

TEXAS RACING COMMISSION

Laws and Rules Governing Pari-Mutuel Racing in Texas

List of Replacement Pages

October 1, 2014

The current rulebook of the Texas Racing Commission consists of the Rulebook dated JANUARY 2013 and the following:

- List of Replacement Pages dated 10/1/2013
- List of Replacement Pages dated 7/1/2014
- List of Replacement Pages dated 10/1/2014

Pp. 75 - 80	<i>Amendment</i> - Sec. 301.1. Definitions.
Pp. 87 - 88	<i>Amendment</i> - Sec. 303.31. Regulation of Racing.
Pp. 87 - 90B	<i>Amendment</i> - Sec. 303.42. Approval of Charity Race Days.
Pp. 127 - 128	<i>Amendment</i> - Sec. 309.8. Racetrack License Fees.
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Pg. 302	<i>Addition</i> - CHAPTER 321. PARI-MUTUEL WAGERING SUBCHAPTER F. REGULATION OF HISTORICAL RACING
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Pg. 302D	<i>Addition</i> - 321.719. Severability.

To maintain an updated rulebook, the above pages should be replaced. Please note that neither the Chapter Contents nor the Index is updated to reflect the above changes. The Act, the Rules, and revisions are available on the agency's website at www.txrc.texas.gov or email info@txrc.texas.gov to request a copy. Notification of revisions may be received by providing an email address to info@txrc.texas.gov. Please type **Rulebook Updates** in the subject line.

Important Disclaimer The information presented here is offered as a convenience to the public and every effort has been made to ensure its accuracy. However, under state law, this does not constitute the official source for the Texas Racing Act or the Texas Racing Commission's rules. **The official source for the Commission's rules is the Texas Administrative Code, compiled and maintained by the [Texas Secretary of State's office \(www.sos.state.tx.us\)](http://www.sos.state.tx.us).**

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CHAPTER 301. DEFINITIONS

Sec. 301.1. Definitions

(a) Words and terms defined in the Act shall have the same meaning when used in this part unless otherwise defined below.

(b) The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Act--The Texas Racing Act, Article 179e, Texas Civil Statutes.

(2) Age of a greyhound--determined as beginning on the day the greyhound is whelped.

(3) Age of a horse--determined as beginning on the first day of January in the year in which the horse is foaled.

(4) Application documents--documents submitted by an applicant for a license in support of the application.

(5) Application period--a period designated by the Commission for the submission of application documents for a racetrack license.

(6) Association grounds--all real property approved by the Commission for use by an association in the conduct of a race meeting.

(7) Association veterinarian--A veterinarian employed by the association.

(8) Authorized agent--a person appointed in writing by the owner or trainer of a horse or greyhound to represent the owner or trainer at a racetrack.

(9) Backstretch--the straightaway on the side of a track that is opposite to the finish line.

(10) Booking--a contract between an association and a kennel owner for the kennel owner to provide greyhounds to the association for a race meeting and for the association to provide kennel buildings to house the greyhounds.

(11) Branding--the act of a totalisator system imprinting a mutuel ticket with information that identifies the ticket as canceled or cashed and automatically making the appropriate notation in the system's memories.

(12) Canceled ticket--a mutuel ticket that

represents a wager that has been canceled and withdrawn from the pari-mutuel pool.

(13) Cashed ticket--a mutuel ticket that is paid for a winning wager.

(14) Chief veterinarian--the chief veterinarian employed by the Commission.

(15) Common pool--a pool in which the wagers received at a receiving location are combined with the wagers received at a sending racetrack.

(16) Condition of a race--a characteristic element of the race, such as the distance, qualifications of animal to enter, purse or stakes, or other special features.

(17) Coupled entry--two or more horses entered in a race that, because of common ties of ownership are joined to be a single betting interest in that race.

(18) Cushion--the top level of a dirt racetrack.

(19) Dead heat--a race in which two or more race animals finish at the same time.

(20) Double entry--an entry of two or more greyhounds in the same race that have either common ownership or the same trainer and are separate wagering interests.

(21) Encrypted--scrambled or otherwise manipulated audio-visual signals to mask the original video content of the signal to cause the signals to be indecipherable and unrecognizable to any person receiving the signal.

(22) Entry--a horse, or horses in the case of a coupled entry, made eligible to run in a race.

(23) Established weight--the racing weight for a greyhound established in accordance with the Rules.

(24) Exempt institutional investor--an investor who is:

(A) an insurance company as defined by the Securities Act of 1933, §2(13), a bank as defined by that Act, §3(a)(2), a savings and loan association or other institution referenced in that Act, §3(a)(5)(A), or a foreign bank or savings and loan association or equivalent institution;

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(B) an investment company as defined by the Investment Company Act of 1940, §3(a), an issuer that would have been deemed an investment company under that Act except for the exclusion in that Act, §3(c)(1), or a business development company as defined by that Act, §2(c)(48);

(C) a small business investment company licensed by the United States Small Business Administration under the Small Business Investment Act of 1958, §301(c) ;

(D) a plan established and maintained by a state, its political subdivisions, or an agency or instrumentality of a state or its political subdivisions for the benefit of its employees;

(E) an employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974;

(F) a trust fund whose trustee is a bank or trust company and whose participants are exclusively plans of the types identified in subparagraph (D) or (E) of this definition, except trust funds that include as participants individual retirement accounts or H.R. 10 plans;

(G) a business development company as defined by the Investment Advisers Act of 1940, §202(a)(22), or an investment adviser registered under that Act;

(H) an organization described in the Internal Revenue Code, §501(c)(3);

(I) a dealer registered under the Securities Exchange Act of 1934, §15;

(J) a legal entity with a market value of at least \$50 million whose securities are traded on a nationally recognized or foreign securities exchange or interdealer quotation system, such as NASDAQ; and

(K) a legal entity, acting for its own account or the account of other exempt institutional investors, that in the aggregate owns and invests on a discretionary basis at least \$25 million in securities of issuers that are not affiliated with the entity, with the aggregate value of the securities being the cost of the securities, except if the entity reports its securities holdings in

its financial statements based on their market value and no current information regarding the cost of the securities has been published, in which case the securities may be valued at market.

(25) Exotic pool--a mutuel pool that involves wagers on more than one entered horse or greyhound or on entries in more than one race.

(26) False start--failure of the starting gate or box doors to open simultaneously.

(27) Foul--an action by a horse or jockey that hinders or interferes with another horse or jockey during the running of a race.

(28) Greyhound race--a contest among greyhounds for purse, stakes, premium, or wager for money, run in the presence of the racetrack officials, including the following:

(A) Hurdle race--a race over a course in which jumps or hurdles are used.

(B) Match race--a race between two or more greyhounds, each the property of different owners, on terms agreed on by the owners and approved by the Commission.

(C) Overnight race--a race for which entries close 96 hours or less before the time set for the first race of the day on which the race is to be run.

(D) Purse race--a race for money or other prize to which the owners of the greyhounds engaged in the race do not contribute an entry.

(E) Race on the flat--a race over a course in which no jumps or other obstacles are placed.

(F) Stakes race--a race in which all money is to be deposited by the owners of the greyhounds engaged in the race, including a race of the day on which the stakes race is to be run.

(29) Groom--an individual employed by an owner or trainer of a racehorse to tend to the physical appearance of the horse and to perform chores in and around the stable.

(30) Growing medium--the substance immediately below the grass on a turf track.

(31) Handle--the total amount of money wagered at a racetrack during a particular period.

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(32) Historical racing--to present for pari-mutuel wagering, through a totalisator system that meets the requirements of Chapter 321, Subchapter F of this title (relating to Regulation of Historical Racing), a previously run horse or greyhound race that was:

(A) authorized by the commission or by another racing jurisdiction;

(B) concluded with official results and without scratches, disqualifications or dead-heat finishes; and

(C) recorded by video, film, electronic, or similar means of preservation.

(33) Horse--an equine of any breed, including a stallion, gelding, mare, colt, filly, or ridgling.

(34) Horse Race--a running contest between horses for entry fees, purse, prize, or other reward, including the following:

(A) Claiming race--a race in which a horse may be claimed in accordance with the Rules.

(B) Derby race--a race in which the first condition of eligibility is to be three years old.

(C) Futurity race--a race in which the first condition of eligibility is to be two years old.

(D) Guaranteed race--a race for which the association guarantees by its conditions a specified purse, which is the limit of its liability.

(E) Handicap race--a race in which the weights to be carried by the entered horses are adjusted by the racing secretary for the purpose of equalizing their respective chances of winning.

(F) Match race--a race between only two horses that are owned by different owners.

(G) Maturity race--a race in which the first condition of eligibility is to be four years of age or older.

(H) Optional claiming race--a claiming race in which there is an option to have horses entered to be claimed for a stated price or not eligible to be claimed.

(I) Progeny race--a race restricted to the offspring of a specific stallion or stallions.

(J) Purse or overnight race--a race for which owners of horses entered are not required by its conditions to contribute money toward its purse.

(K) Stakes race--a race to which nominators of the entries contribute to a purse.

(L) Starter race--an overnight race under allowance or handicap conditions, restricted to horses which have previously started for a designated claiming price or less, as stated in the conditions of the race.

(M) Walkover race--a stakes race in which only one horse starts or all the starters are owned by the same interest.

(N) Weight for age race--a race in which weights are assigned in keeping with the scale of weights in these rules.

(35) In today horse--a horse that is in the body of a race program which is entered into a race on the next consecutive race day.

(36) Kennel area--an area for the boarding or training of greyhounds.

(37) Lead out--an individual who handles a greyhound from the lockout kennel to the starting box.

(38) Locked in the gate--a horse or greyhound that is prevented from leaving the starting gate or box due to the failure of the front door of the gate or box to open simultaneously with the other doors.

(39) Lure--a mechanical apparatus at a greyhound racetrack consisting of a stationary rail installed around the track, a motorized mechanism that travels on the rail, and a pole that is attached to the mechanism and extends over the track, and to which a decoy is attached.

(40) Maiden--a horse or greyhound that has never won a race at a recognized race meeting authorized by the Commission or by another racing jurisdiction.

(41) Minus pool--a pool in which there are insufficient net proceeds to pay the minimum price to holders of the winning tickets.

(42) Mutuel field--a group of horses joined

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as a single betting interest in a race due to the limited numbering capacity of the totalisator.

(43) No race--a race that is canceled after being run due to a malfunction of the starting gate or box or any other applicable reason as determined by the Rules.

(44) Nominator--the person in whose name a horse or greyhound is entered for a race.

(45) Occupational licensee--an individual to whom the Commission has issued a license to participate in racing with pari-mutuel wagering.

(46) Odds--a number indicating the amount of profit per dollar wagered to be paid to holders of winning pari-mutuel tickets.

(47) Off time--the moment when, on signal from the starter, the horses or greyhounds break from the starting gate or box and run the race.

(48) Paddock--the area in which horses or greyhounds gather immediately before a race.

(49) Patron--an individual present on association grounds during a race meeting who is eligible to wager on the racing.

(50) Pecuniary interest--includes a beneficial ownership interest in an association, but does not include bona fide indebtedness or a debt instrument of an association.

(51) Performance--the schedule of horse or greyhound races run consecutively as one program. A greyhound performance consists of fifteen or fewer races unless approved by the executive secretary.

(52) Photofinish--the system of recording pictures or images of the finish of a race to assist in determining the order of finish.

(53) Place--to finish second in a race.

(54) Post position--the position assigned to a horse or greyhound in the starting gate or box.

(55) Post time--the time set for the arrival at the starting gate or boxes by the horses or greyhounds in a race.

(56) Purse--the cash portion of the prize for a race.

(57) Race date--a date on which an association is authorized by the Commission to

conduct races.

(58) Race day--a day in which a numerical majority of scheduled races is conducted and is a part of the association's allocated race days.

(59) Race meeting--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.

(60) Racetrack facility--the buildings, structures and fixtures located on association grounds used by an association to conduct horse or greyhound racing.

(61) Racetrack official--an individual appointed by the commission to officiate at a race meeting.

(62) Racing judge--the executive racing official at a greyhound track.

(63) Reasonable belief--a belief that would be held by an ordinary and prudent person in the same circumstances as the actor.

(64) Recognized race meeting--a race meeting held under the sanction of a turf authority.

