



TEXAS RACING COMMISSION

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

Wednesday, August 10, 2022
10:30 a.m.
1100 Congress Avenue
Capitol Extension, Room E2.028
Austin, TX 78701

RULES COMMITTEE AGENDA

I. CALL TO ORDER

II. INVITED TESTIMONY

III. PROCEEDINGS ON RULES

Discussion and possible action on specific proposals of the Texas Rules of the Racing:

1. 16 TAC §303.102, Greyhound Rules

IV. PUBLIC COMMENT

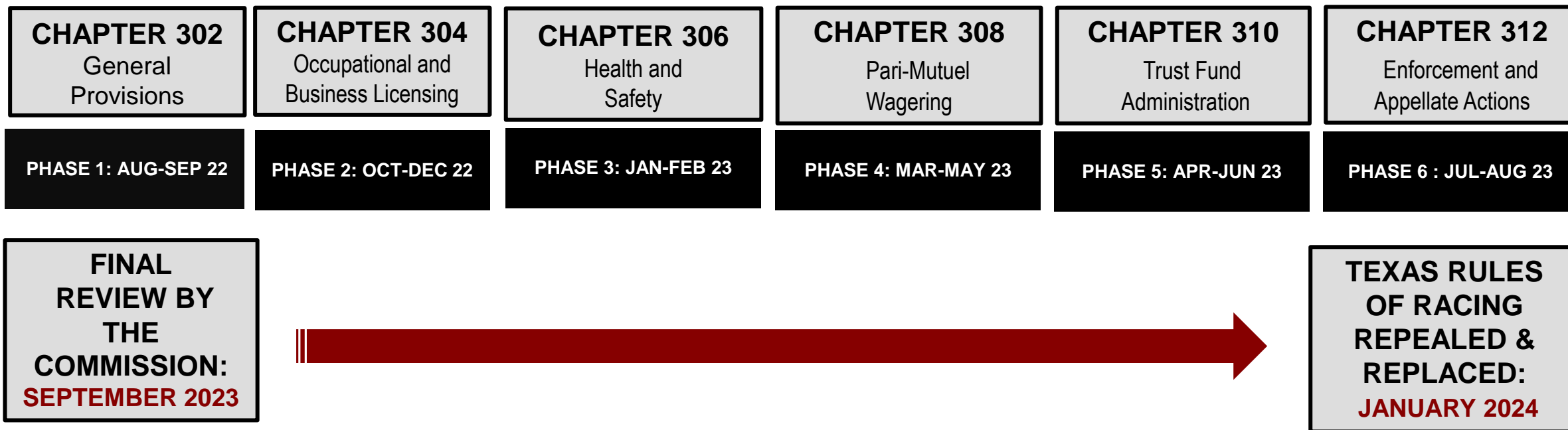
V. ADJOURN



TXRC RULE REVIEW SIX-PHASE ROADMAP

EACH PHASE WILL HAVE INVITED TESTIMONY AND PUBLIC COMMENT AT SITES ACROSS TEXAS

EXISTING ODD NUMBERED CURRENT CHAPTERS (301-323) WILL BE RE-DRAFTED AND RENUMBERED USING EVEN NUMBERS
SEE NEXT PAGE FOR CROSS-WALK BETWEEN CURRENT/FUTURE RULE STRUCTURE



