



CO L O R A D O

**Department of
Regulatory Agencies**

**2015 Sunset Review:
Division of Racing Events and
Colorado Racing Commission**

*Office of Policy, Research and Regulatory Reform
October 15, 2015*



COLORADO

Department of
Regulatory Agencies

Executive Director's Office

October 15, 2015

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunset reviews with a focus on protecting the health, safety and welfare of all Coloradans.

Programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review via DORA's website at: www.dora.colorado.gov/opr.

DORA has completed the evaluation of the Division of Racing Events (Division) and the Colorado Racing Commission (Commission). I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2016 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...

The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination....

The report discusses the question of whether there is a need for the regulation provided under Article 60 of Title 12, C.R.S. The report also discusses the effectiveness of the Director of the Division, the Division staff and the Commission, in carrying out the intent of the statutes and makes recommendations for statutory and administrative changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Joe Neguse
Executive Director





COLORADO

Department of Regulatory Agencies

2015 Sunset Review Division of Racing Events and the Colorado Racing Commission

SUMMARY

What Is Regulated?

A racetrack must obtain a license from the state in order to conduct pari-mutuel wagering on live horse racing in Colorado. Any business operating at a racetrack or simulcast facility must also be licensed by the state, and anyone who works at a race track or simulcast facility must obtain an occupational license or registration from the state.

Why Is It Regulated?

Racing is regulated to ensure that races are conducted in a fair manner and to protect the health, safety and welfare of the public and the racing animals.

Who Is Regulated?

In 2014, the Colorado Racing Commission (Commission) granted one race meet license of 39 days, and the Division of Racing Events (Division) granted 55 business licenses and 1,861 occupational licenses and registrations.

How Is It Regulated?

The Commission, located within the Division in the Colorado Department of Revenue, regulates horse and greyhound racing in which pari-mutuel wagering is being conducted. The Commission's primary duties are to license race meets and simulcast facilities, and it also has exclusive authority to promulgate rules to oversee racing. The Director of the Division (Director) is charged with supervising the conduct of racing in Colorado, issuing business and occupational licenses on behalf of the Commission, and advising the Commission. The Director and the Division staff are charged with enforcing the laws governing racing, and other law enforcement personnel may also enforce Article 60 of Title 12, Colorado Revised Statutes (C.R.S.), (Act). A Board of Stewards (Stewards), made up of two stewards employed by the Division and one steward employed by the racetrack, assists with supervising the conduct of every race meet.

What Does It Cost?

In fiscal year 13-14, the total cost of regulation was \$1,378,394, and there were 7.7 full-time equivalent employees associated with the program.

What Disciplinary Activity Is There?

In calendar year 2014, the Commission and the Stewards issued a total of 55 disciplinary actions against individuals regulated under the Act, including fines, suspensions, a denial and a revocation.

KEY RECOMMENDATIONS

Continue the regulation of racing for seven years, until 2023.

In Colorado, live horse races and simulcast horse and greyhound races are regulated by the Commission and the Division. Racing is regulated to ensure that races are conducted in a fair manner and to protect the public and the racing animals. The Commission, the Division and the Stewards protect the public through licensing, investigations and enforcement activities. Therefore, the General Assembly should continue the regulation of racing for seven years, until 2023.

Sunset the Division and transfer its functions to the Division of Gaming.

In 1998, the Division regulated six race tracks, and it employed 38 full-time equivalent (FTE) employees. Now, the Division regulates one racetrack and employs 7.7 FTE. Because there is an inherent fixed overhead that comes with operating a Division, it is inefficient to continue to operate such a small division on its own. From a practical standpoint, the operations currently provided by the Division would be conducted more efficiently if provided by the Division of Gaming. This would benefit the state by streamlining its operations, reducing redundancies and creating efficiencies. Therefore, the General Assembly should sunset the Division and transfer its functions to the Division of Gaming.

METHODOLOGY

As part of this review, staff of the Department of Regulatory Agencies attended Commission meetings, interviewed Division staff and Commission members, reviewed Division records and Commission minutes, interviewed officials with state and national professional associations, interviewed stakeholders, reviewed Colorado statutes and rules, and reviewed the laws of other states.

MAJOR CONTACTS MADE DURING THIS REVIEW

American Greyhound Council	County Sheriffs of Colorado
Arkansas Racing Commission	Friends of Retired Greyhounds
Bank 8 Billiards dba The 8 Track	Gaming Laboratories International
Colorado Association of Chiefs of Police	Greyhound Connection
Colorado Bureau of Investigation	Idaho Racing Commission
Colorado Department of Agriculture	Industrial Laboratories
Colorado Department of Law	Jockey's Guild
Colorado Department of Revenue	Kentucky Horse Racing Commission
Colorado Division of Gaming	Mile High Racing and Entertainment
Colorado Division of Racing Events	Oaklawn Jockey Club
Colorado Gaming Association	Oregon Racing Commission
Colorado Greyhound Breeders Association	Post Time
Colorado Horse Council	Race Tech, LLC
Colorado Horse Racing Association	Red and Jerry's
Colorado Racing Commission	Softball Country
Colorado Springs Police Department	Wyoming Racing Commission
Colorado State University, Equine Research	

What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are prepared by:
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Background

Introduction

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria¹ and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are based on the following statutory criteria:

- Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;

¹ Criteria may be found at § 24-34-104, C.R.S.

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- Whether the agency through its licensing or certification process imposes any disqualifications on applicants based on past criminal history and, if so, whether the disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subparagraph (i) of paragraph (a) of subsection (8) of this section shall include data on the number of licenses or certifications that were denied, revoked, or suspended based on a disqualification and the basis for the disqualification; and
 - Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Types of Regulation

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection - only those individuals who are properly licensed may use a particular title(s) - and practice exclusivity - only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements - typically non-practice related items, such as insurance or the use of a disclosure form - and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency - depending upon the prescribed preconditions for use of the protected title(s) - and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.

Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review via DORA's website at: www.dora.colorado.gov/opr.

The functions of the Division of Racing Events (Division) and Colorado Racing Commission (Commission) as enumerated in Article 60 of Title 12, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2016, unless continued by the General Assembly. During the year prior to this date, it is the duty of DORA to conduct an analysis and evaluation of the administration of racing regulation pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation should be continued and to evaluate the performance of the Division and its staff. During this review, the Division and the Commission must demonstrate that the program serves the public interest. DORA's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

Methodology

As part of this review, DORA staff attended Commission meetings, interviewed Division staff and Commission members, reviewed Division records and Commission minutes, interviewed officials with state and national professional associations, interviewed stakeholders, reviewed Colorado statutes and rules, and reviewed the laws of other states.

Profile of the Industry

Horse racing is one of the world's oldest sports, practiced in cultures in which horsemanship was highly developed, such as Ancient Greece and the Roman Empire.²

Horse and greyhound racetracks use the pari-mutuel system of wagering. In order to determine the winnings in a pari-mutuel pool, a fixed percentage is subtracted from the total amount wagered, which pays for the racing purse, operating costs, and the state and local taxes, and then the remaining amount is divided among those who placed a winning wager.³

Pari-mutuel wagers are customarily to Win (come in first), Place (come in first or second) or Show (come in first, second or third). Other specialty wagers are also common.⁴

The introduction of the totalisator in the 20th century made it possible to almost instantly determine the total amount wagered on each animal.⁵ A totalisator is a device that records the total number of wagers staked on a race, divides the total among the winners and calculates payoffs.⁶

The history of racing is replete with instances of cheating, such as race fixing, running ringers and doping.⁷ Doping from performance-enhancing drugs and painkillers is suspected to be the cause of the higher death rate among racehorses in the United States than in other countries.⁸ In England, horses are banned from racing on any drugs, and the breakdown rates are half of what they are in the United States.⁹

For many reasons, the popularity of racing has been in serious decline in the 21st century,¹⁰ with racetracks closing across the nation.¹¹ In Colorado, only one racetrack remains open.

² Encyclopædia Britannica. *Horse racing*. Retrieved on December 4, 2014, from <http://www.britannica.com/EBchecked/topic/272329/horse-racing>

³ WinningPonies.com. *Horse Racing History*. Retrieved on December 4, 2014, from <http://www.winningponies.com/horse-racing-history.html>

⁴ WinningPonies.com. *Horse Racing History*. Retrieved on December 4, 2014, from <http://www.winningponies.com/horse-racing-history.html>

⁵ Encyclopædia Britannica. *Horse racing*. Retrieved on December 4, 2014, from <http://www.britannica.com/EBchecked/topic/272329/horse-racing>

⁶ US Legal. *Totalisator Law & Legal Definition*. Retrieved on February 6, 2015, from <http://definitions.uslegal.com/t/totalisator/>

⁷ Encyclopædia Britannica. *Horse racing*. Retrieved on December 4, 2014, from <http://www.britannica.com/EBchecked/topic/272329/horse-racing>

⁸ Willem Marx. "Danger out of the gate," *ABC News*, February 8, 2007. Retrieved on December 4, 2014, from <http://abcnews.go.com/Sports/Story?id=2857650&page=3>

⁹ Walt Bogdanich, Joe Drap, Dara L. Miles and Griffin Palmer. "Mangled horses, maimed jockeys," *New York Times*, March 24, 2012. Retrieved on December 4, 2014, from http://www.nytimes.com/2012/03/25/us/death-and-disarray-at-americas-racetracks.html?_r=0

¹⁰ Bennett Liebman. "Reasons for the Decline of Horse Racing," *New York Times*, June 6, 2010. Retrieved on December 5, 2014, from http://therail.blogs.nytimes.com/2010/06/06/reasons-for-the-decline-of-horse-racing/?_r=0

¹¹ R.W. "Horse racing's Triple Crown: Worth the wait," *The Economist*, June 8, 2015. Retrieved on September 9, 2015, from <http://www.economist.com/blogs/gametheory/2015/06/horse-racing-s-triple-crown>

While horse racing is in decline overall, the Triple Crown - composed of the Kentucky Derby, Preakness and the Belmont Stakes - continues to spark a great deal of interest nationally.¹² In 2013, the public wagered nearly \$11 billion on horse races nationwide.¹³

In the United States, horse and greyhound racing is regulated by racing commissions established in each individual state.¹⁴ In Colorado, pari-mutuel wagering on live horse races and simulcast horse and greyhound races is regulated by the Commission and the Division.

