

# 1998 SUNSET REVIEW

## ***Colorado Racing Commission and the Colorado Division of Racing Events***

Colorado Department of Regulatory Agencies



Office of Policy and Research

October 15, 1998

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 Colorado Department of Regulatory Agencies has completed the evaluation of the Colorado Racing Commission and the Colorado Division of Racing Events. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 1999 Legislative Committees of Reference. The report is submitted pursuant to §24-34-104(8)(a), of the Colorado Revised Statutes, 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 Commission and the Division in carrying out the intention of the statutes and makes recommendations for statutory and administrative changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Joseph A. Garcia  
Executive Director

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## ***Executive Summary***

The Department of Regulatory Agencies (DORA) has concluded its sunset review of the Colorado Racing Commission (Commission) and the Division of Racing Events (Division) in the Department of Revenue (DOR). The report concludes that the regulation of racing events and pari-mutuel wagering is in the public interest. Therefore, the report recommends continuing the regulation of the industry by the Commission and the Division until July 1, 2008.

The report finds that it is necessary for the integrity of racing for racing animals to be tested for chemicals which may alter their performance. However, it is neither desirable nor practical for all tests to be conducted on a truly random basis. Therefore the report recommends allowing the Commission the authority to develop a methodology for identifying animals to be tested.

Abuse of racing animals is an issue of concern to regulators, licensees, consumers, and other interested parties. The Commission has the authority to discipline, after a hearing, licensees who abuse racing animals. The Commission also has the authority to summarily suspend licenses, pending a hearing, in certain situations. However, the Commission must meet and vote in order to summarily suspend a racing license. The report recommends the Director of the Division be given the authority to summarily suspend licenses in situations involving animal abuse.

The Commission has statutory authority over non-race related activities conducted at licensed facilities. The report recommends replacing Commission approval for non-race related activities with a notification requirement for licensees. This is a less restrictive requirement and is consistent with the public interest.

There are two horse racing related funds created in the Act. Although the disposition of the funds is detailed in the Act, there is minimum accountability required to receive the funds. The report recommends increased reporting by recipients and Commission approval for some projects funded by the racing industry.

The report finds that the tax remitting requirements in the racing industry are inconsistent and more restrictive than requirements for other regulated industries. The report recommends changing the requirement for daily remittance of taxes to a monthly basis.

The Act creates a committee to advise the Commission regarding disbursements from the Horse Breeders' and Owners' Awards and Supplemental Purse Fund. The Act was amended to require the Commission to disperse funds to breeders' associations that have disbursement provisions in their by-laws. The advisory committee no longer serves a necessary function and should be repealed.

The Act prohibits the Director of the Division of Racing Events from holding any outside employment. The report finds this prohibition to be overly restrictive and inconsistent with other regulatory programs. Therefore, the report recommends this prohibition be eliminated.

The report makes four administrative recommendations, which do not require legislative action by the General Assembly. Those recommendations are:

1. The Commission should work with the industry to develop guidelines clarifying kennel and stable inspections;

2. The Commission should continue to encourage participation in greyhound adoption programs by licensees;
3. The Division should increase its regulatory presence at Off Track Betting Facilities; and,
4. The Division should work to improve the relationship between the industry and the Investigations Section.

The Department of Regulatory Agencies makes the following recommendations:

<i>Recommendation 1. Continue the regulation of pari-mutuel wagering and racing events by the Colorado Racing Commission and the Division of Racing Events in the Department of Revenue until July1, 2008.</i>	44
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## ***Background and History of Regulation***

### ***Sunset Process/Methodology***

The regulation of racing events and pari-mutuel wagering authorized by §12-60-101, et. seq., of the Colorado Revised Statutes (C.R.S.), shall be terminated effective July 1, 1999 unless continued by the General Assembly. Pursuant to §24-34-104(8)(a)(I), C.R.S., the Department of Regulatory Agencies is required to conduct a review of the performance of the Colorado Racing Commission (Commission) and the Division of Racing Events (Division) in the operation of this program. Both the Commission and the Division are located in the Department of Revenue (DOR).

The sunset review process includes an analysis of the statutes and regulations promulgated under its authority, interviews with Commission members, Division staff, licensees, and interested parties affected by the provisions of the law. Research is also conducted of current literature, related statutes, and the procedures in other states. During the review, the Commission and Division must demonstrate there is a need for the program to continue and that the regulation is the least restrictive form of regulation consistent with the public interest, in accordance with the Sunset Evaluation Criteria, found in Appendix A.

### ***Definitions***

The racing industry uses terminology that may be unfamiliar to many individuals. Terms used in the statutes, regulations and industry are defined below. This list is not comprehensive but should aid the reader in interpreting this report.

**Breakage:** The odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of ten cents.

**Card:** The total live races held at an individual track on a single day.

**Circuit:** Either the north circuit or the south circuit established within the State of Colorado for the racing of greyhounds. A latitudinal line through Douglas County divides the north and south circuits.

**Class A track:** Any horse race track which is not a class B track; also known as a fair circuit track.

**Class B track:** A horse race track, located within the state of Colorado, at which a race meet of horses, consisting of thirty or more race days, is being conducted or was being conducted during the previous year.

## *Background and History of Regulation*

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**Cross simulcasting:** Either the receipt of a horse race by a simulcast facility located on the premises of a track licensed to race greyhounds or the receipt of a greyhound race by a simulcast facility located on the premises of a track licensed to race horses.

**Director:** The director of the division of racing events.

**Executive Director:** The executive director of the Department of Revenue.

**Greyhound track:** A track, located within the state of Colorado, at which a race meet of greyhounds is conducted.

**Handle:** The total amount of money wagered in any pari-mutuel pool.

**Horse track:** Either a class A track or a class B track.

**Host track:** Either an in-state host track or an out-of-state host track.

**In-state host track:** A track, located within the state of Colorado, at which a race meet of either horses or greyhounds is conducted.

**In-state simulcast facility:** A facility licensed by the state to accept pari-mutuel wagers on simulcast races.

**Interstate common pool:** A pari-mutuel pool established at one location, for purposes of establishing payoff prices in the various states receiving a simulcast signal for a race run at the host track. There may be simulcast facilities in more than one state simultaneously combining pari-mutuel pools into the common pool of the host track. The interstate common pool is specified in a written simulcast racing agreement between the host track and the person operating the simulcast facility receiving such simulcast races. Written agreements vary between entities because different states' laws vary on what is allowed in simulcast races.

**Intrastate common pool:** A pari-mutuel pool, established for an in-state host track, which includes wagers made at the in-state host track as well as wagers made at in-state simulcast facilities on simulcast races of live races run at the in-state host track.

**Licensee:** Any person holding a current, valid license issued by the commission.

**Lure:** A mechanical device used to attract greyhounds to race.

**Meet:** The entire consecutive period for which a license to conduct racing has been approved by the Commission.

## *Background and History of Regulation*

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**Off Track Betting (OTB):** Any form of betting on races at a site away from the track hosting the race.

**Off Track Betting Facility:** A facility not licensed to conduct races that is licensed by the Commission to accept bets on races.

**Out-of-state host track:** A track, located within a state other than Colorado, which is properly authorized under the laws of such state to conduct live races of horses or greyhounds and to broadcast such races to an in-state simulcast facility.

**Out-of-state simulcast facility:** A track or other facility, located within a state other than Colorado, at which Colorado residents may place pari-mutuel wagers on races pursuant to proper authorization under the laws of such state.

**Pari-mutuel pool:** A wagering pool into which pari-mutuel wagers on a live race or on a simulcast race are taken.

**Pari-mutuel wagering:** A form of wagering on the outcome of horse and greyhound races. Bettors purchase tickets of various denominations on one or more horses or greyhounds from one or more pools and all like wagers from each race are pooled and the winning ticket holders are paid prizes from such pool in amounts proportional to the total receipts in the pool minus deductions authorized by statute.

**Performance:** An group of live races of horses or greyhounds taking place on a single race day.

**Simulcast facility:** Either an in-state simulcast facility or an out-of-state simulcast facility.

**Simulcast race:** A live, audio-visual broadcast, transmitted simultaneously with the performance of a live race of horses or greyhounds by either an out-of-state host track or an in-state host track, which is received by a simulcast facility.

**Special event:** All or part of a day's program of live racing of greyhounds run at an out-of-state host track. The commission designates greyhound race programs which are recognized as special events.

**Takeout:** The percentage of the pari-mutuel betting retained by the racetrack, the state, or other parties authorized by statute.

**Totalisator:** A system or electronic device which accepts and cashes wagers, calculates the odds and prices for wagers, and records, displays, and stores pari-mutuel wagering information.



## *Background and History of Regulation*

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Tote Board: The device used to display to the public the approximate odds, payoffs and other wagering information on a race.

Track or racetrack: A track which is located within the state of Colorado and at which a race meet of either horses or greyhounds is conducted under a license granted pursuant to §12-60-505, C.R.S.

### ***History Of Colorado Racing Regulation***

A referendum to legalize racing and pari-mutuel wagering was passed by the Colorado General Assembly in 1947. The referendum provided for the regulation of racing by an independent three-member Racing Commission. Commissioners were to be appointed by the Governor and serve staggered six-year terms. The proposal provided for compensation of Commissioners in the amount of \$100 per month.

Occupational fees were set in statute at \$10 for drivers, jockeys, and animal trainers. The fee for apprentice jockeys was established at \$1 per year. Race meets were limited to 20 days and no licensee could hold a license for more than two meets per year. The fee for a meet license was five percent of the pari-mutuel handle. An additional five percent of the handle was collected by the Commission to be forwarded to the General Fund. The Commission was permitted to retain 20 percent of all revenues collected to fund the operation of the Commission.

The referendum was placed on the November, 1948 ballot and passed 238,371 for and 183,292 against. The General Assembly amended the racing statute to remove provisions requiring compensation for Commissioners and requiring track owners to deduct income tax from any winnings paid. Racing in Colorado actually began in 1949.

The racing statute has been amended several times since it was originally enacted. In 1967 the licensing categories were expanded and the Commission was given the authority to establish license fees by regulation. The Commission was transferred to the Department of Regulatory Agencies (DORA) as a Type I agency under the Administrative Reorganization Act of 1968. The statutes were extensively modified in 1973 and again in 1977. In 1983, the Division of Racing Events was established in DORA and some of the regulatory authority of the Commission to issue occupational licenses and regulate pari-mutuel wagering was delegated to the Division. In 1992, the General Assembly transferred the Division of Racing Events to the Colorado Department of Revenue and changed the composition of the Commission from three to five members.

## *Background and History of Regulation*

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Horse racing dominated the activities of the Commission in its early days. The rise in popularity of greyhound racing corresponded with the decline in horse racing. By 1985 there were five greyhound tracks in Colorado offering racing virtually seven days a week, 52 weeks a year. However, every major horse track had closed and less than 30 days of horse racing was conducted on the fair circuit.

Despite the shift in popularity between horse and greyhound racing, the pari-mutuel handle, and the corresponding state revenues derived from the handle, increased steadily from 1949 into the 1980s. The introduction of the state lottery in 1982 appeared to have negatively impacted the racing industry. The apparent negative impact caused by the introduction of limited stakes gambling in 1991 was even more significant.

There was no major horse racing being conducted in Colorado at the time of the passage of SB 91-99. However, there were five greyhound tracks operating in Colorado:

- Cloverleaf Kennel Club: Loveland
- Interstate Kennel Club: Byers
- Mile High Kennel Club: Commerce City
- Pueblo Kennel Association: Pueblo
- Rocky Mountain Greyhound Park: Colorado Springs

Each track had approximately the same number of race days allocated for their meet and meets did not overlap with the meet in the Denver Metro area. Greyhound tracks held a total of 7,315 live races during the 370 approved race days in 1990. During 1997, the tracks conducted over 11,000 live races during 638 approved race days. See Appendix C for a brief summary of the race days from 1983 to 1998.

SB 91-99 brought about sweeping changes to the racing industry in Colorado. These changes were intended to promote racing in Colorado by introducing three major changes to the racing statutes:

1. Division of greyhound racing into North and South circuits;
2. Introduction of simulcast wagering; and
3. Inducements to stimulate live horse racing.

## *Background and History of Regulation*

SB 91-99 divided greyhound racing into two circuits, separated by a latitudinal line drawn through the Douglas County Court House. The bill allowed meets in the Southern Circuit to be licensed for up to 180 days and in the Northern Circuit for up to 120 days. The bill also allowed tracks to contract with another track in the same circuit to conduct all or part of a licensed race meet.

Soon after the passage of SB 91-99, the Interstate Kennel Club closed the track in Byers and contracted to conduct its meets at the Commerce City track. In 1998, the Commission approved applications for meet licenses totaling 360 days for each circuit. Essentially, one race track is always open in each circuit.

Under the provisions of SB 91-99, each licensed race track is allowed to receive simulcast races from both in-state and out-of-state host tracks. There remains a condition that any simulcast wagering on out-of-state horse races be conducted through a Colorado Class B horse track. Each track is also permitted to apply for a license for one OTB for pari-mutuel wagering on simulcast races.

The takeout for the handle was changed dramatically as a result of this legislation. Different tax rates were established for different forms of wagering, and new takeouts were allowed for simulcast wagering. The following table details how the handle is distributed for the various types of racing events.

Table 1  
Handle/Distribution/Takeout Percentages

<i>Distribution</i>	<i>Live Greyhound</i>	<i>Simulcast Greyhound</i>	<i>Live Horse</i>	<i>Simulcast Horse</i>
<i>Takeout</i>	19.5%	19.5%	WPS 18.5% Exotics 25%	WPS 18.5% Exotics 25%
<i>Track/Assoc.</i>	10%	10%	WPS 8.63%** Exotics 11.25%**	WPS 17.25%** Exotics 22.5%**
<i>State</i>	4.5%	4.5%	Greater of .75% or \$2,500/day	.75%
<i>City</i>	1%*	1%*	0	0
<i>Purses</i>	5%	5%	WPS 8.625% Exotics 11.25%	Contract agreement
<i>CSU</i>	NA	NA	WPS 0 Exotics .25%	WPS 0 Exotics .25
<i>Owners/Breeders</i>	NA	NA	WPS .5% Exotics 1.5%	WPS .5% Exotics 1.5%
<i>Breakage</i>	100% track/assoc.	100% track/assoc.	50% track/assoc. 50% purses	In state 50% facility 50% purses Out-of-state 100% facility
<i>Uncashed tickets</i>	100% track capital improvement	100% track capital improvement	100% Owners/breeders	100% Owners/breeders

\* Commerce City is the only city permitted a city tax on wagers

\*\* Approximate percentage, actual percentage depends on purse agreement and state commission

## *Background and History of Regulation*

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The introduction of simulcast wagering in Colorado significantly increased the overall handle. However, the bill introducing simulcast wagering also lowered the tax rate; therefore the state has not experienced a gain in tax revenues. In an effort to revive the horse racing industry in Colorado, a portion of the takeout from simulcast racing is set aside for owners/breeders awards, purses, and an equine research fund through Colorado State University.

In 1990 and 1991, there was no major horseracing in Colorado, and only 10 days of racing were conducted each of these years on the fair circuit. SB 91-99 tied the authorization of simulcasting of out-of-state horse races to live horse racing in Colorado. By 1993, there were 100 days of live horse racing divided between two Class B and two Class A tracks. See Appendix C.

The legislation required that Class B tracks maintain 60 days of live racing by their third year of operation in order to be eligible to receive simulcast races from out-of-state. The 60 day provision was amended in 1996 to require only 30 days of live racing per year. Facilities that are not Class B tracks must receive the out-of-state simulcast signal from a Class B track. This means that in order for any track or OTB to receive pari-mutuel wagers on an out-of-state horse race, there must be a licensed Class B horse track operating in the state.

Class B tracks are allowed 250 days of simulcast races for meets of 30 days or more of live racing held at the track. On live race days, Class B tracks may receive up to four horse races per day, unless the Commission approves a greater number. (12-60-602(5)(b)(IV), C.R.S.) The Commission generally approves any requests for additional races, so in a practical sense, Class B tracks may receive as many simulcast races as they can contract for.

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## **Summary of Statute and Rules**

The regulation of racing is found in Article 60 of Title 12 and is divided into nine parts as follows:

- Part 1: General Provisions
- Part 2: Division of Racing Events
- Part 3: Colorado Racing Commission
- Part 4: Conflict of Interest
- Part 5: Licensing and registration
- Part 6: Unlawful Acts
- Part 7: Taxes and Fees
- Part 8: Enforcement and Penalties
- Part 9: Review and Termination Provisions

### **PART 1: GENERAL PROVISIONS**

The general provisions contained in the racing statute include the legislative declaration, the sunset termination clause and definitions to be used throughout the Article.

### **PART 2: DIVISION OF RACING EVENTS**

#### **§12-60-201 - Creation of Division of Racing**

Creates Division of Racing within the DOR. The Executive Director of the DOR appoints the Director of the Division. The Division is operated as a Type 2 agency as defined in the “Administrative Organization Act of 1968”.

#### **§12-60-202 - Qualifications of Director**

The Director’s duties include to:

- investigate, supervise, and administer the conduct of racing in accordance with the provisions of the Article;
- attend meetings of the Commission or appoint a designee;
- confer, as necessary or desirable and no less than once each month with the Commission on the conduct of racing; and,
- make continuous study and investigations of the operation and the administration of similar laws, any literature, any federal laws, and the reaction of Colorado citizens to existing and potential features of racing events with a view to recommending or effecting changes that serve the purpose of the Article.

The Director must devote his or her entire time and attention to the duties of the office and may not engage in any other profession or occupation. The Director shall not have ever been convicted of a felony or a gambling related offense.

## *Summary of Statute and Rules*

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### **§12-60-203 - Investigators are Considered Level II peace officers**

All investigators employed by the Division, and their supervisors, including the Director and the Executive Director are designated as Level II peace officers. Level II Peace Officers are authorized to enforce all laws of the State of Colorado while acting in the scope of their authority and in the performance of their duties. The statute does not preempt other law enforcement agencies from enforcing laws relating to racing.

### **§12-60-204 - Board of Stewards or Judges**

The Division must establish a board of three stewards or judges to assist in supervising the conduct of any race. Two members must be employees of the Division and the remaining member must be an employee of the track at which the race meet is held. Board members are subject to the approval of the Commission.

## **PART 3: COLORADO RACING COMMISSION**

### **§112-60-301 - Racing Commission Creation**

Creates Racing Commission consisting of five members who:

- must be U.S. citizens;
- must be residents of Colorado for the past five years;
- are appointed by the Governor with approval of the Senate;
- No more than three members may be from the same political party;
- Two members must have been previously engaged in the racing industry for at least five years;
- One member must be a practicing veterinarian licensed in Colorado for the past five years;
- One member must have been engaged in business in a management-level capacity for at least five years;
- One member must be a registered elector of the state and not employed in any racing profession or industry;
- One member of the Commission must be from west of the Continental Divide; and,
- No more than two members may be from the same congressional district.

Appointments are for four-year terms and no member may serve more than two terms. The Commission must hold at least one meeting each month. Notwithstanding the provisions of §24-5-101, C.R.S., no Commission member shall have been convicted of a felony or a gambling related offense.

### **§12-60-302 - Organization and Officers - Duties- Representation**

All moneys collected by the DOR through the Division must be placed into the General Fund via the State Treasurer. The Commission shall maintain an office within the state and keep detailed records of meetings and its business. The Attorney General provides legal services to the Division and the Commission.

## *Summary of Statute and Rules*

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### **PART 4: CONFLICT OF INTEREST**

#### **§12-60-401 - Director and Commission Members - Position of Trust- Conflicts of Interest**

The Director, Commission members, and their immediate family may not:

- hold any pecuniary interest in any racetrack operating in Colorado nor in any kennel, stable, compound, or farm that houses animals licensed or registered to race in Colorado;
- wager money or any other chattel of value on the result of any race or race meet or sweepstakes conducted within Colorado or simulcast facility outside of the state;
- hold any pecuniary interest in any out-of-state host track or derive any pecuniary benefit from the racing of any animal at a track;
- hold more than 5% interest in any entity doing business with a track;
- have any interest of any kind in a license nor have any direct or indirect interest, including employment, in any licensee, licensed premise, establishment, or business involved in or with pari-mutuel wagering.

### **PART 5: LICENSING AND REGISTRATION**

#### **§12-60-501 - Regulation of Race Meets and Racing-Related Businesses**

- All horse and greyhound race meets with pari-mutuel wagering are licensed and regulated by the Commission.
- All places where race meets are held must be inspected at least once a year by the Commission, as well as being regulated.
- The Commission regulates the operations of pari-mutuel machines and equipment, the operations of all money rooms, accounting rooms, and sellers' and cashiers' windows, and the weighing of jockeys and greyhounds.
- The Commission has the authority to take various animal samples for testing.
- The Commission must establish internal controls for licensees including accounting and reporting procedures.
- The Commission licenses and regulates persons who manufacture or operate totalisators.
- The Commission licenses and regulates all in-state simulcast facilities conducting pari-mutuel wagering.

#### **§12-60-502 - Delegation of Authority to Issue Certain Licenses and Registrations**

The Commission is required to delegate to the Division the authority to issue all business and occupational licenses and registrations. The Division issues licenses in accordance with the regulatory standards adopted by the Commission. The issuance of race meet licenses is reserved for the Commission.

## *Summary of Statute and Rules*

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### **§12-60-503 - Rules of the Commission-licensing**

The Division must license all individuals working at a licensed race track or simulcast facility unless the Commission deems the occupation or activity unnecessary to be licensed or registered. The Commission is required to promulgate regulations for reasonable control, supervision, fingerprinting, and identification of applicants and licensees. These regulations must include provisions for disciplining, including barring from racing, any licensee or registrant.

### **§12-60-504 - Business Licenses**

All applications for a business license issued by the Commission must be made under oath. The Commission may examine the financial and other records of an applicant for licensure. The Commission has broad discretion to grant or deny any business license based on financial ability, experience and other factors contained in this section. Under the provisions of §12-60-502, C.R.S., the Commission has delegated the issuing of business licenses to the Division and only hears appeals of Division denials.

### **§12-60-505 - Meet Licenses**

All applications for meet licenses must be filed under oath by a date set by the Commission. The Commission must hold a public hearing on the application. The Commission may consider a number factors before granting a license including the location of the meet, the number of licenses issued and the sentiments of the community in which the meet is proposed to be held.

Meet licenses specify the number of days and number of races per day the licensee may operate. Licensees may petition the Commission for permission to conduct races on alternate days if a race meet is canceled because of specified emergency conditions. The licensee may petition to use another licensee's facilities if the petitioning licensee's facility has been made inoperable by the emergency condition in question.

