TEXAS RACING COMMISSION

Laws and Rules Governing Pari-Mutuel Racing in Texas

List of Replacement Pages

October 1, 2013

The current rulebook of the Texas Racing Commission consists of the Rulebook dated JANUARY 2013 and the following:

- List of Replacement Pages dated 10/1/2013

TEXAS RACING ACT

Pp. 17 - 18-B	Amendment – Sec. 2.15 Records (H.B. 1186, effective 9/1/2013)
Pp. 21 – 22	Amendment – Sec. 3.07 Officials of Race Meetings (H.B. 1187, effective 9/1/2013)

RULES OF RACING

Pp. 89 - 90-B	*Amendment* - Sec. 303.41 Allocation of Race Dates.
Pp. 107 - 108-B	*New Rule* - Sec. 307.8 Negotiated Rulemaking and Alternative Dispute Resolution.
Pp. 121 - 122	*Amendment* - Sec. 309.1(b) Racetrack Licenses.
Pp. 135 - 136	*New Rule* - Sec. 309.53 Ownership and Management Review of Active Racetrack Licenses.
Pp. 145 - 146-B	*Amendment* - Sec. 309.151 Change of Ownership, Board of Directors, or Management Committee
Pp. 163 - 166	*Amendment* - Sec. 309.355 Grading System
	Amendment - Sec. 309.359 Use of Lures in Training or Racing.
Pp. 171 - 174	*Amendment* - Sec. 311.5 License Fees
	Amendment - Sec. 311.6(b) Denial, Suspension, and Revocation of Licenses.
Pp. 177 - 186-B	*Amendment* - Sec. 311.102(d) Greyhound Owners.; and
	Amendment - Sec. 311.104(f) Trainers
	New Rule - Sec. 311.112 Equine Dental Provider
	New Rule - Sec. 311.217 Greyhound Training
Pp. 231 - 232-B	*New Rule* - Sec. 315.112 Ineligibility Due to Improper Greyhound Training

To maintain an updated rulebook, the above pages should be replaced. Please note that neither the Chapter Contents nor the Index is updated to reflect the above changes. The Act, the Rules, and revisions are available on the agency's website at www.txrc.state.tx.us. Notification of revisions may be received by providing an email address to info@txrc.state.tx.us. Please type **Rulebook Updates** in the subject line.

Important Disclaimer

The information presented here is offered as a convenience to the public and every effort has been made to ensure its accuracy. However, under state law, this does not constitute the official source for the Texas Racing Act or the Texas Racing Commission's rules.

The official source for the Commission's rules is the Texas Administrative Code, compiled and maintained by the Texas Secretary of State's office (www.sos.state.tx.us).

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Sec. 2.072. Repealed by Acts 2011, 82nd Legislature, HB 2271, Section 27, eff. Sept. 1, 2011.

Sec. 2.073. Grounds for Removal.

(a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Section 2.02, 2.04, or 2.05 of this Act;

(2) does not maintain during service on the commission the qualifications required by Section 2.02 or 2.05 of this Act;

(3) violates a prohibition established by Section 2.05, 2.071, or 2.072 of this Act;

(4) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive secretary has knowledge that a potential ground for removal exists, the executive secretary shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive secretary shall notify the next highest officer of the commission, who shall notify the governor and the attorney general that a potential ground for removal exists.

Sec. 2.074. Member Training.

(a) To be eligible to take office as a member of the commission, a person appointed to the commission must complete at least one course of a training program that complies with this section.

(b) The training program must provide information to the person regarding:

(1) the enabling legislation that created the commission;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

(6) the results of the most recent formal audit of the commission;

(7) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;

(B) open records law, Chapter 552, Government Code; and

(C) administrative procedure law, Chapter 2001, Government Code;

(8) the requirements of the conflict of interests laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the commission.

Sec. 2.08. Expenses.

Each appointed member of the commission is entitled to a per diem in an amount prescribed by legislative appropriation for each day spent in performing the duties of the office and is entitled to reimbursement for actual and necessary expenses incurred in performing those duties. Reimbursement for expenses under this section is subject to any applicable limitation in

the General Appropriations Act. The ex officio members are entitled to reimbursement for expenses from their respective agencies as provided by law for expenses incurred in the performance of their other official duties.

Sec. 2.09. Offices.

The commission shall maintain its general office in the City of Austin. The commission may also establish branch offices.

Sec. 2.10. Presiding Officer.

The governor shall designate a public member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

Sec. 2.11. Meetings of Commission.

(a) The commission shall hold at least six regular meetings each year on dates fixed by the commission. The commission shall adopt rules providing for the holding of special meetings.

(b) A majority of the commission constitutes a quorum.

(c) The commission shall keep at its general office a public record of every vote.

(d) The commission shall, by rule, develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Sec. 2.12. Executive Secretary; Employees.

(a) The commission shall employ an executive secretary and other employees as necessary to administer this Act.

(a-1) The commission and the executive secretary may use the title "executive director" for any purpose in referring to the office of the executive secretary.

(b) The commission may not employ or continue to employ a person:

(1) who owns or controls a financial interest in a licensee of the commission;

(2) who is employed by or serves as a paid consultant to a licensee of the commission, an official breed registry, or a Texas trade association, as defined by Section 2.071(c) of this Act, in the field of horse or greyhound racing or breeding;

(3) who owns or leases a race animal that participates in pari-mutuel racing in this state; or

(4) who accepts or is entitled to any part of the purse or Texas-bred incentive award to be paid on a greyhound or a horse in a race conducted in this state.

(c) The commission may not employ or continue to employ a person who is residentially domiciled with or related within the first degree by affinity or consanguinity to a person who is subject to a disqualification prescribed by Subsection (b) of this section.

(d) The commission shall employ the executive secretary and other employees to reflect the diversity of the population of the state as regards race, color, handicap, sex, religion, age, and national origin.

Sec. 2.13. Executive Secretary; Duties.

The executive secretary shall keep the records of the commission and shall perform other duties as required by the commission. The executive secretary serves at the pleasure of the commission on a full-time basis and may not hold other employment.

Sec. 2.14. Legal Representation.

The attorney general shall designate at least one member of the attorney general's staff to counsel and advise the commission and to represent the commission in legal proceedings. The attorney general shall make available to the appropriate prosecuting attorneys any information obtained regarding violations of this Act.

Sec. 2.15. Records.

(a) All records of the commission that (are not made confidential by other law are open

to inspection by the public during regular office hours. All applications for a license under this Act shall be maintained by the commission and shall be available for public inspection during regular office hours.

(b) The contents of the investigatory files of the commission are not public records and are confidential except in a criminal proceeding, in a hearing conducted by the commission, on court order, or with the consent of the party being investigated.

(c) The commission may share with another regulatory agency of this state any investigatory file information that creates a reasonable suspicion of a person's violation of a law or rule under that agency's jurisdiction. The agency may use the information as if it was obtained through that agency's investigatory process.

Sec. 2.16. Department of Public Safety Records.

(a) Except as otherwise provided by this Act, the files, records, information, compilations, documents, photographs, reports, summaries, and reviews of information and related matters that are collected, retained, or compiled by the Department of Public Safety in the discharge of its duties under this Act are confidential and are not subject to public disclosure, but are subject to discovery by a person that is the subject of the files, records, information, compilations, documents, photographs, reports, summaries, and reviews of information and related matters that are collected, retained, or compiled by the Department of Public Safety in the discharge of its duties under this Act.

(b) An investigation report or other document submitted by the Department of Public Safety to the commission becomes part of the investigative files of the commission and is subject to discovery by a person that is the subject of the investigation report or other document submitted by the Department of Public Safety to the commission that is part of the investigative files of the commission.

(c) Information that is in a form available to the public is not privileged or confidential under this section and is subject to public disclosure.

Sec. 2.17. Annual Accounting.

The commission shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

Sec. 2.18. Funds Paid to Commission.

All money paid to the commission under this Act is subject to Subchapter F, Chapter 404, Government Code.

Sec. 2.19. Employment Practices.

(a) The executive secretary or the executive secretary's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the commission. The program shall require intra-agency posting of all positions concurrently with any public posting.

(b) The executive secretary or the executive secretary's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for commission employees must be based on the system established under this subsection.

(c) The executive secretary or the executive secretary's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of

personnel that are in compliance with the requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission workforce that meets federal and state laws, rules, regulations, and instructions directly promulgated from those laws, rules, and regulations;

(3) procedures by which a determination can be made about the extent of underuse in the commission workforce of all persons for whom federal or state laws, rules, regulations, and instructions directly promulgated from those laws, rules, and regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(d) A policy statement prepared under Subsection (c) of this section must cover an annual period, be updated annually and reviewed by the Texas Commission on Human Rights for compliance with Subsection (c)(1) of this section, and be filed with the governor's office.

(e) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (d) of this section. The report may be made separately or as a part of other biennial reports made to the legislature.

Sec. 2.20. Standards of Conduct.

The executive secretary or the executive secretary's designee shall provide to members of the commission and to agency employees, as often as necessary, information regarding their qualification for office or employment under this Act and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 2.21. Division of Responsibility.

The commission shall, by rule, develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive secretary and the staff of the commission.

Sec. 2.22. Program and Facility Accessibility.

The commission shall comply with federal and state laws related to program and facility accessibility. The executive secretary shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs and services.

Sec. 2.23. Information to Public.

(a) The commission shall prepare information of public interest describing the functions of the commission and the procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies.

(b) The commission by rule shall establish methods by which racetrack patrons are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide for that notification:

(1) on every race performance program provided by each racetrack association; or

(2) on signs prominently displayed in the common public areas on the premises of each racetrack association.

Sec. 2.24. Complaint Handling.

(a) The commission shall keep information about each complaint filed with the commission. The information shall include:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all persons contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) for complaints for which the agency took no action, an explanation of the reason the complaint was closed without action.

(b) The commission shall keep a file about each written complaint filed with the commission that the agency has authority to resolve. The commission shall provide to the person filing the complaint and the persons or entities complained about the commission's policies and procedures pertaining to complaint investigation and resolution. The commission, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons

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supervised by three stewards for horse racing or by three judges for greyhound racing. The commission shall designate one of the stewards or judges as the presiding steward or judge for each race meeting. The association, following the completion of the race meeting, may submit written comments to the commission regarding the job performance of the stewards and judges for the commission's review. Comments received are not binding, in any way, on the commission. For each race meeting, the commission shall employ at least one state veterinarian. The commission may, by rule, impose a fee on an association to offset the costs of compensating the stewards, judges, and state veterinarians. The amount of the fee for the compensation of stewards, judges, and state veterinarians must be reasonable according to industry standards for the compensation of those officials at other racetracks and may not exceed the actual cost to the commission for compensating the officials. All other racetrack officials shall be appointed by the association, with the approval of the commission. Compensation for those officials not compensated by the commission shall be determined by the association.