While horse tracks are currently operating in 31 states,¹⁵ only seven states have greyhound tracks that remain open.¹⁶ Colorado banned live greyhound racing in 2014, but it continues to allow wagering on simulcast greyhound races that are broadcast from other states.

¹² Conor Dougherty. "Horse racing's slide spurs new bet on track land," *Wall Street Journal*, May 2, 2014. Retrieved on September 9, 2015, from <http://www.wsj.com/articles/SB10001424052702303948104579535740008084008>

¹³ Jack Shinar. "U.S. Wagering, Purses Held Steady in 2013," *Blood-Horse*, January 5, 2014. Retrieved on December 5, 2014, from <http://www.bloodhorse.com/horse-racing/articles/82675/us-wagering-purses-held-steady-in-2013>

¹⁴ Encyclopædia Britannica. *Horse racing*. Retrieved on December 4, 2014, from <http://www.britannica.com/EBchecked/topic/272329/horse-racing>

¹⁵ Official USA. *USA Horse Racing - Race Tracks*. Retrieved on August 28, 2015, from <http://www.officialusa.com/stateguides/horseracingtracks/>

¹⁶ The Associated Press, "A look at the states with live greyhound racing," *The Washington Times*, July 9, 2014.

Legal Framework

History of Regulation

Horse and greyhound racing became legal in Colorado in 1948 by way of a General Assembly referred measure. The referendum created the Colorado Racing Commission (Commission) and authorized the Commission to regulate horse and greyhound racing. Live horse and greyhound racing began in 1949. Since that time, numerous changes have been made to the racing statute. The most significant of these changes are highlighted below.

As part of the Administrative Reorganization Act of 1968, the Commission was transferred to the Department of Regulatory Agencies (DORA) as a Type 1 agency. In 1983, the General Assembly created the Division of Racing Events (Division) and transferred most of the day-to-day regulatory matters to the Division. In 1993, following a sunset review, the General Assembly moved the Commission and the Division to the Colorado Department of Revenue (Department).

In 1996, the General Assembly passed legislation to allow simulcast horse racing, and three years later, it authorized simulcast greyhound racing.

The General Assembly, in 2003, required the racing industry to fully cover the cost of regulation in a direct manner by imposing license fees on race meets without reducing the tax that licensees already paid on the total amount of money wagered in any pari-mutuel pool.

DORA conducted a sunset review in 2006, and the General Assembly later adopted some of the recommendations. Most importantly, it repealed the requirement for the Commission to approve the Division's budget. It also authorized the Commission to meet quarterly rather than monthly.

In 2014, the General Assembly prohibited live greyhound racing in Colorado. However, wagering on simulcast greyhound races broadcast from other states continues to be permitted.

Legal Summary

Federal Laws

According to the Interstate Horseracing Act of 1978, each state has the right to determine the forms of gambling that may legally take place within its borders.¹⁷ This act also permits wagering on simulcast racing and allows interstate, off-track betting.¹⁸

¹⁷ 15 U.S.C. § 3001(a)(1).

¹⁸ 15 U.S.C. § 3004(a).

Additionally, the Wire Act of 1961 allows interstate wagering as long as it is legal in the state in which the transmission of the race originates and in the state in which the wager is placed.¹⁹

State Laws

The laws governing horse and greyhound racing are located in Article 60 of Title 12, Colorado Revised Statutes (C.R.S.), (Act). The Commission, located within the Division, oversees the regulation of racing and pari-mutuel wagering on racing in Colorado.²⁰ The Division is a Type 2 agency, as defined in the Administrative Organization Act of 1968, Article 1 of Title 24, C.R.S., except the Commission has full and exclusive authority to promulgate rules without any approval by, or delegation of authority from, the Department.²¹

The Act defines a race meet as a live racing event involving horses registered with a breed association, conducted at a licensed racetrack in which pari-mutuel wagering is taking place.²² It also defines a simulcast race as a live broadcast of either a horse or a greyhound race that is transmitted simultaneously from an in-state or out-of-state track.²³

The Commission

The Commission consists of five members appointed by the Governor with the consent and approval of the Senate.²⁴ The membership must include:²⁵

- Two members who were previously engaged in the racing industry for at least five years;
- One member who is a practicing veterinarian, licensed in Colorado for at least five years;
- One member who has been engaged in a business in a management-level capacity for at least five years; and
- One member who is registered to vote in the state and who is not a veterinarian or employed or engaged in the racing industry.

Members are appointed to four-year terms, and no member may serve more than two consecutive terms.²⁶

¹⁹ 18 U.S.C. § 1084(b).

²⁰ § 12-60-501, C.R.S.

²¹ § 12-60-201(1), C.R.S.

²² § 12-60-102(22), C.R.S.

²³ § 12-60-102(24), C.R.S.

²⁴ § 12-60-301(1), C.R.S.

²⁵ § 12-60-301(1)(a), C.R.S.

²⁶ § 12-60-301(1)(b), C.R.S.

No member may have been convicted of a felony or a gambling-related offense. No more than three members may be members of the same political party.²⁷ At least one member of the Commission must live west of the Continental Divide, and no more than two members may be from the same congressional district.²⁸

Each member must file a financial disclosure statement with the Colorado Secretary of State prior to Senate confirmation and then each following year.²⁹

No one appointed to the Commission or employed by the Division, or any of their immediate family members may:³⁰

- Hold a financial interest in any racetrack operating within the state nor in any stable, compound or farm that houses animals licensed or registered to race in the state;
- Hold a financial interest or financially benefit from racing at any out-of-state host track;
- Wager on any race, race meet or sweepstakes conducted in the state or simulcast into the state;
- Hold more than a five-percent interest in any entity doing business with a racetrack; or
- Hold any interest of any kind in a license issued by the Division.

The Governor may remove any member at any time.³¹ Any member who misses three consecutive meetings without good cause must be removed from the Commission.³²

The Commission must meet at least quarterly.³³

The Commission has the duty to adopt rules for the control, supervision, fingerprinting, discipline, identification and direction of all applicants, registrants and licensees. This includes rules regarding races, race meets, racetracks, in-state simulcast facilities and out-of-state wagering on Colorado races.³⁴

The Director

The Director must be of good character and may not have been convicted of any felony or gambling-related offenses.³⁵ The Director may not be employed in any profession or occupation that presents a conflict of interest with carrying out the duties of the Director.³⁶

²⁷ § 12-60-301(1), C.R.S.

²⁸ § 12-60-301(1)(a), C.R.S.

²⁹ § 12-60-301(1)(g), C.R.S.

³⁰ § 12-60-401(1), C.R.S.

³¹ § 12-60-301(1)(d), C.R.S.

³² § 12-60-301(1)(e), C.R.S.

³³ § 12-60-301(1)(h), C.R.S.

³⁴ § 12-60-503(1)(a), C.R.S.

³⁵ § 12-60-202(1), C.R.S.

³⁶ § 12-60-202(2), C.R.S.

Among other things, the Director is required to:³⁷

- Investigate, supervise and administer the conduct of racing in accordance with the Act and the Commission's rules;
- Make available for inspection by the Commission, upon request, all books, records, files, other information and documents of the Director's office;
- Advise the Commission and recommend rules to improve the conduct of racing; and
- Establish and adjust fees for all licenses and registrations.

Any increase of more than 10 percent for an occupational license or registration fee must be approved by the Commission.³⁸

The Director may not employ any staff who have been convicted of a felony or any gambling-related offenses.³⁹

At least one veterinarian employed by the Director must be present at every racetrack during the weighing in of animals and at all times racing is being conducted.⁴⁰ A licensed operator may, in a temporary or an emergency situation, provide for veterinary services with the approval of the Director.⁴¹

The Director must authorize by rule any such veterinarian to conduct physical examinations of animals, including blood, urine and other tests for the presence of prohibited drugs or medications, to ensure animals are in proper condition to race, and to ensure the health and safety of racing animals and the fairness of races.⁴²

The Director and the investigators, in addition to their primary duties, may enforce all the laws of the State of Colorado.⁴³ Other law enforcement personnel may also enforce the provisions of the Act.⁴⁴

³⁷ § 12-60-202(3)(h), C.R.S.

³⁸ § 12-60-202(3), C.R.S.

³⁹ § 12-60-202(3)(c), C.R.S.

⁴⁰ § 12-60-202(3)(c), C.R.S.

⁴¹ § 12-60-705(1)(b), C.R.S.

⁴² § 12-60-202(3)(c), C.R.S.

⁴³ § 16-2.5-126, C.R.S.

⁴⁴ § 12-60-203(2), C.R.S.

The Division must establish a Board of Stewards, comprised of three members to assist in supervising the conduct of every race meet. Two stewards must be employees of the Division and one must be an employee of the racetrack, as approved and subject to removal by the Commission.⁴⁵

Licensing and Registration

The Commission is charged with licensing all race meets that conduct pari-mutuel wagering. It is also required to license any kennels and stables in connection to a race meet. Race meets, kennels and stables must be visited and inspected at least once a year, and they must be constructed, maintained and operated in accordance with the laws of Colorado and the Commission rules.⁴⁶

The Commission must announce the place, time, number of races per day, and the duration and types of race meets.⁴⁷

The Commission is required to license all simulcast facilities in Colorado that conduct pari-mutuel wagering.⁴⁸ Additionally, the Commission is authorized to license any out-of-state facilities that provide pari-mutuel wagering on simulcast races and accept wagers from Colorado residents.⁴⁹

The Commission is also charged with regulating the operations of:⁵⁰

- Pari-mutuel machines and equipment,
- Money rooms,
- Accounting rooms,
- Sellers' and cashiers' windows, and
- Jockey weighing rooms.

Anyone who manufactures or operates a totalisator⁵¹ for use in Colorado must be licensed by the Commission.⁵²

It is unlawful to hold a race meet with pari-mutuel wagering without a license from the Commission. An in-state simulcast facility must be licensed to hold race meets or have a written simulcast agreement with a licensed in-state host track or out-of-state host track from which a race is broadcast. All written simulcast agreements for in-state facilities must be filed with the Commission.⁵³

⁴⁵ § 12-60-204, C.R.S.

