

By: Thompson of Harris

H.B. No. 4115

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to eligibility for membership on and the regulation of  
3 horse and greyhound racing by the Texas Racing Commission; creating  
4 a criminal offense.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 2021.003, Occupations Code, is amended  
7 by adding Subdivision (29-a) to read as follows:

8 (29-a) "Occupational license" means a license issued  
9 to an individual to conduct activities prescribed for that license  
10 in the commission rules.

11 SECTION 2. Section 2021.006, Occupations Code, is amended  
12 to read as follows:

13 Sec. 2021.006. RELEASE OF CIVIL LIABILITY. A commission  
14 member, a commission employee, a person contracted by the  
15 commission, a steward or judge, a racetrack association, a  
16 horsemen's organization, or any other person regulated under this  
17 subtitle is not liable for a cause of action that arises out of that  
18 person's performance or exercise of discretion in the  
19 implementation or enforcement of this subtitle or a rule adopted  
20 under this subtitle if the person has acted in good faith.

21 SECTION 3. Section 2022.004(e), Occupations Code, is  
22 amended to read as follows:

23 (e) A person is not eligible for appointment as a commission  
24 member or to be designated to serve as an ex officio member's

1 designee as described by Section 2022.001(b) if:

2 (1) the person or the person's spouse:

3 (A) is licensed by the commission, except as a  
4 commissioner;

5 (B) is employed by the commission or participates  
6 in the management of a business entity or other organization  
7 regulated by the commission or receiving funds from or through the  
8 commission;

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

13 (D) uses or receives a substantial amount of  
14 tangible goods, services, or funds from or through the commission,  
15 other than compensation or reimbursement authorized by law for  
16 commission membership, attendance, or expenses; or

17 (2) the person:

18 (A) owns any financial interest in a racetrack or  
19 its operation or is related within the second degree by affinity or  
20 the third degree by consanguinity, as determined under Subchapter  
21 B, Chapter 573, Government Code, to a person who owns any financial  
22 interest in a racetrack or its operation; ~~or~~

23 (B) has been convicted of a felony; or

24 (C) has held a license issued by the commission  
25 during the 10-year period preceding the appointment ~~[of any crime~~  
26 ~~involving moral turpitude]~~.

27 SECTION 4. The heading to Section 2022.052, Occupations

1 Code, is amended to read as follows:

2 Sec. 2022.052. EMPLOYEES; RESTRICTIONS ON EMPLOYMENT;  
3 CONTRACTING.

4 SECTION 5. Sections 2022.052(a) and (c), Occupations Code,  
5 are amended to read as follows:

6 (a) The commission shall hire employees or contract with  
7 persons as necessary to administer this subtitle.

8 (c) The commission may not employ or continue to employ or  
9 contract with or continue to contract with a person who:

10 (1) owns or controls a financial interest in a  
11 commission license holder;

12 (2) is employed by or serves as a paid consultant to a  
13 commission license holder, an official state breed registry, or a  
14 Texas trade association, as defined by Section 2022.004(a), in the  
15 field of horse or greyhound racing or breeding;

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

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

21 (5) resides with or is related within the first degree  
22 by affinity or consanguinity to a person subject to a  
23 disqualification prescribed by this subsection.

24 SECTION 6. Sections 2023.053(c) and (f), Occupations Code,  
25 are amended to read as follows:

26 (c) Any unappropriated money exceeding \$2 million  
27 [~~\$750,000~~] that remains in the fund at the close of each state

1 fiscal biennium shall be transferred to the general revenue fund  
2 and may be appropriated for any purpose.

3 (f) This section does not apply to money deposited into the  
4 Texas-bred escrow account [~~incentive fund~~] established under  
5 Section 2028.301.

6 SECTION 7. Section 2023.061(a), Occupations Code, is  
7 amended to read as follows:

8 (a) Not later than January 31 of each year, the commission  
9 may [~~shall~~] file a report with the governor, lieutenant governor,  
10 and speaker of the house of representatives. The report may  
11 include, to the extent the commission considers appropriate:

12 (1) descriptions of changes to commission programs;  
13 and

14 (2) recommendations to the governor and the  
15 legislature.