(65) Refunded ticket--a pari-mutuel ticket that has been refunded for the value of a wager that is no longer valid.

(66) Rule off--to bar an individual from the enclosure of an association and to deny all racing privileges to the individual.

(67) Rules--the rules adopted by the Texas Racing Commission found in Title 16, Part VIII of the Texas Administrative Code.

(68) Schooling race--a practice race conducted under actual racing conditions but for which wagering is not permitted.

(69) Scratch--to withdraw an entered horse or greyhound from a race after the closing of entries.

(70) Scratch time--the closing time set by an association for written requests to withdraw from a race.

(71) Show--to finish third in a race.

(72) Specimen--a bodily substance, such as blood, urine, or saliva, taken for analysis from a horse, greyhound, or individual in a manner

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prescribed by the Commission.

(73) Stakes payments--the fees paid by subscribers in the form of nomination, entry, or starting fees to be eligible to participate.

(74) Stallion owner--a person who is owner of record, at the time of conception, of the stallion that sired the accredited Texas-bred horse.

(75) Starter--a horse or greyhound entered in a race when the doors of the starting gate or box open in front of the horse or greyhound at the time the official starter dispatches the horses or greyhounds.

(76) Straight pool--a mutuel pool that involves wagers on a horse or greyhound to win, place, or show.

(77) Subscription--money paid to nominate, enter, or start a horse or greyhound in a stakes race.

(78) Tack room--a room in the stable area of a horse racetrack in which equipment for training and racing the horses is stored.

(79) Totalisator--a machine or system for registering and computing the wagering and payoffs in pari-mutuel wagering.

(80) Tote board--a facility at a racetrack that is easily visible to the public on which odds, payoffs, advertising, or other pertinent information is posted.

(81) Tote room--the room in which the totalisator equipment is maintained.

(82) Tout--an individual licensed to furnish selections on a race in return for a set fee.

(83) Trial--a race designed primarily to determine qualifiers for finals of a stakes race.

(84) Uplink--an earth station broadcasting facility, whether mobile or fixed, which is used to transmit audio-visual signals and/or data emanating from a sending racetrack, and includes the electronic transfer of received signals from the receiving antenna to TV monitors within the receiving location.

(85) Weigh in--the process by which a jockey is weighed after a race or by which a greyhound is weighed before being placed in the

lockout kennel.

(86) Weighing in weight--the weight of a greyhound on weighing in to the lockout kennel.

(87) Weigh out--the process by which a jockey or greyhound is weighed before a race.

(88) Weighing out weight--the weight of a greyhound on weighing out of the lockout kennel immediately before post time for the race in which the greyhound is entered.

(89) Win--to finish first in a race.

(90) Winner:

(A) for horse racing, the horse whose nose reaches the finish line first, while carrying the weight of the jockey or is placed first through disqualification by the stewards; and

(B) for greyhound racing, the greyhound whose muzzle, or if the muzzle is lost or hanging, whose nose reaches the finish line first or is placed first through disqualification by the judges.

(91) Active license--a racetrack license designated by the commission as active.

(92) Inactive license--a racetrack license designated by the commission as inactive. (Added eff. 11/15/88; amended eff. 6/1/01; (b) amended eff. 11/6/02; (b) amended eff. 7/16/07; (b) amended eff. 12/8/11; (b) amended eff. 9/28/14)

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Subchapter B. Powers and Duties of the Commission

Sec. 303.31. Regulation of Racing.

The commission shall regulate each race meeting conducted in this state and supervise the operation of racetracks and the persons other than patrons who participate in a race meeting. (Added eff. 11/15/88; amended eff. 1/1/99; amended eff. 5/23/07; amended eff. 9/28/14)

Sec. 303.32. Power of Entry.

(a) A member or authorized agent of the commission, a steward or judge, a commissioned officer of the Department of Public Safety who is assigned to work on racing investigations, or a peace officer of the local jurisdiction in which the association maintains a place of business may enter an office, a racetrack, any area on association grounds, or any similar area or other place of business of an association at any time to enforce or administer the Act or commission rules.

(b) An association or an officer, employee, or agent of an association may not refuse or deny a request to enter under this section and may not hinder a person who is conducting an investigation under or attempting to enforce or administer the Act or commission rules. (Added eff. 11/15/88; (a) amended eff. 1/2/92; (a),(b) amended eff. 5/1/92; (a) amended eff. 1/1/99)

Sec. 303.33. Subpoenas.

(a) A member of the commission, the executive secretary, an administrative law judge, or other person authorized by the commission, in performing duties under the Act, may take testimony and may require by subpoena the attendance of witnesses and the reproduction of books, records, papers, correspondence, and other documents that the commission considers advisable.

(b) Subpoenas must be issued under the signature of the commission, the executive secretary, an administrative law judge, or other person authorized by the commission and may

be served by any person designated by the commission.

(c) A member of the commission, the executive secretary, an administrative law judge, or other person authorized by the commission may administer an oath or affirmation to a witness appearing before the commission or a person authorized by the commission.

(d) If a subpoena issued on behalf of the commission is disobeyed, the commission or executive secretary may invoke the aid of the appropriate state court in requiring compliance with the subpoena.

(e) For an individual compelled to appear before the commission under this section, the commission shall pay travel expenses in accordance with the provisions in effect for state employees. For a witness who is not a state employee, the commission shall pay for all taxes associated with the travel expenses that are not applicable to state employees. The executive secretary may authorize the payment of a witness fee in an amount not to exceed \$200 per day. The commission reserves the right to bill the expenses to parties requiring the appearance of the individual. (Added eff. 11/15/88; (e) added eff. 7/26/90; (a),(b),(c),(d) amended eff. 1/2/92; (e) amended eff. 8/15/95; (a),(b),(c) amended eff. 1/1/99)

Sec. 303.34. Certify Documents.

The commission may require a document required to be filed with the commission to be certified under penalty of perjury. (Added eff. 11/15/88)

Sec. 303.35. Access to Commission Programs.

(a) Persons who do not speak English or who have a physical, mental, or developmental disability will be provided reasonable access to the Commission and to the Commission's programs.

(b) All Commission facilities, including facilities on association grounds, will comply with Texas Civil Statutes, Article 9102, concerning architectural barriers and the policy of the State of Texas to encourage and promote the rehabilitation

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of disabled individuals. Each association licensed by the Commission is required to ensure accessibility to its facilities for disabled persons, pursuant to §309.113 of this title (relating to Accessibility by Disabled Persons.)

(c) All testing, whether oral, in sign language, or in a foreign language, will be arranged when an examination is required for licensure. A hearing before the Board of Stewards/Judges or the State Office of Administrative Hearings will be arranged as needed if a question of fitness for a particular license should arise.

(d) Complaints against a person or entity regulated by the Commission will be accepted in all forms under all circumstances and the Commission will provide an interpreter with an investigator should a language problem arise. The Commission welcomes public input at Commission meetings. On prior reasonable notice to the Commission, an interpreter will be provided to assist individuals in making presentations to the Commission. (Added eff. 9/1/98; amended eff. 9/9/02)

Sec. 303.38. Cooperation with Peace Officer and other Enforcement Entities.

The Commission, its employees, and its licensees shall cooperate with all district attorneys, county attorneys, the Department of Public Safety, the attorney general, and all peace officers who are enforcing a criminal law related to racing, the Act, or the Rules. (Added eff. 11/15/88; amended eff. 5/1/92; amended eff. 1/1/99; amended eff. 9/9/02)

Sec. 303.41. Allocation of Race Dates.

(a) The commission shall allocate live race dates, including charity days, to each association for such time periods and at such racing locations as the commission determines in accordance with the Act and this section.

(b) Upon its own motion or upon the request of any association, the commission may designate an application period during which the commission shall accept applications for race dates.

(c) The commission shall establish the time period or periods for which it will consider granting race dates.

(d) Upon designation by the commission of an application period under this section, the executive secretary shall publicize that application period to the affected greyhound and horse racing associations at least 30 days before the closing date of the period.

(e) The application must be on a form prescribed by the commission. After the request is filed, the executive secretary may require the association to submit additional information if the executive secretary determines the additional information is necessary to effectively evaluate the request.

(f) In allocating race dates under this section, the commission may consider the following factors and the degree to which the association's proposed race meeting will serve to nurture, promote, develop, or improve the horse or greyhound industry in Texas:

(1) the association's current ability to pay all fees and other amounts owed to the commission, to the state, and to local governments;

(2) the association's willingness and ability to comply and past performance in complying with the Rules and provisions of the Act;

(3) the current condition of the association's racetrack and facilities for patrons, race animals, and occupational licensees;

(4) the anticipated effect of the proposed race meeting on the continuity of racing during the year;

(5) the live race dates requested by other associations licensed to conduct races for the same species of animal;

(6) the anticipated overall economic effect to the state from the race meeting;

(7) the anticipated effect of the race meeting on the greyhound or horse breeding industry in Texas;

(8) the anticipated effect of scheduled

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race meetings in neighboring race states on the proposed race meeting; and

(9) the anticipated availability of race animals for the race meetings.

(g) The commission shall approve the actual days awarded, and the total number of performances. The commission may require a minimum number of races in a race meet.

(h) An association shall conduct pari-mutuel racing on each race date granted under this section, and in accordance with the race date calendar approved by the Commission, unless the association receives the prior approval of the executive secretary.

(i) If circumstances beyond the control of the association prevent the association from conducting a performance, the commission may award a make-up performance.

(j) Change in Race Date Allocation.

(1) The executive secretary may permit an association to request additional live race dates after its request under this section has been acted on by the commission if the executive secretary determines that:

(A) the request includes evidence that granting the additional live race dates will enhance the breeding and training industries for horses or greyhounds;

(B) the association's failure to request the live race dates initially was not due to the association's neglect; and

(C) if the request duplicates a request by the association that has already been denied by the commission, changed circumstances exist that necessitate additional consideration by the commission.

(2) An association may request a change to the live race dates granted by the commission provided the association obtains the approval of all associations that are affected by the proposed change. This subsection applies to any proposed change to the number or format of live race dates.

(3) The executive secretary may approve an association's request to add, delete, or modify

live race dates, provided that the request:

(A) does not add any live race dates that are more than fourteen calendar days preceding the start of the Commission-approved race meet or more than fourteen days following the end of the Commission-approved race meet;

(B) is supported in writing by each breed organization affected by the change;

(C) is supported in writing by each association that is affected by the change; and

(D) in the case of a horse racing association, is supported in writing by the horsemen's organization.

(4) In determining whether to approve a request under this subsection, the executive secretary may consider the effect that approving the request would have on the workload and budget status of the Commission.

(5) For purposes of this subsection, an allocation of live race performances may be changed in the same manner as a change in the allocation of live race dates. (Added eff. 3/28/89; (c),(d),(e) added eff. 11/29/90; (a),(b) amended eff. 1/2/92; (f) added eff. 1/2/92; (a),(b),(c) amended eff. 9/1/93; (f) amended eff. 10/1/96; (b),(c),(e),(f) amended eff. 1/1/99; (d) amended eff. 5/6/04; (a)-(j) amended eff. 9/2/07; (j) amended eff. 9/19/13)

Sec. 303.42. Approval of Charity Race Days.

(a) An association shall conduct charity days as required by the Act. A greyhound association shall conduct at least five charity race days each year. A Class 1 or Class 2 horse racetrack that is not conducting historical racing shall conduct at least two and not more than five charity race days each year. A Class 1 or Class 2 horse racetrack that is conducting historical racing shall conduct at least three and not more than five charity race days each year.

(b) During each application period in which an association applies for live race dates, the association shall also apply for charity race dates as necessary to comply with subsection (a) of this section. The application must be in writing and contain:

(1) the name of the charity;

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(2) the name and address of each individual who serves as an officer or director of the charity or who owns an interest in the charity of 5% or more;

(3) a brief description of the activities or purposes of the charity; and

(4) a copy of an Internal Revenue Service letter of determination that qualifies the charity as an exempt organization for purposes of federal income tax.

(c) An association shall pay at least 2% of the total pari-mutuel handle generated at the association's racetrack on the charity race day.

(d) Charities.

(1) At least one percent of the pari-mutuel handle from live racing and simulcasting on charity racing days shall be contributed to a charity that directly benefits the persons who work in the stable or kennel area of the racetrack, and at least one percent shall be contributed to a charity that primarily benefits research into the health or safety of race animals.

