

SENATE BILL 346

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 39; Title 44; Title 62 and Title 67, relative to  
horse racing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, is amended by deleting Chapter 36.

SECTION 2. Tennessee Code Annotated, Section 4-29-240(a), is amended by inserting the following language as a new, appropriately designated subdivision:

( ) Tennessee horse racing commission, created by § 62-12-201;

SECTION 3. Tennessee Code Annotated, Title 62, is amended by adding the following as a new chapter:

**62-12-101.** As used in this chapter, unless the context requires otherwise:

(1) "Advance deposit account wagering" means a form of pari-mutuel wagering in which an individual may establish an account with a person or entity licensed by the racing commission, and may place a pari-mutuel wager through that account;

(2) "Advance deposit account wagering licensee" means a person or entity licensed by the racing commission to conduct advance deposit account wagering and accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts;

(3) "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;

(4) "Association" means any person licensed by the racing commission under § 62-12-303 and engaged in the conduct of a recognized horse race meeting;

(5) "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;

(6) "Horse race meeting" means horse racing run at an association licensed and regulated by the racing commission, and may include Thoroughbred, harness, Appaloosa, Arabian, paint, and quarter horse racing;

(7) "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Tennessee track conducting racing and offering simulcasts of races conducted in other states or foreign countries;

(8) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;

(9) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;

(10) "Paint horse" means a horse registered with the American Paint Horse Association of Fort Worth, Texas;

(11) "Principal" means any of the following individuals associated with a partnership, trust, association, limited liability company, or corporation that is licensed to conduct a horse race meeting or an applicant for a license to conduct a horse race meeting:

(A) The chairman and all members of the board of directors of a corporation;

(B) All partners of a partnership and all participating members of a limited liability company;

(C) All trustees and trust beneficiaries of an association;

(D) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;

(E) All stockholders or other individuals who own, hold, or control, either directly or indirectly, five percent (5%) or more of stock or financial interest in the collective organization; and

(F) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation;

(12) "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;

(13) "Racing commission" means the Tennessee horse racing commission established by § 62-12-201;

(14) "Receiving track" means a track where simulcasts are displayed for wagering purposes;

(15) "Simulcast facility" means any facility approved to simulcast racing and conduct pari-mutuel wagering;

(16) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;

(17) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and

may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track;

(18) "Tennessee resident" means:

(A) An individual domiciled within this state;

(B) An individual who maintains a place of abode in this state and spends, in the aggregate, more than one hundred eighty-three (183) days of the calendar year in this state; or

(C) An individual who lists a Tennessee address as the individual's principal place of residence when applying for an account to participate in advance deposit account wagering;

(19) "Thoroughbred" means a horse meeting the requirements of and registered with The Jockey Club of New York;

(20) "Thoroughbred race" or "Thoroughbred racing" means a form of horse racing in which each horse participating in the race is a Thoroughbred and is mounted by a jockey; and

(21) "Track" means any association duly licensed by the racing commission to conduct horse racing. "Track" includes any facility or real property that is owned, leased, or purchased by a track within the same geographic area within a sixty-mile radius of a track but not contiguous to track premises, upon the racing commission's approval, and provided the noncontiguous property is not within a sixty-mile radius of another licensed track premise where live racing is conducted and not within a forty-mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area.

**62-12-102.** This chapter is statewide and exclusive in its effect and no city, county, or other political subdivision of state government may make or enforce any local laws, ordinances, or regulations on the subject of horse race meetings. A person licensed under § 62-12-303 shall continue to pay, or be responsible for the payment of, all other applicable state taxes together with admission taxes imposed by § 67-4-1201, and the pari-mutuel taxes imposed by title 67, chapter 4, part 13, and all state, as well as local, ad valorem taxes; provided, however, no tax shall be imposed by this state or any political subdivision of this state upon, or measured by, that portion of the excise tax imposed upon pari-mutuel betting at running and trotting horse race tracks that is collected and retained by track operators under title 67, chapter 4, part 13.

**62-12-103.**

(a) Quarter horses, paint horses, Appaloosas, and Arabian horses conceived by artificial insemination or other means shall be eligible to race under this chapter.

(b) Any horse that is less than three (3) years of age may not race under this chapter.

**62-12-201.**

(a) There is created a Tennessee horse racing commission, which shall consist of seven (7) members to be appointed by the governor as follows:

(1) Five (5) public members;

(2) One (1) member who shall have a background in law enforcement, and who shall be selected from a list of three (3) persons submitted by the director of the Tennessee bureau of investigation; and

(3) One (1) member who shall have a background in accounting, and who shall be selected from a list of three (3) persons submitted by the state board of accountancy.

(b) Of the members appointed:

(1) At least two (2) members shall be appointed from each grand division of this state; and

(2) At least four (4) members shall have a reasonable knowledge of the practices and procedures of horse racing.

(c)

(1) Effective July 1, 2017, each person serving on the horse racing advisory committee created by former § 4-36-101 shall be initial members of the racing commission.

(2) Each initial commissioner, and each commissioner who is appointed to replace an initial commissioner who dies, resigns, or is removed from the racing commission, prior to the commission's receipt of an application for a license to conduct horse race meetings under § 62-12-303, shall continue to serve on the racing commission until the earlier of:

(A) The commissioner's death, resignation, or removal from the racing commission; or

(B) The appointment of the commissioner's successor following the racing commission's receipt of an application for a license to conduct horse race meetings under § 62-12-303.

(d)

(1) The racing commission shall notify the governor as soon as practicable upon the racing commission's receipt of an application for a license to conduct horse race meetings under § 62-12-303. The governor shall appoint racing commission members to staggered terms that begin on July 1 next occurring following thirty (30) days from the date of the notice as follows:

(A) Two (2) members shall be appointed to serve an initial term of two (2) years;

(B) Two (2) members shall be appointed to serve an initial term of three (3) years; and

(C) Three (3) members shall be appointed to serve an initial term of four (4) years.

(2) All subsequent appointments shall be for four-year terms that begin on July 1 and end on June 30.

(e) A commissioner is eligible for reappointment.

(f) In making appointments to the racing commission, the governor shall strive to ensure that the racing commission is composed of members who are diverse in professional or educational background, ethnicity, age, race, gender, geographic residency, heritage, perspective, and experience.

(g) A vacancy on the racing commission shall be filled in the same manner as the original appointment.

(h) The racing commission shall be attached to the department of commerce and insurance for administrative purposes only.

**62-12-202.** To be eligible for appointment to, and membership on, the racing commission, a person shall:

(1) Have been a legal resident of this state for five (5) years immediately preceding the appointment, and shall be at least thirty (30) years of age;

(2) Be of such character and reputation as to promote public confidence in the administration of horse racing within this state;

(3) Not directly or indirectly or in any capacity own or have any financial interest in a horse racing track, including, but not limited to, an interest as owner, lessor, lessee, operator, manager, concessionaire, stockholder, or employee;

(4) Not be a public official or public employee;

(5) Not have been convicted of any gambling or gaming offense under federal law, the laws of this state, or any other state, or of an offense that is punishable as a felony under federal law, the laws of this state, or the laws of any other state;

(6) Not accept any financial or other form of reward or gift from any horse racing association or any other entity with a financial interest in horse racing; and

(7) Have no financial interest, or engage in any private employment, in a business that does business with any horse racing association or any other entity involved in horse racing.

