

**ACT 114 of 2016  
CHAPTER 93  
RACE HORSE INDUSTRY REFORM**

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**ACT 114 of 2016**

**CHAPTER 93  
RACE HORSE INDUSTRY REFORM**

**Subchapter**

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**SUBCHAPTER A  
PRELIMINARY PROVISIONS**

**Sec.**

**9301. Definitions.**

**§ 9301. Definitions.**

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Account." An account for account wagering with a specific identifiable record of deposits, wagers and withdrawals established by an account holder and managed by the licensed racing entity or secondary pari-mutuel organization.

"Account holder." An individual who successfully completed an application and for whom the licensed racing entity or secondary pari-mutuel organization has opened an account.

"Advance deposit account wagering system." A system by which wagers are debited and payouts are credited to an advance deposit account held by a licensed racing entity or secondary pari-mutuel organization on behalf of a person.

"Applicant." A person who, on his own behalf or on behalf of another, is applying for permission to engage in an act or activity which is regulated under the provisions of this chapter. If the applicant is a person other than an individual, the commission shall determine the associated persons whose qualifications are necessary as a precondition to the licensing of the applicant.

"Backside area." An area of the racetrack enclosure that is not generally accessible to the public and which includes, but is not limited to, a facility commonly referred to as a barn, paddock enclosure, track kitchen, recreation hall, backside employee quarters and training track and roadways providing access to the area. The term does not include an area of the racetrack enclosure which is generally accessible to the public, including the various buildings commonly referred to as the grandstand or the racing surface and walking ring.

"Breakage." The odd cents of redistributions to be made on contributions to pari-mutuel pools exceeding a sum equal to the next lowest multiple of 10.

"Clean letter of credit." A letter of credit which is available to the beneficiary against presentation of only a draft or receipt.

"Commission." The State Horse Racing Commission.

"Commissioner." An individual appointed to and sworn in as a member of the commission in accordance with section 9311(b) (relating to State Horse Racing Commission).

"Conviction." A finding of guilt or a plea of guilty or nolo contendere, whether or not a

judgment of sentence has been imposed as determined by the law of the jurisdiction in which the prosecution was held. The term does not include a conviction that has been expunged or overturned or for which an individual has been pardoned or an order of accelerated rehabilitative disposition.

"Electronic wagering." A method of placing or transmitting a legal wager by an individual in this Commonwealth through telephone, electromechanical, computerized system or any other form of electronic media approved by the commission and accepted by a secondary pari-mutuel organization or a licensed racing entity or the licensed racing entity's approved off-track betting system located in this Commonwealth.

"Evergreen clause." A term in a letter of credit providing for automatic renewal of the letter of credit.

"Ex parte communication." An off-the-record communication engaged in or received by a commissioner of the commission regarding the merits of, or any fact in issue relating to, a pending matter before the commission or which may reasonably be expected to come before the commission in a contested on-the-record proceeding. The term shall not include:

(1) An off-the-record communication by a commissioner, the Department of Revenue, Pennsylvania State Police, Attorney General or other law enforcement official, prior to the beginning of the proceeding solely for the purpose of seeking clarification or correction to evidentiary materials intended for use in the proceedings.

(2) A communication between the commission or a commissioner and legal counsel.

"Felony." An offense under the laws of this Commonwealth or the laws of another jurisdiction, punishable by imprisonment for more than five years.

"Financial interest." An ownership, property, leasehold or other beneficial interest in an entity. The term shall not include an interest which is held or deemed to be held in any of the following:

(1) Securities that are held in a pension plan, profit-sharing plan, individual retirement account, tax-sheltered annuity, a plan established under section 457 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 457), or any successor provision, deferred compensation plan whether qualified or not qualified under the Internal Revenue Code of 1986, or any successor provision or other retirement plan that:

(i) Is not self-directed by the individual.

(ii) Is advised by an independent investment adviser who has sole authority to make investment decisions with respect to contributions made by the individual to these plans.

(2) A tuition account plan organized and operated under section 529 of the Internal Revenue Code of 1986 that is not self-directed by the individual.

(3) A mutual fund where the interest owned by the mutual fund in a licensed racing entity does not constitute a controlling interest as defined in 4 Pa.C.S. § 1103 (relating to definitions).

"Horse race meeting." A specified period and dates each year during which a licensed racing entity is authorized to conduct live racing or pari-mutuel wagering as approved by the commission.

"Horse racing." Standardbred horse racing and thoroughbred horse racing.

"Horsemen's organization." A trade association which represents the majority of owners and trainers who own and race horses at a racetrack.

"Immediate family." A spouse, parent, brother, sister or child.

"Irrevocable clean letter of credit." A clean letter of credit which cannot be canceled or amended unless there is an agreement to cancel or amend among all parties to the letter of credit.

"Land mile." A unit of distance equal to 1,609.3 meters or 5,280 feet, as measured in a straight line.

"Licensed racing entity." Any person that has obtained a license to conduct live

thoroughbred or harness horse race meetings respectively with pari-mutuel wagering from the commission.

"Licensee." The holder of a license issued under this chapter.

"Nominal change in ownership." The sale, pledge, encumbrance, execution of an option agreement or other transfer of less than 5% of the equity securities or other ownership interest of a person whose percentage ownership does not affect the decisions of the licensed racing entity.

"Nonprimary location." Any facility in which pari-mutuel wagering is conducted by a licensed racing entity under this chapter other than the racetrack where live racing is conducted.

"Ownership interest." Owning or holding, or being deemed to hold, debt or equity securities or other ownership interest or profit interest.

"Pari-mutuel wagering." A form of wagering, including manual, electronic, computerized and other forms as approved by the commission, on the outcome of a horse racing event in which all wagers are pooled and held by a licensed racing entity or secondary pari-mutuel organization for distribution of the total amount, less the deductions authorized by law, to holders of winning tickets.

"Person." Any natural person, corporation, foundation, organization, business trust, estate, limited liability company, license corporation, trust, partnership, limited liability partnership, association or any other form of legal business entity.

"Primary market area of a racetrack." The land area included in a circle drawn with the racetrack as the center and a radius of 35 land miles.

"Principal." Any of the following individuals associated with a partnership, trust association, limited liability company or corporation:

- (1) The chairman and each member of the board of directors of a corporation.
- (2) Each partner of a partnership and each participating member of a limited liability company.

- (3) Each trustee and trust beneficiary of an association.

- (4) The president or chief executive officer and each other officer, manager and employee who has policy-making or fiduciary responsibility within the organization.

- (5) Each stockholder or other individual who owns, holds or controls, either directly or indirectly, 5% or more of stock or financial interest in the collective organization.

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

"Racetrack." The physical facility where a licensed racing entity conducts thoroughbred or standardbred horse race meetings respectively with pari-mutuel wagering.

"Racetrack enclosure." For purposes of this chapter, the term "racetrack enclosure," with respect to each licensed racing entity, shall be deemed to include at least one primary racetrack location at which horse race meetings authorized to be held by the licensed racing entities are conducted, including the grandstand, frontside and backside facilities and all primary, nonprimary, contiguous and noncontiguous locations of the licensed racing entity which are specifically approved by the commission for conducting the pari-mutuel system of wagering on the results of horse racing held at such meetings or race meetings conducted by another licensed racing entity or transmitted to such locations by simulcasting.

"Racing vendor." A person who provides goods or services to a licensed racing entity directly related to racing or the racing product, as determined by the commission.

"Secondary market area of a racetrack." The land area included in a circle drawn with the racetrack as the center and a radius of 50 land miles, not including the primary market area of the racetrack.

"Secondary pari-mutuel organization." A licensed entity, other than a licensed racing entity, that offers and accepts pari-mutuel wagers. A person or entity that provides to a licensed racing entity hardware, software, equipment, content or services used to manage,

conduct, operate or record pari-mutuel wagering activity by or from residents of this Commonwealth shall not be deemed to be a secondary pari-mutuel organization solely by virtue of the provision of the assets or services.

"Simulcast." Live video and audio transmission of a race and pari-mutuel information for the purpose of pari-mutuel wagering at locations other than the racetrack where the race is run.

"Standardbred horse racing" or "harness racing." A form of horse racing in which the horses participating are attached "in harness" to a sulky or other similar vehicle, at a specific gait, either a trot or pace.

"Substantial change in ownership." The sale, pledge, encumbrance, execution of an option agreement or another transfer of 5% or more of the equity securities or other ownership interest of a person whose percentage ownership affects the decisions of the licensed racing entity.

"Thoroughbred horse racing." The form of horse racing in which each participating horse is mounted by a jockey, is duly registered with The Jockey Club of New York and engages in horse racing on the flat, which may include a steeplechase or hurdle race.

"Totalisator." A computer system used to pool wagers, record sales, calculate payoffs and display wagering data on a display device that is located at a pari-mutuel facility or nonprimary location.

**SUBCHAPTER B  
RACING OVERSIGHT**

**Sec.**

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**§ 9311. State Horse Racing Commission.**

(a) Establishment.--The State Horse Racing Commission is established as a commission within the Department of Agriculture to independently regulate the operations of horse racing, the conduct of pari-mutuel wagering and the promotion and marketing of horse racing in this Commonwealth in accordance with this chapter.

(b) Membership.--The commission shall consist of the following members:

(1) Four members appointed by the Governor as follows:

(i) One individual representing the thoroughbred horsemen's organizations in this Commonwealth, selected from a list of at least 10 qualified individuals submitted by the thoroughbred horsemen's organizations.

(ii) One individual representing a thoroughbred breeder organization in this Commonwealth, selected from a list of at least 10 qualified individuals submitted

by a thoroughbred breeder organization.

(iii) One individual representing the standardbred horsemen's organizations in this Commonwealth, selected from a list of at least 10 qualified individuals submitted by the standardbred horsemen's organizations.

(iv) One individual representing a standardbred breeder organization in this Commonwealth, selected from a list of at least 10 qualified individuals submitted by a standardbred breeder organization.

(2) One member appointed by each of the following, none of whom shall be a member of a horsemen's organization or breeder organization:

(i) The President pro tempore of the Senate.

(ii) The Minority Leader of the Senate.

(iii) The Speaker of the House of Representatives.

(iv) The Minority Leader of the House of Representatives.

(3) The Secretary of Agriculture or the secretary's designee, who shall be a nonvoting ex officio member.

(4) One individual who is a licensed doctor of veterinary medicine in this Commonwealth, who shall not be a member of a horsemen's organization or a breeder organization, appointed by the Governor.

(5) Each appointing authority shall make its appointments within 30 days of the effective date of this section. Appointments to fill a vacancy shall be made within 10 days of the creation of the vacancy. An appointment shall not be final until receipt by the appointing authority of a background investigation of the appointee by the Pennsylvania State Police, which shall be completed within 30 days of the appointment. A person who has been convicted in a domestic or foreign jurisdiction of a felony, infamous crime, gambling offense or an offense related to fixing horse races or animal cruelty may not be appointed to the commission.

(6) The following shall apply to appointees, commissioners, employees and independent contractors:

(i) Each commissioner at the time of appointment must be at least 25 years of age and must have been a resident of this Commonwealth for a period of at least one year immediately preceding appointment. Each commissioner must remain a resident of this Commonwealth during the term of membership on the commission.

(ii) Except for the commissioner appointed under paragraph (3), a person may not be appointed a commissioner if the person is a public official or party officer as defined in 4 Pa.C.S. § 1512 (relating to financial and employment interests) in this Commonwealth or any of its political subdivisions.

(iii) Each commissioner, employee and independent contractor of the commission must sign an agreement not to disclose confidential information.

(iv) Except for a commissioner appointed under paragraph (1), a commissioner, employee or independent contractor of the commission or other agency having regulatory authority over horse racing under this chapter may not be employed, hold an office or position or be engaged in an activity which is incompatible with the position, employment or contract.

(v) A commissioner may not be paid or receive a fee or other compensation for any activity related to the duties or authority of the commission other than compensation and expenses provided by law.

(vi) A commissioner, employee or independent contractor of the commission may not participate in a hearing, proceeding or other matter in which the member, employee or independent contractor, or the immediate family thereof, has a financial interest in the subject matter of the hearing or proceeding or other interest that could be substantially affected by the outcome of the hearing or proceeding without first fully disclosing the nature of the interest to the commission and other persons participating in the hearing or proceeding. The

commission shall determine if the interest is a disqualifying interest that requires the disqualification or nonparticipation of a commissioner, an employee or independent contractor.