⁴⁶ §§ 12-60-501(1)(a) and (b), C.R.S.

⁴⁷ § 12-60-503(1)(a), C.R.S.

⁴⁸ § 12-60-501(3), C.R.S.

⁴⁹ § 12-60-501(2)(d), C.R.S.

⁵⁰ §§ 12-60-501(2)(a) and (4), C.R.S.

⁵¹ Totalisator: A device that records the total number of wagers staked on a race, divides the total among the winners, and calculates payoffs. US Legal. *Totalisator Law & Legal Definition*. Retrieved on February 6, 2015, from <http://definitions.uslegal.com/t/totalisator/>

⁵² § 12-60-501(2)(c), C.R.S.

⁵³ § 12-60-503(2)(a), C.R.S.

In order to participate in a race meet, anyone who owns or leases a horse must be licensed or registered by the Commission. Anyone who works on the premises of a racetrack must also be licensed or registered by the Commission, unless the Commission waives this requirement for particular occupations.⁵⁴

All applicants must submit to a state and national fingerprint-based criminal history record check in order to be licensed by the Commission, but the Commission is not limited to criminal history when investigating an applicant's background.⁵⁵

An applicant for a license or registration must waive any right of confidentiality and allow any information contained in the application, including financial and personnel records, to be accessible to law enforcement.⁵⁶

The Commission is required to delegate business and occupational licensing to the Division. However, the Commission may not delegate its duty to issue or renew race meet licenses.⁵⁷

The Commission established by rule three license categories: Business, Key and Support. While the Commission requires many racing-related occupations to be licensed, it allows some to be registered. The Commission delegates to the Division the authority to establish sub-categories within each license category.⁵⁸ The sub-categories required to be licensed and registered by the Division are listed in Appendix A of this report.

The Commission must employ or contract with competent accountants, chemists, veterinary doctors and others necessary to oversee the conduct of race meets and to ensure strict compliance with the Act and Commission rules.⁵⁹

The Commission must take and test samples from horses at race meets. It must seek innovative and efficient methods of testing animals in order to test for prohibited drugs and medication to ensure animal safety and to maintain the integrity of racing. The Commission must institute a competitive bidding process in which laboratories submit testing procedures and methods to maintain or improve the effectiveness of test results and to minimize the cost of tests.⁶⁰

The Commission is authorized to issue a temporary license or registration for up to 90 days.⁶¹

⁵⁴ § 12-60-503(2)(a), C.R.S.

⁵⁵ § 12-60-503(4), C.R.S.

⁵⁶ § 12-60-506(2), C.R.S.

⁵⁷ § 12-60-502, C.R.S.

⁵⁸ 1 CCR § 208-1-3.102, Colorado Racing Commission Rules

⁵⁹ § 12-60-501(2)(a), C.R.S.

⁶⁰ § 12-60-501(2)(a), C.R.S.

⁶¹ § 12-60-503(1)(b), C.R.S.

Business Licenses

The Commission may examine the records of an applicant for a business license and require an applicant to provide records and documents.⁶²

The Commission is authorized to deny a business license if:⁶³

- The applicant has violated the Act or Commission rules;
- The applicant fails to pay the Commission any sums required by the Act; or
- It is in the best interests of the State and the racing industry based on the character, financial ability and experience of each individual applicant.

The Commission may cancel or revoke a business license for:⁶⁴

- Violating any of the provisions of the Act or Commission rules,
- Willfully or fraudulently making any false statement in an application for a license, or
- Failing to pay the Commission any sums required under the Act.

The Commission is authorized to issue subpoenas to compel the attendance of witnesses and for the production of documents and other materials in connection to an application or an investigation.⁶⁵

Meet Licenses

The Commission must hold a public hearing regarding any application for a license to hold a race meet, and it must provide public notice of the hearing at the physical location of the site and in an area newspaper with general circulation. The hearing must allow evidence to be provided for and against the application.⁶⁶

The Commission may grant or refuse a license based on many factors, among them:⁶⁷

- The character, financial ability and experience of each applicant;
- The sentiments of the community and the character of the proposed area; or
- The evidence presented at such hearing.

The Commission may grant or refuse a license if it finds that the applicant has violated the Act or Commission rules or the applicant has failed to pay sums required by the Act.⁶⁸

⁶² § 12-60-504(2), C.R.S.

⁶³ § 12-60-504(3), C.R.S.

⁶⁴ § 12-60-504(5), C.R.S.

⁶⁵ § 12-60-504(6), C.R.S.

⁶⁶ § 12-60-505(2), C.R.S.

⁶⁷ § 12-60-505(4), C.R.S.

⁶⁸ § 12-60-505(5), C.R.S.

A race meet may only be held by a person who is an owner or who controls the possession of a properly constructed racetrack with safe and suitable grandstands, reasonably sanitary accommodations and safe track conditions. The Commission may require other improvements necessary for the protection of the public and for the participants.⁶⁹

The Division has the authority to procure any law enforcement records in order to carry out its duties. Upon request by the Colorado Bureau of Investigation, the Division must provide copies of any information obtained under the Act.⁷⁰

The Commission may not grant, accept or approve any applications for live greyhound racing, and wagering on the speed or ability of greyhounds at a live greyhound race is unlawful in Colorado.⁷¹ However, wagering on simulcast greyhound racing continues to be permitted.

Disciplinary Authority

The Commission may investigate any applicant, licensee, registrant or any other person on the premises of a licensed facility.⁷²

The Commission has the authority to issue a letter of admonition or fine, suspend, deny or revoke a license or registration for, among other things:⁷³

- Disregarding or violating the Act or Commission rules;
- Having been convicted of, or pleading guilty or nolo contendere to, a criminal charge in another jurisdiction that is grounds for discipline in Colorado;
- Committing fraud, willful misrepresentation or deceit in racing;
- Failing to comply with any order or ruling of the Commission, the Stewards, the judges or any other racing official;
- Owning an interest in or participating in any bookmaking, pool-selling, touting, wager solicitation or illegal enterprise;
- Employing or harboring unlicensed or unregistered persons on the premises of a racetrack;
- Being a person, employing a person, or being assisted by any person who is not of good record or good moral character;
- Being under suspension or revocation of a racing license in another jurisdiction, or having been subject to disciplinary action in another jurisdiction for acts or omissions that, if committed in Colorado, are grounds for discipline;
- Possessing, on the premises of a racetrack, a firearm, battery, buzzer, electrical device or other appliance to alter the speed of a horse;

⁶⁹ § 12-60-511(1)(a), C.R.S.

⁷⁰ § 12-60-512, C.R.S.

⁷¹ § 12-60-604, C.R.S.

⁷² §§ 12-60-507(1) and 12-60-102(17), C.R.S.

⁷³ §§ 12-60-507(1) and 12-60-102(17), C.R.S.

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- Possessing, on the premises of a racetrack, unless licensed as a veterinarian, a hypodermic needle, hypodermic syringe or other similar device, any medicine, narcotic, stimulant, depressant or anesthetic which could alter the normal performance of a horse;
 - Being cruel to or neglecting a horse;
 - Offering, accepting or soliciting a bribe regarding the outcome of a race;
 - Causing the prearrangement of a race result; or
 - Aiding or abetting any person to violate Commission rules.

The Director may summarily suspend a license for cruelty to or neglect of an animal.⁷⁴

The Commission must deny a license to an applicant for:⁷⁵

- Failing to prove by clear and convincing evidence that the applicant is qualified;
- Failing to provide information, documentation and assurances required by the Act or the Commission; or
- Failing to reveal any fact material to qualification or supplying information which is untrue or misleading pertaining to qualifications.

The Commission is also required to deny a license to an applicant who:⁷⁶

- Is convicted of any gambling-related offense or theft by deception,
- Is convicted of any crime involving fraud or misrepresentation committed within the previous 10 years, or
- Is currently being prosecuted or charges are pending in any jurisdiction for any of the above enumerated offenses.

For any of these offenses, at the request of the applicant or individual charged, the Commission must defer any decision while charges are still pending.⁷⁷

Similarly, it is grounds for discipline for an applicant who is currently being prosecuted or is awaiting charges for any felony in any jurisdiction. The Commission is, however, required to defer a decision at the request of the applicant.⁷⁸

An applicant or licensee may appeal a final action or order of the Commission to the Colorado Court of Appeals.⁷⁹

⁷⁴ § 12-60-507(1.5), C.R.S.

⁷⁵ § 12-60-507.5(1), C.R.S.

⁷⁶ § 12-60-507.5(1), C.R.S.

⁷⁷ § 12-60-507.5(1)(d), C.R.S.

⁷⁸ § 12-60-507(1)(c), C.R.S.

⁷⁹ § 12-60-507(3), C.R.S.

Unlawful Acts

Anyone who commits an act that is grounds for discipline or violates a Commission rule commits a Class 2 misdemeanor, punishable by 3 to 12 months imprisonment or a fine of \$250 to \$1,000, or both.⁸⁰ A criminal penalty does not preclude any additional administrative or civil penalties, sanctions or any other administrative actions otherwise authorized.⁸¹

The Commission or the Division may exclude any person who has been convicted of a felony or who willfully violates the Act or a Commission rule from any and all licensed premises. A person who has been excluded from licensed premises has the right to a hearing before the Commission.⁸²

Taxes and Fees

An in-state simulcast facility that receives simulcast races must pay to the Department 0.75 percent of the gross receipts derived from pari-mutuel wagers placed on races.⁸³

The racetrack must also pay to Colorado State University (CSU) 0.25 percent of gross receipts of all exotic wagers⁸⁴ at race meets or on simulcast races to be paid to the College of Veterinary Medicine and Biomedical Sciences for racing-related equine research. As a condition of receiving these funds, CSU is required to report to the Commission on all projects upon completion.⁸⁵

For any wagers on simulcast greyhound races, in lieu of payments to CSU, racetracks and simulcast facilities must pay the equivalent amount into a trust account for distribution to greyhound welfare and adoption agencies.⁸⁶

A simulcast facility must retain five percent of the gross receipts of pari-mutuel wagers to cover the facility's operating expenses.⁸⁷ Any offtrack simulcast facility must remit to the racetrack from which races are broadcast one percent of the gross receipts of pari-mutuel wagers.⁸⁸

In order to encourage horse breeding in Colorado, a racetrack must reserve at least one race each day exclusively for horses that were bred in Colorado, as long as Colorado-bred horses are available.⁸⁹

⁸⁰ §§ 12-60-801(1) and (2), C.R.S.

