

TEXAS RACING COMMISSION

Laws and Rules Governing Pari-Mutuel Racing in Texas

List of Replacement Pages

September 1, 2011

The current rulebook of the Texas Racing Commission consists of the Rulebook dated MARCH 2010, the List of Replacement Pages dated April 1, 2011, the List of Replacement Pages dated August 1, 2011, and the following replacement pages that include the Preface and the Texas Racing Act, as amended by H.B. 2271 and H.B. 254, 82nd Regular Legislative Session, Effective Sept. 1, 2011:

Preface – page i – Page 67

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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PREFACE

This book contains the Texas Racing Act, Tex. Rev. Civ. Stat. Art. 179e, as enacted in 1986 and as subsequently amended and the rules adopted by the Texas Racing Commission pursuant to its rulemaking authority in the Act. The rules are codified in Title 16 of the Texas Administrative Code, Part VIII.

To respond to changes occurring in the racing industry in Texas, the Texas Racing Commission adopts changes to its rules on a regular basis. To receive a copy of changes made to the rules after the publication of this book, please notify the Commission offices in Austin or at any pari-mutuel racetrack, or check the *Texas Register*, available at a local library.

Every effort has been made to ensure this publication is accurate. The official source for the Commission's rules, however, is the Texas Administrative Code, which is compiled and maintained by the Secretary of State.

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STATUTES RELATING TO PARI-MUTUEL RACING

THE TEXAS RACING ACT

(Article 179e, Vernon's Texas Civil Statutes)

As Amended by H.B. 2271 and H.B. 254,

82nd Regular Legislative Session,

Effective Sept. 1, 2011

Additional Directives

from H.B. 2271 and H.B. 254:

H.B. 2271.

(a) *Not later than September 1, 2012, the Texas Racing Commission shall designate each racetrack license as active or inactive as required by Section 6.0601, as added by this Act.*

(b) *The Texas Racing Commission by rule shall establish a staggered schedule and the procedure for the review of licenses required under Section 6.06(k), as amended by this Act.*

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

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

H.B. 254.

As soon as practicable after the effective date of this Act, the Texas Racing Commission shall adopt the rules necessary to implement Section 9A.003 as added by this Act.

Article 1. General Provisions

Sec. 1.01. Short Title.

This Act may be cited as the Texas Racing Act.

Sec. 1.02. Purpose.

The purpose of this Act is to provide for the strict regulation of horse racing and greyhound racing and the control of pari-mutuel wagering in connection with that racing.

Sec. 1.03. Definitions.

In this Act:

(1) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property.

(2) "Association" means a person licensed under this Act to conduct a horse race meeting or a greyhound race meeting with pari-mutuel wagering.

(3) "Commission" means the Texas Racing Commission.

(4) "Comptroller" means the comptroller of public accounts.

(5) "Executive secretary" means the executive secretary of the Texas Racing Commission.

(6) "Horse race meeting" means the conducting of horse races on a day or during a period of consecutive or nonconsecutive days.

(7) "Thoroughbred horse" means a horse that is registered by the Jockey Club.

(8) "Thoroughbred racing" means the form of horse racing in which Thoroughbred horses mounted by jockeys engage in a race.

(9) "Quarter horse" means a horse that is registered by the American Quarter Horse Association.

(10) "Quarter horse racing" means the form of horse racing in which quarter horses mounted by jockeys engage in a race.

(11) "Appaloosa horse" means a horse that is registered by the Appaloosa Horse Club.

(12) "Appaloosa racing" means the form of horse racing in which Appaloosa horses mounted by jockeys engage in a race.

(13) "Arabian horse" means a horse that is registered by the Arabian Horse Registry of America or by the Canadian Arabian Horse Registry.

(14) "Arabian racing" means the form of horse racing in which Arabian horses sanctioned

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for racing by the Texas Arabian Breeders Association, while mounted by jockeys, engage in a race.

(15) "Paint horse" means a horse that is registered by The American Paint Horse Association.

(16) "Paint horse racing" means the form of horse racing in which paint horses mounted by jockeys engage in a race.

(17) "Enclosure" means all areas of a racing association's grounds, including the parking area, to which admission ordinarily can be obtained only on payment of an admission fee or presentation of official credentials.

(18) "Pari-mutuel wagering" means the form of wagering on the outcome of greyhound or horse racing in which those who wager purchase tickets of various denominations on an animal or animals and all wagers for each race are pooled and held by the racing association for distribution of the total amount, less the deductions authorized by this Act, to holders of tickets on the winning animals.

(19) "Pari-mutuel pool" means the total amount of money wagered by patrons on the result of a particular race or combination of races, the total being divided into separate mutuel pools for win, place, show, or combinations.

(20) "Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of 10 cents, except in the event a minus pool occurs, in which case the breakage shall be in multiples of five cents.

(21) "Texas-bred horse" means a horse qualified under the rules of the commission that is:

(A) sired by a stallion standing in Texas at the time of conception and foaled by a mare in Texas;

(B) foaled by a mare bred outside Texas and brought into Texas to foal at any time in the mare's lifetime if the mare is bred back to a stallion standing in Texas; or

(C) a Thoroughbred or Arabian horse foaled in Texas by an accredited Texas-bred

mare if the mare was bred outside Texas and returned to Texas on or before Aug. 15 of the calendar year of conception.

(22) "Accredited Texas-bred horse" means a Texas-bred horse that meets the accreditation requirements of the state breed registry of that breed of horse.

(23) "Mixed racing" means a race in which different breeds of horses participate.

(24) "State horse breed registry" means a designated association administering accredited Texas-bred requirements for its specific breed of horses.

(25) "Racetrack" means a facility that is licensed under this Act for the conduct of pari-mutuel wagering on greyhound racing or horse racing.

(26) "Horse racing day" means the 24-hour period ending at 12 midnight.

(27) "Clerk of scales" means a racetrack official who is responsible for weighing a jockey before and after a race.

(28) "Jockey" or "apprentice jockey" means a professional rider licensed by the commission to ride horse races.

(29) Repealed by Acts 1991, 72nd Leg., ch.386, § 74(a), eff. Aug. 26, 1991.

(30) "Official starter" means a racetrack official who is in charge of the start of a race.

(31) "Paddock judge" means a racetrack official who supervises animals entered in a race while the animals are assembled before the beginning of a race in an enclosure on the grounds of a racetrack.

(32) "Patrol judge" means a racetrack official who is stationed at a set point along the racetrack to monitor the running of a race.

(33) "Placing official" means a racetrack official who records the order of the finish of a race.

(34) "Stable foreman" means the person in charge of the building in which horses are lodged and fed.

(35) "Steward" means a racing official with general authority and supervision over:

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(A) the conduct of a licensed race meeting; and

(B) all licensees at a racetrack during a race meeting.

(36) "Trainer" means a person who is licensed by the commission to train racehorses or greyhounds.

(37) "Handicapper" means a person who predicts the winner of a horse race.

(38) "Authorized agent" means a person appointed by an owner of a horse to represent the owner. The term is limited to a person who is appointed by a written instrument that is acknowledged and approved by the commission.

(39) "Horseshoe inspector" means a racetrack official who inspects the shoes of the horses entered in a race.

(40) "Jockey room custodian" means a person who maintains the premises of a room in which jockeys prepare for a race.

(41) "Timer" means a racetrack official who times the running of a race.

(42) "Veterinarian" means a person licensed under The Veterinary Licensing Act (Article 7465a, Vernon's Texas Civil Statutes).

(43) "Concessionaire" means a person licensed by the commission to sell refreshments or souvenirs at a racetrack.

(44) "Combination" means a combination of races.

(45) "Regular wagering" means wagering on a single horse or greyhound in a single race. The term includes wagering on the win pool, the place pool, or the show pool.

(46) "Multiple wagering" means wagering on two or more animals in one race or on one or more animals in more than one race. "Multiple two wagering" means wagering on two animals in one or more races. "Multiple three wagering" means wagering on three or more animals in one or more races.

(47) "Greyhound" means a purebred greyhound dog registered by the National Greyhound Association.

(48) "Greyhound racing" means any race in which two or more greyhounds engage in a

contest of speed or endurance or pursue a mechanical lure.

(49) "Enclosure - public" means the areas of the grounds of an association to which a member of the public is admitted by payment of an admission fee or on presentation of authorized credentials, but excludes restricted areas such as the racetrack, the receiving area, and the area in which the animals are housed.

(50) "Greyhound racing days" means days on which a permitted association conducts greyhound racing. "One racing day" means a period commencing at noon and ending at 2 a.m. the next calendar day, except in the case of days on which there are matinee races.

(51) "Greyhound matinee race" means any performance starting between 10 a.m. and 5 p.m. on any day other than Sunday.

(52) "Performance" means the consecutive running of a specified number of greyhound races as determined by the commission.

(53) "Judge" means a racing official with general authority and supervision over:

(A) the conduct of a licensed race meeting; and

(B) all licensees at a racetrack during a race meeting.

(54) "Nonprofit corporation" means a corporation organized under Subdivision 7, Article 1302, Revised Statutes, or organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) that:

(A) does not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services;

(B) has a governing body or officers elected by a vote of members or by a vote of delegates elected by the members; and

(C) has obtained an exemption under Section 501 of the Internal Revenue Code (26 U.S.C. Section 501).

(55) "Mixed meet" means a live horse race meeting that includes races by more than one breed of horse.

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(56) "Texas-owned horse" means a horse owned by a bona fide resident of this state as determined by the rules of the commission.

(57) "National historic district" means a district included in or eligible for inclusion in the National Register of Historic Places created under the National Historic Preservation Act, 16 U.S.C. Section 470 et seq.

(58) "Corporation" means an incorporated entity, either for profit or not for profit.

(59) "Applicant" means a person with a legal, equitable, or beneficial interest in a license application.

(60) "Maiden" means a horse that has never won a race at a race meeting authorized by the commission or by another racing jurisdiction.

(61) "Simulcast" means the telecast or other transmission of live audio and visual signals of a race, transmitted from a sending track to a receiving location, for the purpose of wagering conducted on the race at the receiving location.

(62) "Live pari-mutuel pool" means the total amount of money wagered by patrons on the result of a particular live race or combination of live races within the enclosure of the racetrack association where the race is being run.

(63) "Simulcast pari-mutuel pool" means the total amount of money wagered by patrons at a licensed racetrack association in Texas on the result of a particular simulcast race or combination of simulcast races.

(64) "Receiving location" means a licensed racetrack association in this state that has been allocated live and simulcast race dates or a facility not located in this state that is authorized to conduct wagering under the law of the jurisdiction in which it is located.

(65) "Credential" means any license, certificate, identification card, or other document indicating or representing authority or permission under this Act.

(66) "Sending track" means any licensed track for racing in this state or out-of-state from which a race is transmitted.

(67) "Racetrack facility" means a facility operated by an association within its enclosure

for the purpose of presenting races for pari-mutuel wagering.

(68) "Child" means a person younger than 16 years of age.

(69) "Minor" means a person younger than 21 years of age.

(70) "Contraband" means:

(A) any item or thing the possession of which is unlawful under this Act, a commission rule, or other law;

(B) any item or thing that might reasonably have the effect of unnaturally depressing, stimulating, or exciting an animal during a race in a manner contrary to this Act or commission rule, including a prohibited device or substance; or

(C) a document, including a credential or forged ticket, possessed by an individual or used by an individual in violation of this Act or a commission rule.

(71) "Prohibited device" means:

(A) a spur or an electrical or other device prohibited by a commission rule regulating the unlawful influence of a race; or

(B) a device specifically designed, made, or adapted to influence or affect the outcome of a race in a manner contrary to this Act or a commission rule.

(72) "Prohibited substance" means a drug, chemical, or other substance that:

(A) in its use or intended use, is reasonably capable of influencing or affecting the outcome of a race in a manner contrary to this Act or a commission rule; and

(B) is prohibited by a commission rule regulating the unlawful influence of a race.

(73) "Unlawful touting" means an offense described by Section 14.01 of this Act or a similar offense under the laws of another state.

(74) "Race" includes a live audio and visual signal of a race.

(75) "Outstanding ticket" means a pari-mutuel ticket not presented for payment before the end of the greyhound racing or horse racing day for which the ticket was purchased.

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(76) "Pari-mutuel voucher" means a bearer instrument issued by a pari-mutuel wagering machine that represents money owned by a wagering patron and held by an association, including winnings from a pari-mutuel wager.

(77) "Horsemen's organization" means an organization recognized by the commission that represents horse owners and trainers in negotiating and contracting with associations on subjects relating to racing and in representing and advocating the interests of horse owners and trainers before administrative, legislative, and judicial forums.

(78) "Cross-species simulcast signal" means a simulcast signal of a horse race at a greyhound racetrack facility or a simulcast signal of a greyhound race at a horse racetrack facility.

(79) "Executive director" means the executive secretary of the Texas Racing Commission.

(80) "Active license" means a racetrack license designated by the commission as active.

(81) "Inactive license" means a racetrack license designated by the commission as inactive.

Article 2. Texas Racing Commission

Sec. 2.01. Creation.

The Texas Racing Commission is created.

Sec. 2.02. Membership.

(a) The commission consists of seven members appointed by the governor with the advice and consent of the senate and two ex officio members who shall have the right to vote. The ex officio members are:

(1) the chairman of the Public Safety Commission or a member of the Public Safety Commission designated by the chairman of the Public Safety Commission; and

(2) the comptroller of public accounts or the comptroller's designee.

(b) Appointments to the commission shall be made without regard to the race, color, disability,

sex, religion, age, or national origin of the appointees.

(c) In making appointments to the commission, the governor shall attempt to reflect the minority groups found in the state's general populace.

Sec. 2.03. Term of Office.

(a) Appointed members hold office for staggered terms of six years with two or three members' terms expiring February 1 of each odd-numbered year. A member holds office until that member's successor is appointed and qualifies.

(b) The ex officio members hold office on the commission for the time for which they hold their other offices.

Sec. 2.04. Residence Requirement.

An appointed member is not eligible to be a member of the commission unless that appointee has been a resident of this state for at least 10 consecutive years immediately before appointment.

Sec. 2.05. Eligibility.

(a) Five of the appointed members of the commission must be representatives of the general public and have general knowledge of business or agribusiness. At least one of those appointed members may be a veterinarian, and being licensed as a veterinarian satisfies the requirement that the person have general knowledge of business or agribusiness. One additional appointed member must have special knowledge or experience related to greyhound racing and one additional appointed member must have special knowledge or experience related to horse racing. A person is not eligible for appointment as a member of the commission if the person or the person's spouse:

(1) is licensed by the commission, except as a commissioner;

(2) is employed by the commission or participates in the management of a business

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entity or other organization regulated by the commission or receiving funds from or through the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from or through the commission; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from or through the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(b) In addition to the eligibility requirements of Subsection (a), a person is not eligible to be an appointed member of the commission if that person owns any financial interest in a racetrack or its operation or if that person is related within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, to a person who owns any financial interest in a racetrack or its operation.

(c) Each person appointed to or employed by the commission is subject to all background checks and qualification criteria required to hold a racetrack license or other license under this Act.

(d) A person who has been convicted of a felony or of any crime involving moral turpitude is not eligible for appointment to the commission.

Sec. 2.06. Financial Statement.

Each appointed member of the commission and the executive secretary of the commission is an "appointed officer of a major state agency" within the meaning of Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes). An appointee shall also file a detailed financial statement with the secretary of state of the type required by The Banking Department of Texas in the application for charter for state banks. The financial statement is a public record under

Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

Sec. 2.07. Repealed by Acts 1997, 75th Legislature, Ch. 1275, §54, eff. Sept. 1, 1997.

Sec. 2.071. Conflict of Interest.

(a) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding.

(b) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(c) In this section, "Texas trade association" a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Sec. 2.072. Repealed by Acts 2011, 82nd Legislature, HB2271, Section 26, eff. Sept. 1, 2011.

Sec. 2.073. Grounds for Removal.

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

- (1) does not have at the time of appointment the qualifications required by Section 2.02, 2.04, or 2.05 of this Act;
- (2) does not maintain during service on the commission the qualifications required by Section 2.02 or 2.05 of this Act;
- (3) violates a prohibition established by Section 2.05, 2.071, or 2.072 of this Act;
- (4) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or
- (5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year.

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

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

Sec. 2.074. Member Training.

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

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

- (1) the enabling legislation that created the commission;
- (2) the programs operated by the commission;
- (3) the role and functions of the commission;
- (4) the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the commission;
- (6) the results of the most recent formal audit of the commission;
- (7) the requirements of the:
 - (A) open meetings law, Chapter 551, Government Code;
 - (B) open records law, Chapter 552, Government Code; and
 - (C) administrative procedure law, Chapter 2001, Government Code;
- (8) the requirements of the conflict of interests laws and other laws relating to public officials; and
- (9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

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

Sec. 2.08. Expenses.

