

By: Estes

S.B. No. 364

A BILL TO BE ENTITLED

AN ACT

relating to the abolishment of the Texas Racing Commission and the transfer of its powers and duties to the Texas Commission of Licensing and Regulation; providing penalties; authorizing fees.

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

ARTICLE 1. TRANSFER OF DUTIES TO TEXAS COMMISSION OF LICENSING AND REGULATION

SECTION 1.01. Section 1.03, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by amending Subdivisions (3), (5), and (79) and adding Subdivisions (82) and (83) to read as follows:

(3) "Commission" means the Texas ~~[Racing]~~ Commission of Licensing and Regulation.

(5) "Director" means the director of the racing division ~~["Executive secretary" means the executive secretary of the Texas Racing Commission].~~

(79) "Executive director" means the executive director ~~[secretary]~~ of the department ~~[Texas Racing Commission]~~.

(82) "Department" means the Texas Department of Licensing and Regulation.

(83) "Racing division" means the division of the department assigned to oversee horse and greyhound racing.

SECTION 1.02. The heading to Article 2, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read

as follows:

ARTICLE 2. ~~[TEXAS]~~ RACING DIVISION ~~[COMMISSION]~~

SECTION 1.03. Sections 2.12, 2.13, 2.14, and 2.15, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 2.12. DIRECTOR ~~[EXECUTIVE SECRETARY]~~; EMPLOYEES.

(a) The department ~~[commission]~~ shall employ a director of the racing division ~~[an executive secretary]~~ and other employees as necessary to administer this Act.

~~[(a-1) The commission and the executive secretary may use the title "executive director" for any purpose in referring to the office of executive secretary.]~~

(b) The racing division ~~[commission]~~ may not employ or continue to employ a person:

(1) who owns or controls a financial interest in a licensee of the department ~~[commission]~~;

(2) who is employed by or serves as a paid consultant to a licensee of the department ~~[commission]~~, an official breed registry, or a Texas trade association~~[, as defined by Section 2.071(c) of this Act,]~~ in the field of horse or greyhound racing or breeding;

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

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

(c) The racing division ~~[commission]~~ may not employ or

1 continue to employ a person who is residentially domiciled with or  
2 related within the first degree by affinity or consanguinity to a  
3 person who is subject to a disqualification prescribed by  
4 Subsection (b) of this section.

5 (d) The commission shall employ the director [~~executive~~  
6 ~~secretary~~] and other employees to reflect the diversity of the  
7 population of the state as regards race, color, handicap, sex,  
8 religion, age, and national origin.

9 (e) In this section, "Texas trade association" means a  
10 cooperative and voluntarily joined statewide association of  
11 business or professional competitors in this state designed to  
12 assist its members and its industry or profession in dealing with  
13 mutual business or professional problems and in promoting their  
14 common interest.

15 Sec. 2.13. DIRECTOR [~~EXECUTIVE SECRETARY~~]; DUTIES. The  
16 director [~~executive secretary~~] shall keep the records of the racing  
17 division [~~commission~~] and shall perform other duties as required by  
18 the commission. The director [~~executive secretary~~] serves at the  
19 pleasure of the commission on a full-time basis and may not hold  
20 other employment.

21 Sec. 2.14. LEGAL REPRESENTATION. The attorney general  
22 shall designate at least one member of the attorney general's staff  
23 to counsel and advise the racing division [~~commission~~] and to  
24 represent the racing division [~~commission~~] in legal proceedings.  
25 The attorney general shall make available to the appropriate  
26 prosecuting attorneys any information obtained regarding  
27 violations of this Act.

1           Sec. 2.15. RECORDS.       (a) All records of the racing  
2 division [~~commission~~] that are not made confidential by other law  
3 are open to inspection by the public during regular office hours.  
4 All applications for a license under this Act shall be maintained by  
5 the department [~~commission~~] and shall be available for public  
6 inspection during regular office hours.

7           (b) The contents of the investigatory files of the racing  
8 division [~~commission~~] are not public records and are confidential  
9 except in a criminal proceeding, in a hearing conducted by the  
10 department [~~commission~~], on court order, or with the consent of the  
11 party being investigated.

12          (c) The department [~~commission~~] may share with another  
13 regulatory agency of this state any investigatory file information  
14 that creates a reasonable suspicion of a person's violation of a law  
15 or rule under that agency's jurisdiction. The agency may use the  
16 information as if it was obtained through that agency's  
17 investigatory process.

18          SECTION 1.04. Section 2.16(b), Texas Racing Act (Article  
19 [179e](#), Vernon's Texas Civil Statutes), is amended to read as  
20 follows:

21          (b) An investigation report or other document submitted by  
22 the Department of Public Safety to the racing division [~~commission~~]  
23 becomes part of the investigative files of the racing division  
24 [~~commission~~] and is subject to discovery by a person that is the  
25 subject of the investigation report or other document submitted by  
26 the Department of Public Safety to the racing division [~~commission~~]  
27 ~~that is part of the investigative files of the commission~~].

1       SECTION 1.05. Section 2.18, Texas Racing Act (Article 179e,  
2 Vernon's Texas Civil Statutes), is amended to read as follows:

3       Sec. 2.18. FUNDS PAID TO DEPARTMENT [~~COMMISSION~~]. All  
4 money paid to the department [~~commission~~] under this Act is subject  
5 to Subchapter F, Chapter 404, Government Code.

6       SECTION 1.06. Sections 3.02(a), (b), (d), and (g), Texas  
7 Racing Act (Article 179e, Vernon's Texas Civil Statutes), are  
8 amended to read as follows:

9       (a) The commission shall regulate and the department shall  
10 supervise every race meeting in this state involving wagering on  
11 the result of greyhound or horse racing. All persons and things  
12 relating to the operation of those meetings are subject to  
13 regulation and supervision by the commission and department. The  
14 commission shall adopt rules for conducting greyhound or horse  
15 racing in this state involving wagering and shall adopt other rules  
16 to administer this Act that are consistent with this Act. The  
17 commission or department, as applicable, shall also make rules,  
18 issue licenses, and take any other necessary action relating  
19 exclusively to horse racing or to greyhound racing.

20       (b) The department [~~commission~~] may establish separate  
21 sections to review or propose rules of the commission.

22       (d) The department [~~commission~~] shall post notice of a  
23 meeting under Subsection (c) of this section at each racetrack  
24 facility. The notice shall include an agenda of the meeting and a  
25 summary of the proposed rule.

26       (g) The commission, in adopting rules, and the department,  
27 in the supervision and conduct of racing, shall consider the effect

1 of a proposed commission or department action on the state's  
2 agricultural, horse breeding, horse training, greyhound breeding,  
3 and greyhound training industry.

4 SECTION 1.07. Sections 3.021(a) and (c), Texas Racing Act  
5 (Article 179e, Vernon's Texas Civil Statutes), are amended to read  
6 as follows:

7 (a) Any provision in this Act to the contrary  
8 notwithstanding, the department [~~commission~~] may license and  
9 regulate all aspects of greyhound racing and horse racing in this  
10 state, whether or not that racing involves pari-mutuel wagering.

11 (c) The department [~~commission~~] may charge an annual fee for  
12 licensing and regulating a racetrack that does not offer  
13 pari-mutuel wagering or a training facility in a reasonable amount  
14 that may not exceed the actual cost of enforcing rules adopted for  
15 the licensing and regulation of races and workouts at such a  
16 facility.

17 SECTION 1.08. Sections 3.03 and 3.04, Texas Racing Act  
18 (Article 179e, Vernon's Texas Civil Statutes), are amended to read  
19 as follows:

20 Sec. 3.03. POWER OF ENTRY. A member of the commission, an  
21 authorized agent of the commission or department, a commissioned  
22 officer of the Department of Public Safety, or a peace officer of  
23 the local jurisdiction in which the association maintains a place  
24 of business may enter any part of the racetrack facility or any  
25 other place of business of an association at any time for the  
26 purpose of enforcing and administering this Act.

27 Sec. 3.04. REQUIREMENT OF BOOKS AND RECORDS; FINANCIAL

1 STATEMENTS. The department [~~commission~~] shall require  
 2 associations, managers, totalisator licensees, and concessionaires  
 3 to keep books and records and to submit financial statements to the  
 4 department [~~commission~~]. The commission shall adopt reasonable  
 5 rules relating to those matters.

6 SECTION 1.09. Sections 3.07(a), (c), and (d), Texas Racing  
 7 Act (Article 179e, Vernon's Texas Civil Statutes), are amended to  
 8 read as follows:

9 (a) The department [~~commission~~] shall employ all of the  
 10 judges and all of the stewards for the supervision of a horse race  
 11 or greyhound race meeting. Each horse race or greyhound race  
 12 meeting shall be supervised by three stewards for horse racing or by  
 13 three judges for greyhound racing. The department [~~commission~~]  
 14 shall designate one of the stewards or judges as the presiding  
 15 steward or judge for each race meeting. The association, following  
 16 the completion of the race meeting, may submit written comments to  
 17 the department [~~commission~~] regarding the job performance of the  
 18 stewards and judges for the department's [~~commission's~~] review.  
 19 Comments received are not binding, in any way, on the department  
 20 [~~commission~~]. For each race meeting, the department [~~commission~~]  
 21 shall employ at least one state veterinarian. The commission may,  
 22 by rule, impose a fee on an association to offset the costs of  
 23 compensating the stewards, judges, and state veterinarians. The  
 24 amount of the fee for the compensation of stewards, judges, and  
 25 state veterinarians must be reasonable according to industry  
 26 standards for the compensation of those officials at other  
 27 racetracks and may not exceed the actual cost to the department

1 ~~[commission]~~ for compensating the officials. All other racetrack  
2 officials shall be appointed by the association, with the approval  
3 of the department ~~[commission]~~. Compensation for those officials  
4 not compensated by the department ~~[commission]~~ shall be determined  
5 by the association.

6 (c) The department ~~[commission]~~ shall require each steward  
7 or judge to take and pass both a written examination and a medical  
8 examination annually. The commission by rule shall prescribe the  
9 methods and procedures for taking the examinations and the  
10 standards for passing. Failure to pass an examination is a ground  
11 for refusal to issue an original or renewal license to a steward or  
12 judge or for suspension or revocation of such a license.

13 (d) Medication or drug testing performed on a race animal  
14 under this Act shall be conducted by the Texas Veterinary Medical  
15 Diagnostic Laboratory or by a laboratory operated by or in  
16 conjunction with or by a private or public agency selected by the  
17 department ~~[commission]~~ after consultation with the Texas  
18 Veterinary Medical Diagnostic Laboratory. Medication or drug  
19 testing performed on a human under this Act shall be conducted by a  
20 laboratory approved by the department ~~[commission]~~. Charges for  
21 services performed under this section shall be forwarded to the  
22 department ~~[commission]~~ for approval as to the reasonableness of  
23 the charges for the services. Charges may include but are not  
24 limited to expenses incurred for travel, lodging, testing, and  
25 processing of test results. The reasonable charges associated with  
26 medication or drug testing conducted under this Act shall be paid by  
27 the association that receives the services. The commission shall



1 adopt rules for the procedures for approving and paying laboratory  
2 charges under this section. The department [~~commission~~] shall  
3 determine whether the laboratory charges are reasonable in relation  
4 to industry standards by periodically surveying the drug testing  
5 charges of comparable laboratories in the United States. The  
6 department [~~commission~~] shall forward a copy of the charges to the  
7 association that receives the services for immediate payment.

8 SECTION 1.10. Section 3.08(a), Texas Racing Act (Article  
9 179e, Vernon's Texas Civil Statutes), is amended to read as  
10 follows:

11 (a) Except as provided by Subsection (b) of this section, a  
12 final decision of the stewards or judges may be appealed to the  
13 department [~~commission~~] in the manner provided for a contested case  
14 under Chapter 2001, Government Code [~~the Administrative Procedure~~  
15 ~~and Texas Register Act (Article 6252-13a, Vernon's Texas Civil~~  
16 ~~Statutes)]~~.

17 SECTION 1.11. Section 3.09(b), Texas Racing Act (Article  
18 179e, Vernon's Texas Civil Statutes), is amended to read as  
19 follows:

20 (b) The department [~~commission~~] shall deposit the money it  
21 collects under this Act in the State Treasury to the credit of a  
22 special fund to be known as the Texas racing [~~Racing Commission~~]  
23 fund. The Texas racing [~~Racing Commission~~] fund may be  
24 appropriated only for the administration and enforcement of this  
25 Act. Any unappropriated money exceeding \$750,000 that remains in  
26 the fund at the close of each fiscal biennium shall be transferred  
27 to the General Revenue Fund and may be appropriated for any legal

1 purpose. The legislature may also appropriate money from the  
2 General Revenue Fund for the administration and enforcement of this  
3 Act. Any amount of general revenue appropriated for the  
4 administration and enforcement of this Act in excess of the  
5 cumulative amount deposited in the Texas racing [~~Racing Commission~~]  
6 fund shall be reimbursed from the Texas racing [~~Racing Commission~~]  
7 fund not later than one year after the date on which the general  
8 revenue funds are appropriated, with 6-3/4 percent interest with  
9 all payments first attributable to interest.

