

Comments on Proposed Repeal of Historical Racing Rules

Comment Period: June 26, 2015 - July 26, 2015

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Comments from Legislators

June 17, 2015

Robert Schmidt, Chair
Texas Racing Commission
8505 Cross Park Drive #110
Austin, Texas 78754

Re: Racing Commission

Dear Chairman Schmidt,

As you well know, House Bill 1 (84R) requires that a portion of the Racing Commission's appropriation be subject to the Legislative Budget Board's (LBB) approval. It has come to my attention that some of my fellow legislators have attempted to co-opt this provision as an avenue to pressure the Racing Commission to end historical racing. Whether or not this sort of pressure is legal or appropriate, I oppose such efforts.

The Texas horse industry creates thousands of jobs, and hundreds of small businesses rely on it as a sector of our agricultural economy. As a member of the Small Business and Economic Development Committee, I am concerned about the potential fallout of any attempt to end historical racing.

Current historical racing rules are the matter of pending litigation. Accordingly, the 84th Legislature did not take any actions on historical racing, and instead opted to await any rulings. The Racing Commission and the horse industry it regulates deserve "their day in court." In the absence of a clear legislative directive, it is wholly inappropriate for the LBB or legislators to attempt to leverage any funding authority into repealing these rules. I urge you to resist such pressures and to let the courts decide whether these rules are valid or not.

If you have any questions or concerns, please do not hesitate to contact my office at (512) 463-0674.

Regards,

A handwritten signature in blue ink that reads "E Rodriguez". The signature is written in a cursive, flowing style.

Eddie Rodriguez
State Representative, HD51



TEXAS HOUSE of REPRESENTATIVES

Joe Moody

STATE REPRESENTATIVE
DISTRICT 78 • EL PASO COUNTY

RECORDED
TEXAS RACING
COMMISSION

2015 JUL -8 PM 3: 03

June 26, 2015

Texas Racing Commission
P.O. Box 12080
Austin, Texas 78711

Dear Commissioners:

I am writing in support of historical racing. I know that it has been controversial, and you have already weighed many positions as you consider repealing the previous decision instituting it. However, historical racing is best for Texas and worth fighting for.

Historical racing—pari-mutuel wagering on real, previously-run horse races at electronic terminals—is an opportunity that gives Texas tracks the shot in the arm they need to compete with other states. Recent years have seen racing professionals and fans alike taking their money to places like Arkansas and Kentucky, which offer historical racing. There, historical racing revenues have fueled bigger purses and bigger races. By forgoing it here, we are doing hardworking Texans a true disservice by leaving our tracks at a competitive disadvantage and the jobs that support them in constant peril.

I have watched the litigation spurred by your previous decision with great interest. As a practicing attorney, I believe that our courts were right to initially dismiss the actions against you; the latter ruling was, with due respect to that court, incorrect and inappropriate. A historical racing terminal is simply not a “slot machine” or other game of chance. Wagering on a recorded race is still the same perfectly legal game of skill that a live race is.

I appreciate your conscientious work on this issue and encourage you to do what is best for Texas racing. We should be a leader in this arena as we are in so many others, keeping Texas dollars here and drawing interest nationwide, but the industry needs this lifeline to do that. I stand ready to assist in any way I can.

Respectfully,

Representative Joe Moody
District 78 | El Paso County

STATE of TEXAS
HOUSE of REPRESENTATIVES



SARAH DAVIS
DISTRICT 134
HARRIS COUNTY

June 26, 2015

Robert Schmidt, M.D., Chair
Texas Racing Commission
P.O. Box 12080
Austin, Texas 78711

Dear Chairman Schmidt:

It has come to my attention that some of the Racing Commission's appropriation contained in the final version of H.B 1 requires Legislative Budget Board (LBB) approval in order to be expended. However, the budget document contains no limitation or contingency upon which this approval is to be based. I am aware that some Members of the Legislature have attempted to inappropriately tie this approval to the repeal of the historical racing rules. Such a tie does not exist and would be inappropriate. LBB serves a valid function to ensure that the state budget has appropriate flexibility and is set up to handle reasonable contingencies. Forcing a state agency to implement a particular policy without a clear, legislative enactment is not part of LBB's mission and should not be tolerated. I will certainly resist such efforts, which cannot withstand scrutiny.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink that reads "Sarah Davis".

Sarah Davis
Representative House District 134

Capitol:
P.O. Box 2910
Austin, Texas 78768-2910
(512) 463-0389
Fax: (512) 463-1374

Committees: Appropriations, Article II Subcommittee
Chair, Budget Transparency & Reform Subcommittee
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DONNA HOWARD

STATE REPRESENTATIVE
DISTRICT 48

2015 JUL 20 PM 2: 22

RECEIVED
TEXAS RACING
COMMISSION

July 17, 2015

Robert Schmidt, Chair
Texas Racing Commission
8505 Cross Park Dr. #110
Austin, TX 78754

Dear Chairman Schmidt,

When the House Appropriations Committee crafts any budget, we carefully scrutinize the language in each rider and budget strategy to ensure that funding streams end up where they are intended. Transparency and accountability often drive some of the eventual language in these finance mechanisms resulting in additional review or oversight.

One such example of this is funding strategy D.1.1, which, with language in Rider 7, releases funds for the Racing Commission contingent upon approval by the Legislative Budget Board (LBB). This requirement does not require policy change, nor was that the intent of the Appropriations Committee. Rather, it sought an additional, and fairly common, level of oversight by having the LBB approve funding for the Commission.

To the extent there are concerns that this approval was intended only upon the implementation or repeal of certain policies, such as those governing Historical Racing, I can assure you those concerns are unfounded. I hope this letter helps to clear up any confusion as to our intent with the budget and this particular funding strategy.

Sincerely,

A handwritten signature in blue ink that reads "Donna Howard".

Representative Donna Howard



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State of Texas
House of Representatives
SYLVESTER TURNER
STATE REPRESENTATIVE

June 23, 2015

Robert Schmidt, Chair
Texas Racing Commission
8505 Cross Park Dr #110
Austin, TX 78754

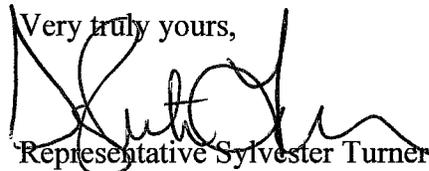
Re: LBB Approval of Racing Commission Funding

Dear Chairman Schmidt:

I am writing to you regarding the Racing Commission's appropriation contained in the final version of H.B. 1. As you are aware, H.B. 1 made the funding for Strategy D.1.1 contingent on "written approval" by the Legislative Budget Board (LBB). It is my strong view that this approval is not contingent on the Commission taking any particular action with regard to its rules, including the possible repeal of the rules authorizing historical racing. Nor would such a requirement have been appropriate. The budget contains no connection between Commission policy and its funding. I would counsel the Commission against reading such a requirement into H.B. 1.

To the extent that the funding authorization is presented to the full LBB, upon which I sit, I plan to support this routine authorization to fund the Commission's central administrative function.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact my office.

Very truly yours,

Representative Sylvester Turner
Vice Chair
House Committee on Appropriations

ST:pdw

Comments from Industry Organizations



tga

2015 JUL 29 PM 2: 42



RECEIVED
TEXAS RACING
COMMISSION

texas greyhound association

July 27, 2015

Robert Schmidt
Texas Racing Commission
PO Box 12080
Austin, TX 78711

COPY

Dear Chairman Schmidt,

I am writing in regard to the possible Texas Racing Commission action at the next meeting rescinding the rules relating to historical racing. While I understand the Commission may feel pressure from certain members of the legislature, the decision to make rules allowing this type of betting was based on sound information, backed by testing groups which is very clear the bet is a pari-mutuel bet.

