



TEXAS RACING COMMISSION

**P. O. Box 12080
Austin, TX 78711-2080
(512) 833-6699
Fax (512) 833-6907**

Texas Racing Commission
Wednesday, June 8, 2022
10:30 a.m.
John H. Reagan Building, Room 120
1400 Congress Avenue
Austin, Texas 78701

AGENDA

I. CALL TO ORDER

Roll Call

II. PUBLIC COMMENT

III. STAFF REPORTS

A. Executive Director Report

IV. STAFF ACTIONS

A. Presentation: Agency Resource Considerations for 2023-2027 Legislative Appropriations Request.

V. RACETRACK PROCEEDINGS

A. The following entities request Commission approval of the following changes to their officers, effective May 1, 2022:

1. Sam Houston Race Park, LLC to appoint Dwight Berube as Vice President and General Manager (no other individuals will hold an officer position)
2. Valley Race Park, LLC to appoint Dwight Berube as Vice President and General Manager (no other individuals will hold an officer position)
3. Hill Lane, LLC to appoint Dwight Berube as Vice President and General Manager (no other individuals will hold an officer position)

B. To also acknowledge changes to the officers, directors, or managers of a concession or management company effective March 17, 2021:

1. VGB Operations, LLC to appoint Dwight Berube as sole Manager
2. VGB Management, LLC to appoint Dwight Berube as sole Manager
3. VG Beverage, Inc. (holds MB and BG permits at Valley Race Park) to appoint Christopher M. McErlean as sole Director and Secretary and to appoint Dwight Berube as President. Please note that both Mr. Berube and Mr. McErlean already hold current Association Officer/Director Licenses from the Texas Racing Commission.

VI. PROCEEDINGS ON RULES

A. Discussion and possible action to adopt amendments to the following rules proposed in the April 29, 2022, issue of the Texas Register:

1. 16 TAC §309.13, Subchapter A, Division 1, Supplemental Fee
2. 16 TAC §303.42, Subchapter B, Approval of Charity Race Days
3. 16 TAC §301.1(74), Definition of Specimen
4. 16 TAC §319.3, Subchapter A, Medication Restricted
5. 16 TAC §319.301, Subchapter D, Division 1, Testing Authorized

B. Discussion and possible action on the following rule review matters:

1. Opening of rules reviews of Chapter 301, Definitions, Chapter 303, General Provisions.

VII. HORSERACING AND INTEGRITY AND SAFETY ACT (HISA).

- A. Presentation from the Horseracing Integrity and Safety Authority, Chief Executive Officer, Ms. Lisa Lazarus and/or Lead Counsel, Mr. John Roach

VIII. EXECUTIVE SESSION (AS NEEDED)

The following items may be discussed and considered in executive session or open meeting, with any action taken in the open meeting:

- A. Under Texas Government Code §551.071(1), the Commission may enter an executive session to seek the advice of its attorney regarding pending or contemplated litigation, or regarding a settlement offer.
- B. Under Texas Government Code §551.071(2), the Commission may enter an executive session to discuss all matters identified in this agenda where the Commission seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas. This may include, but is not limited to, legal advice regarding the

Open Meetings Act, the Administrative Procedures Act, and the Texas Racing Act.

- C. Under Texas Government Code § 551.074(a)(1), the Commission may enter an executive session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.
- D. Under Texas Occupations Code §2025.005, the Commission may enter an executive session to review security plans and management, concession, and totalisator contracts.

IX. NEXT COMMISSION MEETING

Wednesday, August 24, 2022, 10:30 a.m.

X. ADJOURN



TEXAS RACING COMMISSION
AGENCY STRATEGIC PLAN
FISCAL YEARS 2023-2027
Effective Date: June 1, 2022

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TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

June 1, 2022

Office of the Governor
Office of the Lieutenant Governor
Office of the Speaker of the House of Representatives
Legislative Budget Board

Re: *Texas Racing Commission Agency Strategic Plan, Fiscal Years 2023-2027*

Ladies and Gentlemen:

Last June, Governor Greg Abbott named me Chairman of the Texas Racing Commission. I immediately went to work with my fellow Commissioners to initiate transformational agency change, from the way we interact with our regulated parties to how we operate with the public and with those otherwise interested in our activities. From the moment of my appointment as Chairman, we had the immediate task of implementing *Senate Bill 713 (87R)*, a Sunset bill continuing this agency through 2027 and requiring us to replace senior executives.

Last fall, as a Commission, we were fortunate to find Amy F. Cook and welcome her as our new Executive Director. A retired U.S. Army Brigadier General, Amy served in significant leadership roles on active duty and with the Texas Army National Guard. She has led major organizations through dramatic change and has put her tremendous talents to work redirecting and rebuilding our agency to the benefit of all interested parties. All Texans can be proud to know Amy remains on duty in support of the Lone Star State.

Today, we have the opportunity to strengthen our relationships with the Racing industry for the betterment of Texas Racing and work with our state leaders to modernize the *Texas Racing Act* and the *Texas Rules of Racing*. Our success will ensure the vibrancy of animal racing sports for Texans and tourists to our state during the next five years and beyond. Excellence starts here.

The enclosed *Texas Racing Commission Agency Strategic Plan, Fiscal Years 2023-2027* is a vision of that modernization.

We acknowledge the critical feedback provided prior to the last legislative session by the Sunset Advisory Commission to provide a roadmap for achieving outcomes we know Texans expect of an efficient and effective regulatory and enforcement body and are the centerpiece triggering some of the reforms reflected in this Plan.

I am proud to serve alongside you to make this vision a reality.

Sincerely,

Robert C. Pate
Chairman

cc: Texas Racing Commission Commissioners and Agency Staff
Legislative Reference Library
Texas State Library
Texas State Auditor

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PRESENTED

BY

TEXAS RACING COMMISSION

Commission Member	Term Expires	Hometown
Robert C. Pate, Chair	02/01/2023	Corpus Christi
Connie McNabb, DVM, Vice-Chair	02/01/2027	Montgomery
Margaret Martin	02/01/2021	Boerne
Arvel "A.J." Waight	02/01/2027	Willow City
Michael "Mike" Moore	02/01/2023	Ft. Worth
Rebecca Contreras	02/01/2025	Hutto
Ex-Officio Members		Hometown
Sid Miller, Commissioner Texas Department of Agriculture		Stephenville
Steven P. Mach, Chair Texas Public Safety Commission		Houston

DATE OF SUBMISSION: 1 JUNE 2022

SIGNED: 
Amy F. Cook
Executive Director

APPROVED: 
Robert C. Pate
Chair

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TABLE OF CONTENTS

I. INTRODUCTION	9
II. AGENCY MISSION	11
III. VALUES	13
PRINCIPLES OF SERVICE	13
IV. HISTORICAL: INDUSTRY AND AGENCY PERSPECTIVE	15
LEGISLATIVE INTENT AND PARI-MUTUEL WAGERING.....	15
COMPETITIVE RACING IN TEXAS.....	16
BRUSH AND BUSH TRACKS.....	17
SUNSET ADVISORY COMMISSION REVIEW	18
V. HORSERACING INTEGRITY AND SAFETY ACT OF 2020.....	21
VI. STATUTORY CONSIDERATIONS & STRATEGIC OPPORTUNITIES.....	25
CHALLENGES	25
OPPORTUNITIES	25
VII. STRATEGIC INITIATIVES	27
TRANSFORMATION	27
MODERNIZATION.....	27
VIII. OPERATIONAL GOALS.....	29
GOAL A: ENABLE	29
GOAL B: PROTECT	30
GOAL C: COMMUNICATE	31
GOAL D: PARTNER.....	32
IX. REDUNDANCIES AND IMPEDIMENTS	33
1. Agency Regulatory Structure.....	33
2. Agency Fiscal Structure	35
3. Agency Staffing Model (Based on Scheduled Live Racing Dates)	37
4. Equine Drug Research Council	38
5. <i>Texas Racing Act</i> , Chapter 2025, Texas Occupations Code, Chapter 53. Licensing.....	40
6. <i>Texas Racing Act</i> , Chapter 2033, Criminal and Administrative Penalties; Cease and Desist Orders; and Disciplinary Powers	41
SUPPLEMENTAL SCHEDULES.....	43
A. INTEGRATED BUDGET STRUCTURE & LIST OF MEASURE DEFINITIONS	43
B. HISTORICALLY UNDERUTILIZED BUSINESS PLAN	53
C. AGENCY WORKFORCE PLAN	55
D. REPORT ON CUSTOMER SERVICE	59

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I. INTRODUCTION

For over thirty years, the Texas Racing Commission, under its current enabling statute, has struggled to effectively fulfill its role as the primary regulatory body for racing animal sports in the State of Texas.

Racing animal sports and this agency are at an important crossroads in the United States and in Texas, and the future of this agency, depends upon transformational change in the way it is structured, funded and conducts operations on behalf of Texas stakeholders.

The need for this change is clearly defined and described in the cyclical Sunset Advisory Commission documents from 1994 to 2021.

The Texas Racing Commission licenses Texas, national and international participants in the sport of pari-mutuel greyhound and horse racing, while also protecting the safety of all licensees and the betting public.

The future is bright for the horse racing industry in Texas in the next five years, with the advent of the Horse Industry Escrow Account in 2019, and the industry growth recognized because of this important investment.

Although the sport of greyhound racing is still in the agency mission statement, there are no active tracks currently operating in the State of Texas, so this strategic plan acknowledges the mission requirements, while recognizing that the sport of greyhound racing has fallen out of favor across the United States.

Given the rich agricultural history of the state and the benefit of the sport of horse racing on the equine, agricultural and entertainment economies, Texas is positioned to become the premier state for horse racing with continued investment in the industry and the state agency that enables and regulates it.

Although there are challenges from the federal level as well as across the states that must be overcome to continue the growth of horse racing, our state has four active racetracks and the potential for doubling the number of racetrack active licenses between now and 2027.

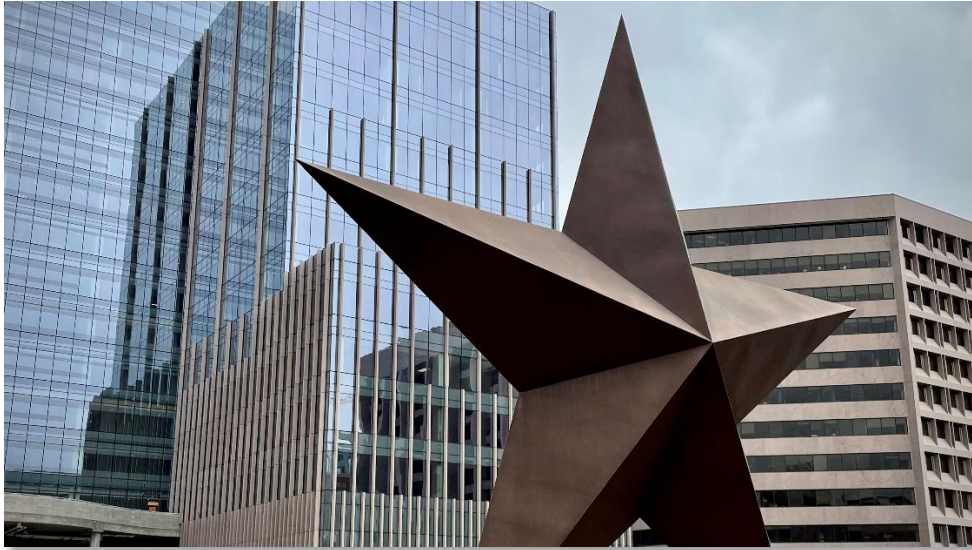
Connecting the agency and industry to research and educational partnerships through the State of Texas would result in a recognition of the benefits gained from an investment in this incredible sport.

Acknowledging the difficulties of the past, we intend to use those important lessons learned and the feedback of our industry partners, legislative and policy-making stakeholders, and the citizens of Texas to become the best state agency in this state and the most professional racing commission in America.

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II. AGENCY MISSION

The mission of the Texas Racing Commission is to protect the safety and integrity of the sport of pari-mutuel greyhound and horse racing in Texas, through the administration and enforcement of the *Texas Racing Act* (Subtitle A-1, Title 13, Texas Occupations Code).



VISION

Our goal is to be the best state agency in Texas and the most professional racing commission in America!

MOTTO

"Excellence Starts Here"

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III. VALUES

Safety ~ Integrity ~ Accountability



PRINCIPLES OF SERVICE

- Model the Code of Ethics for Public Servants.
- Conduct agency business with a focus on safety, integrity, and accountability.
- Communicate timely, politely, and honestly with every stakeholder.
- Treat every customer and stakeholder with respect and courtesy.
- Deal with underlying issues of the stakeholder or customer – listen and take time to understand their perspective.
- Always fairly and consistently apply federal/state statutes and agency policy.
- Promote harmony, unity, and teamwork within the Texas Racing Commission workforce.

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IV. HISTORICAL: INDUSTRY AND AGENCY PERSPECTIVE

The modern Texas Racing Commission (TXRC) dates to 1987, but the regulatory mandate can be traced to the Depression-era of the 1930s, when the Texas Legislature first legalized pari-mutuel betting in the state and created the first embodiment of the agency, which lasted until 1937.

“The original Texas Racing Commission was created in 1933 (House Bill 12, 43rd Texas Legislature, 1st Called Session) to create and enforce rules and regulations, restrictions, and conditions applying to all horse races and exhibitions of riding horses. The commission also authorized horse racing under the ‘certificate system’ or what is known today as pari-mutuel betting. The commission was composed of three members: the Texas Commissioner of Agriculture (an elected state official), the Tax Commissioner of the State of Texas (appointed by the governor), and a third member—designated as the chairman—appointed by the governor with the advice and consent of the state senate. This chairman must have been an owner and breeder of thoroughbred livestock for at least two years. The commission, being underfunded, received an emergency appropriation by the legislature in 1937 (House Bill 714, 45th Legislature, Regular Session). In 1937, the Senate passed legislation that repealed the legal status of horse racing and pari-mutuel betting (Senate Bill 1, 45th Legislature, 1st Called Session) effectively ending the Texas Racing Commission until it was reestablished in 1986 (Senate Bill 15, 69th Legislature, 2nd Called Session).”¹



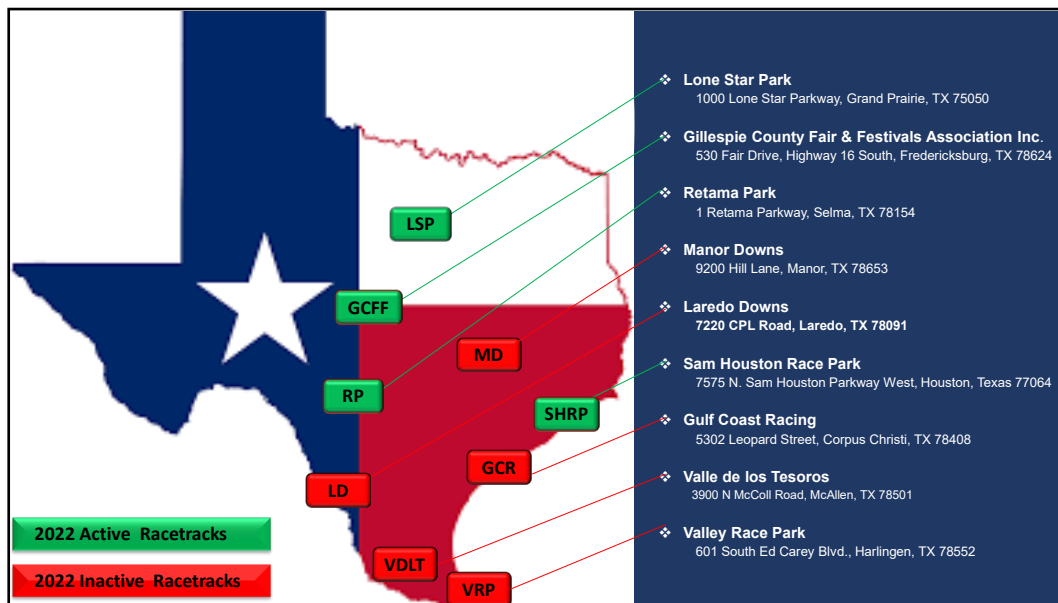
LEGISLATIVE INTENT AND PARI-MUTUEL WAGERING

The 1986 legislation re-establishing the TXRC gave the agency purview over the regulation and licensing of pari-mutuel wagering involving racehorses and greyhounds. Pari-mutuel was defined as meaning “a mutual wager,” and refers to a betting pool where those who bet on the winners of the first three places share the total amount of money wagered, minus a percentage for the management.² When passing the *Texas Racing Act*, the Legislature’s stated purpose was to “...encourage agriculture, the horse-breeding industry, the horse-training industry, the greyhound-breeding industry, tourism, and employment opportunities in this state related to horse racing and greyhound racing, and to provide for the strict regulation and control of pari-mutuel wagering in connection with that racing.”³

Today, the TXRC is composed of nine commissioners. Seven members, including a chair and vice chair, are appointed by the Governor with staggered terms. And two commissioners holding ex-officio memberships through their status as the commissioner of the Texas Department of Agriculture and chair of the Texas Public Safety Commission.

