

CHAPTER 19

S.B. No. 15

AN ACT

relating to the regulation and licensing of greyhound racing and horse racing and pari-mutuel wagering; relating to the creation, powers, and duties of the Texas Racing Commission and its agents and to certain powers and duties of the comptroller and the comptroller's agents; authorizing certain appropriations and fees; providing for elections; defining offenses and providing penalties; adding Section 47.11 to Chapter 47, Penal Code, as amended; and amending Article 2.12, Code of Criminal Procedure, 1965, as amended.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. The Texas Racing Act is enacted to read as follows:

“ARTICLE 1. GENERAL PROVISIONS

“Section 1.01. SHORT TITLE. This Act may be cited as the Texas Racing Act.

"Section 1.02. **PURPOSES.** The purposes of this Act are to encourage agriculture, the horse-breeding industry, the horse-training industry, the greyhound-breeding industry, tourism, and employment opportunities in this state related to horse racing and greyhound racing and to provide for the strict regulation and control of pari-mutuel wagering in connection with that racing.

"Section 1.03. **DEFINITIONS.** In this Act:

"(1) 'Person' includes any individual or entity capable of holding a legal or beneficial interest in property.

"(2) 'Association' means a person licensed under this Act to conduct a horse race meeting or a greyhound race meeting with pari-mutuel wagering.

"(3) 'Commission' means the Texas Racing Commission.

"(4) 'Comptroller' means the comptroller of public accounts.

"(5) 'Executive secretary' means the executive secretary of the Texas Racing Commission.

"(6) 'Horse race meeting' means the conducting of horse races on a day or during a period of consecutive or nonconsecutive days.

"(7) 'Thoroughbred horse' means a horse that is registered by the Jockey Club, New York City, New York.

"(8) 'Thoroughbred racing' means the form of horse racing in which Thoroughbred horses mounted by jockeys engage in a race.

"(9) 'Quarter horse' means a horse that is registered by the American Quarter Horse Association, Amarillo, Texas.

"(10) 'Quarter horse racing' means the form of horse racing in which quarter horses mounted by jockeys engage in a race.

"(11) 'Appaloosa horse' means a horse that is registered by the Appaloosa Horse Club, Moscow, Idaho.

"(12) 'Appaloosa racing' means the form of racing in which Appaloosa horses mounted by jockeys engage in a race.

"(13) 'Arabian horse' means a horse that is registered by the Arabian Horse Registry of America, Denver, Colorado.

"(14) 'Arabian racing' means the form of horse racing in which Arabian horses sanctioned for racing by the International Arabian Horse Association, Denver, Colorado, mounted by jockeys engage in a race.

"(15) 'Paint horse' means a horse that is registered by The American Paint Horse Association, Fort Worth, Texas.

"(16) 'Paint horse racing' means the form of horse racing in which paint horses mounted by jockeys engage in a race.

"(17) 'Enclosure' means all areas of a racing association's grounds, including the parking area, to which admission ordinarily can be obtained only on payment of an admission fee or presentation of official credentials.

"(18) 'Pari-mutuel wagering' means the form of wagering on the outcome of greyhound or horse racing in which those who wager purchase tickets of various denominations on an animal or animals and all wagers for each race are pooled and held by the racing association for distribution of the total amount, less the deductions authorized by this Act, to holders of tickets on the winning animals.

"(19) 'Pari-mutuel pool' means the total amount of money wagered by patrons on the result of a particular race or combination of races, the total being divided into separate mutual pools for win, place, show, or combinations.

"(20) 'Breakage' means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of 10 cents, except in the event a minus pool occurs, in which case the breakage shall be in multiples of five cents.

"(21) 'Texas-bred horse' means a horse that is sired by a stallion standing in Texas at the time of conception and foaled by a mare in Texas, except that a mare may be bred

outside Texas and brought into Texas to foal and all foals sired and foaled under those conditions in the mare's lifetime shall be considered 'Texas-bred' if the mare is bred back to a stallion standing in Texas. In all instances any foal must qualify under the rules of the commission.

"(22) 'Accredited Texas-bred horse' means a Texas-bred horse that meets the accreditation requirements of the state breed registry of that breed of horse.

"(23) 'Mixed racing' means a race in which different breeds of horses participate.

"(24) 'State horse breed registry' means a designated association administering accredited Texas-bred requirements for its specific breed of horses.

"(25) 'Racetrack' means a facility that is licensed under this Act for the conduct of pari-mutuel wagering on greyhound racing or horse racing.

"(26) 'Horse racing day' means the 24-hour period ending at 12 midnight.

"(27) 'Clerk of scales' means a racetrack official who is responsible for weighing a jockey before and after a race.

"(28) 'Jockey' means a professional rider licensed by the commission to ride horse races.

"(29) 'Jockey apprentice' means a stable assistant who is in training to become a jockey.

"(30) 'Official starter' means a racetrack official who is in charge of the start of a race.

"(31) 'Paddock judge' means a racetrack official who supervises animals entered in a race while the animals are assembled before the beginning of a race in an enclosure on the grounds of a racetrack.

"(32) 'Patrol judge' means a racetrack official who is stationed at a set point along the racetrack to monitor the running of a race and to determine that the race is fairly run.

"(33) 'Placing official' means a racetrack official who records the order of the finish of a race.

"(34) 'Stable foreman' means the person in charge of the building in which horses are lodged and fed.

"(35) 'Steward' means an executive official of a horse racetrack.

"(36) 'Trainer' means a person who is licensed by the commission to train racehorses.

"(37) 'Handicapper' means a person who predicts the winner of a horse race.

"(38) 'Authorized agent' means a person appointed by an owner of a horse to represent the owner. The term is limited to a person who is appointed by a written instrument that is acknowledged and approved by the commission.

"(39) 'Horseshoe inspector' means a racetrack official who inspects the shoes of the horses entered in a race.

"(40) 'Jockey room custodian' means a person who maintains the premises of a room in which jockeys prepare for a race.

"(41) 'Timer' means a racetrack official who times the running of a race.

"(42) 'Veterinarian' means a person licensed under The Veterinary Licensing Act (Article 7465a, Vernon's Texas Civil Statutes).

"(43) 'Concessionaire' means a person licensed by the commission to sell refreshments or souvenirs at a racetrack.

"(44) 'Combination' means a combination of races.

"(45) 'Regular wagering' means wagering on a single horse or greyhound in a single race. The term includes wagering on the win pool, the place pool, or the show pool.

"(46) 'Multiple wagering' means wagering on two or more animals in one or more races or on one animal in more than one race.

"(47) 'Greyhound' means a purebred greyhound dog registered by the National Greyhound Association.

“(48) ‘Greyhound racing’ means any race in which two or more greyhounds engage in a contest of speed or endurance or pursue a mechanical lure.

“(49) ‘Enclosure—public’ means the areas of the grounds of an association to which a member of the public is admitted by payment of an admission fee or on presentation of authorized credentials, but excludes restricted areas such as the racetrack, the receiving area, and the area in which the animals are housed.

“(50) ‘Greyhound racing days’ means days on which a permitted association conducts greyhound racing. ‘One racing day’ means a period commencing at noon and ending at 2 a.m. the next calendar day, except in the case of days on which there are matinee races.

“(51) ‘Greyhound matinee race’ means any performance starting between 10 a.m. and 5 p.m. on any day other than Sunday.

“(52) ‘Performance’ means the consecutive running of not more than 13 greyhound races.

“(53) ‘Judge’ means an executive official of a greyhound racetrack.

“(54) ‘Nonprofit corporation’ means a corporation organized under Subdivision 7, Article 1302, Revised Statutes, or organized under the Texas Non-Profit Corporation Act (Article 1396–1.01 et seq., Vernon’s Texas Civil Statutes) that:

“(A) does not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services;

“(B) has a governing body or officers elected by a vote of members or by a vote of delegates elected by the members; and

“(C) has obtained an exemption under Section 501 of the Internal Revenue Code (26 U.S.C. Section 501).

“(55) ‘Mixed meet’ means a horse race meeting that includes races by more than one breed of horse.

“(56) ‘Texas-owned horse’ means a horse owned by a bona fide resident of this state as determined by the rules of the commission.

“(57) ‘National historic district’ means a district included in or eligible for inclusion in the National Register of Historic Places created under the National Historic Preservation Act, 16 U.S.C. Section 470 et seq.

## “ARTICLE 2. TEXAS RACING COMMISSION

“Section 2.01. CREATION. The Texas Racing Commission is created.

“Section 2.02. MEMBERSHIP. (a) The commission consists of six members appointed by the governor with the advice and consent of the senate and two ex officio members who shall have the right to vote. The ex officio members are the chairman of the Public Safety Commission and the comptroller of public accounts. In making appointments to the commission, the governor shall strive to achieve representation by all the population groups of the state with regard to economic status, sex, race, and ethnicity.

“(b) One appointed member must be a veterinarian licensed to practice in this state who specializes in the treatment of small animals. One appointed member must be a veterinarian licensed to practice in this state who specializes in the treatment of large animals. Two appointed members must be individuals who are not veterinarians and who have special knowledge or experience related to greyhound racing. Two appointed members must be individuals who are not veterinarians and who have special knowledge or experience related to horse racing.

“Section 2.03. TERM OF OFFICE. (a) Except for the initial appointments, appointed members hold office for staggered terms of six years with two members’ terms expiring February 1 of each odd-numbered year. A member holds office until that member’s successor is appointed and qualifies.

“(b) In making the initial appointments, the governor shall designate two appointed members for a term expiring February 1, 1989, two for a term expiring February 1, 1991, and two for a term expiring February 1, 1993. The governor shall make the initial appointments on or before February 1, 1987.

“(c) The ex officio members hold office on the commission for the time for which they hold their other offices.

“Section 2.04. **RESIDENCE REQUIREMENT.** An appointed member is not eligible to be a member of the commission unless that appointee has been a resident of this state for at least 10 consecutive years immediately before appointment.

“Section 2.05. **ELIGIBILITY.** A person is not eligible to be an appointed member of the commission if that person owns any financial interest in a racetrack or its operation or if that person is related within the second degree by affinity or the third degree by consanguinity to a person who owns any financial interest in a racetrack or its operation. Each person appointed to or employed by the commission is subject to all background checks and qualification criteria required to hold a racetrack license or other license under this Act. A person who has been convicted of a felony or of any crime involving moral turpitude is not eligible for appointment to the commission.

“Section 2.06. **FINANCIAL STATEMENT.** Each appointed member of the commission and the executive secretary of the commission is an ‘appointed officer of a major state agency’ within the meaning of Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon’s Texas Civil Statutes). An appointee shall also file a detailed financial statement with the secretary of state of the type required by The Banking Department of Texas in the application for charter for state banks. The financial statement is a public record under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon’s Texas Civil Statutes).