NOTE: ROADMAP MAY BE ADJUSTED BASED ON STATUTORY CHANGES DURING THE 2023 LEGISLATIVE SESSION

AS OF AUGUST 8, 2022

2022_08_08 TEXAS RULES OF RACING CHAPTER CROSS WALK

CURRENT RULES	PROPOSED REVISED CHAPTER CONTENT	ANALYSIS NOTES
CHAPTER 301. DEFINITIONS	CHAPTER 302. GENERAL PROVISIONS. SUBCHAPTER A. AUTHORITIES SUBCHAPTER B. DEFINITIONS	ADDRESS GENERAL PROVISIONS AT THE BEGINNING AND EDIT AS THE OTHER RULES ARE REVIEWED, MOVE ALL DEFINITIONS FROM THE VARIOUS CHAPTERS TO CHAPTER 302, SUBCHAPTER B
CHAPTER 303. GENERAL PROVISIONS CHAPTER 309. RACETRACK LICENSES AND OPERATIONS CHAPTER 311. OTHER LICENSES	CHAPTER 304. OCCUPATIONAL AND BUSINESS LICENSING SUBCHAPTER A. OCCUPATIONAL LICENSING SUBCHAPTER B. BUSINESS LICENSING	CRITICAL SUNSET FEEDBACK: ALIGN LICENSING PROGRAM WITH TX GOVERNMENT CODE. SEPARATE OCCUPATIONAL LICENSING FROM BUSINESS LICENSING PROCESS/REQUIREMENTS.
CHAPTER 313. OFFICIALS AND RULES OF HORSERACING CHAPTER 315. OFFICIALS AND RULES FOR GREYHOUND RACING CHAPTER 319. VETERINARY PRACTICES AND DRUG TESTING	CHAPTER 306. HEALTH AND SAFETY SUBCHAPTER A. HORSERACING SUBCHAPTER B. GREYHOUNDS	REVISE AND REFOCUS TO A SPECIFIC CHAPTER, SOME ASPECTS (E.G. RACING OFFICIALS WILL MOVE TO CHAPTER 301, SUBCHAPTER A, AUTHORITIES.
CHAPTER 321. PARI- MUTUEL WAGERING	CHAPTER 308. PARI-MUTUEL WAGERING SUBCHAPTER A. PARI-MUTUEL WAGERING	ADDRESS MODERNIZATION (TECHNOLOGY), ETC OF WAGERING AND ADD ATB/HIEA UPDATES
CHAPTER 303. GENERAL PROVISIONS SUBCHAPTER D, ACCREDITED TEXAS BRED PROGRAM SUBCHAPTER G, HORSE INDUSTRY ESCROW ACCOUNT	CHAPTER 310. TRUST FUND ADMINISTRATION SUBCHAPTER A. ACCREDITED TEXAS BRED FUND ADMINISTRATION SUBCHAPTER B. HORSE INDUSTRY ESCROW ACCOUNT ADMINISTRATION	SET OUT TRUST ADMINISTRATION IN ITS OWN CHAPTER
CHAPTER 307. PROCEEDINGS BEFORE THE COMMISSION CHAPTER 323. DISCIPLINARY ACTION AND ENFORCEMENT	CHAPTER 312. ENFORCEMENT AND APPELLATE ACTIONS SUBCHAPTER A. RULINGS AND APPEALS SUBCHAPTER B. PROCEEDINGS BEFORE THE COMMISSION SUBCHAPTER C. STATE OFFICE OF ADMINISTRATIVE HEARINGS	MOVE APPELLATE HEARINGS (BOARD OF STEWARDS, COMMISSION, STATE OFFICE OF ADMINISTRATIVE HEARINGS) TO ONE CHAPTER AND ALIGN WITH PROCESS STEP (AFTER ALL OTHER CHAPTER ACTIONS)

**TEXAS RACING COMMISSION
COMMITTEE ON RULES**

Date of Request: May 10, 2022

***Request for Proposed Change to an Existing Rule or
Addition of a New Rule to the Rules of Racing***

Please submit this information to the attention of the Executive Director *at least 21 days* in advance of the next scheduled Committee on Rules meeting. An electronic form is available to assist in your submission or feel free to add additional pages as necessary in order to provide as much detail as possible. Filing this request does not guarantee that your proposal will be considered by the Committee on Rules, and failure to complete all sections may delay consideration of your request.

Texas Racing Commission
8505 Cross Park Drive, Suite 110
Austin, TX 78754-4552
Phone: 512/833-6699 Fax: 512-833-6907
email: info@txrc.texas.gov

Contact Information:

Name:	Kevin Vickers		
Phone Number:	512-751-4195	Fax number:	512-233-0970
Mailing address:	P.O. Box 12715, Austin, Texas 78711		

Check appropriate box(es):

<input type="checkbox"/>	Personal Submission <i>OR</i>
<input checked="" type="checkbox"/>	Submission on Behalf of <u>Texas Greyhound Association (TGA)</u> <small>(Name of Organization)</small>

<input type="checkbox"/>	Proposed Change to (if known):	Chapter: <u>n/a</u>	Rule: <u>n/a</u>
<input checked="" type="checkbox"/>	Proposed Addition to (if known):	Chapter: <u>303</u>	Rule: <u>102(d)</u>

Other Rules Affected by Proposal (if any):	Chapter: <u>n/a</u>	Rule: <u>n/a</u>
	Chapter: <u>n/a</u>	Rule: <u>n/a</u>

Statutory Authority for Proposed Change: [Tex. Occ. Code §§ 2028.201, .202\(c\)\(2\)](#)

A. Summary of the Issue and Proposed Solution

1. Summarize the issue. Address the following:

- What specific problems or concerns are involved in this issue?
- Do any existing model rules (such as from ARCI) relate to this issue?

