

TEXAS RACING COMMISSION  
Laws and Rules Governing Pari-Mutuel Racing in Texas  
List of Replacement Pages and Current Proposals  
March 31, 2009

The current rulebook of the Texas Racing Commission consists of the Rulebook dated July 2008 and the following replacement pages:

Pp. 113-118 rev. eff. 12/7/08  
Pp. 121-134 rev. eff. 12/7/08  
Pp. 139-140 rev. eff. 12/7/08  
Pp. 143-152 rev. eff. 12/7/08  
Pp. 157-164 rev. eff. 12/7/08  
Pp. 183-184 rev. eff. 3/22/09  
Pp. 203-204 rev. eff. 3/22/09  
Pp. 223-224 rev. eff. 3/22/09  
Pp. 237-242 rev. eff. 3/22/09  
Pp. 251-254 rev. eff. 7/16/08  
Pp. 301-304 rev. eff. 3/22/09  
Pp. 309-310 rev. eff. 3/22/09  
Pp. 313-316 rev. eff. 3/22/09  
Pp. 319-320 rev. eff. 3/22/09  
Pp. 325-326 rev. eff. 3/22/09  
Pp. 329-330 rev. eff. 3/22/09  
Pp. 333-342 rev. eff. 3/22/09

To maintain an updated rulebook you should replace the above pages. Effective April 1, 2009, updates to the Rulebook will be posted online at [www.txrc.state.tx.us](http://www.txrc.state.tx.us). Notification of these postings may be received by providing an email address to [info@txrc.state.tx.us](mailto:info@txrc.state.tx.us). Please type **Rulebook Updates** in the subject line.



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## CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

### Subchapter A. Racetrack Licenses

#### Sec. 309.1. Racetrack Licenses.

(a) Required.

(1) A person may not conduct a race meeting at which pari-mutuel wagering is conducted unless the person has a valid license to conduct a race meeting issued by the Commission.

(2) A licensee may not employ a person to work at a racetrack at which pari-mutuel wagering is conducted unless the person has a valid license issued by the Commission.

(3) The Commission shall issue a license in the form of a Commission Order to each association granted a license to operate a racetrack with pari-mutuel wagering.

(b) Duration of License. A racetrack license is perpetual. The Commission may suspend or revoke a license in accordance with the Act and these rules. By agreement with the Commission, an association may voluntarily surrender a racetrack license for suspension or revocation.

(c) Conditions.

(1) Except as otherwise provided by this section, a license issued by the Commission is a privilege, not a right, and is conditioned on the licensee's compliance with the Act and the Rules.

(2) If the Act or a rule is amended, the continued holding of a license is conditioned on the licensee's compliance with the Act or rule as amended.

(d) Effect of Acceptance. By accepting a license issued by the Commission, a person consents to:

(1) a search by the Commission of the association grounds and possessions located on association grounds to check for violations of the Act or the Rules; and

(2) seizure of contraband. (Added eff. 10/21/99; (b) amended eff. 12/7/08)

#### Sec. 309.2. Criteria.

(a) Consistent with the Texas Racing Act

which prohibits the Commission from granting more than three Class 1 horse racetrack licenses and which requires the Class 1 racetracks to be located only in counties with a population of 1.3 million or more or in a county adjacent to such a county, the Commission determines that only one Class 1 horse racetrack license will be granted for each eligible geographical area. No more than one Class 1 racetrack may be located in a county.

(b) Consistent with the Texas Racing Act which prohibits the Commission from granting more than three greyhound racetrack licenses and which requires the greyhound racetracks to be located only in counties with a population of 190,000 or more and with all or part of an island that borders the Gulf of Mexico, the Commission determines that only one greyhound racetrack license will be granted for each eligible geographical area.

(c) If the Commission receives more than one application for a Class 1 or greyhound racetrack license for an eligible geographical area, the Commission may:

(1) refuse to grant a license to any of the applicants; or

(2) grant the license to the applicant which, in the sole judgment and discretion of the Commission, will be in the best interest of racing and the public.

(d) This subsection applies to a racetrack licensing proceeding regarding a Class 1 racetrack that has been constructed, the ownership of or a leasehold interest in which has been sold or transferred pursuant to the foreclosure of liens or the enforcement of an agreement securing the original financing for the racetrack (or any refinancing thereof) or otherwise transferred in lieu of foreclosure or enforcement of the debt holder's rights. The Commission shall grant a new Class 1 license for a racetrack to which this subsection applies as expeditiously as possible consistent with the Commission's duty to ensure the integrity of pari-mutuel racing. (Added eff. 10/21/99; (a) amended eff. 1/8/04)

## RACETRACK LICENSES AND OPERATIONS

### Sec. 309.3. Racetrack License Application Procedure.

#### (a) General Requirements.

(1) To apply for a license to operate a racetrack, a person must:

(A) provide to the Commission all the information requested on the form prescribed by the executive secretary;

(B) submit to the Commission all additional documents required by the application and this subchapter; and

(C) pay an application fee to the Commission.

(2) An applicant for a racetrack license must submit the application, all additional documents required by the application and the application fee to the main office of the Commission in Austin.

#### (b) Application Process.

(1) From time to time, the Commission shall designate an application period not to exceed 60 days, during which the Commission shall accept application documents.

(2) The Commission shall specify the class and general geographic area of the racetrack for which it will consider applications.

(3) The Commission shall publish in the Texas Register an announcement of the beginning of the application process at least 30 days before the first day of the application period.

(4) While an application for a particular class of racetrack in a geographic region is pending before the Commission, the Commission may not designate an additional application period nor accept additional applications for the same class and geographic region.

(5) When deciding whether to open an application period, the Commission shall consider the availability of racing and wagering opportunities in the proposed geographical region, the availability of competitive race animals for the class of racetrack, and the workload and budget status of the Commission.

#### (c) Application and Additional Documents.

(1) An applicant for a license to operate a racetrack must submit an application on the form prescribed by the executive secretary and all additional documents in accordance with the application and this section.

(2) The applicant must submit an original and five copies of the application and additional documents to the Commission.

(3) The applicant must swear to the truth and validity of the information in the application and the additional documents before a notary public. If the applicant is not an individual, the chief executive officer of the applicant must swear to the truth and validity of the information in the application and the additional documents before a notary public.

(4) The applicant must state the name, address, and telephone number of an individual designated by the applicant to be the primary contact person for the Commission during the application process.

(5) The applicant must submit the application and all additional documents not later than 5:00 p.m. on the last day of the application period. An application filed after the deadline will not be accepted and may not be considered by the Commission.

#### (d) Review of Application Documents.

(1) Not later than the 15th day after the last day of an application period, the executive secretary shall review each application submitted to determine whether the application contains all the required information.

(2) If the executive secretary determines that the application does not contain all the required information, the executive secretary shall notify the applicant in writing and state the nature of the deficiency in the application. The applicant shall submit the documents necessary to complete the application within 30 days from the date the applicant is notified of the deficiency. If the applicant fails to submit the requested documents on or before the 30th day, the Commission may elect to not consider the application.

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date approved by the Commission.

(b) Not later than 10 business days after the Commission issues its security order, the association must submit the security amount as directed.

(c) If an association has no posted security and the association has not completed its racetrack facilities or has failed to conduct live racing in the previous calendar year, the Commission may:

(1) approve a new date by which the association must complete its racetrack facilities;

(2) approve a date by which the association must begin simulcast racing;

(3) approve a date by which the association must begin live racing; and

(4) require the association to post security in amount determined by the Commission.

(d) In determining the amount of the security that the association shall post, the Executive Secretary shall prepare a security estimate proposal to be submitted to the Commission for consideration. In preparing the security estimate proposal the Executive Secretary shall:

(1) make security estimate calculations using wagering and operations data from:

(A) the association's application if the site location is the same as that provided in the original application; or

(B) updated data provided by the association at the request of the Executive Secretary.

(2) make security estimate calculations based on the following criteria:

(A) pari-mutuel tax due the general revenue fund from live wagering pools;

(B) pari-mutuel tax due the general revenue fund from simulcast same species wagering pools;

(C) pari-mutuel tax due the general revenue fund from simulcast cross-species wagering pools;

(D) the Racing Commission's general revenue dedicated account from live wagering pools and breakage;

(E) Texas Bred Incentive Program funds due the Racing Commission's general revenue dedicated account from simulcast same species wagering pools and breakage;

(F) Texas Bred Incentive Program funds due the Racing Commission's general revenue dedicated account from simulcast cross-species wagering pools and breakage;

(G) race day fees due the Racing Commission's general revenue dedicated account from live wagering as detailed under Section 309.8, Racetrack License Fees; and

(H) race day fees due the Racing Commission's general revenue dedicated account from simulcast wagering as detailed under Section 309.8, Racetrack License Fees.

(e) 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. Interest earned on a United States Treasury bond or on an irrevocable assignment of a federally insured deposit is not subject to the assignment and remains the property of the association.

(f) If an association fails to conduct simulcast racing by the date approved by the Commission, the Commission shall forfeit to the state's general revenue fund and to the Texas Bred Incentive Programs that portion of the security that is appropriate for the amount of revenue lost to those funds. Exceptions to this requirement may be allowed only if the delay in performing is caused by conditions that are beyond the control of the association and which are not due to an act, omission, negligence, recklessness, willful misconduct, or breach of contract or law by the association. Such conditions include, but are not limited to, natural disasters, war, riots, crime, issuance of injunction or other court order, issuance of an order by an environmental or other agency, or strike.

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(g) If an association fails to conduct live racing by the date approved by the Commission, the Commission shall forfeit to the state's general revenue fund and to the Texas Bred Incentive Programs that portion of the security that is appropriate for the amount of revenue lost to those funds. Exceptions to this requirement may be allowed only if the delay in performing is caused by conditions that are beyond the control of the association and which are not due to an act, omission, negligence, recklessness, willful misconduct, or breach of contract or law by the association. Such conditions include, but are not limited to, natural disasters, war, riots, crime, issuance of injunction or other court order, issuance of an order by an environmental or other agency, or strike.

(h) If an association is liable to the Commission for any accrued fees, penalties or interest, the Commission may forfeit any portion of the security that is appropriate for those fees, penalties or interest.

(i) After the association completes its first live race meet after posting security under this section, the Commission shall return the remaining security to the association. (Added eff. 10/21/99; (a) amended eff. 1/8/04; (a)-(d), (f), (g) amended eff. 9/2/07; (e), (h), (i) added eff. 9/2/07).

### Sec. 309.7. Horse Racetrack Application Fees.

#### (a) General Provisions.

(1) An applicant for a license must submit with the application documents an application or license fee in an amount set by the Commission.

(2) The application fee for a racetrack license must be in the form of a certified check or cashier's check.

#### (b) Application Fees.

(1) The application fee for a racetrack license is composed of a processing charge, a variable investigation charge, and a variable hearing charge. The processing charge is the amount needed by the Commission to cover the administrative costs of processing the application. The investigation charge is the amount needed by the Commission to cover the costs incurred by the Department of Public Safety and

Commission staff for conducting the background investigation on the applicant. The hearing charge is the amount needed by the Commission to pay for the State Office of Administrative Hearings, legal and court reporting services for conducting a hearing on the application. An applicant for a racetrack license must pay all charges contemporaneously with filing the application. The failure to pay the total amount of the application fee may result in the application being summarily denied by the Commission or an administrative law judge. The Commission shall hold the application fee in the state treasury in a suspense account. The Commission may transfer the processing funds due to the Commission to the Texas Racing Commission Fund as costs are incurred. If the application is not certified as completed under §309.3(d) of this chapter, the Commission shall return the investigation charge and hearing charge, as well as any part of the processing charge that exceeds the actual administrative costs to the Commission of processing the application. Not later than five business days after the date the Commission order on the application is final and unappealable, the Commission shall transfer the remaining suspense funds due to the Commission to the Texas Racing Commission Fund. If the actual costs to the Commission of processing the application, conducting the investigation or paying for the hearing exceed the amount deposited for the applicable charge, the applicant shall pay the remaining amount not later than 10 business days after receipt of a bill from the Commission. If the costs of processing the application, conducting the investigation or paying for the hearing are less than the amount of the charge, the Commission shall refund the excess not later than 10 days after the Commission order on the application is final and unappealable.

(2) The amount to be deposited for the processing charge for a horse racetrack license application is:

- (A) for a Class 1 racetrack, \$150,000;
- (B) for a Class 2 racetrack, \$75,000;
- (C) for a Class 3 racetrack, \$25,000; and
- (D) for a Class 4 racetrack, \$10,000.

(3) The amount to be deposited for the

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investigation charge for a horse racetrack license application is:

- (A) for a Class 1 racetrack, \$25,000;
- (B) for a Class 2 racetrack, \$15,000;
- (C) for a Class 3 racetrack, \$1,500; and
- (D) for a Class 4 racetrack, \$1,000.

(4) The amount to be deposited for the hearing charge for a horse racetrack license application is:

- (A) for a Class 1 racetrack, \$15,000;
- (B) for a Class 2 racetrack, \$8,000;
- (C) for a Class 3 racetrack, \$1,500; and
- (D) for a Class 4 racetrack, \$1,000.

(5) The amount to be deposited for the processing charge for a greyhound racetrack license application is \$150,000.

(6) The amount to be deposited for the investigation charge for a greyhound racetrack license application is \$25,000.

(7) The amount to be deposited for the hearing charge for a greyhound racetrack license application is \$15,000. (Added eff. 10/21/99; (b) amended eff. 1/8/04; (b) amended eff. 12/7/08)

### Sec. 309.8. Racetrack License Fees.

(a) Purpose of Fees. An association shall pay a license fee to the Commission to pay the Commission's costs to administer and enforce the Act and provide racing officials for the association's live races.

(b) Live Racing Fee. An association shall pay a live racing fee for each live race day conducted by the association. The fee is due to the Commission no later than 5:00 p.m. of the day following the race day. The executive secretary may waive a live racing fee for a day or performance if circumstances beyond the control of the association cause a live race day or performance to be cancelled.

(1) The live racing fee for a greyhound racing association is \$550 for each performance that is scheduled for five or more races. For a performance that is scheduled for fewer than five races, the live racing fee is \$45 per scheduled race.

(2) The live racing fee for a horse racing association is:

(A) for a Class 1 or Class 2 racetrack, \$2075 per day; and

(B) for a Class 3 or Class 4 racetrack, \$650 per day.

(c) Annual License Fee.

(1) Active License Fee for State Fiscal Year Ending August 31, 2007. An association that is licensed and that is conducting live racing or simulcasting shall pay an annual active license fee. The fee is due to the Commission on April 16, 2007, for the State fiscal year ending August 31, 2007. The active license fee for a greyhound racing association is \$80,000. The active license fee for a horse racing association is:

- (A) for a Class 1 racetrack, \$27,500;
- (B) for a Class 2 racetrack, \$15,000; and
- (C) for a Class 3 or 4 racetrack, \$5,000.

(2) Active License Fee for State Fiscal Years Beginning September 1, 2007, and thereafter. An association that is licensed and that is conducting live racing or simulcasting shall pay an annual active license fee. The fee is due to the Commission on January 31 of each State fiscal year. The active license fee for a greyhound racing association is \$175,000. The active license fee for a horse racing association is:

- (A) for a Class 1 racetrack, \$45,000;
- (B) for a Class 2 racetrack, \$15,000; and
- (C) for a Class 3 or 4 racetrack, \$5,000.

(3) Inactive License Fee for State Fiscal Year Ending August 31, 2007. An association that is licensed but is not conducting live racing or simulcasting shall pay an inactive license fee. The fee is due to the Commission on April 16, 2007, for the State fiscal year ending August 31, 2007. The inactive license fee for a greyhound racing association is \$125,000. The inactive license fee for a horse racing association is:

- (A) for a Class 1 racetrack, \$125,000;
- (B) for a Class 2 racetrack, \$55,000; and
- (C) for a Class 3 or 4 racetrack, \$25,000.

(4) Inactive License Fee for State Fiscal Years Beginning September 1, 2007, and thereafter. An association that is licensed but is not conducting live racing or simulcasting shall pay an inactive license fee. The fee is due to the Commission on September 1 of each year. The inactive license fee for a greyhound racing association is \$125,000. The inactive license fee for a horse racing association is:

- (A) for a Class 1 racetrack, \$125,000;

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- (B) for a Class 2 racetrack, \$75,000; and
- (C) for a Class 3 or 4 racetrack, 25,000.

(d) Simulcast Fee. An association shall pay a simulcast fee for each day on which the association offers a simulcast race for wagering. The fee is due to the Commission no later than 5:00 p.m. of the day following the day on which the simulcast is offered. The simulcast fee is:

- (1) for a Class 1, Class 2, or greyhound racetrack, \$410 per day; and
- (2) for a Class 3 or Class 4 racetrack, \$300 per day.