“Section 2.07. **PROHIBITED CONDUCT.** A member of the commission commits an offense if the member:

“(1) accepts any employment and for that employment, remuneration from a racetrack association or accepts any other remuneration from a racetrack association directly or indirectly, whether the racetrack is located in this state or elsewhere;

“(2) wagers or causes a wager to be placed on the outcome of a race conducted in this state; or

“(3) accepts or is entitled to any part of the purse to be paid on a greyhound or a horse in a race conducted in this state.

“Section 2.08. **EXPENSES.** Each appointed member of the commission is entitled to a per diem in an amount prescribed by legislative appropriation for each day spent in performing the duties of the office and is entitled to reimbursement for actual and necessary expenses incurred in performing those duties. The ex officio members are entitled to reimbursement for expenses from their respective agencies as provided by law for expenses incurred in the performance of their other official duties.

“Section 2.09. **OFFICES.** The commission shall maintain its general office in the City of Austin. The commission may also establish branch offices.

“Section 2.10. **CHAIRMAN.** The members of the commission shall elect one of the members chairman to serve a term of two years.

“Section 2.11. **MEETINGS OF COMMISSION.** (a) The commission shall hold at least six regular meetings each year on dates fixed by the commission. The commission shall adopt rules providing for the holding of special meetings.

“(b) A majority of the commission constitutes a quorum. A majority of a section of the commission constitutes a quorum for purposes of conducting business related to matters under the exclusive jurisdiction of that section.

“(c) The commission shall keep at its general office a public record of every vote.

“Section 2.12. **EXECUTIVE SECRETARY; EMPLOYEES.** (a) The commission shall employ an executive secretary and other employees as necessary to administer this Act.

“(b) The commission may not employ or continue to employ a person:

“(1) who owns a financial interest in a racetrack or its operation;

“(2) who accepts any remuneration from a racetrack;

“(3) who is an owner, lessor, or lessee of a greyhound or a horse that is entered in a race in this state; or

“(4) who accepts or is entitled to any part of the purse or purse supplement to be paid on a greyhound or a horse in a race conducted in this state.

“(c) The commission may not employ or continue to employ a person related within the second degree by affinity or the third degree by consanguinity to a person who is subject to a disqualification prescribed by Subsection (b) of this section.

“(d) The commission shall employ the executive secretary and other employees to reflect the diversity of the population of the state as regards race, color, handicap, sex, religion, age, and national origin.

“Section 2.13. EXECUTIVE SECRETARY; DUTIES. The executive secretary shall keep the records of the commission and shall perform other duties as required by the commission. The executive secretary serves at the pleasure of the commission on a full-time basis and may not hold other employment.

“Section 2.14. LEGAL REPRESENTATION. The attorney general shall designate at least one member of the attorney general’s staff to counsel and advise the commission and to represent the commission in legal proceedings. The attorney general shall make available to the appropriate prosecuting attorneys any information obtained regarding violations of this Act.

“Section 2.15. RECORDS. All records of the commission that are not made confidential by other law are open to inspection by the public during regular office hours. The contents of the investigatory files of the commission, however, are not public records and are confidential except in a criminal proceeding or in a hearing conducted by the commission.

### “ARTICLE 3. POWERS AND DUTIES OF COMMISSION

“Section 3.01. COMMISSION SECTIONS. (a) For purposes of rulemaking and licensing and for any action relating exclusively to horse racing or exclusively to greyhound racing, the commission shall operate as separate sections.

“(b) For issues related to greyhound racing, the veterinarian member who specializes in the treatment of small animals, the members who have special knowledge or experience related to greyhound racing, and the two ex officio members shall exercise exclusive jurisdiction. For issues related to horse racing, the veterinarian member who specializes in the treatment of large animals, the members who have special knowledge or experience related to horse racing, and the two ex officio members shall exercise exclusive jurisdiction.

“(c) On matters of general application to both greyhound and horse racing, the commission shall act as a single body.

“Section 3.02. REGULATION AND SUPERVISION. In accordance with Section 3.01 of this Act, the commission shall regulate and supervise every race meeting involving wagering on the result of greyhound or horse racing. All persons and things relating to the operation of those meetings are subject to regulation and supervision. The commission shall adopt rules for conducting racing involving wagering and shall adopt other rules to administer this Act that are consistent with this Act.

“Section 3.03. POWER OF ENTRY. A member of the commission, an authorized agent of the commission, a commissioned officer of the Department of Public Safety, or a peace officer of the local jurisdiction in which the association maintains a place of business may enter the office, racetrack, or other place of business of an association at any time for the purpose of enforcing and administering this Act.

“Section 3.04. REQUIREMENT OF BOOKS AND RECORDS; FINANCIAL STATEMENTS. The commission shall require associations, managers, and concessionaires to keep books and records and to submit financial statements to the commission. The commission shall adopt reasonable rules relating to those matters.

“Section 3.05. SUBPOENA POWER. (a) A member of the commission, or a duly appointed agent of the commission, while involved in carrying out functions under this Act, may take testimony and may require by subpoena the attendance of witnesses and the production of books, records, papers, correspondence, and other documents that the

commission considers advisable. Subpoenas shall be issued under the signature of the commission or its duly appointed agent and shall be served by any person designated by the commission. A member of the commission, or a duly appointed agent of the commission, may administer oaths or affirmations to witnesses appearing before the commission or its agents.

“(b) If a subpoena issued under this section is disobeyed, the commission or its duly appointed agent may invoke the aid of the appropriate state court in requiring compliance with the subpoena. Any court that has jurisdiction where the person in violation of the subpoena is found or transacts business may issue an order requiring the person to appear and testify and to produce books, records, papers, correspondence, and documents. Failure to obey the order of the court shall be punished by the court as contempt.

“Section 3.06. CERTIFIED DOCUMENTS. Instead of requiring an affidavit or other sworn statement in any application or other document required to be filed with the commission, the commission may require a certification of the document under penalty of perjury in the form the commission may prescribe.

“Section 3.07. OFFICIALS OF RACE MEETINGS. (a) Each horse race or greyhound race meeting shall be supervised by three stewards approved by the commission for horse racing from a list of qualified nominees submitted by the association or by three judges for greyhound racing appointed by the commission. The commission shall compensate each of the stewards who supervises a horse race meeting. The commission shall also compensate one of the judges who supervises a greyhound race meeting; the other judges at such a race meeting shall be compensated by the association. For each race meeting, the commission shall also employ a state veterinarian and all other racetrack officials, who shall be compensated by the appropriate association.

“(b) The commission shall make rules specifying the authority and the duties of each official, including the power of stewards or judges to impose penalties for unethical practices or violations of racing rules. A penalty imposed by the stewards or judges may include a fine of not more than \$5,000, a suspension for not more than one year, or both a fine and suspension. If, in the opinion of the stewards or judges, the allowable penalties are not sufficient, the stewards or judges may refer the case to the commission for further action.

“(c) The commission shall require each steward or judge to take and pass both a written examination and a medical examination annually. The commission by rule shall prescribe the methods and procedures for taking the examinations and the standards for passing. Failure to pass an examination is a ground for refusal to issue an original or renewal license to a steward or judge or for suspension or revocation of such a license.

“(d) Medication or drug testing performed under Section 14.03 of this Act shall be conducted either by the Texas Veterinary Medical Diagnostic Laboratory or in conjunction with or by a private or public agency that is approved by the commission and by the Texas Veterinary Medical Diagnostic Laboratory and that is accredited by the American Association of Veterinary Laboratory Diagnosticians. Charges for services performed under this section by the Texas Veterinary Medical Diagnostic Laboratory or by an approved and accredited private or public agency shall be forwarded to the commission for approval as to the reasonableness of the charges for the services. Charges may include but are not limited to expenses incurred for travel, lodging, testing, and processing of test results. The reasonable charges associated with medication or drug testing conducted under this Act shall be paid by the association that receives the services. On the approval of the charges as reasonable, the commission shall forward a copy of the charges to the association that receives the services for immediate payment. All persons performing testing services under this section and Section 14.03 of this Act must be licensed under Article 7 of this Act. A person conducting tests under this section is a state veterinarian for the purposes of Subsection (a) of this section.

“(e) To pay the charges associated with the medication or drug testing, an association may use the money retained by the association on tickets that are purchased as wagers on winning horses or greyhounds and that are not cashed by the holders of the tickets. If additional amounts are needed to pay the charges, the association shall pay those additional amounts. If the amount retained exceeds the amount needed to pay the

charges, the association shall pay the excess to the comptroller for deposit in the manner provided by Section 3.09 of this Act.

"Section 3.08. **APEAL FROM DECISION OF STEWARDS OR JUDGES.** A final decision of the stewards or judges may be appealed to the commission in the manner provided for a contested case under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

"Section 3.09. **FUNDING.** (a) The comptroller shall deposit the state's share of each pari-mutuel pool from horse racing and greyhound racing in the General Revenue Fund.

"(b) The commission shall deposit the money it collects under this Act in the State Treasury to the credit of a special fund to be known as the Texas Racing Commission fund. The Texas Racing Commission fund may be appropriated only for the administration and enforcement of this Act. Any unappropriated money remaining in that special fund at the close of each fiscal biennium shall be transferred to the General Revenue Fund and may be appropriated for any legal purpose. The legislature may also appropriate money from the General Revenue Fund for the administration and enforcement of this Act. Any amount of general revenue appropriated for the administration and enforcement of this Act in excess of the cumulative amount deposited in the Texas Racing Commission fund shall be reimbursed from the Texas Racing Commission fund not later than one year after the date on which the general revenue funds are appropriated, with 12 percent interest per year.

"Section 3.10. **ANNUAL REPORT.** The commission shall make a report to the governor, lieutenant governor, and speaker of the house of representatives not later than January 31 of each year. The report shall cover the operations of the commission and the condition of horse breeding and racing and greyhound breeding and racing during the previous year. The commission shall also obtain from the Department of Public Safety a comprehensive report of any organized crime activities in this state which the department may wish to report and information concerning any and all illegal gambling which may be known to exist in the state and shall include the report by the department in its report and shall include any recommendations it considers appropriate.

"Section 3.11. **COOPERATION WITH PEACE OFFICERS.** The commission shall cooperate with all district attorneys, criminal district attorneys, county attorneys, the Department of Public Safety, the attorney general, and all peace officers in enforcing this Act. Under its authority to conduct criminal history information record checks under Section 5.04 of this Act, the commission shall maintain and exchange pertinent intelligence data with other states and agencies.