(2) For a horse racing association conducting historical racing, at least 1.5% of the pari-mutuel handle from historical racing on charity racing days shall be contributed to a charity that directly funds veterinary research beneficial to promoting the health and soundness of horses; and at least one-half of one percent of the pari-mutuel handle from historical racing on charity racing days shall be contributed to a charity that facilitates youth participation in equestrian sports and activities.

(3) For a greyhound association conducting historical racing, at least two percent of the pari-mutuel handle from historical racing on charity racing days shall be contributed to a charity that provides for the medical care and rehabilitation of injured greyhounds. (Added eff. 8/30/89; (a),(b), (c) amended eff. 1/2/92; (c) amended eff. 1/1/98; (d) amended eff. 1/1/99; (a), (b), (c), (d) amended eff. 9/28/14)

Sec. 303.43. Allocation of Live Race Dates for Class 1 Racetracks.

(a) The commission may not grant overlapping live race dates for the same breed of horse at Class 1 racetracks unless the overlapping is agreed to in writing by the affected Class 1 racetracks.

(b) For any year in which there are less than three Class 1 racetracks in Texas holding final non-appealable licenses, the commission shall allocate to each such racetrack at least 17 consecutive weeks of live thoroughbred racing and at least 17 consecutive weeks of live quarter horse racing, unless otherwise agreed to by the appropriate breed registry. Each week of live racing shall consist of a minimum of four consecutive race days. If a Class 1 racetrack informs the commission in writing that it does not desire the full number of weeks of racing for either breed, the commission may allocate the extra weeks to another racetrack. (Added eff. 12/10/92)

Subchapter C. Powers and Duties of the Comptroller of Public Accounts

Sec. 303.61. Power of Entry.

(a) The comptroller or a person authorized by the comptroller may enter an office, racetrack, or other place of business of an association at any time to inspect the association's records required to be maintained by a rule of the commission.

(b) To assist the comptroller in gaining access to a place under this section, the commission may issue a subpoena under §303.33 of this title (relating to Subpoenas). (Added eff. 11/15/88)

Sec. 303.62. Records.

(a) An association or other person required by a rule of the commission to maintain records regarding the operation of a racetrack shall allow the comptroller or a person authorized by the comptroller to inspect the records.

(b) Failure to allow the comptroller or a person authorized by the comptroller to inspect a

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record in accordance with this section is grounds for disciplinary action by the commission. (Added eff. 11/15/88; amended eff. 1/1/99)

Sec. 303.63. Comptroller Rules.

If the comptroller adopts rules for the enforcement of the comptroller's powers and duties under the Act, a licensee's failure to comply with a rule of the comptroller is considered a violation of a rule of the commission and is grounds for disciplinary action by the commission. (Added eff. 11/15/88)

Subchapter D. Texas Bred Incentive Programs

Division 1 General Provisions

Sec. 303.81. Texas Bred Incentive Programs.

(a) The executive secretary shall administer the Texas Bred Incentive Programs established by the Act in a manner consistent with the purposes of the Act.

(b) Each official state breed registry designated in the Act shall develop a program, which is subject to the approval of the executive secretary, for distributing the funds available to the registry for incentive awards. The executive secretary shall develop a system of communication with and reporting by the various state breed registries to ensure that the appropriate incentive awards are distributed in a timely fashion to the person who are entitled to receive the awards.

(c) The executive secretary shall use state-of-the-art information systems to administer the programs. (Added eff. 3/28/89; (b) amended eff. 1/2/92; (b) amended eff. 1/1/99)

Sec. 303.82. Bond Required.

The treasurer or chief fiscal officer of each official breed registry must be insured by a bond in an amount sufficient to ensure the integrity of the program administered through that breed registry. (Added eff. 3/28/89; amended eff. 1/1/99; amended eff. 9/9/02)

Sec. 303.83. Audits, Financial Statements and Performance Measures.

(a) An official breed registry shall expend the funds available to it under the Act in the manner required by law. The Commission may require or conduct an audit of the financial records of a breed registry to ensure the breed registry is complying with the applicable law.

(b) Not later than June 15 of each year, each breed registry designated by the Act shall submit

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application is:

- (A) for a Class 1 racetrack, \$150,000;
- (B) for a Class 2 racetrack, \$75,000;
- (C) for a Class 3 racetrack, \$25,000;

and

- (D) for a Class 4 racetrack, \$10,000.

(3) The amount to be deposited for the investigation charge for a horse racetrack license application is:

- (A) for a Class 1 racetrack, \$25,000;
- (B) for a Class 2 racetrack, \$15,000;
- (C) for a Class 3 racetrack, \$1,500; and
- (D) for a Class 4 racetrack, \$1,000.

(4) The amount to be deposited for the hearing charge for a horse racetrack license application is:

- (A) for a Class 1 racetrack, \$15,000;
- (B) for a Class 2 racetrack, \$8,000;
- (C) for a Class 3 racetrack, \$1,500; and
- (D) for a Class 4 racetrack, \$1,000.

(5) The amount to be deposited for the processing charge for a greyhound racetrack license application is \$150,000.

(6) The amount to be deposited for the investigation charge for a greyhound racetrack license application is \$25,000.

(7) The amount to be deposited for the hearing charge for a greyhound racetrack license application is \$15,000. (Added eff. 10/21/99; (b) amended eff. 1/8/04; (b) amended eff. 12/7/08)

Sec. 309.8. Racetrack License Fees.

(a) Purpose of Fees. An association shall pay a license fee to the Commission to pay the Commission's costs to administer and enforce the Act, and to regulate, oversee, and license racing and pari-mutuel wagering at racetracks.

(b) Annual License Fee.

(1) A licensed racing association shall pay an annual license fee. The annual license fee for each license type is as follows:

- (A) for a Class 1 racetrack, \$500,000;
- (B) for a Class 2 racetrack, \$230,000;
- (C) for a Class 3 or 4 racetrack,

\$70,000; and

(D) for a Greyhound racetrack, \$360,000.

(2) An association that is conducting live racing, historical racing or simulcasting shall pay its annual license fee by remitting to the Commission 1/12th of the fee on the first business day of each month. For the State Fiscal Year that begins on September 1, 2011, the monthly remittance shall begin in the month of January.

(3) An association that is not conducting live racing, historical racing or simulcasting shall pay its annual license fee on September 1 of each fiscal year. For the State Fiscal Year that begins on September 1, 2011, the annual license fees shall be paid in two separate payments. The first payment will be of \$100,000 and is due on September 1, 2011. The second payment will be of the remaining unpaid balance and shall be paid on January 1, 2012.

(c) Adjustment of Fees.

(1) Annual fees are calculated using a projected base of 143 days of live horse racing and 270 performances of live greyhound racing per calendar year. To cover the additional regulatory cost in the event additional days or performances are requested by the associations the executive secretary may:

(A) recalculate a horse racetrack's annual fee by adding \$3,750 for each live day added beyond the base;

(B) recalculate a greyhound racetrack's annual fee by adding \$750 for each live performance added beyond the base; and

(C) review the original or amended race date request submitted by each association to establish race date baselines for specific associations if needed.

(2) If at any point the executive secretary determines the total revenue from the annual fees is insufficient to pay the Commission's costs during a fiscal year, the executive secretary shall recommend to the Commission a supplemental fee, in addition to the license fee, that each association

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would be required to pay to generate the necessary revenue to pay the Commission's costs.

(3) If the executive secretary determines that the total revenue from the annual fees exceeds the amount needed to pay those costs, the executive secretary may order a moratorium on all or part of the annual license fees remitted monthly by any or all of the associations. Before entering a moratorium order, the executive secretary shall develop a formula for providing the moratorium in an equitable manner among the associations. In developing the formula, the executive secretary shall consider the amount of excess revenue received by the Commission, the source of the revenue, the Commission's costs associated with regulating each association, the Commission's projected receipts for the next fiscal year, and the Commission's projected expenses during the next fiscal year. (Added eff. 10/21/99; (b),(d) amended eff. 2/20/00; (b) amended eff. 1/1/03; (b) amended eff. 1/1/03; (d) amended and (f) added eff. 5/10/04; (c),(d) amended eff. 9/28/05; amended eff. 3/25/07; amended eff. 7/14/09; amended eff. 1/1/12; (a), (b) amended eff. 9/28/14)

Sec. 309.9. Denial, Suspension and Revocation of Licenses.

(a) Applicability.

(1) After notice and hearing in accordance with Subchapter B, Chapter 307 of this title (relating to Contested Cases), the Commission may deny, suspend, or revoke a license issued by the Commission.

(2) If the licensee is not an individual, the grounds for denial, suspension, or revocation of a license apply if a director, officer, or partner of the licensee or an individual who owns an interest in the licensee of 5.0% or more engages in conduct for which a license may be denied, suspended, or revoked.

(b) Grounds for Denying, Suspending, and Revoking Licenses.

(1) Violations or Convictions. A license may be denied, suspended or revoked if it is determined that the licensee has:

(A) violated or caused to be violated the Act or a Rule;

(B) been convicted in a court of competent jurisdiction of violating the Act or a Rule;

(C) been convicted of a felony;

(D) been convicted of a crime of moral turpitude that is reasonably related to the licensee's fitness to hold a license in accordance with § 303.202 of this title (relating to Guidelines);

(E) aided, abetted, or conspired with another person to violate the Act or a Rule; or

(F) the licensee had a license issued by another pari-mutuel racing jurisdiction denied, revoked or is currently under suspension in another pari-mutuel racing jurisdiction.

(2) Failure to Disclose. A license may be denied, suspended or revoked if it is determined that the licensee:

(A) failed to provide information required in the license application;

(B) provided false information in the license application;

(C) failed to disclose an ownership interest in a horse or greyhound as required by the Rules; or

(D) failed to fully disclose the true owners of all interests, beneficial or otherwise, in a proposed racetrack facility.

(3) Domicile. A license may be denied, suspended or revoked if it is determined that the licensee is domiciled with an individual for whom a license issued by the Commission was denied, suspended or revoked during the preceding 12-month period.

(4) Debt or Liens.

(A) A license may be denied, suspended or revoked if it is determined that the licensee owes a fee to the state or a penalty imposed under the Act or the Rules.

(B) A license may be denied, suspended or revoked if it is determined that:

(i) the licensee has failed to timely pay any tax assessment, the payment of which is secured by any lien or encumbrance

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(e) The chase vehicle shall be equipped with a five-gallon water container, a sponge, and a scraper. (Added eff. 12/2/08; amended eff. 12/7/08)

Division 3. Facilities for Licensees

Sec. 309.281. Jockeys.

(a) An association shall provide facilities for jockeys scheduled to ride in a race.

(b) The facilities must be equipped with:

- (1) showers, toilets, and sinks;
- (2) locked storage areas;
- (3) a snack bar;
- (4) equipment appropriate for the rest and recreation of the jockeys; and
- (5) other reasonable accommodations requested by the executive secretary.

(c) The association shall provide equivalent facilities for men and women jockeys. (Added eff. 10/21/99; (b) amended eff. 1/8/04)

Sec. 309.282. Living Quarters for Licensees.

(a) If an association permits licensees to reside on association grounds, the association shall provide living quarters for the licensees.

(b) The living quarters must be in a permanent structure and be adequate to house the anticipated number of licensees who will be living on association grounds. The association must provide equivalent facilities for men and women licensees.

(c) The living quarters must be equipped with:

- (1) windows that open;
- (2) heating;
- (3) hot and cold water; and
- (4) showers, toilets, and sinks.

(d) An association may not permit an individual to sleep in the stable area except:

- (1) in a facility provided in accordance with this section;
- (2) in a barn that was constructed after 1990 of fire retardant materials; or
- (3) in a tack room that was constructed after 1990 of fire retardant materials, provided

the tack room has a window that opens. (Added eff. 10/21/99)

Division 4. Operations

Sec. 309.291. Racing Hours.

Except on approval of the executive secretary, an association may conduct horse racing only between the hours of 8 a.m. and 12 midnight. (Added eff. 10/21/99)

Sec. 309.292. Number of Races.

Except on approval of the executive secretary, an association may not offer more than 12 races per performance. (Added eff. 10/21/99)

Sec. 309.293. Saddle Cloth.