(b) The commission shall make rules specifying the authority and the duties of each official, including the power of stewards or judges to impose penalties for unethical practices or violations of racing rules. A penalty imposed by the stewards or judges may include a fine of not more than $25,000, a suspension for not more than five years, or both a fine and suspension. Before imposing a penalty under this subsection, the stewards and judges shall conduct a hearing that is consistent with constitutional due process. A hearing conducted by a steward or judge under this subsection is not subject to Chapter 2001, Government Code. A decision of a steward or judge is subject to review by the executive director, who may modify the penalty. A penalty modified by the executive director under this section may include a fine not to exceed $100,000, a suspension not to exceed five years, or both a fine and a suspension. A decision of a steward or judge that is not reviewed or modified by the executive director is a final decision. Any decision of a steward or judge may be appealed under Section 3.08(a) of this Act regardless of whether the decision is modified by the executive director.

(c) The commission shall require each steward or judge to take and pass both a written examination and a medical examination annually. The commission by rule shall prescribe the methods and procedures for taking the examinations and the standards for passing. Failure to pass an examination is a ground for refusal to issue an original or renewal license to a steward or judge or for suspension or revocation of such a license.

(d) Medication or drug testing performed on a race animal under this Act shall be conducted by the Texas Veterinary Medical Diagnostic Laboratory or by a laboratory operated by or in conjunction with or by a private or public agency selected by the commission after consultation with the Texas Veterinary Medical Diagnostic Laboratory. Medication or drug testing performed on a human under this Act shall be conducted by a laboratory approved by the commission. Charges for services performed under this section shall be forwarded to the commission for approval as to the reasonableness of the charges for the services. Charges may include but are not limited to expenses incurred for travel, lodging, testing, and processing of test results. The reasonable charges associated with medication or drug testing conducted under this Act shall be paid by the association that receives the services. The commission shall adopt rules for the procedures for approving and paying laboratory charges under this section. The commission shall determine whether the laboratory charges are reasonable, in relation to industry standards by periodically surveying the drug testing charges of comparable laboratories in the United States. The commission shall forward a copy of the

charges to the association that receives the services for immediate payment.

(e) 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.

(f) The association is responsible for the cost of approved charges for animal drug testing services under this section. The commission shall adopt rules to allocate responsibility for the costs of human drug testing of a licensee.

(g) A steward or judge may exercise the supervisory authority granted the steward or judge under this Act or commission rule, including the performance of supervisory acts requiring the exercise of discretion, on any day.

Sec. 3.08. Appeal from Decision of Stewards or Judges.

(a) Except as provided by Subsection (b) of this section, a final decision of the stewards or judges may be appealed to the commission in the manner provided for a contested case under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(b) A decision of the stewards or judges on a disqualification for a foul in a race or on a finding of fact regarding the running of a race is final and may not be appealed.

Sec. 3.09. Funding.

(a) The comptroller shall deposit the state's share of each pari-mutuel pool from horse racing and greyhound racing in the General Revenue Fund.

(b) The commission shall deposit the money it collects under this Act in the State Treasury to the credit of a special fund to be known as the Texas Racing Commission fund. The Texas Racing Commission fund may be appropriated only for the administration and enforcement of this Act. Any unappropriated money exceeding $750,000 that remains in the fund at the close of each fiscal biennium shall be transferred to the General Revenue Fund and may be appropriated for any legal purpose. The legislature may also appropriate money from the General Revenue Fund for the administration and enforcement of this Act. Any amount of general revenue appropriated for the administration and enforcement of this Act in excess of the cumulative amount deposited in the Texas Racing Commission fund shall be reimbursed from the Texas Racing Commission fund not later than one year after the date on which the general revenue funds are appropriated, with 6¾ percent interest with all payments first attributable to interest.

Sec. 3.10. Annual Report.

The commission shall make a report to the governor, lieutenant governor, and speaker of the house of representatives not later than January 31 of each year. The report shall cover the operations of the commission and the condition of horse breeding and racing and greyhound breeding and racing during the previous year. The commission shall also obtain from the Department of Public Safety a comprehensive report of any organized crime activities in this state which the department may wish to report and information concerning any and all illegal gambling which may be known to exist in the state and shall include the report by the department in its report and shall include any recommendations it considers appropriate.

Sec. 3.11. Cooperation with Peace Officers.

The commission shall cooperate with all district attorneys, criminal district attorneys, county attorneys, the Department of Public Safety, the attorney general, and all peace officers in enforcing this Act. Under its authority to conduct criminal history information record checks under Section 5.04 of this Act, the commission shall maintain and exchange pertinent intelligence data with other states and agencies.

proposed race meeting; and

(9) the anticipated availability of race animals for the race meetings.

(g) The commission shall approve the actual days awarded, and the total number of performances. The commission may require a minimum number of races in a race meet.

(h) An association shall conduct pari-mutuel racing on each race date granted under this section, and in accordance with the race date calendar approved by the Commission, unless the association receives the prior approval of the executive secretary.

(i) If circumstances beyond the control of the association prevent the association from conducting a performance, the commission may award a make-up performance.

(j) Change in Race Date Allocation.

(1) The executive secretary may permit an association to request additional live race dates after its request under this section has been acted on by the commission if the executive secretary determines that:

(A) the request includes evidence that granting the additional live race dates will enhance the breeding and training industries for horses or greyhounds;

(B) the association's failure to request the live race dates initially was not due to the association's neglect; and

(C) if the request duplicates a request by the association that has already been denied by the commission, changed circumstances exist that necessitate additional consideration by the commission.

(2) An association may request a change to the live race dates granted by the commission provided the association obtains the approval of all associations that are affected by the proposed change. This subsection applies to any proposed change to the number or format of live race dates.

(3) The executive secretary may approve an association's request to add, delete, or modify live race dates, provided that the request:

(A) does not add any live race dates that are more than fourteen calendar days preceding the start of the Commission-approved race meet or more than fourteen days following the end of the Commission-approved race meet;

(B) is supported in writing by each breed organization affected by the change;

(C) is supported in writing by each association that is affected by the change; and

(D) in the case of a horse racing association, is supported in writing by the horsemen's organization.

(4) In determining whether to approve a request under this subsection, the executive secretary may consider the effect that approving the request would have on the workload and budget status of the Commission.

(5) For purposes of this subsection, an allocation of live race performances may be changed in the same manner as a change in the allocation of live race dates. (Added eff. 3/28/89; (c),(d),(e) added eff. 11/29/90; (a),(b) amended eff. 1/2/92; (f) added eff. 1/2/92; (a),(b),(c) amended eff. 9/1/93; (f) amended eff. 10/1/96; (b),(c),(e),(f) amended eff. 1/1/99; (d) amended eff. 5/6/04; (a)-(j) amended eff. 9/2/07; (j) amended eff. 9/19/13)

Sec. 303.42. Approval of Charity Race Days.

(a) An association shall conduct charity days as required by the Act. A greyhound association shall conduct at least five charity race days each year. A Class 1 or Class 2 horse racetrack shall conduct at least two and not more than five charity race days each year.

(b) An association shall apply to the commission not later than July 1 of each year for charity race dates to be conducted in the next calendar year. The application must be in writing and contain:

(1) the name of the charity;

(2) the name and address of each individual who serves as an officer or director of the charity or who owns an interest in the charity of 5% or more;

(3) a brief description of the activities or purposes of the charity; and

(4) a copy of an Internal Revenue Service letter of determination that qualifies the charity as an exempt organization for purposes of federal income tax.

(c) An association shall pay to the charity at least 2% of the total pari-mutuel handle generated at the association's racetrack on live races and imported simulcast races on the charity race day.

(d) At least one of the charity days must be conducted for a charity that directly benefits the persons who work in the stable or kennel area of the racetrack. At least one of the charity days must be conducted for a charity that primarily benefits research into the health or safety of race animals. (Added eff. 8/30/89; (a), (b), (c) amended eff. 1/2/92; (c) amended eff. 1/1/98; (d) amended eff. 1/1/99)

Sec. 303.43. Allocation of Live Race Dates for Class 1 Racetracks.

(a) The commission may not grant overlapping live race dates for the same breed of horse at Class 1 racetracks unless the overlapping is agreed to in writing by the affected Class 1 racetracks.

(b) For any year in which there are less than three Class 1 racetracks in Texas holding final non-appealable licenses, the commission shall allocate to each such racetrack at least 17 consecutive weeks of live thoroughbred racing and at least 17 consecutive weeks of live quarter horse racing, unless otherwise agreed to by the appropriate breed registry. Each week of live racing shall consist of a minimum of four consecutive race days. If a Class 1 racetrack informs the commission in writing that it does not desire the full number of weeks of racing for either breed, the commission may allocate the extra weeks to another racetrack. (Added eff. 12/10/92)

Subchapter C. Powers and Duties of the Comptroller of Public Accounts

Sec. 303.61. Power of Entry.

(a) The comptroller or a person authorized by the comptroller may enter an office, racetrack, or other place of business of an association at any time to inspect the the association's records required to be maintained by a rule of the commission.

(b) To assist the comptroller in gaining access to a place under this section, the commission may issue a subpoena under §303.33 of this title (relating to Subpoenas). (Added eff. 11/15/88)

Sec. 303.62. Records.

(a) An association or other person required by a rule of the commission to maintain records regarding the operation of a racetrack shall allow the comptroller or a person authorized by the comptroller to inspect the records.

(b) Failure to allow the comptroller or a person authorized by the comptroller to inspect a record in accordance with this section is grounds for disciplinary action by the commission. (Added eff. 11/15/88; amended eff. 1/1/99)

Sec. 303.63. Comptroller Rules.

If the comptroller adopts rules for the enforcement of the comptroller's powers and duties under the Act, a licensee's failure to comply with a rule of the comptroller is considered a violation of a rule of the commission and is grounds for disciplinary action by the commission. (Added eff. 11/15/88)

Subchapter D. Texas Bred Incentive Programs

Division 1 General Provisions

Sec. 303.81. Texas Bred Incentive Programs.

(a) The executive secretary shall administer the Texas Bred Incentive Programs established by the Act in a manner consistent with the purposes of the Act.

(b) Each official state breed registry designated in the Act shall develop a program, which is subject to the approval of the executive secretary, for distributing the funds available to

the registry for incentive awards. The executive secretary shall develop a system of communication with and reporting by the various state breed registries to ensure that the appropriate incentive awards are distributed in a timely fashion to the person who are entitled to receive the awards.

(c) The executive secretary shall use state-of-the-art information systems to administer the programs. (Added eff. 3/28/89; (b) amended eff. 1/2/92; (b) amended eff. 1/1/99)

Sec. 303.82. Bond Required.

The treasurer or chief fiscal officer of each official breed registry must be insured by a bond in an amount sufficient to ensure the integrity of the program administered through that breed registry. (Added eff. 3/28/89; amended eff. 1/1/99; amended eff. 9/9/02)

Sec. 303.83. Audits, Financial Statements and Performance Measures.

(a) An official breed registry shall expend the funds available to it under the Act in the manner required by law. The Commission may require or conduct an audit of the financial records of a breed registry to ensure the breed registry is complying with the applicable law.

(b) Not later than June 15 of each year, each breed registry designated by the Act shall submit

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CHAPTER 307. PROCEEDINGS BEFORE THE COMMISSION

Subchapter A. General Provisions

Sec. 307.1. Applicability.

