

TEXAS RACING COMMISSION

Laws and Rules Governing Pari-Mutuel Racing in Texas

List of Replacement Pages

April 1, 2011

The current rulebook of the Texas Racing Commission consists of the Rulebook dated MARCH 2010 and the following replacement pages:

Pp. 37-38, rev.4/1/2011	Pp. 259-260, rev. 4/1/2011
Pp. 95-96, rev. 4/1/2011	Pp. 271-272, rev. 4/1/2011
Pp. 109-110-A, rev. 4/1/2011	Pp. 283-284-B, rev. 4/1/2011
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To maintain an updated rulebook, the above pages should be replaced. 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](#).

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TEXAS RACING ACT

Ch. 1275, §54, eff. September 1, 1997.

(c) On each racing day, the association shall pay the fee due the state to the comptroller.

(d) Fifty percent of the breakage is to be paid to the appropriate state greyhound breeding registry. Of that portion of the breakage 25 percent of that breakage is to be used in stakes races and 25 percent of that total breakage from a live pari-mutuel pool or a simulcast pari-mutuel pool is to be paid to the commission for the use by the state greyhound breed registry, subject to rules promulgated by the commission.

(e) The deductions and allocations made pursuant to this section are applicable to live pari-mutuel pools.

(f) The commission in adopting rules relating to money paid to the commission for use by the state greyhound breed registry under Subsection (d) of this section shall require the award of a grant in an amount equal to two percent of the amount paid to the commission for use by the state greyhound breed registry to a person for the rehabilitation of greyhounds or to locate homes for greyhounds.

Sec. 6.091. Distribution of Deductions from Simulcast Pari-mutuel Pool.

(a) An association shall distribute from the total amount deducted as provided by Sections 6.08(a) and 6.09(a) of this Act from each simulcast pari-mutuel pool and each simulcast cross-species pool the following shares:

(1) an amount equal to one percent of each simulcast pool as the amount set aside for the state;

(2) an amount equal to 1.25 percent of each simulcast cross-species pool as the amount set aside for the state;

(3) if the association is a horse racing association, an amount equal to one percent of a multiple two wagering pool or multiple three wagering pool as the amount set aside for the Texas-bred program to be used as provided by Section 6.08(f) of this Act;

(4) if the association is a greyhound association, an amount equal to one percent of a

multiple two wagering pool or a multiple three wagering pool as the amount set aside for the Texas-bred program for greyhound races, to be distributed and used in accordance with rules of the commission adopted to promote greyhound breeding in this state; and

(5) the remainder as the amount set aside for purses, expenses, the sending association, and the receiving location pursuant to a contract approved by the commission between the sending association and the receiving location.

(b) Section 6.09(b)(1) of this Act does not apply to amounts deducted from a simulcast pari-mutuel pool in a greyhound race.

(c) A greyhound racetrack association that receives an interstate cross-species simulcast signal shall distribute the following amounts from the total amount deducted as provided by Subsection (a) of this section from each pool wagered on the signal at the facility:

(1) a fee of 1.5 percent to be paid to the racetrack facility in this state sending the signal;

(2) a purse in the amount of 0.75 percent to be paid to the official state breed registry for thoroughbred horses for use as purses at racetracks in this state;

(3) a purse in the amount of 0.75 percent to be paid to the official state breed registry for quarter horses for use as purses at racetracks in this state; and

(4) a purse of 4.5 percent to be escrowed with the commission for purses in the manner set forth in Subsection (e) of this section.

(d) A horse racetrack association receiving an interstate cross-species simulcast signal shall distribute the following amounts from the total amount deducted as provided by Subsection (a) of this section from each pool wagered on the signal at the facility:

(1) a fee of 1.5 percent to be paid to the racetrack facility in this state sending the signal; and

(2) a purse in the amount of 5.5 percent

to be paid to the official state breed registry for greyhounds for use at racetracks in this state. The breed registry may use not more than 20 percent of this amount to administer this subdivision.

(e) The purse set aside under Subsection (c)(4) of this section shall be deposited into an escrow account in the registry of the commission. Any horse racetrack association in this state may apply to the commission for receipt of all or part of the escrowed purse account for use as purses. The commission shall determine to which horse racetracks the escrowed purse account shall be allocated and in what percentages, taking into consideration purse levels, racing opportunities, and the financial status of the requesting racetrack. The first distribution of the escrowed purse account allocated to a racetrack under this section may not be made before October 1, 1998.

(f) After October 15, 1998, a horse racetrack association that is located not more than 75 miles from a greyhound racetrack facility that offers wagering on a cross-species simulcast signal may apply to the commission for an additional allocation of up to 20 percent of the funds in the escrowed purse account that is attributable to the wagering on a cross-species simulcast signal at the greyhound racetrack facility, if the horse racetrack facility sends the cross-species simulcast signal to the greyhound racetrack. If the applying horse racetrack can prove to the commission's satisfaction that a decrease in the racetrack's handle has occurred that is directly due to wagering on an interstate cross-species simulcast signal at a greyhound racetrack facility that is located not more than 75 miles from the applying racetrack, the commission shall allocate the amounts from the escrowed purse account as the commission considers appropriate to compensate the racetrack for the decrease, but the amount allocated may not exceed 20 percent of the funds in the escrowed purse account that are attributable to the wagering on the interstate cross-species simulcast signal at the greyhound racetrack facility. Any amount allocated

by the commission under this subsection may be used by the racetrack facility for any purpose.

(g) If a racing association purchases an interstate simulcast signal and the cost of the signal is more than five percent of the pari-mutuel pool, the commission shall reimburse the racing association an amount equal to one-half of the signal cost that is more than five percent of the pari-mutuel pool from the escrowed purse account under Subsection (c)(4) of this section.

(h) A racetrack facility offering wagering on an intrastate cross-species simulcast signal shall send the purse amount specified under Subsection (c)(4) or (d)(2) of this section, as appropriate, to the racetrack facility conducting the live race that is being simulcast.

(i) A racing facility conducting a live race that is being simulcast may charge the receiving racetrack facility a host fee in addition to the amounts described in this section.

(j) The commission shall adopt rules relating to this section and the oversight of amounts allocated under Subsections (c) and (d) of this section.

Sec. 6.092. Oversight of Use of Funds Generated by Pari-Mutuel Racing.

(a) The commission shall adopt reporting, monitoring, and auditing requirements or other appropriate performance measures for any funds distributed to or used by or any function or service provided by the expenditure of any funds distributed to or used by any organization that receives funds generated by live or simulcast pari-mutuel racing.

(b) The commission shall adopt the requirements or performance measures after consultation with the affected organization. In adopting the rules, the commission shall give consideration to the concerns of the affected organization.

(c) An organization receiving funds generated by live or simulcast pari-mutuel racing shall annually file with the commission a copy of an

(3) Procedures for Payment of Awards.

Any accredited Texas-bred quarter horse that finishes first, second, or third in a pari-mutuel horse race in Texas (except stakes race restricted to Texas-breds) shall be entitled to receive an incentive award, as herein set forth.

(A) Upon completion of a racing period not to exceed five racing days, all associations currently conducting quarter horse racing shall forward to the TQHA offices via telecopy or other electronic means a copy of the official results from that period of racing. The official results shall include the date, race number, race conditions, name of each horse in the race, official order of finish, the owner of record, and purse earned from the purse account.

(B) TQHA will verify the ownership, registration, and eligibility of all horses that finish first, second, or third in a race at the association during the time period.

(C) The Act provides that the funds that are accrued to the awards fund will be paid 40% to owners, 40% to breeders, and 20% to stallion owners. Also, 1.0% of all multiple two and multiple three wagers are to be paid to the Texas-bred program and are to be paid as awards.

(D) TQHA shall maintain records of all ATB racing stock that earn awards. At the completion of a race meeting, TQHA will begin the process to generate awards checks for the owners, breeders, and stallion owners corresponding to those ATB racing stock by apportionment according to the percentages expressed in subparagraph (C) of this paragraph. The awards for each race shall be divided 50% to first place, 30% to second place, and 20% to third place. Upon receipt of the ATB funds from the commission for the race meeting, TQHA shall disburse the awards by U.S. mail. (Added eff. 3/28/89; amended eff. 12/1/96; amended eff. 6/15/97; amended eff. 1/1/99; (c) amended eff. 9/1/99; (c) amended eff. 9/7/03; amended eff. 11/12/03; (c) amended eff. 9/8/04; (b) amended eff. 8/3/06; (f) amended eff. 7/23/10)

Sec. 303.94. Arabian Horse Rules.