(vii) At the time of appointment and annually thereafter, each commissioner shall disclose the existence of any financial interest in any applicant or licensed racing entity and in an affiliate, intermediary, subsidiary or holding company thereof held by the commissioner or known to be held by a commissioner's immediate family. The disclosure statement shall be filed with each director established under subsection (d)(2) and with the appointing authority for such commissioner and shall be open to inspection by the public at the office of the commission during the normal business hours of the commission and posted on the commission's Internet website for the duration of a commissioner's term and for two years after a commissioner leaves office.

(viii) (Reserved).

(ix) A commissioner, employee or bureau director of the commission may not directly or indirectly solicit, request, suggest or recommend to any applicant, licensed racing entity or an affiliate, intermediary, subsidiary or holding company thereof or to an employee or agent thereof, the appointment or employment of any person in any capacity by the applicant, licensed racing entity or an affiliate, intermediary, subsidiary or holding company thereof during the term of office or employment with the commission.

(x) Except for a commissioner appointed under paragraph (1), a commissioner may not accept employment with an applicant for a horse racing license, a licensed racing entity, or an affiliate, intermediary, subsidiary or holding company thereof, for a period of two years from the termination of the term of office.

(xi) A former commissioner may not appear before the commission in any hearing or proceeding or participate in any other activity on behalf of any applicant for a horse racing license, a licensed racing entity, or an affiliate, intermediary, subsidiary or holding company of an applicant or licensed racing entity for a period of two years from the termination of term of office.

(xii) A commissioner or employee of the commission may not accept a complimentary service, place a wager or be paid any prize from any wager on a horse race at a racetrack or nonprimary location within this Commonwealth or at any other racetrack or nonprimary location outside this Commonwealth which is owned or operated by a licensed racing entity or any of its affiliates, intermediaries, subsidiaries or holding companies for the duration of the commissioner's or employee's term of office or employment. Nothing in this section shall be construed to prohibit a commissioner appointed under paragraph (1) from being awarded a purse or breeders' award for the commissioner's participation in horse racing.

(xiii) A commissioner who has been convicted during his term of office in a domestic or foreign jurisdiction of a felony, infamous crime, offense related to fixing or rigging horse races or gambling offense shall, upon conviction, be automatically removed from the commission and shall be ineligible to become a commissioner in the future.

(xiv) The following shall apply to an employee of the commission, who is not subject to a collective bargaining agreement, whose duties substantially involve licensing, enforcement, development of law, promulgation of regulations or development of policy relating to horse racing under this chapter or who has other discretionary authority which may affect or influence the outcome of an action, proceeding or decision under this chapter, including the director of a bureau:

(A) The individual may not, for a period of two years following

termination of employment, accept employment with or be retained by an applicant for a horse racing license or a licensed racing entity or by an affiliate, intermediary, subsidiary or holding company of an applicant or a licensed racing entity.

(B) The individual may not, for a period of two years following termination of employment, appear before the commission in a hearing or proceeding or participate in activity on behalf of any applicant, licensee or licensed racing entity or on behalf of an affiliate, intermediary, subsidiary or holding company of any applicant, licensee or licensed racing entity.

(C) This subparagraph shall not apply to an employee subject to the jurisdiction of the Pennsylvania Supreme Court under section 10(c) of Article V of the Constitution of Pennsylvania.

(xv) Nothing under subparagraph (xiv) shall prevent a current or former employee of the commission from appearing before the commission in a hearing or proceeding as a witness or testifying as to a fact or information.

(xvi) The State Ethics Commission shall issue a written determination of whether a person is subject to subparagraph (xiv) upon the written request of the person or the person's employer or potential employer. A person that relies in good faith on a determination issued under this paragraph shall not be subject to any penalty for an action taken, if all material facts set forth in the request for the determination are correct.

(xvii) The State Ethics Commission shall publish a list of all employment positions within the commission whose duties would subject the individuals in those positions to the provisions of subparagraph (xiv). The commission shall assist the State Ethics Commission in the development of the list, which shall be published by the State Ethics Commission in the Pennsylvania Bulletin biennially and posted by the commission on the commission's Internet website. Upon request, employees of the commission shall have a duty to provide the State Ethics Commission with adequate information to accurately develop and maintain the list. The State Ethics Commission may impose a civil penalty under 65 Pa.C.S. § 1109(f) (relating to penalties) upon an individual who fails to cooperate with the State Ethics Commission under this subparagraph. An individual who relies in good faith on the list published by the State Ethics Commission shall not be subject to any penalty for a violation of subparagraph (xiv).

(xviii) A commissioner may not solicit, request, suggest or recommend the employment by the commission of an immediate family member.

(xix) If a commissioner violates any provision of this section, the appointing authority may remove the person from the commission. A commissioner removed under this paragraph shall, for a period of five years following removal, be prohibited from future appointment to the commission and shall be prohibited from applying for a license or other authorization under this chapter and from becoming an independent contractor with the commission.

(xx) Except for a commissioner appointed under paragraph (1), a commissioner or employee of the commission may not directly or indirectly have an ownership interest in a race horse which is entered in a horse race meeting in this Commonwealth.

(7) A commissioner shall not be personally liable for any of the following:

(i) Obligations of the commission.

(ii) Actions which were within the scope of their office and made in good faith.

(b.1) Initial appointments to commission.--

(1) Appointees initially appointed under subsection (b) shall serve an initial term of two years and until their successors are appointed and qualified.

(2) An appointment to fill a vacancy created by a commissioner appointed in

accordance with paragraph (1) shall be for the remainder of the unexpired term.

(b.2) Terms of office.--Upon the expiration of a term of a commissioner appointed under subsections (b) and (b.1), the following shall apply:

(1) The term of office of a gubernatorial appointee shall be three years and until a successor is appointed and qualified.

(2) The term of office of a legislative appointee shall be two years and until a successor is appointed and qualified.

(3) A legislative appointee shall serve no more than three full consecutive terms.

(4) A gubernatorial appointee shall serve no more than two full consecutive terms.

(5) An appointment to fill a vacancy shall be for the remainder of the unexpired term.

(6) A commissioner appointed to fill a vacancy under paragraph (3) may serve three full terms following the expiration of the term related to the vacancy.

(7) A commissioner appointed to fill a vacancy under paragraph (4) may serve two full terms following the expiration of the term related to the vacancy.

(c) Chairperson.--The governor shall appoint the chairperson of the commission.

(c.1) Compensation.--Commissioners shall be reimbursed for documented expenses incurred in the performance of their official duties and, except for commissioners appointed under subsection (b)(3), commissioners shall be paid \$150 per diem.

(c.2) Meetings.--The commission shall meet at least once a month and at other times as the commission chairperson deems necessary. Public notice of the time and place of meetings of the commission shall be given in accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings).

(d) Office of Horse Racing.--There is established within the commission an Office of Horse Racing.

(1) The office shall be comprised of the following:

(i) The Bureau of Thoroughbred Horse Racing shall have oversight over the conduct of thoroughbred horse racing in this Commonwealth.

(ii) The Bureau of Standardbred Horse Racing shall have oversight over the conduct of standardbred horse racing in this Commonwealth.

(2) There shall be a Director of the Bureau of Thoroughbred Horse Racing and a director of the Bureau of Standardbred Horse Racing to serve and report to the commission. The director of each bureau shall not be supervised by the Department of Agriculture. The commission shall assign the directors duties and responsibilities as required to fulfill the commission's obligations under this chapter or any other act. The commission may, by order, delegate duties and responsibilities to the bureau director as the commission determines necessary to discharge the day-to-day licensing, enforcement and administrative operations of the commission. The director of each bureau established in this section must meet all of the following requirements:

(i) Has either:

(A) been certified as a racing official; or

(B) has at least five years' experience in the management of a licensed racing entity or equivalent racing experience.

(ii) Any other criteria established by the commission.

(3) Each bureau established under this subsection shall have the following powers and duties:

(i) Evaluate and review all applicants and applications for a thoroughbred horse racing or standardbred horse racing license. A bureau under this section shall be prohibited from disclosing any portion of an evaluation to a commissioner prior to the decision relating to the applicant's suitability for licensure by the commission.

(ii) Inspect and monitor licensees and other persons regulated under this chapter for noncriminal violations, including potential violations referred to either

bureau by the commission or other person.

(iii) Monitor horse racing operations to ensure compliance with this chapter.

(iv) Inspect and examine licensed racing entities and racetrack facilities.

(A) Inspections may include the review and reproduction of any document or record.

(B) Examinations may include the review of accounting, administrative and financial records, management control systems, procedures and other records.

(v) Refer possible criminal violation to law enforcement.

(vi) Cooperate in the investigation and prosecution of any criminal violation.

(vii) Issue administrative subpoenas to effectuate an inspection and review under this paragraph, administer oaths and take testimony as necessary for the administration of this chapter.

(e) Jurisdiction.--The commission shall have jurisdiction and regulatory authority over the following:

(1) Pari-mutuel wagering and other horse racing activities in this Commonwealth.

(2) A licensed person engaged in pari-mutuel horse racing activities.

(3) Out-of-competition drug testing, which shall include the random drug testing of any horse entered in a race, notwithstanding the physical location of the horse, stabled on the grounds or shipped into a licensed racing entity's facility.

(4) The conduct of horse racing in this Commonwealth.

(f) Voting.--

(1) Except as otherwise provided in this subsection, actions of the commission shall be subject to a simple majority vote of the commission.

(2) A qualified majority vote consisting of the two commissioners appointed under subsection (b)(1)(i) and (ii) and as many votes of the remaining voting commissioners as necessary to constitute a majority of those commissioners voting shall be required to:

(i) Approve, issue, deny or condition a license to conduct thoroughbred horse race meetings under section 9318 (relating to licenses for horse race meetings).

(ii) Adopt regulations governing thoroughbred horse race meetings under this section.

(iii) Employ a director of the Bureau of Thoroughbred Horse Racing under subsection (d)(2).

(3) A qualified majority vote consisting of the two commissioners appointed under subsection (b)(1)(iii) and (iv) and as many votes of the remaining voting commissioners as necessary to constitute a majority of those commissioners voting shall be required to:

(i) Approve, issue, deny or condition a license to conduct standardbred horse race meetings under section 9318.

(ii) Adopt rules and regulations governing standardbred horse race meetings under this section.

(iii) Employ a director of the Bureau of Standardbred Horse Racing under subsection (d)(2).

(4) Commissioners appointed under subsection (b)(1)(i) and (ii) shall be disqualified and must abstain from voting on any matter under paragraph (3).

(5) Commissioners appointed under subsection (b)(1)(iii) and (iv) shall be disqualified and must abstain from voting on any matter under paragraph (2).

(6) If one or more appointees under subsection (b)(1) is not participating in voting on any matter upon which they are otherwise eligible to vote under paragraph (2) or (3), the qualified majority shall consist of the remaining appointee under the respective subparagraph of subsection (b)(1) pursuant to which the nonparticipating commissioner has been appointed, if any, and as many commissioners as necessary to

constitute a majority of those commissioners voting.

(g) Records.--The commission shall maintain at its office the following:

(1) All documents, digital or nondigital, provided to or filed with the commission relating to the regulation of horse racing and pari-mutuel wagering under this chapter. The commission may accept digital signatures on documents provided or filed and documents may be designated as confidential in accordance with commission policy.

(2) A docket setting forth the names of all stockholders in a licensed racing entity. The docket shall be available for public inspection during normal business hours of the commission.

(3) The number of shares held by each stockholder.

(4) A complete record of proceedings of the commission relating to horse racing and pari-mutuel wagering.

(h) Rules and regulations.--The following shall apply:

(1) All rules and regulations promulgated under the former act of December 11, 1967 (P.L.707, No.331), referred to as the Pennsylvania Thoroughbred Horse Racing Law, or the former act of December 22, 1959 (P.L.1978, No.728), referred to as the Pennsylvania Harness Racing Law, shall remain in effect except to the extent that they are in direct conflict with this chapter. The commission may adopt, amend, revise or alter the rules and regulations as the commission deems necessary.

(2) The commission shall promulgate rules and regulations necessary for the administration and enforcement of this chapter. Except as provided in this paragraph and paragraph (3), regulations shall be promulgated in accordance with law.