⁸¹ § 12-60-801(3), C.R.S.

⁸² § 12-60-803, C.R.S.

⁸³ § 12-60-701(2)(a)(I), C.R.S.

⁸⁴ An exotic wager is any wager that is not to Win, Place or Show.

⁸⁵ § 12-60-701(2)(a)(II)(A), C.R.S.

⁸⁶ §§ 12-60-701(2)(a)(II)(B) and 12-60-702(1)(d)(II), C.R.S.

⁸⁷ § 12-60-701(2)(c)(I), C.R.S.

⁸⁸ § 12-60-701(2)(c)(II)(A), C.R.S.

⁸⁹ § 12-60-701(3), C.R.S.

A racetrack or simulcast facility may only retain a commission based on a percentage of gross receipts on wagers authorized by the Commission.⁹⁰ The Commission may annually determine the takeout by rule, but the takeout may not exceed 30 percent.⁹¹

Breakage is the cents by which the amount payable on each dollar wagered exceeds a multiple of 10 cents.⁹² A racetrack must pay 50 percent of the breakage to the purse fund and may retain the remainder.⁹³ A simulcast facility must pay 50 percent of the breakage to the in-state host track within 60 days after the race meet and the remainder to the purse fund for the races at the in-state host track.⁹⁴

A racetrack must file with the Commission an agreement between the racetrack and the association that represents the owners of horses competing in its races for each race meet. The agreement must specify the purse structure for the races, the minimum allowable purses per race and other conditions.⁹⁵

Each in-state simulcast facility must pay to purse funds for the racing of horses and to the in-state or out-of-state tracks and simulcast facilities according to an agreement filed with the Commission, a percentage of the gross pari-mutuel wagers on races, after the deduction of a signal fee and other amounts specified in the Act.⁹⁶ However, simulcast facilities at racetracks may retain up to 20 percent of the net purses earned and payable to the horse purse fund in order to cover operating costs.⁹⁷

Any underpayments, less overpayments, of the amounts due to wagers placed, at the expiration of 30 days from the end of the meet, must be paid to the Department cash fund.⁹⁸

An in-state simulcast facility that receives signals of races held in another state may:⁹⁹

- Take the percentage of the gross receipts from wagers on races as is permitted by the other state, and
- Adopt such procedures for computation and distribution of breakage as permitted by the other state.

The pari-mutuel pool for a race meet in Colorado and for simulcast races of that race meet must be a common pool within the state. Except, if simulcast races are received by an out-of-state simulcast facility, the pari-mutuel pool may be an interstate common pool operated by the racetrack in Colorado that is conducting the race meet.¹⁰⁰

⁹⁰ § 12-60-702(1)(b)(I), C.R.S.

⁹¹ § 12-60-702(1)(b)(II), C.R.S.

⁹² §12-60-102, C.R.S.

⁹³ § 12-60-702(1)(h)(I), C.R.S.

⁹⁴ § 12-60-702(1)(h)(IV), C.R.S.

⁹⁵ § 12-60-702(1)(d), C.R.S.

⁹⁶ § 12-60-702(1)(e)(II), C.R.S.

⁹⁷ § 12-60-702(1)(e)(III)(A), C.R.S.

⁹⁸ § 12-60-702(1)(g)(II), C.R.S.

⁹⁹ § 12-60-702(4), C.R.S.

¹⁰⁰ § 12-60-703(1), C.R.S.

A simulcast facility receiving simulcast races from an out-of-state host track may participate in a pari-mutuel pool from wagers placed at the facility or in an interstate common pool. For an interstate common pool, the simulcast facility may adopt the takeout percentage of the out-of-state host track.¹⁰¹

Wagering on the results of any horse or greyhound races may not be conducted outside a licensed racetrack or simulcast facility.¹⁰² Except for licensed simulcast facilities, it is a violation of the Act and a Class 2 misdemeanor to place or receive a wager by messenger, telephone, telegraph, fax or any other electronic device.¹⁰³

A live racetrack that also receives simulcast races of horses or greyhounds must pay 0.5 percent of the gross receipts on pari-mutuel wagers to win, place or show and 1.5 percent of the gross receipts from all other wagers to a trust account for the horse breeders' and owners' awards and supplemental purse fund (Fund).¹⁰⁴ This money must be paid into a trust account for the Fund on the 15th of the month following the month in which the sum was received.¹⁰⁵

One year following the end of the race meet, any proceeds derived from unclaimed pari-mutuel tickets from each race meet and for simulcast horse races must also be paid to the Fund.¹⁰⁶

The Fund must be distributed to owners and breeders of Colorado-bred horses. An administrative fee, not to exceed 10 percent of the money generated for the Fund, may be paid from the Fund to the Colorado horse breeder associations for registering and maintaining breeding records.¹⁰⁷

Any money credited to the Fund that is not distributed in three years may be paid either to:¹⁰⁸

- Purses for live races in Colorado, or
- Fees for participation in an interstate compact.

¹⁰¹ § 12-60-703(3), C.R.S.

¹⁰² § 12-60-703.5(1), C.R.S.

¹⁰³ § 12-60-703.5(2), C.R.S.

¹⁰⁴ § 12-60-701(2)(b), C.R.S.

¹⁰⁵ § 12-60-704(2), C.R.S.

¹⁰⁶ § 12-60-704(2), C.R.S.

¹⁰⁷ § 12-60-704(1), C.R.S.

¹⁰⁸ § 12-60-704(5), C.R.S.

Program Description and Administration

The Colorado Racing Commission (Commission), located within the Division of Racing Events (Division) in the Colorado Department of Revenue, is vested with the authority to regulate racing and pari-mutuel wagering on racing in Colorado. The laws governing horse and greyhound racing in Colorado are located within Article 60 of Title 12, Colorado Revised Statutes (C.R.S.), (Act).

The Commission's primary duty is to license race meets and simulcast facilities that conduct pari-mutuel wagering. The Commission also has exclusive authority to adopt rules to oversee racing and pari-mutuel wagering.

The Director is charged with overseeing the conduct of racing in Colorado, including:

- Issuing business and occupational licenses connected to racing,
- Advising the Commission, and
- Setting fees.

A Board of Stewards (Stewards), established by the Division, assists with overseeing the conduct of a race meet. The Stewards consist of two stewards employed by the Division and one steward employed by the racetrack.

The Stewards are racing officials who assist with supervising the conduct of live horse racing at the racetrack. They monitor each race from an office above the track. If there is a question about an incident on the track, the Stewards may review a recording of the race and determine whether a violation occurred. The Stewards also declare the official winners of each race.

The racetrack also hires judges and other racing officials (e.g., the starter, the clerk of scales, the clocker and the timer) who are stationed around the track to perform specific duties and to ensure the orderly and proper conduct of a race meet.

Table 1 illustrates the expenditures and full-time equivalent (FTE) employees dedicated to the program over a five-year period.

Table 1
Fiscal Information

Fiscal Year	Expenditures	FTE
09-10	\$1,196,867	11.7
10-11	\$1,127,118	11.7
11-12	\$1,155,426	8.7
12-13	\$1,399,176	8.7
13-14	\$1,378,394	7.7

In 2008, the last greyhound track in Colorado closed, leaving only one horse track for the Division to oversee. As the Division's workload diminished, so did its staff. Although the staff decreased 3.0 FTE from fiscal year 10-11 to fiscal year 13-14, the program expenditures have not.

In fact, the total program expenditures increased in fiscal year 12-13, partially resulting from increases in direct and indirect costs charged to the Division for services such as technology upgrades, increases in services provided by the Governor's Office of Information Technology and other administrative support services.

In 2015, the staff dedicated to the program included:

- The Director (1.0 FTE), who oversees the conduct of pari-mutuel wagering in Colorado, manages the Division staff and its operations, and advises the Commission on all racing-related matters;
- A presiding racing steward (1.0 FTE Criminal Investigator II), who oversees the conduct of races, determines official outcomes of races, officiates at administrative and penalty hearings;
- A licensed veterinarian (0.4 FTE Veterinarian I), who is responsible for staff in the test barn, implements the Division's testing program, and monitors medication usage, race horses and track conditions;
- An agent-in-charge (1.0 FTE, Criminal Investigator III), who oversees investigative and licensing staff assignments and duties and is responsible for the conduct of the live race meet;
- A criminal investigator (1.0 FTE Criminal Investigator I), who performs site inspections at the racetrack and simulcast facilities, investigates racing violations, trains security personnel at the racetrack and simulcast facilities, performs background checks, and investigates license applicants and licensees;
- An auditor (0.6 FTE Auditor III), who oversees data collection and compiles statistical information based on reports from simulcast and live racing venues, and manages the distribution of funds from Horse Owners/Breeders Awards, Supplemental Purse Fund, and the Greyhound Welfare and Adoptions Fund;
- An assistant to the Director and the Commission (1.0 FTE Administrative Assistant III), who handles correspondence, reports, notices, agendas and Commission meeting minutes, and who also schedules meetings, maintains Division files and records, prepares the Division's annual report and responds to public inquiries;
- A licensing supervisor (1.0 FTE Administrative Assistant III), who assures that all applicants are properly licensed or registered, including instructing other staff on the licensing process and developing policies and procedures related to licensing; and
- A licensing assistant (1.0 FTE Administrative Assistant II), who supports the licensing supervisor by fingerprinting license applicants, issuing licenses and handling other administrative duties.

Leading up to and during the race meet in the summer, the Director relies on temporary, seasonal staff to handle the additional workload:

- A state steward,
- A veterinarian,
- A compliance investigator,
- A legal assistant,
- Four veterinarian assistants, and
- Two administrative assistants.

Table 2 shows the license and registration fees for 2015.