The Commission adopts by reference the rules of the Texas Arabian Breeders Association dated March 25, 2006, regarding the administration of the Texas Bred Incentive Program for Arabian horses. Copies of these rules are available at the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711, or at the Commission office at 8505 Cross Park Dr., #110, Austin, Texas 78754-4594. (Added eff. 1/2/92; amended eff. 12/1/96; amended eff. 7/17/01; amended eff. 3/1/03; amended eff. 5/23/07)

Sec. 303.95. Races for Accredited Texas-Bred Horses.

The commission finds that, pursuant to the Texas Racing Act, Texas Civil Statutes, Article 179e, §9.03, on each race day, an association shall provide for the running of at least two races limited to accredited Texas-bred horses, one of which shall be restricted to maidens. An association may defer, with the approval of the executive secretary, the running of one or both of the two races required by this section for each race day, but the association must provide that the total number of accredited Texas-bred races conducted in a race meeting is equal to or greater than twice the total number of race dates in the race meeting. (Added eff. 3/7/91; (a), (b) amended eff. 1/2/92; amended eff. 2/22/96)

Sec. 303.96. Paint Horse Rules.

The commission adopts by reference the rules of the Texas Paint Horse Breeders Association dated September 17, 1996, regarding the administration of the Texas Bred Incentive Program for paint horses. Copies of these rules are available at the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711, or at the commission office at 8505 Cross Park Dr., #110, Austin, Texas 78754-4594. (Added eff. 2/4/97)

Sec. 303.99. Stakes and Other Prepayment Races-Breed Registries.

If an official breed registry sponsors or accepts payments for a stakes or other prepayment race, the breed registry shall follow the procedures set forth in §309.298 of this title (relating to Stakes and Other Prepayment Races.) (Added eff. 1/1/99, amended eff. 3/13/02)

Programs for Greyhounds

Sec. 303.101. Greyhound Breed Registry.

(a) Designation. The Texas Greyhound Association is the official breed registry for greyhounds.

(b) Grant Program.

(1) Each calendar year, the Texas Greyhound Association shall use 2% of the funds it receives under the Act, §6.09(d) for a grant program.

(2) The grants must be awarded to an organization that is an exempt organization for purposes of federal income tax and that conducts programs for the rehabilitation or adoption of greyhounds who have completed their racing careers.

(3) The Texas Greyhound Association shall adopt criteria and procedures for the awarding of the grants. The criteria and procedures are subject to the approval of the executive secretary.

(4) Not later than March 1 of each year, the Texas Greyhound Association shall file with the commission a written report detailing the grants awarded under this subsection during the preceding calendar year. The Texas Greyhound Association shall appear before the commission at the request of the commission to report on its activities under this subsection. (Added eff. 3/28/89)

Sec. 303.102. Greyhound Rules.

(a) Registration as a Texas-Bred Greyhound.

(1) Eligibility Requirements for Owner/Lessee. The owner or lessee of the dam at the time of whelping must have been a resident of Texas for the three-year period preceding the date the litter was whelped. If the dam has multiple owners,

each owner must meet the requirements in this subdivision.

(2) Eligibility Requirements. To be registered as a Texas-bred greyhound, a greyhound must have been whelped in Texas and remained domiciled in Texas for the first six months of life.

(3) Registration Procedure.

(A) The owner or lessee of the dam at the time of whelping is responsible for registering a greyhound as Texas-bred.

(B) The owner or lessee must submit to the Texas Greyhound Association (“TGA”) the original “Litter Registration Acknowledgement” received from the National Greyhound Association (“NGA”), with a check or money order for the registration fee established by TGA.

(C) With the application for registration, the owner or lessee must file an affidavit with the TGA affirming that all litter applications submitted by the owner or lessee meet the registry requirements. The affidavit must include an agreement that if any of the greyhounds being registered are removed from Texas before six months of age, the owner or lessee will notify TGA no later than 10 days after the removal. On being notified that a registered greyhound has been removed from Texas before six months of age, TGA shall remove the greyhound from the registry.

(D) If the litter qualifies to be registered as Texas-bred greyhounds, the TGA will stamp the “Litter Registration Acknowledgement” as “Texas Bred” and return it to the sender. The TGA will notify the NGA of all litters registered as “Texas Bred”.

(E) On notice that a litter has been registered as “Texas Bred”, the NGA will stamp the “Certificate of Registration” of each affected greyhound as “Texas Bred”.

(F) A person who submits an application for registration knowing that the application contains false information is subject to discipline by the TGA Executive Committee, including suspension from the TGA.

be sworn by the presiding steward or racing judge.

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

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

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

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

(f) Continuances.

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

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

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

(g) Agreed Settlement. The person who is the subject of the disciplinary hearing may waive the

right to a hearing and subsequent appeal and enter into an agreed settlement with the stewards or racing judges.

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

(i) Summary Suspension. If the stewards or racing judges determine that a licensee's actions constitute an immediate danger to the public health, safety, or welfare, the stewards or racing judges may enter a ruling summarily suspending the license, without a prior hearing. A summary suspension takes effect immediately on issuance of the ruling. If the stewards or racing judges suspend a license under this subsection, the licensee is entitled to a hearing on the suspension not later than three calendar days after the day the license is suspended. The licensee may waive his or her right to a hearing on the summary suspension within the three-day period. (Added eff. 1/1/02; (d) - (i) amended eff. 3/25/11)

Sec. 307.63. Ruling.

(a) The issues at a disciplinary hearing shall be decided by a majority vote of the stewards or racing judges. If the vote is not unanimous, the dissenting steward or judge shall include with the record of the hearing a written statement of the reasons for the dissent and sign the statement.

(b) A ruling by the stewards or racing judges must be on a form prescribed by the executive secretary and include:

(1) the full name, license type, and license number of the person who is the subject of the hearing;

(2) a statement of the allegations against the person, including a reference to the specific section of the Act or Rule;

(3) the date the ruling was issued;

(4) the penalty imposed;

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(5) any changes in the order of finish or prize distribution; and

(6) other information required by the executive secretary.

(c) A ruling must be signed by a majority of the stewards or racing judges.

(d) At the time the stewards or racing judges inform a person who is the subject of a disciplinary hearing of the ruling issued for the proceeding, the stewards or racing judges shall inform the person of the person's right to appeal the ruling to the Commission. (Added eff. 1/1/02)

Sec. 307.64. Penalties.

(a) For each violation of the Act or a Rule, the stewards and racing judges may:

(1) impose a fine of not more than \$5,000; and

(2) suspend an occupational license for not more than one year.

(b) A person against whom the stewards or racing judges have imposed a fine shall pay the fine to the Commission not later than 5:00 p.m. of the third calendar day after the day the person is informed of the ruling that imposed the fine. (Added eff. 1/1/02)

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Sec. 307.65. Reciprocity.

The stewards and racing judges shall honor the rulings issued by other pari-mutuel racing commissions. (Added eff. 1/1/02, amended eff. 7/1/03)

Sec. 307.66. Applicability of Rules and Rulings.

(a) Rules pertaining to a licensee and rulings against a licensee apply to another person if continued participation in an activity by the other person would circumvent the intent of a Rule or ruling by permitting the person to serve, in essence, as a substitute for the ineligible licensee because:

(1) the other person is legally liable for the conduct that violated the Rule or is the subject of the ruling; or

(2) the other person benefited financially from that conduct.

(b) The fraudulent transfer of a race animal to avoid application of a Rule or ruling is prohibited.

(Added eff. 1/1/02)

Sec. 307.67. Appeal to the Commission.

(a) Right to Appeal. A person aggrieved by a ruling of the stewards or racing judges may appeal to the Commission. A person who fails to file an appeal by the deadline and in the form required by this section waives the right to appeal the ruling.

(b) Filing Procedure.

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

(2) Record of Stewards'/Judges' hearing. On notification by the executive secretary that an appeal has been filed, the stewards or racing judges shall forward to the Commission the record of the proceeding being appealed. A person appealing a stewards' or judges' ruling may request a copy of the

record of the hearing and the executive secretary may assess the cost of making to the copy to the requestor.

(c) Hearing Procedure. A hearing on an appeal from a ruling by the stewards or racing judges is a contested case and shall be conducted by SOAH in accordance with the Rules regarding contested cases. In an appeal, the appellant has the burden to prove that the stewards' or racing judges' decision was clearly in error.