The proposed rule amendment would expressly describe how the Texas Greyhound Association (TGA) may propose for Commission approval the distribution of purse money from interstate cross-species simulcasting to kennel owners and owners of registered Texas-bred greyhounds that participated in the most recently held Texas meet. Such distribution is necessary to keep the Texas greyhound industry from wholly withering into nonexistence when live greyhound races have not been held for an extended period of time—like the present.

Escrowed purse funds from interstate cross-species simulcasting at horse racetracks in Texas continue to be held by TGA despite the fact that multiple previously scheduled Texas greyhound meets have not run to completion since early 2020. Most recently, the August 2021 meet scheduled to occur at Valley Race Park was canceled. As shown by the cancellations of greyhound meets in 2020 and 2021, even if greyhound race dates have been granted by the Commission, there is no guarantee that such meets will actually be run to completion.

Factors such as the COVID-19 pandemic and the deteriorated condition of greyhound racetracks in Texas preclude the occurrence of meets currently. Meanwhile, Texas's greyhound and kennel owners are struggling to keep the greyhound racing industry viable. In light of these considerations, TGA has proposed that escrowed purse funds paid to TGA pursuant to Section 2028.202(c)(2), Occupations Code, from March 1, 2020, through August 31, 2021, should be distributed in fair proportions to the owners of Texas-bred greyhounds and the kennel owners that were contracted to participate at the meets run at Gulf Greyhound Park for the January 2, 2020, through February 29, 2020, racing season. Such a distribution would benefit a large number of people at the core of Texas greyhound racing.

As has been discussed in public testimony to the Commission, in written communications to Commission staff, and in many other forums, the lack of racing has greatly hurt greyhound and kennel owners, and it may cause such owners to give up trying—such that Texas may not have in the future the greyhounds and kennel operations necessary to hold meets. Distributing interstate cross-species simulcasting funds that would otherwise uselessly sit in escrow is a necessary life-support measure for Texas greyhound racing.

As detailed in briefing submitted on behalf of TGA to the Opinion Committee of the Office of the Texas Attorney General regarding request for opinion RQ-0442-KP, the Commission already has authority to approve proposals like those that would be addressed by this rule amendment. The amendment is simply “belt and suspenders” that would be useful for the public and the regulated community by providing expressly elaborated criteria and required considerations for a TGA proposal to distribute interstate cross-species simulcast funds to participants in past races.

TGA is unaware of any existing model rules that relate to this issue.

2. Summarize proposed solution(s). Address the following:

- How will the solution fix the problem?

- What are the benefits of the proposed change?
- What are the possible drawbacks of the proposed change?

As noted above, the proposed rule amendment would expressly describe how TGA may propose for Commission approval the distribution of purse money from interstate cross-species simulcasting to kennel owners and owners of registered Texas-bred greyhounds that participated in the most recently held meet. More specifically, the rule amendment would require that TGA’s proposal for distribution specify that one half of the money subject to the proposal must be allocated among greyhound owners and the other half must be allocated among kennel owners. This ensures that both essential groups receive some “life support” and that greyhound owners are provided more than the statutory minimum of 35 percent of purse monies. In preparing its proposed distribution, TGA would be required to consider the resources expended by proposed recipients in support of greyhound racing.

The Commission would retain the ultimate authority to approve or disapprove of TGA’s proposal.

Texas law requires that Texas-bred greyhounds be booked to run in races in the state. Without distributions of interstate cross-species simulcasting funds or live races actually occurring, Texas’s native greyhound racing participants will shut their doors and Texas will be wholly unable to run live greyhound races in the future. The proposed rule amendment has the benefit of providing direction to TGA and other stakeholders about how interstate cross-species simulcast funds might be distributed during times when no live racing is occurring.