### **§12-60-506 - Application - Fee - Waiver of Confidentiality**

The Commission shall establish fees for applications and investigations at a level sufficient to cover the administrative costs associated with the application processing and investigations. Such fees may vary depending on the license type. Applicants must waive any right of confidentiality to allow investigators and law enforcement agencies access to financial and personnel records when available.



## *Summary of Statute and Rules*

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### **§12-60-507 through 12-60-508 - Investigation - Denial, Suspension, and Revocation Actions**

The Act contains several grounds for denial, suspension or revocation of a racing license, including some mandatory disqualification criteria. The Commission may, on its own motion or upon a written complaint conduct an investigation into the activities of a licensee. The Commission may, in addition to the denial suspension or revocation of a license, issue a letter of admonition or levy a fine against a licensee. Applicants or licensees who have an unfavorable action taken against their application or license are entitled to a hearing before the Commission in accordance with the requirements of the Administrative Procedure Act.

### **§12-60-509 - Liability Insurance and Bonds**

Racetrack licensees are required to carry public liability insurance with a company approved by the Commission. In addition, the majority of the owners of animals racing in a meet may require the licensee to provide the Commission with evidence of a surety bond in an amount sufficient to cover all awards and purses due at the race meet.

### **§12-60-510 - Racing of Standardbred Harness Horses**

The Commission is required to issue licenses for the racing of standardbred harness horses. Special provisions are made restricting the racing of standardbred harness horses at, or in the proximity of, tracks conducting other types of races. Colorado has had a minimal level of harness racing in its history.

### **§12-60-511 - Eligibility to Operate Race Meets**

No person is eligible to operate a race meet under a license unless the license holder owns or controls a properly constructed racetrack equipped in a manner approved by statute and regulations. The statute restricts the operation of race meets within the proximity of other tracks.

### **§12-60-512 - Access to Records**

The Division has access to law enforcement records maintained by any law enforcement agency in the United States. The Division is required to furnish, upon request, copies of any and all information it receives pursuant to part five to the Colorado Bureau of Investigation.

## **PART 6: UNLAWFUL ACTS**

### **§12-60-601 - Underage Wagering**

It is a class 2 petty offense for any person under the age of 18 to purchase, attempt to purchase, or redeem a pari-mutuel ticket. It is also an offense to sell a ticket to a person under the age of 18.

## *Summary of Statute and Rules*

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### **§12-60-602 - Simulcast Facilities and Simulcast Races**

In the State of Colorado it is unlawful to wager on simulcast races except in a facility licensed by the Commission to accept such a wager. Simulcast facilities are limited in the number and types of events they may accept wagers on. Simulcast facilities located near a licensed race track may not accept wagers on simulcast races if the race track is running live races without the permission of the race track owner.

### **§12-60-603 - Duration of Meets**

It is unlawful to conduct any race meets at which wagering is permitted except under the provisions of this article. The Commission is to issue licenses taking into consideration a variety of factors in order to promote live racing of both horses and greyhounds in the state.

## **PART 7: TAXES AND FEES**

### **§12-60-701 - License and Fees and Colorado-Bred Horse Race Requirement**

The statute delineates the taxes and fees to be paid by the various classes of licensees to fund the regulatory activities associated with the industry.

- Operators of greyhound tracks and simulcast facilities are taxed at a rate of 4.5% of all pari-mutuel wagers placed on live and simulcast greyhound races.
- Operators of horse tracks and in-state simulcast facilities are taxed at a rate of .75% of the gross receipts of the pari-mutuel wagers on horse races.
- Operators of class B horse race tracks pay the greater of .75% of the pari-mutuel wagers, or a daily fee of \$2,500, to cover the expenses of regulation.
- Class B horse track operators and simulcast licensees pay an additional .25% of all exotic pari-mutuel wagers on horse races to the Colorado State University School of Veterinary Medicine to fund a program for racing-related equine research. Exotic wagers are all wagers, other than win, place and show.
- Horse track and simulcast licensees pay an additional .5% of all win, place and show wagering and 1.5% of all exotic wagering on horse races for the Horse Breeders' and Owners' Awards and Supplemental Purse Fund detailed in section 702.
- The operator of a simulcast facility is authorized to retain 5% of the gross receipts of pari-mutuel wagering on horse races to cover the expenses of operating the facility.
- If the operator of the simulcast facility is not located at a class B track and receives class B races, the operator is required to remit 20% of the operating expense portion of the gross receipts to the class B track operator.
- In order to encourage the breeding of race horses in Colorado, at least one race of each day's live horse race meet shall consist exclusively of Colorado-bred horses, if such horses are available.

## *Summary of Statute and Rules*

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### **§12-60-702 - Unlawful to Wager, Exception - Excess - Taxes**

It is unlawful to conduct pool selling or bookmaking, or to circulate handbooks, or to bet or wager on any race meet licensed under the provisions of this article other than by the pari-mutuel method.

Greyhound tracks and simulcast licensees are limited to retaining 19.5% of the gross pari-mutuel receipts to cover the expense of operating the track, including the state tax and race purses. Greyhound licensees pay into a fund for purses for greyhound races in the amount of 5% of all gross pari-mutuel receipts. Tracks located in a municipality that imposes a city tax on wagers are allowed to collect the additional tax. Mile High Greyhound Park in Commerce City is the only track currently affected by this provision. Mile High Greyhound Park retains 20.5% of the gross wagers because of the 1% Commerce City tax.

Horse track operators and simulcast licensees are limited to retaining 18.5% of the receipts of win, place and show pools and 25% of all other pari-mutuel wagering. These licensees are required to pay out as purses 50% of the track's commission and 50% of the track breakage attributable to live racing.

Meet licensees are required to file with the Commission an agreement relating to the purse structure between the track and an organization that represents a majority of the owners of animals participating at the race meet.

Purse funds are to be deposited into a trust account at a commercial bank located in Colorado. Simulcast facilities located at Class B horse tracks are permitted to retain up to 20% of the purse fund contributions on simulcast races to defray expenses.

No licensee may compute breaks in the pari-mutuel system in excess of ten cents. Underpayments, in excess of overpayments for any race meet on a given day, revert to the state. Winning tickets are paid in multiples of ten cents.

Greyhound racetrack licensees retain proceeds from 100% of unclaimed greyhound pari-mutuel wagers, after a period of one year. Horse racetrack licensees must deposit 100% of unclaimed horse pari-mutuel wagers, after a period of one year, into the Horse Breeders' and Owners' Awards and Supplemental Purse Fund.

No local jurisdiction may tax pari-mutuel proceeds unless the local jurisdiction had a pari-mutuel tax law in place before July 1, 1982.

### **§12-60-703 - Pari-Mutuel Pools for Race Meets and Simulcast Races**

The pari-mutuel pool for race meets and simulcast races of the meets is an intrastate common pool, except that if simulcast races are received by an out-of-state facility the pool may be an interstate common pool, operated by the in-state host track.

## *Summary of Statute and Rules*

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The Commission may permit an in-state simulcast facility participating in an interstate common pool to adopt the takeout percentage of the out-of-state host track for the interstate common pool, providing the takeout does not exceed 20% of the win, place and show wagering and 25% of all other pari-mutuel wagering.

### **§12-60-703.5 - Limitation on Pari-Mutuel Wagering**

No wagering on a race meet conducted in or out of this state may be made except on the premises of a racetrack or simulcast facility licensed by the Commission. Violations of this section of the Act are considered class 2 misdemeanors.

### **§12-60-704 - Creation of a Horse Breeders' and Owners' Awards and Supplemental Purse Fund - Awards - Advisory Committee - Sunset Review**

The Act creates a horse breeders' and owners' awards and supplemental purse fund, to be paid out to owners and breeders of Colorado-bred horses. An administrative fee is paid to the various Colorado horse breeders associations for registering and maintaining breeding records for the administration of the fund. A nine-person advisory committee created by this section advises the Commission. The Commission may adopt rules for the distribution of funds that are not consistent with the state fiscal year.

### **§12-60-705 - Payments to State - Disposition**

Unless otherwise specified in the statute, all money due to the DOR shall be paid on the business day following the day of each performance. The DOR shall transmit all moneys collected to the State Treasurer who credits the moneys to the appropriate fund. The act makes provisions for penalties for non-payment of fees.

### **§12-60-706 - Agreement of This State**

The state will not limit or alter the rights or powers of any holders of county or municipal development revenue bonds issued in reliance on the provisions of this article.

## **PART 8: ENFORCEMENT AND PENALTIES**

### **§12-60-801 - Criminal Penalties**

Unless otherwise specified, any violation of the Act is a class 2 misdemeanor. Any violation of a Commission rule is a class 2 petty offense punishable by a fine of up to \$100. These penalties are cumulative and separate from other administrative, or civil actions.

### **§12-60-802 - Cancellation of License**

The Commission may upon conviction of an offender, cancel the offender's license.

### **§12-60-803 - Exclusion from Licensed Premises**

The Commission or Division may exclude from any licensed premises any person who has been convicted of a felony under the laws of any state of the United States. The Commission may also exclude any person from a licensed premise who willfully violates any provision of the Act or a Commission rule. Persons excluded from a premise are entitled to a hearing in accordance with the Colorado Administrative Procedure Act.

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## ***Industry Overview***

Racing is part of the larger gaming industry, which is considered by some to be a segment of the even larger entertainment industry. Nationally, gaming takes on many different forms and is a multi-billion dollar industry.

Gross revenue (handle less money returned to the gambler) in gaming was estimated at \$47.7 billion nationally in 1996. Casino gambling is the largest segment of the industry in terms of gross revenue with 37 percent of the national gross revenue in 1996. Racing is one of the smaller segments, with approximately 8 percent of the national gross revenue in 1996. Nationally, racing has declined from 21 percent of the total gross revenue in 1982 to the approximately 8 percent reported in 1996. State-run lotteries are the largest gainers in the gaming industry, with casinos remaining fairly constant.

Charitable gaming, usually bingo and raffles, is permitted in forty-six states. Lotteries, almost always state run, are legal in thirty-seven states. Fourteen states have legalized casino gambling. Forty-three states, including Colorado have legalized pari-mutuel wagering on races. The most popular form of legal pari-mutuel gaming nationally is horse racing. The most famous races are the thoroughbred horse races such as the Kentucky Derby and the Breeder's Cup. Harness racing is popular in other states such as Florida, Illinois, and Michigan. Greyhound racing, while very popular in Colorado, does not enjoy the same national recognition as horse racing.

The racing industry believes it competes with both the lottery and the gaming casinos for wagering dollars. Some industry analysts go even further, claiming that pari-mutuel wagering is part of the entertainment industry and the introduction of the Colorado Rockies and the Colorado Avalanche further diluted the available discretionary entertainment funds of the public. In any event, the amount of money spent at racetracks on live racing has declined dramatically in the past decade. The overall handle has remained stable, but an increasing percentage of this handle comes from wagering by out-of-state venues on live racing in Colorado.

Colorado has four separate forms of legalized gambling: the state run lottery; charitable bingo and raffles; limited stakes gaming; and racing. According to a 1997 gambling study commissioned by the DOR, 91 percent of Colorado's adult residents have participated in some form of gambling in their lifetime. This same study surveyed Colorado residents and found 81 percent of the adult population had participated in a gambling activity in the past year; these 20 percent of the survey respondents had gambled in the week prior to the survey.

The most common form of gambling was found to be the state lottery. The survey found over 80 percent of the respondents had participated in the lottery during their lifetimes; over 70 percent of the respondents had participated in the lottery in the past year. Slightly over 40 percent of the respondents had participated in wagering on a racing event during their lifetime; less than 10 percent had wagered on a racing event during the past year.

## *Industry Overview*

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Pari-mutuel wagering in Colorado is conducted at four greyhound race tracks, one horse race track, and four off-track betting (OTB) facilities.

The 1991 legislation designed to revive horse racing in Colorado divided horse racing into Class A and Class B tracks. Class A tracks were intended to be smaller tracks with limited meets. This category is also known as the fair circuit, since traditionally the meets were scheduled to coincide with county fairs. Class B tracks were intended to be larger facilities with longer meets. In the initial years following the passage of SB 91-99, two Class B licenses were issued, one to Pikes Peak Meadows south of Colorado Springs and one to Arapahoe Park southeast of Denver. Several meets were approved for the fair circuit, Class A tracks. In recent years, Pikes Peak Meadows has closed, Arapahoe Park has shortened its live racing season, and no Class A meet licenses have been applied for. See Appendix C for more details on live racing.

The majority of the gross revenue from horse racing in Colorado is from wagering on simulcast events. In Table 2 below, simulcast wagers represent wagers placed in Colorado pari-mutuel facilities on races being conducted in another state.

Table 2  
Handle Figures Live/Simulcast

	1995	1996	1997
<i>Horse live</i>	\$20,952,176	\$5,006,945	\$10,301,740
<i>Horse simulcast</i>	\$40,943,991	\$47,529,881	\$45,075,068
<b><i>TOTAL HANDLE</i></b>	<b>\$61,537,826</b>	<b>\$52,536,826</b>	<b>\$55,376,808</b>

## ***Program Description and Administration***

### ***Operations***

The regulation of racing is divided into two major components: the Racing Commission and the Division of Racing. The Commission is responsible for establishing regulations, approving licenses and conducting disciplinary hearings. The second component is the Division of Racing Events. The Division is responsible for administering and enforcing the regulations developed by the Commission. The Division, through its Boards of Stewards and Judges, also conducts disciplinary hearings with limited authority.

The Division consists of 38.2 full-time equivalent employees (FTE). The Division is supervised by the Director of the Division, a Management Group Profile 12. The Division is divided into four operating units of various sizes. Each operating unit is supervised by a unit manager. See the organizational chart on the following page.

## *Program Description and Administration*

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### Organizational Chart



## *Program Description and Administration*

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### **Financial Services**

The Financial Services unit is responsible for the accounting, budgeting, audit, and administrative operations of the Division. The unit is staffed by 3 FTE and supervised by a Budget Analyst I. The major responsibilities of the unit include preparing the Division budget and decision items, purchasing, reporting accounting and payroll data, preparing reports to the General Assembly evaluating the Divisions performance, ensuring the accuracy of totalisator machine payouts to the public, and conducting regular compliance and revenue audits of associations and tote companies. The unit conducts financial audits of association payments to racing related funds, including the Colorado State University Equine Research Fund and the Horse Breeders' and Owners' Awards and Supplemental Purse Fund. The unit developed the first totalisator standards in the nation. This involved testing current and new totalisator technology and developing pari-mutuel rules and internal controls to ensure compliance with all applicable laws and regulations.

The unit has developed six separate and independent audits to be conducted at pari-mutuel facilities. The most extensive of these audits is called a Major Price Test (MPT) and is conducted by the unit at each track prior to the beginning of a meet. This is a complete audit of all hardware and software used in the pari-mutuel process to ensure the payouts calculated are accurate. Accurate pari-mutuel pools are essential to the integrity of the racing industry. The MPT evaluates every possible pool scenario and runs mock races to test pool results. Any discrepancies are reported to the totalisator company and the track, and corrections must be made prior to the opening of the meet. If corrections cannot be made in time for the opening of the meet, the Division may prohibit the track from accepting wagers in the particular pool having the discrepancy.

The unit may also conduct independent hardware or software tests at any time during the meet. These tests may be triggered by a complaint, either from a consumer, a track employee, or Division personnel. A software or hardware test is an abbreviated audit conducted by Financial Services staff of a specific component of the system that may be causing a discrepancy in a particular pool.

A pool transmission test is conducted whenever a new simulcast facility is brought on line. This test is used to certify that the simulcast signal and phone lines are operating properly prior to allowing wagering at the new simulcast facility.

Minor price audits and single price pool audits are conducted at least once each meet by the Operations/Licensing unit using tools developed by the Financial Services unit. These audits are unannounced and can be conducted in a very brief timeframe. Results of the audits are reported to the Financial Services unit and evaluated.

## Program Description and Administration

The Financial Services unit also conducts financial audits of the Horse Breeders' and Owners' Awards and Supplemental Purse Fund, the CSU Equine Fund, purses paid by the tracks, and track tax receipts. The unit reconciles unclaimed tickets against payouts and claims, to verify that the proper funds are deposited.

The Director has delegated responsibility for developing rules for exotic wagers and reviewing capital improvements to the Financial Services unit. The Director also utilizes the expertise of this unit to review the financial statements of applicants for meet licenses.

The following tables summarize the racing statistics for the past five years. The figures for handle include wagers made on out-of-state simulcast races. The approved race days combine live race days with simulcast days.

Table 3  
Horse Racing Statistics

YEAR	Attendance	Handle	Public winnings	State Revenue	Track Revenue	Breeder Fund	CSU Fund	Breakage
1993	223,554	17,993,163	13,929,743	238,629	3,503,665	197,380	27,913	95,832
1994	171,557	26,501,186	20,429,077	176,817	5,413,238	213,503	30,399	238,152
1995	322,614	61,896,167	48,718,636	468,988	11,542,948	691,531	98,601	375,468
1996	261,166	52,536,826	41,634,828	431,960	9,455,085	623,519	90,210	303,208
1997	*	55,417,788	43,634,178	435,073	10281478	665,935	97,211	303,913

Table 4  
Greyhound Racing Statistics

YEAR	Attendance	Handle	Public winnings	State Revenue	Track Revenue	Breakage
1993	1,292,621	162,803,605	132,420,870	8,127,151	21,141,448	315,253
1994	1,226,519	164,987,579	134,616,457	7,624,416	21,675,477	306,339
1995	1,190,237	195,231,166	159,751,432	7,637,291	26,707,402	339,917
1996	1,094,223	205,758,779	165,121,276	7,259,471	28,484,041	345,672
1997	*	196,450,662	160,752,864	6,759,046	27,949,611	354,932

Table 5  
Total Racing Statistics

YEAR	Attendance	Handle	Public winnings	State Revenue	Track Revenue	Breeder Fund	CSU Fund	Breakage
1993	1,516,175	180,796,768	146,350,613	8,365,780	24,645,113	197,380	27,913	411,085
1994	1,398,076	191,488,765	155,045,534	7,801,232	27,088,715	213,503	30,399	544,491
1995	1,512,851	257,109,333	208,470,068	8,106,279	38,250,350	691,531	98,601	715,386
1996	1,355,389	258,295,605	206,756,104	7,691,431	37,939,125	623,519	90,210	648,880
1997	*	251,868,450	204,387,042	7,194,118	38,231,089	665,935	97,211	658,845

\* Several tracks stopped keeping attendance records in 1997.

## *Program Description and Administration*

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Table 6  
Approved Race Days

YEAR	1993	1994	1995	1996	1997	1998
<i>Horse</i>	100	78	68	34	38	38
<i>Greyhound</i>	630	612	609	720	600	720
<i>Total</i>	730	690	677	754	638	758

### ***Licensing & Field Operations***

The licensing unit is comprised of four subsections: the North Greyhound Circuit, comprised of 5 FTE; the South Greyhound Circuit, comprised of 5 FTE; Horse Racing, comprised of 2.85 FTE; and Licensing, comprised of 3 FTE. A Program Administrator III supervises the unit.

Most licenses can be applied for at any association track or at the Division offices in Denver. Most registrations and license renewals can be processed at the association track. This decentralized processing saves time for the license applicant and has been cost effective for the Division since it was implemented in 1994.

### ***Licensing Information***

Prior to 1994, the Division issued licenses in six different licensing categories. The categories, and associated fees at the end of the 1993 racing season were:

- \$24 groom, assistant starter, pony person, exercise person, security, authorized agent, other;
- \$29 - valet, mutuel, corporate officer/director;
- \$44 - owner, jockey, apprentice jockey, jockey agent, racing official;
- \$59 - assistant trainer, trainer, plater, veterinarian, concession operator;
- \$79 - owner & trainer combination; and
- \$89 - stable name.

## Program Description and Administration

Starting in 1994, the Division patterned licensing categories after those in the Division of Gaming. A major difference in this system is the elimination of several licenses. This was accomplished by changing the requirements for licensing in occupations that have little potential for harm to the public. These “low impact” occupations are required to register with the Division. However, the registrants are not subject to the same background checks as a licensee. The licensing categories and fees are contained in Table 7 below.

Table 7  
Licensing Categories and Fees

<i>CATEGORY</i>	<i>1994</i>	<i>1995</i>	<i>1996</i>	<i>1997</i>
<i>Registration</i>	No Cost	No Cost	No Cost	\$15
<i>Support</i>	\$100	\$100	\$100/\$40*	\$75/\$40*
<i>Renewal</i>	NA	NA	\$20	\$20
<i>Key</i>	\$150	\$250	\$150	\$150
<i>Renewal</i>	NA	NA	\$75	\$50
<i>Minor Business</i>	\$150	\$150	\$150	\$100
<i>Renewal</i>	NA	NA	NA	\$50
<i>Major Business</i>	\$250	\$250	\$250	\$75/\$225**
<i>Renewal</i>	NA	NA	NA	\$60/\$20**
<b>OTHER FEES</b>				
<i>Temp/Training</i>	\$15	NA	\$10	\$10
<i>Additional Badge</i>	\$5	\$5	\$5	\$6
<i>Duplicate Badge</i>	\$10	\$10	\$10	\$6

\* Support license amended to provide a \$40 groom license.

\*\* Major Business changed to charge a non-refundable investigation fee deposit, fee for the license balance.

The Commission is charged with conducting background investigations on each applicant. The Division is a general fund agency. The Commission, by statute, must adjust fees annually to recover some of the costs associated with the operation of the licensing functions of the Division. “The Commission shall investigate any applicant and shall require the applicant to pay the actual cost of investigating the application as part of the fees and costs imposed pursuant to section 12-60-506.” (§12-60-505(3), C.R.S.)

## *Program Description and Administration*

The Commission annually reviews the previous years' licensing statistics and Division expense estimates for the following year. Using this information, the Commission establishes the licensing fees for the subsequent year. Table 8 details the number of licenses issued in each category since the change in licensing categories.

Table 8  
Licensing statistics

<i>CATEGORY</i>	<i>1994</i>	<i>1995</i>	<i>1996</i>	<i>1997</i>
<i>Registration</i>	229	20	24	20
<i>Support</i>	1424	1604	1066	1027
<i>Renewal</i>	NA	NA	93	378
<i>Key</i>	33	40	16	1
<i>Renewal</i>	NA	NA	5	9
<i>Minor Business</i>	1	0	17	2
<i>Renewal</i>	NA	NA	15	6
<i>Major Business</i>	11	6	12	0
<i>Renewal</i>	NA	NA	6	0
<i>Temp/Training</i>	30	405	280	329
<i>Additional Badge</i>	121	214	221	236
<i>Duplicate Badge</i>	80	145	157	150
<b>TOTAL</b>	1929	2434	1912	2158

In 1996, the Commission and Division formed a task force to evaluate the licensing process of the Division. The task force was comprised of representatives of the industry, the Commission, the Division, and the Department of Revenue. This task force reviewed the existing licensing criteria, procedures, and the statutory requirements.