10 SECTION 1.12. Sections 3.10 and 3.11, Texas Racing Act  
11 (Article 179e, Vernon's Texas Civil Statutes), are amended to read  
12 as follows:

13 Sec. 3.10. ANNUAL REPORT. The racing division [~~commission~~]  
14 shall make a report to the governor, lieutenant governor, and  
15 speaker of the house of representatives not later than January 31 of  
16 each year. The report shall cover the operations of the racing  
17 division [~~commission~~] and the condition of horse breeding and  
18 racing and greyhound breeding and racing during the previous year.  
19 The racing division [~~commission~~] shall also obtain from the  
20 Department of Public Safety a comprehensive report of any organized  
21 crime activities in this state which the Department of Public  
22 Safety [~~department~~] may wish to report and information concerning  
23 any and all illegal gambling which may be known to exist in the  
24 state and shall include the report by the Department of Public  
25 Safety [~~department~~] in its report and shall include any  
26 recommendations it considers appropriate.

27 Sec. 3.11. COOPERATION WITH PEACE OFFICERS. The commission

1 and the department shall cooperate with all district attorneys,  
2 criminal district attorneys, county attorneys, the Department of  
3 Public Safety, the attorney general, and all peace officers in  
4 enforcing this Act. Under the [~~its~~] authority to conduct criminal  
5 history information record checks under this Act or Section  
6 51.4012, Occupations Code [~~5.04 of this Act~~], the department  
7 [~~commission~~] shall maintain and exchange pertinent intelligence  
8 data with other states and agencies.

9 SECTION 1.13. Section 3.13(b), Texas Racing Act (Article  
10 179e, Vernon's Texas Civil Statutes), is amended to read as  
11 follows:

12 (b) The department [~~commission~~] may recognize an  
13 organization that meets the requirements of Subsection (a) of this  
14 section.

15 SECTION 1.14. Sections 3.16(b), (d), (e), (f), and (j),  
16 Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are  
17 amended to read as follows:

18 (b) The department [~~commission~~] shall require testing to  
19 determine whether a prohibited substance has been used. The  
20 testing may be prerace or postrace as determined by the department  
21 [~~commission~~]. The testing may be by an invasive or noninvasive  
22 method. The commission's rules shall require state-of-the-art  
23 testing methods.

24 (d) Except as otherwise provided, a person may appeal a  
25 ruling of the stewards or judges to the department [~~commission~~].  
26 The department [~~commission~~] may stay a suspension during the period  
27 the matter is before the department [~~commission~~].

1 (e) The department [~~commission~~] may require urine samples  
2 to be frozen for a period necessary to allow any follow-up testing  
3 to detect and identify a prohibited substance. Any other specimen  
4 shall be maintained for testing purposes in a manner required by  
5 commission rule.

6 (f) If a test sample or specimen shows the presence of a  
7 prohibited substance, the entire sample, including any split  
8 portion remaining in the custody of the department [~~commission~~],  
9 shall be maintained until final disposition of the matter.

10 (j) A person who violates a rule adopted under this section  
11 may:

12 (1) have any license issued to the person by the  
13 department [~~commission~~] revoked or suspended; or

14 (2) be barred for life or any other period from  
15 applying for or receiving a license issued by the department  
16 [~~commission~~] or entering any portion of a racetrack facility.

17 SECTION 1.15. Sections 3.17, 3.18, 3.19, 3.20, and 3.21,  
18 Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are  
19 amended to read as follows:

20 Sec. 3.17. SECURITY FOR FEES AND CHARGES. The department  
21 [~~commission~~] may require an association to post security in an  
22 amount and form determined by the commission to adequately ensure  
23 the payment of any fees or charges due to the state or the  
24 department [~~commission~~] relating to pari-mutuel racing, including  
25 charges for drug testing.

26 Sec. 3.18. CEASE AND DESIST ORDER. (a) The executive  
27 director [~~secretary~~] may issue a cease and desist order if the

1 executive director [~~secretary~~] reasonably believes an association  
2 or other licensee is engaging or is likely to engage in conduct that  
3 violates this Act or a commission rule.

4 (b) On issuance of a cease and desist order, the executive  
5 director [~~secretary~~] shall serve on the association or other  
6 licensee by personal delivery or registered or certified mail,  
7 return receipt requested, to the person's last known address, a  
8 proposed cease and desist order. The proposed order must state the  
9 specific acts or practices alleged to violate this Act or a  
10 commission rule. The proposed order must state its effective date.  
11 The effective date may not be before the 21st day after the date the  
12 proposed order is mailed or delivered. If the person against whom  
13 the proposed order is directed requests, in writing, a hearing  
14 before the effective date of the proposed order, the order is  
15 automatically stayed pending final adjudication of the order.  
16 Unless the person against whom the proposed order is directed  
17 requests, in writing, a hearing before the effective date of the  
18 proposed order, the order takes effect and is final and  
19 nonappealable as to that person.

20 (c) On receiving a request for a hearing, the executive  
21 director [~~secretary~~] shall serve notice of the time and place of the  
22 hearing by personal delivery or registered or certified mail,  
23 return receipt requested. At a hearing, the department  
24 [~~commission~~] has the burden of proof and must present evidence in  
25 support of the order. Each person against whom the order is  
26 directed may cross-examine and show cause why the order should not  
27 be issued.

(d) After the hearing, the department [~~commission~~] shall issue or decline to issue a cease and desist order. The proposed order may be modified as necessary to conform to the findings at the hearing. An order issued under this section is final for purposes of enforcement and appeal and shall require the person to immediately cease and desist from the conduct that violates this Act or a commission rule.

(e) A person affected by a cease and desist order issued, affirmed, or modified after a hearing may file a petition for judicial review in a district court of Travis County under Chapter 2001, Government Code. A petition for judicial review does not stay or vacate the order unless the court, after hearing, specifically stays or vacates the order.

Sec. 3.19. EMERGENCY CEASE AND DESIST ORDER. (a) The executive director [~~secretary~~] may issue an emergency cease and desist order if the executive director [~~secretary~~] reasonably believes an association or other licensee is engaged in a continuing activity that violates this Act or a commission rule in a manner that threatens immediate and irreparable public harm.

(b) After issuing an emergency cease and desist order, the executive director [~~secretary~~] shall serve on the association or other licensee by personal delivery or registered or certified mail, return receipt requested, to the person's last known address, an order stating the specific charges and requiring the person immediately to cease and desist from the conduct that violates this Act or a commission rule. The order must contain a notice that a request for hearing may be filed under this section.

1           (c) An association or other licensee that is the subject of  
2 an emergency cease and desist order may request a hearing. The  
3 request must be filed with the executive director [~~secretary~~] not  
4 later than the 10th day after the date the order was received or  
5 delivered. A request for a hearing must be in writing and directed  
6 to the executive director [~~secretary~~] and must state the grounds  
7 for the request to set aside or modify the order. Unless a person  
8 who is the subject of the emergency order requests a hearing in  
9 writing before the 11th day after the date the order is received or  
10 delivered, the emergency order is final and nonappealable as to  
11 that person.

12           (d) On receiving a request for a hearing, the executive  
13 director [~~secretary~~] shall serve notice of the time and place of the  
14 hearing by personal delivery or registered or certified mail,  
15 return receipt requested. The hearing must be held not later than  
16 the 10th day after the date the executive director [~~secretary~~]  
17 receives the request for a hearing unless the parties agree to a  
18 later hearing date. At the hearing, the department [~~commission~~]  
19 has the burden of proof and must present evidence in support of the  
20 order. The person requesting the hearing may cross-examine  
21 witnesses and show cause why the order should not be affirmed.  
22 Section 2003.021(b), Government Code, does not apply to hearings  
23 conducted under this section.

24           (e) An emergency cease and desist order continues in effect  
25 unless the order is stayed by the executive director [~~secretary~~].  
26 The executive director [~~secretary~~] may impose any condition before  
27 granting a stay of the order.

1 (f) After the hearing, the executive director [~~secretary~~]  
2 shall affirm, modify, or set aside in whole or part the emergency  
3 cease and desist order. An order affirming or modifying the  
4 emergency cease and desist order is final for purposes of  
5 enforcement and appeal.

6 Sec. 3.20. VIOLATION OF FINAL CEASE AND DESIST ORDER.

7 (a) If the executive director [~~secretary~~] reasonably believes  
8 that a person has violated a final and enforceable cease and desist  
9 order, the executive director [~~secretary~~] may:

10 (1) initiate administrative penalty proceedings under  
11 Article 15 of this Act;

12 (2) refer the matter to the attorney general for  
13 enforcement by injunction and any other available remedy; or

14 (3) pursue any other action, including suspension of  
15 the person's license, that the executive director [~~secretary~~]  
16 considers appropriate.

17 (b) If the attorney general prevails in an action brought  
18 under Subsection (a)(2) of this section, the attorney general is  
19 entitled to recover reasonable attorney's fees.

20 Sec. 3.21. INJUNCTION. The department [~~commission~~] may  
21 institute an action in its own name to enjoin the violation of this  
22 Act. An action for an injunction is in addition to any other  
23 action, proceeding, or remedy authorized by law.

24 SECTION 1.16. Sections 3.22(b) and (c), Texas Racing Act  
25 (Article 179e, Vernon's Texas Civil Statutes), are amended to read  
26 as follows:

27 (b) The executive director [~~secretary~~] may issue an order



1 prohibiting the association from making any transfer from a bank  
2 account held by the association for the conduct of its business  
3 under this Act, pending department [~~commission~~] review of the  
4 records of the account, if the executive director [~~secretary~~]  
5 reasonably believes that the association has failed to maintain the  
6 proper amount of money in the horsemen's account. The executive  
7 director [~~secretary~~] shall provide in the order a procedure for the  
8 association to pay certain expenses necessary for the operation of  
9 the racetrack, subject to the executive director's [~~secretary's~~]  
10 approval. An order issued under this section may be made valid for  
11 a period not to exceed 14 days.

12 (c) The executive director [~~secretary~~] may issue an order  
13 requiring the appropriate transfers to or from the horsemen's  
14 account if, after reviewing the association's records of its bank  
15 accounts, the executive director [~~secretary~~] determines there is an  
16 improper amount of money in the horsemen's account.

17 SECTION 1.17. Sections 4.01, 4.05, 5.01, 5.02, 5.03, 5.04,  
18 5.05, and 6.01, Texas Racing Act (Article [179e](#), Vernon's Texas  
19 Civil Statutes), are amended to read as follows:

20 Sec. 4.01. BOOKS AND RECORDS. All books, records, and  
21 financial statements required by the department [~~commission~~] under  
22 Section 3.04 of this Act are open to inspection by the comptroller.  
23 The comptroller by rule may specify the form and manner in which the  
24 books, records, and statements are to be kept and reports are to be  
25 filed that relate to the state's share of a pari-mutuel pool.

26 Sec. 4.05. COMPLIANCE. (a) If an association or  
27 totalisator company does not comply with a rule adopted by the

1 comptroller under this article, refuses to allow access to or  
2 inspection of any of its required books, records, or financial  
3 statements, refuses to allow access to or inspection of the  
4 totalisator system, or becomes delinquent for the state's portion  
5 of the pari-mutuel pool or for any other tax collected by the  
6 comptroller, the comptroller shall certify that fact to the  
7 department ~~[commission]~~.

8 (b) With regard to the state's portion of the pari-mutuel  
9 pool and any penalties related to the state's portion, the  
10 comptroller, acting independently of the department ~~[commission]~~,  
11 may take any collection or enforcement actions authorized under the  
12 Tax Code against a delinquent or dilatory taxpayer. Administrative  
13 appeals related to the state's portion of the pari-mutuel pool or  
14 late reporting or deposit of the state's portion shall be to the  
15 comptroller and then to the courts as under Title 2, Tax Code. All  
16 other administrative appeals shall be to the department  
17 ~~[commission]~~ and then to the courts.

18 Sec. 5.01. FORM; CERTIFICATE; FEES. (a) The department  
19 ~~[commission]~~ shall prescribe forms for applications for licenses  
20 and shall provide each occupational licensee with a license  
21 certificate or credentials.

22 (b) The commission shall annually prescribe reasonable  
23 license fees for each category of license issued under this Act.

24 (c) The operation of a racetrack and the participation in  
25 racing are privileges, not rights, granted only by the department  
26 ~~[commission]~~ by license and subject to reasonable and necessary  
27 conditions set by the department and commission.

1 (d) The commission by rule shall set fees in amounts  
2 reasonable and necessary to cover the department's ~~[commission's]~~  
3 costs of regulating, overseeing, and licensing live and simulcast  
4 racing at racetracks.

5 Sec. 5.02. JUDICIAL REVIEW. (a) Judicial review of an  
6 order of the department or commission is under the substantial  
7 evidence rule.

8 (b) Venue for judicial review of an order of the department  
9 or commission is in a district court in Travis County.