"Section 3.12. **REPORTING OF VIOLATIONS.** The commission's rules shall allow anonymous reporting of violations of this Act or of rules adopted by the commission.

#### "ARTICLE 4. POWERS AND DUTIES OF COMPTROLLER

"Section 4.01. **BOOKS AND RECORDS.** All books, records, and financial statements required by the commission under Section 3.04 of this Act are open to inspection by the comptroller.

"Section 4.02. **POWER OF ENTRY.** The comptroller and the authorized agents of the comptroller may enter the office, racetrack, or other place of business of an association at any time to inspect an association's books, records, or financial statements required under Section 3.04 of this Act.

"Section 4.03. **RULES.** The comptroller may adopt rules for the enforcement of the comptroller's powers and duties under this Act.

"Section 4.04. **COLLECTION OF STATE'S PORTION OF PARI-MUTUEL POOL.** The comptroller may prescribe by rule procedures for the collection of the state's portion of each pari-mutuel pool. The state's portion of each pool shall be deposited as provided by Sections 3.09, 6.08, and 6.09 of this Act at the end of each racing day.

"Section 4.05. **COMPLIANCE.** If an association does not comply with a rule adopted under this article or refuses to allow access to or inspection of any of its required books, records, or financial statements or if the association is shown on the records of the comptroller as being delinquent for the state's portion of the pari-mutuel pool collected by



the comptroller, the comptroller shall certify that fact to the commission. On receipt of the certification, the commission shall immediately call a hearing to revoke or suspend the association's license or shall take other action that the commission considers appropriate.

“ARTICLE 5. GENERAL LICENSE PROVISIONS

“Section 5.01. FORM; CERTIFICATE; FEES. (a) The commission shall prescribe forms for applications for licenses and shall provide each licensee with a license certificate or credentials.

“(b) The commission shall annually prescribe reasonable license fees for each category of license issued under this Act. The fees shall be sufficient to pay the costs of administering and enforcing the licensing program created under this Act.

“Section 5.02. JUDICIAL REVIEW. Judicial review of an order of the commission refusing to issue an original or renewal racetrack license or revoking or suspending a racetrack license is under the substantial evidence rule. Judicial review of an order respecting any other license is by trial de novo.

“Section 5.03. FINGERPRINTS. (a) An applicant for any license under this Act must submit to the commission a complete set of fingerprints of the individual natural person applying for the license or, if the applicant is not an individual natural person, a complete set of fingerprints of all officers, directors, incorporators, and shareholders of more than five percent of the outstanding stock of a corporate licensee.

“(b) The commission shall, not later than the next day after receiving the prints, forward the prints by mail to the Department of Public Safety. The department shall classify the prints and check them against its fingerprint files and shall report to the commission its findings concerning the criminal record of the applicant or the lack of such a record. A license may not be issued until the report is made to the commission.

“(c) A peace officer of this or any other state, or any district office of the commission, shall take the fingerprints of an applicant for a license on forms approved and furnished by the Department of Public Safety and shall immediately deliver them to the commission.

“Section 5.04. ACCESS TO CRIMINAL HISTORY RECORDS. (a) The commission is authorized to obtain any criminal history record information that relates to each applicant for employment by the commission and to each applicant for a license issued by the commission and that is maintained by the Department of Public Safety or the Federal Bureau of Investigation Identification Division. The commission may refuse to recommend an applicant who fails to provide a complete set of fingerprints.

“(b) The commission may obtain criminal history record information from any law enforcement agency.

“(c) The criminal history record information received under this section is for the exclusive use of the commission and is privileged and confidential. The criminal history record information may not be released or otherwise disclosed to any person or agency except on court order or with the consent of the applicant.

“ARTICLE 6. RACETRACK LICENSES

“Section 6.01. LICENSE REQUIRED. A person shall not conduct a greyhound race meeting or a horse race meeting with wagering on the results without a racetrack license.

“Section 6.02. CLASSIFICATION OF HORSE-RACING TRACKS. (a) Horse-racing tracks are classified as class 1 racetracks, class 2 racetracks, and class 3 racetracks.

“(b) A class 1 racetrack is a racetrack on which racing is conducted for a minimum of 45 days in a calendar year, the number of days and the actual dates to be determined by the commission under Article 8 of this Act. A class 1 racetrack may operate only in a county with a population of not less than 750,000, according to the most recent federal census, or in a county adjacent to a county with such a population. Not more than four class 1 racetracks may be licensed and operated in this state.

“(c) A class 2 racetrack is a racetrack on which racing is conducted for a number of days not to exceed 44 days in a calendar year except as otherwise provided by this section. To ensure that an association that holds a class 2 racetrack license may conduct races on

the same dates and during the same events that such a racetrack has conducted races in the past, an association that conducted horse races in 1986 that were approved by the American Quarter Horse Association or that, on the effective date of this Act, has been approved to conduct races on certain dates in 1987 by the American Quarter Horse Association or an association which historically has conducted races on certain dates or during certain events in the past is entitled to conduct races on those dates or during those events in the future. The commission may permit an association that holds a class 2 racetrack license and that is located in a national historic district to conduct horse races for more than 44 days in a calendar year.

“(d) A class 3 racetrack is a racetrack operated by a county or a nonprofit fair under Article 12 of this Act. An association that holds a class 3 racetrack license and that conducted horse races in 1986 may conduct races for a number of days not to exceed 16 days in a calendar year on the dates selected by the association.

“Section 6.03. APPLICATION. (a) The commission shall require each applicant for an original racetrack license or a renewal license to pay the required application or renewal fee and to submit an application, on a form prescribed by the commission, containing the following information:

“(1) if the applicant is an individual, the full name of the applicant, the applicant’s date of birth, a physical description of the applicant, the applicant’s current address and telephone number, and a statement by the applicant disclosing any arrest or conviction for a felony or for a misdemeanor, except a misdemeanor under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon’s Texas Civil Statutes) or a similar misdemeanor traffic offense;

“(2) if the applicant is a corporation, the state in which it is incorporated, the names and addresses of the corporation’s agents for service of process in this state, the names and addresses of its directors and stockholders, if any, the dates of birth of its directors and stockholders, physical descriptions of its directors and stockholders, the current addresses and telephone numbers of its directors and stockholders, and a statement by each director and stockholder disclosing any arrest or conviction for a felony or for a misdemeanor, except a misdemeanor under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon’s Texas Civil Statutes) or a similar misdemeanor traffic offense;

“(3) if the applicant is an unincorporated business association, the names and addresses of each of its members, each member’s date of birth, a physical description of each member, each member’s current address and telephone number, and a statement by each member disclosing any arrest or conviction for a felony or for a misdemeanor, except a misdemeanor under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon’s Texas Civil Statutes) or a similar misdemeanor traffic offense;

“(4) the exact location at which a race meeting is to be conducted;

“(5) if the racing facility is in existence, whether it is owned by the applicant and, if leased to the applicant, the name and address of the owner and, if the owner is a corporation, the names and addresses of its directors and stockholders, if any, and of its agents for service of process in this state; if construction of the facility has not been initiated, whether it is to be owned by the applicant and, if it is to be leased to the applicant, the name and address of the prospective owner and, if the owner is a corporation, the names and addresses of its directors and stockholders, if any, and of its agents for service of process in this state;

“(6) a detailed statement of the assets and liabilities of the applicant;

“(7) the kind of racing to be conducted and the dates requested;

“(8) proof of residency as required by Section 6.06 of this Act;

“(9) a copy of each management and concession contract dealing with the proposed license at the proposed location in which the applicant has an interest for inspection and review by the commission; the applicant or licensee shall advise the commission of any change in any management and concession contract; all management and concession contracts must have prior approval of the commission; the same fingerprint, criminal records history, and other information required of license applicants pursuant to Sections

5.03 and 5.04 and Subdivisions (1) through (3) of this subsection shall be required of proposed concessionaires and managers and management firms; and

“(10) any other information required by the commission.

“(b) When the commission receives a copy of a management and concession contract for review under Subdivision (9) of Subsection (a) of this section, the commission shall review the contract in an executive session. Documents submitted to the commission under this section by an applicant are subject to discovery in a suit brought under this Act but are not public records and are not subject to Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

“(c) The application must be sworn to by the applicant or, if a corporation or association, by its chief executive officer.

“(d) The application for an original racetrack license must be accompanied by an application fee in the form of a cashier's check or certified check.

“(e) The minimum application fee for a horse racing track is \$15,000 for a class 1 racetrack, \$7,500 for a class 2 racetrack, and \$2,500 for a class 3 racetrack. The minimum application fee for a greyhound racing track is \$20,000. Using the minimum fees, the commission by rule shall establish a schedule of application fees for the various types and sizes of racing facilities. The commission shall set the application fees in amounts that are reasonable and necessary to cover the costs of administering this Act.

“(f) If the applicant is a nonprofit corporation, only directors and officers of the corporation must disclose the information required under Subdivision (2) of Subsection (a) of this section.

“(g) The burden of proof is on the applicant to show compliance with this Act and with the rules of the commission. An applicant who does not show the necessary compliance is not eligible for a license under this article.

“Section 6.04. ISSUANCE OF LICENSE; BOND. (a) The commission may issue a racetrack license to a qualified person if it finds that the conduct of race meetings at the proposed track and location will be in the public interest, complies with all zoning laws, and complies with this Act and the rules adopted by the commission and if the commission finds by clear and convincing evidence that the applicant will comply with all criminal laws of this state.

“(b) Before issuance of a license under this article, an applicant for a horse racing track must give a bond in the sum of \$100,000 payable to the state, with a surety or sureties approved by the commission, conditioned on compliance with this Act and the rules adopted under this Act. An applicant for a greyhound racetrack license must give an equivalent bond in the sum of \$100,000.

“(c) Notwithstanding any other provision of this Act, the commission shall either issue or refuse to issue a license not later than the 120th day after the day on which the application is received. For good cause and on the vote of four members of the section before which the application is pending, the commission may extend this deadline for a period not to exceed 30 days.

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

“Section 6.05. CONSTRUCTION NOT TO PRECEDE ISSUANCE. Except as otherwise permitted by this Act, the commission may not issue a class 1 racetrack license to a person who has begun construction of a track or surrounding structures before applying to the commission for and receiving approval to begin construction at a designated site. This section does not apply to or restrict land use planning, drainage, and other similar preparatory work conducted at a potential site.