(a) An association shall provide a saddle cloth and head number to each horse scheduled in a race except in a thoroughbred race where the head number may optionally be provided. The saddle cloth must have a number printed on the side that is large enough to be read clearly from the stewards' stand and the photofinish tower.

(b) The association may provide to each jockey racing colors and shall provide a sleeve number or helmet number. (Added eff. 10/21/99; (a) amended eff. 7/11/04)

Sec. 309.294. Starting Crew.

An association shall provide a starting crew for each race to assist in handling the horses in the starting gates. The association shall provide:

(1) one assistant starter for each Quarter Horse, Paint Horse, or Appaloosa to start in a race; and

(2) a sufficient number of assistant starters for the number of Thoroughbred or Arabian horses to start in a race. (Added eff. 10/21/99; amended eff. 12/7/08)

Sec. 309.295. Condition Book.

An association shall deliver to the Commission, for executive secretary approval, a copy of the first condition book for a race meeting

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at least 30 days before the first day of the race meeting. Before publication, the association shall deliver to the Commission a copy of each subsequent condition book published by the association, for executive secretary approval. The executive secretary shall return within a reasonable time the condition book to the association with notice of approval or specific delineation of the changes required to obtain approval. (Added eff. 10/21/99; amended eff. 1/8/04)

Sec. 309.296. Officia Program.

(a) For each race day, an association shall prepare an official program. The official program must contain the order of the races on that day and:

(1) for each race:

- (A) the names of the horses in the race and their program number;
- (B) the conditions of the race;
- (C) the distance of the race;
- (D) the probable odds on each horse;
- (E) the value of the race;
- (F) the claiming prices, if applicable;

and

(G) the types of wagers to be offered for that race; and

(2) for each horse listed in the program:

- (A) the post position;
- (B) the age, color, sex, and breeding;
- (C) the jockey, trainer, owner or stable name, and racing colors;
- (D) the weight carried; and
- (E) if the horse is eligible for participation in the Texas Bred Incentive Program, the name or logo of the appropriate official breed registry;
- (F) if the horse is a leased animal, the names of the lessee and lessor must appear on the program; and
- (G) the city and state of the owner or the designated representative.

(b) The official program must contain the names of the officials serving on that day, the

names of the association's management personnel, and any other information required by the executive secretary.

(c) Except as otherwise provided by this subsection, for each horse that is racing with furosemide the official program shall indicate that fact by including the symbol "L" after the horse's name. For each horse that is racing with furosemide for the first time or for each horse racing with furosemide that last raced without furosemide, the official program shall indicate that fact by including the symbol "L1" after the horse's name. For each horse that is racing without furosemide for the first time after having been admitted to the furosemide program in this state and for each horse that is racing without furosemide in this state whose most recent start was with furosemide in another racing jurisdiction, the official program shall indicate that fact by including the symbol "Lx" after the horse's name. (Added eff. 10/21/99; (c) amended eff. 11/1/01; (a) amended eff. 1/8/04; (a) amended eff. 12/7/08)

Sec. 309.297. Purse Accounts.

(a) All money required to be set aside for purses are trust funds held by an association as custodial trustee for the benefit of horsemen. No more than three business days after the end of each week's wagering, the association shall deposit the amount set aside for purses into purse accounts maintained as trust accounts for the benefit of horsemen by breed by the horsemen's organization in one or more federally or privately insured depositories.

(b) Purse money for a completed race shall be made available to the horsemen's bookkeeper on or before the third day after the week's races have run. The horsemen's bookkeeper shall distribute purse money for a race to the accounts of the persons entitled to the money immediately after the executive secretary advises the horsemen's bookkeeper that the race has been cleared for payment.

(c) If an association fails to run live races during any calendar year, all money in the

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respective breed's purse account may, at the discretion of the horsemen's organization be distributed as follows:

- (1) first, payment of earned but unpaid purses; and
- (2) second, subject to the approval of the horsemen's organization, transfer after the above mentioned calendar year period of the balance in the respective breed's purse account to the respective breed's purse account for one or more other associations.

(d) If an association ceases a live race meet before completion of the live race dates granted by the Commission, the funds in and due the respective breed's purse account shall be distributed as follows:

- (1) first, payment of earned but unpaid purses;
- (2) second, retroactive pro rata payments to the horsemen if provided by contract with the horsemen's organization; and
- (3) third, subject to the approval of the horsemen's organization, transfer within 120 days after cessation of live racing of the balance in the respective breed's purse account to the respective breed's purse account for one or more other associations.

(e) The Commission may at any time inspect, review, or audit the records and performance of the association, the horsemen's organization, or the horsemen's bookkeeper to determine compliance with this section.

(f) No part of any funds allocated to any race or races from the purse fund shall be subject to any surcharge, promotion fee, advertising fee, or expense by the association for any reason whatsoever. (Added eff. 10/21/99; (a) amended eff. 9/28/14)

Sec. 309.298. Stakes and other Prepayment Races.

(a) An association shall file with the Commission, for executive secretary approval, a copy of the race conditions and the nomination blank for all stakes or other prepayment races

before distributing the conditions to the public.

(b) The nomination blank must state all conditions of the race, including:

- (1) the payment schedule;
- (2) the dates and conditions for the race and any trials;
- (3) the source and amount of any added money;
- (4) the distribution of all funds paid into the race, including the percentages allocated for advertising, administration, and other expenses, provided that no such expenses may be made or incurred by an association;
- (5) terms for obtaining refunds, if any; and
- (6) all other conditions pertaining to the race.

(c) The association shall maintain one account in an F.D.I.C. secured financial institution, for which only funds received for stakes and other prepayment races may be deposited, except as otherwise authorized by these rules. The account must require, for all withdrawals, the signatures of two officers of the association.

(d) The association shall designate an official as the stakes nomination secretary who shall be responsible for the collection and deposit of all stakes, nomination, futurity and derby payments, preparation of the list of horses and their owners nominated for stakes, nomination, futurity and derby races and serving as the point of contact for the Commission staff for questions or information regarding stakes and other prepayment races. The association shall include the name of the person designated as the stakes nomination secretary in the list of officials prepared pursuant to §313.4 of this title (relating to Approval of Officials). The association shall include the person designated as the stakes nomination secretary in an insurance policy or fidelity bond covering employee dishonesty.

(e) Not later than five days after the date nominations close, the association shall provide to the Commission a list of all horses nominated for the race. Not later than five days after each

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payment date, the association shall prepare a list of the horses remaining eligible for the race, including the names of all owners of each horse. If necessary, the association shall prepare an amended list. The association shall provide a copy of each list to the stewards and post a copy of the list in the racing office. The association shall maintain appropriate documentation to prove the eligibility of each nomination.

(f) Not later than five business days after receiving a request by the executive secretary, the association shall provide a written report regarding the activity and status of the escrow account in which the race funds are maintained. The report must include the name of the financial institution in which the account is held, the dates and amounts of deposits into the account by each nominator or sponsor, the dates and amounts of all withdrawals or deductions from the account, and for what purpose each withdrawal or deduction was made.

(g) Not later than five business days after a race subject to this section is conducted, the association shall provide to the executive secretary the final report for the distribution of the purse for stakes and other prepayment races. (Added eff. 10/21/99; (b) amended eff. 7/22/02; (a),(e),(f),(g) amended eff. 1/8/04)

Sec. 309.299. Horsemen's Representative.

(a) Findings. The Commission finds a need for horse owners and trainers to negotiate and covenant with associations as to the conditions of live race meetings, the distribution of purses not governed by statute, simulcast transmission and reception, and other matters relating to the welfare of the owners and trainers participating in live racing at an association. To ensure the uninterrupted, orderly conduct of racing in this state, the Commission shall recognize one organization to represent horse owners and trainers on matters relating to the conduct of racing at Texas racetracks.

(b) Recognition Process.

(1) To request Commission recognition

as a horsemen's representative organization, the organization must file a written request for recognition on a form prescribed by the executive secretary. The executive secretary shall establish a deadline for filing a request under this paragraph and publish that deadline in the Texas Register at least 20 days before the deadline.

(2) To be eligible for recognition as a horsemen's representative organization, each officer and director of the organization during the term of the recognition must be licensed by the Commission as an owner or trainer.

(3) If only one organization requests recognition, the executive secretary shall issue a letter of recognition to the organization, subject to the approval of the Commission. If more than one organization requests recognition, the Commission shall recognize the organization that is best qualified to represent the horse owners and trainers for the various breeds participating in racing at all the racetracks in this state. The executive secretary may require each organization requesting recognition to supply additional information regarding its structure, membership, and programs. The Commission shall consider the following when determining which organization to recognize under this section:

(A) the experience and qualifications of the directors, executive officers, and other management personnel of the organization;

(B) the organization's benevolence programs for its membership and others participating in racing in this state; and

(C) the degree to which the organization's membership represents a fair and equitable cross-section of the horse owners and trainers participating at each of the racetracks in this state.

(4) Recognition given under this section is valid for two years.

(c) Authority and Responsibilities.

(1) An organization recognized under this section shall negotiate with each association regarding the association's racing program, including but not limited to the allocation of

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purse money to various live races, the exporting of simulcast signals, issues related to historical racing, and the importing of simulcast signals during live race meetings.

(2) An organization recognized under this section may inspect and audit an association's horsemen's purse accounts.

(3) An organization recognized under this section shall provide to the Commission on request a copy of the organization's most recent financial statements, minutes of board meetings, literature provided to its members, and any other records or information relating to the functions of the organization at Texas racetracks.

(4) An organization recognized under this section may not counsel or encourage its members to strike, embargo, boycott or employ similar tactics in dealing with an association.

(5) Not later than June 15 of each year, an organization recognized under this section shall submit to the Commission audited financial statements regarding its operations. The executive secretary may prescribe the form for the financial statements.

(6) The Commission may require or conduct an audit of the records of an organization recognized under this section to ensure the organization is complying with applicable law. (Added eff. 10/21/99; (c) amended eff. 1/7/01; (a), (c) amended eff. 9/28/14)

Subchapter D. Greyhound Racetracks

Division 1. Facilities and Equipment

Sec. 309.301. Applicability.

This subchapter applies to greyhound racetracks and to associations licensed by the Commission to operate a greyhound racetrack. (Added eff. 10/21/99)

Sec. 309.302. Track Specifications

(a) A greyhound racetrack must be an oval track with a minimum width of 22 feet from the inside curb to the outside curb.

(b) On the first turn, the radius from the

center of the oval to the inside rail of the track must be 128 feet. On the second turn, the radius from the center of the oval to the inside rail of the track must be 118 feet. Each straightaway must be 285 feet long.

(c) The banking of the track must be approved by the executive secretary. (Added eff. 10/21/99)

Sec. 309.303. Track Surface.

(a) The track must consist of a clay base with a surface of a nonabrasive sand with low elasticity or of a comparable material.

(b) An association shall maintain the track surface and the banking in a uniform condition to foster the safety of the greyhounds.

(c) The surface must be approved by the executive secretary before the first race of each race meeting and is subject to periodic inspections and verification by the Commission. The executive secretary may require periodic reporting by an association regarding the track surface and may require the reports to contain any information considered by the executive secretary to be essential to evaluating the current status of the track surface. (Added eff. 10/21/99)

Sec. 309.304. Watering Equipment.

(a) An association shall provide a watering system approved by the executive secretary to water the track surface uniformly.

(b) If an association uses a water tank vehicle with a boom, the track must be sufficiently wide to allow the vehicle to travel along the outside edge of the track without disturbing the portion of the track on which the greyhounds run. (Added eff. 10/21/99)

Sec. 309.305. Starting Boxes.

(a) An association shall provide and maintain at least two starting boxes approved by the executive secretary. Each starting box must be equipped with an automatic opener with a manual back-up.

(b) The association shall periodically inspect each starting box to ensure its safe and effective

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operation.

(c) An association shall ensure that the starting box located at the five-sixteenths start is set back in the chute. (Added eff. 10/21/99; (b) amended eff. 12/7/08)

Sec. 309.306. Escapes.

An association shall provide on the racetrack two curtains located at least 50 feet on either side of each escape. The curtains must not interfere with the greyhounds during the course of a race. (Added eff. 10/21/99)

Sec. 309.307. Lures.