10 Sec. 5.03. FINGERPRINTS. (a) An applicant for any license  
11 or license renewal under this Act must, except as allowed under  
12 Section 7.10 of this Act, submit to the racing division  
13 ~~[commission]~~ a complete set of fingerprints of the individual  
14 natural person applying for the license or license renewal or, if  
15 the applicant is not an individual natural person, a complete set of  
16 fingerprints of each officer or director and of each person owning  
17 an interest of at least five percent in the applicant. The  
18 Department of Public Safety may request any person owning any  
19 interest in an applicant for a racetrack license to submit a  
20 complete set of fingerprints.

21 (b) If a complete set of fingerprints is required by the  
22 commission, the racing division ~~[commission]~~ shall, not later than  
23 the 10th business day after the date the racing division  
24 ~~[commission]~~ receives the prints, forward the prints to the  
25 Department of Public Safety or the Federal Bureau of  
26 Investigation. If the prints are forwarded to the Department of  
27 Public Safety, the Department of Public Safety ~~[department]~~ shall

1 classify the prints and check them against its fingerprint files  
2 and shall report to the racing division [~~commission~~] its findings  
3 concerning the criminal record of the applicant or the lack of such  
4 a record. A racetrack license may not be issued until the report is  
5 made to the racing division [~~commission~~]. A temporary  
6 occupational license may be issued before a report is made to the  
7 racing division [~~commission~~].

8 (c) A peace officer of this or any other state, or any  
9 district office of the department [~~commission~~], shall take the  
10 fingerprints of an applicant for a license or license renewal on  
11 forms approved and furnished by the Department of Public Safety and  
12 shall immediately deliver them to the racing division [~~commission~~].

13 Sec. 5.04. ACCESS TO CRIMINAL HISTORY RECORDS. In addition  
14 to any other authorizations to obtain criminal history record  
15 information provided by law, the department [~~(a) The commission~~]  
16 is authorized to obtain any criminal history record information  
17 that relates to each applicant for employment by the racing  
18 division [~~commission~~] and to each applicant for a license issued by  
19 the department [~~commission~~] and that is maintained by the  
20 Department of Public Safety or the Federal Bureau of Investigation  
21 Identification Division. The department [~~commission~~] may refuse to  
22 recommend an applicant who fails to provide a complete set of  
23 fingerprints.

24 Sec. 5.05. COST OF CRIMINAL HISTORY CHECK. (a) The  
25 commission shall, in determining the amount of a license fee, set  
26 the fee in an amount that will cover, at least, the cost of  
27 conducting a criminal history check on the applicant for a license.

1 (b) The racetrack division [~~commission~~] shall reimburse the  
2 Department of Public Safety for the cost, if any, of conducting a  
3 criminal history check under this article.

4 Sec. 6.01. LICENSE REQUIRED. A person may not conduct  
5 wagering on a greyhound race or a horse race meeting without first  
6 obtaining a racetrack license from the department [~~commission~~]. A  
7 person who violates this section commits an offense.

8 SECTION 1.18. Sections 6.02(b), (c), (f), and (g), Texas  
9 Racing Act (Article 179e, Vernon's Texas Civil Statutes), are  
10 amended to read as follows:

11 (b) A class 1 racetrack is a racetrack on which live racing  
12 is conducted for a number of days in a calendar year, the number of  
13 days and the actual dates to be determined by the department  
14 [~~commission~~] under Article 8 of this Act. A class 1 racetrack may  
15 operate only in a county with a population of not less than 1.3  
16 million, or in a county adjacent to a county with such a population.  
17 Not more than three class 1 racetracks may be licensed and operated  
18 in this state.

19 (c) A class 2 racetrack is a racetrack on which live racing  
20 is conducted for a number of days to be determined by the department  
21 [~~commission~~] under Article 8 of this Act. A class 2 racetrack is  
22 entitled to conduct 60 days of live racing in a calendar year. An  
23 association may request additional or fewer days of live racing. If  
24 after receipt of a request from an association the department  
25 [~~commission~~] determines additional or fewer days to be economically  
26 feasible and in the best interest of the state and the racing  
27 industry, the department [~~commission~~] shall grant the additional or

fewer days. The department ~~[commission]~~ may permit an association that holds a class 2 racetrack license and that is located in a national historic district to conduct horse races for more than 60 days in a calendar year.

(f) The number of race dates allowed under this section relates only to live race dates. A racetrack may present simulcast races on other dates as approved by the department ~~[commission]~~.

(g) A class 4 racetrack is a racetrack operated by a county fair under Section 12.03 of this Act. An association that holds a class 4 racetrack license may conduct live races for a number of days not to exceed five days in a calendar year on dates selected by the association and approved by the department ~~[commission]~~.

SECTION 1.19. Sections 6.03(a), (b), and (h), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The department ~~[commission]~~ shall require each applicant for an original racetrack license to pay the required application fee and to submit an application, on a form prescribed by the department ~~[commission]~~, containing the following information:

(1) if the applicant is an individual, the full name of the applicant, the applicant's date of birth, a physical description of the applicant, the applicant's current address and telephone number, and a statement by the applicant disclosing any arrest or conviction for a felony or for a misdemeanor, except a misdemeanor under Subtitle C, Title 7, Transportation Code, ~~[the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's~~

1 ~~Texas Civil Statutes~~] or a similar misdemeanor traffic offense;

2 (2) if the applicant is a corporation:

3 (A) the state in which it is incorporated, the  
4 names and addresses of the corporation's agents for service of  
5 process in this state, the names and addresses of its officers and  
6 directors, the names and addresses of its stockholders, and, for  
7 each individual named under this subdivision, the individual's date  
8 of birth, current address and telephone number, and physical  
9 description, and a statement disclosing any arrest or conviction  
10 for a felony or for a misdemeanor, except a misdemeanor under  
11 Subtitle C, Title 7, Transportation Code, [~~the Uniform Act~~  
12 ~~Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil~~  
13 ~~Statutes)~~] or a similar misdemeanor traffic offense; and

14 (B) identification of any other beneficial owner  
15 of shares in the applicant that bear voting rights, absolute or  
16 contingent, any other person that directly or indirectly exercises  
17 any participation in the applicant, and any other ownership  
18 interest in the applicant that the applicant making its best effort  
19 is able to identify;

20 (3) if the applicant is an unincorporated business  
21 association:

22 (A) the names and addresses of each of its  
23 members and, for each individual named under this subdivision, the  
24 individual's date of birth, current address and telephone number,  
25 and physical description, and a statement disclosing any arrest or  
26 conviction for a felony or for a misdemeanor, except a misdemeanor  
27 under Subtitle C, Title 7, Transportation Code, [~~the Uniform Act~~

1 ~~Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil~~  
2 ~~Statutes)]~~ or a similar misdemeanor traffic offense; and

3 (B) identification of any other person that  
4 exercises voting rights in the applicant or that directly or  
5 indirectly exercises any participation in the applicant and any  
6 other ownership interest in the applicant that the applicant making  
7 its best effort is able to identify;

8 (4) the exact location at which a race meeting is to be  
9 conducted;

10 (5) if the racing facility is in existence, whether it  
11 is owned by the applicant and, if leased to the applicant, the name  
12 and address of the owner and, if the owner is a corporation or  
13 unincorporated business association, the names and addresses of its  
14 officers and directors, its stockholders and members, if any, and  
15 its agents for service of process in this state;

16 (6) if construction of the racing facility has not  
17 been initiated, whether it is to be owned by the applicant and, if  
18 it is to be leased to the applicant, the name and address of the  
19 prospective owner and, if the owner is a corporation or  
20 unincorporated business association, the names and addresses of its  
21 officers and directors, the names and addresses of its  
22 stockholders, the names and addresses of its members, if any, and  
23 the names and addresses of its agents for service of process in this  
24 state;

25 (7) identification of any other beneficial owner of  
26 shares that bear voting rights, absolute or contingent, in the  
27 owner or prospective owner of the racing facility, or any other



1 person that directly or indirectly exercises any participation in  
2 the owner or prospective owner and all other ownership interest in  
3 the owner or prospective owner that the applicant making its best  
4 effort is able to identify;

5 (8) a detailed statement of the assets and liabilities  
6 of the applicant;

7 (9) the kind of racing to be conducted and the dates  
8 requested;

9 (10) proof of residency as required by Section 6.06 of  
10 this Act;

11 (11) a copy of each management, concession, and  
12 totalisator contract dealing with the proposed license at the  
13 proposed location in which the applicant has an interest for  
14 inspection and review by the department ~~[commission]~~; the applicant  
15 or licensee shall advise the department ~~[commission]~~ of any change  
16 in any management, concession, or totalisator contract; all  
17 management, concession, and totalisator contracts must have prior  
18 approval of the department ~~[commission]~~; the same fingerprint,  
19 criminal records history, and other information required of license  
20 applicants pursuant to Sections 5.03 and 5.04 and Subdivisions (1)  
21 through (3) of this subsection shall be required of proposed  
22 totalisator firms, concessionaires, and managers and management  
23 firms; and

24 (12) any other information required by the department  
25 ~~[commission]~~.

26 (b) When the department ~~[commission]~~ receives a plan for the  
27 security of a racetrack facility, or a copy of a management,

1 concession, or totalisator contract for review under Subdivision  
2 (11) of Subsection (a) of this section, the department [~~commission~~]  
3 shall review the contract or security plan in an executive session.  
4 Documents submitted to the department [~~commission~~] under this  
5 section by an applicant are subject to discovery in a suit brought  
6 under this Act but are not public records and are not subject to  
7 Chapter 552, Government Code [~~424, Acts of the 63rd Legislature,~~  
8 ~~Regular Session, 1973~~ (Article ~~6252-17a, Vernon's Texas Civil~~  
9 ~~Statutes~~)]. In reviewing and approving contracts under this  
10 subsection, the department [~~commission~~] shall attempt to ensure the  
11 involvement of minority owned businesses whenever possible.

12 (h) In considering an application for a horse racetrack  
13 license under this section, the department [~~commission~~] shall give  
14 additional weight to evidence concerning an applicant who has  
15 experience operating a horse racetrack licensed under this Act.

16 SECTION 1.20. Section 6.031, Texas Racing Act (Article  
17 [179e](#), Vernon's Texas Civil Statutes), is amended to read as  
18 follows:

19 Sec. 6.031. BACKGROUND CHECK. The department [~~commission~~]  
20 shall require a complete personal, financial, and business  
21 background check of the applicant or any person owning an interest  
22 in or exercising control over an applicant for a racetrack license,  
23 the partners, stockholders, concessionaires, management personnel,  
24 management firms, and creditors and shall refuse to issue or renew a  
25 license or approve a concession or management contract if, in the  
26 sole discretion of the department [~~commission~~], the background  
27 checks reveal anything which might be detrimental to the public

1 interest or the racing industry. The department [~~commission~~] may  
 2 not hold a hearing on the application, or any part of the  
 3 application, of an applicant for a racetrack license before the  
 4 completed background check of the applicant has been on file with  
 5 the department [~~commission~~] for at least 14 days.

6 SECTION 1.21. Section 6.032(a), Texas Racing Act (Article  
 7 179e, Vernon's Texas Civil Statutes), is amended to read as  
 8 follows:

9 (a) The department [~~commission~~] at any time may require a  
 10 holder of a racetrack license or an applicant for a racetrack  
 11 license to post security in an amount reasonably necessary, as  
 12 provided by commission rule, to adequately ensure the license  
 13 holder's or applicant's compliance with substantive requirements of  
 14 this Act and commission rules.

15 SECTION 1.22. Section 6.04, Texas Racing Act (Article 179e,  
 16 Vernon's Texas Civil Statutes), is amended to read as follows:

17 Sec. 6.04. ISSUANCE OF LICENSE. (a) The department  
 18 [~~commission~~] may issue a racetrack license to a qualified person if  
 19 it finds that the conduct of race meetings at the proposed track and  
 20 location will be in the public interest, complies with all zoning  
 21 laws, and complies with this Act and the rules adopted by the  
 22 commission and if the department [~~commission~~] finds by clear and  
 23 convincing evidence that the applicant will comply with all  
 24 criminal laws of this state. In determining whether to grant or  
 25 deny an application for any class of racetrack license, the  
 26 department [~~commission~~] may consider the following factors:

27 (1) the applicant's financial stability;

1           (2) the applicant's resources for supplementing the  
2 purses for races for various breeds;

3           (3) the location of the proposed track;

4           (4) the effect of the proposed track on traffic flow;

5           (5) facilities for patrons and occupational  
6 licensees;

7           (6) facilities for race animals;

8           (7) availability to the track of support services and  
9 emergency services;

10          (8) the experience of the applicant's employees;

11          (9) the potential for conflict with other licensed  
12 race meetings;

13          (10) the anticipated effect of the race meeting on the  
14 greyhound or horse breeding industry in this state; and

15          (11) the anticipated effect of the race meeting on the  
16 state and local economy from tourism, increased employment, and  
17 other sources.

18          (b) [~~(a-1)~~] When all of the requirements of licensure for  
19 the applicant described in this article have been satisfied, the  
20 department [~~commission~~] shall notify the applicant that the  
21 application is complete.

