

SENATE BILL 817

By Akbari

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 9; Title 39; Title 44 and Title 67, relative to  
horse racing.

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

SECTION 1. Tennessee Code Annotated, Section 4-3-1304(a), is amended by inserting the language "Tennessee horse racing commission;" as a new, appropriately designated subdivision.

SECTION 2. Tennessee Code Annotated, Section 4-29-242(a), is amended by inserting the following as a new subdivision:

( ) Tennessee state horse racing commission, created by § 4-36-201;

SECTION 3. Tennessee Code Annotated, Title 4, is amended by adding the following language as a new chapter:

**4-36-101.** This chapter is known and may be cited as the "Horse Racing Control Act of 2019".

**4-36-102.** As used in this chapter:

(1) "Applicant" means a person applying to the Tennessee state racing commission for a license to conduct race meetings;

(2) "Association" means a person licensed by the commission to engage in the conduct of a race meeting;

(3) "Breakage" means the number of cents by which the amount payable on each dollar wagered exceeds a multiple of ten cents (10¢);

(4) "Commission" means the Tennessee horse racing commission, created by § 4-36-201;

(5) "County" includes a county with a metropolitan form of government;

(6) "Dark day" means a day on which the association does not conduct a live race on its racetrack;

(7) "Enclosure" means the real property, and appurtenances and improvements thereto, that is contiguous or adjacent to the association's racetrack and is owned, leased, or otherwise possessed by the association for purposes related to its conduct of parimutuel wagering;

(8) "Fair" means a county, district, or division fair as defined in § 43-21-104 that qualifies for state aid grants under § 43-21-102;

(9) "Handle" means the gross amount of money wagered on horse races at a racetrack or satellite teletheater;

(10) "Host facility" means the racetrack at which the race is run or the facility that is designated as the host facility if the race is run in a jurisdiction that is not participating in the interstate combined wagering pool;

(11) "Host jurisdiction" means the jurisdiction in which the host facility is located;

(12) "Interstate combined wagering pool" means a parimutuel pool established in one (1) jurisdiction that is combined with comparable parimutuel pools from one (1) or more other jurisdictions for the purpose of establishing payoff prices in the various participating jurisdictions;

(13) "Jurisdiction" means that governmental entity that regulates parimutuel wagering at the national, state, or local level in the United States, its territories or possessions, or in another country;

(14) "License" means a license to conduct race meetings issued by the commission in accordance with § 4-36-301;

(15) "Live race" means a horse race that is actually run on an association's racetrack;

(16) "Parimutuel" means a system whereby wagers with respect to the outcome of a horse race are placed with, or in, a wagering pool and in which the participants are wagering with each other and not against the operator;

(17) "Person" means an individual, association, partnership, joint venture, corporation, governmental entity, or instrumentality thereof, or other organization or entity;

(18) "Premises" means a real property, and the appurtenances and improvements thereto, that is owned, leased, or otherwise possessed by an association for purposes related to its conduct of parimutuel wagering;

(19) "Public employee" means an individual who receives compensation from the state or a political subdivision thereof or a public governmental authority or corporation established for the performance of public functions;

(20) "Public official" means an elected or appointed person in the executive, legislative, or judicial branch of the state or a political subdivision thereof;

(21) "Race meeting" means the entire time, whether consecutive dates or otherwise, for which an association has been granted a license to conduct horse racing by the commission;

(22) "Racetrack" means ground or track for horse racing;

(23) "Racing day" means a full program of races at a specified racing association on a specified day;

(24) "Satellite teletheater" or "satellite simulcast teletheater" means a facility, operated by an association that has been granted a race meeting license, at a location separate from the enclosure, for the purpose of displaying and accepting wagers on simulcast races;

(25) "Simulcast race" means either the broadcast from an association of a live race, simultaneously with its running, or the receipt by an association of a broadcast of a horse race conducted at a racetrack in the United States, simultaneously with its running;

(26) "Take-out" means that portion of a wager that is deducted from or not included in the parimutuel pool, and that is distributed to persons other than those placing wagers; and

(27) "TBI" means the Tennessee bureau of investigation.

**4-36-103.**

(a) There is established a separate account within the general fund known as the "transportation improvement fund". This fund is administered by the department of transportation.

(b) Funds in the transportation improvement fund shall be allocated by the general assembly to fund special projects related to transportation.

(c) Any unencumbered funds and any unexpended balance of this fund remaining at the end of the fiscal year do not revert to the general fund, but must be carried forward until expended in accordance with this chapter. Interest accruing on investments and deposits of the fund must be returned to the fund and remain a part of the fund.

(d) Funds received from the following sources must be deposited in the transportation improvement fund:

(1) Breakage proceeds received by the state pursuant to § 4-36-305(e);

(2) Uncashed ticket proceeds received by the state pursuant to § 4-36-

305(f);

(3) Revenue received by the state based on a percentage of the handle wagered in this state pursuant to §§ 4-36-302(c)(3) and 4-36-305(c);

(4) Revenue received from the tax on admissions to race meetings pursuant to § 4-36-304; and

(5) Civil penalties collected in accordance with § 4-36-213(6).

**4-36-201.**

(a) There is created the Tennessee state horse racing commission, to be attached to the division of regulatory boards within the department of commerce and insurance in accordance with § 4-3-1304.