(d) Effect of Appeal on Fine Payment. If a person against whom a fine has been assessed appeals the ruling that assesses the fine, the person shall pay the fine in accordance with the Rules. If the appeal is disposed of in favor of the appellant, the Commission shall refund the amount of the fine.

(e) Effect of Appeal on Purse Payment. If a ruling that affects the outcome of a race is appealed, the portion of the purse that is involved in the appeal shall be withheld and not distributed. The stewards or racing judges may distribute the portion of the purse that is not involved in or affected by the outcome of the appeal.

(f) Effect of Appeal on Horse Eligibility. If an appeal involves the official order of finish in a horse race, all horses finishing first or declared to be the winner by the stewards carry all penalties of eligibility until the winner is determined through the final resolution of the appeal. (Added eff. 1/1/02)

Sec. 307.68. Stay.

(a) Contemporaneously with filing an appeal from a stewards' or judges' ruling, a licensee whose license is suspended by the ruling may request a stay of the suspension. The executive secretary may grant a stay of the suspension if the executive secretary determines granting the stay is in the interest of justice. The executive secretary may set the term of the stay and may extend a stay if circumstances warrant.

(b) The fact that a stay is granted is not a

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(4) the start of live racing on or before the date approved by the Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) the Racing Commission's general revenue dedicated account from live wagering

pools and breakage;

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

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

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

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

(e) Cash, cashier's checks, surety bonds, irrevocable bank letters of credit, United States Treasury bonds that are readily convertible to cash, or irrevocable assignments of federally insured deposits in banks, savings and loan institutions, and credit unions are acceptable as security for purposes of this section. Interest earned on a United States Treasury bond or on an irrevocable assignment of a federally insured deposit is not subject to the assignment and remains the property of the association.

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

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or strike.

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

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

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

Sec. 309.7. Horse Racetrack Application Fees.

(a) General Provisions.

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

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

(b) Application Fees.

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

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

(2) The amount to be deposited for the

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- (1) provide an unrestricted view of the pari-mutuel computers;
- (2) permit unrestricted entry to the totalisator facilities;
- (3) be furnished with the appropriate number of desks and chairs;
- (4) include locking file cabinets in the work area or other locking storage facilities, in which the auditors may store computer printouts or magnetic tape and that are large enough to store all state-controlled wagering records for the association that are needed for audits by the Commission or the comptroller;
- (5) include a video and audio device that enables the auditors to receive, simultaneously with the patrons, the same information that the patrons receive;
- (6) have at least six power outlets to operate electrical equipment;
- (7) include a telephone line;
- (8) if requested by the Commission or the comptroller, have an additional voice line to support dial-up capabilities for a personal computer; and
- (9) a dedicated telephone line to be used by a fax machine.

(g) Commission Veterinarian's Office.

- (1) An association shall provide a secured office area for the Commission veterinarians.
- (2) The office must be adjacent to the drug testing area and the pre-race holding area.
- (3) The office must consist of at least two rooms, one of which must be private.
- (4) At horse racetracks, the office must be constructed to allow a view of each of the adjacent areas.
- (5) The office must be equipped with:
 - (A) a sink with hot and cold water built into a counter of a size required by the executive secretary;
 - (B) desks and filing cabinets, in numbers as required by the executive secretary, equipped with locks;

- (C) at horse racetracks, refrigerators and freezers, in sizes and numbers as required by the executive secretary, equipped with locks;
- (D) at greyhound racetracks, a freezer in a size as required by the executive secretary;
- (E) a storage area, of a size required by the executive secretary, with a door approved by the executive secretary.
- (F) telephone lines with telephones as required by the executive secretary;
- (G) television monitors as required by the executive secretary; and
- (H) at horse racetracks, a freestanding counter of a size required by the executive secretary.

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

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

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

- (1) be assigned a unique telephone number that is directly accessible by outside callers;
- (2) if requested by the executive secretary, be listed in the governmental section of the local telephone directory; and
- (3) if requested by the executive secretary, be listed on the association's website.

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

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(k) All costs of telecommunications for regulatory and law enforcement personnel provided under this section shall be paid by the association and the telecommunications service may not be interrupted at any time. To ensure minimal disruption to the Commission's regulatory functions, the association shall ensure the Commission staff has twenty-four hour access and keys to any telecommunications rooms serving regulatory and law enforcement personnel as prescribed by the executive secretary.

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

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

Sec. 309.120. Parking for Licensees.

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

Sec. 309.122. External Communication.

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

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

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

Sec. 309.123. Internal Communication System.

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

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

executive secretary.

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

Sec. 309.124. Public Address System.

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

Sec. 309.125. Photofinish Equipment.

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

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

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

(d) The location and operation of the

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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 than two jockeys and one apprentice jockey.

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

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(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)

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

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horses in the starting gate.

(b) With respect to an official race, the assistant starters shall not:

(1) handle or take charge of any horse in the starting gate without the expressed permission of the starter;

(2) impede the start of a race;

(3) apply a whip or other device, with the exception of steward-approved twitches, to assist in loading a horse into the starting gate;

(4) slap, boot, or otherwise dispatch a horse from the starting gate; or

(5) strike or use abusive language to a jockey. (Added eff. 11/3/89; amended eff. 3/25/10)

Sec. 313.60. Test Barn Technicians.

The test barn technicians shall perform any duty required by the test barn supervisor and shall assist in the collection of urine specimens for testing and in the maintenance of the test barn facilities. (Added eff. 11/3/89; amended eff. 10/30/00)

Sec. 313.61. Horsemen’s Bookkeeper.

(a) Designation of horsemen’s bookkeeper.

(1) An association shall ensure a horsemen’s bookkeeper is available to maintain the horsemen’s account.

(2) The executive secretary may designate an entity unrelated to the association to serve as the horsemen’s bookkeeper. To be designated as the horsemen’s bookkeeper, an entity must submit a plan of operation acceptable to the executive secretary that demonstrates the entity’s ability to perform the duties of the horsemen’s bookkeeper.

(3) A designation as horsemen’s bookkeeper does not constitute a license, but the executive secretary may require any individual involved with a designated entity to receive a license.

(4) If the executive secretary approves an association’s request to designate an entity as horsemen’s bookkeeper, the association is relieved of responsibility for providing a horsemen’s bookkeeper and shall cooperate fully with the horsemen’s bookkeeper designated by the executive secretary.

(b) Revocation of designation.

(1) A designation as the horsemen’s bookkeeper continues in effect until revoked by the executive secretary.

(2) The executive secretary may revoke a designation as the horsemen’s bookkeeper if the executive secretary determines the designated entity has:

(A) failed to comply with the Act, or the plan of operation, in a manner that indicates malfeasance as opposed to mere mistake;

(B) failed to maintain accurate and reliable records;

(C) misappropriated or mishandled funds in its possession or control;

(D) failed to correct within a reasonable time any deficiency in operations identified by the executive secretary in writing; or

(E) had its authority to act as a horsemen’s bookkeeper revoked in another jurisdiction.

(3) Before revoking a designation as horsemen’s bookkeeper, the executive secretary must issue a notice of proposed revocation which specifically describes the grounds for revocation. No later than 30 days after receiving a notice of proposed revocation, the entity may file a written response to the allegations with the executive secretary.

(4) The executive secretary may not revoke a designation without making adequate provision for a successor horsemen’s bookkeeper.

(c) Operations of horsemen’s bookkeeper.

(1) Each owner engaged in racing must open and maintain an account with the horsemen’s bookkeeper. The horsemen’s bookkeeper may permit other individuals to open and maintain an account with the horsemen’s bookkeeper, subject to the approval of the executive secretary. The aggregate of all such accounts is the horsemen’s account.

(2) The horsemen’s bookkeeper shall keep accurate records of the horsemen’s account and the constituent accounts. The horsemen’s bookkeeper shall:

(A) promptly credit each account with all earnings, awards, and deposits;

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(B) deduct or disburse all payments as directed by the owner or authorized agent;

(C) render periodic statements of each constituent account; and

(D) perform all other duties and functions as may be required by the Act or the Rules.

(d) Audit. The executive secretary may at any time inspect, review or audit the records and performance of the horsemen's bookkeeper. (Added eff. 11/3/89; repealed and replaced eff. 6/15/98; amended eff. 10/30/00)

Subchapter B. Entries, Scratches, and Allowances

Entries

Sec. 313.101. Entry Procedure.

(a) The racing secretary is responsible for receiving entries for all races.

(b) Except as otherwise provided by this section, an entry must be in writing on a form provided by the association.

(c) An entry must be made in writing, by telephone, or by facsimile to the racing secretary, but must be confirmed in writing should the stewards or racing secretary so request.