**62-12-203.** Racing commission members shall serve without compensation but shall be entitled to reimbursement for travel expenses, to be paid in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

**62-12-204.**



(a) The members of the racing commission shall annually elect one (1) member to serve as chair of the commission.

(b) Unless the racing commission employs an executive director as authorized by § 62-12-209, the chair shall:

(1) Attend all racing commission meetings;

(2) Keep a complete record of the proceedings at each racing commission meeting;

(3) Preserve all books, documents, and papers entrusted to the care of the racing commission, and prepare for service any documents as may be required by the commission; and

(4) Be responsible for the carrying out of all requests and directives of the racing commission.

(c) If the racing commission employs an executive director, the executive director shall be responsible for carrying out the duties described in subdivisions (b)(1)-(4).

**62-12-205.**

(a) The racing commission may hold meetings necessary for the purpose of transacting business that properly comes before it. All members of the racing commission shall be duly notified of the time and place of each meeting.

(b) A majority of the members of the racing commission shall constitute a quorum for the transaction of business or the exercise of its powers.

(c)

(1) Any member of the racing commission who fails to attend or participate in more than fifty percent (50%) of the meetings in a calendar year shall be removed as a member.

(2) The chair of the racing commission shall notify the governor of any member who fails to satisfy the attendance requirement in subdivision (c)(1).

**62-12-206.** The governor may remove any member of the racing commission for misconduct, incapacity, or neglect of duty.

**62-12-207.** Except as otherwise provided, the racing commission shall be responsible for the following:

(1) Developing and implementing programs designed to ensure the safety and well-being of horses, jockeys, and drivers;

(2) Developing programs and procedures that will aggressively fulfill its oversight and regulatory role on such matters as medical practices and integrity issues;

(3) Recommending tax incentives and implementing incentive programs to ensure the strength and growth of the equine industry;

(4) Designing and implementing programs that strengthen the ties between this state's horse industry and the state's higher education institutions, with the goal of significantly increasing the economic impact of the horse industry on this state's economy, improving research for the purpose of promoting the enhanced health and welfare of the horse, and other related industry issues; and

(5) Developing and supporting programs which ensure that this state remains in the forefront of equine research.

**62-12-208.** The racing commission, in the interest of breeding or the improvement of breeds of horses, shall have all powers necessary and proper to effectuate this chapter including, but not limited to, the following:

(1) The racing commission is vested with jurisdiction and supervision over all horse race meetings in this state and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that the person's presence on association grounds may, in the opinion of the racing commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing or racing at horse race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, or sex;

(2) The racing commission is vested with jurisdiction over any person or entity that offers advance deposit account wagering to residents of this state. Any such person or entity under the jurisdiction of the racing commission must be licensed by the racing commission, and the racing commission may impose a license fee not to exceed ten thousand dollars (\$10,000) annually. The racing commission shall, by rule, establish conditions and procedures for the licensing of advance deposit account wagering providers to include, but not be limited to:

(A) A fee schedule for applications for licensure; and

(B) Reporting requirements to include quarterly reporting on:

(i) The amount wagered on races in this state; and

(ii) The total amount wagered by residents of this state;

(3) The racing commission is vested with jurisdiction over any totalisator company that provides totalisator services to a racing association located in this state. A totalisator company under the jurisdiction of the racing commission shall be licensed by the racing commission, regardless of whether a totalisator company is located in this state or operates from a location or locations outside of this state, and the racing commission may impose a license fee on a totalisator company. The racing commission shall, by rule, establish conditions and procedures for the licensing of totalisator companies, and a fee schedule for applications for licensure;

(4) The racing commission is vested with jurisdiction over any manufacturer, wholesaler, distributor, or vendor of any equine drug, medication, therapeutic substance, or metabolic derivative which is purchased by or delivered to a licensee or other person participating in horse racing in this state by means of the internet, mail delivery, in-person delivery, or other means;

(5) The racing commission is vested with jurisdiction over any horse training center or facility in this state that records official timed workouts for publication;

(6) The racing commission may require any applicant for a license under subdivision (2) or (3) to submit to a background check of the applicant, or of any individual or organization associated with the applicant. An applicant shall be required to reimburse the racing commission for the cost of any background check conducted;

(7) The racing commission, its representatives and employees, may visit, investigate, and have free access to the office, track, facilities, or other places of

business of any licensee, or any person owning a horse or performing services regulated by this chapter on a horse registered to participate in a breeders incentive fund under the jurisdiction of the racing commission;

(8) The racing commission may promulgate rules under which horse racing at a horse race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting;

(9) The racing commission shall promulgate rules for the form and content of applications for licensure. The racing commission shall also promulgate rules that set the fees for all licenses issued under § 62-12-304;

(10) The racing commission shall promulgate rules to establish minimum fees for jockeys to be effective in the absence of a contract between an employing owner or trainer and a jockey;

(11) The racing commission may refuse to issue or renew a license, revoke or suspend a license, impose probationary conditions on a license, issue a written reprimand or admonishment, impose fines or penalties, deny purse money, require the forfeiture of purse money, or any combination thereof with regard to a licensee or other person participating in horse racing in this state for violation of any federal or state statute, regulation, or steward's or racing commission's directive, ruling, or order to preserve the integrity of horse racing in this state or to protect the racing public. The racing commission shall promulgate rules to establish the criteria for taking the actions described in this subdivision (11);

(12) The racing commission may issue subpoenas for the attendance of witnesses before it and for the production of documents, records, papers, books, supplies, devices, equipment, and all other instrumentalities related to pari-mutuel horse racing in this state. The racing commission may administer oaths to witnesses and require witnesses to testify under oath whenever, in the judgment of the racing commission, it is necessary to do so for the effectual discharge of its duties;

(13) The racing commission may compel any racing association licensed under this chapter to file with the racing commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association;

(14) The racing commission shall promulgate rules to establish safety standards for jockeys, which shall include the use of rib protection equipment. Rib protection equipment shall not be included in a jockey's weight; and

(15) The racing commission may promulgate any additional rules that are necessary to effectuate the purposes of this chapter. Except as otherwise provided in this chapter, the racing commission shall promulgate all rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

**62-12-209.**

(a) Subject to the availability of funding, the racing commission may employ an executive director who shall serve at the pleasure of the racing

commission. The executive director shall devote full time to the duties of the office and shall not hold any other office or employment.

(b) To be eligible for appointment as executive director, a person shall meet the qualifications for membership on the racing commission under § 62-12-202, except the qualification concerning residency under § 62-12-202(1) and the prohibition against being a public official or employee under § 62-12-202(4), and the executive director shall be subject to the same restrictions that apply to racing commission members.

(c) The racing commission shall establish the executive director's compensation.

**62-12-210.**

(a)

(1) The racing commission or the executive director, if the racing commission employs an executive director pursuant to § 62-12-209, may employ, dismiss, or take other personnel action and determine the reasonable compensation of stewards, supervisors of mutuels, veterinarians, inspectors, accountants, security officers, and other employees deemed by the racing commission or the executive director to be essential at or in connection with any horse race meeting and in the best interest of racing.