Each appointed member of the commission is entitled to a per diem in an amount prescribed by legislative appropriation for each day spent in performing the duties of the office and is entitled to reimbursement for actual and necessary expenses incurred in performing those duties. Reimbursement for expenses under this section is subject to any applicable limitation in the General Appropriations Act. The ex officio members are entitled to reimbursement for expenses from their respective agencies as

provided by law for expenses incurred in the performance of their other official duties.

Sec. 2.09. Offices.

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

Sec. 2.10. Presiding Officer.

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

Sec. 2.11. Meetings of Commission.

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

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

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

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

Sec. 2.12. Executive Secretary; Employees.

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

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

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

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

(2) who is employed by or serves as a paid consultant to a licensee of the commission, an official breed registry, or a Texas trade association, as defined by Section 2.071(c) of

this Act, in the field of horse or greyhound racing or breeding;

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

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

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

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

Sec. 2.13. Executive Secretary; Duties.

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

Sec. 2.14. Legal Representation.

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

Sec. 2.15. Records.

All records of the commission that are not made confidential by other law are open to inspection by the public during regular office hours. All applications for a license under this Act shall be maintained by the commission and shall be available for public inspection during

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

Sec. 2.16. Department of Public Safety Records.

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

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

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

Sec. 2.17. Annual Accounting.

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

Sec. 2.18. Funds Paid to Commission.

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

Sec. 2.19. Employment Practices.

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

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

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

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with the requirements of Chapter 21, Labor Code;

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

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

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

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

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

Sec. 2.20. Standards of Conduct.

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

Sec. 2.21. Division of Responsibility.

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

Sec. 2.22. Program and Facility Accessibility.

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

Sec. 2.23. Information to Public.

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

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

- (1) on every race performance program provided by each racetrack association; or
- (2) on signs prominently displayed in the common public areas on the premises of each racetrack association.

Sec. 2.24. Complaint Handling.

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

- (1) the date the complaint is received;
- (2) the name of the complainant;
- (3) the subject matter of the complaint;
- (4) a record of all persons contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) for complaints for which the agency took no action, an explanation of the reason the complaint was closed without action.

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

notice would jeopardize an undercover investigation.

Sec. 2.25. Negotiated Rulemaking and Alternative Dispute Resolution Procedures.

(a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution shall conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall:

(1) coordinate the implementation of the policy adopted under Subsection (a) of this section;

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Article 3. Powers and Duties of Commission

Sec. 3.01. Repealed by Acts 1997, 75th Legislature, Ch. 1275, §54, eff. Sept. 1, 1997.

Sec. 3.02. Regulation and Supervision.

(a) The commission shall regulate and supervise every race meeting in this state involving wagering on the result of greyhound or horse racing. All persons and things relating to the operation of those meetings are subject to regulation and supervision by the commission. The commission shall adopt rules for conducting greyhound or horse racing in this state involving wagering and shall adopt other rules to

administer this Act that are consistent with this Act. The commission shall also make rules, issue licenses, and take any other necessary action relating exclusively to horse racing or to greyhound racing.

(b) The commission may establish separate sections to review or propose rules of the commission.

(c) The commission or a section of the commission shall hold a meeting on any proposed rule before the commission publishes the proposed rule in the Texas Register.

(d) The commission shall post notice of a meeting under Subsection (c) of this section at each racetrack facility. The notice shall include an agenda of the meeting and a summary of the proposed rule.

(e) A copy of a proposed rule published in the Texas Register shall also be posted concurrently at each racetrack facility.

(f) The commission or a section of the commission may appoint a committee of experts, members of the public, or other interested parties to advise the commission or section of the commission about a proposed rule of the commission.

(g) The commission, in adopting rules and in the supervision and conduct of racing, shall consider the effect of a proposed commission action on the state's agricultural, horse breeding, horse training, greyhound breeding, and greyhound training industry.

Sec. 3.021. Regulation by Commission.

(a) Any provision in this Act to the contrary notwithstanding, the commission may license and regulate all aspects of greyhound racing and horse racing in this state, whether or not that racing involves pari-mutuel wagering.

(b) To protect the health, safety, and welfare of race animals and participants in racing, to safeguard the interest of the general public, and to promote the orderly growth and conduct of racing within the state, the commission may adopt rules for the licensing and regulation of races and workouts at racetracks that do not offer

pari-mutuel wagering and for workouts at training facilities to secure past performances and workouts.

(c) The commission may charge an annual fee for licensing and regulating a racetrack that does not offer pari-mutuel wagering or a training facility in a reasonable amount that may not exceed the actual cost of enforcing rules adopted for the licensing and regulation of races and workouts at such a facility.

(d) The commission may not adopt rules restricting competitive bidding or advertising by a licensee except to prohibit false, misleading, or deceptive practices. In its rules to prohibit false, misleading, or deceptive practices, the commission may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a licensee's personal appearance or voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the licensee; or
- (4) restricts the licensee's advertisement under a trade name.

Sec. 3.03. Power of Entry.

A member of the commission, an authorized agent of the commission, a commissioned officer of the Department of Public Safety, or a peace officer of the local jurisdiction in which the association maintains a place of business may enter any part of the racetrack facility or any other place of business of an association at any time for the purpose of enforcing and administering this Act.

Sec. 3.04. Requirement of Books and Records; Financial Statements.

The commission shall require associations, managers, totalisator licensees, and concessionaires to keep books and records and to submit financial statements to the commission. The commission shall adopt reasonable rules relating to those matters.

Sec. 3.05. Subpoena Power.

(a) A member of the commission or a duly appointed agent of the commission, while involved in carrying out functions under this Act, may take testimony and may require by subpoena the attendance of witnesses and the production of books, records, papers, correspondence, and other documents that the commission considers advisable. Subpoenas shall be issued under the signature of the commission or its duly appointed agent and shall be served by any person designated by the commission. A member of the commission, or a duly appointed agent of the commission, may administer oaths or affirmations to witnesses appearing before the commission or its agents.

(b) If a subpoena issued under this section is disobeyed, the commission or its duly appointed agent may invoke the aid of a Travis County district court in requiring compliance with the subpoena. A Travis County district court may issue an order requiring the person to appear and testify and to produce books, records, papers, correspondence, and documents. Failure to obey the order of the court shall be punished by the court as contempt.

Sec. 3.06. Certified Documents.

Instead of requiring an affidavit or other sworn statement in any application or other document required to be filed with the commission, the commission may require a certification of the document under penalty of perjury in the form the commission may prescribe.

Sec. 3.07. Officials of Race Meetings.

(a) The commission shall employ all of the judges and all of the stewards for the supervision of a horse race or greyhound race meeting. Each horse race or greyhound race meeting shall be supervised by three stewards for horse racing or by three judges for greyhound racing. The commission shall designate one of the stewards or judges as the presiding steward or judge for each race meeting. The association, following

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

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

whether the decision is modified by the executive director.

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

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

(e) To pay the charges associated with the medication or drug testing, an association may use the money held by the association to pay outstanding tickets and pari-mutuel vouchers. If

additional amounts are needed to pay the charges, the association shall pay those additional amounts.

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

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

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

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

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

Sec. 3.09. Funding.

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

(b) The commission shall deposit the money it collects under this Act in the State Treasury to the credit of a special fund to be known as the Texas Racing Commission fund. The Texas Racing Commission fund may be appropriated only for the administration and enforcement of this Act. Any unappropriated money exceeding \$750,000 that remains in the fund at the close of each fiscal biennium shall be transferred to the General Revenue Fund and may be appropriated for any legal purpose. The legislature may also appropriate money from the General Revenue Fund for the administration and enforcement of

this Act. Any amount of general revenue appropriated for the administration and enforcement of this Act in excess of the cumulative amount deposited in the Texas Racing Commission fund shall be reimbursed from the Texas Racing Commission fund not later than one year after the date on which the general revenue funds are appropriated, with 6-¾ percent interest with all payments first attributable to interest.

Sec. 3.10. Annual Report.

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

Sec. 3.11. Cooperation with Peace Officers.

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

Sec. 3.12. Reporting of Violations.

The commission's rules shall allow anonymous reporting of violations of this Act or of rules adopted by the commission.

Sec. 3.13. Recognition of Organization.

(a) The commission by rule shall adopt criteria to recognize an organization to represent members of a segment of the racing industry, including owners, breeders, trainers, kennel operators, or other persons involved in the racing industry, in any interaction between the members of the organization and an association or the commission.

(b) The commission may recognize an organization that meets the requirements of Subsection (a) of this section.

Sec. 3.14. Disciplinary Actions.

The commission shall revoke, suspend, or refuse to renew a license, place on probation a person whose license has been suspended, or reprimand a licensee for a violation of this Act or a rule of the commission. If a license suspension is probated, the commission may require the licensee to report regularly to the commission on matters that are the basis of the probation.

Sec. 3.15. Hearing Requirements.

If the commission proposes to suspend, revoke, or refuse to renew a person's license, the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action, other than those conducted by racing stewards or judges, are governed by Chapter 2001, Government Code. Rules of practice adopted by the commission under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action, other than those conducted by racing stewards or judges, may not conflict with rules adopted by the State Office of Administrative Hearings.

Sec. 3.16. Rules Relating to Unlawful Influences on Racing.

(a) The commission shall adopt rules prohibiting a person from unlawfully influencing or affecting the outcome of a race, including rules relating to the use of a prohibited device or prohibited substance at a racetrack or training facility.

(b) The commission shall require testing to determine whether a prohibited substance has been used. The testing may be prerace or postrace as determined by the commission. The testing may be by an invasive or noninvasive method. The commission's rules shall require state-of-the-art testing methods.

(c) Following the discovery of a prohibited device or a return of a test showing the presence of a prohibited substance, a steward or judge may summarily suspend a person who has used or administered the prohibited device or prohibited substance until a hearing before the stewards and judges. The steward or judge may also disqualify an animal as provided by a commission rule adopted under this section.

(d) Except as otherwise provided, a person may appeal a ruling of the stewards or judges to the commission. The commission may stay a suspension during the period the matter is before the commission.

(e) The commission may require urine samples to be frozen for a period necessary to allow any follow-up testing to detect and identify a prohibited substance. Any other specimen shall be maintained for testing purposes in a manner required by commission rule.

(f) If a test sample or specimen shows the presence of a prohibited substance, the entire sample, including any split portion remaining in the custody of the commission, shall be maintained until final disposition of the matter.

(g) A licensee whose animal test shows the presence of a prohibited substance is entitled to have a split portion of the test sample or specimen tested at a testing facility authorized to perform drug testing under this Act and selected

by the licensee. The commission shall adopt rules relating to split testing procedures.

(h) The licensed trainer of an animal is:

(1) considered by law to be the absolute insurer that no prohibited substance has been administered to the animal; and

(2) responsible for ensuring that no prohibited substance is administered to the animal.

(i) The commission shall adopt rules relating to the drug testing of licensees.

(j) A person who violates a rule adopted under this section may:

(1) have any license issued to the person by the commission revoked or suspended; or

(2) be barred for life or any other period from applying for or receiving a license issued by the commission or entering any portion of a racetrack facility.

Sec. 3.17. Security for Fees and Charges.

The commission may require an association to post security in an amount and form determined by the commission to adequately ensure the payment of any fees or charges due to the state or the commission relating to pari-mutuel racing, including charges for drug testing.

Sec. 3.18. Cease and Desist Order.

(a) The executive secretary may issue a cease and desist order if the executive secretary reasonably believes an association or other licensee is engaging or is likely to engage in conduct that violates this Act or a commission rule.

(b) On issuance of a cease and desist order, the executive secretary shall serve on the association or other licensee by personal delivery or registered or certified mail, return receipt requested, to the person's last known address, a proposed cease and desist order. The proposed order must state the specific acts or practices alleged to violate this Act or a commission rule. The proposed order must state its effective date. The effective date may not be before the 21st day after the date the proposed order is mailed or

delivered. If the person against whom the proposed order is directed requests, in writing, a hearing before the effective date of the proposed order, the order is automatically stayed pending final adjudication of the order. Unless the person against whom the proposed order is directed requests, in writing, a hearing before the effective date of the proposed order, the order takes effect and is final and nonappealable as to that person.

(c) On receiving a request for a hearing, the executive secretary shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. At a hearing, the commission has the burden of proof and must present evidence in support of the order. Each person against whom the order is directed may cross-examine and show cause why the order should not be issued.

(d) After the hearing, the commission shall issue or decline to issue a cease and desist order. The proposed order may be modified as necessary to conform to the findings at the hearing. An order issued under this section is final for purposes of enforcement and appeal and shall require the person to immediately cease and desist from the conduct that violates this Act or a commission rule.

(e) A person affected by a cease and desist order issued, affirmed, or modified after a hearing may file a petition for judicial review in a district court of Travis County under Chapter 2001, Government Code. A petition for judicial review does not stay or vacate the order unless the court, after hearing, specifically stays or vacates the order.

Sec. 3.19. Emergency Cease and Desist Order.

(a) The executive secretary may issue an emergency cease and desist order if the executive secretary reasonably believes an association or other licensee is engaged in a continuing activity that violates this Act or a commission rule in a manner that threatens immediate and irreparable public harm.

(b) After issuing an emergency cease and desist order, the executive secretary shall serve on the association or other licensee by personal delivery or registered or certified mail, return receipt requested, to the person's last known address, an order stating the specific charges and requiring the person immediately to cease and desist from the conduct that violates this Act or a commission rule. The order must contain a notice that a request for hearing may be filed under this section.

(c) An association or other licensee that is the subject of an emergency cease and desist order may request a hearing. The request must be filed with the executive secretary not later than the 10th day after the date the order was received or delivered. A request for a hearing must be in writing and directed to the executive secretary and must state the grounds for the request to set aside or modify the order. Unless a person who is the subject of the emergency order requests a hearing in writing before the 11th day after the date the order is received or delivered, the emergency order is final and nonappealable as to that person.

(d) On receiving a request for a hearing, the executive secretary shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. The hearing must be held not later than the 10th day after the date the executive secretary receives the request for a hearing unless the parties agree to a later hearing date. At the hearing, the commission has the burden of proof and must present evidence in support of the order. The person requesting the hearing may cross-examine witnesses and show cause why the order should not be affirmed. Section 2003.021(b), Government Code, does not apply to hearings conducted under this section.

(e) An emergency cease and desist order continues in effect unless the order is stayed by the executive secretary. The executive secretary may impose any condition before granting a stay of the order.

(f) After the hearing, the executive secretary shall affirm, modify, or set aside in whole or part the emergency cease and desist order. An order affirming or modifying the emergency cease and desist order is final for purposes of enforcement and appeal.

Sec. 3.20. Violation of Final Cease and Desist Order.

(a) If the executive secretary reasonably believes that a person has violated a final and enforceable cease and desist order, the executive secretary may:

- (1) initiate administrative penalty proceedings under Article 15 of this Act;
- (2) refer the matter to the attorney general for enforcement by injunction and any other available remedy; or
- (3) pursue any other action, including suspension of the person's license, that the executive secretary considers appropriate.

(b) If the attorney general prevails in an action brought under Subsection (a)(2) of this section, the attorney general is entitled to recover reasonable attorney's fees.

Sec. 3.21. Injunction.

The commission may institute an action in its own name to enjoin the violation of this Act. An action for an injunction is in addition to any other action, proceeding, or remedy authorized by law.

Sec. 3.22. Enforcement Regarding Horsemen's Account.

(a) The commission, by rule, shall develop a system for monitoring the activities of managers and employees of an association relating to the horsemen's account. The monitoring system may include review of the financial operations of the association, including inspections of records at the association's offices, at any racetrack, or at any other place the association transacts business.

(b) The executive secretary may issue an order prohibiting the association from making any transfer from a bank account held by the association for the conduct of its business under this Act, pending commission review of the records of the account, if the executive secretary reasonably believes that the association has failed to maintain the proper amount of money in the horsemen's account. The executive secretary shall provide in the order a procedure for the association to pay certain expenses necessary for the operation of the racetrack, subject to the executive secretary's approval. An order issued under this section may be made valid for a period not to exceed 14 days.

(c) The executive secretary may issue an order requiring the appropriate transfers to or from the horsemen's account if, after reviewing the association's records of its bank accounts, the executive secretary determines there is an improper amount of money in the horsemen's account.

Article 4. Powers and Duties of Comptroller

Sec. 4.01. Books and Records.

All books, records, and financial statements required by the commission under Section 3.04 of this Act are open to inspection by the comptroller. The comptroller by rule may specify the form and manner in which the books, records, and statements are to be kept and reports are to be filed that relate to the state's share of a pari-mutuel pool.

Sec. 4.02. Power of Entry.