As the tracks have taken it upon themselves to continue the legal process, I feel it short sighted to make any decisions before that legal process ends. The racing industry deserves its day in court and should not be undermined prior to a final decision on the matter. The industry is, as was put in a letter to the legislature by the commission, in decline. To not allow the industry the ability to argue in defense of these rules may, and very probably will, accelerate that decline.

Therefore, I and the Texas Greyhound Association Board of Directors ask the commission to not take any action on these rules, but allow the legal system to make a decision based on legal questions.

Thank you for your consideration in this matter and if there are any questions, please do not hesitate to contact me. Hard copy to follow in the mail.

Best regards,

Nick James
Executive Director

Cc: **Chuck Trout**
Ronald F. Ederer
Gloria Hicks
Vicki Smith Weinberg
Michael F. Martin, DVM
John T. Steen III
Gary P. Aber, DVM

PO Box 40; Lorena, Texas 76655 * (512) 415-0005 * Fax: (254) 857-4299

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2015 JUL 27 PM 2: 27

RECEIVED
TEXAS RACING
COMMISSION

July 24, 2015

Texas Racing Commission
PO Box 12080
Austin, TX 78711-2080

Dear Commissioners,

The Texas Thoroughbred Association strongly opposes the measure published in the Texas Register seeking to repeal rules authorizing and regulating historical racing.

The Texas racing industry is in severe decline and on the verge of disappearing altogether. As the Commission is well-aware, Texas horses, horsemen, and associated service industries are being forced to leave Texas and take their business to other states that supplement purses with proceeds from gambling activities that are illegal in Texas.

Just this week, CBS News in Minnesota reported on Texans Charlie Smith and Terry Propps, who, after 20 years in the industry, are now breeding and racing Thoroughbreds there because of the more lucrative opportunities available to them.

The prospect of historical racing in Texas is the only thing providing hope to our struggling industry. We firmly believe that historical racing provides a means of pari-mutuel wagering and falls within the Commission's scope of authority under current law.

The only development since the historical racing rules were adopted that casts any doubt on the Commission's authority is a district court decision that is being appealed and may ultimately be reversed. We believe the Commission should await the outcome of that legal process before making any changes, and should not throw away all the work and resources that have been invested by prematurely abandoning rules that are so critical for the industry.

On behalf of the more than 1,100 Texas Thoroughbred Association members, we respectfully urge the Commission not to move forward with repealing historical racing rules.

Thank you,

Mary Ruyle
Executive Director

From: Marsha Rountree
Sent: Friday, July 24, 2015 1:12 PM
To: info
Subject: HRT

July 24, 2015

Commissioners:

The Texas Horsemen's Partnership represents over 3400 men and women who participate in Texas racing, and it is on their behalf that I am writing today.

The THP strongly opposed the publication of the proposed repeal of the Historical Racing rules in the Texas Register, and today we strongly oppose the Commission taking action to vote on the repeal of the HRT rules.

We are still convinced that the Commissioners had the authority to implement the rules as they were written. Numerous legal opinions have attested to the Commissioners authority to do so, including the TXRC General Counsel.

Despite the outrage of a certain legislator over the issue, there was never a single bill proposed to make the operation of HRTs illegal in Texas. Legislators in both houses had ample opportunity to file bills which would prohibit the use of the terminals, and yet, not one made a move to do so.

Because there is still an ongoing appeal of a court decision, we are again requesting that you take no action to repeal the HRT rules. As I stated in testimony at the last Texas Racing Commission meeting, the horsemen deserve to have their day in court .

Without new sources of purse money, Texas racing will disappear. The idea that we can look at this issue again in a few years is ludicrous. These rules, right at this moment, are the only hope that this industry has to survive. A few years down the road.....there won't be enough horsemen or horses in Texas to even bother.

Please vote 'no', on the proposed repeal of the rules allowing the operation of Historical Racing Terminals at licensed pari-mutuel tracks.

Sincerely,

Marsha Rountree
Executive Director
Texas Horsemen's Partnership, LLP



July 28, 2015

Texas Racing Commission
P.O. Box 12080
Austin, TX 78711

Sent via facsimile (512) 833-6907

RE: Repeal of Historic Horse Racing

Dear Commissioners:

Please accept this letter on behalf of the Jockeys' Guild, Inc., and all of our members who regularly ride in the state of Texas. The purpose of the organization is to represent jockeys and to monitor developments in local, state and federal laws affecting the racing industry, and in particular, serve as the voice for the jockeys.

The Jockeys' Guild is respectfully asking you to reconsider your decision and vote of June 2015 and is opposed to the measures as published in the Texas Register seeking to repeal your previously adopted rules authorizing and regulating the use of historical horse racing in the state of Texas.

For over a decade, the Texas horse industry has been in decline due to competition from casino-enhanced purses in the surrounding states, such as New Mexico and Louisiana. Unfortunately, the tracks, the horsemen, and the racing industry cannot sustain the continual decrease in purses and handle.

Approving rules authorizing and regulating wagering on historical races was well within your rights as a commission, and we believe the court will ruling accordingly, but the legal process needs to be afforded the opportunity to run its course. However, if the Texas Racing Commission repeals the rules authorizing and regulating historical racing prior to a decision being made, it will almost certainly be damaging to the outcome of the case, end any chance of having historical horse racing in Texas, and will only serve to aid the opponents of such.

The use of historical horse racing machine has saved racing in other states, such as Arkansas and Kentucky. Many tracks have not only been saved, but have thrived because of them. The racetracks in Texas can be afforded the same opportunity if they are allowed to utilize historical horse racing machines.

Please do not proceed with your vote to repeal the historical racing rules as it will be detrimental to racing in the state of Texas and our industry. Not only will you harm the racetracks, horsemen, and jockeys in Texas by repealing and eliminating historical horse racing, but in the long run this is going to cause even more impact on the economy and others who are reliant on the industry, such as the veterinarians, farriers, and feed store owners.

If there are any additional questions, please do not hesitate to contact me in the office or via email at tmeyocks@jockeysguild.com, or our regional manager, John Beech at (512) 826-3344 or via email at jbeech@jockeysguild.com.

Sincerely,

Terence J. Meyocks

Terence J. Meyocks
National Manager

July 27, 2015

VIA HAND DELIVERY

Robert Schmidt, M.D., Chair
Ronald F. Ederer, Vice-Chair
Gary P. Aber, DVM
Gloria Hicks
Michael F. Martin, DVM
John T. Steen III
Glen Hegar, Comptroller of Public Accounts (Ex Officio)
A. Cynthia Leon, Chair, Public Safety Commission (Ex Officio)
Texas Racing Commission
8505 Cross Park Drive, Suite 110
Austin, Texas 78754

2015 JUL 27 PM 3:26
RECEIVED
TEXAS RACING
COMMISSION

**COMMENTS OF TEXAS THOROUGHBRED HBPA, INC.
ON PROPOSED HISTORICAL RACING RULES**

Texas Thoroughbred HBPA, Inc., a Horsemen's Benevolent and Protective Association and the officially recognized representative of all thoroughbred owners and trainers in Texas, urges the Texas Racing Commission not to repeal the recently adopted rules authorizing historical racing in Texas. The Commission's authority to adopt those rules ought to be decided by the appellate courts, not by a single Travis County judge. Considerable time and money have been spent on the litigation addressing this issue, all of which will be wasted if the rules are repealed. Moreover, the Commission will face uncertainty in the future about the boundaries of its authority absent an appeal. Because historical racing is necessary for the financial health and well-being of horse breeding and racing in Texas, the Commission should not repeal rules that assist the very activities it has a statutory duty to protect.