This chapter provides the general procedures for instituting, conducting, and determining all matters within the Commission's jurisdiction. This chapter is not intended to enlarge, diminish, or alter the jurisdiction, powers, or authority of the Commission or the substantive rights of a person. The procedures in this chapter supplement any applicable procedures required by statute or another Rule. (Added eff. 1/1/02)

Sec. 307.2. Definitions.

The definitions in Government Code, Chapter 2001, apply to the Rules. (Added eff. 1/1/02)

Sec. 307.3. Types of Proceedings.

(a) A contested case proceeding is one in which the Commission is authorized or required by law to make a decision regarding the rights or privileges of a person after notice and hearing. Pursuant to Government Code, §2003.021, the executive secretary will refer all contested cases to the State Office of Administrative Hearings (SOAH) for a hearing. Examples of contested case proceedings are an administrative penalty issued by the executive secretary and an appeal from a stewards' or judges' ruling.

(b) A decision-making proceeding is one in which the Commission is authorized or required by law to make a decision regarding the rights or privileges of a person in open meeting, but without an evidentiary hearing. An example of a decision-making proceeding is the allocation of live race dates pursuant to the Act, §§8.01 and 10.01.

(c) A proceeding before the stewards or racing judges is one conducted pursuant to the Act, §3.07 or to authority granted by the Commission in the Rules.

(d) A rulemaking proceeding is one in which the Commission proposes or adopts a rule governing any matter within the Commission's jurisdiction. (Added eff. 1/1/02)

Sec. 307.4. Decision-Making Proceedings.

(a) Procedures. For each decision-making proceeding, the executive secretary may establish appropriate deadlines and procedures that are consistent with any applicable Rule relating to the specific proceeding. The procedures must ensure:

(1) reasonable notice to each affected licensee and industry organization;

(2) a reasonable opportunity for each affected licensee and industry organization to review relevant information presented to the Commission on the matter; and

(3) a reasonable opportunity for each affected licensee and industry organization to present information to the Commission on the matter.

(b) Staff Recommendations. The executive secretary may present a staff recommendation in a decision-making proceeding if the executive secretary determines a recommendation will assist the Commission in evaluating the information presented, drawing a conclusion, or making a decision. The executive secretary shall present a staff recommendation if requested by the Commission.

(c) Commission Action. Commission action in a decision-making proceeding must be made in open meeting in accordance with the open meetings law, Government Code, Ch. 551.

(d) Documentation of Decision. Each decision made by the Commission in a decision-making proceeding is documented by the transcript of each open meeting at which the issues involved in the proceeding are discussed or the decision is made. No written order of the Commission is required in a decision-making proceeding. The Commission or the executive secretary may issue a written statement clarifying a Commission decision in a decision-

making proceeding if the Commission or the executive secretary determines the statement will facilitate understanding of and compliance with the decision. (Added eff. 1/1/02)

Sec. 307.5. Special Provisions Regarding Racetrack License Applications.

(a) To the extent that Chapter 309 of this title (relating to Racetrack Licenses and Operations) conflicts with this chapter regarding application procedures for a license to operate a pari-mutuel racetrack, Chapter 309 controls.

(b) For each application, the executive secretary shall determine whether to refer the application to SOAH for a hearing. In making the determination, the executive secretary shall consider the expressed support and opposition to the application. For each application the executive secretary proposes should be denied, the executive secretary shall refer the application to SOAH for a hearing. (Added eff. 1/1/02)

Sec. 307.6. Probation.

(a) If the Commission, stewards, or racing judges suspend a license issued under the Act, the Commission, stewards, or racing judges may probate all or any portion of the suspension.

(b) The order or ruling entered placing a licensee on probation must state the specific probationary period and the terms and conditions of the probation.

(c) The terms and conditions of probation must have a reasonable relationship to the violation and may include:

(1) attending a prescribed number of hours in a specific area of study during the probationary period;

(2) passing a prescribed examination in a specific area of study;

(3) periodic reporting to the Commission, stewards, racing judges, or other designated person on any matter that is the basis of the probation;

(4) a medical evaluation and completion of a prescribed treatment program;

(5) cooperation with the Commission investigators and the Department of Public Safety in a specific investigation; and

(6) other terms and conditions specified in the order or ruling that are reasonable and appropriate.

(d) If the Commission, stewards, or racing judges determine the licensee has failed to comply with the terms and conditions of the probation, the probation may be revoked on three days notice to the licensee. (Added eff. 1/1/02)

Sec. 307.7. Ejection and Exclusion.

(a) The Commission, executive secretary, stewards, or racing judges, may order an individual ejected or excluded from an association's grounds in accordance with the Act if the Commission, executive secretary, stewards, or racing judges, determine that:

(1) the individual may be excluded or ejected under the Act, §3.16 or §13.01; and

(2) the individual's presence on association grounds is inconsistent with maintaining the honesty and integrity of racing.

(b) Not later than 20 days after notification of the exclusion or ejection is sent or served, a person ejected or excluded under this section may request a hearing pursuant to the Act, §13.02 and this chapter.

(c) If a person is excluded under this section, a race animal owned or trained by or under the care or supervision of the person is ineligible to be entered or to start in a race in Texas. (Added eff. 1/1/02; (b) amended eff. 6/1/02)

Sec. 307.8. Negotiated Rulemaking and Alternative Dispute Resolution.

(a) Policy. It is the Commission's policy to encourage the use of negotiated rulemaking and alternative dispute resolution procedures in appropriate situations.

(b) Negotiated Rulemaking. When the Commission finds that a rule to be proposed is likely to be complex, controversial, or affect disparate groups, the Commission may propose to engage in negotiated rulemaking in

accordance with Government Code, Chapter 2008.

(1) When negotiated rulemaking is considered, the Commission's general counsel, or designee, shall be the Commission's negotiated rulemaking convener.

(A) The convener shall assist in identifying persons who are likely to be affected by a proposed rule, including those who oppose issuance of a rule. The convener shall discuss with those persons or their representatives the factors provided in Government Code §2008.052(c).

(B) The convener shall then recommend to the Commission whether negotiated rulemaking is a feasible method to develop the proposed rule and shall report to the agency on the relevant considerations, including those listed in Government Code §2008.052(d).

(2) Upon the convener's recommendation to proceed, the Commission may initiate negotiated rulemaking according to the provisions of Government Code, Chapter 2008, including the appointment of the negotiated rulemaking committee's members under Government Code §2008.054.

(3) The executive secretary shall appoint the negotiated rulemaking committee's facilitator, subject to the requirements of Government Code §2008.055.

(c) Alternative Dispute Resolution. The Commission encourages the fair and expeditious resolution of disputes through alternative dispute resolution (ADR) procedures.

(1) ADR procedures include any procedure or combination of procedures described by Civil Practice and Remedies Code, Chapter 154. ADR procedures are intended to supplement and not limit other dispute resolution procedures available for use by the Commission.

(2) Any ADR procedure used to resolve disputes with the Commission shall conform with Government Code, Chapter 2009, and, to the extent possible, the model guidelines for the use of ADR issued by the State Office of Administrative Hearings (SOAH).

(3) Upon receipt of notice of a dispute, the Commission's executive secretary, in consultation with the Commission's general counsel, shall determine whether use of an ADR procedure is an appropriate method for resolving the dispute.

(4) If an ADR procedure is determined to be appropriate, the Commission's executive secretary shall recommend to the opposing party the use of ADR to resolve the dispute. The Commission's general counsel will collaborate with the opposing party to select an appropriate procedure for dispute resolution and implement the agreed upon procedure consistent with SOAH's model guidelines.

(5) ADR for Breach of Contract Claims. Resolution of breach of certain contract claims brought by a contractor against the Commission shall conform to the requirements of Government Code, Chapter 2260. The Commission adopts by reference the Office of the Attorney General's rules regarding the negotiation and mediation of certain contract disputes (1 Texas Administrative Code Part 3, Chapter 68).

(6) The requirements of Government Code, Chapter 2260, and the Office of the Attorney General's model rules are required prerequisites to a contractor filing suit in accordance with Civil Practices and Remedies Code, Chapter 107.

(d) The Commission's general counsel, or designee, shall coordinate the implementation of the policy set out in subsection (a) of this section in accordance with state law and provide necessary training. The Commission's general counsel, or designee, is designated as the coordinator to implement the Commission's policy under this rule, provide necessary training, and collect data concerning the effectiveness of the implemented procedures.
(Added eff. 5/30/13)

Subchapter B. Contested Cases

Sec. 307.31. Prehearing Procedures.

(a) Docketing. When a pleading to institute a contested case proceeding before the Commission is received, and it complies with the Rules as to form and content, the executive secretary shall docket the proceeding as pending, numbered in accordance with the docket numbering system of the Commission.

(b) Settlement. The executive secretary may attempt to settle any contested case proceeding

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CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

Subchapter A. Racetrack Licenses

Division 1. General Provisions

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. The Commission may suspend, revoke or change the designation of 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; (b) amended eff. 3/14/13)

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)

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.

facilities;

(D) securing Commission approval of the racing facility's construction plans;

(E) securing permits and utilities necessary for the construction of the racing facilities; and

(F) beginning and sustaining construction of the simulcasting or live racing facilities.

(e) Nonrenewal. The Commission may refuse to renew an inactive racetrack license if, after notice and a hearing, the Commission determines that:

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

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

(f) For purposes of this section, the Commission will consider, but is not limited to, the following factors as evidence that renewal of a license is not in the best interests of the racing industry or the public:

(1) the presence of any ground for denial, revocation, or suspension of a license under §6.06 or §6.0603 of the Act;

(2) forfeiture of any bond by an inactive racetrack license holder that was required by the Commission;

(3) failure by an inactive racetrack license holder to comply with any condition or order placed on the license by the Commission;

(4) failure to maintain the ownership or leasehold interest in the real property constituting the designated location; or

(5) any factor identified in §6.04(a) of the Act.

(g) The presence of any particular factor or factors under this section does not require the Commission to renew or refuse to renew an inactive racetrack license.

(h) Review Fees.

(1) Each inactive racetrack license must submit a review fee with its application for renewal. The review fee is composed of a variable processing charge. The processing charge is the amount needed by the Commission to cover the administrative and enforcement costs of processing the request for renewal, including any costs associated with processing a hearing at the State Office of Administrative Hearings. A license holder must pay the initial review fee contemporaneously with filing the application for renewal. The Commission shall hold the review 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 actual cost to the Commission of processing the request exceeds the amount deposited for the applicable charge, the requestor 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 request are less than the amount of the charge, the Commission shall refund the excess not later than 10 business days after the Commission's decision on the request becomes final.

(2) The initial review fee for an inactive racetrack license is $5,000. If the Commission refers an application to the State Office of Administrative Hearings under subsection (a) of this section, the applicant for renewal shall submit an additional $50,000 review fee within 30 days of the referral. (Added eff. 8/9/2012)

309.53. Ownership and Management Review of Active Racetrack Licenses

(a) Scheduling of review.

(1) Except as otherwise provided in this subsection, an association holding a racetrack license designated as "Active-Operating" or "Active-Other" shall be subject to an ownership and management review in calendar year 2013.

