TEXAS RACING ACT
AND
RULES OF RACING

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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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AND

RELATED STATE LAWS

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STATUTES RELATING TO PARI-MUTUEL RACING

THE TEXAS RACING ACT
(Article 179e, Vernon's Texas Civil Statutes)

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 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 August 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:

(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 not more than 13 greyhound races.

(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.

(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.

(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.

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 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. September 1, 1997.

Sec. 2.071. Conflict of Interest.

(a) An officer, employee, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding may not be a member of the commission or an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding may not be a member of the commission and may not be an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) For the purposes of this section, a Texas trade association is a nonprofit 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. Lobbyist Restriction.

A person may not serve as 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.

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.

Article 3. Powers and Duties of Commission

Sec. 3.01. Repealed by Acts 1997, 75th Legislature, Ch. 1275, §54, eff. September 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 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. If, in the opinion of the stewards or judges, the allowable penalties are not sufficient, the stewards or judges may refer the case to the commission for further action.

(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. If the amount held exceeds the amount needed to pay the charges, the association shall pay the excess to the commission in accordance with Section 11.08 of this Act.

(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 remaining in that special 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 12 percent interest per year until August 31, 1993, and 6¾ percent interest thereafter 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 ensurer 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 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, 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 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. September 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;

(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. 6.04. Issuance of License; Bond.

(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.

(b) Before issuance of a license under this article, an applicant for a racetrack license must post security in an amount determined by the commission to adequately ensure the association's compliance with the Act and the rules of the commission. 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 shall be conditioned on compliance with this Act and the rules adopted under this Act and shall be returned after the conditions of the security are met.

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

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. September 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 51, 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. September 1, 1997.

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

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

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

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

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

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

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

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

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

(4) if the association is a greyhound association, an amount equal to one percent of a multiple two wagering pool or a multiple three wagering pool as the amount set aside for the Texas-bred program for greyhound races, to be distributed and used in accordance with rules of the commission adopted to promote greyhound breeding in this state; and

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

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

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

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

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

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

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

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

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

(2) a purse in the amount of 5.5 percent

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

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

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

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

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

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

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

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

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

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

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

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:

(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 preeceding 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. Term of License; Restrictions on Racetracks.

(a) A racetrack license issued under this article is perpetual. The commission may suspend or revoke a license as provided by this Act.

(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, is sufficient to pay the costs of administering and enforcing this Act.

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

Article 7. Other Licenses

Sec. 7.01. License Required.

A person may not participate in racing with pari-mutuel wagering without first obtaining a license from the commission.

Sec. 7.02. Licensed Activities.

(a) Each person, other than a spectator or person placing a wager, involved in any capacity with racing with pari-mutuel wagering under this Act must obtain a license under this article.

(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 and payment of the fee in accordance with the rules of the commission.

(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;
(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 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. 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 September 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 September 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. 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:

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

(2) deliver no more than $200.

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

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. September 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. September 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. September 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. August 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, 2009.

(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. September 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 September 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);

(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.

EDUCATION CODE

CHAPTER 88

Subchapter F. Equine Research

Sec. 88.521. Definitions.

In this subchapter:

(1) "Advisory committee" means the Equine Research Account Advisory Committee.

(2) "Director" means the executive director of 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 the Texas Agricultural Experiment Station.

(c) The comptroller shall periodically transfer the amounts specified by Section 6.08(f), 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 advisory committee or account.

(g) All money received by the advisory committee or the account under this chapter is subject to Subchapter F, Chapter 404, Government Code.

Sec. 88.523. Advisory Committee.

(a) The Equine Research Account Advisory Committee is created to advise and assist the director in administering the account and making grants as provided by Section 88.525.

(b) The advisory committee is composed of 11 members appointed by the director as follows:

(1) two members must be members of the Institute for Equine Science and Technology of the Texas A&M University System and of the faculty of the College of Agriculture and Life Sciences, Texas A&M University, selected after consultation with the dean of the college;

(2) two members must be members of the Institute for Equine Science and Technology of the Texas A&M University System and of the faculty of the College of Veterinary Medicine, Texas A&M University, selected after consultation with the dean of the college;

(3) two members must be affiliated with research organizations that have equine research capabilities; and

(4) five members must be residents of this state who have a demonstrated interest in the horse racing and breeding industries in this state, with one selected from a list of names submitted by each of the following:

(A) the Texas Thoroughbred Breeders Association;

(B) the Texas Quarter Horse Association;

(C) the Texas Paint Horse Breeders Association;

(D) the Texas Appaloosa Horse Club; and

(E) the Texas Arabian Breeders Association.

(c) Advisory committee members hold office for two-year terms. Five members' terms expire February 1 of each odd-numbered year, and six members' terms expire February 1 of each even-numbered year. In the event of a vacancy during a term, the director shall appoint a replacement who meets the qualifications of the vacated office to fill the unexpired term.

(d) The advisory committee may adopt rules necessary for its own procedures. The advisory committee shall select one member to serve as presiding officer. The presiding officer is entitled to vote on all matters before the advisory committee.

(e) Appointments to the advisory committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(f) In making appointments to the advisory committee, the director shall attempt to reflect the minority groups found in the state's general population.

Sec. 88.5231. Standards of Conduct; Prohibited Conduct.

(a) The director or the director's designee shall provide members of the advisory committee, as often as necessary, information regarding their qualifications for office under this chapter and their responsibilities under applicable laws relating to the standards of conduct for state officers or employees.

(b) A member of the advisory committee may not participate in any manner in the annual evaluation, review, approval, or discussion of any grant proposal submitted under Section 88.525 if the member has submitted a request for a grant

during the same annual evaluation.

(c) A person may not serve as a member of the advisory committee or act as the general counsel to the advisory committee 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 advisory committee.

Sec. 88.5232. Removal from Committee.

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

(1) does not have at the time of appointment the qualifications required by Section 88.523;

(2) does not maintain during service on the advisory committee the qualifications required by Section 88.523;

(3) violates a prohibition established by Section 88.5231(c);

(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 advisory committee meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the advisory committee.

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

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the advisory committee of the potential ground. If the potential ground for removal involves the presiding officer, the director shall notify the next highest officer of the advisory committee.

Sec. 88.524. Open Meetings Law; Administrative Procedure Law; Sunset Act

(a) The advisory committee is subject to the open meetings law, Chapter 551, Government Code, and the administrative procedure law, Chapter 2001, Government Code.

(b) The Equine Research Account Advisory Committee is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the advisory committee is abolished and this subchapter expires September 1, 2009.

Sec. 88.5245. Public Access.

The advisory committee shall develop and implement policies that provide the public with a reasonable opportunity to appear before the advisory committee and to speak on any issue under its authority.

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.

(b) With the advice of the advisory committee, the director shall develop annually a request for proposals for equine research grants. Each proposal received must be evaluated by a peer review committee appointed by the director. The peer review committee shall consider the applicant's research capacity and the relevance and scientific merit of the proposal.

(c) Before awarding any grants, the director shall consult with the advisory committee.

(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 the members of the advisory committee. 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.

The Texas Agricultural Extension Service 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.

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RULES OF RACING

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CHAPTER 301. DEFINITIONS

Sec. 301.1. Definitions.

(a) Words and terms defined in the Act shall have the same meaning when used in this part unless otherwise defined below.

(b) The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indictates otherwise:

(1) Act - The Texas Racing Act, Article 179e, Texas Civil Statutes.

(2) Age of a greyhound - determined as beginning on the day the greyhound is whelped.

(3) Age of a horse - determined as beginning on the first day of January in the year in which the horse is foaled.

(4) Application documents - documents submitted by an applicant for a license in support of the application.

(5) Application period - a period designated by the Commission for the submission of application documents for a racetrack license.

(6) Association grounds - all real property approved by the Commission for use by an association in the conduct of a race meeting.

(7) Association veterinarian - A veterinarian employed by the association.

(8) Authorized agent - a person appointed in writing by the owner or trainer of a horse or greyhound to represent the owner or trainer at a racetrack.

(9) Backstretch - the straightaway on the side of a track that is opposite to the finish line.

(10) Booking - a contract between an association and a kennel owner for the kennel owner to provide greyhounds to the association for a race meeting and for the association to provide kennel buildings to house the greyhounds.

(11) Branding - the act of a totalisator system imprinting a mutuel ticket with information that identifies the ticket as canceled or cashed and automatically making the appropriate notation in the system's memories.

(12) Canceled ticket - a mutuel ticket that represents a wager that has been canceled and withdrawn from the pari-mutuel pool.

(13) Cashed ticket - a mutuel ticket that is paid for a winning wager.

(14) Chief veterinarian - the chief veterinarian employed by the Commission.

(15) Common pool - a pool in which the wagers received at a receiving location are combined with the wagers received at a sending racetrack.

(16) Condition of a race - a characteristic element of the race, such as the distance, qualifications of animal to enter, purse or stakes, or other special features.

(17) Coupled entry - two or more horses entered in a race that, because of common ties of ownership are joined to be a single betting interest in that race.

(18) Cushion - the top level of a dirt racetrack.

(19) Dead heat - a race in which two or more race animals finish at the same time.

(20) Double entry - an entry of two or more greyhounds in the same race that have either common ownership or the same trainer and are separate wagering interests.

(21) Encrypted - scrambled or otherwise manipulated audio-visual signals to mask the original video content of the signal to cause the signals to be indecipherable and unrecognizable to any person receiving the signal.

(22) Entry - a horse, or horses in the case of a coupled entry, made eligible to run in a race.

(23) Established weight - the racing weight for a greyhound established in accordance with the Rules.

(24) Exempt institutional investor - an investor who is:

(A) an insurance company as defined by the Securities Act of 1933, §2(13), a bank as defined by that Act, §3(a)(2), a savings and loan association or other institution referenced in that Act, §3(a)(5)(A), or a foreign bank or savings and loan association or equivalent institution;

(B) an investment company as defined by the Investment Company Act of 1940, §3(a), an issuer that would have been deemed an investment company under that Act except for the exclusion in that Act, §3(c)(1), or a business development company as defined by that Act, §2(c)(48);

(C) a small business investment company licensed by the United States Small Business Administration under the Small Business Investment Act of 1958, §301(c) ;

(D) a plan established and maintained by a state, its political subdivisions, or an agency or instrumentality of a state or its political subdivisions for the benefit of its employees;

(E) an employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974;

(F) a trust fund whose trustee is a bank or trust company and whose participants are exclusively plans of the types identified in subparagraph (D) or (E) of this definition, except trust funds that include as participants individual retirement accounts or H.R. 10 plans;

(G) a business development company as defined by the Investment Advisers Act of 1940, §202(a)(22), or an investment adviser registered under that Act;

(H) an organization described in the Internal Revenue Code, §501(c)(3);

(I) a dealer registered under the Securities Exchange Act of 1934, §15;

(J) a legal entity with a market value of at least $50 million whose securities are traded on a nationally recognized or foreign securities exchange or interdealer quotation system, such as NASDAQ; and

(K) a legal entity, acting for its own account or the account of other exempt institutional investors, that in the aggregate owns and invests on a discretionary basis at least $25 million in securities of issuers that are not affiliated with the entity, with the aggregate value of the securities being the cost of the securities, except if the entity reports its securities holdings in its financial statements based on their market value and no current information regarding the cost of the securities has been published, in which case the securities may be valued at market.

(25) Exotic pool - a mutuel pool that involves wagers on more than one entered horse or greyhound or on entries in more than one race.

(26) False start - failure of the starting gate or box doors to open simultaneously.

(27) Foul - an action by a horse or jockey that hinders or interferes with another horse or jockey during the running of a race.

(28) Greyhound race - a contest among greyhounds for purse, stakes, premium, or wager for money, run in the presence of the racetrack officials, including the following:

(A) Hurdle race - a race over a course in which jumps or hurdles are used.

(B) Match race - a race between two or more greyhounds, each the property of different owners, on terms agreed on by the owners and approved by the Commission.

(C) Overnight race - a race for which entries close 96 hours or less before the time set for the first race of the day on which the race is to be run.

(D) Purse race - a race for money or other prize to which the owners of the greyhounds engaged in the race do not contribute an entry.

(E) Race on the flat - a race over a course in whch no jumps or other obstacles are placed.

(F) Stakes race - a race in which all money is to be deposited by the owners of the greyhounds engaged in the race, including a race of the day on which the stakes race is to be run.

(29) Groom - an individual employed by an owner or trainer of a racehorse to tend to the physical appearance of the horse and to perform chores in and around the stable.

(30) Growing medium - the substance immediately below the grass on a turf track.

(31) Handle - the total amount of money wagered at a racetrack during a particular period.

(32) Horse - an equine of any breed, including a stallion, gelding, mare, colt, filly, or ridgling.

(33) Horse Race - a running contest between horses for entry fees, purse, prize, or other reward, including the following:

(A) Claiming race - a race in which a horse may be claimed in accordance with the Rules.

(B) Derby race - a race in which the first condition of eligibility is to be three years old.

(C) Futurity race - a race in which the first condition of eligibility is to be two years old.

(D) Guaranteed race - a race for which the association guarantees by its conditions a specified purse, which is the limit of its liability.

(E) Handicap race - a race in which the weights to be carried by the entered horses are adjusted by the racing secretary for the purpose of equalizing their respective chances of winning.

(F) Match race - a race between only two horses that are owned by different owners.

(G) Maturity race - a race in which the first condition of eligibility is to be four years of age or older.

(H) Optional claiming race - a claiming race in which there is an option to have horses entered to be claimed for a stated price or not eligible to be claimed.

(I) Progeny race - a race restricted to the offspring of a specific stallion or stallions.

(J) Purse or overnight race - a race for which owners of horses entered are not required by its conditions to contribute money toward its purse.

(K) Stakes race - a race to which nominators of the entries contribute to a purse.

(L) Starter race - an overnight race under allowance or handicap conditions, restricted to horses which have previously started for a designated claiming price or less, as stated in the conditions of the race.

(M) Walkover race - a stakes race in which only one horse starts or all the starters are owned by the same interest.

(N) Weight for age race - a race in which weights are assigned in keeping with the scale of weights in these rules.

(34) In today horse - a horse that is in the body of a race program which is entered into a race on the next consecutive race day.

(35) Kennel area - an area for the boarding or training of greyhounds.

(36) Lead out - an individual who handles a greyhound from the lockout kennel to the starting box.

(37) Locked in the gate - a horse or greyhound that is prevented from leaving the starting gate or box due to the failure of the front door of the gate or box to open simultaneously with the other doors.

(38) Lure - a mechanical apparatus at a greyhound racetrack consisting of a stationary rail installed around the track, a motorized mechanism that travels on the rail, and a pole that is attached to the mechanism and extends over the track, and to which a decoy is attached.

(39) Maiden - a horse or greyhound that has never won a race at a recognized race meeting authorized by the Commission or by another racing jurisdiction.

(40) Minus pool - a pool in which there are insufficient net proceeds to pay the minimum price to holders of the winning tickets.

(41) Mutuel field - a group of horses joined as a single betting interest in a race due to the limited numbering capacity of the totalisator.

(42) No race - a race that is canceled after being run due to a malfunction of the starting gate or box or any other applicable reason as determined by the Rules.

(43) Nominator - the person in whose name a horse or greyhound is entered for a race.

(44) Occupational licensee - an individual to whom the Commission has issued a license to participate in racing with pari-mutuel wagering.

(45) Odds - a number indicating the amount of profit per dollar wagered to be paid to holders of winning pari-mutuel tickets.

(46) Tote board - a facility at a racetrack that is easily visible to the public on which odds, payoffs, advertising, or other pertinent information is posted.

(47) Off time - the moment when, on signal from the starter, the horses or greyhounds break from the starting gate or box and run the race.

(48) Paddock - the area in which horses or greyhounds gather immediately before a race.

(49) Patron - an individual present on association grounds during a race meeting who is eligible to wager on the racing.

(50) Pecuniary interest - includes a beneficial ownership interest in an association, but does not include bona fide indebtedness or a debt instrument of an association.

(51) Performance - the schedule of horse or greyhound races run consecutively as one program.

(52) Photofinish - the system of recording pictures or images of the finish of a race to assist in determining the order of finish.

(53) Place - to finish second in a race.

(54) Post position - the position assigned to a horse or greyhound in the starting gate or box.

(55) Post time - the time set for the arrival at the starting gate or boxes by the horses or greyhounds in a race.

(56) Purse - the cash portion of the prize for a race.

(57) Race date - a date on which an association is authorized by the Commission to conduct races.

(58) Race day - a day in which a numerical majority of scheduled races is conducted and is a part of the association's allocated race days.

(59) Race meeting - the specified period and dates each year during which an association is authorized to conduct racing and/or pari-mutuel wagering by approval of the Commission.

(60) Racetrack facility - the buildings, structures and fixtures located on association grounds used by an association to conduct horse or greyhound racing.

(61) Racetrack official - an individual appointed by the commission to officiate at a race meeting.

(62) Racing judge - the executive racing official at a greyhound track.

(63) Reasonable belief - a belief that would be held by an ordinary and prudent person in the same circumstances as the actor.

(64) Recognized race meeting - a race meeting held under the sanction of a turf authority.

(65) Refunded ticket - a pari-mutuel ticket that has been refunded for the value of a wager that is no longer valid.

(66) Rule off - to bar an individual from the enclosure of an association and to deny all racing privileges to the individual.

(67) Rules - the rules adopted by the Texas Racing Commission found in Title 16, Part VIII of the Texas Administrative Code.

(68) Schooling race - a practice race conducted under actual racing conditions but for which wagering is not permitted.

(69) Scratch - to withdraw an entered horse or greyhound from a race after the closing of entries.

(70) Scratch time - the closing time set by an association for written requests to withdraw from a race.

(71) Show - to finish third in a race.

(72) Specimen - a bodily substance, such as blood, urine, or saliva, taken for analysis from a horse, greyhound, or individual in a manner prescribed by the Commission.

(73) Stakes payments - the fees paid by subscribers in the form of nomination, entry, or starting fees to be eligible to participate.

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

(75) Starter - a horse or greyhound entered in a race when the doors of the starting gate or box open in front of the horse or greyhound at the time the official starter dispatches the horses or greyhounds.

(76) Straight pool - a mutuel pool that

involves wagers on a horse or greyhound to win, place, or show.

(77) Subscription - money paid to nominate, enter, or start a horse or greyhound in a stakes race.

(78) Tack room - a room in the stable area of a horse racetrack in which equipment for training and racing the horses is stored.

(79) Totalisator - a machine or system for registering and computing the wagering and payoffs in pari-mutuel wagering.

(80) Tote room - the room in which the totalisator equipment is maintained.

(81) Tout - an individual licensed to furnish selections on a race in return for a set fee.

(82) Trial - a race designed primarily to determine qualifiers for finals of a stakes race.

(83) Uplink - an earth station broadcasting facility, whether mobile or fixed, which is used to transmit audio-visual signals and/or data emanating from a sending racetrack, and includes the electronic transfer of received signals from the receiving antenna to TV monitors within the receiving location.

(84) Weigh in - the process by which a jockey is weighed after a race or by which a greyhound is weighed before being placed in the lockout kennel.

(85) Weighing in weight - the weight of a greyhound on weighing in to the lockout kennel.

(86) Weigh out - the process by which a jockey or greyhound is weighed before a race.

(87) Weighing out weight - the weight of a greyhound on weighing out of the lockout kennel immediately before post time for the race in which the greyhound is entered.

(88) Win - to finish first in a race.

(89) Winner:

(A) for horse racing, the horse whose nose reaches the finish line first, while carrying the weight of the jockey or is placed first through disqualification by the stewards; and

(B) for greyhound racing, the greyhound whose muzzle, or if the muzzle is lost or hanging, whose nose reaches the finish line first or is placed first through disqualification by the judges. (Added eff. 11/15/88; amended eff. 6/1/01; (b) amended eff. 11/6/02; (b) amended eff. 7/16/07)

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CHAPTER 303. GENERAL PROVISIONS

Subchapter A. Organization of the Commission

Sec. 303.1. Purpose.

(a) The Texas Racing Commission, created by the Texas Racing Act, Texas Civil Statutes, Article 179e, is charged with implementing, administering, and enforcing the Act. It is the intent of the commission that the rules of the commission be interpreted in the best interests of the public and the state.

(b) Through these rules, the commission intends to provide for the strict regulation of horse racing and greyhound racing and the control of pari-mutuel wagering in connection with that racing. (Added eff. 11/15/88; (b) amended eff. 1/1/99)

Sec. 303.2. Commission Responsibilities.

(a) The commission shall formulate policy objectives for the agency and supervise the implementation of these policies and the actions of the executive secretary. The commission may approve/disapprove actions of the executive secretary on its own motion or on request of the executive secretary.

(b) The commission shall propose, adopt, amend, and repeal rules as authorized or required by law, including under the Act and under Chapter 2001, Government Code.

(c) The commission shall approve all operating plans required to be filed by law which are prospective in nature, such as legislative appropriation requests, operating budget and the biennial strategic plan.

(d) The commission shall issue all racetrack licenses and licenses to conduct race meetings.

(e) The commission shall issue final orders on contested cases before the commission and assess administrative penalties as authorized by law.

(f) The commission may delegate any power or duty to a committee of its members or to the agency's executive secretary. The chair may establish a committee and appoint committee members in an open meeting. The chair may appoint committee members who are not members of the commission, but a committee of such members will be advisory only. (Added eff. 11/15/88; repealed and replaced eff. 1/1/98; (c), (e) amended eff. 1/1/99)

Sec. 303.3. Offices.

(a) The commission's main office is located at 8505 Cross Park Dr., #110, Austin, Texas, 78754-4594. The commission mailing address is P.O. Box 12080, Austin, Texas 78711-2080. The telephone number is (512) 833-6699. The fax number is (512) 833-6907. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

(b) The commission may establish a branch office at any licensed racetrack in which the commission determines a branch office is necessary.

(c) The commission may establish a branch office in any county in which the commission determines a branch office is necessary. (Added eff. 11/15/88; (a) amended eff. 12/26/90; (a) amended eff. 2/22/96; (b) added eff. 1/1/99)

Sec. 303.4. Meetings.

(a) Except as otherwise provided by state law, Commission meetings are subject to the Texas open meetings law, Government Code, Chapter 551.

(b) The Commission shall hold at least six regular meetings each year on dates set by the Commission. The Chair or any four members of the Commission may call a special meeting of the Commission.

(c) Except as otherwise provided by state law or by the Rules, Robert's Rules of Order (Revised 1996) govern the proceedings of the Commission.

(d) The executive secretary shall prepare the agenda for each Commission meeting, subject to the approval of the Chair of the Commission. At the request of any two Commissioners, the executive secretary shall place an item on the agenda. If only one Commissioner requests that an item be placed on the agenda, the Chair shall review the request and, after consulting with the Vice-chair, determine whether to place the item on the agenda.

(e) A licensee of the Commission or a member

of the public may request that an item be placed on the agenda by filing a written request with the executive secretary not later than 14 days before the date of the meeting. The party making the request must include with the request an original and one copy of all information, data, or other supporting materials relating to the request. After receiving a request under this subsection, the Chair shall review the request and, after consulting with the Vice-chair, determine whether to place the item on the agenda.

(f) The public is invited to comment regarding any agenda item or any issue under the jurisdiction of the Commission. Public comments may be limited to a reasonable number, frequency and length. All individuals wishing to address the Commission must sign a registration form and make their remarks under oath. All individuals addressing the Commission are subject to questioning by the Commission and the Commission staff.

(g) Before each regular Commission meeting, the executive secretary shall distribute the agenda and a summary of each rule scheduled for proposal at the meeting to each licensed racetrack, each official breed registry, the officially recognized horsemen's organization, and the Texas Veterinary Medical Association. An association shall post the agenda and rules in a prominent place that will ensure access by interested persons. (Added eff. 11/15/88; (d), (e), (f) added eff. 12/10/92; (a) amended, (g) added eff. 4/26/98; (e) amended eff. 1/1/99; (a)-(g) amended eff. 9/9/02; amended eff. 5/23/07)

Sec. 303.5. Quorum.

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

(b) When a quorum is present, a motion before the commission is carried by an affirmative vote of the majority of the commissioners present at the meeting. (Added eff. 11/15/88; (a), (b) amended eff. 1/1/99)

Sec. 303.6. Commission Officers.

(a) In January of even-numbered years, the commission shall elect one of the members to serve as vice-chair for a term of two years.

(b) In the event of a vacancy in the office of vice-chair, the vacancy shall be filled for the unexpired term on majority vote of the commission at the next regular meeting of the commission.

(c) In the absence of the chair and vice-chair from a meeting of the commission, the remaining members shall elect a pro-tem presiding officer who shall serve until the conclusion of the meeting or until the arrival of the chair or vice-chair. (Added eff. 11/15/88; (a), (b), (c) amended eff. 6/1/92; (a) amended eff. 1/1/99)

Sec. 303.7. Employees.

(a) The commission shall employ an executive secretary who shall employ other employees necessary to implement, administer, and enforce the Act.

(b) The commission and the executive secretary 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 the Act,§2.071(c), 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 a part of the purse or Texas-bred incentive award to be paid on a greyhound or a horse in a race held in this state.

(c) The commission and the executive secretary 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 ineligible for employment under Subsection (b) of this section.

(d) The commission shall employ the executive secretary and other employees in a manner that reflects the diversity of the population in this state with regard to race, color, creed, handicap, sex, religion, age, and national origin. (Added eff. 11/15/88; amended eff. 1/1/98; (b) amended eff. 1/1/99)

Sec. 303.8. Executive Secretary.

(a) The executive secretary serves at the pleasure of the commission on a full-time basis and may not hold other employment. The executive secretary shall administer the programs of the agency and has all powers necessary for such administration, as well as any specific duties assigned or functions delegated by the commission.

(b) The executive secretary shall maintain the records of the commission and ensure the agency's compliance with the open records and records retention laws.

(c) The executive secretary shall establish the organizational structure of the agency's employees, including the establishment of various divisions within the agency. The executive secretary shall prescribe the duties and compensation for all other commission employees, subject to the commission's approval of the budget. The executive secretary shall adopt personnel policies and other internal operating policies and procedures. The executive secretary shall develop the departmental budgets to allocate expenditures within the agency based on the approved agency operating budget.

(d) The executive secretary shall prepare and file all agency reports required by law that are retrospective in nature, such as the annual financial report and periodic reports on performance measures.

(e) The executive secretary shall enforce the Act, the rules, and the orders of the commission, including determining the method of enforcement, the amount of penalties, and the issuance of preliminary reports for administrative penalties, and the development of enforcement guidelines for use by the stewards and racing judges.

(f) The executive secretary shall issue occupational licenses and training facility licenses in accordance with the criteria established in the Act and the rules. The executive secretary shall review all applications for racetrack licenses and licenses to conduct race meetings and make a report to the commission regarding the issuance of such licenses.

(g) Except as otherwise provided by a rule of the commission, if the commission places a duty on the executive secretary, by rule or otherwise, the executive secretary may delegate that duty to another employee of the commission. (Added eff. 11/15/88; amended eff. 1/1/98; (c)-(f) amended eff. 1/1/99)

Sec. 303.9. Records.

(a) Except as otherwise provided by the Act, Commission records are subject to the Texas Open Records law, Government Code, Chapter 552.

(b) To inspect Commission records, a person must make a request to the executive secretary. The executive secretary may require the request to be made in writing.

(c) A person may not remove an original record from the offices of the Commission without the approval of the executive secretary.

(d) A person requesting to inspect a Commission record must pay all costs of preparing or copying the record. The Commission adopts the suggested charges promulgated by the Texas Building and Procurement Commission for providing copies of public information at 1 TAC §111.63 and Government Code §552.261.

(e) If the Commission mails a copy of a Commission record to a person requesting to inspect the record, the Commission may also charge the person for the appropriate amount of postage.

(f) The executive secretary may establish written procedures for inspection of Commission records consistent with the state's open records requirements. (Added eff. 11/15/88; (f) amended eff. 1/2/92; (d) amended eff. 11/1/94; (a), (b) (f) amended eff. 1/1/99; (a)-(f) amended eff. 9/9/02)

Sec. 303.10. Investigatory Files.

The commission may create or maintain an investigatory file on any applicant or licensee. The investigatory file must relate to a background investigation, complaint, alleged violation or other regulatory matter. (Added eff. 11/15/88; (b) amended eff. 1/2/92; (c), (d) added eff. 1/2/92; amended 1/1/99)

Sec. 303.11. Vacancies in the Commission.

If a vacancy occurs on the commission, the chairman shall call a special meeting to request the governor to appoint a new member to fill the vacancy. If the vacancy occurs in the office of the chairman, the vice-chairman shall call the special meeting. (Added eff. 11/15/88)

Sec. 303.12. Use of Commission Motor Vehicles.

(a) A motor vehicle owned by the Commission is state property and may be used for official Commission business only. A Commission motor vehicle may not be assigned to a specific employee but must be available for use by all eligible employees. A Commission motor vehicle will be kept at the agency's Austin headquarters.

(b) A Commission employee is eligible to use a Commission motor vehicle if the employee possesses a valid Texas driver's license and has a satisfactory driving record, as determined by the Executive Secretary.

(c) An employee operating a Commission motor vehicle must comply with all applicable state traffic laws and the Commission's traffic safety policies. A violation of one of those laws or policies is grounds for disciplinary action. (Added eff. 1/7/01)

Sec. 303.13. Seal of the Commission.

The seal of the commission is a circle with the words "Texas Racing Commission" arranged on the inner edge of the circle. In the center of the circle is a five-pointed star, a live oak branch, and an olive branch, common to other official Texas state seals. (Added eff. 11/15/88)

Sec. 303.14. Unofficial Statements.

An unofficial statement made by a commission member or an employee of the commission is not binding on the commission. (Added eff. 11/15/88; amended eff. 1/1/99)

Sec. 303.15. Acts in the Commission's Name.

A commission member may not act in the name of the commission on any matter without the approval of a majority of the commission. (Added eff. 11/15/88; amended eff. 1/1/99)

Sec. 303.16. Historically Underutilized Businesses.

Pursuant to Government Code, §2161.003, the Commission adopts by reference the provisions of 34 TAC §20.11 et seq. (Added eff. 9/7/03, amended eff. 4/15/08)

Sec. 303.17. Vendor Protests.

(a) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or ward of a contract may formally protest to the Commission's chief fiscal officer. The protest must be in writing and received in the Commission's main office in Austin not later than the 10th day after the date the aggrieved person knows, or should have known, of the occurrence of the action which is protested.

(b) The chief fiscal officer is authorized to settle and resolve the dispute concerning the solicitation or award of a contract. If the protest is not resolved by mutual agreement, the chief fiscal officer shall issue a written determination on the protest.

(c) Not later than the 10th day after receiving notice of the chief fiscal officer's determination, the protesting party may file a written appeal to the executive secretary. The executive secretary's decision on the appeal is final. (Added eff. 7/15/05)

Subchapter B. Powers and Duties of the Commission

Sec. 303.31. Regulation of Racing.

The commission shall regulate each live and simulcast race meeting conducted in this state and supervise the operation of racetracks and the persons other than patrons who participate in a race meeting. (Added eff. 11/15/88; amended eff. 1/1/99; amended eff. 5/23/07)

Sec. 303.32. Power of Entry.

(a) A member or authorized agent of the commission, a steward or judge, a commissioned officer of the Department of Public Safety who is assigned to work on racing investigations, or a peace officer of the local jurisdiction in which the association maintains a place of business may enter an office, a racetrack, any area on association grounds, or any similar area or other place of business of an association at any time to enforce or administer the Act or commission rules.

(b) An association or an officer, employee, or agent of an association may not refuse or deny a request to enter under this section and may not hinder a person who is conducting an investigation under or attempting to enforce or administer the Act or commission rules. (Added eff. 11/15/88; (a) amended eff. 1/2/92; (a),(b) amended eff. 5/1/92; (a) amended eff. 1/1/99)

Sec. 303.33. Subpoenas.

(a) A member of the commission, the executive secretary, an administrative law judge, or other person authorized by the commission, in performing duties under the Act, may take testimony and may require by subpoena the attendance of witnesses and the reproduction of books, records, papers, correspondence, and other documents that the commission considers advisable.

(b) Subpoenas must be issued under the signature of the commission, the executive secretary, an administrative law judge, or other person authorized by the commission and may be served by any person designated by the commission.

(c) A member of the commission, the executive secretary, an administrative law judge, or other person authorized by the commission may administer an oath or affirmation to a witness appearing before the commission or a person authorized by the commission.

(d) If a subpoena issued on behalf of the commission is disobeyed, the commission or executive secretary may invoke the aid of the appropriate state court in requiring compliance with the subpoena.

(e) For an individual compelled to appear before the commission under this section, the commission shall pay travel expenses in accordance with the provisions in effect for state employees. For a witness who is not a state employee, the commission shall pay for all taxes associated with the travel expenses that are not applicable to state employees. The executive secretary may authorize the payment of a witness fee in an amount not to exceed $200 per day. The commission reserves the right to bill the expenses to parties requiring the appearance of the individual. (Added eff. 11/15/88; (e) added eff. 7/26/90; (a),(b),(c),(d) amended eff. 1/2/92; (e) amended eff. 8/15/95; (a),(b),(c) amended eff. 1/1/99)

Sec. 303.34. Certified Documents.

The commission may require a document required to be filed with the commission to be certified under penalty of perjury. (Added eff. 11/15/88)

Sec. 303.35. Access to Commission Programs.

(a) Persons who do not speak English or who have a physical, mental, or developmental disability will be provided reasonable access to the Commission and to the Commission's programs.

(b) All Commission facilities, including facilities on association grounds, will comply with Texas Civil Statutes, Article 9102, concerning architectural barriers and the policy of the State of Texas to encourage and promote the rehabilitation of disabled individuals. Each association licensed by the Commission is required to ensure

accessibility to its facilities for disabled persons, pursuant to §309.113 of this title (relating to Accessibility by Disabled Persons.)

(c) All testing, whether oral, in sign language, or in a foreign language, will be arranged when an examination is required for licensure. A hearing before the Board of Stewards/Judges or the State Office of Administrative Hearings will be arranged as needed if a question of fitness for a particular license should arise.

(d) Complaints against a person or entity regulated by the Commission will be accepted in all forms under all circumstances and the Commission will provide an interpreter with an investigator should a language problem arise. The Commission welcomes public input at Commission meetings. On prior reasonable notice to the Commission, an interpreter will be provided to assist individuals in making presentations to the Commission. (Added eff. 9/1/98; amended eff. 9/9/02)

Sec. 303.38. Cooperation with Peace Officers and other Enforcement Entities.

The Commission, its employees, and its licensees shall cooperate with all district attorneys, county attorneys, the Department of Public Safety, the attorney general, and all peace officers who are enforcing a criminal law related to racing, the Act, or the Rules. (Added eff. 11/15/88; amended eff. 5/1/92; amended eff. 1/1/99; amended eff. 9/9/02)

Sec. 303.41. Allocation of Race Dates.

(a) The commission shall allocate live race dates, including charity days, to each association for such time periods and at such racing locations as the commission determines in accordance with the Act and this section.

(b) Upon its own motion or upon the request of any association, the commission may designate an application period during which the commission shall accept applications for race dates.

(c) The commission shall establish the time period or periods for which it will consider granting race dates.

(d) Upon designation by the commission of an application period under this section, the executive secretary shall publicize that application period to the affected greyhound and horse racing associations at least 30 days before the closing date of the period.

(e)The application must be on a form prescribed by the commission. After the request is filed, the executive secretary may require the association to submit additional information if the executive secretary determines the additional information is necessary to effectively evaluate the request.

(f) In allocating race dates under this section, the commission may consider the following factors and the degree to which the association's proposed race meeting will serve to nurture, promote, develop, or improve the horse or greyhound industry in Texas:

(1) the association's current ability to pay all fees and other amounts owed to the commission, to the state, and to local governments;

(2) the association's willingness and ability to comply and past performance in complying with the Rules and provisions of the Act;

(3) the current condition of the association's racetrack and facilities for patrons, race animals, and occupational licensees;

(4) the anticipated effect of the proposed race meeting on the continuity of racing during the year;

(5) the live race dates requested by other associations licensed to conduct races for the same species of animal;

(6) the anticipated overall economic effect to the state from the race meeting;

(7) the anticipated effect of the race meeting on the greyhound or horse breeding industry in Texas;

(8) the anticipated effect of scheduled race meetings in neighboring race states on the proposed race meeting; and

(9) the anticipated availability of race

animals for the race meetings.

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

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

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

(j) Change in Race Date Allocation.

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

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

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

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

(2) An association may request a change to the live race dates granted by the commission provided the association obtains the approval of all associations that are affected by the proposed change. This subsection applies to any proposed change to the number or format of live race dates. (Added eff. 3/28/89; (c),(d),(e) added eff. 11/29/90; (a),(b) amended eff. 1/2/92; (f) added eff. 1/2/92; (a),(b),(c) amended eff. 9/1/93; (f) amended eff. 10/1/96; (b),(c),(e),(f) amended eff. 1/1/99; (d) amended eff. 5/6/04; (a)-(j) amended eff. 9/2/07)

Sec. 303.42. Approval of Charity Race Days.

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

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

(1) the name of the charity;

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

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

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

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

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

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

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

(b) For any year in which there are less than three Class 1 racetracks in Texas holding final

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

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

Sec. 303.61. Power of Entry.

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

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

Sec. 303.62. Records.

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

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

Sec. 303.63. Comptroller Rules.

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

Subchapter D. Texas Bred Incentive Programs General Provisions

Sec. 303.81. Texas Bred Incentive Programs.

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

(b) Each official state breed registry designated in the Act shall develop a program, which is subject to the approval of the executive secretary, for distributing the funds available to the registry for incentive awards. The executive secretary shall develop a system of communication with and reporting by the various state breed registries to ensure that the appropriate incentive awards are distributed in a timely fashion to the person who are entitled to receive the awards.

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

Sec. 303.82. Bond Required.

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

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

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

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

to the Commission audited financial statements regarding its operation of the Texas Bred Incentive Program for that breed. The executive secretary may prescribe the form for the financial statements. In conjunction with the financial statements, each breed registry shall submit to the Commission a schedule of awards payable in a format prescribed by the executive secretary.

(c) Not later than June 15 of each year, each breed registry designated by the Act shall submit to the Commission a report on performance measures on a form prescribed by the executive secretary. (Added eff. 3/28/89; (a) amended eff. 1/2/92; (b) amended eff. 2/1/95, (b), (c) amended eff. 1/1/99; (b) amended eff. 4/1/01; (a),(b),(c) amended eff. 1/1/03; (b) amended eff. 7/15/05)

Sec. 303.84. Report to the Commission.

A breed registry designated by the Act or another organization recognized by the Commission for any purpose shall provide to the Commission on June 15 of each year:

(1) a current list of the officers, directors, and members of the organization; and

(2) a copy of the organization's current charter, by-laws, or other organizational documents, including all amendments to those documents. (Added eff. 11/3/89; amended eff. 1/1/99; amended eff. 9/9/02)

Sec. 303.85. Background Investigations.

The Commission may require the officers, directors, or managers of a breed registry to submit to a background investigation conducted by the Department of Public Safety or the Commission. (Added eff. 11/3/89; amended eff. 1/2/92; amended eff. 9/9/02)

Sec. 303.86. Participation in Texas Bred Programs.

(a) An official breed registry may not require a person to join the breed organization to participate in a Texas bred program.

(b) An official breed registry may not charge an extra fee to non-members of the breed organization to participate in a Texas bred program unless the extra fee is justified by additional administrative costs and approved by the executive secretary. (Added eff. 1/1/99)

Programs for Horses

Sec. 303.92. Thoroughbred Rules.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

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

(2) Breeder - the owner of the dam at the time of foaling as stated on the foal's Jockey Club certificate of registration.

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

(4) Accredited Texas-bred Thoroughbred - a horse registered with the Jockey Club, accredited with the breed registry and foaled in Texas, out of a mare accredited with the breed registry that is permanently domiciled in Texas.

(5) Accredited Texas Thoroughbred Mare - a mare registered with the Jockey Club, accredited with the breed registry, and permanently domiciled in Texas except for racing and breeding privileges. Annual reproductive activity of the mare may be required to be reported to the breed registry in writing via photocopy of the Live Foal Report/No Foal Report submitted annually to the Jockey club.

(6) Accredited Texas Thoroughbred Stallion - a stallion registered with the Jockey Club, accredited with the breed registry, and standing in Texas. The breed registry must be notified in writing within 10 calendar days each time the stallion leaves or enters the State of Texas. A photocopy of the annual Report of Mares Bred may be required to be submitted to the breed registry office on or before the date required by the Jockey Club (August 1). Stallion owners are eligible to receive stallion awards only from offspring sired in Texas after the stallion has

become accredited with the breed registry and the applicable administrative fees have been paid.

(7) Breed Registry - the Texas Thoroughbred Association, the official breed registry for thoroughbred horses as designated in the Act.

(8) Bred - a mare is considered to have been bred by a stallion if the physical act of breeding has occurred and the mare is listed on the stallion's Report of Mares Bred filed with the Jockey Club for a particular breeding season and is not subsequently bred during that breeding season to a stallion not accredited by the breed registry. A mare does not have to become pregnant or produce a live foal to be considered bred, so long as these criteria are met.

(b) Organizational Structure. The breed registry shall comply with the provisions of the Act and Rules and shall further maintain substantially the following:

(1) Records of the breed registry shall be kept so as to identify separately the activities of the accredited Texas-bred program.

(2) Management of the accredited Texas-bred program shall be under the control of the board of directors of the breed registry and may be exercised through a committee or other governing body appointed by and accountable to the board of directors. The committee shall keep records or minutes of its proceedings and shall establish its operational procedures. The committee's records must be available for inspection at any time by the commission at the office of the breed registry. The committee is authorized to reasonably interpret the definitions and standards of this section, subject to approval by the board of directors, whose decision in such matters shall be final.

(3) The committee shall prepare and implement a budget on an annual basis, subject to prior approval of the board of directors. The budget may contain provisions for reserves for contingencies deemed appropriate. The breed registry may develop and implement a fair system for sharing and allocating expenses and operational costs between breed registry activities and accredited Texas-bred program activities, taking into consideration the promotion and improvement of thoroughbred horses in Texas. In no event may funds that are dedicated by law to fund the incentive awards program be used for any other purpose. Any funds or services advanced or provided by the breed registry to the accredited Texas-bred program may be offset or otherwise recouped upon proper accounting. The committee is authorized to set and collect application and administration fees.

(4) From time to time, additional accredited Texas-bred awards become due after the fact of initial awards calculation and timely distribution for each race meet. The additional awards are most often due as the result of a disqualification with subsequent revised order of finish and redistribution of purse funds. Other factors may include incomplete or incorrect data received by the breed registry. In all instances, the changes are beyond the control of the breed registry. The committee shall establish an awards redistribution fund for each racetrack, not to exceed 5% of the total awards payout for each racetrack. The committee shall determine the amount of the redistribution fund for each racetrack and shall review the amount annually to make appropriate adjustments. The committee shall also establish a minimum fund balance for each racetrack. The fund shall be replenished only when a minimum fund balance is reached. Redistribution funds shall be derived from accredited Texas-bred awards funds generated from multiple wagers at each racetrack and shall be set aside before any regular accredited Texas-bred awards are calculated or paid. Redistribution funds shall only be used to pay accredited Texas-bred awards that become due after the initial calculation and timely distribution of awards payable for each race meet. In the event that, after initial awards calculation, a disqualification or other change in accredited Texas-bred awards that cannot be paid because a horse that is not eligible

for awards moves up in the order of finish, those awards shall be added to the redistribution fund.

(5) Eligibility for awards under the accredited Texas-bred program may not be conditioned upon membership in an organization.

(c) Procedure for Payment of Awards.

(1) Conditions precedent for payment of awards are:

(A) If a horse is leased, there must be on file with the breed registry a lease agreement specifying which party shall receive award money.

(B) Breeder's Awards will be paid only on an accredited Texas-bred Thoroughbred whose dam was accredited with the breed registry either prior to foaling the subject horse or within the same calendar year of foaling the subject horse and is covered by the definition set forth in Section §1.03(21) of the Act. A horse covered by §1.03(21)(c) of the Act is eligible for only one-half of the incentives awarded pursuant to Section §6.08(f) and (j) of the Act.

(C) Accreditation fees are non-refundable after a work order has been assigned to an eligible entry. If a horse is ineligible, the fee will be refunded to the applicant.

(D) When any accredited Texas-bred horse becomes breeding stock, it must be converted, with the breed registry, to an accredited mare or stallion.

(E) All applicable fees set by the breed registry must have been paid.

(F) All participants in the accredited Texas-bred program must provide the breed registry in writing the identity of the authorized payee and the address to which awards are to be sent. Any change in ownership, payment entitlement, or address shall not be effective unless and until it is provided to the breed registry in writing. The breed registry may rely on the information so provided to it.

(2) Owner's Awards.

(A) Any accredited Texas-bred Thoroughbred that finishes first, second, or third in any race in Texas (with the exception of a stakes race restricted to accredited Texas-breds) shall receive an owner's incentive award. All owner's incentive awards shall be noted in each association's condition book and race program so as to identify the availability of the accredited Texas-bred program owner incentive awards.

(B) 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, as provided by Section 6.08(n) of the Act.

(3) Award funds derived by the breed registry pursuant to §6.08(f) of the Act may be allocated and disbursed by the breed registry to purses at Texas associations for races restricted to accredited Texas-bred thoroughbred horses for special event races or days.

(4) Funds actually received from a greyhound association pursuant to §6.091(c)(2) of the Act shall be used as purses by the breed registry within a reasonable time, not to exceed 18 months from date of receipt.

(5) If a share of the breakage cannot be distributed to the person who is entitled to a share, the breed registry shall retain that share. Thereafter, a notice of the entitlement shall be published in the *Texas Thoroughbred* magazine for the first three issues of the second calendar year after accrual of the entitlement. If the entitlement is not claimed before August 31 following such publication, the funds shall be transferred to the breed registry's general account. If the person entitled to the share thereafter makes a claim in a form acceptable to the breed registry, the breed registry shall pay such person the amount of the share.

(d) Procedure for hearings. The following provisions shall apply to hearings on matters pertaining to administration of the accredited Texas-bred program.

(1) Right to hearing. If the breed registry proposes to deny an application for accreditation, revoke an accreditation previously granted, or

withhold payment of an award, the person(s) affected shall be notified in writing of the proposed action and the basis therefore. The action shall become final, unless within 10 days of the date of receipt of the notice by the affected person(s), the person(s) files with the breed registry a written request for a hearing before its board of directors. On timely receipt of a request, the board of directors shall conduct a hearing. The board of directors, in its sole discretion, may grant or conduct a Texas Racing Commission hearing on any other matter or issue raised by the administration of the accredited Texas-bred program.

(2) Notice of hearing. The board of directors shall send written notice of the hearing to all affected parties. The notice must be received at least 10 days prior to the date of hearing, must specify the time and place of hearing, must contain a statement of the matters to be considered and possible action to be taken, and must advise the recipient(s) of the right to appear and present evidence.

(3) Conduct of hearing. The breed registry shall have the burden of proof in any proceeding for denial or revocation of accreditation. In all other matters, the burden of proof is on the party seeking action by the breed registry. Each party shall be entitled to representation by legal counsel. The board of directors may determine the order and length of the proceeding and shall allow each party the opportunity to submit sworn testimony, documents, and argument as the party may desire, but formal rules of evidence shall not apply. All witnesses are subject to cross-examination and to questions from the members of the board of directors. A record of the proceedings shall be made and kept, and a transcript shall be provided to any party who requests and pays in advance for same.

(4) Decision. At any time after the closing of the hearing, the board of directors may issue its decision, which shall be in writing and which shall state the findings and reasons for the action taken. In addition to ruling on the issues presented, the decision may require any party to reimburse the breed registry for its expense and attorneys fees incurred in the preparation for and conduct of the hearing and may require repayment with lawful interest to the breed registry of any funds found to have been wrongfully or improperly received. The decision of the board of directors is final and not subject to review. A copy of the decision shall be filed with the Commission and shall be published in the next issue of the Texas Thoroughbred, and thereafter all persons shall have constructive notice of the decision and its contents. (Added eff. 3/28/89; amended eff. 12/1/96; amended eff. 2/4/97; amended eff. 1/1/99; (c) amended eff. 7/1/99; (b) amended, (d) added eff. 6/1/00; (c)amended eff. 9/1/00; (a),(c) amended eff. 7/22/02; (a),(b) amended eff. 1/1/03; (d) amended eff. 11/12/03; (c) amended eff. 1/10/08)

Sec. 303.93. Quarter Horse Rules.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context indicates otherwise.

(1) AQHA - American Quarter Horse Association.

(2) ATB horse - a horse accredited by the TQHA as a Texas-bred quarter horse.

(3) ATB broodmare - a mare accredited by the TQHA as breeding stock for participation in the Texas Bred Incentive Program for quarter horses.

(4) ATB stallion - a stallion accredited by the TQHA as breeding stock for participation in the Texas Bred Incentive Program for quarter horses.

(5) Breeder - A person who is, at the time of conception, the owner of record of an ATB broodmare that foals an ATB horse.

(6) Owner - A person who is the owner of record of an ATB horse at the time of a race.

(7) Stallion Owner - A person who is, at the time of conception, the owner of record of an ATB stallion that sired an ATB horse.

(8) TQHA - Texas Quarter Horse Association.

(b) Eligibility for Accreditation.

(1) ATB Horses. A horse may be accredited as an ATB horse if the horse was foaled in Texas from an ATB broodmare that is permanently domiciled in Texas.

(2) ATB Broodmares.

(A) A mare may be accredited as an ATB broodmare if the mare is permanently domiciled in Texas, is registered with the AQHA or the Jockey Club, and is accredited by the TQHA as breeding stock.

(B) An application for accreditation must be on a form prescribed by TQHA and include the applicable one-time payment as prescribed by TQHA. The deadline for filing an application for accreditation is June 30 of the year in which an ATB eligible foal is conceived. TQHA may accredit a broodmare for which the application for accreditation is filed after June 30 but no later than December 31 of the year in which an ATB eligible foal is conceived, provided the application includes payment of a late fee as established by TQHA. An application for accreditation is considered timely filed if it is placed in U.S. mail and is postmarked on or before the applicable deadline.

(C) TQHA may accredit a broodmare for which an application is filed after December 31 of the year in which an ATB eligible foal is conceived; however, the breeder of that foal is not eligible to receive breeder awards for that foal.

(D) A mare may leave Texas for breeding, medical, or racing purposes without losing its accreditation provided the mare returns to Texas each year before August 15. All foals of an ATB broodmare are eligible to be accredited as ATB horses provided the mare is bred to an ATB stallion at least every other breeding. TQHA may require documentation regarding breeding activity to prove eligibility for accreditation.

(3) ATB Stallions.

(A) A stallion may be accredited as an ATB stallion if the stallion is permanently domiciled in Texas, is registered with the AQHA or the Jockey Club, and is accredited by the TQHA as breeding stock.

(B) An application for accreditation must be on a form prescribed by TQHA and include the applicable payment as prescribed by TQHA. The deadline for filing an application for accreditation is April 15 of the year in which an ATB eligible foal is conceived. TQHA may accredit a stallion for which the application for accreditation is filed after April 15 but no later than December 31 of the year in which an ATB eligible foal is conceived, provided the application includes payment of a late fee as established by TQHA. An application for accreditation is considered timely filed if it is placed in U.S. mail and is postmarked on or before the applicable deadline.

(C) A stallion may not be accredited for a particular foal unless all foals conceived in that year, other than foals conceived by a shipped semen process, were conceived in Texas. TQHA may require a report of mares bred to be submitted to verify eligibility for accreditation. A stallion may leave Texas for medical or racing purposes without losing its accreditation provided the stallion returns to Texas each year before January 1.

(c) Accreditation requirements for multiple foals.

(1) Subject to the other provisions of this subsection, multiple foals conceived in the same year by a single ATB broodmare are eligible for accreditation provided the mare was bred to an ATB stallion at least every other breeding and all other requirements for accreditation are satisfied.

(2) If the multiple foals are the result of a transferred embryo or oocyte process conceived in a single breeding, all foals sired by an ATB stallion are eligible for accreditation. If the foals were sired by a non-ATB stallion:

(A) only one of the foals sired by a non-ATB stallion may be accredited; and

(B) the owner of the ATB broodmare at the time of conception must select which foal

is to be accredited, must notify the TQHA of the selection, and is considered the breeder for purposes of breeder awards.

(3) An ATB broodmare that produces multiple foals in a single year using the transferred embryo or oocyte process must submit to TQHA an Embryo/Oocyte Transfer Report. The report must be submitted on or before December 31 of the year of conception.

(d) Accreditation requirements for foals produced from frozen semen.

(1) A foal produced from frozen semen is eligible for accreditation provided all other requirements for accreditation are satisfied.

(2) A stallion for which frozen semen is to be used must have satisfied all requirements for accreditation and be permanently domiciled in Texas during the year of conception. For frozen semen to be used after a stallion's death, the stallion must, at the time of the stallion's death, have satisfied all requirements for accreditation and been permanently domiciled in Texas.

(3) In a single year, frozen semen may not be used in more than one jurisdiction.

(e) Organizational Structure.

(1) The TQHA shall maintain all ownership records for the Accredited Texas Bred Quarter Horse program. TQHA shall comply with all sections of the Act, including but not limited to the Act, §6.08 and §§9.01-9.04. TQHA shall comply with the rules promulgated by the Commission, including but not limited to §§303.81-303.85 of this title (relating to General Provisions.)

(2) The Board of Directors of TQHA shall have managerial control over the activities of the breed registry as to the operation and performance of the ATB program. The Board of Directors may delegate such authority to a committee. The Board of Directors shall establish budgeting and other procedures to ensure that the TQHA is in substantial compliance with the Act and the rules of the Commission and shall be subject to audit or inspection by the Commission. The Board of Directors shall reasonably interpret the definitions and standards of this section and decision by that body or its delegate shall be final.

(3) The TQHA shall develop a system of accounting for the ATB funds that accrue prior to payment. In no event may funds that are dedicated by law to the incentive awards program be used for any other purpose.

(4) Eligibility for ATB awards may not be conditioned upon membership in any organization.

(f) Procedure for the Payment of ATB Awards.

(1) The Commission shall forward monthly to the TQHA the total amount of Texas bred funds due to the TQHA pursuant to the Act and the rules of the Commission.

(2) Conditions for payment of ATB awards.

(A) Payment of ATB awards is conditional upon proper accreditation of horses and current ownership records as evidenced by TQHA and AQHA ownership records. In the event a horse owner, breeder or stallion owner is not listed on both registries, the payment of ATB awards may be withheld until such registration is completed in compliance with this section.

(B) Leased horses must have an AQHA lease form on file with the TQHA prior to receiving any ATB awards on that horse.

(C) A breeder is eligible to receive breeder awards for an ATB horse only if the ATB broodmare was accredited in accordance with (b) (2) (B) of this section. A stallion owner is eligible to receive stallion awards for an ATB horse only if the ATB stallion was accredited in accordance with (b) (3) (B) of this section and the owner paid the stallion participation fee established by TQHA for the year in which the ATB horse was conceived.

(D) Accreditation fees are refundable only in the event they were submitted on an ineligible horse or if they were duplicated.

(E) ATB horses that are registered as racing stock must be accredited also as either an ATB broodmare or ATB stallion to receive breeder or stallion awards from subsequent foals.

(3) Procedures for Payment of Awards.

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

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

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

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

(D) TQHA shall maintain records of all ATB racing stock that earn awards. At the completion of a race period not to exceed four racing weeks, TQHA shall begin the process to generate awards checks for the breeders and the stallion owners corresponding to those ATB racing stock by apportionment according to the percentages expressed in subparagraph (C) of this subsection. The awards for each race shall be divided 50% to first place, 30% to second place, and 20% to third place. Upon receipt of the ATB funds from the commission for the race period, TQHA shall disburse the awards by U.S. mail. For race meets less than 18 days in duration the TQHA reserves the right to consolidate ATB awards into one payout upon completion of the race meet. (Added eff. 3/28/89; amended eff. 12/1/96; amended eff. 6/15/97; amended eff. 1/1/99; (c) amended eff. 9/1/99; (c) amended eff. 9/7/03; amended eff. 11/12/03; (c) amended eff. 9/8/04; (b) amended eff. 8/3/06)

Sec. 303.94. Arabian Horse Rules.