While historical racing is not specifically mentioned in the Racing Act, the Legislature is not required to specifically address every new technology and unforeseen circumstance in every statute. The Act authorizes the Commission to regulate “every race meeting in this state involving wagering on the result of greyhound or horse racing,” and pari-mutuel wagering on historical horse races falls within that authority (*part 1 below*). Historical racing is not an extension of gambling, but simply an extension of current rules to a new technology (*part 2 below*). While the Legislature has amended the Act to distinguish between simulcast and live racing in certain particulars, that does not make those the only two forms of racing allowed (*part 3 below*). Finally, the Commission must consider not just whether it *could* adopt historical racing rules but whether it *should*, an exercise of judgment that cannot be delegated to anyone else (*part 4 below*). Texas Thoroughbred HBPA urges the Commission not to turn back now.

1. Historical racing is within the Commission’s general grant of authority in section 3.02

Like any other state administrative agency, the Racing Commission may exercise only powers conferred upon it by the Legislature in “clear and express statutory language.”¹ The Racing Act confers such power here.

The Commission’s primary regulatory authority appears in section 3.02 of the Texas Racing Act (codified as article 179e of the Texas Revised Civil Statutes). That section confers on the Commission the power to regulate every “race meeting” that involves “wagering on the result of greyhound or horse racing”:

SEC. 3.02. REGULATION AND SUPERVISION

The commission shall regulate and supervise every race meeting in this state involving wagering on the result of greyhound or horse racing. All persons and things relating to the operation of those meetings are subject to regulation and supervision by the commission. The commission shall adopt rules for conducting greyhound or horse racing in this state

¹ *City of Houston v. Rhule*, 417 S.W.3d 440, 442 (Tex. 2013).

involving wagering and shall adopt other rules to administer this Act that are consistent with this Act. The commission shall also make rules, issue licenses, and take any other necessary action relating exclusively to horse racing or to greyhound racing.

Race meeting. The Racing Act does not define the stand-alone term “race meeting.”² But it does provide that race meetings can be held only at tracks licensed by the Commission,³ and only on dates approved by the Commission.⁴ Consistent with these provisions of the Act, the Commission’s regulations define “race meeting” as the approved dates when races or wagering on races may take place.⁵ Accordingly, any gathering of people at tracks approved by the Commission on dates approved by the Commission for pari-mutuel wagering—including historical racing—are “race meetings.”

Wagering on the result of horse racing. Historical racing obviously involves wagering on the result of horse racing. Indeed, that is its sole purpose. Patrons of historical racing place wagers on horse races, and the result of those wagers depends on the result of those races. The videos used in historical racing meet the statutory definition of “racing” because they involve real races in which real horses “mounted by jockeys engage in a race.”⁶

The Act does not define the term “race” other than to say it “includes a live audio and visual signal of a race.” That is an example, not a definition, for two reasons. First, a

² The Act defines “horse race meeting” as “the conducting of horse races on a day or during a period of consecutive or nonconsecutive days,” see Racing Act § 1.03(6), but does not define “race meeting” generally.

³ See *id.* §6.14(a).

⁴ See *id.* §§ 1.03(64), 6.02(f).

⁵ 16 TEX. ADMIN. CODE §301.1(b)(59) (defining *race meeting* as “the specified period and dates each year during which an association is authorized to conduct racing and/or pari-mutuel wagering by approval of the Commission.”; see also BLACK’S LAW DICTIONARY 1131 (10th ed. 2014) (defining *meeting* as “A single official gathering of people to discuss or act on matters in which they have a common interest[.]”).

⁶ See Racing Act §§ 1.03(8), -(10), -(12), -(14), -(16), -(48).

definition cannot use the defined term without becoming circular.⁷ Second, the Texas Code Construction Act provides that “includes” is a term of enlargement and “not of limitation,” and its use “does not create a presumption that components not expressed are excluded.”⁸ The mere statement that “race” includes live and simulcast races does not exclude historical races or any other forms.

All persons/things related to those meetings. Section 3.02 also provides that the Commission’s regulatory authority over race meetings extends to “[a]ll persons and things relating to the operation of those meetings.” Based on that authority, the Commission has exercised its rule-making authority to regulate restrooms (§309.114), refreshments (§309.115), parking (§309.120), ATMs (§309.119), insect control (§309.158), first aid (§309.117), and disabled access (§309.113)—none of which are listed in the Racing Act itself. Because historical racing involves race meetings and wagering on horse races (as required by section 3.02), the Commission has broad statutory authority to regulate “all persons and things” relating to the operation of those meetings.

Purpose. Section 3.02 must be construed in light of the Legislature’s stated purpose of the Act.⁹ “The purpose of this Act is to provide for the strict regulation of horse racing and greyhound racing and the control of pari-mutuel wagering in connection with that racing.”¹⁰ The Legislature unquestionably delegated the strict regulation of such activities to the Commission, and not to anybody else. That strict regulation is supposed to cover “pari-mutuel wagering in connection with horse racing,” which by definition would include historical racing. The Commission properly exercised this statutory mandate by adopting rules that historical racing machines must be approved by the Commission (§321.705(a)), located at facilities licensed by the

⁷ See, e.g., *Zurich Am. Ins. Co. v. Nokia, Inc.*, 268 S.W.3d 487, 491 (Tex. 2008) (noting that policy’s circular definition “is not helpful”).

⁸ TEX. GOV’T CODE § 311.005(13).

⁹ See *Railroad Com’n of Texas v. Tex. Citizens for a Safe Future*, 336 S.W.3d 619, 629 (Tex. 2011).

¹⁰ See Racing Act §1.02.

Commission (§321.703(a)), and audited by the Commission (§321.703(f)) — all virtually identical to regulatory activities the Commission already conducts. In accordance with the Legislature’s stated purpose for the Act, the Commission should not hesitate to exercise “strict regulation” of historical racing.

Agency construction. If the Commission determines that the Racing Act authorizes it to adopt historical racing rules, Texas law requires appellate courts to give that construction “great weight”¹¹ and “serious consideration.”¹² As the Texas Supreme Court wrote in 2008, one of the “dominant rules of construction” requires courts to give “serious consideration to the construction of a statute by the administrative agency charged with its enforcement.”¹³ As noted just above, the Racing Act does not specifically define “race” or “race meeting,” so the Commission is required interpret whether those terms include people gathered for wagering on historical races.¹⁴ If the arguments above regarding section 3.02 are at least plausible, the separation of powers requires the courts to defer to the Commission’s interpretation of those terms.¹⁵

2. Historical racing extends technology, not gambling

Like any other state administrative agency, the Racing Commission may not exercise what is effectively a new power.¹⁶ Historical racing involves wagers placed on the results of horse racing—authority the Commission has been exercising for years.

¹¹ *In re Smith*, 333 S.W.3d 582, 588 (Tex. 2011); *Texas Mun. Power Agency v. Pub. Util. Comm’n of Tex.*, 253 S.W.3d 184, 192 (Tex. 2007).

¹² *Texas Dep’t of Ins. v. Am. Nat. Ins. Co.*, 410 S.W.3d 843, 853 (Tex. 2012); *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 438 (Tex. 2011); *Tex. Citizens for a Safe Future*, 336 S.W.3d at 625.

¹³ *First Am. Title Ins. Co. v. Combs*, 258 S.W.3d 627, 632 (Tex. 2008) (internal quotations and citations omitted).

¹⁴ *See Combs v. Roark Amusement & Vending, L.P.*, 422 S.W.3d 632, 635 (Tex. 2013); *Texas Dep’t of Ins. v. Am. Nat. Ins. Co.*, 410 S.W.3d at 853 (same); *TGS-NOPEC Geophysical Co.*, 340 S.W.3d at 438 (same).