(2) An association that undergoes or has undergone an ownership and management review in connection with a change of controlling interest during 2008 or any subsequent year shall be subject to review under this section in the year beginning five years after the Commission approved the change in controlling interest.

(3) An association which receives its original license during or after calendar 2013 shall be subject to review under this section in the year beginning five years after its date of original licensure.

(b) Submission requirements. Not later than June 30 of the year in which an association is subject to review, the association shall submit to the Commission:

(1) copies of its current management, concession, and totalisator contracts;

(2) a copy of its current security plan;

(3) for each person owning an interest of at least five percent of the association and for each officer, director, or management committee member who is not currently licensed as an Association Officer or Director by the Commission:

(A) a completed background information form and written authorization for the Commission and the Department of Public Safety to conduct any investigation deemed necessary; and

(B) a set of fingerprints on a form prescribed by the Department of Public Safety, or if the person already has a set of fingerprints classified and on file with the Department of Public Safety, authorization to resubmit those fingerprints to the Federal Bureau of Investigation and the Department of Public Safety for investigation;

(4) a review fee of $5,000, to be held by the Commission in the state treasury in a suspense account until the review is complete or transferred to the Texas Racing Commission Fund as costs are incurred; and

(5) any other information required by the Commission.

(c) Commission Review.

(1) The executive secretary shall prepare a report for the Commission's review summarizing:

(A) the information provided by the association under this section or under Section 309.152 of this title (relating to Records);

(B) the Commission's inspection reports from the prior five years;

(C) the results of any inspections or investigations conducted by the Commission as part of the review; and

(D) any other information relevant to the ownership or management of the association.

(2) The executive secretary will separately provide to the Commission the results of any background investigations conducted by the Department of Public Safety.

(3) At the conclusion of each review, the Commission:

(A) may take any action authorized under the Act or the Rules; and

(B) shall schedule the next ownership and management review of the association's license.

(d) Reconciliation of costs. Upon completion of the review, the Commission shall determine its total cost of processing the review, including its administrative costs and any investigative costs that are reimbursable to the Department of Public Safety.

(1) If the actual cost to the Commission of processing the review exceeds the amount of the review fee paid by the association, the Commission shall bill the association for any additional amount, to be paid not later than 30 days after receipt of a bill from the Commission.

(2) If the actual cost to the Commission of processing the review is less than the amount of the review fee paid by the association, the Commission shall refund the excess not later than 30 business days after the Commission's decision on the review becomes final. (Added eff. 5/30/13)

Subchapter B. Operation of Racetracks

Division 1. 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 racetrack 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 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

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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 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.

(d) The transfers of pecuniary interests in an association described by this subsection are considered to have the prior approval of the Commission, subject to the right of the Commission to object to the transfer after it is informed of the transfer and has performed any background investigation required by the Commission or the Department of Public Safety. Not later than 10 days after the effective date of a transfer to which this subsection applies, the transferee shall submit to the Commission information regarding the transfer on a form prescribed by the Commission and the Department of Public Safety. If the transferee is not an individual, the form required by this subsection must be submitted for all officers, directors, partners, and members of any management committee of the transferee. The following transfers are considered to have the prior approval of the Commission in accordance with this subsection:

(1) a transfer to an exempt institutional investor of a direct or indirect beneficial ownership interest or a warrant or other option to buy a direct or indirect beneficial ownership interest in an association provided:

(A) following the transfer, the exempt institutional investor owns, directly or indirectly, less than 10% of the total beneficial ownership interests in the association; and

(B) if the transfer results in the investor holding 5.0% or more of the total beneficial ownership interests in the association, the exempt institutional investor provides to the Commission, not later than 10 days after the

transfer, a copy of the investor's most recent annual report or, if the report is not available, a copy of the investor's most recent audited financial statements; and

(2) a transfer to any person of a direct or indirect beneficial ownership interest or a warrant or other option to buy a direct or indirect beneficial ownership interest in an association provided that the interest transferred is less than 1% or, following the transfer, the person owns, directly or indirectly, less than 5.0% of the total beneficial ownership interests in the association, and:

(A) the interest was transferred after having been registered under the Federal Securities Act of 1933; or

(B) the individual transferee or each individual with a direct or indirect interest in the transferee has submitted:

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

(ii) if requested by the Department of Public Safety, a set of fingerprints in a form approved by the Department.

(3) notwithstanding paragraph (2) of this subsection, a transfer to any person of a direct or indirect beneficial ownership interest or a warrant or other option to buy a direct or indirect beneficial ownership interest in an association is not considered to be preapproved if the transfer:

(A) will result in a change in the control of the association; or

(B) will result in the transferee's total beneficial interest increasing from less than 5.0% to 5.0% or more.

(4) Upon receipt of the background report from the Department of Public Safety or verification by the Department that no further background check will be required, the executive secretary shall notify the association within 10 days as to whether a transfer under this subsection should be considered approved or whether the executive secretary will seek further review by the Commission.
(Added eff. 10/21/99; (b) amended eff. 1/8/04; (d) amended eff. 9/19/13)

Sec. 309.152. Records.

(a) An association shall maintain records regarding the management and operation of the racetrack for which the association is licensed.

(b) The records must be maintained on the association grounds.

(c) Not later than June 15 of each year, an association shall submit audited financial statements to the Commission regarding the management and operation of the racetrack. The executive secretary may prescribe a form on which the financial information must be submitted to the Commission.

(d) The executive secretary may require an association to submit a balance sheet and profit and loss statements, not later than five business days after making the request, to determine whether the association continues to be financially viable and capable of performing the duties of an association. (Added eff. 10/21/99)

Sec. 309.153. General Security.

(a) An association shall secure the peaceful use of the association grounds by providing security personnel that is adequate in number and training. The number of security personnel and the level of training required for security personnel is subject to the approval of the executive secretary. All security personnel, including peace officers providing security services to the association, must be individually licensed by the Commission.

(b) On request by the executive secretary, an association shall provide proof of adequate liability insurance for the racetrack. (Added eff. 10/21/99; (b) amended eff. 1/8/04)

Sec. 309.154. Stable or Kennel Area.

(a) An association shall provide continuous security service in the stable or kennel area:

(1) at a horse racetrack, for the period beginning 10 days before the first day of a race meeting and ending 10 days after the last day of a race meeting unless otherwise approved by the executive secretary; and

(2) at a greyhound racetrack, at any time that a greyhound is housed in the area.

(b) An association shall ensure that the stable or kennel area is fenced in a manner that prohibits an individual from crawling under or over the fence.

(c) An association shall prohibit an individual from entering or being present in the stable or kennel area unless the person displays a license badge issued by the Commission which authorizes the individual to have access to the stable or kennel area or a temporary pass issued by the association. (Added eff. 10/21/99; (b),(c) amended eff. 1/8/04)

Sec. 309.155. Stable/Kennel Area Visitors Pass.

(a) An association may issue a visitor's pass to a person to enter the stable or kennel area in accordance with this section. The association security staff shall maintain a log showing the date, name of visitor, pass number, and the person granting the pass and the person's Commission license number. A person to whom a visitor's pass has been issued shall display the pass on the person's clothing at all times that the person is in the stable or kennel area.

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(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 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 of any age 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 regrade a greyhound that finishes second, third, or fourth in a maiden or a Grade J race to Grade D or 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 greyhound fails to finish in the top four positions in four consecutive starts for a second time in the same race meeting, at the discretion of the racing secretary, that greyhound may requalify again; however, when the greyhound returns to the active list, that greyhound has two consecutive starts to finish in the top four positions. If the greyhound fails to do so, then that greyhound shall be dropped from further racing during the current race meeting.

(h) A greyhound that falls in a race is considered a starter in that race and shall comply with the conditions set forth in subsection (d) of this section, unless lowering the greyhound would require the greyhound to be dropped from further racing in that race meeting.

(i) For a greyhound that transfers to the racetrack from another racetrack during a race meeting, the racing secretary shall assign a grade that is appropriate for the greyhound's ability considering the competition at the racetrack and at the racetrack from which the greyhound transfers.

(j) The racing secretary may regrade a greyhound that has not raced for at least 30 days.

(k) During a greyhound's first three starts, the racing secretary may regrade the greyhound only once and only to a next higher or lower grade level.

(l) The racing secretary may schedule up to eight mixed grade races each week. The racing judges may approve additional mixed grade races each week if there will otherwise be an insufficient number of greyhounds on the active list to complete the scheduled performances. A mixed grade race must be designated by the letter "T" in the racing program.

(m) A stake race must be designated by the letter "S" in the racing program.

(n) An association may not require a kennel owner to furnish a greyhound of a specific grade or for a specific distance.

(o) If a maiden fails to finish in the top four positions in six consecutive starts, the maiden may not race again at the race meeting until it requalifies. If the maiden fails to finish in the top four positions in the two starts after requalifying, the maiden may not race again at the race meeting. (Added eff. 10/21/99; (l) amended eff. 4/1/01; (g) amended eff. 5/6/04; (c), (f) amended eff. 1/5/10; (l) amended eff. 9/19/13)

Sec. 309.356. Draw and Post Position Assignment.

(a) An association shall draw the entries and assign post positions at random.

(b) An association shall adequately post the date and time for drawing entries and assigning post positions to permit the kennel owners or trainers to attend.

(c) An association may not draw the entries and assign post positions unless a kennel owner or trainer and a racing judge are present.

(d) Immediately after drawing the entries for a performance, the association shall publish a list of the greyhounds not drawn. The association shall post the list in a place available for viewing by kennel owners and trainers. In drawing the entries for the next performance, the association shall give priority to the greyhounds on the list. The association shall

maintain on the list a balance of greyhounds in different grades. (Added eff. 10/21/99)

Sec. 309.357. Schooling.

(a) An association shall use standard schooling procedures.

(b) An association shall provide:

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(1) unlimited unofficial schooling at least two mornings per week; and

(2) unlimited official schooling at least two nights per week.

(c) The association may not conduct an official schooling race unless at least two racing judges are present at least 30 minutes before the start of the race and during the race. (Added eff. 10/21/99)

Sec. 309.358. Racing Restricted.

An association may not permit a greyhound, other than a greyhound entered in a stake race, to race or be schooled on association grounds unless the greyhound is permanently housed on association grounds. (Added eff. 10/21/99)

Sec. 309.359. Use of Lures in Training or Racing.

(a) An association may not permit the use of a live or dead animal or fowl for training or racing purposes on association grounds. This subsection does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public.

(b) An association may not permit a greyhound to be kenneled or to race on association grounds if the association knows or can reasonably be expected to know that the greyhound was trained in a state that by statute or rule does not prohibit the knowing use of live lures.

(c) An association may not permit a greyhound to be kenneled or to race on association grounds if the association knows or can reasonably be expected to know that the greyhound has been banned from pari-mutuel racing by any racing jurisdiction. (Added eff. 10/21/99; (a) amended and (c) added eff. 5/30/13)

Sec. 309.360. Marathons.

(a) A race that is more than three-eighths of a mile long is considered a marathon.

(b) An association may schedule a marathon race only when the kennel owners or trainers enter with the racing secretary a sufficient number of greyhounds that are capable of running the distance. (Added eff. 10/21/99)

Sec. 309.361. Greyhound Purse Account and Kennel Account.