The task force considered different options then made several recommendations to streamline the licensing process. These recommendations were contained in the 1997 Licensing Committee Report. The licensing section, in conjunction with the investigation section, has implemented several of these recommendations. One major recommendation that was implemented created a hierarchy for the level of background investigations conducted. Higher level applications are subjected to a more in-depth review.

Industry and Division personnel interviewed for this review report improvements in the licensing procedures by the Division. The number of categories and licensees has been significantly reduced since the last sunset review.

## *Program Description and Administration*

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The focus of the Licensing Committee Report was on a risk-based approach to licensing. That is to say, spend the most resources investigating those individuals that have the most impact on the outcome of a race. This approach is reasonable. While the Commission has made strides in reducing the number of licensing categories, further reductions should continue to be explored.

### ***Animal Safety***

The animal safety unit consists of 5.35 FTE and is supervised by a Veterinarian II. This unit has two purposes. The first is to protect racing animals. This is accomplished through a system of kennel/stable inspections, monitoring track conditions, verifying vaccinations, post race inspections of participants, and tracking injuries. Veterinarians also provide emergency care to racing animals.

A second function of this unit is to propose regulations for the drug testing of race animals and to perform required tests in accordance with the regulations adopted by the Commission. The performance of a racing animal is directly related to the physical condition of the animal. In order for the wagering public to maintain confidence in the pari-mutuel system, animals not in condition for racing must not be allowed to compete. Unscrupulous individuals have been found to use chemical substances to alter the performance of a racing animal in order to enhance the potential for a particular wager to pay off. Drugs can be used to stimulate an animal to run faster, increasing the chances of a win, or to inhibit the ability of an animal, decreasing the animals' chances of winning. Other drugs can be used to mask minor injuries allowing animals to race, and increasing the potential for a more serious injury.

The Commission has promulgated regulations allowing the use of certain medications at moderate levels in horse racing animals, provided the wagering public is informed of the use of these drugs. Both urine and blood samples are taken from the race winners, and other selected animals, to test for the presence of allowable levels of approved drugs as well as for the presence of any non-approved drugs. The Commission has established a scale of penalties for misuse of approved drugs ranging from a warning, to fines, loss of purse, and/or loss of license for the animal trainer. The use of non-approved drugs result in more severe penalties.

The Commission has promulgated regulations requiring the testing of race animals on a random basis from the race card of each race day. The Division veterinarian or the race judges/stewards may request additional tests if a race favorite or any other animal's performance deviates significantly from expectations.

## *Program Description and Administration*

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### ***Investigations***

The investigation section consists of six criminal investigators and a legal assistant, supervised by a Criminal Investigator III. The investigation section was created during a reorganization following the passage of SB 96-176, which reclassified the compliance investigators (Peace Officer III) in the Division to Peace Officer II status. Prior to the reclassification, four compliance investigators were assigned to the operations section and two to the licensing section. The Division believes the creation of the investigations section promotes uniformity and assures timely responses to both licensing and operational investigations. The Division also believes the reclassification allows it to address civil and criminal violations occurring at racetracks and OTBs.

The unit assists the licensing section with background checks of applicants; conducts administrative and criminal investigations; assists the Animal Safety unit with kennel/stable inspections; assists the Financial Services unit with pool tests; and conducts track and OTB inspections and patrols. The unit is also responsible for coordinating information with other law enforcement agencies, both within and outside of Colorado.

Modifications to the licensing procedures, combined with the change in peace officer status, have resulted in changes in the workload and procedures in the investigation section. The use of a risk-based approach to categorize licensees has allowed the Division to expend more resources on those applicants with the greatest potential to harm the public. Those individuals in the registration category of regulation are no longer subject to the same in-depth background investigations that key personnel and businesses are. The Peace Officer level II classification permits the investigation section to conduct a more in-depth background investigation on major business and key licensees than was possible under the level III classification. The modifications to the licensing procedures have saved time and money for individual applicants and the Division.

When the Division and Commission were transferred to the DOR, the investigators in the Division were reclassified as Peace Officers, level III. Technically, this designation made investigators in the Division law enforcement personnel, since §18-1-901, C.R.S., authorizes a Peace Officer, level III to enforce all laws of the state "...while acting within the scope of his or her authority and in the performance of his or her duties." In 1996 the General Assembly changed the classification of Division investigators to Peace Officer, level II. There are two major differences in this higher designation: level II Peace Officers have access to the Colorado Bureau of Investigation (CBI) records; and, an assault on a level II Peace Officer is considered a more severe criminal offense than an assault on a level III Peace Officer.

## *Program Description and Administration*

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Access to CBI records allows the Division to determine if an applicant has ever been arrested, and whether an outstanding warrant is active on an applicant. In conjunction with the change in Peace Officer status, a provision was added to the statute which allows the Commission to fine, deny, suspend, or revoke an application or licensee who is not of good moral character, §12-60-507 (1)(j), C.R.S. The Division, through the use of its access to CBI arrest records, has used arrests as a factor in considering good moral character. This is unusual in licensing programs; most licensing acts limit licensing authorities to considering convictions.

The Division, like most regulatory programs, has the option of pursuing criminal charges against licensees. The purpose for most regulatory programs having administrative remedies against licensees is to move certain activities into a venue that will address the issue outside the criminal justice system in an expedited manner. Most occupational and professional licensing programs report that criminal charges are rarely brought against licensees. One reason given for this is the reluctance of district attorneys to bring charges unless the infraction is particularly egregious.

The Division reports a 100% conviction rate on cases accepted by district attorneys for criminal prosecution. The investigation section maintains that, with the exception of a few cases involving illegal aliens in the first year of operation, the section has not had a case refused by a district attorney. The review was unable to confirm this information, as the section does not document attempts to file charges. A random review of case files did find one case in which a criminal summons was issued and charges were later dropped.

The investigation section provided the following information regarding cases charged in criminal courts. The column labeled "ADMIN." indicates whether administrative action was also taken against a license held by the defendant.

### **1996 CRIMINAL CASE INVESTIGATIONS**

NO	CASE #	CHARGE	CRIMINAL	ADMIN.	DISPOSITION
1.	96-00209*	Professional Gambling Liquor Violations Illegal Gambling	X	X	Guilty* M
2.	96-00326	Criminal Trespass	X		Warrant M
3.	96-00532	Criminal Trespass	X	X	Guilty M
M = Misdemeanor    F = Felony					

\*Case had three defendants, three separate trials. All were found guilty of twelve (12) different charges.

Note: 15 cases involving forgery, offering a forged document by illegal aliens were investigated. The local district attorney's office refused to prosecute the cases because the parties were not in custody and probably fled the area. Additional cases were then compiled by name and referred to Immigration and Naturalization Service (INS) for any action. These types of cases have been dramatically reduced. The investigation section now forwards all documents and the parties' names directly to the INS.



*Program Description and Administration*

**1997 CRIMINAL CASE INVESTIGATIONS**

NO	CASE #	CHARGE	CRIMINAL	ADMIN.	DISPOSITION
1.	97-00199	Forgery	X	X	Open/Ref.
2.	97-00223	Theft	X	X	Guilty F
3.	97-00422	Assault Disorderly Conduct	X	X	Guilty M Guilty M
4.	97-00429	Theft	X	X	Guilty M
5.	97-00434	Felony Menacing	X		Guilty F
6.	97-00454	Theft	X		Guilty M
7.	97-00499	Theft	X	X	Guilty F
8.	97-00503	Disorderly	X		Guilty M
9.	97-00505*	Liquor Violation	X		Guilty PO
10.	97-00505	Liquor Violation	X		Guilty PO
11.	97-00526	Theft Burglary Computer Crime	X X X	X	Warrant F
12.	97-00553	Theft	X		Open F Arrested/Released Pending Charges
13.	97-00554	Theft Burglary Computer Crime	X X X		Warrant F
14.	97-00556	Criminal Trespass	X		Warrant M
15.	97-00560	Theft	X		Pending F
16.	97-00571	Criminal Trespass	X		Warrant M
17.	97-00593	Animal Cruelty	X	X	Warrant M
18.	97-00635*	Racing Statute Illegal Wagering	X		Pending M
19.	97-00635*	Fraud & Deceit In Racing	X	X	Pending M
M = Misdemeanor    F = Felony					

\*Case resulted in a second investigation with a different defendant than the original case.

## Program Description and Administration

### 1-98 to 9-98 CRIMINAL CASE INVESTIGATIONS

No.	Case	Type Of Charge	Criminal	Admin.	Disposition
1	98-00092	Damaged Prop	X		Guilty M
2	98-00093	Illegal Wagering	X	X	Pending M
3	98-00111	Animal Abuse	X		Outside Agency M
4	98-00277	Theft	X		Open F
5	98-00324	Animal Cruelty	X	X	Guilty M – C Pending - A
6	98-00481	Theft			Exc Clrd F
7	98-00694	Burglary			Open F
8	98-00734	Theft			Open F
9	98-01076	Animal Cruelty	X		Unf
10	98-01077	Theft	X		Exc Clrd F
11	98-01078	Theft	X		Open F
12	98-01435	Disorderly	X		Guilty M
13	98-01579	Under-Age Gambling	X		Ref M
14	98-01670	Theft			Open M
15	98-01695	Theft	X		Open F
16	98-01696	Disorderly Conduct	X		Exc Clrd
17	98-01701	Domestic Violence	X		Arrest & Ref M
18	98-01710	Theft	X		Exc Clrd F
19	98-01736	Forgery	X		Ref F
20	98-01803	Forgery	X		Ref F
21	98-01815	Theft			Open F
22	98-01897	Harassment			Open
23	98-01908	Theft	X		Exclrd F
24	98-01918	Theft	X		Open F
25	98-01934	Animal Cruelty	X		Open M
26	98-01950	Theft	X		Open F
27	98-01957	Assist Outside Agency	X		Ref F
28	98-01115*	Possession		X	Guilty M
29	98-01115*	Possession		X	Fled M
30	98-00180*	Illegal Wagering/Fraud	X	X	Guilty – A Pending M – C
31	98-00180*	Illegal Wager	X		Pending M

Note: Open - Case still under investigation.

Fled - Party fled the jurisdiction. Case of minor nature. Did not apply for arrest warrant.

Pending - Pending trial date

Ref - Referred to another law enforcement jurisdiction.

Exc Clrd - Exceptional cleared (victim did not want to prosecute).

Unf - Unfounded, case appeared prosecutable but was later classified as unfounded due to lack of evidence to prove case.

## *Program Description and Administration*

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It appears from the information provided that the Division does take some administrative action against licensees that have had criminal charges upheld. Those criminal actions that did not result in administrative actions included situations where the defendant was not a licensee. In the past, if a criminal situation such as disorderly conduct or theft existed with a non-licensee, the track or Division would contact local law enforcement agencies to investigate.

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## **Sunset Analysis**

During the course of conducting this sunset review, many individuals and organizations were contacted for information regarding the regulation of racing in Colorado. The parties interested in the various aspects of racing identified many issues, not all of which are within the scope of a sunset review. Some issues were not statutory in nature. While not all the issues raised can be addressed by a sunset recommendation, they are noteworthy to raise in this report. Some of these issues are discussed in the following section.

### ***Anti-Competitive Regulation***

The sunset evaluation contains the criteria: “The economic impact of regulation and, if national economic information is available, whether the agency stimulates or restricts competition.” (§24-34-104(9)(b)(VI), C.R.S.) There are certain examples of statutory restrictions on competition contained within the Racing Act.

The passage of SB 91-99 introduced out-of-state simulcast racing to Colorado and authorized OTB facilities. Simulcast racing has resulted in an increase in the overall handle in the state. However, the bill introducing simulcast racing also lowered the tax rate; therefore the state receives a smaller share of this increase in wagering.

In order to be licensed as a simulcast facility, an applicant must first be licensed as a race track. Only one OTB facility is authorized for each licensed race track. No race track may be located within 40 miles of an existing track for the same type of racing animal, and no OTB may be located within 50 miles of any other licensed facility, without the consent of the existing licensee.

Prohibiting the location of a track within 40 miles of an existing track grants a practical monopoly to existing track owners in that area. As long as Mile High Kennel Club and Arapahoe Park continue to renew their licenses, no other greyhound or horse track can be licensed in the Denver Metro area.

Another anti-competitive measure contained in the statutes concerns wagering on simulcast races. Section 12-60-602(5)(b)(II)(A), C.R.S., requires that any simulcast wagering on out-of-state horse races be conducted through a Class B horse track.

## *Sunset Analysis*

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Most states that allow pari-mutuel wagering place restrictions on the location of wagering facilities. Tying the OTB license to the license of a track, and granting exclusive territories for the OTB, guarantees state enforced exclusive territories. This report does not recommend unlimited OTBs. It has apparently been the intent of the General Assembly to limit growth in the number of tracks and wagering facilities. However, if the General Assembly clearly intends to require the least restrictive form of regulation, it would allow OTBs and tracks to directly compete with each other in the major metropolitan areas of the state.

One intent of SB 91-99 was to stimulate horse racing in Colorado. To that end, simulcasting of out-of-state horse races is permitted only through a Class B track. The federal "Interstate Horse Racing Act" requires that simulcast facilities have an agreement with an association of horse owners in the state hosting the race. This is to ensure that the horse owners receive a share of simulcast revenue. The federal act does not require simulcast feeds be controlled by a horse track in an individual state. The intent of SB 91-99 was to provide a venue for Colorado horse races. The effect has been control of horse racing simulcast rights by a single entity, the Arapahoe Park race track.

A free market approach to the regulation of simulcast horse races would be to allow individual simulcast facilities to contract with the host track for simulcast feeds without requiring compensation to a Class B track. Unless this arrangement contains revenue provisions for Colorado horse owners, it would likely be opposed by members of the Colorado Horsemen Association.

The people of Colorado have supported the introduction and continuation of gambling in limited, regulated forms. Bingo is regulated so that the gambling benefits charitable organizations. Limited stakes gaming is not only limited in the size of wagers permitted, but also limited to three small communities in the state. The lottery, while not limited geographically, is structured so that 50% of all wagers benefit the general public.

There are few limitations on who can become a vendor for lottery tickets. However, only the state may operate a lottery. While bingo is limited to charitable activities, there are no state restrictions on the location of bingo halls. In fact, it is not uncommon to have bingo establishments in close proximity. Because of the geographic restrictions placed on them, casinos must be located to directly compete with each other.

Statutory requirements limiting ownership of OTBs, location of racetracks, and allowing Class B tracks to control the simulcasting of horse racing do more to protect the industry than the public. The statutory restrictions on the location of tracks and OTBs serve to limit competition. However, because of the finite market demand, the capital investment necessary, and the limitations on the availability of quality racing animals and participants, it is unlikely that removing restrictions on the location of tracks will generate economically successful new tracks.

## *Sunset Analysis*

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However, removing the ownership and geographical restrictions for OTBs may stimulate some competition in this segment of the market. There are other practical and public policy issues to be considered. First, is the overall issue of the expansion of gambling and the negative connotations associated with that concept. The industry has long maintained that unlimited competition would result in a complete collapse of the market. As a result, most states do place restrictions on pari-mutuel territories.

Another consideration is that although the authority exists for two more OTBs to be opened in Colorado, neither of the tracks that would qualify has applied for an OTB license. It is open to speculation whether these licensing rights would be exercised if the owners of the track could compete directly with another track or OTB.

A practical consideration is the fact that an individual not associated with a track may have a difficult time contracting for services to obtain the simulcast signals. For example, the economies obtained by operating both a track and an OTB may make it cost prohibitive for a non-track owner to obtain competitive pricing for tote machines and other necessary equipment to operate an OTB profitably.

The citizens of Colorado have voted to allowing gambling in the state. However, the voters have also voted against expanding gambling. This would indicate that the public favors strong controls and limited access to gambling. In a pure sense, these restrictions are anti-competitive. This may be a responsible choice for government given the peculiar nature of the industry. In one sense those restrictions protect those already in the industry, but they also protect the public. For these reasons, DORA does not recommend changes to the anti-competitive provisions in the racing statutes.

### ***Breakage/Unclaimed Tickets***

Breakage is the amount of money left in a pari-mutuel pool after the winnings have been calculated by rounding down to the nearest dime. It is important to note that pari-mutuel wagering is based on the total amount of money wagered, unlike slot machines, which have a fixed payoff percentage. This is also unlike card games at a casino where the participants play against the house. Pari-mutuel gambling is gambling against the other participants, with the track as the stakes holder.

Unclaimed tickets are winning tickets that are not cashed in by the end of the meet. Many times this occurs because the patron did not realize the ticket won, or lost the ticket before it could be cashed.

## *Sunset Analysis*

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In Colorado, funds from all unclaimed tickets at greyhound tracks are held in escrow by the track for one year from the end of the meet. After that time, the unclaimed tickets can be used for capital improvements at the track. The greyhound tracks are authorized to retain all of the breakage, while breakage at horse tracks is divided equally between the track and the Horse Breeders' and Owners' Awards and Supplemental Purse Fund. Both breakage and unclaimed tickets are funds paid by the wagering public that for some reason cannot be returned to the wagering public as winnings.

In Colorado, most unclaimed property is remitted to the State Treasurer under the state unclaimed property laws. The Treasurer makes reasonable efforts to return the money to the rightful owner under the Great Colorado Payback. After a period of time established in statute, the funds are distributed to specifically identified programs designed to benefit the citizens of Colorado. The unclaimed property law contains a specific exemption for unclaimed property held by a race track.

The amount of money in the breakage and unclaimed tickets categories amounts to nearly one million dollars a year. As mentioned above, the greyhound tracks are allowed to use uncashed tickets for capital improvements at the tracks. This is intended to benefit consumers who spent the money in the first place. A recent state audit cited examples of questionable approvals for capital expenditures that may better be classified as routine maintenance. The Commission has responded by establishing a definition of capital improvements as it applies to these funds.

### **Taxes**

When the General Assembly moved the Division to the DOR in 1991, one of the justifications was the economy of scale that could be realized by consolidating gambling-related regulation in one agency. According to the Division, the Division has made efforts to regulate racing using the Division of Gaming as a model. The licensing structure and procedures now closely resemble those in Gaming. The investigation section investigators are now Peace Officers, level II as they are in Gaming. The Commission even has five members, as does the Gaming Commission.

One distinct difference in the regulation of a gaming establishment and the regulation of a pari-mutuel betting facility is the tax structure. Casinos have a graduated tax structure based on the volume of wagering taking place at the facility. Pursuant to Colorado Constitutional authority, the Gaming Commission establishes the tax rates by regulation. Smaller, low volume casinos pay a lower tax rate, in order to encourage the development of smaller businesses. Casinos remit taxes on a monthly basis via electronic funds transfer to the Department of Revenue.

## *Sunset Analysis*

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Racing facilities are taxed at a flat rate established in statute. No consideration is given to handle volume. The Commission does not have the ability to encourage the development of new facilities by establishing a favorable rate for start-up entities, which presumably would have lower volumes initially. Racing facilities must remit state revenues daily to the Department of Revenue. As with casinos, funds are remitted via electronic funds transfers. Substantial penalties have been imposed on licensees who failed to remit the tax on time.

There is no apparent public protection purpose for the disparity in the tax structure between the two regulatory programs. Licensees in both industries must demonstrate sufficient financial ability to cover anticipated expenses. In fact, the racing licensees have a longer history of paying taxes than the casinos possibly could, since casino gambling has only been legal in Colorado for less than 10 years as compared to 50 years for racing.

There is a financial benefit to the state in having the race related revenue deposited daily. There is also a significant financial benefit to the casinos in holding the state tax revenue for up to 30 days. Testimony has been presented to the Gaming Commission to indicate that lower tax rates have allowed some smaller casinos to continue operation. There is not sufficient evidence to indicate a graduated tax structure will increase the number of applicants for a race meet license. However, if the goal of the General Assembly is to regulate racing like gaming, similar tax structures could be appropriate. It must also be noted that 13 of the 18 states that regulate greyhound racing have some type of a variable tax structure for handle.

### ***Enforcement***

Prior to 1996, investigators were categorized as compliance officers. Primarily, they focused on licensing issues such as background checks. When the Division was made aware of a potential violation of the racing statute or regulations, a compliance investigator would gather information to be presented to the Director. The Director would then make a determination on how the alleged violation would be processed. Criminal prosecutions were extremely rare and were always at the discretion of outside law enforcement agencies.

The Division became more proactive following the creation of the investigation section in 1996. The investigation section was successful in convincing the Commission to require the installation of video monitoring cameras on the teller lines at pari-mutuel facilities. The investigation section initially devoted time to the training and development of investigators. All investigators received Police Officer Safety Training (POST) and the section developed a case management system compatible with police work.



## *Sunset Analysis*

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At the request of the Commission, the Division researched the implementation of a human drug-testing program. This program was contested by a variety of industry interests as unnecessary. The investigation section's advocacy for the program generated some issues from segments of the racing industry. The investigation section initially wanted to keep the methodology for selecting the licensee to be tested confidential. The Commission adopted regulations that keep any investigation resulting from a random drug test confidential, but make the selection methodology public. If a selection process is truly random, public knowledge of the process cannot influence the outcome.

The video monitoring was contested by the tracks and was challenged in court. Initially, the Commission included video monitoring as a condition of licensure for new meet licenses. It was the belief of some of the track owners that this was because the investigation section could not provide enough supporting documentation to justify the Commission adopting regulations based on a public record. In June of 1998, the Commission approved a one-year test of the video monitoring system. Some of the tracks have filed a suit in Denver District Court to force the Division to pay for the installation of the cameras. At the time this sunset review was completed, the case was still pending final disposition by the court.

The 1997 State Auditor's report was critical of the Division for the use of investigators for kennel and stable inspections. Kennel and horse owners have also protested this practice. The Act requires the Division to inspect kennels and stables once each year. The Act also prohibits the presence of syringes, other than in the possession of a licensed veterinarian, at a track. The Commission, by regulation, has extended this prohibition to licensed kennels located off track property. Investigators have found prohibited materials and cited kennel and horse owners for violations of the Act or regulations that were discovered during routine inspections.

Some industry representatives have been critical of the investigation section because of what they view as overzealous enforcement activities. The sunset review examined case files of the unit and found them to be generally complete and detailed. However, some of the cases did raise questions as to the approach taken.