¹⁵ *Texas Dep’t of Ins. v. Am. Nat. Ins. Co.*, 410 S.W.3d at 854.

¹⁶ *See Liberty Mut. Ins. Co. v. Adcock*, 412 S.W.3d 492, 494 (Tex. 2013); *Texas Indus. Energy Consumers v. CenterPoint Energy Houston Elec., LLC*, 324 S.W.3d 95, 106 (Tex. 2010).

Thus, the Commission's regulation of historical racing is not an exercise of a new *power*, but an exercise of an existing power in a new *context*.

There are no differences between historical racing and other forms of racing that have any legal significance for the Commission's rule-making authority. Historical racing involves pari-mutuel wagering on the results of real horse races, just like other forms of racing. Historical races are viewed on a screen, but patrons already view live and simulcast races on TV and projector screens. Historical racing accepts bets at individual machines, but so do other forms of racing when patrons use self-service machines. Historical-racing patrons have access to the same background information available to the general public on horse racing in other contexts.

In the end, the only difference between live and historical races is when the race took place. Nothing in the Act makes that difference legally significant. Timing cannot be a litmus test because even live and simulcast racing involve a delay between the race itself and a viewer's perception of it, even if only for a fraction of a second.

The Texas Constitution does not prohibit the Legislature from authorizing the Commission to regulate all aspects of pari-mutuel racing, include historical racing. The Constitution requires the Legislature to prohibit "lotteries and gift enterprises."¹⁷ But pari-mutuel racing (including historical racing) does not fall under that prohibition because the outcome is based on skill and judgment rather than chance.¹⁸ That some patrons may place a wager on horse races without using skill, knowledge, or judgment does not change the nature of the enterprise itself.¹⁹

¹⁷ TEX. CONST. Art. III, §47.

¹⁸ See *City of Wink v. Griffith Amusement Co.*, 100 S.W.2d 695, 698 (Tex. 1936); see also Tex. Att'y Gen. Op. No. JM-1267 at 3 (Dec. 20, 1990).

¹⁹ See Tex. Att'y Gen. Op. No. JM-1267 at 6-7 ("it is the character of the game, and not the skill or want of skill of the player, that determines whether the game is one of skill or chance.").

Nor could the Commission's historical racing rules violate the Penal Code. Chapter 47 of that Code excludes all activities authorized by the Racing Act,²⁰ as does the Racing Act itself.²¹ Because the Racing Act authorizes the Commission to regulate wagering on horse racing, and historical racing is a form of such racing, it is excluded from the penal laws on gambling.

Unlike the turn of a card, or a wheel, or a pair of dice, the elements of skill and judgment in historical racing are precisely the same as when the same race was first run. The Commission's adoption of rules governing historical racing would not "extend gambling" to some new game of chance.

3. *The Commission's general authority was not limited by amendments on live and simulcast racing*

In 1991 and again in 1997, the Legislature amended the Racing Act to add provisions for simulcast racing, and sometimes distinguished it from "live" racing.²² These included provisions requiring the Commission to count racing days separately for the two activities,²³ and to adopt separate fees,²⁴ separate purses,²⁵ and separate deductions from pari-mutuel pools for each.²⁶ Yet the amendments did not require separate treatment of the two in all respects, nor did they limit the Commission's authority to those two alone. The Legislature distinguished live from simulcast racing

²⁰ See TEX. PENAL CODE §§ 47.02(c)(4), 47.09(a)(1)(C).

²¹ See Racing Act §11.09 ("The defense to prosecution under Chapter 47, Penal Code, that the conduct was authorized under this Act is available only to a person who is: (1) lawfully conducting or participating in the conduct of pari-mutuel wagering in connection with horse racing or greyhound racing; or (2) permitting the lawful conduct of an activity described by Subdivision (1) of this section on any racetrack facility.").

²² See generally Act of June 20, 1997, 75th Leg., R.S., ch. 1275, 1997 TEX. GEN. LAWS 4840; Act of June 7, 1991, 72nd Leg., R.S., ch. 386, 1991 TEX. GEN. LAWS 1444.

²³ See Racing Act §6.02(e).

²⁴ See *id.* §5.01(d).

²⁵ See *id.* §6.08.

²⁶ See *id.* §§6.091, 6.093.

in several respects, but that is not an indication that no other types of pari-mutuel racing can be authorized and regulated by the Commission.

Texas law presumes that the Legislature intended all parts of a statute to be effective.²⁷ When the Legislature distinguished live and simulcast racing in certain respects, it added no distinction in the general grant of authority in section 3.02. Section 3.02 is not limited to live and simulcast racing, and amendments to other parts of the statute to distinguish those two did nothing to restrict the delegation of authority that section 3.02 provides.

The argument that the simulcast amendments contain an implied ban on other forms of racing commits the so-called “fallacy of the inverse”: “the incorrect assumption that if P implies Q, then not-P implies not-Q.”²⁸ The Legislature’s amendments on live and simulcast racing recognize that the Commission has authority to regulate both, but it does not follow that the absence of amendments regarding historical racing proves the Commission has no authority to regulate that too. As the Texas Supreme Court stated in 2004, “legislatures do not always mean to say something by silence.”²⁹

Statutes granting administrative authority must be construed in a way that allows an agency to address changing circumstances or new technologies in the industry regulated. Texas courts have held that an authorizing statute need not address issues or technologies that did not exist or were not prominent when the bill was passed.³⁰ This accepted principle of administrative authority was illustrated by the Commission’s “E-Wagering” rules, a new form for placing wagers not specifically

²⁷ See TEX. GOV’T CODE §311.021(2); *City of Dallas v. Abbott*, 304 S.W.3d 380, 384 (Tex. 2010).

²⁸ *NLRB v. Noel Canning*, ___ U.S. ___, 134 S. Ct. 2550, 2603 (2014) (Scalia, J., concurring).

²⁹ *PPG Indus., Inc. v. JMB/Houston Ctrs. Partners Ltd. P’ship*, 146 S.W.3d 79, 84 (Tex. 2004).

³⁰ See *Railroad Com’n of Texas v. Lone Star Gas Co.*, 844 S.W.2d 679, 689 (Tex. 1992); and *TracFone Wireless, Inc. v. Comm’n on State Emergency Comm’ns*, 397 S.W.3d 173, 178 (Tex. 2013) (“[C]ertainly an old statute can encompass new technologies if the statutory text is worded broadly enough....”).

addressed in the Act because it did not yet exist.³¹ Similarly, the recent development of historical racing is a technological advance being implemented at horse tracks across the country.

The Legislature must be clear when it delegates authority to an agency, but it need not be clairvoyant. As the Texas Supreme Court has stated, “[r]equiring the legislature to include every detail and anticipate unforeseen circumstances in the statutes which delegate authority to the Commission would defeat the purpose of delegating legislative authority.”³²

4. The Commission has a mission to fulfill

Finally, the Commission must consider not just whether it *could* adopt historical racing rules, but whether it *should*. This is perhaps the most important question before the Commission, and one that cannot be delegated to anyone else.

Section 3.02 of Racing Act does more than delegate regulatory authority to the Commission; it gives the Commission a mandate to promote horse breeding and racing in the state: “The commission, in adopting rules and in the supervision and conduct of racing, shall consider the effect of a proposed commission action on the state’s agricultural, horse breeding, horse training, greyhound breeding, and greyhound training industry.”³³ The Act requires the Commission to encourage the breeding of horses in the state,³⁴ to make decisions in the best interest of that industry,³⁵ and to submit an annual report concerning its condition.³⁶

³¹ See 16 TEX. ADMIN. CODE §321.601 (“The Commission recognizes that the technology for placing wagers is ever changing. The Commission adopts these rules as guidelines to conduct E-wagering that maintains the integrity of pari-mutuel wagering.”).