The comptroller and the authorized agents of the comptroller may enter the office, racetrack, or other place of business of an association or totalisator licensee at any time to inspect books, records, or financial statements or to inspect and test the totalisator system to determine the accuracy of totalisator-generated reports and calculations pertaining to the state share of the pari-mutuel pool.

Sec. 4.03. Rules.

The comptroller may adopt rules for the enforcement of the comptroller's powers and duties under this Act.

Sec. 4.04. Collection of State's Portion of Pari-mutuel Pool.

(a) The comptroller may prescribe by rule procedures for the collection and deposit of the state's portion of each pari-mutuel pool. The state's portion of each pool shall be deposited by the association at the time and in the manner that the comptroller prescribes by rule.

(b) The comptroller by rule may require each association to post security in an amount estimated to be sufficient to cover the amount of state money that will be collected and held by an association between bank deposits to ensure payment of the state's portion of the pari-mutuel pool. 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 accounts in banks, savings and loan institutions, and credit unions are acceptable as security for purposes of this section.

Sec. 4.05. Compliance.

(a) If an association or totalisator company does not comply with a rule adopted by the comptroller under this article, refuses to allow access to or inspection of any of its required books, records, or financial statements, refuses to allow access to or inspection of the totalisator system, or becomes delinquent for the state's portion of the pari-mutuel pool or for any other tax collected by the comptroller, the comptroller shall certify that fact to the commission.

(b) With regard to the state's portion of the pari-mutuel pool and any penalties related to the state's portion, the comptroller, acting independently of the commission, may take any collection or enforcement actions authorized under the Tax Code against a delinquent or dilatory taxpayer. Administrative appeals related to the state's portion of the pari-mutuel pool or

late reporting or deposit of the state's portion shall be to the comptroller and then to the courts as under Title 2, Tax Code. All other administrative appeals shall be to the commission and then to the courts.

Sec. 4.06. Penalties for Delayed Reports and Payments.

An association incurs a penalty for the late payment of the state's portion of the pari-mutuel pool or reports related to the payment of that portion at the rate of five percent of the total amount due or \$1,000, whichever is greater, for a report or payment not filed on or before the time it is due. An additional penalty equal to one percent of the amount of the state's portion that is unpaid shall be added for each business day that the required report or payment is late up to a maximum penalty of 12 percent. The penalty may be waived in situations in which penalties would be waived under Section 111.103, Tax Code.

Article 5. General License Provisions

Sec. 5.01. Form; Certificate; Fees.

(a) The commission shall prescribe forms for applications for licenses and shall provide each occupational licensee with a license certificate or credentials.

(b) The commission shall annually prescribe reasonable license fees for each category of license issued under this Act.

(c) The operation of a racetrack and the participation in racing are privileges, not rights, granted only by the commission by license and subject to reasonable and necessary conditions set by the commission.

(d) The commission by rule shall set fees in amounts reasonable and necessary to cover the commission's costs of regulating, overseeing, and licensing live and simulcast racing at racetracks.

Sec. 5.02. Judicial Review.

(a) Judicial review of an order of the commission is under the substantial evidence rule.

(b) Venue for judicial review of an order of the commission is in a district court in Travis County.

Sec. 5.03. Fingerprints.

(a) An applicant for any license or license renewal under this Act must, except as allowed under Section 7.10 of this Act, submit to the commission a complete set of fingerprints of the individual natural person applying for the license or license renewal or, if the applicant is not an individual natural person, a complete set of fingerprints of each officer or director and of each person owning an interest of at least five percent in the applicant. The Department of Public Safety may request any person owning any interest in an applicant for a racetrack license to submit a complete set of fingerprints.

(b) If a complete set of fingerprints is required by the commission, the commission shall, not later than the 10th business day after the date the commission receives the prints, forward the prints to the Department of Public Safety or the Federal Bureau of Investigation. If the prints are forwarded to the Department of Public Safety, the department shall classify the prints and check them against its fingerprint files and shall report to the commission its findings concerning the criminal record of the applicant or the lack of such a record. A racetrack license may not be issued until the report is made to the commission. A temporary occupational license may be issued before a report is made to the commission.

(c) A peace officer of this or any other state, or any district office of the commission, shall take the fingerprints of an applicant for a license or license renewal on forms approved and furnished by the Department of Public Safety and shall immediately deliver them to the commission.

Sec. 5.04. Access to Criminal History Records.

(a) The commission is authorized to obtain any criminal history record information that relates to each applicant for employment by the commission and to each applicant for a license issued by the commission and that is maintained by the Department of Public Safety or the Federal Bureau of Investigation Identification Division. The commission may refuse to recommend an applicant who fails to provide a complete set of fingerprints.

(b)-(c) Repealed by Acts 1993, 73rd Leg., Ch. 790, §46(8), eff. Sept. 1, 1993. See now Government Code, §411.096.

Sec. 5.05. Cost of Criminal History Check.

(a) The commission shall, in determining the amount of a license fee, set the fee in an amount that will cover, at least, the cost of conducting a criminal history check on the applicant for a license.

(b) The commission shall reimburse the Department of Public Safety for the cost of conducting a criminal history check under this article.

Article 6. Racetrack Licenses

Sec. 6.01. License Required.

A person may not conduct wagering on a greyhound race or a horse race meeting without first obtaining a racetrack license from the commission. A person who violates this section commits an offense.

Sec. 6.02. Classification of Horse-Racing Tracks.

(a) Horse-racing tracks are classified as class 1 racetracks, class 2 racetracks, class 3 racetracks, and class 4 racetracks.

(b) A class 1 racetrack is a racetrack on which live racing is conducted for a number of days in a calendar year, the number of days and the actual dates to be determined by the commission under Article 8 of this Act. A class

1 racetrack may operate only in a county with a population of not less than 1.3 million, or in a county adjacent to a county with such a population. Not more than three class 1 racetracks may be licensed and operated in this state.

(c) A class 2 racetrack is a racetrack on which live racing is conducted for a number of days to be determined by the commission under Article 8 of this Act. A class 2 racetrack is entitled to conduct 60 days of live racing in a calendar year. An association may request additional or fewer days of live racing. If after receipt of a request from an association the commission determines additional or fewer days to be economically feasible and in the best interest of the state and the racing industry, the commission shall grant the additional or fewer days. The commission may permit an association that hold a class 2 racetrack license and that is located in a national historic district to conduct horse races for more than 60 days in a calendar year.

(d) A class 3 racetrack is a racetrack operated by a county or a nonprofit fair under Article 12 of this Act. An association that holds a class 3 racetrack license and that conducted horse races in 1986 may conduct live races for a number of days not to exceed 16 days in a calendar year on the dates selected by the association.

(e) For purposes of this section live race dates are counted separately from the dates on which the association presents simulcast races.

(f) The number of race dates allowed under this section relates only to live race dates. A racetrack may present simulcast races on other dates as approved by the commission.

(g) A class 4 racetrack is a racetrack operated by a county fair under Section 12.03 of this Act. An association that holds a class 4 racetrack license may conduct live races for a number of days not to exceed five days in a calendar year on dates selected by the association and approved by the commission.

Sec. 6.03. Application.

(a) The commission shall require each applicant for an original racetrack license to pay the required application fee and to submit an application, on a form prescribed by the commission, containing the following information:

(1) if the applicant is an individual, the full name of the applicant, the applicant's date of birth, a physical description of the applicant, the applicant's current address and telephone number, and a statement by the applicant disclosing any arrest or conviction for a felony or for a misdemeanor, except a misdemeanor under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) or a similar misdemeanor traffic offense;

(2) if the applicant is a corporation:

(A) the state in which it is incorporated, the names and addresses of the corporation's agents for service of process in this state, the names and addresses of its officers and directors, the names and addresses of its stockholders, and, for each individual named under this subdivision, the individual's date of birth, current address and telephone number, and physical description, and a statement disclosing any arrest or conviction for a felony or for a misdemeanor, except a misdemeanor under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) or a similar misdemeanor traffic offense; and

(B) identification of any other beneficial owner of shares in the applicant that bear voting rights, absolute or contingent, any other person that directly or indirectly exercises any participation in the applicant, and any other ownership interest in the applicant that the applicant making its best effort is able to identify;

(3) if the applicant is an unincorporated business association:

(A) the names and addresses of each of its members and, for each individual named under this subdivision, the individual's date of

birth, current address and telephone number, and physical description, and a statement disclosing any arrest or conviction for a felony or for a misdemeanor, except a misdemeanor under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) or a similar misdemeanor traffic offense; and

(B) identification of any other person that exercises voting rights in the applicant or that directly or indirectly exercises any participation in the applicant and any other ownership interest in the applicant that the applicant making its best effort is able to identify;

(4) the exact location at which a race meeting is to be conducted;

(5) if the racing facility is in existence, whether it is owned by the applicant and, if leased to the applicant, the name and address of the owner and, if the owner is a corporation or unincorporated business association, the names and addresses of its officers and directors, its stockholders and members, if any, and its agents for service of process in this state;

(6) if construction of the racing facility has not been initiated, whether it is to be owned by the applicant and, if it is to be leased to the applicant, the name and address of the prospective owner and, if the owner is a corporation or unincorporated business association, the names and addresses of its officers and directors, the names and addresses of its stockholders, the names and addresses of its members, if any, and the names and addresses of its agents for service of process in this state;

(7) identification of any other beneficial owner of shares that bear voting rights, absolute or contingent, in the owner or prospective owner of the racing facility, or any other person that directly or indirectly exercises any participation in the owner or prospective owner and all other ownership interest in the owner or prospective owner that the applicant making its best effort is able to identify;

(8) a detailed statement of the assets and liabilities of the applicant;

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(9) the kind of racing to be conducted and the dates requested;

(10) proof of residency as required by Section 6.06 of this Act;

(11) a copy of each management, concession, and totalisator contract dealing with the proposed license at the proposed location in which the applicant has an interest for inspection and review by the commission; the applicant or licensee shall advise the commission of any change in any management, concession, or totalisator contract; all management, concession, and totalisator contracts must have prior approval of the commission; the same fingerprint, criminal records history, and other information required of license applicants pursuant to Sections 5.03 and 5.04 and Subdivisions (1) through (3) of this subsection shall be required of proposed totalisator firms, concessionaires, and managers and management firms; and

(12) any other information required by the commission.

(b) When the commission receives a plan for the security of a racetrack facility, or a copy of a management, concession, or totalisator contract for review under Subdivision (11) of Subsection (a) of this section, the commission shall review the contract or security plan in an executive session. Documents submitted to the commission under this section by an applicant are subject to discovery in a suit brought under this Act but are not public records and are not subject to Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes). In reviewing and approving contracts under this subsection, the commission shall attempt to ensure the involvement of minority owned businesses whenever possible.

(c) The applicant must be sworn to by the applicant or, if a corporation or association, by its chief executive officer.

(d) The application for an original racetrack license must be accompanied by an application

fee in the form of a cashier's check or certified check.

(e) The minimum application fee for a horse racing track is \$15,000 for a class 1 racetrack, \$7,500 for a class 2 racetrack, \$2,500 for a class 3 racetrack, and \$1,500 for a class 4 racetrack. The minimum application fee for a greyhound racing track is \$20,000. Using the minimum fees, the commission by rule shall establish a schedule of application fees for the various types and sizes of racing facilities. The commission shall set the application fees in amounts that are reasonable and necessary to cover the costs of administering this Act.

(f) If the applicant is a nonprofit corporation, only directors and officers of the corporation must disclose the information required under Subdivision (2) of Subsection (a) of this section.

(g) The burden of proof is on the applicant to show compliance with this Act and with the rules of the commission. An applicant who does not show the necessary compliance is not eligible for a license under this article.

(h) In considering an application for a horse racetrack license under this section, the commission shall give additional weight to evidence concerning an applicant who has experience operating a horse racetrack licensed under this Act.

(i) Notwithstanding this section, if a licensed track petitions for an upgrade in the classification of the track, the fees and charges imposed shall be the difference between the fees and charges previously paid and the fees and charges for the upgraded facility classification.

Sec. 6.031. Background Check.

The commission shall require a complete personal, financial, and business background check of the applicant or any person owning an interest in or exercising control over an applicant for a racetrack license, the partners, stockholders, concessionaires, management personnel, management firms, and creditors and shall refuse to issue or renew a license or approve a concession or management contract if, in the sole

discretion of the commission, the background checks reveal anything which might be detrimental to the public interest or the racing industry. The commission may not hold a hearing on the application, or any part of the application, of an applicant for a racetrack license before the completed background check of the applicant has been on file with the commission for at least 14 days.

Sec. 6.032. Bond.

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

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

- (1) conditioned on compliance with this Act and commission rules adopted under this Act; and
- (2) returned after the conditions of the security are met.

Sec. 6.04. Issuance of License.

(a) The commission may issue a racetrack license to a qualified person if it finds that the conduct of race meetings at the proposed track and location will be in the public interest, complies with all zoning laws, and complies with this Act and the rules adopted by the commission and if the commission finds by clear and convincing evidence that the applicant will comply with all criminal laws of this state. In determining whether to grant or deny an application for any class of racetrack license, the commission may consider the following factors:

- (1) the applicant's financial stability;
- (2) the applicant's resources for supplementing the purses for races for various breeds;
- (3) the location of the proposed track;
- (4) the effect of the proposed track on traffic flow;
- (5) facilities for patrons and occupational licensees;
- (6) facilities for race animals;
- (7) availability to the track of support services and emergency services;
- (8) the experience of the applicant's employees;
- (9) the potential for conflict with other licensed race meetings;
- (10) the anticipated effect of the race meeting on the greyhound or horse breeding industry in this state; and
- (11) the anticipated effect of the race meeting on the state and local economy from tourism, increased employment, and other sources.

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

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

(b) Repealed by Acts 2011, 82nd Legislature, HB2271, Section 26, eff. Sept. 1, 2011.

(c) The commission shall not issue licenses for more than three greyhound racetracks in this state. Those racetracks must be located in counties that border the Gulf of Mexico.

(d) In considering an application for a class 4 racetrack license, the commission may waive or defer compliance with the commission's standards regarding the physical facilities or operations of a horse racetrack. The commission may not waive or defer compliance with

standards that relate to the testing of horses or licensees for the presence of a prohibited drug, chemical, or other substance. If the commission defers compliance, the commission shall, when granting the application, establish a schedule under which the licensee must comply with the standards.

Sec. 6.05. Repealed by Acts 1991, 72nd Leg., Ch. 386, §74(a), eff. Aug. 26, 1991.

Sec. 6.06. Racetrack Licenses; Grounds for Denial, Revocation, and Suspension.

(a) To preserve and protect the public health, welfare, and safety, the commission shall adopt rules relating to license applications, the financial responsibility, moral character, and ability of applicants, and all matters relating to the planning, construction, and operation of racetracks. The commission may refuse to issue a racetrack license or may revoke or suspend a license if, after notice and hearing, it has reasonable grounds to believe and finds that:

(1) the applicant has been convicted in a court of competent jurisdiction of a violation of this Act or any rules adopted by the commission or that the applicant has aided, abetted, or conspired with any person to commit such a violation;

(2) the applicant has been convicted of a felony or of any crime involving moral turpitude, including convictions for which the punishment received was a suspended sentence, probation, or a nonadjudicated conviction, that is reasonably related to the applicant's present fitness to hold a license under this Act;

(3) the applicant has violated or has caused to be violated this Act or a rule of the commission in a manner that involves moral turpitude, as distinguished from a technical violation of this Act or of a rule;

(4) the applicant is unqualified, by experience or otherwise, to perform the duties required of a licensee under this Act;

(5) the applicant failed to answer or falsely or incorrectly answered a question in an application;

(6) the applicant fails to disclose the true ownership or interest in a greyhound or horse as required by the rules of the commission;

(7) the applicant is indebted to the state for any fees or for the payment of a penalty imposed by this Act or by a rule of the commission;

(8) the applicant is not of good moral character or the applicant's reputation as a peaceable, law-abiding citizen in the community where the applicant resides is bad;

(9) the applicant has not yet attained the minimum age necessary to purchase alcoholic beverages in this state;

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

(11) the applicant may be excluded from a track enclosure under this Act;

(12) the applicant has not been a United States citizen residing in this state for the period of 10 consecutive years immediately preceding the filing of the application;

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

(14) the applicant is residentially domiciled with a person whose license has been revoked for cause within the 12 months immediately preceding the date of the present application;

(15) the applicant has failed or refused to furnish a true copy of the application to the commission's district office in the district in which the premises for which the permit is sought are located;

(16) the applicant is engaged or has engaged in activities or practices that the commission finds are detrimental to the best

interests of the public and the sport of greyhound racing or horse racing; or

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

(b) Subsection (a) of this section applies to a corporation, partnership, limited partnership, or any other organization or group whose application is comprised of more than one person if a shareholder, partner, limited partner, director, or officer is disqualified under Subsection (a) of this section.