(d) If a horse is being entered for the first time at a race meeting, the horse must be identified on the entry by stating its name, color, sex, age, and the name of its sire and dam, as registered with the appropriate breed registry.

(e) A horse which, during the 12-month period preceding the date of a race, has started in a race where past performance lines are available but which are not on file with the Daily Racing Form or the American Quarter Horse Association, may not be entered at a racetrack licensed in this state unless the owner of the horse has furnished performance records to the racing secretary at the time of entry. (Added eff. 8/30/89; (b) amended eff. 10/11/90; (c) amended eff. 10/30/00; (b) amended eff. 4/4/05; (c) amended eff. 1/5/10)

Sec. 313.102. Intent and Authority.

(a) An individual may not enter or attempt to enter a horse for a race unless:

(1) the individual is authorized under the Rules to make the entry; and

(2) the entry is bona fide, made with the intent that the horse compete in the race in which it is entered.

(b) A signed entry form is prima facie evidence that the entry form expresses the desire and intent of the person making the entry. (Added eff. 8/30/89; (a) amended eff. 12/26/90; (a) amended eff. 10/30/00)

Sec. 313.103. Eligibility Requirements.

(a) To be entered in a race, a horse must:

(1) be properly registered with the appropriate national breed registry;

(2) be eligible to enter the race under the conditions of the race; and

(3) if the horse is to start for the first time:

(A) be approved by a licensed starter for proficiency in the starting gate within 90 days of the race entered; and

(B) have two published workouts, one within 90 days and one within 45 days of the race entered.

(b) A horse that has been barred in any racing jurisdiction is ineligible to start or be entered in a race without the approval of the stewards.

(c) To be eligible to enter a Texas-Bred race, the horse must be an accredited Texas-bred horse and be registered with the appropriate breed registry.

(d) A horse may not be entered in more than one race scheduled for one race day, unless at least one of the races is a stakes race.

(e) A horse may not start in a stakes race unless:

(1) the nominating, sustaining, entry, and starting fees have been paid in full by cash, cashier's check, certified check, or money order on or before the time specified in the conditions of the race; or

(2) the amount of the applicable fees are on account with the horsemen's bookkeeper at the time the fees are due as specified by the conditions of the race.

(f) Except as otherwise provided by this section for first-time starters, to be eligible to start

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time needed to correct the problem. The mutuel manager must promptly notify the pari-mutuel auditor and the stewards or racing judges.

(b) If the totalisator operator determines that the problem cannot be corrected before the scheduled end of the race performance, the operator shall verbally notify the mutuel manager. The mutuel manager must promptly notify the pari-mutuel auditor and the stewards or racing judges of that determination.

(c) The stewards or racing judges, after consulting with the association and after considering the amount of purses and wagers involved and the time required to repair the totalisator system, may permit any of the remaining races in the performance to be run as exhibitions without wagering. If a race is run as an exhibition under this subsection, the association shall pay the purses in accordance with the Rules. (Added eff. 4/1/01)

Sec. 321.11. Access to Magnetic Media.

(a) An association shall submit a storage plan for all magnetic media storing computer logs to the executive secretary for approval. This plan must include sufficient information for the executive secretary to determine that the information will remain secure, including:

- (1) sufficient space for the totalisator vendor to store all magnetic media; and
- (2) a storage cabinet that will protect the media from damage.

(b) An association shall include in its security plans a means by which access to the magnetic media is restricted. (Added eff. 4/1/01)

Sec. 321.12. Time Synchronization.

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

- (1) Tote times shall be synchronized to an atomic clock on a start-of-day basis.
- (2) Source video signal shall be synchronized with the atomic clock.
- (3) The time of day shall be displayed at the start of the race in the HR:MN:SC format.

(b) Security system video, which monitors mutuel lines, shall be synchronized with the atomic clock. (Added eff. 3/25/11)

Sec. 321.13. Pari-mutuel Track Report.

(a) Daily Pari-Mutuel Summary Report.

- (1) An association shall prepare a pari-mutuel summary report for each day that pari-mutuel wagering occurs at its racetrack facility.
- (2) The pari-mutuel summary report is the association's record of wagering activities at the racetrack.
- (3) The association shall deliver a copy of the pari-mutuel summary report to the pari-mutuel auditor no later than 24 hours after the date of the performance for which the report was prepared.

(4) The report must contain, by each live and simulcast performance, the following:

- (A) net handle at:
 - (i) the association's racetrack facility; and
 - (ii) the outlets wagering on the association's live performance;
- (B) payouts to the wagering public;
- (C) breakage;
- (D) settlements to the host racetrack or guest racetrack;
- (E) all purses earned, broken out by source, such as live, simulcast, cross species, and export;
- (F) Texas Bred Incentive Program revenue;
- (G) state tax; and
- (H) association revenue.

(b) Monthly Pari-Mutuel Recap Report.

- (1) The executive secretary shall prescribe a form for the monthly pari-mutuel recap report.
- (2) The association shall file with the executive secretary a recap of pari-mutuel activity on the prescribed form. The monthly recap of pari-mutuel activity must be filed no later than the 30th day after the last day of the month for which the report is being filed. (Added eff. 4/1/01; (a) amended eff. 10/4/05)

Sec. 321.15. License to Provide Totalisator Services.

(a) To provide totalisator services to an association in Texas, a totalisator company must

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be licensed by the Commission as a Totalisator Vendor. The license application must include:

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

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

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

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

(b) A contract between the totalisator company and an association must be submitted to the Commission for approval before the contract's effective date. (Added eff. 4/1/01; (a) amended eff. 3/25/11)

Sec. 321.17. Activities by Minors Restricted.

(a) An association may not permit an individual who is less than 16 years old to enter the public area of the association grounds unless the individual is accompanied by the individual's parent or legal guardian.

(b) An association may not accept a wager from an individual who has not attained the minimum age required to purchase alcoholic beverages in this state. (Added eff. 4/1/01)

Sec. 321.19. Wagers by Employees of Commission.

A member or employee of the Commission may not place a wager or cause a wager to be placed on a race conducted or offered for wagering in this state. (Added eff. 4/1/01)

Sec. 321.21. Certain Wagers Prohibited.

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

(b) An association may not accept a wager made on credit. (Added eff. 4/1/01; (a) amended eff. 10/4/05)

Division 2. Wagering Information and Results

Sec. 321.23. Wagering Explanations.

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

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

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

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

(b) Wagering explanations must be reviewed and approved by the executive secretary before publication. (Added eff. 4/1/01; (a) amended eff. 3/25/11)

Sec. 321.25. Wagering Information.

(a) An association shall make every effort to provide accurate wagering information to the Texas pari-mutuel patron for handicapping purposes. Examples of such information include:

(1) the Daily Racing Form;

(2) the official program; and

(3) tip sheets.

(b) If wagering information is inaccurate for a live or simulcast race and the error is discovered before wagering has opened on the race, the mutuel manager shall:

(1) notify the pari-mutuel auditor and the stewards or racing judges, if available, of the error; and

(2) not open for wagering on the race until the correct information is obtained and verified.

(c) If wagering information is inaccurate for a live or simulcast race and the error is discovered after wagering has opened on the race, the mutuel manager shall:

(1) notify the pari-mutuel auditor and stewards or racing judges, if available, of the error;

(2) close wagering on the race;

(3) announce via the public address system the wagering information error;

(4) refund the wagers, or pay prices and

other than the association's mutuel manager from having access to the cashed tickets and vouchers or to storage areas for outstanding ticket records and outstanding voucher records. (Added eff. 4/1/01; (a), (c) amended eff. 7/16/08)

Sec. 321.39. Altering Cashed Tickets and Cashed Vouchers.

An association shall ensure that each cashed or refunded mutuel ticket and cashed voucher is altered in a manner that indicates the mutuel ticket or voucher has been cashed or refunded, but does not destroy the identity of the ticket or voucher.

(Added eff. 4/1/01)

Sec. 321.41. Cashing Outstanding Tickets.

(a) For purposes of this section, an outstanding ticket is one that was purchased for a race held at least 21 days before the date the ticket is presented for payment.

(b) An association shall designate one ticket window where a patron must cash an outstanding ticket. If the association needs more than one window, the association must submit a written request for approval from the executive secretary for additional windows.

(c) The association may not permit an outstanding ticket to be cashed at a ticket window other than a designated window.