(3) In order to facilitate the prompt implementation of this chapter, regulations promulgated by the commission shall be deemed temporary regulations which shall not expire for a period of three years following publication. Temporary regulations shall not be subject to:

(i) Sections 201, 202, 203, 204 and 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(ii) Sections 204(b) and 301(10) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

(iii) The act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(4) The commission's authority to promulgate temporary regulations under paragraph (3) shall expire three years after the effective date of this section.

Regulations adopted after this period shall be promulgated as provided by law.

(i) Application.--The commission shall develop an application for applicants seeking a license to conduct horse racing under this chapter.

(j) Licenses.--Each license to conduct horse racing or any other activity under this chapter issued prior to January 1, 2017, shall remain in effect for the remainder of the term for which the license was issued unless revoked or suspended. Beginning January 1, 2017, a license shall be renewed or a new license shall be issued in accordance with this chapter.

(k) Report of commission.--Twelve months after the effective date of this section and every year on that date thereafter, the commission, through the Department of Agriculture, shall issue a report to the Governor and each member of the General Assembly on the general operation of the commission and each licensee's performance, including number and win per race and total gross revenue at each facility of a licensed racing entity during the previous year, all taxes, fees, fines and other revenues collected and, where appropriate, disbursed, the costs of operation of the commission, all hearings conducted and the results of the hearings and other information that the commission deems necessary and appropriate. Notwithstanding any other reporting requirements in 4 Pa.C.S. § 1211 (relating to reports of board), the Pennsylvania Gaming Control Board and the Department of Agriculture must jointly submit the report under this subsection relating to racing on an annual basis.

(l) Record of proceedings.--The commission shall cause to be made and kept a record

of all proceedings held at public meetings of the commission. A verbatim transcript of those proceedings shall be prepared by the commission upon the request of any person and the payment by that person of the costs of preparation.

(m) Public records.--The commission shall annually post on its Internet website a list of all the itemized expenses of employees and commissioners that were or are to be reimbursed from the State Racing Fund. The list shall identify the nature of the expense, the employee, member or the agency and employee of the agency to which an expense is attributable. By October 1 of each year, a final report of all expenses described in this subsection for the preceding fiscal year shall be posted on the commission's Internet website and shall be submitted to the Appropriations Committee of the Senate, the Agriculture and Rural Affairs Committee of the Senate, the Appropriations Committee of the House of Representatives and the Agriculture and Rural Affairs Committee of the House of Representatives. Information posted on the Internet website under this subsection shall be financial records for the purposes of and subject to redaction under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(n) Reimbursement.--The Department of Agriculture's provision of shared administrative services, shared staff and shared facilities to the commission must be reimbursed from the State Racing Fund and shall be limited to actual costs of providing the services, staff and facilities, including salaries, benefits and expenses of employees providing the shared administrative services. The Department of Agriculture must retain records regarding administrative shared services provided to the commission by a Department of Agriculture's employee.

### **§ 9312. Additional powers of commission.**

The commission shall regulate horse racing at which pari-mutuel wagering is conducted and approve the number of racing days allocated to each licensed racing entity. In addition to any other powers of the commission:

(1) The commission shall promulgate regulations regarding medication rules as required under Subch. E (relating to medication rules and enforcement provisions).

(2) The following shall apply:

(i) The commission shall require an applicant under this chapter to submit to fingerprinting for a report of Federal criminal history record information.

(ii) The applicant must submit a full set of fingerprints to the Pennsylvania State Police or the Pennsylvania State Police's authorized agent for the purpose of a record check. The Pennsylvania State Police or the Pennsylvania State Police's authorized agent must then submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions.

(iii) The commission shall consider information obtained under this paragraph for the purpose of screening applicants for fitness for licensure in accordance with the provisions of this chapter.

(iv) National criminal history record information received by the commission shall be handled and maintained in accordance with Federal Bureau of Investigation policy.

(v) Fingerprints obtained under this paragraph may be maintained by the commission and Pennsylvania State Police to enforce this chapter and for general law enforcement purposes.

(vi) In addition to any other fee or cost assessed by the commission, an applicant must pay for the cost of the fingerprint process.

(vii) The commission may exempt applicants for positions not related to the care or training of horses, racing, wagering, security or the management of a licensed racing entity, from the provisions of this chapter.

(3) Within 90 days of the effective date of this section, the commission must

adopt and publish a comprehensive fee schedule in the Pennsylvania Bulletin. Two years following the effective date of this section, the commission may adopt regulations to annually increase any fee, charge or cost authorized under this chapter.

(4) The commission or designated employee of the commission shall have the power to administer oaths and examine witnesses and may issue subpoenas to compel attendance of witnesses and production of all relevant and material reports, books, papers, documents, correspondence and other evidence related to regulation and enforcement of horse racing under this chapter.

(5) The commission's consideration and resolution of all license or other regulatory administrative actions shall be conducted in accordance with 2 Pa.C.S. (relating to administrative law and procedure) or with procedures adopted by order of the commission. Notwithstanding 2 Pa.C.S. §§ 504 (relating to hearing and record) and 505 (relating to evidence and cross-examination), the commission may adopt procedures to provide parties before it with a documentary hearing and may resolve disputed material facts without conducting an oral hearing where constitutionally permissible.

(6) The commission may adopt national standards from other racing jurisdictions or commission-approved trade organizations to establish:

- (i) uniform drug threshold levels;
- (ii) consistent sanctions for drug testing violations; and
- (iii) a system to monitor advanced deposit wagering and online pari-mutuel wagering company activities.

(7) The commission may issue grants from the annual appropriations to race horse rescue and rehabilitation programs operating within this Commonwealth.

(8) The commission shall direct and oversee that each licensed racing entity's racetrack surface is maintained in such a way as to maximize the safety of the horse, jockey or driver. The commission may develop guidelines to carry out this paragraph and may contract with, hire or otherwise consult with racetrack surface experts to carry out the provisions of this section.

(9) The State Horse Racing Commission shall have jurisdiction over and shall promulgate regulations as necessary for the proper administration of all racing conducted by a county agricultural society or an independent agricultural society as provided in the act of July 8, 1986 (P.L.437, No.92), known as the Pennsylvania Agricultural Fair Act.

### **§ 9313. Budget.**

Beginning July 1, 2016, the commission and the Department of Agriculture shall annually submit a budget request to the Secretary of the Budget in accordance with the provisions contained in section 610 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, consisting of amounts to be appropriated from the State Racing Fund, the Pennsylvania Race Horse Development Fund and the General Fund to administer and enforce this chapter and for the promotion of horse racing. Beginning July 1, 2016, and annually thereafter, 1% of the previous fiscal year's deposits into the Pennsylvania Race Horse Development Fund shall be transferred from the Pennsylvania Race Horse Development Fund to the State Racing Fund to provide for the promotion of horse racing.

### **§ 9314. Location.**

After January 1, 2017, a licensed racing entity shall conduct a horse race meeting at the location designated and approved by the commission.

### **§ 9315. Number of licensed racing entities.**

(a) Standardbred horse racing.--No more than five persons shall be licensed to conduct a horse race meeting. No person licensed under this chapter to conduct standardbred horse racing with pari-mutuel wagering shall be licensed to conduct thoroughbred horse racing with pari-mutuel wagering.

(b) Thoroughbred horse racing.--No more than six persons shall be licensed by the commission to conduct a horse race meeting. No person licensed under this chapter to conduct thoroughbred horse racing with pari-mutuel wagering shall be licensed to conduct standardbred horse racing with pari-mutuel wagering.

### **§ 9316. Department of Revenue.**

The Department of Revenue shall provide financial administration of pari-mutuel wagering under this chapter in accordance with Department of Revenue regulations and regulations of the commission. The Department of Revenue shall prescribe the form and system of accounting to be used by licensed racing entities and may access and examine records, equipment and other information relating to pari-mutuel wagering.

### **§ 9317. Allocation of racing days.**

(a) General rule.--

(1) Horse racing shall be conducted consistent with 4 Pa.C.S. § 1303 (relating to additional Category 1 slot machine license requirements).

(2) The required racing days under this section and 4 Pa.C.S. § 1303(a)(2) and (b) may be waived or modified by the commission if the waiver or modification has been agreed to by the horsemen's organization and the licensed racing entity at the racetrack where the racing days are to be scheduled or raced.

(3) The provisions of 4 Pa.C.S. § 1303(d) shall not apply if the reason for noncompliance with that section by a licensed racing entity is the cancellation of racing days due to the commission's inability to properly regulate and oversee the conduct of horse racing in this Commonwealth due to inadequate funding.

(b) Certification.--The commission shall submit to the Secretary of Revenue the approved number of racing days for each licensed racing entity, including the following information:

(1) the names and addresses of the licensed racing entity;

(2) the names and addresses of the owners, officers and general managers of the licensed racing entity; and

(3) any other information the commission deems appropriate.

(c) Cancellation.--

(1) If a racing day is canceled by a licensed racing entity for reasons beyond the licensed racing entity's control, the commission shall grant the licensed racing entity the right to conduct that racing day in the same or the next ensuing calendar year, if schedules permit.

(2) A director of a bureau established under section 9311 (relating to State Horse Racing Commission), after consultation with the licensed racing entity and the horsemen's organization at the racetrack, may cancel a race if it is determined that fewer than six horses have entered the race.

### **§ 9318. Licenses for horse race meetings.**

(a) Procedure and terms.--

(1) After January 1, 2017, a person seeking a license to conduct horse race meetings at which pari-mutuel wagering is permitted or seeking to renew the license shall file an application or renewal application with the commission in the manner prescribed by the commission. A license to conduct horse race meetings shall be issued

for a period of three years.

(2) A licensed racing entity shall have the privilege to conduct a horse race meeting at which pari-mutuel wagering is permitted. A license to conduct a horse race meeting shall not be a property right and may not be used as collateral or be encumbered.

(3) The commission may revoke or suspend the license of a licensed racing entity if the commission finds that the licensed racing entity, or its owners, officers, managers or agents, have not complied with this chapter and regulations promulgated in accordance with this chapter.

(4) A licensed racing entity may not transfer a license without the approval of the commission.

(b) Conditions.--Each horse racing license shall be issued and remain in effect if the licensed racing entity complies with each condition, rule and regulation of the commission and the provisions of this chapter, including the following conditions:

(1) A horse race meeting at which pari-mutuel wagering is conducted shall be regulated by the commission.

(2) The conduct of pari-mutuel wagering shall also be regulated by the Department of Revenue.

(3) The licensed racing entity shall print in its racing programs the procedure for filing a complaint with the commission.

(c) Applications.--Applications to conduct horse race meetings shall be in the form prescribed by the commission and shall contain information as the commission may require.

(d) Fee.--An applicant or licensee seeking to conduct a horse race meeting or seeking renewal of a license shall pay to the commission a fee of \$50,000. Notwithstanding the foregoing, a licensed racing entity that holds more than one horse race meeting license shall pay no more than \$50,000 upon renewal of the licenses. The license or renewal fee shall be deposited into the State Racing Fund.

(e) Action on licenses.--The following shall apply:

(1) The commission shall be prohibited from issuing a license to conduct a horse race meeting at which pari-mutuel wagering is permitted to an individual or applicant or an owner, officer, director or manager of the applicant who has been convicted of:

(i) A felony in any jurisdiction.

(ii) A misdemeanor gambling offense in any jurisdiction, unless 15 years has elapsed from the date of conviction.

(iii) Fraud or misrepresentation in any jurisdiction related to horse racing or horse breeding, unless 15 years has elapsed from the date of conviction.

(iv) An offense under 18 Pa.C.S. § 5511 (relating to cruelty to animals).

(v) An offense related to fixing or rigging horse races, including 18 Pa.C.S. § 4109 (relating to rigging publicly exhibited contest) or 7102 (relating to administering drugs to race horses), or any similar crime in another jurisdiction, unless the conviction has been overturned on appeal under the laws of the jurisdiction of the original finding or a pardon has been issued.

(2) Following expiration of any period applicable to an applicant under paragraph (1)(ii) or (iii), in determining whether to issue a horse racing license to an applicant, the commission shall consider the following factors:

(i) The individual or a principal of the applicant's position with the applicant.

(ii) The nature and seriousness of the offense or conduct.

(iii) The circumstances under which the offense or conduct occurred.

(iv) The age of the applicant when the offense or conduct occurred.