There are no possible drawbacks to the proposed rule amendment. The amendment would not alter the current authority of the Commission or TGA. The amendment would not bind the Commission or TGA to do anything either entity may not desire in the future. The amendment would simply provide helpful direction about what should be considered potentially proper distributions and allocations of purse funds resulting from interstate cross-species simulcasting in certain circumstances.

B. Impact of Proposal

Please answer the following questions to the best of your ability. Explain all “yes” answers below.

1. Is this change likely to have any fiscal impact on state or local government over the next five years?
2. Is there likely to be any cost to persons or businesses required to comply with the change?
3. Is the change likely to result in the creation or elimination of a government program?
4. Is the change likely to create any new employee positions or eliminate any existing employee positions within the Texas Racing Commission?
5. Is the change likely to require an increase or decrease in future legislative appropriations to the agency?
6. Is the change likely to require a substantial increase or decrease in the total amount of fees paid to the agency?
7. Does the change create any new regulations or expand any existing regulations?

	Yes	No
		X
		X
		X
		X
		X
		X
		X

8. Is the change likely to increase the number of individuals subject to the rule's applicability?		X
9. Is the change likely to have an impact on the Texas economy?	X	
10. Is the change likely to have a negative economic effect on small businesses?		X
11. Is the change likely to have a negative impact on micro-businesses (independently owned businesses with no more than 20 employees)?		X
12. Is the change likely to have a negative impact on the local economy?		X
13. Is the change likely to have a negative impact on rural communities (communities with a population of less than 25,000)?		X
14. Is the change likely to have a negative impact on employment conditions in Texas?		X
15. Is the change likely to restrict, limit, or impose a burden an owner's right to his or her private real property?		X

16. Explain any "yes" answers, including estimates of cost where appropriate.

As noted above, there is a likely benefit to the Texas economy because distributions of purse money from interstate cross-species simulcasting to kennel owners and owners of registered Texas-bred greyhounds is necessary to keep greyhound racing alive in Texas during times when live greyhound races have not been held for an extended period of time. The rule amendment, if adopted, would provide the public and the regulated community with more direction so that expectations about distributions could be more appropriately built into planning decisions.

17. If you answered "yes" to any questions above, is there another way to achieve the same goal that would not result in a "yes" answer?

While the proposed rule amendment would benefit the economy without any drawbacks, current legal authority is sufficient to achieve the goal of supporting Texas's greyhound and kennel owners during times when no live racing is occurring.

18. What is the anticipated public benefit of this change?

See above. The broad public economic and cultural benefits from viable greyhound racing that underlie the Texas Racing Act are the same benefits that will be enhanced by the proposed rule amendment.

D. Support or Opposition

Please identify any affected stakeholder groups that expressed support or opposition. (These stakeholders may include the racetracks, breed registries, owners, kennel owners, trainers, jockeys, veterinarians, members of the public, or others.)

- For those stakeholder groups that have expressed an opinion, please state their opinion(s) and submit any formal letters of support or opposition.
- Are there any affected stakeholder groups that have not been consulted on this proposal?

TGA is unaware of any opposition to this proposal. Stakeholders both within and outside of TGA have been consulted. Of particular note, TGA's representative contacted representatives of the three Texas greyhound racetrack associations (two current license holders—Gulf Coast Racing and Valley Race Park—and one former license holder—Gulf Greyhound Park). All of the Texas greyhound racetrack associations are supportive of TGA's proposal.

C. Proposal

Provide rule language you are proposing. Please show any language to be added with underlined text (example: new text) and any current rule language to be eliminated in brackets with strikethroughs (example: [~~text to be deleted~~]). To substitute text, show the new text first (example: new text [~~old text~~]).