### *CASE 9700085*

During a routine kennel inspection, syringes were found in a toolbox under a counter. The investigation report did not clearly state whether the investigator sought permission to look in the toolbox. Any disciplinary or criminal action taken under this investigation would be subject to being overturned on appeal because of questions surrounding illegal search and seizure, since searching a toolbox would not be considered a necessary component of a routine kennel inspection.

## *Sunset Analysis*

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### *CASE 9700126*

The investigation section received a telephone call from a woman in Texas who claimed she had sold a horse to an individual who did not finish paying for the animal. The woman heard a rumor that the individual was living in Colorado. The individual in question was not licensed in Colorado, nor had he applied for a license. The investigator documented over 8 hours of investigation time and repeated long distance phone calls to Oklahoma and Texas to locate this individual. The Division had not received a formal written complaint, nor was there an active investigation by any Texas authority. When the woman was advised to file charges in Texas in order for the investigation to go further, she informed the investigator that Texas authorities considered it a civil matter and would not pursue it.

### *CASE 9700435*

An investigator on patrol in the stable area at Arapahoe Park smelled marijuana coming from a tack room. The investigator confronted two individuals in the tack room, one of whom was a licensed trainer, and asked for permission to search the premises. The men admitted to smoking marijuana, however, no illegal substances were found during the search. The investigator issued a criminal summons for possession of marijuana. The local district attorney did not pursue the case because no evidence of illegal possession existed. The Division did not pursue administrative action against the licensee, even though probable cause existed to require a drug test, which could have resulted in a disciplinary action against the trainer's license.

Of the 15 convictions documented by the Division, two appear to be directly related to the racing violations, although one did result in multiple convictions for three separate defendants. According to the investigation section, Peace Officer, level II, or level III, investigators are required to enforce all laws of the state. As a result investigators investigate any crime they observe during the course of their regulatory duties. This also requires investigators to arrest any applicant with a warrant for any offense.

The access to CBI records has allowed Division investigators to arrest 53 applicants who were wanted by law enforcement agencies. The majority of these arrests were the result of failure to appear warrants (FTA) for outstanding traffic tickets or other minor violations. In fact, it is not uncommon for an investigator to arrest an applicant for a FTA and then for the Division to fine the applicant, accept a new application, and issue a license within a short time period.

The Division does not specifically quantify disciplinary actions against licensees. The Division position is that law enforcement agencies only provide investigations, not the results of those investigations. Although this may be true, the Division is an administrative regulatory agency with law enforcement powers, not a law enforcement agency. It is expected that regulatory agencies document and report on disciplinary actions taken against licensees. The Division should modify its recordkeeping to provide details regarding the disciplinary actions taken against licenses.

## *Sunset Analysis*

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### ***Animal Welfare***

The animal safety section of the Division is responsible for animal welfare issues, in addition to administering the animal drug testing program. Veterinarians in the animal safety section maintain immunization records for racing animals. A Division veterinarian must be present at weigh-in for greyhounds and be at the track to examine animals at both greyhound and horse racing events. A veterinarian may scratch a racing animal for health or safety concerns at any time. The veterinarian may also place an animal on an ineligible to race list until health or safety concerns are addressed. Horsepersons at Arapahoe Park have indicated that the procedures for placing and clearing an animal from this list are not clear and not always followed. This issue was raised at a Commission meeting and the Division has committed to addressing it before the next race meet.

SB 91-99 contained a provision requiring the Division to monitor and report on injuries to racing animals. The animal safety section is working on a major report detailing the types and probable causes of injuries to greyhounds. Preliminary findings indicate that the condition of the running surface has a major impact on injuries. The animal safety section will use the information in this study to ensure the tracks maintain the racing surface in a manner that reduces injuries.

Although the reason for testing race animals for illegal drugs is an enforcement issue, the animal safety section completes the actual implementation of the testing program. The Act requires the testing of racing animals on a random basis. During this review the testing procedures at Arapahoe Park, and Mile High Kennel Club were observed.

At Arapahoe Park, nine races are held each day. The winner of each race is tested. Nine other animals are tested in addition to the winner of each race. The additional animals are selected by the Division veterinarian at the track prior to the beginning of the day's races. For example, the veterinarian may decide to test the third horse in each race on that particular day. Licensees and the wagering public do not know which animal will be tested prior to the beginning of the day's races.

At Mile High Kennel Club, all racing animals are walked before and after each individual race. Grooms, under the supervision of animal safety staff collect urine samples from any greyhound that urinates either before or after the race. After samples are collected from any animal that urinates, the animal safety staff randomly selects samples from each race to be forwarded to the testing lab for analysis. Adequate security and concern for chain of control for the samples were observed at each of the two tracks.

## *Sunset Analysis*

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The Division contracts with a private testing lab to analyze samples selected by the veterinarian. The 1997 State Auditor's report was critical of the Division for not inspecting the testing lab on a regular basis. The International Association of Racing Chemists certifies the lab. The Division does not have the expertise that this organization possesses to determine the qualifications of a testing laboratory.

The Division does not have the facilities to impound greyhounds that are being abused by an owner or trainer. However, the Division has in the past worked with the Department of Agriculture to use the authority and facilities of that department to remove greyhounds from abusive situations. Licensees who abuse animals are subject to disciplinary action by the Commission, which has used its enforcement powers to revoke or suspend licenses in abuse situations. However, until the formal hearing process is complete, the licensee may continue to participate in racing events because the Director does not have the authority to summarily suspend a license pending a hearing. The Commission does have the authority to summarily suspend licenses in a broad range of conditions. However, the Commission must meet to make this determination, and use its authority. The logistics of meeting and using this authority delay any protection this provision has to protect abused animals.

Recently, there has been controversy in Colorado over the use of retired racing greyhounds by the Colorado State University School of Veterinary Medicine. The school had a long-standing agreement to accept unwanted greyhounds from licensed kennels for use in education. This practice benefited the school, in that it did not have to purchase dogs for clinical instruction. It also benefited kennel operators, saving them the expense of euthanizing unwanted dogs.

The controversy arose when it was discovered that several kennel operators had sent greyhounds they did not own to the school. The rightful owners of the greyhounds had requested that their animals be placed in a greyhound adoption program. When the discovery was made that some animals had been wrongfully donated to the school, the school returned those animals which were still alive to the rightful owners. The Commission also disciplined the licensees who sent the greyhounds to the school.

As a result of the recent incidents involving the unauthorized donation of greyhounds, Colorado State University has revised its position on accepting greyhounds. The association representing greyhound kennel operators has also taken a position to promote the adoption of unwanted greyhounds. Reportedly, greyhounds make excellent pets; they are gentle, easily trained and devoted to their handlers. However, they are very active and require frequent exercise.

## *Sunset Analysis*

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Each track voluntarily operates a greyhound adoption program. The adoption program is designed to find homes for greyhounds that are no longer racing. In 1997, the adoption program operated by Rocky Mountain Greyhound Park in Colorado Springs reported that all 192 dogs donated to the program were adopted. From January to July of 1998, the program reported 128 greyhounds placed in the Southern Colorado area, and an additional 48 greyhounds placed in adoption programs in other parts of the country.

Some kennel operators find homes for their greyhounds without the benefit of the track-operated adoption program. The Colorado Springs kennel operators have individually placed approximately 180 greyhounds over the past two years.

### ***Commission Operations***

The 1990 sunset review found that the then three-member Commission sometimes had trouble obtaining a quorum. It was also noted that when a member was missing, a single individual could defeat motions. The composition of the Commission was expanded in 1991 from three to five members. The current membership of the Commission meets all of the following statutory requirements:

- One member from the western slope;
- One member experienced in business management;
- One practicing veterinarian; and
- Two members who have previously been engaged in racing for at least five years.

Both of the members who have previously been engaged in racing were involved in horse racing. There is no member of the Commission with experience in greyhound racing, although greyhound racing is more prevalent in Colorado.

The Commission complies with the state “Open Meetings Act” and encourages public participation in rule making hearings. In disciplinary hearings and appeals, the Commission allows broad latitude for those individuals not represented by an attorney. There was concern expressed by at least one member of the Commission that the quasi-judicial role of some Commission actions required legal expertise that Commission members were not required to possess. This situation is inherent in all lay regulatory boards and commissions. The State Department of Law can provide additional legal services if a board or commission requests it. In addition, the Commission has the option of delegating any hearing to an administrative law judge (ALJ). Under the process of delegation, the administrative law judge would hold the hearing and be the “finder of fact”. The ALJ will then forward a decision and recommended action to the Commission. The Commission will then either affirm or overturn the ALJ’s decision. The Commission has not opted for this alternative for conducting hearings in recent years.

## *Sunset Analysis*

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The Commission has some unique authority:

- In addition to specifying the number of race days a track conducts as part of its meet, the Commission must approve any transfer of assets listed on license applications by a meet licensee (§12-60-505(6), C.R.S.).
- Section 12-60-602(5)(a), C.R.S., allows greyhound tracks to receive 15 special event races per year. The Commission must approve these special events.
- The Commission has also interpreted the statutes governing racing to include approving any non-race related event held at a track during a racing meet.

The Commission recently became involved in a dispute over the approval of an association representing greyhound kennels. SB 98-174 requires greyhound tracks to have in place an agreement with an association representing a majority of the kennel owners racing at the track prior to being issued a meet license.

Following the passage of SB 98-174, a group of owners formed an association and began negotiating with Mile High Kennel Club prior to Mile High's application for a meet license. The Division recommended against approving Mile High's application because the Division did not believe a valid association existed. The Commission, during a public meeting, but with no prior notice, conducted and supervised an election selecting an approved association. SB 98-174 did not require Division or Commission approval or recognition of the kennel owners association. It appears both the Commission and the Division exceeded their authority in this situation.

Following the 1997 horse race season the Division initiated a process to review and revise all the racing regulations. The Commission adopted numerous emergency regulations during the course of the sunset review. The majority of these regulations were related to horse racing activities. The justification for the emergency regulations was that there was not enough time to promulgate regulations using the formal rule making process prior to the start of the horse racing season.

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## **Recommendations**

***Recommendation 1. Continue the regulation of pari-mutuel wagering and racing events by the Colorado Racing Commission and the Division of Racing Events in the Department of Revenue until July 1, 2008.***

The question of whether or not wagering should be authorized in the state is a public policy issue that has repeatedly been addressed by the General Assembly and the citizens of the state through referendums and Constitutional amendments. Therefore, this review did not focus on the social impacts of gambling. Instead, the review concentrated on whether regulation of the pari-mutuel industry is necessary to protect the public.

Gambling is a cash only business. The Racing Statute prohibits wagering on any form of credit. Colorado citizens and tourists contribute in excess of \$250 million to pari-mutuel pools each year in this state. Pari-mutuel consumers receive over \$200 million in winnings each year.

There are many factors in the pari-mutuel industry that could cause harm to the public. If the pari-mutuel pool is not calculated correctly, some individuals making wagers could be shorted winnings. Legitimate programming errors, or illicit tampering with the tote machines could skew odds on races to influence wagering. Racing animals can be drugged or injured to influence racing performance. The weight of a greyhound, or a jockey, can affect the speed of a racing animal. Even the timing of when the betting window closes can affect payoffs.

The Commission and Division are empowered to develop and enforce regulations designed to protect the public, participants, and animals involved in the racing industry. This protection is necessary to protect the financial interests of consumers and to prevent abuse of racing animals. Without regulation, it would be possible for the public to be subject to fraudulent activities involving millions of dollars.

Every state that permits racing, except Michigan, regulates with a commission structure similar to the one used in Colorado. The composition and appointments for the different state commissions vary. However, historically, the commission structure has been effective for the regulation of racing nationally, as well as in many other countries.

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The Commission composition in Colorado was changed in 1991 to better represent the public and the industry. In all meetings and rule making hearings DORA staff attended during the sunset review, public opinion was solicited. The Division generally presented information and stated a position on whatever topic was being discussed. Industry representatives were allowed adequate time to present evidence and views that differed from the Division. The Commission decisions appeared to be made based on the information obtained during the hearings.

In summary, this report concludes that the regulation of pari-mutuel wagering and racing events by the Division and Commission has been appropriate and necessary, and should continue. It is noteworthy to point out that the regulation of the racing industry throughout Colorado's racing history has avoided the types of scandals that have plagued other racing states.

***Recommendation 2. Eliminate the "random basis" language in the animal drug testing provision of the statutes.***

Section 12-60-501(2), C.R.S., requires that the Division test race animals for illegal drugs on a random basis. In greyhound racing, the drug test used is a urine test. In order for this test to be effective, the race animal must be tested as close to the actual race as possible. Even more than drawing blood, a urine test requires the cooperation of the animal. Greyhounds do not necessarily urinate on command. Therefore, the common practice is to collect samples from as many dogs as possible from each race and select randomly from the available samples. The sunset review did not find any biases in this methodology. However, it is not a random sample of all race participants.

In horse racing, both urine and blood samples are used for drug testing. Unlike greyhounds, horses can be induced to urinate for a post race sample. The Division tests two horses from each race, the winning horse and one other animal. Although the second animal is chosen at random by the Division veterinarian, the winner is selected simply because it finished first. The stewards may also request any animal that performs below or above expectations to be tested.

It is standard in horse racing to automatically test all first place finishers. The licensees and patrons expect this to ensure fair competition. However, as noted above, a truly random selection process is not possible. The General Assembly should allow the Commission flexibility to develop a testing program that is fair and practical, without a statutory requirement that may be difficult to comply with.



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***Recommendation 3. Provide for summary suspensions by the Director of the Division of Racing Events in animal abuse situations.***

A major concern of animal rights groups, and some industry representatives, is the abuse of racing animals by some licensees. When an abusive situation exists at a race track, the judges or stewards can hold a hearing and take disciplinary action.

Most severe animal abuse occurs away from the track. These abuses are discovered during a routine inspection, or as a result of a complaint from a concerned party. When a citation or summons is issued, the administrative law process requires the Commission to hold a hearing. The offending licensee is permitted to continue to participate in racing events until the Commission holds a hearing.

Racing animals would be better protected, and the interests of racing better served if the Director had the authority to issue summary suspensions in animal abuse situations. This would prevent the licensee from participating in racing events until the Commission holds a hearing and determines the appropriate disciplinary action. Such authority should be limited to animal abuse situations.

***Recommendation 4. Change the Commission's authority to approve non-race related activities.***

A race track is a fairly significant asset for the facility owner. In order to bring in additional revenue, track owners have been creative in recent years in using the facility for non-race related activities. The Act has been interpreted to give the Commission broad authority in areas not directly related to racing. The purpose of the Commission is to regulate racing and pari-mutuel wagering, not activities at a facility that are not related to a racing event.

During non-race periods, track facilities have been used for concerts, soccer games, closed circuit broadcasts of boxing events, flea markets, and other activities. If these events are occurring during the race meet, the track must obtain authorization from the Commission to hold the non-race event. The justification for this is protection of racing animals, and the integrity of racing.

There are potential hazards to racing animals if unauthorized persons gain access to secure areas. There are other hazards if the activity damages the racing surface making it dangerous for animals to race. However, the Commission has regulations in place to prohibit access to certain areas of the track by unauthorized individuals. There are also regulations that require the race surface to be in good condition prior to any racing event. If the race surface presents a hazard to participants, the Division veterinarian can stop the race.

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These regulations are designed to protect racing participants and the public. The regulations are enforceable whether or not the track has a non-racing event at the facility. It is unnecessary to require the track to seek additional permission from the Commission for an event not directly related to racing. There is a need, though, for the Commission to be notified of non-race related activities being held at racetracks. Such notice would allow the Commission to take appropriate regulatory steps to ensure that no racing related problems are created.

***Recommendation 5. Require Commission approval for research projects funded through the Equine Research fund.***

A percentage of the handle on horse races goes into a fund for equine research at the Colorado State University School of Veterinary Medicine (CSU). The purpose of funding equine research is to benefit the racing industry. The statute in §12-60-701(2)(a)(II), C.R.S., requires that individuals or institutions that receive funding must describe and report to the Commission upon completion of all projects. The Commission does not have the authority to withhold or direct funding for research. In fact, the Commission does not even have to be notified that a research project is underway that may qualify for funding through this program.

Equine research is appropriately the domain of CSU. However, the Commission is qualified to determine what type of research would benefit racing. The current provisions put the Commission in a passive position. The General Assembly should allow the Commission to be more proactive in directing the type of research that is funded by the racing industry.

***Recommendation 6. Require a report to the Commission on the expenditures and benefits from associations receiving distributions from the Horse Breeders' and Owners' Awards and Supplemental Purse Fund.***

The General Assembly, in §12-60-704, C.R.S., created a fund to provide a mechanism to reward successful owners and breeders of race horses in Colorado. Originally, the Commission, assisted by an advisory committee, determined how money from that fund was to be dispersed. The statute was amended to allow individual owner and breeder associations to establish the criteria for distribution in their bylaws. As long as the breeder association has a distribution method defined in its bylaws, the Commission must release the allocated money from the Horse Breeders' and Owners' Awards and Supplemental Purse Fund.

It may be that the individual horse associations are better able to determine how to distribute the funds to benefit racing. However, no documentation is required by statute to evaluate the effectiveness of this program. In fact, available evidence suggests that despite the efforts of the General Assembly and the various horse associations, horse racing in Colorado is in decline as measured by several factors.

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As an example, since 1991, live horse racing days in Colorado peaked at 100 days in 1993 and declined steadily since. The General Assembly recently amended the Act to allow meets of only 30 days to qualify as Class B tracks. The live handle in 1995 was just under \$21 million; in 1997 it declined to just over \$10 million.

It is appropriate for the General Assembly to require that horse owners and breeders associations justify and document benefits to the horse racing industry in Colorado derived from the fund created for this purpose. The General Assembly should require a report of funds to the Commission by these associations on the dispersal of funds, and the expected and actual improvements to horse racing. The Commission should be authorized to withhold funds from any association until a satisfactory report of the previous year's activities is presented to the Commission.

***Recommendation 7. Eliminate the Advisory Committee created in §12-60-704(3)(a), C.R.S.***

The advisory committee was originally created to advise the Commission on the distribution of funds from the Horse Breeders' and Owners' Awards and Supplemental Purse Fund. The Commission is now required to distribute funds to associations representing the different breeds of horses, provided the association has in place by-laws for the distribution of the funds.

The advisory committee is no longer needed to advise the Commission regarding the distribution of money because the Commission has very little statutory discretion over the distribution of the money in the fund. The advisory committee no longer serves a function necessary to protect the public or the industry.

***Recommendation 8. Change the timing requirement for tracks to remit taxes.***

Remitting taxes on a daily basis is a time consuming and overly burdensome requirement for the racing industry. It is also one of the few regularly recurring business taxes collected in this manner. Personal income taxes are collected annually, or quarterly for some filers. Sales taxes are collected monthly, quarterly, or annually, based on the volume of the individual business. Most payroll taxes are remitted quarterly.

Daily remittance by the tracks requires resources of both the Division and the tracks to calculate and verify. Tracks are liable for substantial penalties for late payments. All businesses are subject to late payment penalties. However, because of the number of race days involved, individual tracks are subject to larger potential fines.

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Changing the payment requirements from daily to monthly will have a negative fiscal impact resulting from lost interest by the state. The Division has estimated approximately \$31,000 in lost interest revenue each year if this provision is passed. This change will make the tax structure for the pari-mutuel industry more consistent with other segments of the gambling industry, such as gaming and bingo.

***Recommendation 9. Eliminate the prohibition against the Director of the Division of Racing Events from holding outside employment.***

The real issue for outside employment is if the outside employment creates a conflict of interest for the Director. Section 12-60-401, C.R.S., prohibits activities that may create a conflict of interest. In addition, DOR policies require disclosure to the Executive Director of outside employment. With these safeguards in place, the public is adequately protected without the prohibition against any outside employment.

Another factor in this issue is consistency among programs. Most programs prohibit the program administrator from being directly involved in the industry being regulated. This could clearly present a conflict of interest. Sunset reports have consistently recommended removing prohibitions against any outside employment. Taken to an extreme, the administrator of a program could not serve as a umpire for little league games, teach scuba diving, or serve on the board of directors of a local charity if it paid a nominal stipend.

The 1996 sunset review of the Division of Gaming recommended the removal of this prohibition in the Gaming Statute. The General Assembly adopted this recommendation in that setting. It would be consistent for the General Assembly to remove the prohibition against any outside employment for the Director of the Division of Racing Events, provided the conflict of interest provisions are maintained.

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**Administrative Recommendations****Administrative Recommendation 1. The Commission should work with the industry to develop guidelines clarifying kennel and stable inspections.**

The statutes require annual inspections of stables and kennels. Traditionally, these have been animal safety inspections usually conducted by the animal safety section. Recently, there have been complaints from the kennel operators because inspections have taken on the appearance of being a search, rather than a bona fide animal safety inspection.

This appearance is reinforced by the fact that the animal welfare section no longer conducts off-track inspections. The investigation section of the Division has been delegated the responsibility for inspecting kennels and stables. Investigation personnel have no formal training in animal welfare or safety issues. If an animal safety situation arises during an inspection that may be questionable, the investigator must consult with the veterinarian staff.

Greyhound kennel operators have been particularly vocal in their criticism of investigator conduct during inspections. They contend that inspectors frequently go beyond inspecting the actual kennel and look for violations in other areas of the compound. Licensees claim investigators have improperly filed charges for violations that are not related to the operation of the kennel or stable. Some of the cases cited earlier in the report have stimulated the anti-enforcement sentiment in the industry.

The Division maintains that as Peace Officers, level II they are obligated to enforce all laws whether or not the violation is related to racing. Inspections are conducted in accordance with §12-60-501(1)(b), C.R.S., which requires kennels and stables to be operated in accordance with the laws of the state.

Before the reclassification to Peace Officer, level II and the creation of the investigation section, Division investigators had the statutory authority to enforce the laws of the state. However, the Division rarely used this authority and concentrated on animal safety concerns during inspections. The reclassification and shift in enforcement emphasis by the Division has created some distrust of the Division, and the investigations section in particular.

The Commission should involve the industry, the animal safety and investigation sections of the Division in creating guidelines for routine inspections. This will foster a better understanding between the various interests and relieve some of the tensions that currently exist.

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***Administrative Recommendation 2. The Commission should continue to encourage participation in greyhound adoption programs.***

The greyhound racing industry has long been criticized for abusing racing animals, and animals that have been determined not capable of being profitable racers. At least three states have passed legislation banning greyhound racing because of concerns about abuse issues. The recent publicity surrounding the use of greyhounds for educational purposes at Colorado State University underscores that this is a serious issue.

Each track has voluntarily formed greyhound adoption programs that breeders and trainers may participate in. Individual breeders and trainers also participate in other programs to find homes for greyhounds. The Commission should continue to encourage these programs. The Commission could request reports on the programs as part of the meet application process, as it is directly related to the promotion of racing. No statutory recommendations in this area are being made to allow the Commission the greatest flexibility to determine how to encourage participation.