(2) Three (3) Thoroughbred stewards shall be employed at each Thoroughbred horse race meeting.

(3) Two (2) stewards shall be employed and compensated by this state, subject to reimbursement by the racing associations pursuant to subsection (c).

(4) One (1) Thoroughbred steward shall be employed and compensated by the racing association hosting the horse race meeting.

(5) Three (3) standardbred judges shall be employed at each standardbred horse race meeting.

(6) Two (2) standardbred judges shall be employed and compensated by this state, subject to reimbursement by the racing associations pursuant to subsection (c).

(7) One (1) standardbred judge shall be employed and compensated by the racing association hosting the horse race meeting.

(8)

(A) The security officers, when properly trained and qualified, may be commissioned by the commissioner of commerce and insurance as law enforcement officers. When so commissioned, security officers shall have all of the police powers necessary to enforce state laws and rules relating to the conduct of horse racing and pari-mutuel wagering thereon, and the enforcement of laws relating to the protection of persons or property on racing commission property and on premises subject to licensure by the racing commission.

(B) The commissioner of commerce and insurance, with the approval of the department of human resources, shall



establish standards of training and qualification for the commissioning of security officers as law enforcement officers, and for in-service training of its security officers. Training standards shall be consistent with those established by the Tennessee peace officer standards and training commission.

(9)

(A) The racing commission must promulgate rules to establish the powers and duties of persons employed under this section and qualifications necessary to competently perform their duties.

(B) The racing commission must ensure that persons employed under this section have adequate training to perform their duties in a competent manner.

(b) The racing commission must promulgate rules to prohibit the use of improper devices, the use and administration of drugs or stimulants, or other improper acts as determined by the racing commission on a horse that will participate in a race. The racing commission may acquire, operate, and maintain, or contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine, or other tests, and to purchase supplies and equipment for and in connection with the laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various

associations licensed under this chapter in the manner and amount as the racing commission provides by rule.

(c) The compensation of the employees referred to in this section shall be paid by the licensee conducting the horse race meeting in connection with which the employees are utilized or employed. The salary of the executive director to the racing commission shall be prorated among and paid by the various associations licensed under this chapter in the manner as the racing commission shall, by rule, provide. Except for the Thoroughbred steward and the standardbred judge required by subsection (a), the employees referred to in this section shall be deemed employees of the racing commission, and are paid by the licensee or association for convenience only.

(d) Each person, as a condition precedent to the privilege of receiving a license under this chapter to conduct a horse race meeting, shall be deemed to have agreed to pay expenses and compensation as provided in this section and as may be actually and reasonably incurred.

**62-12-211.**

(a) All meetings of the racing commission shall be open and public in accordance with title 8, chapter 44.

(b)

(1) The racing commission shall keep detailed records of all its meetings, business, collections, and disbursements.

(2) All of the racing commission's records shall be open for public inspection during normal business hours, except the following:

(A) All records and information pertaining to the testing of humans for the presence of alcohol or drugs, including, but not limited to, medical information, the results of any urine, blood, or breathalyzer test, and any reports filed as a result of attending a supervised treatment program, except for the use of such records in conjunction with a hearing before the stewards, judges, racing commission, or racing commission's designee;

(B) Investigative records of the racing commission's security division; and

(C) Criminal history information that is otherwise classified as confidential by federal law or the laws of this state.

(3) In order to fulfill its duties, the racing commission may access the information described in subdivisions (b)(2)(A)-(C).

**62-12-212.** Following the conclusion of each racing season in this state, the racing commission shall prepare an annual report of its meetings, business, actions taken, collections, disbursements, and recommendations. The racing commission shall publish its annual report on a website maintained by the racing commission that is accessible by the public.

**62-12-213.** All funds handled by the racing commission shall be subject to audit by the comptroller of the treasury pursuant to § 8-4-109.

**62-12-301.**

(a) No person may conduct any horse race meeting for any stake, purse, or reward within this state without securing the required license from the racing commission as prescribed in § 62-12-303.

(b) The racing commission shall investigate the qualifications of each applicant for a license to conduct a horse race meeting or the renewal of a license to conduct a horse race meeting. The racing commission may issue or renew a license unless the commission determines that:

(1) The track location, traffic flow, facilities for the public, and facilities for racing participants and horses do not meet the requirements of state law and the racing commission's rules or are otherwise inadequate to protect the public health and safety;

(2) The racing dates and times requested conflict with another race meeting of the same breed of horse;

(3) The financing or proposed financing of the entire operation is not adequate for the operation or is from an unsuitable source;

(4) The applicant or licensee has failed to disclose or has misstated information or otherwise attempted to mislead the racing commission with respect to any material fact contained in the application for the issuance or renewal of the license;

(5) The applicant has knowingly failed to comply with this chapter or any rules promulgated pursuant to this chapter;

(6) Any principal of the applicant or licensee is determined to be unsuitable because the principal has:

(A) Been convicted of any crime of moral turpitude, embezzlement, or larceny, or any violation of law pertaining to illegal gaming or gambling, or any crime that is destructive to the

declared policy of this state with regard to horse racing and pari-mutuel wagering;

(B) Been convicted in any jurisdiction within ten (10) years preceding initial licensing or license renewal of any crime that is or would be a felony or class A misdemeanor in this state;

(C) Been identified in the published reports of any federal or state legislative or executive body as being a member or associate of organized crime, or of being of notorious reputation;

(D) Been placed and remains in the custody of any federal, state, or local law enforcement authority;

(E) Had a racing or gaming license revoked in another jurisdiction on grounds that would have been grounds for revoking the license in this state; or

(F) Engaged in any other activity that would pose a threat to the public interest or to the effective regulation of horse racing and wagering in this state, or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of racing and wagering or in the operation of the business and financial arrangements incidental thereto; or

(7) The applicant or licensee has had a racing or gaming license denied or revoked in another jurisdiction on grounds that would be grounds for license denial or revocation in this state.

**62-12-302.**

(a) All licenses issued under this chapter:

- (1) Shall be in writing;
- (2) Shall be subject to all rules promulgated and conditions prescribed by the racing commission; and
- (3) Shall contain conditions as may be considered necessary or desirable by the racing commission to effectuate the purposes of this chapter.

(b) The racing commission must promulgate a rule that establishes the expiration date for licenses; provided, that licenses must expire either on the last day of the calendar year or on the last day of the birth month of the licensee.

(c) The racing commission may renew any license and any renewal shall not waive or condone any violation that occurred prior to renewal and shall not prevent subsequent proceedings against the licensee for such violation.

**62-12-303.**

(a) Any person desiring to conduct horse racing at a horse race meeting within this state or to engage in simulcasting and intertrack wagering as a receiving track during any calendar year must first apply to the racing commission for a license. The application must be filed at the racing commission's general office on or before October 1 of the preceding year with respect to applications to conduct live horse race meetings, and with respect to intertrack wagering dates, and on forms prescribed by the racing commission.