³² *Lone Star Gas Co.*, 844 S.W.2d at 689.

³³ Racing Act §3.02(g).

³⁴ *See id.* §9.03(b).

The Commission is already aware of the difficulties and competitive disadvantages facing the horse racing industry in Texas. As stated in the historical racing rules, the revenues expected from historical racing are needed to encourage live racing, promote economic development, and enhance the state’s horse-breeding and horse-training traditions.³⁷ And besides these statutory directives, there is the general rule in Texas that construction of a statute should not disregard the economic realities underlying the particular subject.³⁸ These considerations must naturally affect what the Commission does here.

Texas Thoroughbred HBPA is aware of the criticism the Commission has faced regarding the proposed historical racing rules. But the Commission’s duty to promote the economic health of horse breeding and racing in Texas cannot be avoided or delegated to anybody else. Statements by individual legislators about the historical racing rules are no evidence of the intent of the Legislature itself; that intent must be found in the Act.³⁹ Legislators have duties to all Texans, but they have tasked the Commission with a special duty to oversee and promote that part of the state’s economy dedicated horse breeding and racing. The members of the Commission cannot and should not ignore that mandate.

* * *

The Third Court of Appeals, which would hear the appeal from the Travis County court, recently recognized that “[t]he legislature has delegated broad authority

³⁵ See *id.* §6.02(c) (Commission to add or subtract racing days if “in the best interest of the state and the racing industry”); §6.04(a)(10) (Commission to grant track licenses if “the anticipated effect ... [on the] horse breeding industry in this state”).

³⁶ See *id.* §3.10.

³⁷ 16 TEX. ADMIN. CODE §321.701.

³⁸ See *Combs v. Roark Amusement*, 422 S.W.3d at 637.

³⁹ See *Molinet v. Kimbrell*, 356 S.W.3d 407, 414 (Tex. 2011) (“Statements made during the legislative process by individual legislators or even a unanimous legislative chamber are not evidence of the collective intent of the majorities of both legislative chambers that enacted a statute.”).

to the Commission” to promulgate rules and supervise the racing industry “for the purpose of providing ‘strict regulation of horse racing and greyhound racing and the control of pari-mutuel wagering in connection with that racing.’”⁴⁰ Given the importance of the historical racing rules to the Texas horse-breeding and horse-racing industries, the Commission should leave the rules in place and allow the appeal to the Third Court to proceed to conclusion.

Respectfully submitted,

ANDREWS KURTH LLP

By: 

Scott A. Brister - SBN 00000024

ANDREWS KURTH LLP

111 Congress Ave., Suite 1700

Austin, Texas 78701

Phone: (512) 320-9200

Fax: (512) 320-9292

sbrister@andrewskurth.com

**ATTORNEY FOR TEXAS
THOROUGHBRED HBPA, INC.**

⁴⁰ *Pierce v. Tex. Racing Comm'n*, 212 S.W.3d 745, 752 (Tex. App.—Austin 2006, pet. denied).

Comments from Racetracks



July 26, 2015

2015 JUL 28 AM 8:13

RECEIVED
TEXAS RACING
COMMISSION

VIA EMAIL AND OVERNIGHT DELIVERY

Texas Racing Commissioners
c/o Texas Racing Commission
8505 Cross Park Drive
Austin, TX 78754

RE: COMMENTS OF SAM HOUSTON RACE PARK, VALLEY RACE PARK, AND LAREDO RACE PARK ON PROPOSED REPEAL OF HISTORICAL RACING RULES

Dear Commissioners:

Thank you for the opportunity to provide comments on behalf of Sam Houston Race Park (SHRP), Valley Race Park (VRP) and Laredo Race Park (LRP) (collectively, the SHRP Group) on the proposed repeal of the historical racing rules published in the Texas Register on June 26, 2015.

Consistent with the comments I provided to you at your last meeting, we strongly oppose the repeal of historical racing rules. The Texas racing industry is in an unprecedented decline and on the verge of disappearing altogether. As the Commission is well-aware, competition from neighboring states that supplement purses with proceeds from gambling activities that are illegal in Texas is rapidly depleting the horses, jockeys, and related service industries in this state. The most recent example of the gravity of this decline is the announcement by Texas Thoroughbred Association that their annual yearling sale scheduled for next month at Lone Star Park was cancelled due to lack of entries.

Historical racing provides hope to this struggling industry—while fitting within the confines of current law. Because historical racing is defined, by rule, as pari-mutuel wagering on horse racing, it is already within the Commission's general authority under the Texas Racing Act, and requires no additional legislative action. As many of you are aware, the Commission and stakeholders spent more than a year working on the historical racing rules, including investigating what is permitted under the Racing Act and refining the rules to ensure that the activities authorized were within the bounds of current law. Numerous attorneys participated in this process, and robust comments were received on the legality of the rules before they were adopted. Even the Commission's own general counsel determined that historical racing was within the Commission's broad grant of authority.

Since your decision last summer, the law on this issue has not changed. Neither have the facts supporting the Commission's policy decision to adopt the historical racing rules. No legislation was passed during the recent session to impede or restrict historical racing, despite much attention and scrutiny on the Commission's activities from certain members. In fact, no proposals to limit historical racing were even **filed**, much less enacted as new law. The SHRP Group is aware that the Commission has even received letters from legislators recently supporting the historical racing efforts. These letters should be considered and given weight in this process. The only development since the historical racing rules were adopted that casts any doubt on the Commission's authority is a district court decision that is being appealed and may ultimately be reversed. The Commission should await the outcome of that legal process before making any changes, and should not throw away all the work and resources that have been invested by prematurely abandoning rules that are so critical for the industry.

Today, historical racing appears to be the only option for keeping the racing industry afloat for at least a little longer. Results in other states have shown how historical racing can reinvigorate the industry by increasing purses and park attendance. This year, Kentucky Downs has added three new stakes and will offer purses of as much as \$130,000 for overnight races during its upcoming race meet. Further, thanks to boosts from the Kentucky Thoroughbred Development Fund, purse money will total a record \$7.5 million over just five days of racing—more than Sam Houston Race Park is capable of offering over the entire course of 32 Thoroughbred race dates.

The proposed rule repeal would take away all of these potential benefits for the industry and the associated economic development benefits for the state. There is no reason to take this drastic step until the limits of the Commission's authority have been finally determined by the courts. As the saying goes, you miss 100% of the shots you don't take. Thus, we ask the Commission to follow through with what it believes to be this industry's last shot.

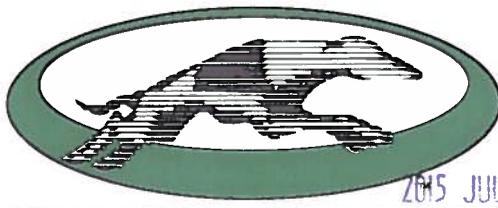
Finally, we opposed the publishing the proposed repeal of the historical racing rules in June, and once again urge the Commission not to move forward in adopting this proposal.

There has been no change in law since the rules were adopted, and the courts are still in the process of determining whether and to what extent historical racing is permitted under the current version of the Texas Racing Act. The prudent approach is for the Commission to await the outcome of this process and decline to take any action until it has more definitive guidance.

Sincerely,



Andrea B. Young, President
Sam Houston Race Park
Valley Race Park
Laredo Race Park



■ GULF GREYHOUND PARK ■

2015 JUL 30 PM 3:36

RECEIVED
TEXAS RACING
COMMISSION

July 23, 2015

Dr. Robert Schmidt, Chairman
Texas Racing Commission
P. O. Box 12080
Austin, TX 78711
Dear Dr. Schmidt:

Employees at Gulf Greyhound Park are extremely concerned regarding the action at the next racing commission meeting regarding the rescinding of the rules relating to historical racing. As you and the commissioners are aware, all tracks are struggling and in a severe decline as far as revenue is concerned. In fact, it is so serious that this industry is on the verge of disappearing completely.