***Administrative Recommendation 3. The Division should increase its regulatory presence at Off Track Betting facilities.***

Several of the major disciplinary and criminal actions taken by the Division in the past year have been the result of activities at OTBs. These incidents may indicate that a high profile regulatory presence reduces regulatory infractions. The Division does not receive many consumer complaints. In fact, until recently, the Division did not track consumer complaints as a performance measure.

Some Division and Commission representatives contend that OTBs have a much higher potential for public harm than the tracks. Since there is no constant regulatory presence, there is a potential for minor infractions to go completely undetected. One very obvious concern for the betting public relates to the unclaimed ticket issue. It is not uncommon for races to have complications that result in a refund for patrons. When problems occur at a track, an announcement is made for patrons to retain all tickets. Although the regulations require OTBs to make similar announcements, there is no practical method to monitor the timeliness of announcements.

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***Administrative Recommendation 4. The Division should work to improve the relationship between the industry and the Investigations Section.***

The creation of the enforcement section brought about some controversy in the regulated industry. Some members of the regulated industry believe the attitude of the enforcement section is confrontational and anti-racing. They also believe the increased law enforcement powers have resulted in over-regulation of the industry. The Division recently changed the name of the enforcement section to the investigation section.

There is no doubt that the Division changed its enforcement philosophy in 1996. The Division adopted a case management system and investigation techniques used in law enforcement agencies. Since 1996 the Division claims it has successfully prosecuted 41 criminal cases.

Changing the name of the section has been a small step in a process to build a positive relationship with the industry. The responsibilities of the Division creates a somewhat adversarial relationship, not uncommon in regulatory programs.

The investigation section should be more involved in non-enforcement aspects of the industry to allow personnel to interact in a less confrontational manner with members of the industry. Working with the industry representatives on guidelines for kennel/stable inspections, for example, will provide an opportunity to establish a dialogue in a controlled environment.

The police officer training is important for investigators. Since the Division is not primarily a law enforcement agency, additional training in regulatory enforcement procedures is recommended. The National Council on Licensure, Enforcement, and Regulation (CLEAR) conducts training several times each year that would be beneficial for investigators.

The Commission, the Director, industry representatives, and non-investigator members of the Division could work in conjunction with the investigations section to develop investigation techniques and procedures that blend the current enforcement model into a hybrid enforcement/regulatory model. The section could develop a mission statement to reflect the unique responsibilities it is charged with.

## ***Appendices***



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### **Appendix A - Sunset Statutory Evaluation Criteria**

- (I) 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;
- (II) 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;
- (III) 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;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (V) 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;
- (VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- (VII) 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;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

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## Appendix B - Racing Statute

### PART 1

#### GENERAL PROVISIONS

**12-60-101. Legislative declaration.** The general assembly declares that the provisions of this article are enacted in the exercise of the police powers of this state for the protection of the health, peace, safety, and general welfare of the people of this state; for the purpose of promoting racing and the recreational, entertainment, and commercial benefits to be derived therefrom; to raise revenue for the general fund; to establish high standards of sport and fair play; for the promotion of the health and safety of the animals involved in racing events; and to foster honesty and fair dealing in the racing industry. To these ends, this article shall be liberally construed.

**12-60-102. Definitions - repeal.** As used in this article, unless the context otherwise requires:

(1) "Breakage" means the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of ten cents.

(2) "Circuit" means either the north circuit or the south circuit established within the state of Colorado for the racing of greyhounds pursuant to section 12-60-603 (2).

(3) "Class A track" means a track, located within the state of Colorado, at which a race meet of horses is conducted and which is not a class B track.

(4) (a) (I) "Class B track" means a track, located within the state of Colorado, at which a race meet of horses, consisting of thirty or more race days, is being conducted or was being conducted during the immediately preceding twelve months.

(II) This paragraph (a) is repealed, effective April 20, 2003.

(b) (I) "Class B track" means a track, located within the state of Colorado, at which a race meet of horses, consisting of fifty or more race days, is being conducted or was being conducted during the immediately preceding twelve months; except that, in its third year of operation and in each year thereafter, such a track must be the site of a race meet of horses consisting of sixty or more race days in order to maintain its class B status.

(II) (A) A track that qualified as a class B track during calendar year 2002 shall maintain its class B status for calendar year 2003 if it applies for a license to conduct, during 2003, a race meet of horses consisting of sixty or more race days or, if 2003 is the track's first or second year of operation, fifty or more race days.

(B) This subparagraph (II) is repealed, effective April 20, 2004.

(III) This paragraph (b) is effective April 21, 2003.

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- (5) "Commission" means the Colorado racing commission created in part 3 of this article.
- (6) "Cross simulcasting" means either the receipt of a simulcast race of horses by a simulcast facility which is located on the premises of a track which is licensed to race greyhounds or the receipt of a simulcast race of greyhounds by a simulcast facility which is located on the premises of a track which is licensed to race horses.
- (7) "Director" means the director of the division of racing events.
- (8) "Division" means the division of racing events created in part 2 of this article.
- (9) "Executive director" means the executive director of the department of revenue organized as provided in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.
- (10) "Greyhound track" means a track, located within the state of Colorado, at which a race meet of greyhounds is conducted.
- (11) "Horse track" means either a class A track or a class B track.
- (12) "Host track" means either an in-state host track or an out-of-state host track.
- (13) "In-state host track" means a track, located within the state of Colorado, at which a race meet of either horses or greyhounds is conducted.
- (14) (a) "In-state simulcast facility" means a track which is operated by a licensee or an additional facility which is operated by and is the responsibility of a licensee who has held within the preceding twelve months or is licensed and scheduled to hold within the following twelve months a race meet of at least fifty race days or at least sixty race days if such twelve-month period includes any portion of the licensee's third or subsequent year of operating the licensee's track, which is located within the state of Colorado, and which is used for the handling of wagers placed on simulcast races received by such track or facility. The number of such additional facilities shall not exceed one per operating track. On and after July 1, 1993, through July 1, 1996, no licensee may operate any additional facility unless a horse race meet of at least fifty race days was conducted at a Colorado horse track during the immediately preceding year. Such additional facilities shall not be located within fifty miles of any track operated by another licensee which has held, within the previous twelve months, or is licensed and scheduled to hold, within the next twelve months, a race meet of no less than fifty race days or no less than sixty race days if such twelve-month period includes any portion of the track's third or subsequent year of operation, without the written consent of such other licensee. The commission shall establish by rule the means of obtaining such consent.
- (b) If an additional facility is jointly owned or operated as a simulcast facility by two or more licensees, such additional facility shall be deemed to be one of the additional simulcast facilities of only one of such licensees, as designated in writing to the commission.
- (15) "Interstate common pool" means a pari-mutuel pool established at one location, usually but not necessarily at a host track, within which pool are combined comparable pari-mutuel pools of one or more simulcast facilities upon a race run at the host track for purposes of
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establishing payoff prices in the various states. There may be simulcast facilities in more than one state simultaneously combining pari-mutuel pools into the common pool of the host track. Where permitted by the laws and rules of the states in which the host track and the simulcast facilities are located and with the concurrence of the host track, the combined pari-mutuel pool may be established on a regional or other basis between two or more simulcast facilities and need not involve a merger into the host track's pari-mutuel pool. In such instances, one of the simulcast facilities shall serve as if it were the host track for the purposes of holding the common pool and calculating payoffs. The interstate common pool shall be as specified in the written simulcast racing agreement between the host track and the person operating the simulcast facility receiving such simulcast races.

(16) "Intrastate common pool" means a pari-mutuel pool, established for an in-state host track, which includes wagers made at the in-state host track as well as wagers made at in-state simulcast facilities on simulcast races of live races run at the in-state host track.

(17) "Licensee" means any person holding a current, valid race meet license issued pursuant to section 12-60-505 and any person holding a current, valid license or registration issued by the commission pursuant to section 12-60-503 and section 12-60-504. The commission, by rule, shall determine which occupational categories shall be licensed and which shall be registered. Except in connection with the licensing of race meets, the term "license" includes a registration and "applicant" includes an applicant for a registration.

(18) "Out-of-state host track" means a track, located within a state other than Colorado, which is licensed or otherwise properly authorized under the laws of such state to conduct live races of horses or greyhounds and to broadcast such races as simulcast races and which broadcasts such simulcast races to an in-state simulcast facility.

(19) "Out-of-state simulcast facility" means a track or other facility, located within a state other than Colorado, at which pari-mutuel wagers are placed on simulcast races pursuant to proper authorization under the laws of such state.

(20) "Pari-mutuel pool" means a wagering pool into which pari-mutuel wagers on a live race or on a simulcast race are taken.

(20.5) "Pari-mutuel wagering" means a form of wagering on the outcome of horse and greyhound races in which those who wager purchase tickets of various denominations on one or more horses or greyhounds from one or more pools and all like wagers from each race are pooled and the winning ticket holders are paid prizes from such pool in amounts proportional to the total receipts in the pool minus deductions authorized by statute.

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(21) "Person" means any individual, partnership, firm, corporation, or association.

(22) "Race meet" means any live exhibition of racing involving horses registered within their breed or greyhounds, conducted at a track located within the state of Colorado and operated by a licensee under a license granted pursuant to section 12-60-505, where the pari-mutuel system of wagering is used.

(23) "Simulcast facility" means either an in-state simulcast facility or an out-of-state simulcast facility.

(24) "Simulcast race" means a live, audio-visual broadcast, transmitted simultaneously with the performance of a live race of horses or greyhounds by either an out-of-state host track or an in-state host track, which is received by a simulcast facility.

(25) "Special event" means all or part of a day's program of live racing of greyhounds run at an out-of-state host track. The commission shall designate those greyhound race programs which shall be recognized as special events.

(26) "Track" or "racetrack" means a track which is located within the state of Colorado and at which a race meet of either horses or greyhounds is conducted under a license granted pursuant to section 12-60-505.

**12-60-103. Division and commission subject to termination.** The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the division of racing events created by section 12-60-201 and the Colorado racing commission created by section 12-60-301.

## PART 2

### DIVISION OF RACING EVENTS

**12-60-201. Division of racing events - creation - representation.** (1) There is hereby created, within the department of revenue, the division of racing events, the head of which shall be the director of the division of racing events. The director shall be appointed by, and shall be subject to removal by, the executive director of the department of revenue. The division of racing events, the Colorado racing commission created in section 12-60-301, and the director of the division of racing events shall exercise their respective powers and perform their respective duties and functions as specified in this article under the department of revenue as if the same were transferred to the department by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.; except that the commission shall have full and exclusive authority to promulgate rules related to racing without any approval by, or delegation of authority from, the department of revenue.

(2) The division shall make investigations and shall request the commission or the district attorney of any district, as appropriate, to prosecute, on behalf of and in the name of the

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division, suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the division.

**12-60-202. Director - qualifications - powers and duties.** (1) The director shall be qualified by training and experience to direct the work of the division; and, notwithstanding the provisions of section 24-5-101, C.R.S., shall be of good character and shall not have been convicted of any felony or gambling-related offense.

(2) The director shall devote his or her entire time and attention to the duties of the office and shall not be engaged in any other profession or occupation.

(3) The director, as administrative head of the division, shall direct and supervise all administrative and technical activities of the division. In addition to the duties imposed upon the director elsewhere in this article, it shall be the director's duty:

(a) To investigate, supervise, and administer the conduct of racing in accordance with the provisions of this article and the rules of the commission;

(b) To attend meetings of the commission or to appoint a designee to attend in the director's place;

(c) To employ and direct such personnel as may be necessary to carry out the purposes of this article, but no person shall be employed who has been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S. The director by agreement may secure and provide payment for such services as the director may deem necessary from any department, agency, or unit of the state government and may employ and compensate such consultants and technical assistants as may be required and as otherwise permitted by law. Personnel employed by the director shall include but shall not be limited to a sufficient number of veterinarians, as defined in the "Colorado Veterinary Practice Act", article 64 of this title so that at least one veterinarian employed by the director shall be present at every racetrack during weighing in of animals and at all times that racing is being conducted; and the director shall by rule authorize any such veterinarian to conduct physical examinations of animals, including without limitation blood and urine tests and other tests for the presence of prohibited drugs or medications, to ensure that the animals are in proper physical condition to race, to prohibit any animal from racing if it is not in proper physical condition to race, and to take other necessary and proper action to ensure the health and safety of racing animals and the fairness of races.

(d) To confer, as necessary or desirable and not less than once each month, with the commission on the conduct of racing;

(e) To make available for inspection by the commission or any member of the commission, upon request, all books, records, files, and other information and documents of the director's office;

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(f) To advise the commission and recommend such rules and such other matters as the director deems necessary and advisable to improve the conduct of racing;

(g) To make a continuous study and investigation of the operation and the administration of similar laws which may be in effect in other states or countries, any literature on the subject which from time to time may be published or available, any federal laws which may affect the conduct of racing, and the reaction of Colorado citizens to existing and potential features of racing events in Colorado with a view to recommending or effecting changes that will tend to serve the purposes of this article;

(h) To annually prepare and submit to the commission, for its approval, a proposed budget for the ensuing fiscal year, which budget shall present a complete financial plan setting forth all proposed expenditures and anticipated revenues of the division. The fiscal year of the division shall commence on July 1 and end on June 30 of each year.

(i) To perform any other lawful acts which the director and the commission may consider necessary or desirable to carry out the purposes and provisions of this article.

**12-60-203. Investigators - peace officers.** (1) All investigators of the division of racing events and their supervisors, including the director and the executive director, shall for purposes of enforcement of this article be considered a peace officer, level II, as defined in section 18-1-901 (3) (I) (III), C.R.S.

(2) Nothing in this section shall be construed to prohibit local sheriffs, police departments, and other local law enforcement agencies or the Colorado bureau of investigation from enforcing the provisions of this article or rules promulgated pursuant to this article, or from performing their other duties to the full extent permitted by law. All such sheriffs, police officers, district attorneys, other local law enforcement agencies, or the Colorado bureau of investigation shall have all the powers set forth in subsection (1) of this section.

**12-60-204. Board of stewards or judges.** The division shall establish a board of three stewards or judges to assist in supervising the conduct of any race meet. Two members of the board of stewards or judges shall be employees of the division. The remaining member shall be an employee of the track at which the race meet is held, shall be subject to the approval of the commission, and may be removed by the commission at any time for any reason which the commission deems good and sufficient.

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## PART 3

### COLORADO RACING COMMISSION

**12-60-301. Racing commission - creation.** (1) There is hereby created, within the division of racing events, the Colorado racing commission. The commission shall consist of five members, all of whom shall be citizens of the United States and shall have been residents of this state for the past five years. The members shall be appointed by the governor, with the consent and approval of the senate. No member shall have been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S. No more than three of the five members shall be members of the same political party. At the first meeting of each fiscal year, a chair and vice-chair of the commission shall be chosen from the membership by a majority of the members. Membership and operation of the commission shall additionally meet the following requirements:

(a) Two members of the commission shall have been previously engaged in the racing industry for at least five years; one member shall be a practicing veterinarian who is currently licensed in Colorado and has been so licensed for not less than five years; one member shall have been engaged in business in a management-level capacity for at least five years; and one member shall be a registered elector of the state who is not employed in any profession or industry otherwise described in this paragraph (a); however, no more than two members of the commission shall be from the same congressional district, and one member of the commission shall be from west of the continental divide.

(b) Initial members shall be appointed to the commission by the governor as follows: One member to serve until July 1, 1993, one member to serve until July 1, 1994, one member to serve until July 1, 1995, and two members to serve until July 1, 1996. All subsequent appointments shall be for terms of four years. No member of the commission shall be eligible to serve more than two consecutive terms.

(c) Any vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment. The member appointed to fill such vacancy shall be from the same category described in paragraph (a) of this subsection (1) as the member vacating the position.

(d) Any member of the commission may be removed by the governor at any time.

(e) The term of any member of the commission who misses more than two consecutive regular commission meetings without good cause shall be terminated and such member's successor shall be appointed in the manner provided for appointments under this section.

(f) Commission members shall be reimbursed for necessary travel and other reasonable expenses incurred in the performance of their official duties.

(g) Prior to confirmation by the senate, each member shall file with the secretary of state a financial disclosure statement in the form required and prescribed by the executive director. Such statement shall be renewed as of each January 1 during the member's term of office.



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(h) The commission shall hold at least one meeting each month and such additional meetings as may be prescribed by rules of the commission. In addition, special meetings may be called by the chair, any two commission members, or the director, if written notification of such meeting is delivered to each member at least seventy-two hours prior to such meeting. Notwithstanding the provisions of section 24-6-402, C.R.S., in emergency situations in which a majority of the commission certifies that exigencies of time require that the commission meet without delay, the requirements of public notice and of seventy-two hours' actual advance written notice to members may be dispensed with, and commission members as well as the public shall receive such notice as is reasonable under the circumstances. Any action by the commission during such emergency meetings shall be limited to those issues relating to the emergency situation for which the meeting was called.

(i) A majority of the commission shall constitute a quorum, but the concurrence of a majority of the members appointed to the commission shall be required for any final determination by the commission.

**12-60-302. Organization and officers - duties - representation.** (1) All moneys payable to and collected by the department of revenue through the division shall be transmitted to the state treasurer. The state treasurer shall credit the same to the general fund, except for those moneys required by this article to be deposited in the Horse Breeders' and Owners' Awards and Supplemental Purse Fund, or in the racing commission cash fund.

(2) The commission shall maintain an office within the state and shall keep detailed records of all its meetings and of all the business transacted and of all the collections and disbursements. Publications of the commission circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136, C.R.S.

(3) The attorney general shall provide legal services for the division and the commission at the request of the executive director, the director, or the commission. The attorney general shall make reasonable efforts to ensure that there is continuity in the legal services provided and that the attorneys providing legal services to the division and the commission have expertise in such field.

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## PART 4

### CONFLICT OF INTEREST

**12-60-401. Director and commission members - position of trust - conflicts of interest.**

(1) Appointment to the commission or to the position of director or employment in the division of racing events is declared to be a position of public trust, and therefore, in order to ensure the confidence of the people of the state in the integrity of the division and the commission, the director and members of the commission and the employees of the division shall be subject to this section. While serving as director or as a member of the commission or while employed by the division, no person nor any member of such person's immediate family shall:

(a) Hold any pecuniary interest in any racetrack operating within the state of Colorado nor in any kennel, stable, compound, or farm that houses animals licensed or registered to race within the state of Colorado;

(b) Wager money or any other chattel of value on the result of any race or race meet or sweepstakes conducted within the state of Colorado or conducted outside the state and simulcast into the state;

(c) Hold any pecuniary interest in any out-of-state host track or derive any pecuniary benefit from the racing of any animal at such track;

(d) Hold more than a five percent interest in any entity doing business with a track; or

(e) Have any interest of any kind in a license issued pursuant to this article, nor have any interest, direct or indirect, including employment, in any licensee, licensed premises, establishment, or business involved in or with pari-mutuel wagering.

(2) Failure to comply with the provisions of this section shall be grounds for removal from office.

(3) For purposes of this section, "immediate family" means a person's spouse and any children actually living with the person.

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## PART 5

### LICENSING AND REGISTRATION

**12-60-501. Regulation of race meets and racing-related businesses.** (1) (a) The commission shall license and regulate all race meets with pari-mutuel wagering held in this state at which horses or greyhounds participate, and shall cause the places where such race meets are held to be visited and inspected at least once a year by its members or employees, and shall require all such places to be constructed, maintained, and operated in accordance with the laws of this state and the rules of the commission.

(b) The commission shall license and regulate all kennels and stables housing racing animals in connection with a race meet, shall cause such kennels and stables to be visited and inspected at least once a year by its members or employees, and shall require all such places to be constructed, maintained, and operated in accordance with the laws of this state and the rules of the commission.

(2) (a) In particular, the commission shall, at its own expense, regulate the operations of pari-mutuel machines and equipment, the operations of all money rooms, accounting rooms, and sellers' and cashiers' windows, and the weighing of jockeys and of greyhounds, and shall take or cause to be taken saliva, urine, blood, or other body fluid samples or biopsy or necropsy specimens from horses and greyhounds selected by the commission or its employees on a random basis at race meets provided for under this article or when concerns are raised as to a particular animal, including but not limited to the winner of a race, and shall test and determine such samples or specimens or cause such samples or specimens to be tested and determined. For such purposes, the commission, at its expense and in addition to other employees, shall employ or contract with competent veterinary doctors, accountants, chemists, and other persons necessary to supervise the conduct of race meets and to ascertain that this article and the rules of the commission are strictly complied with. The commission shall also seek innovative and efficient methods of testing animals for prohibited drugs and medication, while ensuring animal safety and

maintaining the integrity of racing. Through its bidding process, the commission shall invite laboratories to include proposals for testing procedures and methods that would maintain or improve the effectiveness of test results and minimize testing cost incurred by the state or the racing industry.

(b) The commission shall establish and require compliance with internal control procedures for licensees, including accounting and reporting procedures.

(c) The commission shall license and regulate persons who manufacture or operate totalisators and shall require all totalisators to be manufactured, maintained, and operated in accordance with the laws of this state and rules of the commission.

(3) The commission shall license and regulate all in-state simulcast facilities conducting pari-mutuel wagering and shall require all such in-state simulcast facilities to be maintained and operated in accordance with the laws of this state and rules of the commission.

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(4) The commission shall, at its own expense, specifically regulate the operation by in-state simulcast facilities of pari-mutuel machines and equipment, the operation of all money and accounting facilities, and the operation of sellers' and cashiers' windows and ensure that the in-state simulcast facility is handling wagering as part of the pari-mutuel system of the appropriate track or simulcast facility and as part of the appropriate pari-mutuel pool, as designated in section 12-60-703. For such purposes, the commission, at its own expense, and in addition to other employees, shall employ the competent personnel necessary to supervise the wagering through in-state simulcast facilities and to ascertain that this article and the rules of the commission are strictly complied with.

**12-60-502. Delegation of authority to issue certain licenses and registrations.** The commission shall delegate to the division the authority to issue all business and occupational licenses and registrations contemplated in this article, and shall promulgate rules containing standards for such delegation. The commission shall not delegate its duty to issue or renew race meet licenses.

**12-60-503. Rules of the commission - licensing.** (1) (a) The commission shall make reasonable rules for the control, supervision, fingerprinting, identification, and direction of applicants, registrants, and licensees, including rules providing for the supervising, disciplining, suspending, fining, and barring from racing of all persons required to be licensed or registered by this article and for the holding, conducting, and operating of all races, race meets, racetracks, and in-state simulcast facilities conducted pursuant to this article. It shall announce the place, time, number of races per day, duration of race meets, as provided in section 12-60-603, and types of race meets.

