those who selected first-place and second-place
39 finishers in order. If there are no such wagers, then

40 (D) To those who selected the first-place finishers.

41 (E) If the super hi-five pool cannot otherwise be
42 distributed in accordance with this section, the money in the
43 super hi-five consolation pool shall be carried forward to the
44 next consecutive super hi-five pool.

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Division 1. General Provisions

- 1 (d) The minimum number of wagering interests required to offer
2 super hi-five wagering shall be seven actual starters.
- 3 (e) Super hi-five wagers on races in which wagering has been
4 cancelled or the race declared no contest shall be refunded. Any
5 carryover pool added to the net pool of a super hi-five race
6 which is cancelled shall carry forward to be added to the next
7 consecutive super hi-five wagering pool.
- 8 (f) If less than five animals finish and the race is declared
9 official by the stewards or judges, then pay off shall be made
10 to ticket holders selecting the finishing animals in order of
11 finish as provided above.
- 12 (g) In the event of a dead heat in any finishing position, the
13 wagers be paid as follows:
- 14 (1) All wagers selecting either of the dead-heat positions
15 with the correct non-dead-heat position shall be winners and
16 share in the pool;
- 17 (2) Payouts will be calculated by splitting the pool equally
18 between each winning combination, then dividing split pools by
19 the number of winning tickets. A dead heat will produce separate
20 and distinct payouts respective to each winning combination.
- 21 (h) If the final day of a race meeting is canceled or the super
22 hi-five pool has not been distributed, the pool shall be
23 deposited in an interest-bearing account approved by the
24 executive secretary. The pool plus all accrued interest shall
25 then be carried over and added to the super hi-five pari-mutuel
26 pool in the following race meeting on a date and performance
27 designated by the executive secretary.
- 28 (i) If an animal is scratched or declared a nonstarter, no
29 further tickets may be issued designating such animal and all
30 super hi-five tickets previously issued designating such animal
31 shall be refunded and the money deducted from the gross super
32 hi-five pool.
- 33 (j) For purposes of statutory deductions and commissions, the
34 net amount does not include any amounts carried over from any
35 previous super hi-five pool.

1 Section 321.321 Fortune Pick (n).
2 (a) The fortune pick (n) wager is not a parlay and has no
3 connection with or relation to the win, place, and show pools
4 shown on the tote board. All tickets on the fortune pick (n)
5 shall be calculated as a separate pool.
6 (b) The fortune pick (n) pari-mutuel pool consists of amounts
7 contributed for a selection to win only in each of six, seven,
8 eight, nine, or 10 races designated by the association. After
9 designating the number of races comprising the fortune pick (n),
10 the association may not change the number during a race meeting
11 without prior written approval of the executive secretary.
12 (c) A person purchasing a fortune pick (n) ticket shall
13 designate the winning animal in each of the races comprising the
14 fortune pick (n). The association shall issue to the purchaser
15 of fortune pick (n) ticket a ticket that reflects each of the
16 purchaser's selections. (d) A fortune pick (n) ticket is a
17 contract between the holder of the ticket and the association
18 and the ticket constitutes acceptance of this section. The
19 association, totalisator company, and the State of Texas are not
20 liable to a person for a fortune pick(n) ticket that is not a
21 winning ticket under this section or for a fortune pick (n)
22 ticket that is not delivered.
23 (e) A coupled entry or mutuel field in a race that is part of
24 the fortune pick (n) races shall race as a single betting
25 interest for the purpose of mutuel pool calculations and payoffs
26 to the public.
27 (f) The fortune pick (n) pool shall be distributed as provided
28 by this section. The net pool in the fortune pick (n) pool is
29 divided into a major pool and a minor pool. The association may
30 designate the major pool to consist of either 75% or 50% of the
31 net amount wagered on the fortune pick (n). The remaining
32 percentage constitutes the minor pool. The association shall
33 notify the executive secretary in writing before the beginning
34 of each race meeting of its designation regarding the division
35 between the major and minor pools. After designating the
36 division between the major and minor pools, an association may
37 not change the division during a race meeting without prior
38 written approval of the executive secretary.
39 (g) Fortune pick (n) with minor pool and carryover with unique
40 wager: the entire net fortune pick (n) pool and carryover, if
41 any, shall be distributed to the holder of a unique wager
42 selecting the first place finisher in each of the selected
43 fortune pick (n) contests, based upon the official order of
44 finish. If there is no unique wager selecting the first place
45 finisher in all fortune pick (n) contests, the minor share of

1 the net fortune pick (n) pool shall be distributed as a single
2 price pool to those who selected the first place finisher in the
3 greatest number of fortune pick (n) contests; and the major
4 share shall be added to the carryover.

5 (h) Unique wager, as used in this rule, shall be defined as
6 having occurred when the total amount wagered on a winning
7 combination selecting the first place finisher in each of the
8 selected fortune pick(n) contests, based upon the official order
9 of finish, is equal to the minimum allowable wager.

10 (i) If there is a dead heat for first in any of the fortune pick(n)
11 contests involving:

12 (1) Contestants representing the same betting interest, the
13 fortune pick (n) pool shall be distributed as if no dead heat
14 occurred.

15 (2) Contestants representing two or more betting interests,
16 the fortune pick (n) pool shall be distributed as a single price
17 pool with each winning wager receiving an equal share of the
18 profit.

19 (j) Should a betting interest in any of the fortune pick (n)
20 contests be scratched, excused or determined to be a non-
21 starter, all tickets sold containing the scratched animal shall
22 be refunded. The money refunded will be deducted from the gross
23 pool.

