



TEXAS RACING COMMISSION
1801 N Congress Avenue, Suite 7.600
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512-833-6699

January 12, 2024

To: All Occupational and Business Licensees of the Texas Racing Commission

Subject: Occupational Licensing Guidelines for Applicants with Criminal Backgrounds

Purpose. The purpose of this letter is to notify all occupational licensees of the Texas Racing Commission that the agency has issued updated occupational licensing guidelines based on recent legislative changes to the Texas Racing Act that aligned the statute with Chapter 53 of the Texas Occupations Code, and as outlined in 16 Texas Administrative Code § 303.201. The Texas Racing Act (hereinafter the “Act”), related statutes and the Texas Rules of Racing (hereinafter the “Rules”) provide the basis for qualifying applicants for an occupational license.¹

Applicant Responsibilities. As set forth in the Texas Occupations Code § 2025.002, an occupational license is a privilege.² Applicants must go through the qualification process and criminal history screening **before** engaging in an activity in Texas that requires a pari-mutuel horse racing occupational license.³ All applicants are required to submit fingerprints for identity verification and criminal history records evaluation if they are not already on file with the agency. Criminal history results are typically reviewed every 36 months; however, the agency is also notified when an occupational licensee has an update to their criminal record. If an applicant has a disqualifying criminal record after a license is issued, the agency may revoke the occupational license.⁴

Criminal History Evaluation. Applicants may request a criminal history evaluation letter prior to applying for an occupational license. If the agency determines that an applicant may have a disqualifying criminal history, the agency will take steps to analyze the record, conduct a legal review and notify the applicant of the status of the application accordingly. Attached to this letter are the updated general guidelines used by the agency staff to determine applicant eligibility for an occupational license. Additional considerations for specific licenses may also require a review of qualifications and/or written or hands-on testing prior to the issuance of a license.

Licensing Procedures. Additional information regarding the Texas Racing Act or Rules of Racing, visit our webpage at www.txrc.texas.gov or our licensing page at www.txrc.texas.gov/licensing, email: licensing@txrc.texas.gov or call 512-633-8899, press 1, to speak to our licensing customer service team. We look forward to assisting you and appreciate all applicants going through the licensing process prior to engaging in an occupational activity that requires a license under the Texas Racing Act.

Amy F. Cook

Amy F. Cook
Executive Director

¹ See Texas Occupations Code § 2025, Texas Occupations Code § 53, TX Govt. Code §411.096.

² See Texas Occupations Code § 2025.002,

³ See Texas Occupations Code § 2033.004.

⁴ See Texas Occupations Code § 2025.262; 16 Texas Administrative Code § 303.201(c).

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GUIDELINES FOR DENIAL, REVOCATION, AND SUSPENSION OF OCCUPATIONAL LICENSE

Submission of Application. All applicants are required to submit digital fingerprints to verify identity and to allow the agency to review criminal history information. All applicants may request an evaluation of their criminal history once digital fingerprints have been submitted but prior to applying for an occupational license and are entitled to notice and an opportunity to respond to the evaluation of their criminal history records in accordance with Chapter 53, Texas Occupations Code.

Agency Procedures. These guidelines are used as the agency follows procedures to determine whether a criminal conviction renders an applicant an unsuitable candidate for the license, or whether a conviction warrants revocation or suspension of a license previously granted. Typically, after completed application form is submitted to the licensing office, the application is reviewed to determine eligibility. If an applicant has a potential disqualifying criminal history, the agency will notify the applicant that their application requires additional review. Following the review, the applicant will be notified that: 1) their application for an occupational license is approved; 2) they may be eligible for a provisional license;¹ or that the agency is considering denial of their application with additional information provided on the right to respond to the agency's determination. Additional information on the procedures used by all state agencies to determine licensing eligibility are available from the Texas State Auditor's Office.²

General Guidelines. These guidelines present the general factors that are considered in all cases, and the reasons why particular crimes are considered to relate to each type of license issued by agency. If an applicant requests a pre-application determination of their eligibility for an occupational license, these same guidelines are used for the determination.

Failure to Disclose. Applicants may be denied, suspended or revoked if it is determined that the licensee (a) failed to provide information required in the license application, (b) provided false information in the license application, (c) failed to disclose an ownership interest in a horse as required by the Act and the Rules; or failed to fully disclose the true owners of all interests, beneficial or otherwise, in a proposed racetrack facility.³

Past and Present Rule Violations. Licensees may not be eligible to renew their licenses if they have outstanding fines, a ruling against them that makes them ineligible to participate in racing (i.e., their license is suspended), or their license has been flagged by the Commission due to a pending rule violation.