(b) The commission may issue a temporary or conditional license or registration for up to a maximum of ninety days for any license or registration authorized under this article.

(2) (a) Every person holding a license or registration under this article, every person operating an in-state simulcast facility, and every owner or trainer of any horse or greyhound licensed to enter any racing contest under this article shall comply with all rules and orders issued by the commission. It is unlawful for any person to work upon the premises of a racetrack without first obtaining from the commission a license or registration for such activity. The commission may waive this licensing or registration requirement for such occupational categories as the commission, in its discretion, deems unnecessary to be licensed or registered. This licensing or registration requirement does not apply to the members of the commission or its employees or to persons whose only participation is individually as spectator or bettor. It is unlawful for any person who owns or leases a racing animal to allow such animal to race in this state without first obtaining an owner's license or registration from the commission, as prescribed by the rules of the commission. The commission in its discretion may extend the validity of any license issued for a period not to exceed three years, and the fee for such license shall be increased proportionately; except that no temporary or conditional license or registration shall be issued for a period longer than ninety days. It is unlawful for any person to hold any race meet with pari-mutuel wagering without obtaining a license therefor. It is unlawful for any person to operate an in-state simulcast facility unless that person is a licensee that has been licensed within the year to hold a race meet or is a licensee that has a written simulcast racing agreement with the in-state host track or

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out-of-state host track from which the simulcast race is broadcast and has filed a copy of the written simulcast racing agreement with the commission prior to operation as an in-state simulcast facility.

(b) (Deleted by amendment, L. 93, p. 1210, § 1, effective July 1, 1993.)

(3) No person holding a license under this article shall extend credit to another person for participation in pari-mutuel wagering.

**12-60-504. Business licenses.** (1) Every application for a business license, excluding applications for initial or renewal race meet licenses pursuant to sections 12-60-505 and 12-60-511, shall be made under oath and filed with the commission and shall set forth such information as the rules of the commission may require in connection with the application.

(2) To determine whether a license shall be granted, the commission shall have the right to examine the financial and other records of the applicant and to compel the production of records and documents.

(3) The commission has discretion to grant or deny a business license if it finds that any applicant or any of the directors, officers, or original stockholders of a corporate applicant have violated any of the provisions of this article or any rules of the commission, or failed to pay any of the sums required under this article, or as it determines, from such application, the character, financial ability, and experience of each individual applicant or the officers and director of each corporate applicant to be for the best interests of the state and the racing industry.

(4) When conducting investigations pursuant to this section, to the extent possible, the commission shall utilize investigative information of other state racing jurisdictions. The commission may investigate an existing licensee who is seeking to acquire ownership of another existing license.

(5) Any unexpired license held by any person who has been convicted by the commission of violating any of the provisions of this article or any rule of the commission, or who has willfully or fraudulently made any false statement in any application for a license, or who fails to pay to the commission any and all sums required under the provisions of this article is subject to cancellation or revocation by the commission.

(6) The commission shall have the power to issue subpoenas for the appearance of persons and the production of documents and other things in connection with applications before the commission or in the conduct of investigations.

**12-60-505. Meet licenses.** (1) Every initial application for a license to hold race meets under this article shall be made under oath and shall be filed with the commission on or before a day fixed by the commission and shall set forth the time, the place, and the number of days such meet shall continue; the kind of racing proposed to be conducted; the full name and address of the applicant and, if a corporation, the names and addresses of all of its officers and directors and all of the holders of each class of its stock and the amount of stock of each class so owned by each stockholder; the location of the racetrack and whether the same is owned

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or leased; the names and residences of the owners of all property leased by such applicant; a statement of the assets and liabilities of such applicant; a description of the qualifications and experience of the applicant if an individual or of its officers and directors if a corporation; a full disclosure of all holding or intermediary companies associated with the applicant, as well as their shareholders, all contracts that relate to the race meet, audited balance sheets of corporate applicants, excluding nonprofit associations, and the terms and conditions of all contracts by which the applicant has received credit; a description of the land uses within a radius of two miles of the establishment in which such race meet is proposed to be conducted; and such incidental information as the rules of the commission may require in connection with the application.

(2) Upon the filing of such application, the commission shall fix a date for a hearing on the application, and said applicant shall give public notice of the time and place of such hearing by publication in one issue of a daily or weekly newspaper of general circulation in the area in which it is proposed to conduct such race meet and by posting on the site of such proposed race meet a notice, in form and size to be determined by the commission, that such application has been filed and the date and place of the hearing thereon. At the time and place mentioned in said notice, the commission shall conduct a public hearing at which evidence for and against the granting of the application may be presented.

(3) Except as otherwise limited by the provisions of this article, in considering an application for a license under this section, the commission may give consideration to the number of licenses already granted, and to the location of tracks previously licensed, and to the sentiments and character of the community in which the proposed race meets are to be conducted, and to the ability, character, and experience of each individual applicant or the officers and directors of each corporate applicant. The commission may require of every applicant for a license to hold a race meet, except a public nonprofit association, nonprofit corporation, or nonprofit fair, including the Colorado state fair and all county fairs, who has not, within five years prior to making an application for a license to hold a race meet, operated a race meet in the county, city, or city and county in which it is proposed to hold such race meet, a recommendation in writing of the board of county commissioners of said county in the event the race meet is to be held in unincorporated areas of said county or of the governing board of a city or city and county if the proposed race meet is to be held within a city or city and county. The commission may take such recommendation into consideration before granting or refusing such licenses. The commission may deny a license to operate a new racetrack to a person who is already licensed to operate a racetrack within this or any other state if, in the opinion of the commission, the granting of such license would discourage legitimate competition from other qualified applicants. The commission shall investigate any applicant and shall require the applicant to pay the actual cost of investigating the application as part of the fees and costs imposed pursuant to section 12-60-506. The applicant shall advance the moneys necessary for the investigation to the commission, and the commission shall return any unused portion of such moneys to the applicant at the conclusion of the commission's investigation. The advance of such moneys may either be made directly to the commission or the moneys may be deposited into escrow in a manner approved by the commission.

(4) The commission may grant or refuse licenses to conduct race meets under this article as it determines, from such application, the character, financial ability, and experience of each

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individual applicant or the officers and directors of each corporate applicant, the sentiments of the community and the character of the area wherein it is proposed to conduct such race meets, and the evidence presented at such hearing, to be for the best interests of the state, the racing industry, and the area in which it is proposed to conduct such race meets.

(5) The commission has discretion to grant or deny a race meet license if it finds that any applicant has, or any of the directors, officers, or original stockholders of a corporate applicant have, violated any of the provisions of this article or any rules of the commission or failed to pay any of the sums required under this article.

(6) Every license issued under this article shall specify the number of days said licensed race meet shall continue and the number of races per day. No license shall be granted to any individual who is not a bona fide resident of Colorado nor to any foreign corporation. Every applicant shall agree that, if granted a license under this article, such applicant will not thereafter sell, mortgage, or otherwise pledge or dispose of any of the assets listed and described on the application for a license or a renewal license without thirty days' prior notice to the commission, which may approve or disapprove the disposition of assets upon good cause shown. The charter of all corporate applicants shall contain a provision that, when a cumulative ten percent or more of the voting stock of such corporation is to be sold, mortgaged, or otherwise pledged or transferred, thirty days' prior notice shall be given to the commission. The corporation shall pay an investigation fee to the commission as part of the fees and costs imposed pursuant to section 12-60-506. The commission shall approve or disapprove of the disposition of such stock, upon good cause shown, within ninety days of such filing of a completed application for transfer. The commission has the power to ascertain if any capital stock of any corporate applicant or licensee is held with the intent to mislead or deceive the commission for an undisclosed principal. The involvement of an undisclosed principal shall be grounds for the denial, suspension, or revocation of a license.

(7) Upon petition by the licensee and a finding by the commission that it is impossible or impractical for a licensee, because of fire or act of God or other unforeseeable emergency not caused or participated in by the licensee, to conduct a race meet upon the dates allocated or upon a racetrack designated by the commission to the licensee, other dates and locations may be substituted and granted to the licensee. A licensee so petitioning may be granted the right to lease and utilize any other licensee's facilities for the term of the petitioning licensee's annual permit or any portion thereof, but said grant shall not be construed to allow any licensee more days of racing in any year than are prescribed by this article.

(8) When conducting investigations pursuant to subsections (3) and (6) of this section, to the extent possible, the commission shall utilize investigative information of other state racing jurisdictions. The commission may investigate an existing licensee who is seeking to acquire ownership of another existing license to conduct race meets.

**12-60-506. Application - fee - waiver of confidentiality.** (1) In connection with the issuance of licenses or registrations, the commission shall establish investigation and application fees.

(2) The application form created by the commission shall include a waiver of any right of confidentiality and a provision which allows the information contained in the application to be

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accessible to law enforcement agents of this or any other state or the government of the United States. The waiver of confidentiality shall extend to any financial or personnel record, wherever maintained.

**12-60-507. Investigation - denial, suspension, and revocation actions against licensees - unlawful acts.** (1) The commission upon its own motion may, and upon complaint in writing of any person shall, investigate the activities of any licensee or applicant within the state or any person upon the premises of a track. In addition to its authority under any other provision of this article, the commission may issue a letter of admonition to a licensee, fine a licensee, suspend a license, deny an application for a license, or revoke a license, if such person has committed any of the following violations:

- (a) Disregarding or violating any provision of this article or any rule promulgated by the commission in the interests of the public and in conformance with the provisions of this article;
- (b) Been convicted of, or entered a plea of guilty or nolo contendere to, a criminal charge under the laws of this or any other state or of the United States, or entered into a plea bargain for acts or omissions that, if committed in Colorado, would have been grounds for discipline in this state. A certified copy of the judgment of the court in which any such conviction occurred shall be presumptive evidence of such conviction in any hearing under this article. This paragraph (b) shall be applied in accordance with section 24-5-101, C.R.S.
- (c) Current prosecution or pending charges in any jurisdiction against the applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant, for any felony; except that, at the request of the applicant or the person charged, the commission shall defer decision upon such application during the pendency of such charge;
- (d) Fraud, willful misrepresentation, or deceit in racing;
- (e) Failure to disclose to the commission complete ownership or beneficial interest in a racing animal entered to be raced;
- (f) Misrepresentation or attempted misrepresentation in connection with the sale of a racing animal or other matter pertaining to racing or registration of racing animals;



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- (g) Failure to comply with any order or rulings of the commission, the stewards, the judges, or a racing official pertaining to a racing matter;
- (h) Ownership of any interest in or participation by any manner in any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise;
- (i) Employing or harboring unlicensed persons on the premises of a racetrack;
- (j) Being a person, employing a person, or being assisted by any person who is not of good record or good moral character;
- (k) Discontinuance of or ineligibility for the activity for which the license was issued;
- (l) Being currently under suspension or revocation of a racing license in another racing jurisdiction, or having been subject to disciplinary action by the racing commission or equivalent agency of another jurisdiction for acts or omissions that, if committed in Colorado, would have been grounds for discipline in this state; except that this paragraph (l) shall not furnish the basis for the imposition of fines;
- (m) Possession on the premises of a racetrack of:
- (I) Firearms; or
- (II) A battery, buzzer, electrical device, or other appliance other than a whip which could be used to alter the speed of a racing animal in a race or while working out or schooling;
- (n) Possession, on the premises of a racetrack, by a person other than a licensed veterinarian of:
- (I) A hypodermic needle, hypodermic syringe, or other similar device;
- (II) Any substance, compound items, or combination thereof of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a racing animal unless specifically authorized by the commission veterinarian;
- (o) Cruelty to or neglect of a racing animal;
- (p) Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of such act immediately to the stewards, the judges, or the commission;
- (q) Causing, attempting to cause, or participating in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of such act immediately to the stewards, the judges, or the commission;
- (r) Entering, or aiding and abetting the entry of, a racing animal ineligible or unqualified for the race entered;
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(s) Willfully or unjustifiably entering or racing of any animal in any race under any name or designation other than the name or designation assigned to such animal by and registered with the official recognized registry for that breed of animal, or willfully soliciting, instigating, engaging in or in any way furthering any act by which any racing animal is entered or raced in any race under any name or designation other than the name or designation duly assigned by and registered with the official recognized registry for that breed of animal;

(t) Aiding or abetting any person in the violation of any rule of the commission;

(u) Racing at a racetrack without having a racing animal registered to race at that racetrack;

(v) Being on the premises of a racetrack for which the licensee is required to be licensed without being able to show proof of gainful employment at that racetrack.

(2) Any person who fails to pay within the time period established by rule a fine imposed pursuant to this article shall pay, in addition to the fine due, a penalty amount equal to the fine. Any person who submits to the department of revenue through the division a check in payment of a fine or license fee requirement imposed pursuant to this article, which check is not honored by the financial institution upon which it is drawn, shall pay, in addition to the fine or fee due, a penalty amount equal to the fine or fee. All moneys received pursuant to a penalty amount imposed by this subsection (2) shall be credited to the general fund of the state.

(3) Any person aggrieved by a final action or order of the commission may appeal such action to the Colorado court of appeals.

**12-60-507.5. License - mandatory disqualification - criteria.** (1) The commission shall deny a license to any applicant on the basis of any of the following criteria:

(a) Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article;

(b) Failure of the applicant to provide information, documentation, and assurances required by this article or requested by the commission, failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria;

(c) Conviction of the applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant, of any of the following:

(I) Any gambling-related offense or theft by deception;

(II) Any crime involving fraud or misrepresentation committed within ten years prior to the date of the application, notwithstanding the provisions of section 24-5-101, C.R.S.;

(d) Current prosecution or pending charges in any jurisdiction against the applicant, or against any person listed in paragraph (c) of this subsection (1), for any of the offenses

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enumerated in said paragraph (c); except that, at the request of the applicant or the person charged, the commission shall defer decision upon such application during the pendency of such charge.

**12-60-508. Hearings - review.** (1) Except as otherwise provided in this section, all proceedings before the commission with respect to the denial, suspension, or revocation of licenses or the imposition of fines shall be conducted pursuant to the provisions of sections 24-4-104 and 24-4-105, C.R.S.

(2) Such proceedings shall be held in the county where the commission has its office or in such other place as the commission may designate. The commission shall notify the applicant or licensee by mailing by first-class mail a copy of the written notice required to the last address furnished by the applicant or licensee to the commission.

(3) (a) The commission may delegate its authority to conduct hearings and impose discipline with respect to the denial or suspension of licenses or the imposition of a fine to the division, through its board of stewards or judges, or a hearing officer. Proceedings before the division, through its board of stewards or judges, or a hearing officer shall not be governed by the procedural or other requirements of sections 24-4-104 and 24-4-105, C.R.S., but rather shall be conducted in accordance with rules adopted by the commission.

(b) The commission may direct that any hearing be conducted before an administrative law judge appointed pursuant to part 10 of article 30 of title 24, C.R.S.

(4) The commission, the division, through its board of stewards or judges, and any hearing officer shall have the authority to administer oaths and affirmations, sign and issue subpoenas and order the production of documents and other evidence, and regulate the course of the hearing, pursuant to rules adopted by the commission.

(5) Any party aggrieved by a final order or ruling issued by the division, through its board of stewards or judges, or a hearing officer shall have a right to appeal such order or ruling to the commission, pursuant to procedural rules which shall be adopted by the commission. The aggrieved party may petition the commission for a stay of execution pending appeal to the commission.

**12-60-509. Liability insurance - bond for race meets.** (1) For the protection of the public and the exhibitors, contestants, and visitors, every person licensed to conduct a race meet under the provisions of this article shall carry public liability insurance in the form of a contract and with a company to be approved by the commission.

(2) An organization representing the majority of the owners of racing animals participating in any race meet may require the licensee conducting such race meet to provide and deliver to the commission evidence of a bond signed by a surety company authorized to do business in this state, in an amount sufficient to cover all awards and purses due to the contestants at such race meet and conditioned that said licensee will pay and discharge all obligations to said contestants in connection with the race meet.

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(2.5) (a) Notwithstanding the provisions of subsection (2) of this section, every person licensed to conduct a race meet other than a horse race meet who has been licensed in this state for five consecutive years and who, during this period, has not had any actions on the bond or other evidence demonstrating a lack of financial responsibility required in subsection (2) of this section may be exempted from the requirement to file such bond or other evidence of financial responsibility.

(b) If any actions are subsequently brought against the licensee, the commission may reinstate the requirement of a bond or any other evidence of financial responsibility meeting the requirements of section 11-35-101, C.R.S.

**12-60-510. Racing of standardbred harness horses.** (1) Notwithstanding any other provision of this article to the contrary, the commission shall grant licenses to conduct the racing of standardbred harness horses pursuant to the provisions of this article and in accordance with subsections (2) and (3) of this section.

(2) The licenses granted may be issued to conduct not more than three race meets in any one year at a racetrack specifically designed and used for the racing of no animals other than standardbred harness horses, but such race meets may not be held on the same dates as race meets authorized by the commission for animals other than standardbred harness horses that are held within forty miles of the track licensed for the racing of standardbred harness horses. In addition, licenses may be issued by the commission to conduct three race meets for the racing of standardbred harness horses in any one year at any racetrack at which horse race meets are held and which is not within forty miles of any other racetrack licensed for the racing of horses or the racing of standardbred harness horses.

(3) No tracks licensed for the racing of standardbred harness horses may be located within forty miles of one another, but such tracks may be located within forty miles of any track licensed for the racing of animals other than standardbred harness horses subject to the limitations in subsection (2) of this section.

(4) The provisions of subsection (3) of this section shall not restrict the right of a county to conduct extended standardbred harness horse race meets, upon being licensed by the state racing commission, at a county fairground if such race meets are not within fifteen miles of any race track licensed in Colorado for the racing of horses.

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**12-60-511. Eligibility to operate race meets - renewal or revocation.** (1) (a) No person shall be eligible to operate a race meet under a license issued under the provisions of this article unless such person is the owner or controls the possession of a properly constructed racetrack suitable for the conduct of racing and improved with safe and suitable grandstands, equipped with reasonably sanitary accommodations and also such accommodations, including track conditions, as the commission may require for the care and control of the animals racing at such meet, and also such other improvements as, in the opinion of the commission, may be required for the protection of the public, human and animal participants, and others likely to be present at such race meet. In consideration of the location of the track and other structures and erections and the probable capacity requirements to accommodate the crowd and the number of people that will reasonably be expected to occupy such grandstands and attend such race meets, a major racing operation license shall not be issued for the racing of horses at a class A track which is within forty miles of any other major racing operation licensed under this article for the racing of horses at a class A track; nor shall a major racing operation license be issued for the racing of horses at a class B track which is within forty miles of any other major racing operation licensed under this article for the racing of horses at a class B track. In no event shall any racing operation licensed under this article for the racing of horses at a horse track located within forty miles of the Colorado state fair and industrial exposition conduct race meets of horses on the same dates as the race meets of horses at the state fair.

(b) As used in paragraph (a) of this subsection (1), "major racing operation" means nonprofit corporations and commercial tracks conducting race meets which exceed fifteen racing days.

(2) A license shall not be issued for the racing of greyhounds within forty miles of any other racing operation licensed under this article for the racing of greyhounds. This provision shall not apply to races conducted by any state, county, or other fair association holding not more than one race meet annually for a period not exceeding six days.

(3) Applications for renewal of such license shall be filed with the commission on or before a day fixed by the commission and shall set forth the name of the applicant and if a corporation the names and addresses of its officers and directors with a list attached thereto of the names and addresses of all the holders of its stock, as of a date not more than thirty days prior to the filing of such application, and the amount of voting stock held by each stockholder. If any of its voting stock is known by any applicant to be registered in the name of a person not the actual owner thereof, such list shall also show the name and address of such actual owner.

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(4) Said application shall set forth the proposed dates of race meets, the dates within such race meets on which the applicant intends to conduct racing at such meetings and the number of races intended to be run on such dates, and the address of the establishment where such meets are to be held and shall have attached thereto the most recent financial statement of the applicant as of a date not more than twelve months prior to the date of the application for renewal of such license. Such application shall also contain such other information as the rules of the commission may provide to ensure that such licensee is conducting race meets in accordance with the provisions of this article and the rules of the commission. To determine whether an application for renewal of such license to conduct race meets shall be granted, the commission shall have the right to examine the financial and other records of the licensee, to compel the production of records and documents, to conduct hearings, to summon witnesses, and to administer oaths.

(5) (a) As soon as is practicable after the date fixed for the filing of applications for renewal, the commission shall meet and determine the granting or denial thereof. If the commission finds that the applicant has fully complied with the requirements and conditions for renewal, the application for renewal shall be granted, and the commission shall allot and assign to the respective applicants, in the manner stated in this subsection (5), dates for race meets and dates for racing within the race meet and the number of races on such dates.

(b) Except as otherwise provided in this article, in its sound discretion, the commission may allot different dates for race meets, different dates for racing within a race meet, and a different number of races on such dates from those requested in the application for renewal. In making such allotment of dates, the commission shall do so in its sound discretion and shall endeavor to allot to each applicant the dates requested in the respective applications so filed by the applicants, after giving due consideration to all factors involved, including the interests of the respective applicants and the public and the best interests of racing, and avoiding, whenever possible, conflicts in live greyhound race dates between greyhound tracks in the same circuit or a conflict in live horse race dates between class A tracks or between class B tracks located within fifty miles of each other; except that the commission may allot dates to a state, county, or other fair commission or association holding not more than one race meet annually for a period not exceeding six days, notwithstanding that such dates conflict with the dates allotted to another applicant conducting live racing of the same type animals. When the granting of requested initial or renewal race dates would result in a conflict, the commission, in its discretion, may grant race dates so as to avoid such conflict to the extent possible, giving preference to requests for race dates from license applicants whose licensed race meet in the previous year included such race dates.

(6) In the event the commission finds that any applicant for a renewal of a license to conduct race meets under this article has violated any of the provisions of this article or any rule of the commission, or has willfully or fraudulently made any false statement in an original application for a license to hold race meets or for the renewal of such license, or has failed to pay the commission any sums required by this article, or lacks the ability, experience, or finances to conduct race meets, the commission may refuse to grant a renewal of such license.

(7) Any unexpired license held by any person who has been convicted by the commission of violating any of the provisions of this article or any rule of the commission, or who has willfully or fraudulently made any false statement in any application for a license to hold a race meet

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or for the renewal of such license, or who fails to pay to the commission any and all sums required under the provisions of this article is subject to cancellation or revocation by the commission. Such cancellation shall be made only after a summary hearing before the commission, of which three days' notice in writing shall be given the licensee specifying the grounds for the proposed cancellation and at which hearing the licensee shall be given an opportunity to be heard in person and by counsel in opposition to the proposed cancellation. No license shall be granted or continued to any licensee for any race meet licensed under this article who has made default in any payment of any premium or prizes on any race meets held under this article or who has failed to meet any monetary obligations in connection with any race meet held in this state.