(v) Whether the offense or conduct was an isolated or a repeated incident.

(vi) Any evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received and the recommendations of persons who have substantial contact with the applicant.

(3) If, in the judgment of the commission, the applicant has demonstrated by

clear and convincing evidence that the participation of the applicant in horse racing or related activities is not:

- (i) inconsistent with the public interest or best interests of horse racing;
- (ii) interfering with the effective regulation of horse racing; or
- (iii) creating or enhancing the danger of unsuitable, unfair or illegal practices, methods or activities in the conduct of horse racing.

(f) Denial, suspension or revocation.--The commission may deny an application for a license or revoke, suspend or fail to renew the license of any applicant or licensed racing entity, if the commission finds by a preponderance of the evidence that:

(1) The applicant or licensed racing entity, or any of its owners, officers, director, managers, employees or agents:

(i) Has not complied with the conditions, rules, regulations and provisions of this chapter and that it would be in the public interest, convenience or necessity to deny, revoke, suspend or not renew the license.

(ii) Has been convicted of a violation or attempt to violate a horse racing law, rule or regulation of a horse racing jurisdiction.

(iii) Has furnished the commission with false or misleading information relating to the application or license renewal.

(iv) Has been convicted of a crime involving moral turpitude.

(v) Has been convicted of a misdemeanor gambling offense in any jurisdiction.

(vi) Has been convicted in any jurisdiction of fraud or misrepresentation related to horse racing or horse breeding.

(2) The applicant or licensed racing entity does not have the use of a racetrack or racetrack enclosure in accordance with the provisions of 4 Pa.C.S. Pt. II (relating to gaming).

(3) The licensed racing entity has commingled horsemen's organization funds in violation of section 9345(c) (relating to commingling) or has refused to place on deposit a letter of credit under section 9346 (relating to standardbred horse racing purse money).

(4) The commission determines that the licensed racing entity has failed to properly maintain its racetrack and racetrack enclosure in good condition under this chapter or to provide adequate capital improvements to the racetrack and racetrack enclosure as required under this chapter and 4 Pa.C.S. § 1404 (relating to distributions from licensee's revenue receipts).

(5) The licensee has been convicted in any jurisdiction of an offense related to fixing or rigging horse races, including 18 Pa.C.S. § 4109 or 7102, or any similar crime in another jurisdiction, unless the conviction has been overturned on appeal under the laws of the jurisdiction of the original finding or a pardon has been issued.

(g) Cessation.--If a revocation or failure to renew a license under subsection (e) occurs, the licensee's authorization to conduct previously approved activity shall immediately cease, subject to 2 Pa.C.S. (relating to administrative law and procedure). In the case of a suspension, the licensee's authorization to conduct previously approved activity shall immediately cease until the commission has notified the licensee that the suspension is no longer in effect. After request for a hearing by a licensee, the commission may grant a supersedeas, pending the final determination of the suspension.

(h) Renewal.--A horse race meeting license shall be renewed every three years upon application and, except as provided for under subsection (a)(4), shall not be transferred. Renewals of horse race meeting licenses shall not be granted automatically.

(i) Conditional licenses.--Pending a final determination under this section, the commission may issue a conditional license upon the terms and conditions as are necessary to effectuate the provisions of this chapter.

(j) Compliance.--Nothing in this section shall be construed to relieve a licensed racing entity of its duty to comply with the requirements of 4 Pa.C.S. Pt. II.

**§ 9319. Code of conduct.**

(a) Scope.--The commission may adopt a comprehensive code of conduct applicable to commissioners, employees of the commission, independent contractors and the immediate family of the commissioners, employees and independent contractors to enable them to avoid any perceived or actual conflict of interest and to promote public confidence in the integrity and impartiality of the commission.

(b) Restrictions.--In addition to the other prohibitions contained in this chapter, a commissioner shall:

(1) Not accept any discount, gift, gratuity, compensation, travel, lodging or other thing of value, directly or indirectly, from any applicant, licensed racing entity, affiliate, subsidiary or intermediary of an applicant or other licensee.

(2) Disclose a conflict of interest and recuse himself from any hearing or other proceeding in which the commissioner's objectivity, impartiality, integrity or independence of judgment may be reasonably questioned due to the commissioner's relationship or association with a party connected to any hearing or proceeding or a person appearing before the commission.

(3) Refrain from any financial or business dealing which would tend to reflect adversely on the commissioner's objectivity, impartiality or independence of judgment.

(4) Avoid impropriety and the appearance of impropriety at all times and observe standards and conduct that promote public confidence in the oversight of horse racing.

(5) Comply with any other laws, rules or regulations relating to the conduct of a commissioner.

(6) Except for a commissioner appointed under section 9311(b)(3) (relating to State Horse Racing Commission), not hold or campaign for public office, hold an office in any political party or political committee as defined in 4 Pa.C.S. § 1513(d) (relating to political influence), contribute to or solicit contributions to a political campaign, political party, political committee or candidate, publicly endorse a candidate or actively participate in a political campaign.

(c) (Reserved).

(d) Ex parte communications.--

(1) A commissioner, except the commissioner appointed under section 9311(b)(3), may not engage in any ex parte communication with any person.

(2) If a commissioner received or engaged in an ex parte communication, a commissioner shall inform the director of the appropriate bureau who shall notify all parties directly affected by the anticipated vote or action of the commissioner related to the ex parte communication of the substance of the communication and provide the parties with an opportunity to respond.

(3) A commissioner who engaged in or received an ex parte communication shall disqualify himself from the hearing or proceeding related to the ex parte communication if the context and substance of the communication creates substantial reasonable doubt as to a commissioner's ability to act objectively, independently or impartially.

(4) A commissioner who engaged in or received an ex parte communication and elects not to disqualify himself from the hearing or proceeding shall state the reasons for not disqualifying himself on the record prior to the commencement of the hearing or proceeding.

(5) (RESERVED).

(6) Failure of a commissioner who received or engaged in an ex parte communication to disqualify himself under this subsection shall be grounds for appeal to a court of competent jurisdiction if the commission action being appealed could not have occurred without the participation of the commissioner.

(7) This subsection shall not preclude a commissioner from consulting with other commissioners individually if the consultation complies with 65 Pa.C.S. Ch. 7 (relating

to open meetings) or with commission employees or independent contractors whose functions are to assist the commission in carrying out its adjudicative functions.

### **§ 9320. Financial interests.**

No director, owner, officer, manager or employee of an applicant or licensed racing entity or their immediate family shall accept gifts from breeders, owners, trainers or other individuals who participate in the conduct of horse racing in this Commonwealth.

### **§ 9321. Officials at horse race meetings.**

(a) Racetrack racing official.--The commission shall approve each racetrack employee whose duties include the enforcement of pari-mutuel racing activities which directly or indirectly affect the racing product. Compensation for an official under this subsection shall be paid by the licensed racing entity.

(b) Commission racing official.--The commission shall employ individuals who shall be designated as commission racing officials and whose duties shall include the oversight and enforcement of this chapter, regulations and commission policies related to prerace activities, the conduct of live racing and pari-mutuel wagering. The commission, by regulation, shall establish the duties and responsibilities for a commission racing official. The cost for and compensation of a commission racing official shall be paid by the commission.

### **§ 9322. Secondary pari-mutuel organization.**

(a) Requirements.--The following shall apply to a secondary pari-mutuel organization:

(1) A secondary pari-mutuel organization offering and accepting pari-mutuel wagers within this Commonwealth must be properly licensed by the commission. Each secondary pari-mutuel organization employee directly or indirectly responsible for the acceptance of wagers on horse races or the transmittal of wagering information to and from the Commonwealth must be properly licensed.

(2) A secondary pari-mutuel organization must comply with each rule and regulation of the commission.

(3) As a condition of licensing and annual license renewal, a license application of a secondary pari-mutuel organization must include all of the following:

(i) Disclosure of each officer, director, partner and share holder with a 5% or greater share of ownership or beneficial interest.

(ii) A list of personnel assigned to work in this Commonwealth.

(iii) Certification of compliance with totalisator standards and licensing requirements adopted by the commission.

(iv) A type II SAS 70 report, or other independent report in a form acceptable to the commission, completed within the preceding 12 months, to assure adequate financial controls are in place in the secondary pari-mutuel organization.

(v) An agreement to allow the commission to inspect and monitor each facility used by the secondary pari-mutuel organization for accepting, recording or processing pari-mutuel wagers accepted in this Commonwealth.

(vi) Certification of the use of a pari-mutuel system which meets all requirements for a pari-mutuel system utilized by a licensed racing entity in this Commonwealth.

(4) Fitness and experience of a secondary pari-mutuel organization must be consistent with the public interest, convenience and necessity and the best interests of racing generally, including, but not limited to, all of the following:

(i) Meeting general industry standards for business and financial practices, procedures and controls.

(ii) Possession of a wagering system that ensures that all wagering information is transmitted to and calculated in the appropriate host track pool.

(iii) Utilization of a totalisator system that meets wagering-industry standards and certification criteria.

(iv) Meeting general industry standards for physical security of computerized wagering systems, business records, facilities and patrons.

(v) Having no indications of improper manipulation of a secondary pari-mutuel organization's wagering system, including software.

(vi) Having policies and procedures that ensure a secondary pari-mutuel organization's key individuals have applied and are eligible for all required occupational licenses.

(vii) Having an annual independent audit with no audit opinion qualifications that reflect adversely on integrity.

(viii) Having a system that verifies the identity of each person placing a wager and requires the person placing a wager to disclose each beneficial interest in a wager the secondary pari-mutuel organization accepts.

(ix) Having a real-time independent monitoring system to monitor wagering activity to detect suspicious patterns, including any that might indicate criminal activity or regulatory violations. The system must verify each transaction performed by the totalisator system and provide expeditious notice of any discrepancies or suspicious activity to the host track, wagering site, due diligence investigating body and any affected regulatory agency.

(x) Having a satisfactory record of customer relations, including no excessive unresolved patron complaints concerning the secondary pari-mutuel organization's business practices.

(xi) Holding required permits, licenses, certifications or similar documents that may be required by a racing, gaming or other pari-mutuel wagering jurisdiction.

(xii) Having sufficient measures to protect customer funds.

(xiii) Publicizing and providing a sufficient program for customer self-exclusion and wagering limitation.

(xiv) Having expertise in pari-mutuel wagering and being technologically capable of participating in simulcast and wagering activities.

(5) Financial responsibility of a secondary pari-mutuel organization must be consistent with the public interest, convenience and necessity and the best interests of racing generally, including all of the following:

(i) The secondary pari-mutuel organization and the secondary pari-mutuel organization's key individuals may not be in default or have a history of defaulting in the payment of an financial obligation, including the payment of taxes due to a taxing jurisdiction or on the payment of gaming, wagering or pari-mutuel racing-related financial obligations. A secondary pari-mutuel organization's key individuals may not be four or more months in arrears for child support that is ordered or approved by a court in any jurisdiction within the United States.

(ii) The secondary pari-mutuel organization and the secondary pari-mutuel organization's owners and sources of funds must have sufficient financial means to participate in simulcast and wagering activities, including sufficient assets and means to pay industry-related debts and obligations and to fund the operations of the secondary pari-mutuel organization.

(6) The secondary pari-mutuel organization must be fully cooperative and act in good faith with all disclosure and other duties involved in a due diligence investigation, voluntarily submit to regulatory and investigating body oversight, permit inspection of each business record upon request by a regulatory authority or investigating body, promptly honor regulatory or investigating body requests for wagering patterns or other information and, after reasonable notice, permit full access to each facility and property

by a regulatory authority or investigating body.

(b) Waiver.--

(1) A due diligence investigation may rely on an investigation and oversight conducted by a commission-approved entity.

(2) The commission may not consent to the acceptance of an interstate off-track wager by a secondary pari-mutuel organization that has not been determined to be suitable under this section.

### **§ 9323. Occupational licenses for individuals.**

(a) General rule.--The commission shall develop a licensing or other classification system for the regulation of racing vendors, trainers, jockeys, drivers, horse owners, backside area employees and other individuals participating in horse racing and all other persons required to be licensed as determined by the commission. The license shall not be a property right.

(b) Fee.--The commission shall fix and may establish classes for application fees to be paid by individuals. A license fee shall not exceed \$500. All fees shall be paid to the commission and deposited into the State Racing Fund.