(e) Adjustment of Fee.

(1) After the end of the Commission's fiscal year, the executive secretary shall determine annually the total amount of the fees paid by all associations, together with the revenues received by the Commission from all other sources, excluding occupational license fees, is sufficient to pay the Commission's costs to administer and enforce the Act and to provide racing officials for the associations' live races.

(2) If the executive secretary determines the total revenue from those sources is insufficient to pay those costs, the executive secretary shall recommend a revised fee structure to the Commission that will generate the necessary revenue.

(3) If the executive secretary determines the total revenue from those sources exceeds the amount needed to pay those costs, the executive secretary may order a moratorium on any or all license fees to any or all of the associations. Before entering a moratorium order, the executive secretary shall develop a formula for providing the moratorium in an equitable manner among the associations. In developing the formula, the executive secretary shall consider the amount of excess revenue received by the Commission, the source of the revenue, the Commission's costs associated with regulating each association, the Commission's projected receipts for the next fiscal year, and the Commission's projected expenses during the next fiscal year.

(Added eff. 10/21/99; (b),(d) amended eff. 2/20/00; (b) amended eff. 1/1/03; (b) amended eff. 1/1/03; (d) amended and (f) added eff. 5/10/04; (c),(d) amended eff. 9/28/05; amended eff. 3/25/07)

### Sec. 309.9. Denial, Suspension and Revocation of Licenses.

(a) Applicability.

(1) After notice and hearing in accordance with Subchapter B, Chapter 307 of this title (relating to Contested Cases), the Commission may deny, suspend, or revoke a license issued by the Commission.

(2) If the licensee is not an individual, the grounds for denial, suspension, or revocation of a license apply if a director, officer, or partner of the licensee or an individual who owns an interest in the licensee of 5.0% or more engages in conduct for which a license may be denied, suspended, or revoked.

(b) Grounds for Denying, Suspending, and Revoking Licenses.

(1) Violations or Convictions. A license may be denied, suspended or revoked if it is determined that the licensee has:

(A) violated or caused to be violated the Act or a Rule;

(B) been convicted in a court of competent jurisdiction of violating the Act or a Rule;

(C) been convicted of a felony;

(D) been convicted of a crime of moral turpitude that is reasonably related to the licensee's fitness to hold a license in accordance with § 303.202 of this title (relating to Guidelines);

(E) aided, abetted, or conspired with another person to violate the Act or a Rule; or

(F) the licensee had a license issued by another pari-mutuel racing jurisdiction denied, revoked or is currently under suspension in another pari-mutuel racing jurisdiction.

(2) Failure to Disclose. A license may be denied, suspended or revoked if it is determined that the licensee:

(A) failed to provide information required in the license application;

(B) provided false information in the license application;

(C) failed to disclose an ownership interest in a horse or greyhound as required by the Rules; or

(D) failed to fully disclose the true owners of all interests, beneficial or otherwise, in a proposed racetrack facility.

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(3) Domicile. A license may be denied, suspended or revoked if it is determined that the licensee is domiciled with an individual for whom a license issued by the Commission was denied, suspended or revoked during the preceding 12-month period.

(4) Debt or Liens.

(A) A license may be denied, suspended or revoked if it is determined that the licensee owes a fee to the state or a penalty imposed under the Act or the Rules.

(B) A license may be denied, suspended or revoked if it is determined that:

(i) the licensee has failed to timely pay any tax assessment, the payment of which is secured by any lien or encumbrance against the racetrack site; or

(ii) a notice has been posted of the public sale of any portion of the racetrack site or the holder of any lien or security interest on any part of the racetrack site has instituted foreclosure or other proceedings for the enforcement of remedies under the terms of any instrument creating such a lien or security interest.

(5) Ejection. A license may be denied, suspended or revoked if it is determined that the licensee has engaged in conduct for which the licensee may be ejected or excluded from a racetrack under the Rules.

(6) Minimum Age, or Otherwise Ineligible. A license may be denied, suspended or revoked if it is determined that the licensee:

(A) has not attained the minimum age necessary to purchase alcoholic beverages in Texas;

(B) is in the habit of using alcoholic beverages to an excess or uses a controlled substance as defined in Chapter 481, Health and Safety Code, or a dangerous drug as defined in Chapter 483, Health and Safety Code, or is mentally incapacitated;

(C) has improperly used a license certificate, credential, or identification card issued under this Act; or

(D) through a change in ownership, would be ineligible to be issued a license.

(7) Detrimental Practices. A license may be denied, suspended or revoked if it is determined that the licensee is engaged in activities or practices that are detrimental to the best interests of the public or to the racing industry.

(8) Unqualified. A license may be denied, suspended or revoked if the Commission determines that the licensee is unqualified, by experience or otherwise, to

perform the duties required of a licensee under the Act or the Rules.

(9) Moral Character and Reputation. A license may be denied, suspended or revoked if the Commission determines that the licensee is not of good moral character or the licensee's reputation as a peaceable, law-abiding citizen in the community where the licensee resides is bad.

(10) Ownership. A license may be denied, suspended or revoked if it results or would result in a person owning more than a five percent interest in more than three Texas racetrack licenses. (Added eff. 10/21/99; (a)-(b) amended eff. 1/8/04; (b) amended eff. 12/7/08)

### **Sec. 309.10. Notice and Curative Right To Debt Holders.**

(a) If the executive secretary initiates a disciplinary action proposing license suspension or revocation against an association which has debt outstanding regarding the racetrack premises and facilities, the executive secretary shall serve a copy of the notice of the proceedings on the debt holder if the executive secretary has been given written notice of:

(1) the existence of the debt; and

(2) the name and address of the person to whom notice under this section may be sent.

(b) Except as otherwise provided by this subsection, the executive secretary shall serve the notice required by this section at the same time that notice of the disciplinary action is given to the association. If the executive secretary takes summary disciplinary action against an association to protect the public health, safety, and welfare, the executive secretary shall serve the notice required by this section not later than three business days after the date the summary disciplinary action is taken.

(c) The executive secretary shall give the debt holder a reasonable opportunity to cure any violation by the association that is the subject of the disciplinary action that is capable of being cured consistent with the public interest. If the violation is cured, the executive secretary may not initiate disciplinary action against the association for that violation.

(d) A debt holder that is entitled to notice under this section may participate in a disciplinary

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action against the association. (Added eff. 1/1/02)

### Subchapter B. Operation of Racetracks

#### General Provisions

##### Sec. 309.101. Duty of Association.

An association shall operate and provide facilities at a racetrack for which it is licensed in accordance with this chapter. (Added eff. 10/21/99)

##### Sec. 309.102. Exemption or Deferred Compliance.

(a) An association may request an exemption or deferred compliance from a requirement in Subchapter B, C, or D as provided by this section.

(b) An association operating a Class 2, 3 or 4 racetrack may request an exemption or deferred compliance if the association determines that compliance with the requirement is:

- (1) economically or geographically infeasible; or
- (2) unnecessary due to new technology or an innovative construction or design of the racetrack.

(c) An association operating a Class 1 or greyhound racetrack may request an exemption if the association determines that compliance with the requirement is unnecessary due to new technology or an innovative construction or design of the racetrack.

(d) A request for an exemption must be in writing and:

- (1) state the association's reason for the request; and
- (2) propose an alternative that substantially satisfies the purpose of the requirement.

(e) A request for deferred compliance must be in writing and:

- (1) state the association's reason for the request;
- (2) propose an alternative that substantially satisfies the purpose of the requirement until

compliance is established; and

(3) establish a schedule under which the association will comply with the requirement.

(f) The Commission may grant an exemption or defer compliance under this section if the Commission determines:

- (1) the association's alternative proposal substantially satisfies the purpose of the requirement;
- (2) the proposed schedule for compliance is reasonable; and
- (3) the Commission determines the exemption or deferred compliance is in the best interests of the race horses or greyhounds, the racing industry, and the citizens of Texas. (Added eff. 10/21/99; (a),(d) amended eff. 1/8/04)

##### Sec. 309.103. Construction and Renovation of Racetrack Facilities.

(a) Definitions. In this section:

(1) "Racetrack construction project" means:

- (A) the construction of a new race-track facility by an association; or
- (B) the renovation of an existing racetrack facility by an association that affects a specific requirement in the Rules.

(2) "Construction plan" means architectural drawings, engineering plans, or other documents that describe a proposed racetrack construction project.

(b) Review of construction plan.

(1) At least 30 days before the date an association proposes to start a racetrack construction project, the association shall submit a construction plan to the executive secretary. The construction plan must be in sufficient detail for the executive secretary to determine whether the proposed project complies with all applicable Commission rules.

(2) After reviewing the construction plan, if the executive secretary determines the racetrack construction project will comply with the Rules, the executive secretary shall approve the project. If the executive secretary determines the project

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will not comply with the Rules, the executive secretary shall notify the association in writing and specifically describe the aspect of the project that does not comply. The executive secretary may require an additional 30 days to review the construction plan before notifying the association under this paragraph of his/her determination.

(3) If the project is not approved, the association may not start construction until the necessary corrections are made to the construction plan for the project to comply with the Rules and the executive secretary has approved the corrections.

(c) Monitoring construction.

(1) At least monthly during a racetrack construction project, an association shall file a written report with the executive secretary on the progress of the project.

(2) The executive secretary or his/her designee may periodically inspect the project to ensure ongoing compliance with the Rules.

(3) An association shall maintain records of the racetrack construction project, including a copy of all change orders made during the project. Records shall be maintained under this paragraph for at least twelve months after the end of the project and are subject to review by the executive secretary at any time.

(d) Changes to construction plan.

(1) If after construction starts an association changes the construction plan in a manner that affects a requirement in the Rules, the association shall notify the executive secretary in writing. The association shall state the reason for the change.

(2) After reviewing the change if the executive secretary determines the change complies with the Rules, the executive secretary shall approve the change. If the executive secretary determines the change does not comply with the Rules, the executive secretary shall notify the association in writing and specifically state why the change does not comply.

(3) If the change is not approved, the association may not continue on any aspect of the project

that is affected by the change until the necessary corrections are made and the executive secretary has approved the corrections.

(e) Final approval.

(1) After a racetrack construction project is complete, the executive secretary or his/her designee shall inspect the newly constructed or renovated portion of the racetrack facility to determine whether the facility complies with the Rules.

(2) If the executive secretary determines the facility complies with the Rules, the executive secretary shall approve the facility for use. If the executive secretary determines the facility does not comply with the Rules, the executive secretary shall issue a notice of violation to the association. The notice of violation must specify the specific rule violated. The notice of violation must include an order to remedy the violation and state a deadline for the remediation.

(3) The association may not use the newly constructed or renovated portion of the racetrack facility for racing, training, or wagering purposes until the executive secretary has determined that the facility complies with the Rules. (Added eff. 10/21/99; (b) amended eff. 12/7/08)

### Sec. 309.104. Compliance Inspections.

(a) Inspection Program.

(1) The executive secretary shall develop a comprehensive program to periodically inspect racetrack facilities for compliance with the Rules.

(2) The inspection program shall identify the various items that must be inspected at each racetrack facility, the persons responsible for conducting the inspections, and the procedure for conducting inspections.

(b) Violations.

(1) If an inspection reveals a racetrack facility is not in compliance with a rule, the executive secretary shall issue a notice of violation to the association operating the racetrack facility. The notice of violation must specify

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the specific rule violated and include an order to remedy the violation and state a deadline for the remediation.

(2) An association's failure to remedy a condition that violates a rule on or before the deadline established by the executive secretary is grounds for disciplinary action against the association.

(c) Reports to Commission.

(1) The executive secretary shall make periodic reports to the Commission in open meeting regarding inspections of racetrack facilities. The reports must include information on the number and type of inspections conducted, the results of the inspections, any remediation ordered by the executive secretary, and the results of any orders issued by the executive secretary.

(2) If after reviewing a report by the executive secretary the Commission determines the executive secretary has misinterpreted or misapplied a rule, the Commission shall require the executive secretary to modify any order issued by the executive secretary that is based on the misinterpretation of the rule. (Added eff. 10/21/99)

### **Sec. 309.105. Reimbursement of Breeders' Cup Costs.**

(a) Request for Reimbursement.

(1) Pursuant to the Act, §6.094, not later than January 31 of the year following the year in which an association hosts the Breeders' Cup races, the association may submit to the Commission a report seeking reimbursement for associated Breeders' Cup costs on a form approved by the Commission. Multiple requests for reimbursement may be submitted by the association to the Commission, but each request must be for separate costs.

(2) The report must include:

(A) the total amount of Breeders' Cup costs incurred and paid by the association for which reimbursement is requested;

(B) the total payments made by political subdivisions and development

organizations to the association;

(C) invoices, receipts, or other documentation verifying the expenditures;

(D) documentation verifying the necessity of the expenditures as either capital improvements or extraordinary expenses reasonably incurred for the operation of the Breeders' Cup races;

(E) an ongoing total of payments received by the association from the Commission paid from the Breeders' Cup Developmental Account; and

(F) any other information requested by the executive secretary.

(b) Payment. On determining that the requested reimbursement is verified and authorized in accordance with the Act, the executive secretary shall process payment to the association from the Breeders' Cup Developmental Account. Concurrent with payment, the executive secretary shall certify to the comptroller the aggregate amount actually paid for Breeders' Cup costs by political subdivisions and development organizations.

(c) Administration and Audit of Reimbursements.

(1) The executive secretary may at any time inspect, review, or audit any transaction or documentation relating to a reimbursement paid to an association under this section, including amounts paid or set aside by political subdivisions and development organizations with regards to the Breeders' Cup. The executive secretary may ask for additional documentation to support any reimbursement requested.

(2) An association shall maintain all supporting documentation and records involving requests and payment from the Breeders' Cup Developmental Account for a period of four years from the date of payment or denial of payment.

(Added eff. 7/11/04)

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### Facilities and Equipment

(Added eff. 10/21/99; amended eff. 12/7/08)

#### Sec. 309.111. Comfort and Safety.

(a) An association shall ensure that the public areas of the association grounds are designed and maintained for the comfort and safety of the patrons.

(b) An association shall designate as a non-smoking area a portion of each of the public areas on association grounds. (Added eff. 10/21/99)

#### Sec. 309.112. Maintenance.

An association shall maintain all facilities on association grounds, including facilities provided for use by the Commission staff, to ensure the safety and cleanliness of the facilities at all times. (Added eff. 10/21/99)

#### Sec. 309.113. Accessibility by Disabled Persons.

(a) An association shall ensure that all public areas of the association grounds are accessible by disabled persons in accordance with standards adopted for public buildings under Texas Government Code, Chapter 469.

(b) An association shall accommodate the wagering and entertainment needs of disabled persons. Accommodation includes all aspects of providing the association's services to disabled persons, including but not limited to the audio-visual displays of racing information, the number of betting windows designed for disabled persons, and accommodations in all areas of the racetrack.

(Added eff. 10/21/99; (a) amended eff. 12/7/08)

#### Sec. 309.114. Restrooms.

An association shall provide and maintain restroom facilities which are adequate in number, design, construction, and location for all persons on association grounds, including licensees within the restricted non-public areas of the enclosure. Restroom facilities shall conform to the general standards as detailed in 25 TAC Chapter 265 (relating to General Sanitation). (Added eff. 10/21/99; amended eff. 12/7/08)

#### Sec. 309.115. Refreshments.

An association shall provide an adequate supply of free drinking water for the patrons and licensees.

#### Sec. 309.116. Complaints.

(a) An association shall provide an office to handle complaints.

(b) An association shall respond promptly to all complaints by patrons and licensees.

(c) An association shall promptly notify the executive secretary of:

(1) a complaint regarding an alleged violation of the Act or a rule of the Commission; or

(2) any written complaint regarding:

(A) an alleged violation of ordinances or statutes;

(B) accidents or injuries; or

(C) unsafe or unsanitary conditions for patrons, licensees or race animals.

(d) An association's responsibility to respond to complaints under subsection (b) of this section is independent of the association's responsibility to notify the executive secretary under subsection (c) of this section.

(e) An association shall maintain a record of each complaint received regarding the association facilities, each complaint received under subsection (c) of this section, and the action taken by the association regarding the complaint. The association shall maintain each record for two years after the complaint is received. (Added eff. 10/21/99; (c) amended eff. 1/8/04; (a) - (e) amended eff. 12/7/08)

#### Sec. 309.117. First Aid.

(a) At all times that an association is open to the public, the association shall provide a first aid room equipped with appropriately qualified personnel and equipment suitable to respond to medical emergencies of its patrons and licensees. Qualified personnel are those individuals certified in basic cardiac life support and first aid in conformance with accepted guidelines for emergency care and resuscitation.

