

Texas Racing Commission  
Title 16, Part VIII  
Chapter 301. Definitions

1 **Section 301.1 Definitions.**

2 (a) (No change.)

3 (b) (1) - (50) (No change.)

4 (51) Performance--the schedule of horse or greyhound races run  
5 consecutively as one program. A greyhound performance consists  
6 of fifteen or fewer races unless approved by the executive  
7 secretary.

8 (52) - (89) (No change.)

9 (90) "Active license" means a racetrack license designated by  
10 the commission as active.

11 (91) "Inactive license" means a racetrack license designated by  
12 the commission as inactive.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter A. Racetrack Licenses

1 **Sec. 309.8. Racetrack License Fees.**

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

6 (b) Annual License Fee.

7 (1) A licensed racing association shall pay an annual  
8 license fee. The annual license fee for each license type  
9 is as follows:

10 (A) for a Class 1 racetrack, \$500,000;

11 (B) for a Class 2 racetrack, \$230,000;

12 (C) for a Class 3 or 4 racetrack, \$70,000; and

13 (D) for a Greyhound racetrack, \$360,000.

14 (2) An association that is conducting live racing or  
15 simulcasting shall pay its annual license fee by  
16 remitting to the Commission 1/12<sup>th</sup> of the fee on the first  
17 business day of each month. For the State Fiscal Year  
18 that begins on September 1, 2011, the monthly remittance  
19 shall begin in the month of January.

20 (3) An association that is not conducting live racing or  
21 simulcasting shall pay its annual license fee on  
22 September 1 of each fiscal year. For the State Fiscal  
23 Year that begins on September 1, 2011, the annual license  
24 fees shall be paid in two separate payments. The first  
25 payment will be of \$100,000 and is due on September 1,  
26 2011. The second payment will be of the remaining unpaid  
27 balance and shall be paid on January 1, 2012.

28 (c) Adjustment of Fees.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter A. Racetrack Licenses

1       (1) Annual fees are calculated using a projected base of  
2       143 days of live horse racing and 270 performances of  
3       live greyhound racing per calendar year. To cover the  
4       additional regulatory cost in the event additional days  
5       or performances are requested by the associations the  
6       executive secretary may:

7       (A) recalculate a horse racetrack's annual fee by adding  
8       \$3,750 for each live day added beyond the base,

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

12       (C) review the original or amended race date request  
13       submitted by each association to establish race date  
14       baselines for specific associations if needed.

15       (2) If at any point the executive secretary determines the  
16       total revenue from the annual fees is insufficient to pay  
17       the Commission's costs during a fiscal year, the  
18       executive secretary shall recommend to the Commission a  
19       supplemental fee, in addition to the license fee, that  
20       each association would be required to pay to generate the  
21       necessary revenue to pay the Commission's costs.

22       (3) If the executive secretary determines that the total  
23       revenue from the annual fees exceeds the amount needed to  
24       pay those costs, the executive secretary may order a  
25       moratorium on all or part of the annual license fees  
26       remitted monthly by any or all of the associations.  
27       Before entering a moratorium order, the executive  
28       secretary shall develop a formula for providing the  
29       moratorium in an equitable manner among the associations.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter A. Racetrack Licenses

1           In developing the formula, the executive secretary shall  
2           consider the amount of excess revenue received by the  
3           Commission, the source of the revenue, the Commission's  
4           costs associated with regulating each association, the  
5           Commission's projected receipts for the next fiscal year,  
6           and the Commission's projected expenses during the next  
7           fiscal year.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter B. Operations of Racetracks  
Division 2. Facilities and Equipment

1 **Section 309.129. Automatic Banking Machines.**

2 (a)-(b) (No Change.)

3 (c) Configuration. An automatic banking machine placed on  
4 association grounds must be configured with the following  
5 restrictions:

6 (1) A customer using the machine may withdraw funds only  
7 from his or her checking account at a bank or other financial  
8 institution. A customer may not use the machine to withdraw  
9 funds from a savings account.

10 ~~(2) A customer may withdraw no more than \$200 per day per~~  
11 ~~account. For purposes of this paragraph, a "day" is the 24 hour~~  
12 ~~period beginning at 12:00 midnight.~~

13 ~~(2)~~<sup>(3)</sup> For each transaction at a machine, a statutory fee  
14 of \$1.00 must be withdrawn from the customer's account in  
15 addition to the amount delivered to the customer and any other  
16 fees authorized and imposed by the bank or other financial  
17 institution, by the association, or by the vendor.

18 ~~(3)~~<sup>(4)</sup> Before the customer authorizes the transaction, the  
19 machine must display a screen that notifies the customer of the  
20 statutory fee and permits the customer to cancel the  
21 transaction. The notice must state the following or its  
22 equivalent: UNDER TEXAS RACING ACT, §11.04(E), A \$1 FEE MUST BE  
23 COLLECTED ON EACH TRANSACTION AT THIS MACHINE FOR DEPOSIT INTO  
24 THE TEXAS STATE TREASURY.

25 (d)-(f) (No change.)

Texas Racing Commission  
Title 16, Part VIII,  
Chapter 311. Other Licenses  
Subchapter A. Licensing Provisions  
Division 1. Occupational Licenses

1 **Section 311.3. Information for Background Investigation.**

2 (a) Fingerprint Requirements and Procedure.

3 (1) Except as otherwise provided by this section, an  
4 applicant for a license or license renewal must submit with the  
5 application documents a set of the applicant's fingerprints in a  
6 form prescribed by the Department of Public Safety. If the  
7 applicant is not an individual, the applicant must submit a set  
8 of fingerprints on the above-referenced forms for each  
9 individual who:

10 (A) serves as a director, officer, or partner of the  
11 applicant;

12 (B) holds a beneficial ownership interest in the  
13 applicant of 5.0% or more; or

14 (C) owns any interest in the applicant, if requested  
15 by the Department of Public Safety.