General Considerations. Applicants may not be eligible for an occupational license if (a) they have been convicted of an offense that directly relates to the duties and responsibilities of the occupation including a violation of the Act or the Rules or related statutes, (b) they have been convicted of a first-degree felony or capital grade offense, (c) they have been convicted of any felony in the past 10 years that was previously undisclosed (d) have been convicted of a misdemeanor (other than a traffic violation) in the past five (5) years that was not previously disclosed, (e) they or any person with whom they currently reside is under suspension by another racing jurisdiction or has had a license revoked by another racing jurisdiction, (f) they or any person with whom they currently reside has had a license application denied by another racing jurisdiction, (g) they are currently excluded from any pari-mutuel racetrack in Texas. Additional considerations include but are not limited to other violations of state or federal law not listed in this document (e.g., delinquent child support payments).⁴

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General Factors: In determining whether an offense directly relates to a person’s present fitness to perform the duties and responsibilities associated with the license, the agency considers the relationship between the offense and the occupational license applied for and the following factors:⁵

Factors in Determining Whether a Particular Offense Directly Relates to the Applicant’s Present Fitness to Perform the License Duties and Responsibilities.	Factors in Determining Whether a Particular Offense Directly Relates to A Particular Occupational License.
<p>(1) the extent and nature of the person’s past criminal activity;</p> <p>(2) the age of the person at the time of the commission of the crime;</p> <p>(3) the amount of time that has elapsed since the person’s last criminal activity;</p> <p>(4) the conduct and work activity of the person prior to and following the criminal activity;</p> <p>(5) evidence of the person’s rehabilitation or rehabilitative effort while incarcerated or following release; and</p> <p>(6) other evidence presented by the person of the person’s present fitness, including letters of recommendation from:</p>	<p>(1) the extent and nature of the person’s past criminal activity;</p> <p>(2) the age of the person at the time of the commission of the crime;</p> <p>(3) the amount of time that has elapsed since the person’s last criminal activity;</p> <p>(4) the conduct and work activity of the person prior to and following the criminal activity;</p> <p>(5) evidence of the person’s rehabilitation or rehabilitative effort while incarcerated or following release; and</p> <p>(6) other evidence presented by the person of the person’s present fitness, including letters of recommendation from:</p> <p style="padding-left: 40px;">(A) prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;</p> <p style="padding-left: 40px;">(B) the sheriff or chief of police in the community where the person resides; or</p> <p style="padding-left: 40px;">(C) any other persons in contact with the convicted person.</p>

Recent Amendments of the Texas Racing Act, Texas Rules of Racing and Related Statutes. In addition to outlining the guidelines for eligibility for The Texas Racing Commission is updating its licensing guidelines, to reflect changes in the law that became effective following the 88th Legislative Session. During the 88th Legislative Session, the Texas Racing Act was amended to require the agency to comply with Chapter 53 of the Texas Occupations Code. As part of this new alignment, the agency’s authority to issue temporary licenses and emergency licenses was revoked and TXRC incorporated Chapter 53 into the Texas Racing Act. Accordingly, the Texas Racing Commission may suspend or revoke a license or disqualify a person from receiving a license because of criminal convictions for offenses directly related to the duties and responsibilities of the license holder. The table below is provided for the analysis of eligibility for an occupational license as a guideline, not an absolute requirement since aggravating and mitigating factors may also be applied in each unique case.

GUIDELINES FOR DENIAL, REVOCATION, AND SUSPENSION OF OCCUPATIONAL LICENSE

Table of Criminal Convictions Considered for Licensure⁶

Table Abbreviations: (F – Felony, M – Misdemeanor, RER – Risk Evaluation Required)

Texas Penal Code, Title 5, Offenses Against the Person

Offense	Section	Guideline	Related Act/Rule
Murder (F)	19.02	10 Year Bar + RER	2025.262(2)
Capital Murder (F)	19.03	10 Year Bar + RER	2025.262(2)
Manslaughter (F)	19.04	5 Year Bar + RER	2025.262(2)
Criminally Negligent Homicide (F)	19.05	5 Year Bar + RER	2025.262(2)
Human Trafficking (F/M)	20A.02	5 Year Bar + RER	
Assault (F)	22.01	10 Year Bar + RER	2025.262(2) 303.202(a)(3)
Assault (M)	22.01	5 Year Bar + RER	2025.262(2) 303.202(a)(3)
Sexual Assault (F)	22.011	10 Year Bar + RER	2025.262(2) 303.202(a)(3)