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

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

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

Sec. 303.96. Paint Horse Rules.

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

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

If an official breed registry sponsors or accepts payments for a stakes or other prepayment race, the breed registry shall follow the procedures set

forth in §309.298 of this title (relating to Stakes and Other Prepayment Races.) (Added eff. 1/1/99, amended eff. 3/13/02)

Programs for Greyhounds

Sec. 303.101. Greyhound Breed Registry.

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

(b) Grant Program.

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

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

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

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

Sec. 303.102. Greyhound Rules.

(a) Registration as a Texas-Bred Greyhound.

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

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

(3) Registration Procedure.

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

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

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

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

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

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

(b) Owners' Awards.

(1) The owner of a registered Texas-bred greyhound that wins a pari-mutuel race in Texas is eligible to receive an owner's award. For purposes of this subdivision, each elimination and final in

a stakes race competition is considered a pari-mutuel race. A dead heat for the win position is considered a win for each greyhound involved in the dead heat.

(2) TGA will pay owners' awards no later than the last business day of each month. TGA will issue the check for each award to the person in whose name the Texas-bred greyhound is registered. To determine the amount of each award, the total amount of money received from the Commission for the Texas Bred Incentive Program for the preceding month, minus the statutorily permitted amount for administrative expenses, shall be divided by the number of pari-mutuel races won by registered Texas-bred greyhounds during the preceding month, plus five. The result is the amount of owner's award to be paid for each registered Texas-bred greyhound that won a pari-mutuel race in Texas during the preceding month.

(3) TGA shall make a reasonable effort to deliver all owners' awards. If after 12 months after issuing a check for an owner's award TGA is unsuccessful in delivering the check to the proper person, TGA shall void the check and add the unclaimed amount to the total amount to be distributed as owners' awards for the next month.

(4) Each month, five owner's award shares will be retained to cover errors that may be made by TGA. A person who believes he or she is entitled to an owner's award must file a claim with TGA no later than 90 days after the end of the month during which the race on which the claim is based was conducted. On receipt of a claim for an owner's award, TGA shall determine whether the claim is valid. If the claim is valid, TGA shall immediately pay the owner's award. After the deadline for filing a claim, TGA shall add the remaining retained owner's award shares to the total amount to be distributed in the next month. If more than five valid claims are filed, TGA shall pay the sixth and subsequent claims from the owner's award shares retained from the next and subsequent months until all valid claims are paid.

(5) An owner's award may not be paid for a greyhound that is disqualified from a race due to a positive drug test. On notice to TGA that a race's results are affected by a positive drug test, TGA shall retain any owner's award due to the winning greyhound until the Commission's disciplinary proceedings regarding the positive drug test are final and unappealable. If the greyhound's disqualification is overturned, the TGA shall pay the retained owner's award within 30 days of receiving notice of the final disposition of the proceeding. If the greyhound's disqualification is upheld, the amount of the retained owner's award shall be added to the total amount to be distributed as owners' awards for the month after the month in which TGA is notified of the final disposition of the proceeding.

(C) Stakes Races.

(1) Pursuant to the Act, §609(d) and Tex. AG. Op. No. DM-211, TGA shall pay one-half of the breakage it receives as additional purse money for stakes races restricted to Texas-bred greyhounds. All registered Texas-bred greyhounds are eligible to participate in a Texas-bred restricted stakes race, subject to the conditions of the race.

(2) TGA shall develop the conditions of each Texas-bred restricted stakes race in cooperation with the racetrack at which the race will be conducted. The conditions of the race are subject to the approval of the executive secretary.

(3) TGA shall pay the allotted additional purse money for the race to the racetrack at which the race will be conducted. The racetrack shall hold the additional purse money received from TGA until the executive secretary advises the association that the race has been cleared for payment.

(d) Distribution of purse money from cross-species simulcasting.

(1) To enhance live racing opportunities at Texas greyhound racetracks, TGA shall pay to each greyhound racetrack the purse money it collects pursuant to the Act, §6.091(d)(2) from interstate cross-species simulcasting at Texas

horse racetracks in accordance with an allocation approved by the Commission. TGA shall prepare a proposed allocation for consideration by the Commission. In preparing a proposed allocation, TGA shall consider:

(A) the average price-per-point paid for purses at each greyhound racetrack during the preceding year;

(B) the purse payout at each greyhound racetrack during the preceding year; and

(C) the impact cross-species simulcasting has made on greyhound purse revenues at each greyhound racetrack during the preceding year.

(2) Annually, the executive secretary shall establish a deadline by which the proposed allocation must be submitted. The executive secretary shall ensure each of the greyhound racetracks has notice of the proposed allocation and the date, time, and location of the Commission meeting at which the proposed allocation will be considered for approval. (Added eff. 7/18/89; amended eff. 12/1/96; amended eff. 1/1/02)

Subchapter F.
Licensing Persons with Criminal Backgrounds

Sec. 303.201. General Authority.

(a) In accordance with state law, the commission may revoke, suspend, or deny a license or the stewards or racing judges may suspend or deny a license to a person because of the person's conviction of a felony or misdemeanor if the offense directly relates to the person's present fitness to perform the duties and responsibilities associated with the license.

(b) In determining whether or not an offense directly relates to a person's present fitness to perform the duties and responsibilities associated with the license, the commission or stewards or racing judges shall consider the relationship between the offense and the particular license applied for and the following factors:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person at the time of the commission of the crime;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person prior to and following the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) other evidence presented by the person of the person's present fitness, including letters of recommendation from:

(A) prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

(B) the sheriff or chief of police in the community where the person resides; or

(C) any other persons in contact with the convicted person.

(c) The executive secretary may develop guidelines regarding the factors listed in subsection (b) of this section and how the factors related to the offenses listed in §303.202 of this title (relating to General Provisions.)

(d) On learning of the felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory supervision of a licensee, the commission shall revoke the licensee's license. (Added eff. 3/28/89; (a), (b) amended eff. 7/1/92; (c) added eff. 7/1/92; (c) amended (d) added eff. 1/1/99)

Sec. 303.202. Guidelines.

(a) In accordance with state law, the commission has developed guidelines relating to the suspension, revocation, or denial of occupational licenses based on criminal background. The offenses that the commission has determined are directly related to the occupational licenses issued by the commission are:

(1) an offense for which fraud, dishonesty, or deceit is an essential element;

(2) an offense relating to racing, pari-mutuel wagering, gambling, or prostitution;

(3) a felony offense of assault, such as those described by Penal Code, Chapter 22;

(4) a criminal homicide offense, such as those described by Penal Code, Chapter 19;

(5) a burglary offense, such as those described by Penal Code, Chapter 30;

(6) a robbery offense, such as those described by Penal Code, Chapter 29;

(7) cruelty to animals;

(8) a theft offense, such as those described by Penal Code, Chapter 31;

(9) an offense relating to the possession, manufacture, or delivery of a controlled substance, a dangerous drug, or an abusable glue or aerosol paint;

(10) arson; and

(11) a felony offense of driving while intoxicated.

(b) The commission has considered the following factors in determining whether or not a particular offense directly relates to a particular occupational license:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

(c) Based on the factors described in subsection (b) of this section, the commission has determined that the offenses described in subsection (a) of this section are directly related to the following occupational licenses. (An “X” on the chart means the offense directly relates to the license.) (Added eff. 3/28/89; amended eff. 5/7/91; amended eff. 7/1/92; (c) amended eff. 5/23/07)

GENERAL PROVISIONS

	Adoption Program Personnel	Announcer	Apprentice Jockey	Association - Other	Association Chaplain	Association Asst Mgmt Personnel	Association Mgmt Personnel	Association Officer/Director	Association Staff	Association Veterinarian	Asst. Starter	Asst. Trainer	Asst. Trainer/Owner
Offense for which fraud, dishonesty, or deceit is an essential element		X	X	X		X	X	X		X	X	X	X
Offense under law of Texas or another state relating to racing, pari-mutuel wagering, gambling, or prostitution	X	X	X	X	X	X	X	X	X	X	X	X	X
Felony Assault	X	X	X	X	X	X	X	X	X	X	X	X	X
Criminal Homicide	X	X	X	X	X	X	X	X	X	X	X	X	X
Burglary	X	X	X	X	X	X	X	X	X	X	X	X	X
Robbery	X	X	X	X	X	X	X	X	X	X	X	X	X
Cruelty to Animals	X		X	X			X	X		X	X	X	X
Theft	X	X	X	X	X	X	X	X	X	X	X	X	X
Possession, delivery, or manufacture of a controlled substance, dangerous drug, or abusable glue	X	X	X	X	X	X	X	X	X	X	X	X	X
Arson	X	X	X	X	X	X	X	X	X	X	X	X	X
Felony Driving While Intoxicated			X				X	X		X	X	X	X

	Authorized Agent	Box Person	Entry Clerk	Exercise Rider	Farrier/Plater Blacksmith	Farrier/Plater Blacksmith's Asst	Groom/Hot Walker	Jockey	Jockey Agent	Kennel Helper	Kennel Owner	Kennel Owner/ Owner	Kennel Owner/ Owner/Trainer
Offense for which fraud, dishonesty, or deceit is an essential element	X	X	X					X	X		X	X	X
Offense under law of Texas or another state relating to racing, pari-mutuel wagering, gambling, or prostitution	X	X	X	X	X	X	X	X	X	X	X	X	X
Felony Assault	X	X	X	X	X	X	X	X	X	X	X	X	X
Criminal Homicide	X	X	X	X	X	X	X	X	X	X	X	X	X
Burglary	X	X	X	X	X	X	X	X	X	X	X	X	X
Robbery	X	X	X	X	X	X	X	X	X	X	X	X	X
Cruelty to Animals		X		X	X	X	X	X	X	X	X	X	X
Theft	X	X	X	X	X	X	X	X	X	X	X	X	X
Possession, delivery, or manufacture of a controlled substance, dangerous drug, or abusable glue	X	X	X	X	X	X	X	X	X	X	X	X	X
Arson	X	X	X	X	X	X	X	X	X	X	X	X	X
Felony Driving While Intoxicated	X	X	X	X	X	X	X	X	X	X	X	X	X

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	Kennel Owner/ Trainer	Law Enforcement	Leadout	Maintenance	Medical Staff	Miscellaneous	Mutuel - Other	Mutuel Clerk	Official	Owner	Owner/Trainer	Pony Person	Racing Industry Representative	Security Officer
Offense for which fraud, dishonesty, or deceit is an essential element	X	X	X			X	X	X	X	X	X		X	X
Offense under law of Texas or another state relating to racing, pari-mutuel wagering, gambling, or prostitution	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Felony Assault	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Criminal Homicide	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Burglary	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Robbery	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cruelty to Animals	X	X	X			X			X	X	X	X	X	X
Theft	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Possession, delivery, or manufacture of a controlled substance, dangerous drug, or abusable glue	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Arson	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Felony Driving While Intoxicated	X	X		X	X	X			X	X	X	X		X

	Stable Foreman	Tattooer	Test Technician	Tooth Floater	Trainer	Training Facility Employee	Training Facility Gen Mgr. /CEO	Valet	Vendor/ Concessionaire	Vendor/Concess. Employee	Veterinarian	Veterinarian's Asst.	Watchman
Offense for which fraud, dishonesty, or deceit is an essential element	X	X	X		X	X	X	X	X	X	X	X	X
Offense under law of Texas or another state relating to racing, pari-mutuel wagering, gambling, or prostitution	X	X	X	X	X	X	X	X	X	X	X	X	X
Felony Assault	X	X	X	X	X	X	X	X	X	X	X	X	X
Criminal Homicide	X	X	X	X	X	X	X	X	X	X	X	X	X
Burglary	X	X	X	X	X	X	X	X	X	X	X	X	X
Robbery	X	X	X	X	X	X	X	X	X	X	X	X	X
Cruelty to Animals	X	X	X	X	X	X	X				X	X	X
Theft	X	X	X	X	X	X	X	X	X	X	X	X	X
Possession, delivery, or manufacture of a controlled substance, dangerous drug, or abusable glue	X	X	X	X	X	X	X	X	X	X	X	X	X
Arson	X	X	X	X	X	X	X	X	X	X	X	X	X
Felony Driving While Intoxicated	X	X	X	X	X	X	X				X	X	X

Sec. 303.203. Evidence by Applicant.

In applying for a license to be issued by the commission, a person to whom this subchapter applies must present to the commission:

(1) any recommendations of the prosecution, law enforcement agencies, or correctional authorities relating to the conviction or rehabilitation of the person; and

(2) evidence that the applicant has paid all outstanding fines, court costs, and restitution that was ordered to be paid relating to the conviction.

(Added eff. 3/28/89)

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CHAPTER 307. PROCEEDINGS BEFORE THE COMMISSION

Subchapter A. General Provisions

Sec. 307.1. Applicability.

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

Sec. 307.2. Definitions.

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

Sec. 307.3. Types of Proceedings.

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

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

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

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

Sec. 307.4. Decision-Making Proceedings.

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

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

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

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

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

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

(d) Documentation of Decision. Each decision made by the Commission in a decision-making proceeding is documented by the transcript of each open meeting at which the issues involved in the proceeding are discussed or the decision is made. No written order of the Commission is required in a decision-making proceeding. The Commission or the executive secretary may issue a written statement clarifying a Commission decision in a decision-making proceeding if the Commission or the executive secretary determines the statement will facilitate understanding of and compliance with the decision. (Added eff. 1/1/02)

Sec. 307.5. Special Provisions Regarding Racetrack License Applications.

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

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

Sec. 307.6. Probation.

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

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

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

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

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

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

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

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

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

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

Sec. 307.7. Ejection and Exclusion.

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

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

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

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

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

Subchapter B. Contested Cases

Sec. 307.31. Prehearing Procedures.

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

(b) Settlement. The executive secretary may attempt to settle any contested case proceeding through agreement. If the proceeding involves a racetrack, the executive secretary shall present an agreed order to the Commission. If the proceeding involves an occupational licensee, the executive secretary may issue a ruling reflecting the terms of

the agreement and if applicable, superceding the stewards' or judges' ruling.

(c) Referral to SOAH. If after a reasonable time the proceeding cannot be settled through agreement, the executive secretary shall refer the matter to SOAH. (Added eff. 1/1/02)

Sec. 307.32. Nonparty Participation.

(a) A person who instead of intervening desires merely to express support or opposition in a contested case proceeding pending before the Commission may file with SOAH a request for nonparty participant status which includes a written statement regarding the person's position on the matter. The request must be filed not later than the date set by the administrative law judge (ALJ). At the time of filing, the person shall serve a copy of the statement on each party of record and file proof of service with SOAH.

(b) The ALJ may authorize a late filing under this section on a motion showing extenuating circumstances.

(c) A nonparty participant's statement may be stricken from the record if the ALJ determines that it does not substantially comply with this section. (Added eff. 1/1/02)

Sec. 307.33. Hearing.

A hearing conducted by SOAH on a contested case proceeding pending before the Commission is governed by SOAH's rules of procedure. (Added eff. 1/1/02)

Sec. 307.34. Exceptions and Replies.

Not later than 10 days after the date SOAH mails a proposal for decision to a party, the party may file exceptions to the proposal. A reply to an exception filed under this section must be filed not later than seven days after the last day for filing the exceptions. Exceptions and replies to exceptions must be filed at the Commission's main office in Austin. A copy of each exception and reply must be served on each party or the party's representative. (Added eff. 1/1/02)

Sec. 307.35. Oral Argument.

(a) A party may request oral argument before the Commission before the Commission takes action on a proposal for decision or motion for rehearing.

(b) Oral argument is allowed only at the discretion of the Commission. (Added eff. 1/1/02)

Sec. 307.36. Consideration by Commission.

(a) After the deadline for filing exceptions and replies, the proposal for decision will be considered by the Commission at open meeting.

(b) The Commission may:

(1) adopt the proposal for decision, in whole or in part;

(2) decline to adopt the proposal for decision, in whole or in part; or

(3) remand the proceeding to SOAH and direct the ALJ to give further consideration to the proceeding with or without reopening the hearing.

(c) When notifying SOAH that the Commission has remanded a proceeding, the executive secretary shall forward a copy of the transcript from the Commission meeting containing the Commission's comments on the proceeding. (Added eff. 1/1/02)

Sec. 307.37. Final Order.

(a) After consideration of a proposal for decision, the executive secretary shall prepare a written final order documenting the Commission's decision on the proposal for decision. A final order must include findings of facts and conclusions of law, separately stated.

(b) A final order of the Commission must be signed by a majority of the members of the Commission who voted in favor of issuing the order.

(c) The executive secretary shall serve a copy of the final order on each party or the party's representative and each non-party participant.

(d) A final order of the Commission takes effect on the date the order is issued, unless otherwise stated in the order. (Added eff. 1/1/02)

Sec. 307.38. Rehearing.

(a) Government Code, §2001.146, pertaining to rehearing after Commission action, is hereby incorporated by reference.

(b) An order granting a motion for rehearing vacates the preceding final order. The order granting a motion for rehearing may direct that the hearing be reopened or may incorporate a new final decision. If the Commission renders a new decision, a motion for rehearing directed to the new decision is a prerequisite to appeal. (Added eff. 1/1/02)

Sec. 307.39. Judicial Review.

In accordance with Government Code, §2001.171, a person who is aggrieved by an order of the Commission in a contested case proceeding and who has exhausted all administrative remedies is entitled to judicial review. (Added eff. 1/1/02)

Subchapter C. Proceedings by Stewards and Racing Judges

Sec. 307.61. General Authority.

(a) In addition to the authority granted the stewards and racing judges in Chapter 313 (relating to Officials and Rules of Horse Racing) and Chapter 315 (relating to Officials and Rules of Greyhound Racing) of this title, the stewards and racing judges may:

(1) conduct an inquiry regarding an alleged violation of the Act or a Rule or regarding a complaint, objection, or protest made by a licensee;

(2) charge a licensee with a violation of a Rule;

(3) conduct disciplinary hearings; and

(4) impose fines and suspend occupational licenses as provided by this subchapter.

(b) Regardless of whether the stewards or racing judges act on a violation of the Act or a Rule, the stewards and racing judges may refer the matter to the Commission for consideration and action.

(c) The laws of this state and the Rules supersede the conditions of a race and the rules of an association. In matters pertaining to racing, the rulings and decisions of the stewards and racing judges supersede the rulings and orders of the association officers. (Added eff. 1/1/02)

Sec. 307.62. Disciplinary Hearings.

(a) Authority to Conduct. On their own motion or on receipt of a complaint regarding the actions of an occupational licensee, the stewards and racing judges may conduct a disciplinary hearing regarding the licensee's actions.

(b) Notice of Hearing. Except as otherwise provided by the Rules, the stewards and racing judges shall provide written notice to a person who is the subject of a disciplinary hearing at least 10 calendar days before the hearing. Notice given under this subsection must state the nature of the charges against the person and the possible penalties that may be imposed. The person may waive his or her right to 10 days notice.

(c) Rights of the Licensee. At a disciplinary hearing conducted by the stewards or racing judges, the person who is the subject of the disciplinary hearing has the following rights, all of which the person may waive:

(1) the right to counsel;

(2) the right to present a defense;

(3) the right to make an opening and closing statement;

(4) the right to call witnesses; and

(5) the right to cross-examine witnesses testifying against the person.

(d) Evidence.

(1) Each witness at a disciplinary hearing conducted by the stewards or racing judges must be sworn by the presiding steward or racing judge.

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

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

(e) Agreed Settlement. The person who is the subject of the disciplinary hearing may waive the right to a hearing and subsequent appeal and enter into an agreed settlement with the stewards or racing judges.

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

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

Sec. 307.63. Ruling.

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

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

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

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

(3) the date the ruling was issued;

(4) the penalty imposed;

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

(6) other information required by the executive secretary.

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

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

Sec. 307.64. Penalties.

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

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

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

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

Sec. 307.65. Reciprocity.

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

Sec. 307.66. Applicability of Rules and Rulings.

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

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

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

(b) The fraudulent transfer of a race animal to

avoid application of a Rule or ruling is prohibited. (Added eff. 1/1/02)

Sec. 307.67. Appeal to the Commission.

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

(b) Filing Procedure.

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

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

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

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

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

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

Sec. 307.68. Stay.

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

(b) The fact that a stay is granted is not a presumption that the ruling by the stewards or racing judges is invalid.

(c) The executive secretary may rescind a stay granted under this section if the executive secretary determines the reasons supporting the original issuance of the stay are no longer valid. (Added eff. 1/1/02)

Sec. 307.69. Action by Commission.

On its own motion or on request by the executive secretary, the Commission may reverse a decision of the stewards or racing judges, modify a penalty imposed by the stewards or racing judges, or reinstate a person's license and rescind the penalty. (Added eff. 1/1/02)

Subchapter D. Rulemaking

Sec. 307.101. Purpose.

As authorized by the Act, §3.02 and other law, the Commission shall adopt rules as authorized and required by law which are necessary for the performance of its duties, to establish standards of conduct for its licensees, to ensure strict compliance with and enforcement of the Act, to ensure uniform practice and procedure, and to provide for public participation, notice of agency actions, and a fair and expeditious determination of matters. (Added eff. 1/1/02)

Sec. 307.102. Rulemaking Procedure.

(a) The executive secretary or a Commissioner may present to the Commission a suggested new rule, amendment to an existing rule, or repeal of a rule.

(b) The executive secretary shall provide a copy of each suggested new rule, amendment to an existing rule, or repeal of a rule to each Commissioner before the Commission meeting at which the rule will be considered.

(c) If the Commission votes to propose a suggested new rule, amendment to an existing rule, or repeal of a rule, the executive secretary shall file the proposal with the Secretary of State for publication in the Texas Register in accordance with the Administrative Procedure Act, Government Code, Chapter 2001.

(d) Contemporaneously with filing with the Texas Register, the executive secretary shall distribute a copy of each proposal to each association. On receipt of a proposal, an association shall promptly post the proposal in a prominent place that will ensure access by interested persons.

(e) The documentation filed with the Secretary of State for publication in the Texas Register and the transcript of the Commission meeting at which a rule is finally adopted constitutes the Commission's order adopting the rule. (Added eff. 1/1/02)

Sec. 307.103. Petition for Adoption of Rules.

(a) A person may request the Commission to adopt, amend, or repeal a rule by filing the request in writing with the executive secretary.

(b) The request must include:

(1) the full name, address, and telephone number of the person making the request;

(2) the text of the new section or amendment, or a reference to the section proposed for repeal, identified in a manner sufficient to show the context of the new section, amendment, or repeal;

(3) a suggested effective date;

(4) reasons for the proposed action in narrative form in sufficient detail to inform the Commission fully of the facts on which the person relies;

(5) the desired effect of the proposed section, amendment, or repeal;

(6) the fiscal implications of the proposed section, amendment, or repeal to the state, to units of local government, to small businesses, and to individuals, if any; and

(7) the signature of the person or a representative of the person.

(c) The executive secretary shall inform the Chair of the Commission of each petition for rulemaking filed. The Chair shall determine whether to place the petition on the agenda for a Commission meeting for consideration by the Commission.

(d) Not later than the 60th day after the date a petition under this section is submitted, a state agancy shall:

(1) deny the petition in writing, stating its reasons for the denial; or

(2) initiate a rulemaking proceeding under this subchapter. (Added eff. 1/1/02)

Sec. 307.104. Saving Provisions.

The amendment or repeal of a rule does not affect:

(1) the prior operation of the rule or any prior action taken under the rule;

(2) any right, privilege, obligation, or

liability previously acquired, accorded, or incurred under the Rule;

(3) any violation of the rule or any penalty or punishment incurred under the Rule before its amendment or repeal; or

(4) any investigation, proceeding, or remedy concerning any privilege, obligation, liability, penalty or punishment under the Rule

(Added eff. 1/1/02)

Sec. 307.105. Severability.

If any part of a Commision rule or a rule's application to any person or circumstance is held invalid, the invalidity does not affect other parts or applications of the Rules that can be given effect without the invalid part or application, and to this end of the Commission's rules are severable.

(Added eff. 1/1/02)

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CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

Subchapter A. Racetrack Licenses

Sec. 309.1. Racetrack Licenses.

(a) Required.

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

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

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

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

(c) Conditions.

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

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

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

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

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

Sec. 309.2. Criteria.

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

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

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

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

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

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

Sec. 309.3. Racetrack License Application Procedure.

(a) General Requirements.

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

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

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

(C) pay an application fee to the Commission.

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

(b) Application Process.

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

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

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

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

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

(c) Application and Additional Documents.

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

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

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

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

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

(d) Review of Application Documents.

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

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

(3) When the executive secretary determines that an application contains all the information required by this chapter, the executive secretary shall notify the applicant in writing that the application is complete.

(e) Changes in the Application.

(1) If information submitted by an applicant as part of a racetrack application changes or becomes inaccurate before the Commission acts on the application, the applicant shall immediately notify the executive secretary in writing of the change or inaccuracy.

(2) After a racetrack application has been filed, the applicant may not amend the application except:

(A) to address a deficiency in accordance with a notice sent under subsection (d);

(B) as required by the Commission or the Commission staff to clarify information contained in the application; or

(C) to address a change in the circumstances surrounding the application that was outside the control of the applicant and that affects the ability of the applicant to comply with the Act or the rules of the Commission.

(3) To amend an application under paragraph (2)(C) of this section, an applicant must file with the executive secretary a written request to amend the application. The request must state:

(A) the change in the circumstances surrounding the application that necessitate the amendment;

(B) the nature of the amendment; and

(C) the reasons why the amendment is necessary to bring the application into compliance with the Act or the Rules.

(4) An applicant filing a request under paragraph (3) of this section must serve a copy of the request on each party to the application proceeding.

(5) The administrative law judge shall grant or deny each request filed under paragraph (3) of this subsection. A request shall be granted if the applicant demonstrates that:

(A) the circumstances requiring the amendment were outside the control of the applicant;

(B) before the change in the circumstances surrounding the application, the application complied with the pertinent provisions of the Act or the Rules;

(C) the amendment is necessary to bring the application into compliance with the pertinent provisions of the Act or the Rules; and

(D) the amendment does not unfairly surprise another party to the application proceeding. (Added eff. 10/21/99; (b),(c),(e) amended eff. 1/8/04)

Sec. 309.4. Information for Background Investigation.

(a) Fingerprint Requirements and Procedure.

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

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

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

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

(2) If the applicant is a political subdivision, each individual who is a member of the governing body of the political subdivision must submit a set of fingerprints as required by this section.

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

(4) Not later than 10 days after the day the Commission receives the fingerprints under

this section, the Commission shall forward the fingerprints to the Department of Public Safety.

(5) If an exempt institutional investor acquires an interest of 5.0% or more in an association, the investor is not required to submit any fingerprints unless specifically requested by the Commission or the Department of Public Safety. Not later than 10 days after the acquisition, the investor shall submit its most recent annual report or, if the annual report is not available, its most recent audited financial statements.

(b) Criminal History Record.

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

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

(3) Except as otherwise provided by this subsection, the criminal history record information received under this section from any law enforcement agency that requires the information to be kept confidential as a condition of release of the information is for the exclusive use of the Commission and its agents and is privileged and confidential. The information may not be released or otherwise disclosed to any person or agency except in a criminal proceeding, in a hearing conducted by the Commission, on court order, or with the consent of the applicant. Information that is in a form available to the public is not privileged or confidential under this subsection and is subject to public disclosure.

(c) Information for Department of Public Safety Background Investigation.

(1) For each individual required to provide fingerprints under subsection (a) of this section, the application documents must include a completed form prescribed by the Department of Public Safety, which includes a statement disclosing whether the individual has ever been:

(A) arrested; or

(B) convicted of a felony or misdemeanor, other than a misdemeanor traffic offense.

(2) All forms submitted under this section must be submitted under separate cover labeled "Department of Public Safety Disclosure Forms - Confidential" and include the fingerprint cards for the individuals submitting disclosure forms. (Added eff. 10/21/99; (a) amended eff. 1/8/04)

Sec. 309.5. Restrictions on Licensing.

(a) Lease. If an applicant for a license to operate a racetrack intends to lease the racetrack facility from another person, the Commission may not grant the license if the Commission determines that:

(1) the lessor would not be qualified to be issued a license; or

(2) the lease is a subterfuge to avoid compliance with the Act or a rule of the Commission.

(b) Reasonable Diligence Required. If the Commission determines that an association is failing to exercise reasonable diligence in preparing a racetrack to begin racing on the date approved by the Commission, the Commission may revoke the license and grant the license to another applicant. (Added eff. 10/21/99)

Sec. 309.6. Order for Security for Compliance.

(a) An association must post security in an amount determined by the Commission to adequately ensure:

(1) the association's compliance with the Act and the Rules;

(2) the association's completion of the racetrack facilities on or before the date approved by the Commission;

(3) the start of simulcast racing on or before the date approved by the Commission; and

(4) the start of live racing on or before the

date approved by the Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 309.7. Horse Racetrack Application Fees.

(a) General Provisions.

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

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

(b) Application Fees.

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

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

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

(3) The amount to be deposited for the

investigation charge for a horse racetrack license application is:

(A) for a Class 1 racetrack, $25,000;

(B) for a Class 2 racetrack, $15,000;

(C) for a Class 3 racetrack, $1,500; and

(D) for a Class 4 racetrack, $1,000.

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

(A) for a Class 1 racetrack, $15,000;

(B) for a Class 2 racetrack, $8,000;

(C) for a Class 3 racetrack, $1,500; and

(D) for a Class 4 racetrack, $1,000.

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

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

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

Sec. 309.8. Racetrack License Fees.

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

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

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

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

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

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

(c) Annual License Fee.

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

(A) for a Class 1 racetrack, $45,000;

(B) for a Class 2 racetrack, $15,000; and

(C) for a Class 3 or 4 racetrack, $5,000.

(2) Inactive License Fee for State Fiscal Year Ending August 31, 2009. An association that is licensed but is not conducting live racing or simulcasting shall pay an inactive license fee in two separate payments. The fee is due to the Commission on September 1, 2008 and March 15, 2009, for the State fiscal year ending August 31, 2009. The total inactive license fee for a greyhound racing association is $150,000 to be paid $125,000 on September 1, 2008 and $25,000 on March 15, 2009. The total inactive license fee for a horse racing association is:

(A) $150,000 for a Class 1 racetrack, to be paid $125,000 on September 1, 2008 and $25,000 on March 15, 2009;

(B) $100,000 for a Class 2 racetrack, to be paid $75,000 on September 1, 2008 and $25,000 on March 15, 2009; and

(C) $50,000 for a Class 3 or 4 racetrack, to be paid $25,000 on September 1, 2008 and $25,000 on March 15, 2009.

(3) Inactive License Fee for State Fiscal Years Beginning September 1, 2009, and thereafter. An association that is licensed but is not conducting live racing or simulcasting shall pay an inactive license fee. The fee is due to the Commission on September 1 of each year. The inactive license fee for a greyhound racing association is $150,000. The inactive license fee for a horse racing association is:

(A) for a Class 1 racetrack, $150,000;

(B) for a Class 2 racetrack, $100,000; and

(C) for a Class 3 or 4 racetrack, $50,000.

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

(1) for a Class 1, Class 2, or greyhound racetrack, $410 per day; and

(2) for a Class 3 or Class 4 racetrack, $300 per day.

(e) Adjustment of Fee.

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

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

(3) If the executive secretary determines the total revenue from those sources exceeds the amount needed to pay those costs, the executive secretary may order a moratorium on any or all license fees to any or all of the associations. Before entering a moratorium order, the executive secretary shall develop a formula for providing the moratorium in an equitable manner among the associations. In developing the formula, the executive secretary shall consider the amount of excess revenue received by the Commission, the source of the revenue, the Commission's costs associated with regulating each association, the Commission's projected receipts for the next fiscal year, and the Commission's projected expenses during the next fiscal year. (Added eff. 10/21/99; (b),(d) amended eff. 2/20/00; (b) amended eff. 1/1/03; (b) amended eff. 1/1/03; (d) amended and (f) added eff. 5/10/04; (c),(d) amended eff. 9/28/05; amended eff. 3/25/07; amended eff. 7/14/09)

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

(a) Applicability.

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

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

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

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

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

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

(C) been convicted of a felony;

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

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

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

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

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

(B) provided false information in the license application;

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

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

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

(4) Debt or Liens.

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

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

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

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

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

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

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

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

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

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

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

(8) Unqualified. A license may be denied, suspended or revoked if the Commission determines that the licensee is unqualified, by experience or otherwise, to perform the duties required of a licensee under the Act or the Rules.

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

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

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

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

(1) the existence of the debt; and

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

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

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

(d) A debt holder that is entitled to notice under this section may participate in a disciplinary action against the association. (Added eff. 1/1/02)

Sec. 309.11. Fees for Requests to Approve a Transfer of Pecuniary Interests.

(a) General Provisions. A license holder who requests Commission approval to transfer a pecuniary interest in a racetrack license must submit with the request a fee in an amount set by the Commission.

(b) Fees.

(1) The request fee is composed of a variable processing charge and investigation charge. The processing charge is the amount needed by the Commission to cover the administrative costs of processing the request. The investigation charge is the amount needed by the Commission to cover the costs incurred by the Department of Public Safety and Commission staff for conducting the background investigation on the proposed transferee. A license holder must pay all charges contemporaneously with filing the request. The Commission will take no action on a request under this section unless the requestor submits the total amount of the request fee with the request. The Commission shall hold the request fee in the state treasury in a suspense account. The Commission may transfer the processing funds due to the Commission to the Texas Racing Commission Fund as costs are incurred. If the actual costs to the Commission of processing the request or conducting the investigation exceed the amount deposited for the applicable charge, the requestor shall pay the remaining amount not later than 10 business days after receipt of a bill from the Commission. If the costs of processing the request or conducting the investigation are less than the amount of the charge, the Commission shall refund the excess not later than 10 business days after the Commission's decision on the request becomes final.

(2) The fees for a request for Commission approval to approve a transfer of pecuniary interests in a racetrack license that effects a change in the controlling interest of that license are as follows:

(A) The amount to be deposited for the processing charge for a horse racetrack request is:

(i) for a Class 1 racetrack, $50,000;

(ii) for a Class 2 racetrack, $25,000;

(iii) for a Class 3 racetrack, $10,000; and

(iv) for a Class 4 racetrack, $2,500.

(B) The amount to be deposited for the investigation charge for a horse racetrack request is:

(i) for a Class 1 racetrack, $25,000;

(ii) for a Class 2 racetrack, $10,000;

(iii) for a Class 3 racetrack, $1,500; and

(iv) for a Class 4 racetrack, $1,000.

(C) The amount to be deposited for the processing charge for a greyhound racetrack request is $50,000.

(D) The amount to be deposited for the investigation charge for a greyhound racetrack request is $25,000.

(3) The fees for a request for Commission approval to approve a transfer of pecuniary interests of 5.0% or more in a racetrack license, but that does not effect a change in the controlling interest of that license, are as follows:

(A) The amount to be deposited for the processing charge for a horse racetrack request is:

(i) for a Class 1 racetrack, $500;

(ii) for a Class 2 racetrack, $250;

(iii) for a Class 3 racetrack, $100; and

(iv) for a Class 4 racetrack, $50.

(B) For each proposed transfer of pecuniary interests of 5.0% or more, the amount to be deposited for the investigation charge for a horse racetrack request is:

(i) for a Class 1 racetrack, $1,000;

(ii) for a Class 2 racetrack, $500;

(iii) for a Class 3 racetrack, $250; and

(iv) for a Class 4 racetrack, $125.

(C) The amount to be deposited for the processing charge for a greyhound racetrack request is $500.

(D) The amount to be deposited for the investigation charge for a greyhound racetrack license

request is $1,000.

(4) The fees for a request for Commission approval to approve a transfer of pecuniary interests of more than 1.0% and less than 5.0% in a racetrack license and that does not effect a change in the controlling interest of that license are as follows:

(A) The amount to be deposited for the processing charge for a horse racetrack request is:

(i) for a Class 1 racetrack, $100;

(ii) for a Class 2 racetrack, $100;

(iii) for a Class 3 racetrack, $50; and

(iv) for a Class 4 racetrack, $25.

(B) For each proposed transfer of pecuniary interests of more than 1.0% and less than 5.0%, the amount to be deposited for the investigation charge for a horse racetrack request is:

(i) for a Class 1 racetrack, $500;

(ii) for a Class 2 racetrack, $250;

(iii) for a Class 3 racetrack, $125; and

(iv) for a Class 4 racetrack, $50.

(C) The amount to be deposited for the processing charge for a greyhound racetrack request is $100.

(D) The amount to be deposited for the investigation charge for a greyhound racetrack request is $500.

(5) The fees for a request for Commission approval to approve a transfer of pecuniary interests of 1.0% or less in a racetrack license and that does not effect a change in the controlling interest of that license are as follows:

(A) The amount to be deposited for the processing charge for a horse racetrack request is $25.

(B) For each proposed transfer of pecuniary interests of 1.0% or less, the amount to be deposited for the investigation charge for a horse racetrack request is $50.

(C) The amount to be deposited for the processing charge for a greyhound racetrack request is $25.

(D) The amount to be deposited for the investigation charge for a greyhound racetrack request is $50. (Added eff. 7/14/09)

Sec. 309.12. Fees for Requests to Approve Change of Location.

(a) General Provisions. A license holder who requests Commission approval to change the location of a racetrack license must submit with the request a fee in an amount set by the Commission.

(b) Fees.

(1) The request fee is composed of a variable processing charge. The processing charge is the amount needed by the Commission to cover the administrative costs of processing the request. A license holder must pay all charges contemporaneously with filing the request. The Commission will take no action on a request under this section unless the requestor submits the total amount of the request fee with the request. The Commission shall hold the request fee in the state treasury in a suspense account. The Commission may transfer the processing funds due to the Commission to the Texas Racing Commission Fund as costs are incurred. If the actual cost to the Commission of processing the request exceeds the amount deposited for the applicable charge, the requestor shall pay the remaining amount not later than 10 business days after receipt of a bill from the Commission. If the costs of processing the request are less than the amount of the charge, the Commission shall refund the excess not later than 10 business days after the Commission's decision on the request becomes final.

(2) The fees for a request for Commission approval to change the location of a racetrack license are as follows:

(A) The amount to be deposited for the processing charge for a horse racetrack request is:

(i) for a Class 1 racetrack, $100,000;

(ii) for a Class 2 racetrack, $50,000;

(iii) for a Class 3 racetrack, $15,000; and

(iv) for a Class 4 racetrack, $7,500.

(B) The amount to be deposited for the processing charge for a greyhound racetrack request is $100,000. (Added eff. 7/14/09)

Subchapter B. Operation of Racetracks

General Provisions

Sec. 309.101. Duty of Association.

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

Sec. 309.102. Exemption or Deferred Compliance.

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

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

(1) economically or geographically infeasible; or

(2) unnecessary due to new technology or an innovative construction or design of the racetrack.

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

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

(1) state the association's reason for the request; and

(2) propose an alternative that substantially satisfies the purpose of the requirement.

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

(1) state the association's reason for the request;

(2) propose an alternative that substantially satisfies the purpose of the requirement until compliance is established; and

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

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

(1) the association's alternative proposal substantially satisfies the purpose of the requirement;

(2) the proposed schedule for compliance is reasonable; and

(3) the Commission determines the exemption or deferred compliance is in the best interests of the race horses or greyhounds, the racing industry, and the citizens of Texas. (Added eff. 10/21/99; (a),(d) amended eff. 1/8/04)

Sec. 309.103. Construction and Renovation of Racetrack Facilities.

(a) Definitions. In this section:

(1) "Racetrack construction project" means:

(A) the construction of a new racetrack facility by an association; or

(B) the renovation of an existing racetrack facility by an association that affects a specific requirement in the Rules.

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

(b) Review of construction plan.

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

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

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

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

(c) Monitoring construction.

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

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

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

(d) Changes to construction plan.

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

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

(3) If the change is not approved, the association may not continue on any aspect of the project that is affected by the change until the necessary corrections are made and the executive secretary has approved the corrections.

(e) Final approval.

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

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

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

Sec. 309.104. Compliance Inspections.

(a) Inspection Program.

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

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

(b) Violations.

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

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

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

(c) Reports to Commission.

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

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

Sec. 309.105. Reimbursement of Breeders' Cup Costs.

(a) Request for Reimbursement.

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

(2) The report must include:

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

(B) the total payments made by political subdivisions and development organizations to the association;

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

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

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

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

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

(c) Administration and Audit of Reimbursements.

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

(2) An association shall maintain all supporting documentation and records involving requests and payment from the Breeders' Cup Developmental Account for a period of four years from the date of payment or denial of payment. (Added eff. 7/11/04)

Facilities and Equipment

Sec. 309.111. Comfort and Safety.

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

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

Sec. 309.112. Maintenance.

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

Sec. 309.113. Accessibility by Disabled Persons.

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

(b) An association shall accommodate the wagering and entertainment needs of disabled persons. Accommodation includes all aspects of providing the association's services to disabled persons, including but not limited to the audio-visual displays of racing information, the number of betting windows designed for disabled persons, and accommodations in all areas of the racetrack. (Added eff. 10/21/99; (a) amended eff. 12/7/08)

Sec. 309.114. Restrooms.

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

Sec. 309.115. Refreshments.

An association shall provide an adequate supply of free drinking water for the patrons and licensees. (Added eff. 10/21/99; amended eff. 12/7/08)

Sec. 309.116. Complaints.

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

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

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

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

(2) any written complaint regarding:

(A) an alleged violation of ordinances or statutes;

(B) accidents or injuries; or

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

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

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

Sec. 309.117. First Aid.

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

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

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

Sec. 309.118. Regulatory Office Space and Equipment.

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

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

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

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

(1) a telephone line; and

(2) a television monitor to monitor the events on the racetrack.

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

(1) a double counter;

(2) a fingerprint work area;

(3) a television monitor;

(4) a telephone line;

(5) a dedicated telephone line to be used by a fax machine;

(6) a dedicated telephone line to be used by a credit card machine and that does not require a code to access an outside line;

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

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

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

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

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

(2) permit unrestricted entry to the totalisator facilities;

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

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

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

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

(7) include a telephone line;

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

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

(g) Commission Veterinarian's Office.

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

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

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

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

(5) The office must be equipped with:

(A) a sink with hot and cold water built

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 309.120. Parking for Licensees.

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

Sec. 309.122. External Communication.

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

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

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

Sec. 309.123. Internal Communication System.

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

(1) the stewards' or judges' stand;

(2) the racing office;

(3) the tote room;

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

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

Sec. 309.124. Public Address System.

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

Sec. 309.125. Photofinish Equipment.

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

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

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

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

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

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

Sec. 309.126. Videotape Equipment.

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

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

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

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

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

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

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

(h) A Class 1 racetrack must have:

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

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

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

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

Sec. 309.127. Maintenance of Negatives and Videotapes.

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

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

Sec. 309.128. Lighting.

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

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

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

Sec. 309.129. Automatic Banking Machines.

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

(b) Vendor.

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

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

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

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

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

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

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

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

(d) Collection and Payment of Fee.

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

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

(e) Records and Audit.

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

(2) The Commission may audit the records at

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

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

Sec. 309.130. Attendance.

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

Sec. 309.131. Breathalyzer Machine.

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

Sec. 309.132. Approval of Equipment.

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

Operations

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

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

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

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

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

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

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

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

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

(2) a set of fingerprints on a form

prescribed by the Department of Public Safety, a set of fingerprints for classification by the Federal Bureau of Investigation and completed background information form for the Department of Public Safety.

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

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

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

(B) if the transfer results in the investor holding 5.0% or more of the total beneficial ownership interests in the association, the exempt institutional investor provides to the Commission, not later than 10 days after the transfer, a copy of the investor's most recent annual report or, if the report is not available, a copy of the investor's most recent audited financial statements; and

(2) a transfer to any person of a direct or indirect beneficial ownership interest or a warrant or other option to buy a direct or indirect beneficial ownership interest in an association provided:

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

(B) following the transfer, the person owns, directly or indirectly, less than 5.0% of the total beneficial ownership interests in the association. (Added eff. 10/21/99; (b) amended eff. 1/8/04)

Sec. 309.152. Records.

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

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

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

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

Sec. 309.153. General Security.

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

(b) On request by the executive secretary,

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

Sec. 309.154. Stable or Kennel Area.

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

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

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

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

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

Sec. 309.155. Stable/Kennel Area Visitors Pass.

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

(b) An association may issue a visitor's pass only to a guest of:

(1) an association officer or official;

(2) a Commission employee;

(3) a trainer, assistant trainer, or kennel owner licensed by the Commission;

(4) the owner of a horse or greyhound stabled or kenneled on association grounds; or

(5) a veterinarian licensed by the Commission.

(c) A visitor's pass must contain:

(1) the visitor's name;

(2) the date the pass was issued; and

(3) the sequential pass number.

(d) A visitor's pass issued under this section is valid only for the date the pass is issued.

(e) A visitor's pass does not entitle the person to whom the pass is issued to participate in racing in any way other than as a patron.

(f) The licensee granting the visitor's pass is responsible for the proper conduct of the visitor and shall ensure compliance by the visitor with all Commission rules. (Added eff. 10/21/99)

Sec. 309.156. Incident Reports and Accident Records.

(a) Not later that 72 hours after an incident occurs requiring the attention of security personnel, the chief of security for an association shall deliver to the stewards or racing judges a written report describing the incident.

(b) The report must contain the name of each individual involved in the incident, the circumstances of the incident, and any recommended charges against each individual involved.

(c) An association shall also maintain records regarding all accidents that occur on association grounds during a race meeting and that result in an injury to a person or race animal. A copy of the record shall be provided upon request by the executive secretary. (Added eff. 10/21/99)

Sec. 309.157. Fire Prevention.

(a) An association shall develop and implement a program for fire prevention on association grounds.

(b) An association shall instruct employees working on association grounds of the procedures for fire prevention.

(c) Before each live race meeting, an association shall have the racetrack facility inspected for compliance with the state's adopted fire code. An inspection required by this subsection must be conducted at least 10 but no more than 45 days before the first day of the race meeting. The association shall provide a copy of the inspection report to the Commission no later than the third day after the association receives the report.

(d) An association shall prohibit:

(1) smoking in stalls, near greyhound crates, in feed rooms or hay storage areas, and in shed rows;

(2) open fires and oil or gas lamps outside of areas designated by the association;

(3) unattended electrical appliances that are plugged in to an outlet;

(4) electrical outlets or cords left within reach of a race animal;

(5) flammable materials, such as cleaning fluids or solvents, kept in the stable or kennel area; and

(6) locking a stall occupied by a horse. (Added eff. 10/21/99; (c),(d) amended eff. 1/8/04)

Sec. 309.158. Insect Control.

An association shall provide effective insect control, including control of external parasites, to all areas of the association grounds other than inside a kennel building at all times that a horse or greyhound is housed on association grounds. (Added eff. 10/21/99)

Sec. 309.159. Alcoholic Beverages.

(a) An association may not permit the sale, possession, or consumption of an alcoholic beverage in the stable or kennel area for the period beginning 10 days before the first day of a race meeting and ending 10 days after the last day of a race meeting, unless written consent has been granted by the Commission at least 30 days prior for a special event to be held within the stable or kennel enclosure.

(b) The Commission may consent to a temporary waiver of the alcohol prohibition upon confirmation that no local ordinances would be violated and that the Texas Alcoholic Beverage Commission has approved the activity. The association shall submit a request for a special event waiver detailing the dates, times, and nature of the special event. The Commission may grant conditional approval. (Added eff. 10/21/99)

Sec. 309.160. Vendors.

(a) An association may not permit the sale of food, animal feed, medication, or equipment in the stable or kennel area by a vendor or vendor employee who is not properly licensed by the Commission.

(b) An association shall supervise the operations on association grounds of a vendor of food, animal feed, medication, or equipment in the stable or kennel area.

(c) An association may not grant an exclusive concession to a vendor of animal feed, racing supplies, or racing services. An association may not control or monopolize the sale of goods to employees who work in the stable or kennel area.

(d) A vendor of an animal feed or medication shall file with the Commission veterinarian a list of products that the vendor proposes to sell on association grounds. The Commission veterinarian shall inform the vendor if the list includes any products which are known to be prohibited from being possessed on association grounds. (Added eff. 10/21/99; (d) amended eff. 1/8/04)

Sec. 309.162. Management, Totalisator Companies, and Concessionaires Contracts.

(a) An association's contract for management, concession, or totalisator services must be approved by the Commission. A contract that requires approval under this section must be in writing.

(b) To receive approval by the Commission for the proposed contract, an association shall submit the person's name, address, telephone number, and any proposed contract to the

Commission for its approval. For each person submitted under this subsection, the executive secretary shall designate the individuals who must provide complete background information pursuant to the Act, §6.031.

(c) Except as otherwise provided by this subsection, an association may not solicit or accept a loan of anything of value from a person who is providing management, concession, or totalisator services at a racetrack for which the association is licensed. This subsection does not apply to a loan from a person who owns an interest in the association of 5.0% or more. On request by the executive secretary, the association shall provide a copy of documentation regarding a loan.

(d) A person who provides general management, totalisator, or concession services at a racetrack shall maintain records of its operations, including all accounting records required under generally accepted accounting principles, and shall make the records available for inspection by a representative of the Commission on request by the executive secretary. Not later than June 15 of each year, the person shall submit financial statements for the preceding year to the Commission on a form prescribed by the executive secretary. (Added eff. 10/21/99)

Sec. 309.163. Fingerprinting.

(a) Upon request, an association shall provide an employee on its security staff to take fingerprints for applicants for occupational licenses.

(b) The association shall ensure that the designated employee is properly trained and is capable of taking fingerprints of a quality required by the Federal Bureau of Investigation. (Added eff. 10/21/99)

Sec. 309.164. Accounting Practices.

(a) An association shall maintain an accounting system under the supervision of a certified public accountant.

(b) An association shall ensure that all purse money and nomination race money is distributed in accordance with the Act, the rules of the Commission, the association's rules, and the conditions for the race for which the money is payable.

(c) The Commission may review and conduct audits of all systems maintained under this section. (Added eff. 10/21/99; amended eff. 9/28/05)

Sec. 309.165. Cooperation with Commission.

An association shall cooperate fully with the Commission and the Commission staff in the regulation of pari-mutuel racing and shall promptly provide any information requested by the Commission or the Commission staff. (Added eff. 10/21/99)

Sec. 309.166. Race Information.

(a) An association shall ensure that the race information disseminated by the association to the news media is accurate. The association shall make all reasonable efforts to correct any erroneous information transmitted by the association and any erroneous publication that is brought to the attention of the association.

(b) An association shall provide a display board to inform the patrons of the results of the previous race performance. (Added eff. 10/21/99)

Sec. 309.167. Organizational Chart.

(a) On request by the executive secretary, an association shall provide to the executive secretary an organizational chart which indicates the lines of authority, responsibility, and control for each operation of the association. The chart must include the name and title of key managers, including the head of each department, and a brief description of their responsibility and authority.

(b) The association shall provide to the executive secretary a revised organizational chart immediately on the termination or resignation of a person named on the chart provided under Subsection (a) or the reorganization of

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

Sec. 309.168. Hazardous Weather.

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

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

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

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

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

Subchapter C. Horse Racetracks

Racetracks

Sec. 309.201. Applicability.

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

Sec. 309.202. Track Length.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 309.203. Track Width.

A racetrack must be:

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

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

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

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

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

Sec. 309.204. Elevation and Surface of Track.

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

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

(c) The elevation and surface are subject to

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

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

Sec. 309.205. Drainage.

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

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

Sec. 309.206. Rails.

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

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

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

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

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

Sec. 309.207. Maintenance of Track.

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

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

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

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

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

Sec. 309.208. Gates.

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

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

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

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

Sec. 309.209. Turf Access Path.

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

Sec. 309.210. Lighting.

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

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

Sec. 309.211. Obstacles.

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

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

Sec. 309.212. Official's Stands.

(a) An association shall provide adequate stands for officials to have an uninterrupted view of the racetrack.

(b) If an association uses a patrol judge, the floor of the stand for the patrol judge must be at least six feet above the top of the track rail.

(c) An association shall provide a clocker's stand in a location approved by the executive secretary. (Added eff. 10/21/99)

Sec. 309.213. Starting Gates.

(a) An association shall provide a padded starting gate approved by the executive secretary.

(b) The starting gate for quarter horse racing must be capable of activating the timing device for the race.

(c) A class 1 or class 2 association shall maintain at least two operable starting gates during racing hours.

(d) An association shall make at least one starting gate and qualified starting gate personnel available for schooling as often as necessary to accommodate the number of horses requiring schooling from the gate.

(e) An association shall provide appropriate equipment to move the starting gate. The equipment must be kept at the racing strip while a race is being conducted. If a race is started at a place other than in a chute, the association shall provide backup equipment for moving the starting gate. The backup equipment must be kept at the same place as the primary moving equipment during the race. (Added eff. 10/21/99; (c) amended eff. 11/1/01)

Sec. 309.214. Distance Markers.

(a) An association shall provide starting point markers and distance poles in accordance with this section.

(b) The starting point markers and distance poles must be of a size and in a position to be clearly seen from the stewards' stand.

(c) The starting point markers and distance poles must be marked as follows: (Added eff. 10/21/99; amended eff. 6/1/01)

1/16 mile	Black and white stripes
1/8 mile	Green and white stripes
1/4 mile	Red and white stripes
220 yards	Green and white stripes
250 yards	Blue
300 yards	Yellow
330 yards	Black and white stripes
350 yards	Red
400 yards	Black
440 yards	Red and white stripes
550 yards	Black and white stripes
660 yards	Green and white stripes
770 yards	Black and white stripes
870 yards	Blue and white stripes

Sec. 309.215. Survey.

An association shall provide to the Commission before the first race a survey conducted by a licensed surveyor indicating the grade and distance measurements on the racetrack. (Added eff. 10/21/99)

Facilities for Horses

Sec. 309.241. Barns.

(a) An association shall provide barns in a sufficient number for the anticipated number of horses.

(b) The barns must be constructed of steel, concrete block, or masonry and must be appropriately spaced to ensure proper air circulation and to minimize fire hazards.

(c) The association shall ensure that the barns are kept clean and in good repair. Each barn, including the test barn, must be well-ventilated and constructed to be comfortable in all seasons.

(d) Each barn must be equipped with an adequate drainage system and one washrack with running water for every twelve stalls. (Added eff. 10/21/99)

Sec. 309.242. Receiving Barn.

(a) An association shall provide a conveniently

located receiving barn for use by horses arriving for a race that are not to be housed on association grounds.

(b) The barn must have a sufficient number of stalls for the anticipated number of horses. (Added eff. 10/21/99)

Sec. 309.243. Stalls.

(a) An association shall provide a sufficient number of stalls to house twice the anticipated number of starters per week of races. To comply with this subsection, an association may include in the total number of stalls the stalls located in the stable area, the receiving barn, and the stakes barn.

(b) The stalls must be constructed of a fire-retardant material.

(c) Except as otherwise provided by a rule of the Commission, a stall must have a floor area of at least 110 square feet and must be at least 10 feet wide.

(d) The association shall provide a covered walkway along the front of each row of stalls. The walkway must be at least 10 feet wide and must be kept neat and clean at all times.

(e) An association shall ensure that the area above each stall is kept open for proper ventilation. (Added eff. 10/21/99)

Sec. 309.244. Accommodations for Stakes Races.

An association that conducts a stakes race shall provide adequate barn space for housing horses entered in a stakes race. (Added eff. 10/21/99)

Sec. 309.245. Manure Removal.

(a) An association shall provide an adequate area for the placement of manure removed from the stalls.

(b) An association shall promptly remove the manure from the stable area.

(c) An association shall ensure that refuse from the stalls and other refuse are kept separate. (Added eff. 10/21/99)

Sec. 309.246. Hay and Feed Storage.

(a) An association shall provide an area for storing hay other than in a barn where a horse is housed. The area must be covered and well-ventilated.

(b) An association shall ensure that feed other than hay is stored in a permanent container or a room designed for that purpose. (Added eff. 10/21/99)

Sec. 309.247. Maintenance of Common Areas.

An association shall ensure that each area and all equipment that is subject to contact by different horses is kept clean and free of dangerous objects. (Added eff. 10/21/99)

Sec. 309.248. Pre-race Holding Area.

(a) An association shall provide a pre-race holding area that is adjacent to the Commission veterinarian's office.

(b) The area must be covered, well-ventilated, and safe for the horses and the individuals who handle the horses. The association shall ensure that all posts or obstacles are padded.