The application shall include the following information:

- (1) The applicant's full name and address;
- (2) The location of the place, track, or enclosure where the applicant proposes to conduct horse race meetings;

(3) The dates on which the applicant intends to conduct horse racing, which shall be successive days unless authorized by the racing commission;

(4) The proposed hours of each racing day and the number of races to be conducted;

(5) The names and addresses of all principals associated with the applicant or licensee;

(6) The type of organizational structure under which the applicant operates, including, but not limited to, a partnership, trust, association, limited liability company, or corporation, and the address of the principal place of business of the organization;

(7) Any criminal activities in a jurisdiction for which an individual listed under subdivisions (a)(1) and (5) has been arrested or indicted and the disposition of the charges, and any current or ongoing criminal investigation of which any of such individual is the subject; and

(8) Any other information that the racing commission, by rule, deems relevant and necessary to determine an applicant's fitness to receive a license, including fingerprints of any individual listed under subdivisions (a)(1) and (5), if necessary for proper identification of the individual or a determination of suitability to be associated with a licensed racing association.

(b) A license application shall be accompanied by the following documents:

(1) For a new license applicant, a financial statement prepared and attested to by a certified public accountant in accordance with generally accepted accounting principles, showing the following:

(A) The applicant's net worth;

(B) Any debts or financial obligations owed by the applicant and the persons to whom such debts or financial obligations are owed; and

(C) The proposed or current financing structure for the operation and the sources of financing;

(2) For a license renewal applicant, an audited financial statement for the prior year;

(3) A copy of the applicant's federal and state tax return for the previous year. Tax returns submitted in accordance with this subdivision (b)(3) shall be treated as confidential;

(4) A statement from the department of revenue that there are no delinquent taxes or other financial obligations owed by the applicant to this state or any of its agencies or departments; and

(5) A statement from the county treasurer of the county in which the applicant conducts or proposes to conduct horse race meetings that there are no delinquent real or personal property taxes owed by the applicant.

(c) The completed application shall be signed by the applicant or the chief executive officer if the applicant is an organization, sworn under oath that the information is true, accurate, and complete, and subsequently notarized.



(d) If there is any change in any information submitted in the application process, the applicant or licensee shall notify the racing commission within thirty (30) days of the change.

(e) The racing commission shall as soon as practicable, but no later than November 1 in any calendar year, award dates for racing in this state during the next year. In awarding dates, the racing commission shall consider and seek to preserve each track's usual and customary dates, as these dates are requested. If dates other than the usual and customary dates are requested, the applicant shall include a statement in its application setting forth the reasons the requested dates are sought. In the event scheduled racing is canceled by reason of flood, fire, inclement weather, or other natural disaster or emergency, the racing commission may award additional racing dates after November 1 to make up for those dates canceled.

(f) The racing commission may issue a license to conduct a horse race meeting to any association making the application if the applicant meets the requirements of this chapter, and if the racing commission finds that the proposed conduct of racing by the association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to this state.

(g) As a condition precedent to the issuance of a license, the racing commission may require a surety bond or other surety conditioned upon the payment of all taxes due this state, together with the payment of operating expenses, including purses and awards to owners of horses participating in races.

(h) The racing commission may impose a fee and shall establish, by rule, a fee schedule for association license applications.

(i) The racing commission may require an applicant for an association license to submit to a background check of the applicant, or of any principal, individual, or organization associated with the applicant. The racing commission shall not require a background check for any individual who is a principal but owns stock or financial interest in the applicant of less than ten percent (10%). An applicant must reimburse the racing commission for the cost of any background check conducted.

(j) Every license issued under this section shall include:

(1) The name of the person to whom the license is issued;

(2) The address and location of the track where the horse race meeting to which it relates is to be held or conducted;

(3) The days and hours of the day when the horse race meeting will be permitted; and

(4) Any other information deemed relevant by the racing commission.

(k) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a horse race meeting at any track not specified in the license. However, if the track specified becomes unsuitable for racing because of flood, fire, or other catastrophe, the racing commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of the track willingly consents to the use of the other track.

(l) Horse racing dates may be awarded and licenses issued authorizing horse racing on any day of the year. Horse racing shall be held or conducted only between sunrise and midnight.

(m) The racing commission may require the removal of any official or employee of any association when it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with horse racing, has failed to comply with any condition of a license, or has violated a law or a racing commission rule.

(n) Every horse race not licensed under this section is declared to be a public nuisance and the racing commission may obtain an injunction to prevent the race from occurring in the chancery court of the county where the unlicensed race is proposed to be held or where the race is occurring.

(o) A track that submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility that meets all state and local safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year.

(p) A track that is granted overlapping dates for the conduct of a live horse race meeting with another horse racing track within a fifty-mile radius may not be permitted to have a post time after 5:30 p.m., prevailing time, for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.

**62-12-304.**

(a) Every person not required to be licensed under § 62-12-303 who desires to participate in horse racing in this state as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a horse race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, or in any other capacity as the racing commission shall establish by rule, shall first apply to the racing commission for a license to participate in the activity on association grounds during a horse race meeting.

(b) No person required to be licensed by this section may participate in an activity for which licensure is required on association grounds during a horse race meeting without a valid license to participate.

(c) An applicant for a license under this section shall submit to the racing commission fingerprints, as may be required, and other information necessary and reasonable for processing a license application. The racing commission may exchange fingerprint data with the Tennessee bureau of investigation and the federal bureau of investigation in order to conduct a criminal history background check of an applicant.

(d) The racing commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license are consistent with the best interest of horse racing, to maintain the integrity and quality of horse racing.

(e) A license shall be valid at all horse race meetings in this state during the period for which it is issued unless suspended or revoked under the rules promulgated by the racing commission. The racing commission may promulgate rules to facilitate and promote uniform, reciprocal licensing for horse owners and trainers with other states.

**62-12-305.**

(a) Every license granted under this chapter is subject to denial, revocation, or suspension, and every licensee or other person participating in horse racing in this state may be assessed an administrative fine and be required to forfeit or return a purse by the racing commission in any case where the racing commission has reason to believe that a provision of this chapter, administrative rule, or condition of the racing commission affecting it has not been complied with or has been broken or violated. The racing commission may deny, revoke, or suspend a license for failure by the licensee or other person participating in horse racing in this state to pay an administrative fine imposed on the licensee by the stewards or the racing commission. The racing commission may promulgate rules under which any license may be denied, suspended, or revoked, and under which any licensee or other person participating in horse racing in this state may be assessed an administrative fine or required to forfeit or return a purse.

(b)

(1) Following a hearing by the stewards, a person who has been disciplined by a ruling of the stewards may apply to the racing commission for a stay of the ruling, pending action on an appeal by the racing commission.

(2) An application for a stay shall be received by the executive director or the executive director's designee within ten (10) calendar days of the issuance of the stewards' ruling.

(3) An application for a stay shall be in writing and include the following:

(A) The name, address, telephone number, and signature of the person requesting the stay;

(B) A statement of the justification for the stay; and

(C) The length of the stay requested.

(4) On a finding of good cause, the executive director or the executive director's designee may grant the stay. The executive director or the executive director's designee shall issue a written decision granting or denying the request for the stay within five (5) calendar days from the time the application for the stay is received by the executive director or the executive director's designee. If the executive director or the executive director's designee fails timely to issue a written decision on whether to grant or deny the stay, then the stay is deemed granted. The executive director or the executive director's designee may rescind a stay granted under this subdivision (b)(4) for good cause.