24 (k) Except as otherwise provided by this subsection, if one or
25 more races in the fortune pick (n) are canceled or declared a
26 "no race", the amount contributed to the major pool for that
27 performance shall be added to the minor pool for that
28 performance and distributed as an extra amount in the minor pool
29 to the holders of the tickets that designate the most winners in
30 the remaining races. All contributions to the major pool from
31 prior performances shall remain in the major pool, to be carried
32 forward to the next performance to be paid in the major pool for
33 that performance. If the stewards or racing judges cancel or
34 declare as a "no race" three or more of the races comprising a
35 fortune pick six, seven, or eight, four or more of the races
36 comprising the pick nine, or five or more of the races
37 comprising the pick 10, the fortune pick (n) is canceled and the
38 association shall refund all pick (n) tickets. A person may not
39 win the major pool unless the person holds a fortune pick (n)
40 ticket that correctly designates the official winners of all the
41 scheduled races comprising the fortune pick (n) for that
42 performance. On the last performance of a race meeting or on a
43 designated mandatory payout performance, if one or two races
44 comprising the pick (1) are canceled or declared a "no race",
45 the major pool and the minor pool for that performance shall be

1 combined with the prior performance major pool and be paid to
2 those holders of tickets who correctly designated the most
3 winners of the remaining races of the fortune pick (n). If three
4 or more races comprising the fortune pick (n) are canceled or
5 declared a "no race", the association shall refund all fortune
6 pick (n) tickets and the prior performance major pool shall be
7 distributed in accordance with subsection (m) of this section.

8 (l) If on the last performance of the race meeting or on a
9 designated mandatory payout performance the major pool is not
10 distributable under subsection (g) of this section, the major
11 pool and all money carried forward into that pool from previous
12 performances shall be combined with the minor pool and
13 distributed to the holders of tickets correctly designating the
14 most, but not all, of the races comprising the fortune pick (n)
15 for that performance.

16 (m) If the final or designated mandatory payoff performance is
17 canceled or the major pool has not been distributed, the major
18 pool shall be deposited in an interest-bearing account approved
19 by the executive secretary. The major pool plus all accrued
20 interest shall then be carried over and included in a major pool
21 offered on one of the first five days of the next subsequent
22 race meeting or on the next performance after the undistributed
23 mandatory payout performance, as approved by the executive
24 secretary.

25 (n) Except for refunds required by this section, a fortune
26 pick (n) ticket may not be sold, exchanged, or canceled after the
27 close of wagering on the first of the fortune pick (n) races.

28 (o) A person may not disclose the number of tickets sold in the
29 fortune pick (n) pool or the number or amount of tickets
30 selecting winners of the races comprising the fortune pick (n)
31 until the results of the last race comprising the fortune
32 pick (n) are official. The totalisator equipment shall be
33 programmed or constructed to suppress the publication or
34 printing of any such information, except the total number of
35 dollars wagered in the fortune pick (n), until the results of
36 the last race comprising the fortune pick (n) are official.

1 Sec. 321.417. Emergency Procedures.

2 (a) If an association is unable to establish or to maintain the
3 audio or video signal from a host racetrack, the association
4 shall immediately notify the host racetrack of the lost signal
5 and may continue to accept wagers for ~~30 minutes~~ four hours
6 while attempting to establish the signal.

7 (b) If after ~~30 minutes~~ four hours the audio or video signal
8 cannot be established the association may continue to accept
9 wagers on the signal provided:

10 (1) the mutuel manager makes an announcement to the public
11 informing them that due to technical difficulties the audio or
12 video signal has been lost;

13 (2) the association transmits the odds on the affected race to
14 the video department to be displayed to the patrons;—and

15 (3) the totalisator operator locks all wagering on the
16 affected race at zero minutes to post to ensure the integrity
17 and transfer of the wagering pools.

18 (c) If the host racetrack loses the ability to transmit the
19 audio or video signal, the host racetrack:

20 (1) shall notify all guest racetracks of the technical
21 difficulties being experienced;

22 (2) may continue to accept wagers from the guest racetracks on
23 that day's races; and

24 (3) may not accept wagers from the guest racetracks for
25 subsequent race days until the technical difficulties have been
26 corrected.

1 Sec. 321.503. Purses.

2 (a) To be approved by the executive secretary, an association's
3 request for approval to import a simulcast must allocate for
4 purses as follows:

5 (1) for a same species simulcast, as provided by the Act,
6 §6.08; and

7 (2) for a cross-species simulcast, as provided in the contract
8 with the officially recognized horsemen's organization.

9 ~~(b) To be approved by the executive secretary,~~ a An
10 association's request for approval to export a simulcast must
11 allocate a minimum 37.0% for purses from the simulcast fee
12 charged to the guest racetrack, unless otherwise approved by the
13 recognized horsemen's organization and the executive secretary.

14 (c) An association shall distribute the funds derived for purses
15 from a simulcast during the 12-month period immediately
16 following the simulcast.

Title 16, Part VIII

Chapter 321. Pari-Mutuel Wagering

Subchapter E. Ticketless Electronic Wagering

Division 1. Conduct of E-Wagering

1 Sec. 321.605. E-Wagering Plan.

2 (a) To be approved to conduct E-wagering, an association must
3 submit a plan to the Commission. The plan must include:

4 (1) the procedures for opening an account;

5 (2) the procedures for establishing identity of account
6 holder;

7 (3) the procedures for making deposits to the account;

8 (4) the procedures for making withdrawals from the account;

9 (5) the procedures for closing an account; ~~and~~

10 (6) the procedures for suspending an account; and

11 (7) a description of the wagering system and E-wagering access
12 system.

13 (b) The Executive Director may approve a plan to conduct E-
14 wagering if the Executive Director determines that the
15 association's plan meets the requirements of this section and
16 does not conflict with the Rules or the Act.