(b) During a live race meeting, a horse racing association shall provide a properly equipped and staffed ambulance for humans and the services of a certified paramedic at any time that the racetrack is open for racing or exercising. At a Class 1 or 2 racetrack, the ambulance must be a Mobile Intensive Care

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Unit (MICU) certified by the Department of State Health Services. If the MICU ambulance is used to transport an individual, the association may not conduct a race until the ambulance returns or is replaced by a properly equipped, staffed, and certified MICU ambulance. The ambulance must be parked at the entrance to the racing strip when not being used to transport an individual. (Added eff. 10/21/99; (a) amended eff. 4/1/01; (a), (b) amended eff. 12/7/08)

### **Sec. 309.118. Regulatory Office Space and Equipment.**

(a) An association shall provide adequate office space for the use of the stewards or racing judges, occupational licensing personnel, the Commission's investigative unit, the pari-mutuel auditing staff and the staff employed by the comptroller, the Commission veterinary and drug testing staff, and the Department of Public Safety. The location and size of the office space, furnishings, electrical outlets, telephone lines, television monitors, and equipment required under this section must be approved by the executive secretary.

(b) An association shall provide a place for posting notices from the Commission that is easily viewed by patrons and licensees. An association shall promptly post all notices received from the Commission.

(c) The office for the stewards or racing judges must be furnished and be equipped with at least one telephone line.

(d) The office for the Commission's investigative unit must be located adjacent to the occupational licensing office and the Department of Public Safety office. The office must be furnished and be equipped with:

- (1) a telephone line; and
- (2) a television monitor to monitor the events on the racetrack.

(e) The office space for occupational licensing personnel must consist of two rooms, one of which must be private. The room that is not private must be equipped with:

- (1) a double counter;
- (2) a fingerprint work area;
- (3) a television monitor;
- (4) a telephone line;
- (5) a dedicated telephone line to be used by a fax machine;
- (6) a dedicated telephone line to be used by a credit

card machine and that does not require a code to access an outside line;

(7) the appropriate number of desks, file cabinets and chairs;

(8) locking file cabinets or other locking storage facilities adequate in size and number to store the licensing files and checks; and

(9) power outlets adequate in number and capacity to operate all of the Commission's electrical equipment located within the occupational licensing office.

(f) The office space for the pari-mutuel auditing staff and the staff employed by the comptroller must:

(1) provide an unrestricted view of the pari-mutuel computers;

(2) permit unrestricted entry to the totalisator facilities;

(3) be furnished with the appropriate number of desks and chairs;

(4) include locking file cabinets in the work area or other locking storage facilities, in which the auditors may store computer printouts or magnetic tape and that are large enough to store all state-controlled wagering records for the association that are needed for audits by the Commission or the comptroller;

(5) include a video and audio device that enables the auditors to receive, simultaneously with the patrons, the same information that the patrons receive;

(6) have at least six power outlets to operate electrical equipment;

(7) include a telephone line;

(8) if requested by the Commission or the comptroller, have an additional voice line to support dial-up capabilities for a personal computer; and

(9) a dedicated telephone line to be used by a fax machine.

(g) Commission Veterinarian's Office.

(1) An association shall provide a secured office area for the Commission veterinarians.

(2) The office must be adjacent to the drug testing area and the pre-race holding area.

(3) The office must consist of at least two rooms, one of which must be private.

(4) At horse racetracks, the office must be constructed to allow a view of each of the adjacent areas.

(5) The office must be equipped with:

(A) a sink with hot and cold water built

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into a counter of a size required by the executive secretary;

(B) desks and filing cabinets, in numbers as required by the executive secretary, equipped with locks;

(C) at horse racetracks, refrigerators and freezers, in sizes and numbers as required by the executive secretary, equipped with locks;

(D) at greyhound racetracks, a freezer in a size as required by the executive secretary;

(E) a storage area, of a size required by the executive secretary, with a door approved by the executive secretary.

(F) telephone lines with telephones as required by the executive secretary;

(G) television monitors as required by the executive secretary; and

(H) at horse racetracks, a freestanding counter of a size required by the executive secretary.

(6) All locks must be of a type approved by the executive secretary.

(h) An association shall provide a private telephone line for the exclusive use of the Department of Public Safety in the department's office. An association shall provide, inside the enclosure in close proximity to the department's office, adequate reserved parking for the Department of Public Safety personnel.

(i) All telephone lines provided under this section must:

(1) be assigned a unique telephone number that is directly accessible by outside callers;

(2) if requested by the executive secretary, be listed in the governmental section of the local telephone directory; and

(3) if requested by the executive secretary, be listed on the association's website.

(j) An association shall provide at its expense computer lines, phone equipment, and any necessary voice and data network cabling in the offices of the state regulatory and law enforcement personnel as prescribed by the executive secretary. In addition, the association shall reimburse the Commission for the costs of any network or data circuits installed or caused to be installed by the Commission at the association's location.

(k) All costs of telecommunications for regulatory and law enforcement personnel provided under this section shall be paid by the association and the telecommunications ser-

vice may not be interrupted at any time. To ensure minimal disruption to the Commission's regulatory functions, the association shall ensure the Commission staff has twenty-four hour access and keys to any telecommunications rooms serving regulatory and law enforcement personnel as prescribed by the executive secretary.

(l) An association shall provide to the Commission a number of keys to the Commission offices as approved by the executive secretary.

(m) An association shall provide, inside the enclosure and in close proximity to the Commission's regulatory offices, adequate reserved parking for Commission staff. (Added eff. 10/21/99; (j),(k) amended eff. 1/8/04; (a) - (m) amended eff. 12/7/08)

### **Sec. 309.120. Parking for Licensees.**

An association shall provide a parking area for licensees outside the stable or kennel area. (Added eff. 10/21/99; amended eff. 9/28/05)

### **Sec. 309.122. External Communication.**

(a) Except as otherwise provided in this section, an association may have telecommunication systems on the premises during a race meeting for the benefit of the public press or for transacting ordinary business.

(b) The telecommunication systems may not be used to transmit money or other things of value, or to direct the placing of an illegal wager on the result of a race.

(c) A portable telephone, transmitter, or other instrument of communication that can be used for transmitting messages off association grounds is subject to confiscation by security personnel or by an employee of the Commission if it is being used for bookmaking, other illegal activity or a purpose inconsistent with maintaining the integrity of racing and pari-mutuel wagering. (Added eff. 10/21/99; amended eff. 12/7/08)

### **Sec. 309.123. Internal Communication System.**

(a) An association shall provide a telephone extension and/or a two-way radio to the following:

(1) the stewards' or judges' stand;

(2) the racing office;

(3) the tote room;

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- (4) the jockey room;
- (5) the paddock or lockout kennel;
- (6) the entrance to the kennel compound;
- (7) the pre-race holding area;
- (8) the Commission veterinarian's office;
- (9) the test barn;
- (10) the starting gate or boxes;
- (11) the finish line;
- (12) the video camera locations;
- (13) the clocker's stand;
- (14) the location of the ambulances;
- (15) the outrider;
- (16) the chase truck;
- (17) the claims clerk;
- (18) the security office; and
- (19) other locations designated by the executive secretary.

(b) The executive secretary may approve an alternative communication system in areas within the enclosure for which the executive secretary has determined telephone communication is impractical. (Added eff. 10/21/99; (a) amended eff. 12/7/08)

### **Sec. 309.124. Public Address System.**

An association shall provide and maintain a public address system capable of transmitting announcements to the patrons and, if the association is a horse racing association, to the stable area. (Added eff. 10/21/99; amended eff. 7/15/05)

### **Sec. 309.125. Photofinish Equipment.**

(a) An association shall provide an electronic photofinish device with mirror image to photograph the finish of each race and record the time of each horse or greyhound in at least hundredths of a second.

(b) The association may use an additional, more exact time measurement device.

(c) The association shall maintain an auxiliary photofinish device in case of an emergency.

(d) The location and operation of the photofinish device must be approved by the executive secretary before its first use in a race.

(e) The association shall, upon request, make available for viewing the photofinish of each race for win, place, or show in a designated area accessible to the public.

(f) The association shall ensure that the photofinish device is calibrated before the first day of each race meeting and at other times as required by the executive secretary. (Added eff. 10/21/99; (f) amended eff. 1/8/04)

### **Sec. 309.126. Videotape Equipment.**

(a) An association shall provide a videotape system to record each race in color from start to finish.

(b) The videotape of a horse race must provide a clear panoramic and head-on view of the position and action of the horses and jockeys at a range sufficient for motions to be easily discerned by the stewards. The videotape of a greyhound race must provide a clear view of the position and action of the greyhounds at a range sufficient for motions to be easily discerned by the racing judges.

(c) The association shall provide, in the stewards' or judges' stand, separate monitors which simultaneously display the images being received by each camera during the running of a race for reviewing a race.

(d) A horse race run on an oval racetrack must be recorded by at least three video cameras. A horse race run on a straight course racetrack must be recorded by at least two video cameras. At a Class 1 racetrack, a horse race run on an oval racetrack must be recorded by at least four video cameras.

(e) The location and height of video towers and the operation of the videotape system must be approved by the executive secretary before its first use in a race.

(f) An association shall provide a viewing room in which, on approval of the stewards or racing judges, an owner, trainer, jockey, or other interested individual may view a videotape recording of a race.

(g) The association shall maintain an auxiliary videotape system in case of an emergency.

(h) A Class 1 racetrack must have:

(1) a video camera that provides a complete, uninterrupted view of the entire oval;

(2) a video camera located in the tower that provides a head-on view of the backstretch;

(3) a video camera located in a tower that provides a head-on view of the homestretch; and

(4) a video camera located in a tower that provides a rear view of the homestretch. (Added eff. 10/21/99)

**Sec. 309.127. Maintenance of Negatives and Videotapes.**

(a) An association shall preserve either the negative of each photograph of the finish of a race or the image of each electronic photofinish of a race, whichever device is used, and the videotape of a race for at least one year after the last day of the race meeting during which the photograph, electronic photofinish image or videotape was made.

(b) On request by the Commission, the association shall provide a print from a negative, or copy of the image from the electronic photofinish device or a copy of a videotape to the Commission. (Added eff. 10/21/99; amended eff. 1/8/04)

**Sec. 309.128. Lighting.**

(a) An association shall provide adequate lighting on association grounds to ensure the safety of the horses or greyhounds, the employees, and patrons.

(b) If an association conducts races at night, the association shall maintain a back-up lighting system in case of an emergency.

(c) An association shall perform regular maintenance and checks on the lighting systems to ensure that the systems are in proper working order. (Added eff. 10/21/99)

**Sec. 309.129. Automatic Banking Machines.**

(a) An association may permit the placement of an automatic banking machine on association grounds only in accordance with this section. For purposes of this section, "automatic banking machine" means an electronic terminal, as that term is defined by Regulation E, Electronic Fund Transfers, 12 CFR 205.

(b) Vendor.

(1) If an association contracts with a vendor to provide an automatic banking machine, the contract is subject to inspection by the executive secretary. The contract may not contain any provision that violates or is inconsistent with the Act or Rules. The association shall make the contract available to the executive secretary on request.

(2) A vendor of automatic banking machines for pari-mutuel racetracks must be licensed by the Commission. If the vendor is not an individual, a designated representative of the vendor selected by the executive secretary must be licensed.

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

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

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

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

(4) Before the customer authorizes the transaction, the machine must display a screen that notifies the customer of the statutory fee and permits the customer to cancel the transaction. The notice must state the following or its equivalent:

UNDER TEXAS RACING ACT,  
§11.04(E), A \$1 FEE MUST BE COLLECTED ON  
EACH TRANSACTION AT THIS MACHINE FOR  
DEPOSIT INTO THE TEXAS STATE TREASURY.

(d) Collection and Payment of Fee.

(1) The association or vendor, if applicable, shall collect the statutory fee periodically and pay the total amount of the statutory fees collected during the preceding month to the Commission not later than a date set by the executive secretary. Payment of the statutory fee must be made in accordance with procedures established by the executive secretary.

(2) Failure to collect and pay the proper amounts for the statutory fee may result in disciplinary action against the association or vendor.

(e) Records and Audit.

(1) The association or vendor, if applicable, shall maintain complete records regarding all transactions conducted at each machine placed by the association or vendor on association grounds. The records must be maintained for at least three years after the date of the transaction.

(2) The Commission may audit the records at

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any time to ensure the proper collection and payment of the statutory fees.

(f) **Compliance with Other Laws.** A machine placed on association grounds under this section must comply with all other applicable state and federal statutes and regulations. This section may not be construed to supersede any other state or federal statutes or regulations applicable to automatic banking machines. (Added eff. 10/21/99; (b) amended eff. 1/8/04)

### **Sec. 309.130. Attendance.**

An association shall provide turnstiles or another method approved by the executive secretary for monitoring the attendance at the racetrack. (Added eff. 10/21/99)

### **Sec. 309.131. Breathalyzer Machine.**

An association shall provide and maintain a breathalyzer of a type approved by the executive secretary for use by law enforcement personnel. The breathalyzer shall be calibrated on a regular basis to ensure the integrity of the tests being conducted. A report of each calibration shall be recorded in a calibration log maintained by the association. (Added eff. 10/21/99; amended eff. 1/8/04)

### **Sec. 309.132. Approval of Equipment.**

Before an association may install an item of equipment pertaining to racing, the item and the proposed installation must be approved by the executive secretary. The association may not remove an item of equipment that has been approved and installed without the prior approval of the executive secretary unless the replacement equipment has been approved and notice of the replacement is given to the Commission. (Added eff. 10/21/99)

## **Operations**

### **Sec. 309.151. Change of Ownership, Board of Directors, or Management Committee.**

(a) Except as otherwise provided by this section, an association may not transfer an ownership interest in the association, grant or sell an option to buy an ownership interest in the association, or make a change in the board of directors or management committee of the association without the prior approval of the Commission.

(b) To receive the approval of the Commission for a proposed ownership transfer, the association shall submit to the Commission all written documents relating to the transfer. If there are no written documents relating to the transfer, the association shall submit a written summary of all terms of the transfer including, but not limited to, the consideration given, the proposed date of the transfer, and the terms of any option given for future acquisition of additional ownership interests. The association shall also submit the following information:

(1) the transferor's name, total ownership percentage, and the manner in which the ownership interest is held, such as through a limited partnership or shares of stock in a corporate general partner or association;

(2) the transferee's name, residence address and telephone number, business address and telephone number, date of birth, physical description, driver's license number, and social security number;

(3) the percentage of ownership interest the transferee is acquiring; and

(4) a set of fingerprints on a form prescribed by the Department of Public Safety, a set of fingerprints for classification by the Federal Bureau of Investigation and completed background information form for the Department of Public Safety, if the transfer results in the acquisition of an ownership interest of 5.0% or more in the association by an individual who has not previously submitted fingerprints to the Commission.

(c) To receive the approval of the Commission for a change in the board of directors or management committee, the association shall submit to the Commission a written request for the change, the names of the individuals involved in the change, the percentage of any ownership interest the individuals hold in the association, and the proposed date of the change. If the proposed change involves placing an individual on the board of directors or management committee who has not previously submitted fingerprints to the Commission, the association shall also submit:

(1) the individual's name, residence address and telephone number, business address and telephone number, date of birth, physical description, driver's license number, and social security number; and

(2) a set of fingerprints on a form

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responsibilities, authority, or control. (Added eff. 10/21/99; (a),(b) amended eff. 11/1/01)

### Sec. 309.168. Hazardous Weather.

(a) An association shall establish procedures for ensuring that appropriate management personnel are available to consult with the stewards or judges about hazardous weather.

(b) After consultation with association management, the stewards or judges shall suspend live racing when hazardous weather occurs. The suspension of live racing shall take place:

(1) before lightning-producing thunderstorms have moved to within 6 miles of the facility; or

(2) whenever the facility is within the affected area of a severe thunderstorm or tornado warning as announced by the National Weather Service.

(c) The association shall develop and implement a plan to promptly notify individuals on association grounds of hazardous weather and assist them in seeking protection. (Added eff. 12/7/08)

## Subchapter C. Horse Racetracks

### Racetracks

#### Sec. 309.201. Applicability.

This subchapter applies to horse racetracks and to associations that are licensed by the Commission to operate a horse racetrack with pari-mutuel wagering. (Added eff. 10/21/99)

#### Sec. 309.202. Track Length.

(a) A racetrack must consist of an oval, a chute on the grandstand side of the oval, and a chute on the back side of the oval at the opposite end from the grandstand side chute.

(b) The oval must be, measured along a line three feet out from the face of the inside rail:

(1) for a Class 1 racetrack, at least one mile in circumference;

(2) for a Class 2 racetrack, at least seven-eighths mile in circumference; and

(3) for a Class 3 or Class 4 racetrack, at least five-eighths mile in circumference.