“Section 6.06. RACETRACK LICENSES; GROUNDS FOR DENIAL, REVOCATION, AND SUSPENSION. (a) To preserve and protect the public health, welfare, and safety, the commission shall adopt rules relating to license applications, renewal applications, the financial responsibility, moral character, and ability of applicants, and all matters relating to the planning, construction, and operation of racetracks. The commis-

sion may refuse to issue an original or renewal racetrack license or may revoke or suspend a license if, after notice and hearing, it has reasonable grounds to believe and finds that:

“(1) the applicant has been convicted in a court of competent jurisdiction of a violation of this Act or any rule adopted by the commission or that the applicant has aided, abetted, or conspired with any person to commit such a violation;

“(2) the applicant has been convicted of a felony or of any crime involving moral turpitude, including convictions for which the punishment received was a suspended sentence, probation, or a nonadjudicated conviction, that is reasonably related to the applicant’s present fitness to hold a license under this Act;

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

“(4) the applicant is unqualified, by experience or otherwise, to perform the duties required of a licensee under this Act;

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

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

“(7) the applicant is indebted to the state for any fees or for the payment of a penalty imposed by this Act or by a rule of the commission;

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

“(9) the applicant has not yet attained the minimum age necessary to purchase alcoholic beverages in this state;

“(10) the applicant is in the habit of using alcoholic beverages to an excess or uses a controlled substance as defined in the Texas Controlled Substances Act or a dangerous drug as defined in the dangerous drug law (Articles 4476–15 and 4476–14, Vernon’s Texas Civil Statutes) or is mentally incapacitated;

“(11) the applicant may be excluded from a track enclosure under Article 13 or 14 of this Act;

“(12) the applicant has not been a United States citizen residing in this state for the period of 10 consecutive years immediately preceding the filing of the application;

“(13) the applicant has improperly used a license certificate, credential, or identification card issued under this Act;

“(14) the applicant is residentially domiciled with a person whose license has been revoked for cause within the 12 months immediately preceding the date of the present application;

“(15) the applicant has failed or refused to furnish a true copy of the application to the commission’s district office in the district in which the premises for which the permit is sought are located; or

“(16) the applicant is engaged in activities or practices that the commission finds are detrimental to the best interests of the public and the sport of greyhound racing or horse racing.

“(b) Subsection (a) of this section applies to a corporation or any other organization or group whose application is comprised of more than one person if a shareholder, if any, director, or officer is disqualified under Subsection (a) of this section.

“(c) A license for operation of a class 1 or class 2 racetrack or a greyhound racetrack may not be issued to a corporation unless the corporation is incorporated under the laws of this state and a majority of the stock, if any, of the corporation is owned at all times by individuals who meet the residency qualifications prescribed by this section for individual applicants.

“(d) The majority of the members of partnerships, firms, and associations applying for licenses must be citizens who meet the residency qualifications enumerated in this section

for individual applicants. A corporation holding a license to operate a racetrack under this Act that violates this subsection is subject to forfeiture of its charter, and the attorney general, on receipt of information relating to such a violation, shall file suit in a district court of Travis County for cancellation of the charter and revocation of the license issued under this Act. Subterfuge in the operation of a racetrack shall be prevented, and this Act shall be liberally construed to carry out this intent.

“(e) The appropriate section of the commission may condition the issuance of a license under this article on the observance of its rules. The commission may amend the rules at any time and may condition the continued holding of the license on compliance with the rules as amended.

“(f) The appropriate section of the commission may refuse to issue a license or may suspend or revoke a license of a licensee under this article who knowingly or intentionally allows access to an enclosure where greyhound races or horse races are conducted to a person who has engaged in bookmaking, touting, or illegal wagering, whose income is from illegal activities or enterprises, or who has been convicted of a violation of this Act.

“(g) A person awarded a management contract by a nonprofit corporation licensed under this Act to operate a racetrack must meet all of the requirements of this section.

“(h) A person may not own an interest in more than two racetracks licensed under this Act.

“Section 6.07. LEASE. (a) The commission may adopt rules to authorize an association, as lessee, to contract for the lease of a racetrack and the surrounding structures.

“(b) The commission may not approve a lease if:

“(1) it appears that the lease is a subterfuge to evade compliance with Section 6.05 or 6.06 of this Act;

“(2) the racetrack and surrounding structures do not conform to the rules adopted under this Act; or

“(3) the lessee, prospective lessee, or lessor is disqualified from holding a racetrack license.

“(c) Each lessor and lessee under this section must comply with the disclosure requirements of Subdivision (1) of Subsection (a) of Section 6.03 of this Act. The commission may not approve a lease if the lessor and lessee do not provide the required information.

“Section 6.08. SPECIAL PROVISIONS RELATING TO HORSE RACING: DEDUCTIONS FROM POOL; ALLOCATIONS OF SHARES AND BREAKAGE. (a) A horse racing association shall deduct the following shares from each pari-mutuel pool:

“(1) an amount equal to five percent of the pool shall be set aside for purses;

“(2) an amount equal to five percent of the pool shall be set aside for the state; and

“(3) an amount equal to eight percent of the pool on regular wagering and to 10 percent of the pool on multiple wagering shall be retained by the association as its commission.

“(b) The breakage shall be sent to or collected by the commission according to the commission’s rules for distribution as provided by Subsections (c) through (e) of this section.

“(c) Ten percent of the breakage is to be paid to the appropriate state horse breed registry, five percent to be used for reimbursement of administrative costs incurred in making distributions under this section and five percent to be used to participate in an organization whose purpose is to promote interest in horse racing and to encourage research, promotion, discussion, and interchange of ideas, information, and methods relating to the racing, breeding, and marketing of racehorses in Texas and elsewhere. Ten percent of the breakage is to be retained by the association to be used in stakes races for accredited Texas-bred races. The commission shall pay out the remaining 80 percent of the breakage as follows:

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

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

“(3) 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.

“(d) For purposes of this section:

“(1) ‘Horse owner’ means a person who is owner of record of an accredited Texas-bred horse at the time of a race;

“(2) ‘Breeder’ means a person who is owner of record, at the time of conception, of the mare that foaled the accredited Texas-bred horse; and

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

“(e) The commission shall distribute the breakage to the appropriate persons as provided by this section. If the commission is unable to distribute a share of the breakage to a person who is entitled to a share, the commission shall retain that share in the Texas Racing Commission fund.

“Section 6.09. DISPOSITION OF PARI-MUTUEL POOLS AT GREYHOUND RACES. (a) Every association authorized under this Act to conduct pari-mutuel wagering at a greyhound race meeting on races run shall distribute all sums deposited in any pari-mutuel pool to the holders of the winning tickets if those tickets are presented for payment before April 1 of the year following the year of their purchase, less an amount paid as a commission of 18 percent of the total deposits in pools resulting from regular win, place, and show wagering, and an amount not to exceed 20 percent of the total deposits in pools resulting from all other wagering.

“(b) Of the amount so retained from the pari-mutuel pools, the association shall pay to the state for the privilege of conducting pari-mutuel wagering during the greyhound race meetings held by such association:

“(1) a fee of six percent of the total deposits in regular wagering pools per race performance and of the total deposits in multiple and other wagering pools per race performance; and

“(2) 50 percent of the breakage.

“(c) On each racing day, the association shall pay:

“(1) the fee due the state to the comptroller; and

“(2) the 50 percent of the breakage due the state to the commission.

“(d) Fifty percent of the breakage is to be paid to the appropriate state greyhound breeding registry. Of that portion of the breakage 25 percent of that breakage is to be used in stakes races and 25 percent of that breakage is to be used for administration and accredited Texas-bred races.

“Section 6.10. APPLICATION OF TAX CODE. Unless inconsistent with the provisions of this Act, Chapters 111 through 113, Tax Code, including without limitation provisions relating to the assessment of penalty and interest, apply to the collection of the state’s share under this Act. In applying those provisions of the Tax Code for purposes of this section, the state’s share under this Act is treated as if it were a tax. The comptroller shall collect the state’s share of the amount deducted from the pool immediately after each race. For purposes of collecting the state’s share under this Act, the comptroller may use any procedure authorized by Sections 151.609 through 151.612, Tax Code, for enforcement of liability under Chapter 151, Tax Code.

“Section 6.11. ALLOCATION OF PURSE. (a) In no event shall the purse be less than a minimum of 3-½ percent of the total deposited in each pool.

“(b) Thirty-five percent of the portion of a purse allocated to a greyhound shall be paid directly to its owner. The balance shall be paid to its contract kennel as provided by the rules of the commission.

“Section 6.12. NOT TRANSFERABLE. (a) A racetrack license is not transferable.

“(b) In the event of the death of any person whose death causes a violation of the licensing provisions of this Act, the commission may issue a temporary license for a period not to exceed one year under rules adopted by the commission.

“Section 6.13. **FINANCIAL DISCLOSURE.** (a) The commission by rule shall require that each association holding a license for a class 1 racetrack, class 2 racetrack, or greyhound racetrack must annually file with the commission a detailed financial statement that contains the names and addresses of all stockholders, indicates compliance during the filing period with Section 6.06 of this Act, and includes any other information required by the commission.

“(b) Each transaction that involves an acquisition or a transfer of a pecuniary interest in the association must receive prior approval from the commission. A transaction that changes the ownership of the association requires submission of updated information of the type required to be disclosed under Subsection (a) of Section 6.03 of this Act.

“Section 6.14. **RACING RESTRICTED TO DESIGNATED PLACE.** (a) An association may not conduct greyhound or horse racing at any place other than the place designated in the license except as provided by this section or by Section 6.15 of this Act. However, if the racetrack or enclosure designated in the license becomes unsuitable for racing because of fire, flood, or other catastrophe, a race meeting or any remaining portion of a meeting may be conducted temporarily at any other racetrack or place within the county designated by the commission.

“(b) The commission shall not issue more than three racetrack licenses for greyhound racing.

“(c) Each greyhound racetrack licensed under this Act must be located in a county that has a population of more than 190,000, according to the most recent federal census, and that includes all or part of an island that borders the Gulf of Mexico.

“Section 6.15. **RACING AT TEMPORARY LOCATION.** After an association has been granted a license to operate a racetrack and before the completion of construction at the designated place for which the license was issued, the commission may, on application by the association, issue a temporary license that permits the association to conduct races at a location in the same county for a period expiring two years after the date of issuance of the temporary license or on the completion of the permanent facility, whichever occurs first. The commission may set the conditions and standards for issuance of a temporary license and allocation of appropriate race days. An applicant for a temporary license must pay the application fees and must post the bonds required of other licensees before the issuance of a temporary license. After a temporary license has expired, no individual, corporation, or association, nor any individual belonging to a corporation or association which has been granted a temporary license, may get an extension of the temporary license or a new temporary license.