(5)

(a) A person who is denied a stay by the executive director or the executive director's designee, or has a previously granted stay rescinded under subdivision (b)(4), may petition the racing commission to overrule the executive director's or the

executive director's designee's denial or rescission of the stay. The petition shall be filed in writing with the chairperson of the racing commission and received by the chairperson within ten (10) calendar days of the mailing of the executive director's or the executive director's designee's denial of the stay.

(b) The petition shall state:

(1) The name, address, phone number, and signature of the petitioner;

(2) The petitioner's justification of the stay; and

(3) The length of the stay requested.

(c) The chairperson shall convene a special meeting of the racing commission within ten (10) calendar days of receipt of the petition, and the racing commission shall issue a written final order granting or denying the petition within two (2) calendar days of the special meeting. If the racing commission fails to timely issue a final order on the petition, then the stay is deemed granted. The racing commission may rescind a stay granted under this subdivision (b)(5) for good cause.

(6) Any person who is denied or has a previously granted stay rescinded by the racing commission may file an appeal of the final written order of the racing commission in the chancery court of the county in which the cause of action arose.

(7) The granting of a stay is not a presumption that the ruling by the stewards is invalid.

(c) If a license is denied, suspended, or revoked, or if a licensee or other person participating in horse racing in this state is assessed an administrative fine or required to forfeit or return a purse, after a hearing by the stewards or by the racing commission acting on a complaint or by its own volition, the racing commission shall grant the applicant, licensee, or other person the right to appeal the decision, and upon appeal, an administrative hearing shall be conducted pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3.

(d) The racing commission may order that a case pending before the stewards be immediately transferred to the racing commission for an administrative hearing conducted pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3.

(e)

(1) In an administrative appeal to the racing commission by a licensee or other person participating in horse racing in this state, the racing commission may determine in its final order that the appeal is frivolous. If the racing commission finds that an appeal is frivolous:

(A) This fact shall be considered an aggravating circumstance and may be considered in assessing any penalty against the licensee; and

(B) The licensee or other person who raised the appeal may be required to reimburse the racing commission for the cost of the investigation of the underlying circumstances of the case and the cost of adjudicating the appeal. Costs may include, but



are not limited to, fees paid to a hearing officer or court reporter, attorneys' fees, and laboratory expenses.

(2) The racing commission shall promulgate rules to prescribe the conditions or factors by which an appeal may be determined to be frivolous.

(f) An administrative action authorized in this chapter shall be in addition to any criminal penalties authorized in this chapter or under any other laws of this state.

**62-12-306.** No licensee conducting a horse race meeting, and member of the racing commission, judge, or assistant official appointed to act in such capacities under this chapter shall be liable for damages to a person, association, or corporation for any cause arising out of the performance by the licensee, member of the racing commission, judge, or assistant official of their duties and the exercise of their discretion with respect to such horse race meeting, so long as the licensee, member of the racing commission, judge, or assistant official is found to have acted in good faith, without malice.

**62-12-307.** A licensee or applicant aggrieved by a final order of the racing commission may appeal to the Davidson County chancery court in accordance with § 4-5-322.

**62-12-401.**

(a) As used in this section:

(1) "Dual agent" means a person who acts as an agent for both the purchaser and the seller of an equine;

(2) "Equine" means a horse of any breed used for racing or showing, including prospective racehorses, breeding prospects, stallions,

stallion seasons, broodmares, yearlings, or weanlings, or any interest therein; and

(3) "Treble damages" means three (3) times the sum of:

(A) The difference, if any, between the price paid for the equine and the actual value of the equine at the time of sale; and

(B) A payment made in violation of subsection (e).

(b) An agreement for the sale, purchase, or transfer of an equine shall be:

(1) Accompanied by a written bill of sale or acknowledgment of purchase and security agreement setting forth the purchase price; and

(2) Signed by both the purchaser and the seller or their duly authorized agent or, in a transaction solely relating to a season or fractional interest in the stallion, signed by the syndicate manager or stallion manager.

(c) In circumstances where a transaction described in subsection (b) is made through a public auction, the bill of sale requirement described in subsection (b) may be satisfied by the issuance of an auction receipt generated by the auction house, and signed by the purchaser or the purchaser's duly authorized agent. An agent who signs an auction receipt on behalf of the agent's principal shall do so only if authorized in writing. When presented with such authorization, all other parties to the transaction may presume that an agent signing on behalf of the agent's principal is duly authorized to act for the principal.

(d) It is an offense for a person to act as a dual agent in a transaction involving the sale, purchase, or transfer of an interest in an equine without:

(1) The prior knowledge of both the purchaser and the seller; and

(2) Written consent of both the purchaser and the seller.

(e) It is an offense for a person acting as an agent for either a purchaser or a seller or acting as a dual agent in a transaction involving the sale, purchase, or transfer of an equine to receive compensation, fees, a gratuity, or other item of value in excess of five hundred dollars (\$500) relating directly or indirectly to the transaction from an individual or entity, including any consigner involved in the transaction, other than an agent's principal, unless:

(1) The agent receiving and the person or entity making the payment disclose in writing the compensation, fees, gratuity, or other item of value to both the purchaser and seller; and

(2) Each principal for whom the agent is acting consents in writing to the compensation, fees, gratuity, or other item of value.

(f) A person acting as an agent for a purchaser or seller or acting as a dual agent in a transaction involving the sale, purchase, or transfer of an equine shall, upon request by the person's principal or principals, furnish copies of all financial records and financial documents in the possession or control of the agent pertaining to the transaction to the principal or principals. For purposes of this subsection (f), financial records shall not include the agent's or owner's work product used to internally evaluate the equine.

(g) A person who is injured by a person found to be in violation of this section may recover treble damages from such person, and the prevailing party in any litigation under this section shall be entitled to recover court costs, reasonable litigation expenses, and attorney's fees.

(h) Nothing in this section shall require the disclosure of compensation arrangements between a principal and an agent where no dual agency exists, where the agent is acting solely for the benefit of the agent's principal, and where the agent is being compensated solely by the agent's principal.

(i) Notwithstanding any law to the contrary, for transactions contemplated by this section that are accomplished through a public auction, this section shall not require disclosure of the reserves, the identity of the principals, or the auctioneer's commissions. Auction companies are not dual agents for purposes of this section.

(j) This section shall not apply to the sale, purchase, or transfer of an equine used for showing if the sale, purchase, or transfer does not exceed ten thousand dollars (\$10,000).

(k) No contract or agreement for payment of a commission, fee, gratuity, or other form of compensation in connection with a sale, purchase, or transfer of an equine may be enforced in a legal action or defense unless:

(1) The contract or agreement is in writing and is signed by the party against whom enforcement is sought; and

(2) The recipient of the compensation provides a written bill of sale for the transaction in accordance with subdivision (b)(1) or an auction receipt in accordance with subsection (c).

(l) No person shall be held liable under this section unless that person has actual knowledge of the conduct constituting a violation of this section.

**62-12-501.**

(a) The racing commission shall promulgate rules regulating mutuel wagering on horse races under the pari-mutuel system of wagering. The wagering may be conducted only by a person licensed under this chapter to conduct a horse race meeting and only upon the licensed premises. The pari-mutuel system of wagering must be operated only by a totaliser or other mechanical equipment approved by the racing commission. The racing commission shall not require any particular make of mechanical equipment.