(a) Greyhound Purse Account.

(1) All money required to be set aside for purses, whether from wagering on live races or simulcast races, are trust funds held by an association as custodial trustee for the benefit of kennel owners and greyhound owners. 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 a greyhound purse account maintained in a federally or privately insured depository.

(2) The funds derived from a simulcast race for purses shall be distributed during the 12-month period immediately following the simulcast.

(b) Kennel Account.

(1) An association shall maintain a separate bank account known as the "kennel account". The association shall maintain in the account at all times a sufficient amount to pay all money owed to kennel owners for purses, stakes, rewards, and deposits.

(2) Except as otherwise provided by these rules, an association shall pay the purse money owed from a purse race to those who are entitled to the money not later than 10 days after the date of the race and from a stakes race to those who are entitled to the money immediately after the executive secretary advises the association that all of the qualifying rounds and the final race have been cleared for payment.

(c) The Texas Greyhound Association ("TGA") 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.

(d) If an association fails to run live races during any calendar year, all money in the greyhound purse account may, at the discretion of the TGA, be distributed as follows:

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

(2) second, subject to the approval of the TGA, transfer after the above mentioned calendar year period of the balance in the purse account to the purse account for one or more other association.

(e) 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 greyhound purse account shall be distributed as follows:

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

(2) second, retroactive pro rata payments to the kennel owners; and

(3) third, subject to the approval of the TGA, transfer within 120 days after cessation of live racing of the balance in the greyhound purse account to the greyhound purse account for one or more other associations.

(f) Administration of Accounts.

(1) An association shall employ a bookkeeper to maintain records of the greyhound purse account and the kennel account.

(2) The Commission may at any time inspect, review or audit any and all transactions relating to the greyhound purse account and the kennel account. (Added eff. 10/21/99; Repealed and replaced eff. 6/1/00; (b) amended eff. 3/13/02)

Sec. 309.362. Number of Greyhounds.

An association may not permit more than eight greyhounds to start in a race. (Added eff. 10/21/99)

Sec. 309.363. Official Program.

(a) For each race day, an association shall prepare and print an official program. The official program must contain the order of the races on that day, the distance and track record for each race, and the names of the greyhounds scheduled to run in each race, in order of their post positions. The post positions must be designated by numbers placed at the left and in line with the names of the greyhounds.

(b) The official program must contain at least two past performances for each greyhound scheduled to race. The program must also contain, for each greyhound scheduled to race:

(1) the name;

(2) color;

(3) sex;

(4) date of whelping;

(5) breeding;

(6) established racing weight;

(7) number of starts in official races;

(8) number of times finishing first, second, and third;

(9) name of owner and lessee, if applicable;

(10) name of trainer; and

(11) the Texas-bred emblem if the greyhound is an accredited Texas-bred; and

(12) other information to enable the public to properly judge the greyhound's ability.

(c) If the name of a greyhound is changed, the new name, together with the former name, shall be published in the official entries and program until after the greyhound has started six times under the new name. (Added eff. 10/21/99; (b) amended eff. 1/5/10)

Sec. 309.364. Identification System.

(a) An association shall maintain a card index system or identification for each greyhound racing for the association. An association may not permit a greyhound to be housed on association grounds unless the greyhound is identifiably tattooed in each ear.

(b) Each bertillion card must be legible and thoroughly identifiable for each greyhound. The card must show:

(1) the name of the kennel; and

(2) the color, sex, tattoo identifications located in each ear, and characteristic markings, scars, and other identification features of the greyhound.

(c) The paddock judge shall maintain the bertillion cards. For each greyhound removed from association grounds, the paddock judge shall maintain the bertillion card for the greyhound in an inactive file for the six-month period after the date of the greyhound's removal. (Added eff. 10/21/99)

three years prior to renewal;

(B) provide a new set of fingerprints for classification by the Federal Bureau of Investigation; or

(C) if the applicant's original fingerprints are classified and on file with the Department of Public Safety, the applicant must pay a processing fee of to resubmit the original fingerprints in lieu of submitting another set of fingerprints under paragraph (6) of this subsection. The processing fee shall be equal to the amount necessary to reimburse the Department of Public Safety for obtaining criminal history records under subsection (b) of this section.

(5) If an applicant for a license or license renewal is required to submit fingerprints under this section, the applicant must also submit a fingerprinting fee and a processing fee equal to the amounts necessary to reimburse the Commission and the Department of Public Safety for obtaining criminal history records under subsection (b) of this section.

(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; (a) amended eff. 12/8/11); (a) amended eff. 5/6/12; (a) amended eff. 9/5/12; (a) amended eff. 1/10/13)

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 (d) of this section.

(b) A license fee paid at a racetrack or at the Commission's headquarters 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 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) Association Employees. Association employees in the following occupations must hold valid licenses issued by the Commission to work on association grounds:

(1) Adoption Program Personnel--A person employed by a greyhound association to work with an adoption program.

(2) Announcer--A person employed to announce races.

(3) Assistant Starter--A person employed to perform duties required by the Starter at the starting gate of a horse racetrack.

(4) Association Management Staff--A person employed to manage a department and who has the authority to hire or fire other employees or whose recommendations as to hiring and firing decisions are given particular weight.

(5) Association Officer/Director--A person employed as an officer of an association or who serves on an association's board of directors or management committee.

(6) Association Staff (with Access to Backside or Secured Areas)--A person employed to provide various services on the backside or in areas of a racetrack that are required by the Commission to be secured. These services may include, but are not limited to, clerical, accounting, admissions, food service, housekeeping, and general maintenance.

(7) Association Veterinarian--A person employed to provide veterinary services for greyhounds.

(8) Law Enforcement--A person employed as a security officer who is commissioned as a Texas peace officer.

(9) Lead Out--A person employed to lead greyhounds in the post parade to the starting box.

(10) Maintenance--A person employed to work or maintain the racetrack.

(11) Medical Staff--A person employed directly by the association to provide medical assistance.

(12) Mutuel Clerk--A person employed to work at the betting windows.

(13) Mutuel Other--A person employed in the mutuel department in a capacity other than mutuel clerk.

(14) Racing Official--A person employed to act as an official under Chapter 313 of this Title (relating to Officials and Rules of Horse Racing) or Chapter 315 of this Title (relating to Officials and Rules for Greyhound Racing).

(15) Security Officer--A person employed to provide security for the racetrack grounds.

(16) Test Technician--A person employed to collect blood and urine samples and provide other services in the test barn or testing area.

(17) Test Barn Escort--A person employed to lead horses from the finish line to the test barn for post race testing.

(18) Valet--A person employed to assist jockeys with their tack and silks in the jockeys' rooms.

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

Type of License	1 Year Fee	2 Year Fee	3 Year Fee
Adoption Program Personnel	$ 25		
Announcer	$ 35		
Apprentice Jockey	$ 75		
Assistant Farrier/Plater/Blacksmith	$ 25		
Assistant Starter	$ 25		
Assistant Trainer	$ 100		
Assistant Trainer/Owner	$ 100		
Association Assistant Management	$ 50		
Association Management Personnel	$ 75		
Association Officer/Director	$ 100		
Association Other	$ 75		
Association Staff	$ 35		
Association Veterinarian	$ 75		
Authorized Agent	$ 15		
Chaplain	$ 25		
Chaplain Assistant	$ 25		
Equine Dental Provider	$100		
Exercise Rider	$ 25		
Farrier/Plater/Blacksmith	$ 75		
Groom/Hot Walker	$ 25		
Jockey	$ 100	$ 200	$ 300

Jockey Agent	$ 100		
Kennel	$ 75		
Kennel Helper	$ 25		
Kennel Owner	$ 100	$ 200	$ 300
Kennel Owner/Owner	$ 100	$ 200	$ 300
Kennel Owner/Owner	$ 100	$ 200	$ 300
Kennel Owner/Owner/Trainer	$ 100	$ 200	$ 300
Kennel Owner/Trainer	$ 100	$ 200	$ 300
Lead-Out	$ 25		
Maintenance	$ 35		
Medical Staff	$ 35		
Miscellaneous	$ 25		
Multiple Owner	$ 35	$ 70	$ 105
Mutuel Clerk	$ 35		
Mutuel Other	$ 35		
Owner	$ 100	$ 200	$ 300
Owner-Trainer	$ 100	$ 200	$ 300
Pony Person	$ 25		
Racing Industry Representative	$ 100		
Racing Industry Staff	$ 30		
Racing Official	$ 50		
Security Officer	$ 30		
Stable Foreman	$ 50		
Tattooer	$ 100		
Test Technician	$ 25		
Tooth Floater	$ 100		
Trainer	$ 100	$ 200	$ 300
Training Facility Employee	$ 30		
Training Facility General Manager	$ 50		
Valet	$ 25		
Vendor Concessionaire	$ 100		
Vendor/Concessionaire Employee	$ 30		
Vendor/Totalisator	$ 500		
Vendor/Totalisator Employee	$ 50		
Veterinarian	$ 100	$ 200	$ 300
Veterinarian Assistant	$ 30		

(Added eff. 10/21/99; (b) amended eff. 6/1/01(c) amended eff. 5/10/04; (b) amended eff. 9/8/04; amended eff. 8/1/09; (c) amended eff. 3/6/12; (d) amended eff. 1/10/13; (d) amended eff. 7/11/13)

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

(a) Applicability.

(1) After notice and hearing in accordance with Chapter 307of 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);

(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, racing animals, or to the racing industry. (Added eff. 10/21/99; (a),(b) amended eff. 1/8/04; (b) amended eff. 5/30/13)

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)

Division 2. 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 (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.

parties to the transaction shall give written notice of the transfer to the racing judges 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 greyhound to avoid disqualification of the greyhound.

(c) Emergency License.

(1) If an owner is unable to complete an application for an owner's license because of absence or illness, the licensed trainer desiring to enter a greyhound in a race may apply for an emergency owner's license on behalf of the absent owner.

(2) The trainer applying for an emergency owner's license on behalf of an absent owner must submit a written statement with the license application specifying the reasons the owner is unable to complete the application.

(3) The trainer applying for an emergency owner's license must submit at least the following information: the owner's full name, home or business address, telephone number, and social security number. At the time of application, the appropriate licensing fee must be paid to the Commission. Failure to provide all of the foregoing information is grounds for denial of an emergency owner's license.

(4) If an owner submits an incomplete application for an owner's license, the application will remain in pending status until:

(A) the owner submits any additional information required to process the application;

(B) the application expires in accordance with the term of the applied-for license; or

(C) a greyhound is entered in the owner's name or in the name of a multiple owner of which the owner is a member, in which case the pending license will be presumed to be a request for an emergency license.

(5) A license issued under this section expires on the 21st day after the date the emergency owner's license is issued. An owner may obtain only one emergency license per year. An emergency license cannot be issued if the owner failed to complete the prior licensing process.

(d) Restrictions on Racing. An owner may not enter a greyhound or cause a greyhound to be entered in a race at a racetrack if:

(1) the owner knows or can reasonably be expected to know that the greyhound was trained using a live or dead animal or fowl as a lure in this state or out of this state. This paragraph does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public;

(2) the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack; or

(3) the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds. (Added eff. 10/21/99; (a),(c) amended eff. 1/8/04; (a),(c) amended eff. 3/20/08; (c) amended eff. 3/1/13; (d) amended eff. 5/30/13)

Sec. 311.103. Kennel Owners.