(b) The commission is composed of the following members:

(1) One (1) public member, to be appointed by the governor, who resides in the middle grand division of the state;

(2) One (1) public member, to be appointed by the speaker of the senate, who shall reside in the eastern grand division of the state and who has a reasonable knowledge of the practices and procedures of horse racing;

(3) One (1) public member, to be appointed by the speaker of the house, who resides in the western grand division of the state and who has a reasonable knowledge of the practices and procedures of horse racing;

(4) One (1) public member, to be appointed by the speaker of the senate, with a reasonable knowledge of the practices and procedures of horse racing;

(5) One (1) public member, to be appointed by the speaker of the house, with a reasonable knowledge of the practices and procedures of horse racing;

(6) One (1) member with a background in law enforcement, who is appointed by the governor from a list of three (3) persons submitted by the director of the TBI; and

(7) One (1) member with a background in accounting, who is appointed by the governor from a list of three (3) persons submitted by the state board of accountancy.

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

(d)

(1) The members appointed pursuant to subdivisions (b)(1), (b)(4), and (b)(7) shall serve an initial term of two (2) years, which expires on June 30, 2021.

(2) The members appointed pursuant to subdivisions (b)(2) and (b)(5) shall serve an initial term of three (3) years, which expires on June 30, 2022.

(3) The members appointed pursuant to subdivisions (b)(3) and (b)(6) shall serve an initial term of four (4) years, which expires on June 30, 2023.

(e)

(1) Following the expiration of members' initial terms as prescribed in subsection (d), all terms begin on July 1 and terminate on June 30 every four (4) years thereafter.

(2) All members shall serve until the expiration of the term to which they were appointed and until their successors are appointed and qualified.

(3) A vacancy occurring other than by expiration of term must be filled in the same manner as the original appointment but for the unexpired term only.

(4) Members are eligible for reappointment to the commission following the expiration of their terms, but must serve no more than two (2) consecutive four-year terms.

**4-36-202.** To be eligible for appointment to and membership on the commission, a person must:

- (1) Have been a legal resident of this state for five (5) years immediately preceding the appointment, and be more than 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 an interest in a racetrack where a race meeting may be held, including 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 a gambling or gaming offense under the federal law or the laws of this state or another state, or of an offense that is punishable as a felony under the federal law or the laws of this state or another state;
- (6) Not wager or cause a wager to be placed upon the outcome of a horse race at a race meeting that is under the jurisdiction and supervision of the commission;
- (7) Not accept a pecuniary or other form of reward or gift from an association or a licensee of the commission; and
- (8) Have no pecuniary interest or engage in a private employment in a business that does business with an association.

**4-36-203.**

(a) No member of the commission is to be compensated for the member's services, but a member is to receive the amount authorized by § 3-1-106(b)(1) for expenses for each day or portion of a day the member is engaged in the official business of the commission.

(b) A member is to also receive reimbursement for travel expenses in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

**4-36-204.**

(a) The member appointed pursuant to § 4-36-201(b)(1) shall call the first meeting of the commission. Subsequent meetings are to be called by the chair of the commission.

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

(c)

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

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

**4-36-205.**

(a) The governor may remove a member of the commission for cause upon first giving the member a copy of the charges against the member and an opportunity for a public hearing to respond to the charges.

(b) If the member is removed, the governor shall file, in the office of the secretary of state, a complete statement of all charges made against the member and the governor's findings thereon, together with a complete report of the proceedings.

**4-36-206.**

(a) The commission shall appoint an executive secretary who serves at the pleasure of the commission. The executive secretary shall devote full time to the duties of the office and shall not hold another office or employment.

(b)

(1) To be eligible for appointment as executive secretary, a person must meet the qualifications required of a member of the commission, except for the residency requirements in § 4-36-202(1).

(2) After appointment, the executive secretary is subject to the same restrictions applying to commission members as established in § 4-36-202(3) and (5)-(8).

(c) The executive secretary receives an annual salary to be established by rules promulgated by the commission, and is allowed actual and necessary expenses incurred in the performance of official duties.

(d) The executive secretary shall:

(1) Attend all meetings of the commission;

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

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

(4) Serve as executive officer to the commission and be responsible for carrying out all rules, conditions, orders, and directives of the commission.

**4-36-207.**

(a) Each member of the commission and the executive secretary shall furnish a corporate surety bond executed by a surety company authorized to do business in Tennessee, conditioned upon the faithful performance of the duties and the correct accounting of all sums received and coming into their control under this chapter.

(b) The bond is payable to the state in an amount of fifty thousand dollars (\$50,000).

**4-36-208.**

(a) The commission may employ, at reasonable compensation, assistant secretaries, stewards, supervisors of mutuels, veterinarians, inspectors, accountants, security personnel, and other employees deemed by the commission to be essential at or in connection with a race meeting, and to the best interests of the commission, for the purpose of maintaining integrity and honesty in horse racing.

(b) The commission shall prescribe, by rule, the powers and duties of the persons employed under this section.

(c) The commission may appoint such deputies, officers, and counsel as the commission may deem necessary and desirable.

**4-36-209.**

(a) All meetings of the commission are open and public in accordance with title 8, chapter 44. A public record of every vote and action taken by the commission must be maintained at the commission's office.