(b) The operation of a pari-mutuel system for betting, where authorized by law, shall not constitute grounds for the revocation or suspension of any license issued under title 57.

(c) All reported but unclaimed pari-mutuel winning tickets held in this state by a person or association operating a pari-mutuel or similar system of betting at horse race meetings shall be presumed abandoned if not claimed by the person entitled to them within one (1) year from the time the ticket became payable.

(d) The racing commission may issue a license to conduct pari-mutuel wagering on steeple chases or other racing over jumps, if all proceeds from the wagering, after expenses are deducted, are used for charitable purposes. If the dates requested for the license have been granted to a track within a forty-mile radius of the race site, the racing commission shall not issue a license until it has received written approval from the affected track. Pari-mutuel wagering licensed and approved under this subsection (d) shall be limited to four (4) days each year. All racing and wagering authorized by this subsection (d) shall be

conducted in accordance with applicable rules promulgated by the racing commission.

**62-12-502.**

(a) The commission, including the tax levied in § 67-4-1302, deducted from the gross amount wagered by an association that operates a race track under the jurisdiction of the racing commission and conducts the Thoroughbred racing at which betting is conducted through a pari-mutuel or other similar system, in races where the patron is required to select one (1) horse, and the breaks, which breaks shall be made and calculated to the dime, shall not be more than sixteen percent (16%) at the discretion of those tracks averaging over one million two hundred thousand dollars (\$1,200,000) in on-track pari-mutuel handle per day of live racing conducted by the association. The commission at tracks averaging one million two hundred thousand dollars (\$1,200,000) or less in on-track pari-mutuel handle per day of live racing conducted by the association, at the discretion of such track, shall not be more than seventeen and one-half percent (17.5%) in races where the patron is required to select one (1) horse, and the breaks, which breaks shall be made and calculated to the dime.

(b) The commission at tracks averaging over one million two hundred thousand dollars (\$1,200,000) in on-track pari-mutuel handle per day of live racing conducted by the association, including the tax levied in § 67-4-1302, deducted from the gross amount wagered by the person, corporation, or association that operates a race track under the jurisdiction of the racing commission and conducts Thoroughbred racing at which betting is conducted through a pari-mutuel or other similar system shall not exceed nineteen percent

(19%) of the gross handle in races where the patron is required to select two (2) or more horses, and the breaks, which breaks shall be made and calculated to the dime. The commission at tracks averaging one million two hundred thousand dollars (\$1,200,000) or less in on-track pari-mutuel handle per day of live racing conducted by the association, including the tax levied in § 67-4-1302, deducted from the gross amount wagered by the association that operates a race track under the jurisdiction of the racing commission and conducts Thoroughbred racing at which betting is conducted through a pari-mutuel or other similar system shall not exceed twenty-two percent (22%) of the gross handle in races where the patron is required to select two (2) or more horses, and the breaks, which breaks shall be made and calculated to the dime.

(c) The minimum wager to be accepted by a licensed association shall be ten cents (\$0.10). The minimum pay-off on a one dollar (\$1.00) wager shall be one dollar and ten cents (\$1.10); but, in the event of a minus pool, the minimum pay-off for a one dollar (\$1.00) wager shall be one dollar and five cents (\$1.05).

(d) Each association conducting Thoroughbred racing that averages one million two hundred thousand dollars (\$1,200,000) or less in on-track pari-mutuel handle per day of live racing conducted by the association shall pay to the racing commission all moneys allocated to the backside improvement fund, created by § 62-12-701, in an amount equal to one-half of one percent (0.5%) of its on-track pari-mutuel wagers.

**62-12-503.**

(a) A person holding unclaimed pari-mutuel winning tickets presumed abandoned under § 62-12-501(c) shall file annually, on or before September 1 of each year, with the racing commission a list of and the amounts represented by unclaimed pari-mutuel tickets held by such person as of July 1, and other information as the racing commission requires for the administration of this part 5.

(b) The report required by subsection (a) shall be made in duplicate, with the original report to be retained by the racing commission and the copy to be mailed to the sheriff of the county where the unclaimed pari-mutuel tickets are held. The sheriff shall post for not less than twenty (20) consecutive days a copy of the report on the courthouse door or the courthouse bulletin board, and have the copy published in a newspaper of general circulation in the county where the unclaimed pari-mutuel tickets are held. The cost of the publication shall be paid by the racing commission. The sheriff shall immediately certify in writing to the racing commission the dates on which the list was posted and published. The list shall be posted and published as required on or before October 1 of the year when it is made, and the posting and publishing shall be constructive notice to all holders of pari-mutuel tickets that have remained unclaimed for one (1) year from the time the ticket became payable.

**62-12-504.**

(a) A person who makes a report of unclaimed pari-mutuel tickets to the racing commission under § 62-12-503 shall, between November 1 and November 15 of each year, turn over to the racing commission the sum represented by the unclaimed pari-mutuel tickets so reported. However, if the



person making the report or the owner of the unclaimed pari-mutuel ticket certifies to the racing commission by sworn statement that any of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or certifies the existence of any fact or circumstance in which there is substantial evidence to rebut the presumption, then the person reporting the unclaimed pari-mutuel tickets or holding the sum represented by the unclaimed pari-mutuel tickets as reported shall not be required to remit the sum to the racing commission, except by court order.

(b) If the holder of any unclaimed pari-mutuel ticket files an action in court claiming the sum reported under § 62-12-503, the person reporting or holding the sum represented by the unclaimed pari-mutuel ticket shall be under no duty to turn over the sum to the racing commission while the action is pending, but shall promptly notify the racing commission of the pendency of the action.

**62-12-505.** A person holding an unclaimed pari-mutuel ticket or a person holding the sum represented by an unclaimed pari-mutuel ticket, or any claimant thereto shall have the right to a judicial determination of that person's rights under this part, and the racing commission may institute an action to recover the sum represented by the unclaimed pari-mutuel tickets that are presumed abandoned whether the sum has been reported or not and may include in one (1) petition the sum represented by all the unclaimed pari-mutuel tickets within the jurisdiction of the court in which the action is brought.

**62-12-506.** A person who pays the sum represented by the unclaimed pari-mutuel tickets to the racing commission under § 62-12-504 shall be relieved of all liability

for the value of the unclaimed pari-mutuel tickets for any claim made regarding the unclaimed pari-mutuel tickets.

**62-12-507.** A person claiming an interest in any unclaimed pari-mutuel ticket that has been paid or surrendered to the racing commission in accordance with this part may file a claim to the interest at any time after the interest was paid to the racing commission.

**62-12-508.** The racing commission must consider any claim or defense permitted to be filed before the racing commission and hear the evidence concerning it. If the claimant establishes a claim, the racing commission shall, when the time for appeal or other legal procedure has expired, authorize payment to the claimant of a sum equal to the amount of the claim paid to the racing commission under this part. The decision must be in writing and state the substance of the evidence heard by the racing commission, if a transcript is not kept. The decision shall be a matter of public record.

**62-12-509.** A person may appeal the decision of the racing commission under § 62-12-508 to the Davidson County chancery court in accordance with § 4-5-322.