(c) The length of the chute on the grandstand side shall be such that the distance from the starting gate to

the finish line must be:

(1) for a Class 1 or Class 2 racetrack, at least 550 yards; and

(2) for a Class 3 or Class 4 racetrack, at least 440 yards.

(d) The length of a chute on the back side shall be such that the distance from the starting gate to the finish line, must be:

(1) for a one mile track, at least seven furlongs long, so as to accommodate a race at a distance of seven furlongs;

(2) for a seven-eighths mile track and a three-fourths mile track, at least six furlongs long, so as to accommodate a race at a distance of six furlongs; and

(3) for a five-eighths mile track at a Class 3 or Class 4 racetrack, at least four furlongs long.

(e) The finish line of a racetrack must be at least 200 feet from the break of the first turn.

(f) The radius of each turn in the oval must be approved by the executive secretary. (Added eff. 10/21/99; amended eff. 6/1/01; (b) amended eff. 1/8/04)

#### Sec. 309.203. Track Width.

A racetrack must be:

(1) for a Class 1 racetrack, at least 90 feet wide on each straightaway and at least 80 feet wide on each turn;

(2) for a turf racetrack, at least 80 feet wide on each straightaway and at least 80 feet wide on each turn; and

(3) for a Class 2, 3 or 4 racetrack:

(A) at least 30 feet wide on each straightaway for the first two horses in a race and an additional five feet wide for each additional horse in a race; and

(B) not more than 10 feet narrower on each turn than on the straightaway. (Added eff. 10/21/99)

#### Sec. 309.204. Elevation and Surface of Track.

(a) The surface of the racetrack, including the cushion, subsurface, and base, must be constructed of materials and to a depth that adequately provides for the safety of the jockeys and the horses.

(b) The elevation and surface must be approved by the executive secretary before the first race.

(c) The elevation and surface are subject to

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periodic inspection. The executive secretary may develop a schedule for the periodic inspection of all the racetrack surfaces.

(d) If an inspection reveals that the elevation or surface is not in compliance with the Rules or is not safe for racing, the executive secretary shall notify the association of the deficiencies and the recommended remedy. The association may not use the racetrack for live racing until the executive secretary has determined that the elevation and surface complies with the Rules and are safe for racing. (Added eff. 10/21/99)

### Sec. 309.205. Drainage.

(a) An association shall provide for the racetrack a drainage system approved by the executive secretary.

(b) If an association operates a turf racetrack, the drainage system must prevent water from running from the dirt racetrack onto the turf racetrack. (Added eff. 10/21/99)

### Sec. 309.206. Rails.

(a) A racetrack, including a turf track, must have an inside and an outside rail of a type approved by the executive secretary. A turf track must have an outside rail that is separate from the inside rail of the adjacent dirt track. The inside rail of a turf track must be movable.

(b) The top of the rail must be not less than 38 nor more than 42 inches above the top of the cushion.

(c) The rail must be constructed of a material that will withstand the impact of a horse.

(d) The rail posts must be spaced not more than 10 feet apart except for movable sections for the purpose of access. The top rail must be smooth and continuous, with no jagged edges.

(e) For a permanent rail, the rail posts must be set in concrete at least six inches below the top of the base to a depth of 36 inches. For a movable rail, the rail posts must be secured in a manner sufficient to withstand the impact of a horse. (Added eff. 10/21/99; (d) amended eff. 11/1/01)

### Sec. 309.207. Maintenance of Track.

(a) An association shall provide adequate maintenance equipment and personnel to restore the track surface to racing condition.

(b) An association shall provide back-up equipment for maintaining the track surface.

(c) An association that conducts races on a turf track shall:

(1) maintain an adequate stockpile of growing medium; and

(2) provide a watering system that is capable of watering from the inside and outside rails and of watering the entire turf track in not more than five hours. (Added eff. 10/21/99)

### Sec. 309.208. Gates.

(a) A gate in a rail must appear similar to the rail. The top rail of the gate must be secured to the top rail.

(b) A gate in the inside rail that is more than 10 feet long must have a center support.

(c) An association shall ensure that all gates to the track are closed during a race.

(d) Horse access gates must be placed at least 50 feet apart. (Added eff. 10/21/99; (b) amended eff. 11/1/01)

### Sec. 309.209. Turf Access Path.

An access path from the inside rail to a turf track may not have rails along the path while a race is being conducted on the dirt track. (Added eff. 10/21/99)

### Sec. 309.210. Lighting.

(a) An association shall provide lighting for the racetrack and the patron facilities that is adequate to ensure the safety and security of the patrons, licensees, and horses and to ensure the proper operation of the videotape and photofinish equipment. The lighting must be approved by the executive secretary.

(b) An association shall provide additional lighting in the stable area, including adequate lighting in each stall and barn, and security lighting that is activated automatically. (Added eff. 10/21/99)

### Sec. 309.211. Obstacles.

(a) An obstacle along the inside rail of a racetrack, including starting point markers and distance poles, must be placed at least 10 feet away from the bottom of the rail posts.

(b) If a concrete drainage ditch is built behind the inside rail, the concrete must be covered with a soft material. (Added eff. 10/21/99)

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### Sec. 309.250. Test Barn.

(a) An association shall provide a test barn for taking specimens for testing. The barn must be adjacent to the Commission veterinarian's office.

(b) The barn must be shielded from the noise and excitement of the races.

(c) The barn must be clean, sanitary, adequately ventilated, and safe for the horses and the individuals who handle the horses.

(d) The barn must be equipped with:

(1) a walk ring large enough to accommodate eight horses;

(2) at least four enclosed stalls, equipped with dutch doors and observation windows;

(3) a washrack that is large enough to accommodate two horses at the same time; and

(4) eight disinfected water buckets for drinking water.

(e) An association shall provide restroom facilities for the test barn employees in close proximity to the test barn.

(f) The area must have only one entrance, which must be locked or guarded at all times. The area must have a security guard present on live race days prior to the first race and remaining until all race horses have been released. The guard shall:

(1) restrict access to the test barn to Commission personnel, test technicians, veterinarians, authorized licensees escorting race horses for testing, and Commission-escorted guests; and

(2) maintain an accurate log of all horses and licensees entering and leaving the test barn on a form approved by the executive secretary. (Added eff. 10/21/99; (c) - (f) amended eff. 12/7/08)

### Sec. 309.253. Postmortem.

(a) An association shall provide a postmortem area.

(b) The area must be located in a secluded area and must allow access by an equine ambulance.

(c) The area must be equipped with:

(1) a cover;

(2) a concrete or asphalt slab with a rough

finish;

(3) adequate drainage; and

(4) hot and cold water and a hose.

(d) An association shall provide services for the disposal of a horse that dies at the racetrack. (Added eff. 10/21/99; (c) amended eff. 12/7/08)

### Sec. 309.254. Equine Ambulance.

(a) An association shall provide an equine ambulance and trained personnel on association grounds on each day that the racetrack is open for racing or exercising.

(b) The ambulance must be properly ventilated and kept in the shade at an entrance to the racing strip when not in use.

(c) The ambulance must be a large, covered and enclosed vehicle that is low to the ground. The ambulance must be able to:

(1) navigate on the racetrack during all weather conditions; and

(2) transport a horse off the association grounds.

(d) The ambulance must be equipped with:

(1) large, portable screens to shield a horse from public view;

(2) ramps or a system to lower the ambulance to ground level to load a horse;

(3) adequate means of loading a horse that is down;

(4) a rear door and a door on each side;

(5) a padded interior;

(6) a movable partition to initially provide more room to load a horse and to later restrict a horse's movement;

(7) a shielded area for the individual handling the horse;

(8) a storage area for supplies;

(9) a front leg Kimzey brace or an

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equivalent approved by the Commission veterinarian;  
and

(10) a water supply to treat heat exhaustion grounds.

(e) If the ambulance is being used to transport a horse, the association may not conduct a race until the ambulance is replaced. (Added eff. 10/21/99; (d) amended eff. 12/7/08)

### **Sec. 309.255. Chase Vehicle.**

(a) An association shall provide a chase vehicle and driver for the commission veterinarian's use during each live performance.

(b) In addition to the driver, the association shall have at least one assistant starter accompany the commission veterinarian during each race.

(c) The chase vehicle must be able to navigate on the racetrack during all weather conditions.

(d) The chase vehicle must be large enough to provide:

(1) interior seating for at least four people; and

(2) room to store the portable screens used to shield a horse from public view.

(e) The chase vehicle shall be equipped with a five-gallon water container, a sponge, and a scraper. (Added eff. 12/2/08; amended eff. 12/7/08)

### **Facilities for Licensees**

#### **Sec. 309.281. Jockeys.**

(a) An association shall provide facilities for jockeys scheduled to ride in a race.

(b) The facilities must be equipped with:

(1) showers, toilets, and sinks;

(2) locked storage areas;

(3) a snack bar;

(4) equipment appropriate for the rest and recreation of the jockeys; and

(5) other reasonable accommodations requested by the executive secretary.

(c) The association shall provide equivalent facilities for men and women jockeys. (Added eff. 10/21/99; (b) amended eff. 1/8/04)

#### **Sec. 309.282. Living Quarters for Licensees.**

(a) If an association permits licensees to reside on association grounds, the association shall provide living

quarters for the licensees.

(b) The living quarters must be in a permanent structure and be adequate to house the anticipated number of licensees who will be living on association grounds. The association must provide equivalent facilities for men and women licensees.

(c) The living quarters must be equipped with:

(1) windows that open;

(2) heating;

(3) hot and cold water; and

(4) showers, toilets, and sinks.

(d) An association may not permit an individual to sleep in the stable area except:

(1) in a facility provided in accordance with this section;

(2) in a barn that was constructed after 1990 of fire retardant materials; or

(3) in a tack room that was constructed after 1990 of fire retardant materials, provided the tack room has a window that opens. (Added eff. 10/21/99)

### **Operations**

#### **Sec. 309.291. Racing Hours.**

Except on approval of the executive secretary, an association may conduct horse racing only between the hours of 8 a.m. and 12 midnight. (Added eff. 10/21/99)

#### **Sec. 309.292. Number of Races.**

Except on approval of the executive secretary, an association may not offer more than 12 races per performance. (Added eff. 10/21/99)

#### **Sec. 309.293. Saddle Cloth.**

(a) An association shall provide a saddle cloth and head number to each horse scheduled in a race except in a thoroughbred race where the head number may optionally be provided. The saddle cloth must have a number printed on the side that is large enough to be read clearly from the stewards' stand and the photofinish tower.

(b) The association may provide to each jockey racing colors and shall provide a sleeve number or helmet number. (Added eff. 10/21/99; (a) amended eff. 7/11/04)

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### Sec. 309.294. Starting Crew.

An association shall provide a starting crew for each race to assist in handling the horses in the starting gates. The association shall provide:

(1) one assistant starter for each Quarter Horse, Paint Horse, or Appaloosa to start in a race; and

(2) a sufficient number of assistant starters for the number of Thoroughbred or Arabian horses to start in a race. (Added eff. 10/21/99; amended eff. 12/7/08)

### Sec. 309.295. Condition Book.

An association shall deliver to the Commission, for executive secretary approval, a copy of the first condition book for a race meeting at least 30 days before the first day of the race meeting. Before publication, the association shall deliver to the Commission a copy of each subsequent condition book published by the association, for executive secretary approval. The executive secretary shall return within a reasonable time the condition book to the association with notice of approval or specific delineation of the changes required to obtain approval. (Added eff. 10/21/99; amended eff. 1/8/04)

### Sec. 309.296. Official Program.

(a) For each race day, an association shall prepare an official program. The official program must contain the order of the races on that day and:

(1) for each race:

(A) the names of the horses in the race and their program number;

(B) the conditions of the race;

(C) the distance of the race;

(D) the probable odds on each horse;

(E) the value of the race;

(F) the claiming prices, if applicable; and

(G) the types of wagers to be offered for that race; and

(2) for each horse listed in the program:

(A) the post position;

(B) the age, color, sex, and breeding;

(C) the jockey, trainer, owner or stable name, and racing colors;

(D) the weight carried; and

(E) if the horse is eligible for participation in the Texas Bred Incentive Program, the name or logo of the appropriate official breed registry;

(F) if the horse is a leased animal, the names of the lessee and lessor must appear on the program; and

(G) the city and state of the owner or the designated representative.

(b) The official program must contain the names of the officials serving on that day, the names of the association's management personnel, and any other information required by the executive secretary.

(c) Except as otherwise provided by this subsection, for each horse that is racing with furosemide the official program shall indicate that fact by including the symbol "L" after the horse's name. For each horse that is racing with furosemide for the first time or for each horse racing with furosemide that last raced without furosemide, the official program shall indicate that fact by including the symbol "L1" after the horse's name. For each horse that is racing without furosemide for the first time after having been admitted to the furosemide program in this state and for each horse that is racing without furosemide in this state whose most recent start was with furosemide in another racing jurisdiction, the official program shall indicate that fact by including the symbol "Lx" after the horse's name. (Added eff. 10/21/99; (c) amended eff. 11/1/01; (a) amended eff. 1/8/04; (a) amended eff. 12/7/08)

### Sec. 309.297. Purse Accounts.

(a) All money required to be set aside for purses, whether from wagering on live races or on simulcast wagering, are trust funds held by an association as custodial trustee for the benefit of horsemen. No more than three business days after the end of each week's wagering, the association shall deposit the amount set aside for purses into purse accounts maintained as trust accounts for the benefit of horsemen by breed by the horsemen's organization in one or more federally or privately insured depositories.

(b) Purse money for a completed race shall be made available to the horsemen's bookkeeper on or before the third day after the week's races have run. The horsemen's bookkeeper shall distribute purse money for a race to the accounts of the persons entitled to the money immediately after the executive secretary advises the horsemen's bookkeeper that the race has been cleared for payment.

(c) If an association fails to run live races during any calendar year, all money in the respective breed's purse

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account may, at the discretion of the horsemen's organization be distributed as follows:

(1) first, payment of earned but unpaid purses; and

(2) second, subject to the approval of the horsemen's organization, transfer after the above mentioned calendar year period of the balance in the respective breed's purse account to the respective breed's purse account for one or more other associations.

(d) If an association ceases a live race meet before completion of the live race dates granted by the Commission, the funds in and due the respective breed's purse account shall be distributed as follows:

(1) first, payment of earned but unpaid purses;

(2) second, retroactive pro rata payments to the horsemen if provided by contract with the horsemen's organization; and

(3) third, subject to the approval of the horsemen's organization, transfer within 120 days after cessation of live racing of the balance in the respective breed's purse account to the respective breed's purse account for one or more other associations.

(e) The Commission may at any time inspect, review, or audit the records and performance of the association, the horsemen's organization, or the horsemen's bookkeeper to determine compliance with this section.

(f) No part of any funds allocated to any race or races from the purse fund shall be subject to any surcharge, promotion fee, advertising fee, or expense by the association for any reason whatsoever. (Added eff. 10/21/99)

### **Sec. 309.298. Stakes and other Prepayment Races.**

(a) An association shall file with the Commission, for executive secretary approval, a copy of the race conditions and the nomination blank for all stakes or other prepayment races before distributing the conditions to the public.

(b) The nomination blank must state all conditions of the race, including:

(1) the payment schedule;

(2) the dates and conditions for the race and any trials;

(3) the source and amount of any added money;

(4) the distribution of all funds paid into the race, including the percentages allocated for advertising, administration, and other expenses, provided that no such expenses may be made or incurred by an association;

(5) terms for obtaining refunds, if any; and

(6) all other conditions pertaining to the race.

(c) The association shall maintain one account in an F.D.I.C. secured financial institution, for which only funds received for stakes and other prepayment races may be deposited, except as otherwise authorized by these rules. The account must require, for all withdrawals, the signatures of two officers of the association.

(d) The association shall designate an official as the stakes nomination secretary who shall be responsible for the collection and deposit of all stakes, nomination, futurity and derby payments, preparation of the list of horses and their owners nominated for stakes, nomination, futurity and derby races and serving as the point of contact for the Commission staff for questions or information regarding stakes and other prepayment races. The association shall include the name of the person designated as the stakes nomination secretary in the list of officials prepared pursuant to §313.4 of this title (relating to Approval of Officials). The association shall include the person designated as the stakes nomination secretary in an insurance policy or fidelity bond covering employee dishonesty.

(e) Not later than five days after the date nominations close, the association shall provide to the Commission a list of all horses nominated for the race. Not later than five days after each payment date, the association shall prepare a list of the horses remaining eligible for the race, including the names of all owners of each horse. If necessary, the association shall prepare an amended list. The association shall provide a copy of each list to the stewards and post a copy of

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the list in the racing office. The association shall maintain appropriate documentation to prove the eligibility of each nomination.