16 (2)-(5) (No change.)

17 (6) If an applicant for a license or license renewal is  
18 required to submit fingerprints under this section, the  
19 applicant must also submit a fingerprinting fee of \$44.20  
20 ~~\$12.00~~.

21 (b) (No change.)

Texas Racing Commission  
Title 16, Part VIII  
Chapter 319. Veterinary Practices and Drug Testing  
Subchapter D. Drug Testing  
Division 2. Testing Procedures

1 **Section 319.335. ~~Auditing and~~ Approval of Testing Costs.**

2 (a) All charges for conducting tests under this subchapter must  
3 be reconciled with the number of tests actually conducted  
4 ~~audited~~ and be approved by the executive secretary before  
5 payment. ~~The executive secretary shall audit the charges as to~~  
6 ~~the reasonableness of the charges in accordance with industry~~  
7 ~~standards for comparable testing procedures.~~

8 (b) - (c) (No change.)

Texas Racing Commission  
Title 16, Part VIII  
Chapter 319. Veterinary Practices and Drug Testing  
Subchapter D. Drug Testing  
Division 2. Testing Procedures

1 **Section 319.336. Payment of Testing Costs.**

2 (a) Responsibility for Payment. Immediately on receipt of  
3 approved charges for conducting tests under this subchapter, an  
4 association shall pay the charges.

5 (b) Authority to Use Outstanding Tickets and Pari-mutuel  
6 Vouchers. An association may use money held by the association  
7 to pay outstanding tickets and outstanding pari-mutuel vouchers  
8 to pay for charges under this section. If the money held is  
9 insufficient to pay the charges, the association shall pay the  
10 remainder of the charges.

11 ~~(c) Accounting and Payment of Remainder.~~

12 ~~(1) The accounting and payment of remainder of outs and~~  
13 ~~vouchers to the Commission shall be done in accordance with~~  
14 ~~§321.36.~~

15 ~~(2) The executive secretary will review the accounting~~  
16 ~~submitted by the association. If the executive secretary~~  
17 ~~determines the accounting is in error, the executive secretary~~  
18 ~~may adjust the amount due to the Commission from outstanding~~  
19 ~~tickets and either demand payment of the additional amount owed~~  
20 ~~or reimburse the association for the excess amount paid to the~~  
21 ~~Commission.~~

22 ~~(d) Pooling of Drug Testing Costs. The executive secretary may~~  
23 ~~establish a procedure to pay drug testing costs by pooling the~~  
24 ~~amounts held by all associations to pay outstanding tickets. If~~  
25 ~~the amount held by an association does not cover the full costs~~  
26 ~~of drug testing for that association, the executive secretary~~  
27 ~~may pay those costs using funds paid to the Commission under~~  
28 ~~subsection (c)(1) of this section.~~

Texas Racing Commission  
Title 16, Part VIII  
Chapter 321. Pari-Mutuel Wagering  
Subchapter A. Mutuel Operations  
Division 3. Mutuel Tickets and Vouchers

1 **Section 321.36. ~~Remittance of Unclaimed Outs and Vouchers.~~**

2 (a) Pursuant to the Act, §3.07, to pay the charges associated  
3 with the medication or drug testing, an association may use the  
4 money held by the association to pay outstanding tickets and  
5 pari-mutuel vouchers. If additional amounts are needed to pay  
6 the charges, the association shall pay those additional amounts.  
7 If the amount of outstanding tickets and pari-mutuel vouchers  
8 held exceeds the amount needed to pay the charges, the  
9 association may retain the excess amount as outstanding tickets  
10 and pari-mutuel vouchers expire. ~~shall pay the excess to the~~  
11 ~~commission.~~

12 ~~(b) The association shall file a quarterly report, on a form~~  
13 ~~prescribed by the executive director, that reports:~~

14 ~~(1) the amount of outstanding tickets and pari mutuel~~  
15 ~~vouchers that have expired during the quarter as outlined under~~  
16 ~~§321.33;~~

17 ~~(2) the amount needed to reimburse the association for~~  
18 ~~payments made by the association to cover charges associated~~  
19 ~~with the medication or drug testing pursuant to §3.07 of the~~  
20 ~~Act; and~~

21 ~~(3) the amount of excess expired tickets and pari mutuel~~  
22 ~~vouchers, if any, due to the commission.~~

23 ~~(c) The association shall file the quarterly reports and make~~  
24 ~~payments when applicable on the following schedule:~~

25 ~~(1) September, October and November will constitute the~~  
26 ~~first quarter and shall be filed with the commission no later~~  
27 ~~than December 15;~~

Texas Racing Commission  
Title 16, Part VIII  
Chapter 321. Pari-Mutuel Wagering  
Subchapter A. Mutuel Operations  
Division 3. Mutuel Tickets and Vouchers

1       ~~(2) December, January and February will constitute the~~  
2 ~~second quarter and shall be filed with the commission no later~~  
3 ~~than March 15;~~

4       ~~(3) March, April and May will constitute the third quarter~~  
5 ~~and shall be filed with the commission no later than June 15;~~  
6 ~~and~~

7       ~~(4) June, July and August shall constitute the fourth~~  
8 ~~quarter and shall be filed with the commission no later than~~  
9 ~~September 15.~~

10 ~~(d) The reports and payments submitted by the association are~~  
11 ~~subject to audit by the Commission.~~

12

Texas Racing Commission  
Title 16, Part VIII  
Chapter 319. Veterinary Practices and Drug Testing  
Subchapter A. General Provisions

1 **Section 319.3. Medication Restricted.**

2 (a) No change.

3 (b) The maximum permissible plasma or serum concentration of  
4 phenylbutazone in horses is 2.0 ~~5.0~~ micrograms per milliliter.

5 (c)-(f) No change.

Texas Racing Commission  
Title 16, Part VIII  
Chapter 321. Pari-Mutuel Wagering  
Subchapter D. Simulcast Wagering  
Division 1. General Provisions

1 **Section 321.407. Approval of Wagering on Simulcast Import**  
2 **Races.**

3 (a) - (e) (No change.)