An association shall provide an inside dual equipped lure with an extendable arm and an audible squawker at the escape. (Added eff. 10/21/99; amended eff. 1/5/10)

Sec. 309.308. Video Monitoring System.

In addition to other video requirements in the rules of the Commission, an association shall provide a video monitoring system approved by the executive secretary that permits the racing judges to view the activities in the lockout kennel, the movement of the leadouts and greyhounds from the lockout kennel to the starting boxes, and the activities at the starting boxes. (Added eff. 10/21/99)

Sec. 309.309. Lockout Kennel.

(a) An association shall provide a lockout kennel that:

(1) is soundproof, to prevent noise from disturbing the greyhounds that are waiting to race;

(2) is air-conditioned sufficiently to maintain a temperature between 68 and 75 degrees Fahrenheit; and

(3) has sealed or ceramic floors and walls to permit proper cleaning and disinfection.

(b) Each crate located in the lockout kennel must:

(1) be constructed of a smooth, hard material, such as stainless steel or tile;

(2) be at least three feet wide, four feet deep, and four feet high;

(3) be constructed so that the crate floor is not in direct contact with the concrete surface;

(4) be located on the floor level to prevent greyhounds from sustaining jumping injuries; and

(5) have a drop latch on the door.

(c) An association shall provide a comfortable room near the lockout kennel in which a kennel owner or trainer may view the race. The association shall also provide kennel owners and trainers a method, as approved by the executive secretary, for monitoring the interior of the lockout kennel and the back of the starting box and view the interior of the lockout kennel.

(d) An association shall provide an area adjacent to the lockout kennel in which a greyhound can wait to weigh-in and cool down following a race or wait for schooling races. The area must:

(1) be large enough to comfortably accommodate 100 greyhounds and the leadouts and trainers;

(2) be adequately shaded and fenced to shield the greyhounds' view of the racetrack;

(3) have eight water faucets with hoses;

(4) have a disinfected dipping vat, approved by the Commission veterinarian, through which a greyhound may be walked to assist in cooling down following a race; and

(5) have adequate drainage. (Added eff. 10/21/99; (b) amended eff. 6/1/00; (a) amended eff. 1/8/04; (a), (c) amended eff. 12/7/08)

Sec. 309.310. Walkway.

An association shall provide a properly lighted covered walkway with four feet of turf or a comparable material on each side of the walkway from the kennel compound to the lockout area.

(Added eff. 10/21/99)

Sec. 309.311. Kennel Compound.

(a) An association shall provide in the kennel compound area:

(1) not more than 18 separate kennel buildings for the kennel owners under contract with the association; and

(2) if the association has contracted with

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Sec. 309.357. Schooling.

(a) An association shall use standard schooling procedures.

(b) An association shall provide:

(1) unlimited unofficial schooling at least two mornings per week; and

(2) unlimited official schooling at least two nights per week.

(c) The association may not conduct an official schooling race unless at least two racing judges are present at least 30 minutes before the start of the race and during the race. (Added eff. 10/21/99)

Sec. 309.358. Racing Restricted.

An association may not permit a greyhound, other than a greyhound entered in a stake race, to race or be schooled on association grounds unless the greyhound is permanently housed on association grounds. (Added eff. 10/21/99)

Sec. 309.359. Use of Lures in Training or Racing.

(a) An association may not permit the use of a live or dead animal or fowl for training or racing purposes on association grounds. This subsection does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public.

(b) An association may not permit a greyhound to be kenneled or to race on association grounds if the association knows or can reasonably be expected to know that the greyhound was trained in a state that by statute or rule does not prohibit the knowing use of live lures.

(c) An association may not permit a greyhound to be kenneled or to race on association grounds if the association knows or can reasonably be expected to know that the greyhound has been banned from pari-mutuel racing by any racing jurisdiction. (Added eff. 10/21/99; (a) amended and (c) added eff. 05/30/13)

Sec. 309.360. Marathons.

(a) A race that is more than three-eighths of a mile long is considered a marathon.

(b) An association may schedule a marathon

race only when the kennel owners or trainers enter with the racing secretary a sufficient number of greyhounds that are capable of running the distance. (Added eff. 10/21/99)

Sec. 309.361. Greyhound Purse Account and Kennel Account.

(a) Greyhound Purse Account.

(1) All money required to be set aside for purses are trust funds held by an association as custodial trustee for the benefit of kennel owners and greyhound owners. No more than three business days after the end of each week's wagering, the association shall deposit the amount set aside for purses into a greyhound purse account maintained in a federally or privately insured depository.

(2) The funds derived from a simulcast race for purses shall be distributed during the 12-month period immediately following the simulcast.

(b) Kennel Account.

(1) An association shall maintain a separate bank account known as the "kennel account". The association shall maintain in the account at all times a sufficient amount to pay all money owed to kennel owners for purses, stakes, rewards, and deposits.

(2) Except as otherwise provided by these rules, an association shall pay the purse money owed from a purse race to those who are entitled to the money not later than 10 days after the date of the race and from a stakes race to those who are entitled to the money immediately after the executive secretary advises the association that all of the qualifying rounds and the final race have been cleared for payment.

(c) The Texas Greyhound Association ("TGA") shall negotiate with each association regarding the association's racing program, including but not limited to the allocation of purse money to various live races, the exporting of simulcast signals, issues related to historical racing, and the importing of simulcast signals during live race meetings.

(d) If an association fails to run live races during any calendar year, all money in the greyhound purse account may, at the discretion of the TGA, be distributed as follows:

(1) first, payment of earned but unpaid

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purses; and

(2) second, subject to the approval of the TGA, transfer after the above mentioned calendar year period of the balance in the purse account to the purse account for one or more other association.

(e) If an association ceases a live race meet before completion of the live race dates granted by the commission, the funds in and due the greyhound purse account shall be distributed as follows:

(1) first, payment of earned but unpaid purses;

(2) second, retroactive pro rata payments to the kennel owners; and

(3) third, subject to the approval of the TGA, transfer within 120 days after cessation of live racing of the balance in the greyhound purse account to the greyhound purse account for one or more other associations.

(f) Administration of Accounts.

(1) An association shall employ a bookkeeper to maintain records of the greyhound purse account and the kennel account.

(2) The Commission may at any time inspect, review or audit any and all transactions relating to the greyhound purse account and the kennel account. (Added eff. 10/21/99; Repealed and replaced eff. 6/1/00; (b) amended eff. 3/13/02; (a), (c) amended eff. 9/28/14)

Sec. 309.362. Number of Greyhounds.

An association may not permit more than eight greyhounds to start in a race. (Added eff. 10/21/99)

Sec. 309.363. Official Program.

(a) For each race day, an association shall prepare and print an official program. The official program must contain the order of the races on that day, the distance and track record for each race, and the names of the greyhounds scheduled to run in each race, in order of their post positions. The post positions must be designated by numbers placed at the left and in line with the names of the greyhounds.

(b) The official program must contain at

least two past performances for each greyhound scheduled to race. The program must also contain, for each greyhound scheduled to race:

(1) the name;

(2) color;

(3) sex;

(4) date of whelping;

(5) breeding;

(6) established racing weight;

(7) number of starts in official races;

(8) number of times finishing first, second, and third;

(9) name of owner and lessee, if applicable;

(10) name of trainer; and

(11) the Texas-bred emblem if the greyhound is an accredited Texas-bred; and

(12) other information to enable the public to properly judge the greyhound's ability.

(c) If the name of a greyhound is changed, the new name, together with the former name, shall be published in the official entries and program until after the greyhound has started six times under the new name. (Added eff. 10/21/99; (b) amended eff. 1/5/10)

Sec. 309.364. Identification System.

(a) An association shall maintain a card index system or identification for each greyhound racing for the association. An association may not permit a greyhound to be housed on association grounds unless the greyhound is identifiably tattooed in each ear.

(b) Each bertillion card must be legible and thoroughly identifiable for each greyhound. The card must show:

(1) the name of the kennel; and

(2) the color, sex, tattoo identifications located in each ear, and characteristic markings, scars, and other identification features of the greyhound.

(c) The paddock judge shall maintain the bertillion cards. For each greyhound removed from association grounds, the paddock judge shall maintain the bertillion card for the greyhound in an inactive file for the six-month period after the date of the greyhound's removal. (Added eff. 10/21/99)

split specimen.

(d) If the retained part of a specimen is sent for testing, the commission staff shall arrange for the transportation of the specimen in a manner that ensures the integrity of the specimen. The person requesting the tests shall pay all costs of transporting and conducting tests on the specimen. To ensure the integrity of the specimen, the split specimen must be shipped to the selected laboratory no later than 10 days after the day the trainer is notified of the positive test. Subject to this deadline, the owner or trainer of the horse from whom the specimen was obtained is entitled to be present or have a representative present at the time the split specimen is sent for testing.

(e) If the test on the split specimen confirms the findings of the original laboratory, it is a prima facie violation of the applicable provisions of the chapter.

(f) If the test on the split specimen portion does not substantially confirm the findings of the original laboratory, the stewards may not take disciplinary action regarding the original test results.

(g) If an act of God, power failure, accident, labor strike, or any other event, beyond the control of the Commission, prevents the split from being tested, the findings of the original laboratory are prima facie evidence of the condition of the horse at the time of the race. (Added eff. 8/14/89; amended eff. 2/1/95; amended eff. 11/1/98; amended eff. 10/30/00; amended eff. 4/1/01; amended eff. 3/13/02)

Sec. 319.363. Testing for Total Carbon Dioxide.

(a) Findings and Presumptions.

(1) the commission finds that a total carbon dioxide level of 37 millimoles per liter or more in equine serum can be achieved only through the administration, by any means, of a bicarbonate-containing substance or other alkalinizing substance.

(2) a horse entered or participating in a race may not be administered a bicarbonate-containing substance or other alkalinizing substance which

causes it to carry in its body an excess level of total carbon dioxide.

(3) a positive finding by a chemist of total carbon dioxide level at or above 37 millimoles per liter in a race horse serum specimen is an excess level of total carbon dioxide and prima facie evidence that the race horse was administered a bicarbonate-containing substance or other alkalinizing substance in violation of this section.

(b) Testing Authorized. Testing for total carbon dioxide is authorized as listed below:

(1) The executive secretary may implement a program to collect specimens from race horses and test the specimens for the presence of total carbon dioxide. In a program implemented under this section:

(A) Specimens may be collected on a random basis, including randomly selected race dates, randomly selected races, and randomly selected horses; and

(B) Specimens may be collected prerace or postrace, or;

(2) The stewards or commission veterinarian may require a horse serum specimen to be taken from any race horse designated for cause by the stewards or commission veterinarian for the purpose of testing for total carbon dioxide.

(c) Split Specimen.

(1) the commission finds that the postrace time period during which total carbon dioxide may be detected in a specimen taken from a race horse is limited. Therefore, to provide a meaningful split specimen program, the testing of a split specimen for total carbon dioxide must occur contemporaneously with the testing of the original specimen.

(2) To ensure the owners and trainers of race horses selected for testing under this section are given the opportunity for a split specimen, the trainer of record for each horse from which a specimen is taken pursuant to this section shall declare in writing whether the trainer requests that the split specimen be tested or waives the right to have the split specimen tested. Failure to request

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the split specimen test at the test barn within 30 minutes after the post time of the last race for the performance is deemed a waiver of the right to the split specimen.

(3) The split specimen shall be sent for testing to a commission approved and listed laboratory that is acceptable to the trainer of record. The commission staff shall arrange for the transportation of the split specimen in a manner that ensures the integrity of the split specimen.

(4) The trainer of record requesting the split specimen shall pay all costs of transporting and conducting tests on the split specimen.

(5) If the test on the split specimen confirms the findings of the original laboratory, it is a prima facie violation of this section.

(6) If the test on the split specimen does not substantially confirm the findings of the original laboratory, the stewards may not take disciplinary action regarding the test results.

(7) If an act of God, power failure, accident, labor strike, or any other event, beyond the control of the Commission, prevents the split from being tested, the findings of the original laboratory are prima facie evidence of the condition of the horse at the time of the test for total carbon dioxide.

(d) Conflict with Other Rules. To the extent that this rule conflicts with any other commission rule, this rule controls. (Added eff. 1/11/06; (a) amended eff. 3/20/08)

Sec. 319.364. Testing for Androgenic-Anabolic Steroids.