It has been proven over and over that the historical racing machines are in fact pari-mutuel wagering. We understand the pressure felt by the commission after passing these rules; however, the tracks deserve to be given a voice to argue on the defense of these rules.

We strongly request that you not take any action on the historical racing rules. Thank you for your consideration of our request.

Respectfully,

Sally B. Briggs
General Manager

Comments from Other Organizations

**TRADITIONAL
COUNCIL**

CHAIRMAN
Juan Garza, Jr.,
Kisisika

SECRETARY
Jesus Anico, Chakodata

TREASURER
Rogelio Elizondo,
Apichicuea

MEMBERS
Kendall R. Scott, Matee
Nanate Hernandez,
Nanatea

KICKAPOO

**TRADITIONAL
TRIBE OF TEXAS**

2212 Rosita Valley Rd.
Eagle Pass, Texas 78852



**TRIBAL
COUNCIL**

July 24, 2015

Mary Welch
Assistant to the Executive Director
Texas Racing Commission
P.O. Box 12080
Austin, Texas 78711-2080
Via: Mail and Facsimile: 512-833-6907

Re: Comment on Texas Racing Commission's Proposal to Repeal Void Rules that Attempted to Illegally Authorize Gambling Machine Wagering

Dear Ms. Welch:

I am writing on behalf of the Kickapoo Traditional Tribe of Texas to comment on the Texas Racing Commission's proposal, set forth in 40 Tex. Reg. 4128-4141, to repeal the void so-called "historical" racing rules that it adopted on August 29, 2014. *See* 39 Tex. Reg. 7573 *et seq.* (Sept. 19, 2014).

Those rules included amendments to existing regulations at 16 Texas Administrative Code ("TAC") sections 301.1, 303.31, 303.42, 309.8, 309.297, 309.299, 309.361, 321.5, 321.12, 321.13, 321.23, 321.25, and 321.27, and also added new provisions purporting to authorize so-called "historical" racing at 16 TAC sections 321.701-321.719, with conforming amendments to other rules. 39 Tex. Reg. 7573 *et seq.*

The District Court of Travis County, Texas signed a Final Judgment on December 3, 2014, which granted the Plaintiffs' Joint Motion for Summary Judgment challenging the rules and declared the Commission's historical racing rules to exceed the Commission's authority under the Texas Racing Act, Tex. Rev. Civ. Stat. Ann. Art 179c, and to be invalid. The Commission did not appeal that Judgment, and it became final as to the Commission. The so-called "historical racing" rules, therefore, are currently void, of no legal effect and no longer exist, and there is no need for the Commission to act but for clerical purposes. The Tribe supports the Commission's removal of the historical racing rules as a clerical measure to ensure the Texas Administrative Code reads accurately and supports this effort of the Commission to rid the Code of void rules.

We note that the Commission's proposal mistakenly fails to remove reference to "historical racing" in 16 TAC sec. 309.8(b)(2).

Sincerely,


Juan Garza, Jr.
Chairman

STEPHEN FENOGLIO
ATTORNEY AND COUNSELOR AT LAW
713 W. 14TH STREET
AUSTIN, TEXAS 78701-1707

(512) 347-9944
FAX: (512) 482-8095
Email: jsfenoglio@fenogliolaw.com

July 24, 2015

Chuck Trout
Executive Director, Texas Racing Commission
Mary Welch
Assistant to the Executive Director
P.O. Box 12080
Austin, TX 78711-2080

VIA FIRST CLASS U.S. MAIL
AND
VIA FAX (512) 833-6907

RE: PROPOSED REPEAL OF "HISTORICAL RACING" RULES

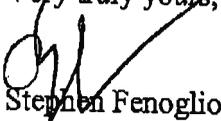
Dear Mr. Trout and Ms. Welch:

I represent over 300 nonprofit organizations licensed to conduct charitable bingo in the State of Texas (collectively, the "Charities"), including the Charities that filed the lawsuit styled, *American Legion Dept. of Tex., Temple Post 133 et al. v. Texas Racing Commission, et al.*, in the Travis County District Court. The purpose of this letter is to comment in favor of the proposed repeal of the so-called "historical racing" rules, as published at page 4128 *et seq.* of the June 26, 2015 Texas Register. The Charities, which would have been devastated had last year's "historical racing" rules gone into effect, fully support the repeal.

Our support for the proposed rule changes is qualified, insofar as we do not agree with how the Commission characterizes its legal authority. As the lawsuit made clear, neither Section 3.02 of the Racing Act, nor any of the other statutes relied on in the proposed repeal, authorizes the Commission to take any action respecting "historical racing". Rather, we believe that legal authority for the repeal is found in the agency's "implied powers that are reasonably necessary to carry out the express responsibilities given to it by the Legislature." *Texas Mun. Power Agcy. v. P.U.C.*, 253 S.W.3d 184, 192-193 (Tex. 2008). Such "implied powers" must include the power to delete a rule which the Commission never had authority to adopt in the first place.

The Charities take no position on the proposed rule changes unrelated to "historical racing".

Thank you for your attention. If you have any questions or concerns, please do not hesitate to call.

Very truly yours,

Stephen Fenoglio

GREY2K USA WORLDWIDE



Directors

Christine A. Dorchak, Esq.
President

Eric Jackson
*Vice President
Greyhound Companions
of New Mexico*

Sherry Mangold
*Treasurer
Animal Protection of
New Mexico*

Kathy Pelton
Secretary

Tom Grey
Stop Predatory Gambling

James Flanagan

Charmaine Settle
*Galgo Rescue International
Network*

Jeroen van Kernebeek

Directors Emeritus

Dr. Jill Hopfenbeck, DVM

Kevin Neuman
*Kansas City REtired
Greyhounds as Pets*

Michael Trombley, CPA

Carey M. Theil
Executive Director

*Organization Listing is for
Identification Purposes Only*

May 26, 2015

Chuck Trout, Executive Director
Texas Racing Commission
P.O. Box 12080
Austin, TX 78711-2080

Dear Executive Director Trout,

On behalf of greyhound protection group GREY2K USA, I am writing to support the proposed repeal of rules written to allow instant racing slot machines at Texas racetracks. In light of recent court action and the strong opinions expressed by many lawmakers, and because the cruelty of dog racing should not be propped up with other activities, we urge you to proceed with a rescission of these rules.

Thank you for your attention to my concerns. Please include them as part of any scheduled meeting on this subject.

Sincerely,

A handwritten signature in black ink that reads 'C. A. Dorchak'.

Christine A. Dorchak, Esq.
President

Comments from Individuals

Summary of Public Comments from Individuals on Proposed Repeal of Rules Related to Historical Racing

Multiple proposed amendments related to the repeal of rules authorizing and regulating historical racing at licensed Texas horse and greyhound racetracks were published in the *Texas Register* for a 30-day public comment period on June 26, 2015. Though the public comment period officially ran from June 26 through July 26, TxRC staff actually began accepting comments on June 4 and, since July 26 fell on a Sunday, staff continued to accept comments through July 27. A total of nearly 1,300 comments from individuals were received during this period in the form of letters, emails, faxes and petition signatures. All but one of the comments were in opposition to the proposed repeal of the historical racing rules. This total does not include the comments from legislators, organizations, and racetracks. The vast majority of the comments summarized in this section (about 95 percent) were form letters and emails, and petition signatures. Please see below for examples and totals.