COMPETITIVE RACING IN TEXAS

At its peak, Texas has been home to ten licensed racetracks, accommodating live and simulcasted horse and greyhound racing. Today, the TXRC oversees nine track licenses across the state, with four tracks actively conducting horse race days during the year – Gillespie County Fair & Festivals in Fredericksburg; Lone Star Park in Grand Prairie; Retama Park in Selma, near San Antonio; and Sam Houston Race Park in Houston.



Greyhound races are simulcasted to Gulf Coast Racing in Corpus Christi from locations outside the State of Texas.

“Greyhounds were introduced to America in the 1800’s to help farmers control the jackrabbit population. It was not long before competitions of greyhound racing were conducted by the surrounding farmers. This proved to be both an exciting event for the local population but also proved that the greyhound loved the chase and excitement of racing.”⁴

Professional greyhound racing began in California, in the 1920s, and spread across the United States and into parts of Europe and Mexico. “In 1931, Florida became the first state to approve wagering on greyhound races. The sport often intersected with popular culture there, as movie stars, baseball players and other celebrities frequented Florida tracks.”⁵

Since the 1990s, greyhound racing has been in steady decline. By the end of 2022, West Virginia is expected to be the only state to hold regularly scheduled live races. While there is significant controversy related to the sport, West Virginia legislators continue to support the industry.

“There are not many industries in our state that we control. We are getting close to being the only game in town when it comes to this industry (greyhound racing),” said then-West Virginia State Sen. Bill Ihlenfeld, who was nominated and confirmed to serve as U.S. Attorney for the Northern District of West Virginia in 2021. “Instead of kicking this

industry to the curb, we ought to embrace it. We ought to modernize it. We ought to make it even better and allow even more people to send money into West Virginia.”⁶

For more than 20 years, the Texas horse racing industry has been preserving the legacy of their sport through the Texas Horse Racing Hall of Fame.

The competitive racing of horses is one of mankind's most ancient sports, having its origins among the prehistoric nomadic tribesmen of Central Asia who first domesticated the horse about 4500 BC. For thousands of years horse racing flourished as the sport of kings and the nobility...Horse racing is the second most widely attended U.S. spectator sport, after baseball.

In Texas, the organized Anglo-Texan sport of horse racing developed just after the Texas Revolution. Expensive horses were imported, and a racing circuit formed along the Gulf Coast cities of Velasco, Houston, and Galveston and in the North and East Texas cities. In 1937, betting on horses was outlawed by the state legislature. Although racing tracks closed, the breeding of fine horses continued and, in 1987, after a 50-year absence, pari-mutuel wagering was once again legalized in Texas.⁷

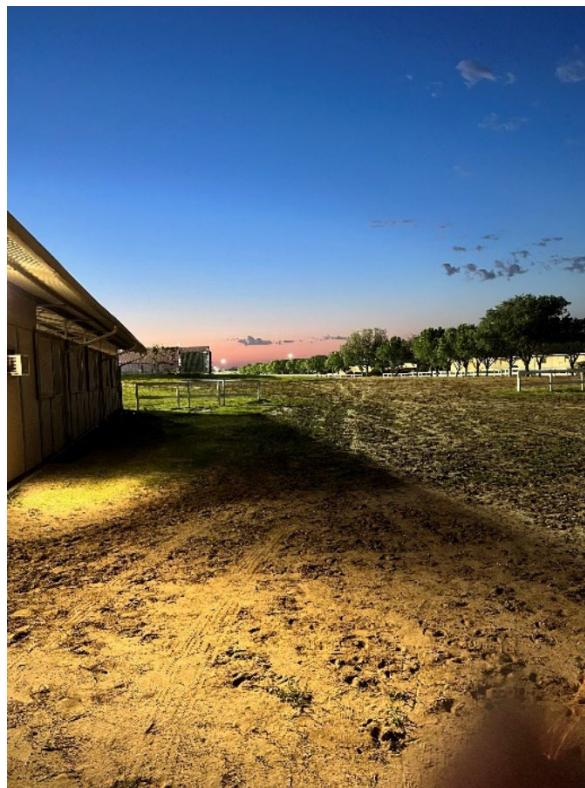
Today, there are emergent challenges for the agency and industry, particularly related to concerns with provisions of the federal *Horseracing Integrity and Safety Act of 2020* that was included in the omnibus *Consolidated Appropriations Act of 2021*.⁸ This situation has led to on-going litigation.⁹ Additionally, unlicensed racing activity remains a challenge to the industry and participant safety.

BRUSH AND BUSH TRACKS

Prior to the enactment of the *Texas Racing Act*, numerous well-known racetracks were already in existence in Texas. After the *Act* went into effect, the Commission sought to establish minimal standards of regulation for all tracks, which was deemed unconstitutional in the 1990 Office of the Texas Attorney General Opinion JM-1134, which limited TXRC regulation to tracks involving pari-mutuel wagering.¹⁰ The following year, the Legislature amended the *Act* to address the concerns raised by the opinion.

However, since that time, TXRC has not attempted to directly regulate these tracks.

In 2011, the Texas Racing Commission conducted a study on the state of horse and greyhound racing in Texas in response to 81st Legislature’s House Concurrent Resolution 252 and the subsequent veto proclamation by then-Governor Rick Perry¹¹.



The study included the following information related to unregulated tracks:

The proliferation of unregulated racing, particularly horse racing, remains a challenge to the Texas racing industry. A long standing tradition of “brush” or “bush” horse tracks exists across the state. There are perhaps as many as 25 to 50 of these tracks operating on any given weekend through the state. To a much smaller degree, greyhounds may also be participating in unregulated racing.¹²

While private racing in general is not illegal, there are numerous health, safety, and integrity risks to the legitimate racing industry, wagering public, and racing animals. In addition to illegal wagering, brush and bush tracks are suspected to be in violation of several aspects of the *Act* as well as harboring human trafficking, promoting unlicensed alcohol dispensation, perpetrated forms of tax evasion, and turning a blind or knowing eye to illicit drugs and shocking devices that can injure or maim racing horses and undermine the sport’s integrity.

Specifically, races conducted at brush and bush tracks raise questions about the integrity of track programs. A winning horse at an unregulated track gains a competitive edge not reflected in the official program when the same horse later races at a licensed track. This type of insider information creates a serious handicapping disadvantage to unknowing patrons who rely on a track program to guide their wagering strategies.

Additionally, horses racing at brush and bush tracks are more likely to be injected with prohibited and dangerous substances, subjected to other mistreatment, unscrupulous practices, and may be more susceptible to infectious diseases that can then be spread at other tracks. Responding to this challenge is multi-jurisdictional in nature, with overlapping authority from numerous entities, including the TXRC, the Texas Department of Public Safety, the Texas Animal Health Commission, the Texas Comptroller of Public Accounts, as well as local law enforcement and others.

SUNSET ADVISORY COMMISSION REVIEW

In October 1994, the first Sunset Advisory Commission staff report was issued about the Texas Racing Commission.

“Regulating pari-mutuel racing is substantially different from regulating charity bingo or operating a state lottery,” according to the report.¹³ “The Racing Commission must deal with unique issues including animal health, drug testing, occupational licensing, criminal law enforcement, agribusiness, and oversight of racetrack construction and safety.”

Throughout the years, Sunset has provided multiple TXRC reviews. Following a 2020 agency review, Sunset staff recommended TXRC be dissolved and having its regulatory functions absorbed and improved as part of the Texas Department of Agriculture.

While acknowledging the need for continued regulation of pari-mutuel racing in the state, the Sunset staff determined the TXRC could not “efficiently or effectively regulate” the animal racing industry in the state. Specific concerns were raised related to the agency’s funding and regulatory structure, poor communication between commission staff and licensees, as well as perceived weakened regulation due to staff shortages.

Further, the Sunset staff asserted, “The commission’s small staff struggles to serve as an effective regulator while managing administrative tasks.”

In 2021, numerous pieces of legislation related to TXRC operations were considered during the Regular Session of the 87th Texas Legislature. Following the session, the *Sunset Staff Report with Final Results 2020-2021 (Texas Racing Commission)* was published with the following summary:

Although the Sunset Commission determined the Texas Racing Commission can no longer efficiently carry out its important mission of ensuring the safety, integrity, and fairness of Texas pari-mutuel racing and wagering, the 87th Legislature did not pass Senate Bill 704, which would have transferred the regulation of pari-mutuel racing to the Texas Department of Licensing and Regulation. Instead, the Legislature passed Senate Bill 713, which continues the commission until 2027. Senate Bill 713 also requires the commission to replace certain employees by December 1, 2021. Although the statutory recommendations for the commission did not pass, the Sunset Commission adopted several nonstatutory management actions related to licensing and enforcement the commission should implement over the next two years.¹⁴

The replacement of the certain employees outlined in Senate Bill 713 was completed before Dec. 1, 2021. In November 2021, the TXRC appointed a new executive director, Amy F. Cook, who has conducted a review of agency operations and opened channels of communication for all interested stakeholders impacted through animal racing in Texas.



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V. HORSERACING INTEGRITY AND SAFETY ACT OF 2020

The *Interstate Horse Racing Act of 1978*¹⁵ (IHRA) is one of the only U.S. gambling laws that has governed nationwide horse race betting, off-track betting venues (OTBs), and domestic online horse betting in America until now.

In December 2020, Congress included the text of the *Horseracing Integrity and Safety Act of 2020*¹⁶ (HISA) into a comprehensive spending bill. While passed in the House, the stand-alone legislation was not publicly debated by any U.S. Senate committee. The new law is intended to address the safety and welfare of racehorses and the integrity of the sport itself through better anti-doping measures and racetrack safety standards. However, Congress delegated authority to implement the statute to the Federal Trade Commission and created a private, self-regulated entity called the Horseracing Integrity and Safety Authority (hereinafter the Authority) to administer the statute.

As the sole government agency charged with the protection of the horses, licensed participants, and the wagering public that engage in and attend the sport in Texas, the agency is in full agreement that increased uniformity of safety standards among the states is an appropriate direction for the future of horse racing.

TXRC acknowledges the federal statute will lack any appearance of uniformity on its effective date. HISA cannot fulfill its mandate to protect all racing participants, cannot implement the anti-doping directive for covered horses and cannot provide experienced personnel necessary to conduct the sport of live racing. Given the Authority's inability to perform its federal mandates, the TXRC is taking this opportunity to specify the safety measures already in place within state jurisdiction and provide an assessment of resources required to ensure the integrity of the sport.

Because protecting the health and welfare of horse racing participants undoubtedly requires additional resources, the agency proposes that the Texas Legislature provide sufficient appropriations to resource TXRC at the level required to address projected requirements to implement Sunset recommendations as well as a dual-purpose federal statute.

To account for these resources, *Texas Racing Act* requires the Commission to license and regulate all aspects of horse racing and greyhound racing in the State of Texas regardless of whether that racing involves pari-mutuel wagering. In adopting its rules and in the supervision and conduct of racing, the Commission must consider the effect of a proposed action on the state's agricultural, horse breeding, horse training, greyhound breeding, and greyhound training industry.¹⁷ The duties of the Commission and the agency under the statute include:

1. Regulation and supervision of each race meeting in this state that involves wagering on the result of horse racing or greyhound racing.
2. Regulation and supervision of each person and thing relating to the operation of a race meeting.

3. Adoption of rules regarding the issuance of business and occupational licenses and takes any other necessary action relating exclusively to horse racing or greyhound racing.
4. Adoption of rules regarding licenses for training facilities to secure past performances and workouts to (a) protect the health, safety, and welfare of race animals and participants in racing, (b) safeguard the interest of the public; and (c) promote the orderly conduct of racing in this state.
5. Maintenance of the right of entry for any part of a racetrack or any other place of business of a racetrack association at any time to enforce and administer the *Texas Racing Act* and *Texas Rules of Racing*.
6. Taking testimony, requiring attendance of witnesses by subpoena, serving subpoenas, and requiring the production of books, records, papers, correspondence, and other documents that the Commission considers advisable.
7. Adopting criteria to recognize an organization to represent members of a segment of the racing industry to include owners, breeders, trainers, kennel operators, or other persons involved in the racing industry in any interaction between the members of the organization and a racetrack association or the Commission.
8. Depositing money collected in the state treasury to the credit of a special fund known as the Texas Racing Commission fund to be appropriated only for the administration and enforcement of the *Texas Racing Act* and *Texas Rules of Racing*.
9. Administering the Accredited Texas Bred (ATB) Incentive Fund and the Horse Industry Escrow (HIEA) trust funds.
10. Obtaining criminal histories on application of licensees; exchanging and maintaining pertinent intelligence data with other states and agencies.
11. Supporting members of the racing industry who are attempting to develop or implement adult, youth, or continuing education programs that use distance learning.
12. Approving all racetrack officials that Texas racetracks appoint.
13. Specifying the powers and duties of each race meeting official to include the power of stewards and judges to impose penalties for unethical practices or violations of racing rules.
14. Handling all appeals of stewards’/judges’ rulings other than disqualification for a foul in a race or on a finding of act regarding the running of a race.

15. Imposing penalties on racetrack associations if the association does not pay the state's share of a pari-mutuel pool or file a report related to the payment of that share on or before the time the payment or report is due.
16. Adopting rules relating to fitness and financial responsibility of licensee applicants.
17. Annually prescribing reasonable license fees for each category of license reasonable and necessary to cover regulatory requirements to oversee the licensing and operation of live and simulcast racing at racetracks under the *Texas Racing Act* and *Texas Rules of Racing*.
18. Issuing the prescribed form and fee for a racetrack license to conduct wagering on a horse or greyhound race meet in the state.
19. Inspecting and reviewing for each management, concession, and totalisator contract associated with a proposed racetrack license at a proposed location.
20. Conducting complete personal, financial, and business background investigations of the racetrack applicant and any person who owns an interest in or exercises control over an applicant racetrack including the partners, stockholders, concessionaires, management personnel, management firms, and creditors.
21. Conducting annual reviews of inactive racetrack licenses for renewal.
22. Denying, revoking, and suspending racetrack and occupational licenses.
23. Conducting summary suspension hearings for racetrack and occupational licensees.
24. Conducting criminal and administrative investigations related to violations of the *Texas Penal Code*, *Texas Racing Act*, and *Texas Rules of Racing*.