(c) A license for operation of a class 1 or class 2 racetrack or a greyhound racetrack may not be issued to a corporation unless the corporation is incorporated under the laws of this state and a majority of the stock, if any, of the corporation is owned at all times by individuals who meet the residency qualifications prescribed by this section for individual applicants.

(d) The majority ownership of a partnership, firm, or association applying for or holding a license must be held by citizens who meet the residency qualifications enumerated in this section for individual applicants. A corporation holding a license to operate a racetrack under this Act that violates this subsection is subject to forfeiture of its charter, and the attorney general, on receipt of information relating to such a violation, shall file suit in a district court of Travis County for cancellation of the charter and revocation of the license issued under this Act. Subterfuge in the ownership and operation of a racetrack shall be prevented, and this Act shall be liberally construed to carry out this intent.

(e) The commission may condition the issuance of a license under this article on the observance of its rules. The commission may amend the rules at any time and may condition the continued holding of the license on compliance with the rules as amended.

(f) The commission may refuse to issue a license or may suspend or revoke a license of a licensee under this article who knowingly or intentionally allows access to an enclosure where greyhound races or horse races are conducted to

a person who has engaged in bookmaking, touting, or illegal wagering, whose income is from illegal activities or enterprises, or who has been convicted of a violation of this Act.

(g) A person awarded a management contract to operate a racetrack must meet all of the requirements of this section.

(h) A person may not own more than a five percent interest in more than three racetracks licensed under this Act.

(i) Subsections (a)(12), (c), and (d) of this section do not apply to an applicant for or the holder of a racetrack license if the applicant, the license holder, or the license holder's parent company is a publicly traded company.

(j) Notwithstanding any other law, a person who owns an interest in two or more racetracks licensed under this Act and who also owns an interest in a license issued under Subtitle B, Title 3, Alcoholic Beverage Code, may own an interest in the premises of another holder of a license or permit under Title 3, Alcoholic Beverage Code, if the premises of that other license or permit holder are part of the premises of a racetrack licensed under this Act.

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

Sec. 6.0601. Designation of Active and Inactive Racetrack Licenses.

(a) The commission shall designate each racetrack license as an active license or an inactive license. The commission may change the designation of a racetrack license as appropriate.

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

- (1) holds live racing events at the racetrack; or
- (2) makes good faith efforts to conduct live racing.

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

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

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

Sec. 6.0602. Renewal of Inactive Racetrack License; Fees.

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

- (1) designates the license as an active license; or
 - (2) refuses to renew the license.
- (b) In determining whether to renew an inactive license, the commission shall consider:
- (1) the inactive license holder's:
 - (A) financial stability;
 - (B) ability to conduct live racing;
 - (C) ability to construct and maintain a racetrack facility; and
 - (D) other good faith efforts to conduct live racing; and
 - (2) other necessary factors considered in the issuance of the original license.

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

- (1) renewal of the license is not in the best interests of the racing industry or the public; or
- (2) the license holder has failed to make a good faith effort to conduct live racing.

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

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

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

Sec. 6.0603. Disciplinary Action.

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

(b) If, after notice and hearing, the commission finds that a racetrack license holder or a person employed by the racetrack has violated this Act or a commission rule or if the commission finds during a review or renewal that the racetrack is ineligible for a license under this article, the commission may:

- (1) revoke, suspend, or refuse to renew the racetrack license;
- (2) impose an administrative penalty as provided under Section 15.03 of this Act; or
- (3) take any other action as provided by commission rule.

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

Sec. 6.061. Regulation of Inappropriate or Unsafe Conditions.

(a) The commission shall adopt rules implementing this section, including rules:

(1) requiring the report of and correction of:

(A) an inappropriate condition on the premises of a racetrack facility, including a failure to properly maintain the facility, that interferes with the administration of this Act; or

(B) a condition on the premises of a racetrack facility that makes the facility unsafe for a race participant, patron, or animal; and

(2) determining the methods and manner in which the executive secretary may determine and remedy inappropriate conditions or unsafe facilities on the premises of a racetrack facility, including the methods and manner in which the executive secretary may conduct inspections of the racetrack facility and remedy emergency situations.

(b) The executive secretary shall issue a notice of violation to a racetrack facility on a finding that an inappropriate or unsafe condition exists.

(c) If the executive secretary determines that an inappropriate or unsafe condition exists at the racetrack facility, the executive secretary shall order the racetrack facility to take action within a specified period to remedy the inappropriate condition or unsafe condition. In determining the period for compliance, the executive secretary shall consider the nature and severity of the problem and the threat to the health, safety, and welfare of the race participants, patrons, or animals.

(d) The commission shall adopt rules requiring the reporting of any corrective action taken by a racetrack facility in response to an order of the executive secretary under Subsection (c) of this section.

(e) If a racetrack facility fails to take any action as required under Subsection (c) of this section, the executive secretary shall initiate an enforcement action against the racetrack facility. The executive secretary may rescind any live or simulcast race date of any racetrack association that does not take corrective action within the period set by the executive secretary.

(f) The commission shall adopt rules relating to the commission's review of an action taken under this section by the executive secretary. A review procedure adopted under this subsection must be consistent with Chapter 2001, Government Code.

Sec. 6.062. Supervision of Changes to Premises.

(a) The commission shall adopt a method of supervising and approving the construction, renovation, or maintenance of any building or improvement on the premises of a racetrack facility.

(b) The commission shall adopt rules relating to:

(1) the approval of plans and specifications;

(2) the contents of plans and specifications;

(3) the maintenance of records to ensure compliance with approved plans and specifications;

(4) the content and filing of construction progress reports by the racetrack facility to the commission;

(5) the inspection by the commission or others;

(6) the method for making a change or amendment to an approved plan or specification; and

(7) any other method of supervision or oversight necessary.

(c) If the commission has grounds to believe that an association has failed to comply with the requirements of this section, a representative of the association shall appear before the commission to consider the issue of compliance with the rules adopted under this section.

(d) Before a building or improvement may be used by the association, the commission shall determine whether the construction, renovation, or maintenance of the building or improvement was completed in accordance with the approved plans and specifications and whether other requirements of the commission were met.

(e) If the commission determines that the association failed to comply with a requirement of this section or rule adopted under this section, the commission shall initiate an enforcement action against the association. In addition to any other authorized enforcement action, the commission may rescind any live or simulcast race date of any association that has failed to comply with the requirement of this section.

Sec. 6.063. Summary Suspension.

(a) The commission may summarily suspend a racetrack license if the commission determines that a racetrack at which races or pari-mutuel wagering are conducted under the license is being operated in a manner that constitutes an immediate threat to the health, safety, or welfare of the participants in racing or the patrons.

(b) After issuing a summary suspension order, the executive secretary shall serve on the association by personal delivery or registered or certified mail, return receipt requested, to the licensee's last known address, an order stating the specific charges and requiring the licensee immediately to cease and desist from all conduct permitted by the license. The order must contain a notice that a request for hearing may be filed under this section.

(c) An association that is the subject of a summary suspension order may request a hearing. The request must be filed with the executive secretary not later than the 10th day after the date the order was received or delivered. A request for a hearing must be in writing and directed to the executive secretary and must state the grounds for the request to set aside or modify the order. Unless a licensee who is the subject of the order requests a hearing in writing before the 11th day after the date the order is received or delivered, the order is final and nonappealable as to that licensee.

(d) On receiving a request for a hearing, the executive secretary shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. The hearing must be held not later

than the 10th day after the date the executive secretary receives the request for a hearing unless the parties agree to a later hearing date. At the hearing, the commission has the burden of proof and must present evidence in support of the order. The licensee requesting the hearing may cross examine witnesses and show cause why the order should not be affirmed. Section 2003.021(b), Government Code, does not apply to hearings conducted under this section.

(e) A summary suspension order continues in effect unless the order is stayed by the executive secretary. The executive secretary may impose any condition before granting a stay of the order.

(f) After the hearing, the executive secretary shall affirm, modify, or set aside in whole or part the summary suspension order. An order affirming or modifying the summary suspension order is final for purposes of enforcement and appeal.

Sec. 6.07. Lease.

(a) The commission may adopt rules to authorize an association, as lessee, to contract for the lease of a racetrack and the surrounding structures.

(b) The commission may not approve a lease if:

(1) it appears that the lease is a subterfuge to evade compliance with Section 6.05 or 6.06 of this Act;

(2) the racetrack and surrounding structures do not conform to the rules adopted under this Act; or

(3) the lessee, prospective lessee, or lessor is disqualified from holding a racetrack license.

(c) Each lessor and lessee under this section must comply with the disclosure requirements of Subdivision (1) of Subsection (a) of Section 6.03 of this Act. The commission may not approve a lease if the lessor and lessee do not provide the required information.

Sec. 6.08. Special Provisions Relating to Horse Racing: Deductions from Pool; Allocations of Shares and Breakage.

(a) An amount shall be deducted from each wagering pool to be distributed as provided by Subsections (b) through (e) of this section. The total maximum deduction from a regular wagering pool is 18 percent. The total maximum deduction from a multiple two wagering pool is 21 percent. The total maximum deduction from a multiple three wagering pool is 25 percent.

(b) (1) A horse racing association shall set aside for purses an amount not less than seven percent of a live regular wagering pool or live multiple two wagering pool and not less than 8.5 percent of a live multiple three wagering pool.

(2) A horse racing association, after January 1, 1999, shall set aside from simulcast pools for purses not less than the following amounts from the takeout of the sending racetrack:

- (A) 38.8 percent of the regular wagering pool;
- (B) 33.3 percent of the multiple two wagering pool; and
- (C) 34 percent of the multiple three wagering pool.

If the cost of the simulcast signal exceeds five percent of the simulcast handle, the receiving horse racing association shall split the cost of the signal in excess of five percent evenly with the horsemen's organization by allocating the cost against the purse money derived from that simulcast signal.

(3) The horse racing association shall transfer the amount set aside for purses from any live and simulcast pools and shall deposit the amounts in purse accounts maintained by breed by the horsemen's organization in one or more federally insured depositories. Legal title to purse accounts is vested in the horsemen's organization. The horsemen's organization may contract with an association to manage and control the purse accounts and to make disbursements from the purse accounts:

(A) to an owner whose horse won a purse;

(B) to the horsemen's organization for its expenses; or

(C) for other disbursements as provided by contract between the horsemen's organization and the association.

(4) An association, after January 1, 1999, may pay a portion of the revenue set aside under this subsection to an organization recognized under Section 3.13 of this Act, as provided by a contract approved by the commission.

(c) Repealed by Acts 1997, 75th Legislature, Ch. 1275, §54, eff. Sept. 1, 1997.

(d) A horse racing association shall set aside for the Texas-bred program as provided by Subsection (f) of this section an amount equal to one percent of a live multiple two wagering pool and a live multiple three wagering pool.

(e) The remainder of the amount deducted under Subsection (a) of this section from a regular wagering pool, a multiple two wagering pool, or a multiple three wagering pool, after allocation of the amounts specified in Subsections (b), (c), and (d) of this section, shall be retained by the association as its commission.

(f) The amount of a multiple two wagering pool or a multiple three wagering pool set aside under Subsection (d) of this section for the Texas-bred program is in addition to any money received from the breakage. Of the amount set aside under Subsection (d) of this section, two percent shall be set aside for deposit in the equine research account under Subchapter F, Chapter 88, Education Code, and, of the remaining 98 percent, 10 percent may be used by the appropriate breed registry for administration and the remaining 90 percent shall be used for awards.

(g) The commission shall adopt rules relating to the accounting, audit, and distribution of all amounts set aside for the Texas-bred program under this section.

(h) Two percent of the breakage shall be allocated to the equine research account under Subchapter F, Chapter 88, Education Code. The

remaining 98 percent of the breakage shall constitute "total breakage" and shall be allocated pursuant to Subsections (i) and (j) of this section.

(i) Ten percent of the total breakage from a live pari-mutuel pool or a simulcast pari-mutuel pool is to be paid to the commission for use by the appropriate state horse breed registry, subject to rules promulgated by the commission. The appropriate breed registry for Thoroughbred horses is the Texas Thoroughbred Breeders Association, for quarter horses is the Texas Quarter Horse Association, for Appaloosa horses is the Texas Appaloosa Horse Club, for Arabian horses is the Texas Arabian Breeders Association, and for paint horses is the Texas Paint Horse Breeders Association.

(j) Ten percent of the total breakage from a live pari-mutuel pool or a simulcast pari-mutuel pool is to be retained by the association to be used in stakes races restricted to accredited Texas-bred horses. The appropriate state horse breed registry shall pay out the remaining 80 percent of the total breakage as follows:

(1) 40 percent of the remaining breakage is allocated to the owners of the accredited Texas-bred horses that finish first, second, or third;

(2) 40 percent is allocated to the breeders of the accredited Texas-bred horses that finish first, second, or third; and

(3) 20 percent is allocated to the owner of the stallion standing in this state at the time of conception whose Texas-bred get finish first, second, or third.

(k) For purposes of this section:

(1) "Horse owner" means a person who is owner of record of an accredited Texas-bred horse at the time of a race;

(2) "Breeder" means a person who, according to the rules of the appropriate state horse breed registry, is the breeder of the accredited Texas-bred horse; and

(3) "Stallion owner" means a person who is owner of record, at the time of conception, of the stallion that sired the accredited Texas-bred horse.

(l) An association may not make a deduction or withhold any percentage of a purse from the account into which the purse paid to a horse owner is deposited for membership payments, dues, assessments, or any other payments to an organization except an organization of the horse owner's choice.

(m) If a share of the breakage cannot be distributed to the person who is entitled to a share, the appropriate breed registry shall retain that share.

(n) An accredited Texas-bred Thoroughbred or Arabian horse described by Section 1.03(21)(C) of this Act is eligible for only one-half of the incentives awarded under Subsections (f) and (j)(2) of this section. The remaining portion shall be retained by the appropriate state horse breed registry for general distribution at the same meeting in accordance with Subsections (f) and (j) of this section.

Sec. 6.09. Disposition of Pari-mutuel Pools at Greyhound Races.

(a) Every association authorized under this Act to conduct pari-mutuel wagering at a greyhound race meeting on races run shall distribute all sums deposited in any pari-mutuel pool to the holders of the winning tickets if those tickets are presented for payment within 60 days after the closing day of the race meeting at which the pool was formed, less an amount paid as a commission of 18 percent of the total deposits in pools resulting from regular win, place, and show wagering, and an amount not to exceed 21 percent of the total deposits in pools resulting from multiple two wagering and an amount not to exceed 25 percent of the total deposits in pools resulting from multiple three wagering.

(b) Repealed by Acts 1997, 75th Legislature, Ch. 1275, §54, eff. Sept. 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

racetracks 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 audit report prepared by an independent certified public accountant. The audit shall include a verification of any performance report sent to or required by the commission.

(d) The commission may review any records or books of an organization that submits an independent audit to the commission as the commission determines necessary to confirm or further investigate the findings of an audit or report.

(e) The commission by rule may suspend or withhold funds from an organization that:

(1) it determines has failed to comply with the requirements or performance measures adopted under Subsection (a) of this section; or

(2) has, following an independent audit or other report to the commission, material questions raised on the use of funds by the organization.

Sec. 6.093. Deductions from Live Pari-Mutuel Pool.

(a) (1) A horse racing association, until January 1, 1999, shall set aside for the state:

(A) an amount equal to one percent of each live pari-mutuel pool from the first \$100 million of the total amount of all live pari-mutuel pools of the association in a calendar year;

(B) an amount equal to two percent of each live pari-mutuel pool from the next \$100 million of the total amount of all live pari-mutuel pools of the association in a calendar year;

(C) an amount equal to three percent of the next \$100 million of the total amount of all live pari-mutuel pools of the association in a calendar year;

(D) an amount equal to four percent of the next \$100 million of the total amount of all live pari-mutuel pools of the association in a calendar year; and

(E) an amount equal to five percent of each live pari-mutuel pool from the amount of all live pari-mutuel pools of the association in a calendar year not covered by Paragraphs (A) through (D) of this subdivision.

(2) A greyhound racing association, until January 1, 1999, shall set aside for the state:

(A) an amount equal to two percent of each live pari-mutuel pool from the first \$100 million of the total amount of all live pari-mutuel pools of the association in a calendar year;

(B) an amount equal to three percent of each live pari-mutuel pool from the next \$100 million of the total amount of all live pari-mutuel pools of the association in a calendar year;

(C) an amount equal to four percent of each live pari-mutuel pool from the next \$100

million of the total amount of all live pari-mutuel pools of the association in a calendar year;

(D) an amount equal to five percent of each live pari-mutuel pool from the total amount of all live pari-mutuel pools of the association in a calendar year not covered by Paragraphs (A) through (C) of this subdivision; and

(E) 50 percent of the breakage.