(c) The area must be equipped with:

(1) a walk ring;

(2) at least 12 stalls; and

(3) an office for the horse identifier.

(d) The area must have only one entrance that is locked or guarded during live racing. (Added eff. 10/21/99)

Sec. 309.249. Paddock.

(a) An association shall provide a paddock.

(b) The paddock must be completely enclosed with a fence. The paddock entrance(s) must be locked or guarded at all times during live racing.

(c) If the paddock has stalls, the stalls must be constructed to ensure the safety of the horses and the individuals who handle the horses.

(d) During a race performance, the association shall provide the services of a farrier in the paddock. (Added eff. 10/21/99)

Sec. 309.250. Test Barn.

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

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

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

(d) The barn must be equipped with:

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

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

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

(4) eight disinfected water buckets for drinking water.

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

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

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

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

Sec. 309.253. Postmortem.

(a) An association shall provide a postmortem area.

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

(c) The area must be equipped with:

(1) a cover;

(2) a concrete or asphalt slab with a rough finish;

(3) adequate drainage; and

(4) hot and cold water and a hose.

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

Sec. 309.254. Equine Ambulance.

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

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

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

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

(2) transport a horse off the association grounds.

(d) The ambulance must be equipped with:

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

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

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

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

(5) a padded interior;

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

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

(8) a storage area for supplies;

(9) a front leg Kimzey brace or an

equivalent approved by the Commission veterinarian; and

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

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

Sec. 309.255. Chase Vehicle.

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

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

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

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

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

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

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

Facilities for Licensees

Sec. 309.281. Jockeys.

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

(b) The facilities must be equipped with:

(1) showers, toilets, and sinks;

(2) locked storage areas;

(3) a snack bar;

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

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

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

Sec. 309.282. Living Quarters for Licensees.

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

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

(c) The living quarters must be equipped with:

(1) windows that open;

(2) heating;

(3) hot and cold water; and

(4) showers, toilets, and sinks.

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

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

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

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

Operations

Sec. 309.291. Racing Hours.

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

Sec. 309.292. Number of Races.

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

Sec. 309.293. Saddle Cloth.

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

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

Sec. 309.294. Starting Crew.

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

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

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

Sec. 309.295. Condition Book.

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

Sec. 309.296. Official Program.

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

(1) for each race:

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

(B) the conditions of the race;

(C) the distance of the race;

(D) the probable odds on each horse;

(E) the value of the race;

(F) the claiming prices, if applicable; and

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

(2) for each horse listed in the program:

(A) the post position;

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

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

(D) the weight carried; and

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

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

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

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

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

Sec. 309.297. Purse Accounts.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 309.298. Stakes and other Prepayment Races.

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

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

(1) the payment schedule;

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

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

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

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

(6) all other conditions pertaining to the race.

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

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

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

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

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

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

Sec. 309.299. Horsemen's Representative.

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

(b) Recognition Process.

(1) To request Commission recognition as a horsemen's representative organization, the organization must file a written request for recognition on a form prescribed by the executive secretary. The executive secretary shall establish a deadline for filing a request under this paragraph and publish that deadline in the Texas Register at least 20 days before the deadline.

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

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

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

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

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

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

(c) Authority and Responsibilities.

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

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

association's horsemen's purse accounts.

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

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

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

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

Subchapter D. Greyhound Racetracks

Facilities and Equipment

Sec. 309.301. Applicability.

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

Sec. 309.302. Track Specifications.

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

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

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

Sec. 309.303. Track Surface.

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

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

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

Sec. 309.304. Watering Equipment.

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

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

Sec. 309.305. Starting Boxes.

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

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

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

Sec. 309.306. Escapes.

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

Sec. 309.307. Lures.

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

Sec. 309.308. Video Monitoring System.

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

Sec. 309.309. Lockout Kennel.

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

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

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

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

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

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

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

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

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

(5) have a drop latch on the door.

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

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

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

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

(3) have eight water faucets with hoses;

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

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

Sec. 309.310. Walkway.

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

Sec. 309.311. Kennel Compound.

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

(1) not more than 18 separate kennel

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

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

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

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

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

Sec. 309.312. Turnout Pens.

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

(1) be free of any obstructions;

(2) measure at least 20 feet by 40 feet;

(3) have gates that connect to the other pens;

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

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

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

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

(8) have adequate water faucets;

(9) have an adequate drainage system; and

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

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

Sec. 309.313. Kennel Buildings.

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

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

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

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

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

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

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

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

(f) Each kennel building must be equipped with:

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

(2) adequate lighting inside the building;

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

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

(5) adequate climate control equipment that

is monitored by the kennel owner or trainer.

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

Sec. 309.314. Sprint Path.

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

(1) be at least 30 feet wide and 400 feet long;

(2) be divided down the middle by a chain link fence;

(3) have at least one gate on each end for entering or exiting with greyhounds;

(4) have a driveway along the side;

(5) have a base and surface comparable to the racetrack surface;

(6) have a highly visible material at both ends; and

(7) be maintained by the association at all times. (Added eff. 10/21/99; amended eff. 12/7/08)

Sec. 309.315. Test Area.

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

Sec. 309.316. Emergency Care Facility.

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

Sec. 309.317. Facilities and Equipment Maintenance Personnel.

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

Operations

Sec. 309.351. Kennel Contracts.

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

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

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

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

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

Sec. 309.352. Texas Preference.

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

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

Sec. 309.353. Dismissal of Kennel.

(a) An association may dismiss a kennel only:

(1) on revocation by the Commission of

the kennel owner's license;

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

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

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

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

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

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

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

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

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

Sec. 309.354. Stakes Entry.

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

Sec. 309.355. Grading System.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) The racing secretary may schedule up to eight mixed grade races each week. A mixed grade race must be designated by the letter "T" in the racing program.

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

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

(o) A greyhound that has advanced from Grade M and has been dropped from further racing without winning another official start may be requalified after a period of 30 days.

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

Sec. 309.356. Draw and Post Position Assignment.

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

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

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

(d) Immediately after drawing the entries for a performance, the association shall publish a list of the greyhounds not drawn. The association shall post the list in a place available for viewing by kennel owners and trainers. In drawing the entries for the next performance, the association shall give priority to the greyhounds on the list. The association shall maintain on the list a balance of greyhounds in different grades. (Added eff. 10/21/99)

Sec. 309.357. Schooling.

(a) An association shall use standard schooling procedures.

(b) An association shall provide:

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

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

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

Sec. 309.358. Racing Restricted.

An association may not permit a greyhound, other than a greyhound entered in a stake race, to race or be schooled on association grounds unless the greyhound is permanently housed on

association grounds. (Added eff. 10/21/99)

Sec. 309.359. Live Lures.

(a) An association may not permit the use of a live lure on association grounds.

(b) An association may not permit a greyhound to be kennelled or to race on association grounds if the association knows or can reasonably be expected to know that the greyhound was trained in a state that by statute or rule does not prohibit the knowing use of live lures. (Added eff. 10/21/99)

Sec. 309.360. Marathons.

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

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

Sec. 309.361. Greyhound Purse Account and Kennel Account.

(a) Greyhound Purse Account.

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

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

(b) Kennel Account.

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

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

(c) The Texas Greyhound Association ("TGA") shall negotiate with each association regarding the association's live racing program, including but not limited to the allocation of purse money to various live races, the exporting of simulcast signals, and the importing of simulcast signals during live race meetings.

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

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

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

(e) If an association ceases a live race meet before completion of the live race dates granted by the commission, the funds in and due the greyhound purse account shall be distributed as follows:

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

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

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

(f) Administration of Accounts.

(1) An association shall employ a

bookkeeper to maintain records of the greyhound purse account and the kennel account.

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

Sec. 309.362. Number of Greyhounds.

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

Sec. 309.363. Official Program.

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

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

(1) the name;

(2) color;

(3) sex;

(4) date of whelping;

(5) breeding;

(6) established racing weight;

(7) number of starts in official races;

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

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

(10) name of trainer; and

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

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

Sec. 309.364. Identification System.

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

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

(1) the name of the kennel; and

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

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

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CHAPTER 311. OTHER LICENSES

Subchapter A. Licensing Provisions

Occupational Licenses

Sec. 311.1. Occupational Licenses.

(a) License Required.

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

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

(b) Duration of License.

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

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

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

(c) License Conditions.

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

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

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

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

(2) seizure of contraband; and

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

Sec. 311.2. Application Procedure.

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

(b) Application Site.

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

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

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

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

(d) Issuance of License.

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

determine:

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

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

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

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

(e) License Badge.

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

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

(3) The badge must contain:

(A) the licensee's full name;

(B) the licensee's photograph;

(C) the category of license;

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

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

(F) the license number assigned by the Commission.

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

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

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

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

Sec. 311.3. Information for Background Investigation.

(a) Fingerprint Requirements and Procedure.

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

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

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

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

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

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

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

(5) Waiver.

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

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

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

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

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

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

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

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

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

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

(b) Criminal History Record.

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

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

(3) Except as otherwise provided by this subsection, the criminal history record information received under this section from any law enforcement agency that requires the information to be kept confidential as a condition of release of the information is for the exclusive use of the Commission and its agents and is privileged and confidential. The information may not be released or otherwise disclosed to any person or agency except in a criminal proceeding, in a hearing conducted by the Commission, on court order, or with the consent of the applicant. Information that is in a form available to the public is not privileged or confidential under this subsection and is subject to public disclosure. (Added eff. 10/21/99; (a) amended eff. 9/1/00; (a) amended eff. 7/1/03; (a) amended eff. 12/07/08)

Sec. 311.4. Occupational License Restrictions.

(a) Non-Transferable.

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

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

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

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

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

Sec. 311.5. License Fees.

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

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

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

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

Type of License	1 Year Fee	2 Year Fee	3 Year Fee
Adoption Program Personnel	$ 25		
Announcer	$ 35		
Apprentice Jockey	$ 75		
Assistant Farrier/Plater/Blacksmith	$ 25		
Assistant Starter	$ 25		
Assistant Trainer	$ 100		
Assistant Trainer/Owner	$ 100		
Association Assistant Management	$ 50		
Association Management Personnel	$ 75		
Association Officer/Director	$ 100		
Association Other	$ 75		
Association Staff	$ 35		
Association Veterinarian	$ 75		
Authorized Agent	$ 15		
Chaplain	$ 25		
Chaplain Assistant	$ 25		
Exercise Rider	$ 25		
Farrier/Plater/Blacksmith	$ 75		
Groom/Hot Walker	$ 25		
Jockey	$ 100	$ 200	$ 300
Jockey Agent	$ 100		
Kennel	$ 75		
Kennel Helper	$ 25		
Kennel Owner	$ 100	$ 200	$ 300
Kennel Owner/Owner	$ 100	$ 200	$ 300
Kennel Owner/Owner-Trainer	$ 100	$ 200	$ 300
Kennel Owner/Trainer	$ 100	$ 200	$ 300
Lead-Out	$ 25		
Maintenance	$ 35		
Medical Staff	$ 35		
Miscellaneous	$ 25		
Multiple Owner	$ 35	$ 70	$ 100
Mutuel Clerk	$ 35		
Mutuel Other	$ 35		
Owner	$ 100	$ 200	$ 300
Owner-Trainer	$ 100	$ 200	$ 300
Pony Person	$ 25		
Racing Industry Representative	$ 100		
Racing Industry Staff	$ 30		
Racing Official	$ 50		
Security Officer	$ 30		
Stable Foreman	$ 50		
Tattooer	$ 100		
Test Technician	$ 25		
Tooth Floater	$ 100		
Trainer	$ 100	$ 200	$ 300
Training Facility Employee	$ 30		
Training Facility General Manager	$ 50		
Valet	$ 25		
Vendor Concessionaire	$ 100		
Vendor/Concessionaire Employee	$ 30		
Vendor/Totalisator	$ 500		
Vendor/Totalisator Employee	$ 50		
Veterinarian	$ 100	$ 200	$ 300
Veterinarian Assistant	$ 30		

(Added eff. 10/21/99; (b) amended eff. 6/1/01(c) amended eff. 5/10/04; (b) amended eff. 9/8/04; amended eff. 8/1/09)

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

(a) Applicability.

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

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

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

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

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

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

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

(C) been convicted of a felony;

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

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

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

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

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

(B) provided false information in the license application;

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

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

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

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

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

Sec. 311.7. Renewal of Licenses.

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

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

(2) pay the appropriate license fee.

(b) Terms of License. A license renewed under this subchapter has the same terms and is subject to the same conditions as the original license. (Added eff. 10/21/99; (a) amended eff. 1/8/04)

Sec. 311.8. Correction of Incorrect Information.

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

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

(1) be in writing;

(2) specify the information that is incorrect; and

(3) provide reasonable proof of the corrected information.

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

Other Licenses

Sec. 311.52. Spouse's License.

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

Subchapter B. Specific Licensees

Sec. 311.101. Horse Owners.

(a) General Provisions.

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

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

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

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

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

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

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

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

(A) designate a representative; or

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

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

(b) Stable Names.

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

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

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

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

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

(c) Change of Ownership.

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

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

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

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

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

of the horse;

(3) the trainer to whom the horse is being transferred signs the form accepting responsibility for the horses; and

(4) the stewards approve the transfer.

(e) Owner/Trainer. A person licensed as an owner/trainer who is training horses at a racetrack may not have any horse owned by the owner/trainer under the care, custody or control of another trainer at that racetrack.

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

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

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

(g) Emergency License.

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

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

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

(4) An application for an owner's license submitted to the Commission's main office in Austin that is incomplete will be presumed to be a request for an emergency license and an emergency license may be granted.

(5) A license issued under this section expires on the 21st day after the date the emergency owner's license is issued. An owner may obtain only one emergency license per year.

(6) An owner granted an emergency license is prohibited from withdrawing any funds from his/her horseman's bookkeeper account until the owner complies with all licensing procedures provided by subsection (a) of this section. (Added eff. 10/21/99; (a) amended eff. 9/1/00; (b),(f) amended eff. 1/8/04; (a),(d) amended eff. 3/20/08)

Sec. 311.102. Greyhound Owners.

(a) General Provisions.

(1) Except as otherwise provided by this subsection, the owner of a greyhound, as listed on the animal's registration paper, must obtain an owner's license from the Commission. A person may not be licensed as an owner if the person is not the owner of record of a properly registered greyhound that the person intends to race in Texas. The owner must be licensed one hour prior to the post time of the first race of the day in which the owner intends to race the animal.

(2) If the owner is not an individual, each individual who is a director, officer, or partner of the owner or who has an ownership interest in the greyhound of 5.0% or more must be licensed by the Commission.

(3) If the owner is not an individual, the owner must provide to the Commission:

(A) a sworn statement by the chief executive officer of the owner or by one of the partners of the owner that the officer or partner represents the owner and is responsible for the greyhound;

(B) a statement that the owner is authorized by law to do business in Texas; and

(C) a list of the names and addresses of all individuals having an ownership interest in the greyhound.

(4) If the owner is not an individual, the ownership entity must:

(A) designate a representative; or

(B) file an authorized agent form with the Commission and pay the prescribed fee.

(5) If the registered owner of a greyhound is a minor, a financial responsibility form approved by the executive secretary must be signed by the parent or guardian of the owner assuming financial responsibility for the debts incurred for the training and racing of the greyhound.

(b) Change of Ownership.

(1) If the owner of an interest in a greyhound housed on an association's grounds transfers that interest to another person, both parties to the transaction shall give written notice of the transfer to the racing judges officiating for that association. Notice under this section must be submitted to the appropriate officials not later than 24 hours after the agreement to transfer the interest is made.

(2) A licensee of the Commission may not transfer an ownership interest in a greyhound to avoid disqualification of the greyhound.

(c) Emergency License.

(1) If an owner is unable to complete an application for an owner's license because of absence or illness, the licensed trainer desiring to enter a greyhound in a race may apply for an emergency owner's license on behalf of the absent owner.

(2) The trainer applying for an emergency owner's license on behalf of an absent owner must submit a written statement with the license application specifying the reasons the owner is unable to complete the application.

(3) The trainer applying for an emergency owner's license must submit at least the following information: the owner's full name, home or business address, telephone number, and social security number. At the time of application, the appropriate licensing fee must be paid to the Commission. Failure to provide all of the foregoing information is grounds for denial of an emergency owner's license.

(4) An application for an owner's license submitted to the Commission's main office in Austin that is incomplete will be presumed to be a request for an emergency license and an emergency license may be granted.

(5) A license issued under this section expires on the 21st day after the date the emergency owner's license is issued. An owner may obtain only one emergency license per year.

(d) Restrictions on Racing. An owner may not enter a greyhound or cause a greyhound to be entered in a race at a racetrack if:

(1) the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack; or

(2) the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds. (Added eff. 10/21/99; (a),(c) amended eff. 1/8/04; (a),(c) amended eff. 3/20/08)

Sec. 311.103. Kennel Owners.

(a) Designation of Representative. If a kennel owner is not the trainer of the greyhounds in the kennel, the kennel owner must:

(1) designate a trainer to be responsible for greyhounds; and

(2) shall notify the racing judges of the designation.

(b) Kennel Employees.

(1) A kennel owner shall identify to the Commission licensing office all individuals employed by the kennel to work on association grounds. No later than 24 hours after a change in personnel occurs, the kennel owner shall notify the Commission licensing office of the change.

(2) An individual who is licensed to work for a kennel owner is not permitted in the kennel area on association grounds unless the licensee is employed by and doing work for a kennel owner on the association grounds. An individual in the kennel area who is not in the employ of and doing work for a kennel owner may be ejected from the kennel area.

(c) Owner Suspended. A kennel owner may not retain a greyhound in the kennel owner's care and custody if the Commission has suspended or revoked the license of the owner of the greyhound.

(d) Use of Texas-Bred Greyhounds.

(1) Except as otherwise provided by this section, a kennel owner shall ensure that at least 20% of the greyhounds on the active list of the kennel are accredited Texas-bred greyhounds.

(2) During the first two years in which a kennel is under contract with an association, the kennel owner shall ensure that the following percentage of the greyhounds on the active list are accredited Texas-bred greyhounds:

(A) for the first year, 5.0%; and

(B) for the second year, 10%.

(3) The racing secretary of an association shall maintain the records necessary to enforce this section. If the racing secretary determines that a kennel owner is in violation of this section, the racing secretary shall notify the racing judges. The racing judges may take disciplinary action against the kennel owner, including requiring the kennel owner to take the necessary action to achieve the appropriate percentages.

(e) Restrictions on Placement in Kennels. A person who owns an interest in a kennel booked at one Texas racetrack may not:

(1) own an interest in another kennel booked at that racetrack; or

(2) be residentially domiciled with a person who owns an interest in another kennel booked at that racetrack; or

(3) own an interest in a greyhound that is racing out of another kennel booked at that racetrack.

(f) Breeding Farm Inspection Reports. Upon request of the executive secretary, a kennel owner shall provide a copy of the report of the most recent inspection conducted by the National Greyhound Association for the breeding farm from which each greyhound was whelped. (Added eff. 10/21/99; (d) amended eff 4/1/01; (e) amended eff. 1/1/02; (f) added 3/13/02)

Sec. 311.104. Trainers.

(a) Licensing.

(1) Except as otherwise provided by this subsection, a trainer must obtain a trainer's license before the trainer may enter a horse or greyhound in a race. A trainer may enter a horse or greyhound in a stakes race without first obtaining a license, but must obtain a license before the horse or greyhound may start in the stakes race. Except as otherwise provided by this section, to be licensed by the Commission as a trainer, a person must:

(A) be at least 18 years old;

(B) satisfactorily complete a written examination prescribed by the Commission; and

(C) satisfactorily complete a practical examination prescribed by the Commission and administered by the stewards or racing judges or designee of the stewards or racing judges.

(2) The standard for passing the written examination must be printed on the examination. A $50 non-refundable testing fee is assessed for administering the written and practical examinations. The fee is due and payable at the time the first examination appointment is scheduled. A minimum of 48 hours advance notice is required to reschedule an examination appointment without loss of the testing fee. An applicant who fails to timely reschedule an examination appointment must pay a new testing fee to reschedule the appointment. An applicant who fails the written examination may not take the examination again before the 60th day after the date the applicant failed the examination. An applicant who fails the practical examination may not reschedule the practical examination again before the 180th day after the applicant failed the practical examination. An applicant who fails the practical examination for a second time may not reschedule another practical examination for 365 calendar days after the day the applicant failed the second practical examination and the applicant must pay an additional $50 non-refundable testing fee. The Commission may waive the requirement of a written and/or practical examination for a person who has a current license issued by another pari-mutuel racing jurisdiction. If a person for whom the examination requirement was

waived demonstrates an inability to adequately perform the duties of a trainer, through excessive injuries, rulings, or other behavior, the stewards or racing judges may require the person to take the written examination. If such a person fails the examination, the stewards or racing judges shall suspend the person's license for 60 days with reinstatement contingent upon passing the written examination.

(3) A trainer must use the trainer's legal name to be licensed as a trainer. A trainer who is also an owner may use a stable name or kennel name in the capacity of owner.

(4) To be licensed as an assistant trainer, a person must qualify in all respects for a trainer's license and be in the employ of a licensed trainer. An assistant trainer's license carries all the privileges and responsibilities of a trainer's license.

(b) Absolute Insurer.

(1) A trainer shall ensure the health and safety of each horse or greyhound that is in the care and custody of the trainer.

(2) A trainer shall ensure that a horse or greyhound that runs a race while in the care and custody of the trainer or kennel owner is free from all prohibited drugs, chemicals, or other substances.

(3) A trainer who allows a horse or greyhound to be brought to the paddock or lockout kennel warrants that the horse or greyhound:

(A) is qualified for the race;

(B) is ready to run;

(C) is in a physical condition to exert its best efforts; and

(D) is entered with the intent to win.

(c) Health Reports.

(1) A trainer shall immediately notify the Commission veterinarian or designee of unusual symptoms in a horse or greyhound that is in the trainer's care and custody.

(2) Not later than one hour after finding a dead horse or greyhound on association grounds, a trainer shall notify the stewards or racing judges and the Commission veterinarian, or their designee, of the death. In the absence of regulatory personnel, the trainer shall notify security personnel on the association grounds.

(d) Owner Suspended. A trainer may not retain a horse or greyhound in the trainer's care and custody if the Commission has suspended or revoked the license of the owner of the horse or greyhound.

(e) An individual who is licensed to work for a trainer is not permitted in the stable or kennel area on association grounds unless the licensee is employed by and doing work for a trainer on the association grounds. An individual in the stable or kennel area on association grounds who is not in the employ of and doing work for a trainer may be ejected from the stable or kennel area on the association grounds.

(f) Restrictions on Racing. A trainer may not enter a race animal or cause a race animal to be entered in a race at a racetrack if:

(1) the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack; or

(2) the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds.

(g) Trainer Employees.

(1) A trainer may not employ an individual who is less than 16 years of age to work for the trainer on an association's grounds.

(2) A trainer may not employ a jockey to prevent the jockey from riding in a race.

(h) Trainer Absent. If a trainer must be absent because of illness or any other cause, the trainer shall appoint another licensed trainer to fulfill his or her duties, and promptly report the appointment to the stewards or racing judges for approval. The absent trainer and substitute trainer have joint responsibility for the condition of the race animals normally trained by the absent trainer.

(i) Suspended, Revoked or Ineligible Horse Trainers.

(1) A person may not assume the responsibilities of a horse trainer who is ineligible to be issued a license or whose license is suspended or revoked if the person is related to the trainer within the first degree of consanguinity or affinity.

(2) A person who assumes the care, custody, or control of the horses of a suspended, revoked or ineligible horse trainer may not:

(A) receive any compensation regarding those horses from the suspended, revoked or ineligible trainer;

(B) pay any compensation regarding those horses to the suspended, revoked or ineligible trainer;

(C) solicit or accept a loan of anything of value from the suspended, revoked or ineligible trainer; or

(D) use the farm or individual name of the suspended, revoked or ineligible trainer when billing customers.

(3) A person who assumes the care, custody, or control of the horses of a suspended, revoked or ineligible trainer is directly responsible for all financial matters relating to the care, custody, or control of the horses.

(4) On request by the Commission, a suspended, revoked or ineligible trainer or a person who assumes the care, custody, or control of the horses of a suspended, revoked or ineligible trainer shall permit the Commission to examine all financial or business records to ensure compliance with this section.

(j) Reporting to Clocker. When taking a horse onto a racetrack to work, a horse trainer or an assistant of the trainer shall report the horse's name and the distance to be worked to the morning clocker or an assistant clocker or shall instruct the jockey or exercise rider to transmit the information to the clocker or assistant clocker.

(k) Other Responsibilities - A trainer is responsible for:

(1) the condition and contents of stalls/kennels, tack rooms, feed rooms, and other areas which have been assigned by the association;

(2) maintaining the assigned stable/kennel area in a clean, neat and sanitary condition at all times;

(3) ensuring that fire prevention rules are strictly observed in the assigned stable/kennel area;

(4) training all animals owned wholly or in part by the trainer that are participating at the race meeting;

(5) ensuring that, at the time of arrival at a licensed racetrack, each animal in the trainer's care is accompanied by a valid health certificate/certificate of veterinary inspection;

(6) using the services of those veterinarians licensed by the Commission to attend animals that are on association grounds;

(7) promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any animal in the trainer's charge;

(8) immediately reporting to the stewards/judges and the official veterinarian if the trainer knows, or has cause to believe, that a animal in the trainer's custody, care or control has received any prohibited drugs or medication;

(9) maintaining a knowledge of the medication record and status of all animals in the trainer's care;

(10) ensuring the fitness of a animal to perform creditably at the distance entered; and

(11) ensuring that the trainer's horse is properly shod, bandaged and equipped. (Added eff. 10/21/99; (a) amended 1/1/03; (c),(f) amended eff. 1/8/04; (a) amended 3/20/08; (k) added eff. 3/20/08; amended eff. 7/14/09)

Sec. 311.105. Jockeys.

(a) License

(1) To be licensed as a jockey or apprentice jockey, an individual must be at least 16 years of age and provide proof of a satisfactory physical examination as described in subsection (b) of this section.

(2) An individual licensed as a jockey or apprentice jockey may not be licensed in another capacity.

(3) To be licensed as a jockey or apprentice jockey, an individual must have a certificate of proficiency issued by a starter licensed in this state or be currently licensed in another state as a jockey or apprentice jockey.

(b) Physical Examination.

(1) To be eligible to ride in a race, a jockey or apprentice jockey must have on file with the Commission proof of a satisfactory physical examination conducted during the 12-month period preceding the date of the race.

(2) An examination required by this section

must be performed by a licensed physician and include tests for visual acuity and hearing.

(3) The Commission or the stewards may require a jockey or apprentice jockey to be reexamined at any time and may refuse to permit a jockey or apprentice jockey to ride until proof of a satisfactory examination is submitted.

(c) Apprentice Jockeys.

(1) An apprentice jockey is a rider of thoroughbreds who:

(A) is permitted to ride with the apprentice weight allowance in accordance with Chapter 313 of this title (relating to Officials and Rules of Horse Racing); and

(B) is otherwise qualified to be licensed as a jockey.

(2) The Rules relating to a jockey apply to apprentice jockeys.

(d) Jockey Conduct.

(1) A jockey may not ride under an assumed name.

(2) A jockey may not use an attendant on a race day other than one supplied by the association.

(3) A jockey may not smoke in public while wearing racing colors. (Added eff. 10/21/99)

Sec. 311.106. Veterinarians.

To be eligible to be licensed by the Commission and hold a license as a veterinarian, an individual must be currently licensed and in good standing with the Texas State Board of Veterinary Medical Examiners. (Added eff. 10/21/99; amended eff. 11/8/04; (a), (b), (c) amended eff. 3/20/08)

Sec. 311.107. Lessee/Lessor.

(a) A race animal may be raced under lease provided a completed lease form is attached to the registration certificate and is on file with the racing secretary.

(b) The lessee and lessor of a horse or greyhound for racing purposes must obtain an owner's license in accordance with §311.101(a) of this title (relating to Horse Owners) and §311.102(a) of this title (relating to Greyhound Owners). (Added eff. 10/21/99; (a) amended eff. 1/8/04)

Sec. 311.108. Authorized Agent.

(a) To be appointed an authorized agent, an individual must be at least 18 years old and licensed as an individual owner, stable foreman, assistant trainer, or a trainer. A written agency appointment authorizing him or her to act on behalf of a licensed owner or licensed trainer in racing matters not directly related to the care and training of horses must accompany the appointment. The authorization shall be on a form provided by the Commission and shall define the agent's powers and limits. The authorization must be signed by the principals and the agent.

(b) A separate agency appointment is required for each principal an authorized agent intends to represent.

(c) An agency appointment expires on the last day of the twelfth month after the date of appointment or when the principal submits written notice of revocation to the stewards or racing judges, whichever occurs first. (Added eff. 10/21/99; (a),(b) amended eff. 1/8/04; (a) amended eff. 3/20/08)

Sec. 311.109. Mutuel Employees.

To be licensed as a mutuel clerk or other employee of the mutuel department of an association, an individual must be at least 16 years old. (Added eff. 10/21/99)

Sec. 311.110. Leadout.

(a) To be licensed as a leadout, an individual must demonstrate to the satisfaction of the Commission veterinarian that the individual is knowledgeable in the handling and/or care of greyhounds.

(b) A leadout shall be dressed in a clean uniform for each performance, present a neat appearance, and behave in an orderly manner.

(c) A leadout may not smoke while in uniform.

(d) A leadout may not own an interest in a greyhound registered at the association for which the leadout is employed.

(e) Except in the leadout's lounge, a leadout may not consume or carry food or beverages while the leadout is on duty. (Added eff. 10/21/99)

Sec. 311.111. Jockey Agent.

(a) Eligibility.

(1) An applicant for a license as a jockey agent shall:

(A) demonstrate to the stewards that the applicant has a contract for agency with at least one jockey who has been licensed by the Commission; and

(B) be qualified, as determined by the stewards or other Commission designee, by reason of experience, background and knowledge. A jockey agent's license from another jurisdiction may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one or both of the following:

(i) a written examination; or

(ii) an interview or oral examination.

(2) Applicants not previously licensed as a jockey agent shall be required to pass a written and oral examination.

(b) Limit on Contracts.

(1) During a thoroughbred or mixed race meet a jockey agent may serve as agent for no more that two jockeys and one apprentice jockey.

(2) During a quarter horse meet a jockey agent may serve as agent for no more that three jockeys.

(c) Responsibilities.

(1) A jockey agent shall not make or assist in making engagements for a jockey other than those the agent is licensed to represent.

(2) A jockey agent shall file written proof of all engagements and changes of engagements with the stewards.

(3) A jockey agent shall maintain current and accurate records of all engagements made, such records being subject to examination by the stewards at any time.

(4) A jockey agent may make entries for an owner or trainer with prior permission from the owner or trainer.

(5) When making an entry, a jockey agent shall sign the entry card and shall be responsible for the accuracy of the information provided on the entry card.

(d) Prohibited Areas. A jockey agent is prohibited from entering the jockey room, winner's circle, racing strip, paddock or saddling enclosure during the hours of racing, unless permitted by the stewards.

(e) Agent Withdrawal (Termination). When any jockey agent withdraws from representation of a jockey, the jockey agent shall immediately notify the stewards and shall submit to the stewards a list of any unfulfilled engagements made for the jockey. (Added eff. 3/20/08)

Subchapter C. Reponsbilities of Individuals

Sec. 311.201. Applicability.

This chapter applies to:

(1) all persons licensed by the Commission, either in an occupational capacity or by virtue of the person's ownership in a racetrack licensee; and

(2) all persons, whether or not licensed by the Commission, whose actions may affect the outcome of a pari-mutuel race, the payout of a pari-mutuel pool, or the health, safety, or welfare of individuals on association grounds. (Added eff. 10/21/99)

Sec. 311.202. Best Effort.

(a) A licensee shall make the licensee's best effort to win in each race in which the licensee participates.

(b) A person may not:

(1) instruct a licensee to use less than the licensee's best efforts to win a pari-mutuel race; or

(2) handle a race animal in a manner that would cause the race animal to use less than its best efforts to win a pari-mutuel race. (Added eff. 10/21/99)

Sec. 311.203. Ineligible Participant.

A licensee may not enter or start a race animal

in a race or allow a race animal to be entered or to start in a race if the licensee knows the race animal is ineligible to race under the Act or the Rules. (Added eff. 10/21/99)

Sec. 311.204. Bribes Prohibited.

(a) A person may not:

(1) directly or indirectly offer or give a bribe to another person to violate the Act or a Rule; or

(2) solicit or accept a bribe from another person to violate the Act or a Rule.

(b) A licensee may not offer, give, solicit, or accept a bribe to:

(1) not enter a race animal in a race;

(2) provide false information in order to have a race animal scratched from a race; or

(3) withdraw a race animal from a race.

(c) A person may not offer, give, solicit, or accept a bribe to purchase or cash a mutuel ticket for another person.

(d) A licensee shall notify the Commission immediately if the licensee knows that a person has violated this section. (Added eff. 10/21/99)

Sec. 311.205. Wagering.

(a) A person other than an association may not solicit or accept wagers from the public on the outcome of a pari-mutuel horse or greyhound race.

(b) A jockey scheduled to ride in a race may not wager on a race scheduled for the same day.

(c) The following licensees are prohibited from wagering in the state of Texas during the term of their license:

(1) all officials; and

(2) assistant starters.

(d) The following licensees are prohibited from wagering in the state of Texas at the association at which he or she is employed:

(1) valets or leadouts;

(2) photofinish operators or employees;

(3) security personnel; and

(4) any licensee whose duties require the licensee to work in the jockey's quarters, test barn, or test area. (Added eff. 10/21/99)

Sec. 311.206. Influence of Race Prohibited.

(a) A person may not improperly influence or conspire or attempt to improperly influence the results of a race.

(b) A person may not possess on association grounds or use a device designed to increase or decrease the speed of a horse other than an ordinary riding whip. (Added eff. 10/21/99)

Sec. 311.207. Inhumane Treatment.

A person on association grounds or a licensee may not subject a race animal to cruel or inhumane treatment or, through act or neglect, subject a race animal to unnecessary suffering. (Added eff. 10/21/99; amended eff. 1/8/04)

Sec. 311.208. Performance Information.

A person may not give false or misleading information about the performance of a race animal for publication in a printed program or racing publication or for purposes of establishing eligibility or fitness to race. (Added eff. 10/21/99)

Sec. 311.209. Information to Commission.

(a) A person may not knowingly make a false statement, whether oral or written, to the Commission, the executive secretary, the stewards or racing judges, Commission investigator, an administrative law judge or an examiner appointed by the Commission in any formal or informal interview or proceeding involving the Commission.

(b) A licensee shall promptly notify the Commission regarding any changes to the licensee's mailing address and telephone number.

(c) A licensee shall promptly notify the Commission if the licensee knows that a person has violated a criminal provision of the Act. (Added eff. 10/21/99)

Sec. 311.210. Conduct.

(a) A person shall behave in an orderly manner while on association grounds.

(b) A person may not use offensive, obscene,

or threatening language or gestures while on association grounds.

(c) A person shall use reasonable diligence and precaution to prevent fires in the stable or kennel area. A person may not smoke in a stall, near a greyhound crate, in a feed room or hay storage area, or in a shed row. A person may not leave an unattended electrical appliance plugged into an outlet in the stable or kennel area. A person may not leave an electrical outlet or electrical cord within the reach of a race animal. A person may not lock a stall that is occupied by a horse. A person may not possess, keep, or maintain, in the stable or kennel area:

(1) an open fire or an oil or gas lamp outside of areas designated by the association; or

(2) a flammable material, such as cleaning fluid or solvent.

(d) A person may not enter, attempt to enter, or assist or attempt to assist another person in entering the stable or kennel area except through the designated entrances and on showing a valid license badge or visitor's pass.

(e) A person may not interfere with, attempt to interfere with, or conspire with another to interfere with any decision- making process of the stewards or racing judges including, but not limited to, formal and informal disciplinary hearings. (Added eff. 10/21/99; (c) amended eff. 1/8/04)

Sec. 311.211. Weapons Prohibited.

(a) Except as otherwise provided by this section, a person may not possess a weapon prohibited by Penal Code, §46.03(a) if the person is in an area on association grounds to which admission ordinarily can be obtained only on payment of an admission fee or presentation of official credentials.

(b) This section does not apply to a person who is:

(1) a peace officer; or

(2) a commissioned security officer licensed by the Texas Commission on Private Security Agencies and approved by the executive secretary. (Added eff. 10/21/99; (b) amended eff. 1/8/04; (a) amended eff. 9/28/05)

Sec. 311.212. Duty to Wear Badge.

(a) Except as otherwise provided by this section, a licensee shall display his or her license badge in a conspicuous place on his or her body at all times that the licensee is engaged in performing duties or is in a restricted area.

(b) This section does not apply to a licensee who is:

(1) performing duties as an assistant starter; or

(2) mounted on a horse. (Added eff. 10/21/99; (a), (b) amended eff. 3/20/08)

Sec. 311.213. Accident Reports.

(a) A licensee who observes or is involved in an accident that occurs on association grounds during a race meeting and that results in an injury to a person or race animal shall report the accident to the association.

(b) A report under this section must be made not later than 24 hours after the time the accident occurred. (Added eff. 10/21/99)

Sec. 311.214. Financial Responsibility.

(a) This section applies to the financial responsibility of licensees of the Commission for debts legally owed for the transfer, purchase or lease of a race animal or for services or supplies relating to the care, transportation, or maintenance provided to a race animal while racing or in training at a licensed facility in this state. Services and supplies to which this section applies include, but are not limited to:

(1) veterinary services, medication, and veterinary supplies;

(2) transportation services;

(3) farrier services and supplies;

(4) feed and nutritional supplements; and

(5) racing supplies.

(b) The Commission finds that the failure of a licensee of the Commission to pay a debt that is legally owed for the transfer, purchase or lease of a race animal or a service or supply described in subsection (a) is:

(1) an activity or practice that is detrimental

to the best interests of the public and the sport of pari-mutuel racing; and

(2) grounds for denial, suspension, or revocation of the licensee's license.

(c) For a debt that is legally owed for the transfer, purchase or lease of a race animal or a service or supply described in subsection (a), a licensee may not:

(1) willfully or intentionally refuse to pay the debt; or

(2) falsely deny the validity of the debt with the intent to defraud the person to whom the debt is owed.

(d) A person to whom a debt for the transfer, purchase or lease of a race animal or a service or supply described in subsection (a) is owed may file with the executive secretary a certified copy of a judgment of a court of competent jurisdiction that verifies the validity of the debt. On receipt of a judgment under this subsection, the executive secretary may initiate formal disciplinary action against the licensee involved. The executive secretary has sole discretion to determine whether formal disciplinary action is initiated against the licensee.

(e) At a hearing to deny, suspend, or revoke a licensee's license for a violation of this section, the person to whom the debt is owed is not entitled to reimbursement of travel expenses or any witness fees for attendance at the hearing. (Added eff. 0/21/99; (a) amended eff. 3/20/08)

Sec. 311.215. Contraband.

(a) The following items are contraband on a racetrack or association grounds:

(1) a criminal instrument related to racing under the Act;

(2) an electrical shocking device, spur, or similar device or paraphernalia designed to increase or decrease the speed of a race animal or to unnaturally depress, stimulate, or excite a race animal;

(3) a device prohibited under §319.10 of this title (relating to Devices and Substances Prohibited), including a hypodermic syringe or hypodermic needle;

(4) a deadly weapon prohibited under §311.211 of this title (relating to Weapons Prohibited);

(5) a drug, chemical, or other substance prohibited under:

(A) §319.3 of this title (relating to Medication Restricted);

(B) §319.7 of this title (relating to Labeling Requirements);

(C) §319.10 of this title (relating to Devices and Substances Prohibited); or

(D) §319.14 of this title (relating to Possession of Controlled Substances); and,

(6) an alcoholic beverage prohibited under §311.321 of this title (relating to Prohibited Conduct).

(b) No person may possess an item of contraband at any time while on a racetrack or association grounds. It is an affirmative defense to a rule violation under this subsection that:

(1) Commission rules expressly state the item was not contraband; or

(2) the possession was expressly authorized on a racetrack or association grounds by the Act or the Rules. (Added eff. 10/21/99; (a) amended eff. 1/7/01)

Sec. 311.216. Conduct in Stable Area.

(a) An individual may not sleep in the stable area of an association's grounds except:

(1) in a facility provided for that purpose by the association in accordance with the Rules;

(2) in a barn that was constructed after 1990 of fire retardant materials; or

(3) in a tack room that was constructed after 1990 of fire retardant materials, provided the tack room has a window that opens.

(b) A licensee may not possess, keep, or maintain a dog in the stable area of an association's grounds unless:

(1) the dog is confined and prevented from going at large on association grounds; and

(2) the dog is currently vaccinated against

rabies.

(c) A licensee who is mounted on a horse or stable pony on association grounds must wear an A.S.T.M. approved safety helmet at all times.

(d) A licensee may not hold a horse in a starting gate unless the licensee wears a properly fastened safety helmet approved by A.S.T.M.

(e) Except as otherwise provided by this subsection, a licensee may not operate a motor vehicle in the stable area during training hours. This subsection does not apply to:

(1) a person who has power of entry under the Act, §3.03;

(2) the stewards;

(3) security personnel employed by the association;

(4) the Commission veterinarian;

(5) the racing secretary;

(6) a veterinarian licensed by the Commission;

(7) an owner or a trainer;

(8) a jockey's agent at a Class 1 racetrack;

(9) a farrier; or

(10) a jockey.

(Added eff. 10/21/99; (b) amended eff. 1/8/04; (c) amended eff. 3/20/08)

Subchapter D. Alcohol and Drug Testing

Drugs

Sec. 311.301. Use and Possession Prohibited.

(a) Except as otherwise provided by this section, an occupational licensee may not, while performing duties required of the licensee, have present in his or her system a dangerous drug as defined by the Health and Safety Code, Chapter 483, or a controlled substance as defined by the Texas Controlled Substances Act, Health and Safety Code, Chapter 481. The Commission, stewards, or racing judges may decline to take disciplinary action against a licensee who violates this subsection if the Commission, stewards, or racing judges determine that:

(1) the licensee holds a current prescription for the drug or substance, which was issued by a physician licensed to practice in the United States and authorized to dispense or prescribe controlled substances as provided by 21 USC 801 et seq. and the physician is acting in the course of the physician's professional practice;

(2) the drug or substance was prescribed to the licensee for a legitimate medical use; and

(3) the use of the drug or substance will not impair the licensee's judgment, reaction time, or physical abilities as they relate to the licensee's performance of his or her duties.

(b) An occupational licensee may not possess, while on association grounds, a dangerous drug as defined by the Health and Safety Code, Chapter 483, or a controlled substance as defined by the Texas Controlled Substances Act, Health and Safety Code, Chapter 481. This subsection does not apply to:

(1) a licensee who holds a current prescription for the drug or substance, which was issued by a physician licensed to practice in the United States and authorized to dispense or prescribe controlled substances as provided by 21 USC 801 et seq. and the physician is acting in the course of the physician's professional practice; or

(2) a veterinarian licensed by the Commission who has obtained permission to possess a controlled substance or dangerous drug under §319.14 of this title (relating to Possession of Controlled Substances). (Added eff. 10/21/99; amended eff. 1/8/04; (a), (b) amended eff. 3/20/08)

Sec. 311.302. Subject to Testing.

(a) The stewards or racing judges may require an occupational licensee acting pursuant to the license to submit to a urine test or other non-invasive fluid test at any time while on association grounds.

(b) A licensee who refuses to submit to such a test when requested to do so by the stewards or racing judges shall be suspended for at least 30 days. A licensee who refuses to submit to a test for the second time shall be suspended by the stewards or racing judges for at least six months. In addition, for a first or second refusal,

the licensee shall be referred to the medical review officer in accordance with the penalties and conditions for the associated violation under §311.308 of this title (relating to Penalties). A licensee who refuses to submit to a test for a third or subsequent time shall be suspended by the stewards or racing judges for one year and referred to the Commission. (Added eff. 10/21/99; (b) amended eff. 11/6/02)

Sec. 311.303. Method of Selection.

(a) An occupational licensee may be selected for testing under this subchapter by a method of random selection prescribed by the executive secretary. The method may be changed from time to time, and it is not an indication of unfairness if a licensee is selected more frequently than any other, providing there is no manipulation of the selection process.

(b) An occupational licensee may be selected for testing at any time while on association grounds on the basis of reasonable belief. (Added eff. 10/21/99)

Sec. 311.304. Taking of Specimens.

(a) An occupational licensee selected for urine testing shall, on request, provide the urine specimen without undue delay, in the presence of or under the supervision of a representative of the Commission.

(b) The specimen shall be immediately sealed and tagged on a form provided by the executive secretary, and the licensee shall sign the form. The portion of the form that accompanies the specimen to the laboratory for analysis may not identify the licensee by name.

(c) A licensee shall cooperate fully with the Commission and its designees in obtaining a specimen and in witnessing the securing of the specimen.

(d) The executive secretary shall develop procedures for the splitting of specimens obtained under this section and the storage and testing of the split specimens. The procedures shall address situations when there is an insufficient quantity of specimen for splitting and when the licensee desires to waive a split specimen. The executive secretary shall ensure the procedures are posted prominently at each racetrack licensing office. (Added eff. 10/21/99)

Sec. 311.305. Security of Specimens.

(a) The executive secretary shall ensure that specimens obtained for testing under this subchapter are stored and delivered to the testing laboratory in a manner that ensures the integrity of the specimens.

(b) A person may not tamper with or attempt to tamper with a specimen taken for testing under this subchapter. (Added eff. 10/21/99)

Sec. 311.306. Medical Review Officer.

(a) The executive secretary shall select a medical review officer to assist the Commission in the evaluation of licensees tested under this subchapter. A medical review officer must be professionally trained to evaluate substance and alcohol abuse. In the performance of his or her duties under this subchapter, the medical review officer may designate other persons in the same general locations as the various licensed racetracks to evaluate licensees. To be designated by the medical review officer, a person must be professionally trained to evaluate substance and alcohol abuse.

(b) The laboratory at which a specimen obtained under this subchapter is analyzed shall report all test results in writing to the medical review officer.

(c) The medical review officer shall review each test result received and determine whether the result constitutes a prima facie violation of the Commission's rules. The medical review officer shall then notify the Commission in writing of each prima facie violation. Not later than five days after receipt of written notice from the medical review officer of a prima facie violation, the tested licensee shall be notified in writing of the alleged violation. (Added eff. 10/21/99)

Sec. 311.307. Confidentiality of Results.

The results of a test under this subchapter are confidential, except for their use with respect to a

ruling issued pursuant to this subchapter or in an administrative or judicial hearing regarding the ruling. (Added eff. 10/21/99)

Sec. 311.308. Penalties.

(a) The stewards or racing judges shall impose penalties in accordance with this section for a violation of §311.301 of this title (relating to Use Prohibited). A penalty imposed under this section is appealable pursuant to §307.67 of the Rules (relating to Appeal to the Commission.)

(b) If the stewards or racing judges require a licensee to submit to testing under §311.302 of this title (relating to Subject to Testing) as prescribed under §311.303 of this chapter (relating to Method of Selection), the stewards or racing judges shall prohibit the licensee from participating in racing for the remainder of that day.

(c) For a first violation, the stewards or racing judges shall:

(1) suspend the licensee's license for at least 30 days; and

(2) prohibit the licensee from participating in racing until:

(A) the licensee's condition has been evaluated by the medical review officer or a person designated by the medical review officer under §311.306 of this title (relating to Medical Review Officer);

(B) the licensee has satisfactorily complied with any rehabilitation requirements ordered by the medical review officer; and

(C) the licensee has produced a negative test result.

(d) For a second violation, the stewards or racing judges shall:

(1) suspend the licensee's license for at least six months; and

(2) prohibit the licensee from participating in racing until:

(A) the licensee has satisfactorily completed a certified substance abuse rehabilitation program approved by the medical review officer; and

(B) the licensee produces a negative test result.

(e) For a third or subsequent violation, the stewards or racing judges shall suspend the licensee for one year and refer the licensee to the Commission.

(f) After a suspended licensee has satisfactorily complied with any rehabilitation requirements ordered by the medical review officer or completed a certified substance abuse rehabilitation program approved by the medical review officer, the licensee may apply to have the license reinstated. The stewards or racing judges shall reinstate the license if the stewards or racing judges determine the licensee poses no danger to other licensees or race animals and that reinstatement is in the best interest of racing. On reinstatement, the stewards or racing judges shall require the licensee to submit to further drug testing to verify continued compliance with the Rules and complete any additional rehabilitation or after-care drug treatment recommended by the medical review officer.

(g) All specimens to be tested under this subchapter shall be obtained and tested in accordance with §311.304 (relating to Taking of Samples.) The Commission shall pay the cost of the initial test. The licensee being tested is responsible for paying the costs of all subsequent tests. (Added eff. 10/21/99; (a),(b),(f),(g) amended eff. 11/6/02)

Alcohol

Sec. 311.321. Prohibited Conduct.

(a) This section applies to conduct by occupational licensees that occurs on association grounds.

(b) A licensee may not be under the influence of an alcoholic beverage or have an alcohol concentration of more than 0.0% in his or her body while the licensee is engaged in the performance of the licensee's duties.

(c) A licensee may not possess or consume an alcoholic beverage while in the stable or kennel area of the association grounds.

(d) Notwithstanding subsection (b) of this section, an owner of a horse or greyhound whose involvement is limited to that of a spectator during racing hours may consume alcoholic beverages while in the grandstand area.

(e) For purposes of this subchapter, "alcohol concentration" means:

(1) the number of grams of alcohol per 210 liters of breath; or

(2) the number of grams of alcohol per 67 milliliters of urine. (Added eff. 10/21/99; (b),(c),(d),(e) amended eff. 1/7/01)

Sec. 311.322. Breathalyzer or Other Test.

(a) The stewards or racing judges may require a licensee to submit to a breathalyzer test or other non- invasive test at any time while on association grounds. An occupational licensee may be selected for testing by a method of random selection prescribed by the executive secretary. The method may be changed from time to time, and it is not an indication of unfairness if a licensee is selected more frequently than any other, providing there is no manipulation of the selection process. An occupational licensee may be selected for testing at any time while on association grounds on the basis of reasonable belief.

(b) A licensee who refuses to submit to such a test when requested to do so by the stewards or racing judges is subject to discipline by the stewards or racing judges.

(c) If the results of a test conducted under this section show a prohibited alcohol concentration, the stewards or racing judges shall impose penalties as authorized by §311.323 of this title (relating to Penalties). (Added eff. 10/21/99)

Sec. 311.323. Penalties.

(a) For a first violation under §311.321(b) of this title (relating to Prohibited Conduct) or §311.322 of this title (relating to Breathalyzer or Other Test), the stewards or racing judges shall prohibit the licensee from participating in racing for the remainder of that race day. In addition, the stewards or race judges may:

(1) prohibit the licensee from participating in racing until the licensee's condition has been evaluated by the medical review officer or a person designated by the medical review officer under §311.306 of this title (relating to Medical Review Officer); and

(2) impose a fine in accordance with Chapter 307 of this title (relating to Practice and Procedure).

(b) If the person evaluating a licensee determines the licensee's condition is non-addictive or not detrimental to the best interest of racing, the stewards or racing judges shall permit the licensee to participate in racing, provided the licensee:

(1) produces a negative test result; and

(2) agrees to further testing to verify continued unimpairment.

(c) If the person evaluating a licensee determines the licensee's condition is addictive or detrimental to the best interest of racing, the stewards or racing judges shall prohibit the licensee from participating in racing until the licensee:

(1) produces a negative test result;

(2) provides proof that the licensee has satisfactorily completed a certified alcohol abuse rehabilitation program approved by the medical review officer; and

(3) agrees to further testing to verify continued unimpairment.

(d) For a second or subsequent violation, the stewards or racing judges shall suspend the licensee's license. After the licensee has satisfactorily completed a certified alcohol abuse rehabilitation program approved by the medical review officer, the licensee may apply to have the license reinstated. The stewards or racing judges may reinstate the license if the stewards or racing judges determine the licensee poses no danger to other licensees or race animals and that reinstatement is in the best interest of racing.

(e) All specimens to be tested under this

subchapter shall be obtained and tested by the Commission under conditions properly controlled to guarantee the integrity of the process. The charges for tests conducted under this subchapter shall be forwarded to the Commission for approval as to the reasonableness of the charges in relation to industry standards for comparable testing procedures. The Commission shall pay the cost of the initial test. The licensee being tested is responsible for paying the costs of all tests other than the initial test. (Added eff. 10/21/99; (a) amended eff. 1/7/01)

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CHAPTER 313. OFFICIALS AND RULES OF HORSE RACING

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CHAPTER 313. OFFICIALS AND RULES OF HORSE RACING

Subchapter A. Officials

General Provisions

Sec. 313.1. Racetrack Officials.

(a) Except as otherwise approved by the executive secretary, the following officials must be present at each horse race meeting conducted in this state:

(1) three stewards;
(2) at least two commission veterinarians;
(3) an official starter;
(4) at least one placing judge;
(5) a paddock judge;
(6) a clerk of scales;
(7) an official timer;
(8) a horseshoe inspector;
(9) a racing secretary and handicapper;
(10) an assistant racing secretary;
(11) a stakes coordinator;
(12) a mutuel manager;
(13) a horse identifier;
(14) a track superintendent;
(15) a jockey room custodian;
(16) a stable superintendent;
(17) at least one morning clocker;
(18) a horsemen's bookkeeper; and
(19) two outriders.

(b) An association may also appoint one or more patrol judges as officials. (Added eff. 8/30/89; (a), (b), (c) amended eff. 10/11/90; amended eff. 8/1/94; (a),(b) amended eff. 10/30/00; (a) amended eff. 4/4/05)

Sec. 313.2. Duties.

(a) An official shall diligently perform all duties prescribed by the Commission for the official.

(b) An official shall promptly report to the stewards or the executive secretary any observed violation of the Act or the Rules. (Added eff. 8/30/89; (a) amended eff. 8/1/94; (a),(b) amended eff. 10/30/00)

Sec. 313.4. Approval of Officials.

(a) Each individual who is designated as an official for a race meeting must be approved by the executive secretary before the individual begins acting in an official capacity.

(b) Not later than the 30th day before the first day of a race meeting, an association shall submit to the executive secretary the name of each individual appointed to serve as an official at the race meeting. The executive secretary may require the association to submit a brief job description for each of the officials and a summary of the proposed official's qualifications. The executive secretary may refuse to approve an individual as an official if the executive secretary determines the official lacks sufficient qualifications to perform the duties of the official position.

(c) The executive secretary may rescind the approval of an official if the executive secretary determines that:

(1) the official has violated the Act or the Rules;

(2) the official has not fulfilled the duties of the position for which the official was appointed; or

(3) the official has engaged in conduct that is inconsistent with the duties of the official and that is not in the best interests of racing.

(Added eff. 8/30/89; (b) amended eff. 5/7/91; (a), (b) amended eff. 3/27/92; (c) added eff. 3/27/92; (b),(c) amended eff. 10/30/00; (b) amended eff. 4/4/05)

Duties of Stewards

Sec. 313.21. Eligibility for Appointment.

(a) Except as otherwise provided by this section, to be appointed to serve as a steward, an individual must:

(1) have appropriate experience, as provided by subsection (b) of this section;

(2) satisfactorily pass an optical examination conducted annually, indicating at least 20-20 vision, corrected, and the ability to distinguish colors;

(3) agree to a complete background check

to ensure the individual's integrity is above reproach;

(4) satisfactorily pass a written examination prescribed by the executive secretary; and

(5) demonstrate to the executive secretary's satisfaction that the individual's income from sources other than as a steward is unrelated to patronage of or employment by a licensee of the Commission.

(b) To be appointed to serve as a steward, an individual must:

(1) have served as an official at a race meeting recognized by the Commission or another racing jurisdiction; or

(2) demonstrate to the satisfaction of the executive secretary that the individual has sufficient experience in a racing-related field to perform the duties of a steward.

(c) The executive secretary shall administer the written examination for stewards. A passing grade for the written examination is 85%. (Added eff. 8/30/89; (a),(b),(c),(d) amended eff. 10/11/90; (c) amended eff. 5/1/92; (a) amended eff. 12/10/92; amended eff. 2/10/98; (a),(b),(c) amended eff. 10/30/00)

Sec. 313.22. General Duties.