The unintended consequence of the federal legislation, with its pre-emptive effect, is there can be no pari-mutuel wagering in the State of Texas for any race HISA regulates.

Therefore, Texas has asked the Authority to rethink its approach to regulation of the sport by partnering with state racing commissions to create uniform national standards.¹⁸ Partnership models that are effective, are not one-way conversations where the federal government proposes a rule and the state agencies and industry stakeholders can send a comment. Currently, there is no meaningful dialogue to achieve a common goal we should all have: protecting the animals and people involved in the sport of horseracing. Instead of treating state regulatory agencies like bill collectors for the Authority, the FTC should partner with states and their congressional delegations to return to Congress with the goal of replacing the Authority with a federal cooperative agreement program.

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VI. STATUTORY CONSIDERATIONS & STRATEGIC OPPORTUNITIES

CHALLENGES

- PUBLIC TRUST
- FUNDING STRUCTURE
- *HORSERACING INTEGRITY AND SAFETY ACT OF 2020*

OPPORTUNITIES

- PARTNERSHIPS
- INDUSTRY GROWTH SUPPORTS THE TEXAS ECONOMY
- MODERNIZATION
 - *Texas Racing Act*
 - *Texas Rules of Racing*
 - Infrastructure
 - Staffing Model




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VII. STRATEGIC INITIATIVES

TRANSFORMATION

- REGULATORY STRUCTURE: SELF-FUNDED TO GENERAL REVENUE
- TRUST FUND ADMINISTRATION: TEXAS BRED INCENTIVE
- TRUST FUND ADMINISTRATION: HORSE INDUSTRY ESCROW ACCOUNT
- EDUCATE TEXANS ON AGENCY MISSION AND RETURN ON INVESTMENT
- EMPLOY FISCAL STEWARDSHIP PRACTICES



“Agencies must take a strategic approach to the adoption of digital technologies in order to fundamentally change how Texas government delivers value to Texans.”

~ Texas Department of Information Resources, 2022-2026 State Strategic Plan¹⁹



MODERNIZATION

- RECRUIT AND RETAIN A PROFESSIONAL, DIVERSE, MULTI-LINGUAL WORKFORCE
- FOCUS ON ANIMAL AND SAFETY HEALTH AND CARE/AFTER CARE
- EXPLOIT INVESTIGATIVE AND LICENSING TECHNOLOGY TO STRENGTHEN AGENCY LICENSING PRACTICES
- PROVIDE ACCESS TO LICENSING SERVICES THROUGH MODERNIZED COMMUNICATION SYSTEMS
- EXPAND COMMUNICATION CHANNELS THROUGH PARTNERSHIPS
- EMPLOY FISCAL STEWARDSHIP PRACTICES

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VIII. OPERATIONAL GOALS

GOAL A: ENABLE

Enable Racing Industry Growth through Effective Licensing and Oversight Programs

Action Plan 1	Strengthen <i>Texas Racing Act</i> and the <i>Texas Rules of Racing</i> to Address Federal Mandates Impacting Texas Laws
<p style="text-align: center;">IMPACT ON STATEWIDE OBJECTIVES</p> <ol style="list-style-type: none">1. Accountability. TXRC will increase accountability of public funds through updates to our enabling statute and fiscal structure.2. Efficiency. Updating our statutes and rules will enable modernization of agency business practices.3. Effectiveness. Increase understanding and provide clarity through a framework of laws and policy guiding the TXRC mission and stakeholder engagement.4. Excellence in Customer Service. Consistent feedback requires timely updates to the <i>Act</i> and <i>Rules</i> to compete in a nationwide industry.5. Transparency. Transparent promulgation of agency rule revisions and regulations will more effectively communicate agency procedures, due process steps, appellate processes, and remedies.	
Action Plan 2	Modernize Licensing Programs to Align with Chapter 53, Texas Occupations Code
<ol style="list-style-type: none">1. Accountability. Strengthen background check and occupational licensing posture to deter ineligible applicants from participating in Texas sports.2. Efficiency. Adopt technology solutions to provide continuous online access to licensing applications for local, national, and international applicants.3. Effectiveness. Increase pathways for licensing through greater access and understanding of licensing programs, processes, and fee structures.4. Excellence in Customer Service. Provide positive, accurate, timely responses to all customer inquiries and complaints.5. Transparency. Seek opportunities to increase online and face-to-face customer engagement to educate applicants and enable industry participation.	

GOAL B: PROTECT

Deter, Investigate and Adjudicate Violations of the *Texas Racing Act*

Action Plan 1	Deter, Investigate and Adjudicate Violations of the Act
<p style="text-align: center;">IMPACT ON STATEWIDE OBJECTIVES</p> <ol style="list-style-type: none">1. Accountability. Increase the security and integrity of wagering activities for live and simulcast races authorized under the <i>Texas Racing Act</i> (hereafter the “Act”).2. Efficiency. Timely review and issue, deny, suspend, or revoke licenses issued under the Act; and reduce or eliminate paperwork, language, and increase accessibility to more effectively investigate and adjudicate suspected violations.3. Effectiveness. Proactively conduct pre-licensing background checks and occupational licensing requirements.4. Excellence in Customer Service. Provide diverse methods (e.g., face to face, online, telephone access) to licensing services.5. Transparency. Enhance timely publication of agency procedures, rulings, and proposed rule-making changes.	
Action Plan 2	Effectively Address Equine/Licensee Health & Safety
<ol style="list-style-type: none">1. Accountability. Conduct pre-race exams and training day observations on equine, canine, and human participants through health records and physical screening activities.2. Efficiency. Adopt technology solutions to provide more effective diagnostic results for equine, canine, and licensed human conditions to prevent injuries during training or live racing events.3. Effectiveness. Reduce scratches of entered equine, canine, and licensed humans through proactive recordkeeping and review as well as pre-race observation.4. Excellence in Customer Service. Provide positive, accurate, timely responses to all customer inquiries and complaints.5. Transparency. Seek opportunities to educate licensed participants to the reduce the number of injuries and illnesses for equine, canine, and licensed humans.	

GOAL C: COMMUNICATE

Modernize Internal and External Agency Communication Platforms and Practices

Action Plan 1	Modernize Agency Technology Platforms to Enhance Cybersecurity and Transparency
<p style="text-align: center;">IMPACT ON STATEWIDE OBJECTIVES</p> <ol style="list-style-type: none">1. Accountability. Modernizing agency information technology allows for a secure and effective means for the agency to conduct enforcement operations.2. Efficiency. The agency will transform from outdated, resource-constraining information technology services to a partnership with the Texas Department of Information Resources to create greater proficiency through the adoption of best practices, and increased cybersecurity for all agency internal and external communications.3. Effectiveness. The agency will adopt technology and business practices that are diverse, secure, and increase access to licensing for all customers.4. Excellence in Customer Service. Leveraging current and emerging technologies strengthens the agency's ability to ensure that the integrity of pari-mutuel wagering, as well as access to agency services, is available on numerous online platforms.5. Transparency. Access to agency services and procedures will facilitate a growth in agency programs, effective customer feedback mechanisms, and accountability for all Texas taxpayers.	
Action Plan 2	Increase Accessibility and Modernization of the Licensing Process
<ol style="list-style-type: none">1. Accountability. The agency should meet the requirements under the Texas Government Code to provide services to all eligible applicants and will be enabled to do so by modernizing the licensing process.2. Efficiency. Providing accessible, multi-lingual application and testing materials, and translator services, will open doors to a more diverse applicant pool.3. Effectiveness. The agency will increase its effectiveness to serve all Texas, and national and international applicants through implementation of accessibility, accommodation, and language translation initiatives.4. Excellence in Customer Service. All customers should feel welcomed and included because the agency is prepared to meet their needs.5. Transparency. Updating our business practices and conducting more outreach programs will support under-served populations having access to agency services.	

GOAL D: PARTNER

Increase Agency Effectiveness through Stakeholder and Government Partnerships

Action Plan 1	Strengthen Inter-agency Partnerships to Gain Efficiencies and Reduce Resource-Constraining Practices
<p style="text-align: center;"><i>IMPACT ON STATEWIDE OBJECTIVES</i></p> <ol style="list-style-type: none">1. Accountability. Invest in effective partnerships with fellow agencies and industry partners to perform the agency’s mission in a more efficient and effective manner while avoiding resource-constraining business models.2. Efficiency. Seek opportunities to protect resources in the areas of facilities, information technology, and professional development.3. Effectiveness. Increase agency professional staff growth through developmental partnerships and exchange programs.4. Excellence in Customer Service. Model customer service best practices throughout Texas.5. Transparency. Recognize and report on value-added internal initiatives and interagency partnerships.	
Action Plan 2	Engage in Educational and Research Initiatives
<ol style="list-style-type: none">1. Accountability. Employ best practices in research and education to support safety programs for racing participants.2. Efficiency. Recognize return on investment by using data gathered to prevent future injuries and promote equine, canine, and licensed human health and aftercare programs.3. Effectiveness. Increase Texas citizenry understanding of the agency mission and contribution to the equine industry and Texas economy.4. Excellence in Customer Service. Provide transparent data and access to agency operations and initiatives.5. Transparency. Invite educational, government, and industry groups to participate in agency initiatives.	

IX. REDUNDANCIES AND IMPEDIMENTS

1. Agency Regulatory Structure	
<p>SERVICE STATUTE, RULE, OR REGULATION (WITH CITATION)</p>	<p><i>Texas Racing Act</i>, §2023.053, Texas Racing Commission Fund; Additional Appropriations.</p> <p>(a) The commission shall deposit the money it collects under this subtitle in the state treasury to the credit of a special fund to be known as the Texas Racing Commission fund.</p> <p>(b) The Texas Racing Commission fund may be appropriated only for the administration and enforcement of this subtitle.</p> <p>(c) Any unappropriated money exceeding \$750,000 that remains in the fund at the close of each state fiscal biennium shall be transferred to the general revenue fund and may be appropriated for any purpose.</p> <p>(d) The legislature may appropriate money from the general revenue fund for the administration and enforcement of this subtitle.</p> <p>(e) Any amount of general revenue appropriated for the administration and enforcement of this subtitle 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 the first anniversary of the date the general revenue funds are appropriated, with 6.75 percent interest. All payments made under this subsection are first attributable to interest accumulated under this subsection.</p>
<p>DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN AN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS</p>	<p>EXCERPTS From 2021 Sunset Commission Staff Report²⁰:</p> <p>“Unsuccessful funding structure. When the Legislature created the commission in 1986, the Legislative Budget Board estimated racing would contribute about \$110 million annually to the General Revenue Fund through taxes on racetracks and revenue from wagers. However, racing has not become the economic driver once envisioned. Over the last five fiscal years, the contribution to general revenue from racing industry regulation has steadily decreased, from \$3 million in fiscal year 2015 to \$2.7 million in fiscal year 2019, as fewer patrons attended races. As the industry has declined, so has the funding for the commission to effectively regulate it. In 2019, the Legislature redirected tax revenue from simulcast wagers to fund the commission’s operations. However, the lack of anticipated simulcast tax revenue in 2020 due to the COVID-19 pandemic significantly reduced the commission’s revenue in March and almost forced the commission to close in July, jeopardizing the continued operation and regulation of the Texas racing industry.</p>

	<p>“Untenable regulatory structure. A regulatory agency should be structured in a way that protects the public, but in some cases, the structure can create conflicts between the regulated industry and the public interest. The commission is dependent on licensing fees, primarily from racetracks, to fund its operations. Simultaneously, the racing industry is regulated by the commission, which it funds. This creates a constant push and pull between the commission as the regulator and racetracks as the licensees, and the level of regulation can become contingent on the amount of funding the licensees are willing and able to pay. This places the commission in an untenable position where firm regulatory enforcement could undermine the very funding it needs to provide effective regulation. Meanwhile, the commission’s small staff struggles to conduct inspections, maintain health and safety at racetracks for participants and animals, and ensure the security of wagering, while also managing the typical administrative work of a state agency.”</p>
<p>PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION</p>	<p>TXRC is required, by statute, to collect revenue to cover operational requirements. When there are economic or other (pandemic) factors that affect the agency's ability to collect revenue, TXRC as the regulatory agency, directly bills the licensees it regulates. Over time, this direct fee relationship has drawn sharp criticism as the <i>Rules</i> have been modified to allow the agency to bill its licensees without being accountable for the revenue required and spent. Since TXRC is required a minimum level of sustainment as a state agency, a stable, transparent method of finance would be more appropriate to enforce the <i>Texas Racing Act</i>, while also being accountable to the citizens of Texas.</p>
<p>DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE</p>	<p>In the interest of transparency and public accountability, the agency should be able to demonstrate the true resources required to sustain its’ requirements to license and regulate activities under the <i>Texas Racing Act</i> and have legislative concurrence with the appropriations required to successfully achieve the agency mission.</p>

2. Agency Fiscal Structure

<p align="center">SERVICE STATUTE, RULE, OR REGULATION (WITH CITATION)</p>	<p><i>Texas Racing Act</i>, §2023.053, Texas Racing Commission Fund; Additional Appropriations.</p> <p>(a) The commission shall deposit the money it collects under this subtitle in the state treasury to the credit of a special fund to be known as the Texas Racing Commission fund.</p> <p>(b) The Texas Racing Commission fund may be appropriated only for the administration and enforcement of this subtitle.</p> <p>(c) Any unappropriated money exceeding \$750,000 that remains in the fund at the close of each state fiscal biennium shall be transferred to the general revenue fund and may be appropriated for any purpose.</p> <p>(d) The legislature may appropriate money from the general revenue fund for the administration and enforcement of this subtitle.</p> <p>(e) Any amount of general revenue appropriated for the administration and enforcement of this subtitle more than the cumulative amount deposited in the Texas Racing Commission fund shall be reimbursed from the Texas Racing Commission fund not later than the first anniversary of the date the general revenue funds are appropriated, with 6.75 percent interest. All payments made under this subsection are first attributable to interest accumulated under this subsection.</p>
<p align="center">DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN AN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS</p>	<p>EXCERPTS From 2021 Sunset Commission Staff Report²¹:</p> <p>"Unsuccessful funding structure. When the Legislature created the commission in 1986, the Legislative Budget Board estimated racing would contribute about \$110 million annually to the General Revenue Fund through taxes on racetracks and revenue from wagers. However, racing has not become the economic driver once envisioned. Over the last five fiscal years, the contribution to general revenue from racing industry regulation has steadily decreased, from \$3 million in fiscal year 2015 to \$2.7 million in fiscal year 2019, as fewer patrons attended races. As the industry has declined, so has the funding for the commission to effectively regulate it. In 2019, the Legislature redirected tax revenue from simulcast wagers to fund the commission’s operations. However, the lack of anticipated simulcast tax revenue in 2020 due to the COVID-19 pandemic significantly reduced the commission’s revenue in March and almost forced the commission to close in July, jeopardizing the continued operation and regulation of the Texas racing industry.</p> <p>“Untenable regulatory structure. A regulatory agency should be structured in a way that protects the public, but in some cases, the structure can create conflicts between the regulated industry and the</p>