4 (f) For the purposes of this section, a simulcast import horse  
5 race can be a race of Thoroughbreds, Quarter Horses, Arabians,  
6 Paint Horses, Appaloosas, Standardbreds, or a mixture of the  
7 aforementioned breeds of horses.

# TEXAS RACING COMMISSION

## COMMITTEE ON RULES

Date of Request: September 15, 2011

### ***Request for Proposed Change to an Existing Rule or Addition of a New Rule to the Rules of Racing***

Please submit this information to the attention of the Executive Director *at least 14 days* in advance of the next scheduled Committee on Rules meeting. An electronic form is available to assist in your submission or feel free to add additional pages as necessary in order to provide as much detail as possible. Filing this request does not guarantee that your proposal will be considered by the Committee on Rules.

Texas Racing Commission  
8505 Cross Park Drive, Suite 110  
Austin, TX 78754-4552  
Phone: 512/833-6699 Fax: 512-833-6907  
email: [info@txrc.state.tx.us](mailto:info@txrc.state.tx.us)

#### **Contact Information:**

Name:	Ken Quirk	Phone(s):	512-833-6699
E-mail address:	<a href="mailto:ken.quirk@txrc.state.tx.us">ken.quirk@txrc.state.tx.us</a>	Fax number:	512-833-6907
Mailing address:	8505 Cross Park Drive, Suite 110, Austin, TX 78754		

- Personal Submission *OR*
- Submission on behalf of Staff  
(Name of Organization)
- If known, Proposed Change to Chapter: 311, Rule 104, Chapter 313, Rule 50.
- If known, Proposed Addition to Chapter: \_\_\_\_\_
- If known, Other Rules Affected by Proposal: Chapter 319, Rule 107

#### **A. Brief Description of the Issue**

Proposed additon to Rule 313.50 to specifically assign responsibility for correction of registration papers and racing publications to the trainer of record and the horse identifier for the benefit of the betting public and to aid in the testing procedures for anabolic steroids.

#### **B. Discussion of the Issue and Problem**

*Provide background on the issue to build context. Address the following:*

- *What specific problems or concerns are involved in this issue?*
- *Who does the issue affect?*
- *What existing model rules relate to this issue?*
- *Provide relevant quantitative or statistical information if possible.*

Once steriod testing began, it became apparent that this reporting was not always being done as required. Horses labeled in the system as stallions did not have the expected level of testosterone. Upon investigation, it was discovered that these horses' sex had been altered but not reported.

Once notified of an alteration, the horse identifier enters the alteration on the horse's registration papers as well as in the track's database so that the information pulled to print the program has the latest and most accurate information.

Some handicappers believe that a stallion that previously exhibited excitability or unruliness will perform better if it runs as a gelding. Therefore, it is important that the public be provided accurate information as to the sex of each racehorse.

### **C. Possible Solutions and Impact**

*Provide possible recommendations to solve the problem. Include details on each proposed solution such as:*

- *What solution does this proposal provide?*
- *How will the solution fix the problem?*
- *How will the change affect any entities or stakeholders?*
- *How will you or your organization be affected by the proposed change?*
- *What are the benefits of the proposed change?*
- *What are the possible drawbacks of the proposed change?*
- *Identify possible fiscal impact of the recommended change.*

This proposed change to the trainer's responsibilities specifically makes it the trainer's duty to report the correct sex of every horse in the trainer's care to the Commission veterinarian and to the horse identifier, regardless of when the alteration occurred.

This proposed change to the horse identifier's responsibilities specifically makes it his/her responsibility to record any change of sex to ensure the proper identification of each horse scheduled to compete at a race meeting.

### **D. Support or Opposition**

*Please identify any affected stakeholder groups that expressed support or opposition. (These stakeholders may include the racetracks, breed registries, owners, kennel owners, trainers, jockeys, veterinarians, or others.)*

- *For those stakeholder groups that have expressed an opinion, please list the points on which they agree or disagree, and the arguments they have expressed.*
- *Are there any affected stakeholder groups that have not been consulted on this proposal?*
- *Please submit any formal letters of support or opposition by stakeholder groups.*

Staff has not identified any opposition to this change. However, stakeholders and the general public will have additional opportunities throughout the rule proposal process to voice their support or opposition.

### **E. Proposal**

*Provide rule language you are proposing. If you are proposing that current rule language be eliminated, please strikeout the language to be deleted. Please show new language with underlined text.*

Section 311.104. Trainers

(a)-(j) (No change.)

(k) Other Responsibilities – A trainer is responsible for:

(1)-(9) (No change.)

(10) ensuring the fitness of a animal to perform creditably at the distance entered; ~~and~~

(11) ensuring that the trainer's horse is properly shod, bandaged and equipped; and.

(12) reporting the correct sex of the horses in his/her care to the commission

veterinarian and the horse identifier.

Section 313.50. Horse Identifier.

(a) The horse identifier shall identify each horse while it is in the pre-race holding area or paddock. The horse identifier shall immediately report to the stewards and paddock judge a horse that is not properly identified or that has any irregularities from the official identification record.

(b) The horse identifier shall inspect, identify, prepare identification records on all horses that race at a race meeting.

(c) The horse identifier shall inspect documents of ownership, eligibility, registration, or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting.

(d) The horse identifier shall supervise the tattooing or branding for identification of any horse located on association grounds.

(e) The horse identifier is responsible for the correction of registration papers and proper designation in the program of the proper sex of each horse participating in a race meeting.

# TEXAS RACING COMMISSION

## COMMITTEE ON RULES

Date of Request: July 12, 2011

### ***Request for Proposed Change to an Existing Rule or Addition of a New Rule to the Rules of Racing***

Please submit this information to the attention of the Executive Director *at least 14 days* in advance of the next scheduled Committee on Rules meeting. An electronic form is available to assist in your submission or feel free to add additional pages as necessary in order to provide as much detail as possible. Filing this request does not guarantee that your proposal will be considered by the Committee on Rules.