“Section 6.16. **EMPLOYMENT OF FORMER COMMISSION MEMBERS OR EMPLOYEES.** An association may not employ any person who has been a member of the commission or an employee employed by the commission in a position in the state employment classification plan of grade 12 or above, or any person related within the second degree by affinity or the third degree by consanguinity to such a member or employee, during the two-year period immediately preceding the employment by the association.

“Section 6.17. **CITY AND COUNTY FEES.** (a) A commissioners court may collect a fee not to exceed 15 cents as an admission fee to a licensed racetrack located within the county. The court may collect an additional fee not to exceed 15 cents as an admission fee to a licensed racetrack located within the county for allocation among the incorporated cities or towns in the county. The court shall collect the additional fee if requested to do so by the governing bodies of a majority of the incorporated cities and towns in the county. Allocation of the fees shall be based on the population within the county of the cities or towns.

“(b) If the racetrack is a class 1 racetrack, the commissioners court of each county with a population of not less than 750,000 adjacent to the county in which the racetrack is located may each collect fees equal to the fees authorized by Subsection (a) of this section.

“(c) The commissioners court by order may establish procedures for the collection of the fees under Subsection (a) of this section. The procedures may require a person holding a racetrack license to keep records and file reports as considered necessary by the commissioners court.

“(d) A fee or payment collected under this section is in lieu of any license, excise, use, admissions, or similar tax levied by the governing body of the county or the incorporated city or town.

“(e) The amount collected by the county under this section may be used only by the county in which the racetrack is located for the purpose of providing the county with funds to enforce the provisions of this Act, including but not limited to the hiring of investigators, attorneys, staff, and other personnel to assist the county attorney or district attorney in enforcing this Act.

#### “ARTICLE 7. OTHER LICENSES

“Section 7.01. LICENSE REQUIRED. A person shall not participate in racing with pari-mutuel wagering as regulated by this Act without first obtaining a license from the commission.

“Section 7.02. LICENSED ACTIVITIES. Each person involved in any capacity with racing with pari-mutuel wagering, other than as a spectator, as regulated by this Act, must obtain a license under this article. The commission shall adopt categories of licenses for the various occupations licensed under this article.

“Section 7.03. ISSUANCE. The commission shall issue a license to a qualified person on application and payment of the license fee.

“Section 7.04. LICENSES; GROUNDS FOR DENIAL, REVOCATION, AND SUSPENSION. The commission, after notice and hearing, may refuse to issue any original or renewal license under this article or may revoke or suspend the license if it has reasonable grounds to believe and finds that:

“(1) the applicant has been convicted in a court of competent jurisdiction of a violation of this Act or of any rule adopted by the commission or has aided, abetted, or conspired with any person to commit such a violation;

“(2) the applicant has been convicted of a felony or of any crime involving moral turpitude that is reasonably related to the applicant’s present fitness to hold a license under this Act;

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

“(4) the applicant is unqualified, by experience or otherwise, to perform the duties required of a licensee under this Act;

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

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

“(7) the applicant is indebted to the state for any fees or for the payment of a penalty imposed by this Act or by a rule of the commission;

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

“(9) the applicant is in the habit of using alcoholic beverages to an excess or uses a controlled substance as defined in the Texas Controlled Substances Act or a dangerous drug as defined in the dangerous drug law (Articles 4476-15 and 4476-14, Vernon’s Texas Civil Statutes) or is mentally incapacitated;

“(10) the applicant may be excluded from a track enclosure under Article 13 or 14 of this Act;

“(11) the commission determines that the applicant has improperly used a license certificate, credential, or identification card issued under this Act;”



“(12) the applicant is residentially domiciled with a person whose license has been revoked for cause within the 12 months immediately preceding the date of the present application;

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

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

“Section 7.05. **LICENSE FEES.** The commission shall adopt by rule a fee schedule for licenses issued under this article. The commission shall base the license fees on the relative or comparative incomes or property interests of the various categories of licensees, with the lower income category of licensees being charged nearer the minimum fee and the higher income category of licensees charged nearer the maximum fee.

“Section 7.06. **FORM OF LICENSE.** The commission shall issue a license certificate under this article in the form of an identification card with a photograph and fingerprint or facsimile of a fingerprint as prescribed by the commission.

“Section 7.07. **TERM OF LICENSE.** A license issued under this article is valid for a period set by the commission not to exceed 36 months following the date of its issuance. It is renewable on application and payment of the fee in accordance with the rules of the commission.

“Section 7.08. **VALID THROUGHOUT STATE.** A license issued under this article is valid, as determined by the commission, at all race meetings conducted in this state.

“Section 7.09. **TEMPORARY LICENSES.** Pending investigation of an applicant’s qualifications to receive an original or renewal license, the commission may issue a temporary license to an applicant under this article whose application appears to comply with the requirements of law and who has paid the necessary fee. The temporary license is valid for a period not to exceed 30 days from the date of issuance.

“Section 7.10. **BONDS.** The commission by rule shall require an applicant for a license under this article to provide a bond to protect the interests of the state.

#### **“ARTICLE 8. ALLOCATION OF RACING DAYS—HORSES**

“Section 8.01. **ALLOCATION.** The commission shall allocate the racing days for the conduct of racing at each racetrack licensed under this Act. An equal number of race days shall be allocated for both Thoroughbred and quarter horse races so that an equal number of race days are available to be run by each breed. The commission may prohibit Sunday racing unless the prohibition would conflict with another provision of this Act.

“Section 8.02. **CHARITY DAYS.** (a) The commission shall grant additional racing days to each association during a race meeting to be conducted as charity days. The commission shall grant at least five additional days to each class 1 racetrack and at least three additional days to each class 2 racetrack.

“(b) The commission shall adopt rules relating to the conduct of charity days. The commission shall insure that the races held by an association on a charity day are comparable in all respects, including the generation of revenue, to the races held by that association on any other racing day.

#### **“ARTICLE 9. HORSE REGISTRATION; RACING**

“Section 9.01. **TEXAS-BRED HORSES.** The state horse breed registries shall make reasonable rules to establish the qualifications of accredited Texas-bred horses to promote, develop, and improve the breeding of horses in this state. Rules adopted by a registry are subject to commission approval.

“Section 9.02. **BREED REGISTRIES.** The officially designated state horse breed registries for accredited Texas-bred horses are the Texas Thoroughbred Breeders Association for Thoroughbred horses and the Texas Quarter Horse Association for quarter horses. Others shall be determined by the commission with the advice of the national breed registry.

“Section 9.03. **TEXAS-BRED RACE.** An association shall provide for the running of races limited to accredited Texas-bred horses, each to be known as a Texas-bred race. On every racing day, an association shall provide for the running of at least two races limited to accredited Texas-bred horses. If on any day not enough horses are entered in this class to provide sufficient competition, an association shall provide for the running of races limited to accredited Texas-bred and Texas-owned horses. However, if on any day not enough horses are entered in those classes to provide sufficient competition, an association may, with the approval of the commission, eliminate those races and provide substitute races. Any Texas-bred horse that is eligible under the conditions of the substitute race shall be preferred. To encourage the breeding of horses in this state, any accredited Texas-bred horse finishing first, second, or third in any race except a stakes race shall receive a purse supplement. The appropriate state breed registry shall act in an advisory capacity to the association and the commission for the purpose of administering the provisions of this section.

“Section 9.04. **FUNDS FOR AWARDS.** Funds for the purse supplements shall be derived from the breakage as provided by Section 6.08 of this Act.

“Section 9.05. **TYPES OF RACING.** When a horse racing association runs both quarter horse and Thoroughbred races at one track, the number of races to be run by each breed shall be equal. The commission may by rule or by decision allow for exceptions if not enough horses of either breed are stabled on the grounds of a racetrack to provide sufficient competition.

“Section 9.06. **STABLING.** If a horse racing association conducts quarter horse and Thoroughbred racing on the same days, it shall provide stalls on an equitable basis as provided by rule of the commission.

“Section 9.07. **SECURITY.** The horse racing association shall provide security at its track that is considered by the commission to be equivalent or superior to that provided by the Thoroughbred Racing and Protective Bureau.

#### “ARTICLE 10. ALLOCATION OF RACING DAYS—GREYHOUNDS; KENNELS

“Section 10.01. **NUMBER OF RACING DAYS.** Any greyhound racing licensee shall be entitled to have 300 evening and 150 matinee performances in a calendar year. The commission shall grant at least five additional racing days during a race meeting to be conducted as charity days. The commission shall adopt rules relating to the conduct of charity days. The commission shall insure that the races held by an association on a charity day are comparable in all respects, including the generation of revenue, to the races held by that association on any other racing day.

“Section 10.02. **SUBSTITUTE RACING DAYS OR ADDITIONAL RACES.** If for a reason beyond the licensee’s control and not caused by the licensee’s fault or neglect it is impossible for the licensee to hold or conduct a race or races on a day authorized by the commission, the commission in its discretion and at the request of the licensee, as a substitute for the race or races, may specify another day for the holding or conducting of racing by the licensee or may add additional races to already programmed events.

“Section 10.03. **KENNELS.** Each greyhound racetrack must contract for a maximum of 18 kennels and shall provide free kennel rent and schooling.

#### “ARTICLE 11. WAGERING

“Section 11.01. **PARI-MUTUEL WAGERING; RULES.** The commission shall adopt rules to regulate wagering on greyhound races and horse races under the system known as pari-mutuel wagering. Wagering may be conducted only by an association within its enclosure. The stewards and judges employed by the commission are peace officers, and their primary duty is the enforcement of this Act. Each steward or judge may exercise the authority of a peace officer to enforce any penal provision of law while in the course of that person’s employment, if the steward or judge is in, on, or about any greyhound racing or horse racing enclosure licensed under this Act. The commission’s rules adopted under this section and this Act shall be written and updated to ensure their maximum enforceability within existing constitutional guidelines.

“Section 11.02. COMPUTATION OF WAGERING. The wagering may be calculated only by state-of-the-art computational equipment that is approved by the commission. The commission may not require the use of a particular make of equipment.

“Section 11.03. INFORMATION ON TICKET. The commission shall by rule prescribe the information to be printed on each pari-mutuel ticket.

“Section 11.04. WAGERING INSIDE ENCLOSURE. (a) Only a person inside the enclosure where a race meeting is authorized may wager on the result of a race presented by the association by contributing money to the pari-mutuel pool operated by the association. The commission shall adopt rules to prohibit wagering by employees of the commission and to regulate wagering by persons licensed under this Act.

“(b) The commission shall adopt rules prohibiting an association from accepting wagers by telephone.

“(c) The commission shall adopt rules prohibiting an association from accepting a wager made on credit and shall adopt rules prohibiting automatic banking machines within the enclosure.

“Section 11.05. UNLAWFUL WAGERING. A person shall not wager on the result of a greyhound race or horse race in this state except as permitted by this Act.