(d) At the end of each race day, the mutuel manager shall deliver to the pari-mutuel auditor:

- (1) a list of the outstanding tickets that were cashed on the previous race day; and
- (2) a photostatic copy of each outstanding ticket cashed on the previous race day.

(e) In the event a photostatic copy can not be provided, the association will not be held liable for a reader cashed ticket if the association can produce documentation to support the ticket's existence. (Added eff. 4/1/01; (a) amended eff. 7/16/08)

Sec. 321.42. Cashing Outstanding Vouchers.

(a) For purposes of this section, an outstanding voucher is one that was issued at least 21 days before the date the voucher is presented for payment.

(b) An association shall designate one mutuel window where a patron must cash an outstanding voucher. If the association needs more than one window, the association must submit a written request for approval from the executive secretary for additional windows.

(c) The association may not permit an outstanding voucher to be cashed at a mutuel window other than a designated window.

(d) At the end of each race day, the mutuel manager shall deliver to the pari-mutuel auditor:

- (1) a list of the outstanding vouchers that were cashed on the previous race day; and
- (2) a photostatic copy of each outstanding voucher cashed on the previous race day.

(e) In the event a photostatic copy can not be provided, the association will not be held liable for a reader cashed voucher if the association can produce documentation to support the voucher's existence. (Added eff. 7/16/08)

Sec. 321.43. Cancellation of Win Wagers.

(a) An association may not cancel a win wager for more than \$500 on any live or simulcast race offered for wagering by the association, unless:

- (1) the patron requests to cancel the wager before the patron leaves the teller's window and before the ticket-issuing machines are locked; or
- (2) the stewards or racing judges order the wager to be canceled because of a scratch in the race.

(b) If a patron desires to cancel a wager that is on the same mutuel ticket as a win wager that may not be canceled under this section, the association may cancel the ticket but must immediately replace the win wager that was on the ticket.

(c) An association shall post a notice by each automatic ticket-issuing machine that states that a win wager for more than \$500 may not be canceled except if the stewards or racing judges order the wager to be canceled because of a scratch in the race.

(d) An association may adopt a house policy regarding the cancellation of win wagers that is more restrictive than this section, subject to the approval of the executive secretary.

(e) The cancellation of wagers on self-serve wagering machines shall not be permitted except

in accordance with the written policies established by the association and approved by the executive secretary.

(f) The mutuel manager shall be responsible for controlling all canceled wagers and ensuring that the association complies with the rules of this section. (Added eff. 4/1/01; (e), (f) added eff. 8/5/07)

Sec. 321.45. Teller’s Records.

Each pari-mutuel teller for an association shall retain and account for all mutuel tickets or vouchers cashed, refunded or canceled by the teller. (Added eff. 4/1/01)

Sec. 321.46. Payment on No Ticket Issue.

When a ticket issuing machine does not produce a paper ticket due to a mechanical failure, the mutuel manager may validate the wager through totalisator logs. If the transaction is a winning wager and the mutuel manager pays the patron, then the mutuel manager shall report the transaction to the Commission on a form prescribed by the Commission. (Added eff. 3/25/11)

Subchapter B. Totalisator Requirements and Operating Environment

Division 1. Facilities and Equipment

Sec. 321.101. Purpose.

A totalisator system can be relied upon only if it has an adequate system of internal controls. The Commission adopts these rules for totalisator companies and operations to increase the Commission’s level of reliance on the totalisator employees, equipment, programming, maintenance, and operations in this state and to ensure all totalisator operations maintain the integrity of pari-mutuel wagering. (Added eff. 10/1/01)

Sec. 321.103. Facility Requirements.

(a) Totalisator Room. An association shall provide a totalisator room to house the main computing and communications equipment or the operator’s terminal at the association’s facility, whichever is applicable. The room must include:

- (1) air conditioning with humidity control to maintain a stable environment that meets the specifications of the computer equipment manufacturer;
- (2) a master power switch that allows all or part of the equipment housed in the room to be turned off in an emergency;
- (3) a smoke/fire alarm system that sounds locally and is tied into the association’s master alarm system;
- (4) fire extinguishers to deal with minor electrical fires;
- (5) an internal communication system connecting the totalisator operator with:
 - (A) the stewards or racing judges;
 - (B) the mutuel manager;
 - (C) each betting line; and
 - (D) the pari-mutuel auditor’s office; and
- (6) a private outside line for communication with supervisors, programmers, or totalisator personnel at other sites.

(b) Totalisator Room at a Central Processing Location. An association may contract with a totalisator service that uses a central processing location off the association’s grounds. The association shall:

- (1) provide an on-site totalisator room that satisfies the requirements in subsection (a) of this section;
- (2) ensure the totalisator central processing location satisfies the requirements of paragraphs (a)(1) through (a)(4) of this section; and
- (3) ensure the totalisator central processing location has a communications system connecting the central processing location operator with:
 - (A) the totalisator operator at the association’s facility; and
 - (B) a private outside line for the communication with supervisors, programmers, or totalisator personnel at other sites.

(c) Totalisator Room Security.

(1) The totalisator room housing the CPU or operator’s terminal that processes wagers made at an association’s facility must be secured at all times. Annually on a date established by the executive secretary, the association shall submit

wagers made, tickets issued, and total value of the transaction;

(C) for each cashing, canceling, or refunding transaction, the identification numbers of the tickets processed, the wagers paid out, and the value of the wagers paid out;

(D) for each cashing transaction, an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read;

(E) the amount of each cash draw and return;

(F) any special function, including Teller Balance, accessed through the TIM; and

(G) the times of day each of the transactions listed in this subdivision were made;

(2) a Ticket History Log showing for every ticket issued:

(A) the identification number of each cashed/canceled ticket;

(B) the TIM location and number;

(C) the wagers and their values;

(D) the cashing/canceling machine location and number;

(E) the amount paid out;

(F) the time of day each transaction occurred; and

(G) an indication as to whether each transaction was manual or automatic;

(3) a User Terminal Log showing the time of day of each entry for:

(A) each terminal other than a TIM operating during a day:

(i) each log-on/log-off and the operator's ID code;

(ii) each command or transaction entered;

(iii) each Stop Betting, Order of Finish, Official, and Sales Open command and the device that issued it;

(iv) each occurrence of loss/restoration of communication between computers or sites; and

(v) each occurrence of discrepancy between computers or sites when comparing databases;

(B) each TIM operated during a performance:

(i) each log-on/log-off and the teller's ID code, if applicable; and

(ii) each instance of loss/restoration of communication and the TIM;

(4) a System Error Log showing the date and time of each error; and

(5) an Account Activity Log showing the following information for each E-wagering account:

(A) the unique account number;

(B) the date and time of each transaction;

(C) the location of each wager;

(D) the amount of each transaction;

(E) the type of pool, animal number, and amount of each wager;

(F) the account balance; and

(G) the account holders name.

(b) Off-line Log. The totalisator operator must maintain a system incident log and make it available on request for review by the pari-mutuel auditor. The system incident log must include a description of each incident involving the totalisator system, including system failures, their causes, and corrective actions taken. (Added eff. 10/1/01; (a) amended eff. 10/4/05)

Subchapter C. Regulation of Live Wagering

Division 1. General Provisions

Sec. 321.201. Actions by Stewards or Racing Judges.

(a) The stewards or racing judges may correct an inadvertent mistake in the posting of the official order of finish before declaring the race to be official.

(b) The decision of the stewards or racing judges regarding the order of finish is final at the time the stewards or judges order the official sign displayed on the tote board.

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(c) A ruling by the stewards or racing judges made after the result of the race has been declared official regarding the order of finish or an award of purse money does not affect the distribution of the pari-mutuel pools. (Added eff. 4/1/01)

Sec. 321.203. Errors in Posted Payoff.

If an error is discovered in the payoff amounts posted on the tote board, the association shall correct the amounts immediately and announce the error and the subsequent correction over the public address system. The corrected amounts shall be used in the payoff. (Added eff. 4/1/01)

Sec. 321.205. Probable Odds.

The association shall set and print in the official program the morning line odds for each betting interest in each race. (Added eff. 4/1/01)

Sec. 321.207. Betting Interests.

(a) Except as otherwise provided by the Rules, if the stewards or racing judges determine that two or more race animals entered in a race have common ties through ownership, the stewards or judges shall join the animals as a coupled entry.

(b) If the number of race animals competing in a race exceeds the numbering capacity of the totalisator system, the highest numbered race animal and any animals grouped with that animal constitute the mutuel field.

(c) A coupled entry or a mutuel field is a single betting interest. A wager on one animal in a coupled entry or mutuel field is a wager on all animals in the coupled entry or mutuel field.