(a) No androgenic-anabolic steroids shall be permitted in test samples collected from racing horses except as permitted on the written list of therapeutic drugs maintained under §319.3 of this chapter (relating to Medication Restricted).

(b) Any other anabolic steroids are prohibited in racing horses.

(c) The sex of the horse must be identified to the laboratory on all pre-race and post-race samples designated for AAS testing.

(d) If an anabolic steroid has been administered to a horse in order to assist in its recovery from illness or injury, that horse may be placed on the Veterinarian's List in order to monitor the concentration of the drug or metabolite in urine or blood. After the concentration has fallen below the designated threshold for the administered androgenic-anabolic steroids, the horse is eligible to be removed from the list. (Added eff. 3/22/09; (a)-(d) amended eff. 9/28/14)

Division 4. Provisions for Greyhounds

Sec. 319.391. Testing of Greyhounds.

(a) Urine, blood, or other specimens shall be taken and tested from any greyhound designated by the racing judges, commission veterinarian, or a representative of the commission. A specimen shall be collected by the commission veterinarian or a designee of the commission veterinarian.

(b) A racing judge or the commission veterinarian may order a greyhound in a race to submit to a test of body fluid specimens to determine the presence of a prohibited drug, chemical, or other substance.

(c) Before sending a specimen from a greyhound to a testing laboratory, the commission veterinarian shall determine whether the specimen is of sufficient quantity to be split. If there is sufficient quantity, the commission veterinarian or the commission veterinarian's designee shall divide the specimen into two parts. The commission veterinarian or the commission veterinarian's designee shall retain custody of the portion of the specimen that is not sent to the laboratory. The commission veterinarian or commission veterinarian's designee shall store the split specimen in a manner that ensures the integrity of the specimen. If the specimen is of insufficient quantity to be split, the commission veterinarian shall certify that fact in writing and submit the entire specimen to the laboratory for testing.

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(d) The trainer or kennel owner for a greyhound that has tested positive for a prohibited drug, chemical, or other substance may request, in writing, that the split specimen, if any, be submitted for testing at a Commission-approved and listed laboratory. The trainer or kennel owner must notify the executive secretary of the request not later than 48 hours after notice of the positive test. Failure to request the split specimen be tested within the prescribed time period constitutes a waiver of the right to have the split specimen tested.

(e) If the split specimen is sent for testing, the commission staff shall arrange for transportation of the specimen in a manner that ensures the integrity of the specimen. To ensure the integrity of the specimen, the split specimen must be shipped within 10 days after the kennel owner is notified of the positive test. Subject to the deadline, the kennel owner is entitled to be present or have a representative present at the time the split specimen is sent for testing.

(f) If the test on the split specimen confirms the finding of the original laboratory, it is a prima facie violation of the applicable provisions of this chapter. If the test on the split specimen does not substantially confirm the findings of the original laboratory, the racing judges may not take disciplinary action regarding the original test results.

(g) If an act of God, power failure, accident, labor strike, or other event beyond the control of the Commission prevents the split specimen from being tested, the findings of the original laboratory are prima facie evidence of the condition of the greyhound at the time of the race. (Added eff. 8/14/89; (a), (b) amended eff. 10/11/90; (b) amended eff. 11/1/98; (c),(d) amended, (e),(f),(g) added eff. 3/13/02)

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CHAPTER 321. PARI-MUTUEL WAGERING

Subchapter A. Mutuel Operations

Division 1. General Provisions

Sec. 321.1. Definition and General Provisions.

(a) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) ASCII formatted flat file--A data file containing structured data which is both record and field delimited containing only characters found in the American Standard Code for Information Interchange (ASCII) specification.

(2) Betting interest--a single race animal or a group of race animals coupled pursuant to the Rules which the totalisator system designates as an interest on which a patron may wager.

(3) Export simulcast--a race simulcast from a racetrack facility.

(4) Firmware--The system software permanently stored in a computer or ticket issuing machine's read-only memory or elsewhere in the circuitry that cannot be modified by the user.

(5) Guest racetrack--a racetrack facility at which a simulcast race is received and offered for wagering purposes; a receiving location, as defined in the Act, §1.03(64).

(6) Host racetrack--a racetrack facility at which a race is conducted and simulcast for wagering purposes; a sending track, as defined in the Act, §1.03(66).

(7) Import simulcast--a simulcast race received at a racetrack facility.

(8) Intelligent Terminal--a terminal or peripheral device which contains code extending beyond that which is necessary to allow the terminal to communicate with the central controlling device to which it is directly attached or to control the presentation of data on the display unit of the device.

(9) Log--an itemized list of each command, inquiry, or transaction given to a computer during operation.

(10) Major Revision--a specific release of a hardware or software product, including additional functionality, major user interface revisions, or other program changes that significantly alter the basic function of the application.

(11) Minor Revision--an incrementally improved version of hardware or software, usually representing an error (bug) fix, or a minor improvement in program performance which does not alter basic functionality.

(12) Multi-leg wager--a wagering pool that involves more than one race.

(13) Player Tracking System--a system that provides detailed information about pari-mutuel play activity of patrons who volunteer to participate. The system can be used to customize highly specific promotions and tailor rewards to encourage incremental visits by patrons. The system should be able to produce customized informational reports based on such parameters as type of wager, type of race, favorite race meet, or other parameters deemed helpful by the association in supporting the patron.

(14) Remote site--a racetrack or other location at which wagering is occurring that is linked via the totalisator system to a racetrack facility for pari-mutuel wagering purposes.

(15) Report--a summary of betting activity.

(16) Resultant--the profit-per-dollar wagered in a pari-mutuel pool computation.

(17) Ticketless Electronic Wagering (E-wagering)--a form of pari-mutuel wagering in which wagers are placed and cashed through an electronic ticketless account system operated through a licensed totalisator vendor in accordance with §11.04 of this Act. Wagers are automatically debited and credited to the account holder.

(18) TIM--ticket-issuing machine.

(19) TIM-to-Tote network--a wagering network consisting of a single central processing unit and the TIMs at any number of remote sites.

(20) Totalisator system--a computer system that registers and computes the wagering and payoffs in pari-mutuel wagering.

(21) Totalisator operator--the individual assigned to operate the totalisator system at a

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racetrack facility.

(22) Tote-to-tote network--a wagering network in which each wagering location has a central processing unit.

(23) User--a totalisator company employee authorized to use the totalisator system in the normal course of business.

(b) A reference in this chapter to the mutuel manager includes the mutuel manager's designee, in accordance with §313.53 of this title (relating to Mutuel Manager) or §315.36 of this title (relating to Mutuel Manager.)

(c) A request required to be made in writing under this chapter may be transmitted via hand delivery, e-mail, facsimile, courier service, or U.S. mail. (Added eff. 4/1/01; (a) amended eff 10/4/05; (a) amended eff. 10/23/11)

Sec. 321.2. Odds Manipulation.

The Commission recognizes that the wagering public uses Odds and Will Pays as a handicapping tool. To maintain the integrity of the pools, the Commission therefore identifies the practice of canceling wagers that were placed for the sole purpose of manipulating the posted Odds or Will Pays as being inconsistent with the honesty and integrity of racing under §307.7, Ejection and Exclusion, and as a detrimental practice under §307.9, Denial, Suspension, and Revocation of Licenses. (Added eff. 8/05/07)

Sec. 321.3. Conduct of Wagering.

(a) An association shall conduct pari-mutuel wagering in accordance with the Act and the Rules.

(b) In conducting pari-mutuel wagering, an association shall use a totalisator system that:

- (1) meets the requirements outlined in Subchapter B of this Chapter; and
- (2) is approved by the Commission.

(c) An association shall apply in writing to the executive secretary for approval to offer the types of wagers the association wishes to offer. An association may offer only the types of wagers the Commission approves for that association.

(d) The stewards or racing judges may cancel a pari-mutuel pool offered by the association for a race if the stewards or racing judges have concerns about the integrity of the pool or the race. (Added eff. 4/1/01; (b) amended eff. 10/4/05)

Sec. 321.5. Pari-mutuel Auditor.

(a) The pari-mutuel auditor is a representative of the Commission at a racetrack.

(b) The pari-mutuel auditor shall verify the wagering pool totals for each live and simulcast performance and any historical racing pools. The pari-mutuel auditor's verification of the pool totals is the basis for computing the amount of money to be set aside from each pool for the following:

- (1) horse purses;
- (2) greyhound purses;
- (3) the State;
- (4) the Texas Bred Incentive Programs;
- (5) the association; and
- (6) the winning wagerers.

(c) The pari-mutuel auditor shall also assist the executive secretary, the stewards or racing judges, and the Comptroller in investigating alleged violations of the Act, the Rules, or the Comptroller's rules relating to the totalisator system and pari-mutuel operations. (Added eff. 4/1/01; (b) amended eff. 9/28/14)

Sec. 321.7. Cooperation with Officials

If the executive secretary or the Comptroller or any employee of the executive secretary or Comptroller determines a certain cashed or canceled ticket, cashed or canceled voucher, computer printout, mutuel report, or other totalisator or mutuel record is needed to perform the official's regulatory duties, the official shall request the item from the mutuel manager. On receipt of a request under this section, the mutuel manager shall make the information available to the official no later than the deadline established by the official. (Added eff. 4/1/01)

Sec. 321.9. System Failure.

(a) During a live racing performance, if the totalisator system is unable to record wagers

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received or to guarantee the integrity of the pari-mutuel pools, the totalisator operator shall verbally notify the association's mutuel manager. The totalisator operator shall state whether the problem can be corrected and if so, the estimated time needed to correct the problem. The mutuel manager must promptly notify the pari-mutuel auditor and the stewards or racing judges.

(b) If the totalisator operator determines that the problem cannot be corrected before the scheduled end of the race performance, the operator shall verbally notify the mutuel manager. The mutuel manager must promptly notify the pari-mutuel auditor and the stewards or racing judges of that determination.

(c) The stewards or racing judges, after consulting with the association and after considering the amount of purses and wagers involved and the time required to repair the totalisator system, may permit any of the remaining races in the performance to be run as exhibitions without wagering. If a race is run as an exhibition under this subsection, the association shall pay the purses in accordance with the Rules. (Added eff. 4/1/01)

Sec. 321.11. Access to Magnetic Media.

(a) An association shall submit a storage plan for all magnetic media storing computer logs to the executive secretary for approval. This plan must include sufficient information for the executive secretary to determine that the information will remain secure, including:

- (1) sufficient space for the totalisator vendor to store all magnetic media; and
- (2) a storage cabinet that will protect the media from damage.

(b) An association shall include in its security plans a means by which access to the magnetic media is restricted. (Added eff. 4/1/01)

Sec. 321.12. Time Synchronization.

(a) Display and verification of the accurate off time and start of a live or simulcast race is critical. To ensure accurate verification of off time

with the close of betting on all live and simulcast races, the association shall ensure:

(1) Tote times shall be synchronized to an atomic clock on a start-of-day basis.

(2) Source video signal shall be synchronized with the atomic clock.

(3) The time of day shall be displayed at the start of the race in the HR:MN:SC format.

(b) Security system video, which monitors mutuel lines, shall be synchronized with the atomic clock. (Added eff. 3/28/11; (a) amended eff. 9/28/14)

Sec. 321.13. Pari-mutuel Track Report.

(a) Daily Pari-Mutuel Summary Report.

(1) An association shall prepare a pari-mutuel summary report for each day that pari-mutuel wagering occurs at its racetrack facility.

(2) The pari-mutuel summary report is the association's record of wagering activities at the racetrack.

(3) The association shall deliver a copy of the pari-mutuel summary report to the pari-mutuel auditor no later than 24 hours after the date of the performance for which the report was prepared.

(4) The report must contain, by each live and simulcast performance, and for each day historical racing is conducted, the following:

(A) net handle at:

(i) the association's racetrack facility;

and

(ii) the outlets wagering on the association's live performance;

(B) payouts to the wagering public;

(C) breakage;

(D) settlements to the host racetrack or guest racetrack;

(E) all purses earned, broken out by source, such as live, historical racing, simulcast, cross species, and export;

(F) Texas Bred Incentive Program

revenue;

(G) state tax; and

(H) association revenue.

(b) Monthly Pari-Mutuel Recap Report.

(1) The executive secretary shall prescribe a

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form for the monthly pari-mutuel recap report.