Table 2
License and Registration Fees
Calendar Year 2015

Type	New	Renewal	Renewal with Fingerprints
Major Business License	\$300	\$100	NA
Minor Business License	\$135	\$65	NA
Key Occupational License	\$225	\$75	\$115
Support Occupational License	\$75	\$25	\$65
Registration	\$15	\$15	NA

The different types of businesses and occupations licensed or registered with the Division are explained in greater detail in the Licensing section of the report.

The program is cash funded by license and registration fees. Taxes and fines from pari-mutuel activity are deposited into the General Fund.

Additionally, the racetrack pays a license fee for the race meet that is divided into 12 monthly payments, which were \$40,000 a month in 2015. The race meet license fee may be adjusted depending on other revenue streams such as fees from online wagering.

Commission

The five-member Commission is appointed by the Governor with consent and approval of the Senate to serve four-year terms. No member may serve more than two consecutive terms. The Commission includes:

- Two members who were previously engaged in the racing industry for at least five years;
- One member who is a practicing veterinarian, licensed in Colorado for at least five years;
- One member who has been engaged in a business in a management-level capacity for at least five years; and
- One member who is registered to vote in the state and who is not a veterinarian or employed or engaged in the racing industry.

The Commission is required to meet at least quarterly. During 2014, the Commission held seven meetings.

Meetings are held at the Division's headquarters in Lakewood on the second Tuesday of the month, except during the race meet when meetings are held at Arapahoe Park. Meetings typically last about two hours and are attended by staff and representatives from the racing industry.

Commission meetings primarily consist of rulemaking, disciplinary hearings, appeals to Stewards' decisions and race meet licensing. The Division reports to the Commission about regulatory activities and actions during and after the meet. During the legislative session, the Director provides the Commission with an overview of any pending legislation related to racing.

Annually, the Commission must consider any applications for a race meet license. The Commission also approves race dates for live racing and a schedule of simulcast races.

Colorado State University (CSU) annually reports to the Commission about the Equine Research Program, which is funded in part by pari-mutuel racing in Colorado. CSU also provides a status report on the Racetrack Post-Mortem Surveillance Program, a program to conduct post-mortems on racehorses that die or are euthanized at Arapahoe Park.

Additionally, the Commission approves funds that are distributed to greyhound welfare and adoption agencies.

At each meeting and rulemaking hearing, the Commission provides the public an opportunity to participate. During the sunset review, the Commission was receptive to and occasionally took action based on public comments.

Table 3 provides the Commission expenses over the five years under review.

Table 3
Commission Expenses

Calendar Year	Travel	Meetings	Total
2010	\$1,752	\$1,539	\$3,291
2011	\$5,372	\$585	\$5,957
2012	\$4,125	\$1,168	\$5,293
2013	\$4,844	\$915	\$5,759
2014	\$8,023	\$244	\$8,267

The Commission expenses cover meals, travel expenses and, when necessary, the cost of a court reporter.

The travel costs vary from year to year depending on the distance commissioners must travel to attend meetings and whether they stay overnight. Also, the Division invites commissioners to attend out-of-state industry conferences in order to provide them with an opportunity to learn about the horse racing industry.

The meeting expenses vary for two reasons, whether the Division hires a court reporter and whether the Division orders lunch for the commissioners. A court reporter is only used when the Commission has a hearing scheduled. Most meetings only last a couple of hours. Occasionally, the meetings are longer, and the Division provides lunch to the commissioners. These two items can increase the cost of Commission meetings considerably.

Licensing

The Division licenses any business operating at a racetrack or a simulcast facility, and it also issues occupational licenses or registrations to anyone working at a racetrack or simulcast facility.

The level of occupational license is determined by the level of access an individual requires at the racetrack or simulcast facility. Key licensees, such as security directors, are allowed general access. Support licensees, such as horse owners and trainers, are only allowed access to specific areas. For employees who do not require access to restricted areas, such as concession employees, the Division issues registrations.

Appendix B on page 45 breaks down the number of licenses and registrations by year and classification over a five-year period.

Table 4 demonstrates the total number of active licenses and registrations in each category over a five-year period.

Table 4
Number of Active Licenses and Registrations

Calendar Year	Business	Key	Support	Registration	Total
2010	22	31	990	259	1,302
2011	36	8	1,088	282	1,414
2012	33	44	1,016	260	1,353
2013	51	33	1,333	284	1,701
2014	55	21	1,375	465	1,916

A business or individual may submit an application for a license or registration at the Division's offices by appointment or, during and a few weeks before the race meet, at the racetrack. At the time of application, the Division takes a picture of the applicant and issues a temporary license or registration, which is valid for about a week until the background check is complete.

An applicant for a license must submit to a fingerprint-based state and federal criminal history record check. An applicant for a registration is not required to be fingerprinted. Instead, the Division conducts a name-based criminal history record check through the Colorado Bureau of Investigation.

The Division also checks for any disciplinary actions taken against a license or registration in other jurisdictions through a database maintained by the Association of Racing Commissioners International (RCI).

When the background check is complete and the Division determines that an applicant may be licensed or registered, it issues a photo identification badge. Each badge indicates the area of the racetrack the licensee or registrant is allowed to access.

In the past five years, the Division changed its licensing process for employees of simulcast facilities. The simulcast facilities are scattered around Colorado, and it is not always convenient for new employees to travel to Denver in order to be licensed. Since the investigators routinely visit the simulcast facilities to conduct inspections, the Division has created a process so that investigators are able to handle much of the licensing duties on location.

A business and occupational license is valid for three years, and a registration is valid for one year. A license or registration expires on the anniversary of the date the license or registration was issued.

Complaints, Cases and Disciplinary Actions

Most complaints or cases are opened by a state investigator, a racing official or filed by a licensee. It is rare for a member of the wagering public to file a complaint with the Division.

Table 5 illustrates the complaints or cases opened by the Division over a five-year period.

Table 5
Complaints and Cases by Calendar Year

Complaint or Case Type	2010	2011	2012	2013	2014
Careless riding, misuse of whip, or interference	1	0	6	0	2
Cell phone usage violation	0	0	0	0	2
Deceit in racing	0	0	2	1	2
Disorderly conduct	1	2	0	1	0
Entering an ineligible horse	1	2	3	3	1
Failure of jockey to be present for draw	0	0	0	0	2
Failure to be present for saddling	0	1	0	0	0
Failure to bring horse to paddock	0	0	0	1	0
Failure to comply with racing official	0	1	0	0	1
Failure to comply with state official	0	1	0	0	0
Failure to fulfill riding engagement	3	0	0	0	0
Failure to have employee properly licensed	0	0	0	0	2
Failure to have owner properly licensed	0	0	0	0	1
Fee dispute	0	0	3	2	0
Health papers	1	0	0	1	0
Horse not on grounds	0	0	1	1	0
Incorrect medication on paperwork	4	0	0	10	7
Lasix ¹⁰⁹ administration violation	0	0	0	0	7
Lasix paperwork violation	0	0	0	0	2
Late to jockey's room	0	0	0	0	1
Late to paddock	3	3	2	0	1
Medication violation	8	21	8	4	20
Misplaced voucher	0	0	2	4	2
Misrepresentation	0	0	0	1	0
Misuse of license	0	0	0	0	1
No registration papers in office	0	0	0	0	2
Suspicious death of horse on the track	0	0	1	0	0
Substance abuse	2	1	1	1	5
Theft	0	0	1	4	2
Unlicensed racing	2	9	0	1	5
Using abusive language	2	2	2	1	1
Violation of Stewards' guidelines	17	8	0	2	4
Total	45	51	32	38	73

¹⁰⁹ Lasix is a diuretic that is commonly used in horse racing to prevent pulmonary hemorrhage.

According to the available data, one common category concerns a violation of Stewards' guidelines. Generally, this type of violation concerns conduct that presents a safety hazard at the racetrack. Other low-level violations, such as failure to bring a horse to paddock on time, are violations of the Commission rules. Trainers are often assessed small fines for these types of violations because they disrupt the racing schedule.

Complaints of unlicensed racing concern races between two or three horses that take place on unlicensed racetracks in rural areas of the state. These complaints often come from Colorado residents or law enforcement officials, and they are almost always dismissed since a license is only required to race horses in Colorado when pari-mutuel wagering is also being conducted.

Fee disputes generally concern a complaint against a racing participant, such as an owner or trainer, with an outstanding racing-related debt, such as veterinarian or feed bills. The racing industry has a tradition of requiring racing-related debts to be paid as a condition of licensure. If someone has a suspended license in one jurisdiction for failing to pay their racing-related debts, then they cannot be licensed to race anywhere else. Otherwise, participants could simply move from one jurisdiction to another in an attempt to evade paying their bills.

By far, medication violations are the most common type of case in racing.

Certain drugs or medications are banned on race day for two basic reasons. These medications may provide an unfair advantage because they are performance-enhancing drugs, and they put jockeys and horses at risk of injury or death.

The Division does not perform a drug test on every horse that races. It does, however, take random urine and blood samples, and it tests every winner. The Division tests for drugs, such as methamphetamine, and other banned substances, such as steroids. However, the most common violation has to do with medications, such as nonsteroidal anti-inflammatory drugs, that are banned from being present at a certain level on race day.

In all, the Division investigated 61 cases related to drugs or medication over a five-year period.

When a new drug or medication is introduced on the market, the Division often sees an increase in these types of violations.

In 2014, the increase in violations is likely due to a single trainer, whose license was revoked after he was found with a significant amount of a banned medication in his barn. The Division disciplined many individuals whose horses tested positive for the banned medication.

In 2015, Colorado had one live horse meet comprised of 39 racing days. The race meets in Colorado are fairly short, and it is imperative for the Stewards to resolve cases quickly since they often involve purse money that cannot be released until a case is resolved. For this reason, the Stewards are exempted from certain provisions of the Administrative Procedure Act (APA).

If an individual is aggrieved by any action taken by the Stewards or a hearing officer, he or she has the right to appeal the decision to the Commission. Hearings before the Commission take longer to resolve because certain provisions of the APA are not waived and the Commission only meets a few times a year.

Table 6 provides the number of disciplinary hearings conducted by the Commission and the Stewards over a five-year period.