**62-12-510.** The racing commission, through its employees, may examine records of a person where there is reason to believe that person has failed to report unclaimed pari-mutuel tickets.

**62-12-511.** The racing commission may require the production of reports or the surrender of sums represented by unclaimed pari-mutuel tickets as provided in this part by civil equity action, including, but not limited to, an action in the nature of a bill of discovery, in which case the defendant shall pay a penalty equal to ten percent (10%) of all amounts that the defendant is ultimately required to surrender. The racing

commission shall follow the procedures provided by the Tennessee Rules of Civil Procedure.

**62-12-512.** Any payments made to a person claiming an interest in an unclaimed pari-mutuel ticket, and any necessary expense including, but not limited to, administrative costs, advertising costs, court costs and attorney's fees, required to be paid by the racing commission in administering or enforcing this part shall be deducted from sums received by the racing commission prior to payment to the nonprofit charitable corporation, selected by the racing commission under § 62-12-514.

**62-12-513.** A person who is under disability and holds an unclaimed pari-mutuel ticket pursuant to this part shall have five (5) years after the disability is removed to take an action or procedure or make a defense allowed to a person who is not under disability.

**62-12-514.**

(a) All sums reported and paid to the racing commission under this part shall be paid by the racing commission to a nonprofit charitable corporation, selected by the racing commission, that is organized in this state for the benefit, aid, assistance, and relief of Thoroughbred owners, trainers, jockeys, valets, exercise riders, grooms, stable attendants, pari-mutuel clerks, and other Thoroughbred racing personnel employed in connection with racing, and their spouses and children, in this state. Persons seeking assistance under this subsection (a) must demonstrate a need for financial assistance due to death, illness, or off-the-job injury and must not otherwise receive assistance from union health and welfare plans, workers' compensation, social security, public welfare, or any type of health, medical, death, or accident insurance.

(b) The sums payable under subsection (a) shall be paid on or before December 31 of each year; however, no payments shall be made under subsection (a) unless the racing commission and the comptroller of the treasury determine that the charitable corporation selected by the racing commission is being operated for charitable and benevolent purposes only, and that no part of the funds or any net earnings thereon inure to the benefit of any private individual, director, officer, or member of the charitable corporation or any of the persons who remitted sums to the racing commission representing unclaimed pari-mutuel tickets.

**62-12-515.** The refusal to make any report or to turn over sums as required by this part is a Class A misdemeanor.

**62-12-601.**

(a) The commission, including the tax levied in § 67-4-1302, deducted from the gross amount wagered by the person, corporation, or association that operates a harness horse track under the jurisdiction of the racing commission at which betting is conducted through a pari-mutuel or other similar system shall not exceed eighteen percent (18%) of the gross amount handled on straight wagering pools and twenty-five percent (25%) of the gross amount handled on multiple wagering pools, plus the breaks, which shall be made and calculated to the dime.

(b) Multiple wagering pools shall include daily double, perfecta, double perfecta, quinella, double quinella, trifecta, and other types of exotic betting.

(c)

(1) An amount equal to two and three-quarters percent (2.75%) of the total amount wagered and included in the commission of a harness host track shall be allocated by the harness host track in the following manner:

(A) Two percent (2%) shall be allocated to the host for capital improvements and promotions, including advertising, or purses as the host track shall elect; and

(B) Three-quarters of one percent (.75%) shall be allocated to overnight purses.

(2) The allocation required by this subsection (c) must be made after deduction from the commission of the pari-mutuel tax but prior to any other deduction, allocation, or division of the commission.

**62-12-701.**

(a)

(1) There is established, under the jurisdiction of the racing commission, the backside improvement fund, which shall consist of money allocated to the fund under § 62-12-502(d), together with any other money that may be contributed to or allocated to the backside improvement fund from other sources.

(2) The purpose of the backside improvement fund is to improve the backside of Thoroughbred racing associations averaging one million two hundred thousand dollars (\$1,200,000) or less pari-mutuel handle per racing day on live racing.

(3) The racing commission must use the backside improvement fund only to promote, enhance, and improve the conditions of the backside of eligible racing associations. Conditions considered shall include, but not be limited to, the living and working quarters of backside employees.

(b) Any balance remaining unexpended at the end of a fiscal year in the backside improvement fund may not revert to the general fund but must be carried forward into the subsequent fiscal year.

(c) Moneys in the backside improvement fund may be invested by the state treasurer in accordance with § 9-4-602.

(d) The racing commission must review the status of the backside improvement fund investments quarterly and report its findings to the finance, ways and means committees of the senate and house of representatives.

(e) The racing commission must promulgate any rules necessary to carry out this section.

**62-12-801.**

(a) No person shall knowingly enter or cause to be entered for competition, or compete, for a prize or stake, or drive any horse, under an assumed name, or out of its proper class, where the prize or stake is to be decided by a contest of speed.

(b) A violation of this section is a Class D felony.

**62-12-802.**

(a)

(1) The class to which a horse belongs, for the purpose of an entry in any contest of speed, must be determined by the public performance of that horse in any former contest or trial of speed, as provided by the rules of the association under which the proposed contest is advertised to be conducted.

(2) No person shall knowingly misrepresent or fraudulently conceal the public performance in any former contest, or trial of speed, of a horse that person proposes to enter in a contest, whether the horse is entered in the contest or not.

(b) A violation of subdivision (a)(2) is a Class D felony.

**62-12-803.**

(a) No official timer at a horse race shall knowingly and falsely announce a slower or faster time than that actually accomplished by a horse.

(b) A violation of this section is a Class A misdemeanor.

**62-12-804.** Failure to appear before the racing commission at the time and place specified in a summons issued under § 62-12-208(12) is a Class B misdemeanor.

**62-12-805.**

(a) A person commits the offense of tampering with or interfering with a horse race when, with the intent to influence the outcome of a horse race, the person uses any device, material, or substance not approved by the racing commission on or in any participant involved in or eligible to compete in a horse race to be viewed by the public.

(b) Any person who, while outside this state and with intent to influence the outcome of a horse race within this state, tampers with or interferes with any

equine participant involved in or eligible to compete in a horse race in this state commits the offense of tampering with or interfering with a horse race.

(c) A violation of this section is a Class C felony.

SECTION 4. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following as new parts:

**67-4-1201.**

(a) Except for the conduct of harness racing at a county fair, each person entering the grounds or enclosure of a race track at which a live horse race meeting is being conducted under the jurisdiction of the Tennessee horse racing commission, established by § 62-12-201, for the purpose of attending the races or for any other purpose connected therewith, must pay a tax of fifteen cents (\$0.15) to the state, except as otherwise provided in this section. If tickets good for more than one (1) day are issued, the sum of fifteen cents (\$0.15) must be paid by each person using the ticket on each day that it is used.

(b) No admission tax may be collected from any of the employees of the race track, or any of the owners or trainers of horses, or jockeys, or their employees.

(c) The admission tax must be collected by the race track from each person on entering the race track or enclosure upon a paid or free admission. The race track must account for and remit to the state the proceeds from the tax collected pursuant to this subsection (c).