(b) All records of the commission are open to inspection by the public during regular office hours, except the following:

(1) Records and information pertaining to the testing of humans for the presence of alcohol or drugs, including medical information, the results of any urine or breathalyzer test, and any reports filed as a result of attending a

supervisory treatment program, except for their use with respect to a hearing before the stewards, judges, commission, or commission designee;

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

(3) Criminal history information obtained by the commission from the federal bureau of investigation, TBI, or other law enforcement agency.

(c) The commission shall have access, on a confidential basis, to the information enumerated in subsection (b) as required to fulfill its lawful function.

**4-36-210.**

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

(b) Following the conclusion of each horse racing season, the commission shall prepare a report of all meetings, business, actions taken, collections, disbursements, and recommendations it deems necessary. The report must be published in accordance with the rules, policies, and procedures of the state publications committee.

**4-36-211.** All funds handled by the commission are subject to audit by the comptroller of the treasury under the authority granted by § 8-4-109.

**4-36-212.** Except as provided in §§ 4-36-103 and 4-36-305, all funds received by the commission pursuant to this chapter must be paid into the state general fund.

**4-36-213.** The commission may:

(1) Issue subpoenas and summon witnesses before its meetings and hearings, administer oaths to such witnesses, and require testimony on issues before it;

(2) Compel the production of all books, records, or documents showing the receipts and disbursements of any person licensed to conduct the race meetings under this chapter, as well as other records that the commission believes to be pertinent to its function of maintaining the integrity of horse racing;

(3) Compel, at any time, the removal of any employee or official employed by an association in a case in which it has reason to believe the employee or official has been guilty of any dishonest practice in connection with horse racing, has failed to comply with a condition of the association's license, or has violated any rule promulgated by the commission;

(4) Require that the books, records, and financial statements of an association under this chapter be kept in a manner prescribed by the commission;

(5) Visit, investigate, and place auditors, inspectors, and security personnel in the offices, racetracks, or places of business of an association; and

(6) Impose, by rule, a civil penalty for each violation of a statute or rule of not more than ten thousand dollars (\$10,000). A civil penalty paid in accordance with this subdivision (a)(6) must be deposited in the transportation improvement fund, established pursuant to § 4-36-103.

**4-36-214.**

(a) A party who is the subject of an order or ruling of the stewards or judges may appeal to the commission with respect to the stewards' and judges' order or ruling, but may not appeal as to the extent of disqualification for a foul in a horse race or as to a finding of fact concerning an incident occurring during the running of a horse race.

(b)

(1) Disciplinary hearings conducted by the stewards or judges and appeals from the hearings must be conducted in accordance with the rules of procedure promulgated by the commission and are not be subject to the provisions of the Uniform Administrative Procedures Act, compiled in chapter 5 of this title.

(2) An appeal by a person penalized or disciplined by the stewards or judges may be made to the commission. The appeal must:

(A) Be filed in writing at the office of the commission within five (5) days of the date of a decision imposing the penalty or discipline;

(B) Be signed by the person making the appeal; and

(C) State the grounds for the appeal.

(c) An appeal from the decision of the stewards or judges to the commission does not affect that decision until the appeal has been sustained or dismissed, or a stay order has been issued.

(d)

(1) An appeal hearing may be conducted by the commission or by an administrative judge from the administrative procedures division of the department of state, at the discretion of the commission.

(2) The commission or its hearing officer, upon receipt of a written appeal, shall promptly grant a hearing and render a decision within a meaningful time. A continuance of a hearing must be reasonable in duration and for just cause.

(3) The commission, and the administrative judge receiving evidence on behalf of the commission, may make rulings affecting the competency, relevancy, and materiality of evidence to be presented, and rule upon any motions presented. The commission may require the entire record to be certified to it for decision, and the administrative judge shall submit written findings of fact, conclusions of law, and recommendations that must be incorporated in and become a part of the record. In the absence of a requirement by the commission that a record be certified to it for decision, the administrative judge shall render

an initial decision, and in the absence of either an appeal to the commission or a review upon motion of the commission, the administrative judge's initial decision becomes the decision of the commission.

(4) The commission is authorized to promulgate rules establishing further procedures for appeals filed pursuant to this section.

**4-36-301.**

(a)

(1) The commission shall determine the time and place in which horse race meetings may be conducted and where satellite teletheater locations may be located. The commission shall take the following factors into consideration in making such determinations:

(A) The public interest;

(B) A professional analysis of the wagering markets within Tennessee and adjacent states;

(C) The ability of the city or county in which the proposed horse race meetings would be held is located to provide public services to the facility and surrounding areas, including:

(i) Fire protection;

(ii) Law enforcement;

(iii) Roadways;

(iv) Water and waste water facilities;

(v) Zoning, subdivision, and building regulations; and

(vi) Any other public services as may be required by the racetrack or the anticipated growth in the surrounding areas;

(D) The proximity of the proposed racetrack to any central business district and the effect of the racetrack on other local tourist attractions;

(E) Community support for the racetrack and satellite teletheater locations proposed by the applicant; and

(F) Any other conditions the commission believes to be pertinent to the licensing of an association to conduct a race meeting in accordance with this chapter.