**12-60-512. Division of racing events - access to records.** The division, for purposes of this article, shall have full authority to procure, at the expense of the division, any records furnished to or maintained by any law enforcement agency in the United States, including state and local law enforcement agencies in Colorado and other states for the purposes of carrying out its responsibilities. Upon request from the Colorado bureau of investigation, the division shall provide copies of any and all information obtained pursuant to this part 5.

## PART 6

### UNLAWFUL ACTS

**12-60-601. Underage wagering.** (1) No person under the age of eighteen years shall purchase, redeem, or attempt to purchase or redeem any pari-mutuel ticket.

(2) No person shall sell any pari-mutuel ticket to a person under the age of eighteen years.

(3) Any person who violates this section commits a class 2 petty offense, and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

**12-60-602. Simulcast facilities and simulcast races - unlawful act - repeal.** (1) It is unlawful for any person to accept or place wagers on any simulcast race within the state of Colorado except under the provisions of this article. It is lawful to conduct pari-mutuel wagering on simulcast races of horses or greyhounds which are received by an in-state simulcast facility authorized and operated pursuant to this article.

(2) Cross simulcasting between an in-state host track or an out-of-state host track and an in-state simulcast facility, or between an in-state host track and an out-of-state simulcast facility, is permissible.

(3) A race meet of greyhounds which is conducted at an in-state host track may be received as a simulcast race by any simulcast facility; except that, notwithstanding any consent granted pursuant to the provisions of section 12-60-102 (14), an in-state simulcast facility which is located within fifty miles of a greyhound track may not receive simulcast races of greyhounds

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on any day on which such greyhound track is running live greyhound races, unless the licensee of such greyhound track consents thereto.

(4) (a) (I) A race meet of horses which is conducted at an in-state host track may be received as a simulcast race by any simulcast facility; except that, notwithstanding any consent granted pursuant to the provisions of section 12-60-102 (14), an in-state simulcast facility which is located within fifty miles of a horse track which has held within the previous twelve months or is licensed and scheduled to hold within the next twelve months a horse race meet of no less than thirty race days may not receive simulcast races of horses on any day on which such horse track is running live horse races unless the licensee of such horse track consents thereto.

(II) This paragraph (a) is repealed, effective April 20, 2003.

(b) (I) A race meet of horses which is conducted at an in-state host track may be received as a simulcast race by any simulcast facility; except that, notwithstanding any consent granted pursuant to the provisions of section 12-60-102 (14), an in-state simulcast facility which is located within fifty miles of a horse track which has held within the previous twelve months or is licensed and scheduled to hold within the next twelve months a horse race meet of no less than fifty race days, or no less than sixty race days if such twelve-month period includes any portion of the track's third or subsequent year of operation, may not receive simulcast races of horses on any day on which such horse track is running live horse races unless the licensee of such horse track consents thereto.

(II) This paragraph (b) is effective April 21, 2003.

(5) (a) An in-state simulcast facility may receive only special event greyhound races from an out-of-state host track and, in addition, on any day on which an in-state simulcast facility receives greyhound simulcast races from an out-of-state host track and on which one or more in-state host tracks are running live greyhound races, such in-state simulcast facility shall receive and conduct pari-mutuel wagering on the broadcast signal of simulcast greyhound races from at least one such in-state host track, if such broadcast signal is made available to it on usual and customary terms and conditions, including price. The commission shall approve no more than fifteen special events per year.

(b) (I) (A) An in-state simulcast facility which is located on the premises of a class B track may receive, each year, up to a total of two hundred fifty days of simulcast horse races from an out-of-state host track. Such total includes, and is not in addition to, the days on which live racing is held. This sub-subparagraph (A) is repealed, effective April 20, 2003.



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(B) A facility which is reopening as a track pursuant to section 12-60-503 (2) (b) may receive three days of simulcast horse races from an out-of-state host track for each day of live horse racing for which the commission has granted it a race date for the subsequent year. A day of simulcast horse races, for the purposes of this paragraph (b), shall not include a day on which live horse races are conducted at the horse track at which the simulcast facility is located or a day on which the simulcast facility receives only simulcast races of horses from a race meet conducted at an in-state host track.

(I.5) (A) An in-state simulcast facility which is located on the premises of a horse track which runs a horse race meet of at least fifty live race days or at least sixty live race days if such horse race meet is held during any portion of the track's third or subsequent year of operation may receive, each year, three days of simulcast horse races from an out-of-state host track for each day of live horse racing conducted at such horse track during such year.

(B) This subparagraph (I.5) is effective April 21, 2003.

(II) (A) An in-state simulcast facility which is not located on the premises of a horse track which runs a horse race meet of at least thirty live race days may only receive a broadcast signal of a simulcast horse race conducted at an out-of-state host track through an in-state simulcast facility which is located on the premises of a horse track which runs a horse race meet of at least thirty live race days or through a facility which is reopening as a track pursuant to section 12-60-503 (2) (b) and which has qualified to receive broadcasts of such simulcast horse race pursuant to the provisions of subparagraph (I) of this paragraph (b).

(B) This subparagraph (II) is repealed, effective April 20, 2003.

(II.5) (A) An in-state simulcast facility which is not located on the premises of a horse track which runs a horse race meet of at least fifty live race days, or at least sixty live race days if such horse race meet is held during any portion of the track's third or subsequent year of operation, may only receive a broadcast signal of a simulcast horse race conducted at an out-of-state host track through an in-state simulcast facility which is located on the premises of a horse track which runs a horse race meet of at least fifty live race days, or at least sixty live race days if such horse race meet is held during any portion of the track's third or subsequent year of operation, or through a facility which is reopening as a track pursuant to section 12-60-503 (2) (b) and which has qualified to receive broadcasts of such simulcast horse race pursuant to the provisions of subparagraph (I.5) of this paragraph (b).

(B) This subparagraph (II.5) is effective April 21, 2003.

(III) On any day on which an in-state simulcast facility receives simulcast horse races, either directly from an out-of-state host track or through another in-state simulcast facility or facility which is reopening as a track, and on which one or more in-state host tracks are running live horse races, such in-state simulcast facility shall receive and conduct pari-mutuel wagering on the broadcast signal of simulcast horse races from at least one such in-state host track, if such broadcast signal is made available to it on usual and customary terms and conditions, including price, as determined by the commission.

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(IV) On any day on which an in-state host track is running live races of horses, such track may receive no more than four simulcast races of horses from an out-of-state host track; except that the commission may, in its discretion, increase the number of allowable simulcasts for good cause shown by a licensee. All simulcasting or horse races shall comply with the provisions of the federal "Interstate Horseracing Act of 1978", 15 U.S.C. secs. 3001-3007, as amended.

(V) (A) For purposes of administering this paragraph (b), each operating year of an in-state simulcast facility located on the premises of a class B track shall be deemed to begin on April 21 and end on the following April 20. Simulcast days allotted to such a facility pursuant to this paragraph (b) may be used at any time during the operating year, but unused days remaining as of the end of one operating year may not be carried forward to the next operating year.

(B) Repealed.

(C) During operating year 2003-2004 and thereafter, an in-state simulcast facility located on the premises of a class B track may begin to receive its allotted number of days of simulcast horse races pursuant to subparagraph (1.5) of this paragraph (b) immediately, notwithstanding that no live racing has yet taken place at such track during such operating year, if such track has applied for a license to conduct, during such operating year, a race meet of horses consisting of fifty or more race days or, if such operating year includes all or part of the track's third or subsequent year of operation, sixty or more race days. The number of simulcast days allotted shall be based on the number of days of live racing for which the license is sought, using the formula set forth in subparagraph (1.5) of this paragraph (b).

(6) An in-state simulcast facility having a written simulcast racing agreement with an in-state or out-of-state host track pursuant to section 12-60-503 (2) may receive simulcast races, as specified in subsections (2) to (5) of this section, on any day, including a day not within the race meet of such in-state simulcast facility which is also a track and a day on which no live race is conducted within the race meet of such in-state simulcast facility which is also a track.

(7) Repealed.

**12-60-603. Duration of meets.** (1) (a) It is unlawful to conduct any race meet at which wagering is permitted except under the provisions of this article. It is lawful to conduct pari-mutuel wagering on live horse or greyhound races which are part of a race meet licensed and conducted pursuant to this article. The duration of any horse race meet at a class B track shall be at least fifty race days, or at least sixty live race days if such horse race meet is held during any portion of the track's third or subsequent year of operation; except that the commission may prescribe a lesser number of race days in the event of unforeseen circumstances or acts of God.

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(b) A race day is any period of twenty-four hours beginning at 12 midnight Colorado time and included in the period of a race meet and upon which day live racing is held. Dark days within a race meet shall not be counted as race days. Days on which an in-state simulcast facility which is a track receives simulcast races but does not conduct live races shall not be counted as race days. Subject to the provisions of this article, the number and kind of race meets to be held at any one track shall be determined by the commission; however, race meet days for both horses and greyhounds shall be permitted on Sundays; except that no live Sunday greyhound racing shall be permitted while live horse racing is in progress at any horse track within forty miles.

(c) In order to promote live racing of both horses and greyhounds throughout the state of Colorado, the commission, when determining the number and kind of race meets held and the dates and times of races held at such race meets, may take into consideration the interests of the racing industry as a whole throughout the state but shall give particular consideration to the racing dates and times requested by or assigned to the following:

- (I) In the case of greyhound tracks, other greyhound tracks in the same circuit;
- (II) In the case of class A tracks, other class A tracks; and
- (III) In the case of class B tracks, other class B tracks.

(d) The commission shall determine, consistent with all other provisions of this article, the total number of races conducted and performances held during any race meet.

(2) (a) For the operation of greyhound tracks, the state shall be divided into one north and one south circuit, which consist, respectively, of the areas north and south of a latitudinal line drawn through the location of the Douglas County courthouse in the town of Castle Rock as of June 6, 1991.

(b) The commission shall license greyhound tracks which are located in the north circuit for race meets of a duration of up to one hundred twenty consecutive days, unless the license applicant, in its application, requests nonconsecutive days or a shorter period. The commission shall license greyhound tracks which are located in the south circuit for race meets of a duration of up to one hundred eighty consecutive days, unless the license applicant, in its application, requests nonconsecutive days or a shorter period.

(c) Each greyhound track shall be licensed by the commission to conduct only one race meet in any twelve-month period. Upon approval by the commission, a licensed greyhound track shall be permitted to contract with another licensed greyhound track within the same circuit to conduct part or all of the race meet days granted it at such other greyhound track; except that, unless the transferring greyhound track operates a race meet, without any transfer of race days, at its home greyhound track during the twelve-month period immediately following the last race meet day so transferred, such transferred race dates in such following twelve-month period shall be assigned by the commission to the transferee greyhound track, in addition to the race meet dates of the transferee greyhound track which are otherwise authorized pursuant to this subsection (2), upon application by the transferee greyhound track for such race dates if the transferee greyhound track otherwise meets all requirements for conducting a greyhound race meet.

(d) The commission shall schedule race meets of greyhounds so that there is a race meet, but not more than one race meet, being conducted at a greyhound track in both the north and the south circuits at all times; except that race meets of greyhounds may be scheduled to run concurrently in the same circuit if the greyhound tracks running the concurrent meets are not closer to each other than one hundred miles.

## PART 7

### TAXES AND FEES

**12-60-701. License fees and Colorado-bred horse race requirement - repeal.** (1) Subject to the provisions of section 12-60-702 (1), for the privilege of conducting racing under a license issued under, and of operating an in-state simulcast facility pursuant to the provisions of, this article, a licensee for the racing of greyhounds and an operator of an in-state simulcast facility which receives simulcast races of greyhounds shall pay to the department of revenue through the division five percent, and on and after July 1, 1994, four and one-half percent, of the gross receipts derived from pari-mutuel wagering during any such race meet or placed on such simulcast races.

(2) (a) (I) For the privilege of conducting racing under a license issued under, and of operating an in-state simulcast facility pursuant to the provisions of, this article, a licensee for the racing of horses and an operator of an in-state simulcast facility which receives simulcast races of horses shall pay to the department of revenue through the division three-fourths of one percent of the gross receipts of the pari-mutuel wagering at any such race meet or placed on such simulcast races; except that a licensee for the racing of horses at a class B track race meet shall pay to the department of revenue through the division the greater of the actual cost of regulation of such race meet by the commission, up to a maximum of two thousand five hundred dollars per race day, or three-fourths of one percent of the gross receipts of the pari-mutuel wagering at any such race meet.

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(II) In addition to the amount paid to the department of revenue through the division in subparagraph (I) of this paragraph (a), a licensee for the racing of horses and an operator of an in-state simulcast facility which receives simulcast races of horses shall pay to Colorado state university for allocation to its school of veterinary medicine one-fourth of one percent of the gross receipts of all pari-mutuel wagering, except on win, place, or show, at such horse race meet or placed on such simulcast races, to be used for racing-related equine research. To receive research funding under this subparagraph (II), an institution or individual must describe and report to the commission on all projects upon completion.

(b) In addition to any moneys to be paid pursuant to paragraph (a) of this subsection (2), a licensee for the racing of horses and an operator of an in-state simulcast facility which receives simulcast races of horses shall pay to the department of revenue through the division one-half of one percent of the gross receipts of pari-mutuel wagering on win, place, and show and one and one-half percent of the gross receipts from all other pari-mutuel wagering at any such race meet or placed on such simulcast races for the horse breeders' and owners' awards and supplemental purse fund established in section 12-60-704.

(c) (I) The operator of a simulcast facility which receives simulcast races of horses shall retain five percent of the gross receipts of pari-mutuel wagering placed on such simulcast races at that facility, to be used to cover the particular expenses incurred in operating a simulcast facility.

(II) (A) Of the five percent of gross receipts retained pursuant to subparagraph (I) of this paragraph (c), the operator of a simulcast facility that is not located at a class B track and that receives simulcast races of horses shall remit to the operator of the class B track from which such simulcast races were received one-fifth, representing one percent of the gross receipts of pari-mutuel wagering placed on such simulcast races at the simulcast facility.

(B) This subparagraph (II) is repealed, effective April 21, 2003.

(3) For the purpose of encouraging the breeding, within the state, of race horses registered within their breeds, at least one race of each day's live horse race meet shall consist exclusively of Colorado-bred horses, if Colorado-bred horses are available. This requirement shall not apply to an in-state simulcast facility which is a horse track and which receives simulcast races of horses on any given race meet day but does not conduct a live horse race on such day.

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**12-60-702. Unlawful to wager, exception - excess - taxes- repeal.** (1) (a) It is unlawful to conduct pool selling or bookmaking, or to circulate handbooks, or to bet or wager on any race meet licensed under the provisions of this article other than by the pari-mutuel method.

(b) It is unlawful for any licensee for the racing of greyhounds or any operator of an in-state simulcast facility that receives simulcast races of greyhounds to take more than nineteen and one-half percent, of the gross receipts of any pari-mutuel wagering on such races or simulcast races or for a licensee for the racing of horses or an operator of an in-state simulcast facility that receives simulcast races of horses to take more than eighteen and one-half percent of the gross receipts on win, place, and show wagering on such races or simulcast races or more than twenty-five percent of the gross receipts from all other pari-mutuel wagering on such races or simulcast races.

(c) Each licensee for the racing of horses shall pay as purses for the races in any horse race meet conducted at its in-state host track fifty percent of the breakage attributable thereto, and fifty percent of the track's commission. For purposes of this paragraph (c), the track's commission means the maximum allowable percentage which may be taken, pursuant to paragraph (b) of this subsection (1), by a licensee for the racing of horses from the gross receipts from all pari-mutuel wagering placed on such races at the in-state host track, after deduction of the amounts specified in sections 12-60-701 (2) (a) and (2) (b) and 12-60-704 (2).

(d) For each horse race meet it conducts, a licensee shall file with its license application with the commission an agreement between such licensee and the organization which represents the majority of the owners of horses participating at such race meet. Such agreement shall specify the purse structure which shall apply to the races conducted at such horse race meet, including minimum purses per race and any conditions relating to overpayments or underpayments.

(d.5) For each greyhound race meet it conducts, a licensee shall file with its license application with the commission an agreement between such licensee and the organization which represents the majority of kennel owners participating at such race meet. Such agreement shall specify the purse structure which shall apply to the races conducted at such greyhound race meet.

(e) (I) Each licensee for the racing of greyhounds shall pay on a weekly basis as purses for the races in any greyhound race meet conducted at its in-state host track five percent of the gross receipts from all pari-mutuel wagering on such races.

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(II) Each operator of an in-state simulcast facility which receives simulcast races of horses or greyhounds shall pay to purse funds for the racing of horses or greyhounds, respectively, depending on the animals taking part in each simulcast race, and to such in-state or out-of-state tracks and simulcast facilities as described in the simulcast agreement filed with the commission such percentages of the gross pari-mutuel wagering on such simulcast races, after deduction of any signal fee required by an out-of-state host track or an in-state host track, paid during the current year or any previous year, and the applicable amounts specified in subsection (2) (b) of this section, in section 12-60-701 (1) (a), (2) (a), (2) (b), and (2) (c), and in section 12-60-704 (2), as shall be specified in such simulcast agreement.

(III) (A) To defray operating expenses, the operator of a simulcast facility located at a class B track may retain up to twenty percent of the net purses earned and payable to the horse purse fund as provided in subparagraph (II) of this paragraph (e).

(B) This subparagraph (III) is repealed, effective April 20, 2003.

(f) Horse purse funds and greyhound purse funds payable by a licensee or an operator pursuant to this section shall be retained by such licensee or operator in a trust account in a commercial bank located in Colorado until such date as the purse funds are paid to the horse or greyhound owners or to the host track for payment to the horse or greyhound owners; except that:

(I) The amount in any such trust account shall not exceed the maximum amount of such accounts which is insured in full by the federal deposit insurance corporation; and

(II) Subject to prior approval by the commission, the operator of a horse track may withdraw moneys from such trust account to make up for shortfalls in the amounts of revenue derived from other sources which were reasonably anticipated to cover payments made on purses during a licensed race meet held at such track in the current year or a prior year.

(g) It is unlawful for any licensee to compute breaks in the pari-mutuel system in excess of ten cents. If, during any race meet conducted under this law, there are underpayments of the amount actually due to the wagerers, the amount of the excess of such underpayments over and above overpayments to wagerers, at the expiration of thirty days from the end of said meet, shall revert and belong to the state of Colorado and be paid to the department of revenue through the division and become a part of its funds, and it shall not be retained by the licensee under whose license such race meet was held.

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(h) Fifty percent of the breakage at any horse race meet shall be retained by the licensee under whose license such horse race meet was held and the remainder shall be paid as purses for the races conducted at such race meet. The breakage at any greyhound race meet shall be retained by the licensee under whose license such greyhound race meet was held. The breakage on any simulcast race of horses or greyhounds received by an in-state simulcast facility shall be retained by the operator of such in-state simulcast facility; except that, in the case of simulcast races of horses received from an in-state host track, fifty percent of the breakage shall be paid to the licensee of such in-state host track within sixty days after the end of the race meet from which such simulcast race was broadcast and the remainder shall be paid as purses for the races conducted at such in-state host track.

(i) The proceeds derived from all unclaimed pari-mutuel tickets for each greyhound race meet shall be retained by the licensee under whose license such greyhound race meet was held and, after a period of one year following the end of such race meet, shall revert and belong to such licensee and shall be used by the licensee for capital improvements to the track at which the race meet was held.

(j) The proceeds derived from all unclaimed pari-mutuel tickets for each simulcast race of greyhounds received by an in-state simulcast facility shall be retained by the operator of such simulcast facility and, after a period of one year following such simulcast race, shall revert and belong to such operator; except that, in the case of simulcast races received from an in-state host track, such proceeds shall be paid to the licensee of such in-state host track within sixty days after the end of the race meet from which the simulcast race was broadcast and, after a period of one year following the end of such race meet, shall revert and belong to such licensee and shall be used by the licensee for capital improvements to the track at which the race meet was held.

(2) (a) In the event the federal government or any federal governmental agency imposes a levy on said licensee by a tax on the money so wagered and upon and against its receipts, the licensee may collect, in addition to the percentage and breaks allowed in this section, the amount of the tax so levied.

(b) The tax and breaks and license fee provided for in this article shall be in lieu of all other license fees and privilege taxes or charges by the state of Colorado or any county, city, town, or other municipality or taxing body for the privilege of conducting any race meet provided for in this article and licensed by the authority of this article; except that any county, city, town, or other municipality or taxing body which imposed any fee, tax, or charge prior to July 1, 1982, on the money so wagered, or upon and against the licensee's receipts, or for the privilege of conducting any race meet provided for and licensed by authority of this article shall have the authority to amend, repeal and reenact, or repeal any such fee, tax, or charge and impose a new or different fee or tax on the money so wagered, or upon and against the licensee's receipts, or for the privilege of conducting any race meet provided for and licensed by authority of this article, and no provision of this article shall affect the authority of such county, city, town, or other municipality or taxing body with respect to such fees or taxes unless such



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provision specifically refers to this paragraph (b). Notwithstanding subsection (1) of this section, it is lawful for the licensee to take such fee or tax from the gross receipts on pari-mutuel wagering; and in such cases the licensee shall pay the fee or tax directly to the county, city, town, or other municipality or taxing body.

(3) Unless expressly authorized by this article, no person may act for consideration as an agent or courier for another person for the purpose of placing wagers or cashing or redeeming winning pari-mutuel tickets. In addition to the remedies otherwise provided for violations of this article, the commission may petition any court of competent jurisdiction for an order enjoining a violation of this subsection (3).

**12-60-703. Pari-mutuel pools for race meets and simulcast races.** (1) The pari-mutuel pool for a horse race meet and for simulcast races of such race meet shall be an intrastate common pool; except that, if such simulcast races are received by an out-of-state simulcast facility, the pari-mutuel pool may be an interstate common pool, and, in that case, it shall be operated by the in-state host track conducting such horse race meet.

(2) The pari-mutuel pool for a greyhound race meet and for simulcast races of such race meet shall be an intrastate common pool; except that, if such simulcast races are received by an out-of-state simulcast facility, the pari-mutuel pool may be an interstate common pool, and, in that case, it shall be operated by the in-state host track conducting such greyhound race meet.