**Table 6
Disciplinary Hearings**

Calendar Year	Commission	Stewards	Total
2010	10	2	12
2011	3	7	10
2012	7	23	30
2013	7	7	14
2014	7	24	31
Total	34	63	97

The number of disciplinary hearings varies from year to year. In 2010, there were more hearings before the Commission than in other years. Typically, many of these would have appeared before the Stewards rather than the Commission, but in 2010, the Assistant Attorney General for the Division recommended that some cases be heard by the Commission instead of the Stewards because of a problem at one of the drug-testing laboratories.

The Commission has the authority to issue a letter of admonition, impose a fine, and suspend, deny or revoke a license or registration.

The Stewards, judges and hearing officers are also granted the authority to impose a fine and to deny or suspend a license or registration.

Table 7 provides the final agency actions taken by the Commission and the Stewards over a five-year period.

Table 7
Final Agency Actions
By Calendar Year

Type	2010	2011	2012	2013	2014
Revocation	0	0	0	0	1
Suspension	5	11	9	2	15
Letter of admonition	0	0	0	0	0
License denial	0	0	0	5	1
Fine	23	50	23	12	38
Total Disciplinary Actions	28	61	32	19	55
Dismissal	9	2	1	0	0
Letter of concern	0	0	0	0	1

The Commission and Stewards primarily rely on the authority to suspend or fine a license or registration. The Commission and the Stewards find that these actions are a sufficient deterrent.

Any time the Commission or Stewards discipline a license or registration, the Division shares the information with RCI. When a disciplinary action is reported to RCI, the individual receives a certain number of points for each disciplinary action. As points accrue on an individual's record, the penalties increase in all states. For example, if a trainer is suspended for 15 days in Colorado, he or she could not work in any other jurisdiction during the period of suspension.

Neither the Commission nor the Stewards placed any licenses on probation or limited any licenses in the past five years, nor did they issue any letters of admonition.

In 2014, a trainer's license was revoked after he was found to be in possession of banned medication.

The increase in license denials in 2013 and 2014 is attributed to a change in the licensing process. When an applicant does not submit all the required paperwork, the Division issues a notice of proposed denial. If the applicant does not provide all the paperwork within 30 days, then the Division automatically denies the application.

Table 8 shows the number of fines and the amount of fines issued by the Commission and the Stewards over a five-year period.

Table 8
Fines

Calendar Year	Number of Fines	Total Amount
2010	23	\$2,450
2011	50	\$16,650
2012	23	\$14,050
2013	12	\$10,515
2014	38	\$19,850
Total	146	\$63,515

In those years in which there were a high number of fines but the amount is low, such as in 2010, there were few serious violations. For example, a trainer may be fined a small amount if a horse is not in the paddock on time.

In 2014, there were a high number of medication violations, which accounts for the higher amount of fines than in the other years. A trainer may be fined \$1,000 for a medication-related violation, and if it is not paid on time, the fine doubles.

Collateral Consequences – Criminal Convictions

Section 24-34-104(9)(b)(VIII.5), C.R.S., requires the Department of Regulatory Agencies (DORA) to determine whether the agency under review, through its licensing processes, imposes any disqualifications on applicants or licensees based on past criminal history, and if so, whether the disqualifications serve public safety, commercial or consumer protection interests.

The Division is provided the authority to deny, revoke and suspend licenses based on criminal history of fraud, misrepresentation, deceit in racing, and being cruel to or neglecting a racing animal.

Moreover, the Division is required to disqualify applicants who have been convicted of gambling-related offenses and theft by deception. It is also required to disqualify applicants who have been convicted of any crime involving fraud or misrepresentation if the crime was committed within the previous 10 years.

From 2010 to 2014, the Division did not have cause to deny, revoke or suspend any licenses based on past criminal history. It is likely that the criminal history record check is a deterrent to those with criminal backgrounds.

Examinations

A horse trainer prepares a horse to race by planning workouts and instructing a jockey about how to handle a particular horse. Race horses are often exercised in the early morning. Then, they are groomed and inspected for injuries, and they may be exercised again later in the day. A horse trainer supervises all of these activities.¹¹⁰

It is the standard in every state to test the competency of a new trainer before issuing a license. Trainers are ultimately responsible for horses on a racetrack. While they are not veterinarians, they must know what medications have been given to horses and be able to assess the health and fitness of a horse. If a horse is not fit to race, it could break a leg or die on the track, creating a dangerous situation for the other horses and jockeys in the race.

As a condition of licensure, the Commission requires horse trainers to pass oral, written and practical examinations.

First, an applicant must pass the oral examination. The Stewards conduct the oral examination in order to assess horsemanship, and they may ask questions such as:

- What five things should be in place before entering a horse in its first race?
- Why would a trainer use a figure eight on a horse?
- What would you look for if a horse had a choppy motion when galloping?
- Why would a horse go off its feed?

The oral examination is either pass or fail. Once an applicant has passed the oral examination, he or she is eligible to make an appointment with the Division to take the written examination.

The written examination was developed by Division staff based on tests from other states. It primarily consists of multiple choice questions that test basic knowledge about the following subjects:

- Horse anatomy and conditions,
- Horse health terms,
- Vaccinations,
- Racing equipment,
- Responsibilities of a trainer,
- Prohibited activities of a trainer, and
- Basic racing facts.

¹¹⁰ Study.com. *Horse Trainer: Job Description, Duties and Requirements*. Retrieved on August 11, 2015, from http://study.com/articles/Horse_Trainer_Job_Description_Duties_and_Requirements.html

An applicant must score at least 75 percent to pass the written examination and to be eligible to take the practical examination. If an applicant fails the written examination, he or she may retake it in 30 days.

The practical examination is conducted in front of at least one Steward, a member of the Division staff and a licensed trainer. The practical examination tests an applicant's skills, which may include:

- Using different types of bits,
- Fitting and positioning a bridle,
- Using a nose band and a shadow roll,
- Using different blinkers and positioning them on a bridled horse,
- Saddling a horse for racing,
- Bandaging a horse for racing, and
- Bringing a horse to the paddock.

The practical examination is either pass or fail. If an applicant fails the examination, he or she will be provided an opportunity to retake it.

Table 9 provides the number of trainer examinations that were given over a five-year period.

Table 9
Trainer Examinations

Calendar Year	Oral Examinations	Written Examinations	Practical Examinations
2010	0	0	0
2011	3	3	3
2012	0	0	0
2013	1	1	1
2014	5	5	5

The pass rate for all trainer examinations was 100 percent. According to the Director, most trainers understand that they must have a significant amount of experience and knowledge before attempting the examination, which may explain the high pass rates.

A pony person and an exercise rider must also pass simple practical examinations in order to be licensed. A pony person walks a horse and jockey through a warm up and to the starting gate. This ensures that there are two people available to handle a horse in case it kicks, bites or bolts.

An exercise rider simply runs a horse in the morning. Because they are out on the track with other riders and horses, exercise riders need to understand how to handle horses in a potentially dangerous environment.

In order for a pony person or an exercise rider to pass a practical examination, two racing officials observe the applicant while he or she performs the duties of a pony person or an exercise rider. If the applicant performs the duties satisfactorily, the racing officials will sign an approval form, and if there are no other issues with the application, the Division will issue a license.

Table 10 shows the number of practical examinations provided to pony persons and exercise riders.

Table 10
Pony Person and Exercise Rider
Practical Examinations

Calendar Year	Pony Person	Exercise Rider
2010	1	1
2011	0	0
2012	0	4
2013	2	2
2014	0	4

The pass rate for all examinations in the above table was 100 percent. These examinations are fairly simple. They are simply provided to verify that a pony person or exercise rider has the necessary skills and knowledge to safely handle a horse at the racetrack or during training without injuring the horse or the other participants.

Audits and Inspections

At the racetrack, the Division inspects the horse stables to safeguard the fairness of races and to protect the health and safety of racing participants and the horses.

Simulcast facilities must also be inspected to ensure compliance with the Act. When a simulcast facility is opened, the Division conducts a test on the totalisator¹¹¹ (tote) to verify that it is working properly, and it tests the simulcast signal to confirm that players are able to see the races on which they are wagering. The Division also conducts inspections of existing simulcast facilities, which includes an in-depth review of the signals, tote and staff.

In addition to inspections, the Division performs field contacts of simulcast facilities. During a field contact, staff observes the operations of the facility and meets with management. Since simulcast facilities are located throughout the state, the Division uses these visits as an opportunity to assist these businesses with licensing their employees.

¹¹¹ Totalisator is a device that records the total number of wagers staked on a race, divides the total among the winners and calculates payoffs. US Legal. *Totalisator Law & Legal Definition*. Retrieved on February 6, 2015, from <http://definitions.uslegal.com/t/totalisator/>

Finally, the Division inspects greyhound kennels that are licensed with the Division to protect the health and welfare of the animals that are bred to race in other states.

The Commission awards money to greyhound adoption agencies, so that they may place or house greyhounds that are either retired or unfit to race. In order to verify that money is being distributed fairly, the Division conducts simple audits of the greyhound adoption agencies.

Table 11 demonstrates the total number of inspections and field contacts performed by the Division over a five-year period.

Table 11
Total Number of Inspections and Field Contacts

Calendar Year	Simulcast Inspections	Simulcast Field Contacts	Stable Inspections	Kennel Inspections
2010	0	206	81	0
2011	0	159	57	0
2012	26	69	107	0
2013	23	64	115	6
2014	39	58	120	6
Total	88	556	480	12

In 2012, the Division improved the simulcast facility inspection process. Previously, the Division did not differentiate between inspections and field contacts. The new inspections process is more efficient and requires fewer field contacts.

The stable inspections increased in 2012 because the Division hired a lead horse investigator, who began a more complete and thorough inspection of every barn and trailer with the assistance of a compliance investigator and a technician. The previous investigator worked without assistance and was, therefore, unable to complete as many inspections.

Prior to 2013, there were no kennel inspections because live greyhound racing had ceased in Colorado. In 2013, the Department of Agriculture (DOA), under the authority of the Pet Animal Care and Facilities Act, attempted to regulate the remaining greyhound breeders. In response, the Division entered into a Memorandum of Understanding with DOA which allowed greyhound breeders a choice of being regulated by either DOA or the Division. Greyhound breeders and trainers opted to be regulated by the Division.

Table 12 provides the number of audits performed by the Division over a five-year period.