(f) Not later than five business days after receiving a request by the executive secretary, the association shall provide a written report regarding the activity and status of the escrow account in which the race funds are maintained. The report must include the name of the financial institution in which the account is held, the dates and amounts of deposits into the account by each nominator or sponsor, the dates and amounts of all withdrawals or deductions from the account, and for what purpose each withdrawal or deduction was made.

(g) Not later than five business days after a race subject to this section is conducted, the association shall provide to the executive secretary the final report for the distribution of the purse for stakes and other prepayment races. (Added eff. 10/21/99; (b) amended eff. 7/22/02; (a),(e),(f),(g) amended eff. 1/8/04)

### **Sec. 309.299. Horsemen's Representative.**

(a) Findings. The Commission finds a need for horse owners and trainers to negotiate and covenant with associations as to the conditions of live race meetings, the distribution of purses not governed by statute, simulcast transmission and reception, and other matters relating to the welfare of the owners and trainers participating in live racing at an association. To ensure the uninterrupted, orderly conduct of racing in this state, the Commission shall recognize one organization to represent horse owners and trainers on matters relating to the conduct of live racing and simulcasting at Texas racetracks.

#### **(b) Recognition Process.**

(1) To request Commission recognition as a horsemen's representative organization, the organization must file a written request for recognition on a form prescribed by the executive secretary. The executive secretary shall establish a deadline for filing a request under this paragraph and publish that deadline in the Texas Register at

least 20 days before the deadline.

(2) To be eligible for recognition as a horsemen's representative organization, each officer and director of the organization during the term of the recognition must be licensed by the Commission as an owner or trainer.

(3) If only one organization requests recognition, the executive secretary shall issue a letter of recognition to the organization, subject to the approval of the Commission. If more than one organization requests recognition, the Commission shall recognize the organization that is best qualified to represent the horse owners and trainers for the various breeds participating in racing at all the racetracks in this state. The executive secretary may require each organization requesting recognition to supply additional information regarding its structure, membership, and programs. The Commission shall consider the following when determining which organization to recognize under this section:

(A) the experience and qualifications of the directors, executive officers, and other management personnel of the organization;

(B) the organization's benevolence programs for its membership and others participating in racing in this state; and

(C) the degree to which the organization's membership represents a fair and equitable cross-section of the horse owners and trainers participating at each of the racetracks in this state.

(4) Recognition given under this section is valid for two years.

#### **(c) Authority and Responsibilities.**

(1) An organization recognized under this section shall negotiate with each association regarding the association's live racing program, including but not limited to the allocation of purse money to various live races, the exporting of simulcast signals, and the importing of simulcast signals during live race meetings.

(2) An organization recognized under this section may inspect and audit an

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association's horsemen's purse accounts.

(3) An organization recognized under this section shall provide to the Commission on request a copy of the organization's most recent financial statements, minutes of board meetings, literature provided to its members, and any other records or information relating to the functions of the organization at Texas racetracks.

(4) An organization recognized under this section may not counsel or encourage its members to strike, embargo, boycott or employ similar tactics in dealing with an association.

(5) Not later than June 15 of each year, an organization recognized under this section shall submit to the Commission audited financial statements regarding its operations. The executive secretary may prescribe the form for the financial statements.

(6) The Commission may require or conduct an audit of the records of an organization recognized under this section to ensure the organization is complying with applicable law. (Added eff. 10/21/99; (c) amended eff. 1/7/01)

### Subchapter D. Greyhound Racetracks

#### Facilities and Equipment

##### Sec. 309.301. Applicability.

This subchapter applies to greyhound racetracks and to associations licensed by the Commission to operate a greyhound racetrack. (Added eff. 10/21/99)

##### Sec. 309.302. Track Specifications.

(a) A greyhound racetrack must be an oval track with a minimum width of 22 feet from the inside curb to the outside curb.

(b) On the first turn, the radius from the center of the oval to the inside rail of the track must be 128 feet. On the second turn, the radius from the center of the oval to the inside rail of the track must be 118 feet. Each straightaway must be 285 feet long.

(c) The banking of the track must be approved by the executive secretary. (Added eff. 10/21/99)

##### Sec. 309.303. Track Surface.

(a) The track must consist of a clay base with a surface of a nonabrasive sand with low elasticity or of a comparable material.

(b) An association shall maintain the track surface and the banking in a uniform condition to foster the safety of the greyhounds.

(c) The surface must be approved by the executive secretary before the first race of each race meeting and is subject to periodic inspections and verification by the Commission. The executive secretary may require periodic reporting by an association regarding the track surface and may require the reports to contain any information considered by the executive secretary to be essential to evaluating the current status of the track surface. (Added eff. 10/21/99)

##### Sec. 309.304. Watering Equipment.

(a) An association shall provide a watering system approved by the executive secretary to water the track surface uniformly.

(b) If an association uses a water tank vehicle with a boom, the track must be sufficiently wide to allow the vehicle to travel along the outside edge of the track without disturbing the portion of the track on which the greyhounds run. (Added eff. 10/21/99)

##### Sec. 309.305. Starting Boxes.

(a) An association shall provide and maintain at least two starting boxes approved by the executive secretary. Each starting box must be equipped with an automatic opener with a manual back-up.

(b) The association shall periodically inspect each starting box to ensure its safe and effective operation.

(c) An association shall ensure that the starting box located at the five-sixteenths start is set back in the chute. (Added eff. 10/21/99; (b) amended eff. 12/7/08)

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### **Sec. 309.306. Escapes.**

An association shall provide on the racetrack two curtains located at least 50 feet on either side of each escape. The curtains must not interfere with the greyhounds during the course of a race. (Added eff. 10/21/99)

### **Sec. 309.307. Lures.**

An association shall provide an inside dual equipped lure with an extendable arm. (Added eff. 10/21/99)

### **Sec. 309.308. Video Monitoring System.**

In addition to other video requirements in the rules of the Commission, an association shall provide a video monitoring system approved by the executive secretary that permits the racing judges to view the activities in the lockout kennel, the movement of the leadouts and greyhounds from the lockout kennel to the starting boxes, and the activities at the starting boxes. (Added eff. 10/21/99)

### **Sec. 309.309. Lockout Kennel.**

(a) An association shall provide a lockout kennel that:

(1) is soundproof, to prevent noise from disturbing the greyhounds that are waiting to race;

(2) is air-conditioned sufficiently to maintain a temperature between 68 and 75 degrees Fahrenheit; and

(3) has sealed or ceramic floors and walls to permit proper cleaning and disinfection.

(b) Each crate located in the lockout kennel must:

(1) be constructed of a smooth, hard material, such as stainless steel or tile;

(2) be at least three feet wide, four feet deep, and four feet high;

(3) be constructed so that the crate floor is not in direct contact with the concrete surface;

(4) be located on the floor level to prevent greyhounds from sustaining jumping injuries; and

(5) have a drop latch on the door.

(c) An association shall provide a comfortable

room near the lockout kennel in which a kennel owner or trainer may view the race. The association shall also provide kennel owners and trainers a method, as approved by the executive secretary, for monitoring the interior of the lockout kennel and the back of the starting box and view the interior of the lockout kennel.

(d) An association shall provide an area adjacent to the lockout kennel in which a greyhound can wait to weigh-in and cool down following a race or wait for schooling races. The area must:

(1) be large enough to comfortably accommodate 100 greyhounds and the leadouts and trainers;

(2) be adequately shaded and fenced to shield the greyhounds' view of the racetrack;

(3) have eight water faucets with hoses;

(4) have a disinfected dipping vat, approved by the Commission veterinarian, through which a greyhound may be walked to assist in cooling down following a race; and

(5) have adequate drainage. (Added eff. 10/21/99; (b) amended eff. 6/1/00; (a) amended eff. 1/8/04; (a), (c) amended eff. 12/7/08)

### **Sec. 309.310. Walkway.**

An association shall provide a properly lighted covered walkway with four feet of turf or a comparable material on each side of the walkway from the kennel compound to the lockout area. (Added eff. 10/21/99)

### **Sec. 309.311. Kennel Compound.**

(a) An association shall provide in the kennel compound area:

(1) not more than 18 separate kennel

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buildings for the kennel owners under contract with the association; and

(2) if the association has contracted with kennel owners to fill all of the kennel buildings, a separate kennel building for greyhounds that will be participating in stake races, designed to accommodate several trainers and their greyhounds.

(b) Each kennel building must be located at least 100 yards from the public area of the enclosure and at least 150 yards from the nearest racetrack surface.

(c) The kennel buildings must be spaced at least 100 feet apart to ensure proper air circulation and to minimize fire hazards.

(d) The association shall provide at its expense a continuous security system for the kennel compound area approved by the executive secretary. The security system must include floodlights to adequately illuminate the kennel compound at night. (Added eff. 10/21/99; (a) amended eff. 12/7/08)

### Sec. 309.312. Turnout Pens.

(a) Each kennel building must have at least three turnout pens. Each pen must:

- (1) be free of any obstructions;
- (2) measure at least 20 feet by 40 feet;
- (3) have gates that connect to the other pens;

(4) have at least a 15 foot overhang from the building;

(5) have at least two halogen lights of 300 watts each located at each end;

(6) be surrounded by a fence at least six feet high, of which the lower 32 inches is constructed of cinder block or a comparable material and the remaining portion is constructed of chain link;

(7) have a gate adequate to accommodate a vehicle to remove the sand and deposit new sand;

(8) have adequate water faucets;

(9) have an adequate drainage system; and

(10) have sand or a comparable material of a depth adequate to be maintained in a sanitary state.

(b) The sand and drainage system are subject to periodic inspection by the commission veterinarian. (Added eff. 10/21/99; amended eff. 12/7/08)

### Sec. 309.313. Kennel Buildings.

(a) Each kennel building must measure at least 20 feet by 70 feet on the inside of the building. The building must be partitioned into a kitchen area of at least 17 feet by 20 feet and a crate area of at least 20 feet by 53 feet.

(b) An association shall ensure that the kennel buildings are kept clean and in good repair. Each kennel building must be well-ventilated and constructed to be comfortable in all seasons.

(c) The executive secretary shall approve the maximum number of crates for each kennel building. The executive secretary may permit a change in the number of crates upon a showing that the change will have no impact on the health and safety of the individuals and greyhounds in the building. Each crate must:

(1) have a drop latch or a comparable latch;

(2) be constructed of stainless steel or a comparable material and be on casters; and

(3) measure at least three feet wide, four feet deep, and three feet high.

(d) The kitchen area must be equipped with at least a 30-gallon hot water heater, a deep double sink with drainboard, an elevated tub with a waterproof splash board, a restroom with a shower, and adequate shelving and cabinet space.

(e) Each kennel building must have at least two floor drains in the crate area and at least one floor drain in the kitchen area.

(f) Each kennel building must be equipped with:

(1) a temperature, smoke, and fire alarm system equipped with a sprinkling system and an alarm to the association security and city or county fire department;

(2) adequate lighting inside the building;

(3) at least four horizontal windows that each measure one foot by four feet;

(4) adequate emergency power to protect greyhounds during power failures or hurricanes; and

(5) adequate climate control equipment that

is monitored by the kennel owner or trainer.

(g) An association may not permit more than one greyhound to be housed in a crate. (Added eff. 10/21/99; (c),(g) amended eff. 6/1/02)

**Sec. 309.314. Sprint Path.**

An association shall provide, for every three occupied kennel buildings, a sprint path located adjacent to the kennel compound area. The sprint path must:

- (1) be at least 30 feet wide and 400 feet long;
- (2) be divided down the middle by a chain link fence;
- (3) have at least one gate on each end for entering or exiting with greyhounds;
- (4) have a driveway along the side;
- (5) have a base and surface comparable to the racetrack surface;
- (6) have a highly visible material at both ends; and
- (7) be maintained by the association at all times. (Added eff. 10/21/99; amended eff. 12/7/08)

**Sec. 309.315. Test Area.**

An association shall provide and maintain a test area in the location approved by the executive secretary for the purpose of obtaining for analysis specimens of greyhound body fluids and eliminations as required by Chapter 319 of this title (relating to Veterinary Practices and Drug Testing). (Added eff. 10/21/99)

**Sec. 309.316. Emergency Care Facility.**

An association shall provide a veterinary facility to provide emergency care to injured or stressed animals. The association shall equip and maintain the facility with the equipment and materials approved by the Commission veterinarian. (Added eff. 10/21/99)

**Sec. 309.317. Facilities and Equipment Maintenance Personnel.**

When the track is being used for racing or schooling, the association shall have at least one person present on association grounds who is skilled and qualified to maintain the starting boxes, the racing surface, and all track equipment. (Added eff. 12/7/08)

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**Sec. 309.351. Kennel Contracts.**

(a) In contracting with a kennel owner, an association shall use a contract approved by the executive secretary. In approving the contracts, the executive secretary shall consider the degree to which the contract complies with applicable law, ensures the continuity of high quality racing, preserves property owned by the kennel owners and the association, and ensures the ability of the kennel owner and the association to have a profitable relationship through the contract. After receiving approval, an association shall deliver a copy of the approved contract form to the Texas Greyhound Association.

(b) An association shall file a copy of each executed kennel contract with the Commission. An association conducting year-round racing shall file the contracts on or before January 31 of each year. An association conducting seasonal racing shall file the contracts on or before the 30th day before the first day of the race meet.

(c) An association shall deliver a copy of the kennel contract to each party to the contract.

(d) A kennel contract may not authorize a deduction from the purse payable to the greyhound owner except a deduction that is directly related to the owner's privileges and responsibilities as a greyhound owner.

(e) An association may not contract with a kennel owner if the kennel owner or a person related to the kennel owner within the first degree of affinity or consanguinity owns an interest in the association. (Added eff. 10/21/99; (a),(b) amended eff. 6/1/02; (a),b),(d),(e) amended eff. 11/6/02)

**Sec. 309.352. Texas Preference.**

(a) In contracting with kennel owners for kennel contracts, an association shall ensure that at least 50 percent of the kennels with whom the association contracts are wholly owned by Texas residents.

(b) In this section, "Texas resident" means an individual who has resided in Texas for the five-year period preceding the date the kennel contract is signed. (Added eff. 10/21/99)

**Sec. 309.353. Dismissal of Kennel.**

(a) An association may dismiss a kennel only:

- (1) on revocation by the Commission of

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the kennel owner's license;

(2) for repeated violations of the Act or a Rule; or

(3) for poor performance, as provided by subsection (b) of this section.

(b) A contract between an association and a kennel owner must provide a uniform dismissal clause. The clause must state the following:

(1) if a kennel has been continuously booked at the association for more than two years, the association shall dismiss a kennel if the kennel's win record is in the bottom four positions at the end of a race meeting for two of the past three years and the association may not rebook the kennel for a period of five years;

(2) the association may place a kennel on probation by written notice if the kennel's win record is in the lowest three positions during each of the three preceding months;

(3) an association may place a kennel on probation by written notice if the kennel is in breach of the kennel contract in a manner that materially affects the rights or privileges of the association; and

(4) an association may dismiss a kennel on probation if during the three-month period following the beginning of probation, the kennel fails to cure the breach or fails to place higher than at least three other kennels.

(c) A kennel owner may apply to the Commission for an exemption from the operation of the uniform dismissal clause. The kennel owner must demonstrate to the Commission that the kennel's failure to perform as required by the contract was due to a force majeure.

(d) For the five-year period after a kennel is dismissed pursuant to this section, an association may not book another kennel that is owned substantially by the same owners as the dismissed kennel. For purposes of this subsection, "substantially" means more than a 50% ownership interest in the kennel. (Added eff. 10/21/99)

### Sec. 309.354. Stakes Entry.

An association shall release a greyhound to participate in stake races. On completion of the stake races, the greyhound must return to the association grounds. (Added eff. 10/21/99)

### Sec. 309.355. Grading System.

(a) The racing secretary for an association shall grade the greyhounds for the races in accordance with this section.

(b) Before the first day of a race meeting, the racing secretary shall classify the greyhounds and assign an appropriate grade. In assigning the grades, the secretary shall consider the greyhound's past performances.

(c) The racing secretary shall use seven grades of AA, A, B, C, J, D, and M. Grade M is for maidens and Grade J is for winning maidens.

(d) The racing secretary shall lower a greyhound to the next lower grade, including lowering a grade J to a grade D, if the greyhound:

(1) fails to finish in the top three positions in three consecutive starts;

(2) fails to earn better than one third place finish in four consecutive starts; or

(3) fails, as a Grade J, to finish in the top four positions in four consecutive starts.

(e) The racing secretary shall advance a greyhound that wins a race graded A, B, C, J, or D.

(f) The racing secretary shall advance a greyhound that wins a maiden race to Grade J. The racing secretary shall advance a greyhound that wins a Grade J race to Grade C. On request by a kennel owner or trainer, the racing secretary may advance a greyhound that finishes second, third, or fourth in a maiden or a Grade J race to Grade C. For a greyhound regraded on request under this subsection, an association shall place the letter "M" or "J" after the greyhound's name in the racing program.

