88R14249 BEE-F

By:  Thompson of Harris H.B. No. 4115

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

(e)  A person is not eligible for appointment as a commission member or to be designated to serve as an ex officio member's designee as described by Section 2022.001(b) if:

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

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

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

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

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

(2)  the person:

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

(B)  has been convicted of a felony; or

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

SECTION 4.  The heading to Section 2022.052, Occupations Code, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

(c)  Any unappropriated money exceeding $2 million [~~$750,000~~] that remains in the fund at the close of each state fiscal biennium shall be transferred to the general revenue fund and may be appropriated for any purpose.

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

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

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

(1)  descriptions of changes to commission programs; and

(2)  recommendations to the governor and the legislature.

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

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

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

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

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

Sec. 2025.262.  GROUNDS FOR DENIAL, REVOCATION, AND SUSPENSION OF OCCUPATIONAL LICENSE. The commission may refuse to issue any original or renewal license under this subchapter or may revoke or suspend the license if, after notice and hearing, the commission finds that the applicant or license holder, as appropriate:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2026.051.  COMMISSION RULES REGARDING EXCLUSION OR EJECTION. The commission shall adopt rules providing for the exclusion or ejection from an enclosure where horse or greyhound 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;

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

(4)  who has been convicted of theft;

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

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

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

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

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

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

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

(12)  who has been convicted of a felony.

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

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

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

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

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

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

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

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

SECTION 14.  Section 2028.154(a), Occupations Code, is amended 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 escrow account [~~incentive fund~~] established under Section 2028.301. 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 15.  Section 2028.202(a-1), Occupations Code, is amended to read as follows:

(a-1)  A racetrack association shall pay to the commission for deposit into the Texas-bred escrow account [~~incentive fund~~] established under Section 2028.301 the shares to be distributed under Subsections (a)(3) and (a)(4) for the Texas-bred program. The commission shall distribute the money collected under this section and deposited into the fund to the appropriate state breed registries for use under the Texas-bred program.

SECTION 16.  Section 2028.301, Occupations Code, is amended to read as follows:

Sec. 2028.301.  TEXAS-BRED ESCROW ACCOUNT [~~INCENTIVE FUND~~]. (a) The comptroller [~~commission~~] shall deposit the state's share of the simulcast pari-mutuel pool [~~money set aside for the Texas-bred program or set aside~~] for use by state breed registries under this chapter into a trust fund [~~an escrow account~~] in the state treasury [~~in the registry of the commission~~] to be known as the Texas-bred escrow account. Money in the account may not be appropriated for state expenditure [~~incentive fund~~].

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

SECTION 17.  Section 2033.002, Occupations Code, is amended to read as follows:

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

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

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

(3)  the race is not part of a performance or race meeting conducted under this subtitle or commission rule.

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

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

(1)  conducts a horse or greyhound race without:

(A)  a racetrack license; or

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

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

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

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

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

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

(A)  under this subtitle or commission rule; or

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

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

(a)  The executive director may issue a cease and desist order if the executive director reasonably believes a person [~~racetrack association or other license holder~~] is engaging or is likely to engage in conduct that violates this subtitle or a commission rule.

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

SECTION 21.  Section 2033.104, Occupations Code, is amended to read as follows:

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

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

(2)  involves suspected cruelty to an animal in violation of commission rule or Section 42.09 or 42.092, Penal Code.

(b)  After issuing an emergency cease and desist order, the executive director shall serve on the person [~~racetrack association or other license holder~~] 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 subtitle or a commission rule. The order must contain a notice that a request for hearing may be filed under this section.

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

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

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

(1)  be conducted [~~prerace or postrace~~] as determined by the commission; and

(2)  be by an invasive or noninvasive method.

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

(1)  Section 2021.003(19);

(2)  Section 2023.053(e);

(3)  Sections 2023.061(b) and (c);

(4)  Section 2025.001(a); and

(5)  Section 2025.260.

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

SECTION 25.  The term of a person who is serving as a member of the Texas Racing Commission immediately before the effective date of this Act and who is ineligible for appointment under Section 2022.004(e), Occupations Code, as amended by this Act, expires on the effective date of the Act.

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

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

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