Texas Penal Code, Title 7, Offenses Against Property

Offense	Section	Guideline	Related Act/Rule
Arson (F)	28.02	10 Year Bar + RER	2025.262(2) 303.202(a)(10)
Robbery (F)	29.02	5 Year Bar + RER	2025.262(2) 303.202(a)(6)
Aggravated Robbery (F)	29.03	10 Year Bar + RER	2025.262(2) 303.202(a)(6)
Burglary (F)	30.02	5 Year Bar + RER	2025.262(2) 303.202(a)(5)
Theft (F)	31.03	5 Year Bar + RER	2025.262(2), 2026.051 303.202(a)(8)
Theft (M)	31.03	RER	2026.051 303.202(a)(8)

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Texas Penal Code, Title 9, Offenses Against Public Order and Decency

Offense	Section	Guidelines	Related Act/Rule
Cruelty to Livestock Animals (F)	42.09	5 Year Ban + RER	2025.262(2) 303.202(a)(7)
Cruelty to Livestock Animals (M)	42.09	5 Year Ban + RER	303.202(a)(7)
Cruelty to Non-livestock Animals (F)	42.092	5 Year Ban + RER	2025.262(2) 303.202(a)(7)
Cruelty to Non-livestock Animals (M)	42.092	RER	303.202(a)(7)
Prostitution (M)	43.02	RER	303.202(a)(2)
Solicitation of Prostitution (F)	43.021	5 Year Ban + RER	2025.262(2) 303.202(a)(2)
Promotion of Prostitution (F)	43.03	5 Year Ban + RER	2025.262(2) 303.202(a)(2)
Online Promotion of Prostitution (F)	43.031	5 Year Ban + RER	2025.262(2) 303.202(a)(2)
Aggravated Promotion of Prostitution (F)	43.04	5 Year Ban + RER	2025.262(2) 303.202(a)(2)
Aggravated Online Promotion of Prostitution (F)	43.041	5 Year Ban + RER	2025.262(2) 303.202(a)(2)
Compelling Prostitution (F)	43.05	5 Year Ban + RER	2025.262(2) 303.202(a)(2)

Texas Penal Code, Title 10, Offenses Against Public Health, Safety and Morals

Offense	Section	Guidelines	Related Act/Rule
Gambling (M)	47.02	5 Year Ban + RER	303.202(a)(2)
Gambling Promotion (M)	47.03	5 Year Ban + RER	303.202(a)(2)
Keeping a Gambling Place (M)	47.04	5 Year Ban + RER	303.202(a)(2)
Communicating Gambling Information (M)	47.05	RER	303.202(a)(2)
Possession of Gambling Device, Equipment or Paraphernalia (M)	47.06	RER	303.202(a)(2)
Driving while Intoxicated (F)	49.04	5 Year Ban + RER	2025.262(2) 303.202(a)(12)
Driving while Intoxicated (M)	49.04	RER	

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Texas Penal Code, Title 51, Illegal Entry Into this State

Offense	Section	Guidelines	Related Act/Rule
Illegal Entry from Foreign Nation	51.02	10 Year Ban + RER	2025.001
Illegal Reentry by Certain Aliens	51.03	10 Year Ban + RER	2025.001

Texas Penal Code, Title 72, Racketeering and Unlawful Debt Collection

Offense	Section	Guidelines	Related Act/Rule
Racketeering	72	10 Year Ban + RER	Statutory Incorporation