(d) In a race with a coupled entry or a mutuel field, the racing secretary may assign wagering numbers to entries that are different from the post position numbers. (Added eff. 4/1/01)

Sec. 321.209. Minimum Wager.

An association may accept wagers only in multiples of \$1, except as otherwise authorized by the executive secretary. (Added eff. 4/1/01)

Sec. 321.211. Carryover Pools.

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

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

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

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

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

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

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

(f) If the last performance is canceled, the pool shall be deposited in an interest-bearing account approved by the executive secretary. The pool and all accrued interest shall then be carried over and included with the appropriate pool at the next succeeding performance as an additional amount to be distributed. (Added eff. 4/1/01; (f) amended eff. 3/25/11)

meeting.

(v) If the twin trifecta carryover must be held over to the corresponding twin trifecta pool of a subsequent race meeting, the carryover shall be deposited in an interest-bearing account approved by the executive secretary. The twin trifecta carryover plus accrued interest shall be carried over and added to the second-half twin trifecta pool of the following race meeting on a date and performance designated by the executive secretary.

(w) The association must obtain written approval from the executive secretary concerning the scheduling and the amount of the cap to be set on the carryover. Any changes to the approved twin trifecta format require prior approval from the executive secretary. (Added eff. 4/1/01; (t) amended eff. 1/1/02)

Sec. 321.312. Pick (n)

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

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

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

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

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

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

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

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

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

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

(j) If no ticket is sold that designates the winner in each of the races comprising the pick (n), the major pool shall be carried forward to the next performance to be paid in the major pool of that performance. Except as otherwise provided by this section, the major pool shall be supplemented each performance by the amount added to the pool from all previous performances'

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major pools that have not been won in accordance with subsection (h) of this section.

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

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

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

performance shall be combined with the prior performance major pool and be paid to those holders of tickets who correctly designated the most winners of the remaining races of the pick (n). If three or more races comprising the pick (n) are canceled or declared a “no race”, the association shall refund all pick (n) tickets and the prior performance major pool shall be distributed in accordance with subsection (o) of this section.

(n) When the condition of the turf course warrants a change of racing surface in any of the races open to pick (n) wagering, and such change has not been made known to the betting public prior to the close of wagering for the first pick (n) race, the Stewards shall declare the changed races a “no contest” for pick (n) wagering purposes and the pool shall be distributed in accordance with subsection (m) of this section. Following the designation of a race as a “no contest”, no tickets shall be sold selecting a horse in such “no contest” race.

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

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

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

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

(Added eff. 4/1/01; (k) amended eff. 10/4/05; (n)-(r) amended eff. 3/25/11)

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

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

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purposes only and all wagers made on that animal shall be refunded. (Added eff. 4/1/01)

Sec. 321.318. Special Wager.

(a) Special wager authorized.

(1) Subject to the prior approval of the Commission, an association may offer a special wager in any form of wager authorized by the Rules. All applicable laws and rules that apply to the form of wager selected for the special wager apply to the special wager.

(2) A special wager must be based on the outcome of a race or races and comply with the definition of pari-mutuel wagering as defined by the Act, §1.03(18). The wager must be based on the performance of a specific race animal or animals in a race or races.

(3) All tickets on a special wager shall be calculated as a separate pool. If a special wager uses a point system to determine the winning tickets, the stewards or racing judges are responsible for certifying the accuracy of the point totals for purposes of payoff calculations and pool distribution. The use of any point system must be based on objective criteria.

(b) Approval of special wager.

(1) To offer a special wager, an association must file a written request with the executive secretary. The request must be filed no later than the 30th day before the day on which the Commission is to consider the request.

(2) The request must state:

(A) the name of the wager;

(B) the type of wagering pool to be used;

(C) the method by which winning tickets will be determined; and

(D) the method for addressing dead heats, no contest races, scratches, jockey changes, coupled entries, prevention of start, and disqualifications.

(3) After reviewing the request, the executive secretary may request additional information regarding the special wager.

(4) If the Commission determines the proposed special wager will be offered in a manner that complies with the Rules and that is consistent with maintaining the integrity of pari-mutuel wagering, the Commission may approve the request. The Commission may place reasonable conditions on the approval of the special wager. The Commission has sole discretion to approve or disapprove requests for special wagers.

(5) The executive secretary shall notify the association of the Commission's decision regarding the request no later than the fifth day after the Commission's decision.

(6) Approval of a special wager is perpetual, unless the association proposes to change the method by which winning tickets will be determined or the method for addressing dead heats, no contest races, scratches, jockey changes, coupled entries, prevention of start, and disqualifications. In that instance, the association must obtain approval for the changes in the special wager.

(c) Notice of special wager.

(1) An association shall publish notice of a special wager that is approved in its program at least 14 days before the first day the special wager will be offered. If the wager is to be offered during the first 14 days of a live race meeting, the association shall publish notice of the special wager in the program for every race day in the race meeting before the day the special wager is to be offered.

(2) The association shall post in a prominent place in the grandstand of the racetrack a full description of the special wager, including all information described in Subsection (b)(2) of this section and any conditions imposed by the Commission. (Added eff. 4/1/01; (b) amended eff. 11/6/02)

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Sec. 321.320. Super Hi-Five.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a date and performance designated by the executive secretary.

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

(j) For purposes of statutory deductions and commissions, the net amount does not include any amounts carried over from any previous super hi-five pool. Added eff. 3/25/11)

Sec. 321.321. Fortune Pick (n).

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

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

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

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

(e) A coupled entry or mutuel field in a race that is part of the fortune pick (n) races shall race

as a single betting interest for the purpose of mutuel pool calculations and payoffs to the public.

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

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

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

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

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

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

(j) Should a betting interest in any of the fortune pick (n) contests be scratched, excused, or determined to be a non-starter, the actual favorite, as shown by the largest amount wagered in the win pool at the time of the start of the race, will be substituted for the non-starting selection for all purposes, including pool calculations and payoffs. If there are two or more favorites in the win pool, both favorites will be substituted for the non-starting selection.

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

performance, if one or more races comprising the fortune pick (n) are canceled or declared a “no race”, the major pool and the minor pool for that performance shall be combined with the prior performance major pool and be paid to those holders of tickets who correctly designated the most winners of the remaining races of the fortune pick (n). If on the last performance of the race meeting or on a designated mandatory payout performance the major pool and the minor pool cannot be distributed in accordance with this subsection then the major and minor pool shall be handled in accordance with subsection (n) of the section.

(l) When the condition of the turf course warrants a change of racing surface in any of the races open to fortune pick (n) wagering, and such change has not been made known to the betting public prior to the close of wagering for the first fortune pick (n) race, the Stewards shall declare the changed races a “no contest” for fortune pick (n) wagering purposes and the pool shall be distributed in accordance with subsection (k) of this section. Following the designation of a race as a “no contest”, no tickets shall be sold selecting a horse in such “no contest” race.

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

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

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five days o the next subsequent race meeting or on the next performance after the undistributed mandatory payout performance, as approved by the executive secretary.

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

(p) A person may not disclose the number of tickets sold in the fortune pick (n) pool or the number or amount of tickets selecting winners of the races comprising the fortune pick (n) until the results of the last race comprising the fortune pick (n) are official. The totalisator equipment shall be programmed or constructed to suppress the publication or printing of any such information, except the total number of dollars wagered in the fortune pick (n), until the results of the last race comprising the fortune pick (n) are official. (Added eff. 3/25/11)

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Subchapter D. Simulcast Wagering

Division 1. General Provisions

Sec. 321.401. Purpose.

The Commission finds that, although wagering on simulcast races provides additional revenue for the state treasury, the primary advantage of wagering on simulcast races is the additional revenue it provides for purses for live races conducted in this state. The Commission further finds it is in the public interest to encourage live racing, which promotes economic development in a variety of racing-related industries. Therefore, it is the Commission's intent to adopt and enforce rules relating to simulcast wagering in a manner that will encourage live racing and enhance the horse breeding, owning, and training industries and the greyhound breeding, owning, and training industries. (Added eff. 4/1/01)

Sec. 321.403. Simulcasting License.

(a) A license to operate a pari-mutuel racetrack in this state held by an association that has been granted live race dates includes as a part of its privileges the privilege of conducting pari-mutuel wagering on simulcast races and to simulcast races conducted by the association. The conducting of pari-mutuel wagering on simulcast races and the simulcasting of races conducted by the association is subject to the approval of the executive secretary.