(g) A greyhound that fails to finish in the top four positions in four consecutive starts in Grade D may requalify and, at the discretion of the racing secretary, be returned to the active list. If a

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### Subchapter A. Licensing Provisions

#### Occupational Licenses

##### Sec. 311.1. Occupational Licenses.

###### (a) License Required.

(1) A person other than a patron may not participate in racing at which pari-mutuel wagering is conducted unless the person has a valid license issued by the Commission. Any individual who enters an animal is deemed to be a participant in racing

(2) A licensee may not employ a person to work at a racetrack at which pari-mutuel wagering is conducted unless the person has a valid license issued by the Commission.

###### (b) Duration of License.

(1) Except as provided in subsection (b)(2) of this section, an occupational license expires one year after the last day of the month in which the license was issued.

(2) An applicant for the following occupational license types may choose to have a multi-year license which expires on the last day of the month two years or three years after the month in which the license was issued; kennel owner, kennel owner/owner, kennel owner/owner/trainer, kennel owner/trainer, owner, owner/trainer, trainer, veterinarian, jockey, or multiple owner/stable/farm registration license.

(3) A training facility license expires on December 31 of the year for which it was issued.

###### (c) License Conditions.

(1) Except as otherwise provided by this section, a license issued by the Commission is a privilege, not a right, and is conditioned on the licensee's compliance with the Act and the Rules.

(2) If the Act or a rule is amended, the continued holding of a license is conditioned on the licensee's compliance with the Act or rule as amended.

(d) Effect of Acceptance. By accepting a license issued by the Commission, a person

consents to:

(1) a search by the Commission of the person and the person's possessions at a racetrack to check for violations of the Act or the Rules;

(2) seizure of contraband; and

(3) testing for alcohol and controlled substances in accordance with Subchapter D of this chapter. (Added eff. 10/21/99; (b) amended eff. 1/8/04; (a) amended eff. 3/20/08)

##### Sec. 311.2. Application Procedure.

(a) General Requirements. To request a license from the Commission, a person must apply to the Commission on forms prescribed by the executive secretary.

###### (b) Application Site.

(1) Except as provided in subsection (b)(2) and (b)(3) of this section, an applicant for an occupational license must file the appropriate application form and related documents at the licensing office at a licensed racetrack.

(2) An applicant for the following occupational license types may file the appropriate application form and related documents by mail to the main office of the Commission in Austin; kennel owner, kennel owner/owner, kennel owner/owner/trainer, kennel owner/trainer, owner, owner/trainer, trainer, multiple owner/stable/farm registration, training facility employee, and training facility general manager/CEO.

(3) An applicant who is eligible to renew an occupational license through the Texas OnLine portal may file the required application information through the Texas OnLine portal.

(c) Examinations. The Commission may require the applicant for an occupational license to demonstrate the applicant's knowledge, qualifications, and proficiency for the license applied for by an examination prescribed by the Commission.

###### (d) Issuance of License.

(1) The stewards or racing judges may review any application for an occupational license and deny a license if the stewards or racing judges

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determine:

(A) grounds for denial of the license exist under §311.6 of this title (relating to Denial, Suspension, and Revocation of Licenses; or

(B) if the applicant or a member of the applicant's family or household currently holds a Commission license, after considering the nature of the licenses sought or held by the applicant, issuing a license to the applicant would create a conflict of interest that might affect the integrity of pari-mutuel racing.

(2) An occupational licensee may not act in any capacity other than that for which he or she is licensed.

(3) The stewards or racing judges may issue a license subject to the applicant satisfying one or more conditions, as specified by the stewards or racing judges, which reasonably relate to the applicant's qualifications or fitness to perform the duties of the license sought.

(e) License Badge.

(1) The Commission shall issue a certificate identification card in the form of a license badge to each individual licensed under this subchapter.

(2) The badge must bear the seal of the Commission.

(3) The badge must contain:

(A) the licensee's full name;

(B) the licensee's photograph;

(C) the category of license;

(D) the month and year in which the license expires;

(E) a color code that designates whether the licensee has access to the stable or kennel area; and

(F) the license number assigned by the Commission.

(4) If a badge issued under this section is lost or stolen, the licensee shall immediately notify the Commission and may apply for a duplicate badge with the same terms as the original badge. To apply for a duplicate badge, the licensee must:

(A) file a sworn affidavit stating that the badge was lost, stolen, or destroyed;

(B) surrender any remaining portion of the badge; and

(C) pay a duplicate badge fee in an amount set by the Commission. (Added eff. 10/21/99; (d) amended eff. 1/8/04; (b) amended eff. 10/25/04)

### Sec. 311.3. Information for Background Investigation.

(a) Fingerprint Requirements and Procedure.

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

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

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

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

(2) The fingerprints must be taken by a peace officer or a person authorized by the Commission.

(3) Not later than 10 business days after the day the Commission receives the sets of fingerprints under this section, the Commission shall forward the fingerprints to the Department of Public Safety.

(4) A person who desires to renew an occupational license must have submitted a set of fingerprints pursuant to this section within the three years prior to renewal or provide a new set of fingerprints for classification by the Federal Bureau of Investigation.

(5) Waiver.

(A) Pursuant to Texas Civil Statutes, Article 179e, §7.10, the Commission will waive the fingerprint requirements in this section for an applicant for an owner or trainer license if:

(i) the individual presents proof of a valid owner or trainer license issued in a

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racing jurisdiction that requires the submission of fingerprints to the Federal Bureau of Investigation and the Commission verifies that fingerprints were submitted by that jurisdiction for the applicant within the three years preceding the date of the application in Texas; and

(ii) the applicant's permanent residence is outside the State of Texas.

(B) This subsection does not apply to an applicant who:

(i) has a criminal history in another state, as revealed by a report by the Federal Bureau of Investigation or other reliable criminal information sources;

(ii) maintains a residence or is employed, whether self-employed or otherwise, in Texas; or

(iii) obtains a license badge issued by the Commission which gives the applicant access to a restricted area on association grounds.

(C) Notwithstanding a waiver of the fingerprint requirements under this subsection, the Commission reserves the right, at its sole discretion, to require the submission of fingerprints after a license has been issued.

(6) If an applicant for a license is required to submit fingerprints under this section, the applicant must also submit a fingerprinting fee of \$12.00.

### (b) Criminal History Record.

(1) For each individual who submits fingerprints under subsection (a) of this section, the Commission shall obtain a criminal history record maintained by the Texas Department of Public Safety and the Federal Bureau of Investigation.

(2) The Commission may obtain criminal history record information from any law enforcement agency.

(3) Except as otherwise provided by this subsection, the criminal history record information received under this section from any law enforcement agency that requires the information to be kept confidential as a condition of release of the information is for the exclusive use of the Commission and its agents and is privileged and confidential. The information may not be released or otherwise disclosed to

any person or agency except in a criminal proceeding, in a hearing conducted by the Commission, on court order, or with the consent of the applicant. Information that is in a form available to the public is not privileged or confidential under this subsection and is subject to public disclosure. (Added eff. 10/21/99; (a) amended eff. 9/1/00; (a) amended eff. 7/1/03; (a) amended eff. 12/07/08)

### Sec. 311.4. Occupational License Restrictions.

(a) Non-Transferable.

(1) Except as otherwise provided by this section, a license issued by the Commission is personal to the licensee and is not transferable.

(2) If the death of a licensee creates an undue hardship or results in a technical violation of the Act or a Rule, on application of a person who wishes to operate or work under the license, the Commission may issue a temporary license to the person for a period specified by the Commission not to exceed one year.

(b) Education. To be eligible to receive a license to participate in racing with pari-mutuel wagering, an individual who is under 18 years of age must present to the Commission proof that the individual:

(1) has graduated from high school or received an equivalent degree; or

(2) is currently enrolled in high school or equivalent classes. (Added eff. 10/21/99)

### Sec. 311.5. License Fees.

(a) An applicant for a license must submit with the application documents the license fee in the amount set by the Commission in subsection (c) of this section.

(b) A license fee paid at a racetrack or at the Commission's headquarter must be paid by a money order, a certified check, a cashier's check, a credit card, or a personal check. The executive secretary may approve payment in cash at a racetrack if the association submits a plan that is approved by the executive secretary. The plan shall provide for the safety and security of the licensing office where the cash will be received

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and stored and licensing employees who will be responsible for handling and depositing the cash received. A license fee paid through the Texas OnLine portal may be paid by any method approved by the Texas Online Authority.

(c) The fee for an occupational license is as follows:

Training Facility General Manager.....	\$ 25 .....		
Valet .....	\$ 20 .....		
Vendor Concessionaire.....	\$ 75 .....		
Vendor/Concessionaire Employee .....	\$ 25 .....		
Veterinarian.....	\$ 75 .....	\$ 150 .....	\$ 225
Veterinarian Assistant.....	\$ 25 .....		

(Added eff. 10/21/99; (b) amended eff. 6/1/01(c) amended eff. 5/10/04; (b) amended eff. 9/8/04)

Type of License.....	1 Year Fee.....	2 Year Fee.....	3 Year Fee
Adoption Program Personnel.....	\$ 20 .....		
Announcer.....	\$ 25 .....		
Apprentice Jockey.....	\$ 55 .....		
Assistant Farrier/Plater/Blacksmith .....	\$ 20 .....		
Assistant Starter .....	\$ 20 .....		
Assistant Trainer .....	\$ 75 .....		
Assistant Trainer/Owner .....	\$ 75 .....		
Association Assistant Management .....	\$ 35 .....		
Association Management Personnel .....	\$ 50 .....		
Association Officer/Director.....	\$ 75 .....		
Association Other.....	\$ 50 .....		
Association Staff.....	\$ 25 .....		
Association Veterinarian .....	\$ 50 .....		
Authorized Agent.....	\$ 10 .....		
Chaplain .....	\$ 20 .....		
Chaplain Assistant.....	\$ 20 .....		
Exercise Rider.....	\$ 20 .....		
Farrier/Plater/Blacksmith.....	\$ 55 .....		
Groom/Hot Walker.....	\$ 20 .....		
Jockey .....	\$ 75 .....	\$ 150 .....	\$ 225
Jockey Agent.....	\$ 75 .....		
Kennel.....	\$ 50 .....		
Kennel Helper.....	\$ 20 .....		
Kennel Owner.....	\$ 75 .....	\$ 150 .....	\$ 225
Kennel Owner/Owner.....	\$ 75 .....	\$ 150 .....	\$ 225
Kennel Owner/Owner-Trainer .....	\$ 75 .....	\$ 150 .....	\$ 225
Kennel Owner/Trainer .....	\$ 75 .....	\$ 150 .....	\$ 225
Lead-Out.....	\$ 20 .....		
Maintenance.....	\$ 20 .....		
Medical Staff.....	\$ 25 .....		
Miscellaneous .....	\$ 20 .....		
Multiple Owner.....	\$ 25 .....	\$ 50 .....	\$ 75
Mutuel Clerk.....	\$ 25 .....		
Mutuel Other.....	\$ 25 .....		
Owner.....	\$ 75 .....	\$ 150 .....	\$ 225
Owner-Trainer.....	\$ 75 .....	\$ 150 .....	\$ 225
Pony Person .....	\$ 20 .....		
Racing Industry Representative .....	\$ 75 .....		
Racing Industry Staff .....	\$ 25 .....		
Racing Official .....	\$ 25 .....		
Security Officer.....	\$ 25 .....		
Stable Foreman .....	\$ 25 .....		
Tattooer .....	\$ 75 .....		
Test Technician.....	\$ 20 .....		
Tooth Floater.....	\$ 75 .....		
Trainer.....	\$ 75 .....	\$ 150 .....	\$ 225
Training Facility Employee.....	\$ 25 .....		

### Sec. 311.6. Denial, Suspension and Revocation of Licenses.

#### (a) Applicability.

(1) After notice and hearing in accordance with Chapter 307 of this title (relating to Proceedings before the Commission), the Commission, stewards, or racing judges may deny, suspend, or revoke a license issued by the Commission.

(2) If the licensee is not an individual, the grounds for denial, suspension, or revocation of a license apply if a director, officer, or partner of the licensee or an individual who owns an interest in the licensee of 5.0% or more engages in the conduct for which a license may be denied, suspended, or revoked.

(3) Unless specifically ordered otherwise, if the Commission, stewards, or racing judges suspend one occupational license held by an individual, all occupational licenses held by that individual are considered suspended for the term of the suspension.

#### (b) Grounds for Denial, Suspension, and Revocation of Licenses.

(1) Violations or Convictions. A license may be denied, suspended or revoked if it is determined that the licensee has:

(A) violated or caused to be violated the Act or a Rule;

(B) been convicted in a court of competent jurisdiction of violating the Act or a Rule;

(C) been convicted of a felony;

(D) been convicted of a crime of moral turpitude that is reasonably related to the licensee's fitness to hold a license in accordance with §303.202 of this title (relating to Guidelines);

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(E) aided, abetted, or conspired with another person to violate the Act or a Rule; or

(F) had a license issued by another pari-mutuel racing jurisdiction revoked or is currently under suspension in another pari-mutuel racing jurisdiction after notice and an opportunity to be heard.

(2) Failure to Disclose. A license may be denied, suspended or revoked if it is determined that the licensee:

(A) failed to provide information required in the license application;

(B) provided false information in the license application;

(C) failed to disclose an ownership interest in a horse or greyhound as required by the Rules; or

(D) failed to fully disclose the true owners of all interests, beneficial or otherwise, in a proposed racetrack facility.

(3) Domicile. A license may be denied, suspended, or revoked if it is determined that the licensee is domiciled with an individual for whom a license issued by the Commission was denied, suspended, or revoked during the preceding 12-month period.

(4) Ejection. A license may be denied, suspended, or revoked if it is determined that the licensee has engaged in conduct for which the licensee may be ejected or excluded from a racetrack under the Rules.

(5) Detrimental Practices. A license may be denied, suspended, or revoked if it is determined that the licensee is engaged in activities or practices that are detrimental to the best interests of the public or to the racing industry. (Added eff. 10/21/99; (a),(b) amended eff. 1/8/04)

### Sec. 311.7. Renewal of Licenses.

(a) Application. To renew an occupational license issued under this chapter, a licensee must:

(1) apply to the Commission on a form prescribed by the executive secretary; and

(2) pay the appropriate license fee.

(b) Terms of License. A license renewed under this subchapter has the same terms and is subject to the same conditions as the original license.

(Added eff. 10/21/99; (a) amended eff. 1/8/04)

### Sec. 311.8. Correction of Incorrect Information.

(a) Pursuant to Government Code, Chapter 559, an individual about whom the Commission collects information is entitled to review that information in accordance with Government Code, Chapter 552.

(b) If after reviewing the information the individual believes the Commission has collected incorrect information, the individual may file with the executive secretary a request to correct the information. The request must:

(1) be in writing;

(2) specify the information that is incorrect; and

(3) provide reasonable proof of the corrected information.

(c) If the executive secretary determines the Commission has collected incorrect information about the individual, the executive secretary shall correct the information. (Added eff. 1/1/02)

## Other Licenses

### Sec. 311.52. Spouse's License.

The spouse of a licensed owner may apply for a Spouse's License by completing the license application, a fingerprint card, and paying the license fee. The Spouse's License does not allow the spouse to participate in racing. (Added eff. 3/20/08)

## Subchapter B. Specific Licensees

### Sec. 311.101. Horse Owners.

(a) General Provisions.

(1) The owner of a horse, as listed on the animal's registration paper, must obtain an owner's license from the Commission. Except as otherwise provided by §313.301 (a) (2) of this title

## OTHER LICENSES

(relating to Officials and Rules of Horse Racing), a person may not be licensed as an owner if the person is not the owner of record of a properly registered horse that the person intends to race in Texas. Except as otherwise provided by this subsection, the owner must be licensed one hour prior to the post time of the first race of the day in which the owner intends to race the animal.

(2) If the owner is not an individual, each individual who is a director, officer, or partner of the owner or who has an ownership interest in the horse of 5.0% or more must be licensed by the Commission.

(3) If the owner is not an individual, the owner must provide to the Commission:

(A) a sworn statement by the chief executive officer of the owner or by one of the partners of the owner that the officer or partner represents the owner and is responsible for the horse;

(B) a statement that the owner is authorized by law to do business in Texas; and

(C) a list of the names and addresses of all individuals having an ownership interest in the horse.

(4) If the owner is not an individual, the ownership entity must:

(A) designate a representative; or

(B) file an authorized agent form with the Commission and pay the prescribed fee.