22          (c) [~~(a-2)~~] The department [~~commission~~] shall make a  
23 determination with respect to a pending application not later than  
24 the 120th day after the date on which the department [~~commission~~]  
25 provided to the applicant the notice required under Subsection (b)  
26 [~~(a-1)~~] of this section.

27          (d) [~~(c)~~] The department [~~commission~~] shall not issue

1 licenses for more than three greyhound racetracks in this state.  
2 Those racetracks must be located in counties that border the Gulf of  
3 Mexico.

4       (e) ~~[(d)]~~ In considering an application for a class 4  
5 racetrack license, the department ~~[commission]~~ may waive or defer  
6 compliance with the department's ~~[commission's]~~ standards  
7 regarding the physical facilities or operations of a horse  
8 racetrack. The department ~~[commission]~~ may not waive or defer  
9 compliance with standards that relate to the testing of horses or  
10 licensees for the presence of a prohibited drug, chemical, or other  
11 substance. If the department ~~[commission]~~ defers compliance, the  
12 department ~~[commission]~~ shall, when granting the application,  
13 establish a schedule under which the licensee must comply with the  
14 standards.

15       SECTION 1.23. Sections 6.06(e), (f), and (k), Texas Racing  
16 Act (Article 179e, Vernon's Texas Civil Statutes), are amended to  
17 read as follows:

18       (e) The department ~~[commission]~~ may condition the issuance  
19 of a license under this article on the observance of commission  
20 ~~[its]~~ rules. The commission may amend the rules at any time, and  
21 the department may condition the continued holding of the license  
22 on compliance with the rules as amended.

23       (f) The department ~~[commission]~~ may refuse to issue a  
24 license or may suspend or revoke a license of a licensee under this  
25 article who knowingly or intentionally allows access to an  
26 enclosure where greyhound races or horse races are conducted to a  
27 person who has engaged in bookmaking, toutting, or illegal wagering,

whose income is from illegal activities or enterprises, or who has been convicted of a violation of this Act.

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

SECTION 1.24. Sections 6.0601(a), (b), and (d), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The department ~~[commission]~~ shall designate each racetrack license as an active license or an inactive license. The department ~~[commission]~~ may change the designation of a racetrack license as appropriate.

(b) The department ~~[commission]~~ shall designate a racetrack license as an active license if the license holder:

- (1) holds live racing events at the racetrack; or
- (2) makes good faith efforts to conduct live racing.

(d) Before the first anniversary of the date a new racetrack license is issued, the department ~~[commission]~~ shall conduct an evaluation of the license to determine whether the license is an active or inactive license.

SECTION 1.25. Sections 6.0602(a), (b), (c), and (d), Texas

Racing Act (Article 179e, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The commission by rule shall establish an annual renewal process for inactive licenses, and the department may require the license holder to provide any information required for an original license application under this Act. An inactive license holder must complete the annual renewal process established under this section until the department ~~[commission]~~:

(1) designates the license as an active license; or

(2) refuses to renew the license.

(b) In determining whether to renew an inactive license, the department ~~[commission]~~ shall consider:

(1) the inactive license holder's:

(A) financial stability;

(B) ability to conduct live racing;

(C) ability to construct and maintain a racetrack facility; and

(D) other good faith efforts to conduct live racing; and

(2) other necessary factors considered in the issuance of the original license.

(c) The department ~~[commission]~~ may refuse to renew an inactive license if, after notice and a hearing, the department ~~[commission]~~ determines that:

(1) renewal of the license is not in the best interests of the racing industry or the public; or

(2) the license holder has failed to make a good faith

1 effort to conduct live racing.

2 (d) The department [~~commission~~] shall consult with members  
3 of the racing industry and other key stakeholders in developing the  
4 license renewal process under this section.

5 SECTION 1.26. Sections 6.0603(b) and (c), Texas Racing Act  
6 (Article 179e, Vernon's Texas Civil Statutes), are amended to read  
7 as follows:

8 (b) If, after notice and hearing, the department  
9 [~~commission~~] finds that a racetrack license holder or a person  
10 employed by the racetrack has violated this Act or a commission rule  
11 or if the department [~~commission~~] finds during a review or renewal  
12 that the racetrack is ineligible for a license under this article,  
13 the department [~~commission~~] may:

14 (1) revoke, suspend, or refuse to renew the racetrack  
15 license;

16 (2) impose an administrative penalty as provided under  
17 Section 15.03 of this Act; or

18 (3) take any other action as provided by commission  
19 rule.

20 (c) The department [~~commission~~] may not revoke an active  
21 license unless the department [~~commission~~] reasonably determines  
22 that other disciplinary actions are inadequate to remedy the  
23 violation.

24 SECTION 1.27. Sections 6.061, 6.062, and 6.063, Texas  
25 Racing Act (Article 179e, Vernon's Texas Civil Statutes), are  
26 amended to read as follows:

27 Sec. 6.061. REGULATION OF INAPPROPRIATE OR UNSAFE



1 CONDITIONS. (a) The commission shall adopt rules implementing  
2 this section, including rules:

3 (1) requiring the report of and correction of:

4 (A) an inappropriate condition on the premises of  
5 a racetrack facility, including a failure to properly maintain the  
6 facility, that interferes with the administration of this Act; or

7 (B) a condition on the premises of a racetrack  
8 facility that makes the facility unsafe for a race participant,  
9 patron, or animal; and

10 (2) determining the methods and manner in which the  
11 director [~~executive secretary~~] may determine and remedy  
12 inappropriate conditions or unsafe facilities on the premises of a  
13 racetrack facility, including the methods and manner in which the  
14 department [~~executive secretary~~] may conduct inspections of the  
15 racetrack facility and remedy emergency situations.

16 (b) The director [~~executive secretary~~] shall issue a notice  
17 of violation to a racetrack facility on a finding that an  
18 inappropriate or unsafe condition exists.

19 (c) If the director [~~executive secretary~~] determines that  
20 an inappropriate or unsafe condition exists at the racetrack  
21 facility, the director [~~executive secretary~~] shall order the  
22 racetrack facility to take action within a specified period to  
23 remedy the inappropriate condition or unsafe condition. In  
24 determining the period for compliance, the director [~~executive~~  
25 ~~secretary~~] shall consider the nature and severity of the problem  
26 and the threat to the health, safety, and welfare of the race  
27 participants, patrons, or animals.

(d) The commission shall adopt rules requiring the reporting of any corrective action taken by a racetrack facility in response to an order of the director [~~executive secretary~~] under Subsection (c) of this section.

(e) If a racetrack facility fails to take any action as required under Subsection (c) of this section, the director [~~executive secretary~~] shall initiate an enforcement action against the racetrack facility. The director [~~executive secretary~~] may rescind any live or simulcast race date of any racetrack association that does not take corrective action within the period set by the director [~~executive secretary~~].

(f) The commission shall adopt rules relating to the department's [~~commission's~~] review of an action taken under this section by the director [~~executive secretary~~]. A review procedure adopted under this subsection must be consistent with Chapter 2001, Government Code.

Sec. 6.062. SUPERVISION OF CHANGES TO PREMISES. (a) The department [~~commission~~] shall adopt a method of supervising and approving the construction, renovation, or maintenance of any building or improvement on the premises of a racetrack facility.

(b) The commission shall adopt rules relating to:

- (1) the approval of plans and specifications;
- (2) the contents of plans and specifications;
- (3) the maintenance of records to ensure compliance with approved plans and specifications;
- (4) the content and filing of construction progress reports by the racetrack facility to the department [~~commission~~];

1           (5) the inspection by the department [~~commission~~] or  
2 others;

3           (6) the method for making a change or amendment to an  
4 approved plan or specification; and

5           (7) any other method of supervision or oversight  
6 necessary.

7           (c) If the department [~~commission~~] has grounds to believe  
8 that an association has failed to comply with the requirements of  
9 this section, a representative of the association shall appear  
10 before the department [~~commission~~] to consider the issue of  
11 compliance with the rules adopted under this section.

12           (d) Before a building or improvement may be used by the  
13 association, the department [~~commission~~] shall determine whether  
14 the construction, renovation, or maintenance of the building or  
15 improvement was completed in accordance with the approved plans and  
16 specifications and whether other requirements of the department or  
17 commission were met.

18           (e) If the department [~~commission~~] determines that the  
19 association failed to comply with a requirement of this section or  
20 rule adopted under this section, the department [~~commission~~] shall  
21 initiate an enforcement action against the association. In  
22 addition to any other authorized enforcement action, the department  
23 [~~commission~~] may rescind any live or simulcast race date of any  
24 association that has failed to comply with the requirement of this  
25 section.

26           Sec. 6.063. SUMMARY SUSPENSION.           (a) The executive  
27 director [~~commission~~] may summarily suspend a racetrack license if

1 the executive director [~~commission~~] determines that a racetrack at  
2 which races or pari-mutuel wagering are conducted under the license  
3 is being operated in a manner that constitutes an immediate threat  
4 to the health, safety, or welfare of the participants in racing or  
5 the patrons.

6 (b) After issuing a summary suspension order, the executive  
7 director [~~secretary~~] shall serve on the association by personal  
8 delivery or registered or certified mail, return receipt requested,  
9 to the licensee's last known address, an order stating the specific  
10 charges and requiring the licensee immediately to cease and desist  
11 from all conduct permitted by the license. The order must contain a  
12 notice that a request for hearing may be filed under this section.

13 (c) An association that is the subject of a summary  
14 suspension order may request a hearing. The request must be filed  
15 with the executive director [~~secretary~~] not later than the 10th day  
16 after the date the order was received or delivered. A request for a  
17 hearing must be in writing and directed to the executive director  
18 [~~secretary~~] and must state the grounds for the request to set aside  
19 or modify the order. Unless a licensee who is the subject of the  
20 order requests a hearing in writing before the 11th day after the  
21 date the order is received or delivered, the order is final and  
22 nonappealable as to that licensee.

23 (d) On receiving a request for a hearing, the executive  
24 director [~~secretary~~] shall serve notice of the time and place of the  
25 hearing by personal delivery or registered or certified mail,  
26 return receipt requested. The hearing must be held not later than  
27 the 10th day after the date the executive director [~~secretary~~]

1 receives the request for a hearing unless the parties agree to a  
 2 later hearing date. At the hearing, the department [~~commission~~]  
 3 has the burden of proof and must present evidence in support of the  
 4 order. The licensee requesting the hearing may cross examine  
 5 witnesses and show cause why the order should not be affirmed.  
 6 Section 2003.021(b), Government Code, does not apply to hearings  
 7 conducted under this section.

8 (e) A summary suspension order continues in effect unless  
 9 the order is stayed by the executive director [~~secretary~~]. The  
 10 executive director [~~secretary~~] may impose any condition before  
 11 granting a stay of the order.

12 (f) After the hearing, the executive director [~~secretary~~]  
 13 shall affirm, modify, or set aside in whole or part the summary  
 14 suspension order. An order affirming or modifying the summary  
 15 suspension order is final for purposes of enforcement and appeal.

16 SECTION 1.28. Sections 6.07(b) and (c), Texas Racing Act  
 17 (Article 179e, Vernon's Texas Civil Statutes), are amended to read  
 18 as follows:

19 (b) The department [~~commission~~] may not approve a lease if:  
 20 (1) it appears that the lease is a subterfuge to evade  
 21 compliance with Section [~~6.05 or~~] 6.06 of this Act;  
 22 (2) the racetrack and surrounding structures do not  
 23 conform to the rules adopted under this Act; or  
 24 (3) the lessee, prospective lessee, or lessor is  
 25 disqualified from holding a racetrack license.

26 (c) Each lessor and lessee under this section must comply  
 27 with the disclosure requirements of Subdivision (1) of Subsection

(a) of Section 6.03 of this Act. The department [~~commission~~] may not approve a lease if the lessor and lessee do not provide the required information.

SECTION 1.29. Section 6.08(b)(4), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(4) An association[~~, after January 1, 1999,~~] may pay a portion of the revenue set aside under this subsection to an organization recognized under Section 3.13 of this Act, as provided by a contract approved by the department [~~commission~~].

SECTION 1.30. Section 6.08(i), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(i) Ten percent of the total breakage from a live pari-mutuel pool or a simulcast pari-mutuel pool is to be paid to the department [~~commission~~] for use by the appropriate state horse breed registry, subject to rules promulgated by the commission. The appropriate breed registry for Thoroughbred horses is the Texas Thoroughbred Breeders Association, for quarter horses is the Texas Quarter Horse Association, for Appaloosa horses is the Texas Appaloosa Horse Club, for Arabian horses is the Texas Arabian Breeders Association, and for paint horses is the Texas Paint Horse Breeders Association.

SECTION 1.31. Sections 6.09(d) and (f), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are amended to read as follows:

(d) Fifty percent of the breakage is to be paid to the

1 appropriate state greyhound breeding registry. Of that portion of  
2 the breakage 25 percent of that breakage is to be used in stakes  
3 races and 25 percent of that total breakage from a live pari-mutuel  
4 pool or a simulcast pari-mutuel pool is to be paid to the department  
5 [~~commission~~] for the use by the state greyhound breed registry,  
6 subject to rules promulgated by the commission.