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8505 Cross Park Drive, Suite 110  
Austin, TX 78754-4552  
Phone: 512/833-6699 Fax: 512-833-6907  
email: [info@txrc.state.tx.us](mailto:info@txrc.state.tx.us)

#### **Contact Information:**

Name:	J. David Rollinson	Phone(s):	512-833-6699
E-mail address:	David.Rollinson@txrc.state.tx.us	Fax number:	512-833-6907
Mailing address:	8505 Cross Park Drive, Suite 110, Austin, TX 78754		

Personal Submission *OR*

Submission on behalf of Staff  
(Name of Organization)

If known, Proposed Change to Chapter: 311, Rule 105(b)(2)

If known, Proposed Addition to Chapter: \_\_\_\_\_

If known, Other Rules Affected by Proposal: \_\_\_\_\_

#### **A. Brief Description of the Issue**

To be eligible to ride in a race, a jockey must have on file with the Commission proof of a satisfactory physical examination conducted by a physician during the 12-month period preceding the date of the race. Mandating the exam be conducted by a physician unnecessarily limits a jockey's choice when other health professionals are available and qualified to perform a physical exam.

## **B. Discussion of the Issue and Problem**

*Provide background on the issue to build context. Address the following:*

- *What specific problems or concerns are involved in this issue?*
- *Who does the issue affect?*
- *What existing model rules relate to this issue?*
- *Provide relevant quantitative or statistical information if possible.*

The Texas rule regarding examinations mirrors the ARCI model rule. If this proposed change is approved, staff will suggest the model rule be changed.

Despite the ARCI model rule, several jurisdictions have no requirement for proof of a satisfactory jockey physical exam. Therefore, some jockeys coming to Texas to ride find that they need to get a physical exam performed by a physician on a very short notice. There are several types of health care professionals qualified to perform a physical exam. Updating the rule to include all of these professionals will give potential licensees more choices.

## **C. Possible Solutions and Impact**

*Provide possible recommendations to solve the problem. Include details on each proposed solution such as:*

- *What solution does this proposal provide?*
- *How will the solution fix the problem?*
- *How will the change affect any entities or stakeholders?*
- *How will you or your organization be affected by the proposed change?*
- *What are the benefits of the proposed change?*
- *What are the possible drawbacks of the proposed change?*
- *Identify possible fiscal impact of the recommended change.*

Staff proposes changing the rule to recognize a physical examination performed by any of the following properly licensed health care professionals: a Medical Doctor, a Doctor of Osteopath, a Chiropractor, a Nurse Practitioner, or a Physician's Assistant.

This change would recognize all of the health care professionals that are typically authorized to perform a physical exam.

## **D. Support or Opposition**

*Please identify any affected stakeholder groups that expressed support or opposition. (These stakeholders may include the racetracks, breed registries, owners, kennel owners, trainers, jockeys, veterinarians, or others.)*

- *For those stakeholder groups that have expressed an opinion, please list the points on which they agree or disagree, and the arguments they have expressed.*
- *Are there any affected stakeholder groups that have not been consulted on this proposal?*
- *Please submit any formal letters of support or opposition by stakeholder groups.*

Staff knows of no opposition to this proposed change. However, stakeholders and the general public will have additional opportunities throughout the rule proposal process to voice their support or opposition.

Further study is needed into why other jurisdictions have chosen to eliminate the requirement.

## E. Proposal

*Provide rule language you are proposing. If you are proposing that current rule language be eliminated, please strikeout the language to be deleted. Please show new language with underlined text.*

### Sec 311.105 Jockeys

(a) No change

(b) Physical Examination.

(1) To be eligible to ride in a race, a jockey or apprentice jockey must have on file with the Commission proof of a satisfactory physical examination conducted during the 12-month period preceding the date of the race.

(2) An examination required by this section must be performed by a currently licensed physician Doctor of Medicine, Doctor of Osteopath, Chiropractor, Nurse Practitioner, or Physician's Assistant. ~~and~~ The exam must include tests for visual acuity and hearing.

(3) The Commission or the stewards may require a jockey or apprentice jockey to be reexamined at any time and may refuse to permit a jockey or apprentice jockey to ride until proof of a satisfactory examination is submitted.

(c) - (d) No change.

# TEXAS RACING COMMISSION

## COMMITTEE ON RULES

Date of Request:

10/24/11

### Request for Proposed Change to an Existing Rule or Addition of a New Rule to the Rules of Racing

Please submit this information to the attention of the Executive Director at least 14 days in advance of the next scheduled Committee on Rules meeting. An electronic form is available to assist in your submission or feel free to add additional pages as necessary in order to provide as much detail as possible. Filing this request does not guarantee that your proposal will be considered by the Committee on Rules.

Texas Racing Commission  
8505 Cross Park Drive, Suite 110  
Austin, TX 78754-4552  
Phone: 512/833-6699 Fax: 512-833-6907  
email: [info@bxrc.state.tx.us](mailto:info@bxrc.state.tx.us)

#### Contact Information:

Name:	DAVID E. HOOPER	Phone(s):	512-695-4540
E-mail address:		Fax number:	512-453-5919
Mailing address:	TEXAS THOROUGHBRED ASSOCIATION, POB 14967, AUSTIN, TX 78761		

Personal Submission OR

Submission on behalf of TEXAS THOROUGHBRED ASSOCIATION  
(Name of Organization)

If known, Proposed Change to Chapter: 313, Rule 308(a)(2)

If known, Proposed Addition to Chapter:

If known, Other Rules Affected by Proposal:

RECEIVED  
TEXAS RACING  
COMMISSION  
2011 OCT 24 PM 1:10

#### A. Brief Description of the Issue

313.308(a)(2) PROHIBITS A CLAIMED HORSE FROM RACING 2155 HOURS UNTIL THE END OF A RACE MEET AT WHICH THE HORSE WAS CLAIMED. OKLAHOMA RACING COMMISSION RULE 325.30-1-17(a) ALLOWS A CLAIMED HORSE TO RACE IN A STAKES RACE IN ANOTHER STATE WITH PERMISSION OF THE STAKES.