“Section 11.06. MINORS. The commission shall adopt rules to prevent wagering by persons who have not yet attained the minimum age required to purchase alcoholic beverages in this state and to prevent a person under 16 years of age from entering the viewing section of a racetrack unless accompanied by the person’s parent or legal guardian.

“Section 11.07. CLAIM AFTER RACE MEETING. (a) Except as provided by Subsection (a) of Section 6.09 of this Act, a person who claims to be entitled to any part of a redistribution from a pari-mutuel pool and who fails to claim the money due the person before the completion of the race meeting at which the pool was formed may, not later than the 60th day after the closing day of the meeting, file the following with the commission:

“(1) a verified claim on a form prescribed by the commission; and

“(2) a substantial portion of the pari-mutuel ticket sufficient to identify the association, race, and horse involved and sufficient to show the amount wagered and the type of ticket (win, place, or show).

“(b) If the claimant satisfactorily establishes a right to redistribution from the pool, the commission shall order the association to pay the amount due the claimant.

“Section 11.08. REDISTRIBUTABLE MONEY NOT CLAIMED. Not later than the 90th day after the closing day of a race meeting, an association shall pay to the commission all redistributable money in a pari-mutuel pool that is subject to payment to a claimant under Section 11.07 of this Act but that is not successfully claimed and that is not spent on drug testing under the provisions of this Act.

“Section 11.09. NO LIABILITY TO PROSECUTION. A person lawfully conducting or participating in the conduct of pari-mutuel wagering in connection with horse racing or greyhound racing or permitting the conduct on any premises owned or leased by him or it under any license lawfully issued under this Act is not liable to prosecution for that conduct.

“ARTICLE 12. FAIRS, STOCK SHOWS, AND EXPOSITIONS

“Section 12.01. COUNTY STOCK SHOWS. Subject to the licensing requirements and other provisions of this Act, a county may conduct an annual race meeting, not to exceed 16 racing days, in connection with a livestock show or exhibit that is held under Chapter 20, Acts of the 43rd Legislature, 4th Called Session, 1934 (Article 2372d, Vernon’s Texas Civil Statutes), or Chapter 411, Acts of the 51st Legislature, Regular Session, 1949 (Article 2372d-2, Vernon’s Texas Civil Statutes). The race meetings may be conducted by an agent selected by the commissioners court under Chapter 49, Acts of the 52nd Legislature, Regular Session, 1951 (Article 2372d-3, Vernon’s Texas Civil Statutes), if the

agent is qualified to hold a license under this Act. This Act does not prohibit a county from exercising any right otherwise granted to any person by this Act.

"Section 12.02. FAIRS. Subject to the licensing requirements and other provisions of this Act, a nonprofit corporation organized under Subdivision 7, Article 1302, Revised Statutes, or organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) for the same purposes may conduct a race meeting, not to exceed 16 racing days.

**"ARTICLE 13. EXCLUSION OR EJECTION FROM RACETRACK**

"Section 13.01. REGULATION BY COMMISSION. The commission shall adopt rules providing for the exclusion or ejection from an enclosure where greyhound races or horse races are conducted, or from specified portions of an enclosure, of a person:

- "(1) who has engaged in bookmaking, touting, or illegal wagering;
  - "(2) whose income is from illegal activities or enterprises;
  - "(3) who has been convicted of a violation of this Act;
  - "(4) who has been convicted of theft;
  - "(5) who has been convicted under the penal law of another jurisdiction for committing an act that would have constituted a violation of any of the rules mentioned in this section;
  - "(6) who has committed a corrupt or fraudulent act in connection with greyhound racing or horse racing or pari-mutuel wagering or who has committed any act tending or intended to corrupt greyhound racing or horse racing or pari-mutuel wagering in this state or elsewhere;
  - "(7) who is under suspension or ruled off a racetrack by the commission or a steward in this state or by a corresponding authority in another state because of fraudulent or corrupt practices or other acts detrimental to racing;
  - "(8) who has submitted a forged pari-mutuel ticket or has altered or forged a pari-mutuel ticket for cashing or who has cashed or caused to be cashed an altered, raised, or forged pari-mutuel ticket;
  - "(9) who has been convicted of committing a lewd or lascivious act or other crime involving moral turpitude;
  - "(10) who is guilty of boisterous or disorderly conduct while inside a racing enclosure;
  - "(11) who is an agent or habitual associate of a person excludable under this section;
- or
- "(12) who has been convicted of a felony.

"Section 13.02. HEARING; APPEAL; EXCLUSION OR EXPULSION FROM AN ENCLOSURE. (a) A person who is excluded or ejected from an enclosure under a rule of the commission may apply to the commission for a hearing on the question of the applicability of the rule to that person.

"(b) Such an application constitutes a contested case under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). If, after a hearing as provided under Section 13 of that Act, the commission determines that the exclusion or ejection was proper, it shall make and enter an order to that effect in its minutes, and the person shall continue to be excluded from each association.

"(c) The applicant may appeal an adverse decision of the commission by filing a petition for judicial review in the manner provided by Section 19 of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

"(d) The judgment of the court may be appealed as in other civil cases. The person appealing the commission's ruling under this article shall continue to be excluded from all enclosures in this state during the pendency of the appeal.

"Section 13.03. ENTRY AFTER EJECTION. (a) A person who has been excluded or ejected from an enclosure under this article commits an offense if the person knowingly

enters an enclosure of the same or another licensed racetrack unless the commission or a final judgment of a court has ordered that the rule does not apply to the person.

“(b) An offense under this section is a Class A misdemeanor.

“(c) The provisions of Section 7.22, Penal Code, imposing criminal responsibility on a corporation or association for an offense committed by its agent apply to conduct constituting an offense under this section that is performed by an agent of a corporation or association.

“Section 13.04. EXCLUSION BY ASSOCIATION. Nothing in this article shall prohibit an association from evicting or excluding a person from its enclosure for any lawful reason.

“ARTICLE 14. TOUTING AND OTHER OFFENSES

“Section 14.01. TOUTING. (a) A person commits an offense if, knowing the information is false, the person knowingly or intentionally conveys or offers to convey false information about a greyhound race or horse race to others for compensation.

“(b) Except as provided by Subsection (c) of this section, an offense under this section is a felony of the third degree.

“(c) An offense under this section is a felony of the second degree if:

“(1) the actor knowingly represents that an official or employee of the commission or of an association or an owner, trainer, jockey, or other person licensed by the commission is the source of the information; or

“(2) the actor previously has been finally convicted of an offense under this section or has been convicted of a felony for which the punishment received was a suspended sentence, probation, or a nonadjudicated conviction which has not yet been fully served.

“(d) The provisions of Section 7.22, Penal Code, imposing criminal responsibility on a corporation or association for an offense committed by its agent apply to conduct constituting an offense under this section that is performed by an agent of a corporation or association.

“Section 14.02. UNLAWFUL USE OF CREDENTIAL. (a) A person commits an offense if the person knowingly or intentionally displays a license or credential that has been issued or purports to have been issued by the commission and represents that the person is the holder of the license or credential when the person knows that the license or credential is not issued to the person or if the person impersonates in any way a person holding a license or credential issued by the commission.

“(b) An offense under this section is a felony of the third degree.

“(c) The provisions of Section 7.22, Penal Code, imposing criminal responsibility on a corporation or association for an offense committed by its agent apply to conduct constituting an offense under this section that is performed by an agent of a corporation or association.

“Section 14.03. ILLEGAL INFLUENCE OF RACE OUTCOME. (a) The commission shall adopt rules prohibiting the illegal influencing of the outcome of a race, including but not limited to the use of medication, stimulants, or depressants to attempt to or to influence illegally the outcome of a race.

“(b) The commission may require prerace testing by urinalysis, saliva testing, or blood testing, by any combination of the three, or by any other testing method recognized by the racing industry to determine whether such a drug, chemical, or other substance has been administered and shall require postrace testing by such a method. The commission shall adopt rules that require all such tests to be conducted using state-of-the-art methods. On any positive test showing the presence of prohibited drugs, chemicals, or other substances, the animal shall be immediately disqualified and all persons who have administered or applied the drug, chemical, or other substance or any electric device or spur may be immediately suspended pending hearing by the stewards or judges with the right of appeal to the commission. Such a suspension may be stayed, in the discretion of the commission only, during the pendency of such appeal. The commission shall require that all urine samples be frozen and maintained for a period of one year in order to enable

veterinarians and chemists to conduct follow-up tests to detect and identify prohibited drugs. All other specimens shall be maintained for testing purposes in the manner prescribed by the commission. Such a test may also be required by the owner or trainer of an animal or by the association at whose racetrack the animal is entered in a race meeting.

“(c) The official licensed trainer of each such animal is deemed by law to be the absolute insurer that no prohibited drug, chemical, or other substance has been administered and shall be responsible to see that such a drug, chemical, or other substance is not administered.

“(d) By applying for license under this Act, each jockey and jockey apprentice consents to both pre-race and post-race search for the purpose of determining the presence of such a drug, chemical, or other substance or of any electrical device or other device that might have the effect of unnaturally depressing, stimulating, or exciting any horse during a race. The commission shall adopt rules relating to drug testing for jockeys.

“(e) A person who knowingly violates a rule adopted under this section may be barred, either for a period set by the commission or for life, from receiving any license under this Act or may be barred for a period set by the commission or for life from any premises licensed under this Act, or both.

“(f) A person who knowingly violates a rule adopted under this section commits a felony of the third degree for the first offense and a felony of the second degree for a second or subsequent offense.

“(g) A person who gives, offers or promises to give, or attempts to give or offer any money, bribe, or thing of value to any jockey, trainer, owner, groom, or other person associated with or interested in any stable, kennel, horse, or dog, or race in which any horse or dog participates, with the intention or understanding or agreement that such individual shall not use his best efforts to win such race, or shall so conduct himself in such race that any other participant shall thereby be assisted or enabled to win such race, or shall so conduct himself in such race as to limit his finishing or placing in such race commits an offense. Such an offense is a felony of the third degree.

“(h) A person who accepts, attempts to accept, offers to accept, or agrees to accept any money, bribe, or thing of value, with the intention or understanding or agreement that he will not use his best efforts to win any horse or dog race, in which he is the jockey, trainer, groom, owner, or other interested party or is about to participate in, or will so conduct himself in such race that any other horse or dog shall thereby be assisted or enabled to win such race, or will so conduct himself in such race as to limit his finishing or placing in such race commits an offense. Such an offense is a felony of the third degree.