7 (f) The commission in adopting rules relating to money paid  
8 to the department [~~commission~~] for use by the state greyhound breed  
9 registry under Subsection (d) of this section shall require the  
10 award of a grant in an amount equal to two percent of the amount paid  
11 to the department [~~commission~~] for use by the state greyhound breed  
12 registry to a person for the rehabilitation of greyhounds or to  
13 locate homes for greyhounds.

14 SECTION 1.32. Sections 6.091(a), (c), (e), (f), and (g),  
15 Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are  
16 amended to read as follows:

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

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

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

25 (3) if the association is a horse racing association,  
26 an amount equal to one percent of a multiple two wagering pool or  
27 multiple three wagering pool as the amount set aside for the

1 Texas-bred program to be used as provided by Section 6.08(f) of this  
2 Act;

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

9 (5) the remainder as the amount set aside for purses,  
10 expenses, the sending association, and the receiving location  
11 pursuant to a contract approved by the department [~~commission~~]  
12 between the sending association and the receiving location.

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

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

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

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

26 (4) a purse of 4.5 percent to be escrowed with the  
27 department [~~commission~~] for purses in the manner set forth in



1 Subsection (e) of this section.

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

14 (f) A [~~After October 15, 1998, a~~] horse racetrack  
15 association that is located not more than 75 miles from a greyhound  
16 racetrack facility that offers wagering on a cross-species  
17 simulcast signal may apply to the department [~~commission~~] for an  
18 additional allocation of up to 20 percent of the funds in the  
19 escrowed purse account that is attributable to the wagering on a  
20 cross-species simulcast signal at the greyhound racetrack  
21 facility, if the horse racetrack facility sends the cross-species  
22 simulcast signal to the greyhound racetrack. If the applying horse  
23 racetrack can prove to the department's [~~commission's~~] satisfaction  
24 that a decrease in the racetrack's handle has occurred that is  
25 directly due to wagering on an interstate cross-species simulcast  
26 signal at a greyhound racetrack facility that is located not more  
27 than 75 miles from the applying racetrack, the department

1 ~~[commission]~~ shall allocate the amounts from the escrowed purse  
2 account as the department ~~[commission]~~ considers appropriate to  
3 compensate the racetrack for the decrease, but the amount allocated  
4 may not exceed 20 percent of the funds in the escrowed purse account  
5 that are attributable to the wagering on the interstate  
6 cross-species simulcast signal at the greyhound racetrack  
7 facility. Any amount allocated by the department ~~[commission]~~  
8 under this subsection may be used by the racetrack facility for any  
9 purpose.

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

17 SECTION 1.33. Sections 6.092(c), (d), and (e), Texas Racing  
18 Act (Article 179e, Vernon's Texas Civil Statutes), are amended to  
19 read as follows:

20 (c) An organization receiving funds generated by live or  
21 simulcast pari-mutuel racing shall annually file with the  
22 department ~~[commission]~~ a copy of an audit report prepared by an  
23 independent certified public accountant. The audit shall include a  
24 verification of any performance report sent to or required by the  
25 department ~~[commission]~~.

26 (d) The department ~~[commission]~~ may review any records or  
27 books of an organization that submits an independent audit to the

1 department [~~commission~~] as the department [~~commission~~] determines  
2 necessary to confirm or further investigate the findings of an  
3 audit or report.

4 (e) The commission by rule may suspend or withhold funds  
5 from an organization that:

6 (1) it determines has failed to comply with the  
7 requirements or performance measures adopted under Subsection (a)  
8 of this section; or

9 (2) has, following an independent audit or other  
10 report to the department [~~commission~~], material questions raised on  
11 the use of funds by the organization.

12 SECTION 1.34. Section 6.093(a)(3), Texas Racing Act  
13 (Article 179e, Vernon's Texas Civil Statutes), is amended to read  
14 as follows:

15 (3) All amounts set aside by the association for the  
16 state in Subdivisions (1) and (2) of this subsection shall be  
17 applied to the reimbursement of all amounts of general revenue  
18 appropriated for the administration and enforcement of this Act in  
19 excess of the cumulative amount deposited to the Texas racing  
20 [~~Racing Commission~~] fund until the earlier of:

21 (A) the excesses together with interest thereon  
22 are reimbursed in full; or

23 (B) January 1, 1999.

24 SECTION 1.35. Sections 6.094(b), (c), (d), and (e), Texas  
25 Racing Act (Article 179e, Vernon's Texas Civil Statutes), are  
26 amended to read as follows:

27 (b) An association conducting the Breeders' Cup races may

1 apply to the reimbursement of Breeders' Cup costs amounts that  
2 would otherwise be set aside by the association for the state under  
3 Sections 6.091(a)(1) and 6.093 of this Act during the year in which  
4 the association hosts the Breeders' Cup races, limited to an amount  
5 equal to the lesser of the aggregate amount contributed to pay  
6 Breeders' Cup costs by political subdivisions and development  
7 organizations or \$2 million. Beginning on January 1 of the year for  
8 which the association has been officially designated to host the  
9 Breeders' Cup races, amounts that would otherwise be set aside by  
10 the association for the state during that year under Sections  
11 6.091(a)(1) and 6.093 of this Act shall be set aside, in accordance  
12 with procedures prescribed by the comptroller, for deposit into the  
13 Breeders' Cup Developmental Account. The Breeders' Cup  
14 Developmental Account is an account in the general revenue fund.  
15 The department [~~commission~~] shall administer the account. Money in  
16 the account may be appropriated only to the department [~~commission~~]  
17 and may be used only for the purposes specified in this section.  
18 The account is exempt from the application of Section 403.095,  
19 Government Code.

20 (c) The department [~~commission~~] shall make disbursements  
21 from the Breeders' Cup Developmental Account to reimburse Breeders'  
22 Cup costs actually incurred and paid by the association, after the  
23 association files a request for reimbursement. Disbursements from  
24 the account may not at any time exceed the aggregate amount actually  
25 paid for Breeders' Cup costs by political subdivisions and  
26 development organizations, as certified by the department  
27 [~~commission~~] to the comptroller, or \$2 million, whichever is less.

1 (d) Not later than January 31 of the year following the year  
2 in which the association hosts the Breeders' Cup races, the  
3 association shall submit to the department ~~[commission]~~ a report  
4 that shows:

5 (1) the total amount of Breeders' Cup costs incurred  
6 and paid by the association;

7 (2) the total payments made by political subdivisions  
8 and development organizations for Breeders' Cup costs; and

9 (3) any other information requested by the department  
10 ~~[commission]~~.

11 (e) Following receipt of the report required by Subsection  
12 (d) of this section, the department ~~[commission]~~ shall take any  
13 steps it considers appropriate to verify the report. Not later than  
14 March 31 of the year following the event, the department  
15 ~~[commission]~~ shall transfer to the credit of the general revenue  
16 fund any balance remaining in the Breeders' Cup Developmental  
17 Account after reimbursement of any remaining Breeders' Cup costs  
18 authorized under this section.

19 SECTION 1.36. Section 6.12(b), Texas Racing Act (Article  
20 179e, Vernon's Texas Civil Statutes), is amended to read as  
21 follows:

22 (b) In the event of the death of any person whose death  
23 causes a violation of the licensing provisions of this Act, the  
24 department ~~[commission]~~ may issue a temporary license for a period  
25 not to exceed one year under rules adopted by the commission.

26 SECTION 1.37. Section 6.13, Texas Racing Act (Article 179e,  
27 Vernon's Texas Civil Statutes), is amended to read as follows:

1           Sec. 6.13. FINANCIAL DISCLOSURE. (a) The commission by  
2 rule shall require that each association holding a license for a  
3 class 1 racetrack, class 2 racetrack, or greyhound racetrack must  
4 annually file with the department [~~commission~~] a detailed financial  
5 statement that:

6                   (1) contains the names and addresses of all  
7 stockholders, members and owners of any interest in the racetrack  
8 facility;

9                   (2) indicates compliance during the filing period with  
10 Section 6.06 of this Act; and

11                   (3) includes any other information required by the  
12 department [~~commission~~].

13           (b) Each transaction that involves an acquisition or a  
14 transfer of a pecuniary interest in the association must receive  
15 prior approval from the department [~~commission~~]. A transaction  
16 that changes the ownership of the association requires submission  
17 of updated information of the type required to be disclosed under  
18 Subsection (a) of Section 6.03 of this Act and payment of a fee to  
19 recover the costs of the criminal background check.

20           SECTION 1.38. Sections 6.14(a), (b), and (d), Texas Racing  
21 Act (Article 179e, Vernon's Texas Civil Statutes), are amended to  
22 read as follows:

23           (a) An association may not conduct greyhound or horse racing  
24 at any place other than the place designated in the license except  
25 as provided by this section or by Section 6.15 of this Act.  
26 However, if the racetrack or enclosure designated in the license  
27 becomes unsuitable for racing because of fire, flood, or other

1 catastrophe, the affected association, with the prior approval of  
 2 the department [~~commission~~], may conduct a race meeting or any  
 3 remaining portion of a meeting temporarily at any other racetrack  
 4 licensed by the department [~~commission~~] to conduct the same type of  
 5 racing as may be conducted by the affected association if the  
 6 licensee of the other racetrack also consents to the usage.

7 (b) The department [~~commission~~] shall not issue more than  
 8 three racetrack licenses for greyhound racing.

9 (d) On request of an association, the department  
 10 [~~commission~~] shall amend a racetrack license to change the location  
 11 of the racetrack if the commission finds that:

12 (1) the conduct of race meetings at the proposed track  
 13 at the new location will be in the public interest;

14 (2) there was not a competing applicant for the  
 15 original license; and

16 (3) the association's desire to change location is not  
 17 the result of a subterfuge in the original licensing proceeding.

18 SECTION 1.39. Section 6.15, Texas Racing Act (Article 179e,  
 19 Vernon's Texas Civil Statutes), is amended to read as follows:

20 Sec. 6.15. RACING AT TEMPORARY LOCATION. After an  
 21 association has been granted a license to operate a racetrack and  
 22 before the completion of construction at the designated place for  
 23 which the license was issued, the department [~~commission~~] may, on  
 24 application by the association, issue a temporary license that  
 25 permits the association to conduct races at a location in the same  
 26 county for a period expiring two years after the date of issuance of  
 27 the temporary license or on the completion of the permanent

1 facility, whichever occurs first. The department [~~commission~~] may  
2 set the conditions and standards for issuance of a temporary  
3 license and allocation of appropriate race days. An applicant for a  
4 temporary license must pay the application fees and must post the  
5 bonds required of other licensees before the issuance of a  
6 temporary license. After a temporary license has expired, no  
7 individual, corporation, or association, nor any individual  
8 belonging to a corporation or association which has been granted a  
9 temporary license, may get an extension of the temporary license or  
10 a new temporary license.

11 SECTION 1.40. Section 6.16(a), Texas Racing Act (Article  
12 179e, Vernon's Texas Civil Statutes), is amended to read as  
13 follows:

14 (a) An association may not employ any person who has been a  
15 member of the commission, the executive director [~~secretary of the~~  
16 ~~commission~~], or an employee employed by the racing division  
17 [~~commission~~] in a position in the state employment classification  
18 plan of grade 12 or above, or any person related within the second  
19 degree by affinity or the third degree by consanguinity, as  
20 determined under Chapter 573, Government Code, to such a member or  
21 employee, during the one-year period immediately preceding the  
22 employment by the association.

23 SECTION 1.41. Sections 7.01(a) and (c), Texas Racing Act  
24 (Article 179e, Vernon's Texas Civil Statutes), are amended to read  
25 as follows:

26 (a) Except as provided by this section, a person may not  
27 participate in racing with pari-mutuel wagering other than as a



1 spectator or as a person placing a wager without first obtaining a  
2 license from the department [~~commission~~]. A person may not engage  
3 in any occupation for which commission rules require a license  
4 under this Act without first obtaining a license from the  
5 department [~~commission~~].

6 (c) A racetrack licensed under this Act is responsible for  
7 ensuring that its employees comply with this Act and commission  
8 rules. The department or commission may impose disciplinary action  
9 against a licensed racetrack for violations of this Act and  
10 commission rules by its employees as provided by Section 6.0603 of  
11 this Act.

12 SECTION 1.42. Sections 7.02(c), (d), and (e), Texas Racing  
13 Act (Article 179e, Vernon's Texas Civil Statutes), are amended to  
14 read as follows:

15 (c) If an examination is required for the issuance of a  
16 license under this article, not later than the 30th day after the  
17 date on which a licensing examination is administered under this  
18 Act, the department [~~commission~~] shall notify each examinee of the  
19 results of the examination.

20 (d) If requested in writing by a person who fails a  
21 licensing examination administered under this Act, the department  
22 [~~commission~~] shall furnish the person with an analysis of the  
23 person's performance on the examination.

24 (e) The department [~~commission~~] may not approve a  
25 management contract to operate or manage a racetrack owned by a  
26 governmental entity unless the racetrack license holder is an owner  
27 of the entity that proposes to manage the racetrack.

1       SECTION 1.43. Sections 7.03, 7.04, and 7.06, Texas Racing  
2 Act (Article 179e, Vernon's Texas Civil Statutes), are amended to  
3 read as follows:

4       Sec. 7.03. ISSUANCE. The department [~~commission~~] shall  
5 issue a license to a qualified person on application and payment of  
6 the license fee.

7       Sec. 7.04. LICENSES; GROUNDS FOR DENIAL, REVOCATION, AND  
8 SUSPENSION. The department [~~commission~~], after notice and hearing,  
9 may refuse to issue any original or renewal license under this  
10 article or may revoke or suspend the license if it has reasonable  
11 grounds to believe and finds that:

12           (1) the applicant has been convicted in a court of  
13 competent jurisdiction of a violation of this Act or of any rule  
14 adopted by the commission or has aided, abetted, or conspired with  
15 any person to commit such a violation;

16           (2) the applicant has been convicted of a felony or of  
17 any crime involving moral turpitude that is reasonably related to  
18 the applicant's present fitness to hold a license under this Act;

19           (3) the applicant has violated or has caused to be  
20 violated this Act or a rule of the commission in a manner that  
21 involves moral turpitude, as distinguished from a technical  
22 violation of this Act or of a rule;

23           (4) the applicant is unqualified, by experience or  
24 otherwise, to perform the duties required of a licensee under this  
25 Act;

26           (5) the applicant failed to answer or has falsely or  
27 incorrectly answered a question in an original or renewal

1 application;

2 (6) the applicant fails to disclose the true ownership  
3 or interest in a greyhound or horse as required by the rules of the  
4 commission;

5 (7) the applicant is indebted to the state for any fees  
6 or for the payment of a penalty imposed by this Act or by a rule of  
7 the commission;

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

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

16 (10) the applicant may be excluded from a track  
17 enclosure under this Act;

18 (11) the department or commission determines that the  
19 applicant has improperly used a temporary pass, license  
20 certificate, credential, or identification card issued under this  
21 Act;

22 (12) the applicant is residentially domiciled with a  
23 person whose license has been revoked for cause within the 12 months  
24 immediately preceding the date of the present application;

25 (13) the applicant has failed or refused to furnish a  
26 true copy of the application to the department's [~~commission's~~]  
27 district office in the district in which the premises for which the

1 permit is sought are located; or

2 (14) the applicant is engaged or has engaged in  
3 activities or practices that are detrimental to the best interests  
4 of the public and the sport of horse racing or greyhound racing.

5 Sec. 7.06. FORM OF LICENSE. The department [~~commission~~]  
6 shall issue a license certificate under this article in the form of  
7 an identification card with a photograph and other information as  
8 prescribed by the commission.

9 SECTION 1.44. Section 7.07(a-1), Texas Racing Act (Article  
10 179e, Vernon's Texas Civil Statutes), is amended to read as  
11 follows:

12 (a-1) The department [~~commission~~] shall obtain criminal  
13 history record information on each applicant renewing an  
14 occupational license under this article. The department  
15 [~~commission~~] shall ensure that criminal history record information  
16 is obtained on each license holder at least once every 36 months.

17 SECTION 1.45. Sections 7.09, 8.01, 8.02, and 9.01, Texas  
18 Racing Act (Article 179e, Vernon's Texas Civil Statutes), are  
19 amended to read as follows:

20 Sec. 7.09. TEMPORARY LICENSES. Pending investigation of an  
21 applicant's qualifications to receive an original or renewal  
22 license, the department [~~commission~~] may issue a temporary license  
23 to an applicant under this article whose application appears to  
24 comply with the requirements of law and who has paid the necessary  
25 fee. The temporary license is valid for a period not to exceed 120  
26 days from the date of issuance.

27 Sec. 8.01. ALLOCATION. The department [~~commission~~] shall

1 allocate the live and simulcast racing days for the conduct of live  
2 and simulcast racing at each racetrack licensed under this Act.  
3 Each racetrack shall accord reasonable access to races for all  
4 breeds of horses as determined by the racetrack through  
5 negotiations with the representative state breed registry with the  
6 final approval of the department [~~commission~~]. In granting  
7 approval, the department [~~commission~~] shall consider the factors of  
8 availability of competitive horses, economic feasibility, and  
9 public interest. In allocating race dates under this section, the  
10 department [~~commission~~] shall consider live race dates separately  
11 from simulcast race dates. The department [~~commission~~] may  
12 prohibit Sunday racing unless the prohibition would conflict with  
13 another provision of this Act.

14 Sec. 8.02. CHARITY DAYS. (a) The department [~~commission~~]  
15 shall grant additional racing days to each association during a  
16 race meeting to be conducted as charity days. The department  
17 [~~commission~~] shall grant at least two and not more than five  
18 additional days to each class 1 racetrack and to each class 2  
19 racetrack. Each class 1 and class 2 racetrack shall conduct charity  
20 race days in accordance with this section.

21 (b) The commission shall adopt rules relating to the conduct  
22 of charity days. The department [~~commission~~] shall insure that the  
23 races held by an association on a charity day are comparable in all  
24 respects, including the generation of revenue, to the races held by  
25 that association on any other racing day.

26 Sec. 9.01. TEXAS-BRED HORSES. Subject to this Act or any  
27 rule of the commission, the state horse breed registries shall make

reasonable rules to establish the qualifications of accredited Texas-bred horses to promote, develop, and improve the breeding of horses in this state. Rules adopted by a registry are subject to department [~~commission~~] approval.

SECTION 1.46. Section 9.03(b), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) To encourage the breeding of horses in this state, any accredited Texas-bred horse finishing first, second, or third in any race in this state except a restricted stakes race shall receive a purse supplement. The appropriate state breed registry shall act in an advisory capacity to the association and the department [~~commission~~] for the purpose of administering the provisions of this section.

SECTION 1.47. Sections 9.05 and 9.06, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 9.05. TYPES OF RACING. When a horse racing association conducts a race meeting for more than one breed of horse at one racetrack, the number of races to be run by each breed on each day shall be equitable as determined by the department [~~commission~~] under Section 8.01 of this Act. The commission, by rule or by order, may allow an exception if there are not enough horses of a breed available to provide sufficient competition.

Sec. 9.06. STABLING. When a horse racing association conducts a race meeting for more than one breed of horse at one racetrack, on-track stalls shall be provided on an equitable basis

1 as determined by the department [~~commission~~] under Section 8.01 of  
2 this Act.

3 SECTION 1.48. Sections 9A.001(d), (e), and (f), Texas  
4 Racing Act (Article 179e, Vernon's Texas Civil Statutes), are  
5 amended to read as follows:

6 (d) The race conditions and qualifications and preference  
7 systems developed for the Texas Derbies under Subsection (b) or (c)  
8 of this section are subject to review and approval by the executive  
9 director [~~secretary~~].

10 (e) The department [~~commission~~] shall set the date of and  
11 the location for each Texas Derby. Each Texas Derby must be held  
12 annually at the class 1 racetrack determined by the department  
13 [~~commission~~]. The department [~~commission~~] shall determine the  
14 location of each Texas Derby in consultation with:

- 15 (1) each class 1 racetrack;  
16 (2) the official state breed registries; and  
17 (3) the official horsemen's organization.

18 (f) The department [~~commission~~] may sell the right to name a  
19 Texas Derby. The department [~~commission~~] shall deposit the  
20 proceeds from the sale of the right to name a Texas Derby into the  
21 Texas Derby escrow purse fund established under Section 9A.003 of  
22 this article.

23 SECTION 1.49. Section 9A.002(a), Texas Racing Act (Article  
24 179e, Vernon's Texas Civil Statutes), is amended to read as  
25 follows:

26 (a) For each Texas Derby, the department [~~commission~~] shall  
27 appoint a state veterinarian to conduct a prerace examination of

1 each horse entered in the race to determine whether the horse is  
2 healthy and meets standards set by commission rule for racing.

3 SECTION 1.50. Sections 10.01 and 10.02, Texas Racing Act  
4 (Article 179e, Vernon's Texas Civil Statutes), are amended to read  
5 as follows:

6 Sec. 10.01. NUMBER OF RACING DAYS. Any greyhound racing  
7 licensee shall be entitled to have 300 evening and 150 matinee  
8 performances in a calendar year. The department ~~[commission]~~ shall  
9 grant at least five additional racing days during a race meeting to  
10 be conducted as charity days. The commission shall adopt rules  
11 relating to the conduct of charity days. The department  
12 ~~[commission]~~ shall insure that the races held by an association on a  
13 charity day are comparable in all respects, including the  
14 generation of revenue, to the races held by that association on any  
15 other racing day.

16 Sec. 10.02. SUBSTITUTE RACING DAYS OR ADDITIONAL RACES. If  
17 for a reason beyond the licensee's control and not caused by the  
18 licensee's fault or neglect it is impossible for the licensee to  
19 hold or conduct a race or races on a day authorized by the  
20 department ~~[commission]~~, the department ~~[commission]~~ in its  
21 discretion and at the request of the licensee, as a substitute for  
22 the race or races, may specify another day for the holding or  
23 conducting of racing by the licensee or may add additional races to  
24 already programmed events.

25 SECTION 1.51. Section 10.04(a), Texas Racing Act (Article  
26 179e, Vernon's Texas Civil Statutes), is amended to read as  
27 follows:



(a) Subject to this Act or any rule of the commission, the state greyhound breed registry shall make reasonable rules to establish the qualifications of accredited Texas-bred greyhounds to promote, develop, and improve the breeding of greyhounds in this state. Rules adopted by the registry are subject to department ~~[commission]~~ approval.

SECTION 1.52. Section 11.01(a-1), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(a-1) The department ~~[commission]~~ may commission as many investigators as the department ~~[commission]~~ determines necessary to enforce this Act and the rules of the commission. Each investigator shall take the constitutional oath of office and file it with the department ~~[commission]~~. Each commissioned investigator has the powers of a peace officer.

SECTION 1.53. Sections 11.011(b), (c), (f), and (m), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) With approval of the department ~~[commission]~~, wagers accepted on a simulcast race by any out-of-state receiving location may be included in the pari-mutuel pool for the race at the sending racetrack association in this state.

(c) With approval of the department ~~[commission]~~, wagers accepted by a licensed racetrack association in this state on a race simulcast from out-of-state may be included in the pari-mutuel pools for the race at the out-of-state sending racetrack.

(f) Nothing in this Act is to be construed to allow wagering

1 in Texas on simulcast races at any location other than a racetrack  
2 licensed under this Act that has been granted live race dates by the  
3 department [~~commission~~].

4 (m) The department [~~commission~~] shall not approve wagering  
5 on an interstate simulcast race unless the receiving location  
6 consents to wagering on interstate simulcast races at all other  
7 receiving locations in this state.

8 SECTION 1.54. Section 11.02, Texas Racing Act (Article  
9 179e, Vernon's Texas Civil Statutes), is amended to read as  
10 follows:

11 Sec. 11.02. COMPUTATION OF WAGERING. The wagering may be  
12 calculated only by state-of-the-art computational equipment that  
13 is approved by the department [~~commission~~]. The department  
14 [~~commission~~] may not require the use of a particular make of  
15 equipment.

16 SECTION 1.55. Sections 11.04(a) and (e), Texas Racing Act  
17 (Article 179e, Vernon's Texas Civil Statutes), are amended to read  
18 as follows:

19 (a) Only a person inside the enclosure where both live and  
20 simulcast race meetings are authorized may wager on the result of a  
21 live or simulcast race presented by the association in accordance  
22 with commission rules. Except as provided by this section, a person  
23 may not place, in person, by telephone, or over the Internet, a  
24 wager for a horse race or greyhound race conducted inside or outside  
25 this state. The commission shall adopt rules to prohibit wagering  
26 by employees of the racing division [~~commission~~] and to regulate  
27 wagering by persons licensed under this Act.

(e) An association that allows a machine in an enclosure as provided by Subsection (c) shall collect a fee of \$1 for each transaction under Subsection (c). The commission shall adopt rules providing for collection, reporting, and auditing of the transaction fee. The association shall forward the fee to the department ~~[commission]~~. The department ~~[commission]~~ shall deposit the fee to the credit of the general revenue fund.

SECTION 1.56. Section 11.07(b), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) If the claimant satisfactorily establishes a right to distribution from the pool, the association shall pay the amount due the claimant. If the association refuses to pay a claimant who has established satisfactorily a right to distribution from the pool, the claimant may appeal to the department ~~[commission]~~ under procedures prescribed by commission rule.

SECTION 1.57. Section 13.01, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13.01. REGULATION BY COMMISSION. The commission shall adopt rules providing for the exclusion or ejection from an enclosure where greyhound races or horse races are conducted, or from specified portions of an enclosure, of a person:

- (1) who has engaged in bookmaking, touting, or illegal wagering;
- (2) whose income is from illegal activities or enterprises;

1           (3) who has been convicted of a violation of this Act;

2           (4) who has been convicted of theft;

3           (5) who has been convicted under the penal law of  
4 another jurisdiction for committing an act that would have  
5 constituted a violation of any of the rules mentioned in this  
6 section;

7           (6) who has committed a corrupt or fraudulent act in  
8 connection with greyhound racing or horse racing or pari-mutuel  
9 wagering or who has committed any act tending or intended to corrupt  
10 greyhound racing or horse racing or pari-mutuel wagering in this  
11 state or elsewhere;

12           (7) who is under suspension or ruled off a racetrack by  
13 the department [~~commission~~] or a steward in this state or by a  
14 corresponding authority in another state because of fraudulent or  
15 corrupt practices or other acts detrimental to racing;

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

20           (9) who has been convicted of committing a lewd or  
21 lascivious act or other crime involving moral turpitude;

22           (10) who is guilty of boisterous or disorderly conduct  
23 while inside a racing enclosure;

24           (11) who is an agent or habitual associate of a person  
25 excludable under this section; or

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

27       SECTION 1.58. Sections 13.02(b) and (c), Texas Racing Act

(Article 179e, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) Such an application constitutes a contested case under Chapter 2001, Government Code ~~[the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)]~~. If, after a hearing as provided under that chapter ~~[Section 13 of that Act]~~, the commission determines that the exclusion or ejection was proper, it shall make and enter an order to that effect in its minutes, and the person shall continue to be excluded from each association.

(c) The person excluded or ejected may appeal an adverse decision of the commission by filing a petition for judicial review in the manner provided by Chapter 2001, Government Code ~~[Section 19 of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)]~~. Judicial review under this subsection is subject to the substantial evidence rule. Venue for the review is in a district court in Travis County.

SECTION 1.59. Section 14.01(c), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) An offense under this section is a state jail felony if:

(1) the actor is a licensee under this Act or an employee or member of the commission or the department and the actor knowingly represents that a member or employee of the commission or the department or a person licensed by the commission or department is the source of the false information; or

(2) the false statement or information was contained

1 in racing selection information provided to the public.

2 SECTION 1.60. Section 14.04(a), Texas Racing Act (Article  
3 179e, Vernon's Texas Civil Statutes), is amended to read as  
4 follows:

5 (a) A person commits an offense if the person is a licensee  
6 and the person knowingly or intentionally permits, facilitates, or  
7 allows access, to an enclosure where races are conducted, to  
8 another person who the person knows:

9 (1) has engaged in bookmaking, touting, or illegal  
10 wagering;

11 (2) derives income from illegal activities or  
12 enterprises;

13 (3) has been convicted of a violation of this Act; or

14 (4) is excluded by the department [~~commission~~] from  
15 entering a racetrack facility.

16 SECTION 1.61. Section 14.05(a), Texas Racing Act (Article  
17 179e, Vernon's Texas Civil Statutes), is amended to read as  
18 follows:

19 (a) A person who is subject to this section commits an  
20 offense if the person intentionally or knowingly wagers on the  
21 result of a greyhound race or horse race conducted in this state  
22 that:

23 (1) is held on an American Indian reservation or on  
24 American Indian trust land located in this state; and

25 (2) is not held under the supervision of the  
26 department [~~commission~~] under rules adopted under this Act.

27 SECTION 1.62. Section 14.06(c), Texas Racing Act (Article

179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) An offense under this section is a state jail felony unless the statement was material in a commission or department action relating to a racetrack license, in which event the offense is a felony of the third degree.

SECTION 1.63. Section 14.12, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14.12. CRIMINAL CONFLICT OF INTEREST. A person who is a member of the commission or an employee of the racing division commits an offense if the person:

(1) accepts, directly or indirectly, employment or remuneration from a racetrack facility, association, or other licensee, including a facility, association, or licensee located or residing in another state;

(2) wagers or causes a wager to be placed on the outcome of a horse or greyhound race conducted in this state; or

(3) accepts or is entitled to any part of a purse to be paid to an animal in a race conducted in this state.

SECTION 1.64. Section 14.17(b), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) In this section, "lawful request" means a request from the commission or the department, an authorized agent of the commission or the department, the director or a commissioned officer of the Department of Public Safety, a peace officer, or a

1 steward or judge at any time and any restricted location that:

2 (1) is on a racetrack facility; and

3 (2) is not a public place.

4 SECTION 1.65. Section 14.18(b), Texas Racing Act (Article  
5 179e, Vernon's Texas Civil Statutes), is amended to read as  
6 follows:

7 (b) A search may be conducted by a commissioned officer of  
8 the Department of Public Safety or a peace officer, including a  
9 peace officer employed by the department [~~commission~~], at any time  
10 and at any location that is on a racetrack facility, except a  
11 location:

12 (1) excluded by commission rule from searches under  
13 this section; or

14 (2) provided by an association under commission rule  
15 for private storage of personal items belonging to a licensee  
16 entering a racetrack facility.

17 SECTION 1.66. Sections 14.20 and 15.04, Texas Racing Act  
18 (Article 179e, Vernon's Texas Civil Statutes), are amended to read  
19 as follows:

20 Sec. 14.20. COMMISSION AND DEPARTMENT AUTHORITY. This  
21 article may not be construed to restrict the department's or the  
22 commission's administrative authority to enforce this Act or  
23 commission rules to the fullest extent authorized by this Act or  
24 other law.

25 Sec. 15.04. COMPLAINTS. Complaints alleging violations of  
26 this Act may be instituted by the Department of Public Safety, the  
27 department [~~commission~~], or the attorney general. Such complaints



shall be adjudicated by the department ~~[commission]~~ pursuant to the provisions for a contested case proceeding under Chapter 2001, Government Code ~~[the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)]~~.

SECTION 1.67. Section 16.01(a), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The department ~~[commission]~~ shall not issue a racetrack license or accept an application for a license for a racetrack to be located in a county until the commissioners court has certified to the secretary of state that the qualified voters of the county have approved the legalization of pari-mutuel wagering on horse races or greyhound races in the county at an election held under this article. ~~[A local option election may not be held under this article before January 1, 1987.]~~

SECTION 1.68. Section 16.13(a), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Not later than the 30th day after the date the result of the election is declared, any qualified voter of the county may contest the election by filing a petition in the district court of the county. Any person who is licensed or who has made application to the department ~~[commission]~~ to be licensed in any capacity under this Act may become a named party to the proceedings by pleading to the petition on or before the time set for hearing and trial as provided by Subsection (c) of this section or thereafter by intervention on leave of court.

1       SECTION 1.69. Sections 18.06, 18.07, and 18.08, Texas  
2 Racing Act (Article 179e, Vernon's Texas Civil Statutes), are  
3 amended to read as follows:

4       Sec. 18.06. RELEASE OF LIABILITY. A member of the  
5 commission, an employee of the department [~~commission~~], a steward  
6 or judge, an association, a horsemen's organization, or any other  
7 person regulated under this Act is not liable to any individual,  
8 corporation, business association, or other entity for a cause of  
9 action that arises out of that person's performance or exercise of  
10 discretion in the implementation or enforcement of this Act or a  
11 rule adopted under this Act if the person has acted in good faith.

12       Sec. 18.07. PAST PERFORMANCE OF ASSOCIATION. In  
13 considering a pleading of a racetrack association, the department  
14 [~~commission~~] shall take into account the operating experience of  
15 the racetrack association in Texas, which includes, but is not  
16 limited to, the financial condition of the track, regulatory  
17 compliance and conduct, and any other relevant matters concerning  
18 the operation of a track.

19       Sec. 18.08. DISTANCE LEARNING. The department [~~commission~~]  
20 may provide assistance to members of the racing industry who are  
21 attempting to develop or implement adult, youth, or continuing  
22 education programs that use distance learning.

23       SECTION 1.70. Sections 2.01, 2.02, 2.03, 2.04, 2.05, 2.06,  
24 2.071, 2.073, 2.074, 2.08, 2.09, 2.10, 2.11, 2.19, 2.20, 2.21,  
25 2.22, 2.23, 2.24, 2.25, and 18.01, Texas Racing Act (Article 179e,  
26 Vernon's Texas Civil Statutes), are repealed.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Section 87.002, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 87.002. APPLICABILITY OF CHAPTER. This chapter does not apply to an activity regulated by the racing division of the Texas Department of Licensing and Regulation [~~Racing Commission~~].

SECTION 2.02. Section 104.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 104.001. STATE LIABILITY; PERSONS COVERED. In a cause of action based on conduct described in Section 104.002, the state shall indemnify the following persons, without regard to whether the persons performed their services for compensation, for actual damages, court costs, and attorney's fees adjudged against:

(1) an employee, a member of the governing board, or any other officer of a state agency, institution, or department;

(2) a former employee, former member of the governing board, or any other former officer of a state agency, institution, or department who was an employee or officer when the act or omission on which the damages are based occurred;

(3) a physician or psychiatrist licensed in this state who was performing services under a contract with any state agency, institution, or department or a racing official performing services under a contract with the Texas Department of Licensing and Regulation [~~Racing Commission~~] when the act or omission on which the damages are based occurred;

(3-a) a phlebotomist licensed in this state who was performing services under a contract with the Texas Department of

1 Criminal Justice when the act or omission on which the damages are  
2 based occurred;

3 (4) a chaplain or spiritual advisor who was performing  
4 services under contract with the Texas Department of Criminal  
5 Justice[, ~~the Texas Youth Commission,~~] or the Texas Juvenile  
6 Justice Department [~~Probation Commission~~] when the act or omission  
7 on which the damages are based occurred;

8 (5) a person serving on the governing board of a  
9 foundation, corporation, or association at the request and on  
10 behalf of an institution of higher education, as that term is  
11 defined by Section 61.003(8), Education Code, not including a  
12 public junior college;

13 (6) a state contractor who signed a waste manifest as  
14 required by a state contract; or

15 (7) the estate of a person listed in this section.

16 SECTION 2.03. Article 2.12, Code of Criminal Procedure, is  
17 amended to read as follows:

18 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace  
19 officers:

20 (1) sheriffs, their deputies, and those reserve  
21 deputies who hold a permanent peace officer license issued under  
22 Chapter 1701, Occupations Code;

23 (2) constables, deputy constables, and those reserve  
24 deputy constables who hold a permanent peace officer license issued  
25 under Chapter 1701, Occupations Code;

26 (3) marshals or police officers of an incorporated  
27 city, town, or village, and those reserve municipal police officers

1 who hold a permanent peace officer license issued under Chapter  
2 1701, Occupations Code;

3 (4) rangers and officers commissioned by the Public  
4 Safety Commission and the Director of the Department of Public  
5 Safety;

6 (5) investigators of the district attorneys', criminal  
7 district attorneys', and county attorneys' offices;

8 (6) law enforcement agents of the Texas Alcoholic  
9 Beverage Commission;

10 (7) each member of an arson investigating unit  
11 commissioned by a city, a county, or the state;

12 (8) officers commissioned under Section [37.081](#),  
13 Education Code, or Subchapter E, Chapter 51, Education Code;

14 (9) officers commissioned by the General Services  
15 Commission;

16 (10) law enforcement officers commissioned by the  
17 Parks and Wildlife Commission;

18 (11) airport police officers commissioned by a city  
19 with a population of more than 1.18 million located primarily in a  
20 county with a population of 2 million or more that operates an  
21 airport that serves commercial air carriers;

22 (12) airport security personnel commissioned as peace  
23 officers by the governing body of any political subdivision of this  
24 state, other than a city described by Subdivision (11), that  
25 operates an airport that serves commercial air carriers;

26 (13) municipal park and recreational patrolmen and  
27 security officers;

1           (14) security officers and investigators commissioned  
2 as peace officers by the comptroller;

3           (15) officers commissioned by a water control and  
4 improvement district under Section 49.216, Water Code;

5           (16) officers commissioned by a board of trustees  
6 under Chapter 54, Transportation Code;

7           (17) investigators commissioned by the Texas Medical  
8 Board;

9           (18) officers commissioned by:

10           (A) the board of managers of the Dallas County  
11 Hospital District, the Tarrant County Hospital District, the Bexar  
12 County Hospital District, or the El Paso County Hospital District  
13 under Section 281.057, Health and Safety Code;

14           (B) the board of directors of the Ector County  
15 Hospital District under Section 1024.117, Special District Local  
16 Laws Code; and

17           (C) the board of directors of the Midland County  
18 Hospital District of Midland County, Texas, under Section 1061.121,  
19 Special District Local Laws Code;

20           (19) county park rangers commissioned under  
21 Subchapter E, Chapter 351, Local Government Code;

22           (20) investigators employed by the racing division of  
23 the Texas Department of Licensing and Regulation [~~Racing~~  
24 ~~Commission~~];

25           (21) officers commissioned under Chapter 554,  
26 Occupations Code;

27           (22) officers commissioned by the governing body of a

1 metropolitan rapid transit authority under Section [451.108](#),  
2 Transportation Code, or by a regional transportation authority  
3 under Section [452.110](#), Transportation Code;

4 (23) investigators commissioned by the attorney  
5 general under Section [402.009](#), Government Code;

6 (24) security officers and investigators commissioned  
7 as peace officers under Chapter 466, Government Code;

8 (25) an officer employed by the Department of State  
9 Health Services under Section [431.2471](#), Health and Safety Code;

10 (26) officers appointed by an appellate court under  
11 Subchapter F, Chapter 53, Government Code;

12 (27) officers commissioned by the state fire marshal  
13 under Chapter 417, Government Code;

14 (28) an investigator commissioned by the commissioner  
15 of insurance under Section [701.104](#), Insurance Code;

16 (29) apprehension specialists and inspectors general  
17 commissioned by the Texas Juvenile Justice Department as officers  
18 under Sections [242.102](#) and [243.052](#), Human Resources Code;

19 (30) officers appointed by the inspector general of  
20 the Texas Department of Criminal Justice under Section [493.019](#),  
21 Government Code;

22 (31) investigators commissioned by the Texas  
23 Commission on Law Enforcement under Section [1701.160](#), Occupations  
24 Code;

25 (32) commission investigators commissioned by the  
26 Texas Private Security Board under Section [1702.061](#)(f),  
27 Occupations Code;

1           (33) the fire marshal and any officers, inspectors, or  
2 investigators commissioned by an emergency services district under  
3 Chapter 775, Health and Safety Code;

4           (34) officers commissioned by the State Board of  
5 Dental Examiners under Section 254.013, Occupations Code, subject  
6 to the limitations imposed by that section;

7           (35) investigators commissioned by the Texas Juvenile  
8 Justice Department as officers under Section 221.011, Human  
9 Resources Code; and

10          (36) the fire marshal and any related officers,  
11 inspectors, or investigators commissioned by a county under  
12 Subchapter B, Chapter 352, Local Government Code.

13          SECTION 2.04. Sections 88.526(a) and (c), Education Code,  
14 are amended to read as follows:

15          (a) The director shall prepare an annual report on equine  
16 research funded under this subchapter. The director shall  
17 distribute the report to the racing division of the Texas  
18 Department of Licensing and Regulation [~~Racing Commission~~] and  
19 members of the Texas horse racing industry. The director shall make  
20 copies of the report available to interested parties.

21          (c) The director shall, at least annually, consult with the  
22 racing division of the Texas Department of Licensing and Regulation  
23 [~~Racing Commission~~] on the use of the account and the impact of  
24 equine research funded by the account.

25          SECTION 2.05. Section 411.096, Government Code, is amended  
26 to read as follows:

27          Sec. 411.096. ACCESS TO CRIMINAL HISTORY RECORD



1 INFORMATION: RACING DIVISION OF THE TEXAS DEPARTMENT OF LICENSING  
 2 AND REGULATION [~~RACING COMMISSION~~]. (a) The racing division of  
 3 the Texas Department of Licensing and Regulation [~~Racing~~  
 4 ~~Commission~~] is entitled to obtain from the department criminal  
 5 history record information maintained by the department that  
 6 pertains to a person who is:

- 7 (1) appointed to the racing division [~~commission~~];
- 8 (2) an applicant for employment by the racing division  
 9 [~~commission~~]; or
- 10 (3) an applicant for a license under the Texas Racing  
 11 Act (Article [179e](#), Vernon's Texas Civil Statutes).

12 (b) Criminal history record information obtained by the  
 13 racing division [~~commission~~] under Subsection (a) may not be  
 14 released or disclosed to any person except in a criminal  
 15 proceeding, in a hearing conducted by the Texas Department of  
 16 Licensing and Regulation [~~commission~~], on court order, or with the  
 17 consent of the applicant.

18 SECTION 2.06. Section [572.003](#)(c), Government Code, is  
 19 amended to read as follows:

20 (c) The term means a member of:

- 21 (1) the Public Utility Commission of Texas;
- 22 (2) the Texas Commission on Environmental Quality;
- 23 (3) the Texas Alcoholic Beverage Commission;
- 24 (4) The Finance Commission of Texas;
- 25 (5) the Texas Facilities Commission;
- 26 (6) the Texas Board of Criminal Justice;
- 27 (7) the board of trustees of the Employees Retirement

1 System of Texas;

2 (8) the Texas Transportation Commission;

3 (9) the Texas Department of Insurance;

4 (10) the Parks and Wildlife Commission;

5 (11) the Public Safety Commission;

6 (12) the Texas Ethics Commission;

7 (13) the State Securities Board;

8 (14) the Texas Water Development Board;

9 (15) the governing board of a public senior college or

10 university as defined by Section [61.003](#), Education Code, or of The

11 University of Texas Southwestern Medical Center, The University of

12 Texas Medical Branch at Galveston, The University of Texas Health

13 Science Center at Houston, The University of Texas Health Science

14 Center at San Antonio, The University of Texas M. D. Anderson Cancer

15 Center, The University of Texas Health Science Center at Tyler,

16 University of North Texas Health Science Center at Fort Worth,

17 Texas Tech University Health Sciences Center, Texas State Technical

18 College--Harlingen, Texas State Technical College--Marshall, Texas

19 State Technical College--Sweetwater, or Texas State Technical

20 College--Waco;

21 (16) the Texas Higher Education Coordinating Board;

22 (17) the Texas Workforce Commission;

23 (18) the board of trustees of the Teacher Retirement

24 System of Texas;

25 (19) the Credit Union Commission;

26 (20) the School Land Board;

27 (21) the board of the Texas Department of Housing and

Community Affairs;

- (22) ~~[the Texas Racing Commission,~~
- ~~(23)]~~ the State Board of Dental Examiners;
- (23) ~~(24)]~~ the Texas Medical Board;
- (24) ~~(25)]~~ the Board of Pardons and Paroles;
- (25) ~~(26)]~~ the Texas State Board of Pharmacy;
- (26) ~~(27)]~~ the Department of Information Resources
- governing board;
- (27) ~~(28)]~~ the Motor Vehicle Board;
- (28) ~~(29)]~~ the Texas Real Estate Commission;
- (29) ~~(30)]~~ the board of directors of the State Bar of
- Texas;
- (30) ~~(31)]~~ the bond review board;
- (31) ~~(32)]~~ the Health and Human Services Commission;
- (32) ~~(33)]~~ the Texas Funeral Service Commission;
- (33) ~~(34)]~~ the board of directors of a river
- authority created under the Texas Constitution or a statute of this
- state; or
- (34) ~~(35)]~~ the Texas Lottery Commission.

SECTION 2.07. Section 2054.352(a), Government Code, is amended to read as follows:

(a) The following licensing entities shall participate in the system established under Section 2054.353:

- (1) Texas Board of Chiropractic Examiners;
- (2) Judicial Branch Certification Commission;
- (3) State Board of Dental Examiners;
- (4) Texas Funeral Service Commission;

- 1 (5) Texas Board of Professional Land Surveying;
- 2 (6) Texas Medical Board;
- 3 (7) Texas Board of Nursing;
- 4 (8) Texas Optometry Board;
- 5 (9) Department of Agriculture, for licenses issued
- 6 under Chapter 1951, Occupations Code;
- 7 (10) Texas State Board of Pharmacy;
- 8 (11) Executive Council of Physical Therapy and
- 9 Occupational Therapy Examiners;
- 10 (12) Texas State Board of Plumbing Examiners;
- 11 (13) Texas State Board of Podiatric Medical Examiners;
- 12 (14) Texas State Board of Examiners of Psychologists;
- 13 (15) State Board of Veterinary Medical Examiners;
- 14 (16) Texas Real Estate Commission;
- 15 (17) Texas Appraiser Licensing and Certification
- 16 Board;
- 17 (18) Texas Department of Licensing and Regulation;
- 18 (19) Texas State Board of Public Accountancy;
- 19 (20) State Board for Educator Certification;
- 20 (21) Texas Board of Professional Engineers;
- 21 (22) Department of State Health Services;
- 22 (23) Texas Board of Architectural Examiners;
- 23 (24) ~~[Texas Racing Commission,~~
- 24 ~~[-25-]~~ Texas Commission on Law Enforcement; and
- 25 (25) ~~[-26-]~~ Texas Private Security Board.

ARTICLE 3. TRANSITION AND EFFECTIVE DATE

SECTION 3.01. The change in law made by this Act to the

requirements for the issuance or renewal of a license issued under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) applies only to the issuance or renewal of a certificate under that Act that expires on or after January 1, 2016. A certificate that expires before that date is governed by the law in effect on the date the certificate expires, and the former law is continued in effect for that purpose.

SECTION 3.02. The change in law made by this Act to the procedures relating to disciplinary actions for persons licensed under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) applies only to a disciplinary action initiated on or after January 1, 2016. A disciplinary action initiated before that date is governed by the law in effect on the date the action is initiated, and the former law is continued in effect for that purpose.

SECTION 3.03. A person described by Section 6.16(a), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is governed by that section as it existed immediately before the effective date of the amendment to that section by this Act, and that law is continued in effect for that purpose.

SECTION 3.04. (a) On January 1, 2016:

(1) the Texas Racing Commission is abolished and all powers and duties of the Texas Racing Commission under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) and other law are transferred to the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation;

(2) all obligations, rights, contracts, bonds,

1 appropriations, records, and property of the Texas Racing  
2 Commission are transferred to the Texas Department of Licensing and  
3 Regulation;

4           (3) a rule, policy, procedure, or decision of the  
5 Texas Racing Commission continues in effect as a rule, policy,  
6 procedure, or decision of the Texas Commission of Licensing and  
7 Regulation or the Texas Department of Licensing and Regulation, in  
8 accordance with Subdivision (1) of this subsection, until  
9 superseded by a later act of the Texas Commission of Licensing and  
10 Regulation or the Texas Department of Licensing and Regulation; and

11           (4) except as otherwise provided by this Act, a  
12 reference in law to the Texas Racing Commission means the Texas  
13 Commission of Licensing and Regulation.

14           (b) Not later than October 1, 2015, the Texas Racing  
15 Commission, the Texas Commission of Licensing and Regulation, and  
16 the Texas Department of Licensing and Regulation shall adopt a  
17 comprehensive transition plan for the transfer described by  
18 Subsection (a) of this section.

19           (c) Not later than November 1, 2015, the Texas Racing  
20 Commission shall meet with the Texas Department of Licensing and  
21 Regulation to provide for the transfer of essential personnel to  
22 the Texas Department of Licensing and Regulation.

23           (d) The Texas Racing Commission shall continue, as  
24 necessary, to perform the duties and functions being transferred to  
25 the Texas Commission of Licensing and Regulation or the Texas  
26 Department of Licensing and Regulation until the transfer of agency  
27 duties and functions is complete.

1           (e) Subsections (b), (c), and (d) of this section take  
2 effect September 1, 2015.

3           SECTION 3.05. (a) The Texas Racing Commission and the  
4 Texas Commission of Licensing and Regulation shall enter into or  
5 revise a joint memorandum of understanding to coordinate the Texas  
6 Racing Commission's and the Texas Department of Licensing and  
7 Regulation's information systems to allow for the sharing of  
8 information so that each entity may effectively and efficiently  
9 perform the functions and duties assigned to it. Neither the Texas  
10 Racing Commission nor the Texas Department of Licensing and  
11 Regulation may impose or collect a fee or charge in connection with  
12 the sharing of information under the joint memorandum of  
13 understanding entered into or revised under this section.

14           (b) The Texas Racing Commission and the Texas Department of  
15 Licensing and Regulation shall implement the joint memorandum of  
16 understanding using existing personnel and resources.

17           (c) Otherwise confidential information shared under the  
18 memorandum of understanding remains subject to the same  
19 confidentiality requirements and legal restrictions on access to  
20 the information that are imposed by law on the entity that  
21 originally obtained or collected the information.

22           (d) Information may be shared under the memorandum of  
23 understanding without the consent of the person who is the subject  
24 of the information.

25           (e) The memorandum of understanding required by Subsection  
26 (a) of this section must be entered into or revised at the first  
27 official meeting of the Texas Commission of Licensing and

1 Regulation occurring after the effective date of this section.

2 (f) This section takes effect September 1, 2015.

3 SECTION 3.06. (a) In addition to the memorandum of  
4 understanding required by Section 3.05 of this article, the Texas  
5 Racing Commission and the Texas Commission of Licensing and  
6 Regulation may enter into or revise one or more other joint  
7 memoranda of understanding necessary to effect the transfer of the  
8 powers and duties of the Texas Racing Commission to the Texas  
9 Commission of Licensing and Regulation and the Texas Department of  
10 Licensing and Regulation under this Act. A memorandum of  
11 understanding may include an agreement for the provision of office  
12 space, utilities and other facility services, and support services  
13 and for the transfer of information technology as necessary or  
14 appropriate to effect the transfer of the powers and duties of the  
15 Texas Racing Commission to the Texas Commission of Licensing and  
16 Regulation and the Texas Department of Licensing and Regulation.

17 (b) Sections 3.05(b), (c), and (d) of this article apply to  
18 a memorandum of understanding entered into or revised under  
19 Subsection (a) of this section.

20 (c) This section takes effect September 1, 2015.

21 SECTION 3.07. Except as otherwise provided by this Act,  
22 this Act takes effect January 1, 2016.