THE NUMBER OF STAKES IN TEXAS HAS BEEN DRIPPING IN RECENT YEARS, INCLUDING AFTER STAKES.

TEXAS BREEDERS NEED STAKES OPPORTUNITIES IN AND OUT OF STATE.

## B. Discussion of the Issue and Problem

Provide background on the issue to build context. Address the following:

- What specific problems or concerns are involved in this issue?
- Who does the issue affect?
- What existing model rules relate to this issue?
- Provide relevant quantitative or statistical information if possible.

UNDER PRESENT TEXAS CLAIMING RULES, A CLAIMED HORSE CANNOT RUN AT ANOTHER MEET IN STATE OR OUT OF STATE UNTIL THE MEET HAS ENDED WHERE THE HORSE WAS CLAIMED. IN 2012, RETAMA'S THOROUGHBRED, IS 26 DAYS OVER THE LAST 13 WEEKS OF THE YEAR AND THERE WILL LIKELY BE ONLY 4 STAKES AND THOSE ALL FOR 2-YEAR-OLDS. IF AN OLDER HORSE IS CLAIMED FOR \$10,000 EARLY IN THE MEET AND IMPROVES TO A LEVEL THAT GIVES THE HORSE'S CONNECTIONS A REASON TO TRY STAKES COMPANY, THERE ARE NO OPPORTUNITIES AT RETAMA. THIS COULD BE CORRECTED IF THE EXISTING RULES WERE AMENDED TO ALLOW THE CLAIMED HORSE TO RUN OUT OF STATE, POSSIBLY AT KEMINGTON PARK OR ZIA PARK, BY INCORPORATING LANGUAGE EXCEPT IN STAKES WITH PERMISSION OF THE STEWARDS. THE PRESENT LANGUAGE LIMITS OWNERS AND BREEDERS IN THEIR EFFORTS TO ACQUIRE "BLACK TIPS" BY RUNNING 1-2-3 IN STAKES.

## C. Possible Solutions and Impact

Provide possible recommendations to solve the problem. Include details on each proposed solution such as:

- What solution does this proposal provide?
- How will the solution fix the problem?
- How will the change affect any entities or stakeholders?
- How will you or your organization be affected by the proposed change?
- What are the benefits of the proposed change?
- What are the possible drawbacks of the proposed change?
- Identify possible fiscal impact of the recommended change.

GIVES STEWARDS THE LATITUDE TO ALLOW A CLAIMED HORSE TO RUN IN A STAKES WITH THEIR PERMISSION, BUT ONLY IN STAKES. MINIMALLY AFFECTS HORSE SUPPLY. ALLOWS MEMBER OWNERS AND BREEDERS TO HAVE MORE CHANCES TO RUN IN STAKES AND UPGRADE THEIR RACING AND BREEDING STOCK. NO FISCAL IMPACT.



## HB 2271 Section 15

**SECTION 15.** Section 7.01, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7.01. LICENSE REQUIRED. (a) Except as provided by this section, a [A] person may not participate in racing with pari-mutuel wagering other than as a spectator or as a person placing a wager without first obtaining a license from the commission. A person may not engage in any occupation for which commission rules require a license under this Act without first obtaining a license from the commission.

(b) The commission by rule shall categorize the occupations of racetrack employees and determine the occupations that afford the employee an opportunity to influence racing with pari-mutuel wagering. The rules must require the following employees to be licensed under this Act:

(1) an employee who works in an occupation determined by the commission to afford the employee an opportunity to influence racing with pari-mutuel wagering; or

(2) an employee who will likely have significant access to the backside of a racetrack or to restricted areas of the frontside of a racetrack.

(c) A racetrack licensed under this Act is responsible for ensuring that its employees comply with this Act and commission rules. The commission may impose disciplinary action against a licensed racetrack for violations of this Act and commission rules by its employees as provided by Section 6.0603 of this Act.

Title 16, Part VIII  
Chapter 311. Other Licenses  
Subchapter A. Licensing Provisions  
Division 1. Occupational Licenses

1 **Section 311.5. License Categories and Fees**

2 (a) An applicant for a license must submit with the application  
3 documents the license fee in the amount set by the Commission in  
4 subsection ~~(e)~~(d) of this section.

5 (b) A license fee paid at a racetrack or at the Commission's  
6 headquarters must be paid by a money order, a certified check, a  
7 cashier's check, a credit card, or a personal check. The  
8 executive secretary may approve payment in cash at a racetrack  
9 if the association submits a plan that is approved by the  
10 executive secretary. The plan shall provide for the safety and  
11 security of the licensing office where the cash will be received  
12 and stored and licensing employees who will be responsible for  
13 handling and depositing the cash received. A license fee paid  
14 through the Texas OnLine portal may be paid by any method  
15 approved by the Texas OnLine Authority.