RULE §303.102 Greyhound Rules

- (a) Registration as a Texas-Bred Greyhound.
 - (1) Eligibility Requirements for Owner/Lessee. The owner or lessee of the dam at the time of whelping must have been a resident of Texas for the three-year period preceding the date the litter was whelped. If the dam has multiple owners, each owner must meet the requirements in this subdivision.
 - (2) Eligibility Requirements. To be registered as a Texas-bred greyhound, a greyhound must have been whelped in Texas and remained domiciled in Texas for the first six months of life.
 - (3) Registration Procedure.
 - (A) The owner or lessee of the dam at the time of whelping is responsible for registering a greyhound as Texas-bred.
 - (B) The owner or lessee must submit to the Texas Greyhound Association ("TGA") the original "Litter Registration Acknowledgement" received from the National Greyhound Association ("NGA"), with a check or money order for the registration fee established by TGA.
 - (C) With the application for registration, the owner or lessee must file an affidavit with the TGA affirming that all litter applications submitted by the owner or lessee meet the registry requirements. The affidavit must include an agreement that if any of the greyhounds being registered are removed from Texas before six months of age, the owner or lessee will notify TGA no later than 10 days after the removal. On being notified that a registered greyhound has been removed from Texas before six months of age, TGA shall remove the greyhound from the registry.
 - (D) If the litter qualifies to be registered as Texas-bred greyhounds, the TGA will stamp the "Litter Registration Acknowledgement" and "Certificate of Registration" of each affected greyhound as "Texas Bred" and return them to the sender.
 - (E) A person who submits an application for registration knowing that the application contains false information is subject to discipline by the TGA Executive Committee, including suspension from the TGA.
- (b) Owners' Awards.
 - (1) The owner of a registered Texas-bred greyhound is eligible to receive an owner's award if the greyhound is among the first four Texas-bred greyhounds to finish a pari-mutuel race in Texas. For purposes of this subdivision, each elimination and final in a stakes race competition is considered a pari-mutuel race. A dead heat for any position is considered a placement in that position for each greyhound involved in the dead heat.

- (2) TGA will pay owners' awards no later than the last business day of each month for the previous month's awards. TGA will issue the check for each award to the person in whose name the Texas-bred greyhound is registered.
- (3) Determination of Available Award Funds. Available owners' awards for each month are composed of the sum of the following two amounts:
 - (A) the total amount of money received from the Commission for the Texas Bred Incentive Program for the period between the dates that the last Texas greyhound meet ended and the current Texas greyhound meet began, minus the statutorily permitted amount for administrative expenses, multiplied by the ratio of the live pari-mutuel races proposed for the month to the number of live pari-mutuel races proposed in the current greyhound meet; and
 - (B) the total amount of money received from the Commission for the Texas Bred Incentive Program during the current greyhound meet for the month, minus the statutorily permitted amount for administrative expenses.
- (4) Owners' awards for each live race during a month shall be paid out as follows:
 - (A) First Texas-bred greyhound - each Texas-bred greyhound finish for first among Texas-bred greyhounds that compete in a Texas pari-mutuel race shall receive an equal share of 50% of the award funds available under paragraph (3) of this subsection.
 - (B) Second Texas-bred greyhound - each Texas-bred greyhound finish for second among Texas-bred greyhounds that compete in a Texas pari-mutuel race shall receive an equal share of 25% of the award funds available under paragraph (3) of this subsection.
 - (C) Third Texas-bred greyhound - each Texas-bred greyhound finish for third among Texas-bred greyhounds that compete in a Texas pari-mutuel race shall receive an equal share of 15% of the award funds available under paragraph (3) of this subsection.
 - (D) Fourth Texas-bred greyhound - each Texas-bred greyhound finish for fourth among Texas-bred greyhounds that compete in a Texas pari-mutuel race shall receive an equal share of 10% of the award funds available under paragraph (3) of this subsection.
- (5) TGA shall make a reasonable effort to deliver all owners' awards. If after 12 months after issuing a check for an owner's award TGA is unsuccessful in delivering the check to the proper person, TGA shall void the check and add the unclaimed amount to the total amount to be distributed as owners' awards for the next greyhound meet.
- (6) Each month, one owner's award share under each subparagraph listed under paragraph (4) of this subsection will be retained to cover errors that may be made by TGA. A person who believes he or she is entitled to an owner's award must file a claim with TGA no later than 90 days after the end of the month during which the race on which the claim is based was conducted. On receipt of a claim for an owner's award, TGA shall determine whether the claim is valid. If the claim is valid, TGA shall immediately pay the owner's award. After the deadline for filing a claim, TGA shall add the remaining retained owner's award shares to the total amount to be distributed in the next greyhound meet. If more than one valid claim is filed, TGA shall pay the second and subsequent claims from the owner's award shares retained from the next and subsequent months until all valid claims are paid.