(3) An in-state simulcast facility receiving simulcast races from an out-of-state host track may participate either in a pari-mutuel pool into which only the pari-mutuel wagers on such simulcast races which are placed at such in-state simulcast facility are taken or in an interstate common pool. The commission shall permit an operator of an in-state simulcast facility participating in an interstate common pool to adopt the takeout percentage of the out-of-state host track for such interstate common pool, so long as such in-state simulcast facility's takeout does not exceed twenty percent of win, place, and show wagering and twenty-five percent of all other pari-mutuel wagering on such simulcast races.

**12-60-703.5. Limitations on pari-mutuel wagering.** (1) Wagers on pari-mutuel horse or greyhound races conducted in or out of this state may only be placed upon the premises of a racetrack or an in-state simulcast facility licensed by the commission or such out-of-state racetrack or simulcast facility as authorized by the commission. No wagering or betting on the results of any of the races licensed under this article shall be conducted outside a licensed or approved racetrack or simulcast facility.

(2) (a) No person or agent or employee of any person shall place, receive, offer, or agree to place or receive a wager on a parimutuel horse or greyhound race, conducted in or broadcast in this state, by messenger, telephone, telegraph, facsimile machine, or other electronic device; except that this subsection (2) shall not apply to associations or simulcast facilities licensed by the commission. Nothing in this section shall be construed to prohibit gambling as provided in section 18-10-102 (2) (d), C.R.S.

(b) Any person who violates paragraph (a) of this subsection (2) commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

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**12-60-704. Creation of horse breeders' and owners' awards and supplemental purse fund - awards - advisory committee - sunset review.** (1) There is hereby created a fund, to be known as the horse breeders' and owners' awards and supplemental purse fund, referred to in this section as the "fund", which shall consist of moneys deposited thereto by the commission for the purposes of this section, to be held by the state treasurer, which moneys are hereby appropriated to be paid out to owners and breeders of Colorado-bred horses as provided in this section and by rules of the commission. Such rules shall provide for an administrative fee to be paid to the Colorado horse breeder associations for registering and maintaining breeding records for the administration of the fund. Such fees shall not exceed five percent of the total moneys generated by the unclaimed pari-mutuel tickets and such moneys provided by section 12-60-701 (2) (b).

(2) Those moneys derived pursuant to section 12-60-701 (2) (b) shall be paid to the department of revenue through the division for the fund on the fifteenth day of the calendar month immediately following the month in which such sum was received. In addition, the proceeds derived from all unclaimed pari-mutuel tickets for each horse race meet and for each simulcast race of horses received by an in-state simulcast facility shall be paid to the department of revenue through the division for the fund after a period of one year following the end of such race meet.

(3) (a) There is hereby created an advisory committee of nine persons to advise the commission relative to the breeders', owners', and stallion awards and supplemental purses. The committee shall be composed of members of the Colorado horse breeder associations, including one breeder of Arabians, the Colorado fair circuit associations, two members of the betting public, and other Colorado licensed horse racetracks. Committee members shall serve without compensation. Appointments shall be made by the commission, and terms of office shall be for three years, with the initial appointments to be made so that three members shall serve for three years, three members shall serve for two years, and three members shall serve for one year. Vacancies, when occurring, shall be filled by the commission for the remainder of the term of any said vacancy.

(b) Repealed.

(c) After moneys from the fund have been distributed to the respective breeder associations, further distribution shall be governed by the bylaws of such associations. Nothing in this section shall be construed to prohibit the distribution of moneys from the fund to owners and breeders of Colorado-bred horses that are otherwise eligible under the bylaws of such associations and that run in races outside Colorado.

(4) Notwithstanding section 24-30-204, C.R.S., the commission may establish by rule a period for distribution of moneys in the fund which is not consistent with the state's general fiscal-year period.

**12-60-705. Payments to state - disposition.** (1) Except as otherwise provided in sections 12-60-701, 12-60-702 (1), and 12-60-704, all sums referred to in sections 12-60-701, 12-60-702 (1), and 12-60-704, including all sums collected for license fees and fines pursuant to the provisions of this article, shall be paid to the department of revenue through the division

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on the business day following the day of each performance, and the licensee shall make a return as required by rules of the commission.

(2) All moneys collected by the department of revenue through the division shall, on the next business day following the receipt thereof, be transmitted to the state treasurer, who shall credit the same to the general fund of the state or to the horse breeders' and owners' awards and supplemental purse fund as provided in section 12-60-704. The department of revenue shall have all the powers, rights, and duties provided in article 21 of title 39, C.R.S., to carry out such collection.

(3) The general assembly shall annually appropriate from the general fund the necessary costs of administration of the division and the commission which shall be based upon estimates of such costs submitted by the division to the office of state planning and budgeting in accordance with part 3 of article 37 of title 24, C.R.S. It is recognized that the racing and pari-mutuel wagering industry must be administered and funded on an industry-wide basis and that the license and other fees collected from any single aspect of the industry will not necessarily be equal to the costs of the division's or commission's administration of that aspect of the industry. In making its annual appropriation from the general fund for the necessary costs of administration of the division and the commission, the general assembly shall consider the overall costs of the division and commission and not require that any aspect of the division's and commission's activities be self-funded.

(4) Any person who fails to make a return or pay any tax required under this article shall be liable for penalties and interest as follows:

(a) A penalty of the greater of fifteen dollars for each failure to make a return and for each failure to pay a tax when due, or ten percent thereof plus one-half percent per month from the date when due, not exceeding eighteen percent, in the aggregate; and

(b) Interest on any tax due, from the date due, at the rate specified in section 39-21-110.5, C.R.S.

**12-60-706. Agreement of this state.** In the event any county or municipality development revenue bonds are issued in reliance on the provisions of this article, the state of Colorado does hereby covenant and agree with the holders of any such bonds that the state will not limit or alter the rights or powers of the owners of such bonds or to repeal, amend, or otherwise directly or indirectly modify this article or the effect thereof as to the assessments, fees, charges, pledged revenues, or any combination thereof in such a manner as to impair adversely any such outstanding bonds, until all such bonds have been paid and discharged in full or provision for their payment and redemption has been fully made. Such covenant and agreement may be included in any agreement with the holders of such bonds.

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## PART 8

### ENFORCEMENT AND PENALTIES

**12-60-801. Criminal penalties.** (1) Except as provided in section 12-60-601, any person who commits any of the acts enumerated in section 12-60-507 (1) other than those which also constitute crimes under the "Colorado Criminal Code", title 18, C.R.S., commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

(2) Any person who violates any rule of the commission promulgated under the authority granted in this article, other than those which also constitute crimes under the "Colorado Criminal Code", title 18, C.R.S., commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

(3) The penalties set forth in this section are cumulative and do not preclude the imposition of civil or administrative penalties, sanctions, actions against licenses or registrations, or any other penalties otherwise authorized.

**12-60-802. Cancellation of license.** In case of a willful violation of this article by a person holding a license, the commission, upon conviction of the offender, may cancel the offender's license, and such cancellation shall operate as a forfeiture of all rights and privileges granted by the commission and of all sums of money paid to the department of revenue through the division by the offender, and the action of the commission in this respect shall be final.

**12-60-803. Exclusion from licensed premises.** The commission or the division may exclude from any and all licensed premises any person who has been convicted of a felony under the laws of this or any other state or of the United States, subject to the provisions of section 24-5-101, C.R.S. Any person so excluded by the commission or the division has a right to a hearing before the commission as to the basis of such exclusion, subject to the provisions of section 24-4-104, C.R.S. No such person shall enter or remain upon premises owned by any licensee conducting a race meet or operating a simulcast facility under the jurisdiction of the commission, and all such persons, upon discovery or recognition, shall be forthwith excluded or ejected from such premises. Any person so ejected or excluded from the premises of any licensee shall be denied admission to its premises and the premises of all other licensees of the commission until permission for entering has thereafter been obtained from the commission. The commission may also exclude any person from such licensed premises who willfully violates any of the provisions of this article or any rule issued by the commission.

## PART 9

### REVIEW AND TERMINATION PROVISIONS

**12-60-901. Repeal of article - review of functions.** This article is repealed, effective July 1, 1999. Prior to such repeal, the division and its functions shall be reviewed as provided for in section 24-34-104, C.R.S.

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## **Appendix C -Chronology - Racetracks in Colorado**

(Data provided by the Division of Racing Events)

### **1983 – 1998**

#### **1983**

#### Major Horse:

Centennial Racetrack (Littleton) (opened 1949 – closed after 1983 live racing season)

- Rocky Mountain Quarter Racing Association meet @ Centennial: 33 race days
- Centennial Racetrack, Inc. (Thoroughbred) 93 race days
- Centennial Racetrack – Mixed meet 24 race days

#### Fair Circuit:

- Southwestern Equine Assn. (Trinidad) 5 race days
- Gateway Downs (Holly) 10 race days
- Akron Downs (Akron) 7 race days
- Moffat County Raceways (Craig) 7 race days
- Western Slope Race Assn. (Rifle) 7 race days
- Navajo Trails Fiesta (Durango) 6 race days
- Colorado State Fair (Pueblo) 10 race days
- Uranium Downs (Grand Junction) 12 race days

#### Greyhound:

- Interstate Kennel Club (Byers) 75 race days
- Cloverleaf Kennel Club (Loveland) 69 race days
- Pueblo Kennel Assn. (Pueblo) 74 race days
- Mile High Kennel Club (Commerce City) 72 race days
- Rocky Mountain Greyhound Park (Colorado Springs) 72 race days

TOTAL HORSE/FAIR CIRCUIT RACE DAYS: 214 race days  
 TOTAL GREYHOUND RACE DAYS: 362 race days

**1984**

## Major Horse:

- Arapahoe Park (Aurora, Opening Year) - Thoroughbred 77 race days
- Arapahoe Park – Mixed meet 13 race days
- Pikes Peak Meadows (Fountain) 32 race days\*

## Fair Circuit:

- Gateway Downs (Holly) 10 race days
- Uranium Downs (Grand Junction) 12 race days

## Greyhound:

- Interstate Kennel Club (Byers) 71 race days
- Cloverleaf Kennel Club (Loveland) 75 race days
- Pueblo Kennel Assn. (Pueblo) 74 race days
- Mile High Kennel Club (Commerce City) 76 race days
- Rocky Mountain Greyhound Park (Colorado Springs) 68 race days

TOTAL HORSE/FAIR CIRCUIT RACE DAYS: 144 race days

TOTAL GREYHOUND RACE DAYS: 364 race days

\*Authorized to race for 74 days, but ran for 32 days

**1985**

No Major Horse racing due to closures of both Arapahoe Park and Pikes Peak Meadows

## Fair Circuit:

- Gateway Downs (Holly) 10 race days
- Moffat County Raceways (Craig) 6 race days
- Uranium Downs (Grand Junction) 12 race days

## Greyhound:

- Interstate Kennel Club (Byers) 73 race days
- Cloverleaf Kennel Club (Loveland) 75 race days
- Pueblo Kennel Assn. (Pueblo) 73 race days
- Mile High Kennel Club (Commerce City) 74 race days
- Rocky Mountain Greyhound Park (Colorado Springs) 82 race days

TOTAL HORSE/FAIR CIRCUIT RACE DAYS: 28 race days

TOTAL GREYHOUND RACE DAYS: 377 race days

**1986**

No Major Horse racing

Fair Circuit:

- Gateway Downs (Holly) 10 race days
- Columbine Racing Assn. (Rangely) 4 race days
- Uranium Downs (Grand Junction) 12 race days

Greyhound:

- Interstate Kennel Club (Byers) 79 race days
- Cloverleaf Kennel Club (Loveland) 74 race days
- Pueblo Kennel Assn. (Pueblo) 104 race days
- Mile High Kennel Club (Commerce City) 74 race days
- Rocky Mountain Greyhound Park (Colorado Springs) 74 race days

TOTAL HORSE/FAIR CIRCUIT RACE DAYS: 26 race days  
 TOTAL GREYHOUND RACE DAYS: 405 race days

**1987**

No Major Horse racing

Fair Circuit:

- Gateway Downs (Holly) 10 race days
- Columbine Racing Assn. (Rangely) 6 race days
- Uranium Downs (Grand Junction) 12 race days
- Moffat County Raceways (Craig) 6 race days
- Western Slope Race Assn. (Rifle) 3 race days
- Mesa County (Grand Junction) 8 race days
- Colorado Horse Racing Assn. (Adams County) 15 race days

Greyhound:

- Interstate Kennel Club (Byers) 73 race days
- Cloverleaf Kennel Club (Loveland) 74 race days
- Pueblo Kennel Assn. (Pueblo) 45 race days
- Mile High Kennel Club (Commerce City) 74 race days
- Rocky Mountain Greyhound Park (Colorado Springs) 74 race days

TOTAL HORSE/FAIR CIRCUIT RACE DAYS: 60 race days  
 TOTAL GREYHOUND RACE DAYS: 340 race days

**1988**

No Major Horse racing

Fair Circuit:

- Gateway Downs (Holly) 10 race days
- Uranium Downs (Grand Junction) 10 race days
- Columbine Racing Assn. (Rangely) 4 race days
- Navajo Trails Fiesta (Durango) 3 race days
- Rocky Mountain Paint Racing Club (Adams County) 10 race days
- Colorado Horse Racing Assn. (Adams County) 15 race days

Greyhound:

- Interstate Kennel Club (Byers) 75 race days
- Cloverleaf Kennel Club (Loveland) 74 race days
- Pueblo Kennel Assn. (Pueblo) 74 race days
- Mile High Kennel Club (Commerce City) 74 race days
- Rocky Mountain Greyhound Park (Colorado Springs) 74 race days

TOTAL HORSE/FAIR CIRCUIT RACE DAYS: 52 race days

TOTAL GREYHOUND RACE DAYS: 371 race days

**1989**

No Major Horse racing

Fair Circuit:

- Gateway Downs (Holly) 10 race days
- Navajo Trail Fiesta (Durango) 4 race days
- Rocky Mountain Paint Racing Club (Adams County) 15 race days
- Colorado Horse Racing Assn. (Adams County) 13 race days

Greyhound:

- Interstate Kennel Club (Byers) 75 race days
- Cloverleaf Kennel Club (Loveland) 74 race days
- Pueblo Kennel Assn. (Pueblo) 74 race days
- Mile High Kennel Club (Commerce City) 74 race days
- Rocky Mountain Greyhound Park (Colorado Springs) 74 race days

TOTAL HORSE/FAIR CIRCUIT RACE DAYS: 42 race days

TOTAL GREYHOUND RACE DAYS: 371 race days



**1990**

No Major Horse racing

Fair Circuit:

- Gateway Downs (Holly) 10 race days

Greyhound:

- Interstate Kennel Club (Byers) 74 race days
- Cloverleaf Kennel Club (Loveland) 70 race days
- Pueblo Kennel Assn. (Pueblo) 98 race days
- Mile High Kennel Club (Commerce City) 74 race days
- Rocky Mountain Greyhound Park (Colorado Springs) 74 race days

TOTAL HORSE/FAIR CIRCUIT RACE DAYS: 10 race days  
 TOTAL GREYHOUND RACE DAYS: 390 race days

**1991**

No Major Horse (Class B) racing

Fair Circuit (Class A) racing:

- Gateway Downs (Holly) 10 race days

Greyhound:

- Interstate Kennel Club (Byers) 50 race days
- Cloverleaf Kennel Club (Loveland) 74 race days
- Pueblo Kennel Assn. (Pueblo) 76 race days
- Mile High Kennel Club (Commerce City) 74 race days
- Rocky Mountain Greyhound Park (Colorado Springs) 75 race days

TOTAL HORSE/FAIR CIRCUIT RACE DAYS: 10 race days  
 TOTAL GREYHOUND RACE DAYS: 349 race days

**1992**

Major Horse (Class B) racing:

- Arapahoe Park (Aurora) 64 race days
- Arapahoe Park (Simulcast) 180 days
- Pikes Peak Meadows (Simulcast) 93 days

Fair Circuit (Class A) racing:

- Gateway Downs (Holly) 10 race days

Greyhound:

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• Interstate Kennel Assn. @ Mile High Greyhound Park	64 race days
• Cloverleaf Kennel Club (Loveland)	102 race days
• Pueblo Greyhound Park (Pueblo)	150 race days
• Mile High Greyhound Park (Commerce City)	103 race days
• Rocky Mountain Greyhound Park (Colorado Springs)	154 race days
TOTAL HORSE/FAIR CIRCUIT RACE DAYS:	74 race days
TOTAL HORSE SIMULCAST DAYS:	273 days
TOTAL GREYHOUND RACE DAYS:	573 race days

### 1993

#### Major Horse (Class B) racing:

• Arapahoe Park (Aurora)	69 race days
• Pikes Peak Meadows (Fountain)	17 race days

#### Fair Circuit (Class A) racing:

• Gateway Downs (Holly)	10 race days
• Southwestern Equine Assn. (Trinidad)	4 race days

#### Greyhound:

• Interstate Kennel Assn. @ Mile High Greyhound Park	119 race days
• Cloverleaf Kennel Club (Loveland)	102 race days
• Pueblo Greyhound Park (Pueblo)	151 race days
• Mile High Greyhound Park (Commerce City)	103 race days
• Rocky Mountain Greyhound Park (Colorado Springs)	155 race days

TOTAL HORSE/FAIR CIRCUIT RACE DAYS:	100 race days
TOTAL GREYHOUND RACE DAYS:	630 race days

### 1994

#### Major Horse (Class B) racing:

• Arapahoe Park (Aurora)	68 race days
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#### Fair Circuit (Class A) racing:

• Gateway Downs (Holly)	6 race days
• Round-Up Downs (Southwestern Equine Assn. -Trinidad)	4 race days

## Greyhound:

- |   |               |
|---|---------------|
| • Interstate Kennel Club @ Mile High Greyhound Park | 102 race days |
| • Cloverleaf Kennel Club (Loveland)                 | 101 race days |
| • Pueblo Kennel Assn. (Pueblo)                      | 153 race days |
| • Mile High Greyhound Park (Commerce City)          | 102 race days |
| • Rocky Mountain Greyhound Park (Colorado Springs)  | 154 race days |

TOTAL HORSE/FAIR CIRCUIT RACE DAYS:	78 race days
TOTAL GREYHOUND RACE DAYS:	612 race days

**1995**

The Division discontinued giving information on individual race meets. The information indicated below is approximate and subject to error. The number of race days shown is the approved race days for each track, not necessarily the number of days actually run.

## Major Horse (Class B) racing:

- |                          |              |
|--------------------------|--------------|
| • Arapahoe Park (Aurora) | 60 race days |
|--------------------------|--------------|

## Fair Circuit (Class A) racing:

- |  |             |
|--|-------------|
| • Gateway Downs (Holly)                | 4 race days |
| • Southwestern Equine Assn. (Trinidad) | 4 race days |

(Also, there were approximately 200 days of simulcasting.)

## Greyhound (Envelopes of race days):

- |   |               |
|---|---------------|
| • Interstate Kennel Club @ Mile High Greyhound Park | 102 race days |
| • Cloverleaf Kennel Club (Loveland)                 | 103 race days |
| • Pueblo Kennel Assn. (Pueblo)                      | 150 race days |
| • Mile High Greyhound Park (Commerce City)          | 102 race days |
| • Rocky Mountain Greyhound Park (Colorado Springs)  | 152 race days |

TOTAL HORSE/FAIR CIRCUIT RACE DAYS:	68 race days (approx.)
TOTAL HORSE SIMULCAST DAYS:	200 days (approx.)
TOTAL GREYHOUND RACE DAYS:	609 race days (approx.)

**1996**

The Division discontinued giving information on individual race meets. The information indicated below is approximate and subject to error. The number of race days shown is the approved race days for each track, not necessarily the number of days actually run.

Major Horse (Class B) racing:

- Arapahoe Park (Aurora) 30 race days

Fair Circuit (Class A) racing:

- Southwestern Equine Assn. -Trinidad) 4 race days

(Also, there were approximately 200 days of simulcasting.)

Greyhound (Envelopes of race days):

- Interstate Kennel Club @ Mile High Greyhound Park 120 race days
- Cloverleaf Kennel Club (Loveland) 120 race days
- Pueblo Kennel Assn. (Pueblo) 180 race days
- Mile High Greyhound Park (Commerce City) 120 race days
- Rocky Mountain Greyhound Park (Colorado Springs) 180 race days

TOTAL HORSE/FAIR CIRCUIT RACE DAYS:	34 race days (approx.)
TOTAL HORSE SIMULCAST DAYS:	200 days (approx.)
TOTAL GREYHOUND RACE DAYS:	720 race days (approx)

**1997**

The Division discontinued giving information on individual race meets. The information indicated below is approximate and subject to error. The number of race days shown is the approved race days for each track, not necessarily the number of days actually run.

Major Horse (Class B) racing:

- Arapahoe Park (Aurora) 38 race days

No Fair Circuit (Class A) racing

(Also, there were approximately 200 days of simulcasting.)

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Greyhound (Envelopes of race days):

- |   |               |
|---|---------------|
| • Interstate Kennel Club @ Mile High Greyhound Park | 120 race days |
| • Cloverleaf Kennel Club (Loveland)                 | 120 race days |
| • Pueblo Kennel Assn. (Pueblo)                      | 180 race days |
| • Mile High Greyhound Park (Commerce City)          | 120 race days |
| • Rocky Mountain Greyhound Park (Colorado Springs)  | 180 race days |

TOTAL HORSE/FAIR CIRCUIT RACE DAYS:	38 race days
TOTAL HORSE SIMULCAST DAYS:	222 days (approx.)
TOTAL GREYHOUND RACE DAYS:	600 race days (actual)

**1998**

The Division discontinued giving information on individual race meets. The information indicated below is approximate and subject to error. The number of race days shown is the approved race days for each track, not necessarily the number of days actually run

Major Horse (Class B) racing:

- |                          |              |
|--------------------------|--------------|
| • Arapahoe Park (Aurora) | 38 race days |
|--------------------------|--------------|

No Fair Circuit (Class A) racing

(Also, there were approximately 200 days of simulcasting.)

Greyhound (Envelopes of race days):

- |   |               |
|---|---------------|
| • Interstate Kennel Club @ Mile High Greyhound Park | 120 race days |
| • Cloverleaf Kennel Club (Loveland)                 | 120 race days |
| • Pueblo Kennel Assn. (Pueblo)                      | 180 race days |
| • Mile High Greyhound Park (Commerce City)          | 120 race days |
| • Rocky Mountain Greyhound Park (Colorado Springs)  | 180 race days |

TOTAL HORSE/FAIR CIRCUIT RACE DAYS:	38 race days
TOTAL HORSE SIMULCAST DAYS:	200 days (approx.)
TOTAL GREYHOUND RACE DAYS:	720 race days