16 (c) Association Employees. Association employees in the  
17 following occupations must hold valid licenses issued by the  
18 Commission to work on association grounds:

- 19 (1) Adoption Program Personnel - A person employed by a  
20 greyhound association to work with an adoption  
21 program.
- 22 (2) Announcer - A person employed to announce races.
- 23 (3) Assistant Starter - A person employed to perform  
24 duties required by the Starter at the starting gate of  
25 a horse racetrack.
- 26 (4) Association Management Staff - A person employed to  
27 manage a department and who has the authority to hire  
28 or fire other employees or whose recommendations as to

Title 16, Part VIII  
Chapter 311. Other Licenses  
Subchapter A. Licensing Provisions  
Division 1. Occupational Licenses

- 1           hiring and firing decisions are given particular  
2           weight.
- 3           (5) Association Officer/Director - A person employed as an  
4           officer of an association or who serves on an  
5           association's board of directors or management  
6           committee.
- 7           (6) Association Staff (with Access to Backside or Secured  
8           Areas) - A person employed to provide various services  
9           on the backside or in areas of a racetrack that are  
10           required by the Commission to be secured. These  
11           services may include, but are not limited to,  
12           clerical, accounting, admissions, food service,  
13           housekeeping, and general maintenance.
- 14           (7) Association Veterinarian - A person employed to  
15           provide veterinary services for greyhounds.
- 16           (8) Law Enforcement - A person employed as a security  
17           officer who is commissioned as a Texas peace officer.
- 18           (9) Lead Out - A person employed to lead greyhounds in the  
19           post parade to the starting box.
- 20           (10) Maintenance - A person employed to work or maintain  
21           the racetrack.
- 22           (11) Medical Staff - A person employed directly by the  
23           association to provide medical assistance.
- 24           (12) Mutuel Clerk - A person employed to work at the  
25           betting windows.
- 26           (13) Mutuel Other - A person employed in the mutuel  
27           department in a capacity other than mutuel clerk.
- 28           (14) Racing Official - A person employed to act as an  
29           official under Chapter 313 of this Title (relating to

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Subchapter A. Licensing Provisions  
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- 1           Officials and Rules of Horse Racing) or Chapter 315 of  
2           this Title (relating to Officials and Rules for  
3           Greyhound Racing).
- 4           (15) Security Officer - A person employed to provide  
5           security for the racetrack grounds.
- 6           (16) Test Technician - A person employed to collect blood  
7           and urine samples and provide other services in the  
8           test barn or testing area.
- 9           (17) Test Barn Escort - A person employed to lead horses  
10           from the finish line to the test barn for post race  
11           testing.
- 12           (18) Valet - A person employed to assist jockeys with their  
13           tack and silks in the jockeys' rooms.
- 14    ~~(d)~~ (e) The fee for an occupational license is as follows:  
15    (No change to fee schedule.)

## HB 2271 Sections 17-19

**SECTION 17.** Section 11.01, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The commission shall adopt rules to regulate wagering on greyhound races and horse races under the system known as pari-mutuel wagering. Wagering may be conducted only by an association within its enclosure. A person may not accept, in person, by telephone, or over the Internet, a wager for a horse race or greyhound race conducted inside or outside this state from a person in this state unless the wager is authorized under this Act.

(a-1) The commission may commission as many investigators as the commission determines necessary to enforce this Act and the rules of the commission. Each investigator shall take the constitutional oath of office and file it with the commission. Each commissioned investigator has the powers of a peace officer.

**SECTION 18.** Sections 11.04(a) and (c), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Only a person inside the enclosure where both live and simulcast race meetings are authorized may wager on the result of a live or simulcast race presented by the association in accordance with commission rules. Except as provided by this section, a person may not place, in person, by telephone, or over the Internet, a wager for a horse race or greyhound race conducted inside or outside this state. The

commission shall adopt rules to prohibit wagering by employees of the commission and to regulate wagering by persons licensed under this Act.

(c) The commission shall adopt rules prohibiting an association from accepting a wager made on credit and shall adopt rules providing for the use of automatic banking machines within the enclosure. The commission shall limit the use of an automatic banking machine to [:

[~~(1)~~] allow a person to have access to only the person's checking account at a bank or other financial institution[; ~~and~~

[~~(2)~~ deliver no more than \$200].

**SECTION 19.** Section 11.05, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11.05. UNLAWFUL WAGERING. A person shall not wager on the result of a greyhound race or horse race in this state except as permitted by this Act. A person who is not an association under this Act may not accept from a Texas resident while the resident is in this state a wager on the result of a greyhound race or horse race conducted inside or outside this state.

**Section 321.21. Certain Wagers Prohibited**

(a) An association may not accept a wager made by mail, by telephone, or by internet. A data communications link for common pooling purposes is not considered a wager for purposes of this section.

(b) An association may not accept a wager made on credit.

(c) A person who is not an association may not accept from a Texas resident while the resident is in this state a wager on the result of a greyhound race or horse race conducted inside or outside this state.

HB 2271  
Sections 4, 7, 9, 10, 11, 26 and 28

Section 4

**SECTION 4.** Sections 3.07(b) and (e), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) The commission shall make rules specifying the authority and the duties of each official, including the power of stewards or judges to impose penalties for unethical practices or violations of racing rules. A penalty imposed by the stewards or judges may include a fine of not more than \$5,000, a suspension for not more than one year, or both a fine and suspension. Before imposing a penalty under this subsection, the stewards and judges shall conduct a hearing that is consistent with constitutional due process. A hearing conducted by a steward or judge under this subsection is not subject to Chapter 2001, Government Code. A decision of a steward or judge is subject to review by the executive director, who may modify the penalty. A penalty modified by the executive director under this section may include a fine not to exceed \$10,000, a suspension not to exceed two years, or both a fine and a suspension. A decision of a steward or judge that is not reviewed or modified by the executive director is a final decision. Any decision of a steward or judge may be appealed under Section 3.08(a) of this Act regardless of whether the decision is modified by the executive director. [If, in the opinion of the stewards or judges, the allowable penalties are not sufficient, the stewards or judges may refer the case to the commission for further action.]

Texas Racing Commission  
Title 16, Part VIII  
Chapter 307. Proceedings Before the Commission  
Subchapter C. Proceedings by Stewards and Racing Judges

1 307.67. Appeal to the Commission

2 (a) (No change.)

3 (b) Filing Procedure.