- (7) At the conclusion of the current greyhound meet and after the TGA has distributed all owners' awards under this subsection, the TGA shall add any remaining Accredited Texas Bred Funds to the total amount to be distributed as owners' awards at the next greyhound meet.
 - (8) An owner's award may not be paid for a greyhound that is disqualified from a race due to a positive drug test. On notice to TGA that a race's results are affected by a positive drug test, TGA shall retain any owner's award due to the affected greyhound until the Commission's disciplinary proceedings regarding the positive drug test are final and unappealable. If the greyhound's disqualification is overturned, the TGA shall pay the retained owner's award within 30 days of receiving notice of the final disposition of the proceeding. If the greyhound's disqualification is upheld, the amount of the retained owner's award shall be added to the total amount to be distributed as owners' awards for the next greyhound meet after the month in which TGA is notified of the final disposition of the proceeding.
- (c) Stakes Races.
- (1) Pursuant to the Act, §6.09(d) and Tex. AG. Op. No. DM-211, TGA shall pay one-half of the breakage it receives as additional purse money for stakes races restricted to Texas-bred greyhounds. All registered Texas-bred greyhounds are eligible to participate in a Texas-bred restricted stakes race, subject to the conditions of the race.
 - (2) TGA shall develop the conditions of each Texas-bred restricted stakes race in cooperation with the racetrack at which the race will be conducted. The conditions of the race are subject to the approval of the executive secretary.
 - (3) TGA shall pay the allotted additional purse money for the race to the racetrack at which the race will be conducted. The racetrack shall hold the additional purse money received from TGA until the executive secretary advises the association that the race has been cleared for payment.
- (d) Distribution of purse money from cross-species simulcasting.
- (1) To enhance live racing opportunities at Texas greyhound racetracks, TGA shall pay to each greyhound racetrack the purse money it collects pursuant to the Act, §6.091(d)(2) from interstate cross-species simulcasting at Texas horse racetracks in accordance with an allocation approved by the Commission. TGA shall prepare a proposed allocation for consideration by the Commission. In preparing a proposed allocation, TGA shall consider:
 - (A) the average price-per-point paid for purses at each greyhound racetrack during the preceding year;
 - (B) the purse payout at each greyhound racetrack during the preceding year; and
 - (C) the impact cross-species simulcasting has made on greyhound purse revenues at each greyhound racetrack during the preceding year.
 - (2) TGA may propose, and the Commission may approve, that payment of the purse money TGA collects pursuant to the Act, § 6.091(d)(2) from interstate cross-species simulcasting at Texas horse racetracks be made directly from TGA to persons that were kennel owners or owners of a registered Texas-bred greyhound that participated in the race meeting most recently held in Texas. Such a proposal must specify that one half of the purse money subject to the proposal shall be allocated among the kennel owners and the other half shall be allocated among the greyhound owners. TGA may propose that the one half allocated to kennel owners be subdivided among kennel owners, and the other half allocated to greyhound owners be subdivided among greyhound owners, in any proportions that TGA determines are fair. In preparing a proposal, TGA shall consider the

resources expended by proposed recipients in support of activities related to greyhound racing in Texas.

(3)~~(2)~~ Annually, the executive secretary shall establish a deadline by which the proposed allocation must be submitted. The executive secretary shall ensure each of the greyhound racetracks has notice of the proposed allocation and the date, time, and location of the Commission meeting at which the proposed allocation will be considered for approval.



Established 1906

August 7, 2022

Virginia Fileds, General Counsel
Texas Racing Commission

VIA Email

I am writing on behalf of the National Greyhound Association in regards to the TGA's proposed rule change involving payment of purses on cross breed simulcasting.

As stated previously by our association, we stand in opposition to the proposed rule change and/or disbursement of the purse funds as requested by the TGA. A large portion of those funds were earned and accumulated by greyhounds and greyhound owners NOT based in Texas via simulcast and live racing. It is not fair to award those monies to only owners and kennels of Texas bred greyhounds to the exclusion of so many that helped build the fund. We might also note that money has and will continue to grow in that fund even though there has not been, and most likely will not be, any live racing in Texas in the future and any Texas bred greyhounds will have to earn purses in other States.

We appreciate your consideration of our input. We have also referred these matters to our attorney for review.

Thank you,

Jim Gartland

Jim Gartland
Executive Director

P.O. Box 543



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