(c) Application.--The application for a license shall be in the form and contain the information as the commission may require.

(d) Renewal.--All licenses shall be subject to renewal every three years upon application and review. Nothing in this chapter shall be construed to relieve a licensee of the affirmative duty to notify the commission of any changes relating to the status of its license or to any other information contained in the application materials on file with the commission. The application for renewal shall be submitted at least 60 days prior to expiration of the license and shall include an update of the information contained in the initial application and any prior renewal applications and the payment of any renewal fee required by the commission. A license for which a completed renewal application and fee, if required, has been received by the commission shall continue in effect unless and until the commission sends written notification to the holder of the license that the commission has denied the renewal of the license.

(e) Licenses.--The commission may issue any of the following:

(1) A temporary license for four months within a 12-month period pending a final determination.

(2) A conditional license upon the terms and conditions as necessary to administer this chapter.

(f) Processing and issuance.--The commission shall adopt regulations to fix the manner by which licenses are processed and issued.

(g) Action on applications.--The following shall apply:

(1) The commission may not issue a license under this section to an individual who has been convicted in a jurisdiction of a felony offense, a misdemeanor gambling offense or a fraud or misrepresentation in connection with horse racing or breeding, unless 15 years has passed from the date of conviction of the offense.

(2) Following expiration of a period applicable to an applicant under paragraph (1), in determining whether to issue a license to an applicant, the commission shall consider the following factors:

(i) The nature of the applicant's involvement with horse racing.

(ii) The nature and seriousness of the offense or conduct.

(iii) The circumstances under which the offense or conduct occurred.

(iv) The age of the applicant when the offense or conduct occurred.

(v) Whether the offense or conduct was an isolated or a repeated incident.

(vi) Any evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received and the recommendations of persons who have substantial contact with the applicant.

(g.1) Denial.--The commission may deny an application for a license or suspend, revoke or refuse to renew a license issued under this section if it determines that the applicant or licensee meets any of the following:

(1) (Reserved).

(2) Has been convicted of any violation or attempts to violate any law, rule or regulation of horse racing in any jurisdiction.

(3) Has been convicted of an offense under 18 Pa.C.S. § 5511 (relating to cruelty to animals).

(4) Has violated a rule, regulation or order of the commission.

(5) Has been convicted in any jurisdiction of an offense related to fixing or rigging horse races, including 18 Pa.C.S. § 4109 (relating to rigging publicly exhibited contest) or 7102 (relating to administering drugs to race horses), or any similar crime in any other jurisdiction, unless the conviction has been overturned on appeal under the laws of the jurisdiction of the original finding or a pardon has been issued.

(6) Has not demonstrated by clear and convincing evidence that the applicant or licensee:

(i) Is a person of good character, honesty and integrity.

(ii) Is a person whose prior activities, criminal record, if any, reputation, habits and associations:

(A) Do not pose a threat to the public interest or the effective regulation and control of horse racing.

(B) Do not create or enhance the danger of unsuitable, unfair or illegal practices, methods and activities in the conduct of horse racing or the carrying on of the business and financial arrangements incidental to the conduct of horse racing.

(h) Inspection.--The commission shall have the right to inspect all contracts directly affecting the administration of the racing product and wagering activities between a secondary pari-mutuel organization, licensed racing entities and racing vendors for goods and services. The commission shall adopt regulations to require racing vendors to disclose all principal owners and officers and a description of their interests in the vendors' businesses. Failure to disclose this information shall constitute grounds to deny, to revoke or to suspend any racing vendor's license issued under this chapter.

(i) Revocation or failure to renew.--In the event of a revocation or failure to renew, the licensee's authorization to conduct previously approved activity shall immediately cease and all fees paid in connection therewith shall be deemed to be forfeited. In the event of a suspension, the applicant's authorization to conduct the previously approved activity shall immediately cease until the commission has notified the applicant that the suspension is no longer in effect.

(j) Hearings.--The commission may suspend a license under subsection (i) pending a hearing on the matter, which must occur within 10 days of the suspension. The commission or its director may grant a supersedeas, if requested, pending a final resolution of the matter.

(k) (Reserved).

(l) Criminal action.--

(1) Each district attorney shall have authority to investigate and to institute criminal proceedings for a violation of this chapter.

(2) In addition to the authority conferred upon the Attorney General under the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General shall have the authority to investigate and, following consultation with the appropriate district attorney, to institute criminal proceedings for a violation of this chapter. A person charged with a violation of this chapter by the Attorney General shall not have standing to challenge the authority of the Attorney General to investigate or prosecute the case, and, if any such challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of this Commonwealth to the

person making the challenge.

(m) Regulatory action.--Nothing contained in subsection (l) shall be construed to limit the existing regulatory or investigative authority of an agency or the Commonwealth whose functions relate to persons or matters within the scope of this part.

(n) Inspection, seizure and warrants on racetrack enclosures.--

(1) The commission, the Attorney General and the Pennsylvania State Police shall have the authority without notice and without warrant to do all of the following in the performance of their duties:

(i) Inspect and examine all premises where horse racing is conducted, or where records of these activities are prepared or maintained.

(ii) Inspect all equipment and supplies in, about, upon or around premises referred to in subparagraph (i).

(iii) Seize, summarily remove and impound equipment and supplies from premises referred to in subparagraph (i) for the purposes of examination and inspection.

(iv) Inspect, examine and audit all books, records and documents pertaining to a licensee's operation.

(v) Seize, impound or assume physical control of any book, record, ledger or device.

(2) The provisions of paragraph (1) shall not be deemed to limit warrantless inspections except in accordance with constitutional requirements.

#### **§ 9324. (Reserved).**

#### **§ 9325. Power of commission to impose fines.**

(a) General rule.--The commission may impose administrative fines upon any licensed or unlicensed racing entity, association or person participating in horse racing at which pari-mutuel wagering is conducted, other than as a patron, for a violation of any provision of this chapter or rule or regulation of the commission, not exceeding \$10,000 for each violation. Each day may be considered a separate violation. Fines shall be deposited in the State Racing Fund and may be appropriated for the enforcement of this chapter.

(b) Interests.--

(1) No owner, officer or employee of a licensed racing entity or their immediate family shall have any direct or indirect interest in a race horse that is participating in a horse race meeting at which the person or relative listed under this paragraph holds any interest in the licensed racing entity conducting the horse race meeting or in the racetrack facility.

(2) The commission may impose a fine upon any person for a violation of this subsection in accordance with subsection (a).

#### **§ 9326. Admission to racetrack.**

(a) Power of licensed racing entity.--Except as provided in subsection (b), a licensed racing entity may refuse admission to and eject from the racetrack enclosure operated by the licensed racing entity, any person licensed by the commission under this chapter and employed at an occupation at the racetrack if the person's presence is deemed detrimental to the best interests of horse racing and after citing the reasons for the determination in writing. The action of the licensed racing entity refusing the person admission to or ejecting the person from a horse race meeting ground or racetrack enclosure shall have immediate effect unless a supersedeas has been granted by the bureau director. The person refused admission or ejected shall receive a hearing before the commission, if requested, pursuant to rules and regulations adopted for that purpose by the commission and a decision rendered following that hearing.

(b) Admission.--A licensed racing entity may not refuse admission to or eject a law enforcement official, commission member or employee or employee of the Department of Revenue while the official is engaged in the performance of the individual's official duties.

**§ 9327. Security personnel.**

(a) General rule.--The commission shall require licensed racing entities to employ persons as security as determined by the commission. Designated security personnel:

(1) Shall refer possible violations of the criminal laws of this Commonwealth within the racetrack or racetrack enclosure to law enforcement agencies.

(2) May not eject or exclude from the racetrack or racetrack enclosure any person because of the race, creed, color, sex, sexual orientation, national origin or religion of that person.

(b) Penalty.--An individual found within a racetrack or racetrack enclosure after having been ejected therefrom shall, upon conviction, be guilty of a summary offense and be sentenced to pay a fine of not more than \$500.

**§ 9328. (Reserved).**

**§ 9329. Interstate simulcasting.**

(a) Host licensees.--The commission may approve the application of a licensed racing entity or secondary pari-mutuel organization to electronically simulcast horse races to and from this Commonwealth. Upon request by a licensed racing entity or secondary pari-mutuel organization, the commission may designate the entity as a host licensee, authorized to maintain common pari-mutuel pools on international and interstate races transmitted to and from the racetrack enclosures within this Commonwealth. All simulcasts of horse races shall comply with the provisions of the Interstate Horseracing Act of 1978 (Public Law 95-515, 15 U.S.C. § 3001 et seq.) and the laws of each state involved, placed or transmitted by an individual in one state via telephone, Internet or other electronic media and accepted and maintained in common pari-mutuel pools. The designation as a host licensee for international and interstate simulcast races shall be limited to licensed racing entities which comply with 4 Pa.C.S. § 1303(d) (relating to additional Category 1 slot machine license requirements).

(b) Simulcasts.--The following apply:

(1) Cross simulcasting of the races described in subsection (a) shall be permitted if all amounts wagered on the races in this Commonwealth are included in common pari-mutuel pools. A host licensee seeking permission to cross simulcast must obtain approval from the commission.

(2) All forms of pari-mutuel wagering shall be allowed on horse races simulcasted. The commission may permit pari-mutuel pools in this Commonwealth to be combined with pari-mutuel pools created under the laws of another jurisdiction and may permit pari-mutuel pools created under the laws of another jurisdiction to be combined with pari-mutuel pools in this Commonwealth. The commission shall promulgate regulations necessary to regulate wagering on televised simulcasts.

(c) Taxation.--Money wagered by patrons in this Commonwealth on horse races shall be computed by the amount of money wagered each racing day for purposes of taxation under section 9334 (relating to State Racing Fund and tax rate). Thoroughbred races shall be considered a part of a thoroughbred horse race meeting and standardbred horse races shall be considered a part of a standardbred horse race meeting.

**§ 9330. Place and manner of conducting pari-mutuel wagering at racetrack enclosure.**

(a) Wagering location.--A licensed racing entity shall provide a location during a horse race meeting within the racetrack enclosure where the licensed racing entity shall operate the pari-mutuel system of wagering by its patrons on the results of horse races held at the racetrack or televised to the racetrack enclosure by simulcasting under section 9329 (relating to interstate simulcasting). The licensed racing entity shall erect a sign or board compatible with the totalisator systems which shall display all of the following:

- (1) The approximate straight odds on each horse in any race.
- (2) The value of a winning mutuel ticket, straight, place or show on the first three horses in the race.
- (3) The elapsed time of the race.
- (4) The value of a winning daily double ticket, if a daily double is conducted, and any other information that the commission deems necessary to inform the general public.

(b) Equipment.--The commission may test and examine the equipment to be used for the display of the information under subsection (a).

(c) Electronic wagering system.--In addition to other forms of live wagering, including cash at a window teller, a licensed racing entity may operate an electronic wagering system on horse racing in accordance with all of the following:

- (1) Messages to place wagers shall be to a place within the racetrack enclosure.
- (2) Money used to place wagers under this subsection shall be on deposit in an amount sufficient to cover the wager at the racetrack where the account is opened.

(c.1) Regulations.--The commission may promulgate regulations necessary to regulate electronic wagering for horse racing.

(d) Taxation.--Money wagered as a result of electronic wagering shall be included in the amount wagered each racing day for purposes of taxation under section 9334 (relating to State Racing Fund and tax rate) and shall be included in the same pari-mutuel pools for each posted race. Electronic wagering systems shall be operated by the licensed racing entity, secondary pari-mutuel organization or by a duly licensed racing vendor.

(e) Conditions.--A licensed racing entity shall only accept and tabulate a wager by a direct request via electronic media from the holder of an electronic wagering account. Only the holder of the electronic wagering account shall place a wager.

(f) Primary market area.--

(1) A licensed racing entity or secondary pari-mutuel organization may not accept a wager or establish electronic wagering or advanced deposit account wagering for any person located in the primary market area of a racetrack, other than the racetrack at which the licensed racing entity is conducting a horse race meeting.

(2) Nothing in this subsection shall be construed to prohibit a licensed racing entity from accepting a wager from or establishing an electronic wagering account for any person located in the primary market area of the racetrack where the licensed racing entity is conducting a horse race meeting. If two tracks share the primary market area, both racetracks shall have equal rights to the market in the shared area.