(a) In addition to the other duties described in these Rules, the stewards have general authority and supervision over the conduct of each race and all licensees at a racetrack during a race meeting. If a question arises during a race meeting regarding the operations of a racetrack or the conduct of racing that is not covered by the Act or the Rules, the stewards shall resolve the question in conformity with custom, precedent, justice and the best interest of racing.

(b) The stewards are authorized to:

(1) interpret and enforce the Act and the Rules and to determine all questions, disputes, complaints, or objections relating to racing matters in accordance with the applicable laws, taking into consideration such factors as, but not limited to, custom, precedent, justice, and the best interest of racing;

(2) issue rulings, which supersede any orders of the association, on racing matters that may change the conduct of a race or race meeting;

(3) review applications for individual licenses submitted at the racetrack, hold hearings on applications for individual licenses, and deny temporary or permanent licenses for grounds authorized by the Act or the Rules;

(4) approve a substitute jockey, assistant trainer, or other substitute licensees requested by a trainer;

(5) appoint a substitute official;

(6) require a jockey, trainer, or other licensee to review a video replay of a race in which the person participated;

(7) examine or order the examination of a horse or the ownership papers, certificates, or other documents pertaining to a horse's identification;

(8) determine whether a disqualification is warranted if a foul or a riding infraction occurs; and

(9) perform any other duty necessary on behalf of the Commission to ensure a race meeting is conducted in accordance with the Act and the Rules.

(c) The stewards may, at any time, order an endoscopic examination of a horse to determine the presence of foreign material in the nasal passages that obstructs or could obstruct the flow of air into the horse's lungs. An examination ordered under this subsection must be:

(1) performed by a veterinarian licensed by the Commission at the horse owner's expense; and

(2) witnessed by a commission veterinarian. (Added eff. 8/30/89; (b)amended eff. 5/15/93; (c) added eff. 2/10/98; (a),(b),(c) amended eff. 10/30/00; (a),(b) amended eff. 4/4/05)

Sec. 313.23. Supervision of Entries.

At least one steward shall be present on association grounds during the taking of entries until the overnight is completed. The stewards shall oversee the taking of entries and supervise all scratches and declarations. To ensure the

integrity of a race and the participants in a race, the stewards may:

(1) require proof of a horse's or person's eligibility to participate in a race;

(2) refuse the entry of a horse in a race;

(3) refuse to permit a scratch; or

(4) limit entries when necessary to protect the safety or integrity of racing. (Added eff. 8/30/89; amended eff. 10/30/00)

Sec. 313.24. Records and Reports.

(a) The stewards shall prepare a report of all actions taken and observations made during each day's race program. The report must contain the name of the racetrack, the date, the weather and track conditions, claims, inquiries, and objections, and any unusual circumstances or conditions. The report must be signed by each steward and be filed with the executive secretary at the end of each race week.

(b) The stewards shall maintain a detailed log of the stewards' official activities. The log must describe all questions, disputes, protests, complaints, or objections brought to the attention of the stewards and all interviews, investigations, and rulings made by the stewards. The log must be available at all times for inspection by the executive secretary.

(c) Not later than seven days after the last day of a race meeting, the stewards shall submit to the executive secretary a written report regarding the race meeting. The report must contain:

(1) the stewards' observations and comments regarding the conduct of the race meeting and the overall conditions of the association grounds during the race meeting; and

(2) any recommendations for improvement by the association or action by the Commission and any recommendations for changes to the Rules. (Added eff. 8/30/89; (a),(b),(c) amended eff. 10/11/90; (a),(b),(c) amended 10/30/00)

Sec. 313.25. Steward's List.

(a) The stewards shall maintain a steward's list of the horses that are ineligible to start in a race because of:

(1) poor or inconsistent performance; or

(2) behavior on the racetrack that endangers the health or safety of other participants in racing.

(b) To be removed from the steward's list a horse must, during a workout or schooling race, perform in a manner satisfactory to show the stewards that the horse:

(1) will no longer pose a threat to other participants; and

(2) will be competitive in a race in which it participates. (Added eff. 8/30/89; (b) added eff. 10/11/90; (a) amended eff. 10/1/96; (a),(b) amended eff. 10/30/00)

Sec. 313.26. Posting of Track Condition.

The stewards shall post on the tote board a description of the condition of the track surface and shall update the description during the race day as the track condition changes. (Added eff. 11/3/89)

Duties of Other Officials

Sec. 313.41. Racing Secretary.

(a) The racing secretary shall supervise the operations of the racing office and its employees. The racing secretary shall:

(1) inspect all documents relating to the ownership of a horse entered in a race at the racetrack;

(2) write the conditions of all races, including Texas-Bred races as required by the Act, and publish the conditions in a manner that allows sufficient notice to all interested persons;

(3) act as the official handicapper in all races;

(4) supervise the drawing of all races and post the overnight which lists the horses in post position order, the jockeys, the weight to be carried, and the conditions and purse of each race immediately after the drawing;

(5) maintain the preferred list of horses;

(6) ensure that the information printed in the program and racing forms is accurate;

(7) keep a record of all races;

(8) allocate stalls in accordance with the Act and the Rules; and

(9) perform all other duties imposed on the racing secretary by the Rules or the association.

(b) The racing secretary may delegate to the assistant racing secretary or other racing office employee any duty imposed on the racing secretary.

(c) In handicap races, the racing secretary shall assign weight to each horse and shall post the weights in handicaps before 10:30 a.m. on the day set for publication of the assigned weights. (Added eff. 8/30/89; (a) amended eff. 8/1/94; (a) amended eff. 10/30/00; (b),(c) amended eff. 4/4/05)

Sec. 313.42. Morning Clocker.

(a) The morning clocker shall identify each horse that comes on the racetrack to work and shall record the accurate time of the horse's work. Each day, the morning clocker shall prepare a list of works that describes, for that morning's works, the name of the horse, the distance of the work, and the time of the work. The morning clocker shall ensure the accuracy of the list of works and any other documentation regarding a work performed at that track.

(b) Immediately on completion of the morning works, the morning clocker shall deliver the list of works to:

(1) the stewards; and

(2) the racing secretary.

(Added eff. 8/30/89; (a) amended eff. 10/30/00)

Sec. 313.43. Official Timer.

(a) At the end of a race, the official timer shall post the official time on the tote board on instruction by the stewards.

(b) The official timer shall post the quarter times (splits) for thoroughbred races in fractions on the tote board as a race is being run. For quarter horse races, the timer shall post the official times in hundredths of a second.

(c) For back-up purposes, the official timer shall also use a stop watch to time all races, and in time trials the official timer shall ensure that at least two stop watches are used by the stewards or their designees. (Added eff. 8/30/89; (a),(b) amended eff. 10/30/00; (c) amended eff. 4/4/05)

Sec. 313.44. Paddock Judge.

(a) The paddock judge shall supervise the assembling of the horses scheduled to race and shall have general supervision over the saddling equipment.

(b) The paddock judge shall supervise the saddling of horses in the saddling stalls and the departure of the horses for the post.

(c) The paddock judge shall maintain a record of all equipment on a horse saddled for a race and shall report to the stewards any change indicated at a subsequent saddling.

(d) The paddock judge shall prohibit any change of saddling equipment without the approval of the stewards.

(e) The paddock judge shall maintain a list of horses that are ineligible to be entered in a race because of poor or inconsistent performance or behavior in the paddock that endangers the health or safety of other participants in racing. At the end of each race day, the paddock judge shall provide a copy of the list to the stewards. To be removed from the paddock judge's list, a horse must be schooled in the paddock and demonstrate to the satisfaction of the paddock judge and the stewards that the horse is capable of performing safely in the paddock. (Added eff. 8/30/89)

Sec. 313.45. Clerk of Scales.

(a) The clerk of scales shall report to the stewards any jockeys who are late to weigh for the day's races and any jockeys who are having difficulty maintaining their riding weight.

(b) The clerk of scales shall verify the weight of each jockey at the time of weighing out and weighing in, and shall immediately report any discrepancies to the stewards.

(c) The clerk of scales shall notify the stewards of any change of jockeys, alteration of

colors, or weight change.

(d) The clerk of scales shall:

(1) provide the association with a report of the weight carried in each race and the names of the jockeys, specifying any overweight; and

(2) provide to the horsemen's bookkeeper a program that indicates all jockey changes and the order of finish for each race.

(e) The clerk of scales shall supervise the conduct of the jockeys and their attendants while they are in the jockeys' room.

(f) The clerk of scales shall maintain a record of applicable winning races on all apprentice certificates. At the end of the race meeting or on the departure of an apprentice jockey, the clerk of scales shall deliver the appropriate apprentice certificate to the apprentice jockey. (Added eff. 8/30/89; (d), (e) amended eff. 10/11/90; (a) amended eff. 10/30/00; (c),(d) amended eff. 4/4/05)

Sec. 313.46. Placing Judges.

(a) The placing judges shall place the horses as they pass the finish line and display the results.

(b) In the event of a photofinish or if the placing judges are not unanimous as to the correct order of finish, the judges shall submit a photograph of the finish to the stewards for examination and a determination of the result. The decision of the stewards under this subsection is final. (Added eff. 8/30/89)

Sec. 313.47. Patrol Judges.

The patrol judges, if used, shall view the running of each race from the appropriate patrol tower and report to the stewards each incident occurring during the race. (Added eff. 8/30/89; amended eff. 10/30/00)

Sec. 313.48. Commission Veterinarians.

The commission veterinarians shall supervise all veterinary practices on association grounds, advise the executive secretary and the stewards on all veterinary matters, and perform all other duties required by the executive secretary or the Rules. (Added eff. 8/30/89; amended eff. 10/30/00)

Sec. 313.49. Starter.

(a) The starter shall issue orders and take measures necessary to ensure a fair start.

(b) The starter may appoint assistant starters. The starter shall ensure the assistant starters have adequate training in the safe handling of horses in the starting gate.

(c) The starter shall maintain a list of horses that are ineligible to start in a race because of poor or inconsistent performance or behavior at the starting gate that endangers the health or safety of other participants in racing. To be removed from the starter's list, a horse must be schooled in the starting gate and demonstrate to the satisfaction of the starter that the horse is capable of standing safely in the starting gate.

(d) The starter shall assign the stall positions to assistant starters at random. The starter may not notify the assistant starters of their respective stall positions for a race more than 10 minutes before post time for the race.

(e) The starter shall assess the ability of each individual, applying for an apprentice jockey's license for the first time, in breaking from the starting gate and working a horse in the company of other horses. (Added eff. 8/30/89; (c) amended eff. 10/1/96; (a) amended eff. 10/30/00)

Sec. 313.50. Horse Identifier.

(a) The horse identifier shall identify each horse while it is in the pre-race holding area or paddock. The horse identifier shall immediately report to the stewards and paddock judge a horse that is not properly identified or that has any irregularities from the official identification record.

(b) The horse identifier shall inspect, identify, and prepare identification records on all horses that race at a race meeting.

(c) The horse identifier shall inspect documents of ownership, eligibility, registration, or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting.

(d) The horse identifier shall supervise the

tattooing or branding for identification of any horse located on association grounds. (Added eff. 8/30/89; (b) amended eff. 10/11/90; (a),(b) amended eff. 10/30/00)

Sec. 313.51. Horseshoe Inspector.

(a) The horseshoe inspector shall inspect the horseshoes of each horse in the paddock. The inspector shall immediately report to the stewards and paddock judge a horse that is improperly shod.

(b) The horseshoe inspector shall maintain a record of unusual types of racing plates worn by each horse scheduled to race. With the approval of the stewards, the horseshoe inspector may order adjustments or corrections to the racing plates of a horse. (Added eff. 8/30/89; (a),(b) amended eff. 10/30/00)

Sec. 313.52. Jockey Room Custodian.

(a) In the absence of the clerk of scales, jockey room custodian shall supervise the conduct of the jockeys and their attendants while they are in the jockey room.

(b) The jockey room custodian shall:

(1) keep the jockey room clean and safe for all jockeys;

(2) ensure all jockeys are in the correct colors before leaving the jockey room to prepare for mounting their horses;

(3) keep a daily video review list as dictated by the stewards and have it displayed in plain view for all jockeys;

(4) keep a daily program displayed in plain view for the jockeys so they may have ready access to mounts that may become available;

(5) keep unauthorized individuals out of the jockey room; and

(6) report to the stewards any unusual occurrences in the jockey room.

(Added eff. 8/30/89; (a),(b) amended eff. 10/30/00)

Sec. 313.53. Mutuel Manager.

(a) In addition to other duties described in these Rules, the mutuel manager shall supervise the operations of the pari-mutuel department of the association and its employees. The mutuel manager shall ensure the accuracy of the amounts in all pools and the amounts to be paid on winning wagers.

(b) The mutuel manager may designate a representative to serve in the mutuel manager's absence, subject to approval by the executive secretary. (Added eff. 11/3/89; (b) added eff. 5/1/96; (a) amended eff. 4/4/05)

Sec. 313.54. Track Superintendent.

The track superintendent shall ensure that the racetrack is properly maintained. The track superintendent shall ensure that all track equipment is operable for all races and during training hours. (Added eff. 11/3/89)

Sec. 313.55. Assistant Racing Secretary.

The assistant racing secretary shall perform any duty assigned by the racing secretary and shall assist the racing secretary in the performance of the racing secretary's duties. (Added eff. 11/3/89)

Sec. 313.56. Stable Superintendent.

The stable superintendent shall supervise the systematic placement of horses in stalls. The stable superintendent shall maintain a log of all horses arriving and departing the stable area. (Added eff. 11/3/89; amended eff. 10/11/90; amended eff. 1/3/96)

Sec. 313.57. Announcer.

The announcer shall promptly make all announcements to the patrons that are required by the Rules, including announcements regarding scratches, jockey changes, jockey overweights, and other information pertinent to the running of the race. The announcer shall make all announcements from the stewards regarding objections and inquiries concerning a race. (Added eff. 11/3/89; amended eff. 10/30/00)

Sec. 313.58. Outriders.

The outriders shall ensure the post parade is conducted in an orderly manner. The outriders shall retrieve loose horses or horses that run off during racing or training hours. (Added eff. 11/3/89)

Sec. 313.59. Assistant Starters.

The assistant starters shall be supervised by the starter. The assistant starters shall load the horses into the starting gate and, when required, head the horses in the starting gate. (Added eff. 11/3/89)

Sec. 313.60. Test Barn Technicians.

The test barn technicians shall perform any duty required by the test barn supervisor and shall assist in the collection of urine specimens for testing and in the maintenance of the test barn facilities. (Added eff. 11/3/89; amended eff. 10/30/00)

Sec. 313.61. Horsemen's Bookkeeper.

(a) Designation of horsemen's bookkeeper.

(1) An association shall ensure a horsemen's bookkeeper is available to maintain the horsemen's account.

(2) The executive secretary may designate an entity unrelated to the association to serve as the horsemen's bookkeeper. To be designated as the horsemen's bookkeeper, an entity must submit a plan of operation acceptable to the executive secretary that demonstrates the entity's ability to perform the duties of the horsemen's bookkeeper.

(3) A designation as horsemen's bookkeeper does not constitute a license, but the executive secretary may require any individual involved with a designated entity to receive a license.

(4) If the executive secretary approves an association's request to designate an entity as horsemen's bookkeeper, the association is relieved of responsibility for providing a horsemen's bookkeeper and shall cooperate fully with the horsemen's bookkeeper designated by the executive secretary.

(b) Revocation of designation.

(1) A designation as the horsemen's bookkeeper continues in effect until revoked by the executive secretary.

(2) The executive secretary may revoke a designation as the horsemen's bookkeeper if the executive secretary determines the designated entity has:

(A) failed to comply with the Act, or the plan of operation, in a manner that indicates malfeasance as opposed to mere mistake;

(B) failed to maintain accurate and reliable records;

(C) misappropriated or mishandled funds in its possession or control;

(D) failed to correct within a reasonable time any deficiency in operations identified by the executive secretary in writing; or

(E) had its authority to act as a horsemen's bookkeeper revoked in another jurisdiction.

(3) Before revoking a designation as horsemen's bookkeeper, the executive secretary must issue a notice of proposed revocation which specifically describes the grounds for revocation. No later than 30 days after receiving a notice of proposed revocation, the entity may file a written response to the allegations with the executive secretary.

(4) The executive secretary may not revoke a designation without making adequate provision for a successor horsemen's bookkeeper.

(c) Operations of horsemen's bookkeeper.

(1) Each owner engaged in racing must open and maintain an account with the horsemen's bookkeeper. The horsemen's bookkeeper may permit other individuals to open and maintain an account with the horsemen's bookkeeper, subject to the approval of the executive secretary. The aggregate of all such accounts is the horsemen's account.

(2) The horsemen's bookkeeper shall keep accurate records of the horsemen's account and the constituent accounts. The horsemen's bookkeeper shall:

(A) promptly credit each account with all earnings, awards, and deposits;

(B) deduct or disburse all payments as directed by the owner or authorized agent;

(C) render periodic statements of each constituent account; and

(D) perform all other duties and functions as may be required by the Act or the Rules.

(d) Audit. The executive secretary may at any time inspect, review or audit the records and performance of the horsemen's bookkeeper. (Added eff. 11/3/89; repealed and replaced eff. 6/15/98; amended eff. 10/30/00)

Subchapter B.
Entries, and Allowances

Entries

Sec. 313.101. Entry Procedure.

(a) The racing secretary is responsible for receiving entries for all races.

(b) Except as otherwise provided by this section, an entry must be in writing on a form provided by the association.

(c) An entry may be made by telephone or facsimile, but must be confirmed in writing not later than three hours before post time for the first race on the day the entry is to run.

(d) If a horse is being entered for the first time at a race meeting, the horse must be identified on the entry by stating its name, color, sex, age, and the name of its sire and dam, as registered with the appropriate breed registry.

(e) A horse which, during the 12-month period preceding the date of a race, has started in a race where past performance lines are available but which are not on file with the Daily Racing Form or the American Quarter Horse Association, may not be entered at a racetrack licensed in this state unless the owner of the horse has furnished performance records to the racing secretary at the time of entry. (Added eff. 8/30/89; (b) amended eff. 10/11/90; (c) amended eff. 10/30/00; (b) amended eff. 4/4/05)

Sec. 313.102. Intent and Authority.

(a) An individual may not enter or attempt to enter a horse for a race unless:

(1) the individual is authorized under the Rules to make the entry; and

(2) the entry is bona fide, made with the intent that the horse compete in the race in which it is entered.

(b) A signed entry form is prima facie evidence that the entry form expresses the desire and intent of the person making the entry. (Added eff. 8/30/89; (a) amended eff. 12/26/90; (a) amended eff. 10/30/00)

Sec. 313.103. Eligibility Requirements.

(a) To be entered in a race, a horse must:

(1) be properly registered with the appropriate national breed registry;

(2) be eligible to enter the race under the conditions of the race; and

(3) if the horse is to start for the first time:

(A) be approved by a licensed starter for proficiency in the starting gate within 90 days of the race entered; and

(B) have two published workouts, one within 90 days and one within 45 days of the race entered.

(b) A horse that has been barred in any racing jurisdiction is ineligible to start or be entered in a race without the approval of the stewards.

(c) To be eligible to enter a Texas-Bred race, the horse must be an accredited Texas-bred horse and be registered with the appropriate breed registry.

(d) A horse may not be entered in more than one race scheduled for one race day, unless at least one of the races is a stakes race.

(e) A horse may not start in a stakes race unless:

(1) the nominating, sustaining, entry, and starting fees have been paid in full by cash, cashier's check, certified check, or money order on or before the time specified in the conditions of the race; or

(2) the amount of the applicable fees are on account with the horsemen's bookkeeper at the time the fees are due as specified by the conditions of the race.

(f) Except as otherwise provided by this section for first-time starters, to be eligible to start in a race, a horse must have either started in a race

or had a published workout in the 45-day period preceding a race.

(g) To be entered in a race around a turn for the first time, a quarter horse must:

(1) have a published workout around a turn at a minimum distance of 660 yards in the 45-day period preceding the race; and

(2) be approved by the clocker, the outrider and, if the horse is worked from the gate, the starter.

(h) To be eligible to start in a race, a horse must be properly tattooed and the horse's registration certificate showing the tattoo number of the horse must be on file with the racing secretary before scratch time for the race, unless the stewards authorize the certificate to be filed at a later time.

(i) A horse may not participate as a member of more than one breed at the same race meeting, even though the horse may be registered in more than one breed registry. (Added eff. 8/30/89; (a) amended eff. 1/10/90; (f) added eff. 1/10/90; (a), (b), (d) amended eff. 10/11/90; (e) added eff. 10/11/90; (a), (f) amended eff. 8/3/92; (g) added 8/3/92; (f) amended eff. 9/1/93; (g) amended eff. 11/1/93; (g) amended eff. 11/1/94; (a) amended eff. 6/1/95; (h) added eff. 6/1/95; (f) amended eff. 2/4/97; (a),(f),(g),(i) amended eff. 10/30/00)

Sec. 313.104. Registration Certificates.

(a) A certificate of registration or eligibility certificate filed with an association to establish eligibility of a horse to be entered in a race must accurately reflect the correct and true ownership of the horse. The stewards may authorize the entry of a horse with a pending transfer.

(b) The name of the owner printed on the program must conform to the ownership declared on the certificate of registration or eligibility certificate, unless a stable name has been registered for the owner.

(c) An individual may not alter or forge a certificate of registration, certificate of eligibility, or other document relating to ownership or registration.

(d) The racing secretary shall ensure that registration certificates are secured in a manner that prevents access by unauthorized individuals.

(e) Not later than 24 hours after a trainer brings a horse on to association grounds, the trainer shall register the horse with the racing secretary. (Added eff. 8/30/89; (a) amended eff. 6/15/97; (a) amended eff. 10/30/00)

Sec. 313.105. Changes in Ownership.

(a) All entries and rights of entry survive when a horse is sold with engagements duly transferred. If a horse is sold with engagements, the seller may not strike the horse out of the engagements.

(b) An entry or right of entry remains valid on the death of the nominator unless the conditions of the race state otherwise. (Added eff. 8/30/89)

Sec. 313.106. Closing Entries.

(a) The racing secretary shall close entries at the advertised time and may not accept any entries after that time. The racing secretary may postpone the closing of overnight races.

(b) After entries are closed, an entry may not be altered, other than to correct an error.

(c) If the number of entries exceeds the number of horses that may start in a race, due to track limitations, the racing secretary may split the race and the starters will be determined by lot.

(d) If a race is canceled because of insufficient entries, the racing secretary may split any overnight race or write a substitute race in place of the cancelled race.

(e) The owner or trainer of a horse that has been entered in a race who does not wish the horse to participate in the race must withdraw the horse from the race before entries are closed. (Added eff. 8/30/89; (d) amended eff. 6/15/97; (d) amended eff. 10/30/00)

Sec. 313.107. Draw for Post Position.

(a) After the entries are closed, the racing secretary shall designate two people who are owners, trainers, or racing officials to draw the entry sheets and post position numbers.

(b) The draw shall be held in public. A horse drawn is entitled to a position at the post corresponding to the number drawn.

(c) No later than scratch time or at the draw if there is no scratch time, the owner or trainer of the horse shall designate the jockey who will ride the horse in the race. (Added eff. 8/30/89; (a) amended eff. 10/11/90; (c) amended eff. 9/30/91; (b) amended eff. 10/30/00)

Sec. 313.108. Preferred List.

(a) The racing secretary shall maintain a preferred list of entered horses eliminated from starting by a surplus of entries.

(b) The racing secretary shall update daily the preference designation for each horse, based on the races for which the horse has been entered, started, or scratched. A trainer or owner may file a claim of error in the preferred list with the racing secretary.

(c) The racing secretary may not use the "star system" of recording preferences.

(d) An "in today" horse has least preference. (Added eff. 8/30/89; (b) amended eff. 10/11/90; (b) amended eff. 10/30/00; (d) added 4/4/05)

Sec. 313.109. Change in Conditions.

After the racing secretary has received an entry to a race for which conditions have been published, the secretary may not change or supplement the conditions for the race. (Added eff. 8/30/89)

Sec. 313.110. Coupled Entries.

(a) Not more than two horses that have common interests through ownership, training, or lease may be entered in an overnight race, unless the race is divided.

(b) If two horses entered in a race are owned in whole or in part by the same individual or entity, or if the trainer owns an interest in either horse, the entry shall be coupled as a single wagering interest. (Added eff. 8/30/89; (a), (b), (c) amended eff. 10/11/90; (a),(b) amended eff. 10/30/00; (b) amended eff. 4/4/05)

Sec. 313.111. Age Restrictions.

(a) A yearling is not eligible to start in a race.

(b) A two-year old horse may not start in a pari-mutuel race in Texas before March 1.

(c) A racing secretary may not schedule:

(1) a race for two-year old quarter horses longer than 350 yards before May 1 or longer than 400 yards before August 1; or

(2) a race for two-year old thoroughbreds longer than 4 1/2 furlongs before May 1 or at one mile or longer before August 1.

(d) A horse that is more than 12 years of age may not start in a pari-mutuel race in this state unless:

(1) the horse has finished first, second, or third in an officially sanctioned pari-mutuel race during the 12-month period preceding the race in which the horse is to start; or

(2) upon due consideration of the horse's prior performance, the board of stewards has given specific authorization for the horse to start. (Added eff. 11/3/89; (b), (c), (d), (e) amended eff. 10/11/90; (d) amended eff. 7/1/92; (c), (d) amended eff. 6/15/97; (d) amended eff. 3/20/08)

Sec. 313.112. Objection to Entry.

(a) A person who wishes to protest the eligibility of a horse in a race or to protest the weight to be carried by a horse must make the protest with the stewards or other racing officials not less than one hour before post time for the first race on the day in which the horse is entered.

(b) Notwithstanding subsection (a) of this section, the stewards may take any action necessary to correct the eligibility, weight, or equipment of a horse at any time before the start of the race in which the horse is scheduled to compete.

(c) If the stewards determine before the start of a race that a horse entered in the race is not eligible for the race, the stewards shall immediately scratch the ineligible horse. (Added eff. 1/1/02)

Scratches

Sec. 313.131. Scratch Procedure.

(a) A request to scratch a horse must be in writing on a form provided by the association.

Only a racing official, the owner or trainer of the horse, or the authorized agent of the owner may request that the horse be scratched.

(b) A horse may not be scratched from a race without the approval of the stewards. (Added eff. 8/30/89; amended eff. 10/30/00)

Sec. 313.132. Scratch Time.

(a) An association may designate a "scratch time" for each race day.

(b) The trainer of a horse that has drawn into or is also eligible for a race who does not wish the horse to start in the race must submit a request to scratch the horse from the race before "scratch time".

(c) Except as otherwise provided by this subchapter, a horse may not be scratched from a race after "scratch time" for that race.

(d) An association may set a minimum number of horses remaining in the body of a race, other than a stakes race, before a veterinary reason is required to scratch a horse. (Added eff. 8/30/89; (a), (b), (d) amended eff. 10/11/90; (a) amended eff. 5/1/96; (c) amended eff. 10/30/00)

Sec. 313.133. Scratch Irrevocable.

The scratch of a horse from a race is irrevocable. (Added eff. 8/30/89; amended eff. 10/30/00)

Sec. 313.134. Obligation to Start.

(a) A horse who is entered in a race is obligated to start the race, unless the horse is scratched from the race in accordance with this subchapter.

(b) A person who fails to start a horse when the horse is obligated to start is subject to disciplinary action by the stewards. (Added eff. 8/30/89; (a) amended eff. 10/30/00)

Sec. 313.135. Scratch by Stewards.

(a) The stewards may scratch a horse from a race when, in the opinion of a veterinarian licensed by the Commission, the horse cannot give its best efforts to win the race due to a physical disability or other physical cause. A horse scratched from a race under this subsection shall be placed on the veterinarian's list and is ineligible to start in a race in Texas until removed from the list by the commission veterinarian.

(b) The stewards may scratch a horse from a race without penalty to the horse or its owner or trainer when the stewards determine the scratch is in the best interests of racing. (Added eff. 8/30/89; (a),(b) amended eff. 10/30/00; (a) amended eff. 4/4/05)

Sec. 313.136. Scratches in Stakes Races.

A horse entered in a stakes race may be scratched from the race at any time before one hour before post time for the race. (Added eff. 8/30/89; (a),(b) amended eff. 10/30/00; amended eff. 4/4/05)

Allowances and Penalties

Sec. 313.161. Responsibility for Correct Weight.

(a) The trainer of a horse entered in a race shall ensure that the horse carries the correct weight for that race.

(b) Weight penalties are obligatory. Weight allowances other than a sex allowance in a thoroughbred race are optional. (Added eff. 8/30/89; (a) amended eff. 10/11/90; (b) amended eff. 2/1/95)

Sec. 313.162. Claim for Allowance.

(a) A claim for a weight allowance must be made at the time the horse is entered in a race.

(b) Failure to claim an allowance at entry is not grounds to scratch a horse from the race. (Added eff. 8/30/89; (b) amended eff. 10/30/00)

Sec. 313.163. Improper Claim for Allowance.

(a) A person may not claim a weight allowance for a horse to which the horse is not entitled.

(b) An improper claim for an allowance in violation of this section is not grounds to disqualify a horse unless the horse actually carries the incorrect weight in the race.

(c) A person making an improper claim for an allowance in violation of this section is subject to disciplinary action by the stewards. (Added eff. 8/30/89)

Sec. 313.164. Records Conclusive.

In determining the eligibility and weight allowances for a horse, the records of the racing secretary, in conjunction with the statistics and records of the racing form company hired by the association, are conclusive. (Added eff. 8/30/89; amended eff. 10/30/00)

Sec. 313.165. Sex Allowance.

Except in a race for which the conditions expressly state otherwise, a thoroughbred or Arabian filly may claim the following allowances:

(1) a filly that is two years old is allowed three pounds;

(2) a filly that is three years of age or older is allowed:

(A) five pounds, beginning January 1 and ending August 31; and

(B) three pounds, beginning September 1 and ending December 31. (Added eff. 8/30/89; amended eff. 10/30/00; amended eff. 4/4/05)

Sec. 313.166. Apprentice Allowance.

(a) An apprentice jockey is entitled to ride with a five-pound weight allowance in all thoroughbred and Arabian races except handicap or stakes races beginning with the jockey's first mount and continuing for 12 months after the date of the jockey's fifth winning mount.

(b) If during the 12-month period after an apprentice jockey rides the jockey's fifth winning mount the apprentice jockey fails to ride at least 40 winners, the jockey may continue to ride with the five-pound allowance for a second 12-month period after riding the fifth winning mount or until the jockey has ridden 40 winners, whichever occurs first. In no event may a weight allowance be claimed for more than two years from the date of the fifth winning mount unless the stewards have granted an extension under this section.

(c) Extensions.

(1) The stewards may extend the weight allowance of an apprentice jockey if the stewards determine the apprentice jockey was unable to ride for at least seven consecutive days due to:

(A) physical disability or illness;

(B) military service;

(C) attendance in an institution of secondary or higher education;

(D) a restriction on racing; or

(E) other valid reasons.

(2) An apprentice jockey requesting an extension must provide documentation to the stewards verifying the time lost. If an apprentice jockey has requested an extension from another racing commission, the Commission is bound by the decision of the other racing commission. (Added eff. 8/30/89; (d) amended eff. 10/11/90; amended eff. 2/10/98; (b),(c) amended eff. 10/30/00; (a) amended eff. 4/4/05)

Sec. 313.167. Prohibited Allowances.

(a) Except as otherwise provided by this section, a horse may not be allowed a weight reduction solely for having been beaten in a race.

(b) The racing secretary may provide an allowance to:

(1) a maiden in a winners' race; or

(2) a horse that has not won a race within a specified period of time or of a specified value. (Added eff. 8/30/89)

Sec. 313.168. Scale of Weights for Age.

(a) Except for a race in which the conditions expressly provide otherwise, the weight to be carried by a thoroughbred or Arabian horse in a race shall be determined in accordance with the following scale:

Distance	Age	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1/2 mile	2	-	-	-	116	116	116	120	120	120	122	122	122
	3	120	120	120	121	122	123	123	124	124	125	125	125
	4+	126	126	126	126	126	126	126	126	126	126	126	126
3/4 mile	2	-	-	-	-	116	116	118	118	118	120	120	120
	3	119	119	119	120	120	121	122	123	124	124	125	125
	4+	126	126	126	126	126	126	126	126	126	126	126	126
1 mile	2	-	-	-	-	-	-	-	116	116	118	118	118
	3	118	118	118	119	120	121	122	122	123	123	124	124
	4+	126	126	126	126	126	126	126	126	126	126	126	126

1 1/4 mile	2	-	-	-	-	-	-	-	116	116	116	116	116
	3	117	117	117	118	119	119	120	120	121	121	122	122
	4+	124	124	124	124	124	124	124	124	124	124	124	124
1 1/2 mile	2	-	-	-	-	-	-	-	116	116	116	116	116
	3	116	116	116	117	117	117	118	118	118	119	120	121
	4+	122	122	122	122	122	122	122	122	122	122	122	122

(b) Except for a race in which the conditions expressly provide otherwise, the weight to be carried by a quarter horse, paint horse, or Appaloosa horse in a race during all months and for all distances shall be as follows:

(1) for two-year olds, 120 pounds;

(2) for three-year olds, 123 pounds; and

(3) for four-year olds and older, 126 pounds. (Added eff. 8/30/89; amended eff. 10/30/00)

Subchapter C. Claiming Races

Sec. 313.301. Eligibility to Claim.

(a) Except as otherwise provided by this section, in a claiming race, each horse is subject to be claimed for its entered price by:

(1) a licensed owner or lessee or an authorized agent acting on behalf of the owner or lessee; or

(2) a person who has applied for an owner's license and has been granted approval by the stewards to make a claim.

(b) A claim may not be made directly or indirectly by an owner for his or her own horse. (Added eff. 8/30/89; (a), (b) amended eff. 10/11/90; (a) amended eff. 5/1/96)

Sec. 313.302. Claim Procedure.

(a) A steward or a designee of the stewards shall supervise the making of claims and ensure the accuracy of all claims made in a race.

(b) A claim must be made in writing on forms and in envelopes approved by the executive secretary. The form and envelope must be filled out completely and must be accurate in every detail. For purposes of this section, the name of the horse as it appears in the official program governs.

(c) The person making a claim is responsible for determining the sex of the horse.

(d) A claim must be time stamped with the official track time shown on the tote board and deposited in a locked box provided by the racing secretary not later than 15 minutes before post time of the race in which the horse being claimed is to start. A person may not place money or its equivalent in the claim box.

(e) Before the deadline for filing claims for a race, a person may not:

(1) open the box in which claims are deposited; or

(2) reveal information regarding the filing of a claim.

(f) After the deadline for filing claims for a race, a steward or a designee of the stewards shall open the box, examine the claims, and notify the stewards of all accurate claims. The steward or designee will then notify the horsemen's bookkeeper of the claims to determine whether the appropriate amount is on deposit with the bookkeeper in accordance with this subchapter and to debit the claimant's account for the amount of the claim, plus all applicable fees. If more than one person enters a claim for a horse, a steward or a designee of the stewards shall determine the disposition of the horse by lot. (Added eff. 8/30/89; (f) amended eff. 10/11/90; (d) amended eff. 1/2/92; (b),(d),(f)) amended eff. 10/30/00)

Sec. 313.303. Effective Time of Claim.

(a) A person who has a valid claim to a horse becomes the owner of the horse when the horse steps on to the racetrack for the race. This subsection applies regardless of whether the horse reaches the starting gate and regardless of subsequent injury to the horse during or after the race.

(b) On the day claimed, a claimed horse runs in the interest of and for the account of the owner from whom the horse was claimed.
(Added eff. 8/30/89; (a) amended eff. 10/11/90; (b) added eff. 10/11/90; (a) amended eff. 5/1/92; (a) amended eff. 4/4/05)

Sec. 313.304. Claim Irrevocable.

(a) Except as otherwise provided by this section, a claim that is filed in accordance with this subchapter is irrevocable.

(b) If the stewards declare a claiming race a "no race", all claims for that race are invalid.
(Added eff. 8/30/89; (b) amended eff. 7/1/92)

Sec. 313.305. Amounts on Deposit.

(a) To make a valid claim, a person must have on deposit with the horsemen's bookkeeper an amount equal to the amount of the claim, plus all transfer fees, in the form of cash, money order, certified check, or cashier's check.

(b) A person who files a claim may not exhaust the person's account with the horsemen's bookkeeper during the two-hour period after the claim was filed. (Added eff. 8/30/89; (a) amended eff. 10/11/90; (a),(b) amended eff. 10/30/00)

Sec. 313.306. Transfer of Claimed Horse.

(a) A horse that has been claimed in a claiming race shall be taken after the race to the area designated by the association for delivery to the claimant, unless the horse is designated for testing.

(b) A person may not refuse to deliver a claimed horse.

(c) The engagements of a claimed horse automatically transfer to the new owner. A claimed horse is ineligible for entry in a future race unless the entry is made on behalf of the new owner.

(d) A horse may not be delivered to a successful claimant without written authorization from a steward or a designee of the stewards.
(Added eff. 8/30/89; (a) amended eff. 10/11/90)

Sec. 313.307. Responsibility for Testing.

The trainer losing a horse through a claim is nevertheless responsible for the results of any drug tests performed on specimens obtained from the horse. The trainer is responsible for the horse during the testing procedures and may not deliver the horse to the successful claimant in the test barn until the commission veterinarian informs the trainer or representative that all testing procedures are complete. (Added eff. 8/30/89)

Sec. 313.308. Restrictions on Subsequent Use.

(a) A horse claimed in a claiming race in Texas:

(1) may not be sold or transferred, in whole or part, by any method other than a claiming race during the 30-day period after the initial claim; and

(2) is ineligible to start in a race at a race meeting other than the one at which it was claimed until the end of the race meeting at which the horse was claimed.

(b) A horse claimed in another state is subject to the eligibility requirements for claimed horses in effect at the time of the claim in the jurisdiction in which the horse was claimed. (Added eff. 8/30/89; amended eff. 11/1/94; amended eff. 9/8/00)

Sec. 313.309. Ineligible Entry.

A person may not enter or allow to be entered in a claiming race a horse against which a claim, lien, or other security interest is outstanding unless, on entering the horse, the person submits written consent to the entry by the person holding the claim, lien, or other security interest. (Added eff. 8/30/89)

Sec. 313.310. Restrictions on Claims.

(a) A horse that is claimed may not remain in the care or custody of the owner or trainer from whom the horse was claimed.

(b) A person may not claim more than one horse in a race nor submit more than one claim for a race. An authorized agent may not submit more than one claim in

a race, regardless of the number of persons the agent represents. A trainer may not be listed as the trainer for a claimant on more than one claim in the same race.

(c) A person may not offer or agree to claim or refrain from claiming a horse. A person may not prevent or attempt to prevent another person from claiming a horse.

(d) A person may not prevent or attempt to prevent a horse from racing in a claiming race for the purpose of avoiding a claim.

(e) A protection claim is prohibited and a person making such a claim is subject to disciplinary action by the stewards. (Added eff. 11/3/89; (b) amended eff. 5/1/92; (b) amended eff. 10/30/00)

Sec. 313.312. Protests.

A person wishing to protest the claim of a horse must file the protest with the stewards not later than one hour after the stewards declared the race official. (Added eff. 11/3/89; (b) added eff. 10/11/90; (a) amended eff. 2/1/95; (b) amended eff. 8/15/97; (b) amended eff. 10/30/00; amended eff. 4/4/05)

Sec. 313.313. Removal to Avoid Claim.

A person may not remove a horse from association grounds for the purpose of avoiding a claim. (Added eff. 11/3/89)

Sec. 313.314. Disclosure of Mare in Foal.

(a) A person may enter a mare or filly that has been serviced in a claiming race, provided:

(1) the owner files with the racing secretary a certificate from a licensed veterinarian, dated no earlier than 40 days after the date the mare or filly was last serviced, that states the mare or filly is not pregnant; or

(2) before entering the mare or filly:

(A) full disclosure of the servicing of the mare or filly is on file with and posted in the office of the racing secretary;

(B) the owner files with the racing secretary a signed statement agreeing to deliver without cost to a successful claimant the valid stallion service certificate regarding the servicing of the mare or filly; and

(C) all payments due for the stallion service or for any resulting live foal are paid in full.

(b) A successful claimant of a mare or filly in a claiming race may file with the stewards, not more than 30 days after the date of the claim, a petition to rescind the claim if:

(1) the claimant learns the mare or filly is pregnant; and

(2) the owner has not complied with subsection (a) of this section. (Added eff. 11/3/89; (a), (b) amended eff. 10/11/90)

Subchapter D. Running of the Race

Jockeys

Sec. 313.401. Jockeys to Report.

(a) A jockey engaged to ride in a race must be in the jockeys' room at the reporting time specified by the stewards on each day the jockey is scheduled to ride. Upon arrival, the jockey shall report to the clerk of scales.

(b) A jockey reporting to the jockeys' room must remain there until the jockey has fulfilled all of that day's riding engagements. While in the jockeys' room, the jockey may have no contact or communication with any person outside the jockeys' room other than with an owner or trainer for whom the jockey is riding that day, or with the stewards or other personnel authorized by the stewards.

(c) A jockey engaged to ride in a race shall report his or her riding weight to the clerk of scales at a time specified by the association. (Added eff. 8/30/89; (a), (b) amended eff. 10/11/90; (c) added eff. 10/11/90)

Sec. 313.402. Weighing Out.

(a) A jockey engaged to ride in a race must report to the clerk of scales for weighing-out not more than 30 minutes before post time for the first race, if the jockey is riding in that race, and not sooner than the running of the preceding race, if the jockey is riding in any other race.

(b) The clerk of scales shall have the overweight or change of jockeys posted immediately and announced over the public address system.

(c) A jockey who weighs out seven pounds or more than the appropriate weight shall be taken off the mount. (Added eff. 8/30/89; (c) amended eff. 4/2/90; (a) amended eff. 10/11/90)

Sec. 313.403. Maximum Overweight.

A jockey may not weigh-out if the jockey is more than two pounds over the weight assigned to his or her horse without permission of the owner or trainer. (Added eff. 8/30/89; amended eff. 10/11/90)

Sec. 313.404. Items Included in Weight.

A jockey's weight includes the riding clothing, boots, saddle, and pad, but excludes the whip, bridle, bit or reins, safety helmet, safety vest, blinkers, goggles, and number cloth. (Added eff. 8/30/89; amended eff. 10/11/90; amended eff. 9/1/93)

Sec. 313.405. Whips and Other Equipment.

(a) The use of a whip is not required and a jockey who uses a whip during a race may do so only in a manner consistent with using the jockey's best efforts to win. The correct uses of a whip include:

(1) showing the whip to the horse before hitting the horse;

(2) using the whip in rhythm to the horse's stride; and

(3) using the whip as an aid to keep a horse running straight.

(b) A whip used in races must be at least ¼-inch in diameter and have a looped leather "popper" affixed to one end. The whip must have at least three rows of leather feathers above the popper and each feather must be at least one inch long. The popper must be at least 1¼ inch wide and three inches long. A whip may not exceed one pound in weight or 31 inches in length, including the popper.

(c) If a jockey is to ride without a whip, the stewards shall ensure that fact is announced over the public address system.

(d) A jockey may not whip a horse:

(1) on the head, flanks, or on any part of the horse's body other than the shoulders or hind quarters;

(2) excessively or brutally causing welts or breaks in the skin;

(3) in the post parade except when necessary to control the horse;

(4) when the horse is clearly out of the race or has obtained its maximum placing; or

(5) persistently, if the horse is not responding to the whip.

(e) A jockey may not ride in a race unless the jockey wears a safety vest. A safety vest may weigh no more than two pounds and must be designed to provide shock absorbing protection to the upper body of at least a rating of five, as defined by the British Equestrian Trade Association . (Added eff. 8/30/89; (a) amended eff. 10/11/90; (a), (b), (d) amended eff. 5/15/93; (e) added eff. 9/1/93; (e) amended eff. 3/4/94; (e) amended eff. 4/4/05)

Sec. 313.406. Colors and Number.

(a) A horse starting in a race must carry a conspicuous saddle cloth number, and shall carry a head number, corresponding to its number in the official program.

(b) The jockey for a horse starting in a race shall be properly attired for riding in the race and wear:

(1) the racing colors provided by the owner of the horse the jockey is to ride, plus white riding pants, boots, and a number on the right shoulder corresponding to the mount's number as shown on the saddle cloth, head number, and in the daily program; and

(2) a helmet of a type approved by the executive secretary while mounted on any horse at a licensed racetrack.

(c) If an owner does not have colors, the jockey shall wear colors provided by the association. (Added eff. 8/30/89; (d) added eff. 1/10/90; (a), (b), (c) amended eff. 10/11/90; amended eff. 2/10/98; (a),(b) amended eff. 10/30/00)

Sec. 313.407. Duty to Fulfill Jockey Engagements.

(a) Except as otherwise provided by this section, a jockey engaged for a certain race or for a specified time may not fail or refuse to abide by the engagement agreement, unless excused by the stewards.

(b) A jockey may be excused by the stewards from fulfilling the jockey's riding engagements if:

(1) the jockey believes the horse he or she is to ride is unsafe, or the racecourse he or she is to ride on is unsafe; or

(2) the jockey is ill or injured.

(c) The stewards may require a jockey who is excused from fulfilling a riding engagement because of illness or injury to pass a physical examination conducted by a licensed physician before resuming race riding.

(d) A trainer or owner may demand a written confirmation of an engagement from a jockey or jockey agent.

(e) The stewards shall decide conflicting claims for the services of a jockey. (Added eff. 8/30/89; (a), (d), (e), amended eff. 10/11/90' (b), (c) added eff. 10/11/90; (c) amended 10/30/00)

Sec. 313.409. Jockey Mount Fees.

(a) If a jockey and owner or trainer reach an agreement regarding the fee to be paid a jockey, the parties to the agreement shall ensure that a written agreement, signed by the parties, is delivered to the horsemen's bookkeeper before post time of the race in which the jockey is to ride. The agreement must state the agreed upon fee for a winning mount, a second place mount, a third place mount, and a losing mount.

(b) After a race, the horsemen's bookkeeper shall debit the owner's account for the amount of the appropriate jockey mount fee as specified in the written agreement. If there is no written agreement, the horsemen's bookkeeper shall debit the owner's account for the appropriate jockey mount fee specified in subsection (c) of this section.

(c) In the absence of a written agreement, the following jockey mount fees apply:

Purse	Winning Mount	Second Mount	Third Mount	Losing Mount
$599 & under	$33	$33	$33	$33
$600-699	$36	$33	$33	$33
$700-999	10% Win Purse	$33	$33	$33
$1,000-1,499	10% Win Purse	$33	$33	$33
$1,500-1,999	10% Win Purse	$35	$33	$33
$2,000-3,499	10% Win Purse	$45	$40	$38
$3,500-4,999	10% Win Purse	$55	$45	$40
$5,000-$9,999	10% Win Purse	$65	$50	$45
$10,000-14,999	10% Win Purse	5% Place Purse	5% Show Purse	$50
$15,000-24,999	10% Win Purse	5% Place Purse	5% Show Purse	$55
$25,000-49,999	10% Win Purse	5% Place Purse	5% Show Purse	$65
$50,000-99,999	10% Win Purse	5% Place Purse	5% Show Purse	$80
$100,000 and up	10% Win Purse	5% Place Purse	5% Show Purse	$105

(d) A jockey mount fee is considered earned by a jockey when the jockey is weighed-out by the clerk of scales, except:

(1) when a jockey elects to take himself or herself off a mount; and

(2) when the stewards replace the jockey with a substitute jockey for reasons other than the jockey suffering an injury during the time between weighing-out and the start of the race.

(e) If the jockey does not weigh-out because the owner or trainer replaces the jockey with another jockey, the owner or trainer shall pay the appropriate fee to each jockey engaged for the race unless otherwise authorized by the stewards.

(f) A horse may not start in a race unless the horse's owner has on deposit with the horseman's bookkeeper sufficient funds to pay the losing jockey mount fee prescribed by this section or by

a written agreement filed under subsection (a) of this section.

(g) If the fee due to a jockey in a stakes race is $5,000 or more, the horsemen's bookkeeper may hold such fee in escrow until post-race testing is completed and action by the Commission releases the purse for that race, at which time the appropriate payment of the escrowed fee shall be made.

Sec. 313.411. Suspended Jockeys.

(a) Before opening day of a race meeting, the stewards shall designate the stakes or other races at that meeting in which a jockey will be permitted to compete, notwithstanding the fact that the jockey is under suspension for ten days or less for a riding infraction at the time the designated race is to be run.

(b) Official rulings for riding infractions of ten days or less must state: "The term of this suspension does not prohibit participation in designated races."

(c) The stewards shall post a list of the designated races in the jockeys' room, racing office, and any other place determined to be appropriate by the stewards.

(d) A suspended jockey must be named at time of entry to participate in any designated race.

(e) A day in which a jockey participated in one designated race while on suspension does not count as a suspension day. (Added eff. 10/11/90; (c) amended 10/30/00)

Pre-Race Procedure

Sec. 313.421. Horses to Pre-Race Holding Area.

(a) The trainer of a horse entered in a race must ensure that the horse is present in the pre-race holding area at the time designated by the stewards.

(b) The commission veterinarian shall report to the stewards the failure of a horse to report to the pre-race holding area at the appropriate time. The stewards may scratch a horse from the race if the horse is reported under this subsection.

(c) Except on permission of the stewards, blinkers may not be placed on a horse until after the horse has been identified by the horse identifier. (Added eff. 8/30/89; (a), (b) amended eff. 10/11/90; (c) added eff. 10/11/90; (b) amended eff. 10/30/00)

Sec. 313.422. Saddling and Equipment.

(a) A horse entered in a race must be saddled in a saddling stall, unless the stewards have granted permission for the horse to be saddled elsewhere.

(b) A trainer or assistant trainer having care and custody of a horse entered in a race shall be present in the paddock to supervise the saddling of the horse and to give instructions necessary to ensure the best performance by the horse.

(c) Blinkers, bits, tongue ties, bandages, and all other equipment shall be used consistently on a horse. All changes in equipment must be approved by the stewards.

(d) The trainer of a horse shall ensure that the horse is equipped with the proper equipment for each race in which it is to run. (Added eff. 8/30/89; (c) amended eff. 3/15/95; (d) added eff. 3/15/95)

Sec. 313.423. Parade.

(a) For purposes of the schooling list, the horses are under the control of the starter from the time the horses leave the paddock until dispatched at the start of the race.

(b) Except as otherwise provided by this section, each horse entered in a race shall parade, carrying the appropriate weight and equipment, from the paddock to the starting gate. The lead pony for a horse shall be ridden in a manner that permits adequate viewing of the horse by the patrons and stewards. The stewards may scratch a horse from the race if the horse fails to parade in accordance with this section.

(c) The stewards may excuse a horse from the parade, but shall require such a horse to pass the stewards' stand on its way to the starting gate.

(d) After the horses have passed the stands once, the horses may break formation and warm up until directed to proceed to the starting gate.

The parade of the horses to the starting gate may not last more than 14 minutes, except in a case of unavoidable delay.

(e) If a jockey is injured during the parade or at the starting gate, the horse must return to the paddock and be resaddled with the replacement jockey's equipment. The horse must return to the starting gate carrying the replacement jockey.

(f) If a jockey is thrown on the way to the starting gate, the jockey must remount the horse at the point where the jockey was thrown. (Added eff. 8/30/89; (a),(b) amended eff. 10/30/00)

Sec. 313.424. Leaving the Race Course.

(a) A horse that leaves the race course during the parade to the starting gate or during the warm-up shall return at the nearest practical point to where the horse left the race course, and continue the parade to the starting gate.

(b) The stewards shall scratch a horse from the race if, during the parade or warm-up, the horse leaves the race course to the extent that the horse is out of the vision of the stewards or the horse cannot be returned to the race course within a reasonable period of time.

(c) If a horse leaves the race course or loses its jockey during a race, the stewards shall disqualify the horse and consider it to be unplaced. (Added eff. 8/30/89; amended eff. 10/30/00)

Sec. 313.425. At the Starting Gate.

(a) When the horses have reached the starting gate, the starter shall ensure that the horses are promptly placed in their stalls in the order stipulated by the starter when instructed to do so by the stewards.

(b) The starter shall immediately report to the stewards any reason for a delay in the start. (Added eff. 8/30/89; (b) amended eff. 10/30/00)

Sec. 313.426. Toe Grabs Prohibited.

(a) A Thoroughbred or Arabian horse is ineligible to start in a race when it has shoes (racing plates) that have toe grabs with a height greater than two millimeters (0.07874 inches), bends, jar calks, stickers, or any other traction device on the front hooves.

(b) A Quarter Horse, Paint Horse, or Appaloosa is ineligible to start in a race when it has shoes (racing plates) that have toe grabs with a height greater than four millimeters (0.15748 inches), bends, jar calks, stickers, or any other traction device on the front hooves. (Added eff. 3/22/09)

The Race

Sec. 313.441. The Start.

(a) A horse is considered a starter for all purposes when the stall doors of the starting gate open in front of the horse at the time the starter dispatches the horses in a valid start.

(b) The stewards shall declare a horse a non-starter if the stewards determine the horse was left at the post because the horse was not in the starting gate stall or the starting gate malfunctioned. (Added eff. 8/30/89)

Sec. 313.442. Interference.

(a) A leading horse in a race around a turn is entitled to any part of the course; however, when another horse is attempting to pass in a clear opening, the leading horse may not impede the passing horse by crossing over so as to compel the passing horse to shorten its stride. A leading horse in a straightaway race must maintain a course as nearly as possible in the lane in which it starts.

(b) A horse may not interfere with or cause another horse to lose stride, lose ground, or lose position in a part of the race where the horse interfered with loses the opportunity to place where the horse might be reasonably expected to finish.

(c) The stewards may disqualify a horse who interferes with another horse in violation of this section and may place the horse behind the horse interfered with.

(d) The stewards shall display the "inquiry" sign on the infield tote board immediately on observing possible interference. (Added eff. 8/30/89; (a) amended eff. 10/30/00)

Sec. 313.443. Action by Jockeys.

(a) A jockey may not ride carelessly or willfully so as to permit the mount to interfere with or impede another horse in the race.

(b) A jockey may not willfully strike or attempt to strike another horse or jockey so as to impede,

interfere with, intimidate, or injure the other horse or jockey.

(c) A jockey may not exchange whips during the running of a race.

(d) A jockey who acts in violation of this section is subject to discipline by the stewards and the jockey's mount may be disqualified. (Added eff. 8/30/89; (d) amended eff. 10/30/00)

Sec. 313.444. Dismounting.

(a) After the race, each jockey shall return the horse to the finish, salute the stewards, and receive permission of the stewards to dismount.

(b) Except on the permission of the stewards, a jockey may not permit another person to assist the jockey in removing the equipment that is included in the jockey's weight.

(c) Immediately on dismount and removal of equipment, the jockey shall go to the clerk of the scales to weigh in. (Added eff. 8/30/89; (c) amended eff. 10/30/00)

Sec. 313.445. Weigh In.

(a) On weighing in, a jockey may not weigh less than one pound under the jockey's proper weight nor weigh more than two pounds over the jockey's proper weight.

(b) The stewards may disqualify a horse whose jockey weighs in at a weight in violation of this section and may discipline a person responsible for the weight violation. In determining a violation under this subsection, the stewards shall take into account any excess weight due to rain or mud.

(c) The stewards may excuse a jockey from weighing in if the jockey is unable to weigh in due to accident, injury, or other good cause. (Added eff. 8/30/89)

Sec. 313.446. Claim of Interference.

(a) A jockey, trainer, or owner of a horse may make a claim of interference with the stewards before a race is declared official if the jockey, trainer, or owner has reasonable grounds to believe the horse was interfered with or impeded during the running of the race or that a jockey violated the Rules during the race. On receiving a claim of interference, the stewards shall display the objection sign on the tote board.

(b) A person may not make a claim of interference if the person knows the claim is inaccurate or false.

(c) An individual who makes a frivolous claim of interference is subject to discipline by the stewards. (Added eff. 8/30/89; (a) amended eff. 10/30/00)

Sec. 313.447. Ramifications of Disqualification.

(a) If the stewards disqualify a horse in a race, each horse in the race that is owned, in whole or in part, by the same owner or that is trained by the same trainer may be disqualified.