4 (1) An appeal must be in writing in a form prescribed by  
5 the executive secretary. An The appeal from a ruling of the  
6 stewards or racing judges must be filed not later than 5:00 p.m.  
7 of the third calendar day after the day the person is informed  
8 of the ruling by the stewards or racing judges. An appeal from  
9 the modification of a penalty by the executive secretary must be  
10 filed not later than 5:00 p.m. of the fifth calendar day after  
11 the day the person is informed of the penalty modification. The  
12 appeal must be filed at the main Commission offices in Austin or  
13 with the stewards or racing judges at a Texas pari-mutuel  
14 racetrack where a live race meet is being conducted. The appeal  
15 must be accompanied by a cash bond in the amount of \$150, to  
16 defray the costs of the court reporter and transcripts required  
17 for the appeal. The bond must be in the form of a cashier's  
18 check or money order.

19 (2) (No change.)

20 (c) - (f) (No change.)

1 **Section 307.69. Review by Executive Secretary Action by**  
2 **Commission**

3 ~~On its own motion or on request by the executive secretary, the~~  
4 ~~Commission may reverse a decision of the stewards or racing~~  
5 ~~judges, modify a penalty imposed by the stewards or racing~~  
6 ~~judges, or reinstate a person's license and rescind the penalty.~~

7 (a) Within fourteen days after a board of stewards or judges  
8 issues a written ruling under Section 307.63 of this title  
9 (relating to Rulings), the executive secretary may review the  
10 ruling and modify the penalty. A penalty modified by the  
11 executive secretary may include a fine not to exceed \$10,000, a  
12 suspension not to exceed two years, or both a fine and a  
13 suspension.

14 (b) The decision to modify a penalty must be on a form that  
15 includes:

16 (1) the full name, license type, and license number of the  
17 person who is the subject of the penalty modification;

18 (2) the original ruling number and the date the ruling was  
19 issued by the stewards or judges;

20 (3) the date the modified penalty was issued by the  
21 executive secretary;

22 (4) the modified penalty imposed;

23 (5) a statement of the reasons for modifying the penalty;

24 and

25 (6) a statement informing the person of the person's right  
26 to appeal the ruling, with the modified penalty, to the  
27 Commission.

Texas Racing Commission  
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1 (c) In determining whether to modify a penalty, the executive  
2 secretary may consider, but is not limited to, the following  
3 reasons:

4 (1) to further the uniform and consistent treatment of  
5 similarly situated individuals; or

6 (2) to remedy rulings where the penalties available to the  
7 stewards or judges are insufficient to adequately address the  
8 violation.

9 (d) The decision to modify a penalty must be signed by the  
10 executive secretary.

11 (e) The executive secretary shall provide written notice to each  
12 person who is subject to a penalty modification decision under  
13 this section by:

14 (1) sending by certified mail, return receipt requested, a  
15 copy of the decision to the person's last known address, as  
16 found in the Commission's licensing files; or

17 (2) personal service by any Commission employee.

18 (f) An appeal of a ruling whose penalty has been modified under  
19 this section must be filed in accordance with Section 307.67 of  
20 this title (relating to Appeals to the Commission.)

**SECTION 7.** Article 6, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by adding Section 6.032 to read as follows:

Sec. 6.032. BOND. (a) The commission at any time may require a holder of a racetrack license or an applicant for a racetrack license to post security in an amount reasonably necessary, as provided by commission rule, to adequately ensure the license holder's or applicant's compliance with substantive requirements of this Act and commission rules.

(b) Cash, cashier's checks, surety bonds, irrevocable bank letters of credit, United States Treasury bonds that are readily convertible to cash, or irrevocable assignments of federally insured deposits in banks, savings and loan institutions, and credit unions are acceptable as security for purposes of this section. The security must be:

(1) conditioned on compliance with this Act and commission rules adopted under this Act; and

(2) returned after the conditions of the security are met.

**SECTION 9.** Section 6.04, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) When all of the requirements of licensure for the applicant described in this article have been satisfied, the commission shall notify the applicant that the application is complete.

(a-2) The commission shall make a determination with respect to a pending application not later than the 120th day after the date on which the commission provided to the applicant the notice required under Subsection (a-1) of this section.

**SECTION 10.** Section 6.06(k), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(k) The commission shall review the ownership and management of an active [a] license issued under this article every five years beginning on the fifth anniversary of the issuance of the license. In performing the review, the commission may require the license holder to provide any information that would be required to be provided in connection with an original license application under Article 5 of this Act or this article. The commission shall charge fees for the review in amounts sufficient to implement this subsection.

**SECTION 11.** Article 6, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by adding Sections 6.0601, 6.0602, and 6.0603 to read as follows:

Sec. 6.0601. DESIGNATION OF ACTIVE AND INACTIVE RACETRACK LICENSES. (a) The commission shall designate each racetrack license as an active license or an inactive license. The commission may change the designation of a racetrack license as appropriate.

(b) The commission shall designate a racetrack license as an active license if the license holder:

(1) holds live racing events at the racetrack; or

(2) makes good faith efforts to conduct live racing.

(c) The commission by rule shall provide guidance on what actions constitute, for purposes of this Act, good faith efforts to conduct live racing.

(d) Before the first anniversary of the date a new racetrack license is issued, the commission shall conduct an evaluation of the license to determine whether the license is an active or inactive license.

(e) An active license is effective until the license is designated as an inactive license or is surrendered, suspended, or revoked under this Act.

Sec. 6.0602. RENEWAL OF INACTIVE RACETRACK LICENSE; FEES. (a) The commission by rule shall establish an annual renewal process for inactive licenses and may require the license holder to provide any information required for an original license application under this Act. An inactive license holder must complete the annual renewal process established under this section until the commission:

(1) designates the license as an active license; or

(2) refuses to renew the license.

(b) In determining whether to renew an inactive license, the commission shall consider:

(1) the inactive license holder's:

(A) financial stability;

(B) ability to conduct live racing;

(C) ability to construct and maintain a racetrack facility; and

(D) other good faith efforts to conduct live racing; and

(2) other necessary factors considered in the issuance of the original

license.