(a) Designation of Representative. If a kennel owner is not the trainer of the greyhounds in the kennel, the kennel owner must:

(1) designate a trainer to be responsible for greyhounds; and

(2) shall notify the racing judges of the designation.

(b) Kennel Employees.

(1) A kennel owner shall identify to the Commission licensing office all individuals employed by the kennel to work on association grounds. No later than 24 hours after a change in personnel occurs, the kennel owner shall notify the Commission licensing office of the change.

(2) An individual who is licensed to work for a kennel owner is not permitted in the kennel area on association grounds unless the licensee is employed by and doing work for a kennel owner on the association grounds. An individual in the kennel area who is not in the employ of and doing work for a kennel owner may be ejected from the kennel area.

(c) Owner Suspended. A kennel owner may not retain a greyhound in the kennel owner's care and custody if the Commission has suspended or revoked the license of the owner of the greyhound.

(d) Use of Texas-Bred Greyhounds.

(1) Except as otherwise provided by this section, a kennel owner shall ensure that at least 20% of the greyhounds on the active list of the kennel are accredited Texas-bred greyhounds.

(2) During the first two years in which a kennel is under contract with an association, the kennel owner shall ensure that the following percentage of the greyhounds on the active list are accredited Texas-bred greyhounds:

(A) for the first year, 5.0%; and

(B) for the second year, 10%.

(3) The racing secretary of an association shall maintain the records necessary to enforce this section. If the racing secretary determines that a kennel owner is in violation of this section, the racing secretary shall notify the racing judges. The racing judges may take disciplinary action against the kennel owner, including requiring the kennel owner to take the necessary action to achieve the appropriate percentages.

(e) Restrictions on Placement in Kennels. A person who owns an interest in a kennel booked at one Texas racetrack may not:

(1) own an interest in another kennel booked at that racetrack;

(2) be residentially domiciled with a person who owns an interest in another kennel booked at that racetrack; or

(3) own an interest in a greyhound that is racing out of another kennel booked at that racetrack.

(f) Breeding farm inspection reports. Upon request of the executive secretary, a kennel owner shall provide a copy of the report of the most recent inspection conducted by the National Greyhound Association for the breeding farm from which each greyhound was whelped. (Added eff. 10/21/99; (d) amended eff. 4/1/01; (e) amended eff. 1/1/02; (f) added 3/13/02; (e) amended eff. 5/6/12)

Sec. 311.104. Trainers.

(a) Licensing.

(1) Except as otherwise provided by this subsection, a trainer must obtain a trainer's license before the trainer may enter a horse or greyhound in a race. A trainer may enter a horse or greyhound in a stakes race without first obtaining a license, but must obtain a license before the horse or greyhound may start in the stakes race. Except as otherwise provided by this section, to be licensed by the Commission as a trainer, a person must:

(A) be at least 18 years old;

(B) submit a minimum of two written statements from licensed trainers, veterinarians, owners, or kennel owners, attesting to the applicant's character and qualifications;

(C) interview with the board of stewards or judges;

(D) satisfactorily complete a written examination prescribed by the Commission; and

(E) satisfactorily complete a practical examination prescribed by the Commission and administered by the stewards or racing judges or designee of the stewards or racing judges.

(2) Examinations.

(A) A $50 non-refundable testing fee is assessed for administering the written and practical examinations. The fee is due and payable at the time the written examination is scheduled. If the applicant fails the written or practical examination, the applicant will be allowed to retake it once without an additional fee. The applicant must pay a $50.00 non-refundable testing fee to schedule an examination after each retest. A minimum of 48 hours advance notice is required to reschedule

an examination appointment without loss of the testing fee. An applicant who fails to timely reschedule an examination appointment must pay a new testing fee to reschedule the appointment. A steward or judge may waive the additional fee if, in the opinion of the steward or judge, the applicant shows good cause for the failure to timely reschedule an examination appointment.

(B) The standard for passing the written examination must be printed on the examination. An applicant who fails the written examination may not take the written examination again before the 90th day after the applicant failed the written examination. An applicant who fails the written examination for a second or any subsequent time may not reschedule the written examination for 180 calendar days after the last failure and the applicant must pay an additional $50 non-refundable testing fee. After successful completion of the written exam an applicant has 365 calendar days to successfully complete the practical exam.

(C) An applicant who fails the practical examination may not reschedule the practical examination again before the 180th day after the applicant failed the practical examination. An applicant who fails the practical examination for a second time may not reschedule another practical examination for 365 calendar days after the day the applicant failed the second practical examination and the applicant must pay an additional $50 non-refundable testing fee.

(D) The Commission may waive the requirement of a written and/or practical examination for a person who has a current license issued by another pari-mutuel racing jurisdiction. If a person for whom the examination requirement was waived demonstrates an inability to adequately perform the duties of a trainer, through excessive injuries, rulings, or other behavior, the stewards or racing judges may require the person to take the written and/or practical examination. If such a person fails the examination, the stewards or racing judges shall suspend the person's license for 90 days with reinstatement contingent upon passing the written and/or practical examination.

(3) A trainer must use the trainer's legal name to be licensed as a trainer. A trainer who is also an owner may use a stable name or kennel name in the capacity of owner.

(4) To be licensed as an assistant trainer, a person must qualify in all respects for a trainer's license and be in the employ of a licensed trainer. An assistant trainer's license carries all the privileges and responsibilities of a trainer's license.

(b) Absolute Insurer.

(1) A trainer shall ensure the health and safety of each horse or greyhound that is in the care and custody of the trainer.

(2) A trainer shall ensure that a horse or greyhound that runs a race while in the care and custody of the trainer or kennel owner is free from all prohibited drugs, chemicals, or other substances.

(3) A trainer who allows a horse or greyhound to be brought to the paddock or lockout kennel warrants that the horse or greyhound:

(A) is qualified for the race;

(B) is ready to run;

(C) is in a physical condition to exert its best efforts; and

(D) is entered with the intent to win.

(c) Health Reports.

(1) A trainer shall immediately notify the Commission veterinarian or designee of unusual symptoms in a horse or greyhound that is in the trainer's care and custody.

(2) Not later than one hour after finding a dead horse or greyhound on association grounds, a trainer shall notify the stewards or racing judges and the Commission veterinarian, or their designee, of the death. In the absence of regulatory personnel, the trainer shall notify security personnel on the association grounds.

(d) Owner Suspended. A trainer may not retain a horse or greyhound in the trainer's care

and custody if the Commission has suspended or revoked the license of the owner of the horse or greyhound.

(e) An individual who is licensed to work for a trainer is not permitted in the stable or kennel area on association grounds unless the licensee is employed by and doing work for a trainer on the association grounds. An individual in the stable or kennel area on association grounds who is not in the employ of and doing work for a trainer may be ejected from the stable or kennel area on the association grounds.

(f) Restrictions on Racing. A trainer may not enter a race animal or cause a race animal to be entered in a race at a racetrack if:

(1) the trainer knows or can reasonably be expected to know that the greyhound was trained using a live or dead animal or fowl as a lure in this state or out of this state. This paragraph does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public;

(2) the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack; or

(3) the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds.

(g) Trainer Employees.

(1) A trainer may not employ an individual who is less than 16 years of age to work for the trainer on an association's grounds.

(2) A trainer may not employ a jockey to prevent the jockey from riding in a race.

(h) Trainer Absent. If a trainer must be absent because of illness or any other cause, the trainer shall appoint another licensed trainer to fulfill his or her duties, and promptly report the appointment to the stewards or racing judges for approval. The absent trainer and substitute trainer have joint responsibility for the condition of the race animals normally trained by the absent trainer.

(i) Suspended, Revoked or Ineligible Horse Trainers.

(1) A person may not assume the responsibilities of a horse trainer who is ineligible to be issued a license or whose license is suspended or revoked if the person is related to the trainer within the first degree of consanguinity or affinity.

(2) A person who assumes the care, custody, or control of the horses of a suspended, revoked or ineligible horse trainer may not:

(A) receive any compensation regarding those horses from the suspended, revoked or ineligible trainer;

(B) pay any compensation regarding those horses to the suspended, revoked or ineligible trainer;

(C) solicit or accept a loan of anything of value from the suspended, revoked or ineligible trainer; or

(D) use the farm or individual name of the suspended, revoked or ineligible trainer when billing customers.

(3) A person who assumes the care, custody, or control of the horses of a suspended, revoked or ineligible trainer is directly responsible for all financial matters relating to the care,
custody, or control of the horses.

(4) On request by the Commission, a suspended, revoked or ineligible trainer or a person who assumes the care, custody, or control of the horses of a suspended, revoked or ineligible trainer shall permit the Commission to examine all financial or business records to ensure compliance with this section.

(j) Reporting to Clocker. When taking a horse onto a racetrack to work, a horse trainer or an assistant of the trainer shall report the horse's name and the distance to be worked to the morning clocker or an assistant clocker or shall instruct the jockey or exercise rider to transmit the information to the clocker or assistant clocker.

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

(1) the condition and contents of stalls/kennels, tack rooms, feed rooms, and other areas which have been assigned by the association;

(2) maintaining the assigned stable/kennel area in a clean, neat and sanitary condition at all times;

(3) ensuring that fire prevention rules are strictly observed in the assigned stable/kennel area;

(4) training all animals owned wholly or in part by the trainer that are participating at the race meeting;

(5) ensuring that, at the time of arrival at a licensed racetrack, each animal in the trainer's care is accompanied by a valid health certificate/certificate of veterinary inspection;

(6) using the services of those veterinarians licensed by the Commission to attend animals that

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are on association grounds;

(7) promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any animal in the trainer's charge;

(8) immediately reporting to the stewards/judges and the official veterinarian if the trainer knows, or has cause to believe, that a animal in the trainer's custody, care or control has received any prohibited drugs or medication;

(9) maintaining a knowledge of the medication record and status of all animals in the trainer's care;

(10) ensuring the fitness of an animal to perform creditably at the distance entered;

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

(12) reporting the correct sex of the horses in his/her care to the Commission veterinarian and the horse identifier. (Added eff. 10/21/99; (a) amended 1/1/03; (c),(f) amended eff. 1/8/04; (a) amended 3/20/08; (k) added eff. 3/20/08; amended eff. 7/14/09; (a) amended eff. 1/5/10; (k) amended eff. 3/6/12; (f) amended eff. 5/30/13)

Sec. 311.105. Jockeys.

(a) License

(1) To be licensed as a jockey or apprentice jockey, an individual must be at least 16 years of age and provide proof of a satisfactory physical examination as described in subsection (b) of this section.

(2) An individual licensed as a jockey or apprentice jockey may not be licensed in another capacity.

(3) To be licensed as a jockey or apprentice jockey, an individual must have a certificate of proficiency issued by a starter licensed in this state or be currently licensed in another state as a jockey or apprentice jockey.

(b) Physical Examination.

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

(2) An examination required by this section must be performed by a licensed physician and include tests for visual acuity and hearing.