(5) If the registered owner of a horse is a minor, a financial responsibility form approved by the executive secretary must be signed by the parent or guardian of the owner assuming financial responsibility for the debts incurred for the training and racing of the horse.

### (b) Stable Names.

(1) An owner that wants to participate in racing using a stable name must register with the Commission by filing an application on a form prescribed by the executive secretary and paying the prescribed fee. A person may not use the real name of an owner of a race animal as a stable name. A stable name which has already

been registered with the Commission may not be registered by another owner.

(2) Registering a stable name with the Commission does not affect a person's obligation to file or register a fictitious name as provided by the laws of Texas.

(3) An application to register a stable name must disclose the real names of all interests participating in the stable and the percentage of ownership interest of each, including the interest owned by a corporation, general partnership, limited partnership, trust, estate or individual.

(4) A stable name may be changed by registering a new stable name. A stable name may be abandoned by giving written notice to the Commission. A change of 5.0% or more in ownership of a stable registered under a stable name shall be immediately reported to the Commission.

(5) A licensee who has registered a stable name under this section may not use the licensee's real name for racing purposes except on approval of the stewards.

### (c) Change of Ownership.

(1) If the owner of an interest in a horse housed on an association's grounds transfers that interest to another person, both parties to the transaction shall give written notice of the transfer to the stewards officiating for that association. Notice under this section must be submitted to the appropriate officials not later than 24 hours after the agreement to transfer the interest is made.

(2) A licensee of the Commission may not transfer an ownership interest in a horse to avoid disqualification of the horse.

(d) Change of Trainer. An owner may change the trainer of his or her horse registered at a licensed race meeting provided:

(1) the request to change trainers is submitted for approval to the stewards on a form provided by the association and approved by the stewards;

(2) the trainer from whom the horse is being transferred signs the form releasing custody

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## CHAPTER 313

The parade of the horses to the starting gate may not last more than 14 minutes, except in a case of unavoidable delay.

(e) If a jockey is injured during the parade or at the starting gate, the horse must return to the paddock and be resaddled with the replacement jockey's equipment. The horse must return to the starting gate carrying the replacement jockey.

(f) If a jockey is thrown on the way to the starting gate, the jockey must remount the horse at the point where the jockey was thrown. (Added eff. 8/30/89; (a),(b) amended eff. 10/30/00)

### **Sec. 313.424. Leaving the Race Course.**

(a) A horse that leaves the race course during the parade to the starting gate or during the warm-up shall return at the nearest practical point to where the horse left the race course, and continue the parade to the starting gate.

(b) The stewards shall scratch a horse from the race if, during the parade or warm-up, the horse leaves the race course to the extent that the horse is out of the vision of the stewards or the horse cannot be returned to the race course within a reasonable period of time.

(c) If a horse leaves the race course or loses its jockey during a race, the stewards shall disqualify the horse and consider it to be unplaced. (Added eff. 8/30/89; amended eff. 10/30/00)

### **Sec. 313.425. At the Starting Gate.**

(a) When the horses have reached the starting gate, the starter shall ensure that the horses are promptly placed in their stalls in the order stipulated by the starter when instructed to do so by the stewards.

(b) The starter shall immediately report to the stewards any reason for a delay in the start. (Added eff. 8/30/89; (b) amended eff. 10/30/00)

### **Sec. 313.426. Toe Grabs Prohibited.**

(a) A Thoroughbred or Arabian horse is ineligible to start in a race when it has shoes (racing plates) that have toe grabs with a height greater than two millimeters (0.07874 inches), bends, jar calks, stickers, or any other traction device on the front hooves.

(b) A Quarter Horse, Paint Horse, or Appaloosa is ineligible to start in a race when it has shoes (racing

plates) that have toe grabs with a height greater than four millimeters (0.15748 inches), bends, jar calks, stickers, or any other traction device on the front hooves. (Added eff. 3/22/09)

## **The Race**

### **Sec. 313.441. The Start.**

(a) A horse is considered a starter for all purposes when the stall doors of the starting gate open in front of the horse at the time the starter dispatches the horses in a valid start.

(b) The stewards shall declare a horse a non-starter if the stewards determine the horse was left at the post because the horse was not in the starting gate stall or the starting gate malfunctioned. (Added eff. 8/30/89)

### **Sec. 313.442. Interference.**

(a) A leading horse in a race around a turn is entitled to any part of the course; however, when another horse is attempting to pass in a clear opening, the leading horse may not impede the passing horse by crossing over so as to compel the passing horse to shorten its stride. A leading horse in a straightaway race must maintain a course as nearly as possible in the lane in which it starts.

(b) A horse may not interfere with or cause another horse to lose stride, lose ground, or lose position in a part of the race where the horse interfered with loses the opportunity to place where the horse might be reasonably expected to finish.

(c) The stewards may disqualify a horse who interferes with another horse in violation of this section and may place the horse behind the horse interfered with.

(d) The stewards shall display the "inquiry" sign on the infield tote board immediately on observing possible interference. (Added eff. 8/30/89; (a) amended eff. 10/30/00)

### **Sec. 313.443. Action by Jockeys.**

(a) A jockey may not ride carelessly or willfully so as to permit the mount to interfere with or impede another horse in the race.

(b) A jockey may not willfully strike or attempt to strike another horse or jockey so as to impede,

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interfere with, intimidate, or injure the other horse or jockey.

(c) A jockey may not exchange whips during the running of a race.

(d) A jockey who acts in violation of this section is subject to discipline by the stewards and the jockey's mount may be disqualified. (Added eff. 8/30/89; (d) amended eff. 10/30/00)

### **Sec. 313.444. Dismounting.**

(a) After the race, each jockey shall return the horse to the finish, salute the stewards, and receive permission of the stewards to dismount.

(b) Except on the permission of the stewards, a jockey may not permit another person to assist the jockey in removing the equipment that is included in the jockey's weight.

(c) Immediately on dismount and removal of equipment, the jockey shall go to the clerk of the scales to weigh in. (Added eff. 8/30/89; (c) amended eff. 10/30/00)

### **Sec. 313.445. Weigh In.**

(a) On weighing in, a jockey may not weigh less than one pound under the jockey's proper weight nor weigh more than two pounds over the jockey's proper weight.

(b) The stewards may disqualify a horse whose jockey weighs in at a weight in violation of this section and may discipline a person responsible for the weight violation. In determining a violation under this subsection, the stewards shall take into account any excess weight due to rain or mud.

(c) The stewards may excuse a jockey from weighing in if the jockey is unable to weigh in due to accident, injury, or other good cause. (Added eff. 8/30/89)

### **Sec. 313.446. Claim of Interference.**

(a) A jockey, trainer, or owner of a horse may make a claim of interference with the stewards before a race is declared official if the jockey, trainer, or owner has reasonable grounds to believe the horse was interfered with or impeded during the running of the race or that a jockey violated the Rules during the race. On receiving a claim of interference, the stewards shall display the objection sign on the tote board.

(b) A person may not make a claim of interference

if the person knows the claim is inaccurate or false.

(c) An individual who makes a frivolous claim of interference is subject to discipline by the stewards. (Added eff. 8/30/89; (a) amended eff. 10/30/00)

### **Sec. 313.447. Ramifications of Disqualification.**

(a) If the stewards disqualify a horse in a race, each horse in the race that is owned, in whole or in part, by the same owner or that is trained by the same trainer may be disqualified.

(b) If a horse is disqualified for interference in a time trial race, the horse shall receive the time of the horse it is placed behind, plus .01 of a second, or a more exact measurement if photofinish equipment permits. The horse may be eligible to qualify for the finals or consolations of the race on the basis of the assigned time. (Added eff. 8/30/89; (b) amended eff. 10/30/00)

### **Sec. 313.448. Dead Heat.**

(a) If a race results in a dead heat, the race may not be run off.

(b) The association shall distribute the purse equally among the winning horses and any prize that cannot be duplicated shall be distributed by lot. (Added eff. 8/30/89)

### **Sec. 313.449. Official Order of Finish.**

(a) The stewards shall declare the order of finish in a race is official when the stewards have determined:

- (1) the order of finish is correct;
- (2) the jockeys have been properly weighed in, unless excused; and
- (3) the race was run in accordance with the Act and the Rules.

(b) On declaring the official order of finish, the stewards shall direct:

- (1) the order of finish to be posted and announced to the public;
- (2) the official sign to be posted on the tote board; and
- (3) the mutuel manager to ensure the accuracy of the pools for the race are correct and ready to be paid.

(c) Except in a stakes race where the published conditions expressly provide for payment of purse

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(b) Except as authorized by the commission veterinarian, each specimen must be obtained in the test area approved by the Commission.

(c) The owner, trainer, or kennel owner of a race animal being tested or a designee of the owner, trainer, or kennel owner is entitled to witness or acknowledge the taking of the specimen and is entitled to sign the tag for the specimen. Failure or refusal to be present and witness the collection of the specimen or to sign the specimen tag constitutes a waiver by the owner, trainer, or kennel owner of any objections to the source, collection procedures, and documentation of the specimen. A person signing a specimen tag under this section must be at least 18 years of age and be licensed by the Commission. A trainer or kennel owner may not designate another trainer or kennel owner to witness the collection of the sample or to sign a specimen tag unless a trainer responsibility form has been executed. (Added eff. 8/14/89; (c) amended eff. 9/30/91; (a) amended eff. 11/22/91; (c) amended eff. 5/1/92; (c) amended eff. 2/1/95; (a) amended eff. 11/1/98; (a),(b),(c) amended eff. 3/1/03)

### **Sec. 319.333. Specimen Tags.**

(a) Each specimen obtained for testing must be marked for identification with a tag with multiple parts. A part of the tag must accompany the specimen to the testing laboratory and the commission veterinarian or test barn supervisor shall retain a part of the tag in a locked cabinet in the test barn or test area.

(b) The part of the tag that is sent with the specimen to the laboratory may contain only the date the specimen was obtained and a unique identification number assigned by the executive secretary. The part of the tag that is retained in the test barn or test area must contain:

- (1) the signature of the commission veterinarian or test barn supervisor;
- (2) the initials of each individual who collected the urine or serum;
- (3) the initials of the individual who processed the serum for split sampling;
- (4) the date the specimen was obtained;

- (5) the unique identification number;
- (6) the name of the race animal;
- (7) the signature of the witness if any; and
- (8) any other information required by the executive secretary. (Added eff. 8/14/89; (b) amended eff. 11/22/91; (a),(b) amended eff. 3/1/03)

### **Sec. 319.334. Delivery and Retention of Specimens.**

The commission veterinarian or test barn supervisor shall ensure that a specimen that is to be sent to a testing laboratory is delivered to the laboratory in a timely manner and by a method that ensures the integrity of the specimen. The courier service to be used by an association and the contract with that courier service is subject to the approval of the executive secretary. (Added eff. 8/14/89; (b) deleted eff. 11/22/91; amended eff. 11/1/98; amended eff. 3/1/03)

### **Sec. 319.335. Auditing and Approval of Testing Costs.**

(a) All charges for conducting tests under this subchapter must be audited and approved by the executive secretary before payment. The executive secretary shall audit the charges as to the reasonableness of the charges in accordance with industry standards for comparable testing procedures.

(b) Charges for conducting tests under this subchapter may include expenses incurred for travel, lodging, testing, and processing test results.

(c) On approval of the charges, the executive secretary shall forward a copy of the charges to the association for which the tests were conducted. (Added eff. 8/14/89; (a) amended eff. 11/22/91; (a), (c) amended eff. 11/1/98)

### **Sec. 319.336. Payment of Testing Costs.**

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

(b) Authority to Use Outstanding Tickets and Pari-mutuel Vouchers. An association may use

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money held by the association to pay outstanding tickets and outstanding pari-mutuel vouchers to pay for charges under this section. If the money held is insufficient to pay the charges, the association shall pay the remainder of the charges.

### (c) Accounting and Payment of Remainder.

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

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

(d) Pooling of Drug Testing Costs. The executive secretary may establish a procedure to pay drug testing costs by pooling the amounts held by all associations to pay outstanding tickets. If the amount held by an association does not cover the full costs of drug testing for that association, the executive secretary may pay those costs using funds paid to the Commission under Subsection (c)(1) of this section. (Added eff. 8/14/89; (a),(b) amended, (c), (d) added eff. 1/1/98; (c) amended eff. 11/1/98; (c), (d) amended eff. 11/12/03; (c) amended eff. 7/16/08)

### **Sec. 319.337. Interference with Testing Prohibited.**

A person may not interfere with the testing of a race animal, including interference in obtaining specimens, delivering specimens to a laboratory, delivering test results to the commission veterinarian or the commission, or any other procedure involved in conducting a test required by this subchapter. (Added eff. 8/14/89)

### **Sec. 319.338. Storage of Splits.**

(a) The commission veterinarian shall store the retained part of a specimen at a site approved by the executive secretary for the period required by this section. The split specimen shall be stored in

a manner that ensures the safety and integrity of the part.

(b) If the result of the initial test on a specimen is negative, the commission veterinarian's designee may discard the retained part of the specimen on receipt of the negative result. If the result of the initial test on a specimen is positive, the commission veterinarian's designee may discard the split specimen of the specimen after all appeals are exhausted and the disposition of the matter is final.

(c) The association at which a specimen is obtained shall pay all the costs of storage incurred under this section. (Added eff. 3/13/02; (a),(b) amended eff. 3/1/03)

## **Provisions for Horses**

### **Sec. 319.361. Testing of Horses.**

(a) The stewards shall order specimens collected for testing under this subchapter in accordance with this section.

(b) A specimen shall be collected from each horse that finishes first in a race.

(c) In addition to the horse designated under subsection (b) of this section, a specimen may be collected from the following horses:

- (1) a horse that finishes second;
- (2) a beaten favorite;
- (3) for a race with a gross purse of \$50,000 or more, the horse that finishes third;
- (4) a horse selected at random by the stewards; and
- (5) any other horse designated for cause by the stewards or the commission veterinarian. (Added eff. 8/14/89; (b), (c) amended eff. 10/11/90; (c) amended eff. 11/1/98)

### **Sec. 319.362. Split Specimen.**

(a) Before sending a specimen from a horse to a testing laboratory, the commission veterinarian shall determine whether the specimen is of sufficient quantity to be split. If there is sufficient quantity, the commission veterinarian or the commission veterinarian's designee

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shall divide the specimen into two parts. If the specimen is of insufficient quantity to be split, the commission veterinarian may require the horse to be detained until an adequate amount of urine can be obtained. If the commission veterinarian ultimately determines the quantity of the specimen obtained is insufficient to be split, the commission veterinarian shall certify that fact in writing and submit the entire specimen to the laboratory for testing.

(b) The commission veterinarian or commission veterinarian's designee shall retain custody of the portion of the specimen that is not sent to the laboratory. The veterinarian or designee shall store the retained part in a manner that ensures the integrity of the specimen.

(c) An owner or trainer of a horse which has received a positive result on a drug test may request, in writing, that the retained serum or urine, whichever provided the positive result, be submitted for testing to a Commission approved and listed laboratory that is acceptable to the owner or trainer. The owner or trainer must notify the executive secretary of the request not later than 48 hours after notice of the positive result. Failure to request the split within the prescribed time period will be deemed a waiver of the right to the split specimen.

(d) If the retained part of a specimen is sent for testing, the commission staff shall arrange for the transportation of the specimen in a manner that ensures the integrity of the specimen. The person requesting the tests shall pay all costs of transporting and conducting tests on the specimen. To ensure the integrity of the specimen, the split specimen must be shipped to the selected laboratory no later than 10 days after the day the trainer is notified of the positive test. Subject to this deadline, the owner or trainer of the horse from whom the specimen was obtained is entitled to be present or have a representative present at the time the split specimen is sent for testing.

(e) If the test on the split specimen confirms the findings of the original laboratory, it is a prima

facie violation of the applicable provisions of the chapter.

(f) If the test on the split specimen portion does not substantially confirm the findings of the original laboratory, the stewards may not take disciplinary action regarding the original test results.

(g) If an act of God, power failure, accident, labor strike, or any other event, beyond the control of the Commission, prevents the split from being tested, the findings of the original laboratory are prima facie evidence of the condition of the horse at the time of the race. (Added eff. 8/14/89; amended eff. 2/1/95; amended eff. 11/1/98; amended eff. 10/30/00; amended eff. 4/1/01; amended eff. 3/13/02)

### **Sec. 319.363. Testing for Total Carbon Dioxide.**

(a) Findings and Presumptions.

(1) the commission finds that a total carbon dioxide level of 37 millimoles per liter or more in equine serum can be achieved only through the administration, by any means, of a bicarbonate-containing substance or other alkalizing substance.

(2) a horse entered or participating in a race may not be administered a bicarbonate-containing substance or other alkalizing substance which causes it to carry in its body an excess level of total carbon dioxide.