(2) To comply with subdivision (a)(1)(E), the commission shall:

(A) Consider the reasons given by the governing body of a local governmental entity for opposing or supporting the proposed location; and

(B) Hold at least one (1) public hearing in the area of proposed racetrack and satellite teletheater locations to receive comments and testimony. Before conducting the public hearing, the commission shall publicize the meeting in a newspaper of general circulation with the final notice under this subdivision (a)(2)(B) to be no less than four (4) days or greater than seven (7) days prior to the meeting. The applicant shall reimburse the commission for costs incurred as a result of conducting the public hearing.

(3) Except for associations that are fairs, the commission shall not grant more than one (1) license to conduct race meetings in each grand division, as defined in chapter 1, part 2 of this title.

(b) The commission shall require every person who applies for a license to conduct race meetings to complete an application. The application must include the following:

(1) A detailed description of the ownership of the applicant, including:

(A) The name of the applicant;

(B) If the applicant is not an individual:

(i) The form of the business entity of the applicant;

(ii) The year the applicant was organized;

(iii) The state in which the applicant was organized;

(iv) A copy of the applicant's bylaws, charter, or similar governing documents;

(v) The classes of capital stock or other form of ownership interest authorized by the applicant;

(vi) The amount of stock or other form of ownership interest authorized by the applicant;

(vii) The amount of the applicant's outstanding stock or other form of ownership interest existing not less than fifteen (15) days prior to the filing of the application;

(viii) The name and address of each person who has an ownership interest, either of record or beneficially, in the applicant;

(ix) If an ownership interest is held in voting trust or proxy:

(a) The name and address of the trust;

(b) The class of ownership interest held in the trust;

and

(c) The number of shares of stock or other ownership interest held in the trust;

(x) The terms of any proxy by which an ownership interest is held, the holder of the proxy, the name, address, class of stock,

and number of shares of ownership interest for all ownership interest held by a proxy;

(xi) If five percent (5%) or more of the applicant's assets or five percent (5%) or more of any principal owner's ownership interest is encumbered by long-term debt:

(a) The names and addresses of persons holding such security interests or promissory notes from the applicant and stockholders where stock is pledged as security; and

(b) The terms of agreements creating the security interests;

(xii) A description of all dividend rights, voting rights, liquidation rights, preemptive rights, conversion rights, and redemption provisions;

(xiii) If an applicant was organized as a corporation within the past five (5) years:

(a) The names of promoters;

(b) The nature and amount of anything of value received or to be received by each promoter, directly or indirectly from the applicant; and

(c) The nature and amount of any assets, services, or other consideration received or to be received by the applicant from the promoters; and

(xiv)

(a) The names of all directors and officers and all persons chosen to become directors or officers; and

(b) All positions and offices held by each person named and the principal occupation during the past five (5) years of each person named; and

(C) If an owner of the applicant is a business entity other than an individual, all information required in subdivision (b)(1)(B) for the applicant must also be provided as pertains to each non-individual owner of the applicant;

(2) A statement of the financial condition of the applicant, including:

(A) Financial statements audited and certified by independent certified public accountants for each of the last three (3) fiscal years or for the period of organization, if less than three (3) years;

(B) Any loan, including the borrower's name, the amount of the loan, and the collateral, if any, held by the applicant that is greater than one percent (1%) of the applicant's net income;

(C) A list of any pending legal proceeding to which the applicant or subsidiary or parent is a party or to which any of its property is a party. This list must include the name of the court or agency in which each proceeding is pending, the date the proceeding was instituted, and the principal parties;

(D) Any ownership interest held by a director, officer, policy-making manager, or principal stockholder in an entity previously licensed by another horse racing commission;

(E) The approximate amount of any material interest, direct or indirect, of any officer, director, or principal stockholder of the applicant, or any associate of any of the above persons, in any material transaction

during the last three (3) years to which the applicant was, or is to be, a party;

(F) Principal purposes for which the net income received by the applicant is intended to be used, and an approximate percentage of the amount intended for each purpose;

(G) Any contract the applicant has entered into within one (1) year of the date of application and any executory contract in which the consideration exceeds one percent (1%) of the applicant's net income; and

(H) Direct remuneration paid by the applicant or a subsidiary, if any, during the most recently concluded fiscal year to:

(i) Each director of the applicant;

(ii) Each officer of the applicant; and

(iii) Any other person whose direct remuneration was more than ten thousand dollars (\$10,000);

(3) The location of the horse racing operations, information pertaining to the racetrack and accompanying facilities, and membership in horse racing associations, to include the following:

(A) The county and, if applicable, municipality where the racetrack will be located;

(B) The actual legal description of the site, the names and addresses of persons who are titleholders to real property, and the names and addresses of persons holding mortgages or security interests in the property;

- (C) The transportation facilities serving the area and the distance from the nearest population center;
  - (D) The climatic conditions during proposed horse racing seasons;
  - (E) The population of local areas and growth trends;
  - (F) The principal sources of local income where a racetrack would be located;
  - (G) The effect of competition:
    - (i) With other racetracks in and out of the state;
    - (ii) With other sports or recreational activities in the area;and
    - (iii) On the availability of horse racing stock and racetrack personnel; and
  - (H) The total economic impact of the facility on the community and the facility's relationship with other tourist attractions;
- (4) A description of the physical plant, including:
- (A) The exact dimensions of any racetrack;
  - (B) The grandstand size and type of construction, including a copy of an architect's plans with details of proposed construction;
  - (C) The security and safety measures to be taken for the safety of the public and license holders;
  - (D) Fire protection and law enforcement plans;
  - (E) Parking facilities and the capacity of such facilities;
  - (F) The number and type of stables, including their capacity, and fire prevention facilities;

(G) The facilities for owners of animals and other horse racing personnel;

(H) Arrangements for food and drink concessions. Providers of concessions, if operating as a lessee, shall provide the same ownership and financial records as an applicant;

(I) All horse racing dates requested;

(J) The type of horse race to be conducted;

(K) Parimutuel operations and terms of ticket sales; and

(L) Financing arrangements for the construction of the racetrack.

