

By: Guillen

H.B. No. 2731

A BILL TO BE ENTITLED

1 AN ACT

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

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

7 SECTION 1. Section 2021.003, Occupations Code, is amended  
8 by adding Subdivisions (17-a), (17-b), (17-c), (17-d), (17-e), and  
9 (17-f) and amending Subdivisions (32), (33), (40), (41), and (42)  
10 to read as follows:

11 (17-a) "Historical pari-mutuel wagering" means  
12 pari-mutuel wagering on the outcomes of historical racing.

13 (17-b) "Historical race" means a previously conducted  
14 horse or greyhound race or groups of horse races or of greyhound  
15 races that were:

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

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

21 (17-c) "Historical racing" means the display,  
22 including by graphical representation, of historical races.

23 (17-d) "Historical racing machine" means a peripheral  
24 electronic device used by a historical racing totalisator system to

1 offer historical pari-mutuel racing.

2           (17-e) "Historical racing totalisator system" means a  
3 system for registering, computing, or displaying the wagering and  
4 payment of winnings in historical pari-mutuel wagering.

5           (17-f) "Historical racing totalisator system company"  
6 means a company selling, leasing, servicing, maintaining, or  
7 operating a historical racing totalisator system.

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

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

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

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

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

27                   (A) a horse race meeting;

1                    (B) ~~[or]~~ a greyhound race meeting; or  
2                    (C) a historical race [~~with pari-mutuel~~  
3 ~~wagering~~].

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

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

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

13           (a) The commission shall adopt:  
14                (1) rules for conducting horse racing or greyhound  
15 racing in this state, including historical racing, that involves  
16 wagering; and  
17                (2) rules for administering this subtitle in a manner  
18 consistent with this subtitle.

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

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

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

27           Sec. 2025.051. RACETRACK LICENSE REQUIRED; CRIMINAL

1 PENALTY. A person may not conduct wagering on a live or simulcast  
2 horse or greyhound race meeting or on a historical race without  
3 first obtaining a racetrack license issued by the commission. A  
4 person who violates this section commits an offense.

5 SECTION 6. Section [2025.054](#), Occupations Code, is amended  
6 to read as follows:

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

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

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

24 SECTION 7. Section [2025.056](#)(a), Occupations Code, is  
25 amended to read as follows:

26 (a) The commission shall require a complete personal,  
27 financial, and business background check of the applicant or of any

1 person who owns an interest in or exercises control over an  
2 applicant for a racetrack license, including the partners,  
3 stockholders, concessionaires, management personnel, management  
4 firms, historical racing totalisator system companies, and  
5 creditors.

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

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

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

17 (2) the completion of the permanent facility.

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

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

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

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

26 (c) The commission by rule shall provide guidance on actions  
27 that constitute, for purposes of this subtitle, good faith efforts

1 to conduct live racing or offer historical racing.

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

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

6 (1) the inactive license holder's:

7 (A) financial stability;

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

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

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

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

16 (c) The commission may refuse to renew an inactive license  
17 if, after notice and a hearing, the commission determines that:

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

20 (2) the license holder has failed to make a good faith  
21 effort to conduct live racing or offer historical racing.

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

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

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

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

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

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

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

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

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

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

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

1 historical races.

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

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

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

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

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

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

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

26 (e) To prevent fraud or liability for malfunction of a  
27 significant portion of the historical racing machines at one



1 location, a racetrack association shall ensure that all historical  
2 race information used by each historical racing machine at the  
3 location is stored on the machine or a server located within the  
4 association's enclosure.

5 (f) A racetrack association shall ensure that:

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

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

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

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

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

25 Sec. 2027.155. REQUEST FOR COMMISSION APPROVAL OF  
26 HISTORICAL RACING TOTALISATOR SYSTEM. (a) A historical racing  
27 totalisator company may request commission approval of a historical

1  racing totalisator system for use in offering historical racing at  
2  a racetrack.

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

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

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

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

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

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

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

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

1           (b) A racetrack association may not:

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

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

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

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

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

27           SECTION 16. Section 2028.001(a), Occupations Code, is

1 amended to read as follows:

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

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

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

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

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

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

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

22 (1) 18 percent from a regular wagering pool or  
23 historical racing pari-mutuel pool;

24 (2) 21 percent from a multiple two wagering pool; and

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

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

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

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

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

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

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

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

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

21 SECTION 20. Section [2028.151](#), Occupations Code, is amended  
22 to read as follows:

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

27 SECTION 21. Section [2028.152](#), Occupations Code, is amended

1 to read as follows:

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

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

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

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

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

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

21           (1) 25 percent is to be used in stakes races; and

22           (2) 25 percent of that total breakage from a live  
23 [~~pari-mutuel pool~~] or [~~a~~] simulcast pari-mutuel pool is to be paid  
24 to the commission for deposit into the Texas-bred incentive fund  
25 established under Section 2028.301.

26           (a-1) The commission shall distribute the money collected  
27 under this section and deposited into the fund to the state

1 greyhound breed registry for use in accordance with this section  
2 and commission rules.

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

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

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

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

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

16 SUBCHAPTER E-1. GENERAL DEDUCTIONS FROM HISTORICAL RACING  
17 PARI-MUTUEL POOLS

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

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

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