(b) If a horse is disqualified for interference in a time trial race, the horse shall receive the time of the horse it is placed behind, plus .01 of a second, or a more exact measurement if photofinish equipment permits. The horse may be eligible to qualify for the finals or consolations of the race on the basis of the assigned time. (Added eff. 8/30/89; (b) amended eff. 10/30/00)

Sec. 313.448. Dead Heat.

(a) If a race results in a dead heat, the race may not be run off.

(b) The association shall distibute the purse equally among the winning horses and any prize that cannot be duplicated shall be distributed by lot. (Added eff. 8/30/89)

Sec. 313.449. Official Order of Finish.

(a) The stewards shall declare the order of finish in a race is official when the stewards have determined:

(1) the order of finish is correct;

(2) the jockeys have been properly weighed in, unless excused; and

(3) the race was run in accordance with the Act and the Rules.

(b) On declaring the official order of finish, the stewards shall direct:

(1) the order of finish to be posted and announced to the public;

(2) the official sign to be posted on the tote board; and

(3) the mutuel manager to ensure the accuracy of the pools for the race are correct and ready to be paid.

(c) Except in a stakes race where the published conditions expressly provide for payment of purse

money through last place, a horse must carry its assigned weight across the finish line to be eligible to earn any portion of the purse or a designation in the official order of finish other than "did not finish". (Added eff. 8/30/89; (c) added eff. 5/1/96; (a),(b) amended eff. 10/30/00)

Sec. 313.450. Time Trial Qualifiers.

(a) When two or more horses in different trial races have the same qualifying time, to a degree of .01 of a second, or more exact measurement if photofinish equipment permits, for fewer available positions in the finals or consolations, the stewards shall conduct a draw by lot.

(b) A horse may not draw into the finals or consolations instead of a horse that finished ahead of the horse.

(c) When scheduled races are trial heats for futurities or stakes races electronically timed from the starting gates, an association may not move the starting gates or allow the starting gates to be moved until all trial heats are complete, except in an emergency or to renovate the track as determined by the stewards. (Added eff. 8/30/89; (c) amended eff. 6/15/97; (a),(b) amended eff. 10/30/00)

Subchapter E. Training Facilities

Sec. 313.501. Training Facility License.

(a) A training facility must be licensed by the Commission in accordance with this section to provide official workouts. Except as otherwise provided by this subchapter, an official workout obtained at a training facility licensed under this section satisfies the workout requirements of §313.103 of this title (relating to Eligibility Requirements).

(b) A training facility license expires on December 31 of the year in which the license was issued. The annual fee for a training facility license is $1,800, which is due and payable to the Commission on receipt of the license certificate.

(c) A training facility license is personal to the licensee and may not be transferred. (Added eff. 1/1/94; (a),(b) amended eff. 10/30/00; (b) amended eff 9/28/05)

Sec. 313.502. Application for License.

(a) To apply for a training facility license, a person must file an application form prescribed by the Commission at the Commission office in Austin.

(b) The executive secretary shall review each application that is filed. The executive secretary may request additional information from the applicant if the executive secretary determines the additional information is necessary for a complete analysis of the application. If after the review the executive secretary is of the opinion that a training facility license should be granted to the applicant, the executive secretary shall grant the license and issue a license certificate. If after the review the executive secretary is of the opinion that a training facility license should not be granted to the applicant, the executive secretary shall notify the applicant and arrange a hearing on the proposed denial. A hearing on a proposed denial is a contested case proceeding and shall be conducted in accordance with Chapter 307 of this title (relating to Practice and Procedure).

(c) A training facility license may be denied, suspended, or revoked for any of the grounds listed in the Act, §7.04. (Added eff. 1/1/94; (a) amended eff. 10/30/00)

Sec. 313.503. Physical Plant.

(a) To be eligible for a training facility license, the applicant must provide the equipment and facilities prescribed by this section.

(b) The racetrack at a training facility must have a chute at least 250 yards long from the back of the chute to the finish line. The racetrack must be an oval that is at least:

(1) five-eighths mile in length;
(2) 40 feet wide on each straightaway;
(3) 40 feet wide on each turn.

(c) The dimensions of the racetrack at the training facility must be surveyed by a certified land surveyor, including the distances from each distance pole to the finish line. The results of the survey must be submitted in writing with the application for a training facility license. If

neither the track dimensions nor the distance poles have been altered since the date an original training facility license was granted, the general manager or chief executive officer of the training facility may submit a sworn affidavit stating that fact in lieu of a new survey. If the track dimensions or distance poles have been altered since the date the original training facility license was granted, the racetrack must be surveyed by a certified land surveyor and the results submitted to the Commission in writing with the application for license renewal.

(d) A training facility shall provide an inside contour rail and an outside rail, both of which must be approved by the executive secretary. The turns on the racetrack must be banked to a degree approved by the executive secretary. The composition of the racing surface must be approved by the executive secretary. A training facility shall provide a padded starting gate approved by the executive secretary. The training facility shall provide timing equipment that is capable of recording the time of a horse in at least hundredths of a second. The timing equipment is subject to testing and approval by the executive secretary.

(e) The racetrack at a training facility must have distance poles indicating the distance from the pole to the finish line as follows:

(1) 1/16 poles with black and white stripes;

(2) 1/8 poles with green and white stripes; and

(3) 1/4 poles with red and white stripes.

(f) A training facility is not required to have:

(1) facilities for the public to observe the workouts; or

(2) concessions.

(Added eff. 1/1/94; (a) amended eff. 8/15/95; (d) amended eff. 9/1/98; (a),(c),(d) amended eff. 10/30/00)

Sec. 313.504. Operational Requirements.

(a) The primary business of a training facility must be the training of race horses. The training facility must be available to provide official workouts on a schedule approved by the executive secretary, but at least three days per week.

(b) A training facility licensee shall prohibit any wagering at the facility and shall promptly eject any person who is found to be wagering.

(c) A training facility licensee shall ensure that veterinary services and facilities are available to the training facility in close enough proximity to permit a response time of one hour or less. The veterinary services and facilities are subject to the approval of the executive secretary.

(d) A training facility licensee shall maintain records regarding the management and operation of the training facility and the records are subject to inspection by the executive secretary. A training facility licensee shall cooperate fully with the Commission, the executive secretary, and the Department of Public Safety in the regulation of training facilities and shall promptly provide any information requested by the Commission, the executive secretary, or the Department of Public Safety.

(e) A training facility licensee shall post in a prominent place a list of the dates and times that official workouts may be obtained.

(f) A training facility licensee shall comply with all the requirements of this subchapter. Failure to continuously comply with those requirements is grounds for disciplinary action by the Commission, including suspension or revocation of the training facility license.

(g) The facilities and operations of a licensed training facility are subject to inspection and verification by the executive secretary at any time. If the executive secretary determines that inappropriate or unsafe conditions exist at the training facility or that the integrity of workouts obtained at the facility are in question, the executive secretary may immediately notify the pari-mutuel racetracks in this state that workouts obtained at the facility may not be accepted as official workouts. The executive secretary shall notify the general manager or chief executive officer of the licensed training facility of the executive secretary's findings and specifically

describe the corrective action necessary to make the facility's workouts official, to rectify the inappropriate condition or to make the conditions safe. The training facility may take the necessary corrective action or request a hearing on the executive secretary's findings.

(h) A training facility licensee may not:

(1) conduct a race at its facility; or

(2) allow its facility to be used for a race.

(Added eff. 1/1/94; (h) added eff. 1/3/96; (g) amended eff. 9/1/98; (a),(c),(d),(f),(g) amended eff. 10/30/00)

Sec. 313.505. Workout Requirements.

(a) All official workouts must be supervised by the following officials, who must be licensed and approved by the executive secretary:

(1) a timer/clocker;

(2) a horse identifier; and

(3) a starter.

(b) The person riding a horse in an official workout and the person bringing a horse to a licensed training facility for an official workout must hold a valid Commission license in the appropriate category.

(c) The horse identifier shall identify each horse before each official workout. The original registration papers for each horse that is to work, or a copy that satisfies the horse identifier, must be submitted to the horse identifier before the horse's initial workout at the facility to permit the identifier to record the horse's color, gender, markings, and tattoo number, if applicable. The horse identifier shall inspect all documents of ownership, registration, or breeding necessary to ensure the proper identification of the horse. The identification procedures used at the training facility are subject to the approval of the executive secretary. The individual serving as the horse identifier may serve as timer or starter also, with the approval of the executive secretary.

(d) A training race conducted at a licensed pari-mutuel racetrack may be used as an official workout. The distance of an official workout must be at least:

(1) 220 yards for a quarter horse;

(2) two furlongs, for a two-year old thoroughbred; and

(3) three furlongs, for a thoroughbred three years of age or older.

(e) A workout must be timed on a stopwatch that is accurate to within .01 of a second. Times for quarter horses shall be rounded to tenths of one second and times for thoroughbred horses shall be rounded to fifths of one second.

(f) An individual may not ride a horse in an official workout unless the individual is wearing a properly fastened helmet of a type approved by the executive secretary.

(g) Each official workout must be recorded on a form prescribed by the executive secretary. Not later than 24 hours after the day of an official workout, a training facility shall transmit the results of the workout to:

(1) the official past performance publisher;

(2) the Commission; and

(3) each pari-mutuel horse racetrack in this state that is:

(A) conducting a live race meeting for the same breed of horse as the horse that was worked; or

(B) will, in 45 days or less after the date of the workout, commence a live race meeting for the same breed of horse as the horse that was worked.

(h) A horse may not have more than one official workout on a calendar day. (Added eff. 1/1/94; (a),(b),(f),(g) amended eff. 10/30/2000; (d) amended eff. 4/4/05)

Sec. 313.506. Discretion of Officials.

(a) The officials at an association's race meeting may reject a workout conducted at a licensed training facility if the officials determine the time of the workout indicates the horse may not be fit to compete with the other horses entered in the race.

(b) The starter at an association's race meeting may reject a gate approval obtained at a licensed training facility if:

(1) the starter knows the gate approval

does not ensure the safety of the horse or jockey; or

(2) the starter has reason to believe the horse would not break from the gate in a manner that would safeguard the interests of the public.

(Added eff. 1/1/94)

Sec. 313.507. Employees of Training Facilities.

(a) The general manager and chief executive officer of a licensed training facility must obtain a training facility employee license from the Commission. The license fee for a training facility employee license is $20. A training facility employee license may be denied, suspended, or revoked for any of the grounds listed in the Act, §7.04.

(b) A training facility employee license does not entitle the licensee to participate in pari-mutuel racing in this state but, except as provided by the Act or the Rules, the licensee is not prohibited from obtaining a license to participate in pari-mutuel racing. A person who holds a Commission license to participate in pari-mutuel racing may work at a licensed training facility in the appropriate capacity.

(c) A person holding a training facility employee license is subject to the Rules that regulate the behavior and privileges of individual licensees of the Commission. By accepting a license issued by the Commission, the licensee consents to:

(1) a search by the Commission of the person and the person's possessions at the training facility to check for violations of the Act or the Rules;

(2) seizure of contraband prohibited by §311.215 of this title (relating to Contraband); and

(3) testing for alcohol and controlled substances in accordance with Chapter 311 of this title (relating to other licenses). (Added eff. 1/1/94; (a),(b),(c) amended eff. 10/30/00; (a) amended eff. 7/17/01; (a) amended eff. 4/4/05)

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CHAPTER 315. OFFICIALS AND RULES FOR GREYHOUND RACING

Subchapter A. Officials

Appointment of Officials

Sec. 315.1. Required Officials.

(a) The following officials must be present at each greyhound race conducted in this state:

(1) at least two racing judges;
(2) a commission veterinarian;
(3) an association veterinarian;
(4) a racing secretary;
(5) an assistant racing secretary;
(6) a paddock judge;
(7) a starter;
(8) a clerk of scales;
(9) a mutuel manager;
(10) a chart writer;
(11) a photofinish operator and timer;
(12) a kennel master; and
(13) a mechanical lure operator.

(b) An individual may not serve as an official unless the individual has been approved by the executive secretary. Not later than the 30th day before the first day of a race meeting, an association shall submit to the executive secretary the name of each individual and qualified substitutes appointed to serve as an official at the race meeting and a summary of the proposed official's qualifications. The executive secretary may refuse to approve an individual as an official if the executive secretary determines the individual lacks sufficient qualifications to perform the duties of the official position. If the executive secretary determines that an individual is qualified to perform the duties required of the official position for which the individual is submitted and may be issued a license by the Commission, the executive secretary shall approve the appointment of the individual.

(c) The executive secretary may rescind the approval of an official if the executive secretary determines that:

(1) the official has violated the Act or a rule of the commission;

(2) the official has not fulfilled the duties of the position for which the official was appointed; or

(3) the official has engaged in conduct that is inconsistent with the duties of the official and that is not in the best interests of racing. (Added 10/11/90; (c) added eff. 10/15/95; (b),(c) amended eff. 10/30/00; (a),(b) amended eff. 4/4/05; amended eff. 7/14/09)

Sec. 315.2. Racing Judges.

(a) To be eligible to be employed as a racing judge, an individual must:

(1) have experience as an official at a pari-mutuel greyhound racetrack or demonstrate to the executive secretary's satisfaction that the individual has sufficient experience in a racing-related field to perform the duties of a racing judge;

(2) pass an optical examination conducted annually indicating 20-20 vision, corrected, and the ability to distinguish colors;

(3) agree to a complete investigation into the individual's background to ensure the individual's integrity is above reproach;

(4) pass a written examination prescribed by the executive secretary; and

(5) demonstrate to the executive secretary's satisfaction that the individual's income from sources other than as a racing judge is unrelated to patronage of or employment by a licensee of the Commission.

(b) The executive secretary shall administer the written examination required under this section. A passing grade for the examination is 85%. (Added 10/11/90; (b) amended eff. 5/1/92; amended eff. 2/10/98; (a) amended eff. 10/30/00; (a) amended eff. 4/4/05)

Sec. 315.3. Substitute Officials.

(a) The executive secretary may appoint a substitute racing judge to serve in the absence of a racing judge.

(b) To be eligible to be appointed as a substitute racing judge, an individual must be qualified to serve as a racing judge.

(c) If an approved official becomes unavailable to serve, the association may appoint a substitute

official with the approval of the racing judges. The substitute official must obtain a Commission license before assuming his or her duties.

(d) If a vacancy occurs among the racing officials other than the racing judges and the association has not appointed an approved substitute, or if a vacancy occurs after a performance has begun, the racing judges shall immediately appoint another qualified individual to fill the vacancy. To be eligible for appointment under this subsection, an individual must be licensed by the Commission as an official. An appointment made under this subsection is valid only for the day of the appointment, unless the association fails to fill the vacancy on the following day and notifies the racing judges not later than one hour before post time for the first race of the day. The racing judges shall immediately report to the executive secretary all appointments made under this subsection. (Added 10/11/90; (a)-(d) amended eff. 2/10/98; (c) amended eff. 10/30/00)

Sec. 315.4. Dual Appointments.

(a) Except as otherwise provided by this section, a racing official may not be appointed to more than one position with an association unless written permission is obtained from the executive secretary at least 10 days before the beginning of the race meeting.

(b) If an emergency arises during a race meeting which necessitates the appointment of a racing official to more than one position, the association shall provide a written report to the executive secretary describing in detail the circumstances of the appointment. A report under this subsection must be delivered to the executive secretary not later than three days after the date of the appointment. If the executive secretary does not approve the emergency dual appointment, the association shall make the necessary appointments for each position. (Added 10/11/90)

Sec. 315.5. General Duties.

(a) An official other than a racing judge is directly responsible to the racing judges for the performance of the official's duties and shall exercise due diligence in the performance of those duties.

(b) An official shall promptly report to the racing judges or the executive secretary any observed violation of the Act or a rule of the commission. (Added 10/11/90)

Duties

Sec. 315.31. Racing Judges.

(a) In addition to the other duties described in these Rules, the racing judges shall supervise and exercise general authority over the conduct of the race meeting for which they are appointed and over the licensees participating in racing at that race meeting. If a question arises during a race meeting regarding the conduct of racing that is not addressed by the Act or a rule of the Commission, the racing judges shall resolve the question in conformity with custom, precedent, justice, and the best interest of racing.

(b) The racing judges shall decide all questions before them by majority vote.

(c) The racing judges are authorized to:

(1) interpret and enforce the Act and the Rules of the Commission and to determine all questions, disputes, complaints, or objections relating to racing matters in accordance with the applicable laws;

(2) issue rulings, which supersede any orders of the association, on racing matters that may change the conduct of a race or a race meeting;

(3) review applications for individual licenses submitted at a racetrack and make recommendations regarding the issuance of individual licenses;

(4) enter and inspect all official's stands, weighing rooms, kennels, and all other areas on association grounds;

(5) supervise entries, scratches, and substitutions, and refuse an entry or transfer of

entries;

(6) supervise the grading and schooling of greyhounds and place a greyhound on the schooling list;

(7) supervise weighing and starting procedures;

(8) order the examination of a greyhound or the ownership, registration, or identification papers of a greyhound;

(9) disqualify a greyhound or request proof that a greyhound is eligible to race; and

(10) perform any other duty necessary on behalf of the Commission to ensure a race meeting is conducted in accordance with the Act and the Rules of the Commission.

(d) The racing judges shall prepare a report of actions taken and observations made during each performance. The report must contain the name of the racetrack, the date, a designation of matinee or evening performance, the weather and track conditions, inquiries and objections, and any unusual circumstances or conditions. The report must be signed by each racing judge and be filed with the executive secretary on a weekly basis.

(e) The racing judges shall maintain a detailed log of the racing judges' official activities. The log must describe all questions, disputes, protests, complaints, or objections brought to the attention of the racing judges and all interviews, investigations, and rulings made by the judges. The log must be available at all times for inspection by the executive secretary.

(f) At least one racing judge shall observe the weigh-in for each performance.

(g) The racing judges may not declare a race official until they have determined which greyhounds finished first, second, third, and fourth. The racing judges shall immediately notify the mutuel department of the numbers of the first four greyhounds.

(h) On determining the official order of finish, the racing judges shall direct the order of finish to be announced to the public and the order of finish and the "official" sign to be displayed on the tote board.

(i) Except as otherwise provided by this section, if the racing judges decide to consult an image from the photofinish equipment, the racing judges may declare the placements of the greyhounds which they have determined to be unquestionable. The photofinish equipment required by these rules is to be merely an aid to the racing judges, and the racing judges' decision is final. (Added 10/11/90; (c),(d),(e) amended eff. 10/30/00; (g)-(i) amended eff. 11/1/01; (f) amended eff. 9/7/03; (a),(c) amended eff. 4/4/05)

Sec. 315.32. Commission Veterinarian.

The commission veterinarian shall supervise all veterinary practices on association grounds, advise the executive secretary and the racing judges on all veterinary matters, and perform all other duties required by the executive secretary or the Rules. (Added 10/11/90; amended eff. 10/30/00)

Sec. 315.33. Paddock Judge.

(a) The paddock judge shall fully identify each greyhound and check against the card index system of identification maintained by the association. The paddock judge shall report promptly to the racing judges a greyhound that does not conform to the card index identification.

(b) The paddock judge shall supervise the inspection of the lockout kennel before weigh-in to ensure the lockout kennel and the crates are clean and in good repair.

(c) As each greyhound is weighed in, an identification tag that contains the number of the race in which the greyhound is entered and its post position shall be placed on the greyhound's collar. The tag may not be removed until the greyhound has been weighed out and blanketed.

(d) The paddock judge may not permit a greyhound to weigh in if the paddock judge knows that any person on whose behalf the greyhound is racing is not properly licensed by the Commission.

(e) The paddock judge shall inspect each greyhound that leaves the paddock to ensure that each greyhound is equipped with a regulation

muzzle and blanket. The paddock judge shall maintain a supply of extra muzzles, lead straps, and collars provided by the association.

(f) The paddock judge shall assign leadouts to post positions by lot before the race and shall maintain a record of the assignments.

(g) The paddock judge shall supervise the training of each leadout before a race meeting. The training must include the proper method for leading a greyhound, the handling of blankets, muzzles, and leashes, and general care and maintenance of the greyhound while in the leadout's custody. (Added 10/11/90; (g) amended eff. 10/30/00)

Sec. 315.34. Starter.

(a) The starter shall issue orders and take measures necessary to ensure a fair start.

(b) The starter shall report the cause of a delayed start to the racing judges.

(c) There is no start until, and there may be no recall after, the doors of the starting box have opened.

(d) A start hampered due to a malfunction of the starting box or other interference is void. If the starting box malfunctions, the greyhounds will be started as soon as practicable, or the racing judges may cancel the race.

(e) The starter shall supervise the leadouts to ensure the greyhounds are loaded to the proper post position. (Added 10/11/90; (e) added eff. 10/30/00)

Sec. 315.35. Clerk of Scales.

(a) The clerk of scales shall weigh greyhounds, with muzzle, collar, and leash, in and out of the lockout kennel, in a uniform manner, on a scale certified by the appropriate state official and shall display the weight of each greyhound on the weight board. The clerk of scales shall display promptly the established racing weight, weighing-in weight, and weighing-out weight of each greyhound on the weight board for the information of the patrons.

(b) Immediately after displaying the weights, the clerk of the scales shall record any overweight or variation from the weight appearing on the weight sheet. The clerk of scales shall deliver to the presiding racing judge a copy of the weight sheet before each performance.

(c) The clerk of scales shall report promptly to the racing judges any violation of these rules regarding weight or weighing.

(d) The clerk of scales shall require a greyhound to remain on the scales until an accurate weight measurement of the greyhound is obtained.

(e) The clerk of scales shall require the leadout for a greyhound being weighed to stand away from the scale to allow at least a six-inch sag in the leadout leash.

(f) The clerk of scales shall keep a list of all greyhounds known as "weight losers" and shall notify the racing judges as to the weight loss before each race of a greyhound on the list. (Added 10/11/90; (c),(d) amended eff. 10/30/00)

Sec. 315.36. Mutuel Manager.

(a) In addition to the other duties described in these Rules, the mutuel manager shall supervise the operations of the pari-mutuel department of the association and its employees. The mutuel manager shall ensure the accuracy of the amounts in all pools and the amounts to be paid on winning wagers.

(b) The mutuel manager may designate a representative to serve in the mutuel manager's absence, subject to approval by the executive secretary. (Added 10/11/90; (b) added eff. 5/1/96; (a) amended eff. 4/4/05)

Sec. 315.37. Racing Secretary.

(a) The racing secretary shall supervise the operations of the racing office and its employees. The racing secretary shall:

(1) maintain a complete record of all races;

(2) receive all stakes, entrance money, and arrears and supervise the payment of all money collected to those entitled to receive the money;

(3) receive all entries;

(4) view the running or a videotape of each race;

(5) write the conditions of all races; and

(6) perform all other duties imposed on the racing secretary by these rules or the association.

(b) The racing secretary may delegate to the assistant racing secretary any duty imposed on the racing secretary.

(c) The racing secretary may demand and inspect owners' and trainers' licenses and all documents relating to trainers and owners, partnership agreements, and the adoption of assumed names to satisfy the racing secretary of the validity of the documents.

(d) Immediately after the entries for a race are closed and compiled, the racing secretary shall post a list of the entries in a conspicuous place. Before accepting a greyhound entry, the racing secretary shall determine whether all relevant kennel owners, owners, and trainers have been properly licensed. (Added 10/11/90; (a),(c),(d) amended eff. 4/4/05)

Sec. 315.38. Assistant Racing Secretary.

The assistant racing secretary shall perform any duty assigned by the racing secretary and shall assist the racing secretary in the performance of the racing secretary's duties. (Added 10/11/90)

Sec. 315.39. Chart Writer.

The chart writer shall compile the information necessary to prepare the program for each race day. (Added 10/11/90)

Sec. 315.40. Kennel Master.

(a) Under the supervision of the paddock judge, the kennel master shall unlock the lockout kennel and the crates immediately before weigh-in time to ensure that the crates are in good repair and that nothing has been deposited in any of the crates for the greyhound's consumption.

(b) The kennel master shall ensure that the crates are sprayed and disinfected before each performance and maintained in a proper sanitary condition.

(c) The kennel master shall supervise the leadouts in the placing of the greyhound in the proper crate until removed for racing. The kennel master or the kennel master's assistant shall remain on guard in the paddock area from weigh-in time until the greyhounds are removed for the last race. (Added 10/11/90; (c) amended eff. 10/30/00)

Sec. 315.41. Photofinish Operator and Timer.

(a) The photofinish operator and timer shall maintain the photofinish and timing equipment in proper working order and shall photograph each race.

(b) In addition to the time kept on the photofinish equipment, the photofinish operator and timer shall time each race by hand, using an accurate stopwatch, beginning when the doors of the starting box open.

(c) The photofinish operator and timer shall declare the time on the photofinish equipment as the official time of the race. If the photofinish operator and timer is not satisfied that time was accurate, he or she shall declare the stopwatch time as the official time and announce that fact to the patrons. (Added 10/11/90)

Sec. 315.42. Association Veterinarian.

The association veterinarian shall perform all duties required by Chapter 319 of this title (relating to Veterinary Practices and Drug Testing), and all duties required by the commission veterinarian. (Added 10/11/90)

Subchapter B. Entries and Pre-Race Procedures

Sec. 315.101. Registration.

(a) Except as otherwise provided by this section, a greyhound may not enter a race, start, or be schooled on an association's grounds unless the greyhound is tattooed and registered in the stud book maintained by the National Greyhound

Association.

(b) Before a greyhound may be schooled, entered, or raced at a racetrack, a National Greyhound Association certificate of registration, the racing history and the last four performance lines for the greyhound, if applicable, must be on file with the racing secretary. The racing judges may inspect the certificates of registration at any time.

(c) A person transferring title to a lease or other interest in a greyhound schooled, entered, or racing on an association's grounds shall register and record the transfer with the National Greyhound Association. (Added 10/11/90; (a) amended eff. 3/6/91; (d) deleted eff. 1/3/96; (b) amended eff. 4/4/05)

Sec. 315.102. Entry Procedure.

(a) The racing secretary shall receive entries to the active list. The racing secretary may refuse to accept an entry if the racing secretary reasonably believes that the entry is prohibited by these Rules.

(b) An entry in a race must be in the name of the registered owner, lessee, or a kennel name and may be made in person, in writing, or by telephone or facsimile.

(c) A greyhound may not start in a race unless the greyhound has been entered in the race in accordance with these rules.

(d) An association may not charge a fee for entering a race unless a fee is clearly stated in the conditions of the race. If the conditions require an entry fee, the fee must accompany the entry.

(e) A joint entry may be made by one or more owner of a greyhound. If the ownership interests in a greyhound are equally divided, each owner is jointly and severally liable for all fees and forfeits.

(f) The racing officials may require a person in whose name a greyhound is entered to produce proof that the greyhound is owned only by persons licensed to participate in pari-mutuel racing. The racing judges may scratch the greyhound from the race if the person fails to comply with a demand made under this subsection.

(g) The racing secretary shall compile and conspicuously post the entries as soon as possible after entries close. After entries close, an entry may not be altered other than to correct an error.

(h) An association may withdraw or change a race for which entries have not closed.

(i) Except as otherwise provided by this subsection, entries for a purse race shall close at the time indicated in the publication of the conditions. An association may grant additional time for entries for a race that does not fill by the indicated closing time. An association may not maintain a list of "also eligible" entries.

(j) A greyhound whose entry is ordered refused at a racetrack in any jurisdiction because of inconsistent racing or erratic racing performance for no apparent reason may not enter a race at any licensed racetrack in this state until:

(1) the greyhound has been successfully schooled at the racetrack at which the greyhound is to compete; and

(2) the person making the entry has received the approval of the racing judges.

(k) In a purse race, there may not be more than two double entries. When a full active list is achieved and maintained, a double entry may not be entered until all single interests eligible for the performance are used. Double entries may be used at the discretion of the racing secretary when the active list is low or unbalanced with approval of the racing judges. A double entry shall be uncoupled for wagering purposes.

(l) If the number of entries exceeds the number of greyhounds that may start in the race, the racing secretary shall determine which greyhounds shall start in the race.

(Added 10/11/90; (k) amended eff. 3/6/91; (k) amended eff. 8/15/97; (e),(j),(f),(m) amended eff. 10/30/00; (k) amended eff. 4/1/01; (a),(f) amended eff. 4/4/05; (m) deleted eff. 4/4/05)

Sec. 315.103. Eligibility to Enter or Start.

(a) A greyhound that is entered in a purse race shall start in the race, unless the greyhound is scratched.

(b) A greyhound may not enter or start in a

race if:

(1) the greyhound is disqualified from entry or start;

(2) the greyhound has not been conditioned by a licensed trainer; or

(3) the greyhound is on the official schooling list or the veterinarian's list.

(c) A greyhound may not start in a race unless each person owning an interest in the greyhound or accepting a trainer's percentage, or having an interest in its winnings, at the time of entry into the race, is licensed by the Commission and the name of each person is registered with the racing secretary. In a stakes race, each person owning an interest in the greyhound or accepting a trainer percentage, or having an interest in its winnings, must be licensed at the time of the race.

(d) A greyhound may not start in a race unless the greyhound has been fully identified.

(e) Except as otherwise provided by this section, a greyhound may not start in a race if any entry money, stakes, or arrears is owed to the association for the greyhound. If the racing secretary permits a greyhound for which all money due has not been paid to start in a race, the racing secretary is liable for the payment.

(f) A greyhound that is less than 12 months old may not start in a race other than a race conditioned for greyhounds of the same age. (Added 10/11/90; (a),(b),(c) amended eff. 10/30/00)

Sec. 315.104. Sales and Transfers.

(a) If a greyhound is sold with any of its engagements, the seller may not strike the greyhound out of the engagements. If the sale is made by private contract, the written acknowledgment of both parties that the greyhound is sold with the engagements is necessary to entitle the seller or buyer to the benefit of this section. If certain engagements are specified, only those are sold with the greyhound.

(b) If a greyhound is sold at public auction, the advertised conditions of the sale constitute the agreement of the parties, and if certain engagements are specified, only those are sold with the greyhound.

(c) If a greyhound is sold with its engagements, the greyhound may not start in a stakes race unless the documents of the transfer have been shown to the racing secretary.

(d) The seller of a greyhound with engagements is liable for stake or forfeit if the engagements are not kept.

(e) If a greyhound is sold to a person who is not eligible to participate in pari-mutuel racing in this state, the greyhound's engagements are void as of the date of the sale. (Added 10/11/90)

Sec. 315.105. Stakes Race.

(a) Except as provided by the published notice of a stakes race, entries for a stakes race which close during or on the eve of a race meeting, close at the racing secretary's office. Entries and declarations for a sweepstakes that closes at another time close at the association's office.

(b) An entry for a stakes race may not be received after the hour designated for closing. If an hour is designated, an entry may be mailed or sent by facsimile before midnight of the day of closing, provided the entry is received by the racing secretary with adequate time to comply with all other conditions of the race.

(c) A nomination for a stakes race is valid if it is received by the racing secretary at least 24 hours before the close of entries for overnight races to be held on the same day at the stakes race.

(d) If an entry for a stakes race that was sent by mail or facsimile is not timely received, the person sending the entry must present to the racing secretary proof of the mailing or facsimile not later than 24 hours after the deadline for receipt of the entry. The racing secretary may not accept an entry for which proof is not submitted in accordance with this subsection.

(e) If a greyhound does not compete in a stakes race in which the greyhound was entered, the owner of the greyhound forfeits all nominating, sustaining, and starting fees paid in

behalf of the greyhound. (Added 10/11/90; amended eff. 10/30/00)

Sec. 315.106. Liability for Fees in Stakes Races.

(a) The owner of a greyhound nominated to a stakes race is liable for all nomination, sustaining, and other fees associated with the race. The death of a greyhound, failure to start, or mistake in its entry does not release the owner from liability for the applicable fees. If ownership of the greyhound is transferred after the greyhound is nominated for the race, the new owner is liable for all fees associated with the race that accrue after the date the ownership is transferred.

(b) With the prior approval of the racing judges, the racing secretary may waive the obligation to pay arrears by a person who has sold a greyhound with engagements or transferred entries. (Added 10/11/90; amended eff. 10/30/00; (a) amended eff. 7/15/05)

Sec. 315.107. Payments of Nominating, Sustaining and Starting Fees.

(a) If a stakes race is not run for any reason, the association shall refund all nominating, sustaining, and starting fees paid, if any.

(b) In an emergency, an association may postpone or cancel a race or stakes race with the approval of the racing judges. The association shall refund all nominating, subscribing and starting fees for a race under this section. (Added 10/11/90; (c),(d) amended 10/30/00; amended eff. 4/4/05)

Sec. 315.108. Qualifying Time.

(a) An association, with the approval of the racing judges, shall establish qualifying times for all distances.

(b) An association shall notify the executive secretary at least three days before the first day of a race meeting of the qualifying times established by the association. The association shall continuously post the qualifying times in a conspicuous place. A new qualifying time established during a race meeting takes effect, after approval by the racing judges, on the third day after the date the association posts the new time.

(c) The period for race qualifications of greyhounds may not exceed the period from the beginning of official schooling to one week before the last day of the race meeting. (Added eff. 10/11/90; (a) amended eff. 4/4/05)

Sec. 315.109. Objection to Entry.

(a) A person who wishes to protest the eligibility of a greyhound entered in a race or to protest the weight of a greyhound must make the protest with the racing judges or other racing officials not less than one hour before post time for the first race on the day in which the greyhound is entered.

(b) Notwithstanding subsection (a) of this section, the racing judges may take any action necessary to correct the eligibility or weight of a greyhound at any time before the start of the race in which the greyhound is scheduled to compete.

(c) If the racing judges determine before the start of a race that a greyhound entered in the race is not eligible for the race, the racing judges shall immediately scratch the ineligible greyhound. (Added eff. 1/1/02)

Sec. 315.110. Scratches.

(a) A greyhound may be scratched from a race only with the approval of the racing judges. A request to scratch a greyhound may be made only by the kennel owner or trainer. The request must be filed with the racing secretary at least 30 minutes before the time designated for the drawing of post positions or the time designated by the racing secretary.

(b) A scratch that occurs as a result of a violation of a racing rule carries a penalty and/or suspension of the greyhound for six race days. The racing judges shall review the cause for a scratch and may take disciplinary action. If a greyhound is scratched because the kennel owner or trainer of the greyhound fails to have the greyhound at the paddock at the appointed time

for weighing-in, the racing judges may impose disciplinary action against the person responsible.

(c) If three or more greyhounds are withdrawn or scratched from a race, the racing judges may cancel the race.

(d) The racing judges may scratch a greyhound from a race if they determine circumstances exist which would prevent the greyhound from making its best effort, the greyhound may not legally participate in the race, or the participation of the greyhound would negatively effect the competitiveness of the race or the wagering public.

(e) A greyhound that is withdrawn from a race after the overnight entries are closed is considered a scratch and must be examined by the commission veterinarian before the first race of the performance in which the greyhound was scheduled to start. (Added 10/11/90; (a),(b) amended eff. 10/30/00; (a),(b),(d) amended eff. 4/4/05)

Sec. 315.111. Schooling.

(a) A greyhound that has never raced must be properly schooled at least twice in the presence of the racing judges and must, in the opinion of the racing judges, be sufficiently experienced before the greyhound may start in a race. A greyhound that has not had an official start in 10 racing days must participate in an official schooling race at its established weight to be eligible to enter the race. A greyhound that has not raced officially for more than thirty days must school at least twice.

(b) An official schooling race must be at a distance not less than the distance nearest to 5/16 mile in use at the racetrack.

(c) A greyhound that transfers from a racetrack outside of Texas must school at least once before it may start in a race other than a stakes or futurity race. A greyhound that transfers from a Texas racetrack may start in a race without additional schooling if the greyhound has raced in the ten racing days preceding the race. A greyhound that has not raced officially for more than thirty days must school at least twice.

(d) To be official, at least six greyhounds must race in a schooling race, except by permission of the racing judges. Leadouts must be used in an official schooling race, and the greyhounds must race at their established racing weight and start from the box wearing blankets. The association shall provide photofinish equipment for official schooling races.

(e) Hand schooling is not official schooling.

(f) The racing judges may place a greyhound on the official schooling list at any time. A greyhound on the official schooling list must be schooled officially and satisfactorily before being eligible to enter.

(g) If the racing judges determine that a greyhound has fallen or been involved in a serious jam in a race, the racing judges may require the greyhound to be schooled officially and satisfactorily before being eligible to enter. (Added 10/11/90; (c) amended eff. 10/15/95; (a) amended eff. 1/3/96; (a),(c),(d) amended eff. 4/4/05)

Subchapter C. Race Procedures

Sec. 315.201. Racing Weight.

(a) Before a greyhound may school or race at a racetrack, the owner or trainer must establish the racing weight for the greyhound with the clerk of scales.

(b) Each greyhound entered in a race in a performance must be weighed in by the prescribed time approved by the racing judges.

(c) The greyhound's kennel owner, trainer, assistant trainer or kennel helper shall deliver the greyhound to the weighing-in room in sufficient time to have the greyhound weighed in in accordance with this section.

(d) If a greyhound's weight at weigh-in varies from the greyhound's established racing weight by more than 1 1/2 pounds, the racing judges shall scratch the greyhound.

(e) If a greyhound's weight at weigh-in varies by more than two pounds from the greyhound's weight at weigh-in for the greyhound's previous race, the racing judges shall scratch the

greyhound.

(f) Except as otherwise provided by this subsection, if a greyhound at weigh-out has lost more than two pounds while in the lockout kennel, the racing judges shall scratch the greyhound. If the commission veterinarian certifies that the greyhound's weight loss does not impair the racing condition of the greyhound, the racing judges may permit the greyhound to race.

(g) A greyhound that is scratched from a race because of overweight or underweight shall be suspended for six race days and must officially school before starting in a race. A greyhound scratched under this subsection may school during the term of the suspension. (Added 10/11/90; (b),(c) amended eff. 4/4/05)

Sec. 315.202. Changes in Established Weight.

(a) A kennel owner or trainer for a greyhound may change the established racing weight for a greyhound by filing a written request for the change and obtaining written consent of the racing judges. The greyhound may not race at the new weight before the third day after the date the racing judges consent. A weight change at an official schooling race goes into effect on approval of the racing judges.

(b) A greyhound that is granted a change of more than one pound in established racing weight must school twice at the new weight, and more if ordered by the racing judges, before being eligible to start at the new weight.

(c) The racing judges may weigh a greyhound entered in a race at any time after entry until post time for the race. (Added 10/11/90; amended eff. 4/4/05)

Sec. 315.203. Placement in Lockout.

Immediately after being weighed in, a greyhound shall be placed in the lockout kennel under the supervision of the paddock judge. Only the paddock judge, commission veterinarian, kennel master, clerk of scales, leadout, racing judge, or representative of the Commission may enter the lockout kennel. A kennel owner or trainer may accompany a greyhound into the lockout kennel under the direct supervision of a racing judge or a designee of the racing judges. (Added 10/11/90)

Sec. 315.204. Paddock to Post.

(a) A greyhound must be exhibited in the paddock before post time of the race in which the greyhound is entered.

(b) A greyhound may be led from the paddock to the starting box only by a licensed leadout provided by the association. The leadout shall place the greyhound in the proper box and retire to the assigned place. The association shall provide one leadout for each greyhound in the race.

(c) While leading a greyhound from the paddock to the starting box or returning from the starting box, a leadout may not converse with a patron or another leadout about a matter that is inconsistent with the performance of the leadout's duties.

(d) After the greyhounds have left the paddock for the starting box, the track gates shall be closed and, until the racing judges order the gates reopened, only racing officials and necessary attendants may enter the track. (Added 10/11/90)

Sec. 315.205. Equipment.

During a race, a greyhound must wear a racing muzzle with a white tip and a blanket displaying the official program number for the greyhound. (Added 10/11/90; amended eff. 4/4/05)

Sec. 315.206. Operation of Lure.

The racing judges shall closely observe the operation of the lure and hold the lure operator strictly accountable for inconsistency in operation. (Added 10/11/90)

Sec. 315.207. Leaving the Course.

(a) If a greyhound bolts the course, runs in

the opposite direction, or does not run the entire prescribed distance for the race, the greyhound forfeits all rights in the race. The racing judges shall determine the official finish of the race as if the greyhound was not racing.

(b) Notwithstanding this section, a greyhound that bolts the course, runs in the opposite direction, or does not run the entire prescribed distance for the race is considered a starter. (Added 10/11/90)

Sec. 315.208. Interference.

(a) If a greyhound causes interference with the running of the race because of an accident, failure to leave the starting box, or another reason, an individual stationed along the racetrack may remove the greyhound from the racetrack.

(b) A greyhound removed from a racetrack under this section is considered a starter.

(c) If a greyhound is cited for interference by the racing judges, all films of the race shall be made available for viewing by the kennel owner or trainer with the racing judges. (Added 10/11/90)

Sec. 315.209. No Race.

(a) If a race is marred by jams, spills, or racing circumstances other than accidents to the equipment while a race is being run, and three or more greyhounds finish, the racing judges shall declare the race finished and official. If less than three greyhounds finish in such a race, the racing judges shall declare "no race" and all money wagered on the race shall be refunded.

(b) During a race, if the lure does not remain in advance of all the greyhounds at all times, or if a greyhound catches or passes the lure during a race, the racing judges shall declare "no race" and all money wagered on the race shall be refunded.

(c) During the running of a race, if a greyhound bolts the course or runs in the opposite direction of the running of the race, and the racing judges determine that the greyhound interfered with another greyhound in the race, the racing judges shall declare "no race" and all money wagered on the race shall be refunded.

(d) The racing judges shall immediately report a "no race" to the executive secretary, and include a detailed explanation of the cause. Not later than five days after the date of a "no race", the association may apply to the executive secretary for a make-up race to replace the "no race". (Added 10/11/90; (d) amended eff. 10/30/00)

Sec. 315.210. Prize Distribution in Dead Heats.

(a) If two or more greyhounds finish a race in a dead heat, the prize and money to which those greyhounds would have been entitled had they not finished in a dead heat shall be divided equally among the greyhounds.

(b) If the owners who are to divide a prize cannot agree as to which owner is to have a non-divisible prize, such as a trophy, the racing judges shall distribute the non-divisible prize by lot. (Added 10/11/90; (b) amended eff. 4/4/05)

Sec. 315.211. Objections.

(a) An objection regarding a race, other than the actual running of the race, must be made by an owner, kennel owner or trainer of a greyhound engaged in the race, or an official. An objection must be made to the racing judges, who may require that the objection be made in writing with a copy sent immediately to the executive secretary.

(b) Except as otherwise provided by this subsection, an objection must be made to the racing judges not later than 72 hours after the race is run. An objection to a decision of the clerk of scales must be made before the greyhounds leave the paddock for the post.

(c) Pending a decision on an objection, any money or prize to which a greyhound that is the subject of the objection would be entitled shall be held until the objection is decided. (Added 10/11/90; amended eff. 10/30/00; (a),(c) amended eff. 4/4/05)

Subchapter D. Greyhound Breeding Farms

Sec. 315.250. Standards for Greyhound Breeding Farms.

The Commission adopts by reference the standards for inspection of greyhound breeding farm of the National Greyhound Association dated October, 1993, amended October, 2000 and October, 2001. Copies of these standards are available at the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711 or at the Commission office at 8505 Cross Park, Suite 110, Austin, Texas 78754-4594. (Added eff. 3/13/02)

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CHAPTER 319. VETERINARY PRACTICES AND DRUG TESTING

Subchapter A. General Provisions

Sec. 319.1. Purpose and Definitions.

(a) The purpose of this chapter is to protect the integrity of horse and greyhound racing, to ensure the health of race animals, and to safeguard the interests of the public and the participants in racing through the prohibition and control of all prohibited drugs, chemicals, and other substances.

(b) For purposes of this chapter, "prohibited drugs, chemicals, or other substances" means:

(1) any stimulants, depressants, tranquilizers, local anesthetics, drugs, other drug metabolites which could affect the health or performance of a race animal, however minimal, except as expressly permitted by this chapter;

(2) a drug permitted by this chapter in excess of the maximum or other restrictions in this chapter; and

(3) drug or substance, regardless of how harmless or innocuous it might be, which interferes with the detection of stimulants, depressants, tranquilizers, local anesthetics, drugs, or drug metabolites which could affect the health or performance of a race animal, however minimal, or quantitation of drugs permitted by this chapter. (Added eff. 8/14/89; (b) added eff. 11/1/98)

Sec. 319.2. Treatment Restricted.

(a) Except as otherwise provided by this section, a person other than a veterinarian licensed by the commission may not administer a medication to a race animal that is entered in a race or that is located on an association's grounds.

(b) This section does not apply to the administration of:

(1) a recognized nutritional supplement or other substance approved by the commission veterinarian; or

(2) a noninjectable substance on the direction or by prescription of a licensed veterinarian. (Added eff. 8/14/89; (a), (b) amended eff. 11/29/90; (a), (b) amended eff. 5/7/91; (b) amended eff. 11/1/98)

Sec. 319.3. Medication Restricted.

(a) Except as otherwise provided by this section, a horse or greyhound participating in a race may not carry in its body a prohibited drug, chemical, or other substance.

(b) The maximum permissible plasma or serum concentration of phenylbutazone in horses is 5.0 micrograms per milliliter.

(c) Furosemide at or below the approved tolerance level in a horse that has been admitted to the furosemide program is permissible. The approved tolerance level shall be published on the list of therapeutic drugs posted under subsection (d) of this section.

(d) Trace levels of drugs which are therapeutic and necessary for treatment of illness or injury in race animals are permissible, provided:

(1) the therapeutic drug is on a written list approved by the executive secretary, maintained by the commission veterinarian, and posted in the commission veterinarians' office; and

(2) the maximum permissible urine or blood concentration of the drug does not exceed the published limit, if any, on the written list of therapeutic drugs.

(e) Except as otherwise provided by this chapter, a person may not administer or cause to be administered to a horse or greyhound a prohibited drug, chemical, or other substance, by injection, by oral or topical administration, by rectal infusion or suppository, by nasogastric intubation, or by inhalation, and any other means during the 24-hour period before the post time for the race in which the animal is entered.

(f) A positive finding by a chemist of a prohibited drug, chemical, or other substance in a test specimen of a horse or greyhound collected before or after the running of a race, subject to the rules of the commission relating to split specimens, is prima facie evidence that the prohibited drug, chemical, or other substance was

administered to the animal and was carried in the body of the animal while participating in a race. (Added eff. 8/14/89; (a), (f), (g) amended eff. 11/29/90; (h) added eff. 11/29/90; (b) amended 4/3/91; (h) deleted eff. 11/22/91; (d), (f) amended eff. 8/3/92; amended eff. 11/1/98; (c) amended eff. 11/1/01)

Sec. 319.4. Veterinarians.

(a) A greyhound racetrack shall employ at least one association veterinarian to perform the duties described by this section.

(b) The commission shall employ at least one veterinarian at each greyhound racetrack and at least two veterinarians at each horse racetrack.

(c) The commission veterinarians shall oversee the association veterinarian and all the veterinarians practicing at a racetrack and may:

(1) observe any of a veterinarian's practices at the racetrack; and

(2) require a veterinarian to report at any time regarding the veterinarian's practices at the racetrack.

(d) The commission and association veterinarians shall report to the stewards or racing judges an alleged violation of the Act or a rule of the commission by a veterinarian.

(e) The association veterinarians must be licensed by the Texas State Board of Veterinary Medical Examiners.

(f) The commission veterinarians shall advise the stewards or racing judges on all veterinary matters and shall:

(1) maintain the veterinarian's list as required by these rules;

(2) conduct pre-race examinations as required by these rules;

(3) attend to the race animals in the paddock, on the track, at the starting gate and during the running of the race at a horse racetrack;

(4) supervise the operation of the test barn or test area and the collection of specimens for testing;

(5) maintain the list of permissible trace levels of drugs which are therapeutic and necessary for the treatment of illness or injury in race animals;

(6) conduct stable area and kennel inspections to ensure that race animals are housed in a safe, humane, and sanitary environment;

(7) maintain a database of all racing-related injuries incurred at the track; and

(8) perform any other duties imposed on the commission veterinarian by these rules, the commission, or the executive secretary.

(g) An association veterinarian shall:

(1) be present at each official schooling and each official race performance;

(2) provide emergency care to greyhounds acutely injured or stressed while at the racetrack; and

(3) perform any other duties imposed on the association veterinarian by these rules, the commission, or the executive secretary.

(h) During the term of an association veterinarian's employment, it is not a conflict of interest for the veterinarian to:

(1) dispense or administer medications or biologicals sold only by veterinary suppliers to licensed veterinarians;

(2) provide emergency medical treatment to injured greyhounds at no cost; or

(3) charge a fee for veterinary services performed, other than emergency services. (Added eff. 8/14/89; (e) added eff. 1/10/90; (c), (d), (e), (f), (h) amended eff. 10/11/90; (a), (b), (g), (i) added eff. 10/11/90; amended eff. 11/1/98)

Sec. 319.5. Report of Treatment by Veterinarians.

(a) Veterinarians who treat race animals shall maintain reports of the treatment in strict compliance with the requirements of the Texas State Board of Veterinary Medical Examiners. Veterinarians shall make the report available to a steward or judge within 24 hours of a request.

(b) A report of treatment provided to the stewards or racing judges pursuant to subsection (a) of this section is confidential and its contents may not be disclosed except in a proceeding before the stewards or racing judges or the

commission. (Added eff. 8/14/89; (a) amended eff. 10/11/90; (a), (b), (c) amended eff. 8/3/92; (d) added eff. 8/3/92; amended eff. 11/1/98)

Sec. 319.6. Access to Pre-race and Test Areas Restricted.

To ensure the safety and security of the race animals, an individual or race animal may not enter the pre-race holding area, the lockout kennel, or the test area unless:

(1) the race animal is participating in a race, being schooled, or being tested; and

(2) the individual is required for the attendance of a race animal. (Added eff. 8/14/89; amended eff. 3/1/03)

Sec. 319.7. Labeling Requirements.

(a) A person may not possess on association grounds a drug, medication, chemical, foreign substance or other substance that is prohibited in a race animal on a race day unless the product is labeled in accordance with this section.

(b) A drug or medication which is used or kept on association grounds by a licensee other than a veterinarian and which, by federal or state law, requires a prescription must have been validly prescribed by a licensed veterinarian and in compliance with the applicable federal or state law. All such drugs or medications must have a prescription label which is securely attached and clearly ascribed to show the following:

(1) the name of the product;

(2) the name, address, and telephone number of the veterinarian prescribing or dispensing the product;

(3) the name of each patient (race animal) for whom the product is intended/prescribed;

(4) the dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and

(5) the name of the person (trainer) to whom the product was dispensed.

(c) A veterinarian may not possess, dispense, or sell on association grounds a product that is intended for compounding, dispensation, or sale unless the product is labeled in accordance with all applicable labeling requirements in federal or state law.

(d) The commission or its agents may seize a product possessed on association grounds to determine whether the product is labeled in accordance with this section. It is considered a violation of this section if subsequent analysis of or investigation regarding a product reveals that any of the information on the product's label is inaccurate or untruthful. (Added eff. 8/14/89; (c) added eff. 8/15/95; (b) amended eff. 1/3/96; amended eff. 4/1/97)

Sec. 319.8. Submission Required.

On request by the executive secretary, the owner or trainer of a race animal shall:

(1) permit the commission veterinarian or association veterinarian to examine the animal; or

(2) permit the commission veterinarian to conduct tests on the animal to determine the state of the animal's health. (Added eff. 8/14/89; amended eff. 11/29/90)

Sec. 319.9. Witnesses Required.

If the commission veterinarian orders an examination or test to be performed on a race animal, the owner, trainer, or a person designated by the owner or trainer and a person designated by the commission is entitled to witness the examination or test. (Added eff. 8/14/89)

Sec. 319.10. Devices and Substances Prohibited.

(a) Except as otherwise provided by this section, a person in a restricted area on association grounds during a live race meeting may not possess:

(1) an injectable container of a prohibited drug, chemical, or other substance; or

(2) a parenteral administration device, such as a hypodermic syringe, hypodermic needle, fluid administration set, or other device for making injections into a race animal.

(b) This section does not apply to an individual who has a valid prescription from a physician

for an injectable medication for the individual's own use, provided the individual has notified the stewards or racing judges and has received their approval in writing on a form prescribed by the commission.

(c) This section does not apply to a veterinarian licensed by the commission or a veterinary technician licensed by the commission acting under the direct supervision of a veterinarian licensed by the commission.

(d) For purposes of this section, "restricted area" means:

(1) the paddock;

(2) the stable or kennel area; and

(3) any area on association grounds that may be entered only on display of a valid license badge or other pass issued by the commission or the association. (Added eff. 8/14/89; (b) amended eff. 11/29/90; (d), (e) amended eff. 4/3/91; (c) added eff. 4/3/91; (a) amended eff. 11/22/91; (a) - (d) amended eff. 1/1/98; (a), (c) amended eff. 11/1/98)

Sec. 319.11. Powers of Inspection, Examination, and Search and Seizure.

(a) A peace officer, including a peace officer commissioned by the commission, or a commissioned officer of the Department of Public Safety who is assigned to work on racing investigations may enter an office, a racetrack, any area on association grounds, or any similar area or other place of business of an association at any time to inspect, examine, or search an individual's person and possessions in that area and to seize any contraband or other item that is found, which may be evidence of a rule violation or a criminal offense. A search of dormitory rooms where participants of racing actually reside will be conducted pursuant to a validly obtained warrant to search, or without a warrant if consent is obtained or exigent circumstances exist.

(b) A person conducting a search authorized by this section may obtain the assistance of a commission employee or an employee of another local, state, or federal governmental entity.

(c) By applying for, accepting, or holding a license under the Act, an individual licensee consents to an inspection, examination, or search conducted under this section of the licensee's person and possessions while on premises covered by this section and to the seizure of any contraband or other item that is found which may be evidence of a rule violation or a criminal offense. Consent described in this subsection:

(1) is not effective for a search outside the premises covered by this section;

(2) is not effective for a search conducted at a time when no valid license was in effect, unless at the time of the search the licensee who was searched claimed the existence of a valid license as authority to enter or remain in an area covered by this section;

(3) is not limited in effect to a prerace or postrace search or a search on a race day; and

(4) is not limited in effect to a search based on reasonable cause, reasonable suspicion, reasonable grounds, probable cause, or any similar legal standard.

(d) By applying for, accepting, or holding a temporary pass to enter or remain on any restricted area of association grounds, an individual who is not a licensee consents to a search conducted under this section of the individual's person or possessions in that area and to the seizure of any contraband or other item that is found which may be evidence of a rule violation or a criminal offense. Consent described in this subsection:

(1) is not effective for a search outside the restricted area covered by this subsection;

(2) is not effective for a search conducted at a time when no temporary pass was in effect, unless at the time of the search the individual who was searched claimed the existence of a valid pass as authority to enter or remain in the restricted area covered by this subsection;

(3) is not limited in effect to a prerace or postrace search or a search on a race day; and

(4) is not limited in effect to a search based on reasonable cause, reasonable suspicion,

reasonable grounds, probable cause, or any similar legal standard.

(e) A licensee, an officer, employee, or agent of an association, or holder of a temporary pass may not refuse or deny a request by a person acting under the authority of this section to enter, inspect, examine, or search any property that is covered by this section and to seize any contraband or other item that is found which may be evidence of a rule violation or a criminal offense.

(f) An association shall post a sign at each entrance to, but outside of, any restricted area of association grounds that gives conspicuous notice of at least the following:

(1) the consent to search given by a licensee under this section;

(2) the consent to search given by a non-licensee under this section;

(3) the criminal consequences for refusing or denying a request by a person acting under the authority of this section to inspect, examine, or search any property that is within a restricted area and to seize any contraband or other item that is found which may be evidence of a rule violation or a criminal offense; and

(4) the fact that entry into the restricted area of association grounds is forbidden except for a person holding a credential or temporary pass or for another person expressly permitted to enter under the Act or commission rules. (Added eff. 8/14/89; (a),(b) amended eff. 11/22/91; (a),(c) amended eff. 5/1/92; (b),(d),(e),(f) added eff. 5/1/92; amended eff. 11/1/98)

Sec. 319.12. Cooperation Required.