The arrangements may include the issuance of bonds by a county or a municipality; provided, however, that an issuance of bonds by a county or a municipality must not include the issuance of general obligation bonds or a pledge of the credit of the county or municipality;

(5)

(A) Proof of membership or application for membership in the Thoroughbred Racing Association (TRA), if the applicant proposes to conduct thoroughbred horse racing; or

(B) Proof of membership or application for membership in the United States Trotting Association (USTA), if the applicant proposes to conduct standardbred horse racing; and

(6) A cash bond in an amount to be established by rule of the commission. The bond shall guarantee the applicant's performance, if issued a license.

(c)

(1) The commission shall perform background investigations on an applicant, including the officers and directors of an applicant that is a business entity, and shall request the assistance of the TBI in performing the background investigations.

(2) In conducting background investigations pursuant to this subsection (c), the commission's security division shall collect fingerprints from the applicant, including from officers and directors of an applicant that is a business entity, and shall submit the fingerprints to the federal bureau of investigation and to the TBI to determine if a fingerprinted individual has any recorded arrests or convictions.

(3) As an alternative to being fingerprinted by the commission's security division in accordance with subdivision (c)(2), the commission may allow an applicant for licensure to submit the applicant's fingerprints to the Association of Racing Commissioners International (ARCI) in accordance with the procedures established under the federal Parimutuel Licensing Simplification Act of 1988, when the results of the submittal will be acceptable for the commission's licensing purposes. The commission may also establish, by rule, a procedure for the electronic submission of fingerprints by applicants.

(d) The commission shall appoint three (3) stewards to serve each day of a race meeting at the racetrack of an association. Two (2) of the stewards are nominated by the association, but are subject to approval and appointment by the commission. The remaining steward is appointed by the commission. The commission is required to show just cause for not appointing a person nominated by an association to be a steward. Stewards must be paid equally by the commission.

(e)

(1) The commission shall promulgate rules for the holding, conducting, and operating of race meetings conducted in this state, so long as the rules are uniform in their application and effect. These rules must include provisions to ensure the humane treatment of horses.

(2) The commission shall publish the rules and distribute them to each association operating pursuant to this chapter.

(f) The commission may delegate to the stewards and judges the powers and duties as are necessary to effectuate the purposes of this chapter.

(g) The commission may visit and investigate the offices, racetracks, or places of business of an association, and place therein accountants and other personnel it deems necessary to determine whether the association is in compliance with the rules of the commission.

(h) The commission shall collect the fees payable for a permit or license issued by it, and shall supervise the parimutuel departments at racetracks.

(i) The commission shall employ a chemist or contract with either a duly qualified chemical laboratory or university to determine, by chemical testing and analysis of saliva, urine, blood, or other excretions of body fluids, whether prohibited substances have been introduced that would affect the outcome of any horse race, or whether an action has been taken or a substance or drug has been introduced that may interfere with the testing procedure. Procedures relating to testing and analysis, and action taken on positive reports, must be in conformity with the current standards of the Association of Racing Commissioners International (ARCI), the Association of Official Racing Chemists (AORC), or other such procedures or standards as the commission may require. The commission may collect from each association an amount not to exceed the association's pro rata share of the costs associated with conducting the procedures;

provided, that when chemical testing and analysis is requested by the owner or trainer of a horse, the owner or trainer shall reimburse the commission for the cost of the testing procedure.

(j) The commission shall appoint a supervisor of mutuels, security personnel, and as many other employees as may be necessary for the enforcement of the laws of this state and the rules of the commission.

(1) The supervisor of mutuels shall supervise the wagering and the parimutuel departments of race meetings and shall not enter into any other employment involving horse racing or parimutuel wagering either in or out of this state during the time the supervisor of mutuels is serving in that capacity at a race meeting.

(2) The security personnel appointed by the commission shall assist in keeping the peace at race meetings, shall enforce the laws of the state relating to horse racing and the rules of the commission, and shall perform duties prescribed by the commission. Security personnel have the authority of law enforcement officers while acting in such capacity, with the power to exercise such authority anywhere in this state.

(k)

(1) The commission shall establish a security division charged with the responsibility of investigating matters relating to the proper conduct of horse racing and parimutuel wagering, including the following:

(A) Ejecting and excluding individuals from the premises in accordance with § 4-36-307;

(B) Undercover investigations;

(C) Fingerprinting of persons who apply to the commission for a license, as a requirement for licensure;

(D) The production and distribution of photographed identification cards to horse racing officials and licensees of the commission; and

(E) Investigations into the humane treatment of race horses and breeding horses.

(2) The security division is to assist in its investigations by the Thoroughbred Racing Protective Bureau (TRPB), the TBI, or local law enforcement officers.

(l) The commission may grant, refuse, suspend, or revoke licenses issued under this chapter in accordance with rules promulgated by the commission governing such procedures.