(2) The association shall file with the executive secretary a recap of pari-mutuel activity on the prescribed form. The monthly recap of pari-mutuel activity must be filed no later than the 30th day after the last day of the month for which the report is being filed. (Added eff. 4/1/01; (a) amended eff. 10/4/05; (a) amended eff. 9/28/14)

Sec. 321.15. License to Provide Totalisator Services.

(a) To provide totalisator services to an association in Texas, a totalisator company must be licensed by the Commission as a Totalisator Vendor. The license application must include:

(1) a copy of a current written contract to provide a totalisator system to an association;

(2) a list of all totalisator personnel assigned to work in Texas, or on behalf of an association operating in Texas, as described in Subchapter B of this chapter (relating to Totalisator Requirements and Operating Environment);

(3) an affidavit stating that the totalisator company and its employees will comply with the Rules and the Comptroller's rules regarding totalisator operations; and

(4) information of sufficient detail for the Commission to determine that the totalisator company is in compliance with Subchapter B of this chapter.

(b) A contract between the totalisator company and an association must be submitted to the Commission for approval before the contract's effective date. (Added eff. 4/1/01; (a) amended eff. 3/28/11; (a) amended eff. 1/10/13)

Sec. 321.17. Activities by Minors Restricted.

(a) An association may not permit an individual who is less than 16 years old to enter the public area of the association grounds unless the individual is accompanied by the individual's parent or legal guardian.

(b) An association may not accept a wager from an individual who has not attained the minimum age required to purchase alcoholic

beverages in this state. (Added eff. 4/1/01)

Sec. 321.19. Wagers by Employees of Commission.

A member or employee of the Commission may not place a wager or cause a wager to be placed on a race conducted or offered for wagering in this state. (Added eff. 4/1/01)

Sec. 321.21. Certain Wagers Prohibited.

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

(b) An association may not accept a wager made on credit. (Added eff. 4/1/01; (a) amended eff. 10/4/05)

Division 2. Wagering Information and Results

Sec. 321.23. Wagering Explanations.

(a) An association shall include the following information in the official live programs and simulcast programs and post in places easily viewed by patrons and licensees on association grounds:

(1) a general explanation of pari-mutuel wagering;

(2) an explanation of each type of pari-mutuel wagering pool offered; and

(3) the expiration date of mutuel tickets and vouchers.

(b) Historical racing terminals operated by an association must provide:

(1) an explanation of the rules of the various types of wagers offered through that terminal; and

(2) information about the expiration date of vouchers issued by the terminal, which must be printed on the vouchers.

(c) Wagering explanations must be reviewed and approved by the executive secretary before publication. (Added eff. 4/1/01; (a) amended eff. 3/28/11; (b), (c) amended eff. 9/28/14)

Sec. 321.25. Wagering Information.

(a) An association shall make every effort to provide accurate wagering information to the Texas

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pari-mutuel patron for handicapping purposes.

Examples of such information include:

- (1) the Daily Racing Form;
- (2) the official program; and
- (3) tip sheets.

(b) If wagering information is inaccurate for a live or simulcast race and the error is discovered before wagering has opened on the race, the mutuel manager shall:

(1) notify the pari-mutuel auditor and the stewards or racing judges, if available, of the error; and

(2) not open for wagering on the race until the correct information is obtained and verified.

(c) If wagering information is inaccurate for a live or simulcast race and the error is discovered after wagering has opened on the race, the mutuel manager shall:

(1) notify the pari-mutuel auditor and stewards or racing judges, if available, of the error;

(2) close wagering on the race;

(3) announce via the public address system the wagering information error;

(4) refund the wagers, or pay prices and manually refund the wagers placed on the affected race by those pari-mutuel patrons who request a refund; and

(5) not reopen for wagering on the race until the correct information is obtained and verified.

(d) Wagering information for historical racing must be audited by an independent third party approved by the executive secretary before the information is displayed or wagers taken on the associated race. (Added eff. 4/1/01; (d) added eff. 9/28/14)

Sec. 321.27. Posting of Race Results.

An association shall submit to the executive secretary for approval a plan for providing race results to the wagering public. The plan must include:

(1) methods by which the results will be provided;

(2) types of results to be provided; and

(3) the retention period of the race results.
(Added eff. 4/1/01; amended eff. 9/28/14)

Division 3. Mutuel Tickets and Vouchers

Sec. 321.29. Mutuel Tickets.

Each mutuel ticket issued must have printed on its face:

(1) the name of the racetrack facility where the wager was placed;

(2) the name of the racetrack where the race was conducted;

(3) the number of the race;

(4) the unique computer-generated ticket number;

(5) the date the ticket was issued;

(6) the date of the race for which the ticket was issued;

(7) the number of the ticket-issuing machine

(8) the type of pool;

(9) the number of each entry on which the wager was placed;

(10) the dollar amount of the wager; and

(11) appropriate language to indicate the expiration of the ticket shall be the first anniversary of the day the ticket was purchased. (Added eff. 4/1/01; amended eff. 8/5/07; amended eff. 1/10/13)

Sec. 321.31. Vouchers.

Each voucher issued must have printed on its face:

(1) the name of the racetrack facility where the voucher was issued;

(2) the unique computer-generated voucher number;

(3) the date the voucher was issued;

(4) the number of the ticket-issuing machine

(5) the dollar amount of the voucher; and

(6) appropriate language to indicate the expiration of the voucher shall be the first anniversary of the day the voucher was purchased. (Added eff. 4/1/01; amended eff. 7/16/08; amended eff. 1/10/13)

Sec. 321.33. Expiration Date.

(a) Mutuel tickets and vouchers issued on or after September 1, 2007, shall expire at the close of

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business one year from date of issuance.

(b) Mutuel tickets issued during the month of August 2007 shall expire at the close of business on September 29, 2008.

(c) Mutuel tickets issued prior to August 1, 2007, have expired in accordance with the Texas Racing Act.

(d) Vouchers issued prior to September 1, 2007, shall not expire. (Added eff. 4/1/01; amended eff. 11/12/03; amended eff. 10/4/05; amended eff. 7/16/08)

Sec. 321.34. Refusal to Cash.

(a) An association may refuse to cash a mutuel ticket if the association determines the ticket has been:

- (1) recorded as previously cashed or canceled;
- (2) issued after the stop betting command was issued; or
- (3) altered to appear as a winning ticket.

(b) An association may refuse to cash a voucher if the association determines the voucher has been:

- (1) recorded as previously cashed; or
- (2) altered to appear as an outstanding voucher. (Added eff. 4/1/01)

Sec. 321.35. Claim for Payment.

(a) Claims on pari-mutuel tickets or vouchers presented for payment.

(1) An association shall accept a claim for payment if the association has withheld payment or has refused to cash a pari-mutuel ticket or a voucher presented for payment. The claim for payment must be on a form prescribed by the association and approved by the executive secretary.

(2) The original of the claim must be signed by the claimant and shall be promptly forwarded to the Commission.

(3) The association shall make a recommendation to accompany the claim forwarded to the Commission. The recommendation must state whether or not the ticket or voucher can be positively identified as a

winning ticket or voucher.

(4) If a claim is made for the payment of a mutuel ticket or a voucher, the executive secretary shall investigate the claim and may:

- (A) order the association to pay the claim;
- (B) deny the claim; or
- (C) enter any other order the executive secretary determines appropriate.

(b) Claims on pari-mutuel tickets or vouchers that have been lost or destroyed.

(1) An association may cash a lost or destroyed ticket voucher if the ticket or voucher has not been previously cashed and the claimant can:

(A) demonstrate ownership via the use of the claimant's unique and personally identifiable player tracking account at the association where the transaction was made on the claimant's account; or

(B) can provide the mutuel manager sufficient information whereby the transaction can be positively verified through wagering system logs.

(2) If an association refuses to pay a claim for a lost or destroyed ticket or voucher, the claimant may file a claim for payment with the Commission. The claim for payment must be on a form prescribed by the association and approved by the executive secretary.

(A) The original of the claim must be signed by the claimant, and shall be promptly forwarded to the Commission.

(B) The association shall make a recommendation to accompany the claim forwarded to the Commission. The recommendation must state:

- (i) whether or not the ticket or voucher can be positively verified as a winning transaction;
- (ii) whether or not the ticket or voucher has been previously cashed, and date the ticket or voucher was cashed; and
- (iii) why the association refused to

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consideration and approval. For the Commission to approve the agreement, the agreement must:

(1) delineate the percentages by which the escrowed purse account revenue received by the association will be divided amongst the various breeds of horses; and

(2) be signed by all organizations recognized by the Commission or in the Act as representatives of horse owners, trainers, and/or breeders. (Added eff. 4/1/01; amended eff. 11/26/07)

Subchapter E. Ticketless Electronic Wagering.

Division 1. Conduct of E-Wagering.

Sec. 321.601. Purpose.

(a) 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.

(b) E-wagering may be conducted only within the enclosure of an association.

(c) Only persons meeting the age restriction in §321.17 of this title (relating to Activities by Minors Restricted) may participate in E-wagering. E-wagers must be made in person. (Added eff. 10/4/05)

Sec. 321.603. Authorization for E-Wagering.

An association may not conduct E-wagering unless approved by the executive secretary. (Added eff. 10/4/05)

Sec. 321.605. E-Wagering Plan.

(a) To be approved to conduct E-wagering, an association must submit a plan to the executive secretary. The plan must include:

- (1) the procedures for opening an account;
- (2) the procedures for establishing identity of account holder;
- (3) the procedures for making deposits to the account;
- (4) the procedures for making withdrawals from the account;

(5) the procedures for closing an account;

(6) the procedures for suspending an account; and

(7) a description of the totalisator system and E-wagering access system.

(b) The executive secretary may approve a plan to conduct E-wagering if the executive secretary determines that the association's plan meets the requirements of this section and does not conflict with the Rules or the Act. (Added eff. 10/4/05; (a) amended eff. 3/6/12)

Sec. 321.607. E-Wagering Account Restrictions.

(a) The mutuel manager of an association shall establish and manage E-wagering within an association's enclosure.

(b) The making and acceptance of wagers over the communications facility known as the "Internet" or "telephone" is prohibited.

(c) An association may accept deposits to an account only in the form of cash, cashier's check, money order, or other method determined by the executive secretary to be a cash equivalent.

(d) The association may not accept wagers in an amount that exceeds the account balance.

(e) An account holder must be at least 21 years of age.

(f) An account holder is responsible for all activity associated with his or her account.

(g) An association may use E-wagering devices only if the devices are connected to the totalisator system. (Added eff. 10/4/05)

Sec. 321.609. Testing E-Wagering.

An association's E-wagering system is subject to testing and inspection by the Commission. All forms of access to an account, including hardware used directly by the account holder for E-wagering are subject to testing and inspection by the Commission. (Added eff. 10/4/05)

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Division 2. Operational Requirements.

Sec. 321.621. Ticketless Electronic Wagering Hardware.

An E-wagering device must be configured for loss of signal when removed from an association's enclosure. (Added eff. 10/4/05)

Sec. 321.623. Cancellation of E-Wagers.

An account holder may cancel an E-wager only as provided by Sec. 321.43 of this title, (relating to Cancellation of Win Wagers). A statement approved by the executive secretary must appear in or accompany the account wagering application form advising the wagering account applicant of this requirement. (Added eff. 10/4/05)

Sec. 321.625. Discrepancy/Dispute Resolution.

If an account holder believes a discrepancy exists in his or her account, the account holder may file a claim for payment with the executive secretary. The executive secretary shall investigate all claims for payment and the executive secretary's determination is final. (Added eff. 10/4/05)

Sec. 321.627. Suspension or Termination of E-Wagering.

(a) The executive secretary may issue a cease and desist order terminating the E-wagering system if the executive secretary determines that the operation of the E-wagering system:

(1) violates the Rules, the Act, or other state law;

(2) is detrimental to the integrity of pari-mutuel wagering; or

(3) does not comply with the requirements of an E-wagering system as defined in this Act or a Commission rule.

(b) The executive secretary may deny, suspend, or terminate an individual's E-wagering account if the executive secretary determines the activities on the account:

(1) violates the Rules, the Act, or other state law; or

(2) are inconsistent with maintaining the integrity of pari-mutuel wagering. (Added eff. 10/4/05)

Subchapter F. Regulation of Historical Racing

Sec. 321.701. Purpose.