(b) The approval of any particular simulcasting or wagering on particular simulcast races or programs is not binding on the executive secretary for other requests for approval of simulcasting or wagering on simulcast races or programs. (Added eff. 4/1/01)

Sec. 321.405. Approval Of Exporting Simulcast Races.

(a) An association that wishes to serve as an exporting racetrack shall submit the form of its

contract as an exporting racetrack to the executive secretary for approval.

(b) If the association changes the form of the contract, the association shall submit the changed version of the form to the executive secretary for approval.

(c) If an association enters into a contract as an exporting racetrack that differs from the form approved by the executive secretary with respect to its responsibilities as a host racetrack under these rules, the association shall immediately notify the executive secretary in writing.

(d) After the association has entered into a contract to export its races, the association shall file a request for approval of the export to the executive secretary on a form prescribed by the executive secretary. A request for approval to export must be filed before post time of the first race covered by the request. (Added eff. 4/1/01)

Sec. 321.407. Approval Of Wagering On Simulcast Import Races.

(a) To receive approval to conduct pari-mutuel wagering on a simulcast import, an association must file a request for approval to import to the executive secretary on a form prescribed by the executive secretary. A request for approval to import a simulcast must be filed at least one day before the first simulcast race covered by the request.

(b) The executive secretary may approve a request for approval to import a simulcast, subject to rescission of the approval by the Commission at its next regular meeting.

(c) The executive secretary may require the association to submit additional information if the executive secretary determines the additional information is necessary to effectively evaluate the request.

(d) In considering whether or not to approve a request for approval to import a simulcast, the executive secretary shall consider:

(1) the financial stability of the association and the effect simulcasting will have on the economic viability of the association;

(2) the operating experience of the association;

(3) the regulatory compliance and conduct of the association;

(4) the impact of the association's proposed simulcasting on purses at the association's racetrack; and

(5) the public interest that will be served by the simulcasting.

(e) An association may not conduct pari-mutuel wagering on a simulcast import in place of a regularly scheduled live race, except as authorized by the executive secretary. (Added eff. 4/1/01; (a) amended eff. 3/20/08)

Sec. 321.409. Simulcasting Contract.

All contracts executed by an association regarding simulcasting are subject to inspection by the executive secretary. An association shall maintain each contract regarding simulcasting for at least one year after the end of the term of the contract. An association must provide a copy of the contract to the executive secretary on request. (Added eff. 4/1/01)

Sec. 321.411. Public Address System.

An association that conducts pari-mutuel wagering on a simulcast import must have a public address system in place that is:

(1) accessible to the mutuel manager from the mutuel department work area; and

(2) capable of being heard in all areas where the patrons may view a simulcast race. (Added eff. 4/1/01)

Sec. 321.413. Duties Of Guest Racetrack.

(a) An association that conducts pari-mutuel wagering on a simulcast import acts as a guest racetrack on those dates. The guest racetrack shall:

(1) provide adequate communication facilities, enabling pari-mutuel data transmissions and data communications between totalisator systems of the host racetrack and the guest racetrack;

(2) if the guest racetrack participates in common pools, provide a direct telephone line and

a facsimile machine, or other means approved by the executive secretary, located in the mutuel area to transmit information to the host racetrack in case of a system failure; and

(3) display the audio and video signals of the races being simulcast to the patrons.

(b) After each simulcast performance, the guest racetrack shall provide the reports of its pari-mutuel operations required by Subchapters A and B of this chapter. (Added eff. 4/1/01)

Sec. 321.415. Duties Of Host Racetrack.

(a) An association that exports races conducted by the association acts as a host racetrack on the dates the races are conducted and exported.

(b) A host racetrack is responsible for the content of the simulcast and shall use reasonable effort to present a simulcast which offers the viewers an exemplary depiction of the performance, a periodic display of wagering information, and continuity of programming between racing events.

(c) The host racetrack shall provide transmission equipment of acceptable broadcast quality that does not interfere with the closed circuit TV system of the guest racetrack. The host racetrack must transmit and receive wagering information via a data circuit. If the host racetrack plans to form common pools, the racetrack shall provide a direct telephone line and a facsimile machine, or other means approved by the executive secretary, located in the mutuel area to receive information from the guest racetracks in case of a system failure.

(d) Unless otherwise permitted by the executive secretary, a simulcast must contain in its video content:

(1) the date;

(2) a digital display of the actual time of day at the host racetrack;

(3) the name of the host racetrack;

(4) the number of the race being displayed;

and

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(5) any other relevant information available to patrons at the host racetrack.

(e) At least 15 minutes before post time for the first race, the host racetrack must be transmitting its signal to ensure proper operation of the transmission system. (Added eff. 4/1/01)

Sec. 321.417. Emergency Procedures.

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

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

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

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

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

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

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

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

(3) may not accept wagers from the guest racetracks for subsequent race days until the technical difficulties have been corrected. (Added eff. 4/1/01; (a) (b) amended eff. 3/25/11)

Sec. 321.419. Simulcasting Officials.

The mutuel manager shall be present on association grounds at all times that the association

is conducting pari-mutuel wagers on a simulcast import. The mutuel manager shall:

(1) before wagering is opened, proof the pools and entries available for wagering for accuracy;

(2) advise the wagering public via the public address system of all matters required to be announced by the Rules;

(3) make decisions on common pooling issues;

(4) be responsible for the integrity of the pools wagered at the association's racetrack facilities; and

(5) notify the pari-mutuel auditor of any problems occurring during simulcast wagering.

(Added eff. 4/1/01)

Sec. 321.421. Stop Betting Command.

(a) The totalisator operator shall ensure the auto-lock feature on the totalisator system is engaged at all times the totalisator system is operating. If the stop betting command from a host racetrack is not received, the totalisator operator shall issue the "stop betting" command and lock all wagering on the race at that location.

(b) The association's mutuel manager and the totalisator operator are responsible for ensuring that all wagering stops at that location when the "stop betting" command is issued from the host racetrack.

(c) If the link between the totalisator systems at the host and guest racetracks is lost, the totalisator operator at the guest racetrack shall lock all pools at the guest racetrack at zero minutes to post.

(d) An association may not permit a wager to be accepted or a ticket to be cancelled after the "stop betting" command has been issued.

(e) If a wager is accepted after the "stop betting" command has been issued:

(1) the mutuel manager, before the race is declared official, shall inform the pari-mutuel auditor that a wager was accepted after the "stop betting" command was issued; and

(2) the mutual manager shall decide to either:

(A) refund the wagers accepted after the “stop betting” command was issued, or

(B) to refund all the wagers made on the race.

(f) A wager accepted after the “stop betting” command is issued is not considered a valid wager. (Added eff. 4/1/01)

Division 2. Common Pool Wagering

Sec. 321.451. General Provisions.

(a) With the prior approval of the executive secretary, pari-mutuel pools offered by an association that is participating in a simulcast may be combined with corresponding wagering pools offered by the other racetracks participating in the simulcast to form a common pool.

(b) An association participating in a common pool must include in the simulcast contract:

- (1) the take out rates;
- (2) public payout rates;
- (3) contact names and phone numbers; and
- (4) settlement arrangements for liabilities

incurred.

(c) The content and format of the visual display of racing and wagering information at facilities in other racing jurisdictions in the interstate common pools need not be identical to the information required to be displayed under the Rules. (Added eff. 4/1/01)

Sec. 321.453. Formation Of Common Pool.

(a) An association shall transmit wagering data through a method authorized by this subsection, in the following order of preference:

- (1) via a data circuit or frame relay;
- (2) via facsimile; or
- (3) by voice.

(b) Except as otherwise provided by this subsection, the odds and prices for a common pool shall be calculated in accordance with the laws and rules of the jurisdiction in which the host racetrack is located. In determining the amount distributable to the wagerers, the total takeout required in the jurisdiction in which the host

racetrack is located shall be used. If the association desires, the association may use the net pool pricing method for determining the payoff prices.

(c) An association shall ensure that the necessary records are maintained regarding the amounts wagered at its racetrack for accounting, auditing, and reporting purposes. (Added eff. 4/1/01)

Sec. 321.455. Distribution Of Common Pool.

(a) For purposes of pool calculations, a wager is considered made at the place at which the pool originates.

(b) The payoff attributable to the association shall be based on the actual winnings indicated by the totalisator system.

(c) The total takeout applicable to the wagers received in this state for a common pool shall be distributed in accordance with the Act. A gain or loss caused by a difference in takeout totals shall be part of the association’s revenue or expense from the interstate simulcast.