	<p>public interest. The commission is dependent on licensing fees, primarily from racetracks, to fund its operations. Simultaneously, the racing industry is regulated by the commission, which it funds. This creates a constant push and pull between the commission as the regulator and racetracks as the licensees, and the level of regulation can become contingent on the amount of funding the licensees are willing and able to pay. This places the commission in an untenable position where firm regulatory enforcement could undermine the very funding it needs to provide effective regulation. Meanwhile, the commission’s small staff struggles to conduct inspections, maintain health and safety at racetracks for participants and animals, and ensure the security of wagering, while also managing the typical administrative work of a state agency.”</p>
<p>PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION</p>	<p>TXRC is statutorily required to raise its own revenue, which is deposited into Account No. 597. All the Texas Bred Incentive Program funding is passed through the agency from racetracks to eligible recipients. If General Revenue–Dedicated Funds revenue falls short of the appropriations, no other funding provides the difference. The agency also is subject to a requirement in the Eighty-sixth Legislature, <i>General Appropriations Act, 2020–21 Biennium</i>, Article VIII, Special Provisions, Section 2, which limits the agency’s appropriations to the amounts of actual revenue collected.</p> <p>The agency intends to request indirect administrative and personnel requirements be funded through General Revenue with reimbursable expenses remaining General Revenue-Dedicated Funds.</p>
<p>DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE</p>	<p>To effectively perform state agency functions, the agency needs to articulate its baseline operational requirements, request general appropriations, and track expenditures and efficiencies through the Texas budget process.</p>

3. Agency Staffing Model (Based on Scheduled Live Racing Dates)	
SERVICE STATUTE, RULE, OR REGULATION (WITH CITATION)	<i>General Appropriations Act for the 2022-2023 Biennium, 87th Texas Legislature, Regular Session, 2021, Senate Bill No. 1, May 25, 2021.</i>
DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN AN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS	The agency's current requirements-based estimate to support a day of live racing is \$3,501 for horse racing dates and \$2,564 for greyhound race dates based on the calculations provided in the agency rider language in the GAA. This projected amount falls short of capturing the actual expense now required in 2022 and beyond to recruit and retain a competitive, professional workforce. In addition, it does not account for the administrative workload of conducting pre-race exams, hearings, appellate procedures, policy changes, public meetings, employee development programs or leave. Also not included are the indirect requirements for state agency operations, which includes maintain facility space, ensuring transportation requirements are met, and information technology support.
PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION	Agency budget model needs to be comparable to sister state agencies in capturing annual, monthly, and recurring requirements, as well as anticipating market changes in the industry and economy.
DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE	As noted in the agency's strategic fiscal review and Sunset Commission report, the agency struggled to meet its requirements as a state enforcement agency charged with carrying out its statutory duties under the <i>Act</i> . The investment of a professionally trained staff, with the appropriate tools and technology will provide additional opportunities for industry and economic growth for Texas.

4. Equine Drug Research Council

<p>SERVICE STATUTE, RULE, OR REGULATION (WITH CITATION)</p>	<p><i>General Appropriations Act for the 2022-2023 Biennium, 87th Texas Legislature, Regular Session, 2021, Senate Bill No. 1, May 25, 2021, Equine Research Account. Included in the appropriations above are fees collected in each year of the biennium beginning September 1, 2021, pursuant to the <i>Texas Racing Act</i>, for the Equine Research Account in support of the Equine Research Program, Page III-244.</i></p>																																							
<p>DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN AN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS</p>	<p>The agency has provided Texas Equine Research Funds (Two Percent of Texas Bred funds from horses) to first support Equine Research and then to Texas AgriLife since 2010:</p> <table border="0"> <thead> <tr> <th>FY</th> <th>\$ Amt Paid</th> <th>Payable to</th> </tr> </thead> <tbody> <tr> <td>2010</td> <td>\$69,806.54</td> <td>Equine Research Account</td> </tr> <tr> <td>2011</td> <td>\$59,163.70</td> <td>Equine Research Account</td> </tr> <tr> <td>2012</td> <td>\$59,251.57</td> <td>Equine Research Account</td> </tr> <tr> <td>2013</td> <td>\$58,502.59</td> <td>Texas Agri-Life Research (Agency 556)</td> </tr> <tr> <td>2014</td> <td>\$59,984.96</td> <td>Texas Agri-Life Research (Agency 556)</td> </tr> <tr> <td>2015</td> <td>\$58,758.65</td> <td>Texas Agri-Life Research (Agency 556)</td> </tr> <tr> <td>2016</td> <td>\$58,200.27</td> <td>Texas Agri-Life Research (Agency 556)</td> </tr> <tr> <td>2017</td> <td>\$54,562.64</td> <td>Texas Agri-Life Research (Agency 556)</td> </tr> <tr> <td>2018</td> <td>\$55,160.79</td> <td>Texas Agri-Life Research (Agency 556)</td> </tr> <tr> <td>2019</td> <td>\$49,392.31</td> <td>Texas Agri-Life Research (Agency 556)</td> </tr> <tr> <td>2020</td> <td>\$35,105.33</td> <td>Texas Agri-Life Research (Agency 556)</td> </tr> <tr> <td>2021</td> <td>\$49,071.32</td> <td>Texas Agri-Life Research (Agency 556)</td> </tr> </tbody> </table> <p>Methodology: All funds are paid annually at the end of the fiscal year (September) for the previous fiscal year via an agency-to-agency transfer.</p> <ul style="list-style-type: none"> - 2010 funds included forfeited security bonds (Laredo Race Park; Laredo Downs; Valle de los Tesoros). - In 2012, the Equine Research Account Advisory Committee was discontinued by the 82nd Legislature, following the Sunset Commission's recommendation. <p>Also of note, according to the Sunset Final Report dated July 2011, since 2005, the Legislature has not appropriated Equine Research Account funds. As a result, Texas AgriLife Research provided agency funds to award equine research proposals.</p>	FY	\$ Amt Paid	Payable to	2010	\$69,806.54	Equine Research Account	2011	\$59,163.70	Equine Research Account	2012	\$59,251.57	Equine Research Account	2013	\$58,502.59	Texas Agri-Life Research (Agency 556)	2014	\$59,984.96	Texas Agri-Life Research (Agency 556)	2015	\$58,758.65	Texas Agri-Life Research (Agency 556)	2016	\$58,200.27	Texas Agri-Life Research (Agency 556)	2017	\$54,562.64	Texas Agri-Life Research (Agency 556)	2018	\$55,160.79	Texas Agri-Life Research (Agency 556)	2019	\$49,392.31	Texas Agri-Life Research (Agency 556)	2020	\$35,105.33	Texas Agri-Life Research (Agency 556)	2021	\$49,071.32	Texas Agri-Life Research (Agency 556)
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<p>PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION</p>	<p>The agency recommends reinstatement of the Equine Research Model, renamed "Equine Research Drug Council" to facilitate:</p> <ul style="list-style-type: none"> • Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL) modernization and sustainment of equipment and staff. • Funding the TXRC drug testing program. 																																							

	<ul style="list-style-type: none"> Funding research projects and educational opportunities to use racehorse exams and testing to prevent injuries and provide a bridge to aftercare programs for retired racehorses.
<p>DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE</p>	<p>Benefits of implementing this model is the investment in medical advances to protect Texas racing enforcement ability to conduct drug testing and exam as required to carry out the agency mission. In addition, TVMDL requires research projects to sustain its Racing Medication & Testing Consortium (RMTC).</p>

5. Texas Racing Act, Chapter 2025, Texas Occupations Code, Chapter 53. Licensing

<p>SERVICE STATUTE, RULE, OR REGULATION (WITH CITATION)</p>	<p>TEX. OCC. CODE, Chapter 53 General Provisions, relating to non-exempt state agency licensing and the consequences of criminal convictions has yet to be codified into the <i>Texas Racing Act</i>, Chapter 2025, and the <i>Texas Rules of Racing</i>, Chapter 311. TEX. OCC. CODE §53.003, outlines the intent of the Legislature to enhance opportunities for a person to obtain gainful employment after the person has been convicted of an offense and has discharged the sentence for the offense.</p>
<p>DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN AN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS</p>	<p>The <i>Texas Racing Act</i>, TEX. OCC. CODE §§2022.004, 2025.001, 2025.201, 2025.262, and 2026.051 all contain provisions for now antiquated crimes involving moral turpitude. Section 2025.001 requires the Commission to adopt rules relating to license applications and the applicant's moral character, ability, and financial responsibility to preserve and protect the public health, welfare, and safety as opposed to the Chapter 53 factors in determining whether a conviction relates to the occupation and factors for a licensee's fitness for licensure.</p>
<p>PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION</p>	<p><u>TXRC Recommends:</u></p> <ul style="list-style-type: none"> • Codifying Chapter 53 general licensing provisions into the <i>Texas Racing Act</i> and <i>Texas Rules of Racing</i>. • Updating and modernizing license application fingerprint requirements in TEX. OCC. CODE §2025.003. • Removal of subjective licensing factors, such as moral character, crimes of moral turpitude, and those detrimental to the public interest or racing industry from the <i>Texas Racing Act</i> §§2022.004, 2025.056, 2025.201, 2025.262 and 2026.251 • Integrating the Tex. Occ. Code Chapter 53, §§53.0231 and 53.051, notice and hearing requirements in the <i>Texas Racing Act</i> and <i>Texas Rules of Racing</i>. • Better licensing efficiency by implementing the criminal history evaluation for applicants with a prior criminal record for an initial licensing predetermination provided in TEX. OCC. CODE §53.102. • Modernizing and instituting criminal guidelines contained in TEX. OCC. CODE §53.025 to provide applicants clarity of the practice of the licensing authority under the <i>Texas Racing Act</i> and <i>Texas Rules of Racing</i>.
<p>DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE</p>	<p>Benefits of implementing this model are the consistency of licensing requirements for applicants, the clarity of guidelines for denial of applications and revocation of licenses, the modernizing of the licensing process.</p>

6. Texas Racing Act, Chapter 2033, Criminal and Administrative Penalties; Cease and Desist Orders; and Disciplinary Powers

<p>SERVICE STATUTE, RULE, OR REGULATION (WITH CITATION)</p>	<p>The <i>Texas Racing Act</i>, TEX. OCC. CODE, Chapter 2033, deals with criminal and administrative penalties, cease-and-desist orders, and disciplinary powers.</p>
<p>DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN AN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS</p>	<p>The chapter should include the criminal penalty for the felony offense of cruelty to animals, TEX. PENAL CODE §§42.09 and 42.092, in addition to the other criminal penalties listed in the chapter. TEX. OCC. CODE §2033.101 only permits issuance of a cease-and-desist order upon the reasonable belief a racetrack association or other license holder is engaging or likely to engage in conduct that violates this subtitle or a Commission rule. The objective of a cease-and-desist order should be to halt unlicensed activity, including the operation of illegal racetracks, known as brush tracks. In addition to promoting illegal wagering, brush tracks harbor vast amounts of secondary criminal activities, ranging from human and drug trafficking to animal cruelty. The brush tracks, operating outside of the <i>Act</i> and <i>Rules</i>, take economic benefits from properly licensed tracks in the state. The cease-and-desist section of the <i>Act</i> should cover all persons both licensed and unlicensed.</p>
<p>PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION</p>	<p>The agency recommends the addition of the Texas Penal Code’s cruelty to animal provisions into the <i>Texas Racing Act</i>, Chapter 2033. The agency recommends the <i>Texas Racing Act</i>, §2033.101, be revised to include all persons not just licensees.</p>
<p>DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE</p>	<p>Although difficult to pinpoint an exact amount of illegal wagering, the estimated benefit to racetracks by the elimination of brush racetracks could easily approach millions of dollars, as well as increased public confidence in racing integrity by eliminating the opportunity for unscrupulous betters from negatively influencing wagering pools with ill-gotten knowledge gathered at these tracks. Additionally, the safety of race participants and race animals tested with prohibited substances to influence the outcome of a race on an illicit racetrack could be wholly prevented by shutting down these operations with increased criminal penalties and the seizure of compromised race animals and related equipment.</p>

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SUPPLEMENTAL SCHEDULES

A. INTEGRATED BUDGET STRUCTURE & LIST OF MEASURE DEFINITIONS

GOAL A/1: ENABLE

SHORT NAME: ENABLE
FULL NAME: Enable Industry Growth
DEFINITION: Enable Industry Growth through Modernization of Licensing Services.

OBJECTIVE A.1: Enable Industry Growth

SHORT NAME: ENABLE
FULL NAME: Enable Industry Growth
DEFINITION: Enable Industry Growth through Modernization of Licensing Services.

OUTCOME MEASURE 1: Annual Growth of Permanent Licenses Issued

BL 2024 Definition

The total number of permanent licenses issued upon license application or reapplication that meet the standards of the Texas Occupations Code.

BL 2024 Data Limitations

None.

BL 2024 Data Source

Agency enforcement database provides the data source for this outcome.

BL 2024 Methodology

The number of permanent licenses issued out of the total number issued annually with the goal of reducing the issuance of temporary licenses.

BL 2024 Purpose

This measure is used to align the agency licensing services with the Texas Occupations Code and enable industry growth, while ensuring that applicants who are licensed meet all Texas Government Code standards.

BL 2025 Definition

The total number of permanent licenses issued upon license application or reapplication that meet the standards of the Texas Occupations Code.

BL 2025 Data Limitations

None.

BL 2025 Data Source

Agency enforcement database provides the data source for this outcome.

BL 2025 Methodology

The number of permanent licenses issued out of the total number issued annually with the goal of reducing the issuance of temporary licenses.

BL 2025 Purpose

This measure is used to align the agency licensing services with the Texas Occupations Code and enable industry growth, while ensuring that applicants who are licensed meet all Texas Government Code standards.

STRATEGY A.1.1: MODERNIZE LICENSING SERVICES

SHORT NAME: MODERNIZE LICENSING
FULL NAME: MODERNIZE LICENSING SERVICES
DEFINITION: Modernize Licensing Services to Align with Texas Statutes

Efficiency Measures

- Percentage of Business Licenses issued within 90 days
- Percentage of Individual Licenses issued within 10 days
- Reduction in the Number of Temporary Licenses Issued for 120 days

Explanatory Measures

- Total Number of Permanent Licenses Held by Applicants - Key

Output Measures

- Number of New Licenses Issued to Businesses
- Number of New Licenses Issued to Individuals
- Number of Renewed Licenses for Individuals.

A.1.2. STRATEGY: DEPARTMENT OF PUBLIC SAFETY (FINGERPRINTS, BACKGROUND CHECKS, CRIMINAL VIOLATIONS)

Allocate Department of Public Safety Funds to reimburse for fingerprint, background checks. Estimated and Non-transferable.

A.1.3. STRATEGY: TEXAS.GOV

Process online payment for licensing fees and fines. Estimated and Non-transferable.

GOAL B/2: PROTECT

SHORT NAME: PROTECT
FULL NAME: Protect the Integrity and Safety of Texas Racing
DEFINITION: Protect the Integrity and Safety of Texas Racing

OBJECTIVE B.1 PROTECT

SHORT NAME: PROTECT
FULL NAME: Protect the Integrity and Safety of Texas Racing
DEFINITION: Protect the Integrity and Safety of Texas Racing

OUTCOME MEASURE 1: Reduction of Licensee Violations

BL 2024 Definition

The total number of licensee violations against the total number of permanent new and renewed licenses issued that meet the standards of the Texas Occupations Code.

BL 2024 Data Limitations

None.

BL 2024 Data Source

Agency enforcement database provides the data source for this outcome.

BL 2024 Methodology

The number of permanent licenses issued out of the total number issued annually with the goal of reducing the number of violations because licenses are issued in accordance with Texas law.

BL 2024 Purpose

This measure is used to build upon Goal A (Modernize Licensing Services), while ensuring that applicants who are licensed meet all Texas Government Code standards, which should result in a reduction of violations of the Texas Racing Act.

BL 2025 Definition

The total number of licensee violations against the total number of permanent new and renewed licenses issued that meet the standards of the Texas Occupations Code.

BL 2025 Data Limitations

None.