(m) An application to conduct a race meeting shall include a statement under oath that the information supplied in the application is true and not misleading. Failure to do so will result in the delay, refusal, suspension, or revocation of a license to conduct race meetings.

(n) The commission shall publicly state its reasons for refusing, suspending, or revoking a license granted by it, and the reasons must be included in the minute book of the commission, which is open to public inspection during all regular office hours of the commission.

(o) The commission shall approve all proposed additions, extensions, improvements, or original construction of buildings, stables, or racetracks upon property owned or leased by a licensee if the extension, addition, improvement, or original construction is related to the conduct of a race meeting.

(p) The commission shall completely supervise and control the parimutuel machines and equipment at race meetings.

(q) The commission may perform other duties and functions as the commission deems necessary to ensure the honest and efficient conduct of horse racing.

**4-36-302.**

(a) The commission may promulgate rules to regulate the running of live races or the presentation of simulcast races at recognized race meetings, upon which results the parimutuel style of wagering is solely permitted.

(b)

(1) Only those persons licensed by the commission to conduct race meetings may conduct parimutuel wagering, and such wagering must be conducted only on the association's premises.

(2) An association, other than a fair, that requests approval for at least thirty-four (34) live racing days may also request approval to conduct simulcast wagering on dark days at the enclosure and simulcast wagering at a satellite teletheater.

(3) An association that makes application for an initial race meeting license may request approval to conduct simulcast wagering on its premises that are within the same local governmental boundaries as its enclosure prior to the initial commencement of live racing at the enclosure. The commission shall not give approval for simulcast wagering prior to the grant of a race meeting license. Such simulcast wagering is considered to be conducted at the enclosure.

(4) A satellite teletheater shall have amenities similar in quality to the association's grandstand and clubhouse facilities.

(c)

(1) Interstate combined pool wagering may be permitted on simulcast races and the commission is authorized to enter into agreements with other horse racing commissions or boards and their respective states or jurisdictions to effect such combined pool wagering.

(2) Interstate simulcasts must be conducted in compliance with the Interstate Horseracing Act (15 U.S.C. § 3001 et seq.).

(3) Subject to the commission's approval, an association participating in an interstate combined wagering pool may adopt the take-out of the host jurisdiction or facility. Of the simulcast handle, the state is to receive one and one-half percent (1.5%) of the first six hundred thousand dollars (\$600,000) and two and one-half percent (2.5%) of the amount over six hundred thousand dollars (\$600,000) for distribution by the department of revenue in accordance with § 4-36-305(c).

(4) The commission may permit an association to use one (1) or more of its horse races for interstate combined wagering pools at locations outside this state, and may allow parimutuel pools in other states or jurisdictions to be combined with parimutuel pools in this state for the purpose of establishing interstate combined wagering pools.

(5) The participation by an association in an interstate combined wagering pool is not cause for the association to be considered to be doing business in any jurisdiction other than the jurisdiction in which the association is physically located.

(6) Tennessee parimutuel taxes or retainage may not be imposed on amounts wagered in an interstate combined wagering pool other than on amounts wagered in this state.

(7) Breakage for interstate combined wagering pools must be calculated in accordance with the statutes or rules of the host jurisdiction and must be distributed among the participating jurisdictions in a manner agreed to by the jurisdictions.

(8) The commission may approve types of wagering, distribution of winnings, and rules of horse racing for simulcast races and interstate combined pool wagering that are different from those that normally apply in this state.

(d) An association conducting a race meeting pursuant to this chapter may provide a place in the enclosure at which the association may conduct, under the supervision of the commission, the parimutuel system of wagering by patrons on the results of horse races, either live or simulcast, in accordance with this chapter.

(e) A place provided in accordance with this section must be equipped with automatic ticket-issuing and vending machines capable of making accurate and speedy determinations of the amount of money in each wagering pool and on each entry, and the amount or award owed to winning patrons and displaying the information to patrons. The machines must be equipped with automatic or hand-operated machinery suitable for displaying on the totalisator board, located in the infield portion of the racetrack within easy viewing distance of the patrons, the total amount of sales on every live race or simulcast race, and the amount of the award to winning patrons.

**4-36-303.**

(a) No association shall conduct a race meeting without a valid license issued pursuant to this chapter.

(b) The license fee to be paid by an association to hold a race meeting is as follows:

(1) For an association that did not hold a race meeting license for the year preceding the race meeting dates applied for:

(A) Ten thousand dollars (\$10,000), to accompany the application;

(B) Twenty-five thousand dollars (\$25,000), which shall also accompany the application, to defray the costs of background investigations required under § 4-36-301(c). The commission shall refund to the applicant any unexpended balance of the investigation fee after the investigation has concluded and all expenses related to the investigation have been paid; and

(C) An amount not to exceed one thousand dollars (\$1,000) for each racing day. The commission may establish a fee amount based on simulcast racing days and a separate fee amount based on live racing days; and

(2) For an association that did hold a race meeting license for the year preceding the race meeting dates applied for:

(A) One thousand dollars (\$1,000), to accompany the application; and

(B) An amount not to exceed one thousand dollars (\$1,000) for each racing day. The commission may establish a fee amount based on simulcast racing days and a separate fee amount based on live racing days.