(3) a positive finding by a chemist of total carbon dioxide level at or above 37 millimoles per liter in a race horse serum specimen is an excess level of total carbon dioxide and prima facie evidence that the race horse was administered a bicarbonate-containing substance or other alkalizing substance in violation of this section.

(b) Testing Authorized. Testing for total carbon dioxide is authorized as listed below:

(1) The executive secretary may implement a program to collect specimens from race horses and test the specimens for the presence of total carbon dioxide. In a program implemented under this section:

(A) Specimens may be collected on a

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random basis, including randomly selected race dates, randomly selected races, and randomly selected horses; and

(B) Specimens may be collected pre-race or post-race, or;

(2) The stewards or commission veterinarian may require a horse serum specimen to be taken from any race horse designated for cause by the stewards or commission veterinarian for the purpose of testing for total carbon dioxide.

(c) Split Specimen.

(1) the commission finds that the post-race time period during which total carbon dioxide may be detected in a specimen taken from a race horse is limited. Therefore, to provide a meaningful split specimen program, the testing of a split specimen for total carbon dioxide must occur contemporaneously with the testing of the original specimen.

(2) To ensure the owners and trainers of race horses selected for testing under this section are given the opportunity for a split specimen, the trainer of record for each horse from which a specimen is taken pursuant to this section shall declare in writing whether the trainer requests that the split specimen be tested or waives the right to have the split specimen tested. Failure to request the split specimen test at the test barn within 30 minutes after the post time of the last race for the performance is deemed a waiver of the right to the split specimen.

(3) The split specimen shall be sent for testing to a commission approved and listed laboratory that is acceptable to the trainer of record. The commission staff shall arrange for the transportation of the split specimen in a manner that ensures the integrity of the split specimen.

(4) The trainer of record requesting the split specimen shall pay all costs of transporting and conducting tests on the split specimen.

(5) If the test on the split specimen confirms the findings of the original laboratory, it is a prima facie violation of this section.

(6) if the test on the split specimen does not

substantially confirm the findings of the original laboratory, the stewards may not take disciplinary action regarding the test results.

(7) If an act of God, power failure, accident, labor strike, or any other event, beyond the control of the Commission, prevents the split from being tested, the findings of the original laboratory are prima facie evidence of the condition of the horse at the time of the test for total carbon dioxide.

(d) Conflict with Other Rules. To the extent that this rule conflicts with any other commission rule, this rule controls. (Added eff. 1/11/06; (a) amended eff. 3/20/08)

### Sec. 319.364. Testing for Androgenic-Anabolic Steroids.

(a) No androgenic-anabolic steroids shall be permitted in test sample collected from racing horses except for residues of the major metabolite of stanozolol, nandrolone, and the naturally occurring substances boldenone and testosterone at concentrations less than the indicated thresholds.

(b) Concentrations of these androgenic-anabolic steroids shall not exceed the following urine threshold concentrations for total (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):

(1) 16 $\beta$ -hydroxystanozolol (metabolite of stanozolol (Winstrol)) – 1 ng/ml in urine for all horses regardless of sex;

(2) Boldenone (Equipoise® is the undecylenate ester of boldenone) in male horses other than geldings – 15 ng/ml in urine. No boldenone shall be permitted in geldings or female horses.

(3) Nandrolone (Durabolin® is the phenylpropionate ester and Deca-Durabolin® is the decanoate ester)

(A) In geldings - 1 ng/ml in urine

(B) In fillies and mares – 1 ng/ml in urine

(4) Testosterone

- (A) In geldings – 20 ng/ml in urine
- (B) In fillies and mares – 55 ng/ml in urine

urine

(c) Any other anabolic steroids are prohibited in racing horses.

(d) Post-race urine samples must have the sex of the horse identified to the laboratory.

(e) Any horse to which an anabolic steroid has been administered in order to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the concentration has fallen below the designated threshold for the administered androgenic-anabolic steroids, the horse is eligible to be removed from the list. (Added eff. 3/22/09)

### Provisions for Greyhounds

#### Sec. 319.391. Testing of Greyhounds.

(a) Urine, blood, or other specimens shall be taken and tested from any greyhound designated by the racing judges, commission veterinarian, or a representative of the commission. A specimen shall be collected by the commission veterinarian or a designee of the commission veterinarian.

(b) A racing judge or the commission veterinarian may order a greyhound in a race to submit to a test of body fluid specimens to determine the presence of a prohibited drug, chemical, or other substance.

(c) Before sending a specimen from a greyhound to a testing laboratory, the commission veterinarian shall determine whether the specimen is of sufficient quantity to be split. If there is sufficient quantity, the commission veterinarian or the commission veterinarian's designee shall divide the specimen into two parts. The commission veterinarian or the commission veterinarian's designee shall retain custody of the portion of the specimen that is not sent to the laboratory. The commission veterinarian or commission veterinarian's designee shall store the split specimen in a manner that ensures the

integrity of the specimen. If the specimen is of insufficient quantity to be split, the commission veterinarian shall certify that fact in writing and submit the entire specimen to the laboratory for testing.

(d) The trainer or kennel owner for a greyhound that has tested positive for a prohibited drug, chemical, or other substance may request, in writing, that the split specimen, if any, be submitted for testing at a Commission-approved and listed laboratory. The trainer or kennel owner must notify the executive secretary of the request not later than 48 hours after notice of the positive test. Failure to request the split specimen be tested within the prescribed time period constitutes a waiver of the right to have the split specimen tested.

(e) If the split specimen is sent for testing, the commission staff shall arrange for transportation of the specimen in a manner that ensures the integrity of the specimen. To ensure the integrity of the specimen, the split specimen must be shipped within 10 days after the kennel owner is notified of the positive test. Subject to the deadline, the kennel owner is entitled to be present or have a representative present at the time the split specimen is sent for testing.

(f) If the test on the split specimen confirms the finding of the original laboratory, it is a prima facie violation of the applicable provisions of this chapter. If the test on the split specimen does not substantially confirm the findings of the original laboratory, the racing judges may not take disciplinary action regarding the original test results.

(g) If an act of God, power failure, accident, labor strike, or other event beyond the control of the Commission prevents the split specimen from being tested, the findings of the original laboratory are prima facie evidence of the condition of the greyhound at the time of the race. (Added eff. 8/14/89; (a), (b) amended eff. 10/11/90; (b) amended eff. 11/1/98; (c),(d) amended, (e),(f),(g) added eff. 3/13/02)

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until the correct information is obtained and verified. (Added eff. 4/1/01)

### **Sec. 321.27. Posting of Race Results.**

An association shall submit to the executive secretary for approval a plan for providing live and simulcast race results to the wagering public. The plan must include:

- (1) methods by which the results will be provided;
- (2) types of results to be provided; and
- (3) the retention period of the race results.

(Added eff. 4/1/01)

### **Division 3. Mutuel Tickets and Vouchers**

#### **Sec. 321.29. Mutuel Tickets.**

Each mutuel ticket issued must have printed on its face:

- (1) the name of the racetrack facility where the wager was placed;
- (2) the name of the racetrack where the race was conducted;
- (3) the number of the race;
- (4) the unique computer-generated ticket number;
- (5) the date the ticket was issued;
- (6) the date of the race for which the ticket was issued;
- (7) the number of the ticket-issuing machine;
- (8) the type of pool;
- (9) the number of each entry on which the wager was placed;
- (10) the dollar amount of the wager; and
- (11) the expiration date of the ticket.

(Added eff. 4/1/01; amended eff. XXXX).

#### **Sec. 321.31. Vouchers.**

Each voucher issued must have printed on its face:

- (1) the name of the racetrack facility where the voucher was issued;
- (2) the unique computer-generated voucher

number;

- (3) the date the voucher was issued;
- (4) the number of the ticket-issuing machine;
- (5) the dollar amount of the voucher; and
- (6) the expiration date of the voucher.

(Added eff. 4/1/01; amended eff. 7/16/08)

#### **Sec. 321.33. Expiration Date.**

(a) Mutuel tickets and vouchers issued on or after September 1, 2007, shall expire at the close of business one year from date of issuance.

(b) Mutuel tickets issued during the month of August 2007 shall expire at the close of business on September 29, 2008.

(c) Mutuel tickets issued prior to August 1, 2007, have expired in accordance with the Texas Racing Act.

(d) Vouchers issued prior to September 1, 2007, shall not expire. (Added eff. 4/1/01; amended eff. 11/12/03; amended eff. 10/4/05; amended eff. 7/16/08)

#### **Sec. 321.34. Refusal to Cash.**

(a) An association may refuse to cash a mutuel ticket if the association determines the ticket has been:

- (1) recorded as previously cashed or canceled;
- (2) issued after the stop betting command was issued; or
- (3) altered to appear as a winning ticket.

(b) An association may refuse to cash a voucher if the association determines the voucher has been:

- (1) recorded as previously cashed; or
- (2) altered to appear as an outstanding

voucher. (Added eff. 4/1/01)

#### **Sec. 321.35. Claim for Payment.**

(a) An association shall accept a claim for payment if the association has withheld payment or has refused to cash a pari-mutuel ticket or a voucher presented for payment. The claim must be made on a form prescribed by the association and signed by the claimant. The original of

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the claim shall be promptly forwarded to the Commission.

(b) If a claim is made for payment of a mutilated ticket that does not contain the information required under §321.29 of this title (relating to Mutuel Tickets), the association shall make a recommendation to accompany the claim forwarded to the Commission. The recommendation must state whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket.

(c) If a claim is made for payment of a mutilated voucher that does not contain the information required under §321.31 of this title (relating to Vouchers), the association shall make a recommendation to accompany the claim forwarded to the Commission. The recommendation must state whether or not the mutilated voucher has sufficient elements to be positively identified as an outstanding voucher.

(d) If a claim is made for the payment of a mutuel ticket or a voucher, the executive secretary shall investigate the claim and may:

- (1) order the association to pay the claim;
- (2) deny the claim; or
- (3) enter any other order the executive

secretary determines appropriate.

(e) A claim may not be made for a lost or destroyed mutuel ticket or voucher. (Added eff. 4/1/01; (a) amended eff. 10/4/05)

### **Sec. 321.36. Remittance of Unclaimed Outs and Vouchers.**

(a) Pursuant to the Act, §3.07, to pay the charges associated with the medication or drug testing, an association may use the money held by the association to pay outstanding tickets and pari-mutuel vouchers. If additional amounts are needed to pay the charges, the association shall pay those additional amounts. If the amount of outstanding tickets and pari-mutuel vouchers held exceeds the amount needed to pay the charges, the association shall pay the excess to the commission.

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

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

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

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

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

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

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

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

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

(d) The reports and payments submitted by the association are subject to audit by the Commission. (Added eff. 7/16/08)

### **Sec. 321.37. Cashed Tickets and Vouchers.**

(a) An association shall maintain facilities and use procedures that ensure the security of cashed tickets and vouchers and the integrity of records of outstanding tickets and outstanding vouchers.

(b) The association shall store cashed tickets and vouchers in a secure area.

(c) The association shall prohibit individuals other than the association's mutuel manager from having access to the cashed tickets and vouchers or to storage areas for outstanding ticket records and outstanding voucher records. (Added eff. 4/1/01;

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(a), (c) amended eff. 7/16/08)

### **Sec. 321.39. Altering Cashed Tickets and Cashed Vouchers.**

An association shall ensure that each cashed or refunded mutuel ticket and cashed voucher is altered in a manner that indicates the mutuel ticket or voucher has been cashed or refunded, but does not destroy the identity of the ticket or voucher.

(Added eff. 4/1/01)

### **Sec. 321.41. Cashing Outstanding Tickets.**

(a) For purposes of this section, an outstanding ticket is one that was purchased for a race held at least 21 days before the date the ticket is presented for payment.

(b) An association shall designate one ticket window where a patron must cash an outstanding ticket. If the association needs more than one window, the association must submit a written request for approval from the executive secretary for additional windows.

(c) The association may not permit an outstanding ticket to be cashed at a ticket window other than a designated window.

(d) At the end of each race day, the mutuel manager shall deliver to the pari-mutuel auditor:

(1) a list of the outstanding tickets that were cashed on the previous race day; and

(2) a photostatic copy of each outstanding ticket cashed on the previous race day.

(e) In the event a photostatic copy can not be provided, the association will not be held liable for a reader cashed ticket if the association can produce documentation to support the ticket's existence. (Added eff. 4/1/01; (a) amended eff. 7/16/08)

### **Sec. 321.42. Cashing Outstanding Vouchers.**

(a) For purposes of this section, an outstanding voucher is one that was issued at least 21 days before the date the voucher is presented for payment.

(b) An association shall designate one mutuel window where a patron must cash an outstanding

voucher. If the association needs more than one window, the association must submit a written request for approval from the executive secretary for additional windows.

(c) The association may not permit an outstanding voucher to be cashed at a mutuel window other than a designated window.

(d) At the end of each race day, the mutuel manager shall deliver to the pari-mutuel auditor:

(1) a list of the outstanding vouchers that were cashed on the previous race day; and

(2) a photostatic copy of each outstanding voucher cashed on the previous race day.

(e) In the event a photostatic copy can not be provided, the association will not be held liable for a reader cashed voucher if the association can produce documentation to support the voucher's existence. (Added eff. 7/16/08)

### **Sec. 321.43. Cancellation of Win Wagers.**

(a) An association may not cancel a win wager for more than \$500 on any live or simulcast race offered for wagering by the association, unless:

(1) the patron requests to cancel the wager before the patron leaves the teller's window and before the ticket-issuing machines are locked; or

(2) the stewards or racing judges order the wager to be canceled because of a scratch in the race.

(b) If a patron desires to cancel a wager that is on the same mutuel ticket as a win wager that may not be canceled under this section, the association may cancel the ticket but must immediately replace the win wager that was on the ticket.

(c) An association shall post a notice by each automatic ticket-issuing machine that states that a win wager for more than \$500 may not be canceled except if the stewards or racing judges order the wager to be canceled because of a scratch in the race.

(d) An association may adopt a house policy regarding the cancellation of win wagers that is more restrictive than this section, subject to the approval of the executive secretary.

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(e) The cancellation of wagers on self-serve wagering machines shall not be permitted except in accordance with the written policies established by the association and approved by the executive secretary.

(f) The mutuel manager shall be responsible for controlling all canceled wagers and ensuring that the association complies with the rules of this section. (Added eff. 4/1/01; (e), (f) added eff. 8/5/07)

### **Sec. 321.45. Teller's Records.**

Each pari-mutuel teller for an association shall retain and account for all mutuel tickets or vouchers cashed, refunded or canceled by the teller. (Added eff. 4/1/01)

## **Subchapter B. Totalisator Requirements and Operating Environment**

### **Division 1. Facilities and Equipment**

#### **Sec. 321.101. Purpose.**

A totalisator system can be relied upon only if it has an adequate system of internal controls. The Commission adopts these rules for totalisator companies and operations to increase the Commission's level of reliance on the totalisator employees, equipment, programming, maintenance, and operations in this state and to ensure all totalisator operations maintain the integrity of pari-mutuel wagering. (Added eff. 10/1/01)

#### **Sec. 321.103. Facility Requirements.**

(a) Totalisator Room. An association shall provide a totalisator room to house the main computing and communications equipment or the operator's terminal at the association's facility, whichever is applicable. The room must include:

(1) air conditioning with humidity control to maintain a stable environment that meets the specifications of the computer equipment manufacturer;

(2) a master power switch that allows all or part of the equipment housed in the room to be

turned off in an emergency;

(3) a smoke/fire alarm system that sounds locally and is tied into the association's master alarm system;

(4) fire extinguishers to deal with minor electrical fires;

(5) an internal communication system connecting the totalisator operator with:

(A) the stewards or racing judges;

(B) the mutuel manager;

(C) each betting line; and

(D) the pari-mutuel auditor's office; and

(6) a private outside line for communication with supervisors, programmers, or totalisator personnel at other sites.

(b) Totalisator Room at a Central Processing Location. An association may contract with a totalisator service that uses a central processing location off the association's grounds. The association shall:

(1) provide an on-site totalisator room that satisfies the requirements in subsection (a) of this section;

(2) ensure the totalisator central processing location satisfies the requirements of paragraphs (a)(1) through (a)(4) of this section; and

(3) ensure the totalisator central processing location has a communications system connecting the central processing location operator with:

(A) the totalisator operator at the association's facility; and

(B) a private outside line for the communication with supervisors, programmers, or totalisator personnel at other sites.

(c) Totalisator Room Security.

(1) The totalisator room housing the CPU or operator's terminal that processes wagers made at an association's facility must be secured at all times. Annually on a date established by the executive secretary, the association shall submit to the executive secretary for approval a security plan for the totalisator room housing the CPU or operator's terminal that processes wagers made at the association's facility. The security plan must

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