### **§ 9331. Pari-mutuel wagering at nonprimary locations.**

(a) Nonprimary locations.--The following shall apply:

(1) Notwithstanding any other provision of this chapter, the commission may approve a licensed racing entity to continue to operate a nonprimary location where it has conducted pari-mutuel wagering on horse races conducted by the licensed racing entity. The licensed racing entity may continue to conduct pari-mutuel wagering at the location on horse races conducted by another licensed racing entity, which horse races may be televised to the location or on horse races simulcast to the location under section 9329 (relating to interstate simulcasting), provided that:

- (i) A licensed racing entity has not established a nonprimary location within the primary market area of any racetrack other than a racetrack where the

licensed racing entity conducts horse race meetings. Establishment of a nonprimary location by a licensed racing entity within the primary market area of a racetrack where the licensed racing entity conducts horse race meetings shall require approval of the commission.

(ii) A licensed racing entity has not established a nonprimary location within the secondary market area of a racetrack if the nonprimary location is approved by the commission.

(iii) A licensed racing entity has not established a nonprimary location in an area outside the primary and secondary market areas of any racetrack if the location is approved by the commission.

(2) Except as provided under paragraph (1), no additional licenses shall be permitted.

(3) The commission shall annually conduct inspections of the primary facility.

(4) The regulatory authority of the commission shall apply to nonprimary locations and any employees or racing vendors of the licensed racing entity establishing the nonprimary location.

(b) Taxation and records.--Money wagered at all primary and nonprimary locations under this chapter shall be included in common pari-mutuel pools. Money wagered by patrons on the races shall be computed by the amount of money wagered each racing day for purposes of taxation under section 9334 (relating to State Racing Fund and tax rate). The licensed racing entity conducting the horse race meeting and maintaining the pari-mutuel pools shall maintain accurate records of the amount wagered in each pool from every primary and nonprimary location.

(c) Retention.--Money retained under section 9334 shall be calculated for each location where pari-mutuel wagering is being conducted. If wagering has taken place at a nonprimary location where the wagering is conducted by a licensed racing entity other than the licensed racing entity conducting the horse race meeting, the licensed racing entity conducting the horse race meeting shall retain any money to which it is entitled by agreement. The licensed racing entity conducting the horse race meeting shall pay over the balance of the retained money to the licensed racing entity conducting the wagering at the nonprimary location.

(d) Payment of purses.--A licensed racing entity conducting a horse race meeting where pari-mutuel wagering is conducted at one or more nonprimary locations shall distribute money to the horsemen's organization, or, in accordance with the practice of the parties, to be used for payment of purses at that racetrack, as follows:

(1) Except as provided for in paragraphs (2), (3), (4) and (5), an amount equal to but not less than 6% of the daily gross wagering handle on the races at a nonprimary location.

(2) When the gross wagering handle on the races at a nonprimary location on a given day is less than \$30,000, the percentage may not be less than 3%.

(3) When the gross wagering handle on the races at a nonprimary location on a given day is between \$30,000 and \$75,000, the percentage may not be less than 4.75%.

(4) Whenever a nonprimary location is within the primary market area of a licensed racing entity other than the licensed racing entity conducting the races, the applicable percentage shall be distributed one-half to the horsemen's organization at the racetrack or in accordance with the practice of the parties.

(5) Where the horse race meeting is being conducted to be used for the payment of purses at the racetrack and one-half to the horsemen's organization, or in accordance with the practice of the parties, at the racetrack within the primary market area to be used for the payment of purses at the racetrack.

Nothing in this subsection shall be construed to prevent a licensed racing entity from agreeing to distribute amounts greater than the percentages set forth in this subsection. However, if no alternative agreement has been reached, the total percentage for purses

under this subsection shall be paid in accordance with the minimum percentages set forth in this subsection.

(e) Other payments.--Notwithstanding any other provision of this chapter, a nonprimary location may be established within the primary market area of a racetrack by agreement between the licensed racing entity and the horsemen's organization at the racetrack specifying the total percentage of handle wagered at the nonprimary location to be distributed to the horsemen's organization, or, in accordance with the practice of the parties, to be used for the payment of purses at that racetrack. If no agreement is reached covering the locations, the total percentage to be paid for purses shall be the same as that applied to on-track wagering at the racetrack located within the primary market area.

### **§ 9332. Books and records of pari-mutuel wagering.**

Every licensed racing entity that conducts a horse race meeting at which pari-mutuel wagering is authorized shall maintain books and records that clearly show by separate record the total amount of money contributed to every pari-mutuel pool. The Department of Revenue or its authorized representative shall have access to examine all books and records and ascertain whether the proper amount due to the State is being paid by the licensed racing entity.

### **§ 9333. Filing of certain agreements with commission.**

A licensed racing entity shall promptly file with the commission any lease agreement concerning any concession, labor management relation, hiring of designated classes of officers, employees or contractors specified by the commission or any other contract or agreement as the commission may prescribe.

### **§ 9334. State Racing Fund and tax rate.**

(a) Fund.--There is hereby established in the State Treasury the State Racing Fund. For fiscal year 2015-2016, money in the fund is appropriated on a continuing basis to the department for the purposes of administering this chapter. Beginning on July 1, 2016, all money deposited in the fund, except money deposited in restricted accounts, shall be annually appropriated by the General Assembly for the administration and enforcement of this chapter and for the oversight and promotion of horse racing in this Commonwealth. A licensed racing entity that conducts horse race meetings or a secondary pari-mutuel organization shall pay a tax to the Department of Revenue for deposit in the State Racing Fund.

(b) Tax rate.--The tax imposed on a licensed racing entity or secondary pari-mutuel organization shall be 1.5% of the amount wagered each racing day on win, place or show wagers and 2.5% of the total amount on an exotic wager, including an exacta, daily double, quinella and trifecta wager.

(c) Expenditures.--Funds collected under subsection (b) and any interest shall be used as follows:

(1) For the administration and enforcement of this chapter including:

(i) Funds to the commission in an amount appropriated by the General Assembly.

(ii) Funds to the Department of Revenue in an amount appropriated by the General Assembly.

(2) If annual revenue under subsection (b) is sufficient to satisfy the requirement under paragraph (1), the remainder of the money shall be distributed as follows:

(i) Fifty percent shall remain in the State Racing Fund as a carry forward balance to the next fiscal year. Any carry forward balance shall be first applied to the cost of equine testing under section 9374 (relating to costs of enforcement of

medication rules or regulations) and, if any still remains, for commission expenses as budgeted by the General Assembly.

(ii) Fifty percent shall be divided equally and distributed as follows:

(A) Twenty-five percent shall be paid by the Department of Revenue from the State Racing Fund for credit to the Pennsylvania Breeding Fund.

(B) Twenty-five percent shall be paid by the Department of Revenue from the State Racing Fund for credit to the Pennsylvania Sire Stakes Fund.

(d) Breakage.--All breakage retained under section 9335 (relating to pari-mutuel pool distribution) by licensed racing entities that conduct horse race meetings shall be distributed in the following manner:

(1) Thirty-seven and one-half percent of the breakage shall be paid to the Department of Revenue for credit to the State Racing Fund.

(2) Sixty-two and one-half percent of the breakage shall be retained by the licensed racing entity.

(e) Other revenues.--The State Racing Fund may also receive moneys from any other source, including, but not limited to appropriations made by the General Assembly.

### **§ 9335. Pari-mutuel pool distribution.**

(a) Distribution.--A licensed racing entity shall distribute money in a pari-mutuel pool to the holders of winning tickets presented for payment before the first day of April of the year following the date of purchase. Failure to present a winning ticket within the prescribed period of time shall constitute a waiver of the right to participate in the award or dividend. After April 1 of the year following the year of purchase, a licensed racing entity shall forward the necessary funds held for uncashed tickets to the Department of Revenue. The funds shall be deposited into the State Racing Fund.

(b) Remainder.--The remainder of the money shall be retained by the licensed racing entity in the following manner:

(1) Seventeen percent of the money plus the breakage from regular wagering pools or 19% of the money plus the breakage from regular wagering pools for licensed racing entities whose daily total in all pari-mutuel pools averaged less than \$300,000.

(2) Twenty percent of the money plus breakage from the exacta, daily double, quinella and other wagering pools as determined by the commission.

(3) At least 26%, but no more than 35%, from the trifecta or other wagering pools as determined by the commission.

(c) Retention.--A licensed racing entity may retain lesser percentages upon approval of the commission.

### **§ 9336. Pennsylvania Breeding Fund.**

(a) Establishment.--There is created a restricted account in the State Racing Fund to be known as the Pennsylvania Breeding Fund which shall consist of the money deposited under section 9334 (relating to State Racing Fund and tax rate) and any provision of 4 Pa.C.S. Pt. II (relating to gaming) and which shall be distributed by the commission.

(A.1) Effective Dates.--If at least \$10,000,000 more than the amount deposited into the Pennsylvania Breeding Fund in 2016 under subsection (a) is deposited into the Pennsylvania Breeding Fund, this subsection and subsection (d.1) shall become effective on January 1 of the year following the effective date of the deposit, and shall remain effective for each year the deposit amount under this subsection is met. If in any year the funding requirement under this subsection is not met, subsections (c) and (d) shall remain in effect for the following year.

(b) Awards from the Pennsylvania Breeding Fund.--The commission shall distribute money from the Pennsylvania Breeding Fund as follows:

(1) An award of 30% of the purse earned by every registered Pennsylvania-bred

thoroughbred race horse sired by a registered Pennsylvania sire at the time of conception of the registered Pennsylvania-bred thoroughbred race horse, or an award of 20% of the purse earned by every registered Pennsylvania-bred thoroughbred race horse sired by a nonregistered sire, which finishes first, second or third in any race conducted by a licensed racing entity under this chapter shall be paid to the breeder of said registered Pennsylvania-bred thoroughbred race horse. A single award under this paragraph may not exceed 1% of the total annual fund money.

(2) An award of 10% of the purse earned by any registered Pennsylvania-bred thoroughbred race horse which finishes first, second or third in any race conducted by a licensed racing entity under this chapter shall be paid to the owner of the registered Pennsylvania sire which regularly stood in Pennsylvania at the time of conception of the Pennsylvania-bred thoroughbred race horse. A single award under this paragraph may not exceed 0.5% of the total annual fund money.

(3) An award of 10% of the purse earned by any registered Pennsylvania-bred thoroughbred race horse that finishes first in any race not restricting entry to registered Pennsylvania-bred thoroughbred race horses conducted by a licensed racing entity under this chapter shall be paid to the owner of the registered Pennsylvania-bred thoroughbred race horse at the time of winning. A single award under this paragraph may not exceed .5% of the total annual fund money.

(4) This subsection shall expire at 11:59 p.m. on December 31, 2016.

(b.1) Awards from the Pennsylvania Breeding Fund.--The commission shall distribute money from the Pennsylvania Breeding Fund as follows:

(1) An award of 40% of the purse earned by every registered Pennsylvania-bred thoroughbred race horse sired by a registered Pennsylvania sire at the time of conception of the registered Pennsylvania-bred thoroughbred race horse which finishes first, second or third in any race conducted by a licensed racing entity under this chapter shall be paid to the breeder of the registered Pennsylvania-bred thoroughbred race horse.

(2) An award of 20% of the purse earned by every registered Pennsylvania-bred thoroughbred race horse sired by a nonregistered sire, which finishes first, second or third in any race conducted by a licensed racing entity under this chapter shall be paid to the breeder of the registered Pennsylvania-bred thoroughbred race horse.

(3) A single award under paragraphs (1) and (2) may not exceed 1% of the total annual fund money.

(4) An award of 10% of the purse earned by any registered Pennsylvania-bred thoroughbred race horse which finishes first, second or third in any race conducted by a licensed racing entity under this chapter shall be paid to the owner of the registered Pennsylvania sire which regularly stood in Pennsylvania at the time of conception of the Pennsylvania-bred thoroughbred race horse. A single award under this paragraph may not exceed 0.5% of the total annual fund money.

(c) Purses from Pennsylvania Breeding Fund.--

(1) Up to one-fifth of the total of the estimated Pennsylvania Breeding Fund money remaining each year after the deduction of expenses related to the administration and development of the Pennsylvania Breeding Fund program and the payment of ~~breeder and stallion~~ awards, UNDER SUBSECTION (B) OR (B.1) shall be divided among the licensed racing entities that conduct thoroughbred horse race meetings in direct proportion to the rate by which each licensed racing entity generated the fund money during the previous year to be used solely for purses for Pennsylvania Breeding Fund stakes races which restrict entry to a registered Pennsylvania-bred thoroughbred race horse.