Table 12
Total Number of Audits

Calendar Year	Hardware Test Audit	Greyhound Adoption Audit
2010	2	0
2011	0	0
2012	0	5
2013	0	11
2014	0	10
Total	2	26

The Division performs hardware test audits when a new simulcast facility opens. Otherwise, it audits the tote numbers daily to ensure compliance with the Act regarding taxes, minimum purse amounts and payments to and distribution of the Horse Owners' and Breeders' Awards and Supplemental Purse Fund, the Greyhound Promotion and Welfare Fund, and the Colorado State University School of Veterinary Medicine for Equine Research Fund.

In 2010, the Division began distributing the money to support greyhound welfare and adoption agencies. In 2012, the Commission instituted a requirement for these facilities to be inspected and audited twice a year since the funds are tied to the number of greyhounds adopted.

Race Days

The Commission is responsible for licensing race meets. In order to do so, the Commission is required to hold a public meeting.

When considering the race meet license application, the Commission also approves the racetrack's takeout - the percentage of the total amount wagered in a pari-mutuel pool that is retained by the racetrack to cover overhead, profits, taxes and purses. In 2014, the takeout was 18.5 percent on win, place and show wagers;¹¹² 23 percent on daily double, exacta and quinella wagers;¹¹³ and 24 percent on trifecta, superfecta and pick 3 wagers.¹¹⁴

¹¹² Win, place and show: A player places three separate wagers to win (come in first), place (come in first or second) and show (come in first, second or third).

¹¹³ Daily double is a wager in which a player picks winners in two consecutive races. Exacta is a wager in which a player picks the first two horses in the exact order they finish. Quinella is a wager in which a player picks the first two horses to finish, no matter the order.

¹¹⁴ Trifecta is a wager in which a player picks the first three horses to finish in the exact order. Superfecta is a wager in which a player picks the first four horses to finish in the exact order. Pick 3 is a wager in which a player picks winners in three consecutive races.

At this time, there is only one live race meet in Colorado. In 2014, the race meet was held at Arapahoe Park on Friday, Saturday and Sunday over a 13-week period between May and August. The racing program consisted of nine races a day, including Appaloosa, Arabian, Paint, Quarter Horse and Thoroughbred races.

In 2014, the Commission also licensed 12 facilities for wagering on simulcast races, and Arapahoe Park itself offers wagering on simulcast races at the racetrack and broadcasts its own races to numerous out-of-state locations.

Table 13 illustrates the number of race days for simulcast horse and greyhound racing and live horse racing over a five-year period.

**Table 13
Race Days**

Calendar Year	Horse Simulcast	Greyhound Simulcast	Horse Live
2010	361	361	39
2011	364	364	40
2012	365	365	39
2013	363	363	39
2014	363	363	38

The number of simulcast and live race days is fairly consistent. In Colorado, simulcast racing is offered almost every day of the year. The horse racing season is, on average, 39 days a year.

Pari-Mutuel Handle and Taxes

The pari-mutuel handle is the total amount of money wagered in any pari-mutuel pool.

Table 14 provides the pari-mutuel handle for horse and greyhound simulcast racing and live horse racing over a five-year period.

**Table 14
Pari-Mutuel Handle**

Calendar Year	Horse Simulcast	Greyhound Simulcast	Horse Live	Total
2010	\$43,528,261	\$28,971,896	\$4,935,199	\$77,435,356
2011	\$42,705,636	\$31,686,653	\$5,357,368	\$79,749,657
2012	\$43,176,069	\$34,182,957	\$2,675,984	\$80,035,010
2013	\$44,122,027	\$34,962,476	\$2,108,149	\$81,192,652
2014	\$45,584,126	\$33,772,570	\$2,182,962	\$81,539,658

Over the five-year period, pari-mutuel wagering increased incrementally. This is entirely due to pari-mutuel wagering on simulcast races. In contrast, pari-mutuel wagering on live horse races has declined significantly since 2010.

In 2010, approximately \$4.9 million was wagered on live horse races, in comparison to \$2.2 million in 2014. This is consistent with a nationwide decline.

The tax rate for live and simulcast races, currently set at 0.75 percent of the gross pari-mutuel handle, is determined by statute.

Table 15 shows the pari-mutuel taxes earned from racing over a five-year period.

Table 15
Pari-Mutuel Taxes

Calendar Year	Horse Simulcast	Greyhound Simulcast	Horse Live	Total
2010	\$326,460	\$217,289	\$18,551	\$562,300
2011	\$320,292	\$237,650	\$40,180	\$598,122
2012	\$323,821	\$256,372	\$20,070	\$600,263
2013	\$330,915	\$262,219	\$15,811	\$608,945
2014	\$338,917	\$253,294	\$19,336	\$611,547

As pari-mutuel wagering has increased slightly over the past five years, so have earnings from pari-mutuel taxes.

Analysis and Recommendations

Recommendation 1 – Continue the regulation of live horse and simulcast horse and greyhound racing in which pari-mutuel wagering is being conducted for seven years, until 2023.

The laws that govern racing in Colorado are located in Article 60 of Title 12, Colorado Revised Statutes (C.R.S.), (Act). The Colorado Racing Commission (Commission), located within the Division of Racing Events (Division) in the Colorado Department of Revenue (Department), is vested with the authority to regulate live horse racing and simulcast horse and greyhound racing in which pari-mutuel wagering is being conducted.

The Commission's primary duties are to license race meets and simulcast facilities, and it also has exclusive authority to promulgate rules to oversee racing.

The Director of the Division (Director) is charged with supervising the conduct of racing in Colorado including:

- Issuing business and occupational licenses,
- Setting fees, and
- Advising the Commission.

The Director and the Division investigators are peace officers with the authority to enforce all the laws of the state. Other law enforcement personnel may also enforce the Act.

A Board of Stewards (Stewards), made up of two stewards employed by the Division and one steward employed by the racetrack, assists with supervising the conduct of every race meet. The racetrack also hires judges and other racing officials who are stationed around the track and the paddock to perform specific duties and to monitor the conduct of the participants during a race meet.

Sunset reviews are guided by statutory criteria found in section 24-34-104, C.R.S., and the first criterion asks whether regulation is necessary to protect the health, safety and welfare of the public.

Regulation of pari-mutuel wagering on racing is necessary in order to ensure that races are conducted in a fair manner and to protect the health, safety and welfare of the public and the racing animals.

The Commission accomplishes this by establishing rules to ensure races are conducted in a safe manner. For example, the Commission requires a race to be cancelled when the track is deemed unsafe for racing. The Commission also requires a medical response team to be available to the racetrack and simulcast facilities in case of an emergency.

The Commission and the Stewards protect the public by enforcing the Act. From 2010 to 2014, the Commission and the Stewards carried out 195 disciplinary actions, primarily fines and suspensions, on individuals who violated the Act, and in 2014, the Commission revoked the license of a trainer who was found to be in possession of banned medication.

In order to ensure the integrity of the races, the Division conducts criminal history record checks on anyone applying for a license or registration, and it performs fingerprint-based criminal history record checks of anyone who has access to restricted areas, such as the money rooms or horse stables.

The Division ensures fairness in racing through a drug and medication testing program. With the exception of Lasix,¹¹⁵ the Commission bans the administration of medication to horses on race day. The Division employs a veterinarian at the racetrack who tests all the race winners and conducts random drug tests on the horses. In addition to keeping races fair, drug and medication testing protocols help to ensure the safety of the racehorses and jockeys.

The Division ensures fairness in racing by inspecting the stables, horse trailers, participants' vehicles and the jockey's quarters for illegal substances, electric shock chargers and other devices that may be used to cheat in a race. The Division also conducts random drug tests on jockeys and other licensees on the premises of the racetrack to ensure that races are conducted in a fair and safe manner.

The Division protects the public by conducting audits of the racetrack and the simulcast facilities.

The Stewards carefully watch each race to determine its outcome and to uncover any evidence of cheating or other misconduct. The Stewards, judges and hearing officers are also granted the authority to impose a fine and to deny or suspend the license of anyone who violates the Act or the Commission rules. Steward and hearing officer decisions may be appealed to the Commission.

For these reasons, the continuation of the functions of the Division and the Commission are justified.

Recommendation 2 proposes combining the Division with the Division of Gaming. Since this recommendation is only an administrative reorganization and the report does not propose policy changes that would substantially alter the regulatory program, a seven-year continuation is warranted.

¹¹⁵ Lasix is a diuretic that is commonly used in horse racing in the United States to prevent exercise-induced pulmonary hemorrhage.

Therefore, the General Assembly should continue the regulation of live horse racing and simulcast horse and greyhound racing in which pari-mutuel wagering is being conducted for seven years, until 2023.

Recommendation 2 – Sunset the Division and transfer its duties to the Division of Gaming.

The popularity of racing has been declining nationally and in Colorado over the past few decades. Consequently, nearly all the racetracks in Colorado have closed and the size of the Division has been significantly reduced. In 1998, the Division regulated six race tracks, and it employed 38 full-time equivalent (FTE) employees. Now, the Division regulates one racetrack and employs 7.7 FTE employees.

The sunset criteria question whether an analysis of the agency operations indicates that the agency performs its statutory duties efficiently and effectively.

Because there is an inherent fixed overhead that comes with operating a Division, it is inefficient to continue to operate such a small division on its own.

Recall, the staff in the Division decreased by 3.0 FTE in fiscal year 11-12, but the expenditures did not decrease. In fact, in the following year, the total program expenditures increased nearly \$250,000, in part due to increases in direct and indirect costs charged to the Division for services such as technology upgrades, increases in services provided by the Governor’s Office of Information Technology and other administrative support services.

In some other states - Iowa, Massachusetts, New York and South Dakota - racing is regulated by the same agency that regulates gaming. The question is, why not do this in Colorado?

The Division of Gaming (Gaming), which regulates limited gaming in Colorado, is a large division that could easily absorb the duties of the Division. The activities of the Division and the activities of Gaming are similar. The staff in both divisions performs the same types of duties; both divisions require investigative, auditing, licensing and support staff.

Consolidating the operations of these two divisions would streamline the Department by eliminating unnecessary redundancies and inefficiencies.

The primary argument against doing this is that racing and gaming are competitive industries, so there is a concern that racing may not be treated fairly by the staff in Gaming.

