

**Discussion of
Rules Eligible for Adoption**

Title 16, Part VIII
Chapter 311. Other Licenses
Subchapter A. Licensing Provisions
Occupational Licenses

1 **Section 311.5. License Categories and Fees**

2 (a) An applicant for a license must submit with the application
3 documents the license fee in the amount set by the Commission in
4 subsection ~~(e)~~(d) of this section.

5 (b) A license fee paid at a racetrack or at the Commission's
6 headquarters must be paid by a money order, a certified check, a
7 cashier's check, a credit card, or a personal check. The
8 executive secretary may approve payment in cash at a racetrack
9 if the association submits a plan that is approved by the
10 executive secretary. The plan shall provide for the safety and
11 security of the licensing office where the cash will be received
12 and stored and licensing employees who will be responsible for
13 handling and depositing the cash received. A license fee paid
14 through the Texas OnLine portal may be paid by any method
15 approved by the Texas OnLine Authority.

16 (c) Association Employees. Association employees in the
17 following occupations must hold valid licenses issued by the
18 Commission to work on association grounds:

- 19 (1) Adoption Program Personnel - A person employed by a
20 greyhound association to work with an adoption
21 program.
- 22 (2) Announcer - A person employed to announce races.
- 23 (3) Assistant Starter - A person employed to perform
24 duties required by the Starter at the starting gate of
25 a horse racetrack.
- 26 (4) Association Management Staff - A person employed to
27 manage a department and who has the authority to hire
28 or fire other employees or whose recommendations as to

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- 1 hiring and firing decisions are given particular
2 weight.
- 3 (5) Association Officer/Director - A person employed as an
4 officer of an association or who serves on an
5 association's board of directors or management
6 committee.
- 7 (6) Association Staff (with Access to Backside or Secured
8 Areas) - A person employed to provide various services
9 on the backside or in areas of a racetrack that are
10 required by the Commission to be secured. These
11 services may include, but are not limited to,
12 clerical, accounting, admissions, food service,
13 housekeeping, and general maintenance.
- 14 (7) Association Veterinarian - A person employed to
15 provide veterinary services for greyhounds.
- 16 (8) Law Enforcement - A person employed as a security
17 officer who is commissioned as a Texas peace officer.
- 18 (9) Lead Out - A person employed to lead greyhounds in the
19 post parade to the starting box.
- 20 (10) Maintenance - A person employed to work or maintain
21 the racetrack.
- 22 (11) Medical Staff - A person employed directly by the
23 association to provide medical assistance.
- 24 (12) Mutuel Clerk - A person employed to work at the
25 betting windows.
- 26 (13) Mutuel Other - A person employed in the mutuel
27 department in a capacity other than mutuel clerk.
- 28 (14) Racing Official - A person employed to act as an
29 official under Chapter 313 of this Title (relating to

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1 Officials and Rules of Horse Racing) or Chapter 315 of
2 this Title (relating to Officials and Rules for
3 Greyhound Racing).

4 (15) Security Officer - A person employed to provide
5 security for the racetrack grounds.

6 (16) Test Technician - A person employed to collect blood
7 and urine samples and provide other services in the
8 test barn or testing area.

9 (17) Test Barn Escort - A person employed to lead horses
10 from the finish line to the test barn for post race
11 testing.

12 (18) Valet - A person employed to assist jockeys with their
13 tack and silks in the jockeys' rooms.

14 ~~(d)~~ (e) The fee for an occupational license is as follows:
15 (No change to fee schedule.)

Title 16, Part VIII
Chapter 321. Pari-Mutuel Wagering
Subchapter A. Mutuel Operations
Division 1. General Provisions

1 **Section 321.21. Certain Wagers Prohibited**

2 (a) An association may not accept a wager made by mail, by
3 telephone, or by internet. A data communications link for common
4 pooling purposes is not considered a wager for purposes of this
5 section.

6 (b) An association may not accept a wager made on credit.

7 (c) A person who is not an association may not accept from a
8 Texas resident while the resident is in this state a wager on
9 the result of a greyhound race or horse race conducted inside or
10 outside this state.

HB 2271

Sections 4, 7, 9, 10, 11, 26 and 28

SECTION 4. Sections 3.07(b) and (e)¹, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) The commission shall make rules specifying the authority and the duties of each official, including the power of stewards or judges to impose penalties for unethical practices or violations of racing rules. A penalty imposed by the stewards or judges may include a fine of not more than \$5,000, a suspension for not more than one year, or both a fine and suspension. Before imposing a penalty under this subsection, the stewards and judges shall conduct a hearing that is consistent with constitutional due process. A hearing conducted by a steward or judge under this subsection is not subject to Chapter 2001, Government Code. A decision of a steward or judge is subject to review by the executive director, who may modify the penalty. A penalty modified by the executive director under this section may include a fine not to exceed \$10,000, a suspension not to exceed two years, or both a fine and a suspension. A decision of a steward or judge that is not reviewed or modified by the executive director is a final decision. Any decision of a steward or judge may be appealed under Section 3.08(a) of this Act regardless of whether the decision is modified by the executive director. [If, in the opinion of the stewards or judges, the allowable penalties are not sufficient, the stewards or judges may refer the case to the commission for further action.]