Subject: "Agree" Email: 1 (in favor of repeal)



Thu 6/4/2015 2:28 PM

Re: Agree

To: info

I totally agree with the steps that are taken to repeal the historical racing rules that would have allowed slot machine racing, which is conveniently disguised under the name of "historical racing".

The horse racing industry of which I am and have been a participant of for over 30 years needs to learn how to run a profitable business, enforce their own rules and regulations, and not have to rely on government to bail them out time after time.

Thank you.

John Weldy

Subject: "Do Not Repeal Historical Racing Rules" Email 225 (opposed)



Mon 7/27/2015 12:34 PM

Travis Thomas

[Do Not Repeal Historical Racing Rules](#)

To: info

Dear Main Office Racing Commission,

Please do not repeal the Historical Racing rules you enacted last year. We've already been through this process and are just awaiting approval from the courts. Repealing these rules will do what even the drought couldn't do by ensuring that our industry disappears from Texas.

It is hard enough to be a horseman when the legislature only gives lip-service and no aid. Your panel exists specifically to oversee and protect the Texas racing industry, please rise above the petty politics of politicians and do what you know to be right.

Thank you for your continued support of Texas Racing.

Sincerely,

Doris Thomas
19042 FM 2854 Rd

"Stand Tall" Letters: 194 (opposed)

Emails 41 (opposed)

To: Texas Racing Commission
8505 Cross Park Dr. #110
Austin, TX 78754

June 23, 2015

Dear Commissioners,

I'm writing to ask that you stand tall against those that seek to further dismantle the Texas horse industry. Repealing the rules regarding Historical Racing Terminals will only speed the stampede of horses over state lines into the ranches of our neighboring states.

Because there are still legal issues to be decided, I ask that you hold off on any repeal until after we have had our day in court. The rules do no harm as they are and serve as a mark of confidence in the industry you are in place to oversee.

As you know the horse industry in Texas is in steep decline and just can't sustain another attack at this time. The Legislature has not seen fit to come to our aid so I beg that you continue to stand by us in our time of need. A decision against us could be the straw that breaks this camel's back.

All we ask is an opportunity for a level playing field so that we may bring foals and jobs back to Texas.

Thanks in advance for your consideration in this matter.

Yours truly,

“Ask That You Not Repeal” Letters: 158 (opposed)

To: Texas Racing Commission
8505 Cross Park Dr. #110
Austin, TX 78754

July 7, 2015

Dear Commissioners,

I'm writing to ask that you not repeal the rules regarding Historical Racing. I understand the immense pressure Senator Nelson is exerting over your agency, but she is only one person and I ask that you listen to the tens of thousands of Texans that asked for this rule in the first place.

Those that oppose Historical Racing have very transparent goals: They seek to destroy any chance of competition for the casinos in Louisiana and Oklahoma. I ask that you not allow a few billionaires to put the final nail in our coffin.

The Texas greyhound industry is against the ropes. Repealing these rules will almost certainly mean that we never get our day in court. If these rules are repealed, I believe that you will see an even more rapid decline in an already shrinking industry.

As an employee of Gulf Greyhound Park, these rules are important to my livelihood and our shared community. I have witnessed round after rounds of layoffs and it's time for this to stop.

I thank you in advance for your careful consideration and intestinal fortitude to stand up to bullies.

Sincerely,

“For Over a Decade” Letters: 141 (opposed)

Emails: 36 (opposed)

To: Texas Racing Commission
8505 Cross Park Dr. #110
Austin, TX 78754

June 23, 2015

Dear Commissioners,

For over a decade the Texas horse industry had been in decline due to competition from casino enhanced purses in our surrounding states. It doesn't take a genius to realize that we can't sustain such decline for much longer. Please, do not vote to repeal the historical racing rules as that will be a final nail in our coffin.

Creating those rules was well within your rights as a commission and I believe the court will agree but we have to get their first. Repealing will almost certainly end any chance we have to find out and will only serve to aid our opponents seeking to score political points.

This is about family farms and the continued decimation of an industry, not just one person's ideological goals. Losing the Texas horse industry will mean losing jobs and tons of potential economic development for our state. I ask you not to let Oklahoma and Louisiana win so easily.

Thanks,

"A Year Ago" Letters: 88 (opposed)

Emails 28 (opposed)

Texas Racing Commission
8505 Cross Park Dr. #110
Austin, TX 78754

TEXAS RACING
COMMISSION

July 10, 2015

Dear Texas Racing Commissioners,

A year ago you took a stand for the Texas horse industry. I ask you to stand by your decision and vote not to repeal the rules over historical racing. As an employee at Sam Houston Race Park, these rules are important to my livelihood and our shared community. Since 2010, we have cut our race dates in which cost my colleagues their jobs and hurt our local community's tax base.

No single office holder has the ability to decide an issue the Legislature chose not to address. And if there is any doubt about support for the Texas horse industry please look at the video from around 3:00 AM on the night the Texas House adopted the budget. A line of Representatives from both parties stood at the microphone to ensure funding was continued despite the threats from the Senate.

I ask you not to cave to petty political pressure and stand by the decision you have already made at least long enough for the courts to decide the issue.

Our politicians rely on out of state casinos for campaign money so it is little wonder that nothing has been done to level the playing field for our industry.

Again, please vote 'no' on the motion to repeal the historical racing rules.

Thank you,

SHRP Fan Petition (hard copy): 92 signatures (opposed)

2015 JUL 27 AM 9:36

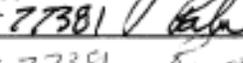
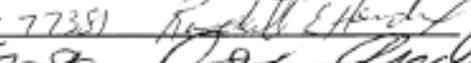
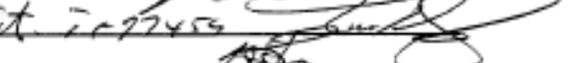
STAND WITH TEXAS CITIZENS AND VOTE NO

RECEIVED
TEXAS RACING
COMMISSION

We, the undersigned, demand that the Texas Racing Commission NOT repeal its rules authorizing wagers on historical horse races.

We, the undersigned, understand that the Commission is under political pressure from a powerful Senator to reverse your course. We ask you to stand by your decision and vote not to repeal the rules over historical racing.

This is about family farms and the continued decimation of an industry, not just one person's ideological goals. Losing the Texas horse industry will mean losing jobs and tons of potential economic development for our state. We ask you not concede a win to Oklahoma and Louisiana over the people of the great State of Texas.

Name	Address	Signature
FREDNIE RINGO	12330 N. GESSNER RD #121 HOUSTON TX 77064	
CARL LINDBERG	14141 CHAMPIONS DR #39 HT 77069	
JAMES TOLLIVER	12519 OAK OAKS DR HOUSTON, TX 77024	
ROBERT PAWSON	3 SOUTH WINDSAIL WOODLANDS TX 77381	
RANDY HENDRIX	7 SPOTTED FAWN CT WOODLANDS TX 77381	
JOE ANDER	10134 Hammerly # 125 HOUSTON TX 77080	
KARL GUNY	1907 Ruffenord in Houston Ct. TX 77459	
LEE HARTMAN	PO BOX 13510 ROSENBERG, TX 77471	

Horse Racing Fan Petition (hard copy): 57 signatures (opposed)

2015
HISTORICAL RACING RULES
STAND WITH TEXAS CITIZENS AND VOTE NO



We, the undersigned, ask that the Texas Racing Commission NOT repeal its rules authorizing wagers on historical horse races.

We, the undersigned, understand that you are under political pressure from a powerful Senator to reverse your course. I ask you to stand by your decision and vote not to repeal the rules over historical racing.

This is about family farms and the continued decimation of an industry, not just one person's ideological goals. Losing the Texas horse industry will mean losing jobs and tons of potential economic development for our state. I ask you not to let Oklahoma and Louisiana win so easily.