(c) The commission may refuse to renew an inactive license if, after notice and a hearing, the commission determines that:

(1) renewal of the license is not in the best interests of the racing industry or the public; or

(2) the license holder has failed to make a good faith effort to conduct live racing.

(d) The commission shall consult with members of the racing industry and other key stakeholders in developing the license renewal process under this section.

(e) The commission shall set and collect renewal fees in amounts reasonable and necessary to cover the costs of administering and enforcing this section.

(f) The commission by rule shall establish criteria to make the determinations under Subsections (c)(1) and (2).

Sec. 6.0603. DISCIPLINARY ACTION. (a) The commission by rule shall establish procedures for disciplinary action against a racetrack license holder.

(b) If, after notice and hearing, the commission finds that a racetrack license holder or a person employed by the racetrack has violated this Act or a commission rule

or if the commission finds during a review or renewal that the racetrack is ineligible for a license under this article, the commission may:

(1) revoke, suspend, or refuse to renew the racetrack license;

(2) impose an administrative penalty as provided under Section 15.03 of

this Act; or

(3) take any other action as provided by commission rule.

(c) The commission may not revoke an active license unless the commission reasonably determines that other disciplinary actions are inadequate to remedy the violation.

**SECTION 26.** The following sections of the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) are repealed:

(1) Section 2.072;

(2) Section 6.04(b);

(3) Section 6.18(a); and

(4) Section 7.02(a).

**SECTION 28.** (a) Not later than September 1, 2012, the Texas Racing Commission shall designate each racetrack license as active or inactive as required by Section 6.0601, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), as added by this Act.

(b) The Texas Racing Commission by rule shall establish a staggered schedule and the procedure for the review of licenses required under Section 6.06(k), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), as amended by this Act.

(c) The Texas Racing Commission may adjust license renewal and review fees pursuant to the commission's authority to adjust fees under Section 5.01, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), and Section 6.0602, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), as added by this Act, to recover any money lost by the change in law made by this Act to Section 3.07(e), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(d) As soon as practicable, the executive director of Texas AgriLife Research shall submit a report to the Texas Racing Commission as required by Section 88.526, Education Code, as amended by this Act.



TEXAS RACING COMMISSION  
RECEIVED

OCT 27 '11

By \_\_\_\_\_

October 25, 2011

Mr. Mark Fenner  
General Counsel  
Texas Racing Commission  
8505 Cross Park Drive, Suite 110  
Austin, Texas 78754

**Re: Comments to Rulemaking - "Good Faith Efforts"**

Dear Mr. Fenner:

We appreciate the opportunity to participate in last week's meeting of the Ad Hoc Committee on Rules to Implement HB 2271, held on October 18, 2011. During the meeting, we discussed various approaches that the Commission may consider when designating a pari-mutuel license as either "active" or "inactive."

In response to your request, we are providing you with a list of examples on behalf of the three licenses we represent – Sam Houston Race Park, Laredo Race Park and Valley Race Park – which we believe meets the definition of "good faith efforts." We believe that efforts which require significant time, money or demonstrate financial support for the horse industry meet the intended definition of "good faith efforts." Furthermore, it should be taken into consideration that licenses like Laredo Race Park currently contribute to the overall viability of the Texas Racing Industry through fees paid to the Texas Racing Commission. Without these licenses, racetracks like Sam Houston Race Park, other Class I horse tracks, greyhound tracks and horsemen would have to be charged higher fees in order to fund the Texas Racing Commission's operations.

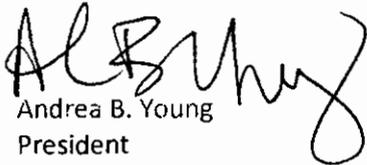
The following is a list of some, but not all, examples of items that should be considered "good faith efforts" by the Texas Racing Commission when evaluating a pari-mutuel license.

- Maintaining land rights for the licensed location
- Obtaining and maintaining any appropriate zoning designation for the licensed property
- Pursuing options for an alternative location for the racetrack if circumstances warrant

- Negotiations with regulatory or local authorities at the licensed location or potential alternative locations concerning preconstruction matters such as land rights, zoning, utilities and road improvements
- Submitting an Application for a Change of Location, if appropriate
- Regular and timely payments to the Texas Racing Commission that support the horse racing industry (i.e. annual fee)
- Licensee participation and attendance at Texas Racing Commission working group meetings
- Providing regular reports on the progress towards live racing at Texas Racing Commission meetings
- Pursuing regulatory changes that would improve the economic viability of live racing at the location
- Submitting an Application for Change of Ownership
- Ability to demonstrate an experienced team of employees and officers capable of developing the project
- Availability and access to financial capital necessary to complete the project

We look forward to continuing to work with you through the rule making process. Should you have any questions, please feel free to contact me.

Very truly yours,

  
Andrea B. Young  
President



P.O. Box 141309

Austin, Texas 78714

512/272-5581

October 13, 2011

Mark Fenner  
 Legal Counsel  
 Texas Racing Commission  
 PO Box 12080  
 Austin, Texas 78711

Dear Mr. Fenner:

I have expressed my strong feelings on Inactive Licenses and some steps I think need to be taken to progress towards Live Racing.

While I am not in favor of forcing anyone to run Live Racing now, I think a lack of genuine progress toward that goal has hurt the entire industry through the lack of support from our elected officials.

At a minimum I think a path toward Live Racing should be established:

1. Licenses are granted to applicants with specific locations. Find one.
2. Legitimate ownership of said site or at a minimum a long-term lease.
3. Analysis of availability of utilities and ingress – egress.  
 (Traffic study if necessary.)
4. Site work engineering plans for approval by the Texas Racing Commission.
5. Architectural drawings submitted to the Commission for approval.

These steps would occur before any construction began but would signal the industries intent to precisely locate these licensees.

While I have no particular grievance with any of the License holders, the disingenuous behavior they have exhibited is affecting all of us at the Capitol.

Sincerely,

Howard Phillips  
 Managing Partner