(3) All amounts set aside by the association for the state in Subdivisions (1) and (2) of this subsection shall be applied to the reimbursement of all amounts of general revenue appropriated for the administration and enforcement of this Act in excess of the cumulative amount deposited to the Texas Racing Commission fund until the earlier of:

(A) the excesses together with interest thereon are reimbursed in full; or

(B) January 1, 1999.

(b) On or after January 1, 1999, a horse or greyhound racing association shall set aside for the state from the live pari-mutuel pool at the association:

(1) an amount equal to one percent of each live pari-mutuel pool from the total amount of all live pari-mutuel pools of the association in a calendar year in excess of \$100 million but less than \$200 million;

(2) an amount equal to two percent of each live pari-mutuel pool from the total amount of all live pari-mutuel pools of the association in a calendar year in excess of \$200 million but less than \$300 million;

(3) an amount equal to three percent of each live pari-mutuel pool from the total amount of all live pari-mutuel pools of the association in a calendar year in excess of \$300 million but less than \$400 million;

(4) an amount equal to four percent of each live pari-mutuel pool from the total amount of all live pari-mutuel pools of the association in a calendar year in excess of \$400 million but less than \$500 million; and

(5) an amount equal to five percent of each live pari-mutuel pool from the total amount

of all live pari-mutuel pools of the association in a calendar year in excess of \$500 million.

Sec. 6.094. National Event Incentives.

(a) In this section:

(1) "Breeders' Cup costs" means all costs for capital improvements and extraordinary expenses reasonably incurred for the operation of the Breeders' Cup races, including purses offered on other days in excess of the purses that the host association is required to pay by this Act.

(2) "Breeders' Cup races" means a series of thoroughbred races known as the Breeders' Cup Championship races conducted annually by Breeders' Cup Limited on a day known as Breeders' Cup Championship day.

(3) "Development organization" means an organization whose primary purpose is the marketing, promotion, or economic development of a city, county, or region of the state, including chambers of commerce, convention and visitors bureaus, and sports commissions.

(4) "Political subdivision" means a city, county, or other political subdivision of the state and includes any entity created by a political subdivision.

(b) An association conducting the Breeders' Cup races may apply to the reimbursement of Breeders' Cup costs amounts that would otherwise be set aside by the association for the state under Sections 6.091(a)(1) and 6.093 of this Act during the year in which the association hosts the Breeders' Cup races, limited to an amount equal to the lesser of the aggregate amount contributed to pay Breeders' Cup costs by political subdivisions and development organizations or \$2 million. Beginning on January 1 of the year for which the association has been officially designated to host the Breeders' Cup races, amounts that would otherwise be set aside by the association for the state during that year under Sections 6.091(a)(1) and 6.093 of this Act shall be set aside, in accordance with procedures prescribed by the comptroller, for deposit into the Breeders' Cup Developmental Account. The Breeders' Cup

Developmental Account is an account in the general revenue fund. The commission shall administer the account. Money in the account may be appropriated only to the commission and may be used only for the purposes specified in this section. The account is exempt from the application of Section 403.095, Government Code.

(c) The commission shall make disbursements from the Breeders' Cup Developmental Account to reimburse Breeders' Cup costs actually incurred and paid by the association, after the association files a request for reimbursement. Disbursements from the account may not at any time exceed the aggregate amount actually paid for Breeders' Cup costs by political subdivisions and development organizations, as certified by the commission to the comptroller, or \$2 million, whichever is less.

(d) Not later than January 31 of the year following the year in which the association hosts the Breeders' Cup races, the association shall submit to the commission a report that shows:

(1) the total amount of Breeders' Cup costs incurred and paid by the association;

(2) the total payments made by political subdivisions and development organizations for Breeders' Cup costs; and

(3) any other information requested by the commission.

(e) Following receipt of the report required by Subsection (d) of this section, the commission shall take any steps it considers appropriate to verify the report. Not later than March 31 of the year following the event, the commission shall transfer to the credit of the general revenue fund any balance remaining in the Breeders' Cup Developmental Account after reimbursement of any remaining Breeders' Cup costs authorized under this section.

(f) In addition to the authority otherwise granted in this Act, the commission and the comptroller may adopt rules for the administration of this section as follows:

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(1) the commission may adopt rules relating to:

(A) auditing or other verification of Breeders' Cup costs and amounts paid or set aside by political subdivisions and development organizations; and

(B) the disbursement of funds from the Breeders' Cup Developmental Account; and

(2) the comptroller may adopt rules relating to:

(A) procedures and requirements for transmitting or otherwise delivering to the treasury the money set aside under this section; and

(B) depositing funds into the Breeders' Cup Developmental Account.

(g) The commission may adopt rules to facilitate the conduct of the Breeders' Cup races, including the adoption of rules or waiver of existing rules relating to the overall conduct of racing during the Breeders' Cup races in order to assure the integrity of the races, licensing for all participants, special stabling and training requirements for foreign horses, and commingling of pari-mutuel pools.

(h) The provisions of this section prevail over any conflicting provisions of this Act.

Sec. 6.10. Application of Tax Code.

Unless inconsistent with the provisions of this Act, Chapters 111 through 113, Tax Code, including without limitation provisions relating to the assessment of penalty and interest, apply to the collection of the state's share under this Act. In applying those provisions of the Tax Code for purposes of this section, the state's share under this Act is treated as if it were a tax. For purposes of collecting the state's share under this Act, the comptroller may use any procedure authorized under Title 2, Tax Code.

Sec. 6.11. Allocation of Purse.

(a) In no event shall the purse in a greyhound race be less than a minimum of 4.7 percent of the total deposited in each pool.

(b) Thirty-five percent of the portion of a purse allocated to a greyhound shall be paid directly to its owner. The balance shall be paid to its contract kennel as provided by the rules of the commission.

Sec. 6.12. Not Transferable.

(a) A racetrack license is not transferable.

(b) In the event of the death of any person whose death causes a violation of the licensing provisions of this Act, the commission may issue a temporary license for a period of one year under rules adopted by the commission.

Sec. 6.13. Financial Disclosure.

(a) The commission by rule shall require that each association holding a license for a class 1 racetrack, class 2 racetrack, or greyhound racetrack must annually file with the commission a detailed financial statement that:

(1) contains the names and addresses of all stockholders, members and owners of any interest in the racetrack facility;

(2) indicates compliance during the filing period with Section 6.06 of this Act; and

(3) includes any other information required by the commission.

(b) Each transaction that involves an acquisition or a transfer of a pecuniary interest in the association must receive prior approval from the commission. A transaction that changes the ownership of the association requires submission of updated information of the type required to be disclosed under Subsection (a) of Section 6.03 of this Act and payment of a fee to recover the costs of the criminal background check.

Sec. 6.14. Racing Restricted to Designated Place.

(a) An association may not conduct greyhound or horse racing at any place other than the place designated in the license except as provided by this section or by Section 6.15 of this Act. However, if the racetrack or enclosure designated in the license becomes unsuitable for

racing because of fire, flood, or other catastrophe, the affected association, with the prior approval of the commission, may conduct a race meeting or any remaining portion of a meeting temporarily at any other racetrack licensed by the commission to conduct the same type of racing as may be conducted by the affected association if the licensee of the other racetrack also consents to the usage.

(b) The commission shall not issue more than three racetrack licenses for greyhound racing.

(c) Each greyhound racetrack licensed under this Act must be located in a county that has a population of more than 190,000, according to the most recent federal census, and that includes all or part of an island that borders the Gulf of Mexico.

(d) On request of an association, the commission shall amend a racetrack license to change the location of the racetrack if the commission finds that:

- (1) the conduct of race meetings at the proposed track at the new location will be in the public interest;
- (2) there was not a competing applicant for the original license; and
- (3) the association's desire to change location is not the result of a subterfuge in the original licensing proceeding.

Sec. 6.15. Racing at Temporary Location.

After an association has been granted a license to operate a racetrack and before the completion of construction at the designated place for which the license was issued, the commission may, on application by the association, issue a temporary license that permits the association to conduct races at a location in the same county for a period expiring two years after the date of issuance of the temporary license or on the completion of the permanent facility, whichever occurs first. The commission may set the conditions and standards for issuance of a temporary license and allocation of appropriate race days. An applicant for a temporary license must pay the application

fees and must post the bonds required of other licensees before the issuance of a temporary license. After a temporary license has expired, no individual, corporation, or association, nor any individual belonging to a corporation or association which has been granted a temporary license, may get an extension of the temporary license or a new temporary license.

Sec. 6.16. Employment of Former Commission Members or Employees.

(a) An association may not employ any person who has been a member of the commission, the executive secretary of the commission, or an employee employed by the commission in a position in the state employment classification plan of grade 12 or above, or any person related within the second degree by affinity or the third degree by consanguinity, as determined under Chapter 573, Government Code, to such a member or employee, during the one-year period immediately preceding the employment by the association.

(b) A person may not seek or accept employment with an association if the association would violate this section by employing the person.

(c) An association or person who violates this section commits an offense.

Sec. 6.17. City and County Fees.

(a) A commissioners court may collect a fee not to exceed 15 cents as an admission fee to a licensed racetrack located within the county. If the racetrack is located within an incorporated city or town, the governing body of the city or town may collect a fee not to exceed 15 cents as an admission fee to a licensed racetrack located within the city or town. If the racetrack is not located within an incorporated city or town, the court may collect an additional fee not to exceed 15 cents as an admission fee to a licensed racetrack located within the county for allocation among the incorporated cities or towns in the county. If the racetrack is not located in an

incorporated city or town, the court shall collect the additional fee if requested to do so by the governing bodies of a majority of the incorporated cities and towns in the county. Allocation of the fees shall be based on the population within the county of the cities or towns.

(b) If the racetrack is a class 1 racetrack, the commissioners court of each county with a population of not less than 1.3 million adjacent to the county in which the racetrack is located may each collect fees equal to the fees authorized by Subsection (a) of this section.

(c) The commissioners court by order may establish procedures for the collection of the fees under Subsection (a) of this section. The procedures may require a person holding a racetrack license to keep records and file reports as considered necessary by the commissioners court.

(d) A county or municipality may not assess or collect any other license fee, privilege tax, excise tax, or racing fee on admissions to, or wagers placed at, a licensed racetrack.

Sec. 6.18. Annual Fee for Racetrack License.

(a) Repealed by Acts 2011, 82nd Legislature, HB2271, Section 26, eff. Sept. 1, 2011.

(b) The commission may prescribe a reasonable annual fee to be paid by each racetrack licensee. The fee must be in an amount sufficient to provide that the total amount of fees imposed under this section, together with the license fees prescribed under Section 5.01(b) of this Act and the renewal fees prescribed under Section 6.0602(e) of this Act, is sufficient to pay the costs of administering and enforcing this Act.

Sec. 6.19. Repealed by Acts 2007, 80th Legislature, (HB 2701), eff. Sept. 1, 2007.

Article 7. Other Licenses

Sec. 7.01. License Required.

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

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

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

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

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

Sec. 7.02. Licensed Activities.

(a) Repealed by Acts 2011, 82nd Legislature, HB2271, Section 26, eff. Sept. 1, 2011.

(b) The commission shall adopt categories of licenses for the various occupations licensed under this article and shall specify by rule the qualifications and experience required for licensing in each category that requires specific qualifications or experience.

(c) If an examination is required for the issuance of a license under this article, not later than the 30th day after the date on which a

licensing examination is administered under this Act, the commission shall notify each examinee of the results of the examination.

(d) If requested in writing by a person who fails a licensing examination administered under this Act, the commission shall furnish the person with an analysis of the person's performance on the examination.

(e) The commission may not approve a management contract to operate or manage a racetrack owned by a governmental entity unless the racetrack license holder is an owner of the entity that proposes to manage the racetrack.

Sec. 7.03. Issuance.

The commission shall issue a license to a qualified person on application and payment of the license fee.

Sec. 7.04. Licenses; Grounds for Denial, Revocation, and Suspension.

The commission, after notice and hearing, may refuse to issue any original or renewal license under this article or may revoke or suspend the license if it has reasonable grounds to believe and finds that:

(1) the applicant has been convicted in a court of competent jurisdiction of a violation of this Act or of any rule adopted by the commission or has aided, abetted, or conspired with any person to commit such a violation;

(2) the applicant has been convicted of a felony or of any crime involving moral turpitude that is reasonably related to the applicant's present fitness to hold a license under this Act;

(3) the applicant has violated or has caused to be violated this Act or a rule of the commission in a manner that involves moral turpitude, as distinguished from a technical violation of this Act or of a rule;

(4) the applicant is unqualified, by experience or otherwise, to perform the duties required of a licensee under this Act;

(5) the applicant failed to answer or has falsely or incorrectly answered a question in an original or renewal application;

(6) the applicant fails to disclose the true ownership or interest in a greyhound or horse as required by the rules of the commission;

(7) the applicant is indebted to the state for any fees or for the payment of a penalty imposed by this Act or by a rule of the commission;

(8) the applicant is not of good moral character or the applicant's reputation as a peaceable, law-abiding citizen in the community where the applicant resides is bad;

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

(10) the applicant may be excluded from a track enclosure under this Act;

(11) the commission determines that the applicant has improperly used a temporary pass, license certificate, credential, or identification card issued under this Act;

(12) the applicant is residentially domiciled with a person whose license has been revoked for cause within the 12 months immediately preceding the date of the present application;

(13) the applicant has failed or refused to furnish a true copy of the application to the commission's district office in the district in which the premises for which the permit is sought are located; or

(14) the applicant is engaged or has engaged in activities or practices that are detrimental to the best interests of the public and the sport of horse racing or greyhound racing.

Sec. 7.05. License Fees.

(a) The commission shall adopt by rule a fee schedule for licenses issued under this article.

(b) The commission shall base the license fees on the relative or comparative incomes or property interests of the various categories of licensees, with the lower income category of licensees being charged nearer the minimum fee

and the higher income category of licensees charged nearer the maximum fee.

(c) In setting the fee schedule under Subsection (a) of this section, the commission shall include the cost of criminal history checks determined under Section 5.05 of this Act. The commission may determine the best method for recouping this cost and complying with the other provisions of this section, including collecting the costs over an extended period.

Sec. 7.06. Form of License.

The commission shall issue a license certificate under this article in the form of an identification card with a photograph and other information as prescribed by the commission.

Sec. 7.07. Term of License.

(a) A license issued under this article is valid for a period set by the commission not to exceed 36 months following the date of its issuance. It is renewable on application, satisfactory results of a criminal history information record check, and payment of the fee in accordance with the rules of the commission.

(a-1) The commission shall obtain criminal history record information on each applicant renewing an occupational license under this article. The commission shall ensure that criminal history record information is obtained on each license holder at least once every 36 months.

(b) The commission by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license fees shall be prorated on a monthly basis so that each licensee pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Sec. 7.08. Valid Throughout State.

A license issued under this article is valid, as determined by the commission, at all race meetings conducted in this state.

Sec. 7.09. Temporary Licenses.

Pending investigation of an applicant's qualifications to receive an original or renewal license, the commission may issue a temporary license to an applicant under this article whose application appears to comply with the requirements of law and who has paid the necessary fee. The temporary license is valid for a period not to exceed 120 days from the date of issuance.

Sec. 7.10. Reciprocal Licenses; Out-of-State Applicants.

(a) The commission may waive any prerequisite to obtaining a license for an applicant, including any requirement to submit a set of fingerprints, after reviewing the applicant's credentials and determining that the applicant holds a valid license from another state that has license requirements substantially equivalent to those of this state.

(b) The commission may waive any prerequisite to obtaining a license, including any requirement to submit a set of fingerprints, for an applicant with a valid license from another state with which the State of Texas has a reciprocity agreement. The commission may enter into reciprocal agreements with other states to allow for licensing by reciprocity.

Article 8. Allocation of Racing Days - Horses

Sec. 8.01. Allocation.

The commission shall allocate the live and simulcast racing days for the conduct of live and simulcast racing at each racetrack licensed under this Act. Each racetrack shall accord reasonable access to races for all breeds of horses as determined by the racetrack through negotiations with the representative state breed registry with the final approval of the commission. In

granting approval, the commission shall consider the factors of availability of competitive horses, economic feasibility, and public interest. In allocating race dates under this section, the commission shall consider live race dates separately from simulcast race dates. The commission may prohibit Sunday racing unless the prohibition would conflict with another provision of this Act.

Sec. 8.02. Charity Days.

(a) The commission shall grant additional racing days to each association during a race meeting to be conducted as charity days. The commission shall grant at least two and not more than five additional days to each class 1 racetrack and to each class 2 racetrack. Each class 1 and class 2 racetrack shall conduct charity race days in accordance with this section.