(2) This subsection shall expire upon the date subsection (a.1) is implemented. If in any year the funding requirement under subsection (a.1) is not met, this subsection shall remain in effect for that year.

(d) Remaining funds.--The Pennsylvania Breeding Fund money remaining following

disbursements as directed in subsections (b) or (b.1) and (c) shall be divided among the licensed racing entities that conduct thoroughbred horse race meetings in direct proportion to the rate by which each licensed racing entity generated the fund money during the previous year to be used for purses as follows:

(1) Claiming and nonclaiming Pennsylvania Breeding Fund races which restrict entry to registered Pennsylvania-bred thoroughbred race horses.

(2) Claiming and nonclaiming Pennsylvania Breeding Fund races which prefer registered Pennsylvania-bred thoroughbred race horses as starters. In these races, should eight or more registered Pennsylvania-bred thoroughbred race horses pass the entry box, the race shall be considered closed to horses other than registered Pennsylvania-bred thoroughbred race horses.

(3) This subsection shall expire upon the date subsection (a.1) is implemented. If in any year the funding requirement under subsection (a.1) is not met, this subsection shall remain in effect for that year.

(d.1) Remaining funds from Pennsylvania Breeding Fund.--The estimated Pennsylvania Breeding Fund money remaining after the deduction of expenses related to the administration and development of the Pennsylvania Breeding Fund Program and the payment of awards under subsection (b.1) shall be divided among the licensed racing entities that conduct thoroughbred horse race meetings in direct proportion to the rate by which each licensed racing entity generated the fund money during the previous year to be used solely for purses as follows:

(1) Fifty percent shall be used to award a bonus to the owner of, or pay purses of races that restrict entry to, a registered Pennsylvania-bred thoroughbred race horse sired by a registered Pennsylvania sire.

(2) Fifty percent shall be used to award a bonus to the owner of, or pay purses of races that restrict entry to, a registered Pennsylvania-bred thoroughbred race horse.

(3) In all claiming and nonclaiming races which prefer registered Pennsylvania-bred thoroughbred race horses as starters, if eight or more registered Pennsylvania-bred thoroughbred race horses pass the entry box, the race shall be considered closed to horses other than registered Pennsylvania-bred thoroughbred race horses.

(e) Funds not expended.--

(1) Pennsylvania Breeding Fund money due to licensed racing entities, as outlined in subsections (c) and (d), but not expended during the calendar year may be carried forth in the fund on the accounts of the licensed racing entities to be expended during the succeeding year in addition to the licensed racing entities' fund money annually due to them for purses. This paragraph shall expire at 11:59 p.m. on December 31, 2016.

(2) Pennsylvania Breeding Fund money due to licensed racing entities, as outlined in subsections (b.1) and (d.1), but not expended during the calendar year may be carried forth in the fund on the accounts of the licensed racing entities to be expended during the succeeding year in addition to the racing entities' fund money annually due to them for purses.

(f) Pennsylvania Horse Breeders' Association.--The commission shall contract with the Pennsylvania Horse Breeders' Association as the organization responsible for the registration and records of Pennsylvania-bred thoroughbred race horses. The Pennsylvania Horse Breeders' Association shall advise the commission when called upon and shall determine the qualifications for Pennsylvania-bred thoroughbred race horses and Pennsylvania sires. Registration and records of the association shall be official records of the Commonwealth and shall be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. At the close of each calendar year, the Pennsylvania Horse Breeders' Association shall submit to the commission for its approval an itemized budget of projected expenses for the ensuing year relating to the administration and development of the Pennsylvania Breeding Fund Program. The commission, on no more than a quarterly basis, shall reimburse from the fund the Pennsylvania Horse Breeders' Association for those expenses

actually incurred in the administration and development of the Pennsylvania Breeding Fund Program.

### **§ 9337. Pennsylvania Sire Stakes Fund.**

(a) Establishment.--There is created a restricted account in the State Racing Fund to be known as the Pennsylvania Sire Stakes Fund which shall consist of the money deposited under section 9334 (relating to State Racing Fund and tax rate) and any provision of 4 Pa.C.S. Pt. II (relating to gaming) and which shall be administered by the commission.

(b) Distribution and use of funds.--Funds shall be distributed as follows:

(1) Sixty percent of the money remaining in the excess fund account of the Pennsylvania Sire Stakes Fund at the end of the calendar year in which this subsection is enacted shall be distributed to licensed racing entities that conduct standardbred horse race meetings to be used in the next succeeding calendar year as purse money for Pennsylvania-sired horses. The remaining 40% of the money in the excess fund account at the end of the calendar year of the enactment of this subsection, together with the interest earned on that money, shall be distributed to licensed racing entities that conduct standardbred horse race meetings to be used in the next succeeding calendar year as purse money for Pennsylvania-sired horses.

(2) After deduction of sufficient funds to cover the commission's cost of administration, 80% of all remaining money in the Pennsylvania Sire Stakes Fund at the end of the calendar year shall be distributed to licensed racing entities that conduct standardbred horse race meetings to be used as purse money for Pennsylvania-sired horses. The commission may allocate up to a total of 40% of the amount to be distributed to licensed racing entities in a calendar year for use for a series of championship final races at the racetracks of licensed business entities that conduct standardbred horse race meetings. The commission shall distribute the money to these championship final races in an equal amount for each sex, age and gait for two-year-old trotters and pacers and three-year-old trotters and pacers based on conditions establishing eligibility to these final events. No pari-mutuel standardbred racetrack shall be awarded more than 50% of the championship final races in any calendar year. The commission shall schedule these final events so as to evenly alternate classes at each racetrack each year. After the allocation for the championship final races has been determined, the remaining funds to be distributed to licensed racing entities that conduct standardbred horse race meetings shall be divided equally among the licensed racing entities. Each licensed racing entity shall divide the funds received equally for each of:

(i) four two-year-old races; one pace for colts, one pace for fillies, one trot for colts and one trot for fillies; and

(ii) four three-year-old races; one pace for colts, one pace for fillies, one trot for colts and one trot for fillies.

(c) Purse money.--Each allotment shall provide purse money for the respective races. The purse money shall be in addition to any entry fees or other funds available.

(d) Entry restriction.--Entry for these races shall be limited to standardbred horses which were sired by a standardbred stallion regularly standing in Pennsylvania and each race shall be designated a Pennsylvania sire stakes race. The commission shall adopt regulations as necessary to administer the entry restriction.

(e) Agricultural fairs and events.--

(1) The following shall apply:

(i) The remaining money in the Pennsylvania Sire Stakes Fund, up to a total of \$75,000 for each agricultural fair and one-day or two-day events as defined in the commission's regulations, shall be divided equally among the agricultural fairs and one-day or two-day events.

(ii) No more than five one-day or two-day events may be authorized by the

commission per year.

(iii) No more than two one-day or two-day events per county may be authorized by the commission except if, after a date established by the commission, the five events referenced under subparagraph (ii) conducting harness horse races for two-year-old and three-year-old harness horses have not been allocated.

(iv) Not less than \$225,000 shall be allocated from the Pennsylvania Sire Stakes Fund and be divided equally among agricultural fairs and one-day or two-day events conducting harness horse races for two-year-old and three-year-old harness horses.

(2) Each fair or one-day or two-day event receiving funds under this subsection shall divide the total amount equally among all eligible races for two-year-old and three-year-old harness horses and shall apply the funds solely as additional purse funds. Only races to which entry is restricted to Pennsylvania-sired horses shall be eligible. The commission shall provide for and promulgate regulations necessary for the proper administration of racing provided for under this subsection, including, but not limited to, portable stall rentals at one-day or two-day events.

### **§ 9338. Fair fund proceeds.**

(a) Distribution.--The Department of Agriculture shall distribute money in the fair fund annually, on or before March 1, for reimbursement for each county agricultural society and each independent agricultural society conducting standardbred horse racing during its annual fair, other than races for two-year-old colts and fillies and three-year-old colts and fillies, an amount of money equal to that used during their annual fair as purse money for standardbred horse racing, track and stable maintenance, starting gate rental and the cost of all standardbred horse racing officials required during their annual fair. The reimbursement amount may not be more than \$13,000, a minimum of \$4,000 of which must be used for purse money and the balance of the allotment per fair, not used for purse money over the minimum \$4,000 allotment, shall be used for the specific purposes referenced above or otherwise the allotment shall be retained in the fund.

(b) Inspection.--The commission shall annually inspect each track facility at a county fair and advise each operating fair about track maintenance which is necessary to ensure adequate racing surface during the course of scheduled fairs and racing events. If it is the opinion of the commission that the fair society or event sponsor is not adequately financing track maintenance, the Department of Revenue shall surcharge the fair fund account of the fair society or event sponsor to effectuate the remediation. The commission may contract with, hire or otherwise consult with race track surface experts to carry out the provisions of this section.

### **§ 9339. Hearing.**

An applicant, licensee or other person whose application has been denied or whose license has been suspended, revoked or not renewed may request a hearing before the commission. The provisions of 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action) shall apply, unless superseded by the commission's administrative regulations.

### **§ 9340. Prohibition of wagering.**

(a) General.--No commissioner or employee of the commission shall wager upon the outcome of any horse race conducted at or simulcast to a track at which pari-mutuel wagering is conducted by any licensed racing entity regulated by the commission. No

licensed racing entity shall permit any person who is under 18 years of age to wager at a horse race meeting conducted by the licensed racing entity. No licensed racing entity shall permit any person who is under 18 years of age to attend a horse race meeting conducted by the licensed racing entity unless the person is accompanied by a parent or guardian. This section shall not be construed to prohibit persons under 18 years of age, who are legally employed, from being upon the racetrack premises for the sole purpose of engaging in the performance of their duties as employees.

(b) Fair racing.--Pari-mutuel wagering on horse races at any county or other political subdivision, agricultural or other fair shall not be authorized. No lottery, pool selling, bookmaking or any other kind of gambling upon the results of races, heats or contests of speed of horses shall be allowed at any fair or at any horse race meeting conducted in this Commonwealth, except those licensed to operate pari-mutuel wagering under the provisions of this chapter.

#### **§ 9341. Veterinarians and State stewards.**

(a) General rule.--The commission shall have the authority to employ or contract with licensed veterinarians, stewards and other personnel deemed appropriate by the commission to serve at each horse race meeting conducted by a licensed racing entity. The commission may employ or contract with other individuals as shall be necessary to carry out the responsibilities of this section.

(b) Costs and compensation.--The costs and compensation of the horse racing veterinarians, State stewards and other personnel shall be fixed and paid by the commission.

#### **§ 9342. Promotions and discounts.**

The commission may approve a licensed racing entity to issue a free pass, card or badge for a special promotional program and seasonal discount ticket program.

#### **§ 9343. Monitoring of wagering on video screens.**

A licensed racing entity conducting pari-mutuel wagering shall display on video screens the approximate odds or approximate will-pays on each horse for each race as well as a combination of races, including, but not limited to, quinellas, exactas, perfectas and any other combination or pool of races. A display of approximate odds or approximate will-pays is not required where the wager is on horses in four or more races, such as Pick 4, Pick 5 or Pick 6. In addition to displaying the amount of money wagered, the approximate odds or approximate will-pays on each horse or combination of horses must be shown on video screens in each wagering division. For trifectas, in lieu of odds or approximate will-pays, the amount of money being wagered on each horse to win in the trifecta pool must be displayed on video screens separately from any other information. Information must be displayed from the opening of bets or wagering and be continually displayed until the wagering is closed. At least one video screen in each wagering division shall display the amount of money wagered on each horse involved in a trifecta pool.

#### **§ 9344. Intrastate simulcasting.**

(a) General rule.--The commission shall permit intrastate simulcasting of live horse racing between the licensed racing entities that conduct live racing.

(b) Simulcast signal.--The simulcast signal shall be encoded, and the racetrack receiving the simulcast signal may not send the signal anywhere other than a public location authorized under section 9329 (relating to interstate simulcasting).