BL 2025 Data Source

Agency enforcement database provides the data source for this outcome.

BL 2025 Methodology

The number of permanent licenses issued out of the total number issued annually with the goal of reducing the number of violations because licenses are issued in accordance with Texas law.

BL 2025 Purpose

This measure is used to build upon Goal A (Modernize Licensing Services), while ensuring that applicants who are licensed meet all Texas Government Code standards, which should result in a reduction of violations of the Texas Racing Act.

B.1.1. STRATEGY: DETER, INVESTIGATE AND ADJUDICATE VIOLATIONS OF THE TEXAS RACING ACT

SHORT NAME:	DETER & INVESTIGATE
FULL NAME:	Deter, Investigate and Adjudicate Violations of the Texas Racing Act
DEFINITION:	Deter, Investigate and Adjudicate Violations of the Texas Racing Act

Efficiency Measure

- Reduction in the Number of Violations of Permanent Licensees

Explanatory Measure

- Overall Reduction in Violations Based on Reduction of Temporary Licenses Issued and Required Background Checks under Texas Law conducted on Permanent Licenses

Output Measure

- Reduction in the Number of Violations Measured Against Total Individual Licensee Population

B.1.2. STRATEGY: INCREASE THE INTEGRITY AND SECURITY OF PARIMUTUEL WAGERING TO PROTECT THE CITIZENS OF TEXAS

SHORT NAME:	PARI-MUTUEL WAGERING
FULL NAME:	Increase the Integrity and Security of Parimutuel Wagering to Protect Texas Racing
DEFINITION:	Increase the Integrity and Security of Parimutuel Wagering to Protect Texas Racing

Efficiency Measures

- Number of Wagering Events Audited without Significant Findings
- Decrease in Complaints Filed Regarding Wagering Manipulation

Explanatory Measures

- Total Number of Wagering Events Audited without Significant Findings

Output Measures

- Number of Audited Conduct on Simulcast Races without Significant Audit Findings
- Number of Audited Live Races without Significant Audit Findings.

STRATEGY B.1.3: PREVENT INJURIES AND RESPOND TO MEDICAL EMERGENCIES (EQUINE, CANINE, AND HUMAN)

SHORT NAME: PREVENT INJURIES
FULL NAME: Prevent Injuries and Respond to Medical Emergencies (Equine, Canine, And Human)
DEFINITION: Prevent Injuries and Respond to Medical Emergencies (Equine, Canine, And Human)

Efficiency Measures

- Number of Equine Injuries as a percentage of total Equine animals approved to entered into live races
- Number of Human injuries as a percentage of total licensees measured against number of jockeys licensed to enter live races.

Explanatory Measures

- Number of Injuries of equine/human live racing competitors against total number approved to enter live races.

Output Measures

- Equine Injuries of less than 2% per 1,000 starts.
- Human Injuries of less than 2% per 1,000 starts.

STRATEGY B.1.4. Administer Drug Tests to Detect Prohibited Substances in Equine/Canine/Human Racing Competitors

SHORT NAME: ADMINISTER DRUG TESTS
FULL NAME: Administer Drug Tests to Detect Prohibited Substances in Equine/Canine/Human Racing Competitors
DEFINITION: Administer Drug Tests to Detect Prohibited Substances in Equine/Canine/Human Racing Competitors

Efficiency Measures

- Number of Equine Tests Positive for Prohibited Substances as a percentage of total Equine Tests Administered
- Number of Canine Tests Positive for Prohibited Substances as a percentage of total Canine Tests Administered
- Number of Human Tests Positive for Prohibited Substances as a percentage of total Human Tests Administered

Explanatory Measures

- Number of drug tests of equine/canine/human live racing competitors against total number identified for testing in entered in live races.

Output Measures

- Positive Animal Tests of less than 1% per 1000 starts.
- Positive Human Tests of less than 1% per 1000 starts.

GOAL C/3: COMMUNICATE & PARTNER

SHORT NAME: COMMUNICATE & PARTNER
FULL NAME: Modernize Agency Technology Platforms to Partnerships and Best Practices
DEFINITION: Modernize Agency Technology Platforms to Partnerships and Best Practices

OBJECTIVE C.1 COMMUNICATE

SHORT NAME: COMMUNICATE
FULL NAME: Modernize Agency Technology Platforms to Partnerships and Best Practices
DEFINITION: Modernize Agency Technology Platforms to Partnerships and Best Practices

OUTCOME MEASURE 1: Adopt Statewide Electronic Information Resources Ensuring Accessibility for Customers

BL 2024 Definition

Value-added initiatives realized through agency migration to the Texas Department of Information Resources contracts and services and through the adoption of best practices to transform from a paper driven to electronic/online customer services.

BL 2024 Data Limitations

None.

BL 2024 Data Source

Value-added initiatives illustrated through agency modernization efforts and the adoption of best practices.

BL 2024 Methodology

Financial outlay for technology divided by the total number of license applicants supported through customer contacts and application processing.

BL 2024 Purpose

This measure is used to build upon Goal A (Modernize Licensing Services), and Goal B (Deter, Investigate, Adjudicate) by steps the agency will take to move from paper processes to electronic, online portal, web services, customer access to fingerprint, background, and licensing services.

BL 2025 Definition

Greater resource flexibility gained through agency migration to the Texas Department of Information Resources contracts and services and through the adoption of best practices to transform from a paper driven to electronic/online customer services.

BL 2025 Data Limitations

None.

BL 2025 Data Source

Value-added initiatives illustrated through agency modernization efforts and the adoption of best practices.

BL 2025 Methodology

Financial outlay for technology divided by the total number of license applicants supported through customer contacts and application processing.

BL 2025 Purpose

This measure is used to build upon Goal A (Modernize Licensing Services), and Goal B (Deter, Investigate, Adjudicate) by steps the agency will take to move from paper processes to electronic, online portal, web services, customer access to fingerprint, background, and licensing services.

C.1.1. STRATEGY: INFORMATION TECHNOLOGY & CYBERSECURITY

SHORT NAME: INFORMATION TECHNOLOGY
FULL NAME: Modernize Information Technology Platforms and Increase Cybersecurity
DEFINITION: Modernize Information Technology Platforms and Increase Cybersecurity to provide customers access to agency services and protect customer and law enforcement sensitive information.

Efficiency Measure

- Increase in the number of online services provided by the agency through secure, accessible platforms.

Explanatory Measure

- Agency conducts 90 percent of current services in paper format, transformation to secure electronic access to services will increase access while enhancing data security.

Output Measures

- 15% increase in the number of online licenses for new applicants
- 30% increase in the number of online license renewal applications.

C.1.2 STRATEGY: EQUINE DRUG RESEARCH COUNCIL

SHORT NAME: EQUINE DRUG RESEARCH
FULL NAME: Equine Drug Research Council
DEFINITION: Charter an Equine Drug Research Council to create a partnership council with members from the Texas Racing Commission, Texas Veterinary Medical School, Texas Veterinary Medical Diagnostic Laboratory, and the Horseman's Partnership to Fund and Expand the Texas Equine Drug Testing Program. Provides a mechanism to execute and expand the funds currently provided by the Texas Bred Incentive to support Equine Research. and fund drug testing programs.

Efficiency Measures

- Number of Drug Tests Used for Education and Research Partnerships and Projects
- Laboratory Testing Capability Increased by 25% for New and Emerging Substances and Testing Methods

Explanatory Measures

- Number of Tests of Total Administered Used for Research, Educational or Emerging Technology Testing as a percentage of total tests conducted annually by the Texas Racing Commission.

Output Measures

- Percentage of Increased Tests Per 1000 Starts.
- Laboratory Testing Capability Measured by Number of New Tests Conducted Annually using new and emerging testing methods.

GOAL D/4: INDIRECT ADMINISTRATION

SHORT NAME: INDIRECT ADMINISTRATION
FULL NAME: Indirect Administration
DEFINITION: Indirect Administration

D.1.1. STRATEGY: CENTRAL ADMIN & OTHER SUPPORT SVCS

SHORT NAME: CENTRAL ADMIN & OTHER SUPPORT SVCS
FULL NAME: Central Admin & Other Support Services
DEFINITION: Central Admin & Other Support Services

GOAL E/5: TEXAS BRED INCENTIVE PROGRAM

SHORT NAME: TEXAS BRED INCENTIVE PROGRAM
FULL NAME: Texas Bred Incentive Program
DEFINITION: Texas Bred Incentive Program Trust Fund Administration

E.1.1. STRATEGY: TEXAS BRED INCENTIVE PROGRAM

SHORT NAME: TEXAS BRED INCENTIVE PROGRAM
FULL NAME: Texas Bred Incentive Program
DEFINITION: Texas Bred Incentive Program Trust Fund Administration

Efficiency Measure

- Provide Trust Fund Distributions within 30 Days of Customer Requests

Explanatory Measure

- Timely and Accurate Distribution of Texas Bred Incentive Funding Requests

Output Measure

- Annual Reconciliation of Trust Funds with No Significant Accounting Errors of Audit Findings.

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B. HISTORICALLY UNDERUTILIZED BUSINESS PLAN

It is the policy of TXRC to comply with the rules for the Historically Underutilized Business (HUB) Program adopted by the Comptroller of Public Accounts (CPA) and Chapter 2161 of the Texas Government Code to encourage the use of historically underutilized businesses.

The goal of this program is to promote full and equal business opportunities for all businesses in the agency's contracting. This policy incorporates the adoption of CPA's HUB rules to implement a meaningful HUB program based on the State of Texas Disparity Study. TXRC will work diligently to work with HUBs in contracts for commodities, services, professional and consulting services, and construction by contracting directly or indirectly through subcontracting opportunities.

Additionally, TXRC will make a good faith effort to assist HUBs in receiving a portion of the total contract value of all contracts the agency expects to award in a fiscal year in accordance with the following percentages:

- 24% for professional services contracts
- 26% for all other services contracts
- 21% for commodities contracts

The agency will ensure it makes a good faith effort to work with HUBs and meet the agency goals by:

- ✓ Advanced planning of large purchases to ensure adequate time and preparation.
- ✓ When possible, dividing proposed requisitions into reasonable lots in keeping with industry standards and competitive bid requirements.
- ✓ When applicable, assessing bond and insurance requirements to avoid unreasonable bidding restrictions and permit more than one business to perform the work.
- ✓ Specifying reasonable, realistic delivery schedules consistent with the agency's actual requirements.
- ✓ Ensuring that specifications, terms, and conditions reflect TXRC's actual requirements, are clearly stated, and do not impose unreasonable or unnecessary contract requirements.

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C. AGENCY WORKFORCE PLAN

TEXAS RACING COMMISSIONERS

The Commission is composed of nine members, seven of whom are appointed by the Governor with the advice and consent of the Senate. The Chair of the Public Safety Commission and the Commissioner of the Texas Department of Agriculture serve as ex-officio members of the Commission with full voting privileges. The seven non-salaried Commissioners serve overlapping six-year terms. Of the seven appointed Commissioners, five must be representatives of the 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 has general knowledge of business or agribusiness. The Governor designates the Chair. The nine members elect the vice-chairman for a term of two years.

AGENCY STAFF

In 2021, the Texas Racing Commission was continued by the Legislature until 2027. Afterward, the agency experienced dramatic staff turnover and is currently going through transformational changes to modernize its workforce planning system. The Sunset Advisory Commission will conduct another review of the agency prior to 2027.



AGENCY WORKFORCE ANALYSIS

The agency is currently allocated 39.3 Full-Time Equivalent (FTEs) employees, which appears to have been a calculation of five employees for each active racetrack for a total of 15 with the balance of the staff performing administrative duties at the Commission's Austin office.

OUTDATED BUDGET MODEL

The agency budget model for what is a personnel-based budget for a professionally staffed team of regulators with the training, travel, tools, and technology required to effectively enforce the *Texas Racing Act* is outdated.

The salary, benefits, and compensation calculation from 1989 does not provide an effective means of recruiting, developing, and retaining an educated, well-trained, diverse workforce. For example, the base salary for a licensed Commission veterinarian was \$68,000 per year. This figure does not include the full encumbrance for the benefits, compensation, insurance, and retirement payments required this agency to fund the position. That same veterinarian is required to have an active professional license, maintain continuing education credits, have medical supplies, diagnostic tools, administrative support, technology tools, and transportation assets to perform his or her duties for the Commission.

The choices based on the limited staff allocated in 2021 were 26 FTE positions in Austin to conduct the indirect agency operations with 13.9 FTEs allocated for field operational positions in Houston, Grand Prairie, San Antonio, and Fredericksburg, with 10-15 contracted staff positions (veterinarians, investigators, veterinary technicians, and auditors). The updated staffing model inverts the triangle to its rightful position to allocate 30 percent of the agency FTEs to the Austin office, and 70 percent of the FTEs to field locations.

The prior model was ineffective because it did not account for employee turnover, developmental training, or leave. Additionally, the model requires modification as it did not contemplate the uniform safety standards required by the *Horseracing Integrity and Safety Act of 2020* that are set to take effect on July 1, 2022.

AGENCY WORKFORCE BUDGET MODEL FACTORS

FTE employee calculations need to include:

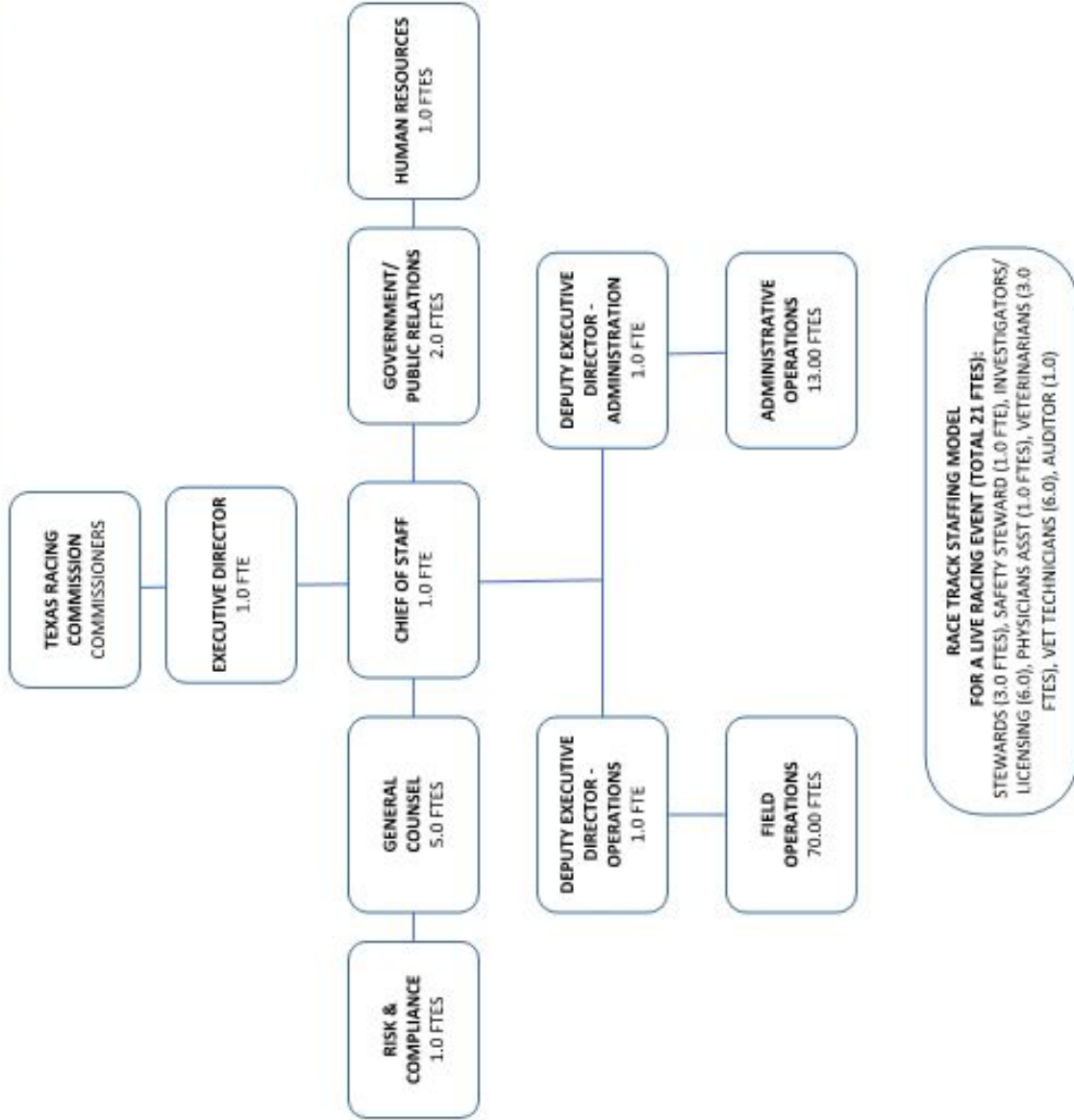
- Effective, transparent, auditable state agency business practices.
- Competitive salary, benefits, leave, and training packages and programs.
- A probationary period with on-the-job training for specialized skill sets, such as stewards, investigators, veterinarians, test barn supervisors, veterinary technicians, and auditors.
- Professional development training and travel resources to update skill sets, as well as adapt to developing technological advances in the industry.