(b) The commission shall adopt rules relating to the conduct of charity days. The commission shall insure that the races held by an association on a charity day are comparable in all respects, including the generation of revenue, to the races held by that association on any other racing day.

Article 9. Horse Registration; Racing

Sec. 9.01. Texas-Bred Horses.

Subject to this Act or any rule of the commission, the state horse breed registries shall make reasonable rules to establish the qualifications of accredited Texas-bred horses to promote, develop, and improve the breeding of horses in this state. Rules adopted by a registry are subject to commission approval.

Sec. 9.02. Breed Registries.

The officially designated state horse breed registries for accredited Texas-bred horses are the Texas Thoroughbred Breeders Association for Thoroughbred horses, the Texas Quarter Horse Association for quarter horses, the Texas Appaloosa Horse Club for Appaloosa horses, the Texas Arabian Breeders Association for Arabian

horses, and the Texas Paint Horse Breeders Association for paint horses.

Sec. 9.03. Texas-Bred Race.

(a) An association shall provide for the running of races limited to accredited Texas-bred horses, each to be known as a Texas-bred race. Unless otherwise provided by this section, on every racing 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. Before January 1, 1994, if on any day not enough horses are entered in an accredited Texas-bred race to provide sufficient competition, an association shall provide for the running of two races in which accredited Texas-bred horses are preferred. An association may defer, in accordance with commission rule, the running of one or both of the two races required by this section for each racing day, but the association must provide that the total number of accredited Texas-bred races in a race meeting is equal to twice the total number of race dates in the race meeting.

(b) To encourage the breeding of horses in this state, any accredited Texas-bred horse finishing first, second, or third in any race in this state except a stakes race shall receive a purse supplement. The appropriate state breed registry shall act in an advisory capacity to the association and the commission for the purpose of administering the provisions of this section.

(c) An accredited Texas-bred Thoroughbred horse that finishes first, second, or third in a race other than a Texas-bred race shall receive an owner's bonus award as a purse supplement. A percentage of the Texas-bred program funds received under Sections 6.08 and 6.091, excluding expenses for administration of the Texas-bred program, shall be allocated to fund the bonus awards as follows:

- (1) for 2002, 10 percent;
- (2) for 2003, 12.5 percent;
- (3) for 2004, 15 percent;
- (4) for 2005, 17.5 percent;

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- (5) for 2006, 20 percent;
- (6) for 2007, 22.5 percent; and
- (7) for 2008 and subsequent years, 25 percent.

Sec. 9.04. Funds for Awards.

Funds for the purse supplements shall be derived from the breakage as provided by Section 6.08 of this Act.

Sec. 9.05. Types of Racing.

When a horse racing association conducts a race meeting for more than one breed of horse at one racetrack, the number of races to be run by each breed on each day shall be equitable as determined by the commission under Section 8.01 of this Act. The commission, by rule or by order, may allow an exception if there are not enough horses of a breed available to provide sufficient competition.

Sec. 9.06. Stabling.

When a horse racing association conducts a race meeting for more than one breed of horse at one racetrack, on-track stalls shall be provided on an equitable basis as determined by the commission under Section 8.01 of this Act.

Sec. 9.07. Security.

The horse racing association shall provide security at its track that is adequate to ensure the safety of the spectators, employees, and animals.

Article 9A. Texas Derbies

Sec. 9A.001. Texas Derbies.

(a) The commission shall establish as Texas Derbies the following annual stakes races:

- (1) one race open to three-year-old Thoroughbreds;
- (2) one race open only to three-year-old Texas-bred Thoroughbreds;
- (3) one race open to three-year-old quarter horses; and
- (4) one race open only to three-year-old Texas-bred quarter horses.

(b) For a Texas Derby open only to Texas-bred horses, the respective official state breed registries and the official horsemen's organization shall develop:

- (1) the race conditions and entrance qualifications; and
- (2) the preference system used to determine the race finalists.

(c) Each class 1 racetrack that is awarded a Texas Derby that is not limited to Texas-bred horses shall develop for the derby:

- (1) the race conditions and entrance qualifications; and
- (2) the preference system used to determine the race finalists.

(d) The race conditions and qualifications and preference systems developed for the Texas Derbies under Subsection (b) or (c) of this section are subject to review and approval by the executive secretary.

(e) The commission shall set the date of and the location for each Texas Derby. Each Texas Derby must be held annually at the class 1 racetrack determined by the commission. The commission shall determine the location of each Texas Derby in consultation with:

- (1) each class 1 racetrack;
- (2) the official state breed registries; and
- (3) the official horsemen's organization.

(f) The commission may sell the right to name a Texas Derby. The commission shall deposit the proceeds from the sale of the right to name a Texas Derby into the Texas Derby escrow purse fund established under Section 9A.003 of this article.

(g) The date of the initial Texas Derby may not be earlier than January 1, 2015. This subsection expires January 1, 2016.

Sec. 9A.002. Inspection and Examination of Horse.

(a) For each Texas Derby, the commission shall appoint a state veterinarian to conduct a prerace examination of each horse entered in the race to determine whether the horse is healthy

and meets standards set by commission rule for racing.

(b) The examination may include any procedure that the state veterinarian considers necessary to make the determination required by Subsection (a) of this section.

(c) The examination may be conducted at any time before the race.

Sec.9A.003. Texas Derby Escrow Purse Fund.

(a) The commission shall establish a Texas Derby escrow purse fund.

(b) The commission shall by rule establish a schedule of entrance fees for participants in each Texas Derby. A portion determined by the commission of each entrance fee shall be deposited in the Texas Derby escrow purse fund.

(c) Notwithstanding Section 3.09 of this Act or any other law, the commission by rule shall determine a portion of the fees, charges, and other revenue collected under this Act to be deposited to the credit of the Texas Derby escrow purse fund as reasonably necessary to maintain competitive purses for each Texas Derby.

(d) The commission by rule may assess under this Act additional charges and fees, including gate fees, to supplement the funds otherwise deposited in the Texas Derby escrow purse fund under this section.

(e) The commission may not:

(1) use funds from the accredited Texas-bred program under Article 9 of this Act or the escrowed purse account under Section 6.091(e) of this Act to fund the Texas Derby escrow purse fund; or

(2) order a breed registry to fund a purse for a Texas Derby, make contributions to the Texas Derby escrow purse fund, or pay the expenses of a Texas Derby race.

(f) Other than as provided by this section, no other state revenue may be deposited to the credit of the Texas Derby escrow purse fund.

Article 10. Allocation of Racing Days - Greyhounds; Kennels

Sec. 10.01. Number of Racing Days.

Any greyhound racing licensee shall be entitled to have 300 evening and 150 matinee performances in a calendar year. The commission shall grant at least five additional racing days during a race meeting to be conducted as charity days. The commission shall adopt rules relating to the conduct of charity days. The commission shall insure that the races held by an association on a charity day are comparable in all respects, including the generation of revenue, to the races held by that association on any other racing day.

Sec. 10.02. Substitute Racing Days or Additional Races.

If for a reason beyond the licensee's control and not caused by the licensee's fault or neglect it is impossible for the licensee to hold or conduct a race or races on a day authorized by the commission, the commission in its discretion and at the request of the licensee, as a substitute for the race or races, may specify another day for the holding or conducting of racing by the licensee or may add additional races to already programmed events.

Sec. 10.03. Kennels.

Each greyhound racetrack must contract for a maximum of 18 kennels and shall provide free kennel rent and schooling.

Sec. 10.04. Texas-Bred Greyhounds.

(a) Subject to this Act or any rule of the commission, the state greyhound breed registry shall make reasonable rules to establish the qualifications of accredited Texas-bred greyhounds to promote, develop, and improve the breeding of greyhounds in this state. Rules adopted by the registry are subject to commission approval.

(b) The commission shall adopt standards relating to the operation of greyhound farms or other facilities where greyhounds are raised for pari-mutuel racing.

Sec. 10.05. Breed Registry; Breakage Distributions.

The officially designated state greyhound breed registry for accredited Texas-bred greyhounds is the Texas Greyhound Association. The state breed registry shall adopt rules to provide for the use of breakage received by it under Section 6.09(d) of this Act. An association shall pay the breakage due the breed registry to the appropriate state greyhound breed registry at least every 30 days.

Sec. 10.06. Texas Kennels.

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

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

Article 11. Wagering

Sec. 11.01. Pari-mutuel Wagering; Rules.

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

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

with the commission. Each commissioned investigator has the powers of a peace officer.

(b) The commission's rules adopted under this section and this Act shall be written and updated to ensure their maximum enforceability within existing constitutional guidelines.

Sec. 11.011. Simulcast Races.

(a) The commission shall adopt rules to license and regulate pari-mutuel wagering on:

(1) races conducted in this state and simulcast to licensed racetrack associations in this state or to out-of-state receiving locations; and

(2) races conducted out-of-state and simulcast to licensed racetrack associations in this state.

(b) With approval of the commission, wagers accepted on a simulcast race by any out-of-state receiving location may be included in the pari-mutuel pool for the race at the sending racetrack association in this state.

(c) With approval of the commission, wagers accepted by a licensed racetrack association in this state on a race simulcast from out-of-state may be included in the pari-mutuel pools for the race at the out-of-state sending racetrack.

(d) The commission may adopt rules necessary to facilitate the interstate commingling of pari-mutuel pools as provided by Subsections (b) and (c) of this section.

(e) The racetrack where the wager is made is responsible for reporting and remitting the state's share of the pari-mutuel pool.

(f) Nothing in this Act is to be construed to allow wagering in Texas on simulcast races at any location other than a racetrack licensed under this Act that has been granted live race dates by the commission.

(g) Nothing in this Act is to be construed to prohibit wagering on a simulcast horse race at a greyhound racetrack in this state, or to prohibit wagering on a simulcast greyhound race at a horse racetrack in this state. A horse racetrack may not be required to accept a greyhound

simulcast signal, nor may a greyhound racetrack be required to accept a horse simulcast signal.

(h) Except as provided by this section, a horse racetrack facility that offers wagering on interstate greyhound race simulcast signals must do so as provided by a contract with the nearest greyhound racetrack. If an agreement between the racetracks cannot be reached by October 1 of the year preceding the calendar year in which the simulcasting is to occur, the horse racetrack may purchase and offer wagering on greyhound race simulcast signals and shall pay the amounts specified under Section 6.091(d)(1) of this Act to the nearest greyhound racetrack.

(i) Except as provided by this section, a greyhound racetrack facility that offers wagering on interstate horse race simulcast signals must do so as provided by a contract with the nearest Class 1 horse racetrack. If an agreement between the racetracks cannot be reached by October 1 of the year preceding the calendar year in which the simulcasting is to occur, the greyhound racetrack may purchase and offer wagering on interstate horse race simulcast signals and shall pay the amounts specified in Section 6.091(c)(1) of this Act to the nearest Class 1 horse racetrack.

(j) A horse racetrack that offers wagering on interstate greyhound simulcast races must offer wagering on all Texas greyhound races made available for simulcast wagering. A greyhound racetrack that offers wagering on interstate horse simulcast races must offer wagering on all Texas horse races made available for simulcast wagering.

(k) Wagering on a simulcast greyhound race at a horse racetrack that conducts its inaugural meet within 12 months of Sept. 1, 1997, or at an operational horse racetrack within 60 miles of such racetrack may be conducted only pursuant to an agreement between said racetracks.

(l) Notwithstanding other provisions of law, a greyhound racing association and the state greyhound breed registry shall by contract agree that each simulcast contract to which the greyhound racing association is a party,

including a simulcast contract with a horse racing association or a simulcast contract with another greyhound racing association, include terms that provide adequately for the development of greyhound racing, breeding, purses, and any actual or potential loss of live racing handle based on the association's historical live racing schedule and handle in this state. If a greyhound racing association and the state greyhound breed registry fail to reach an agreement, the racing association or the breed registry may submit the contract negotiations for binding arbitration under Chapter 171, Civil Practice and Remedies Code, and rules adopted by the commission. The arbitration must be conducted by a board of three arbitrators. The greyhound racing association shall appoint one arbitrator. The state greyhound breed registry shall appoint one arbitrator. The arbitrators appointed by the greyhound racing association and the state greyhound breed registry shall appoint the third arbitrator. A greyhound racing association and the state greyhound breed registry shall each pay its own arbitration expenses. The greyhound racing association and the state greyhound breed registry shall equally pay the arbitrator fees and costs. This subsection does not apply to a contract that was in effect before Sept. 2, 1997.

(m) The commission shall not approve wagering on an interstate simulcast race unless the receiving location consents to wagering on interstate simulcast races at all other receiving locations in this state.

Sec. 11.02. Computation of Wagering.

The wagering may be calculated only by state-of-the-art computational equipment that is approved by the commission. The commission may not require the use of a particular make of equipment.

Sec. 11.03. Information on Ticket.

The commission shall by rule prescribe the information to be printed on each pari-mutuel ticket.

Sec. 11.04. Wagering Inside Enclosure.

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

(b) The commission shall adopt rules prohibiting an association from accepting wagers by telephone.

(c) The commission shall adopt rules prohibiting an association from accepting a wager made on credit and shall adopt rules providing for the use of automatic banking machines within the enclosure. The commission shall limit the use of an automatic banking machine to allow a person to have access to only the person's checking account at a bank or other financial institution.

(d) Repealed by Acts 1997, 75th Legislature, Ch. 1275, §54, eff. Sept. 1, 1997.

(e) An association that allows a machine in an enclosure as provided by Subsection (c) shall collect a fee of \$1 for each transaction under Subsection (c). The commission shall adopt rules providing for collection, reporting, and auditing of the transaction fee. The association shall forward the fee to the commission. The commission shall deposit the fee to the credit of the general revenue fund.

Sec. 11.05. Unlawful Wagering.

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

Sec. 11.06. Minors.

The commission shall adopt rules to prohibit wagering by a minor and to prohibit a child from entering the viewing section of a racetrack unless accompanied by the child's parent or guardian. The rules may except any conduct described as an affirmative defense by Section 14.13 of this Act.

Sec. 11.07. Claim After Race Meeting.

(a) A person who claims to be entitled to any part of a distribution from a pari-mutuel pool may, not later than the first anniversary of the day the ticket was purchased, file with the association a claim for the money together with a substantial portion of the pari-mutuel ticket sufficient to identify the association, race, and horse or greyhound involved and sufficient to show the amount wagered and the type of ticket.

(a-1) A person who claims to be entitled to money from a pari-mutuel voucher may before the first anniversary of the day the voucher was issued file with the association a claim for the money together with a substantial portion of the pari-mutuel voucher sufficient to identify the association, the serial number, the date issued, and the amount of the voucher.

(b) If the claimant satisfactorily establishes a right to distribution from the pool, the association shall pay the amount due the claimant. If the association refuses to pay a claimant who has established satisfactorily a right to distribution from the pool, the claimant may appeal to the commission under procedures prescribed by commission rule.

Sec. 11.08. Repealed by Acts 2007, 80th Legislature, (HB 2701), eff. Sept. 1, 2007.

Sec. 11.09. No Liability to Prosecution..

The defense to prosecution under Chapter 47, Penal Code, that the conduct was authorized under this Act is available only to a person who is:

(1) lawfully conducting or participating in the conduct of pari-mutuel wagering in connection with horse racing or greyhound racing; or

(2) permitting the lawful conduct of an activity described by Subdivision (1) of this section on any racetrack facility.

Sec. 11.10. Automobile Racing Facility.

No automobile racing facility may be located within 10,000 feet of a horse or greyhound racetrack licensed under this Act that is located in a county with a population of 1,800,000 or more, according to the most recent federal census.

Article 12. Fairs, Stock Shows, and Expositions

Sec. 12.01. County Stock Shows.

Subject to the licensing requirements and other provisions of this Act, a county may conduct an annual race meeting, not to exceed 16 racing days, in connection with a livestock show or exhibit that is held under Chapter 319, Local Government Code. The race meetings may be conducted by an agent selected by the commissioners court under Section 319.004, Local Government Code, if the agent is qualified to hold a license under this Act. This Act does not prohibit a county from exercising any right otherwise granted to any person by this Act.

Sec. 12.02. Fairs.

Subject to the licensing requirements and other provisions of this Act, a nonprofit corporation organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) for the purpose of encouraging agriculture through the operation of public fairs and livestock exhibitions may conduct a race meeting, not to exceed 16 racing days.

Sec. 12.03. County Fairs.

(a) A county that holds a class 4 racetrack license may conduct an annual race meeting not to exceed five racing days in connection with a livestock show or exhibition held under Chapter 319, Local Government Code. A race meeting must be conducted on a day when general fair activities are conducted.

(b) A county that holds a class 4 racetrack license may contract with an agent to conduct any portion of a race meeting. An agent must hold a license issued under this Act that is appropriate for the service the agent provides.