Texas Health and Safety Code

Offense	Section	Guidelines	Related Act/Rule
Manufacture or Delivery of Controlled Substance (F)	481.112	5 Year Ban + RER	2025.262(2); 303.202(a)(9)
Manufacture or Delivery of Substance in Penalty Group 1-A (F)	481.1121	5 Year Ban + RER	2025.262(2); 303.202(a)(9)
Manufacture or Delivery of Substance in Penalty Group 2 or 2-A (F)	481.113	5 Year Ban + RER	2025.262(2); 303.202(a)(9)
Manufacture or Delivery of Substance in Penalty Group 3 or 4 (F)	481.114	5 Year Ban + RER	2025.262(2); 303.202(a)(9)
Possession of Substance in Penalty Group 1 (F)	481.115	5 Year Ban + RER	2025.262(2); 303.202(a)(9)
Possession of Substance in Penalty Group 1-A (F)	481.1151	5 Year Ban + RER	2025.262(2); 303.202(a)(9)
Possession of Substance in Penalty Group 2 (F)	481.116	5 Year Ban + RER	2025.262(2); 303.202(a)(9)
Possession of Substance in Penalty Group 2-A (F)	481.1161	5 Year Ban + RER	2025.262(2); 303.202(a)(9)
Possession of Substance in Penalty Group 2-A (M)	481.1161	5 Year Ban + RER	303.202(a)(9);
Possession of Substance in Penalty Group 3 (F)	481.1117	5 Year Ban + RER	2025.262(a); 303.202(a)(9)
Possession of Substance in Penalty Group 3 (M)	481.1117	5 Year Ban + RER	303.202(a)(9);
Possession of Substance in Penalty Group 4 (F)	481.118	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Possession of Substance in Penalty Group 4 (M)	481.118	5 Year Ban + RER	303.202(a)(9)
Manufacture, Delivery, or Possession of Miscellaneous Substances (F)	481.119	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Manufacture, Delivery, or Possession of Miscellaneous Substances (M)	481.119	5 Year Ban + RER	303.202(a)(9)
Delivery of Marijuana (F)	481.120	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Delivery of Marijuana (M)	481.120	5 Year Ban + RER	303.202(a)(9)
Manufacture or Delivery of Controlled Substance (F)	481.112	5 Year Ban + RER	2025.262(2) 303.202(a)(9)

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Texas Health and Safety Code (continued)

Offense	Section	Guidelines	Related Act/Rule
Manufacture or Delivery of Substance in Penalty Group 1-A (F)	481.1121	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Manufacture or Delivery of Substance in Penalty Group 2 or 2-A (F)	481.113	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Manufacture or Delivery of Substance in Penalty Group 3 or 4 (F)	481.114	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Possession of Substance in Penalty Group 1 (F)	481.115	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Possession of Substance in Penalty Group 1-A (F)	481.1151	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Possession of Substance in Penalty Group 2 (F)	481.116	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Possession of Substance in Penalty Group 2-A (F)	481.1161	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Possession of Substance in Penalty Group 2-A (M)	481.1161	RER	303.202(a)(9)
Possession of Substance in Penalty Group 3 (F)	481.1117	5 Year Ban + RER	2025.262(a) 303.202(a)(9)
Possession of Substance in Penalty Group 3 (M)	481.1117	RER	303.202(a)(9)
Possession of Substance in Penalty Group 4 (F)	481.118	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Possession of Substance in Penalty Group 4 (M)	481.118	RER	303.202(a)(9)
Manufacture, Delivery, or Possession of Miscellaneous Substances (F)	481.119	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Manufacture, Delivery, or Possession of Miscellaneous Substances (M)	481.119	RER	303.202(a)(9)
Delivery of Marijuana (F)	481.120	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Delivery of Marijuana (M)	481.120	RER	303.202(a)(9)
Delivery of a Controlled Substance or Marijuana to a Child (F)	481.122	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Possession or Transport of Certain Chemicals with Intent to Manufacture Controlled Substance (F)	481.124	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Possession or Transport of Certain Chemicals with Intent to Manufacture Controlled Substance (M)	481.124	RER	303.202(a)(9)
Possession or Transport of Anhydrous Ammonia: Use of or Tampering with Equipment (F)	481.1245	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Unlawful Delivery of Manufacture with Intent to Deliver; Criminal Penalty (F)	482.002	5 Year Ban + RER	2025.262(2) 303.202(a)(9)

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Texas Health and Safety Code (continued)

Offense	Section	Guidelines	Related Act/Rule
Unlawful Delivery of Manufacture with Intent to Deliver; Criminal Penalty (F)	482.002	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Possession of Dangerous Drug (M)	483.041	RER	303.202(a)(9)
Delivery or Offer of Delivery of Dangerous Drug (F)	483.042	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Manufacture of Dangerous Drug (F)	483.043	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Forging or Altering Prescription (M)	483.045	RER	303.202(a)(9)
Possession and Use (M)	483.031	RER	303.202(a)(9)
Delivery to a Minor (F)	485.033	5 Year Ban + RER	2025.262(2) 303.202(a)(9)
Delivery to a Minor (M)	485.033	Risk Assessment	303.202(a)(9)

¹ See Texas Occupations Code § 53.0211.

² See the Best Practices Guide: Applying for an Occupational License After Conviction or Deferred Adjudication, at: <https://sao.texas.gov/reports/main/20-327.pdf>.

³ See 16 Texas Administrative Code § 309.9.

⁴ See Texas Family Code § 232.001-232.016

⁵ 16 Texas Administrative Code § 303.201(b); 303.202(b).

⁶ List is not all inclusive, additional offenses may be considered by the agency.