**67-4-1202.**

(a) A person engaged in the business of conducting a horse race meeting shall furnish the department of revenue, within thirty (30) days of the



date of every horse race meeting, a report of the number of persons subject to the tax levied in § 67-4-1201 who enter the grounds or enclosure during the horse race meeting, and shall remit to the department the amount of the tax proceeds due from the collection of the tax from such persons.

(b) A person who violates this section or § 67-4-1201 shall be subject to penalties and interest under chapter 1, part 8 of this title.

**67-4-1301.** As used in this part, unless the context requires otherwise:

(1) The following terms have the same meaning as in § 62-12-101:

- (A) "Advanced deposit account wagering";
- (B) "Advanced deposit account wagering licensee";
- (C) "Association";
- (D) "Host track";
- (E) "Interstate wagering";
- (F) "Intertrack wagering";
- (G) "Receiving track";
- (H) "Simulcast facility";
- (I) "Telephone account wagering";
- (J) "Tennessee resident"; and
- (K) "Track";

(2) "Racing commission" means the Tennessee horse racing commission, established by § 62-12-201;

(3) "Daily average live handle" means:

(A) The handle from wagers made at a track on live racing during the fiscal year, excluding amounts wagered:

- (i) At a receiving track;
- (ii) At a simulcast facility;
- (iii) On telephone account wagering;
- (iv) Through advance deposit account wagering; and
- (v) At a track participating as a receiving track or simulcast

facility displaying simulcasts and conducting interstate wagering;

Divided by:

(B) The total number of days that live racing was conducted at the track during the fiscal year;

(4) "Department" means the department of revenue;

(5) "Fiscal year" means a time frame beginning 12:01 a.m., July 1, and ending 12 midnight, June 30;

(6) "Handle" means total wagers made on a race; and

(7) "Takeout" means that portion of the handle which is distributed to persons other than those making wagers.

**67-4-1302.**

(a)

(1) Except as provided in subdivision (a)(2), an excise tax is imposed on all tracks conducting pari-mutuel wagering on live racing under the jurisdiction of the racing commission as follows:

(A) For each track with a daily average live handle of one million two hundred thousand dollars (\$1,200,000) or more, the tax shall be in the amount of three and one-half percent (3.5%) of

all money wagered on live races at the track during the fiscal year;  
and

(B) For each track with a daily average live handle under one million two hundred thousand dollars (\$1,200,000), the tax shall be one and one-half percent (1.5%) of all money wagered on live races at the track during the fiscal year.

(2) The excise tax imposed by subdivision (a)(1) shall not apply to pari-mutuel wagering on live harness racing at a county fair.

(b)

(1) Except as provided in subdivision (b)(3), an excise tax is imposed on:

(A) All tracks conducting telephone account wagering;

(B) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the racing commission; and

(C) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(2) The tax shall be three percent (3%) of all money wagered on races as provided in subdivision (b)(1) during the fiscal year.

(3) The excise tax imposed by subdivision (b)(1) shall not apply to harness racetracks licensed by the racing commission.

(c) The taxes imposed by this section shall be paid, collected, and administered as provided in § 67-4-1304.

**67-4-1303.**

(a) An excise tax is imposed on all advance deposit account wagering licensees licensed under § 62-12-208(2) at a rate of one-half of one percent (0.5%) of all amounts wagered through the licensee by Tennessee residents.

(b) The tax imposed by this section shall be paid, collected, administered, and distributed as provided in § 67-4-1304.

**67-4-1304.**

(a) The department shall enforce the provisions of, and collect the tax and penalties imposed and other payments required by, this part, and in doing so it shall have the general powers and duties granted it in chapter 1 of this title, including the power to enforce, by an action in the Davidson County chancery court, the collection of the tax, penalties, and other payments imposed or required by this part.

(b)

(1) The remittance of the taxes imposed by § 67-4-1302 shall be made weekly to the department no later than the fifth business day, excluding Saturday and Sunday, following the close of each week of racing, during each horse race meeting, and shall be accompanied by reports as required by the department.

(2) Except as otherwise provided in this part, all funds received by the department from the taxes imposed by § 67-4-1302 shall be paid into the state treasury and shall be credited to the general fund.

(3) The supervisor of pari-mutuel betting appointed by the racing commission shall weekly, during each horse race meeting, and during each week when historical horse races are conducted, report to the

department the total amount bet or handled the preceding week and the amount of tax proceeds due the state thereon, under this part.

(4) A person designated by the racing commission shall, at all reasonable times, have access to all books, records, issuing or vending machines, adding machines, and all other pari-mutuel equipment for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the state are being or have been paid.

(5) Every person, corporation, or association required to pay the tax imposed by § 67-4-1302 shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool.

(c)

(1) The remittance of the tax imposed by § 67-4-1303 shall be made weekly to the department no later than the first business day of the week next succeeding the week during which the wagers forming the base of the tax were received.

(2) Along with the remittance of the tax, each advance deposit account wagering licensee shall file a return that includes the information required by the department.

(3) Every advance deposit account wagering licensee shall keep its books and records in such a manner that:

(A) Tennessee residents having accounts with the advance deposit account wagering licensee can be individually identified and their identity and residence verified; and

(B) The amount wagered through each account held by a Tennessee resident and the date of each wager can be determined and verified.

(4) All books and records of the advance deposit account wagering licensee required by subdivision (c)(3), and any additional books and records that the department requires a licensee to maintain by rule, shall be open to inspection by the department and the racing commission.

(5)

(A) All revenue received by the department from the tax imposed by § 67-4-1303 must be distributed as follows:

(i) Fifteen percent (15%) to the state treasury and credited to the general fund; and

(ii)

(a) Eighty-five percent (85%) of revenue received from a wager placed on a race conducted at a track in Tennessee shall be distributed to the association that conducted the race; or

(b) Eighty-five percent (85%) of revenue received from a wager placed on a race conducted at a track outside Tennessee shall be distributed to

the Tennessee track that is recognized as the host track by the racing commission at the time the wager is placed. However, if a wager subject to the tax imposed by § 67-4-1303 is placed on a race conducted at a track outside Tennessee, and the person placing the wager has registered an address with the advance deposit account wagering licensee that is within twenty-five (25) miles of a Tennessee track, the association licensed by the racing commission to operate that track must receive the tax revenue derived from that wager.

(B) An association receiving a distribution under subdivision (c)(5)(A)(ii) must allocate one-half (1/2) of the amount distributed to its purse account.

**67-4-1305.** Any person who violates any provision of this part shall be subject to the penalties and interest under chapter 1, part 8 of this title.

**67-4-1306.** In addition to all other penalties provided in this part:

(1) When the pari-mutuel system of betting is operated at a track licensed under title 62, chapter 12, the license may be suspended, revoked, or renewal refused by the racing commission upon the failure of the operator to comply with this part or the rules promulgated by the department pursuant thereto, even though the pari-mutuel system of betting and the track are operated by different persons, corporations, or associations; and

(2) Any advance deposit account wagering licensee that fails to remit the tax imposed by § 67-4-1303, to remit returns required by § 67-4-1304, or to maintain the records required by § 67-4-1304 or rules promulgated by the department, may have the license granted under § 62-12-208(2) suspended, revoked, or not renewed by the racing commission.

SECTION 5. This act shall take effect July 1, 2017, the public welfare requiring it.