Article 13. Exclusion or Ejection from Racetrack

Sec. 13.01. Regulation by Commission.

The commission shall adopt rules providing for the exclusion or ejection from an enclosure where greyhound races or horse races are conducted, or from specified portions of an enclosure, of a person:

(1) who has engaged in bookmaking, touting, or illegal wagering;

(2) whose income is from illegal activities or enterprises;

(3) who has been convicted of a violation of this Act;

(4) who has been convicted of theft;

(5) who has been convicted under the penal law of another jurisdiction for committing an act that would have constituted a violation of any of the rules mentioned in this section;

(6) who has committed a corrupt or fraudulent act in connection with greyhound racing or horse racing or pari-mutuel wagering or who has committed any act tending or intended to corrupt greyhound racing or horse racing or pari-mutuel wagering in this state or elsewhere;

(7) who is under suspension or ruled off a racetrack by the commission or a steward in this state or by a corresponding authority in another state because of fraudulent or corrupt practices or other acts detrimental to racing;

(8) who has submitted a forged pari-mutuel ticket or has altered or forged a pari-mutuel ticket for cashing or who has cashed or caused to be cashed an altered, raised, or forged pari-mutuel ticket;

(9) who has been convicted of committing a lewd or lascivious act or other crime involving moral turpitude;

(10) who is guilty of boisterous or disorderly conduct while inside a racing enclosure;

(11) who is an agent or habitual associate of a person excludable under this section; or

(12) who has been convicted of a felony.

Sec. 13.02. Hearing; Appeal; Exclusion or Expulsion from an Enclosure.

(a) A person who is excluded or ejected from an enclosure under a rule of the commission may apply to the commission for a hearing on the question of the applicability of the rule to that person.

(b) Such an application constitutes a contested case under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). If, after a hearing as provided under Section 13 of that Act, the commission determines that the exclusion or ejection was proper, it shall make and enter an order to that effect in its minutes, and the person shall continue to be excluded from each association.

(c) The person excluded or ejected may appeal an adverse decision of the commission by filing a petition for judicial review in the manner provided by Section 19 of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). Judicial review under this subsection is subject to the substantial evidence rule. Venue for the review is in a district court in Travis County.

(d) The judgment of the court may be appealed as in other civil cases. The person appealing the commission's ruling under this article shall continue to be excluded from all

enclosures in this state during the pendency of the appeal.

Sec. 13.03. Criminal Trespass.

A person, for the purposes of Section 30.05, Penal Code, is presumed to have received notice that entry to an enclosure was forbidden if the person:

(1) was excluded or ejected from the enclosure under this Act;

(2) possessed, displayed, or used in the enclosure a credential that the person was not authorized to use; or

(3) entered the enclosure using a falsified credential.

Sec. 13.04. Exclusion by Association.

Nothing in this article shall prohibit an association from evicting or excluding a person from its enclosure for any lawful reason.

Article 14. Criminal Offenses

Sec. 14.01. Touting.

(a) A person commits an offense if, with an intent to deceive and an intent to obtain a benefit, the person knowingly makes a false statement or offers, agrees to convey, or conveys false information about a greyhound race or horse race to another.

(b) Except as provided by Subsection (c) of this section, an offense under this section is a Class A misdemeanor.

(c) An offense under this section is a state jail felony if:

(1) the actor is a licensee under this Act or an employee or member of the commission and the actor knowingly represents that a member or employee of the commission or a person licensed by the commission is the source of the false information; or

(2) the false statement or information was contained in racing selection information provided to the public.

Sec. 14.02. Unlawful Possession or Use of Credential.

(a) A person commits an offense if the person knowingly or intentionally possesses or displays a credential or false credential that identifies the person as the holder of the credential and the person knows:

- (1) that the credential is not issued to the person; or
- (2) the person is not a licensee.

(b) An offense under this section is a Class C misdemeanor.

Sec. 14.03. Repealed by Acts 1997, 75th Legislature, Chapter 1275, §43, eff. Sept. 1, 1997.

Sec. 14.04. Illegal Access.

(a) A person commits an offense if the person is a licensee and the person knowingly or intentionally permits, facilitates, or allows access to an enclosure where races are conducted, to another person who the person knows:

- (1) has engaged in bookmaking, touting, or illegal wagering;
- (2) derives income from illegal activities or enterprises;
- (3) has been convicted of a violation of this Act; or
- (4) is excluded by the commission from entering a racetrack facility.

(b) An offense under this section is a Class B misdemeanor.

Sec. 14.05. Races Conducted on Certain Indian Lands.

(a) A person who is subject to this section commits an offense if the person intentionally or knowingly wagers on the result of a greyhound race or horse race conducted in this state that:

- (1) is held on an American Indian reservation or on American Indian trust land located in this state; and

(2) is not held under the supervision of the commission under rules adopted under this Act.

(b) An offense under this section is a felony of the third degree.

(c) It is an exception to the application of this section that the person is a member of a recognized Texas Indian tribe who lives on a reservation or on trust lands located in this state.

Sec. 14.06. False Statements.

(a) A person commits an offense if the person knowingly makes a material and false, incorrect, or deceptive statement to another who is conducting an investigation or exercising discretion under this Act or a rule adopted under this Act.

(b) In this section, the term "statement" means a representation of fact and includes:

- (1) a written or oral statement; or
- (2) a sworn or unsworn statement.

(c) An offense under this section is a state jail felony unless the statement was material in a commission action relating to a racetrack license, in which event the offense is a felony of the third degree.

Sec. 14.07. Hindering of Entry.

(a) A person commits an offense if the person with criminal negligence refuses, denies, or hinders entry to another who is exercising or attempting to exercise a power of entry under this Act or a commission rule.

(b) A person commits an offense if the person with criminal negligence refuses, denies, hinders, interrupts, disrupts, impedes, or otherwise interferes with a search by a person exercising or attempting to exercise a power to search under this Act or a commission rule.

(c) An offense under this section is a Class B misdemeanor.

Sec. 14.08. Forging Pari-Mutuel Ticket.

(a) A person commits an offense if the person intentionally or knowingly forges a

pari-mutuel ticket with the intent to defraud or harm another.

(b) In this section, "forge" has the meaning assigned by Section 32.21, Penal Code.

(c) An offense under this section is a felony of the third degree.

Sec. 14.09. Impersonating a Licensee.

(a) A person commits an offense if the person impersonates a licensee with the intent to induce another person to submit to the actor's purported authority as a licensee or to rely on the actor's actions as an alleged licensee.

(b) An offense under this section is a Class A misdemeanor.

Sec. 14.10. Unlawful Influence on Racing.

(a) A person commits an offense if the person possesses a prohibited device or prohibited substance on a racetrack facility, in an enclosure, or at a training facility.

(b) An offense under Subsection (a) of this section is a Class A misdemeanor, unless the actor possessed the device or substance with the intent to influence or affect the outcome of a horse or greyhound race in a manner contrary to this Act or a commission rule, in which event it is a state jail felony.

(c) A person commits an offense if, with the intent to influence or affect a horse or greyhound race in a manner contrary to this Act or a commission rule, the person:

(1) uses or offers to use a prohibited device; or

(2) uses or offers to use a prohibited substance.

(d) An offense under Subsection (c) of this section is a felony of the third degree.

Sec. 14.11. Bribery and Corrupt Influence.

(a) A person commits an offense if, with the intent to influence or affect the outcome of a race in a manner contrary to this Act or a commission rule, the person offers, confers, agrees to confer on another, or solicits, accepts,

or agrees to accept from another person any benefit as consideration for the actions of a person who receives the benefit relating to the conduct, decision, opinion, recommendation, vote, or exercise of discretion as a licensee or other person associated with or interested in any stable, kennel, horse, greyhound, or horse or greyhound race.

(b) An offense under this section is a state jail felony, unless the recipient of the benefit is a steward, judge, or other racetrack official exercising authority over a horse or greyhound race that the person providing or offering the benefit intended to influence, in which event it is a felony of the third degree.

Sec. 14.12. Criminal Conflict of Interest.

A person who is a member of the commission commits an offense if the person:

(1) accepts, directly or indirectly, employment or remuneration from a racetrack facility, association, or other licensee, including a facility, association, or licensee located or residing in another state;

(2) wagers or causes a wager to be placed on the outcome of a horse or greyhound race conducted in this state; or

(3) accepts or is entitled to any part of a purse to be paid to an animal in a race conducted in this state.

Sec. 14.13. Offenses Involving a Minor.

(a) A person commits an offense if the person with criminal negligence permits, facilitates, or allows:

(1) wagering by a minor at a racetrack facility; or

(2) entry by a child to the viewing section of a racetrack facility.

(b) An offense under Subsection (a) of this section is a Class B misdemeanor.

(c) A person commits an offense if the person is a minor and intentionally or knowingly engages in wagering at a racetrack.

(d) An offense under Subsection (c) of this section is a Class C misdemeanor.

(e) It is an affirmative defense to prosecution of an offense under Subsection (a)(2) that a child was accompanied by and was in the physical presence of a parent, guardian, or spouse who was 21 years of age or older.

(f) It is an affirmative defense to prosecution of an offense under Subsection (a) of this section that the minor falsely represented the minor's age by displaying to the person an apparently valid Texas driver's license or identification card issued by the Department of Public Safety that contains a physical description consistent with the minor's appearance.

Sec. 14.14. Unlawful Racing.

A person commits an offense if:

- (1) the person participates, permits, or conducts a greyhound or horse race at a licensed racetrack facility;
- (2) the person wagers on the partial or final outcome of the greyhound or horse race or knows or reasonably should know that another is betting on the partial or final outcome of the race; and
- (3) the race is not part of a performance or meeting conducted under this Act or commission rule.

Sec. 14.15. Pari-Mutuel Racing Without License.

(a) A person commits an offense if, without a license, the person participates or is otherwise involved in, in any capacity, greyhound racing or horse racing with pari-mutuel wagering.

(b) It is an affirmative defense to prosecution under Subsection (a) of this section that the actor was a spectator or a person placing a wager.

(c) An offense under Subsection (a) of this section is a Class A misdemeanor, unless the actor was required by this Act to obtain a racetrack license, in which event it is a state jail felony.

Sec. 14.16. Racing Without License.

(a) A person commits an offense if the person:

- (1) conducts a greyhound or horse race without a racetrack license; and
- (2) knows or reasonably should know that another person is betting on the final or partial outcome of the race.

(b) An offense under this section is a felony of the third degree.

Sec. 14.17. Failure to Display Credential.

(a) A person commits an offense if the person intentionally or knowingly:

- (1) fails or refuses to display a credential to another after a lawful request; or
- (2) fails or refuses to give the person's name, residence address, or date of birth to another after a lawful request.

(b) In this section, "lawful request" means a request from the commission, an authorized agent of the commission, the director or a commissioned officer of the Department of Public Safety, a peace officer, or a steward or judge at any time and any restricted location that:

- (1) is on a racetrack facility; and
- (2) is not a public place.

(c) Except as provided by Subsection (d) of this section, an offense under this section is a Class B misdemeanor.

(d) At the punishment stage of a trial for an offense under Subsection (a)(1) of this section, the defendant may raise an issue as to whether the defendant was a licensee at the time of the offense. If the defendant proves the issue, the offense is a Class C misdemeanor.

Sec. 14.18. Search and Seizure.

(a) A person consents to a search at a time and location described in Subsection (b) of this section for a prohibited device, prohibited substance, or other contraband if the person:

- (1) accepts a license or other credential issued under this Act; or

(2) enters a racetrack facility under the authority of a license or other credential alleged to have been issued under this Act.

(b) A search may be conducted by a commissioned officer of the Department of Public Safety or a peace officer, including a peace officer employed by the commission, at any time and at any location that is on a racetrack facility, except a location:

(1) excluded by commission rule from searches under this section; or

(2) provided by an association under commission rule for private storage of personal items belonging to a licensee entering a racetrack facility.

(c) A person conducting a search under Subsection (b) of this section may seize any prohibited device, prohibited substance, or other contraband discovered during the search.

Sec. 14.19. Prosecution.

A person who is subject to prosecution for a penal offense under this Act and another law may be prosecuted under either law.

Sec. 14.20. Commission Authority.

This article may not be construed to restrict the commission's administrative authority to enforce this Act or commission rules to the fullest extent authorized by this Act.

Sec. 14.21. Venue for Criminal Prosecution.

The venue for the prosecution of a criminal offense under this Act is in Travis County or in a county where an element of the offense occurred.

Article 15. General Penalty Provisions

Sec. 15.01. General Penalty.

If no specific penalty is provided for a provision of this Act that is a penal offense, a person who violates the provision commits a state jail felony.

Sec. 15.02. Repealed by Acts 1997, 75th Legislature, Ch. 1275, §54, eff. Sept. 1, 1997.

Sec. 15.03. Administrative Penalty.

(a) If the commission determines that a person regulated under this Act has violated this Act or a rule or order adopted under this Act in a manner that constitutes a ground for a disciplinary action under this Act, the commission may assess an administrative penalty against that person as provided by this section.

(b) The commission may assess the administrative penalty in an amount not to exceed \$10,000 for each violation. In determining the amount of the penalty, the commission shall consider the seriousness of the violation.

(c) If, after examination of a possible violation and the facts relating to that possible violation, the commission determines that a violation has occurred, the commission shall issue a preliminary report that states the facts on which the conclusion is based, the fact that an administrative penalty is to be imposed, and the amount to be assessed. Not later than the 10th day after the date on which the commission issues the preliminary report, the commission shall send a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty.

(d) Not later than the 20th day after the date on which the commission sends the preliminary report, the person charged may make a written request for a hearing or may remit the amount of the administrative penalty to the commission. Failure to request a hearing or to remit the amount of the administrative penalty within the period prescribed by this subsection results in a waiver of a right to a hearing under this Act. If the person charged requests a hearing, the hearing shall be conducted in the manner provided for a contested case hearing under the Administrative Procedure and Texas Register

Act (Article 6252-13a, Vernon's Texas Civil Statutes). If it is determined after the hearing that the person has committed the alleged violation, the commission shall give written notice to the person of the findings established by the hearing and the amount of the penalty and shall enter an order requiring the person to pay the penalty.

(e) Not later than the 30th day after the date on which the notice is received, the person charged shall pay the administrative penalty in full or exercise the right to appeal either the amount of the penalty or the fact of the violation. If a person exercises a right of appeal either as to the amount of the penalty or the fact of the violation, the amount of the penalty is not required to be paid until the 30th day after the date on which all appeals have been exhausted and the commission's decision has been upheld.

Sec. 15.04. Complaints.

Complaints alleging violations of this Act may be instituted by the Department of Public Safety, the commission, or the attorney general. Such complaints shall be adjudicated by the commission pursuant to the provisions for a contested case proceeding under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Article 16. Local Option Election

Sec. 16.01. Condition Precedent.

(a) The commission shall not issue a racetrack license or accept an application for a license for a racetrack to be located in a county until the commissioners court has certified to the secretary of state that the qualified voters of the county have approved the legalization of pari-mutuel wagering on horse races or greyhound races in that county at an election held under this article. A local option election may not be held under this article before January 1, 1987.

(b) A racetrack may not be located within a home-rule city unless a majority of the votes cast

in the city in the election held under this article that legalized pari-mutuel wagering on horse races in the county were in favor of legalization. This subsection does not apply to a licensed racetrack that was located outside the boundaries of the city when it was first licensed and has continuously held a license since the original license was issued.

Sec. 16.02. Methods for Initiating Election.

The commissioners court on its own motion by a majority vote of its members may order an election to approve the legalization of pari-mutuel wagering on horse races or greyhound races, and it shall order an election on presentation of a petition meeting the requirements of this article.

Sec. 16.021. Approval of Simulcast Races.

The commissioners court of a county in which there is a racetrack conducting live racing, on its own motion by a majority vote of its members, may order an election to approve pari-mutuel wagering on simulcast greyhound or horse races.

Sec. 16.03. Application for Petition; Issuance.

If petitioned to do so by written application of 10 or more registered voters of the county, the county clerk shall issue to the applicants a petition to be circulated among registered voters for their signatures.

Sec. 16.04. Contents of Application.

To be valid, an application must contain:

- (1) a heading, in the following words: "Application for a Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Horse Races" or "Application for a Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Greyhound Races," as appropriate;

(2) a statement of the issue to be voted on, in the following words: "Legalizing pari-mutuel wagering on horses races in _____ County" or "Legalizing pari-mutuel wagering on greyhound races in _____ County," as appropriate;

(3) a statement immediately above the signatures of the applicants, reading as follows: "It is the hope, purpose, and intent of the applicants whose signatures appear below that pari-mutuel wagering on horse races be legalized in _____ County" or "It is the hope, purpose, and intent of the applicants whose signatures appear below that pari-mutuel wagering on greyhound races be legalized in _____ County," as appropriate; and

(4) the printed name, signature, residence address, and voter registration certificate number of each applicant.