A licensee, an association, and each officer, employee, or agent of an association shall cooperate fully with the commission, the Department of Public Safety, or other law enforcement agency in the investigation or prosecution of a violation of the Act or commission rules regarding contraband and any other item which may be evidence of a rule violation or a criminal offense. (Added eff. 8/14/89; amended eff. 5/1/92)

Sec. 319.13. Disposable Syringes.

All practicing veterinarians shall use single-use disposable needles and syringes while on association grounds and shall dispose of the used needles and syringes off the association grounds. The association veterinarian shall dispose of used needles and syringes in a manner approved by the commission veterinarian. (Added eff. 8/14/89; amended eff. 11/29/90; amended eff. 11/1/98)

Sec. 319.14. Possession of Certain Substances.

(a) Except as otherwise provided by this section, a veterinarian may not possess on association grounds a controlled substance, as defined by the Texas Controlled Substances Act, Health and Safety Code, Chapter 481, unless the controlled substance is on an approved list developed by the executive secretary.

(b) Except as otherwise provided by this section, a veterinarian may not possess on association grounds a prohibited drug, chemical, or other substance listed as a Class I or Class II substance on the latest version of the classification developed under §319.304 of this title (relating to Penalties on Positive Test), unless the substance is on an approved list developed by the executive secretary.

(c) The commission veterinarian shall post the approved lists developed under this section in the commission veterinarian's office and in a prominent place that will ensure access by veterinarians and other interested persons.

(d) A veterinarian must obtain prior written approval from the commission veterinarian to possess a substance which is not on the approved list. The commission veterinarian may not approve the possession of a substance which is not on the approved list unless the person requesting approval submits documentation in recognized veterinary journals or by recognized veterinary experts that the substance has a proven beneficial, therapeutic application for a horse or greyhound in race training.

(e) A person may not prescribe, provide, obtain, order, administer, possess, dispense, give or deliver a controlled substance, prescription drug, or legend drug to or for a race animal solely for training or racing purposes. (Added eff. 8/14/89; (a) amended eff. 12/10/92; (c) amended eff. 1/3/96; (a), (b) amended eff. 11/1/98; amended eff. 4/1/01)

Sec. 319.15. Storage of Certain Medications.

A person possessing a vaccine, antitoxin, or immune serum on association grounds shall ensure the product is held and transported in a temperature controlled, light-proof, and appropriately cooled container that will protect against the product's loss of potency. (Added eff. 1/3/96)

Sec. 319.16. Postmortem Examination.

(a) The commission veterinarian may order a postmortem examination on any race animal that, while on an association's grounds, dies or suffers an injury in training or in competition and is subsequently euthanized. The examination shall be conducted at a time and place acceptable to the commission veterinarian and to the extent reasonably necessary to determine the injury or sickness that resulted in the death or euthanasia of the race animal.

(b) An examination required by this section must be conducted by a veterinarian licensed by the Commission on the authority of the commission veterinarian or at a qualified laboratory approved by the commission veterinarian. The commission veterinarian shall either witness the examination or designate another person to witness the examination.

(c) Specimens may be obtained from a race animal for which a postmortem examination has been ordered and may be delivered for testing to an approved laboratory in accordance with Subchapter D of this chapter (relating to Drug Testing). When practical, specimens should be procured before euthanasia.

(d) Specimens may be obtained from a race animal that was euthanized but for which no postmortem examination was ordered and may be delivered for testing to an approved laboratory in accordance with Subchapter D of this chapter.

(e) The owner of a deceased race animal shall pay any charges due the veterinarian or laboratory which conducts the postmortem examination or subsequent laboratory tests.

(f) Not later than 72 hours after a postmortem examination, the person who conducted the examination shall file a report of the examination with the commission veterinarian on a form prescribed by the executive secretary.

(g) An owner or trainer who fails to comply with this section is subject to disciplinary action by the executive secretary. (Added eff. 3/1/03)

Sec. 319.17. Removal of a Race Animal.

The Commission veterinarian may order a race animal removed from association grounds if the Commission veterinarian determines:

(1) a race animal on association grounds presents a danger of communicable or contagious disease to the other animals on the grounds; or

(2) a race animal has sustained an injury that requires specialized veterinary treatment beyond the scope of normal veterinary care offered on association grounds. (Added eff. 5/6/04)

Subchapter B. Treatment of Horses

Sec. 319.101. Pre-Race Examination.

(a) A commission veterinarian shall examine each horse entered in a race on the day it is to race to determine the horse's health and soundness for racing.

(b) The examination may include any practice or procedure which the commission veterinarian considers necessary to determine the health and soundness of the horse for racing. The examination may be conducted at any time before the actual start of the race. (Added eff. 8/14/89; (a) amended eff. 10/11/90; amended eff. 11/1/98)

Sec. 319.102. Veterinarian's List.

(a) The commission veterinarian shall

maintain a veterinarian's list of the horses that are ineligible to start in a race due to physical distress, unsoundness, or infirmity. The test barn supervisor shall ensure that a current version of the veterinarian's list is posted daily in the racing office.

(b) On a form prescribed by the executive secretary, the commission veterinarian shall notify the racing secretary and the trainer of a horse placed on the veterinarian's list as soon as practical after placing the horse on the list.

(c) A horse that is placed on the veterinarian's list may not be removed from the list before the fourth day after the date the horse is placed on the list. A horse may be removed from the veterinarian's list only on demonstrating to the commission veterinarian that the horse is raceably sound and in fit physical condition to exert its best effort in a race.

(d) Before removing a horse from the veterinarian's list, the commission veterinarian may require the horse to perform satisfactorily in a workout or qualifying race. Performance in such a workout or qualifying race must be conducted in accordance with §319.3 of this title (relating to Medication Restricted). The commission veterinarian may require the collection of test specimens from a horse after a workout or race required under this subsection. If a specimen is collected under this subsection, the commission veterinarian may not remove the horse from the veterinarian's list until the results of the test are negative.

(e) A workout for an examination by a commission veterinarian in any pari-mutuel jurisdiction will be recognized for the purposes of removing a horse from the veterinarian's list. (Added eff. 8/14/89; (b), (d) amended eff. 10/11/90; (e) added eff. 6/1/95; (e) deleted eff. 10/1/96; (a),(b),(d) amended eff. 3/1/03; (e) added eff. 7/16/07)

Sec. 319.104. Blocking of Legs.

(a) On a race day on which a horse is scheduled to race, a person may not desensitize any part of the horse's leg by a means other than ice.

(b) Except as otherwise provided by this subchapter, a person may not permit a horse to run in a race if the person knows the horse is desensitized at the time the horse arrives in the pre-race holding area.

(c) For purposes of this section, "desensitize" means to create a condition in which a horse's body does not respond appropriately to tests for feeling administered by the commission veterinarian. (Added eff. 8/14/89)

Sec. 319.105. Bandages.

On leaving the pre-race holding area to enter the paddock, a horse may not have any leg coverings other than leg coverings approved by the stewards. (Added eff. 8/14/89; amended eff. 4/2/90; amended eff. 11/1/98)

Sec. 319.106. Nerved Horses.

(a) Except as otherwise provided by this section, a person may not allow to be entered in a race a horse that has had a nerve removed from one of its legs.

(b) This section does not apply to a horse on which a palmar digital neurectomy has been performed provided:

(1) the commission veterinarian determines that the loss of sensation caused by the palmar digital neurectomy will not endanger the safety of a horse or rider;

(2) the commission veterinarian has given prior approval before the horse is entered in the race;

(3) the racing secretary of the association is notified of the palmar digital neurectomy at the time the horse is entered in the race; and

(4) the horse's registration or eligibility certificate is marked to indicate the palmar digital neurectomy.

(c) The racing secretary shall maintain a list of nerved horses that are registered to race at that track and make the list available for inspection by other licensees participating in the race meeting.

(d) A veterinarian who performs a palmar

digital neurectomy on a horse located on association grounds shall report that fact to the commission veterinarian and to the racing secretary. (Added eff. 8/14/89; (c) amended eff. 10/11/90; (d) amended eff. 11/1/98)

Sec. 319.107. Altering Sex of Horse.

(a) A veterinarian who alters the sex of a horse as recorded on the certificate of foal registration or eligibility certificate and that is scheduled to race in an association's race meeting shall report the alteration to the horse identifier.

(b) If the sex of a horse is altered on an association's grounds, the trainer of the horse shall make the report required by this section not later than 72 hours after the alteration.

(c) The horse identifier shall record the alteration on the official registration certificate and the horse identification record of the horse. (Added eff. 8/14/89; (d) amended eff. 4/2/90; amended eff. 11/1/98)

Sec. 319.108. Extracorporeal Shock Wave Therapy.

The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be permitted unless the following conditions are met:

(1) Any Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines on the association grounds must be registered with and approved by the Commission or its designee before use:

(2) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines shall be limited to veterinarians licensed to practice by the Commission;

(3) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments must be reported to the commission veterinarian or the commission veterinarian's designee on the prescribed form within 24 hours; and

(4) Any treated horse shall be on the veterinarian's list for 10 days following treatment. (Added eff.. 7/16/07)

Sec. 319.109. Destruction of Horses.

(a) If a horse becomes disabled on the racetrack, the rider shall dismount and unsaddle the horse as soon as possible.

(b) If the condition of the horse requires its destruction within the view of the patrons, the commission veterinarian shall ensure that a screen is placed in a manner that shields the horse from the view of the patrons.

(c) The commission veterinarian may order a horse to be euthanized if the veterinarian determines the horse is seriously injured to the extent that euthanasia is in the best and humane interests of the horse. By accepting a license from the commission, an owner or trainer consents to the authority of the commission veterinarian under this subsection. (Added eff. 11/3/89; (a), (c) amended eff. 11/1/98)

Sec. 319.110. Health Certificate.

To be admitted on to an association's grounds, a horse must have:

(1) a current negative test for equine infectious anemia conducted in accordance with rules of the Texas Animal Health Commission; and

(2) a health certificate issued in the 45-day period preceding the horse's arrival. (Added eff. 11/3/89; amended eff. 4/2/90; amended eff. 10/11/90; amended eff. 8/3/92; (1) amended eff. 11/1/93; (1) amended eff. 11/1/98)

Sec. 319.111. Bleeders and Furosemide Program.

(a) Diagnosis of EIPH.

(1) A bleeder is a horse that experiences Exercise Induced Pulmonary Hemorrhage (EIPH). Except as otherwise provided by this subsection, the medical diagnosis of EIPH may be made only by a commission veterinarian or a veterinarian currently licensed by the Commission. If the first EIPH event experienced by a horse occurs in another pari-mutuel racing jurisdiction, certification of the horse as a bleeder by that foreign jurisdiction will also constitute a first report of a diagnosed EIPH event for purposes of this section. A veterinarian who diagnoses an

EIPH event in a horse participating in pari-mutuel racing in this state shall report the event to the commission veterinarian in a format prescribed by the executive secretary. On receipt of the first report of a diagnosed EIPH event for a horse, the commission veterinarian shall certify the horse as a bleeder.

(2) A trainer may request that a commission veterinarian reconsider the commission veterinarian's diagnosis of an EIPH event by presenting the horse for re-examination within four hours of the initial diagnosis, or within one hour after a performance's last race, whichever occurs sooner. To receive reconsideration, the trainer must present the horse to the commission veterinarian for endoscopic examination as performed by a commission-licensed veterinarian.

(b) Admission to Furosemide Program.

(1) A trainer may admit a horse to the furosemide program by stating at time of entry that the horse will compete with furosemide.

(2) A horse that competed with furosemide in its most recent start out-of-state must compete on furosemide in Texas unless withdrawn from the furosemide program at time of entry.

(3) An EIPH event experienced by a horse that is admitted to the furosemide program is deemed to be a second EIPH event for purposes of Subsection (g) of this section.

(c) Administration of Furosemide. Furosemide shall be administered to a horse in the furosemide program not later than four hours before the published post time for the race the horse is entered to run. The furosemide must be administered intravenously by a veterinarian licensed by the Commission. The executive secretary shall periodically publish the permissible blood levels of furosemide in post-race specimens and shall post the levels at each licensed racetrack.

(d) Requirement to Use Furosemide. A horse in the furosemide program in Texas must compete with furosemide until withdrawn from the program.

(e) Withdrawal from Furosemide Program.

(1) To withdraw a horse from the furosemide program, the trainer must state his/her intention to race the horse without furosemide at the time of entry.

(2) A horse in the furosemide program that competes out-of-state without furosemide is considered to have been removed from the Texas furosemide program effective the date of its first race without furosemide.

(3) Withdrawal from the furosemide program does not prohibit a horse from subsequent readmission to the program in accordance with this section.

(f) Readmission to the Furosemide Program. A horse may be readmitted to the furosemide program if:

(1) at least 60 days have elapsed since the horse was withdrawn from the program;

(2) the horse is required to compete with furosemide pursuant to subsection (b) (2) of this section; or

(3) the commission veterinarian diagnoses the horse with another EIPH event.

(g) Bleeders List.

(1) The commission veterinarian shall maintain a list of horses that have been certified as bleeders and a list of horses that have been admitted to the furosemide program.

(2) On receipt of a report of a diagnosed EIPH event, the commission veterinarian shall place the horse on the veterinarian's list and the horse shall be ineligible to race for the following time periods:

First incident - 12 days;

Second incident within 365 days of previous incident - 30 days;

Third incident within 365 days of previous incident - 180 days;

Fourth incident within 365 days of previsous incident - lifetime ban from racing in this state.

(3) A horse with fewer than four EIPH events that has not had a diagnosed EIPH event for a period of 365 consecutive days is considered a non-bleeder for purposes of this subsection. The

report of a diagnosed EIPH event from any pari-mutuel jurisdiction which officially records EIPH events will be recognized as an EIPH event by the Commission.

(4) Notwithstanding the foregoing, if after reviewing a report of a diagnosed EIPH event the commission veterinarian determines additional days on the veterinarian's list are essential to the health and safety of the horse, the commission veterinarian may extend the number of days the horse is on the veterinarian's list. The commission veterinarian shall record the medical reasons for the additional days.

(h) Report by Veterinarian. A veterinarian who administers furosemide to a horse that has been admitted to the furosemide program shall report the administration on a form prescribed by the Commission. A report made under this subsection must be filed with the test barn supervisor not later than one hour before post time for the first race of that day. (Added eff. 11/3/89; (a),(b),(h) amended eff. 8/3/92; (c)-(g) added eff. 8/3/92; (b), (c),(h) amended eff. 4/28/94; (c),(d),(f),(g) amended eff. 11/1/94; (b) amended eff. 3/15/95; (g) amended eff. 1/3/96; amended eff. 5/1/96; (f) amended eff. 10/1/96; (b), (c),(e),(f) amended eff. 11/1/98; (g) added eff. 11/1/98; (b) amended eff. 2/15/99; (a) amended eff. 7/17/01; amended eff. 11/1/01; (b),(f) amended eff. 5/18/04; (a),(e),(f),(g) amended eff. 7/16/07)

Sec. 319.112. Unlicensed Veterinary Practices.

(a) A person other than a licensed veterinarian may not perform, conduct, or participate in veterinary practices, including equine dentistry, chiropractics, and acupuncture, unless the practices are performed by the order of and under the direct supervision of a veterinarian, licensed by the commission, in accordance with rules of the Texas Board of Veterinary Medical Examiners.

(b) A person who observes an unlicensed person performing, conducting, or participating in veterinary practices on association grounds shall immediately report that fact to the stewards.

(c) The stewards shall report to the Texas State Board of Veterinary Medical Examiners any person reported under this section. (Added eff. 8/14/89; (a) amended eff. 11/1/94)

Subchapter C. Treatment of Greyhounds

Sec. 319.201. Pre-Race Examination.

(a) The commission veterinarian shall examine each greyhound entered in a race on the day it is to race to determine the greyhound's health and soundness for racing.

(b) The examination may include any practice or procedure which the commission veterinarian considers necessary to be able to determine the health and soundness of the greyhound for racing. The examination may be conducted at any time before the actual start time of the race. (Added eff. 8/14/89; (a),(b) amended eff. 10/11/90; amended eff. 11/1/98)

Sec. 319.202. Veterinarian's List.

(a) The commission veterinarian shall maintain a veterinarian's list of the greyhounds that are determined to be unfit to compete in a race due to physical distress, unsoundness, or infirmity. The commission veterinarian shall ensure that the veterinarian's list is posted in a conspicuous place available to all kennel owners, trainers, and officials.

(b) The commission veterinarian shall notify the kennel owner or trainer of a greyhound placed on the veterinarian's list not later than 24 hours after placing the greyhound on the list.

(c) A greyhound on the veterinarian's list may be removed from the list only on demonstrating to the commission veterinarian that the greyhound is raceably sound and in fit physical condition to exert its best effort in a race.

(d) A greyhound on the veterinarian's list may not enter a race before the third day after the day the greyhound was placed on the list. The commission veterinarian may require a greyhound to school after being examined and removed from the list before the greyhound may enter a race.

(e) Each lactating bitch and each bitch in season or coming in season during a race meeting shall be placed on the veterinarian's list and may not enter a race until the greyhound has been reexamined by the commission veterinarian and

removed from the veterinarian's list. A bitch in season may not be reexamined before the 21st day after the day the greyhound was placed on the veterinarian's list.

(f) A trainer shall submit to the commission veterinarian, on a form prescribed by the executive secretary, documentation of any racing-related injury sustained by a greyhound in the trainer's care. (Added eff. 8/14/89; (a) amended eff. 10/11/90; (d), (e), (f) added eff. 10/11/90; (f) amended eff. 3/1/03; amended eff. 7/16/07)

Sec. 319.203. Condition of Greyhounds and Inspection of Kennels.

(a) To ensure the health and safety of each greyhound, the commission veterinarian shall monitor the condition of the greyhounds and inspect each kennel on association grounds where greyhounds are housed.

(b) On each race day, the commission veterinarian shall monitor the condition of the greyhounds. Factors the commission veterinarian shall evaluate include, but are not limited to:

(1) the general physical condition of the greyhounds;

(2) the general manner of handling the greyhounds;

(3) the management of bitches in season;

(4) the management of sick greyhounds;

(5) the medication in use; and

(6) the presence of ectoparasites.

(c) If the commission veterinarian determines that an unsatisfactory condition exists, the veterinarian shall advise the kennel owner or trainer of the unsatisfactory condition. If the unsatisfactory condition persists, or if the unsatisfactory condition requires immediate corrective action, the commission veterinarian shall advise the kennel owner or trainer of the unsatisfactory condition and shall report the condition to the judges.

(d) At tracks that operate year-round, the commission veterinarian shall conduct kennel inspections semi-annually as directed by the executive secretary. At tracks that do not operate year-round, the commission veterinarian shall conduct a kennel inspection at the beginning of each race meet.

(e) The commission veterinarian shall file a written report on each inspection with the executive secretary, on a prescribed form. The report must include, but is not limited to, a statement of the kennel conditions or practices regarding:

(1) the food and food storage;

(2) the sanitary conditions of the kennels;

(3) the maintenance of the kennel buildings;

(4) the maintenance of the turnout pens;

(5) the maintenance of the sprint path;

(6) the maintenance of the lockout kennel;

(7) the maintenance of the paddock area; and

(8) other matters that the commission veterinarian considers necessary for corrective action by the kennel owner or the association (Added eff. 8/14/89; (a), (b) amended eff. 10/11/90; (a)-(e) amended eff. 7/16/07)

Sec. 319.204. Vaccination Requirements.

(a) An association shall safeguard the health of the greyhounds at its facility by requiring periodic vaccination of each greyhound against each disease that the commission veterinarian has determined is communicable to other greyhounds at the facility. The vaccination and compound entrance requirements of the association must be approved by the commission veterinarian.

(b) The association shall maintain records of vaccinations of the greyhounds housed at its facility and make the records available to the commission veterinarian on request.

(c) The association may not permit a greyhound to enter its grounds unless the trainer or kennel owner of the greyhound provides to the association proof of the necessary vaccinations and has a health certificate, entry permit or veterinarian inspection. (Added eff. 10/11/90; (c) amended eff. 11/1/98; (c) amended eff. 7/16/07)

Subchapter D. Drug Testing

General Provisions

Sec. 319.301. Testing Authorized.

(a) The stewards and racing judges may require a specimen of urine, blood, saliva, or other bodily substance to be taken from a race animal for the purpose of testing for the presence of a prohibited drug, chemical, or other substance.

(b) Testing under this subchapter may be required at any time in accordance with these rules and may be conducted in an area approved by the commission veterinarian under the supervision of the commission veterinarian.

(c) A person is not entitled to a purse until drug testing has been completed and the executive secretary has cleared the race for payment. (Added eff. 8/14/89; (c) added eff. 6/1/02)

Sec. 319.302. Reasonable Diligence Required.

The owner, trainer, groom, or other person who has care and custody of a race animal shall guard each animal in his or her custody before the animal races in the manner and for the time necessary to prevent the administration of a prohibited drug, chemical, or other substance. (Added eff. 8/14/89; amended eff. 10/11/90; amended eff. 11/1/98)

Sec. 319.303. Tampering with Specimen.

(a) Except as otherwise provided by this section, a person may not tamper with or adulterate or attempt to tamper with or adulterate a specimen taken for testing under this chapter.

(b) This section does not apply to a person who adds a substance approved by the executive secretary necessary to preserve the specimen for analysis. (Added eff. 8/14/89; (a) amended eff. 11/1/98; (b) amended eff. 3/1/03)

Sec. 319.304. Penalties on Positive Test.

(a) On a finding by the stewards or racing judges that a test specimen from a race animal that participated in a race contains a prohibited drug, chemical or other substance, the stewards or racing judges may:

(1) disqualify the animal and order the purse redistributed;

(2) declare the race animal ineligible to race for a period of time; and

(3) impose penalties authorized by Chapter 307 of this title (relating to Practice and Procedure) on:

(A) the animal's trainer or kennel owner;

(B) any other person responsible for the care and custody of the animal; and

(C) all individuals determined to have adminstered or to have attempted, caused, or conspired to administer the prohibited drug, chemical, or other substance.

b) The executive secretary may promulgate a classification for prohibited drugs, chemicals, and other substances and a schedule for recommended disciplinary action for use by stewards, racing judges, and the Commission in assessing penalties for various violations under this chapter. (Added eff. 8/14/89; amended eff. 11/22/91, repealed and replaced eff. 11/1/98; (b) amended eff. 4/1/01)

Testing Procedures

Sec. 319.331. Equipment for Testing.

An association shall provide the equipment and supplies for collecting specimens and operating and maintaining the test barn or test area of the types and in the quantities prescribed by the executive secretary. (Added eff. 8/14/89; amended eff. 11/29/90; amended 11/1/98)

Sec. 319.332. Procedure for Obtaining Specimens.

(a) The commission veterinarian at greyhound racetracks and the test barn supervisor at horse racetracks shall select and directly supervise the test technicians who obtain specimens for conducting tests under this chapter. The rate of compensation to be paid to the technicians is subject to the approval of the executive secretary.

(b) Except as authorized by the commission veterinarian, each specimen must be obtained in the test area approved by the Commission.

(c) The owner, trainer, or kennel owner of a race animal being tested or a designee of the owner, trainer, or kennel owner is entitled to witness or acknowledge the taking of the specimen and is entitled to sign the tag for the specimen. Failure or refusal to be present and witness the collection of the specimen or to sign the specimen tag constitutes a waiver by the owner, trainer, or kennel owner of any objections to the source, collection procedures, and documentation of the specimen. A person signing a specimen tag under this section must be at least 18 years of age and be licensed by the Commission. A trainer or kennel owner may not designate another trainer or kennel owner to witness the collection of the sample or to sign a specimen tag unless a trainer responsibility form has been executed. (Added eff. 8/14/89; (c) amended eff. 9/30/91; (a) amended eff. 11/22/91; (c) amended eff. 5/1/92; (c) amended eff. 2/1/95; (a) amended eff. 11/1/98; (a),(b),(c) amended eff. 3/1/03)

Sec. 319.333. Specimen Tags.

(a) Each specimen obtained for testing must be marked for identification with a tag with multiple parts. A part of the tag must accompany the specimen to the testing laboratory and the commission veterinarian or test barn supervisor shall retain a part of the tag in a locked cabinet in the test barn or test area.

(b) The part of the tag that is sent with the specimen to the laboratory may contain only the date the specimen was obtained and a unique identification number assigned by the executive secretary. The part of the tag that is retained in the test barn or test area must contain:

(1) the signature of the commission veterinarian or test barn supervisor;

(2) the initials of each individual who collected the urine or serum;

(3) the initials of the individual who processed the serum for split sampling;

(4) the date the specimen was obtained;

(5) the unique identification number;

(6) the name of the race animal;

(7) the signature of the witness if any; and

(8) any other information required by the executive secretary. (Added eff. 8/14/89; (b) amended eff. 11/22/91; (a),(b) amended eff. 3/1/03)

Sec. 319.334. Delivery and Retention of Specimens.

The commission veterinarian or test barn supervisor shall ensure that a specimen that is to be sent to a testing laboratory is delivered to the laboratory in a timely manner and by a method that ensures the integrity of the specimen. The courier service to be used by an association and the contract with that courier service is subject to the approval of the executive secretary. (Added eff. 8/14/89; (b) deleted eff. 11/22/91; amended eff. 11/1/98; amended eff. 3/1/03)

Sec. 319.335. Auditing and Approval of Testing Costs.

(a) All charges for conducting tests under this subchapter must be audited and approved by the executive secretary before payment. The executive secretary shall audit the charges as to the reasonableness of the charges in accordance with industry standards for comparable testing procedures.

(b) Charges for conducting tests under this subchapter may include expenses incurred for travel, lodging, testing, and processing test results.

(c) On approval of the charges, the executive secretary shall forward a copy of the charges to the association for which the tests were conducted. (Added eff. 8/14/89; (a) amended eff. 11/22/91; (a), (c) amended eff. 11/1/98)

Sec. 319.336. Payment of Testing Costs.

(a) Responsibility for Payment. Immediately on receipt of approved charges for conducting tests under this subchapter, an association shall pay the charges.

(b) Authority to Use Outstanding Tickets and Pari-mutuel Vouchers. An association may use

money held by the association to pay outstanding tickets and outstanding pari-mutuel vouchers to pay for charges under this section. If the money held is insufficient to pay the charges, the association shall pay the remainder of the charges.

(c) Accounting and Payment of Remainder.

(1) The accounting and payment of remainder of outs and vouchers to the Commission shall be done in accordance with §321.36.

(2) The executive secretary will review the accounting submitted by the association. If the executive secretary determines the accounting is in error, the executive secretary may adjust the amount due to the Commission from outstanding tickets and either demand payment of the additional amount owed or reimburse the association for the excess amount paid to the Commission.

(d) Pooling of Drug Testing Costs. The executive secretary may establish a procedure to pay drug testing costs by pooling the amounts held by all associations to pay outstanding tickets. If the amount held by an association does not cover the full costs of drug testing for that association, the executive secretary may pay those costs using funds paid to the Commission under Subsection (c)(1) of this section. (Added eff. 8/14/89; (a),(b) amended, (c), (d) added eff. 1/1/98; (c) amended eff. 11/1/98; (c), (d) amended eff. 11/12/03; (c) amended eff. 7/16/08)

Sec. 319.337. Interference with Testing Prohibited.

A person may not interfere with the testing of a race animal, including interference in obtaining specimens, delivering specimens to a laboratory, delivering test results to the commission veterinarian or the commission, or any other procedure involved in conducting a test required by this subchapter. (Added eff. 8/14/89)

Sec. 319.338. Storage of Splits.

(a) The commission veterinarian shall store the retained part of a specimen at a site approved by the executive secretary for the period required by this section. The split specimen shall be stored in a manner that ensures the safety and integrity of the part.

(b) If the result of the initial test on a specimen is negative, the commission veterinarian's designee may discard the retained part of the specimen on receipt of the negative result. If the result of the initial test on a specimen is positive, the commission veterinarian's designee may discard the split specimen of the specimen after all appeals are exhausted and the disposition of the matter is final.

(c) The association at which a specimen is obtained shall pay all the costs of storage incurred under this section. (Added eff. 3/13/02; (a),(b) amended eff. 3/1/03)

Provisions for Horses

Sec. 319.361. Testing of Horses.

(a) The stewards shall order specimens collected for testing under this subchapter in accordance with this section.

(b) A specimen shall be collected from each horse that finishes first in a race.

(c) In addition to the horse designated under subsection (b) of this section, a specimen may be collected from the following horses:

(1) a horse that finishes second;

(2) a beaten favorite;

(3) for a race with a gross purse of $50,000 or more, the horse that finishes third;

(4) a horse selected at random by the stewards; and

(5) any other horse designated for cause by the stewards or the commission veterinarian. (Added eff. 8/14/89; (b), (c) amended eff. 10/11/90; (c) amended eff. 11/1/98)

Sec. 319.362. Split Specimen.

(a) Before sending a specimen from a horse to a testing laboratory, the commission veterinarian shall determine whether the specimen is of sufficient quantity to be split. If there is sufficient quantity, the commission veterinarian or the commission veterinarian's designee

shall divide the specimen into two parts. If the specimen is of insufficient quantity to be split, the commission veterinarian may require the horse to be detained until an adequate amount of urine can be obtained. If the commission veterinarian ultimately determines the quantity of the specimen obtained is insufficient to be split, the commission veterinarian shall certify that fact in writing and submit the entire specimen to the laboratory for testing.

(b) The commission veterinarian or commission veterinarian's designee shall retain custody of the portion of the specimen that is not sent to the laboratory. The veterinarian or designee shall store the retained part in a manner that ensures the integrity of the specimen.

(c) An owner or trainer of a horse which has received a positive result on a drug test may request, in writing, that the retained serum or urine, whichever provided the positive result, be submitted for testing to a Commission approved and listed laboratory that is acceptable to the owner or trainer. The owner or trainer must notify the executive secretary of the request not later than 48 hours after notice of the positive result. Failure to request the split within the prescribed time period will be deemed a waiver of the right to the split specimen.

(d) If the retained part of a specimen is sent for testing, the commission staff shall arrange for the transportation of the specimen in a manner that ensures the integrity of the specimen. The person requesting the tests shall pay all costs of transporting and conducting tests on the specimen. To ensure the integrity of the specimen, the split specimen must be shipped to the selected laboratory no later than 10 days after the day the trainer is notified of the positive test. Subject to this deadline, the owner or trainer of the horse from whom the specimen was obtained is entitled to be present or have a representative present at the time the split specimen is sent for testing.

(e) If the test on the split specimen confirms the findings of the original laboratory, it is a prima facie violation of the applicable provisions of the chapter.

(f) If the test on the split specimen portion does not substantially confirm the findings of the original laboratory, the stewards may not take disciplinary action regarding the original test results.

(g) If an act of God, power failure, accident, labor strike, or any other event, beyond the control of the Commission, prevents the split from being tested, the findings of the original laboratory are prima facie evidence of the condition of the horse at the time of the race. (Added eff. 8/14/89; amended eff. 2/1/95; amended eff. 11/1/98; amended eff.10/30/00; amended eff. 4/1/01; amended eff. 3/13/02)

Sec. 319.363. Testing for Total Carbon Dioxide.

(a) Findings and Presumptions.

(1) the commission finds that a total carbon dioxide level of 37 millimoles per liter or more in equine serum can be achieved only through the administration, by any means, of a bicarbonate-containing substance or other alkalinizing substance.

(2) a horse entered or participating in a race may not be administered a bicarbonate-containing substance or other alkalinizing substance which causes it to carry in its body an excess level of total carbon dioxide.

(3) a positive finding by a chemist of total carbon dioxide level at or above 37 millimoles per liter in a race horse serum specimen is an excess level of total carbon dioxide and prima facie evidence that the race horse was administered a bicarbonate-containing substance or other alkalinizing substance in violation of this section.

(b) Testing Authorized. Testing for total carbon dioxide is authorized as listed below:

(1) The executive secretary may implement a program to collect specimens from race horses and test the specimens for the presence of total carbon dioxide. In a program implemented under this section:

(A) Specimens may be collected on a

random basis, including randomly selected race dates, randomly selected races, and randomly selected horses; and

(B) Specimens may be collected prerace or postrace, or;

(2) The stewards or commission veterinarian may require a horse serum specimen to be taken from any race horse designated for cause by the stewards or commission veterinarian for the purpose of testing for total carbon dioxide.

(c) Split Specimen.

(1) the commission finds that the postrace time period during which total carbon dioxide may be detected in a specimen taken from a race horse is limited. Therefore, to provide a meaningful split specimen program, the testing of a split specimen for total carbon dioxide must occur contemporaneously with the testing of the original specimen.

(2) To ensure the owners and trainers of race horses selected for testing under this section are given the opportunity for a split specimen, the trainer of record for each horse from which a specimen is taken pursuant to this section shall declare in writing whether the trainer requests that the split specimen be tested or waives the right to have the split specimen tested. Failure to request the split specimen test at the test barn within 30 minutes after the post time of the last race for the performance is deemed a waiver of the right to the split specimen.

(3) The split specimen shall be sent for testing to a commission approved and listed laboratory that is acceptable to the trainer of record. The commission staff shall arrange for the transportation of the split specimen in a manner that ensures the integrity of the split specimen.

(4) The trainer of record requesting the split specimen shall pay all costs of transporting and conducting tests on the split specimen.

(5) If the test on the split specimen confirms the findings of the original laboratory, it is a prima facie violation of this section.

(6) if the test on the split specimen does not substantially confirm the findings of the original laboratory, the stewards may not take disciplinary action regarding the test results.

(7) If an act of God, power failure, accident, labor strike, or any other event, beyond the control of the Commission, prevents the split from being tested, the findings of the original laboratory are prima facie evidence of the condition of the horse at the time of the test for total carbon dioxide.

(d) Conflict with Other Rules. To the extent that this rule conflicts with any other commission rule, this rule controls. (Added eff. 1/11/06; (a) amended eff. 3/20/08)

Sec. 319.364. Testing for Androgenic-Anabolic Steroids.

(a) No androgenic-anabolic steroids shall be permitted in test sample collected from racing horses except for residues of the major metabolite of stanozolol, nandrolone, and the naturally occurring substances boldenone and testosterone at concentrations less than the indicated thresholds.

(b) Concentrations of these androgenic-anabolic steroids shall not exceed the following urine threshold concentrations for total (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):

(1) 16ß-hydroxystanozolol (metabolite of stanozolol (Winstrol)) – 1 ng/ml in urine for all horses regardless of sex;

(2) Boldenone (Equipoise® is the undecylenate ester of boldenone) in male horses other than geldings – 15 ng/ml in urine. No boldenone shall be permitted in geldings or female horses.

(3) Nandrolone (Durabolin® is the phenylpropionate ester and Deca-Durabolin® is the decanoate ester)

(A) In geldings - 1 ng/ml in urine

(B) In fillies and mares – 1 ng/ml in urine

(4) Testosterone

(A) In geldings – 20 ng/ml in urine

(B) In fillies and mares – 55 ng/ml in urine

(c) Any other anabolic steroids are prohibited in racing horses.

(d) Post-race urine samples must have the sex of the horse identified to the laboratory.

(e) Any horse to which an anabolic steroid has been administered in order to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the concentration has fallen below the designated threshold for the administrated androgenic-anabolic steroids, the horse is eligible to be removed from the list. (Added eff. 3/22/09)

Provisions for Greyhounds

Sec. 319.391. Testing of Greyhounds.

(a) Urine, blood, or other specimens shall be taken and tested from any greyhound designated by the racing judges, commission veterinarian, or a representative of the commission. A specimen shall be collected by the commission veterinarian or a designee of the commission veterinarian.

(b) A racing judge or the commission veterinarian may order a greyhound in a race to submit to a test of body fluid specimens to determine the presence of a prohibited drug, chemical, or other substance.

(c) Before sending a specimen from a greyhound to a testing laboratory, the commission veterinarian shall determine whether the specimen is of sufficient quantity to be split. If there is sufficient quantity, the commission veterinarian or the commission veterinarian's designee shall divide the specimen into two parts. The commission veterinarian or the commission veterinarian's designee shall retain custody of the portion of the specimen that is not sent to the laboratory. The commission veterinarian or commission veterinarian's designee shall store the split specimen in a manner that ensures the integrity of the specimen. If the specimen is of insufficient quantity to be split, the commission veterinarian shall certify that fact in writing and submit the entire specimen to the laboratory for testing.

(d) The trainer or kennel owner for a greyhound that has tested positive for a prohibited drug, chemical, or other substance may request, in writing, that the split specimen, if any, be submitted for testing at a Commission-approved and listed laboratory. The trainer or kennel owner must notify the executive secretary of the request not later than 48 hours after notice of the positive test. Failure to request the split specimen be tested within the prescribed time period constitutes a waiver of the right to have the split specimen tested.

(e) If the split specimen is sent for testing, the commission staff shall arrange for transportation of the specimen in a manner that ensures the integrity of the specimen. To ensure the integrity of the specimen, the split specimen must be shipped within 10 days after the kennel owner is notified of the positive test. Subject to the deadline, the kennel owner is entitled to be present or have a representative present at the time the split specimen is sent for testing.

(f) If the test on the split specimen confirms the finding of the original laboratory, it is a prima facie violation of the applicable provisions of this chapter. If the test on the split specimen does not substantially confirm the findings of the original laboratory, the racing judges may not take disciplinary action regarding the original test results.

(g) If an act of God, power failure, accident, labor strike, or other event beyond the control of the Commission prevents the split specimen from being tested, the findings of the original laboratory are prima facie evidence of the condition of the greyhound at the time of the race. (Added eff. 8/14/89; (a), (b) amended eff. 10/11/90; (b) amended eff. 11/1/98; (c),(d) amended, (e),(f),(g) added eff. 3/13/02)

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CHAPTER 321. PARI-MUTUEL WAGERING

Subchapter A. Mutuel Operations

Division 1. General Provisions

Sec. 321.1. Definitions and General Provisions.

(a) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) ASCII formatted flat file - A data file containing structured data which is both record and field delimited containing only characters found in the American Standard Code for Information Interchange (ASCII) specification.

(2) Betting interest - a single race animal or a group of race animals coupled pursuant to the Rules which the totalisator system designates as an interest on which a patron may wager.

(3) Export simulcast - a race simulcast from a racetrack facility.

(4) Firmware - The system software permanently stored in a computer or ticket issuing machine's read-only memory or elsewhere in the circuitry that cannot be modified by the user.

(5) Guest racetrack - a racetrack facility at which a simulcast race is received and offered for wagering purposes; a receiving location, as defined in the Act, §1.03(64).

(6) Host racetrack - a racetrack facility at which a race is conducted and simulcast for wagering purposes; a sending track, as defined in the Act, §1.03(66).

(7) Import simulcast - a simulcast race received at a racetrack facility.

(8) Intelligent Terminal - a terminal or peripheral device which contains code extending beyond that which is necessary to allow the terminal to communicate with the central controlling device to which it is directly attached or to control the presentation of data on the display unit of the device.

(9) Log - an itemized list of each command, inquiry, or transaction given to a computer during operation.

(10) Major Revision - a specific release of a hardware or software product, including additional functionality, major user interface revisions, or other program changes that significantly alter the basic function of the application.

(11) Minor Revision - an incrementally improved version of hardware or software, usually representing an error (bug) fix, or a minor improvement in program performance which does not alter basic functionality.

(12) Multi-leg wager - a wagering pool that involves more than one race.

(13) Remote site - a racetrack or other location at which wagering is occurring that is linked via the totalisator system to a racetrack facility for pari-mutuel wagering purposes.

(14) Report - a summary of betting activity.

(15) Resultant - the profit-per-dollar wagered in a pari-mutuel pool computation.

(16) Ticketless Electronic Wagering (E-wagering) - a from of pari-mutuel wagering in which wagers are placed and cashed through an electronic ticketless account system operated through a licensed totalisator vendor in accordance with Sec. 11.04 of this Act. Wagers are automatically debited and credited to the account holder.

(17) TIM - ticket-issuing machine.

(18) TIM-to-Tote network - a wagering network consisting of a single central processing unit and the TIMs at any number of remote sites.

(19) Totalisator system - a computer system that registers and computes the wagering and payoffs in pari-mutuel wagering.

(20) Totalisator operator - the individual assigned to operate the totalisator system at a racetrack facility.

(21) Tote-to-tote network - a wagering network in which each wagering location has a central processing unit.

(22) User - a totalisator company employee authorized to use the totalisator system in the normal course of business.

(b) A reference in this chapter to the mutuel manager includes the mutuel manager's designee, in accordance with §313.53 of this title (relating to Mutuel Manager) or §315.36 of this title (relating to Mutuel Manager.)

(c) A request required to be made in writing under this chapter may be transmitted via hand delivery, e-mail, facsimile, courier service, or U.S. mail. (Added eff. 4/1/01; (a) rev. eff 10/4/05)

Sec. 321.2. Odds Manipulation.

The Commission recognizes that the wagering public uses Odds and Will Pays as a handicapping tool. To maintain the integrity of the pools, the Commission therefore identifies the practice of canceling wagers that were placed for the sole purpose of manipulating the posted Odds or Will Pays as being inconsistent with the honesty and integrity of racing under §307.7, Ejection and Exclusion, and as a detrimental practice under §307.9, Denial, Suspension, and Revocation of Licenses. (Added eff. XXXX)

Sec. 321.3. Conduct of Wagering.

(a) An association shall conduct pari-mutuel wagering in accordance with the Act and the Rules.

(b) In conducting pari-mutuel wagering, an association shall use a totalisator system that:

(1) meets the requirements outlined in Subchapter B of this Chapter; and

(2) is approved by the Commission.

(c) An association shall apply in writing to the executive secretary for approval to offer the types of wagers the association wishes to offer. An association may offer only the types of wagers the Commission approves for that association.

(d) The stewards or racing judges may cancel a pari-mutuel pool offered by the association for a race if the stewards or racing judges have concerns about the integrity of the pool or the race. (Added eff. 4/1/01; (b) rev eff. 10/4/05)

Sec. 321.5. Pari-mutuel Auditor.

(a) The pari-mutuel auditor is a representative of the Commission at a racetrack.

(b) The pari-mutuel auditor shall verify the wagering pool totals for each live and simulcast performance. The pari-mutuel auditor's verification of the pool totals is the basis for computing the amount of money to be set aside from each pool for the following:

(1) horse purses;

(2) greyhound purses;

(3) the State;

(4) the Texas Bred Incentive Programs;

(5) the association; and

(6) the winning wagerers.

(c) The pari-mutuel auditor shall also assist the executive secretary, the stewards or racing judges, and the Comptroller in investigating alleged violations of the Act, the Rules, or the Comptroller's rules relating to the totalisator system and pari-mutuel operations. (Added eff. 4/1/01)

Sec. 321.7. Cooperation with Officials.

If the executive secretary or the Comptroller or any employee of the executive secretary or Comptroller determines a certain cashed or canceled ticket, cashed or canceled voucher, computer printout, mutuel report, or other totalisator or mutuel record is needed to perform the official's regulatory duties, the official shall request the item from the mutuel manager. On receipt of a request under this section, the mutuel manager shall make the information available to the official no later than the deadline established by the official. (Added eff. 4/1/01)

Sec. 321.9. System Failure.

(a) During a live racing performance, if the totalisator system is unable to record wagers received or to guarantee the integrity of the pari-mutuel pools, the totalisator operator shall verbally notify the association's mutuel manager. The totalisator operator shall state whether the problem can be corrected and if so, the estimated time needed to correct the problem. The mutuel manager must promptly notify the pari-mutuel

auditor and the stewards or racing judges.

(b) If the totalisator operator determines that the problem cannot be corrected before the scheduled end of the race performance, the operator shall verbally notify the mutuel manager. The mutuel manager must promptly notify the pari-mutuel auditor and the stewards or racing judges of that determination.

(c) The stewards or racing judges, after consulting with the association and after considering the amount of purses and wagers involved and the time required to repair the totalisator system, may permit any of the remaining races in the performance to be run as exhibitions without wagering. If a race is run as an exhibition under this subsection, the association shall pay the purses in accordance with the Rules. (Added eff. 4/1/01)

Sec. 321.11. Access to Magnetic Media.

(a) An association shall submit a storage plan for all magnetic media storing computer logs to the executive secretary for approval. This plan must include sufficient information for the executive secretary to determine that the information will remain secure, including:

(1) sufficient space for the totalisator vendor to store all magnetic media; and

(2) a storage cabinet that will protect the media from damage.

(b) An association shall include in its security plans a means by which access to the magnetic media is restricted. (Added eff. 4/1/01)

Sec. 321.13. Pari-mutuel Track Report.

(a) Daily Pari-Mutuel Summary Report.

(1) An association shall prepare a pari-mutuel summary report for each day that pari-mutuel wagering occurs at its racetrack facility.

(2) The pari-mutuel summary report is the association's record of wagering activities at the racetrack.

(3) The association shall deliver a copy of the pari-mutuel summary report to the pari-mutuel auditor no later than 24 hours after the date of the performance for which the report was prepared.

(4) The report must contain, by each live and simulcast performance, the following:

(A) net handle at:

(i) the association's racetrack facility; and

(ii) the outlets wagering on the association's live performance;

(B) payouts to the wagering public;

(C) breakage;

(D) settlements to the host racetrack or guest racetrack;

(E) all purses earned, broken out by source, such as live, simulcast, cross species, and export;

(F) Texas Bred Incentive Program revenue;

(G) state tax; and

(H) association revenue.

(b) Monthly Pari-Mutuel Recap Report.

(1) The executive secretary shall prescribe a form for the monthly pari-mutuel recap report.

(2) The association shall file with the executive secretary a recap of pari-mutuel activity on the prescribed form. The monthly recap of pari-mutuel activity must be filed no later than the 30th day after the last day of the month for which the report is being filed. (Added eff. 4/1/01; (a) amended eff. 10/4/05)

Sec. 321.15. License to Provide Totalisator Services.

(a) To provide totalisator services to an association in Texas, a totalisator company must be licensed by the Commission as a vendor. The license application must include:

(1) a copy of a current written contract to provide a totalisator system to an association;

(2) a list of all totalisator personnel assigned to work in Texas, or on behalf of an association operating in Texas, as described in §321.123 of this title (relating to Personnel Requirements);

(3) an affidavit stating that the totalisator company and its employees will comply with the Rules and the Comptroller's rules regarding totalisator operations; and.

(4) information of sufficient detail for the Commission to determine that the totalisator company is in compliance with Subchapter B of this chapter.

(b) A contract between the totalisator company and an association must be submitted to the Commission for approval before the contract's effective date. (Added eff. 4/1/01)

Sec. 321.17. Activities by Minors Restricted.

(a) An association may not permit an individual who is less than 16 years old to enter the public area of the association grounds unless the individual is accompanied by the individual's parent or legal guardian.

(b) An association may not accept a wager from an individual who has not attained the minimum age required to purchase alcoholic beverages in this state. (Added eff. 4/1/01)

Sec. 321.19. Wagers by Employees of Commission.

A member or employee of the Commission may not place a wager or cause a wager to be placed on a race conducted or offered for wagering in this state. (Added eff. 4/1/01)

Sec. 321.21. Certain Wagers Prohibited.

(a) An association may not accept a wager made by mail, by telephone, or by internet. A data communications link for common pooling purposes is not considered a wager for purposes of this section.

(b) An association may not accept a wager made on credit. (Added eff. 4/1/01; (a) amended eff. 10/4/05)

Division 2. Wagering Information and Results

Sec. 321.23. Wagering Explanations.

(a) An association shall include the following information in the official live programs and simulcast programs and post in conspicuous places on association grounds:

(1) a general explanation of pari-mutuel wagering;

(2) an explanation of each type of pari-mutuel wagering pool offered; and

(3) the expiration date of mutuel tickets.

(b) Wagering explanations must be reviewed and approved by the executive secretary before publication. (Added eff. 4/1/01)

Sec. 321.25. Wagering Information.

(a) An association shall make every effort to provide accurate wagering information to the Texas pari-mutuel patron for handicapping purposes. Examples of such information include:

(1) the Daily Racing Form;

(2) the official program; and

(3) tip sheets.

(b) If wagering information is inaccurate for a live or simulcast race and the error is discovered before wagering has opened on the race, the mutuel manager shall:

(1) notify the pari-mutuel auditor and the stewards or racing judges, if available, of the error; and

(2) not open for wagering on the race until the correct information is obtained and verified.

(c) If wagering information is inaccurate for a live or simulcast race and the error is discovered after wagering has opened on the race, the mutuel manager shall:

(1) notify the pari-mutuel auditor and stewards or racing judges, if available, of the error;

(2) close wagering on the race;

(3) announce via the public address system the wagering information error;

(4) refund the wagers, or pay prices and manually refund the wagers placed on the affected race by those pari-mutuel patrons who request a refund; and

(5) not reopen for wagering on the race

until the correct information is obtained and verified. (Added eff. 4/1/01)

Sec. 321.27. Posting of Race Results.

An association shall submit to the executive secretary for approval a plan for providing live and simulcast race results to the wagering public. The plan must include:

(1) methods by which the results will be provided;

(2) types of results to be provided; and

(3) the retention period of the race results.

(Added eff. 4/1/01)

Division 3. Mutuel Tickets and Vouchers

Sec. 321.29. Mutuel Tickets.

Each mutuel ticket issued must have printed on its face:

(1) the name of the racetrack facility where the wager was placed;

(2) the name of the racetrack where the race was conducted;

(3) the number of the race;

(4) the unique computer-generated ticket number;

(5) the date the ticket was issued;

(6) the date of the race for which the ticket was issued;

(7) the number of the ticket-issuing machine;

(8) the type of pool;

(9) the number of each entry on which the wager was placed;

(10) the dollar amount of the wager; and

(11) the expiration date of the ticket.

(Added eff. 4/1/01; amended eff. XXXX).

Sec. 321.31. Vouchers.

Each voucher issued must have printed on its face:

(1) the name of the racetrack facility where the voucher was issued;

(2) the unique computer-generated voucher number;

(3) the date the voucher was issued;

(4) the number of the ticket-issuing machine;

(5) the dollar amount of the voucher; and

(6) the expiration date of the voucher.

(Added eff. 4/1/01; anended eff. 7/16/08)

Sec. 321.33. Expiration Date.

(a) Mutuel tickets and vouchers issued on or after September 1, 2007, shall expire at the close of business one year from date of issuance.

(b) Mutuel tickets issued during the month of August 2007 shall expire at the close of business on September 29, 2008.

(c) Mutuel tickets issued prior to August 1, 2007, have expired in accordance with the Texas Racing Act.

(d) Vouchers issued prior to September 1, 2007, shall not expire. (Added eff. 4/1/01; amended eff. 11/12/03; amended eff. 10/4/05; amended eff. 7/16/08)

Sec. 321.34. Refusal to Cash.

(a) An association may refuse to cash a mutuel ticket if the association determines the ticket has been:

(1) recorded as previously cashed or canceled;

(2) issued after the stop betting command was issued; or

(3) altered to appear as a winning ticket.

(b) An association may refuse to cash a voucher if the association determines the voucher has been:

(1) recorded as previously cashed; or

(2) altered to appear as an outstanding voucher. (Added eff. 4/1/01)

Sec. 321.35. Claim for Payment.

(a) An association shall accept a claim for payment if the association has withheld payment or has refused to cash a pari-mutuel ticket or a voucher presented for payment. The claim must be made on a form prescribed by the association and signed by the claimant. The original of

the claim shall be promptly forwarded to the Commission.

(b) If a claim is made for payment of a mutilated ticket that does not contain the information required under §321.29 of this title (relating to Mutuel Tickets), the association shall make a recommendation to accompany the claim forwarded to the Commission. The recommendation must state whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket.

(c) If a claim is made for payment of a mutilated voucher that does not contain the information required under §321.31 of this title (relating to Vouchers), the association shall make a recommendation to accompany the claim forwarded to the Commission. The recommendation must state whether or not the mutilated voucher has sufficient elements to be positively identified as an outstanding voucher.

(d) If a claim is made for the payment of a mutuel ticket or a voucher, the executive secretary shall investigate the claim and may:

(1) order the association to pay the claim;

(2) deny the claim; or

(3) enter any other order the executive secretary determines appropriate.

(e) A claim may not be made for a lost or destroyed mutuel ticket or voucher. (Added eff. 4/1/01; (a) amended eff. 10/4/05)

Sec. 321.36. Remittance of Unclaimed Outs and Vouchers.

(a) Pursuant to the Act, §3.07, to pay the charges associated with the medication or drug testing, an association may use the money held by the association to pay outstanding tickets and pari-mutuel vouchers. If additional amounts are needed to pay the charges, the association shall pay those additional amounts. If the amount of outstanding tickets and pari-mutuel vouchers held exceeds the amount needed to pay the charges, the association shall pay the excess to the commission.

(b) The association shall file a quarterly report on a form prescribed by the executive director, that reports:

(1) the amount of outstanding tickets and pari-mutuel vouchers that have expired during the quarter as outlined under §321.33;

(2) the amount needed to reimburse the association for payments made by the association to cover charges associated with the medication or drug testing pursuant to §3.07 of the Act; and

(3) the amount of excess expired tickets and pari-mutuel vouchers, if any, due to the commission.

(c) The association shall file the quarterly reports and make payments when applicable on the following schedule:

(1) September, October and November will constitute the first quarter and shall be filed with the commission no later than December 15;

(2) December, January and February will constitute the second quarter and shall be filed with the commission no later than March 15;

(3) March, April and May will constitute the third quarter and shall be filed with the commission no later than June 15; and

(4) June, July and August shall constitute the fourth quarter and shall be filed with the commission no later than September 15.

(d) The reports and payments submitted by the association are subject to audit by the Commission. (Added eff. 7/16/08)

Sec. 321.37. Cashed Tickets and Vouchers.

(a) An association shall maintain facilities and use procedures that ensure the security of cashed tickets and vouchers and the integrity of records of outstanding tickets and outstanding vouchers.

(b) The association shall store cashed tickets and vouchers in a secure area.

(c) The association shall prohibit individuals other than the association's mutuel manager from having access to the cashed tickets and vouchers or to storage areas for outstanding ticket records and outstanding voucher records. (Added eff. 4/1/01;

(a), (c) amended eff. 7/16/08)

Sec. 321.39. Altering Cashed Tickets and Cashed Vouchers.

An association shall ensure that each cashed or refunded mutuel ticket and cashed voucher is altered in a manner that indicates the mutuel ticket or voucher has been cashed or refunded, but does not destroy the identity of the ticket or voucher. (Added eff. 4/1/01)

Sec. 321.41. Cashing Outstanding Tickets.

(a) For purposes of this section, an outstanding ticket is one that was purchased for a race held at least 21 days before the date the ticket is presented for payment.

(b) An association shall designate one ticket window where a patron must cash an outstanding ticket. If the association needs more than one window, the association must submit a written request for approval from the executive secretary for additional windows.

(c) The association may not permit an outstanding ticket to be cashed at a ticket window other than a designated window.

(d) At the end of each race day, the mutuel manager shall deliver to the pari-mutuel auditor:

(1) a list of the outstanding tickets that were cashed on the previous race day; and

(2) a photostatic copy of each outstanding ticket cashed on the previous race day.

(e) In the event a photostatic copy can not be provided, the association will not be held liable for a reader cashed ticket if the association can produce documentation to support the ticket's existence. (Added eff. 4/1/01; (a) amended eff. 7/16/08)

Sec. 321.42. Cashing Outstanding Vouchers.

(a) For purposes of this section, an outstanding voucher is one that was issued at least 21 days before the date the voucher is presented for payment.

(b) An association shall designate one mutuel window where a patron must cash an outstanding voucher. If the association needs more than one window, the association must submit a written request for approval from the executive secretary for additional windows.

(c) The association may not permit an outstanding voucher to be cashed at a mutuel window other than a designated window.

(d) At the end of each race day, the mutuel manager shall deliver to the pari-mutuel auditor:

(1) a list of the outstanding vouchers that were cashed on the previous race day; and

(2) a photostatic copy of each outstanding voucher cashed on the previous race day.

(e) In the event a photostatic copy can not be provided, the association will not be held liable for a reader cashed voucher if the association can produce documentation to support the voucher's existence. (Added eff. 7/16/08)

Sec. 321.43. Cancellation of Win Wagers.

(a) An association may not cancel a win wager for more than $500 on any live or simulcast race offered for wagering by the association, unless:

(1) the patron requests to cancel the wager before the patron leaves the teller's window and before the ticket-issuing machines are locked; or

(2) the stewards or racing judges order the wager to be canceled because of a scratch in the race.

(b) If a patron desires to cancel a wager that is on the same mutuel ticket as a win wager that may not be canceled under this section, the association may cancel the ticket but must immediately replace the win wager that was on the ticket.

(c) An association shall post a notice by each automatic ticket-issuing machine that states that a win wager for more than $500 may not be canceled except if the stewards or racing judges order the wager to be canceled because of a scratch in the race.

(d) An association may adopt a house policy regarding the cancellation of win wagers that is more restrictive than this section, subject to the approval of the executive secretary.

(e) The cancellation of wagers on self-serve wagering machines shall not be permitted except in accordance with the written policies established by the association and approved by the executive secretary.

(f) The mutuel manager shall be responsible for controlling all canceled wagers and ensuring that the association complies with the rules of this section. (Added eff. 4/1/01; (e), (f) added eff. 8/5/07)

Sec. 321.45. Teller's Records.

Each pari-mutuel teller for an association shall retain and account for all mutuel tickets or vouchers cashed, refunded or canceled by the teller. (Added eff. 4/1/01)

Subchapter B. Totalisator Requirements and Operating Environment

Division 1. Facilities and Equipment

Sec. 321.101. Purpose.

A totalisator system can be relied upon only if it has an adequate system of internal controls. The Commission adopts these rules for totalisator companies and operations to increase the Commission's level of reliance on the totalisator employees, equipment, programming, maintenance, and operations in this state and to ensure all totalisator operations maintain the integrity of pari-mutuel wagering. (Added eff. 10/1/01)

Sec. 321.103. Facility Requirements.

(a) Totalisator Room. An association shall provide a totalisator room to house the main computing and communications equipment or the operator's terminal at the association's facility, whichever is applicable. The room must include:

(1) air conditioning with humidity control to maintain a stable environment that meets the specifications of the computer equipment manufacturer;

(2) a master power switch that allows all or part of the equipment housed in the room to be turned off in an emergency;

(3) a smoke/fire alarm system that sounds locally and is tied into the association's master alarm system;

(4) fire extinguishers to deal with minor electrical fires;

(5) an internal communication system connecting the totalisator operator with:

(A) the stewards or racing judges;

(B) the mutuel manager;

(C) each betting line; and

(D) the pari-mutuel auditor's office; and

(6) a private outside line for communication with supervisors, programmers, or totalisator personnel at other sites.

(b) Totalisator Room at a Central Processing Location. An association may contract with a totalisator service that uses a central processing location off the association's grounds. The association shall:

(1) provide an on-site totalisator room that satisfies the requirements in subsection (a) of this section;

(2) ensure the totalisator central processing location satisfies the requirements of paragraphs (a)(1) through (a)(4) of this section; and

(3) ensure the totalisator central processing location has a communications system connecting the central processing location operator with:

(A) the totalisator operator at the association's facility; and

(B) a private outside line for the communication with supervisors, programmers, or totalisator personnel at other sites.

(c) Totalisator Room Security.

(1) The totalisator room housing the CPU or operator's terminal that processes wagers made at an association's facility must be secured at all times. Annually on a date established by the executive secretary, the association shall submit to the executive secretary for approval a security plan for the totalisator room housing the CPU or operator's terminal that processes wagers made at the association's facility. The security plan must

include:

(A) a security system covering the totalisator room and any other related service, electrical, or equipment room that consists of locking closed doors and detecting unauthorized entry;

(B) a system of controlled entry to the totalisator room and other related rooms, using:

(i) locking devices on all doors or entry points;

(ii) controlling the distribution of keys or codes necessary to unlock the doors; and

(iii) a sign-in log for visitors escorted by authorized personnel.

(2) If the totalisator room housing the CPU or operator's terminal processing wagers made at the association's facility is located on property owned or controlled by the association, the association shall limit entry to the totalisator room to totalisator, association, and Commission personnel approved by the executive secretary. The association shall submit a list of the individuals to be approved for totalisator room access at least two weeks before the first day of each live race meeting and each time a personnel change necessitates a change to the list.

(3) If the totalisator room housing the CPU or operator's terminal processing wagers made at the association's facility is not located on property owned or controlled by the association, the totalisator company shall limit entry to the totalisator room in accordance with the totalisator company's policy. The association shall provide a copy of the totalisator company's policy regarding totalisator room access to the executive secretary.

(Added eff. 10/1/01; (a),(c) amended eff. 10/4/05)

Sec. 321.105. Hardware Requirements.

(a) Cash/Sell System.

(1) An association shall use a cash/sell totalisator system. The system must comply with these Rules regardless of the location of the central processing unit for the system.

(2) A totalisator system must be a multi-computer or multi-processor system with varying degrees of independence in the transaction processing and system control functions distributed among the computers. The computers must be configured so that if one computer actively tracking events fails, another computer will immediately take over all functions of the failed computer.

(b) Schematic Chart.

(1) The totalisator company must provide to the Commission an overview of the equipment in the totalisator systems in use at the Texas racetrack facilities the company services. The overview must be a detailed schematic chart showing the interconnections of each piece of hardware.

(2) The chart must indicate, where appropriate, the part of the database each terminal can access as well as the amount and degree of access each terminal has to the application and operating system programs. The schematic chart must also reflect the usual and potential user types assigned to each terminal.

(3) The schematic chart must be submitted to the Commission at least two weeks before the scheduled date for system installation and testing.

(4) If the totalisator company desires to change any component in the hardware layout, the company must revise the schematic chart and submit it to the executive secretary for approval before installation.

(c) Peripherals. A totalisator system must include the following peripherals:

(1) a log printer for each computer if the system is unable to reproduce the logs upon request;

(2) a master control terminal that allows the operator to execute routine maintenance and operational functions based on individual operator identification/authentication;

(3) user terminals that allow restricted system access to the mutuel manager, money room personnel, and the stewards or racing judges;

(4) wagering information screen displays

that meet the requirements of §321.25 of this title (relating to Wagering Information);

(5) data storage devices to record necessary system data; and

(6) backup devices capable of recording complete system information on removable media for storage and restoration.

(d) Stop Wagering Devices.

(1) The totalisator company shall install two separate devices that activate the stop wagering function of the totalisator system.

(2) The primary device must be located in or near the stewards or racing judges, in a location approved by the executive secretary, to issue the stop wagering command during normal operations and activate the "off bell."

(3) The secondary "back up" device must be installed in the totalisator room to allow the totalisator operator to issue the stop wagering command if a totalisator malfunction or human error prevents the totalisator system from activating the stop wagering function at the appropriate time.

(e) Tote Board. The tote board must:

(1) update the odds on each betting interest in the win pool at intervals of not more than 60 seconds, and

(2) allow the stewards or racing judges or a designee of the stewards or racing judges to post the order of finish, the official sign, inquiry sign, objection sign, or dead heat sign.

(f) Uninterruptible Power Supply (UPS).

(1) The computer system must be supported by an uninterruptible power supply (UPS) to allow for system shutdown if a power failure occurs. In a system shutdown, all wagering data in the computer at the time of the failure must remain intact and all race and end-of-day reports must be produced.

(2) The UPS must be able to supply even power to the totalisator system, within accepted limits, when a power surge or drop occurs.

(3) The alarm associated with the UPS must be readily recognizable by the totalisator operator from inside the totalisator room.

(g) Ticket Issuing Machines.

(1) A local area TIM, also known as a cash/sell teller terminal, is not required to be intelligent, but must have an individual identity within the network.

(2) The programming of intelligent local area and remote TIMs must be limited to communication with the main computer, maintenance routines, and dynamic terminal configuration routines.

(3) A program related to the production or verification of the wager identification number printed on a mutuel ticket or assigned by the main computer may not reside in a TIM.

(4) A TIM may not access, alter, change, or manipulate the wagering database except to conduct the wagering or cashing functions necessary to serve the public.

(h) Ticketless Electronic Wagering (E-wagering). An association may not use E-wagering devices unless approved by the executive secretary as required by Subchapter E of this Chapter.

(i) Maintenance. A totalisator company shall provide sufficient preventative maintenance to a totalisator system to ensure the system hardware will provide a high degree of reliability. Maintenance must include testing the UPS for battery life and power stability.

(j) Common Pooling.

(1) An association shall use a totalisator system that operates in either a Tote-to-Tote network or a TIM-to-Tote network. The totalisator system must, without regard to the location of the CPU:

(A) meet the requirements of this chapter;

(B) comply with the Rules;

(C) use the current version of Inter-Tote Systems Protocol recognized by the ARCI Tote Standards Committee; and

(D) uses the current version of Standardized Track codes recognized by the ARCI

Tote Standards Committee.

(2) An association may common pool if all equipment used is of an approved type and in an approved location.

(3) The host racetrack for which a common pool is created must also provide a totalisator system that:

(A) directs each totalisator system involved with the common pool regarding the pools offered, live and scratched race animals, common pool totals, network odds and probable payout, start and stop wagering commands, official orders of finish, deduction and payout calculations; and

(B) produces reports showing the amount wagered on each race animal and pool from each site, in accordance with the current Inter-Tote Systems Protocol.

(4) A totalisator company must have a disaster recovery plan to allow an association to continue to conduct pari-mutuel wagering in the event of a disaster at the CPU's location.

(k) Emergency Procedures.

(1) The totalisator system must be supported by an uninterruptible power supply (UPS) as described in subsection (f) of this section.

(2) A totalisator company must have emergency procedures to address a totalisator system failure. The procedures will apply whether the system is operating as a stand-alone wagering site for separate pool wagering or as a satellite in a common pool network.

(3) In a Tote-to-Tote network, if system failure occurs at either the remote site or the host, the pari-mutuel auditor and the network's mutuel and system managers shall establish the pools for the unaffected sites. The failure site shall cease wagering. The pari-mutuel auditor shall then determine when the failed pari-mutuel system may resume operation. (Added eff. 10/1/01; (g)-(k) amended eff. 10/4/05)

Sec. 321.107. Software Requirements.

(a) General requirements.

(1) The totalisator system program must be able to:

(A) sell, calculate, and cash according to the pool profile, current Rules, and number of races;

(B) produce the required reports and logs;

(C) accept advanced wagers;

(D) network with the remote wagering sites;

(E) offer simultaneous wagering cards;

(F) allow access to program functions and identification of each user based on the user ID's/passwords;

(G) automatically maintain , all carry-over data required for the next performance on a rotating basis, including system date and time, without operator intervention;

(H) be subject to modification only by individuals holding specific user ID's that allow gateways to the operating system;

(I) document changes to production programs, including who made the change and when the change was made;

(J) provide software or hardware restrictions that eliminate the capability of printing duplicate on-line tickets;

(K) provide software or hardware restrictions that reduce the possibility of invalid claims on unclaimed winners;

(L) be able to detect abnormal system operation and the cause, such as a validation problem, communication difficulty, and computer downtime, and immediately notify the totalisator operator;

(M) generate data usable across two major revisions, and within all minor revisions or retrieve archived data reports requested by the Commission within twenty-four hours; and

(N) contain a utility program that backs up the totalisator system and schedules these backups at regular intervals.

(2) The operating system must be separated from the application program. The

operating system must be based on identified individual users and maintain auditable records of those users.

(3) The totalisator company must provide to the Commission an inventory of all programs included in the system.

(4) A totalisator system must be able to produce a copy of all data necessary to re-create the wagering activity of any race performance that the executive secretary requests.

(b) Documentation. Software documentation, using computer software industry accepted methods, must be available to the Commission upon request.

(c) Backup. The totalisator system must be backed-up to removable media. Before beginning operations in this state, the totalisator company shall submit a backup procedure plan to the executive secretary for approval.

(d) Changes to Totalisator Software.

(1) All changes to the software on the central site computers, peripherals, or firmware changes downloaded to terminals are subject to the approval of the executive secretary.

(2) A change to the software may not be initialized or operated during wagering until tested and approved by the executive secretary. The daily computer log must show:

(A) when a change was loaded into the totalisator system;

(B) the time the work commenced and the time the work was completed; and

(C) when the old software was removed from the system.

(3) If a software problem occurs during wagering operations, the programmers may make an emergency fix to the totalisator software. No later than 24 hours after the fix has been made to the software, the totalisator company shall file a written report with the executive secretary that states:

(A) the situation that caused the need for the fix; and

(B) the corrective changes the programmers made. (Added eff. 10/1/01)

Division 2. Operational Requirements

Sec. 321.121. General Management Requirements

(a) Programming.

(1) A totalisator company shall develop and maintain written procedure manuals that outline structured programming methods used by the programmers. The manuals must give the programmers sufficient information to understand the programming methodologies, base operating systems, and maintenance procedures.

(2) The totalisator company shall develop and maintain a written Systems Development Life Cycle (SDLC) that requires sign-offs at pertinent checkpoints. The SDLC must address the following or the equivalent as approved by the executive secretary:

(A) a procedure for accepting written requests for systems design or major program changes from users and a method for handling and recording these requests;

(B) the feasibility study stage;

(C) the general systems design stage;

(D) detailed systems specification;

(E) program testing;

(F) system testing;

(G) conversion; and

(H) systems acceptance by the totalisator company.

(3) A totalisator company must develop and follow procedures to manage all program changes without regard to the complexity of the modification. The procedures must:

(A) establish controls to prevent unauthorized and potentially inaccurate program changes from being incorporated into the production environment;

(B) regulate both scheduled and emergency changes to ensure the integrity of the computer system;

(C) permit revisions of computer

programs only after receiving a written request from a user, submitted on a sequentially numbered change request form, which is maintained;.

(D) require program changes to be developed, tested, and compiled only in a test environment that is not connected to an on-line totalisator network; and

(E) require all program changes to be thoroughly tested, reviewed and approved by a totalisator company supervisor before being placed into production.

(4) Before a totalisator company may place a major programming revision into production or transfer any data affected by the revision from the test environment to the production environment, the totalisator company must submit a written description of the programming revision to the executive secretary for approval.

(b) Totalisator Operations. A totalisator company shall maintain a written operations manual for each totalisator system. The manual must clarify the authority, duties, responsibilities, and lines of communication for totalisator operators and network managers. The manual must contain sufficient detail to ensure totalisator personnel perform their job duties effectively. The operations manual must include complete documentation for operation of the totalisator system and its software, including:

(1) the duties described in §321.123 of this title (relating to Personnel Requirements);

(2) clearly defined restrictions for totalisator room access;

(3) general block diagrams of program options (menu tree) available to totalisator operators;

(4) a glossary of terms used in reports, including formulas for calculating the displayed results;

(5) the relationship, if any, between information contained in reports;

(6) start-up and shutdown procedures;

(7) general operating procedures;

(8) restart and recovery procedures; and

(9) emergency procedures, including a list of individuals to notify if a system requires an emergency revision.

(c) Information to Commission. A totalisator system shall provide to the Commission on request pari-mutuel wagering data on media readable by the Commission. The totalisator company shall also provide documentation about the structure of the data.

(d) Business Contingency Plan. A totalisator company must submit and obtain executive secretary approval for a business contingency plan that addresses the company's ability to continue or resume operations if a catastrophic event disrupts normal business operations. The plan must be submitted annually on a date established by the executive secretary. The executive secretary may specify the types of occurrences that the plan must address.

(e) A totalisator company is subject to licensing, inspection, and regulation by the Commission to ensure the integrity of the information obtained by use of its software and equipment and employees. (Added eff. 10/1/01; (d),(e) added 10/4/05)

Sec. 321.123. Personnel Requirements.

(a) General Requirements.

(1) A totalisator company must provide necessary personnel to perform the duties described in the Rules. The totalisator company shall employ a sufficient number of personnel to ensure an adequate segregation of duties between the personnel performing the network manager, programmer, totalisator operator, and technician duties. The totalisator company may use job titles different from those in the Rules.

(2) The totalisator company must have job descriptions containing the experience, education, and organization training requirements for each of the following totalisator positions:

(A) network manager.

(B) programmer / software engineer;

(C) systems analyst;

(D) totalisator operator; and

(E) technicians.

(3) The totalisator company must certify in writing that its personnel are properly trained to program, manage, operate, and maintain the totalisator system. The totalisator company must provide ongoing training to its personnel and document the training.

(4) The totalisator company is responsible for the actions of its personnel relating to the operations and use of the totalisator system. The totalisator company shall designate an individual to act as a point of contact for communications between the Commission and the totalisator company.

(5) The executive secretary may determine which totalisator employees must be licensed.

(6) With each license application, a totalisator company must include a list of all certified totalisator personnel assigned to work in Texas. The list must indicate the position for which each person is qualified. If a new employee is assigned to work in Texas, the totalisator company must update the list of certified personnel and provide it to the executive secretary.

(7) A totalisator company employee may not hold a position of programmer and totalisator operator simultaneously unless approved by the executive secretary.

(8) A totalisator company employee is prohibited from wagering in Texas while on duty.

(b) Network Manager. A network manager shall:

(1) coordinate the totalisator company's totalisator systems operating in Texas;

(2) ensure each totalisator operator follows proper procedures when operating the totalisator system;

(3) determine the on-site and off-site storage locations for the back-up media;

(4) provide information and prepare any report requested by the association, the executive secretary, or the Comptroller; and

(5) ensure a current list of personnel is maintained, all totalisator operators are qualified, and the appropriate pari-mutuel accounts are maintained within the operating system and application programs.

(c) Totalisator operator. A totalisator operator shall:

(1) maintain the communication links to the locations to and from which the racetrack facility is simulcasting and ensure data is transmitted accurately;

(2) consult with the mutuel manager and the pari-mutuel auditor, if available, when a problem occurs in determining a pool or calculation and suggest alternatives for continued operation, including possible temporary restrictions on or suspension of the communication links;

(3) perform necessary daily performance testing, system initialization, monitoring of wagering operations, and system shutdown;

(4) execute established procedures to shutdown system software and hardware in emergency situations including loss of communication between computers or peripheral devices, power surges or failures, operating with a partial system, and restarting the system during a performance;

(5) perform necessary system maintenance;

(6) perform daily back-ups as outlined in §321.107(c) of this title (relating to Software Requirements);

(7) ensure information is entered in the tote maintenance log detailing all repairs or modifications to the totalisator system;

(8) provide to the pari-mutuel auditor an incident report, no later than 48 hours after the time of the incident, addressing each unusual occurrence during totalisator system operations including a description of the probable cause of the occurrence and the corrective action taken;

(9) maintain a copy of the incident report or enter information about the occurrence in the system incident log for each unusual occurrence

during totalisator system operations; and

(10) consult with the pari-mutuel auditor regarding any other operational issues encountered.

(d) Technicians. The totalisator company may provide technicians to service and maintain the totalisator. The technicians perform maintenance on TIMs and the tote board. (Added eff. 10/1/01; (a),(c) amended eff. 10/4/05)

Sec. 321.124. Waivers for Technological Advancement or Off-site Processing

(a) Because the Commission and Comptroller recognize that technology and the locations for processing wagers change, an association or totalisator licensee may petition the Commission for a waiver of the Rules under this Chapter.

(b) To petition for a waiver under this section, the licensee must submit to the executive secretary a written application describing in detail the purpose, nature, duration, and extent of the requested waiver. The application must also include the process by which existing requirements of the system will be properly maintained.

(c) The Commission may not grant the waiver unless the Commission determines the request waiver will not decrease the efficiency, speed, or accuracy of either the existing pari-mutuel wagering system or the Commission's audit function. (Added eff. 7/22/02)

Sec. 321.125. Totalisator Network.

Common pools must be merged and calculated at the site the totalisator company designates as the network-computing center. In a Tote-to-Tote network or at remote sites, the totalisator company providing totalisator services for the association must use the Inter-Tote System Protocol endorsed by the Association of Racing Commissioners International. (Added eff. 10/1/01)

Sec. 321.127. Data Transmission Protocols.

(a) An association using a TIM-to-Tote network may use whatever communications protocol it wishes.

(b) A remote site is considered part of a Tote-to-Tote network and is subject to the requirements of §321.105 of this title, relating to Hardware Requirements).

(c) If the failure to compile pools or payout winning prices is isolated to a remote site, the stopping of wagering or the manual cashing and accounting of tickets need only occur at the affected site. The relevant information must be transmitted between the CPU and the remote site through the normal communication link or facsimile machine and must be verified by the voice link. (Added eff. 10/1/01)

Division 3. Reporting and Log Requirements

Sec. 321.131. General Requirements.

(a) General Requirements.

(1) A totalisator system must be able to produce hard copy reports and logs necessary to audit pari-mutuel activity and to recreate any given day of wagering in its entirety.

(2) A totalisator company shall retain the information needed to produce these reports and logs on storage devices for at least 365 days after the date the wagering occurred.

(3) A totalisator company shall provide a report or log requested by the executive secretary no later than 48 hours after the totalisator operator receives the request. A printed report must have consecutively numbered pages. Each page of the report must be headed with:

(A) the name of the race track;

(B) the date and time (in hours, minutes, and seconds) the report was produced;

(C) the performance number if applicable;

(D) the wagering site to which the report refers; and

(E) the version of software in use.

(Added eff. 10/1/01)

Sec. 321.133. Pre-Race Reports.

On request by the mutuel manager or pari-mutuel auditor, before starting wagering each day, the totalisator operator shall print any of the following reports:.

(1) a System Initialization Report showing:

(A) the date and time the system was initialized; and

(B) the identity of the totalisator operator initializing the system;

(2) a Configuration Parameter Report showing:

(A) the pools that may be offered and that are currently operational in the totalisator system;

(B) the display cycle frequency, pools, any minimum pool required, minimum wagers, and means of display of any approximate odds or will-pays produced;

(C) the minimum and maximum value of wagers for every pool that a TIM may accept;

(D) which TIMs are activated;

(E) which remote sites may input into the totalisator system;

(F) the split percentages and payout parameters for each multi-leg pool offered;

(G) verification of all operational locking devices;

(H) the amount of delay between locking switch activation and actual stop betting or canceling;

(I) the canceling parameters for regular and supervisory TIMs;

(J) configurations placed on each TIM;

(K) the method of breakage and rounding used in calculating the payout;

(L) takeout percentages for each host site and for the live races; and

(M) federal tax withholding rates and parameters;

(3) a Race Information Report showing for each live race and simulcast performance to be offered:

(A) the pools to be opened, indicating totals starting at zero and totals starting with money from advance wagering;

(B) pool summaries of all advance wagering;

(C) money added due to overages;

(D) underpayments or money added due to carry-overs; and

(E) the race animals for each race, showing entries and scratched animals;

(4) an Odds Report showing the opening line of odds for the Win pool; and

(5) a TIM Report listing the teller's name and location. (Added eff. 10/1/01)

Sec. 321.135. Race-by-Race Reports.

For each race offered, the totalisator system must be capable of printing the following reports and have them available for review by the mutuel manager, and/or the pari-mutuel auditor, if available:

(1) a Scratch Report showing the time each late scratch was entered into the totalisator system and the amount of money to be refunded in each pool;

(2) a Betting Report, produced immediately on activation of the stop betting command and final merge of wagering information from all sites showing:

(A) the amount wagered and to be refunded for each betting interest or combination in each pool offered, and the net amount for each pool to be used for calculating the payout; and

(B) the final dollar odds for the Win pool;

(3) a Calculating Price Report, produced before each race is declared official, showing for each pool:

(A) the winning betting interests or combinations;

(B) the winning wagers;

(C) the minimum payout prices;

(D) the breakage; and

(E) the amount paid to the public;

(4) a Probable Payout Report showing the

payouts for the Daily Double, subject to scratches, cancellations; and dead heats;

(5) a Scan Report for multi-leg pools of four or more legs, showing:

(A) the total wagered in the pool;

(B) the amounts of any carryover;

(C) the winners of completed legs;

(D) the amount of possible winning wagers, based on paying the winner of completed legs combined with every betting interest entered in subsequent legs; and

(E) late scratches in each leg;

(6) a Race Summary Report, produced before and after the race results are official, showing as the sum for all pools paid out in that race:

(A) the amount wagered;

(B) the amount refunded;

(C) the net amount to be used for calculating the payout;

(D) any money added to the pool;

(E) the actual pool total;

(F) the total commissions;

(G) the breakage;

(H) the amount paid to the public;

(I) the carryover balances; and

(J) the liabilities (due to/due from); and

(7) the Daily Summary Report, produced with the Race Summary Report, showing the cumulative totals, for each pool and for all pools combined, of the items listed under the Race Summary Report. (Added eff. 10/1/01)

Sec. 321.137. End-of-Day Reports.

After wagering has ceased each day, the totalisator operator shall print the following reports and provide them to the mutuel manager and the pari-mutuel auditor, if available:

(1) the Teller Balance Report showing for every TIM operated on that day including:

(A) the teller's name or identification number, or a patron activated designation;

(B) the total value and number of tickets sold, canceled, and cashed, separating the outs from the current day's tickets;

(C) the total amount of money drawn from the money room, including the beginning draws;

(D) the total amount of money returned to the money room; and

(E) a listing of adjustments made to each TIM balance after each TIM has been individually balanced;

(2) the Wagering Summary Report showing:

(A) by wagering site, the amount wagered, refunded, and added for every pool and for each race;

(B) the time of day each race's pools closed;

(C) the commissions deducted, breakage calculated, and amount paid out for every pool in each race;

(D) the total value of outstanding tickets before the pools were opened for the performance, the value of tickets cashed during the performance, the value of tickets to be added to the outstanding ticket total, and the new outstanding ticket total; and

(E) the total value of outstanding vouchers before the pools were opened for the performance, the value of vouchers cashed during the performance, the value of vouchers to be added to the outstanding voucher total, and the new outstanding voucher total;

(3) the System Balance Report comparing the pool and paid-out totals obtained by processing the transaction files with the pool and paid-out totals obtained from the actual calculations;

(4) the Money Room Balance Report showing cash added and subtracted from the beginning day's balance resulting from the day's wagering and cashing transactions; and

(5) the IRS Report showing the winner's social security number, the ticket number, amount won, and taxes withheld for each transaction

requiring a Form W2-G. (Added eff. 10/1/01)

Sec. 321.139. Ad Hoc Reports.

When requested by the pari-mutuel auditor or executive secretary, the totalisator operator shall produce the following reports:

(1) an Odds Progression Report showing each successive line of odds for the Win pool and the time it was displayed to the public;

(2) a Ticket History Report showing the appropriate portion of the ticket history log for the requested ticket identification numbers;

(3) a Terminal History Report showing the portion of the terminal log requested;

(4) an Outstanding Ticket Report showing the following information for uncashed winning tickets retained in the totalisator system:

(A) the ticket identification number;

(B) the wagers on the ticket;

(C) the date and performance for which the ticket is outstanding;

(D) the value of the winning wagers; and

(E) the TIM location and number;

(5) an Outstanding Tickets Cashed Report, for a performance, race, or pool, showing each outstanding ticket cashed that day, in the form of the Outstanding Ticket Report, including the identity of the TIM that cashed the ticket and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read;

(6) a Manually Cashed Tickets Report, for a performance, race, or pool, showing every ticket cashed that day in the form of the Ticket History Report, the identity of the TIM that cashed the ticket, and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read;

(7) a Canceled Tickets Report, for a performance or race, showing each ticket canceled that day in the form of the Ticket History Report, the identity of the TIM that cashed the ticket, and an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read;

(8) a Network Balance Report summarizing the activity and liabilities for each site within a Tote-to-Tote network; and

(9) an Account Activity Report showing the following information for each E-wagering account:

(A) the unique account number;

(B) the date and time of each transaction;

(C) the location of each wager;

(D) the amount of each tranaction;

(E) the type of pool, animal number, and amount of each wager;

(F) the account balance; and

(G) the account holders name. (Added eff. 10/1/01; amended eff. 10/4/05)

Sec. 321.141. Special Reports.

A totalisator operator shall produce any special report requested by the Commission no later than 72 hours after receiving the request. The totalisator system must be able to produce a special report that filters data by:

(1) performance;

(2) race;

(3) pool;

(4) betting interest;

(5) TIMs;

(6) sites; or

(7) any combination of the indicia in this section. (Added eff. 10/1/01)

Sec. 321.143. Logs.

(a) On-Line Logs. The totalisator system must produce various daily on-line logs. The totalisator operator shall provide a printed copy of a daily log to the pari-mutuel auditor on request. The totalisator system must produce the following logs:

(1) a Teller/Machine History Log showing for every TIM operated during a performance:

(A) the time the TIM was opened and

closed;

(B) for each wagering transaction, the wagers made, tickets issued, and total value of the transaction;

(C) for each cashing, canceling, or refunding transaction, the identification numbers of the tickets processed, the wagers paid out, and the value of the wagers paid out;

(D) for each cashing transaction, an indication as to whether the ticket was cashed using a manual keyboard entry or an automatic machine read;

(E) the amount of each cash draw and return;

(F) any special function, including Teller Balance, accessed through the TIM; and

(G) the times of day each of the transactions listed in this subdivision were made;

(2) a Ticket History Log showing for every ticket issued:

(A) the identification number of each cashed/canceled ticket;

(B) the TIM location and number;

(C) the wagers and their values;

(D) the cashing/canceling machine location and number;

(E) the amount paid out;

(F) the time of day each transaction occurred; and

(G) an indication as to whether each transaction was manual or automatic;

(3) a User Terminal Log showing the time of day of each entry for:

(A) each terminal other than a TIM operating during a day:

(i) each log-on/log-off and the operator's ID code;

(ii) each command or transaction entered;

(iii) each Stop Betting, Order of Finish, Official, and Sales Open command and the device that issued it;

(iv) each occurrence of loss/restoration of communication between computers or sites; and

(v) each occurrence of discrepancy between computers or sites when comparing databases;

(B) each TIM operated during a performance:

(i) each log-on/log-off and the teller's ID code, if applicable; and

(ii) each instance of loss/restoration of communication and the TIM;

(4) a System Error Log showing the date and time of each error; and

(5) an Account Activity Log showing the following information for each E-wagering account:

(A) the unique account number;

(B) the date and time of each transaction;

(C) the location of each wager;

(D) the amount of each transaction;

(E) the type of pool, animal number, and amount of each wager;

(F) the account balance; and

(G) the account holders name.

(b) Off-line Log. The totalisator operator must maintain a system incident log and make it available on request for review by the pari-mutuel auditor. The system incident log must include a description of each incident involving the totalisator system, including system failures, their causes, and corrective actions taken. (Added eff. 10/1/01; (a) amended eff. 10/4/05)

Subchapter C. Regulation of Live Wagering

Division 1. General Provisions

Sec. 321.201. Actions by Stewards or Racing Judges.

(a) The stewards or racing judges may correct an inadvertent mistake in the posting of the official order of finish before declaring the race to be official.

(b) The decision of the stewards or racing judges regarding the order of finish is final at the

time the stewards or judges order the official sign displayed on the tote board.

(c) A ruling by the stewards or racing judges made after the result of the race has been declared official regarding the order of finish or an award of purse money does not affect the distribution of the pari-mutuel pools. (Added eff. 4/1/01)

Sec. 321.203. Errors in Posted Payoff.

If an error is discovered in the payoff amounts posted on the tote board, the association shall correct the amounts immediately and announce the error and the subsequent correction over the public address system. The corrected amounts shall be used in the payoff. (Added eff. 4/1/01)

Sec. 321.205. Probable Odds.

The association shall set and print in the official program the morning line odds for each betting interest in each race. (Added eff. 4/1/01)

Sec. 321.207. Betting Interests.

(a) Except as otherwise provided by the Rules, if the stewards or racing judges determine that two or more race animals entered in a race have common ties through ownership, the stewards or judges shall join the animals as a coupled entry.

(b) If the number of race animals competing in a race exceeds the numbering capacity of the totalisator system, the highest numbered race animal and any animals grouped with that animal constitute the mutuel field.

(c) A coupled entry or a mutuel field is a single betting interest. A wager on one animal in a coupled entry or mutuel field is a wager on all animals in the coupled entry or mutuel field.

(d) In a race with a coupled entry or a mutuel field, the racing secretary may assign wagering numbers to entries that are different from the post position numbers. (Added eff. 4/1/01)

Sec. 321.209. Minimum Wager.

An association may accept wagers only in multiples of $1, except as otherwise authorized by the executive secretary. (Added eff. 4/1/01)

Sec. 321.211. Carryover Pools.

(a) With the approval of the executive secretary, an association may declare an amount as a cap or may designate specific dates, days, or performances for a mandatory payout for any pool that may be carried forward to future performances if it is not won. After declaring the amount of the cap for a pool or designating specific dates, days, or performances for a mandatory payout, the association may not change the amount of the cap or a designated mandatory payout day, date, or performance during a race meeting without prior written approval of the executive secretary.

(b) If, at the end of a performance, the amount accumulated in a pool for which a cap has been declared equals or exceeds the amount of the cap, the pool shall be frozen until it is won in accordance with the Rules.

(c) At each performance at which a pool frozen under this section is not won, all money wagered for that pool at that performance shall be distributed to the holders of tickets that contain the most winners.

(d) If at a performance it is not possible to distribute money wagered for a pool frozen under this section in accordance with the Rule regarding that pool, all money wagered for that pool at that performance shall be refunded.

(e) If an association does not designate a specific date, day, or performance for a mandatory payout of a carryover pool, the pool shall be distributed:

(1) at a horse racetrack, at the last performance of the race meeting; and

(2) at a greyhound racetrack, at the last performance of the calendar year.

(f) If the last performance is canceled, the association shall place the pool in escrow and the pool and all accrued interest shall be carried over and included with the appropriate pool at the next succeeding performance as an additional amount

to be distributed. (Added eff. 4/1/01)

Sec. 321.213. Straight Wagers.

The following wagers are considered to be straight wagers for all purposes:

(1) win;

(2) place;

(3) show; and

(4) odd/even. (Added eff. 4/1/01)

Sec. 321.215. Multiple Wagers.

(a) The following wagers are considered to be multiple two wagers for all purposes:

(1) daily double;

(2) quinella;

(3) exacta; and

(4) quinella double.

(b) The following wagers are considered to be multiple three wagers for all purposes:

(1) trifecta;

(2) twin trifecta;

(3) pick (n);

(4) select three, four, or five;

(5) superfecta; and

(6) tri-superfecta. (Added eff. 4/1/01)

Sec. 321.217. Stop Betting Command.

(a) At the appropriate time before each live race, a steward or racing judge shall issue the "stop betting" command to activate the locking control switch and ring the off bell.

(b) The mutuel manager and the totalisator operator shall ensure all wagering stops when the "stop betting" command is issued.

(c) An association may not permit a wager to be accepted or a ticket to be cancelled after the "stop betting" command has been issued.

(d) If a wager is accepted after the "stop betting" command has been issued:

(1) the mutuel manager, before the race is declared official, shall inform the stewards or racing judges and the pari-mutuel auditor of the wagers made after the "stop betting" command was issued;

(2) the stewards or racing judges , after consulting with the mutuel manager and the pari-mutuel auditor, shall order the association:

(A) to refund the wagers made after the stop betting command was issued; or

(B) to refund all wagers on the race.

(e) A wager accepted after the stop betting command has been issued is not a valid wager and must be refunded. If the totalisator system cannot document the time at which the "stop betting" command was issued, the "stop betting" command is presumed to have been issued at the time the starting gate opened for the race. (Added eff. 4/1/01)

Division 2. Distribution of Pari-Mutuel Pools

Sec. 321.301. Distribution of Pools.

After the stewards or racing judges have declared a race is "official", an association shall distribute the pari-mutuel pools to the holders of mutuel tickets who are entitled to share in the respective pools in accordance with the Act and this chapter. (Added eff. 4/1/01)

Sec. 321.302. Payoff on Minus Pool.

Regardless of whether a pari-mutuel pool contains sufficient money, an association shall pay to the holder of a mutuel ticket that entitles the holder to participate in the distribution of a pari-mutuel pool the amount wagered by the holder plus a minimum of 5.0% of the wager. (Added eff. 4/1/01)

Sec. 321.303. Straight Pools.

(a) An association shall provide win, place, and show wagering in any race in which five or more separate betting interests are scheduled to start.

(b) An association shall provide win and place wagering in a race in which four separate betting interests are scheduled to start.

(c) An association shall provide win wagering in a race in which three or fewer betting interests are scheduled to start.

(d) The association, with the permission of the stewards or racing judges, may waive the requirement for a place or show pool in any race. (Added eff. 4/1/01)

Sec. 321.304. Win Pool.

(a) The takeout authorized by law is deducted from the total wagered in the win pool. The balance is the net pool.

(b) The amount wagered on the winner is divided into the net pool. The quotient is the payoff price on the winner for each dollar wagered and it includes the dollar wagered on the winner.

(c) If a race animal wins and no money was wagered on the animal to win, the win pool shall be distributed among the holders of tickets on that animal in the place pool. If there are no tickets on the animal in the place pool, the win pool shall be distributed among the holders of tickets on that animal in the show pool. If there are no tickets on the animal in the show pool, the money in the win pool shall be refunded.

(d) If a race ends in a two-animal dead heat for first place, the win pool shall be calculated as a place pool. If a race ends in a multiple-animal dead heat for first place, the win pool shall be distributed as a profit for split to the holders of tickets on any of the animals finishing first. (Added eff. 4/1/01)

Sec. 321.305. Place Pool.

(a) The takeout authorized by law is deducted from the total wagered in the place pool. The balance is the net pool.

(b) The amount wagered in the place pool on the race animals that placed first and second is deducted from the net pool. The remaining profits are divided into two equal parts, between the wagers on the winner in the place pool and the wagers on the animal that finished second.

(c) With the amount wagered in the place pool on the winner as the divisor and one-half of the profits of the place pool as the dividend, the quotient is the profit-per-dollar wagered in the place pool on the winner.

(d) With the amount wagered in the place pool on the animal finishing second as the divisor and one-half of the profits of the place pool as the dividend, the quotient is the profit-per-dollar wagered in the place pool on the animal finishing second.

(e) The profit-per-dollar wagered is the resultant. Because the amounts wagered on the animals finishing first and second must be returned, the amount deducted from the net pool under subsection (b) of this section is added to the quotient. The result is the payoff price for each dollar wagered on the animals finishing first and second in the place pool.

(f) If a race ends in a dead heat for first place, the place pool shall be distributed in accordance with subsections (c) and (d) of this section. If a race ends in a dead heat for second place, tickets on the first place animal shall be paid in accordance with subsection (c), and the remaining half of the place pool shall be distributed as a profit for split to holders of tickets on any of the animals finishing in the dead heat for second place.

(g) If no money was wagered to place on an animal finishing first or second in a race, the place pool shall be distributed among the holders of the place tickets on the other animal that finished first or second. If no money was wagered to place on either of the animals finishing first or second in a race, the place pool shall be distributed among the holders of tickets on the first and second place animals in the show pool. If the place pool cannot otherwise be distributed in accordance with this section, the money in the place pool shall be refunded. (Added eff. 4/1/01)

Sec. 321.306. Show Pool.

(a) The takeout authorized by law is deducted from the total wagered in the show pool. The balance is the net pool.

(b) The amount wagered in the show pool on the race animals finishing first, second, and third is deducted from the net pool. The remaining profits

are divided into three equal parts, among the wagers in the show pool on the winner, the animal finishing second, and the animal finishing third.

(c) With the amount wagered in the show pool on the winner as a divisor and one-third of the profits of the show pool as a dividend, the quotient is the profit-per-dollar wagered in the show pool on the winner.

(d) With the amount wagered in the show pool on the animal finishing second as the divisor and one-third of the profits of the show pool as the dividend, the quotient is the profit-per-dollar wagered in the show pool on the animal finishing second.

(e) With the amount wagered in the show pool on the animal finishing third as the divisor and one-third of the profits of the show pool as the dividend, the quotient is the profit-per-dollar wagered in the show pool on the animal finishing third.

(f) The profit-per-dollar wagered is the resultant. Because the amounts wagered on the animals finishing first, second, and third must be returned, the amount deducted from the net pool under subsection (b) of this section is added to the quotient. The result is the payoff price for each dollar wagered on the animals finishing first, second, and third in the show pool.

(g) If a race ends in a dead heat for first or second place, the show pool shall be distributed in accordance with subsections (c)-(e) of this section. If a race ends in a dead heat for third place, tickets on the first and second place animals shall be paid in accordance with subsection (c) and (d) and the remaining third of the show pool shall be distributed as a profit for split to holders of tickets on any of the animals finishing in the dead heat for third place.

(h) If no money was wagered in the show pool on an animal finishing first, second, or third in a race, the show pool shall be distributed as a profit for split among the holders of the show tickets on the other animals that finished first, second, or third. If no money was wagered in the show pool on any of the animals finishing first, second, or third in a race, the money in the show pool shall be refunded. (Added eff. 4/1/01)

Sec. 321.307. Daily Double.

(a) The daily double is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board. All daily double tickets shall be calculated in a separate pool.

(b) If any part of a coupled entry or mutuel field is a starter, the association may not refund money wagered under this section to persons wagering on the entry or field, regardless of whether any part of the entry or field failed to start. If either race in the daily double ends in a dead heat for first place, the pool shall be calculated as a place pool in proportion to the number of animals in the dead heat.

(c) If no ticket is sold that correctly selects the winner of both races of the daily double, the entire daily double pool, minus the takeout and the breakage, shall be distributed equally to the holders of tickets which include the winner of either of the daily double races.

(d) If no ticket is sold including the winner of the first race of the daily double, the entire daily double pool, minus the takeout and the breakage, shall be distributed equally to the holders of tickets which include the winner of the second race of the daily double. If no ticket is sold including the winner of the second race of the daily double, the entire daily double pool, minus the takeout and the breakage, shall be distributed equally to the holders of tickets which include the winner of the first race of the daily double.

(e) If no ticket is sold including the winner of either race of the daily double, the entire daily double pool, minus the takeout and the breakage, shall be distributed equally to holders of tickets which include the animals finishing second in the two races of the daily double.

(f) If the first race of a daily double is canceled, the association shall provide a complete

refund of the daily double pool. If the second race of a daily double is canceled after the first race has been completed, the entire daily double pool, minus the takeout and the breakage, shall be distributed, in proportion of the amount wagered on those combinations including the winner of the first race of the daily double, to holders of tickets which include the winner of the first race of the daily double in combination with any animal in the second race.

(g) If before the first race of a daily double is run, an animal entered in either race is scratched or otherwise prevented from racing, all money wagered on the affected animal shall be deducted from the daily double pool and refunded to the holders of tickets on the affected animal.

(h) If after the first race of a daily double is run, an animal entered in the second race is scratched or otherwise prevented from racing, a consolation daily double shall be awarded. All tickets which select an animal in the first race with the affected animal in the second race shall be deducted from the daily double pool and this amount shall be placed in a consolation pool. The consolation pool shall be distributed as a straight pool to the holders of tickets who correctly selected the winner of the first race with the affected animal in the second race.

(i) If either race in a daily double ends in a dead heat, the total daily double pool shall be distributed in the same manner as a place pool.

(j) If the daily double pool cannot otherwise be distributed in accordance with this section, the money in the daily double pool shall be carried forward and added to the next consecutive daily double pool. (Added eff. 4/1/01)

Sec. 321.308. Quinella.

(a) The quinella is not a parlay and has no connection with or relation to the win, place, and show pools on the tote board. All tickets on the quinella shall be calculated as a separate pool.

(b) A quinella ticket is for the win and place combination only. When purchasing a quinella ticket, the patron shall select the two animals to be the top two finishers.

(c) If any part of a coupled entry or mutuel field is a starter, the association may not refund money wagered under this section to persons wagering on the entry or field. For purposes of this section, if a part of the entry or field finishes first, the order of finish of the other animals in the entry or field shall be disregarded in determining which animal finished second.

(d) If after wagering has begun an animal entered in a quinella race is scratched or otherwise prevented from racing, all money wagered on the affected animal shall be deducted from the quinella pool and refunded to the holders of tickets on the affected animal.

(e) If no ticket is sold on the winning combination in a quinella race, all quinella tickets bearing the number of the winning animal and all quinella tickets bearing the number of the second place animal are considered winning tickets and the payoff shall be calculated in the same manner as a place pool.

(f) If no ticket is sold on the winning combination in a race and no quinella ticket bears the number of the winner, all quinella tickets bearing the number of the second place animal are considered winning tickets and the payoff shall be calculated as a win pool.

(g) If no ticket is sold on the winning combination in a race and no quinella tickets bear the number of the second place animal, all quinella tickets bearing the number of the winner are considered winning tickets and the payoff shall be calculated as a win pool.

(h) If only one animal finishes in a quinella race, the entire pool is distributed as a win pool for the persons who wagered on the winner.

(i) If a quinella race ends in a dead heat for first place, all animals finishing first are the winners of the race and the pool shall be distributed as a place pool.

(j) If a quinella race ends in a two-animal dead heat for second place, the entire pool is

distributed as a place pool. If a quinella race ends in a multiple-animal dead heat for second place, all combinations that couple the winning animal with any of the second place animals are winners of the quinella and the pool shall be distributed as a profit split.

(k) If no ticket is sold on the winning combination in a quinella race and no quinella tickets bear the number of either the winner or the second place animal, the quinella is considered "no contest" and the association shall carry forward all money wagered in the quinella pool to the next consecutive quinella pool. (Added eff. 4/1/01)

Sec. 321.309. Exacta.

(a) The exacta is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board. All tickets in an exacta race shall be calculated as a separate pool.

(b) When purchasing an exacta ticket, the patron shall designate the exact order of finish for the first and second place animals.

(c) If any part of a coupled entry or mutuel field is a starter, the association may not refund money wagered under this section to persons wagering on the entry or field, regardless of whether any part of the entry or field failed to start. For purposes of this section, if a part of the entry or field finishes first, the order of finish of the other animals in the entry or field shall be disregarded in determining which animal finished second.

(d) If after wagering has begun an animal entered in an exacta race is scratched or otherwise prevented from racing, all money wagered on the affected animal shall be deducted from the exacta pool and refunded to the holders of tickets on the affected animal.

(e) If no ticket is sold on the winning combination in an exacta race, the net pool shall be distributed among the holders of tickets selecting the winner to finish first. If no such ticket is sold, the net pool shall be distributed among the holders of tickets selecting the second place animal to finish second.

(f) If a race ends in a dead heat for first place, the net pool shall be calculated and distributed as a place pool to holders of the winning combination.

(g) If a race ends in a dead heat for second place, all tickets designating the appropriate animal to win coupled with any of the second place animals are winners and the pool shall be distributed as a place pool.

(h) If a race ends in a dead heat for second place and no ticket is sold on any of the winning combinations, the net pool shall be calculated and distributed to the holders of tickets that designated the winner or any of the second place animals according to their respective interest in the net pool.

(i) If a race ends in a dead heat for first among more than two animals, the net pool shall be calculated and distributed as a profit for split to holders of tickets designating any two of the animals participating in the dead heat.

(j) If no ticket is sold that would require distribution under this section, the exacta is considered "no contest" and the association shall carry forward all money wagered in the exacta pool to the next consecutive exacta pool. (Added eff. 4/1/01)

Sec. 321.310. Trifecta.

(a) The trifecta wager is not a parlay and has no connection with or relation to the win, place, and show pool shown on the tote board. All tickets on the trifecta shall be calculated as a separate pool.

(b) A person purchasing a trifecta ticket must select the three animals in a race which will finish first, second, and third and designate the exact order in which the first three will finish.

(c) If after wagering has begun an animal entered in a trifecta race is scratched or otherwise prevented from racing, all money wagered on the affected animal shall be deducted from the trifecta pool and refunded to the holders of tickets on the

affected animal.

(d) If no ticket is sold on the winning combination, the net pool shall be distributed equally among the holders of tickets selecting the animals finishing first and second .

(e) If no ticket is sold that requires distribution under subsection (d) of this section, the net pool shall be distributed equally among the holders of tickets selecting the animals finishing first and third.

(f) If no ticket is sold that requires distribution under subsections (d) or (e) of this section, the net pool shall be distributed equally among the holders of tickets selecting the animal finishing first.

(g) If no ticket is sold requiring distribution under subsections (d)-(f) of this section, the net pool shall be distributed equally among the holders of tickets selecting the animals finishing second and third.

(h) If no ticket is sold requiring distribution under subsections (d)-(g) of this section, the net pool shall be distributed equally among the holders of tickets selecting the animal finishing second.

(i) If no ticket is sold requiring distribution under subsections (d)-(h) of this section, the net pool shall be distributed equally among the holders of tickets selecting the animal finishing third.

(j) If a trifecta race ends in a dead heat for first place, the winning combination shall include the first two animals as finishing in either first or second and the animal finishing third. If a trifecta race ends in a dead heat for second place, the winning combinations shall include the animal finishing first and the two animals finishing in a dead heat as finishing either second or third. If a trifecta race ends in a dead heat for third place, the winning combinations include the animals finishing first and second and any of the animals finishing in the dead heat as finishing third. In all combinations paid under this subsection, the net pool shall be divided into separate pools, calculated as a place pool, and paid out accordingly.

(k) If a trifecta race ends in a triple dead heat or double dead heats, the net pool shall be divided by the number of all win, place, and show combinations formed, calculated as separate pools, and paid out accordingly.

(l) If no ticket is sold that would require distribution under this section, the trifecta is considered “no contest” and the association shall carry forward all money wagered in the trifecta pool to the next consecutive trifecta pool.

(m) An association shall not offer trifecta wagering on any race placed on the official program that does not have six or more different wagering interests unless approved by the board of stewards or judges. The board of stewards or judges may not approve a trifecta wager in a race with fewer than five wagering interests.

(n) In the event scratches after the animals leave the paddock cause the number of different wagering interests to fall below six, or below an amount previously approved by the board of stewards or judges, the board of stewards or judges may order the wager to be canceled and the pool to be refunded if deemed in the interest of wagering integrity. (Added eff. 4/1/01; amended eff. 8/3/06)

Sec. 321.311. Twin Trifecta.

(a) The twin trifecta wager is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board. All tickets on the twin trifecta shall be calculated as a separate pool.

(b) The twin trifecta requires selection of the first three finishers, in exact order, in each of two designated races. Each winning ticket for the first twin trifecta race must be exchanged for a free ticket on the second twin trifecta race to remain eligible for the second-half twin trifecta pool. Such tickets may be exchanged only at designated attended ticket windows before the start of the second twin trifecta race. Winning first-half twin trifecta wagers will receive both an exchange and a monetary payout. Both of the designated twin trifecta races shall be included in one twin trifecta pool.

(c) After wagering closes for the first-half of the twin trifecta and commissions have been deducted from the pool, the net pool shall then be divided equally into two separate pools: the first-half twin trifecta pool and the second-half twin trifecta pool.

(d) In the first twin trifecta race only, the first-half twin trifecta pool shall be distributed according to the following precedence, based on the official order of finish for the first twin trifecta race:

(1) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(2) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(3) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then

(4) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then

(5) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then

(6) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then

(7) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then

(8) The twin trifecta pool shall be canceled and the entire pool shall be carried forward to the next consecutive performance and combined with that performance's second-half twin trifecta pool.

(e) If no first-half twin trifecta ticket selects the first three finishers of that contest in exact order, no exchange tickets for the second-half twin trifecta pool will be issued. In such case, the second-half twin trifecta pool shall be carried forward and added to any existing twin trifecta carryover pool.

(f) A first-half twin trifecta ticket that selects the first three finishers of that race in exact order may be exchanged for a ticket selecting the first three finishers of the second twin trifecta race. The second-half twin trifecta pool shall be distributed according to the following precedence, based on the official order of finish for the second twin trifecta race:

(1) As a single price pool, including the carryover, to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(2) The second-half twin trifecta pool for that race shall be carried forward to the next consecutive performance and shall be combined with that performance's second-half twin trifecta pool.

(g) If a winning first-half twin trifecta ticket is not presented for cashing and exchange before the start of the second twin trifecta race, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to a distribution of the second-half twin trifecta pool.

(h) If fewer than six horses of different betting interests leave the paddock for the first twin trifecta race or fewer than six greyhounds start the first twin trifecta race, the twin trifecta shall be canceled and the entire twin trifecta pool for that performance shall be refunded.

(i) Before the running of the first twin trifecta race, if due to a scratch the second twin trifecta race has fewer than six horses of different betting interests or fewer than six greyhounds of different betting interests, the twin trifecta shall be canceled and the entire twin trifecta pool for that performance shall be refunded.

(j) After the running of the first twin trifecta

race, if due to a late scratch, the second twin trifecta race has fewer than six animals of different betting interests that start, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin trifecta pool for that performance as a single price pool, but not the twin trifecta carryover.

(k) Coupled entries and mutuel fields may not be permitted in a twin trifecta horse race unless there are six or more betting interests. Coupled entries or mutuel fields in a twin trifecta race shall race as a single betting interest for the purpose of mutuel pool calculations and payout to the public.

(l) If a betting interest in the first twin trifecta race is scratched, all twin trifecta wagers including the scratched betting interest shall be refunded.

(m)If a betting interest in the second twin trifecta race is scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided to exchange tickets that include the scratched betting interest.

(n) If there is a dead heat or multiple dead heats in either the first or second twin trifecta race, all twin trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:

(1) the first twin trifecta race, the payout shall be calculated as a profit split; and

(2) the second twin trifecta race, the payout shall be calculated as a single price pool.

(o) If either of the twin trifecta races are canceled before the first twin trifecta race, or if the first twin trifecta contest is declared “no contest”, the entire twin trifecta pool for that performance shall be refunded and the second-half pool shall be canceled.

(p) If the second twin trifecta race is canceled or declared “no contest” on a:

(1) non-designated mandatory payout performance, all exchange tickets and outstanding first-half winning twin trifecta tickets shall be entitled to the net twin trifecta pool for that performance as a single price pool, but not the twin trifecta carryover. If there are no such tickets, the net twin trifecta pool shall be carried forward to the next consecutive performance and combined with that performance’s second-half twin trifecta pool; and

(2) designated mandatory payout performance, all exchange tickets and outstanding first-half winning twin trifecta tickets as determined by subsection (s) of this section shall be entitled to the net twin trifecta pool for that performance and the twin trifecta carryover as a single price pool.

(q) An association may file a written request for permission to distribute the twin trifecta carryover on a specific performance with the executive secretary. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(r) Notwithstanding subsections (f) and (t) of this section, on the last performance of a race meeting or on a designated mandatory payout performance, the following precedence will be followed in determining winning tickets for the second-half of the twin trifecta:

(1) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(2) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(3) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then

(4) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then

(5) As a single price pool to those whose

combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then

(6) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then

(7) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then

(8) As a single price pool to holders of valid exchange tickets; but if there are no such persons, then

(9) As a single price pool to holders of outstanding first-half winning tickets.

(s) Distribution on Mandatory Payout.

(1) Notwithstanding subsections (e) and (t) of this section, on the last performance of a race meeting or a designated mandatory payout performance, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in the first twin trifecta race in the following order:

(A) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(B) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(C) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then

(D) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then

(E) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then

(F) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then

(G) As a single price pool to those whose combination correctly selected the third-place betting interest.

(2) Notwithstanding subsections (e) and (t) of this section, on the last performance of a race meeting or a designated mandatory payout performance, if there are no wagers selecting the finishers in the order described in Paragraph (1) of this subsection and there is a carryover, all first-half tickets are considered winners and the twin trifecta pool for that performance and any existing twin trifecta carryover shall be distributed equally among them.

(3) Notwithstanding subsections (e) and (t) of this section, on the last performance of a race meeting or a designated mandatory payout performance, if there are no wagers selecting the finishers in the order described in Paragraph (1) of this subsection and there is no carryover, the twin trifecta shall be canceled and the entire twin trifecta pool shall be refunded.

(t) Cap on Carryover.

(1) The twin trifecta carryover may be capped at a designated level approved by the executive secretary so that if, at the close of any performance, the amount in the twin trifecta carryover equals or exceeds the designated cap, the twin trifecta carryover will be frozen until it is won or distributed under other provisions of this section. After the twin trifecta carryover is frozen, 50% of the twin trifecta pool shall be distributed to winners of the first twin trifecta race using the following precedence:

(A) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(B) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no

such wagers, then

(C) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then

(D) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then

(E) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then

(F) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then

(G) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then

(H) the twin trifecta shall be canceled and the entire twin trifecta pool for that performance shall be refunded.

(2) After the twin trifecta carryover is frozen, exchange tickets will be issued for the second half of the twin trifecta pool, in accordance with paragraph (1) of this subsection. The second-half twin trifecta pool shall be distributed according to the following precedence, based upon the official order of finish for the second twin trifecta race:

(A) As a single price pool, including the carryover, to those who received an exchange ticket under paragraph (1) (A) of this subsection, and whose combination finished in correct sequence as the first three betting interests; but if there are no such tickets, then

(B) Fifty percent (50%) of the twin trifecta pool for that performance only shall be distributed in the following precedence:

(i) as a single price pool to those whose combintion included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(ii) as a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(iii) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then

(iv) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then

(v) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then

(vi) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then

(vii) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then

(viii) As a single price pool to holders of valid exchange tickets; but if there are no such persons, then

(ix) As a single price pool to holders of outstanding first-half winning tickets.

(u) The twin trifecta carryover shall be designated for mandatory payout on a specified date and performance only under the following circumstances:

(1) on written approval from the executive secretary as provided in subsection (q) of this section;

(2) on written approval from the executive secretary when there is a change in the carryover cap or when the twin trifecta is discontinued; and

(3) on the closing performance of the race meeting.

(v) If the twin trifecta carryover must be held over to the corresponding twin trifecta pool of a

subsequent race meeting, the carryover shall be deposited in an interest-bearing account approved by the executive secretary. The twin trifecta carryover plus accrued interest shall be carried over and added to the second-half twin trifecta pool of the following race meeting on a date and performance designated by the executive secretary.

(w) The association must obtain written approval from the executive secretary concerning the scheduling and the amount of the cap to be set on the carryover. Any changes to the approved twin trifecta format require prior approval from the executive secretary. (Added eff. 4/1/01; (t) amended eff. 1/1/02)

Sec. 321.312. Pick (N).

(a) The pick (n) wager is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board. All tickets on the pick (n) shall be calculated as a separate pool.

(b) The association may select a distinctive name for the pick (n), with the prior approval of the executive secretary.

(c) The pick (n) pari-mutuel pool consists of amounts contributed for a selection to win only in each of six, seven, eight, nine, or 10 races designated by the association. After designating the number of races comprising the pick (n), the association may not change the number during a race meeting without prior written approval of the executive secretary.

(d) A person purchasing a pick (n) ticket shall designate the winning animal in each of the races comprising the pick (n). The association shall issue to the purchaser of a pick (n) ticket a ticket that reflects each of the purchaser's selections.

(e) A pick (n) ticket is a contract between the holder of the ticket and the association and the ticket constitutes acceptance of this section. The association, totalisator company, and the State of Texas are not liable to a person for a pick (n) ticket that is not a winning ticket under this section or for a pick (n) ticket that is not delivered.

(f) A coupled entry or mutuel field in a race that is part of the pick (n) races shall race as a single betting interest for the purpose of mutuel pool calculations and payoffs to the public.

(g) The pick (n) pool shall be distributed as provided by this section. The net pool in the pick (n) pool is divided into a major pool and a minor pool. The association may designate the major pool to consist of either 75% or 50% of the net amount wagered on the pick (n). The remaining percentage constitutes the minor pool. The association shall notify the executive secretary in writing before the beginning of each race meeting of its designation regarding the division between the major and minor pools. After designating the division between the major and minor pools, an association may not change the division during a race meeting without prior written approval of the executive secretary.

(h) The major pool shall be distributed among holders of pick (n) tickets which correctly designate the winner in each of the races comprising the pick (n).

(i) Except as otherwise provided by this section, the minor pool shall be distributed to those ticket holders who failed to correctly designate the winner in each of the races comprising the pick (n), but who correctly selected the winners in the most, but not all of, the races comprising the pick (n).

(j) If no ticket is sold that designates the winner in each of the races comprising the pick (n), the major pool shall be carried forward to the next performance to be paid in the major pool of that performance. Except as otherwise provided by this section, the major pool shall be supplemented each performance by the amount added to the pool from all previous performances' major pools that have not been won in accordance with subsection (h) of this section.

(k) If a pick (n) ticket designates a selection and the selection is scratched or otherwise prevented from racing, the favorite, as determined by the largest amount wagered in the win pool

at the start of the race, will be substituted for the nonstarting selection for all purposes, including mutuel pool calculations and payoffs to the public. If there are two or more favorites in the win pool, both favorites will be substituted for the nonstarting selection.

(l) If a race in the pick (n) ends in a dead heat for first place, all animals in the dead heat are winners for purposes of calculating the pick (n) pool.

(m) Except as otherwise provided by this subsection, if one or more races in the pick (n) are canceled or declared a "no race", the amount contributed to the major pool for that performance shall be added to the minor pool for that performance and distributed as an extra amount in the minor pool to the holders of the tickets that designate the most winners in the remaining races. All contributions to the major pool from prior performances shall remain in the major pool, to be carried forward to the next performance to be paid in the major pool for that performance. If the stewards or racing judges cancel or declare as a "no race" three or more of the races comprising a pick six, seven, or eight, four or more of the races comprising the pick nine, or five or more of the races comprising the pick 10, the pick (n) is canceled and the association shall refund all pick (n) tickets. A person may not win the major pool unless the person holds a pick (n) ticket that correctly designates the official winners of all the scheduled races comprising the pick (n) for that performance. On the last performance of a race meeting or on a designated mandatory payout performance, if one or two races comprising the pick (n) are canceled or declared a "no race", the major pool and the minor pool for that performance shall be combined with the prior performance major pool and be paid to those holders of tickets who correctly designated the most winners of the remaining races of the pick (n). If three or more races comprising the pick (n) are canceled or declared a "no race", the association shall refund all pick (n) tickets and the prior performance major pool shall be distributed in accordance with subsection (o) of this section.

(n) If on the last performance of the race meeting or on a designated mandatory payout performance the major pool is not distributable under subsection (h) of this section, the major pool and all money carried forward into that pool from previous performances shall be combined with the minor pool and distributed to the holders of tickets correctly designating the most, but not all, of the races comprising the pick (n) for that performance.

(o) If the final or designated mandatory payoff performance is canceled or the major pool has not been distributed, the major pool shall be escrowed by the association and the major pool plus all accrued interest shall be carried over and included in a major pool offered on one of the first five days of the next subsequent race meeting or on the next performance after the undistributed mandatory payout performance, as approved by the executive secretary.

(p) Except for refunds required by this section, a pick (n) ticket may not be sold, exchanged, or canceled after the close of wagering on the first of the pick (n) races.

(q) A person may not disclose the number of tickets sold in the pick (n) pool or the number or amount of tickets selecting winners of the races comprising the pick (n) until the results of the last race comprising the pick (n) are official. The totalisator equipment shall be programmed or constructed to suppress the publication or printing of any such information, except the total number of dollars wagered in the pick (n), until the results of the last race comprising the pick (n) are official.

(Added eff. 4/1/01; (k) amended eff. 10/4/05)

Sec. 321.313. Select Three, Four, or Five.

(a) The select three, four, or five wager is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board.

(b) A select three, four, or five ticket is evidence of a binding contract between the holder

of the ticket and the association and the ticket constitutes an acceptance of this section. The association may select a distinctive name for the select three, four, or five, with the prior approval of the executive secretary.

(c) The select three, four, or five pari-mutuel pool consists of amounts contributed for a selection to win only on each of three, four, or five races designated by the association with the approval of the executive secretary. Each person purchasing a select three, four, or five ticket shall designate the winning animal in each of the races comprising the select three, four, or five.

(d) A coupled entry or mutuel field in a race that is part of the select three, four, or five shall race as a single betting interest for the purpose of the select three, four, or five pari-mutuel pool calculations and payoffs to the public. If any part of a coupled entry or mutuel field is a starter in a race, the entry or field selection remains as the designated selection to win in that race for the select three, four, or five calculation, and the selection may not be deemed a scratch.

(e) The select three, four, or five pari-mutuel pool may be a carryover pool or a non-carryover pool. The association, with prior approval of the executive secretary, will decide if the select three, four, or five pari-mutuel pool will be offered as a carryover pool or a non-carryover pool.

(f) A non-carryover select three, four, or five pari-mutuel pool shall be distributed in accordance with this subsection. One hundred percent of the net amount in the pari-mutuel pool subjecto distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which:

(1) Correctly designate the official winner in each of the races comprising the select three, four, or five.

(2) If no pari-mutuel ticket is sold combining the winners of all of the races comprising the select three, four, or five, 100% of the net amount in the pari-mutuel pool shall be distributed among the holders of pari-mutuel tickets which include the winners of the next highest number of winners of the races in the select three, four, or five.

(3) If no pari-mutuel ticket is sold that would require distribution of the select three, four, or five pool under paragraphs (1) or (2) of this subsection, the association shall carry over all money wagered in the select three, four, or five pool to the next consecutive select three, four, or five pool.

(4) If the final day of a race meeting is canceled or the select three, four, or five pool has not been distributed, the pool shall be escrowed by the association, and the pool plus all accrued interest shall be carried over and added to the select three, four, or five pari-mutuel pool in the following race meeting on a date and performance designated by the executive secretary.

(5) If one or two of the races comprising a select three is canceled, two or three of the races comprising a select four are canceled, or three or four of the races comprising a select five are canceled, the net amount of the pari-mutuel pool shall be distributed as provided in paragraph (2) of this subsection.

(g) A carryover select three, four, or five pari-mutuel pool shall be distributed in accordance with this subsection. The net pool in the select three, four, or five pool is divided into a major pool and a minor pool. The association shall designate the major pool to consist of 75% of the net amount wagered on the select three, four, or five pool. The remaining 25% constitutes the minor pool.

(1) The major pool shall be distributed among holders of select three, four, or five tickets, which correctly designate the winner in each of the races comprising the select three, four, or five.

(2) Except as otherwise provided by this section, the minor pool shall be distributed to those ticket holders who failed to correctly designate the winner in each of the races comprising the select three, four, or five, but who correctly selected the winners in the most, but not

all of, the races comprising the select three, four, or five. If there are no such tickets, then the minor pool would be added to the major pool and:

(A) Paid out to holders of tickets who correctly designated the winner in each of the races comprising the select three, four, or five, but if there are no such tickets,

(B) Carried forward to the next select three, four or five pool offered.

(3) If no ticket is sold that designates the winner in each of the races comprising the select three, four, or five, the major pool shall be carried forward to the next select three, four or five pool offered to be paid in the major pool.

(4) Except as otherwise provided by this section, the major pool shall be supplemented each performance by the amount added to the pool from all previous performances' major pools that have not been won in accordance with paragraph (1) of this subsection.

(5) If on the last performance of the race meeting or on a designated mandatory payout performance the major pool is not distributable under paragraph (1) of this subsection, the major pool and all money carried forward into that pool from previous performances shall be combined with the minor pool and distributed to the holders of tickets correctly designating the most, but not all, of the races comprising the select three, four, or five.

(6) Except as otherwise provided by this subsection, if one or more of the races comprising a select three, four, or five is canceled or declared a "no race", the amount contributed to the major pool for that select three, four, or five shall be added to the minor pool for that same select three, four, or five and distributed as an extra amount in the minor pool to the holders of the tickets that designate the most winners in the remaining races. All contributions to the major pool from prior select three, four, or five pools shall remain in the major pool, to be carried forward to the next select three, four, or five pool to be paid in the major pool later on the race card or on the next performance.

(h) If all of the races comprising the select three, four, or five are canceled, the association shall refund the pari-mutuel tickets sold on the select three, four, or five on that day. The association shall carry over the remaining amount in the select three, four, or five pari-mutuel pool to the next consecutive select three, four, or five pari-mutuel pool.

(i) If a selection on a select three, four, or five ticket in one or more of the races is scratched or determined by the stewards or racing judges to be a nonstarter in the race, the actual favorite, as shown by the largest amount wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs. If there are two or more favorites in the win pool, both favorites will be substituted for the non-starting selection.

(j) In the event of a dead heat for win between two or more animals:

(1) in a select three, all the animals in the dead heat for win shall be considered as winning animals in the race for the purpose of calculating the major or minor pools and the affected pool is calculated:

(A) As a profit split to those whose selections finished first in each of the three contests; but if there are no such wagers, then

(B) As a single price pool to those who selected the first place finisher in any two of the three contests; but if there are no such wagers, then

(C) As a single price pool to those who selected the first place finisher in any one of the three contests; but if there were no such wagers, then in accordance with paragraph (f) of this section.

(2) in a select four or five race, all the animals in the dead heat for win shall be considered as winning animals in the race for the purpose of calculating the major or minor pools and the affected pool is calculated as a win pool.

(k) A pari-mutuel ticket for the select three,

four, or five pool may not be sold, exchanged, or canceled after the time wagering closes in the first of the races comprising the select three, four, or five, except for refunds on select three, four, or five tickets as required by subsection (h) of this section. A person may not disclose the number of tickets sold in the select three, four, or five pool or the number or amount of tickets selecting winners of select three, four, or five races until the stewards or racing judges have determined the last race comprising the select three, four, or five to be official. (Added eff. 4/1/01; repealed and replaced 11/6/02; (i) amended eff. 10/4/05; (j) ameded eff. 7/16/07)

Sec. 321.314. Superfecta.

(a) The superfecta is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board. All tickets on the superfecta shall be calculated as a separate pool.

(b) A person purchasing a superfecta ticket shall select the four animals that will finish first, second, third, and fourth in one race. The pool shall be distributed only to the holders of tickets that select the same order of finish as officially posted.

(c) If no superfecta ticket is sold for the winning combination, the pool shall be distributed to the holders of tickets selecting the win, place, and show finishers. If no ticket is sold combining the win, place, and show finishers, the pool shall be distributed to the holders of tickets selecting the win and place finishers. If no ticket is sold combining the win and place finishers, the pool shall be distributed to the holders of tickets selecting the winner. If less than four animals finish and the race is declared official by the stewards or racing judges, the pool shall be distributed to holders of tickets selecting the finishing animals in order, ignoring the balance of the selection.

(d) In the event of a dead heat, all superfecta tickets selecting the correct order of finish, counting an animal in a dead heat as finishing in either position dead heated, shall be winning tickets. The pool shall be distributed as a place pool.

(e) If an animal is scratched in a superfecta race, a superfecta ticket may not be exchanged. All tickets which include a scratched animal shall be eliminated from further participation in the superfecta pool and shall be refunded.

(f) If the superfecta pool cannot otherwise be distributed in accordance with this section, the money in the superfecta pool shall be carried forward to the next consecutive superfecta pool.

(g) An association shall not offer superfecta wagering on any race placed on the official program that does not have seven or more different wagering interests unless approved by the board of stewards or judges. The board of stewards or judges may not approve a superfecta wager in a race with fewer than six wagering interests.

(h) In the event scratches after the animals leave the paddock cause the number of different wagering interests to fall below seven, or below an amount previously approved by the board of stewards or judges as outlined in subsection (g) of this section, the board of stewards or judges may order the wager to be canceled and the pool to be refunded if deemed in the interest of wagering integrity. (Added eff. 4/1/01; (g),(h) amended eff. 8/3/06)

Sec. 321.315. Tri-Superfecta.

(a) The tri-superfecta is not a parlay and has no connection with or relation to the win, place, or show pools on the tote board. All tickets on the tri-superfecta shall be calculated as a separate pool.

(b) The tri-superfecta requires selection of the first three finishers, in exact order, in the first of two designated races. Each winning ticket for the first tri-superfecta race must be exchanged for a free ticket on the second tri-superfecta race to remain eligible for the second-half tri-superfecta pool. Such tickets may be exchanged only at designated attended ticket windows before the

start of the second tri-superfecta race. Winning first-half tri-superfecta wagers will receive both an exchange and a monetary payout. Both of the designated tri-superfecta races shall be included in one tri-superfecta pool.

(c) After wagering closes for the first-half of the tri-superfecta and commissions have been deducted from the pool, the net pool shall then be divided equally into two separate pools: the first-half tri-superfecta pool and the second-half tri-superfecta pool.

(d) In the first tri-superfecta race only, the first-half tri-superfecta pool shall be distributed according to the following precedence, based upon the official order of finish for the first tri-superfecta race:

(1) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(2) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(3) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then

(4) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then

(5) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then

(6) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then

(7) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then

(8) The tri-superfecta pool shall be canceled and the entire pool shall be carried forward to the next consecutive performance and combined with that performance's second-half tri-superfecta pool.

(e) If no first-half tri-superfecta ticket selects the first three finishers of that race in exact order, no exchange tickets for the second-half tri-superfecta pool will be issued and the second-half tri-superfecta pool shall be carried over and added to the tri-superfecta carryover pool.

(f) A first-half tri-superfecta ticket that selects the first three finishers of that race in exact order may be exchanged for a ticket selecting the first four finishers of the second tri-superfecta race. The second-half tri-superfecta pool shall be distributed according to the following precedence, based upon the official order of finish for the second tri-superfecta race:

(1) As a single price pool, including the carryover, to those whose combination finished in correct sequence as the first four betting interests; but if there are no such tickets, then

(2) The second-half tri-superfecta pool for that contest shall be carried forward to the next consecutive performance and shall be combined with that performance's second-half tri-superfecta pool.

(g) If a winning first-half tri-superfecta ticket is not presented for cashing and exchange before the start of the second tri-superfecta race, the ticket holder may collect the monetary value associated with the first-half tri-superfecta pool but forfeits all right to a distribution of the second-half tri-superfecta pool.

(h) If fewer than six horses of different betting interests leave the paddock for the first tri-superfecta race or fewer than six greyhounds start the first tri-superfecta race, the tri-superfecta contest shall be canceled and the entire tri-superfecta pool for that performance shall be refunded.

(i) Before the running of the first tri-superfecta race, if due to a scratch the second tri-superfecta

race has fewer than seven horses of different betting interests or fewer than seven greyhounds of different betting interests, the tri-superfecta shall be canceled and the entire tri-superfecta pool for that performance shall be refunded.

(j) After the running of the first tri-superfecta race, if due to a late scratch, the second tri-superfecta race has fewer than seven horses of different betting interests that start or has fewer than seven greyhounds of different betting interests that start, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half tri-superfecta pool for that performance as a single price pool, but not the tri-superfecta carryover.

(k) Coupled entries and mutuel fields may not be permitted in a tri-superfecta horse contest unless there are six or more betting interests in the first race and seven or more betting interests in the second race. Coupled entries or mutuel fields in a tri-superfecta race shall race as a single betting interest for the purpose of mutuel pool calculations and payout to the public.

(l) If a betting interest in the first tri-superfecta race is scratched, all tri-superfecta wagers including the scratched betting interest shall be refunded.

(m) If a betting interest in the second tri-superfecta race is scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided to exchange tickets that include the scratched betting interest.

(n) If there is a dead heat or multiple dead heats in either the first or second tri-superfecta race, all tri-superfecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:

(1) the first tri-superfecta race, the payout shall be calculated as a profit split; and

(2) the second tri-superfecta race, the payout shall be calculated as a single price pool.

(o) If either of the tri-superfecta races are canceled prior to the first tri-superfecta race, or if the first tri-superfecta race is declared "no contest", the entire tri-superfecta pool for that performance shall be refunded and the second-half pool shall be canceled.

(p) If the second tri-superfecta race is canceled or declared "no contest" on a:

(1) non-designated mandatory payout performance, all exchange tickets and outstanding first-half winning tri-superfecta tickets shall be entitled to the net tri-superfecta pool for that performance as a single price pool, but not the tri-superfecta carryover. If there are no such tickets, the net tri-superfecta pool shall be carried over to the next consecutive performance and combined with that performance's second-half tri-superfecta pool; and

(2) designated mandatory payout performance, all exchange tickets and outstanding first-half winning tri-superfecta tickets as determined by subsection (s) of this section shall be entitled to the net tri-superfecta pool for that performance and the tri-superfecta carryover as a single price pool.

(q) An association may file a written request for permission to distribute the tri-superfecta carryover on a specific performance with the executive secretary. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(r) Distribution on Mandatory Payout.

(1) Notwithstanding subsections (e) and (t) of this section, on the last performance of a race meet or a designated mandatory payout performance, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in the first tri-superfecta race in the following order:

(A) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(B) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(C) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then

(D) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then

(E) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then

(F) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then

(G) As a single price pool to those whose combination correctly selected the third-place betting interest.

(2) Notwithstanding subsections (e) and (t) of this section, on the last performance of a race meeting or a designated mandatory payout performance, if there are no wagers selecting the finishers in the order described in Paragraph (1) of this subsection and there is a carryover, all first-half tickets are considered winners and the tri-superfecta pool for that performance and the tri-superfecta carryover shall be distributed equally among them.

(3) Notwithstanding subsections (e) and (t) of this section, on the last performance of a race meeting or a designated mandatory payout performance, if there are no wagers selecting the finishers in the order described in Paragraph (1) of this subsection and there is no carryover, the tri-superfecta shall be canceled and the entire tri-superfecta pool shall be refunded.

(s) Notwithstanding subsections (f) and (t) of this section, on the last performance of a race meeting or on a designated mandatory payout performance, the following precedence will be followed in determining winning tickets for the second-half of the tri-superfecta:

(1) As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(2) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(3) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(4) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then

(5) As a single price pool to those whose combination included, in correct sequence, the second-place betting interests; but if there are no such wagers, then

(6) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then

(7) As a single price pool to those whose combination correctly selected the fourth-place betting interest; but if there are no such wagers, then

(8) As a single price pool to holders of valid exchange tickets; but if there are no such persons, then

(9) As a single price pool to holders of outstanding first-half winning tickets.

(t) Cap on Carryover.

(1) The tri-superfecta carryover may be capped at a designated level approved by the executive secretary so that if, at the close of any performance, the amount in the tri-superfecta carryover equals or exceeds the designated cap, the tri-superfecta carryover will be frozen until it is won or distributed under other provisions of

this section. After the tri-superfecta carryover is frozen, 50% of the tri-superfecta pool shall be distributed to winners of the first tri-superfecta contest using the following precedence:

(A) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(B) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(C) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then

(D) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then

(E) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then

(F) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then

(G) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then

(H) the tri-superfecta shall be canceled and the entire tri-superfecta pool for that performance shall be refunded.

(2) After the tri-superfecta carryover is frozen, exchange tickets will be issued for winning tickets of the first half of the tri-superfecta pool as determined in paragraph (1) of this subsection. The second-half tri-superfecta pool shall be distributed according to the following precedence, based upon the official order of finish for the second tri-superfecta race:

(A) As a single price pool, including the carryover, to those who received an exchange ticket under paragraph (1) (A) of this subsection, and whose combination finished in correct sequence as the first four betting interests of the second leg of the tri-superfecta pool; but if there are no such tickets, then

(B) Fifty percent (50%) of the tri-superfecta pool for that performance only shall be distributed in the following precedence:

(i) As a single price pool to those whose combination include, in correct sequence, the first four betting interests of the second leg of the tri-superfecta pool; but if there are no such wagers, then

(ii) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(iii) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(iv) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then

(v) As a single price pool to those whose combination included, in correct sequence, the second-place betting interests; but if there are no such wagers, then

(vi) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then

(vii) As a single price pool to those whose combination correctly selected the fourth-place betting interest; but if there are no such wagers, then

(viii) As a single price pool to holders of valid exchange tickets; but if there are no such persons, then

(ix) As a single price pool to holders of outstanding first-half winning tickets.

(u) The tri-superfecta carryover shall be

designated for mandatory payout on a specified date and performance only under the following circumstances:

(1) on written approval from the executive secretary as provided in subsection (q) of this section;

(2) on written approval from the executive secretary when there is a change in the carryover cap or when the tri-superfecta is discontinued; and

(3) on the last performance of the race meeting.

(v) If the tri-superfecta carryover must be held over to the corresponding tri-superfecta pool of a subsequent race meeting, the carryover shall be deposited in an interest-bearing account approved by the executive secretary. The tri-superfecta carryover plus accrued interest shall be carried forward and added to the second-half tri-superfecta pool of the following race meeting on a date and performance designated by the executive secretary.

(w) The association must obtain written approval from the executive secretary concerning the scheduling and the amount of the cap to be set on the carryover. Any changes to the approved tri-superfecta format require prior approval from the executive secretary. (Added eff. 4/1/01; (t) amended eff. 1/1/02; (d),(r),(s) amended eff. 10/4/05)

Sec. 321.316. Odd-Even.

(a) The odd-even is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board. The odd-even is a separate pool and shall be calculated as a win pool.

(b) A person purchasing an odd-even ticket shall designate "odd" or "even". An "odd" ticket represents a wager on each race animal with an odd number as listed in the official program. An "even" ticket represents a wager on each race animal with an even number as listed in the official program.

(c) If the race animal finishing first has an odd program number, the odd-even pool shall be distributed to the holders of tickets designating odd. If the race animal finishing first has an even program number, the odd-even pool shall be distributed to the holders of tickets designating even.

(d) Except as otherwise provided by this subsection, if after wagering has begun an animal entered in an odd-even race is scratched or otherwise prevented from racing, there will be no refund. The association, with the approval of the stewards or racing judges, may cancel the odd-even pool and refund all money in the pool if there are less than three odd program number race animals or less than three even program number race animals participating in a race.

(e) Except as otherwise provided in this subsection, if a race ends in a dead heat for first place between a race animal with an odd program number and a race animal with an even program number, the program number of the third place finishing animal will determine the winners of the odd-even pool. If there is a dead heat for third place between a race animal with an odd program number and a race animal with an even program number, the program number of the fifth place finishing animal will determine the winners of the odd-even pool. If a race ends a dead heat for first place between three race animals, the type of program number of the majority of the animals involved in the dead heat will determine the winners of the odd-even pool. (Added eff. 4/1/01)

Sec. 321.317. Prevention of Start.

Except as otherwise provided by these rules, if a door in a starting gate or box fails to open simultaneously with the other doors, thereby preventing a horse or greyhound from obtaining a fair start when the starter dispatches the field, that animal is considered scratched for pari-mutuel purposes only and all wagers made on that animal shall be refunded. (Added eff. 4/1/01)

Sec. 321.318. Special Wager.

(a) Special wager authorized.

(1) Subject to the prior approval of the

Commission, an association may offer a special wager in any form of wager authorized by the Rules. All applicable laws and rules that apply to the form of wager selected for the special wager apply to the special wager.

(2) A special wager must be based on the outcome of a race or races and comply with the definition of pari-mutuel wagering as defined by the Act, §1.03(18). The wager must be based on the performance of a specific race animal or animals in a race or races.

(3) All tickets on a special wager shall be calculated as a separate pool. If a special wager uses a point system to determine the winning tickets, the stewards or racing judges are responsible for certifying the accuracy of the point totals for purposes of payoff calculations and pool distribution. The use of any point system must be based on objective criteria.

(b) Approval of special wager.

(1) To offer a special wager, an association must file a written request with the executive secretary. The request must be filed no later than the 30th day before the day on which the Commission is to consider the request.

(2) The request must state:

(A) the name of the wager;

(B) the type of wagering pool to be used;

(C) the method by which winning tickets will be determined; and

(D) the method for addressing dead heats, no contest races, scratches, jockey changes, coupled entries, prevention of start, and disqualifications.

(3) After reviewing the request, the executive secretary may request additional information regarding the special wager.

(4) If the Commission determines the proposed special wager will be offered in a manner that complies with the Rules and that is consistent with maintaining the integrity of pari-mutuel wagering, the Commission may approve the request. The Commission may place reasonable conditions on the approval of the special wager. The Commission has sole discretion to approve or disapprove requests for special wagers.

(5) The executive secretary shall notify the association of the Commission's decision regarding the request no later than the fifth day after the Commission's decision.

(6) Approval of a special wager is perpetual, unless the association proposes to change the method by which winning tickets will be determined or the method for addressing dead heats, no contest races, scratches, jockey changes, coupled entries, prevention of start, and disqualifications. In that instance, the association must obtain approval for the changes in the special wager.

(c) Notice of special wager.

(1) An association shall publish notice of a special wager that is approved in its program at least 14 days before the first day the special wager will be offered. If the wager is to be offered during the first 14 days of a live race meeting, the association shall publish notice of the special wager in the program for every race day in the race meeting before the day the special wager is to be offered.

(2) The association shall post in a prominent place in the grandstand of the racetrack a full description of the special wager, including all information described in Subsection (b)(2) of this section and any conditions imposed by the Commission. (Added eff. 4/1/01; (b) amended eff. 11/6/02)

Subchapter D. Simulcast Wagering

Division 1. General Provisions

Sec. 321.401. Purpose.

The Commission finds that, although wagering on simulcast races provides additional revenue for the state treasury, the primary advantage of wagering on simulcast races is the additional revenue it provides for purses for live races conducted in this state. The Commission further

finds it is in the public interest to encourage live racing, which promotes economic development in a variety of racing-related industries. Therefore, it is the Commission's intent to adopt and enforce rules relating to simulcast wagering in a manner that will encourage live racing and enhance the horse breeding, owning, and training industries and the greyhound breeding, owning, and training industries. (Added eff. 4/1/01)

Sec. 321.403. Simulcasting License.

(a) A license to operate a pari-mutuel racetrack in this state held by an association that has been granted live race dates includes as a part of its privileges the privilege of conducting pari-mutuel wagering on simulcast races and to simulcast races conducted by the association. The conducting of pari-mutuel wagering on simulcast races and the simulcasting of races conducted by the association is subject to the approval of the executive secretary.

(b) The approval of any particular simulcasting or wagering on particular simulcast races or programs is not binding on the executive secretary for other requests for approval of simulcasting or wagering on simulcast races or programs. (Added eff. 4/1/01)

Sec. 321.405. Approval Of Exporting Simulcast Races.

(a) An association that wishes to serve as an exporting racetrack shall submit the form of its contract as an exporting racetrack to the executive secretary for approval.

(b) If the association changes the form of the contract, the association shall submit the changed version of the form to the executive secretary for approval.

(c) If an association enters into a contract as an exporting racetrack that differs from the form approved by the executive secretary with respect to its responsibilities as a host racetrack under these rules, the association shall immediately notify the executive secretary in writing.

(d) After the association has entered into a contract to export its races, the association shall file a request for approval of the export to the executive secretary on a form prescribed by the executive secretary. A request for approval to export must be filed before post time of the first race covered by the request. (Added eff. 4/1/01)

Sec. 321.407. Approval Of Wagering On Simulcast Import Races.

(a) To receive approval to conduct pari-mutuel wagering on a simulcast import, an association must file a request for approval to import to the executive secretary on a form prescribed by the executive secretary. A request for approval to import a simulcast must be filed at least one day before the first simulcast race covered by the request.

(b) The executive secretary may approve a request for approval to import a simulcast, subject to rescission of the approval by the Commission at its next regular meeting.

(c) The executive secretary may require the association to submit additional information if the executive secretary determines the additional information is necessary to effectively evaluate the request.

(d) In considering whether or not to approve a request for approval to import a simulcast, the executive secretary shall consider:

(1) the financial stability of the association and the effect simulcasting will have on the economic viability of the association;

(2) the operating experience of the association;

(3) the regulatory compliance and conduct of the association;

(4) the impact of the association's proposed simulcasting on purses at the association's racetrack; and

(5) the public interest that will be served by the simulcasting.

(e) An association may not conduct pari-mutuel wagering on a simulcast import in place

of a regularly scheduled live race, except as authorized by the executive secretary. (Added eff. 4/1/01; (a) amended eff. 3/20/08)

Sec. 321.409. Simulcasting Contract.

All contracts executed by an association regarding simulcasting are subject to inspection by the executive secretary. An association shall maintain each contract regarding simulcasting for at least one year after the end of the term of the contract. An association must provide a copy of the contract to the executive secretary on request. (Added eff. 4/1/01)

Sec. 321.411. Public Address System.

An association that conducts pari-mutuel wagering on a simulcast import must have a public address system in place that is:

(1) accessible to the mutuel manager from the mutuel department work area; and

(2) capable of being heard in all areas where the patrons may view a simulcast race. (Added eff. 4/1/01)

Sec. 321.413. Duties Of Guest Racetrack.

(a) An association that conducts pari-mutuel wagering on a simulcast import acts as a guest racetrack on those dates. The guest racetrack shall:

(1) provide adequate communication facilities, enabling pari-mutuel data transmissions and data communications between totalisator systems of the host racetrack and the guest racetrack;

(2) if the guest racetrack participates in common pools, provide a direct telephone line and a facsimile machine, or other means approved by the executive secretary, located in the mutuel area to transmit information to the host racetrack in case of a system failure; and

(3) display the audio and video signals of the races being simulcast to the patrons.

(b) After each simulcast performance, the guest racetrack shall provide the reports of its pari-mutuel operations required by Subchapters A and B of this chapter. (Added eff. 4/1/01)

Sec. 321.415. Duties Of Host Racetrack.

(a) An association that exports races conducted by the association acts as a host racetrack on the dates the races are conducted and exported.

(b) A host racetrack is responsible for the content of the simulcast and shall use reasonable effort to present a simulcast which offers the viewers an exemplary depiction of the performance, a periodic display of wagering information, and continuity of programming between racing events.

(c) The host racetrack shall provide transmission equipment of acceptable broadcast quality that does not interfere with the closed circuit TV system of the guest racetrack. The host racetrack must transmit and receive wagering information via a data circuit. If the host racetrack plans to form common pools, the racetrack shall provide a direct telephone line and a facsimile machine, or other means approved by the executive secretary, located in the mutuel area to receive information from the guest racetracks in case of a system failure.

(d) Unless otherwise permitted by the executive secretary, a simulcast must contain in its video content:

(1) the date;

(2) a digital display of the actual time of day at the host racetrack;

(3) the name of the host racetrack;

(4) the number of the race being displayed; and

(5) any other relevant information available to patrons at the host racetrack.

(e) At least 15 minutes before post time for the first race, the host racetrack must be transmitting its signal to ensure proper operation of the transmission system. (Added eff. 4/1/01)

Sec. 321.417. Emergency Procedures.

(a) If an association is unable to establish or to maintain the audio or video signal from a host racetrack, the association shall immediately notify the host racetrack of the lost signal and may continue to accept wagers for 30 minutes while attempting to establish the signal.

(b) If after 30 minutes the audio or video signal cannot be established the association may continue to accept wagers on the signal provided:

(1) the mutuel manager makes an announcement to the public informing them that due to technical difficulties the audio or video signal has been lost;

(2) the association transmits the odds on the affected race to the video department to be displayed to the patrons; and

(3) the totalisator operator locks all wagering on the affected race at zero minutes to post to ensure the integrity and transfer of the wagering pools.

(c) If the host racetrack loses the ability to transmit the audio or video signal, the host racetrack:

(1) shall notify all guest racetracks of the technical difficulties being experienced;

(2) may continue to accept wagers from the guest racetracks on that day's races; and

(3) may not accept wagers from the guest racetracks for subsequent race days until the technical difficulties have been corrected. (Added eff. 4/1/01)

Sec. 321.419. Simulcasting Officials.

The mutuel manager shall be present on association grounds at all times that the association is conducting pari-mutuel wagers on a simulcast import. The mutuel manager shall:

(1) before wagering is opened, proof the pools and entries available for wagering for accuracy;

(2) advise the wagering public via the public address system of all matters required to be announced by the Rules;

(3) make decisions on common pooling issues;

(4) be responsible for the integrity of the pools wagered at the association's racetrack facilities; and

(5) notify the pari-mutuel auditor of any problems occurring during simulcast wagering. (Added eff. 4/1/01)

Sec. 321.421. Stop Betting Command.

(a) The totalisator operator shall ensure the auto-lock feature on the totalisator system is engaged at all times the totalisator system is operating. If the stop betting command from a host racetrack is not received, the totalisator operator shall issue the "stop betting" command and lock all wagering on the race at that location.

(b) The association's mutuel manager and the totalisator operator are responsible for ensuring that all wagering stops at that location when the "stop betting" command is issued from the host racetrack.

(c) If the link between the totalisator systems at the host and guest racetracks is lost, the totalisator operator at the guest racetrack shall lock all pools at the guest racetrack at zero minutes to post.

(d) An association may not permit a wager to be accepted or a ticket to be cancelled after the "stop betting" command has been issued.

(e) If a wager is accepted after the "stop betting" command has been issued:

(1) the mutuel manager, before the race is declared official, shall inform the pari-mutuel auditor that a wager was accepted after the "stop betting" command was issued; and

(2) the mutuel manager shall decide to either:

(A) refund the wagers accepted after the "stop betting" command was issued, or

(B) to refund all the wagers made on the race.

(f) A wager accepted after the "stop betting" command is issued is not considered a valid wager.

(Added eff. 4/1/01)

Division 2. Common Pool Wagering

Sec. 321.451. General Provisions.

(a) With the prior approval of the executive secretary, pari-mutuel pools offered by an association that is participating in a simulcast may be combined with corresponding wagering pools offered by the other racetracks participating in the simulcast to form a common pool.

(b) An association participating in a common pool must include in the simulcast contract:

(1) the take out rates;

(2) public payout rates;

(3) contact names and phone numbers; and

(4) settlement arrangements for liabilities incurred.

(c) The content and format of the visual display of racing and wagering information at facilities in other racing jurisdictions in the interstate common pools need not be identical to the information required to be displayed under the Rules. (Added eff. 4/1/01)

Sec. 321.453. Formation Of Common Pool.

(a) An association shall transmit wagering data through a method authorized by this subsection, in the following order of preference:

(1) via a data circuit or frame relay;

(2) via facsimile; or

(3) by voice.

(b) Except as otherwise provided by this subsection, the odds and prices for a common pool shall be calculated in accordance with the laws and rules of the jurisdiction in which the host racetrack is located. In determining the amount distributable to the wagerers, the total takeout required in the jurisdiction in which the host racetrack is located shall be used. If the association desires, the association may use the net pool pricing method for determining the payoff prices.

(c) An association shall ensure that the necessary records are maintained regarding the amounts wagered at its racetrack for accounting, auditing, and reporting purposes. (Added eff. 4/1/01)

Sec. 321.455. Distribution Of Common Pool.

(a) For purposes of pool calculations, a wager is considered made at the place at which the pool originates.

(b) The payoff attributable to the association shall be based on the actual winnings indicated by the totalisator system.

(c) The total takeout applicable to the wagers received in this state for a common pool shall be distributed in accordance with the Act. A gain or loss caused by a difference in takeout totals shall be part of the association's revenue or expense from the interstate simulcast.

(d) A surcharge or other withholding other than the takeout authorized by law shall be applied only in the jurisdiction imposing the surcharge or withholding. (Added eff. 4/1/01)

Sec. 321.457. Breakage.

Breakage calculation is determined by the host racetrack. (Added eff. 4/1/01)

Sec. 321.459. Manual Merge.

(a) If the guest racetrack's totalisator system fails to adequately transmit wagering data to the host racetrack, the host racetrack shall manually merge the pools if a manual merge will not endanger the pools at the host racetrack and the host racetrack permits a manual merge.

(b) To merge the pools manually, the guest racetrack's mutuel manager shall send the host racetrack a facsimile containing the total amount in the pool, the total dollars on winning wagers, and the total dollars on losing wagers. When the manual merge is complete, for purposes of declaring the race official, the totalisator operator at the host racetrack shall notify:

(1) the stewards or racing judges at the host racetrack; and

(2) the presiding steward or racing

judge, or the highest ranking mutuel official if the steward or judge is not on the grounds, at the guest racetrack. (Added eff. 4/1/01)

Sec. 321.461. Failure To Merge.

(a) Except as otherwise provided by this section, if it becomes impossible to successfully merge a guest racetrack's wagers in the common pool via data circuit or manual merge, the mutuel manager shall:

(1) refund the pools not successfully merged after announcing to the public that the pools were not merged successfully and the pools will be refunded; or

(2) pay the winning wagerers based on the prices established at the host racetrack.

(b) The mutuel manager shall report the failure to merge any common pool to the pari-mutuel auditor. The report must be on a form prescribed by the executive secretary and be filed no later than the day after the date the common pool failed to merge.

(c) A contract for common pools entered into by an association as a host racetrack must contain a provision stating that the association is not liable if a guest racetrack's wagers are not accepted into a common pool if:

(1) it becomes impossible to successfully merge the wagers placed in another state in the common pool; or

(2) the mutuel manager determines that attempting to transfer pool data from the guest racetrack will endanger the common pool. (Added eff. 4/1/01)

Division 3. Simulcasting at Horse Racetracks

Sec. 321.501. Negotiation With Horsemen.

(a) Except as otherwise provided by this subsection, an association shall negotiate with the officially recognized horsemen's organization in this state regarding all simulcasting. An association and the officially recognized horsemen's organization may not agree to an allocation of simulcast revenue to purses that differs from §321.503 of this title (relating to Purses).

(b) If after a good faith effort the association and the organization cannot reach an agreement on simulcasting, either party may petition the Commission to decide the issues in dispute. The decision of the Commission is binding on all parties. (Added eff. 4/1/01)

Sec. 321.503. Purses.

(a) To be approved by the executive secretary, an association's request for approval to import a simulcast must allocate for purses as follows:

(1) for a same species simulcast, as provided by the Act, §6.08; and

(2) for a cross-species simulcast, as provided in the contract with the officially recognized horsemen's organization.

(b) To be approved by the executive secretary, an association's request for approval to export a simulcast must allocate 37.0% for purses from the simulcast fee charged to the guest racetrack.

(c) An association shall distribute the funds derived for purses from a simulcast during the 12-month period immediately following the simulcast. (Added eff. 4/1/01)

Sec. 321.505. Allocation Of Purses And Funds For Texas Bred Incentive Programs.

(a) Purses.

(1) An association shall recommend the percentages by which it will divide the purse revenue generated from simulcasting among the various breeds of horses. The percentages are subject to the approval of the Commission.

(2) Negotiations.

(A) At least 30 days before recommending the percentages, the association shall begin negotiations with the organizations recognized by the Commission or in the Act as representatives of horse owners, trainers, and/or breeders.

(B) When requested, the association shall provide the material specified in paragraph (3) of this subsection to the organizations recognized

by the Commission or in the Act as representatives of horse owners, trainers, and/or breeders.

(3) When requesting Commission approval of the percentages, the association shall present in writing studies, statistics, or other documentation supporting the association's application of the criteria in paragraph (4) of this subsection in its proposed division.

(4) The Commission may consider the following criteria in evaluating whether to approve the association's proposed division of purse revenue:

(A) local public interest in each breed as demonstrated by, but not limited to, the following factors:

(i) live handle by breed;

(ii) simulcast import handle by breed;

(iii) live attendance at the racetracks; and

(iv) sales and market survey information.

(B) earnings generated by the association from each breed;

(C) national public interest in each breed as determined by the live simulcast export handle of each Texas meet;

(D) racetrack race date request and opportunities given to each breed; and

(E) availability of and ability to attract competitive horses.

(5) If the Commission determines that the association's proposed division of purse revenue is inconsistent with the association's obligation to accord reasonable access to races for all breeds of horses, the Commission may:

(A) require the association to submit additional information supporting its recommendation for consideration at the next Commission meeting;

(B) reject the association's recommendation and require the association to submit a new recommendation for consideration at the next Commission meeting; or

(C) reject the association's recommendation and approve an alternate division of purse revenue as determined by the Commission.

(6) In lieu of the process outlined in paragraphs (3) - (5) of this subsection, the association may submit a signed agreement between the association and the organizations referenced in paragraph (2) of this subsection for the Commission to consider for approval. For the Commission to approve the agreement, the agreement must:

(A) delineate the percentages by which the association will divide the purse revenue generated from simulcasting among the various breeds of horses; and

(B) be signed by the assocation and all organizations referenced in paragraph (2) of this subsection.

(b) Texas Bred Incentive Program Funds.

(1) The Commission shall determine the percentages by which Texas Bred Incentive Program funds generated from simulcasting are divided among the various breeds of horses.

(2) In determining the percentages by which Texas Bred Incentive Program funds generated from simulcasting are divided, the Commission may consider the following criteria:

(A) the amount of participation in live racing by each of the breeds;

(B) the activities of the breed registries to promote their breed for racing and breeding, taking into consideration each registry's available administrative funds;

(C) the national public interest in each breed as determined by the live simulcast export handle of each Texas meet;

(D) the effect of the proposed allocation on the state's agricultural racing horse breeding industry;

(E) the effect of the proposed allocation on the state's agricultural racing horse training industry;

(F) the amount of Texas Bred Incentive

Programs funds from simulcasting generated by each breed; and

(G) the median sales price of accredited Texas bred horses as submitted on the performance measures report as required under §303.83 of this title.

(3) Before determining the percentages, the Commission shall provide an opportunity for the official horse breed registries designated in the Act to present information in writing regarding the criteria specified in paragraph (2) of this subsection and any other information that the registries believe may be useful to the Commission.

(4) In lieu of the process outlined in paragraphs (2) and (3) of this subsection, a signed agreement between the organizations referenced in paragraph (3) of this subsection may be submitted to the Commission for consideration and approval. For the Commission to approve the agreement, the agreement must:

(A) delineate the percentages by which the Texas Bred Incentive Program funds generated from simulcasting are divided among the various breeds of horses; and

(B) be signed by all organizations referenced in paragraph (3) of this subsection.
(Added eff. 4/1/01; amended eff. 11/26/07)

Sec. 321.507. Priority Of Signals.

(a) Class 1 and Class 2 Racetracks. A Class 1 or Class 2 racetrack may offer pari-mutuel wagering on a race simulcast from another jurisdiction, subject to the approval of the executive secretary, provided the Class 1 or Class 2 racetrack also offers all available simulcast races originating in Texas on that day.

(b) Class 3 and Class 4 Racetracks. A Class 3 or Class 4 racetrack may conduct pari-mutuel wagering on a race simulcast from another jurisdiction, subject to the approval of the executive secretary, provided the Class 3 or Class 4 racetrack:

(1) also offers all available simulcast races originating in Texas on that day;

(2) is owned or managed by an entity that has at least three years experience operating a pari-mutuel racetrack in Texas;

(3) demonstrates to the Commission's satisfaction that the simulcasting is necessary to provide sufficient purses to support the Texas live racing industry; and

(4) demonstrates to the Commission's satisfaction that the live racing program offered at the racetrack provides significant support to the Texas horse breeding industry; and

(5) demonstrates to the Commission any effect simulcasting may have on each Class 1, Class 2, or greyhound racetrack located within 100 miles of the Class 3 or Class 4 racetrack.
(Added eff. 4/1/01; (b) amended eff. 7/17/01)

Sec. 321.509. Escrowed Purse Account.

(a) At least once a year, the Commission shall distribute all funds accrued in the escrowed purse account created by the Act, 6.091(e). The executive secretary shall establish a deadline for receiving requests for distribution from the account and publicize that deadline to the horse racetrack associations at least 30 days before the deadline. The associations when requesting for distribution from the account shall also recommend the percentages by which it will divide the escrowed purse account revenue among the various breeds of horses.

(b) The Commission shall determine the amount of the distribution to each racetrack in accordance with the standards set forth in the Act, §6.091(e) and (f).

(c) The percentages by which an association will divide the escrowed purse account revenue among the various breeds of horses is subject to the approval of the Commission. When requesting Commission approval of the percentages, the association shall present in writing studies, statistics, or other documentation to support its proposed division of escrowed purse account revenue. The Commission may consider the

following criteria when evaluating the association's studies, statistics, or other documentation submitted to support its proposed division of escrowed purse account revenue before granting its approval:

(1) local public interest in each breed as demonstrated by, but not limited to, the following factors:

(A) simulcast import handle by breed;

(B) live handle by breed; and

(C) live attendance.

(2) earnings generated by the association from each breed;

(3) racetrack race date request and opportunities given to each breed;

(4) statewide need by breed; and

(5) national public interest in each breed as determined by the live simulcast export handle of each Texas meet.

(d) If the Commission determines that the association's proposed division of the escrowed purse account revenue is inconsistent with the association's obligation to accord reasonable access to races for all breeds of horses, the Commission may:

(1) require the association to submit additional information supporting its recommendation for consideration at the next Commission meeting;

(2) reject the association's recommendation and require the association to submit a new recommendation for consideration at the next Commission meeting; or

(3) reject the association's recommendation and approve an alternate division of the escrowed purse account revenue as determined by the Commission.

(e) In lieu of the process outlined in subsections (c) and (d) of this section, a signed agreement between the association and the organizations recognized by the Commission or in the Act as representatives of horse owners, trainers, and/or breeders may be submitted to the Commission for consideration and approval. For the Commission to approve the agreement, the agreement must:

(1) delineate the percentages by which the escrowed purse account revenue received by the association will be divided amongst the various breeds of horses; and

(2) be signed by all organizations recognized by the Commission or in the Act as representatives of horse owners, trainers, and/or breeders. (Added eff. 4/1/01; amended eff. 11/26/07)

Subchapter E. Ticketless Electronic Wagering.

Division 1. Conduct of E-Wagering.

Sec. 321.601. Purpose.

(a) The Commission recognizes that the technology for placing wagers is ever changing. The Commission adopts these rules as guidelines to conduct E-wagering that maintains the integrity of pari-mutuel wagering.

(b) E-wagering may be conducted only within the enclosure of an association.

(c) Only persons meeting the age restriction in §321.17 of this title (relating to Activities by Minors Restricted) may participate in E-wagering. E-wagers must be made in person. (Added eff. 10/4/05)

Sec. 321.603. Authorization for E-Wagering.

An association may not conduct E-wagering unless approved by the executive secretary. (Added eff. 10/4/05)

Sec. 321.605. E-Wagering Plan.

(a) To be approved to conduct e-wagering, an association must submit a plan to the executive secretary. The plan must include:

(1) the procedures for opening an account;

(2) the procedures for establishing identity of account holder;

(3) the procedures for making deposits to the account;

(4) the procedures for making withdrawals from the account;

(5) the procedures for closing an account; and

(6) a description of the totalisator system and E-wagering access system.

(b) The executive secretary may approve a plan to conduct E-wagering if the executive secretary determines that the association's plan meets the requirements of this section and does not conflict with the Rules or the Act. (Added eff. 10/4/05)

Sec. 321.607. E-Wagering Account Restrictions.

(a) The mutuel manager of an association shall establish and manage E-wagering within an association's enclosure.

(b) The making and acceptance of wagers over the communications facility known as the "Internet" or "telephone" is prohibited.

(c) An association may accept deposits to an account only in the form of cash, cashier's check, money order, or other method determined by the executive secretary to be a cash equivalent.

(d) The association may not accept wagers in an amount that exceeds the account balance.

(e) An account holder must be at least 21 years of age.

(f) An account holder is responsible for all activity associated with his or her account.

(g) An association may use E-wagering devices only if the devices are connected to the totalisator system. (Added eff. 10/4/05)

Sec. 321.609. Testing E-Wagering.

An association's E-wagering system is subject to testing and inspection by the Commission. All forms of access to an account, including hardware used directly by the account holder for E-wagering are subject to testing and inspection by the Commission. (Added eff. 10/4/05)

Division 2. Operational Requirements.

Sec. 321.621. Ticketless Electronic Wagering Hardware.

An E-wagering device must be configured for loss of signal when removed from an association's enclosure. (Added eff. 10/4/05)

Sec. 321.623. Cancellation of E-Wagers.

An account holder may cancel an E-wager only as provided by Sec. 321.43 of this title, (relating to Cancellation of Win Wagers.) A statement approved by the executive secretary must appear in or accompany the account wagering application form advising the wagering account applicant of this requirement. (Added eff. 10/4/05)

Sec. 321.625. Discrepancy/Dispute Resolution.

If an account holder believes a discrepancy exists in his or her account, the account holder may file a claim for payment with the executive secretary. The executive secretary shall investigate all claims for payment and the executive secretary's determination is final. (Added eff. 10/4/05)

Sec. 321.627. Suspension or Termination of E-Wagering.

(a) The executive secretary may issue a cease and desist order terminating the E-wagering system if the executive secretary determines that the operation of the E-wagering system:

(1) violates the Rules, the Act, or other state law;

(2) is detrimental to the integrity of pari-mutuel wagering; or

(3) does not comply with the requirements of an E-wagering system as defined in this Act or a Commission rule.

(b) The executive secretary may deny, suspend, or terminate an individual's E-wagering account if the executive secretary determines the activities on the account:

(1) violates the Rules, the Act, or other state law; or

(2) are inconsistent with maintaining the integrity of pari-mutuel wagering. (Added eff. 10/4/05)

CHAPTER 323. DISCIPLINARY ACTION AND ENFORCEMENT

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CHAPTER 323. DISCIPLINARY ACTION AND ENFORCEMENT

Subchapter A. General Provisions

Sec. 323.1. Investigation and Disciplinary Action.

(a) The Commission may investigate and institute disciplinary action regarding any alleged violations of the Act, a rule or order of the Commission, or an order of a court relating to racing or pari-mutuel wagering.

(b) For purposes of this section, a person who aids or abets or conspires with another to commit a violation is considered to have committed the violation. (Added eff. 3/28/89, (a) amended eff. 1/1/02)

Sec. 323.2. Complaints.

(a) A person may report an alleged violation by filing a written complaint with the Commission on a form prescribed by the Commission.

(b) In receiving complaints under this section, the Commission may not require the complainant to:

(1) reveal the complainant's name; or

(2) pay a fee for filing the complaint.

(c) The form must:

(1) contain the name and address, if known, of the person alleged to have committed the violation; and

(2) specify the provision of the Act or rule number alleged to have been violated, if known, and all facts and circumstances relating to the alleged violation;

(d) An association shall include in the official program a statement that describes the procedure for filing a complaint with the Commission. The executive secretary shall approve the form of the statement. The statement must include the name, mailing address, e-mail address, facsimile, and telephone number of the Commission.

(e) An association shall prominently post signs in the racetrack facility that describe the procedure for filing a complaint with the Commission. The executive secretary shall approve the form and location of the signs. (Added eff. 3/28/89; (c) amended eff. 1/2/92; (d), (e) added eff. 4/15/98; amended eff. 1/1/02)

Sec. 323.3. Notice to Violator.

(a) Not later than 30 days after the date a complaint is received under this subchapter, the executive secretary shall notify the alleged violator in writing of the complaint.

(b) Not later than 30 days after the date of receiving notice under this section, a person may file with the Commission a sworn, written response to the complaint. (Added eff. 3/28/89; (b) amended eff. 1/1/02)

Sec. 323.4. Action on Complaints.

(a) On receipt of a complaint under this subchapter, if the executive secretary determines that a violation has occurred, the executive secretary may, in the executive secretary's sole discretion:

(1) issue a preliminary report to the licensee assessing an administrative penalty;

(2) order a hearing be held to suspend or revoke the licensee's license based on the alleged violation; or

(3) take other action that the executive secretary considers necessary .

(b) A hearing held under this section shall be conducted in accordance with Chapter 307 of this title (relating to Practice and Procedure).

(c) At a hearing under this section, the person filing the complaint may be designated a nonparty participant, but may not be designated a party. (Added eff. 3/28/89; (a) amended eff. 1/2/92; (a) amended eff. 1/1/02)

Sec. 323.5. Complaints against Officials

(a) A complaint against an official other than a steward or racing judge must be made to the stewards or racing judges. The stewards or racing judges shall immediately forward the complaint to the Commission.

(b) A complaint against a steward or racing judge must be made to the executive secretary.

(c) A complaint under this section must be made not later than 72 hours after the action that is the subject of the complaint. (Added eff. 1/1/02)

Subchapter B. Civil Remedies

Sec. 323.101. Administrative Penalties.

(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 delegates to the executive secretary the authority to prepare and issue preliminary reports pursuant to the Act §15.03. (Added eff. 3/28/89; (b)-(f) added eff. 1/2/92; amended eff. 1/1/02)

Subchapter C. Criminal Enforcement

Sec. 323.201. Reporting of Criminal Activity and Convictions.

(a) A licensee, a Commission employee, or an applicant for a license from the Commission shall report any conviction of a felony or misdemeanor, other than a misdemeanor under Vernon's Texas Codes Annotated, Transportation Code, Title 7, Vehicles and Traffic, or a similar misdemeanor traffic offense.

(b) A licensee, a Commission employee, or an applicant for a license from the Commission shall promptly report to the Commission any criminal activity observed relating to racing or pari-mutuel wagering. (Added eff. 3/28/89; amended eff. 1/1/02; (a) amended eff. 6/1/02)

Sec. 323.202. Notice to District Attorneys.

On a finding by the Commission that a person has engaged in criminal conduct or committed a criminal offense relating to racing or pari-mutuel wagering, the executive secretary may notify the appropriate district attorney or county attorney. (Added eff. 3/28/89; amended eff. 3/13/02)

Sec. 323.203. Department of Public Safety Reports.

On receipt and review of a report by the Department of Public Safety regarding criminal activity related to racing or pari-mutuel wagering, the Commission shall initiate appropriate disciplinary or legal proceedings. (Added eff. 3/28/89; amended eff. 3/13/02)

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