There is little evidence to support this position. In fact, members of the staff in the Division have also worked for gaming and other divisions in the Department. The Gaming staff is competent and professional, and it is highly unlikely that it would enforce racing regulations any differently than it enforces gaming regulations.

It is expected that the performance and level of service provided to the industry would be improved if its administrative functions were moved to Gaming. Gaming has a staff of 91, and the operations of the Division could be easily absorbed into the operations of Gaming. The investigators in Gaming are competent, and combining the two divisions would not diminish the regulation of either industry.

From a practical standpoint, the operations currently provided by the Division would be conducted more efficiently if provided by Gaming. This would benefit the state by streamlining its operations, reducing redundancies and creating efficiencies.

Therefore, the General Assembly should sunset the Division and transfer its duties to Gaming.

Recommendation 3 – Clarify that a conviction of a gambling-related offense or theft by deception is also grounds for discipline.

The Act requires the Commission to deny a license to an applicant who is convicted of any gambling-related offense or theft by deception.¹¹⁶

Interestingly, this provision is not included in the grounds for discipline. Presumably, if this crime is serious enough to require the Commission to deny a license, it follows that the Commission should also be provided the authority to revoke a license of someone who is convicted of the same offense.

As being a person who is not of good moral character is included in the grounds for discipline, the Commission is already provided broad authority. However, if it is important enough to require the Commission to deny a license for conviction of specific crimes, it should be clearly stated so that the same crimes are unequivocally grounds for discipline.

Therefore, the General Assembly should clarify that a conviction of a gambling-related offense or theft by deception is grounds for discipline.

¹¹⁶ § 12-60-507.5(1), C.R.S.

Recommendation 4 – Amend the provision that requires the Director to promulgate a rule and instead require the Director to ensure these activities are accomplished and allow the Commission to adopt rules pursuant to this provision.

Section 12-60-202(3)(c), C.R.S., requires the Director to:

By rule authorize any veterinarian to conduct physical examinations of animals including blood, urine, or other tests, for the presence of prohibited drugs or medications, to ensure animals are in proper condition to race and to ensure the health and safety of racing animals and the fairness of races. [Emphasis added.]

While the Director has the duty to advise the Commission on the rules, the Commission has exclusive authority to promulgate rules. The Act could simply require the Director to hire a veterinarian to accomplish this and allow the Commission to adopt any necessary rules.

Therefore, the General Assembly should amend section 12-60-202(3)(c), C.R.S., to require the Director to ensure these activities are accomplished, and it should allow the Commission to adopt rules pursuant to this provision.

Administrative Recommendation 1 – Create a task force to study whether a single commission to oversee both racing and gaming is warranted, and if so define the composition of the commission.

Recommendation 2 proposes sunsetting the Division and transferring the functions of the Division to Gaming in order to streamline its operations, reduce redundancies and create efficiencies in the state.

Similarly, rather than continue to maintain two separate commissions for racing and gaming, it may ultimately be more efficient to create a single commission. In states such as Iowa, Michigan and New York, one commission oversees both industries.

It is reasonable to consider the idea of creating a single governing body to oversee both industries. However, it would be better to wait until the divisions have been combined in order to understand how best to protect the public interest going forward.

The Department of Regulatory Agencies recommends continuing the regulation of pari-mutuel wagering on racing for seven years. Rather than wait until the next sunset review, the newly combined division should bring together a group of experts to study the issue once the reorganization is complete.

Therefore, the newly combined division should create a taskforce to study whether a single commission to oversee both racing and gaming is warranted, and if it is, define the composition of the commission.

Appendix A - License and Registration by Business and Occupational Classification

The Division requires the following businesses and occupations to obtain either a license or a registration as indicated.

Major Business Licenses¹¹⁷

- Offtrack betting association
- Affiliated business at a simulcast location
- Totalisator (tote) company

Minor Business Licenses¹¹⁸

- Concession operator
- Feed supplier
- Kennel operator
- Kennel facility
- Offtrack betting facility
- Photo finish business
- Satellite corporation
- Tip Sheet operator (independent)
- Training track
- Tack shop
- Video operator
- Other support services

Key Licenses¹¹⁹

- Assistant general manager
- Association judge
- Association steward
- Association veterinarian
- Corporate director
- Corporate officer
- Director of racing
- General manager
- Mutuel manager
- Racing secretary
- Security director
- Tote operator

¹¹⁷ Colorado Department of Revenue. *Business License - Racing*. Retrieved on February 27, 2015, from <https://www.colorado.gov/pacific/enforcement/node/38646>

¹¹⁸ Colorado Department of Revenue. *Business License - Racing*. Retrieved on February 27, 2015, from <https://www.colorado.gov/pacific/enforcement/node/38646>

¹¹⁹ Colorado Department of Revenue. *Key License - Racing*. Retrieved on February 27, 2015, from <https://www.colorado.gov/pacific/enforcement/node/38621>

Support Licenses¹²⁰

- Apprentice jockey
- Assistant mutuel manager
- Assistant racing secretary
- Assistant starter
- Assistant trainer
- Authorized agent
- Chartwriter
- Clerk of scales
- Director of simulcasting
- Horse person's bookkeeper
- Hub supervisor
- Identifier
- Jockey
- Jockey agent
- Money room manager
- Mutuel employee
- Off-track betting manager
- Owner
- Owner/assistant trainer
- Owner/trainer
- Paddock judge
- Placing judge
- Private veterinarian
- Security guard
- starter
- Tote technician
- Trainer
- Video operator

Registrations¹²¹

- Animal tattooer
- Announcer
- Assistant simulcast facility manager
- Clocker
- Concession employee
- Corporate agent
- Exercise rider
- Fair circuit
- Facility off-track betting manager
- Groom
- Head leadout
- Nurse or emergency medical technician

¹²⁰ Colorado Department of Revenue. *Support License - Racing*. Retrieved on February 27, 2015, from <https://www.colorado.gov/pacific/enforcement/node/38456>

¹²¹ Colorado Department of Revenue. *Registration Occupational License - Racing*. Retrieved on February 27, 2015, from <https://www.colorado.gov/pacific/enforcement/node/38586>

Registrations (cont.)

- Office person
- Outrider
- Photo operator
- Photo runner
- Jockey room custodian
- Jockey valet
- Maintenance
- Match/stake races
- Plant superintendent
- Plater
- Plant/track superintendent
- Pony person
- Racing form employee
- Restaurant employee
- Stable superintendent
- Tack shop employee
- Temporary tote operator
- Temporary tote technician
- Track superintendent
- Trainee
- Usher

Appendix B - Business and Occupational License Information by Classification and Calendar Year

The following table provides the businesses and occupations licensed or registered by the Division over a five-year period.

Classification	2010	2011	2012	2013	2014
Major Business Licenses					
Affiliated business/simulcast facility	4	5	7	5	3
Association simulcast facility	7	7	7	18	11
Tote company	1	1	1	1	1
Total	12	13	15	24	15
Minor Business Licenses					
Adoption program/welfare	5	6	6	6	2
Concessions/food service	0	0	0	0	1
Kennel operator/owner	0	0	2	6	6
Simulcast facility	1	1	3	4	5
Other support services	1	1	1	6	21
Photo finish business	1	1	1	1	1
Satellite communications	1	1	1	1	1
Tack shop	0	1	1	1	1
Training track	0	0	1	1	1
Video company	1	2	2	1	1
Total	10	13	18	27	40
Key Licenses					
Assistant general manager	1	0	1	1	0
Association steward	1	0	1	1	1
Corporate director	6	1	8	6	3
Corporate officer	14	1	22	14	5
Simulcast facility manager	3	3	4	4	3
General manager/track	1	0	1	1	1
Mutuel manager	1	0	1	1	1
Simulcast facility manager	2	2	3	2	2
Racing secretary	0	0	0	0	1
Security director	1	0	2	2	1
Tote operator	1	1	1	1	3
Total	31	8	44	33	21
Support Licenses					
Apprentice jockey	0	2	0	2	4
Assistant mutuel manager	4	3	4	4	3
Assistant starter	7	6	7	8	9
Assistant trainer	7	8	7	9	13
Authorized agent	9	8	10	13	15
Clerk of scales	0	1	0	1	1
Clocker	1	1	1	1	1
Exercise person	3	2	3	3	3
Facility manager simulcast facility	4	4	4	6	6

Classification	2010	2011	2012	2013	2014
Support Licenses (Continued)					
Groom	4	4	4	4	4
Horsemen's bookkeeper	0	1	0	0	1
Identifier	1	1	1	1	1
Jockey	60	64	65	81	88
Jockey agent	5	3	5	5	6
Minor business employee	5	1	6	5	1
Money room manager	5	4	5	5	4
Mutuel employee	75	75	75	94	102
Simulcast facility manager	7	9	7	9	9
Other	6	6	6	8	14
Owner	569	671	581	788	838
Owner/assistant trainer	2	3	2	3	5
Owner/trainer	136	130	140	172	146
Security - armed	0	0	0	0	2
Security - unarmed	23	23	23	32	35
Starter	1	1	1	1	1
Tack shop owner	1	0	0	0	0
Tack shop employee	0	1	1	1	1
Tote technician	3	7	3	9	8
Trainer	45	44	47	59	49
Veterinarian tech/assistant	1	1	1	1	1
Veterinarian - practicing	5	4	5	7	4
Video operator	1	0	2	1	0
Total	990	1,088	1,016	1,333	1,375
Registrations					
Announcer	0	0	0	0	1
Clocker	1	1	1	1	2
Concession employee	8	8	8	8	14
Concession/food service	0	0	0	0	2
Exercise person	40	41	40	42	59
Groom	168	184	168	185	300
Maintenance employee	4	4	4	4	9
Office personnel	2	4	3	4	4
Other	8	8	8	8	17
Photographer/photo finish	2	2	2	2	2
Plater	11	11	11	11	19
Pony person	7	10	7	10	16
Tack Shop employee	1	1	1	1	1
Track superintendent	1	1	1	1	2
Valet	0	0	0	0	1
Veterinarian tech/assistant	0	0	0	0	1
Video operator	4	4	4	4	4
Video technician	2	3	2	3	11
Total	259	282	260	284	465