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

(c) Apprentice Jockeys.

(1) An apprentice jockey is a rider of thoroughbreds who:

(A) is permitted to ride with the apprentice weight allowance in accordance with Chapter 313 of this title (relating to Officials and Rules of Horse Racing); and

(B) is otherwise qualified to be licensed as a jockey.

(2) The Rules relating to a jockey apply to apprentice jockeys.

(d) Jockey Conduct.

(1) A jockey may not ride under an assumed name.

(2) A jockey may not use an attendant on a race day other than one supplied by the association.

(3) A jockey may not smoke in public while wearing racing colors. (Added eff. 10/21/99)

Sec. 311.106. Veterinarians.

To be eligible to be licensed by the Commission and hold a license as a veterinarian, an individual must be currently licensed and in good standing with the Texas State Board of Veterinary Medical Examiners. (Added eff. 10/21/99; amended eff. 11/8/04; (a), (b), (c) amended eff. 3/20/08)

Sec. 311.107. Lessee/Lessor.

(a) A race animal may be raced under lease provided a completed lease form is attached to the registration certificate and is on file with the racing secretary.

(b) The lessee and lessor of a horse or greyhound for racing purposes must obtain an owner's license in accordance with §311.101(a)

of this title (relating to Horse Owners) and §311.102(a) of this title (relating to Greyhound Owners). (Added eff. 10/21/99; (a) amended eff. 1/8/04)

Sec. 311.108. Authorized Agent.

(a) To be appointed an authorized agent, an individual must be at least 18 years old and licensed as an individual owner, stable foreman, assistant trainer, or a trainer. A written agency appointment authorizing him or her to act on behalf of a licensed owner or licensed trainer in racing matters not directly related to the care and training of horses must accompany the appointment. The authorization shall be on a form provided by the Commission and shall define the agent's powers and limits. The authorization must be signed by the principals and the agent.

(b) A separate agency appointment is required for each principal an authorized agent intends to represent.

(c) An agency appointment expires on the last day of the twelfth month after the date of appointment or when the principal submits written notice of revocation to the stewards or racing judges, whichever occurs first. (Added eff. 10/21/99; (a),(b) amended eff. 1/8/04; (a) amended eff. 3/20/08)

Sec. 311.109. Mutuel Employees.

To be licensed as a mutuel clerk or other employee of the mutuel department of an association, an individual must be at least 16 years old. (Added eff. 10/21/99)

Sec. 311.110. Leadout.

(a) To be licensed as a leadout, an individual must demonstrate to the satisfaction of the Commission veterinarian that the individual is knowledgeable in the handling and/or care of greyhounds.

(b) A leadout shall be dressed in a clean uniform for each performance, present a neat appearance, and behave in an orderly manner.

(c) A leadout may not smoke while in uniform.

(d) A leadout may not own an interest in a greyhound registered at the association for which the leadout is employed.

(e) Except in the leadout's lounge, a leadout may not consume or carry food or beverages while the leadout is on duty. (Added eff. 10/21/99)

Sec. 311.111. Jockey Agent.

(a) Eligibility.

(1) An applicant for a license as a jockey agent shall:

(A) demonstrate to the stewards that the applicant has a contract for agency with at least one jockey who has been licensed by the Commission; and

(B) be qualified, as determined by the stewards or other Commission designee, by reason of experience, background and knowledge. A jockey agent's license from another jurisdiction may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one or both of the following:

(i) a written examination; or

(ii) an interview or oral examination.

(2) Applicants not previously licensed as a jockey agent shall be required to pass a written and oral examination.

(b) Limit on Contracts.

(1) During a thoroughbred or mixed race meet a jockey agent may serve as agent for no more that two jockeys and one apprentice jockey.

(2) During a quarter horse meet a jockey agent may serve as agent for no more that three jockeys.

(c) Responsibilities.

(1) A jockey agent shall not make or assist in making engagements for a jockey other than those the agent is licensed to represent.

(2) A jockey agent shall file written proof of all engagements and changes of engagements with the stewards.

(3) A jockey agent shall maintain current and accurate records of all engagements made, such records being subject to examination by the stewards at any time.

(4) A jockey agent may make entries for an owner or trainer with prior permission from

the owner or trainer.

(5) When making an entry, a jockey agent shall sign the entry card and shall be responsible for the accuracy of the information provided on the entry card.

(d) Prohibited Areas. A jockey agent is prohibited from entering the jockey room, winner's circle, racing strip, paddock or saddling enclosure during the hours of racing, unless permitted by the stewards.

(e) Agent Withdrawal (Termination). When any jockey agent withdraws from representation of a jockey, the jockey agent shall immediately notify the stewards and shall submit to the stewards a list of any unfulfilled engagements made for the jockey. (Added eff. 3/20/08)

Sec. 311.112. Equine Dental Provider.

To be eligible to be licensed by the Commission and hold a license as an Equine Dental Provider, an individual must be currently licensed and in good standing with the Texas State Board of Veterinary Medical Examiners. (Added eff. 7/11/13)

Subchapter C. Responsibilities of Individuals

Sec. 311.201. Applicability.

This chapter applies to:

(1) all persons licensed by the Commission, either in an occupational capacity or by virtue of the person's ownership in a racetrack licensee; and

(2) all persons, whether or not licensed by the Commission, whose actions may affect the outcome of a pari-mutuel race, the payout of a pari-mutuel pool, or the health, safety, or welfare of individuals on association grounds. (Added eff. 10/21/99)

Sec. 311.202. Best Effort.

(a) A licensee shall make the licensee's best effort to win in each race in which the licensee participates.

(b) A person may not:

(1) instruct a licensee to use less than the licensee's best efforts to win a pari-mutuel race; or

(2) handle a race animal in a manner that would cause the race animal to use less than its best efforts to win a pari-mutuel race. (Added eff. 10/21/99)

Sec. 311.203. Ineligible Participant.

A licensee may not enter or start a race animal in a race or allow a race animal to be entered or to start in a race if the licensee knows the race animal is ineligible to race under the Act or the Rules. (Added eff. 10/21/99)

Sec. 311.204. Bribes Prohibited.

(a) A person may not:

(1) directly or indirectly offer or give a bribe to another person to violate the Act or a Rule; or

(2) solicit or accept a bribe from another person to violate the Act or a Rule.

(b) A licensee may not offer, give, solicit, or accept a bribe to:

(1) not enter a race animal in a race;

(2) provide false information in order to have a race animal scratched from a race; or

(3) withdraw a race animal from a race.

(c) A person may not offer, give, solicit, or accept a bribe to purchase or cash a mutuel ticket for another person.

(d) A licensee shall notify the Commission immediately if the licensee knows that a person has violated this section. (Added eff. 10/21/99)

Sec. 311.205. Wagering.

(a) A person other than an association may not solicit or accept wagers from the public on the outcome of a pari-mutuel horse or greyhound race.

(b) A jockey scheduled to ride in a race may not wager on a race scheduled for the same day.

(c) The following licensees are prohibited from wagering in the state of Texas during the term of their license:

(1) all officials; and
(2) assistant starters.

(d) The following licensees are prohibited from wagering in the state of Texas at the association at which he or she is employed:
(1) valets or leadouts;
(2) photofinish operators or employees;
(3) security personnel; and
(4) any licensee whose duties require the licensee to work in the jockey's quarters, test barn, or test area. (Added eff. 10/21/99)

Sec. 311.206. Influence of Race Prohibited.

(a) A person may not improperly influence or conspire or attempt to improperly influence the results of a race.

(b) A person may not possess on association grounds or use a device designed to increase or decrease the speed of a horse other than an ordinary riding whip. (Added eff. 10/21/99)

Sec. 311.207. Inhumane Treatment.

A person on association grounds or a licensee may not subject a race animal to cruel or inhumane treatment or, through act or neglect, subject a race animal to unnecessary suffering. (Added eff. 10/21/99; amended eff. 1/8/04)

Sec. 311.208. Performance Information.

A person may not give false or misleading information about the performance of a race animal for publication in a printed program or racing publication or for purposes of establishing
eligibility or fitness to race. (Added eff. 10/21/99)

Sec. 311.209. Information to Commission.

(a) A person may not knowingly make a false statement, whether oral or written, to the Commission, the executive secretary, the stewards or racing judges, Commission investigator, an administrative law judge or an examiner appointed by the Commission in any formal or informal interview or proceeding involving the Commission.

(b) A licensee shall promptly notify the Commission regarding any changes to the licensee's mailing address and telephone number.

(c) A licensee shall promptly notify the Commission if the licensee knows that a person has violated a criminal provision of the Act. (Added eff. 10/21/99)

Sec. 311.210. Conduct.

(a) A person shall behave in an orderly manner while on association grounds.

(b) A person may not use offensive, obscene, or threatening language or gestures while on association grounds.

(c) A person shall use reasonable diligence and precaution to prevent fires in the stable or kennel area. A person may not smoke in a stall, near a greyhound crate, in a feed room or hay storage area, or in a shed row. A person may not leave an unattended electrical appliance plugged into an outlet in the stable or kennel area. A person may not leave an electrical outlet or electrical cord within the reach of a race animal. A person may not lock a stall that is occupied by a horse. A person may not possess, keep, or maintain, in the stable or kennel area:
(1) an open fire or an oil or gas lamp outside of areas designated by the association; or
(2) a flammable material, such as cleaning fluid or solvent.

(d) A person may not enter, attempt to enter, or assist or attempt to assist another person in entering the stable or kennel area except through the designated entrances and on showing a valid license badge or visitor's pass.

(e) A person may not interfere with, attempt to interfere with, or conspire with another to interfere with any decision- making process of the stewards or racing judges including, but not limited to, formal and informal disciplinary hearings. (Added eff. 10/21/99; (c) amended eff. 1/8/04)

Sec. 311.211. Weapons Prohibited.

(a) Except as otherwise provided by this section, a person may not possess a weapon prohibited by Penal Code, §46.03(a) if the person is in an area on association grounds to which admission ordinarily can be obtained only on payment of an admission fee or presentation of official credentials.

(b) This section does not apply to a person who is:

(1) a peace officer; or

(2) a commissioned security officer licensed by the Texas Commission on Private Security Agencies and approved by the executive secretary. (Added eff. 10/21/99; (b) amended eff. 1/8/04; (a) amended eff. 9/28/05)

Sec. 311.212. Duty to Wear Badge.

(a) Except as otherwise provided by this section, a licensee shall display his or her license badge in a conspicuous place on his or her body at all times that the licensee is engaged in performing duties or is in a restricted area.

(b) This section does not apply to a licensee who is:

(1) performing duties as an assistant starter; or

(2) mounted on a horse. (Added eff. 10/21/99; (a), (b) amended eff. 3/20/08)

Sec. 311.213. Accident Reports.

(a) A licensee who observes or is involved in an accident that occurs on association grounds during a race meeting and that results in an injury to a person or race animal shall report the accident to the association.

(b) A report under this section must be made not later than 24 hours after the time the accident occurred. (Added eff. 10/21/99)

Sec. 311.214. Financial Responsibility.