¹ (e) has previously been implemented.

1 **Section 307.69. Review by Executive Secretary Action by**
2 **Commission**

3 ~~On its own motion or on request by the executive secretary, the~~
4 ~~Commission may reverse a decision of the stewards or racing~~
5 ~~judges, modify a penalty imposed by the stewards or racing~~
6 ~~judges, or reinstate a person's license and rescind the penalty.~~

7 (a) Within fourteen days after a board of stewards or judges
8 issues a written ruling under Section 307.63 of this title
9 (relating to Rulings), the executive secretary may review the
10 ruling and modify the penalty. A penalty modified by the
11 executive secretary may include a fine not to exceed \$10,000, a
12 suspension not to exceed two years, or both a fine and a
13 suspension.

14 (b) The decision to modify a penalty must be on a form that
15 includes:

16 (1) the full name, license type, and license number of the
17 person who is the subject of the penalty modification;

18 (2) the original ruling number and the date the ruling was
19 issued by the stewards or judges;

20 (3) the date the modified penalty was issued by the
21 executive secretary;

22 (4) the modified penalty imposed;

23 (5) a statement of the reasons for modifying the penalty;

24 and

25 (6) a statement informing the person of the person's right
26 to appeal the ruling, with the modified penalty, to the
27 Commission.

28 (c) The decision to modify a penalty must be signed by the
29 executive secretary.

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Chapter 307. Proceedings Before the Commission
Subchapter C. Proceedings by Stewards and Racing Judges

- 1 (d) The executive secretary shall provide written notice to each
2 person who is subject to a penalty modification decision under
3 this section by:
4 (1) sending by certified mail, return receipt requested, a
5 copy of the decision to the person's last known address, as
6 found in the Commission's licensing files; or
7 (2) personal service by any Commission employee.
8 (e) An appeal of a ruling whose penalty has been modified under
9 this section must be filed in accordance with Section 307.67 of
10 this title (relating to Appeals to the Commission.)

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

Sec. 6.032. BOND. (a) The commission at any time may require a holder of a racetrack license or an applicant for a racetrack license to post security in an amount reasonably necessary, as provided by commission rule, to adequately ensure the license holder's or applicant's compliance with substantive requirements of this Act and commission rules.

(b) Cash, cashier's checks, surety bonds, irrevocable bank letters of credit, United States Treasury bonds that are readily convertible to cash, or irrevocable assignments of federally insured deposits in banks, savings and loan institutions, and credit unions are acceptable as security for purposes of this section. The security must be:

(1) conditioned on compliance with this Act and commission rules adopted under this Act; and

(2) returned after the conditions of the security are met.

SECTION 9. Section 6.04, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) When all of the requirements of licensure for the applicant described in this article have been satisfied, the commission shall notify the applicant that the application is complete.

(a-2) The commission shall make a determination with respect to a pending application not later than the 120th day after the date on which the commission provided to the applicant the notice required under Subsection (a-1) of this section.

SECTION 10. Section 6.06(k), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

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

SECTION 11. Article 6, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by adding Sections 6.0601, 6.0602, and 6.0603 to read as follows:

Sec. 6.0601. DESIGNATION OF ACTIVE AND INACTIVE RACETRACK LICENSES. (a) The commission shall designate each racetrack license as an active license or an inactive license. The commission may change the designation of a racetrack license as appropriate.

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

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

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

(c) The commission by rule shall provide guidance on what actions constitute, for purposes of this Act, good faith efforts to conduct live racing.

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

(e) An active license is effective until the license is designated as an inactive license or is surrendered, suspended, or revoked under this Act.

Sec. 6.0602. RENEWAL OF INACTIVE RACETRACK LICENSE; FEES. (a) The commission by rule shall establish an annual renewal process for inactive licenses and may require the license holder to provide any information required for an original license application under this Act. An inactive license holder must complete the annual renewal process established under this section until the commission:

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

(2) refuses to renew the license.

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

(1) the inactive license holder's:

(A) financial stability;

(B) ability to conduct live racing;

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

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

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

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

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

(2) the license holder has failed to make a good faith effort to conduct live racing.

(d) The commission shall consult with members of the racing industry and other key stakeholders in developing the license renewal process under this section.