“(i) A person who gives, offers to give, promises to give, or attempts to give any money, bribe, or thing of value to any person who is presiding or officiating at or who is about to preside or officiate at any dog or horse race with the intention or agreement or understanding that such person shall corruptly or dishonestly preside or officiate at any such race with the intention or purpose that the result of the race will be affected or influenced thereby commits an offense. Such an offense is a felony of the third degree.

“Section 14.04. ILLEGAL ACCESS. (a) A licensee who knowingly or intentionally allows access to an enclosure where races are conducted to a person who has engaged in bookmaking, touting, or illegal wagering, whose income is from illegal activities or enterprises, or who has been convicted of a violation of this Act, commits an offense.

“(b) An offense under this section is a felony of the third degree.

“Section 14.05. RACES CONDUCTED ON CERTAIN INDIAN LANDS. (a) A person who is subject to this section commits an offense if the person intentionally or knowingly wagers on the result of a greyhound race or horse race conducted in this state that:

“(1) is held on an American Indian reservation or on American Indian trust land located in this state; and

“(2) is not held under the supervision of the commission under rules adopted under this Act.

“(b) An offense under this section is a felony of the third degree.

“(c) It is an exception to the application of this section that the person is a member of a recognized Texas Indian tribe who lives on a reservation or on trust lands located in this state.

“ARTICLE 15. GENERAL PENALTY PROVISIONS

“Section 15.01. GENERAL PENALTY. If a specific penalty is not provided for a violation of a provision of this Act, a person who violates such a provision commits a felony of the third degree.

“Section 15.02. PERSON DEFINED. In each section of this Act prescribing a criminal offense, ‘person’ has the meaning assigned by the Penal Code.

“ARTICLE 16. LOCAL OPTION ELECTION

“Section 16.01. CONDITION PRECEDENT. (a) The commission shall not issue a racetrack license or accept an application for a license for a racetrack to be located in a county until the commissioners court has certified to the secretary of state that the qualified voters of the county have approved the legalization of pari-mutuel wagering on horse races or greyhound races in the county at an election held under this article. A local option election may not be held under this article before January 1, 1987.

“(b) A racetrack may not be located within a home-rule city unless a majority of the votes cast in the city in the election held under this article that legalized pari-mutuel wagering on horse races in the county were in favor of legalization. This subsection does not apply to a licensed racetrack that was located outside the boundaries of the city when it was first licensed and has continuously held a license since the original license was issued.

“Section 16.02. METHODS FOR INITIATING ELECTION. The commissioners court on its own motion by a majority vote of its members may order an election to approve the legalization of pari-mutuel wagering on horse races or greyhound races, and it shall order an election on presentation of a petition meeting the requirements of this article.

“Section 16.03. APPLICATION FOR PETITION; ISSUANCE. If petitioned to do so by written application of 10 or more registered voters of the county, the county clerk shall issue to the applicants a petition to be circulated among registered voters for their signatures.

“Section 16.04. CONTENTS OF APPLICATION. To be valid, an application must contain:

“(1) a heading, in the following words: ‘Application for a Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Horse Races’ or ‘Application for a Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Greyhound Races,’ as appropriate;

“(2) a statement of the issue to be voted on, in the following words: ‘Legalizing pari-mutuel wagering on horse races in \_\_\_\_\_ County’ or ‘Legalizing pari-mutuel wagering on greyhound races in \_\_\_\_\_ County,’ as appropriate;

“(3) a statement immediately above the signatures of the applicants, reading as follows: ‘It is the hope, purpose, and intent of the applicants whose signatures appear below that pari-mutuel wagering on horse races be legalized in \_\_\_\_\_ County’ or ‘It is the hope, purpose, and intent of the applicants whose signatures appear below that pari-mutuel wagering on greyhound races be legalized in \_\_\_\_\_ County,’ as appropriate; and

“(4) the printed name, signature, residence address, and voter registration certificate number of each applicant.

“Section 16.05. CONTENTS OF PETITION. To be valid, a petition must contain:

“(1) a heading, in the following words: ‘Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Horse Races’ or ‘Petition for a

Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Greyhound Races,' as appropriate;

- “(2) a statement of the issue to be voted on, in the same words used in the application;
- “(3) a statement immediately above the signatures of the petitioners, reading as follows: ‘It is the hope, purpose, and intent of the petitioners whose signatures appear below that pari-mutuel wagering on horse races be legalized in \_\_\_\_\_ County’ or ‘It is the hope, purpose, and intent of the petitioners whose signatures appear below that pari-mutuel wagering on greyhound races be legalized in \_\_\_\_\_ County,’ as appropriate;
- “(4) lines and spaces for the names, signatures, addresses, and voter registration certificate numbers of the petitioners; and
- “(5) the date of issuance, the serial number, and the seal of the county clerk on each page.

“Section 16.06. COPIES. The county clerk shall keep the application and a copy of the petition in the files of that office. The clerk shall issue to the applicants as many copies as they request.

“Section 16.07. FILING OF PETITION; NUMBER OF SIGNATURES. To form the basis for the ordering of an election, the petition must be filed with the county clerk not later than the 30th day after the date of its issuance, and it must contain a number of signatures of registered voters of the county equal to five percent of the number of votes cast in the county for all candidates for governor in the most recent gubernatorial general election.

“Section 16.08. REVIEW BY COUNTY CLERK. (a) The county clerk shall, on request of any person, check each name on the petition to determine whether the signer is a registered voter of the county. The person requesting this verification by the county clerk shall pay the county clerk a sum equal to 20 cents per name before commencement of the verification.

- “(b) The county clerk may not count a signature if there is reason to believe that:
  - “(1) it is not the actual signature of the purported signer;
  - “(2) the voter registration certificate number is not correct;
  - “(3) it is a duplication either of a name or of handwriting used in any other signature on the petition;
  - “(4) the residence address of the signer is not correct; or
  - “(5) the name of the voter is not signed exactly as it appears on the official copy of the current list of registered voters for the voting year in which the petition is issued.

“Section 16.09. CERTIFICATION. Not later than the 40th day after the date the petition is filed, excluding Saturdays, Sundays, and legal holidays, the county clerk shall certify to the commissioners court the number of registered voters signing the petition.

“Section 16.10. ORDER OF ELECTION. (a) The commissioners court shall record on its minutes the date the petition is filed and the date it is certified by the county clerk.

“(b) If the petition contains the required number of signatures and is in proper order, the commissioners court shall, at its next regular session after the certification by the county clerk, order an election to be held at the regular polling place in each county election precinct in the county on the next uniform election date authorized by Section 41.001, Election Code, that occurs at least 20 days after the date of the order. The commissioners court shall state in the order the issue to be voted on in the election. The order is prima facie evidence of compliance with all provisions necessary to give it validity.

“Section 16.11. APPLICATION OF ELECTION CODE. (a) The election shall be held and the returns shall be prepared and canvassed in conformity with the Election Code.

“(b) The ballots shall be printed to permit voting for or against the proposition: ‘Legalizing pari-mutuel wagering on horse races in \_\_\_\_\_ County’ or ‘Legalizing pari-mutuel wagering on greyhound races in \_\_\_\_\_ County,’ as appropriate.



“Section 16.12. RESULTS OF ELECTION. (a) If a majority of the votes cast in the election are for the legalization of pari-mutuel wagering on horse races or greyhound races in the county, the commissioners court shall certify that fact to the secretary of state not later than the 10th day after the date of the canvass of the returns.

“(b) No other election may be held in the county under this Act until five years have elapsed since the date of the preceding election.

“Section 16.13. CONTEST OF ELECTION. (a) Not later than the 30th day after the date the result of the election is declared, any qualified voter of the county may contest the election by filing a petition in the district court of the county. Any person who is licensed or who has made application to the commission to be licensed in any capacity under this Act may become a named party to the proceedings by pleading to the petition on or before the time set for hearing and trial as provided by Subsection (c) of this section or thereafter by intervention on leave of court.

“(b) The proceedings in the suit shall be conducted in the manner prescribed by Title 14, Election Code, for contesting an election held for a purpose other than the election of an officer or officers. Unless otherwise provided by this Act, the applicable Texas Rules of Civil Procedure and all applicable statutes govern the proceedings and appeals held and conducted under this Act.

“(c) At or after the time for hearing and trial, the judge shall hear and determine all questions of law and fact in the proceedings and may enter orders as to the proceedings that will enable the judge to try and determine the questions and to render a final judgment with the least possible delay.

“Section 16.14. CONTEST OF ELECTION; BOND. At any time prior to the entry of a final judgment in the proceedings, any party may ask the court to dismiss the contestant’s action unless the contestant posts a bond with sufficient surety, approved by the court, payable to the movant for the payment of all damages and costs that may accrue by reason of the delay that will be occasioned by the continued participation of the contestant in the proceedings in the event that the contestant fails to finally prevail and obtain substantially the judgment prayed for in the petition. The court shall then issue an order directed to the contestant, which order, together with a copy of the motion, shall be served on all parties, or on their attorney of record, personally or by registered mail, requiring the contestant to appear at the time and place, not sooner than five nor later than 10 days after receipt of the order and motion, as the court may direct, and show cause why the motion should not be granted. The maximum bond that the court may set is \$10,000 for contests of elections for tracks to be located in a county with a population of less than 900,000, according to the most recent federal census. The maximum bond that the court may set is \$100,000 for contests of elections for tracks to be located in a county with a population of 900,000 or more, according to the most recent federal census. Motions with respect to more than one contestant may be heard together if so directed by the court. Unless at the hearing on the motion the contestant establishes facts that in the judgment of the court would entitle the contestant to a temporary injunction against the issuance of licenses on the basis of the election in question, the court shall grant the motion of the movant and in its order the court shall fix the amount of the bond to be posted by the contestant in an amount found by the court to be sufficient to cover all damages and costs that may accrue by reason of the delay that will be occasioned by the continued participation of the contestant in the proceedings in the event that the contestant fails to prevail and obtain substantially the judgment prayed for in its petition.

“Section 16.15. CONTEST OF ELECTION; APPEAL. Any party to the cause who is dissatisfied with an order or judgment entered under Section 16.13 of this Act may appeal to the appropriate court of appeals after the entry of the order or judgment; otherwise the order or judgment becomes final. If such a party does not file an appeal not later than the 30th day after the date on which the result of the election is declared, it is presumed that the election is valid. Any appeal has priority over all other cases, causes, or matters pending in the court of appeals, except habeas corpus, and the court of appeals shall assure the priority and act on the matter and render its final order or judgment with the least possible delay. The supreme court may review by writ of error or other authorized procedure all questions of law arising out of the orders and judgments of the

court of appeals in the manner, time, and form applicable in other civil causes in which a decision of the court of appeals is not final, but the review has priority over all other cases, causes, or matters pending in the supreme court, except habeas corpus, and the supreme court shall assure the priority and review and act on the matter and render its final order or judgment with the least possible delay.