(c) Other occupational license fees must be established, by rule, by the commission, but no single fee may exceed one thousand dollars (\$1,000) a year.

(d) The commission shall adjust fees as necessary to ensure the commission is fiscally self-sufficient and revenues from fees do not exceed necessary and required expenditures.

**4-36-304.**

(a) Every association shall pay to the commission an admissions tax of fifteen cents (15¢) for each person entering the grounds of the association upon a ticket of admission.

(b) Accurate records and books must be kept and maintained by the association at all times that show the admission tickets issued and used on each racing day and the attendance at each race meeting.

(c) Funds received by the state under this section must be deposited in the transportation improvement fund established pursuant to § 4-36-103.

**4-36-305.**

(a) Associations may retain, subject to the payment of privilege taxes and the purses, an amount not to exceed seventeen percent (17%) of all money wagered, plus an additional amount equal to three and one-half percent (3.5%) of the amount wagered on multiple wagering that involves a single wagering interest on two (2) horses, plus an additional amount equal to eight percent (8%) of the amount wagered on a multiple wagering that involves a single wagering interest on three (3) or more horses.

(b)

(1) Associations conducting race meetings under this chapter shall pay to the department of revenue, within forty-eight (48) hours after the close of a racing day, a tax in the amount established as follows:

(A) One and one-half percent (1.5%) of the first six hundred thousand dollars (\$600,000) of the daily parimutuel handle; and

(B) Two and one-half percent (2.5%) of the daily parimutuel handle over six hundred thousand dollars (\$600,000).

(2) If an association conducts more than one (1) program of horse races on any day, each program is considered a separate racing day for the purpose of calculating the tax due. The tax must be applied separately to the parimutuel handles at each racetrack or simulcast teletheater. The association shall indicate to the department of revenue the amount of tax paid for each racetrack and simulcast teletheater and the name of the municipality or county, if outside the corporate boundaries of a municipality, where the racetracks and simulcast teletheaters are located.

(c)

(1) Thirty percent (30%) of funds collected from each racetrack and simulcast teletheater in accordance with subsection (b) must be allocated to the municipality where the racetrack or simulcast teletheater is located, or if the racetrack or simulcast teletheater is not located within a municipality, to the county where the racetrack or simulcast teletheater is located. Funds allocated under this subdivision (c)(1) must be earmarked for law enforcement, rehabilitation referral services or programs for problem and compulsive gamblers, and education programs. If the commission determines that a proposed racetrack or simulcast teletheater will increase expenditures in a municipality or county other than the municipality or county in which the racetrack or simulcast teletheater is located, the commission may require that a portion of the tax proceeds allocated in this subdivision (c)(1) be paid by the department to the affected municipality or county.

(2) The remaining seventy percent (70%) of the funds collected under subsection (b) must be allocated to the transportation improvement fund established pursuant to § 4-36-103.

(d) No other organization license fee, privilege tax, excise tax, or horse racing fee, except as provided in this chapter, is to be assessed or collected from an association by the state or a unit of local government; and, notwithstanding § 67-4-712(c) or any other section to the contrary, the transfer of ownership of a horse by means of a claiming race is not subject to taxation.

(e) Breakage must be computed on a basis not to exceed ten cents (10¢) on the dollar. An association may retain thirty-three percent (33%) of the total amount of breakage each day. The remaining sixty-seven percent (67%) must be remitted to the department of revenue, which shall pay the money into the transportation improvement fund established pursuant to § 4-36-103.

(f)

(1) Funds for the payment of outstanding parimutuel tickets must be held by the association in an interest-bearing special escrow account for one (1) year from the date of issuance. The interest earned must be apportioned and paid out as set out for the principal in this subsection (f). There must be no commingling of funds from outstanding parimutuel tickets and interest earned from the funds within the special escrow account with funds from other sources.

(2) Funds remaining in the escrow account for more than one (1) year must be distributed as follows:

(A) Thirty-three percent (33%) of the funds becomes the property of the association; and

(B) Sixty-seven percent (67%) of the funds must be remitted to the department of revenue, which shall pay the money into the transportation improvement fund established under § 4-36-103.

(g) If, after one (1) year, a parimutuel ticket is presented to the association for payment, the association shall pay the ticket and may charge the amount of the ticket against any unpaid money similarly accumulated as a result of parimutuel tickets not being presented for payment.

**4-36-306.**

None of the following individuals shall place a wager at any racetrack or simulcast teletheater located in this state or place a wager on the outcome of any horse race conducted at a racetrack located in this state:

(1) Employees of an association;

(2) Deputies, officers, representatives, employees, or counsel of the commission; and

(3) Employees or officials connected with the parimutuel department at a race meeting.

**4-36-307.**

(a)

(1) The commission may, by rule and through the actions of its own security division, exclude or eject from the licensed premises any known:

(A) Bookmaker;

(B) Tout;

(C) Person who has been convicted of an act in violation of this chapter, a law prohibiting bookmaking, or other illegal act relating to the racing of horses; or

(D) Person whose presence on the premises would not be conducive to the best interests of the public or the sport of horse racing, in the opinion of the duly authorized security division.

(2) No rule must provide for the exclusion or ejection of a person on the grounds of race, color, creed, national origin, or gender.

(b) A person who, pursuant to a rule of the commission, is excluded or ejected from a racetrack where racing is authorized and licensed in this state may apply to the commission for a hearing on the question of whether the rule is applicable to that person.