(e) The commission shall set and collect renewal fees in amounts reasonable and necessary to cover the costs of administering and enforcing this section.

(f) The commission by rule shall establish criteria to make the determinations under Subsections (c)(1) and (2).

Sec. 6.0603. DISCIPLINARY ACTION. (a) The commission by rule shall establish procedures for disciplinary action against a racetrack license holder.

(b) If, after notice and hearing, the commission finds that a racetrack license holder or a person employed by the racetrack has violated this Act or a commission rule or if the commission finds during a review or renewal that the racetrack is ineligible for a license under this article, the commission may:

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

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

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

(c) The commission may not revoke an active license unless the commission reasonably determines that other disciplinary actions are inadequate to remedy the violation.

SECTION 26. The following sections of the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) are repealed:

1. Section 2.072;

~~Sec. 2.072. Lobbyist Restriction.~~

~~A person may not serve as a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.~~

2. Section 6.04(b);

Sec. 6.04. Issuance of License; Bond.

(a) The commission may issue a racetrack license to a qualified person if it finds that the conduct of race meetings at the proposed track and location will be in the public interest, complies with all zoning laws, and complies with this Act and the rules adopted by the commission and if the commission finds by clear and convincing evidence that the applicant will comply with all criminal laws of this state. In determining whether to grant or deny an application for any class of racetrack license, the commission may consider the following factors:

- (1) the applicant's financial stability;
- (2) the applicant's resources for supplementing the purses for races for various breeds;
- 3) the location of the proposed track;
- (4) the effect of the proposed track on traffic flow;
- (5) facilities for patrons and occupational licensees;
- (6) facilities for race animals;

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

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

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

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

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

~~(b) Before issuance of a license under this article, an applicant for a racetrack license must post security in an amount determined by the commission to adequately ensure the association's compliance with the Act and the rules of the commission. Cash, cashier's checks, surety bonds, irrevocable bank letters of credit, United States Treasury bonds that are readily convertible to cash, or irrevocable assignments of federally insured deposits in banks, savings and loan institutions, and credit unions are acceptable as security for purposes of this section. The security shall be conditioned on compliance with this Act and the rules adopted under this Act and shall be returned after the conditions of the security are met.~~

(c) The commission shall not issue licenses for more than three greyhound racetracks in this state. Those racetracks must be located in counties that border the Gulf of Mexico.

(d) In considering an application for a class 4 racetrack license, the commission may waive or defer compliance with the commission's standards regarding the physical facilities or operations of a horse racetrack. The commission may not waive or defer compliance with standards that relate to the testing of horses or licensees for the presence of a prohibited drug, chemical, or other substance. If the commission defers

compliance, the commission shall, when granting the application, establish a schedule under which the licensee must comply with the standards.

(3) Section 6.18(a);

Sec. 6.18. Term of License; Restrictions on Racetracks.

~~(a) A racetrack license issued under this article is perpetual. The commission may suspend or revoke a license as provided by this Act.~~

(b) The commission may prescribe a reasonable annual fee to be paid by each racetrack licensee. The fee must be in an amount sufficient to provide that the total amount of fees imposed under this section, together with the license fees prescribed under Section 5.01(b) of this Act, is sufficient to pay the costs of administering and enforcing this Act.

and

(4) Section 7.02(a).

Sec. 7.02. Licensed Activities.

~~(a) Each person, other than a spectator or person placing a wager, involved in any capacity with racing with pari-mutuel wagering under this Act must obtain a license under this article.~~

(b) The commission shall adopt categories of licenses for the various occupations licensed under this article and shall specify by rule the qualifications and experience required for licensing in each category that requires specific qualifications or experience.

(c) If an examination is required for the issuance of a license under this article, not later than the 30th day after the date on which a licensing examination is

administered under this Act, the commission shall notify each examinee of the results of the examination.

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

(e) The commission may not approve a management contract to operate or manage a racetrack owned by a governmental entity unless the racetrack license holder is an owner of the entity that proposes to manage the racetrack.

SECTION 28.

(a) Not later than September 1, 2012, the Texas Racing Commission shall designate each racetrack license as active or inactive as required by Section 6.0601, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), as added by this Act.

(b) The Texas Racing Commission by rule shall establish a staggered schedule and the procedure for the review of licenses required under Section 6.06(k), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), as amended by this Act.

(c) The Texas Racing Commission may adjust license renewal and review fees pursuant to the commission's authority to adjust fees under Section 5.01, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), and Section 6.0602, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), as added by this Act, to recover any money lost by the change in law made by this Act to Section 3.07(e), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(d) As soon as practicable, the executive director of Texas AgriLife Research shall submit a report to the Texas Racing Commission as required by Section 88.526, Education Code, as amended by this Act.