16 SECTION 8. Section 2024.055(b), Occupations Code, is  
17 amended to read as follows:

18 (b) This section does not apply to money deposited into the  
19 Texas-bred escrow account [~~incentive fund~~] established under  
20 Section 2028.301.

21 SECTION 9. Section 2025.001, Occupations Code, is amended  
22 by adding Subsection (a-1) to read as follows:

23 (a-1) The commission shall comply with Chapter 53 in the  
24 administration of the commission's licensing program.

25 SECTION 10. Section 2025.262, Occupations Code, is amended  
26 to read as follows:

27 Sec. 2025.262. GROUNDS FOR DENIAL, REVOCATION, AND

1 SUSPENSION OF OCCUPATIONAL LICENSE. The commission may refuse to  
2 issue any original or renewal license under this subchapter or may  
3 revoke or suspend the license if, after notice and hearing, the  
4 commission finds that the applicant or license holder, as  
5 appropriate:

6 (1) has been convicted of a violation of this subtitle  
7 or a commission rule or has aided, abetted, or conspired to commit a  
8 violation of this subtitle or a commission rule;

9 (2) has been convicted of a felony [~~or a crime~~  
10 ~~involving moral turpitude~~] that is reasonably related to the  
11 person's present fitness to hold a license under this subtitle;

12 (3) has violated or has caused to be violated this  
13 subtitle or a commission rule in a manner that involves moral  
14 turpitude, as distinguished from a technical violation of this  
15 subtitle or a rule;

16 (4) is unqualified, by experience or otherwise, to  
17 perform the duties required of a license holder under this  
18 subtitle;

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

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

23 (7) is indebted to this state for any fee or for the  
24 payment of a penalty imposed by this subtitle or a commission rule;

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

1           (9) is in the habit of using alcoholic beverages to an  
2 excess or uses a controlled substance as defined in Chapter 481,  
3 Health and Safety Code, or a dangerous drug as defined in Chapter  
4 483, Health and Safety Code, or is mentally incapacitated;

5           (10) may be excluded from an enclosure under this  
6 subtitle;

7           (11) has improperly used a temporary pass, license  
8 certificate, credential, or identification card issued under this  
9 subtitle;

10           (12) resides with a person whose license was revoked  
11 for cause during the 12 months preceding the date of the present  
12 application;

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

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

20           SECTION 11. Section 2026.051, Occupations Code, is amended  
21 to read as follows:

22           Sec. 2026.051. COMMISSION RULES REGARDING EXCLUSION OR  
23 EJECTION. The commission shall adopt rules providing for the  
24 exclusion or ejection from an enclosure where horse or greyhound  
25 races are conducted, or from specified portions of an enclosure, of  
26 a person:

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

1 wagering;

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

4           (3) who has been convicted of a violation of this  
5 subtitle;

6           (4) who has been convicted of theft;

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

10           (6) who has committed a corrupt or fraudulent act in  
11 connection with horse or greyhound racing or pari-mutuel wagering  
12 or who has committed any act tending or intended to corrupt horse or  
13 greyhound racing or pari-mutuel wagering;

14           (7) who is under suspension or has been excluded or  
15 ejected from a racetrack by the commission or a steward in this  
16 state or by a corresponding authority in another state because of  
17 corrupt or fraudulent practices or other acts detrimental to  
18 racing;

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

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

25           (10) who is guilty of boisterous or disorderly conduct  
26 while inside an enclosure;

27           (11) who is an agent or habitual associate of a person

1   excludable under this section; or

2                   (12) who has been convicted of a felony.

3           SECTION 12. Section 2028.103(a-1), Occupations Code, is  
4 amended to read as follows:

5           (a-1) The commission shall deposit money paid to the  
6 commission under Subsection (a) into the Texas-bred escrow account  
7 [~~incentive fund~~] established under Section 2028.301. The  
8 commission shall distribute the money collected under this section  
9 and deposited into the fund to the appropriate state horse breed  
10 registries for the Texas-bred program in accordance with rules  
11 adopted under Subsection (c).

12           SECTION 13. Sections 2028.105(d) and (d-1), Occupations  
13 Code, are amended to read as follows:

14           (d) The horse racetrack association shall pay to the  
15 commission for deposit into the Texas-bred escrow account  
16 [~~incentive fund~~] established under Section 2028.301 and  
17 distribution to the appropriate state horse breed registry the  
18 remaining 80 percent of the total breakage to be allocated as  
19 follows:

20                   (1) 40 percent to the owners of the accredited  
21 Texas-bred horses that finish first, second, or third;

22                   (2) 40 percent to the breeders of accredited  
23 Texas-bred horses that finish first, second, or third; and

24                   (3) 20 percent to the owner of the stallion standing in  
25 this state at the time of conception whose Texas-bred get finish  
26 first, second, or third.

27           (d-1) The commission shall deposit the portions of total



1 breakage paid to the commission under Subsections (b) and (d) into  
2 the Texas-bred escrow account [~~incentive fund~~] established under  
3 Section 2028.301. The commission shall distribute the money  
4 collected under this section and deposited into the fund to the  
5 appropriate state horse breed registries in accordance with this  
6 section and with rules adopted by the commission under Section  
7 2028.103.

8 SECTION 14. Section 2028.154(a), Occupations Code, is  
9 amended to read as follows:

10 (a) A greyhound racetrack association shall pay 50 percent  
11 of the breakage to the appropriate state greyhound breed registry.  
12 Of that breakage percentage:

13 (1) 25 percent is to be used in stakes races; and

14 (2) 25 percent of that total breakage from a live  
15 pari-mutuel pool or a simulcast pari-mutuel pool is to be paid to  
16 the commission for deposit into the Texas-bred escrow account  
17 [~~incentive fund~~] established under Section 2028.301. The  
18 commission shall distribute the money collected under this section  
19 and deposited into the fund to the state greyhound breed registry  
20 for use in accordance with this section and commission rules.

21 SECTION 15. Section 2028.202(a-1), Occupations Code, is  
22 amended to read as follows:

23 (a-1) A racetrack association shall pay to the commission  
24 for deposit into the Texas-bred escrow account [~~incentive fund~~]  
25 established under Section 2028.301 the shares to be distributed  
26 under Subsections (a)(3) and (a)(4) for the Texas-bred program.  
27 The commission shall distribute the money collected under this

1 section and deposited into the fund to the appropriate state breed  
2 registries for use under the Texas-bred program.

3 SECTION 16. Section [2028.301](#), Occupations Code, is amended  
4 to read as follows:

5 Sec. 2028.301. TEXAS-BRED ESCROW ACCOUNT [~~INCENTIVE FUND~~].

6 (a) The comptroller [~~commission~~] shall deposit the state's share  
7 of the simulcast pari-mutuel pool [~~money set aside for the~~  
8 ~~Texas-bred program or set aside~~] for use by state breed registries  
9 under this chapter into a trust fund [~~an escrow account~~] in the  
10 state treasury [~~in the registry of the commission~~] to be known as  
11 the Texas-bred escrow account. Money in the account may not be  
12 appropriated for state expenditure [~~incentive fund~~].

13 (b) The commission shall distribute money from the  
14 Texas-bred escrow account [~~incentive fund~~] in accordance with this  
15 chapter and commission rules.

16 SECTION 17. Section [2033.002](#), Occupations Code, is amended  
17 to read as follows:

18 Sec. 2033.002. UNLAWFUL RACING. A person commits an  
19 offense if:

20 (1) the person participates in, permits, or conducts a  
21 horse or greyhound race at a racetrack without a permit issued under  
22 Chapter [751](#), Health and Safety Code;

23 (2) the person wagers on the partial or final outcome  
24 of the horse or greyhound race or knows or reasonably should know  
25 that another person is betting on the partial or final outcome of  
26 the race; and

27 (3) the race is not part of a performance or race

1 meeting conducted under this subtitle or commission rule.

2 SECTION 18. Section 2033.004(a), Occupations Code, is  
3 amended to read as follows:

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

5 (1) conducts a horse or greyhound race without:

6 (A) a racetrack license; or

7 (B) a permit issued under Chapter 751, Health and  
8 Safety Code; and

9 (2) knows or reasonably should know that another  
10 person is betting on the final or partial outcome of the race.

11 SECTION 19. Section 2033.014, Occupations Code, is amended  
12 by adding Subsection (a-1) to read as follows:

13 (a-1) A person commits an offense if the person:

14 (1) seeks to enter, train, or ride a horse for a horse  
15 race or seeks to enter or train a greyhound for a greyhound race  
16 that is part of a performance or race meeting conducted under this  
17 subtitle or commission rule; and

18 (2) knows or reasonably should know that the horse or  
19 greyhound has participated in a performance or race meeting in this  
20 state that was not conducted:

21 (A) under this subtitle or commission rule; or

22 (B) under a permit issued under Chapter 751,  
23 Health and Safety Code.

24 SECTION 20. Sections 2033.101(a) and (b), Occupations Code,  
25 are amended to read as follows:

26 (a) The executive director may issue a cease and desist  
27 order if the executive director reasonably believes a person

1 ~~[racetrack association or other license holder]~~ is engaging or is  
2 likely to engage in conduct that violates this subtitle or a  
3 commission rule.

4 (b) On issuance of a cease and desist order, the executive  
5 director shall serve a proposed cease and desist order on the person  
6 ~~[racetrack association or other license holder]~~ by personal  
7 delivery or registered or certified mail, return receipt requested,  
8 to the person's last known address.

9 SECTION 21. Section [2033.104](#), Occupations Code, is amended  
10 to read as follows:

11 Sec. 2033.104. EMERGENCY CEASE AND DESIST ORDER; SEIZURE OF  
12 AFFECTED ANIMALS. (a) The executive director may issue an  
13 emergency cease and desist order if the executive director  
14 reasonably believes a person ~~[racetrack association or other~~  
15 ~~license holder]~~ is engaged in a continuing activity that:

16 (1) violates this subtitle or a commission rule in a  
17 manner that threatens immediate and irreparable public harm; or

18 (2) involves suspected cruelty to an animal in  
19 violation of commission rule or Section [42.09](#) or [42.092](#), Penal  
20 Code.

21 (b) After issuing an emergency cease and desist order, the  
22 executive director shall serve on the person ~~[racetrack association~~  
23 ~~or other license holder]~~ by personal delivery or registered or  
24 certified mail, return receipt requested, to the person's last  
25 known address, an order stating the specific charges and requiring  
26 the person immediately to cease and desist from the conduct that  
27 violates this subtitle or a commission rule. The order must contain

1 a notice that a request for hearing may be filed under this section.

2 (c) On issuance of an emergency cease and desist order, the  
3 executive director may authorize the seizure of any animal  
4 suspected of being or to have been subject to cruelty to an animal  
5 in violation of commission rule or Section 42.09 or 42.092, Penal  
6 Code. An emergency cease and desist order issued under Subsection  
7 (a)(2) satisfies the evidence requirement for a showing of probable  
8 cause for purposes of Section 821.022, Health and Safety Code.

9 SECTION 22. Section 2034.001(c), Occupations Code, is  
10 amended to read as follows:

11 (c) The commission's rules must require state-of-the-art  
12 testing methods. The testing may:

13 (1) be conducted [~~pre-race or post-race~~] as determined  
14 by the commission; and

15 (2) be by an invasive or noninvasive method.

16 SECTION 23. The following provisions of the Occupations  
17 Code are repealed:

18 (1) Section 2021.003(19);

19 (2) Section 2023.053(e);

20 (3) Sections 2023.061(b) and (c);

21 (4) Section 2025.001(a); and

22 (5) Section 2025.260.

23 SECTION 24. Section 2021.006, Occupations Code, as amended  
24 by this Act, applies only to a cause of action that accrues on or  
25 after the effective date of this Act.

26 SECTION 25. The term of a person who is serving as a member  
27 of the Texas Racing Commission immediately before the effective

1 date of this Act and who is ineligible for appointment under Section  
2 [2022.004](#)(e), Occupations Code, as amended by this Act, expires on  
3 the effective date of the Act.

4 SECTION 26. On September 1, 2023, money in the Texas-bred  
5 incentive fund is transferred to the Texas-bred escrow account, and  
6 the Texas-bred incentive fund is abolished.

7 SECTION 27. The changes in law made by this Act apply only  
8 to an offense committed on or after the effective date of this Act.  
9 An offense committed before the effective date of this Act is  
10 governed by the law in effect on the date the offense was committed,  
11 and the former law is continued in effect for that purpose. For  
12 purposes of this section, an offense was committed before the  
13 effective date of this Act if any element of the offense occurred  
14 before that date.

15 SECTION 28. This Act takes effect September 1, 2023.