(c) A person who is excluded or ejected from the premises of an association, pursuant to rules promulgated by the commission, commits a misdemeanor if that person thereafter enters the premises of any licensed racetrack in this state without first having obtained a determination from the commission that the rule under which that person was excluded or ejected should not apply.

**4-36-308.** No person under eighteen (18) years of age shall be permitted to wager at any race meeting.

**4-36-309.** Notwithstanding any provisions of this chapter to the contrary, the commission may establish, by rule, separate provisions regarding the conduct of live racing and simulcasts by fairs. The provisions must include, but not be limited to, the content of race meeting license applications, qualifications for licensure, criteria for consideration of a license application, fees, and bonds, association duties and obligations, length of race meetings, wagering at the enclosure and satellite simulcast teletheaters, and commission personnel.

**4-36-401.**

(a) Parimutuel wagering at live horse races is not permitted in a county or municipality unless a majority of the voters of the county or municipality approve a referendum pursuant to this section.

(b) A county or municipal legislative body may, by resolution or ordinance, call a referendum on whether live horse racing with parimutuel wagering may be permitted in that county or municipality. Upon approval by the county or municipal legislative body, the county election commission shall call a referendum at the next regularly scheduled county-wide or municipality-wide general election on the question of whether live horse racing with parimutuel wagering may be permitted in that county or municipality. The question to be placed on the ballot must read as follows:

Shall (here insert name of county or municipality) permit parimutuel  
wagering on live horse racing?

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

(c)

(1) As an alternative to a county or municipality calling for a referendum by resolution or ordinance, the residents of a county or municipality may sign a petition equal to or exceeding a number amounting to ten percent (10%) of the votes cast for sheriff at the last preceding August general election to require the county election commission to place the question in subsection (b) on the ballot at the next regularly scheduled general election.

(2) No referendum under this chapter may be placed on the same ballot or conducted on the same day of a primary election. The petition must be addressed to the county election commission of the county, or the county in

which the municipality is located, and must read, except for that address, substantially as follows:

We, registered voters of (here insert name of county or municipality, as the case may be), hereby request the holding of a referendum on the question of whether live horse racing with parimutuel wagering shall be permitted.

(3) The petition may be in two (2) or more parts.

(d) If a county or municipality, except as provided in subsection (c), conducts a referendum under this section and the number of qualified votes cast negative to the racing proposition exceeds sixty percent (60%) of the total number of votes cast in the election, no further live horse racing proposition shall be placed on the ballot in that locality for a period of ten (10) years from the date of the previous election.

(e) Notwithstanding subsections (a)-(d), the commission has the sole discretion to determine whether a racetrack is approved for live horse racing in accordance with the chapter.

**4-36-402.**

(a) Parimutuel wagering at simulcast teletheaters shall not be permitted in any county or municipality unless the residents of the county or municipality approve a referendum pursuant to this section.

(b) A county or municipal legislative body may, by resolution or ordinance, call a referendum on whether parimutuel wagering on horse racing is permitted at a satellite simulcast teletheater located in that county or municipality. Upon approval by the county or municipal legislative body, the county election commission shall call a referendum at the next regularly scheduled county-wide or municipality-wide general election on the question of whether parimutuel wagering on horse racing at a satellite simulcast

teletheater is permitted in that county or municipality. The question to be placed on the ballot must read as follows:

Shall (here insert name of county or municipality) permit parimutuel wagering on horse racing at satellite teletheaters?

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

(c)

(1) As an alternative to a county or municipality calling for a referendum by resolution or ordinance, the residents of a county or municipality may sign a petition equal to or exceeding a number amounting to ten percent (10%) of the votes cast for sheriff at the last preceding August general election to require the county election commission to place the following question stated in subsection (b) on the ballot at the next regularly scheduled general election.

(2) No referendum under this chapter may be placed on the same ballot or conducted on the same day of a primary election. The petition must be addressed to the county election commission of the county, or the county in which the municipality is located, and must read, except for that address, substantially as follows:

We, registered voters of (here insert name of county or municipality, as the case may be), hereby request the holding of a referendum on the question of whether parimutuel wagering on horse racing shall be permitted at satellite teletheaters.

(3) The petition may be in two (2) or more parts.

(d) If a county or municipality, except as provided in subsection (c), conducts a referendum under this section and the number of qualified votes cast negative to the racing proposition exceeds sixty percent (60%) of the total number of votes cast in the

election, no further proposition related to parimutuel wagering on horse racing at satellite teletheaters shall be placed on the ballot in that locality for a period of ten (10) years from the date of the previous election.

(e) Notwithstanding subsections (a)-(d), the commission has the sole discretion to determine whether parimutuel horse racing is approved in this state.

**4-36-403.** If a municipality annexes a racetrack location after its approval pursuant to § 4-36-401, the commission shall determine the portion of the tax provided for in § 4-36-305(c)(1), to be paid to the municipality and the portion to be paid to the county.

SECTION 4. Tennessee Code Annotated, Section 39-17-501(1), is amended by adding the following language as a new subdivision:

(E) Parimutuel wagering on horse races in accordance with title 4, chapter 36.

SECTION 5. The Tennessee Horse Racing Commission is authorized to promulgate rules to effectuate the purposes of this act. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 6. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2021, the public welfare requiring it.