"Section 16.16. SUIT TO HAVE PRECEDENCE. The court shall accelerate the disposition of any action brought under this Act.

"Section 16.17. CONTESTEE. (a) The county attorney is the contestee of a suit brought under Section 16.13 of this Act. If there is no county attorney of the county, then the criminal district attorney or district attorney is the contestee.

"(b) Costs of the election contest may not be adjudged against the contestee or against the county, and neither may be required to give bond on appeal.

"Section 16.18. RESCISSION ELECTION. (a) The commissioners court of a county that elects to approve the legalization of racing with pari-mutuel wagering in that county may hold an election on the question of rescinding that approval. The court shall order such an election on the presentation of a petition that requests such a rescission. The election may not be held earlier than two years after the date of the election conducted under Section 16.10 of this Act at which the legalization of pari-mutuel wagering was approved. The petition must meet the requirements imposed under this article for a petition to request a local option election on the question of the legalization of racing with pari-mutuel wagering. An election to rescind legalization of racing shall be conducted in the manner provided for the original local option election under this article. The ballots shall be printed to permit voting for or against the proposition: 'Rescinding the legalization of pari-mutuel wagering on horse races in \_\_\_\_\_ County' or 'Rescinding the legalization of pari-mutuel wagering on greyhound races in \_\_\_\_\_ County,' as appropriate.

"(b) If the majority of the votes cast in an election under this section favor the rescission, racing with pari-mutuel wagering may not be conducted in that county except as provided by Subsection (c) of this section.

"(c) An association located in a county that elects to rescind the legalization of racing and that has outstanding long-term liabilities may continue to operate on a temporary basis as provided by Section 18.01 of this Act.

#### "ARTICLE 17. STATEWIDE REFERENDUM

"Section 17.01. REFERENDUM. (a) At the general election for state and county officers to be held November 4, 1986, the voters shall be permitted to vote in a referendum on the question of whether the state should legalize pari-mutuel wagering under the Texas Racing Act on a county-by-county local option basis.

"(b) If this article does not take effect prior to 90 days after the adjournment of the 2nd Called Session of the 69th Legislature, i.e., not having received sufficient votes pursuant to Article III, Section 39, of the Constitution of the State of Texas, and the proposition is not on the ballot November 4, 1986, then the question shall be voted on at the election to be held November 3, 1987.

"Section 17.02. BALLOT PROPOSITION. The ballot shall be printed to provide for voting for or against the proposition: 'The legalization of pari-mutuel wagering under the Texas Racing Act on a county-by-county local option basis.'

"Section 17.03. FORM OF BALLOT. The proposition shall be printed on the ballot beneath the proposed constitutional amendments under the heading: 'Referendum Proposition.'

"Section 17.04. ELECTION PROCEDURE. (a) Notice of the election shall be given by inclusion of the proposition in the proclamation by the governor ordering the election on the proposed amendments to the state constitution and in the notice of that election given by each county judge.

"(b) Returns of the votes cast on the proposition shall be prepared and canvassed in the same manner as the returns on the proposed constitutional amendments.

“(c) Immediately after the results of the election are certified by the state board of canvassers, the secretary of state shall transmit a copy of the certification to the lieutenant governor and the speaker of the house of representatives.

“Section 17.05. **EFFECT OF ELECTION.** Pari-mutuel wagering shall not be conducted under this Act if a majority of the votes cast in the referendum under this article are against the proposition.

“Section 17.06. **CONSTRUCTION OF ACT.** (a) Except as provided in Subsection (b) of this section, the rule of construction stated in Section 311.032, Code Construction Act (Chapter 311, Government Code), applies to the construction of this Act.

“(b) If a majority of the votes cast in the referendum oppose the proposition and subsequently the portion of this article requiring a referendum is held invalid by a final judgment of a court of competent jurisdiction, this Act expires on the date on which the judgment of the court becomes final.

“(c) It is the legislature’s strong intention that, though the legislature has rarely, if ever, conducted a referendum on matters of statewide importance, the will of the people should be honored and take precedence over any prior constitutional rule of law given the nature of this particular issue in our state.

#### **“ARTICLE 18. MISCELLANEOUS PROVISIONS**

“Section 18.01. **APPLICATION OF SUNSET ACT.** (a) The Texas Racing Commission is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, and except as provided by Subsections (b) and (c) of this section, the commission is abolished, and this Act expires effective September 1, 1993.

“(b) If, at the time that the commission would be abolished under Subsection (a) of this section, an association created under this Act has outstanding long-term liabilities:

“(1) the association may continue to operate for a period not to exceed one year after those liabilities are satisfied; and

“(2) the commission and this Act are continued in effect for the purpose of regulating that association under this Act.

“(c) If the commission and this Act are continued in effect under Subsection (b) of this section, the commission is abolished and this Act expires on the first day of the fiscal year following the fiscal year in which the commission certifies to the secretary of state that no associations are operating under the terms of Subsection (b) of this section.

“(d) An association that continues to operate under Subsection (b) of this section may not incur any new liabilities without the approval of the commission. At the beginning of that period, the commission shall review the outstanding liabilities of the association and shall set a specific date by which the association must retire its outstanding liabilities. Notwithstanding any contrary contract provisions, an association regulated under this Act may prepay any debt incurred by the association in conducting racing under this Act.

“Section 18.02. **APPLICATION OF ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT.** Except as otherwise provided by this Act, the commission rules and orders are subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon’s Texas Civil Statutes).

“Section 18.03. **OTHER LAWFUL BUSINESSES.** A licensee may conduct any other lawful business on the licensee’s premises.

“Section 18.04. **SUIT TO HAVE PRECEDENCE.** The courts shall accelerate the disposition of any action brought under this Act.

“Section 18.05. **FEE IN LIEU OF STATE TAXES.** A fee or payment collected by the state under this Act is in lieu of any license, excise, use, or similar tax levied by the state. This section does not preclude the application of the sales tax or any increase thereof to admissions to racetracks licensed under this Act.

“Section 18.06. **RELEASE OF LIABILITY.** A member of the commission, an employee of the commission, a steward or judge, an association, or any other person regulated under this Act is not liable to any individual, corporation, business association, or other

entity for a cause of action that arises out of that person's performance or exercise of discretion in the implementation or enforcement of this Act or a rule adopted under this Act if the person has acted in good faith."

SECTION 2. Chapter 47, Penal Code, as amended, is amended by adding Section 47.11 to read as follows:

*"Section 47.11. PARI-MUTUEL WAGERING ON CERTAIN RACES. It is a defense to prosecution for an offense under this chapter that the conduct was authorized under the Texas Racing Act."*

SECTION 3. Notwithstanding Subsection (c) of Section 6.02 of the Texas Racing Act, the commission may permit an association that holds a class 2 racetrack license to conduct horse races on more than 44 days in a calendar year before 1993.

SECTION 4. Article 2.12, Code of Criminal Procedure, 1965, as amended, is amended by changing the number of Subdivision (18) as added by Chapter 907, Acts of the 69th Legislature, Regular Session, 1985, to Subdivision (19) and adding Subdivision (20) to read as follows:

"Article 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

- "(1) sheriffs and their deputies;
- "(2) constables and deputy constables;
- "(3) marshals or police officers of an incorporated city, town, or village;
- "(4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;
- "(5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;
- "(6) law enforcement agents of the Alcoholic Beverage Commission;
- "(7) each member of an arson investigating unit of a city, county or the state;
- "(8) any private person specially appointed to execute criminal process;
- "(9) officers commissioned by the governing board of any state institution of higher education, public junior college or the Texas State Technical Institute;
- "(10) officers commissioned by the State Purchasing and General Services Commission;
- "(11) law enforcement officers commissioned by the Parks and Wildlife Commission;
- "(12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state that operates an airport served by a Civil Aeronautics Board certificated air carrier;
- "(13) municipal park and recreational patrolmen and security officers;
- "(14) security officers commissioned as peace officers by the State Treasurer;
- "(15) officers commissioned by a water control and improvement district under Section 51.132, Water Code;
- "(16) officers commissioned by a board of trustees under Chapter 341, Acts of the 57th Legislature, Regular Session, 1961 (Article 1187f, Vernon's Texas Civil Statutes);
- "(17) investigators commissioned by the Texas State Board of Medical Examiners;

[and]

"(18) officers commissioned by the board of managers of the Dallas County Hospital District under Section 16, Chapter 266, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4494n, Vernon's Texas Civil Statutes); [-]

"(19) [(18)] county park rangers commissioned under Article 6869d-1, Revised Statutes; and

"(20) stewards and judges employed by the Texas Racing Commission."

SECTION 5. RECOGNITION OF RACETRACKS IN MEXICO. (a) To promote cooperation between the racing industry of this state and that of neighboring states of the Republic of Mexico, the commission, on application of the owner or operator of a

racetrack in a neighboring Mexican state at which horse racing is regularly conducted, may recognize that racetrack as having a racing program substantially equivalent to the program required under this Act of a class 1, class 2, or class 3 racetrack.

(b) A person may not advertise in this state a racetrack located in a neighboring state of the Republic of Mexico and represent that the racetrack has been recognized as substantially equivalent to a class 1, class 2, or class 3 racetrack in this state unless the commission so recognizes the Mexican racetrack as provided by this section.

(c) The commission may withdraw or alter any recognition it has made under this section if it finds that the facts warrant that action.

**SECTION 6.** This Act prohibits the use of state appropriated funds for use in capital improvements of tracks or for interest payments on such facilities except for those tracks which were publicly owned on September 1, 1986.

**SECTION 7.** The appropriate section of the commission shall require a complete personal, financial, and business background check of the applicant for a racetrack license, the partners, stockholders, concessionaires, management personnel, management firms, and creditors and shall refuse to issue or renew a license or approve a concession or management contract if, in the sole discretion of that section of the commission, the background checks reveal anything which might be detrimental to the public interest or the racing industry.

**SECTION 8. REGULATION BY COMMISSION.** Any provision in this Act to the contrary notwithstanding, the Texas Racing Commission shall regulate all aspects of greyhound racing and horse racing in this state, whether or not that racing involves pari-mutuel wagering.

**SECTION 9.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on August 26, 1986, by the following vote: Yeas 17, Nays 12; and that the Senate concurred in House amendments on September 1, 1986, by a viva-voce vote. Passed the House, with amendments, on August 29, 1986, by the following vote: Yeas 75, Nays 59, two present not voting.

Filed without signature Sept. 24, 1986.

Effective Dec. 4, 1986, 90 days after date of adjournment.