(a) This section applies to the financial responsibility of licensees of the Commission for debts legally owed for the transfer, purchase or lease of a race animal or for services or supplies relating to the care, transportation, or maintenance provided to a race animal while racing or in training at a licensed facility in this state. Services and supplies to which this section applies include, but are not limited to:

(1) veterinary services, medication, and veterinary supplies;

(2) transportation services;

(3) farrier services and supplies;

(4) feed and nutritional supplements; and

(5) racing supplies.

(b) The Commission finds that the failure of a licensee of the Commission to pay a debt that is legally owed for the transfer, purchase or lease of a race animal or a service or supply described in subsection (a) is:

(1) an activity or practice that is detrimental to the best interests of the public and the sport of pari-mutuel racing; and

(2) grounds for denial, suspension, or revocation of the licensee's license.

(c) For a debt that is legally owed for the transfer, purchase or lease of a race animal or a service or supply described in subsection (a), a licensee may not:

(1) willfully or intentionally refuse to pay the debt; or

(2) falsely deny the validity of the debt with the intent to defraud the person to whom the debt is owed.

(d) A person to whom a debt for the transfer, purchase or lease of a race animal or a service or supply described in subsection (a) is owed may file with the executive secretary a certified copy of a judgment of a court of competent jurisdiction that verifies the validity of the debt. On receipt of a judgment under this subsection, the executive secretary may initiate formal disciplinary action against the licensee involved. The executive secretary has sole discretion to determine whether formal disciplinary action is initiated against the licensee.

(e) At a hearing to deny, suspend, or revoke a licensee's license for a violation of this section, the person to whom the debt is owed is not entitled to reimbursement of travel expenses or any witness fees for attendance at the hearing. (Added eff. 0/21/99; (a) amended eff. 3/20/08)

Sec. 311.215. Contraband.

(a) The following items are contraband on a racetrack or association grounds:

(1) a criminal instrument related to racing under the Act;

(2) an electrical shocking device, spur, or similar device or paraphernalia designed to increase or decrease the speed of a race animal or to unnaturally depress, stimulate, or excite a race animal;

(3) a device prohibited under §319.10 of this title (relating to Devices and Substances Prohibited), including a hypodermic syringe or hypodermic needle;

(4) a deadly weapon prohibited under §311.211 of this title (relating to Weapons Prohibited);

(5) a drug, chemical, or other substance prohibited under:

(A) §319.3 of this title (relating to Medication Restricted);

(B) §319.7 of this title (relating to Labeling Requirements);

(C) §319.10 of this title (relating to Devices and Substances Prohibited); or

(D) §319.14 of this title (relating to Possession of Controlled Substances); and,

(6) an alcoholic beverage prohibited under §311.321 of this title (relating to Prohibited Conduct).

(b) No person may possess an item of contraband at any time while on a racetrack or association grounds. It is an affirmative defense to a rule violation under this subsection that:

(1) Commission rules expressly state the item was not contraband; or

(2) the possession was expressly authorized on a racetrack or association grounds by the Act or the Rules. (Added eff. 10/21/99; (a) amended eff. 1/7/01)

Sec. 311.216. Conduct in Stable Area.

(a) An individual may not sleep in the stable area of an association's grounds except:

(1) in a facility provided for that purpose by the association in accordance with the Rules;

(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.

(b) A licensee may not possess, keep, or maintain a dog in the stable area of an association's grounds unless:

(1) the dog is confined and prevented from going at large on association grounds; and

(2) the dog is currently vaccinated against rabies.

(c) A licensee who is mounted on a horse or stable pony on association grounds must wear an A.S.T.M. approved safety helmet at all times.

(d) A licensee may not hold a horse in a starting gate unless the licensee wears a properly fastened safety helmet approved by A.S.T.M.

(e) Except as otherwise provided by this subsection, a licensee may not operate a motor vehicle in the stable area during training hours. This subsection does not apply to:

(1) a person who has power of entry under the Act, §3.03;

(2) the stewards;

(3) security personnel employed by the association;

(4) the Commission veterinarian;

(5) the racing secretary;

(6) a veterinarian licensed by the Commission;

(7) an owner or a trainer;

(8) a jockey's agent at a Class 1 racetrack;

(9) a farrier; or

(10) a jockey. (Added eff. 10/21/99; (b) amended eff. 1/8/04; (c) amended eff. 3/20/08)

Sec. 311.217. Greyhound Training.

(a) A person may not use a live or dead animal or fowl to train a greyhound, or send a greyhound to a facility located in this state or out of state for the purpose of being trained using a live or dead animal or fowl. Such activities and practices are detrimental to the

best interests of a racing animal and the racing industry.

(b) This section does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public. (Added eff. 5/30/13)

Subchapter D. Alcohol and Drug Testing

Division 1. Drugs

Sec. 311.301. Use and Possession Prohibited.

(a) Except as otherwise provided by this section, an occupational licensee may not, while performing duties required of the licensee, have present in his or her system a dangerous drug as defined by the Health and Safety Code, Chapter

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Sec. 315.110. Scratches.

(a) A greyhound may be scratched from a race only with the approval of the racing judges. A request to scratch a greyhound may be made only by the kennel owner or trainer. The request must be filed with the racing secretary at least 30 minutes before the time designated for the drawing of post positions or the time designated by the racing secretary.

(b) A scratch that occurs as a result of a violation of a racing rule carries a penalty and/or suspension of the greyhound for six race days. The racing judges shall review the cause for a scratch and may take disciplinary action. If a greyhound is scratched because the kennel owner or trainer of the greyhound fails to have the greyhound at the paddock at the appointed time for weighing-in, the racing judges may impose disciplinary action against the person responsible.

(c) If three or more greyhounds are withdrawn or scratched from a race, the racing judges may cancel the race.

(d) The racing judges may scratch a greyhound from a race if they determine circumstances exist which would prevent the greyhound from making its best effort, the greyhound may not legally participate in the race, or the participation of the greyhound would negatively effect the competitiveness of the race or the wagering public.

(e) A greyhound that is withdrawn from a race after the overnight entries are closed is considered a scratch and must be examined by the commission veterinarian before the first race of the performance in which the greyhound was scheduled to start. (Added 10/11/90; (a),(b) amended eff. 10/30/00; (a),(b),(d) amended eff. 4/4/05)

Sec. 315.111. Schooling.

(a) A greyhound that has never raced must be properly schooled at least twice in the presence of the racing judges and must, in the opinion of the racing judges, be sufficiently experienced before the greyhound may start in a race. A greyhound that has not had an official start in 10 racing days must participate in an official schooling race at its established weight to be eligible to enter the race. A greyhound that has not raced officially for more than thirty days must school at least twice.

(b) An official schooling race must be at a distance not less than the distance nearest to 5/16 mile in use at the racetrack.

(c) A greyhound that transfers from a racetrack outside of Texas must school at least once before it may start in a race other than a stakes or futurity race. A greyhound that transfers from a Texas racetrack may start in a race without additional schooling if the greyhound has raced in the ten racing days preceding the race. A greyhound that has not raced officially for more than thirty days must school at least twice.

(d) To be official, at least six greyhounds must race in a schooling race, except by permission of the racing judges. Leadouts must be used in an official schooling race, and the greyhounds must race at their established racing weight and start from the box wearing blankets. The association shall provide photofinish equipment for official schooling races.

(e) Hand schooling is not official schooling.

(f) The racing judges may place a greyhound on the official schooling list at any time. A greyhound on the official schooling list must be schooled officially and satisfactorily before being eligible to enter.

(g) If the racing judges determine that a greyhound has fallen or been involved in a serious jam in a race, the racing judges may require the greyhound to be schooled officially and satisfactorily before being eligible to enter. (Added 10/11/90; (c) amended eff. 10/15/95; (a) amended eff. 1/3/96; (a),(c),(d) amended eff. 4/4/05)

Sec. 315.112. Ineligibility Due to Improper Greyhound Training.

(a) The board of racing judges may ban a greyhound for life from being kenneled or participating in racing on association grounds if it finds that the greyhound has been trained at any facility that has engaged in any detrimental

practice related to the training of greyhounds using a live or dead animal or fowl.

(b) This section does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public. (Added eff. 5/30/13)

Subchapter C. Race Procedures

Sec. 315.201. Racing Weight.

(a) Before a greyhound may school or race at a racetrack, the owner or trainer must establish the racing weight for the greyhound with the clerk of scales.

(b) Each greyhound entered in a race in a performance must be weighed in by the prescribed time approved by the racing judges.

(c) The greyhound's kennel owner, trainer, assistant trainer or kennel helper shall deliver the greyhound to the weighing-in room in sufficient time to have the greyhound weighed in in accordance with this section.

(d) If a greyhound's weight at weigh-in varies from the greyhound's established racing weight by more than 1 1/2 pounds, the racing judges shall scratch the greyhound.

(e) If a greyhound's weight at weigh-in varies by more than two pounds from the greyhound's weight at weigh-in for the greyhound's previous race, the racing judges shall scratch the greyhound.

(f) Except as otherwise provided by this subsection, if a greyhound at weigh-out has lost more than two pounds while in the lockout kennel, the racing judges shall scratch the greyhound. If the commission veterinarian certifies that the greyhound's weight loss does not impair the racing condition of the greyhound, the racing judges may permit the greyhound to race.

(g) A greyhound that is scratched from a race because of overweight or underweight shall be suspended for six race days and must officially school before starting in a race. A greyhound scratched under this subsection may school during the term of the suspension. (Added 10/11/90; (b),(c) amended eff. 4/4/05)

Sec. 315.202. Changes in Established Weight.

(a) A kennel owner or trainer for a greyhound may change the established racing weight for a greyhound by filing a written request for the change and obtaining written consent of the racing judges. The greyhound may not race at the new weight before the third day after the date the racing judges consent. A weight change at an official schooling race goes into effect on approval of the racing judges.

(b) A greyhound that is granted a change of more than one pound in established racing weight must school twice at the new weight, and more if ordered by the racing judges, before being eligible to start at the new weight.

(c) The racing judges may weigh a greyhound entered in a race at any time after entry until post time for the race. (Added 10/11/90; amended eff. 4/4/05)

Sec. 315.203. Placement in Lockout.

Immediately after being weighed in, a greyhound shall be placed in the lockout kennel under the supervision of the paddock judge. Only the paddock judge, commission veterinarian, kennel master, clerk of scales, leadout, racing judge, or representative of the Commission may enter the lockout kennel. A kennel owner or trainer may accompany a greyhound into the lockout kennel under the direct supervision of a racing judge or a designee of the racing judges. (Added 10/11/90)

Sec. 315.204. Paddock to Post.

(a) A greyhound must be exhibited in the paddock before post time of the race in which the greyhound is entered.

(b) A greyhound may be led from the paddock to the starting box only by a licensed leadout provided by the association. The leadout shall place the greyhound in the proper box and retire to the assigned place. The association shall provide one leadout for each greyhound in the race.

(c) While leading a greyhound from the paddock to the starting box or returning from the

starting box, a leadout may not converse with a patron or another leadout about a matter that is inconsistent with the performance of the leadout's duties.

(d) After the greyhounds have left the paddock for the starting box, the track gates shall be closed and, until the racing judges order the gates reopened, only racing officials and

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