For purposes of addressing the workforce goals above, based on our current operational requirement, the estimated minimal staffing for a live racing day is: three stewards, one safety steward, six investigators/licensing staff members, three veterinarians; one physician assistant; six veterinary technicians; and one auditor for a total of 21 employees.

The agency organizational chart on the next page has been updated to reflect the changes required to effectively conduct the TXRC mission and meet industry standards under federal law.

AGENCY ORGANIZATIONAL CHART 2023-2027



AGENCY FTE 2023-2027 ALLOCATIONS

EXECUTIVE TEAM	1.0
ED	1.0
CHIEF OF STAFF	2.0
DED-OPS & ADMIN	5.0
GENERAL COUNSEL	2.0
GOVT RELATIONS	1.0
HUMAN RESOURCES	1.0
RISK & COMPLIANCE	1.0

TOTAL 13.00

ADMINISTRATION

FINANCE	7.0
CONTRACTING	3.0
RECORDS MGMT	1.0
OCCUP HEALTH	1.0
CIO/IT STAFF	6.0

TOTAL: 13.00

FIELD OPERATIONS

CHIEF STEWARD	1.0
CHIEF VETERINARIAN	1.0
CHIEF INVESTIGATOR	1.0
SAFETY DIRECTOR	1.0
JUDGES/STEWARDS	9.0
SAFETY STEWARDS	4.0
INVESTIGATIONS	18.0
VETERINARIANS	9.0
PHYSICIANS ASST	3.0
VET TECHS	18.0
AUDITOR	3.0
PARALEGAL	3.0

TOTAL: 70.00

AGENCY TOTAL: 96.00 FTEs

RACE TRACK STAFFING MODEL
FOR A LIVE RACING EVENT (TOTAL 21 FTEs):
 STEWARDS (3.0 FTEs), SAFETY STEWARD (1.0 FTE), INVESTIGATORS/
 LICENSING (6.0), PHYSICIANS ASST (1.0 FTEs), VETERINARIANS (3.0
 FTEs), VET TECHNICIANS (6.0), AUDITOR (1.0)

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D. REPORT ON CUSTOMER SERVICE

Following a critical review by the Sunset Advisory Commission, in 2021, the 87th Texas Legislature made the determination that the Racing Commission was not being effectively managed by certain agency executives and called for their removal via Senator Dawn Buckingham's *Senate Bill 713*. Amy F. Cook was appointed Executive Director last fall and began working closely with the Commission's new Chairman, Judge Robert C. Pate, who was named chair by Governor Greg Abbott after last year's legislative session.

Together, they have been working to right the ship and bring the Racing Commission into a position where all Texans are reassured that this agency is operating effectively and in a transparent and accountable way. Commissioners and agency staff scheduled numerous public meetings and engagements throughout the state in the past six months to gain industry feedback on the future direction of the agency.

Given the serious concerns raised by the Sunset Advisory Commission, face-to-face feedback with agency customers and partners was an effective way to hear about the concerns they provided to the Sunset Commission, as well to determine how feedback could be used to draft this strategic plan. To that end, the Commission's Safety and



Health Sub-Commission, led by Vice Chair Connie McNabb, DVM conducted field meetings at Sam Houston Race Park and Retama Park on February 2 and March 8, 2022, respectively. Dr. McNabb led public discussions with Marsha Rountree of the Texas Horseman's Partnership and Dr. Travis Mays of the Texas Veterinary Medical Diagnostic Laboratory and welcomed the insight of interested parties.

The Commission intends to increase public input through another round of public meetings focused on modernizing the *Texas Rules of Racing* in response to Sunset Advisory Commission feedback as well as emerging standards being implemented in the United States. In May 2022, Chairman Robert C. Pate called on Dr. McNabb to review best practices in horseracing regulation from across the globe to ensure Texas remains "a premier state for horseracing."²²

All TXRC customers can expect to be treated courteously and fairly. The agency may be reached at info@txrc.texas.gov and found on all major Social Media platforms.

"Excellence Starts Here"

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ENDNOTES

- ¹ Texas State Library and Archives Commission, https://txarchives.org/tslac/finding_aids/15003.xml
- ² Legislative Reference Library of Texas, <https://lrl.texas.gov/scanned/hroBillAnalyses/69-2/SB15.pdf>
- ³ Legislative Reference Library of Texas, https://lrl.texas.gov/LASDOCS/69CS2/SB15/SB15_69CS2.pdf#page=585
- ⁴ Texas Greyhound Association, <http://www.tgreyhounds.com/about-us/>
- ⁵ The Pew Charitable Trusts, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/10/29/once-one-of-americas-favorite-pastimes-greyhound-racing-eats-dust>
- ⁶ National Greyhound Association, <https://www.nggreyhounds.com/news?h60=5498>
- ⁷ Texas Horse Racing Hall of Fame, <https://txhof.com/hall-of-fame-history.html>
- ⁸ Albany Law School, <https://www.albanylaw.edu/government-law-center/news/understanding-the-horseracing-integrity-and-safety-act-and-new-era>
- ⁹ Liberty Justice Center, <https://libertyjusticecenter.org/media/ruling-challenge-to-hisa/>
- ¹⁰ Office of the Texas Attorney General,
<https://www2.texasattorneygeneral.gov/opinions/opinions/47mattox/op/1990/pdf/jm1134.pdf>
- ¹¹ Legislative Reference Library, <https://lrl.texas.gov/scanned/vetoes/81/hro/HCR252.pdf>
- ¹² Texas Racing Commission
- ¹³ Sunset Advisory Commission,
https://www.sunset.texas.gov/public/uploads/files/reports/Texas%20Racing%20Commission_Equine%20Staff%20Report%201995%2074%20leg.PDF
- ¹⁴ Sunset Advisory Commission,
https://www.sunset.texas.gov/public/uploads/files/reports/Racing_Staff%20Report%20with%20Final%20Results.pdf
- ¹⁵ 15 USC Ch. 57: INTERSTATE HORSERACING,
<https://uscode.house.gov/view.xhtml?path=/prelim@title15/chapter57&edition=prelim>
- ¹⁶ Congress.gov, <https://www.congress.gov/bill/116th-congress/house-bill/1754/text>
- ¹⁷ Tex. Occ. Code §2023.001, <https://statutes.capitol.texas.gov/Docs/OC/htm/OC.2023.htm>
- ¹⁸ Bloodhorse, www.bloodhorse.com/horse-racing/articles/256994/texas-proposes-joint-efforts-with-hisa
- ¹⁹ Texas Department of Information Resources, <https://data.texas.gov/stories/s/2mzj-8rbh/>
- ²⁰ Sunset Advisory Commission,
https://www.sunset.texas.gov/public/uploads/files/reports/Racing_Staff%20Report%20with%20Final%20Results.pdf
- ²¹ Ibid.
- ²² Texas Racing Commission,
https://static1.squarespace.com/static/61f1f682f08bd15f1e6a2d9f/t/629115ce5f3e223c03f75238/1653675471239/2022_05_27_TEX_AS_RACING_COMMISSION_CHAIRMAN_DIRECTS_RULES_COMMITTEE_TO_DRAFT_SWEEPING_RULES_UPDATE.pdf



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

June 1, 2022

Office of the Governor
Legislative Budget Board

Greetings:

I write to you today to discuss the current state of the Texas Racing Commission and report on customer service input, as required by *Chapter 214, Texas Government Code*.

Following a critical review by the Sunset Advisory Commission, in 2021, the 87th Texas Legislature made the determination that the Racing Commission was not being effectively managed by certain agency executives and called for their removal via Senator Dawn Buckingham's *Senate Bill 713*. I was appointed Executive Director last fall and have been working closely with the Commission's new Chairman, Judge Robert C. Pate, named chair by Governor Abbott after last year's legislative session.

Together, Chairman Pate and I have been working to right the ship and bring the Racing Commission into a position where all Texans are reassured that this agency is operating effectively and in a transparent and accountable way. Commissioners and agency staff scheduled numerous public meetings and engagements throughout the state in the past six months to gain industry feedback on the future direction of the agency.

Given the serious concerns raised by the Sunset Advisory Commission, face-to-face feedback with agency customers and partners was an effective way to hear about the concerns they provided to the Sunset Commission, as well to determine how feedback could be used to draft this strategic plan. To that end, the Commission's Safety and Health Sub-Commission, led by Vice Chair Connie McNabb, DVM conducted field meetings at Sam Houston Race Park and Retama Park on February 2 and March 8, 2022, respectively. Dr. McNabb led public discussions with Marsha Roundtree of the Texas Horseman's Partnership and Dr. Travis Mays of the Texas Veterinary Medical Diagnostic Laboratory and welcomed the insight of interested parties.

The Commission intends to increase public input through another round of public meetings focused on modernizing the *Texas Rules of Racing* in response to Sunset Advisory Commission feedback as well as emerging standards being implemented in the United States. In May 2022, Chairman Robert C. Pate called on Dr. McNabb to review best practices in horseracing regulation from across the globe to ensure Texas remains "a premier state for horseracing."

All TXRC customers can expect to be treated courteously and fairly. The agency may be reached at info@txrc.texas.gov and found on all major Social Media platforms.

If you or your staff have any questions about this information, please do not hesitate to contact me.

Sincerely,

Amy F. Cook

Amy F. Cook
Executive Director

cc: Texas Racing Commission Commissioners



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

June 1, 2022

Office of the Governor
Office of the Lieutenant Governor
Office of the Speaker of the House

Gentlemen:

I write to you today to discuss the current state of the Texas Racing Commission and to make an annual report, as required by *Sec. 2023.061, Texas Occupations Code*.

Following a critical review by the Sunset Advisory Commission, in 2021, the 87th Texas Legislature made the determination that the Racing Commission was not being effectively managed by certain agency executives and called for their removal via Senator Dawn Buckingham's *Senate Bill 713*. I was appointed Executive Director last fall and have been working closely with the Commission's new Chairman, Judge Robert C. Pate, named chair by Governor Abbott after last year's legislative session.

Together, Chairman Pate and I have been working to right the ship and bring the Racing Commission into a position where all Texans are reassured that this agency is operating effectively and in a transparent and accountable way. To that end, I present to you the *Texas Racing Commission Agency Strategic Plan, Fiscal Year 2023-2027*, which includes information about the agency's operations, history, and challenges it went through during 2021, as well as our vision for the future to become the best state agency in Texas and the most professional racing commission in America. As required, I have also included a report from the Texas Department of Public Safety on organized crime activities and illegal gambling during 2021.

If you or your staff have any questions about this information, please do not hesitate to contact me.

Sincerely,

Amy F. Cook

Amy F. Cook
Executive Director

Enclosures

cc: Texas Racing Commission Commissioners

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

www.dps.texas.gov



STEVEN C. McCRAW
DIRECTOR
FREEMAN F. MARTIN
DWIGHT D. MATHIS
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DEPUTY DIRECTORS



COMMISSION
STEVEN F. MACH, CHAIRMAN
NELDA L. BLAIR
STEVE H. STODGHILL
DALE WAINWRIGHT

January 25, 2022

Robert C. Pate, Chair
Texas Racing Commission
8505 Cross Park Drive, 110
Austin, TX 78754

Re: Occupations Code, Section 2021.061 (c)

Dear Chairman Pate,

Pursuant to the requirement outlined in Article 179e, Section 3.10 of Vernon's Texas Civil Statutes, the Texas Department of Public Safety provides the following information relating to organized crime and illegal gambling for calendar year 2021.

Criminal Activity and Crime Trends

In 2021, the citizens, visitors, and assets of Texas faced constant threats that were derived from transnational criminal organizations, criminal street gangs, high-threat criminals, and foreign and domestic terrorist organizations that seek to destroy our way of life.

To address these issues, the Texas Department of Public Safety (Department) committed to identifying, assessing and responding to reports of criminal activity, threats of life, and terrorism threats throughout Texas. The Department focused significant resources on combating criminal organizations involved in drug and human trafficking, human smuggling, violent property crimes, fraud, and the sexual exploitation of children.

Through direction and guidance from Governor Greg Abbott and the Department, Operation Lone Star was initiated to combat the smuggling of persons and drugs into Texas. The Department devoted significant resources to the Texas-Mexico border to lead and participate in Operation Lone Star and worked alongside local, state and federal agencies to hinder Mexican cartel's ability to profit from transnational criminal activities.

Vehicle Crime

Per the Department's monthly 2021 Auto Theft Reports, on average 3,100 passenger vehicles, 3,300 pickup trucks and/or sport utility vehicles (SUV), and 400 motorcycles are reported stolen

each month in Texas. Many of these stolen vehicles are associated with actors that commit violent criminal acts prior to, during and/or after obtaining or utilizing the stolen vehicle.

Statewide trends and investigations initiated by the Department have determined that criminal organizations and Mexican cartels utilize stolen vehicles to facilitate the trafficking and smuggling efforts associated with firearms, US Currency, stolen property, drugs, and people (to include children).

Criminal organizations and Mexican cartels often alter the appearance of vehicle identification numbers, license plates, and the overall appearance of the vehicle; in an attempt to deter law enforcement.

Illegal Gambling

According to the 2020 Uniform Crime Report (UCR), there were a total of 157 arrests for gambling related offenses in Texas; with 1 arrest being associated with Bookmaking-Horse / Sports. The 2021 statistical data is currently being compiled.

The Department initiated 9 gambling related investigations, which led to the seizure of \$50,301.00 of US Currency and 4 arrest for gambling related offenses.

Illegal gambling associated with animals, such as dogfighting and cockfighting, along with unsanctioned horse racing is known to occur in mostly rural areas and the inner-city neighborhoods of major metropolitan areas. Utilizing covert techniques and operations to identify and investigate these illegal activities prove to be difficult for law enforcement, due to the familiarity of the participants and/or actors involved and the inconsistent scheduling and unidentified locations that house the events. It is not uncommon for these locations to be organized, managed, and attended by individuals that have extensive criminal histories and are members and/or associates of criminal street gangs. These locations are often known and associated with violent criminal acts and the illegal possession and/or distribution of drugs and firearms.