(d) A surcharge or other withholding other than the takeout authorized by law shall be applied only in the jurisdiction imposing the surcharge or withholding. (Added eff. 4/1/01)

Sec. 321.457. Breakage.

Breakage calculation is determined by the host racetrack. (Added eff. 4/1/01)

Sec. 321.459. Manual Merge.

(a) If the guest racetrack’s totalisator system fails to adequately transmit wagering data to the host racetrack, the host racetrack shall manually merge the pools if a manual merge will not endanger the pools at the host racetrack and the host racetrack permits a manual merge.

(b) To merge the pools manually, the guest racetrack’s mutual manager shall send the host racetrack a facsimile containing the total amount in the pool, the total dollars on winning wagers, and the total dollars on losing wagers. When the manual merge is complete, for purposes of declaring the race official, the totalisator operator at the host racetrack shall notify:

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- (1) the stewards or racing judges at the host racetrack; and
- (2) the presiding steward or racing judge, or the highest ranking mutuel official if the steward or judge is not on the grounds, at the guest racetrack. (Added eff. 4/1/01)

Sec. 321.461. Failure To Merge.

(a) Except as otherwise provided by this section, if it becomes impossible to successfully merge a guest racetrack's wagers in the common pool via data circuit or manual merge, the mutuel manager shall:

- (1) refund the pools not successfully merged after announcing to the public that the pools were not merged successfully and the pools will be refunded; or
- (2) pay the winning wagers based on the prices established at the host racetrack.

(b) The mutuel manager shall report the failure to merge any common pool to the pari-mutuel auditor. The report must be on a form prescribed by the executive secretary and be filed no later than the day after the date the common pool failed to merge.

(c) A contract for common pools entered into by an association as a host racetrack must contain a provision stating that the association is not liable if a guest racetrack's wagers are not accepted into a common pool if:

- (1) it becomes impossible to successfully merge the wagers placed in another state in the common pool; or
- (2) the mutuel manager determines that attempting to transfer pool data from the guest racetrack will endanger the common pool. (Added eff. 4/1/01)

Division 3. Simulcasting at Horse Racetracks

Sec. 321.501. Negotiation With Horsemen.

(a) Except as otherwise provided by this subsection, an association shall negotiate with the officially recognized horsemen's organization in

this state regarding all simulcasting. An association and the officially recognized horsemen's organization may not agree to an allocation of simulcast revenue to purses that differs from §321.503 of this title (relating to Purses).

(b) If after a good faith effort the association and the organization cannot reach an agreement on simulcasting, either party may petition the Commission to decide the issues in dispute. The decision of the Commission is binding on all parties. (Added eff. 4/1/01)

Sec. 321.503. Purses.

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

- (1) for a same species simulcast, as provided by the Act, §6.08; and
- (2) for a cross-species simulcast, as provided in the contract with the officially recognized horsemen's organization.

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

(c) An association shall distribute the funds derived for purses from a simulcast during the 12-month period immediately following the simulcast. (Added eff. 4/1/01; (b) amended eff. 3/25/11)

Sec. 321.505. Allocation Of Purses And Funds For Texas Bred Incentive Programs.

(a) Purses.

- (1) An association shall recommend the percentages by which it will divide the purse

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(b) The Commission shall determine the amount of the distribution to each racetrack in accordance with the standards set forth in the Act, §6.091(e) and (f).

(c) The percentages by which an association will divide the escrowed purse account revenue among the various breeds of horses is subject to the approval of the Commission. When requesting Commission approval of the percentages, the association shall present in writing studies, statistics, or other documentation to support its proposed division of escrowed purse account revenue. The Commission may consider the following criteria when evaluating the association's studies, statistics, or other documentation submitted to support its proposed division of escrowed purse account revenue before granting its approval:

(1) local public interest in each breed as demonstrated by, but not limited to, the following factors:

- (A) simulcast import handle by breed;
- (B) live handle by breed; and
- (C) live attendance.

(2) earnings generated by the association from each breed;

(3) racetrack race date request and opportunities given to each breed;

(4) statewide need by breed; and

(5) national public interest in each breed as determined by the live simulcast export handle of each Texas meet.

(d) If the Commission determines that the association's proposed division of the escrowed purse account revenue is inconsistent with the association's obligation to accord reasonable access to races for all breeds of horses, the Commission may:

(1) require the association to submit additional information supporting its recommendation for consideration at the next Commission meeting;

(2) reject the association's recommendation and require the association to submit a new recommendation for consideration at

the next Commission meeting; or

(3) reject the association's recommendation and approve an alternate division of the escrowed purse account revenue as determined by the Commission.

(e) In lieu of the process outlined in subsections (c) and (d) of this section, a signed agreement between the association and the organizations recognized by the Commission or in the Act as representatives of horse owners, trainers, and/or breeders may be submitted to the Commission for consideration and approval. For the Commission to approve the agreement, the agreement must:

(1) delineate the percentages by which the escrowed purse account revenue received by the association will be divided amongst the various breeds of horses; and

(2) be signed by all organizations recognized by the Commission or in the Act as representatives of horse owners, trainers, and/or breeders. (Added eff. 4/1/01; amended eff. 11/26/07)

Subchapter E. Ticketless Electronic Wagering.

Division 1. Conduct of E-Wagering.

Sec. 321.601. Purpose.

(a) The Commission recognizes that the technology for placing wagers is ever changing. The Commission adopts these rules as guidelines to conduct E-wagering that maintains the integrity of pari-mutuel wagering.

(b) E-wagering may be conducted only within the enclosure of an association.

(c) Only persons meeting the age restriction in §321.17 of this title (relating to Activities by Minors Restricted) may participate in E-wagering. E-wagers must be made in person. (Added eff. 10/4/05)

Sec. 321.603. Authorization for E-Wagering.

An association may not conduct E-wagering unless approved by the executive secretary. (Added eff. 10/4/05)

Sec. 321.605. E-Wagering Plan.

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

- (1) the procedures for opening an account;
- (2) the procedures for establishing identity of account holder;
- (3) the procedures for making deposits to the account;
- (4) the procedures for making withdrawals from the account;
- (5) the procedures for closing an account;
- (6) the procedures for suspending an account; and
- (7) a description of the totalisator system and E-wagering access system.

(b) The executive secretary may approve a plan to conduct E-wagering if the executive secretary determines that the association's plan meets the requirements of this section and does not conflict with the Rules or the Act. (Added eff. 10/4/05; (a) amended eff. 3/25/11))

Sec. 321.607. E-Wagering Account Restrictions.

(a) The mutuel manager of an association shall establish and manage E-wagering within an association's enclosure.

(b) The making and acceptance of wagers over the communications facility known as the "Internet" or "telephone" is prohibited.

(c) An association may accept deposits to an account only in the form of cash, cashier's check, money order, or other method determined by the executive secretary to be a cash equivalent.

(d) The association may not accept wagers in an amount that exceeds the account balance.

(e) An account holder must be at least 21 years of age.

(f) An account holder is responsible for all activity associated with his or her account.

(g) An association may use E-wagering devices only if the devices are connected to the totalisator system. (Added eff. 10/4/05)

Sec. 321.609. Testing E-Wagering.

An association's E-wagering system is subject to testing and inspection by the Commission. All forms of access to an account, including hardware used directly by the account holder for E-wagering are subject to testing and inspection by the Commission. (Added eff. 10/4/05)

Division 2. Operational Requirements.

Sec. 321.621. Ticketless Electronic Wagering Hardware.

An E-wagering device must be configured for loss of signal when removed from an association's enclosure. (Added eff. 10/4/05)

Sec. 321.623. Cancellation of E-Wagers.

An account holder may cancel an E-wager only as provided by Sec. 321.43 of this title, (relating to Cancellation of Win Wagers.) A statement approved by the executive secretary must appear in or accompany the account wagering application form advising the wagering account applicant of this requirement. (Added eff. 10/4/05)

Sec. 321.625. Discrepancy/Dispute Resolution.

If an account holder believes a discrepancy exists in his or her account, the account holder may file a claim for payment with the executive secretary. The executive secretary shall investigate all claims for payment and the executive secretary's determination is final. (Added eff. 10/4/05)

Sec. 321.627. Suspension or Termination of E-Wagering.

(a) The executive secretary may issue a cease and desist order terminating the E-wagering system if the executive secretary determines that the operation of the E-wagering system:

- (1) violates the Rules, the Act, or other state law;
- (2) is detrimental to the integrity of pari-mutuel wagering; or

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