The Commission finds that pari-mutuel wagering on historical horse and greyhound races falls within its statutory grant of authority to regulate pari-mutuel wagering in connection with horse and greyhound racing. The mode and manner of pari-mutuel wagering on horse and greyhound races continues to evolve as the result of new technologies and innovations. Historical racing is distinct from live or simulcast racing. The Commission finds that its rulemaking authority can and should be used to respond to the changing technological, commercial, and societal needs, conditions, and patterns of the horse and greyhound racing industry. The primary advantage of historical racing is the additional revenue it provides for purses for live races conducted in this state. The Commission further finds it is in the public interest to encourage live racing, which promotes economic development in a variety of racing-related industries. Therefore, it is the Commission's intent to adopt and enforce rules relating to historical racing in a manner that will encourage live racing and enhance the state's agricultural, horse breeding, horse training, greyhound breeding, and greyhound training industries. (Added eff. 9/28/14)

Sec. 321.703. Historical Racing.

(a) A license to operate a pari-mutuel racetrack in this state held by an association that has been granted live race dates includes as a part of its privileges the privilege of conducting historical racing, subject to meeting the requirements of this subchapter and any other applicable Commission rules. Historical racing may only be conducted at times when wagering on live or simulcast racing is offered.

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(b) Deductions from Association's Commission.

(1) A horse racing association may not begin conducting historical racing until it executes:

(A) a valid contract with the horsemen's representative authorized under §309.299 of this title (relating to Horsemen's Representative) that establishes the portion of the association's commission that will be set aside for purses; and

(B) a valid contract with the official breed registries that establishes the portion of the association's commission that will be set aside for breeder incentives.

(2) The contracts required by this subsection shall not specify how deductions for purses and breeder incentives will be allocated among the various breeds.

(3) If a contract executed under paragraph (1)(A) or (B) of this subsection is terminated, expires, or otherwise lapses, and is not immediately replaced by a new contract, an association conducting historical racing shall continue paying purse contributions and breeder incentives at the levels provided for in the expired, terminated or lapsed contract until a new contract is executed. The new contract shall address the treatment of the payments made during the period in which a contract was not in place.

(c) Allocation of Deductions.

(1) Each horse racing association shall transfer the amount set aside for purses from historical racing into the purse accounts maintained by breed by the horsemen's representative under the Act, §6.08(b)(3). The allocation of purse amounts among the breeds shall be determined by a separate written agreement between the horsemen's organization and the association. A copy of the executed written agreement must be submitted to the executive secretary. If at any time an agreement under this subsection is not in place, the association shall notify the executive secretary in writing and shall subsequently hold the amount set aside for

purses from historical racing in escrow until an agreement is submitted.

(2) Each horse racing association shall transfer the amount set aside for breeder incentives from historical racing into accounts maintained by the breed registries. The allocation of breeder incentives among the breed registries shall be determined by a separate written agreement among the official state breed registries. A copy of the executed written agreement shall be submitted to the executive secretary and to the association. If at any time an agreement under this subsection is not in place, the association shall hold the amount set aside for breeder incentives from historical racing in escrow until an agreement is submitted.

(d) A greyhound racing association may not conduct historical racing unless it has a valid contract in place with the Texas Greyhound Association governing the portion of the association's commission that will be set aside for purses and breeder incentives. If a contract executed under this paragraph is terminated, expires, or otherwise lapses, and is not immediately replaced by a new contract, an association conducting historical racing shall continue paying purse contributions and breeder incentives at the levels provided for in the expired, terminated or lapsed contract until a new contract is executed. The new contract shall address the treatment of the payments made during the period in which a contract was not in place.

(e) To minimize the risk of business interruptions, the contracts required by subsections (b) and (d) of this section shall specify a process by which the parties will resolve disputes about the terms of any successor contracts.

(f) Breakage from historical racing shall be allocated pursuant to this subsection. The use and distribution of the amounts transferred under this subsection are subject to audit by the Commission.

(1) Two percent of the breakage derived from historical racing by a horse racing association shall be allocated to the equine research account under Subchapter F, Chapter 88, Education Code. Pursuant to §6.08(h) of the Act,

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the remaining 98 percent of the breakage derived from historical racing constitutes “total breakage.” The allocation among the breed registries of breakage derived from historical racing shall be determined within the written agreement described in subsection (c)(2) of this section. An association shall transfer 80 percent of the total breakage into accounts maintained by the breed registries to be paid out as follows:

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

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

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

(2) Fifty percent of the breakage derived from historical racing by a greyhound racing association shall be transferred by the association into accounts maintained by the Texas Greyhound Association. Of that portion of the breakage, one-half is to be used in stakes races. The breakage received by the Texas Greyhound Association under this paragraph is subject to the grant program requirements §303.101(b) of this title (relating to Greyhound Breed Registry).

(g) An association seeking to conduct historical racing shall submit the form of the contracts required by subsection (b) or (d) of this section to the executive secretary for review and approval. The association shall provide a copy of the executed contracts required by subsection (b) or (d) of this section to the Commission. (Added eff. 9/28/14)

Sec. 321.705. Request to Conduct Historical Racing.

(a) In addition to the requirements of §309.162 of this title (relating to Management, Totalisator Companies, and Concessionaires Contracts), §321.15 of this title (relating to License to Provide Totalisator Services) and §321.101

of this title (relating to Totalisator Requirements and Operating Environment), an association must submit a written request to the Commission to receive approval to conduct historical racing, to offer new types of wagers, or to change the presentation or appearance of previously-approved wager types.

(1) The request must identify the types of wagers that will be offered, the presentation and appearance of the wagers, the types and numbers of historical racing terminals that the association will operate, the area(s) within the association’s enclosure where the terminals will be placed, and the date that operations will begin. The request may identify the number of historical racing terminals to be installed as a range, rather than a specific number.

(2) The request must be accompanied by a certification from an independent testing laboratory verifying that the proposed historical racing totalisator system and the proposed wagers meets jurisdictional rules for historical racing. When all other requirements for conducting historical racing have been met, the Commission shall issue a conditional approval to allow an association to install the historical racing totalisator system. An independent testing laboratory must test the installed system to ensure its compliance with the Commission’s rules and technical standards, and the association shall submit the results of this testing and the associated report to the agency to obtain final approval to operate the historical racing totalisator system.

(3) The Commission may require the association to submit additional information if the Commission determines that such information is necessary to effectively evaluate the request.

(b) In considering whether or not to approve a request to conduct historical racing, the Commission shall consider, but is not limited to, the following factors:

(1) whether the historical racing totalisator system and the proposed wagers comply with the applicable requirements for pari-mutuel wagering in connection with horse and greyhound racing as

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set forth in these rules and the Texas Racing Act;

(2) the regulatory compliance and conduct of the association, the financial stability of the association and the effect that allowing pari-mutuel wagering on historical races will have on the economic viability of the association;

(3) the impact of historical racing on purses and breeder incentives; and

(4) the public interest that will be served by historical racing.

(c) The Commission shall not approve any wager that would violate the prohibitions in Article III, Section 47 of the Texas Constitution.

(d) An association conducting historical racing shall submit a request for approval to the executive secretary before:

(1) updating the software for the historical racing totalisator system; or

(2) installing new equipment to be operated as part of the historical racing totalisator system that was not included in the original request under subsection (a) of this section.

(e) The executive secretary shall provide a written response to a request under subsection (d) of this section within ten (10) days. If the executive secretary does not approve the request after ten (10) days, the executive secretary shall provide a written response identifying any unresolved issues that are preventing approval. The executive secretary may request a new certification and report pursuant to subsection (a)(2) of this section to evaluate a change requested under subsection (d) of this section. The executive secretary shall notify the association if a new report and certification will be required within ten (10) days of receiving the request under subsection (d) of this section. If a new report and certification are requested, the executive secretary shall provide a written response to a request under subsection (d) of this section within ten (10) days of receiving the new report and certification.

(f) The executive secretary may require an association to provide access to inspect and test a historical racing totalisator system for compliance with commission rules at any time.

(g) The Commission shall not limit an association's ability to conduct historical racing based on the brand of historical racing terminal, as long as the totalisator system meets the requirements of the subchapter and any other applicable commission rules. (Added eff. 9/28/14)

Sec. 321.707. Requirements for Operating a Historical Racing Totalisator System.

(a) A historical racing totalisator system may be operated only within an association's enclosure.

(b) Once a patron deposits the wagered amount in the historical racing terminal, a race shall be chosen at random for presentation to the patron.

(c) Prior to the patron making wager selections, the terminal shall not display any information that would allow the patron to identify the race on which he or she is wagering, including the location of the race, the date on which the race was run, the names of the animals in the race, or the names of the jockeys that participated in the race.

(d) The terminal shall make available true and accurate past performance information on the race to the patron prior to making his or her wager selections. The information shall be current as of the day the race was run. The information may be displayed on the terminal in data or graphical form.

(e) After a patron finalizes his or her wager selections, the terminal shall show the race, or a portion thereof, and the official results and identity of the race.

(f) If there is a complete breakdown of a historical racing terminal, the association offering the wager shall make a full refund of the patron's balance on the terminal at the time of the breakdown, as verified by the historical racing totalisator system. (Added eff. 9/28/14)

Sec. 321.709. Types of Pari-mutuel Wagers for Historical Racing.

In addition to the types of pari-mutuel wagers authorized for live racing in subchapter C of this chapter, an association conducting historical

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racing may offer the types of pari-mutuel wagers for historical racing identified in the Association of Racing Commissioners International Model Rules, ARCI-004-155, as approved by the ARCI Board on July 31, 2013. Copies of ARCI-004-155 are available at the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711, or at the Commission office at 8505 Cross Park Dr., #110, Austin, Texas 78754. The Commission may also approve additional types of pari-mutuel wagers for historical racing on a case-by-case basis. (Added eff. 9/28/14)

Sec. 321.711. Historical Racing Pools; Seed Pools.

(a) Except as specified in subsection (c) of this section, all payouts to winning historical racing wagers shall be paid exclusively from the pools of historical racing wagers. An association shall not conduct historical racing in a manner that allows patrons to wager against the association, or in a manner such that the association's commission depends upon the outcome of any particular race or the success of any particular wager. Payment of a winning wager shall not exceed the amount available in the applicable pool and must be paid to the patron using cash or cash vouchers only.

(b) Seed pools shall be maintained and funded so that the amount available at any given time is sufficient to ensure that a patron will be paid the minimum payout for a winning wager as specified by the historical racing terminal through which the wager is placed. An association may assign a percentage of each historical racing wager to fund seed pools.

(c) An association shall provide the funding for the initial seed pool for each type of wager. The funding for the initial seed pool shall be non-refundable. (Added eff. 9/28/14)

Sec. 321.713. Deductions from Pari-mutuel Pools.

(a) Each association conducting historical racing may deduct a portion of each historical

racing pool as its commission.

(b) The agreements required pursuant to §321.703(b) and (d) of this title (relating to Historical Racing) shall apply to the portion of the association's commission that remains after deduction of all licensing fees, royalties, expenses, and any other costs charged to the association by the Commission, by the providers of the equipment and technology used by the association, or by third parties who own rights to the races used by the historical racing totalisator system. (Added eff. 9/28/14)

Sec. 321.715. Contract Retention; Pari-mutuel Wagering Record Retention.

(a) In addition to any other applicable approval requirements, all contracts executed by an association regarding historical racing are subject to inspection by the executive secretary. An association shall maintain each contract regarding historical racing for at least one year after the end of the term of the contract. An association must provide a copy of the contract to the executive secretary on request.

(b) Each association shall maintain complete records of all wagering on historical races, including the amounts wagered at each terminal in a historical racing totalisator system, for at least two (2) years. (Added eff. 9/28/14)

Sec. 321.717. Effect of Conflict

To the extent that a provision of this subchapter conflicts with Subchapter A of this chapter (relating to Mutuel Operations) or requirements contained elsewhere in the Commission's rules, this subchapter controls with respect to historical racing. (Added eff. 9/28/14)

Sec. 321.719. Severability.

If any part of this subchapter or its application to any person or circumstance is held invalid, the invalidity does not affect other parts or applications of the rules that can be given effect without the invalid part or application, and to this end, the rule is severable. (Added eff. 9/28/14)