The Department continues to collaborate with local, state and federal law enforcement partners to identify and investigate individuals and organizations involved in illegal gambling efforts.

Sincerely,

Floyd T. Goodwin, Chief
Texas Department of Public Safety
Criminal Investigations Division



Sharon Jones, Major
Texas Department of Public Safety
Criminal Investigations Division



One American Center
600 Congress
Suite 1900
Austin, TX 78701

P.O. Box 1149
Austin, TX 78767

p: 512.744.9300
f: 512.744.9399
www.dwmrlaw.com

May 25, 2022

Via email virginia.fields@txrc.texas.gov

Virginia Fields, General Counsel
Texas Racing Commission
8505 Cross Park Drive, #110
Austin, TX 78754

RE: Request for Approval of Officers and Directors

Dear Ms. Fields:

The following entities request Commission approval of the following changes to their officers, effective May 1, 2022:

Sam Houston Race Park, LLC (holds horse racing license)

- Appoint Dwight Berube as Vice President and General Manager
- (Andrea Young was previously President)
- (no other individuals will hold an officer position)

Valley Race Park, LLC (holds dog racing license)

- Appoint Dwight Berube as Vice President and General Manager
- (Andrea Young was previously President)
- (no other individuals will hold an officer position)

Hill Lane, LLC (holds inactive horse racing license f/k/a Manor Downs)

- Appoint Dwight Berube as Vice President and General Manager
- (Andrea Young was previously President)
- (no other individuals will hold an officer position)

Additionally, to the extent the Commission acknowledges or approves changes to the officers, directors, or managers of a concession or management company, the following entities request Commission acknowledgement and approval of the following directors, managers, and officers, effective March 17, 2021:

VGB Operations, LLC (sole member of VGB Management, LLC)

- Dwight Berube as sole Manager
- (Maury Korn was previously Manager)



Virginia Fields, General Counsel
May 25, 2022
Page 2

VGB Management, LLC (sole member of VG Beverage, Inc.)

- Dwight Berube as sole Manager
- (Maury Korn was previously Manager)

VG Beverage, Inc. (holds MB and BG permits at Valley Race Park)

- Christopher M. McErlean as sole Director (Maury Korn was previously Director)
- Dwight Berube as President (Maury Korn was previously President) and
- Christopher McErlean as Secretary (Irasema Trevino was previously Secretary)

Please note that both Mr. Berube and Mr. McErlean already hold current Association Officer/Director Licenses from the Texas Racing Commission.

Please let me know if you have any questions or require any additional information to place these matters on the agenda for the Commission's upcoming June 2022 meeting.

Thanks so much!

Sincerely,

Marnie A. McCormick
mmccormick@dwmrlaw.com
512.495.8813

16 TAC §309.13 Supplemental Fee. (Repealed)

16 TAC §301.1. Definitions.

(a) (No change.)

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

(1)-(73) (No change.)

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

(75)-(92) (No change.)

16 TAC §303.42. Approval of Charity Race Days

(a)-(c) (No change.)

(d) 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 shall be open to any charity that meets the requirements of subsection (b)(1)-(4) above.

16 TAC §319.3 Medication Restricted

(a) - (e)(No change.)

(f) Except as provided in paragraph (1) of this subsection, beta-agonists are prohibited substances and shall not be administered to a horse participating in racing at any time.

(1) A horse may only be administered beta-agonists if:

(A) (No change.)

(B) within 24 hours of initiating treatment, the trainer or owner has submitted to the Commission a form prescribed by the Commission and signed by the attending veterinarian, indicating:

(i) - (ii) (No change.)

(iii) the name of the attending veterinarian;

(iv) that the attending veterinarian has personally examined the horse and made an accurate clinical diagnosis justifying the prescription;

(v) – (vi) (No change.)

(C) only FDA-approved beta-agonists that are labeled for use in the horse is prescribed and dispensed.

(2) A horse that has been administered beta-agonists under paragraph (1) of this subsection shall be placed on the Veterinarian’s List for a period ending not less than 30 days after the last administration of the drug as prescribed, subject to a negative test for beta-agonist drugs before being removed from the list.

(A) – (B) (No change.)

(C) The collected specimens must not have any detectable level of beta-agonist drugs. If no detectable level of any beta-agonist drug is present, the horse shall be removed from the Veterinarian’s List. If a detectable level of any beta-agonist drug is present, then the horse shall remain on the Veterinarian’s List until such time that a test specimen reveals no detectable level of any beta-agonist drug.

(D) (No change.)

16 TAC §319.301 Testing Authorized.

(a) The stewards and racing judges may require a specimen of hair, urine, blood, saliva, tissue 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) (No change.)

(c) A person is not entitled to a purse until drug testing has been completed and the executive director has cleared the race for payment.



TITLE 16. ECONOMIC REGULATION

PART 8. TEXAS RACING COMMISSION

CHAPTER 301. DEFINITIONS

16 TAC §301.1

Background, Justification and Summary

The Texas Racing Commission (Commission) proposes amendment to an existing rule in 16 Texas Administrative Code (TAC), Chapter 301, §301.1, concerning Definitions. The amendment to 16 TAC §301.1(74), which defines the term Specimen, is referred to as "proposed rule amendment" and is necessary to clarify the definition of specimen to include hair follicle and shaft to promote the integrity of racing and the safety of racing participants. The Texas Racing Act, Tex. Occ. Code §2034.001(c), states that the commission's rules must require state-of-the-art testing methods and that testing may: (1) be prerace or postrace as determined by the commission; and (2) be by an invasive or noninvasive method. The Texas Racing Act, Tex. Occ. Code §2034.001(d) also provides for the commission to adopt rules relating to the drug testing of license holders.

The proposed rule amendment was presented to the Texas Racing Commission Health & Safety subcommittee at open meetings held on February 2, 2022, and March 8, 2022, for implementation of hair testing in addition to current serum and urine testing of racehorses and occupational licensees, such as jockeys. The subcommittee did not make any changes to the proposed rule amendment and recommended the proposed rule amendment be placed on the Texas Racing Commission agenda for publication in the *Texas Register*.

SECTION-BY-SECTION SUMMARY

The proposed rule amends §301.1, paragraph (74), to improve readability through the use of plain talk guidelines. The proposed rule amendment to the definition of the word Specimen also provides clarity and upgrades the drug testing process with the implementation of state-of-the-art hair testing to determine the use of a prohibited substance to influence the outcome of a horse race.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Amy F. Cook, Executive Director, has determined that for each year of the first five years the proposed rule is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rule amendment.

Amy F. Cook has determined that for each of the first five years the proposed rule is in effect, there is no estimated increase or loss of revenue to the state or local government as a result of enforcing or administering the proposed rule amendment.

Amy F. Cook has determined that for each year of the first five years the proposed rule amendment is in effect, enforcing or ad-

ministering the proposed rule amendment does not have foreseeable implications relating to costs or revenues of state governments.

Amy F. Cook has determined that for each of the first five years the proposed rule amendment is in effect, enforcing or administering the proposed rule amendment does not have foreseeable implications relating to costs or revenue of local governments.

LOCAL GOVERNMENT IMPACT STATEMENT

Amy F. Cook has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Amy F. Cook has also determined that for each year of the first five years the proposed rule amendment is in effect, the public benefit will be that the proposed rule amendment will strengthen public confidence in the integrity of horseracing and will deter the prohibited use of beta-agonistic or other prohibited substances in racehorses participating in racing at any time to influence the outcome of a race.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL.

Amy F. Cook has determined that for each year of the first five years the proposed rule amendment is in effect, the anticipated economic costs to persons who are required to comply with the proposed rule amendment and implementation of hair testing of occupational licensees will be approximately \$250 per hair test, \$250 per initial racehorse hair test to the racetrack associations, and \$250 per split sample racehorse hair test to the racehorse trainer or owner/trainer. From October 12, 2021, until January 12, 2022, a total of 114 hair tests were conducted on racehorses for a total cost of \$ 20,600 according to the Texas A&M Veterinary Medical Diagnostic Laboratory. No hair testing of occupational licensees has been conducted to date. In 2021, a total of 118 urine drug tests on occupational licensees were conducted by the Commission. A majority of occupational licensees tested were jockeys, gate starters and grooms.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed rule amendment. Since the Commission has determined that the proposed rule amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code § 2006.002, are not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT.

The Commission is exempt and not required to take further action under Texas Government Code §2001.0045. The Commission is specifically exempt under Texas Government Code §2001.0045(c)(7).

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0021, the Commission provides the following Government Growth Impact Statement for the proposed rule amendment. For each year of the

first five years the proposed rules will be in effect, the Commission has determined the following:

The proposed rule amendment does not create or eliminate a government program.

Implementation of the proposed rule amendment does not require the creation of new employee positions or the elimination of existing employee positions.

Implementation of the proposed rule amendment does not require an increase or decrease in future legislative appropriations to the Commission.

The proposed rule amendment does not require an increase or decrease in fees paid to the Commission.

The proposed rule amendment does not create a new regulation.

The proposed rule amendment does expand, limit, or repeal an existing regulation. The proposed rule amendment expands state-of-the-art drug testing methods to include the collection and testing of hair samples upgrading the current drug testing program that includes serum and urine drug testing. The approximate cost per hair test is \$250 borne primarily by racetrack associations that will no longer be paying a supplemental fee increase each year since 2018 resulting in an overall net savings. The supplemental fee payment total for fiscal year 2020 by racetrack associations in supplemental fees was \$569,820.03; for fiscal year 2021 was \$336,672.73; and for fiscal year 2022 was \$102,383.00.

The proposed rules do not increase or decrease the number of individuals subject to the proposed rule amendment's applicability.

The proposed rule amendment does not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Commission has determined that no private real property interests are affected by the proposed rule amendment and the proposed rule amendment does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendment does not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043

EFFECT ON AGRICULTURAL, HORSE, AND GREYHOUND INDUSTRIES

The proposed rule amendment will not have an adverse effect on the state's agricultural, horse breeding, horse training, greyhound breeding, or greyhound training industries.

PUBLIC COMMENTS

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the *Texas Register* by mail to Virginia S. Fields, General Counsel Officer for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, by e-mail to info@txrc.texas.gov, by telephone to (512) 833-6699, or by fax to (512) 833-6907.

STATUTORY AUTHORITY

The proposed rule amendment is proposed under Tex. Occ. Code §§2023.004 and 2034.001, which authorize the Commission to adopt rules as necessary to implement and administer

the Act and provide state-of-the-art drug testing. The statutory provisions affected by the proposed rule amendment are those set forth in Tex. Occ. Code Chapters 2023 and 2034. Texas Administrative Code Chapter 319, entitled Veterinary Practices and Drug Testing, is also affected by the proposed rule amendment.

§301.1. Definitions.

(a) (No change.)

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

(1) - (73) (No change.)

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

(75) - (92) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 13, 2022.

TRD-202201407

Virginia Fields

General Counsel

Texas Racing Commission

Earliest possible date of adoption: May 29, 2022

For further information, please call: (512) 490-4009



CHAPTER 303. GENERAL PROVISIONS

SUBCHAPTER B. POWERS AND DUTIES OF THE COMMISSION

16 TAC §303.42

The Texas Racing Commission (Commission) proposes amendments to an existing rule 16 Texas Administrative Code (TAC), Chapter 303, §303.42(d), Approval of Charity Race Days. These amendments are referred to as "proposed rule amendments" and are necessary to broaden charity opportunities to participate in charity race days. The proposed rule amendments will be presented to the Texas Racing Commission at its Commission meeting on April 13, 2022, by staff recommendation. The rule amendment is proposed by the Commission Vice-Chair, Connie McNabb, DVM.

SECTION-BY-SECTION SUMMARY

The proposed rule amends §303.42 subsection (d) to improve readability through the use of plain talk guidelines. The proposed rule amendments will provide more charities the opportunity to participate in racetrack charity race days. Equine research for health and safety have not benefitted from charity days in the past as such research involves millions of dollars and does not result in increased public participation. Broadening the charitable participation will result in broadening public participation on charity race days. For example, charities benefitting veterans' organizations on a veteran holiday race day will increase public participation and will also greatly benefit veteran charitable organizations.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Amy F. Cook, Executive Director, has determined that for each year of the first five years the proposed rule is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rule amendment.

Amy F. Cook has determined that for each of the first five years the proposed rule is in effect, there is no estimated increase or loss of revenue to the state or local government as a result of enforcing or administering the proposed rule amendment.

Amy F. Cook has determined that for each year of the first five years the proposed rule amendments are in effect, enforcing or administering the proposed rule amendments do not have foreseeable implications relating to costs or revenues of state governments.

Amy F. Cook has determined that for each of the first five years the proposed rule amendments are in effect, enforcing or administering the proposed rule amendments do not have foreseeable implications relating to costs or revenue of local governments.

LOCAL GOVERNMENT IMPACT STATEMENT

Amy F. Cook has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Amy F. Cook has also determined that for each year of the first five years the proposed rule amendments are in effect, the public benefit will be that the proposed rule amendment will strengthen public confidence in the integrity of horseracing and provide more charities an opportunity to raise money benefitting more charities and more charities the opportunity to participate in racetrack charity race days.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL.

Amy F. Cook has determined that for each year of the first five years the proposed rule amendments are in effect, there is no anticipated economic costs to persons who are required to comply with the proposed rule amendments.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed rule amendments. Since the Commission has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, are not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT.

The Commission is exempt and not required to take further action under Texas Government Code §2001.0045. The Commission is specifically exempt under Texas Government Code §2001.0045(c)(7).

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0021, the Commission provides the following Government Growth Impact Statement for the proposed rule amendments. For each year of the first five years the proposed rules will be in effect, the Commission has determined the following:

1. The proposed rule amendments do not create or eliminate a government program.
2. Implementation of the proposed rule amendments do not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rule amendments do not require an increase or decrease in future legislative appropriations to the Commission.
4. The proposed rule amendments do not require an increase or decrease in fees paid to the Commission.
5. The proposed rule amendments do not create a new regulation.
6. The proposed rule amendments do not expand, limit, or repeal an existing regulation.
7. The proposed rule amendments do not increase or decrease the number of individuals subject to the proposed rule amendments' applicability.
8. The proposed rule amendments do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Commission has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043

EFFECT ON AGRICULTURAL, HORSE, AND GREYHOUND INDUSTRIES

The proposed rule amendments will not have an adverse effect on the state's agricultural, horse breeding, horse training, greyhound breeding, or greyhound training industries.

PUBLIC COMMENTS

All comments or questions regarding the proposed amendments may be submitted in writing within 30 days following publication of this notice in the *Texas Register* by mail to Virginia S. Fields, General Counsel Officer for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, by e-mail to info@txrc.texas.gov, by telephone to (512) 833-6699, or by fax to (512) 833-6907.

STATUTORY AUTHORITY

The proposed rule amendments are proposed under Tex. Occ. Code §§ 2023.004 which authorize the Commission to adopt rules as necessary to implement and administer the Act. The statutory provisions affected by the proposed rule amendment are those set forth in Tex. Occ. Code Chapters 2023.

There are no other statutory, code or article affected by the proposed rule amendments.

§303.42. *Approval of Charity Race Days.*

(a) - (c) (No change.)

(d) One [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 shall be open to any charity that meets the requirements of subsection (b)(1) - (4) above. [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.]

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 13, 2022.

TRD-202201411

Virginia Fields

General Counsel

Texas Racing Commission

Earliest possible date of adoption: May 29, 2022

For further information, please call: (512) 490-4009



CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

SUBCHAPTER A. RACETRACK LICENSES

DIVISION 1. GENERAL PROVISIONS

16 TAC §309.13

BACKGROUND, JUSTIFICATION AND SUMMARY

The Texas Racing Commission ("the Commission") proposes the repeal of 16 Texas Administrative Code §309.13, Supplemental Fee. The proposed repeal of the rule is necessary as the audit is unnecessary and would save racetracks significant fees. The purpose of this fee is to pay the Commission's costs to procure an independent audit or review of the economy, efficiency, and effectiveness of its operations, as requested by the racing industry. This fee has been assessed in addition to the racetrack license fees prescribed by 16 Texas Administrative Code §309.8 or other racetrack fees required by 16 Texas Administrative Code §309.11 and §309.12.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENT

Amy F. Cook, Executive Director, has determined that for the first five-year period the repeal of the rule is in effect, there will be no fiscal implications for local or state government enforcing the repeal. Enforcing or administering the repeal does not have foreseeable implications relating to cost or revenues of the state or local governments.

ANTICIPATED PUBLIC BENEFIT AND COST

Amy F. Cook, Executive Director, has determined that for each year of the first five years that the repeal is in effect, the anticipated public benefit will be cost savings to racetrack associations. There is no probable economic cost to persons required to comply with the repeal of the supplemental fee.

LOCAL EMPLOYMENT IMPACT STATEMENT

Amy F. Cook, Executive Director, has determined that the proposed repeal will not adversely affect the local economy, so the

agency is not required to prepare a local employment impact statement under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

For each year of the first five years that the proposed repeal of the rule is in effect, the government growth impact is as follows: the rule repeal does not create or eliminate a government program; the proposed repeal does not create any new employee positions or eliminate any existing employee positions; implementation of the proposed repeal does not require an increase or decrease in future legislative appropriations to the agency; the proposed repeal does decrease the supplemental fee paid to the agency for the purpose of pay the Commission's costs to procure an independent audit or review of the economy, efficiency, and effectiveness of its operations, as requested by the racing industry; the proposed repeal does not create new regulations; the proposed repeal does not expand existing regulations; the proposed repeal does only repeal the existing regulation 16 TAC §309.103; the proposed repeal does not increase or decrease the number of individuals subject to the rule's applicability; and the proposed repeal is not expected to have an adverse effect on this state's economy.

EFFECT ON SMALL AND MICRO-BUSINESSES

The proposed repeal will have no adverse economic effect on small or micro-businesses, and, therefore, preparation of an economic impact statement and a regulatory flexibility analysis is not required.

IMPACT ON EMPLOYMENT CONDITIONS

There are no negative impacts upon employment conditions in this state as a result of the proposed rule repeal.

ADVERSE ECONOMIC EFFECT ON RURAL COMMUNITIES

There will be no adverse effect on rural communities as a result of the proposed rule repeal. Because the agency has determined that the proposed rule repeal will have no adverse economic effect on rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, are not required.

REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

Amy F. Cook, Executive Director, has determined the proposed rule repeal does not constitute a "major environmental rule" as defined by Government Code, §2001.0225. Accordingly, an environmental impact analysis is not required.

TAKINGS IMPACT STATEMENT

Amy F. Cook, Executive Director, has determined the proposed rule repeal will not affect private real property and will not restrict, limit, or impose a burden on an owner's right to his or her private real property and, therefore, will not constitute a taking. As a result, a takings impact assessment is not required, as provided by Government Code §2007.043.

EFFECT ON AGRICULTURAL, HORSE, AND GREYHOUND INDUSTRIES

The proposed rule repeal will not have an adverse effect on the state's agricultural, horse breeding, horse training, greyhound breeding, or greyhound training industries.

PUBLIC COMMENTS

All comments or questions regarding the proposed rule repeal may be submitted in writing within 30 days following publication of this notice in the *Texas Register* by mail to Virginia S. Fields, General Counsel Officer for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080, by e-mail to info@txrc.texas.gov, by telephone to (512) 833-6699, or by fax to (512) 833-6907.

STATUTORY AUTHORITY

The rule repeal is proposed under Tex. Occ. Code § 2023.002(b), which authorizes the Commission to adopt rules, issue licenses, and take any other necessary action relating exclusively to horse racing or greyhound racing.

No other statute, code, or article is affected by the proposed rule repeal.

The agency certifies that legal counsel has reviewed the proposed rule repeal and found them to be within the agency's legal authority to repeal.

§309.13. *Supplemental Fee.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 13, 2022.

TRD-202201414

Virginia Fields

General Counsel

Texas Racing Commission

Earliest possible date of adoption: May 29, 2022

For further information, please call: (512) 490-4009



CHAPTER 319. VETERINARY PRACTICES AND DRUG TESTING

The Texas Racing Commission (Commission) proposes amendments to an existing rules 16 Texas Administrative Code (TAC), Chapter 319, §319.3(f), Mediation Restricted, and §319.301(a) and (c), Testing Authorized. These amendments are referred to as "proposed rule amendments" and are necessary to clarify the implementation of hair testing for prohibited substances including beta-agnostics to promote the integrity of racing and the safety of racing participants. The Texas Racing Act, Tex. Occ. Code § 2034.001(c), states that the commission's rules must require state-of-the-art testing methods and that testing may: (1) be prerace or postrace as determined by the commission; and (2) be by an invasive or noninvasive method. The Texas Racing Act, Tex. Occ. Code § 2034.001(d) also provides for the commission to adopt rules relating to the drug testing of license holders.

The proposed rule amendments were presented to the Texas Racing Commission Health & Safety subcommittee at open meetings held on February 2, 2022, and March 8, 2022, for implementation of hair testing in addition to current serum and urine drug testing of racehorses and occupational licensees, such as jockeys. The subcommittee did not make any changes to the proposed rule amendments and recommended the proposed rule amendments be placed on the Texas Racing Commission April 13, 2022 agenda for approval to publish in the *Texas Register*.

SECTION-BY-SECTION SUMMARY

The proposal amends §319.3 (f) and §319.301 (a) and (c) to improve readability through the use of plain talk guidelines. The proposed rule amendments to the medication restricted rule and testing authorized rule provides clarity and upgrades the drug testing process with the implementation of state-of-the-art hair testing to determine the use of a prohibited substance to influence the outcome of a horse race.

The proposed rule amends 16 TAC §319.3 (f) by removing specific prohibited substances *clenbuterol* and *albuterol* replacing the specific prohibited substances with the prohibited substance group of *beta-agonists*. The proposed rule also includes *attending* veterinarian to distinguish the attending veterinarian duties from the duties of the commission veterinarian. This will better distinguish between the duties of the attending veterinarian and the duties of the commission veterinarian.

The proposed rule also amends drug to plural use where appropriate and replaces the words *clenbuterol* and *albuterol* in other areas with the word *beta-agonists* where appropriate.

The proposed rule amends 16 TAC §319.301 (a) adding the words hair and tissue to the type of specimen to be collected from a race animal. The proposed rule amends 319.301 (c) by removing the word secretary and replacing the word with director to more accurately reflect the title of the position.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Amy F. Cook, Executive Director, has determined that for each year of the first five years the proposed rule is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rule amendments.

Amy F. Cook has determined that for each of the first five years the proposed rule is in effect, there is no estimated increase or loss of revenue to the state or local government as a result of enforcing or administering the proposed rule amendments.

Amy F. Cook has determined that for each year of the first five years the proposed rule amendments are in effect, enforcing or administering the proposed rule amendments do not have foreseeable implications relating to costs or revenues of state governments.

Amy F. Cook has determined that for each of the first five years the proposed rule amendments are in effect, enforcing or administering the proposed rule amendments do not have foreseeable implications relating to costs or revenue of local governments.

LOCAL GOVERNMENT IMPACT STATEMENT

Amy F. Cook has determined that the proposed rules will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code § 2001.022.

PUBLIC BENEFITS

Amy F. Cook has also determined that for each year of the first five years the proposed rule amendments are in effect, the public benefit will be that the proposed rule amendment will strengthen public confidence in the integrity of horseracing and will deter the prohibited use of beta-agnostic or other prohibited substances in racehorses participating in racing at any time to influence the outcome of a race.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL.

Amy F. Cook has determined that for each year of the first five years the proposed rule amendment is in effect, the anticipated economic costs to persons who are required to comply with the proposed rule amendment and implementation of hair testing of occupational licensees will be approximately \$250 per hair test, \$250 per initial racehorse hair test to the racetrack associations, and \$250 per split sample racehorse hair test to the racehorse trainer or owner/trainer. From October 12, 2021, until January 12, 2022, a total of 114 hair tests were conducted on racehorses for a total cost of \$ 20,600 according to the Texas A&M Veterinary Medical Diagnostic Laboratory. No hair testing of occupational licensees has been conducted to date. In 2021, a total of 118 urine drug tests on occupational licensees were conducted by the Commission. A majority of occupational licensees tested were jockeys, gate starters and grooms.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed rule amendments. Since the Commission has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code § 2006.002, are not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT.

The Commission is exempt and not required to take further action under Texas Government Code § 2001.0045. The Commission is specifically exempt under Texas Government Code § 2001.0045(c)(7).

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code § 2001.0021, the Commission provides the following Government Growth Impact Statement for the proposed rule amendments. For each year of the first five years the proposed rules will be in effect, the Commission has determined the following:

1. The proposed rule amendments do not create or eliminate a government program.
2. Implementation of the proposed rule amendments do not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rule amendments do not require an increase or decrease in future legislative appropriations to the Commission.
4. The proposed rule amendments do not require an increase or decrease in fees paid to the Commission.
5. The proposed rule amendments do not create a new regulation.
6. The proposed rule amendments do expand, limit, or repeal an existing regulation. The proposed rule amendment expands state-of-the-art drug testing methods to include the collection and testing of hair samples upgrading the current drug testing program that includes serum and urine drug testing. The approximate cost per hair test is \$250 borne primarily by racetrack associations that will no longer be paying a supplemental fee

increase each year since 2018 resulting in an overall net savings. The supplemental fee payment total for fiscal year 2020 by racetrack associations in supplemental fees was \$569,820.03; for fiscal year 2021 was \$336,672.73; and for fiscal year 2022 was \$102,383.00.

7. The proposed rules do not increase or decrease the number of individuals subject to the proposed rule amendments' applicability.

8. The proposed rule amendments do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Commission has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code § 2007.043

EFFECT ON AGRICULTURAL, HORSE, AND GREYHOUND INDUSTRIES

The proposed rule amendment will not have an adverse effect on the state's agricultural, horse breeding, horse training, greyhound breeding, or greyhound training industries.

PUBLIC COMMENTS

All comments or questions regarding the proposed amendments may be submitted in writing within 30 days following publication of this notice in the *Texas Register* by mail to Virginia S. Fields, General Counsel Officer for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, by e-mail to info@txrc.texas.gov, by telephone to (512) 833-6699, or by fax to (512) 833-6907.

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §319.3

STATUTORY AUTHORITY

The proposed rule amendments are proposed under Tex. Occ. Code §§ 2023.004 and 2034.001 which authorize the Commission to adopt rules as necessary to implement and administer the Act and provide state-of-the-art drug testing.

The statutory provisions affected by the proposed rule amendment are those set forth in Tex. Occ. Code Chapters 2023 and 2034. Texas Administrative Code Chapter 319 entitled Veterinary Practices and Drug Testing is also affected by the proposed rule amendment.

§319.3. Medication Restricted.

(a) - (e) (No change.)

(f) Except as provided in paragraph (1) of this subsection, beta-agonists [elenubuterol and albuterol] are prohibited substances and shall not be administered to a horse participating in racing at any time.

(1) A horse may only be administered beta-agonists [elenubuterol or albuterol] if:

(A) (No change.)

(B) within 24 hours of initiating treatment, the trainer or owner has submitted to the Commission a form prescribed by the Commission and signed by the attending veterinarian, indicating:

(i) - (ii) (No change.)

(iii) the name of the attending veterinarian;

(iv) that the attending veterinarian has personally examined the horse and made an accurate clinical diagnosis justifying the prescription;

(v) - (vi) (No change.)

(C) only FDA-approved beta-agonists [~~elenbuterol~~ or ~~albuterol~~] that are [~~is~~] labeled for use in the horse is prescribed and dispensed.

(2) A horse that has been administered beta-agonists [~~elenbuterol~~ or ~~albuterol~~] under paragraph (1) of this subsection shall be placed on the Veterinarian's List for a period ending not less than 30 days after the last administration of the drug as prescribed, subject to a negative test for [~~elenbuterol~~, ~~albuterol~~, or any other] beta-agonist drugs [~~drug~~] before being removed from the list.

(A) - (B) (No change.)

(C) The collected specimens must not have any detectable level of [~~elenbuterol~~, ~~albuterol~~, or any other] beta-agonist drugs [~~drug~~]. If no detectable level of [~~elenbuterol~~, ~~albuterol~~, or] any [~~other~~] beta-agonist drug is present, the horse shall be removed from the Veterinarian's List. If a detectable level of [~~elenbuterol~~, ~~albuterol~~, or] any [~~other~~] beta-agonist drug is present, then the horse shall remain on the Veterinarian's List until such time that a test specimen reveals no detectable level of [~~elenbuterol~~, ~~albuterol~~, or] any [~~other~~] beta-agonist drug.

(D) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 13, 2022.

TRD-202201409

Virginia Fields

General Counsel

Texas Racing Commission

Earliest possible date of adoption: May 29, 2022

For further information, please call: (512) 490-4009



SUBCHAPTER D. DRUG TESTING DIVISION 1. GENERAL PROVISIONS

16 TAC §319.301

STATUTORY AUTHORITY

The proposed rule amendments are proposed under Tex. Occ. Code §§ 2023.004 and 2034.001 which authorize the Commission to adopt rules as necessary to implement and administer the Act and provide state-of-the-art drug testing.

The statutory provisions affected by the proposed rule amendment are those set forth in Tex. Occ. Code Chapters 2023 and 2034. Texas Administrative Code Chapter 319 entitled Veterinary Practices and Drug Testing is also affected by the proposed rule amendment.

§319.301. Testing Authorized.

(a) The stewards and racing judges may require a specimen of hair, urine, blood, saliva, tissue 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) (No change.)

(c) A person is not entitled to a purse until drug testing has been completed and the executive director [~~secretary~~] has cleared the race for payment.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Virginia Fields

General Counsel

Texas Racing Commission

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For further information, please call: (512) 490-4009



TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 21. STUDENT SERVICES

SUBCHAPTER D. TEXAS FIRST EARLY HIGH SCHOOL COMPLETION PROGRAM

19 TAC §§21.50 - 21.55

The Texas Higher Education Coordinating Board (Coordinating Board) proposes a new subchapter with new rules in Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter D, §§21.50 - 21.55, concerning the Texas First Early High School Completion Program. Specifically, this new subchapter will promote efficiency in the state public education system and incentivize the enrollment of high performing students at eligible institutions within the state of Texas.

Texas Education Code §28.0253 provides the Coordinating Board with the authority to *adopt standards for a student to graduate early from high school and earn a diploma equivalent to the distinguished level of achievement by demonstrating early readiness for college.*

In order to implement the Texas First Early High School Completion Program, the Coordinating Board is charged with defining and codifying in rule the criteria a student must meet in order to participate in this program and qualify for the Texas First Scholarship Program upon early enrollment at an eligible Texas public institution of higher education. Authority to adopt rules is provided in Texas Education Code §28.0253(c). As required by Texas Education Code §28.0253(b), the Coordinating Board conferred with the Texas Education Agency to establish this program. The diploma established under this program enables a student to apply for admission to an eligible Texas public institution of higher education and also qualify for the Texas First Scholarship Program, established under Texas Education Code §§56.221-56.227, to promote efficiency in the state public education system and incentivize the enrollment of high performing students at eligible Texas institutions.