Name	Address	Signature
Dana Stroud	PO Box 757 Sutherland Springs TX 78161	<i>[Signature]</i>
Leon Garcia	956 E. Fuller Ave Fort Worth TX 76115	<i>[Signature]</i>
CANDY McDONALD	P.O. Box 47 Marion TX 78109	<i>[Signature]</i>
Crystal Evans	8810 North US Hwy 87 San Antonio TX 78290	<i>[Signature]</i>
Ernie G. Pacheco	2230 Ricker Dr Eagle Pass TX 78852	<i>[Signature]</i>
Mary Lou Zeller	115 Schoolfield Boerne TX 78015	<i>[Signature]</i>
J.W. Plumbitt	115 Schoolfield Rd Boerne TX 78015	<i>[Signature]</i>
Buck Hunt	14409 Old Camp Creek Rd Elmendorf TX 75112	<i>[Signature]</i>
Stanley Z	575 E. Davis St Luling, TX 78648	<i>[Signature]</i>
OSCAR MENDOZA	1532 Summit Laredo, TX 7795	<i>[Signature]</i>
ANN NALLS	P.O. Box 3530 Victoria TX 77905	<i>[Signature]</i>
BEVELLY BROWN	1511 Austin Rd Luling TX 78648	<i>[Signature]</i>
MARK RIGBY	22 Riata Dr Magnolia TX 77354	<i>[Signature]</i>
HEATHER MCKNIGHT	715 FM 73 Coolidge TX 76035	<i>[Signature]</i>
DON CRUBB	715 FM 73 Coolidge TX 76035	<i>[Signature]</i>
David Clark	1095 CR 301 Elgin 78621.	<i>[Signature]</i>

Greyhound Racing Fan Petition (hard copy): 82 signatures (opposed)

STAND WITH TEXAS CITIZENS AND VOTE NO

We, the undersigned, demand that the Texas Racing Commission **NOT** repeal its rules authorizing wagers on historical horse races.

We, the undersigned, understand that you are under political pressure from a powerful Senator to reverse your course. I ask you to stand by your decision and vote not to repeal the rules over historical racing.

This is about family farms and the continued decimation of an industry, not just one person's ideological goals. Losing the Texas greyhound industry will mean losing jobs and tons of potential economic development for our state. I ask you not to let Oklahoma and Louisiana win so easily.

Name	Address	Signature
N.V. MENDEL JR	3506 CRESTVILLA CCTX	N. Mendel Jr
L. BREWER	2216 Rood	L. Brewer
Casey Reno	3938 Surfside Blvd	Casey Reno
Cory Lopez	1200 EDWARDS	Cory Lopez
Frank Cantor	1411 Padd	Frank Cantor
Alfred C Boyd		Al. Boyd
Lucia B Silva	708 Texas-Bishop	Lucia B Silva
Cecilia S. Garcia	731 S. Kennel	Cecilia S. Garcia
Dan Van Dam	708 TEXAS ST Bishop TX	Dan Van Dam
Anita Canales	1310 Whitaker Dr. C. C. TX 78412	Anita Canales
Rod A	3908 Gled. Stone Anita Canales	Rod A
Kick Saldana	4237 Dody	Kick Saldana
Roy A. Garcia	781 Langtown	Roy A. Garcia
ROLAND SAGI	6014 Pendleton	ROLAND SAGI
ARONTE D	3814 BETEL	ARONTE D
ANTONIO CAVALOS	4114 Shaw	ANTONIO CAVALOS
	4206 Dimp	

“Please Do Not” Letters: 69 (opposed)

To: Texas Racing Commission
8505 Cross Park Dr. #110
Austin, TX 78754

June 23, 2015

Dear Commissioners,

Please do not repeal the Historical Racing rules you enacted last year. We've already been through this process and are just awaiting approval from the courts. Repealing these rules will do what even the drought couldn't do by ensuring that our industry disappears from Texas.

It is hard enough to be a horseman when the legislature only gives lip-service and no aid. Your panel exists specifically to oversee and protect the Texas racing industry, please rise above the petty politics of politicians and do what you know to be right.

Thank you for your continued support of Texas Racing.

Sincerely,

“Wholeheartedly Appreciate” Emails: 48 (opposed)

June 3, 2015

To Whom It May Concern

Texas Racing Commission

I wholeheartedly appreciate your support for historical racing, and sincerely regretted the Senate Finance Committee's subsequent threat to cut the TRC's funding. In response, I contacted my legislators in Austin and asked them to maintain the TRC's funding (for which \$16.7-million was approved). I empathize with the position you are in, but ask you to leave the historical racing rules in place while the Thoroughbred industry considers its options. I have spoken with many other Thoroughbred owners and breeders and all have expressed and appreciate your continued support, and I am personally asking you to keep our best interests in mind."

As a Texas Thoroughbred breeder and racing enthusiast and owner, I sincerely appreciate your consideration to resist repealing historical racing. It is such a sad state of affairs that entertainment dollars pour out of our wonderful State of Texas to surrounding states; padding the coffers of those states and robbing Texas from benefiting from the dollars that will be spent for enjoyment, anyway. Let's keep our Texas dollars at work here at home! Please continue your support of Texas horse racing and historical racing.

My sincere thanks for your consideration,

Gillespie County State Fair Patron Petition (hard copy): 30 signatures (opposed)

STAND WITH TEXAS CITIZENS AND VOTE NO

We, the undersigned, demand that the Texas Racing Commission NOT repeal its rules authorizing wagers on historical horse races.

We, the undersigned, understand that you are under political pressure from a powerful Senator to reverse your course. I ask you to stand by your decision and vote not to repeal the rules over historical racing.

This is about family farms and the continued decimation of an industry, not just one person's ideological goals. Losing the Texas horse industry will mean losing jobs and tons of potential economic development for our state. I ask you not to let Oklahoma and Louisiana win so easily.

Name	Address	Signature
JASON PRIESS	321 Waking Docks Rd Fbg TX 78624	
Eric Scott	105 WINDSOR RD Fbg TX 78624	
James Schuster	Fbg TX	
Edward R. Strocher	101 N. Lincoln Hwy TX	Edward R. Strocher
Cody Beyer	Fbg TX	Cody Beyer
Greg Mohr	Fredericksburg TX	
Eric Whitley	Fredericksburg TX	
LINDSEY CROWLSE	Fbg TX	Lindsey Crowlse
Kerry Schmidt	Harper TX	Kerry W. Schmidt
Mike Han	Fbg TX	
Heath Jenschke	309 W Nimitz	
Chad W. Ellevacht	7880055 Spring Creek Rd Fbg TX	
Gora Krum	3614 Whit oak Rd. Fredericksburg	
Kenneth Conrath	109 Green Ct Fbg, TX 78629	Kenneth Conrath
Jennifer Probst	912 Kuhlmann Rd	
Carlson	741 S Broadway	
ZACHARY ZENNER	110 E GROTHE Fbg	
Sam Edge	1089 B Upper Live oak Fbg, TX 78624	

“Texas Horsemen are Appreciative” Letters: 9 (opposed)

TEXAS QUARTER HORSE ASSOCIATION

Texas Racing Commission
8505 Cross Park Dr. #110
Austin, TX 78754

Dear Texas Racing Commissioners,

Texas horsemen are appreciative that a year ago you took a stand for the struggling Texas horse industry. I am aware that you are now under political pressure to reverse your course.

If there is any doubt about support for the Texas horse industry from our elected officials, please look at the video from around 3:00 a.m. on the night the Texas House adopted the budget. A line of Representatives from both parties stood at the back microphone to ensure continued funding for the Texas Racing Commission, despite threats from the Senate.

I ask you to stand by your decision and vote not to repeal the rules over historical racing.

Thank you.

Name: