87R5637 GCB-D

By:  Guillen H.B. No. 2731

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of historical racing pari-mutuel wagering by licensed horse and greyhound racetracks and the distribution of certain live, simulcast, and historical pari-mutuel pools.

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

SECTION 1.  Section 2021.003, Occupations Code, is amended by adding Subdivisions (17-a), (17-b), (17-c), (17-d), (17-e), and (17-f) and amending Subdivisions (32), (33), (40), (41), and (42) to read as follows:

(17-a)  "Historical pari-mutuel wagering" means pari-mutuel wagering on the outcomes of historical racing.

(17-b)  "Historical race" means a previously conducted horse or greyhound race or groups of horse races or of greyhound races that were:

(A)  authorized by the commission or another racing jurisdiction and conducted in this state or another racing jurisdiction; and

(B)  concluded with official results that did not include any scratches, disqualifications, or dead-heat finishes.

(17-c)  "Historical racing" means the display, including by graphical representation, of historical races.

(17-d)  "Historical racing machine" means a peripheral electronic device used by a historical racing totalisator system to offer historical pari-mutuel racing.

(17-e)  "Historical racing totalisator system" means a system for registering, computing, or displaying the wagering and payment of winnings in historical pari-mutuel wagering.

(17-f)  "Historical racing totalisator system company" means a company selling, leasing, servicing, maintaining, or operating a historical racing totalisator system.

(32)  "Pari-mutuel pool" means the total amount of money wagered by patrons on the result of a particular race or combination of races, divided into separate mutuel pools for win, place, show, or combinations. The term includes pari-mutuel pools created by pari-mutuel wagering on live and simulcast races and pools created by pari-mutuel wagering on historical races.

(33)  "Pari-mutuel voucher" means a bearer instrument, issued by a pari-mutuel wagering machine or a historical racing machine, that represents money owned by a wagering patron and held by a racetrack association, including winnings from a pari-mutuel wager.

(40)  "Race" includes a live audio and visual signal of and a graphical representation of a race.

(41)  "Racetrack" means a facility licensed under this subtitle for the conduct of pari-mutuel wagering on horse racing or greyhound racing, including historical racing.

(42)  "Racetrack association" means a person licensed under this subtitle to conduct the following with pari-mutuel wagering:

(A)  a horse race meeting;

(B)  [~~or~~] a greyhound race meeting; or

(C)  a historical race [~~with pari-mutuel wagering~~].

SECTION 2.  Section 2023.001(a), Occupations Code, is amended to read as follows:

(a)  Notwithstanding any contrary provision in this subtitle, the commission may license and regulate all aspects of horse racing and greyhound racing in this state, including historical racing, regardless of whether that racing involves pari-mutuel wagering.

SECTION 3.  Section 2023.004(a), Occupations Code, is amended to read as follows:

(a)  The commission shall adopt:

(1)  rules for conducting horse racing or greyhound racing in this state, including historical racing, that involves wagering; and

(2)  rules for administering this subtitle in a manner consistent with this subtitle.

SECTION 4.  Section 2025.001(d), Occupations Code, is amended to read as follows:

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

SECTION 5.  Section 2025.051, Occupations Code, is amended to read as follows:

Sec. 2025.051.  RACETRACK LICENSE REQUIRED; CRIMINAL PENALTY. A person may not conduct wagering on a live or simulcast horse or greyhound race meeting or on a historical race without first obtaining a racetrack license issued by the commission. A person who violates this section commits an offense.

SECTION 6.  Section 2025.054, Occupations Code, is amended to read as follows:

Sec. 2025.054.  MANAGEMENT, CONCESSION, HISTORICAL RACING TOTALISATOR SYSTEM, AND TOTALISATOR CONTRACTS. (a) The commission shall require each applicant for an original racetrack license to submit with the application for inspection and review by the commission a copy of each management, concession, historical racing totalisator system, and totalisator contract associated with the proposed license at the proposed location in which the applicant has an interest.

(b)  An applicant or license holder shall advise the commission of any change in any management, concession, historical racing totalisator system, or totalisator contract.

(c)  The criminal history record information, fingerprint, and other information required of a license applicant under Sections 2023.057, 2025.003, and 2025.052(a)(1)-(3) are required of proposed totalisator firms, historical racing totalisator system companies, concessionaires, and managers and management firms.

SECTION 7.  Section 2025.056(a), Occupations Code, is amended to read as follows:

(a)  The commission shall require a complete personal, financial, and business background check of the applicant or of any person who owns an interest in or exercises control over an applicant for a racetrack license, including the partners, stockholders, concessionaires, management personnel, management firms, historical racing totalisator system companies, and creditors.

SECTION 8.  Section 2025.103(a), Occupations Code, is amended to read as follows:

(a)  After a racetrack association has been granted a license to operate a racetrack and before the completion of construction at the designated place for which the license was issued, the commission may, on application by the racetrack association, issue a temporary license that authorizes the racetrack association to conduct races or offer historical racing at a location in the same county until the earlier of:

(1)  the second anniversary of the date of issuance of the temporary license; or

(2)  the completion of the permanent facility.

SECTION 9.  Sections 2025.104(b) and (c), Occupations Code, are amended to read as follows:

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

(1)  holds live racing events or offers historical racing at the racetrack; or

(2)  makes good faith efforts to conduct live racing or offer historical racing.

(c)  The commission by rule shall provide guidance on actions that constitute, for purposes of this subtitle, good faith efforts to conduct live racing or offer historical racing.

SECTION 10.  Sections 2025.105(b) and (c), Occupations Code, are amended to read as follows:

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

(1)  the inactive license holder's:

(A)  financial stability;

(B)  ability to conduct live racing or offer historical racing;

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

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

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

(c)  The commission may refuse to renew an inactive license if, after notice and a hearing, the 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 effort to conduct live racing or offer historical racing.

SECTION 11.  Section 2026.002, Occupations Code, is amended to read as follows:

Sec. 2026.002.  PREVENTION OF SUBTERFUGE IN RACETRACK OWNERSHIP OR OPERATION. This subtitle shall be liberally construed to prevent subterfuge in the ownership and operation of a racetrack or in the offering of historical racing.

SECTION 12.  Section 2026.151(a), Occupations Code, is amended to read as follows:

(a)  All concession, management, historical racing totalisator system, and totalisator contracts submitted by an applicant under Section 2025.054 must have the prior approval of the commission.

SECTION 13.  Section 2026.152(a), Occupations Code, is amended to read as follows:

(a)  On receipt of a plan for the security of a racetrack, or a copy of a concession, management, historical racing totalisator system, or totalisator contract for review under Section 2026.151, the commission shall review the security plan or contract in an executive session. Documents submitted by an applicant to the commission under this section or Section 2025.052 or 2025.054 are subject to discovery in a suit brought under this subtitle but are not public records and are not subject to Chapter 552, Government Code.

SECTION 14.  Section 2027.001(a), Occupations Code, is amended to read as follows:

(a)  The commission shall adopt rules to regulate wagering on horse races and greyhound races, including historical races, under the system known as pari-mutuel wagering.

SECTION 15.  Chapter 2027, Occupations Code, is amended by adding Subchapter C-1 to read as follows:

SUBCHAPTER C-1. PARI-MUTUEL WAGERING ON HISTORICAL RACES

Sec. 2027.151.  HISTORICAL PARI-MUTUEL WAGERING RULES. The commission shall adopt rules to regulate pari-mutuel wagering on historical races.

Sec. 2027.152.  HISTORICAL RACING. A racetrack association may offer historical racing, subject to the requirements of this subchapter.

Sec. 2027.153.  REQUIREMENTS AND LIMITATIONS ON HISTORICAL RACING MACHINES. (a) The commission may not require the use of a particular brand or model of historical racing machine.

(b)  A historical racing machine may not display any information that would allow a patron to identify the historical race on which the patron is wagering, including the location of the race, the date on which the race was run, the names of the animals in the race, or the names of the jockeys that participated in the race before the patron places a wager on the machine. This subsection does not prohibit a historical racing machine from displaying non-identifying race information in written or graphical form.

(c)  After a patron finalizes the patron's wager selections on a historical racing machine, the machine must display:

(1)  the race, a portion of the race, or a graphical representation of the race; and

(2)  the official results and identity of the race.

(d)  A racetrack association offering wagering on a historical racing machine that has a complete malfunction during use by a patron shall fully refund the balance of the patron's wager on the machine at the time of the malfunction, as verified by the historical racing totalisator system.

(e)  To prevent fraud or liability for malfunction of a significant portion of the historical racing machines at one location, a racetrack association shall ensure that all historical race information used by each historical racing machine at the location is stored on the machine or a server located within the association's enclosure.

(f)  A racetrack association shall ensure that:

(1)  a single historical racing totalisator system controls not more than 40 percent of the historical racing machines at the association's racetrack; and

(2)  a person does not have a financial interest in or exercise control over one or more historical racing totalisator systems that control more than 40 percent of the historical racing machines at the racetrack.

Sec. 2027.154.  REQUIREMENTS AND LIMITATIONS ON HISTORICAL RACING TOTALISATOR SYSTEMS. (a) The commission may not require the use of a particular brand or model of historical racing totalisator system.

(b)  A historical racing totalisator system may be operated only within a racetrack association's enclosure. Pari-mutuel wagering on historical racing may not be offered on a historical racing totalisator system that is connected to the Internet or another offsite location.

(c)  Pari-mutuel wagering on historical racing may be offered only on historical racing machines controlled by a historical racing totalisator system approved by the commission.

Sec. 2027.155.  REQUEST FOR COMMISSION APPROVAL OF HISTORICAL RACING TOTALISATOR SYSTEM. (a) A historical racing totalisator company may request commission approval of a historical racing totalisator system for use in offering historical racing at a racetrack.

(b)  A request for commission approval submitted under this section must be accompanied by a certification and associated report issued by an independent testing laboratory verifying that:

(1)  the laboratory tested the historical racing totalisator system to ensure its integrity and proper working order; and

(2)  the system and the proposed wagers to be offered through the system meet all applicable state laws and commission rules for use in offering historical racing at a racetrack.

Sec. 2027.156.  CONSTRUCTION OF LAWS RELATED TO HISTORICAL RACING. (a) No provision of this subtitle may be construed to allow pari-mutuel wagering on historical racing, the offer of historical racing, or the use of historical racing machines at any location other than a racetrack licensed under this subtitle.

(b)  No provision of this subtitle may be construed to prohibit pari-mutuel wagering on:

(1)  a historical horse race offered at a greyhound racetrack licensed under this subtitle; or

(2)  a historical greyhound race offered at a horse racetrack licensed under this subtitle.

Sec. 2027.157.  HISTORICAL RACING PARI-MUTUEL POOLS; SEED POOLS. (a) Except as otherwise provided by Subsection (c), a racetrack association shall pay patrons who win historical racing wagers exclusively from the pari-mutuel pools created by wagers placed on historical racing.

(b)  A racetrack association may not:

(1)  conduct historical racing in a manner that allows patrons to wager against the racetrack association or that renders the association's compensation dependent on the outcome of any particular historical race or the success of any particular wager on historical racing;

(2)  pay a winning wager in an amount that exceeds the amount available in the applicable historical racing pari-mutuel pool; or

(3)  pay a patron using any consideration other than cash or a pari-mutuel voucher.

(c)  A racetrack association shall maintain and fund seed pools as necessary to ensure a sufficient amount of money is available to pay a patron the minimum payment for a winning wager specified by the historical racing machine through which the patron places the wager. A historical racing totalisator system may assign a percentage of each historical racing wager to fund seed pools.

(d)  A racetrack association may provide funding for the initial seed pool for each type of wager and may be refunded an amount equal to the amount of the initial funding after the historical racing pari-mutuel pool is fully funded. Except for amounts used to fund seed pools under Subsection (c), a racetrack association may not receive any funding for the initial seed pool from any person, including any historical racing totalisator system company.

SECTION 16.  Section 2028.001(a), Occupations Code, is amended to read as follows:

(a)  For any organization that receives funds generated by live, [~~or~~] simulcast, or historical [~~pari-mutuel~~] racing with pari-mutuel wagering, the commission shall adopt reporting, monitoring, and auditing requirements or other appropriate performance measures for:

(1)  any funds distributed to or used by the organization; and

(2)  any function or service provided by the expenditure of the funds described by Subdivision (1).

SECTION 17.  Section 2028.002(a), Occupations Code, is amended to read as follows:

(a)  An organization that receives funds generated by live, [~~or~~] simulcast, or historical [~~pari-mutuel~~] racing with pari-mutuel wagering shall annually file with the commission a copy of an audit report prepared by an independent certified public accountant. The audit must include a verification of any performance report sent to or required by the commission.

SECTION 18.  Section 2028.101(b), Occupations Code, is amended to read as follows:

(b)  The total maximum deduction under Subsection (a) is:

(1)  18 percent from a regular wagering pool or historical racing pari-mutuel pool;

(2)  21 percent from a multiple two wagering pool; and

(3)  25 percent from a multiple three wagering pool.

SECTION 19.  Sections 2028.105(b) and (c), Occupations Code, are amended to read as follows:

(b)  A horse racetrack association shall pay to the commission for use by the appropriate state horse breed registry, subject to commission rules, 10 percent of the total breakage from a live, [~~pari-mutuel pool or a~~] simulcast, or historical racing pari-mutuel pool. The appropriate state horse breed registries are as follows:

(1)  the Texas Thoroughbred Breeders Association for Thoroughbred horses;

(2)  the Texas Quarter Horse Association for quarter horses;

(3)  the Texas Appaloosa Horse Club for Appaloosa horses;

(4)  the Texas Arabian Breeders Association for Arabian horses; and

(5)  the Texas Paint Horse Breeders Association for paint horses.

(c)  A horse racetrack association shall retain 10 percent of the total breakage from a [~~live pari-mutuel pool or a simulcast~~] pari-mutuel pool to be used in stakes races restricted to accredited Texas-bred horses.

SECTION 20.  Section 2028.151, Occupations Code, is amended to read as follows:

Sec. 2028.151.  APPLICATION OF SUBCHAPTER. The deductions and allocations made under this subchapter apply to live, simulcast, and historical racing pari-mutuel pools, except as otherwise specifically provided by this subchapter.

SECTION 21.  Section 2028.152, Occupations Code, is amended to read as follows:

Sec. 2028.152.  DISTRIBUTION OF LIVE OR SIMULCAST PARI-MUTUEL POOL. Each greyhound racetrack association shall distribute all money deposited in any live or simulcast pari-mutuel pool to the winning ticket holders who present tickets for payment not later than the 60th day after the closing day of the greyhound race meeting at which the pool was formed less:

(1)  an amount paid as a commission of 18 percent of the total deposits in pools resulting from regular win, place, and show wagering;

(2)  an amount not to exceed 21 percent of the total deposits in pools resulting from multiple two wagering; and

(3)  an amount not to exceed 25 percent of the total deposits in pools resulting from multiple three wagering.

SECTION 22.  Section 2028.154, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

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

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

(2)  25 percent of that total breakage from a live [~~pari-mutuel pool~~] or [~~a~~] simulcast pari-mutuel pool is to be paid to the commission for deposit into the Texas-bred incentive fund established under Section 2028.301.

(a-1)  The commission shall distribute the money collected under this section and deposited into the fund to the state greyhound breed registry for use in accordance with this section and commission rules.

SECTION 23.  Section 2028.155(a), Occupations Code, is amended to read as follows:

(a)  The purse in a live or simulcast greyhound race may not be less than 4.7 percent of the total deposited in each pari-mutuel pool.

SECTION 24.  Subchapter D, Chapter 2028, Occupations Code, is amended by adding Section 2028.156 to read as follows:

Sec. 2028.156.  DISTRIBUTION OF HISTORICAL RACING PARI-MUTUEL POOL. A greyhound racetrack association may receive as compensation an amount not to exceed 18 percent of the association's historical racing pari-mutuel pools.

SECTION 25.  Chapter 2028, Occupations Code, is amended by adding Subchapter E-1 to read as follows:

SUBCHAPTER E-1. GENERAL DEDUCTIONS FROM HISTORICAL RACING

PARI-MUTUEL POOLS

Sec. 2028.231.  SET-ASIDE FROM HISTORICAL RACING PARI-MUTUEL POOL. A horse or greyhound racetrack association shall set aside for this state from each pari-mutuel pool created by historical racing offered at the racetrack an amount equal to 1.25 percent of that pool.

SECTION 26.  As soon as practical after the effective date of this Act, the Texas Racing Commission shall adopt the rules and procedures necessary to implement the changes in law made by this Act.

SECTION 27.  This Act takes effect September 1, 2021.