Sec. 16.05. Contents of Petition.

To be valid, a petition must contain:

(1) a heading, in the following words: "Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Horse Races" or "Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Greyhound Races," as appropriate;

(2) a statement of the issue to be voted on, in the same words used in the application;

(3) a statement immediately above the signatures of the petitioners, reading as follows: "It is the hope, purpose, and intent of the petitioners whose signatures appear below that pari-mutuel wagering on horse races be legalized in _____ County" or "It is the hope, purpose, and intent of the petitioners whose signatures appear below that pari-mutuel wagering on greyhound races be legalized in _____ County," as appropriate;

(4) lines and spaces for the names, signatures, addresses, and voter registration certificate numbers of the petitioners; and

(5) the date of issuance, the serial number, and the seal of the county clerk on each page.

Sec. 16.06. Copies.

The county clerk shall keep the application and a copy of the petition in the files of that office. The clerk shall issue to the applicants as many copies as they request.

Sec. 16.07. Filing of Petition; Number of Signatures.

To form the basis for the ordering of an election, the petition must be filed with the county clerk not later than the 30th day after the date of its issuance, and it must contain a number of signatures of registered voters of the county equal to five percent of the number of votes cast in the county for all candidates for governor in the most recent gubernatorial general election.

Sec. 16.08. Review by County Clerk.

(a) The county clerk shall, on request of any person, check each name on the petition to determine whether the signer is a registered voter of the county. The person requesting this verification by the county clerk shall pay the county clerk a sum equal to 20 cents per name before commencement of the verification.

(b) The county clerk may not count a signature if there is reason to believe that:

(1) it is not the actual signature of the purported signer;

(2) the voter registration certificate number is not correct;

(3) it is a duplication either of a name or of handwriting used in any other signature on the petition;

(4) the residence address of the signer is not correct; or

(5) the name of the voter is not signed exactly as it appears on the official copy of the current list of registered voters for the voting year in which the petition is issued.

Sec. 16.09. Certification.

Not later than the 40th day after the date the petition is filed, excluding Saturdays, Sundays, and legal holidays, the county clerk shall certify

to the commissioners court the number of registered voters signing the petition.

Sec. 16.10. Order of Election.

(a) The commissioners court shall record on its minutes the date the petition is filed and the date it is certified by the county clerk.

(b) If the petition contains the required number of signatures and is in proper order, the commissioners court shall, at its next regular session after the certification by the county clerk, order an election to be held at the regular polling place in each county election precinct in the county on the next uniform election date authorized by Section 41.001, Election Code, that occurs at least 20 days after the date of the order. The commissioners court shall state in the order the issue to be voted on in the election. The order is prima facie evidence of compliance with all provisions necessary to give it validity.

Sec. 16.11. Application of Election Code.

(a) The election shall be held and the returns shall be prepared and canvassed in conformity with the Election Code.

(b) The ballots shall be printed to permit voting for or against the proposition: "Legalizing pari-mutuel wagering on horse races in _____ County," "Legalizing pari-mutuel wagering on greyhound races in _____ County," or "Authorizing pari-mutuel wagering on simulcast races in _____ County," as appropriate.

Sec. 16.12. Results of Election.

(a) If a majority of the votes cast in the election are for the legalization of pari-mutuel wagering on horse races or greyhound races in the county, or for the authorization of pari-mutuel wagering on simulcast races in the county, as appropriate, the commissioners court shall certify that fact to the secretary of state not later than the 10th day after the date of the canvass of the returns.

(b) No other election may be held in the county under this Act until five years have elapsed since the date of the preceding election.

Sec. 16.13. Contest of Election.

(a) Not later than the 30th day after the date the result of the election is declared, any qualified voter of the county may contest the election by filing a petition in the district court of the county. Any person who is licensed or who has made application to the commission to be licensed in any capacity under this Act may become a named party to the proceedings by pleading to the petition on or before the time set for hearing and trial as provided by Subsection (c) of this section or thereafter by intervention on leave of court.

(b) The proceedings in the suit shall be conducted in the manner prescribed by Title 14, Election Code, for contesting an election held for a purpose other than the election of an officer or officers. Unless otherwise provided by this Act, the applicable Texas Rules of Civil Procedure and all applicable statutes govern the proceedings and appeals held and conducted under this Act.

(c) At or after the time for hearing and trial, the judge shall hear and determine all questions of law and fact in the proceedings and may enter orders as to the proceedings that will enable the judge to try and determine the questions and to render a final judgment with the least possible delay.

Sec. 16.14. Contest of Election; Bond.

At any time prior to the entry of a final judgment in the proceedings, any party may ask the court to dismiss the contestant's action unless the contestant posts a bond with sufficient surety, approved by the court, payable to the movant for the payment of all damages and costs that may accrue by reason of the delay that will be occasioned by the continued participation of the contestant in the proceedings in the event that the contestant fails to finally prevail and obtain substantially the judgment

prayed for in the petition. The court shall then issue an order directed to the contestant, which order, together with a copy of the motion, shall be served on all parties, or on their attorney of record, personally or by registered mail, requiring the contestant to appear at the time and place, not sooner than five nor later than 10 days after receipt of the order and motion, as the court may direct, and show cause why the motion should not be granted. The maximum bond that the court may set is \$100,000 for contests of elections for tracks to be located in a county that has a population of 1.3 million or more and in which a municipality with a population of more than one million is primarily located. The maximum bond that the court may set is \$10,000 for contests of elections for tracks to be located in any other county. Motions with respect to more than one contestant may be heard together if so directed by the court. Unless at the hearing on the motion the contestant establishes facts that in the judgment of the court would entitle the contestant to a temporary injunction against the issuance of licenses on the basis of the election in question, the court shall grant the motion of the movant and in its order the court shall fix the amount of the bond to be posted by the contestant in an amount found by the court to be sufficient to cover all damages and costs that may accrue by reason of the delay that will be occasioned by the continued participation of the contestant in the proceedings in the event that the contestant fails to prevail and obtain substantially the judgment prayed for in its petition.

Sec. 16.15. Contest of Election; Appeal.

Any party to the cause who is dissatisfied with an order or judgment entered under Section 16.13 of this Act may appeal to the appropriate court of appeals after the entry of the order or judgment; otherwise the order or judgment becomes final. If such a party does not file an appeal not later than the 30th day after the date on which the result of the election is declared, it is presumed that the election is valid. Any

appeal has priority over all other cases, causes, or matters pending in the court of appeals, except habeas corpus, and the court of appeals shall assure the priority and act on the matter and render it final order or judgment with the least possible delay. The supreme court may review by writ of error or other authorized procedure all questions of law arising out of the orders and judgments of the court of appeals in the manner, time, and form applicable in other civil causes in which a decision of the court of appeals is not final, but the review has priority over all other cases, causes, or matters pending in the supreme court, except habeas corpus, and the supreme court shall assure the priority and review and act on the matter and render its final order or judgment with the least possible delay.

Sec. 16.16. Suit to Have Precedence.

The court shall accelerate the disposition of any action brought under this Act.

Sec. 16.17. Contestee.

(a) The county attorney is the contestee of a suit brought under Section 16.13 of this Act. If there is no county attorney of the county, then the criminal district attorney or district attorney is the contestee.

(b) Costs of the election contest may not be adjudged against the contestee or against the county, and neither may be required to give bond on appeal.

Sec. 16.18. Rescission Election.

(a) The commissioners court of a county that elects to approve the legalization of racing with pari-mutuel wagering in that county may hold an election on the question of rescinding that approval. The court shall order such an election on the presentation of a petition that requests such a rescission. The election may not be held earlier than two years after the date of the election conducted under Section 16.10 of this Act at which the legalization of pari-mutuel wagering was approved. The petition must meet

the requirements imposed under this article for a petition to request a local option election on the question of the legalization of racing with pari-mutuel wagering. An election to rescind legalization of racing shall be conducted in the manner provided for the original local option election under this article. The ballots shall be printed to permit voting for or against the proposition: "Rescinding the legalization of pari-mutuel wagering on horse races in _____ County" or "Rescinding the legalization of pari-mutuel wagering on greyhound races in _____ County," as appropriate.

(b) If the majority of the votes cast in an election under this section favor the rescission, racing with pari-mutuel wagering may not be conducted in that county except as provided by Subsection (c) of this section.

(c) An association located in a county that elects to rescind the legalization of racing and that has outstanding long-term liabilities may continue to operate on a temporary basis as provided by Section 18.01 of this Act.

Article 17. Statewide Referendum

Sec. 17.01 - 17.06. Repealed by Acts 1991, 72nd Leg., Ch. 386, §74(b), eff. Aug. 26, 1991.

Article 18. Miscellaneous Provisions

Sec. 18.01. Application of Sunset Act.

(a) The Texas Racing Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, and except as provided by Subsections (b) and (c) of this section, the commission is abolished and this Act expires September 1, 2017.

(b) If, at the time that the commission would be abolished under Subsection (a) of this section, an association created under this Act has outstanding long-term liabilities:

(1) the association may continue to operate for a period not to exceed one year after those liabilities are satisfied; and

(2) the commission and this Act are continued in effect for the purpose of regulating that association under this Act.

(c) If the commission and this Act are continued in effect under Subsection (b) of this section, the commission is abolished and this Act expires on the first day of the fiscal year following the fiscal year in which the commission certifies to the secretary of state that no associations are operating under the terms of Subsection (b) of this section.

(d) An association that continues to operate under Subsection (b) of this section may not incur any new liabilities without the approval of the commission. At the beginning of that period, the commission shall review the outstanding liabilities of the association and shall set a specific date by which the association must retire its outstanding liabilities. Notwithstanding any contrary contract provisions, an association regulated under this Act may prepay any debt incurred by the association in conducting racing under this Act.

Sec. 18.02. Repealed by Acts 1997, 75th Legislature, Ch. 1275, §54, eff. Sept. 1, 1997.

Sec. 18.03. Other Lawful Businesses.

An association may conduct other lawful business on the association's grounds.

Sec. 18.04. Suit to Have Precedence.

The courts shall accelerate the disposition of any action brought under this Act.

Sec. 18.05. Fee in Lieu of State Taxes.

A fee or payment collected by the state under this Act is in lieu of any other fee, payment, or tax levied by the state. This section does not preclude the application of the sales tax or any increase thereof to the sale or purchase of taxable items by a person or association licensed under

this Act or the application of the franchise tax to a person or association licensed under this Act.

Sec. 18.06. Release of Liability.

A member of the commission, an employee of the commission, a steward or judge, an association, a horsemen's organization, or any other person regulated under this Act is not liable to any individual, corporation, business association, or other entity for a cause of action that arises out of that person's performance or exercise of discretion in the implementation or enforcement of this Act or a rule adopted under this Act if the person has acted in good faith.

Sec. 18.07. Past Performance of Association.

In considering a pleading of a racetrack association, the commission shall take into account the operating experience of the racetrack association in Texas, which includes, but is not limited to, the financial condition of the track, regulatory compliance and conduct, and any other relevant matters concerning the operation of a track.

Sec. 18.08. Distance Learning.

The commission may provide assistance to members of the racing industry who are attempting to develop or implement adult, youth, or continuing education programs that use distance learning.

Article 179e-2, Vernon's Texas Civil Statutes

This Act prohibits the use of state appropriated funds for use in capital improvements of tracks or for interest payments on such facilities except for those tracks which were publicly owned on Sept. 1, 1986.

BUSINESS ORGANIZATIONS CODE

Sec. 153.555. Permitted Transfer in Connection with Racetrack License.

The following transfer relating to a limited partnership is not a prohibited transfer that

violates Section 6.12 (a), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes):

(1) a transfer by a general partnership of its assets to a limited partnership, the corporate general partner of which is controlled by the partners of the general partnership: or

(2) a transfer by a limited partnership of the beneficial use of or interest in any of its rights, privileges, or assets to a local development corporation incorporated before January 31, 1993, under Subchapter D, Chapter 431, Transportation Code.

GOVERNMENT CODE

Sec. 411.096. Access to Criminal History Record Information: Texas Racing Commission.

(a) The Texas Racing Commission is entitled to obtain from the department [Department of Public Safety] criminal history record information maintained by the department that pertains to a person who is:

(1) appointed to the commission;

(2) an applicant for employment by the commission; or

(3) an applicant for a license under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(b) Criminal history record information obtained by the commission under Subsection (a) may not be released or disclosed to any person except in a criminal proceeding, in a hearing conducted by the commission, on court order, or with the consent of the applicant.

PENAL CODE

Sec. 47.09. Other Defenses.

(a) It is a defense to prosecution under this chapter [relating to gambling offenses] that the conduct:

(1) was authorized under:

(A) the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes);

TEXAS RACING ACT

(B) the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes);

(C) the Charitable Raffle Enabling Act (Article 179f, Vernon's Texas Civil Statutes);

(2) consisted entirely of participation in the state lottery authorized by Chapter 466, Government Code; or

(3) was a necessary incident to the operation of the state lottery and was directly or indirectly authorized by:

(A) Chapter 466, Government Code;

(B) the lottery division of the Texas Lottery Commission;

(C) the Texas Lottery Commission;

or

(D) the director of the lottery division of the Texas Lottery Commission.

AgriLife Research, formerly known as the Texas Agricultural Experiment Station.

(c) The comptroller shall periodically transfer the amounts specified by Sections 6.08(f) and (h), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), to the account.

(d) The director may accept gifts and grants for deposit into the account.

(e) The transactions of the director with respect to the account are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(f) Not more than 10 percent of the account may be spend each year on the cost incurred in the operation or administration of the account.

(g) All money received by the account under this chapter is subject to Subchapter F, Chapter 404, Government Code.

EDUCATION CODE

CHAPTER 88

Subchapter F. Equine Research

Sec. 88.521. Definitions.

In this subchapter:

(1) Repealed by Acts 2011, 82nd Legislature, HB2271, Section 27, eff. Sept. 1, 2011.

(2) "Director" means the executive director of Texas AgriLife Research, formerly known as the Texas Agricultural Experiment Station.

(3) "Institution of higher education" has the meaning assigned by Section 61.003 of this code.

Sec. 88.522. Account.

(a) A special account known as the equine research account is created in the general revenue fund. Money in the account may be used only for the purposes described in this subchapter.

(b) The director shall administer the account through established procedures of Texas

Sec. 88.523. Repealed by Acts 2011, 82nd Legislature, HB2271, Section 27, eff. Sept. 1, 2011.

Sec. 88.5231. Repealed by Acts 2011, 82nd Legislature, HB2271, Section 27, eff. Sept. 1, 2011.

Sec. 88.5232. Repealed by Acts 2011, 82nd Legislature, HB2271, Section 27, eff. Sept. 1, 2011.

Sec. 88.524. Repealed by Acts 2011, 82nd Legislature, HB2271, Section 27, eff. Sept. 1, 2011.

Sec. 88.5245. Repealed by Acts 2011, 82nd Legislature, HB2271, Section 27, eff. Sept. 1, 2011.

Sec. 88.525. Grants.

(a) To be eligible for a grant under this subchapter, the applicant must be affiliated with an institution of higher education.

(a-1) In awarding grants under this section, the director shall comply with the conflict of

interest provisions of The Texas A&M University System.

(b) The director shall develop annually a request for proposals for equine research grants. Each proposal received may be evaluated by a peer review committee appointed by the director and subject matter experts as necessary to evaluate the proposal. The peer review committee shall consider the applicant's research capacity and the relevance and scientific merit of the proposal and make recommendations to the director.

(b-1) The director may award a grant to an applicant who proposes to commingle grant money awarded under this section with other sources of funding or proposes to conduct research that includes equine research.

(c) Repealed by Acts 2011, 82nd Legislature, HB2271, Section 27, eff. Sept. 1, 2011.

(d) A person shall use a grant awarded under this subchapter to:

- (1) replace funds that the applicant would have otherwise received from another source; or
- (2) defray operating costs of an institution of higher education that are the institution's prior responsibility.

Sec. 88.526. Reporting.

(a) The director shall prepare an annual report on equine research funded under this subchapter. The director shall distribute the report to the Texas Racing Commission and members of the Texas horse racing industry. The director shall make copies of the report available to interested parties.

(b) The director may prepare and distribute other publications regarding equine research as the director finds appropriate.

(c) The director shall, at least annually, consult with the Texas Racing Commission on the use of the account and the impact of equine research funded by the account.

Sec. 88.527. Conference.

Texas AgriLife Research shall conduct an annual conference on equine research. Money

from the equine research account shall be used to defray the costs of the conference. The conference must be designed to bring to the attention of the Texas horse racing industry the latest research results and technological developments in equine research. The director shall make the report created under Section 88.526 available at the conference.