(c) Forms of pari-mutuel wagering.--All forms of pari-mutuel wagering described in

section 9335 (relating to pari-mutuel pool distribution) shall be allowed on a horse race to be simulcasted under this section.

(d) Regulations.--The commission may promulgate regulations on wagering and the operation of horse racing.

(e) Computation of money wagered.--The money wagered by a patron on a horse race must be computed in the amount of money wagered each racing day for purposes of taxation under section 9334 (relating to State Racing Fund and tax rate).

(f) Definition.--As used in this section, the term "racing day" consists of a minimum of eight live races, except at thoroughbred tracks on Breeders' Cup Event Day.

### **§ 9345. Commingling.**

(a) Applicability.--This section is applicable only to licensed racing entities that conduct thoroughbred racing.

(b) Race secretary.--The race secretary shall receive entries and declarations as an agent for the licensed racing entity for which the race secretary acts. The race secretary or an individual designated by the licensed racing entity may receive stakes, forfeits, entrance money, jockey fees and other fees, purchase money in claiming races and other money that can properly come into the race secretary's possession as an agent for the licensed racing entity for which the race secretary or designee is acting.

(c) Horsemen's Account.--A licensed racing entity shall maintain a separate account, to be known as a Horsemen's Account. Money owed to owners in regard to purses, stakes, rewards, claims and deposits shall be deposited into the Horsemen's Account. Funds in the account are recognized and denominated as being the sole property of owners. Deposited funds may not be commingled with funds of the licensed racing entity unless a licensed racing entity established an irrevocable clean letter of credit with an evergreen clause in favor of the organization which represents a majority of the owners and trainers racing with the licensed racing entity. The minimum amount of the credit must be the greater of \$1,000,000 or 110% of the highest monthly balance in the Horsemen's Account in the immediate prior year. To calculate the monthly balance in the Horsemen's Account, the sum of the daily balances shall be divided by the number of days in the month. The evergreen clause must provide that:

(1) thirty days prior to the expiration of the letter of credit, the financial institution can elect not to renew the letter of credit;

(2) upon an election under paragraph (1), the financial institution must notify the designee of the organization that represents a majority of the owners and trainers racing with the licensed racing entity, by registered mail, return receipt requested, of the election not to renew; and

(3) the financial institution will honor the letter of credit for six months after expiration.

Purse money earned by owners shall be deposited by the licensed racing entity in the Horsemen's Account within 48 hours after the result of the race in which the money was earned has been declared official and the purse has been released by the commission.

(d) Accounting.--A licensed racing entity shall designate individuals authorized to receive and disburse funds from the Horsemen's Account. Individuals designated under this subsection shall be bonded to provide indemnity for malfeasance, nonfeasance and misfeasance. A certified copy of the bond shall be filed with the commission.

(e) Examination, access and records.--The Horsemen's Account and the investment and deposit schedules relating to the account are subject to examination, at reasonable times, by a designee of the organization which represents a majority of the owners and trainers racing with the licensed racing entity and by the commission. The individual designated under subsection (d) shall provide each owner with access, at reasonable times during a racing day, to the amount of funds in the Horsemen's Account credited to that owner. At the close of a horse race meeting, the designated individual shall mail to each

owner a record of deposits, withdrawals and transfers affecting the amount of funds in the Horsemen's Account credited to that owner.

(f) Auditing and monthly statements.--The Horsemen's Account shall be audited annually and at any other time determined by the commission. Monthly statements shall be provided to the designee of the organization which represents a majority of the owners and trainers racing with the licensed racing entity and the commission.

(g) Interest.--Fifty percent of the money earned as interest on funds in the Horsemen's Account shall be paid to the organization that represents a majority of the owners and trainers racing with the licensed racing entity on a weekly basis. The amount is for the benefit of the horsemen as determined by the organization that represents the majority of the owners and trainers racing with the licensed racing entity. The remaining 50% of the interest earned is for the benefit of the licensed racing entity that has the responsibility to fund the costs associated with the administration of the fund. Interest each month must be earned in an amount equal to the Federal Reserve Discount Rate on the first day of the month.

**§ 9346. Standardbred horse racing purse money.**

A licensed racing entity that conducts standardbred horse racing must place on deposit with the commission by March 1 of each year an irrevocable letter of credit equivalent to its average weekly purse total from the immediate prior year. The commission shall hold the letter of credit in trust for the standardbred horsemen racing at that licensed racing entity's horse race meeting if the purse checks are not issued or insufficient funds are available to cover the purse checks.

**SUBCHAPTER C**  
**ADDITIONAL LICENSING REQUIREMENTS FOR LICENSED**  
**RACING ENTITY, SECONDARY PARI-MUTUEL ORGANIZATION,**  
**TOTALISATOR AND RACING VENDORS**

**Sec.**

- 9351. General license requirements.**
- 9352. Licensing costs and fees.**
- 9353. License application procedures.**
- 9354. Oral presentation by applicant.**
- 9355. Additional information.**
- 9356. Operations.**
- 9357. Transfers of licenses.**
- 9358. Duration of license.**
- 9359. Penalties and enforcement.**

**§ 9351. General license requirements.**

(a) New application.--A licensed racing entity or secondary pari-mutuel organization seeking to offer electronic wagering to individuals within this Commonwealth must apply to the commission for a license by submitting a completed license application. Except for a licensed racing entity the license shall take effect and the secondary pari-mutuel organization may begin operations after approval by the commission.

(a.1) Application.--A totalisator service provider or racing vendor, as determined by the commission, seeking to provide those services within this Commonwealth must apply to the commission for a license by submitting a completed application.

(b) Renewal applications.--

(1) A license for a totalisator or racing vendor must be renewed annually in accordance with this chapter.

(2) An electronic wagering license issued to a licensed racing entity or a secondary pari-mutuel organization shall be renewed annually. An electronic wagering renewal application shall be submitted on or before 120 days before the expiration of the license term. If the application is approved by the commission, the license renewal shall take effect January 1.

**§ 9352. Licensing costs and fees.**

Costs and fees are as follows:

(1) The applicant shall pay all costs incurred by the commission in reviewing an application for an initial license, including legal and investigative costs and the cost of other necessary outside professionals and consultants in accordance with the following:

(i) Except for a licensed racing entity, as an initial payment for these costs, the applicant shall submit, along with a license application, a cashier's check or certified check payable to the commission in the amount of \$50,000.

(ii) Any portion of the payment not required to complete the investigation shall be refunded to the applicant within 20 days of the granting, withdrawal or rejection of the initial license application.

(iii) To the extent additional costs will be necessary, the applicant shall submit a cashier's check or certified check payable to the commission in an amount reasonably requested by the commission within 10 days of receipt of the request. Failure to submit an additional requested payment shall result in suspension of the processing of the license application and may result in denial of the license.

(2) An applicant for a renewal license shall pay all reasonable costs incurred by

the commission in reviewing a renewal license, including legal and investigative costs and the cost of other necessary outside professionals and consultants in accordance with the following:

(i) The applicant shall submit a cashier's check or certified check payable to the commission in an amount reasonably requested by the commission within 10 days of receipt of request.

(ii) Failure to submit the payment shall result in suspension of the processing of renewing the license and may result in denial of the license.

(3) Initial license fee:

(i) The fee for an electronic wagering license under section 9351(a) (relating to general license requirements) shall be \$500,000. If an applicant that is also a Category 1 slot machine licensee or its corporate successor or affiliate paid the license fee under 4 Pa.C.S. § 1209 (relating to slot machine license fee), the fee required under this paragraph shall be deemed paid. A fee paid under this paragraph shall be deposited in the State Racing Fund, or, in the case of a deemed payment, transferred to the State Racing Fund upon certification of the Secretary of the Budget.

(ii) The fee for an initial totalisator or racing vendor license under section 9351(a.1) shall be \$25,000 and shall be deposited in the State Racing Fund.

(4) License renewal fee:

(i) The fee for an electronic wagering license renewal under section 9351(b)(2) shall be \$100,000. If an existing licensee under this section that is also a Category 1 slot machine licensee or its corporate successor or an affiliate paid the license fee under 4 Pa.C.S. § 1209, the fee required under this paragraph shall be deemed paid. A license renewal may not be issued until receipt of the license renewal fee. The license fee shall be deposited into the State Racing Fund, or, in the case of a deemed payment, it shall be transferred to the State Racing Fund.

(ii) The fee for the renewal of a totalisator or racing vendor license under section 9351(b)(1) shall be \$5,000 and shall be deposited in the State Racing Fund.

(5) The commission shall be reimbursed for any additional costs required to implement and enforce this chapter.

(6) Beginning two years following the effective date of this paragraph, the commission may annually increase a fee, charge or cost provided for under this section by an amount not to exceed an annual cost-of-living adjustment calculated by applying the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area for the most recent 12-month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics, immediately prior to the date the adjustment is due to take effect.

### **§ 9353. License application procedures.**

(a) Application for license.--An application for an initial or renewal license shall be in the form and manner prescribed by the commission in accordance with this chapter. The commission may deny a license to an applicant that provides false or misleading information on or omits material information from the application. The application shall include all of the following:

- (1) The applicant's legal name.
- (2) The location of the applicant's principal office.
- (3) The name, address and date of birth of each principal with a 5% or greater share of ownership or beneficial interest in the applicant.
- (4) Audited financial statements for the last three years or, if the applicant does

not have audited financial statements, financial and other pertinent information as required by the commission to determine that the applicant is financially capable of operating as a going concern and protecting accounts.

(5) A detailed plan of how the wagering system will operate. The commission may require changes in the proposed plan of operations as a condition of granting a license. There shall not be subsequent material changes in the plan of operations unless ordered by the commission or until approved by the commission after receiving a written request.

(6) A list of all personnel processing wagers on races made by residents of this Commonwealth. This list shall be kept current and be provided to the commission upon request.

(7) Copies of all documents required under this subsection by the commission.

(b) Review.--In reviewing an application, the commission may consider any information, data, report, finding or other factor available that it considers important or relevant to the determination of whether the applicant is qualified to hold a license, including all of the following:

(1) The integrity of the applicant and its principals, including:

(i) Whether the applicant or its principals are unsuitable.

(ii) Whether the applicant or its principals have been a party to litigation over business practices, disciplinary actions over a business license or refusal to renew a license.

(iii) Whether the applicant or its principals have been a party to proceedings in which unfair labor practices, discrimination or violation of government regulations pertaining to racing or gaming laws was an issue or bankruptcy proceedings.

(iv) Whether the applicant or its principals have failed to satisfy judgments, orders or decrees.

(v) Whether the applicant or its principals have been delinquent in filing tax reports or remitting taxes.

(2) The quality of physical facilities and equipment.

(3) The financial ability of the applicant to conduct wagering.

(4) The protections provided to safeguard accounts, including a certification from the licensee's chief financial officer that account funds will not be commingled with other funds as required under this chapter.

(5) The management ability of the applicant and its principals.

(6) Compliance of the applicant with applicable statutes, charters, ordinances and administrative regulations.

(7) The efforts of the applicant to promote, develop and improve the horse racing industry in this Commonwealth.

(8) The efforts of the applicant to safeguard and promote the integrity of pari-mutuel wagering in this Commonwealth.

(9) The economic impact of the applicant upon the Commonwealth.

#### **§ 9354. Oral presentation by applicant.**

(a) Application.--The application presentation shall be in accordance with all of the following:

(1) The commission may require an applicant to make an oral presentation prior to the ruling in order to clarify or otherwise respond to questions concerning the application as a condition to the issuance or renewal of a license.

(2) The presentation shall be limited to the information contained in the applicant's application and any supplemental information relevant to the commission's determination of the applicant's suitability.

(3) The admission as evidence of the supplemental information shall be subject

to the discretion of the commission.

(b) Incomplete application.--If the commission deems an applicant's application incomplete and does not accept it for filing, the applicant shall not be entitled to make an oral presentation.

### **§ 9355. Additional information.**

The commission may request additional information from an applicant if the additional information would assist the commission in deciding whether to issue or renew a license, including all of the following:

- (1) Copies of any documents used by the applicant in preparing the application.
- (2) A list of each contract between the applicant and a third party related to operations. The commission may review the contracts at any time upon request.

### **§ 9356. Operations.**

(a) Prior to operating requirements.--Before doing business in this Commonwealth all of the following are required of a licensee:

- (1) Be qualified to do business in this Commonwealth.
- (2) Submit a copy of each document required to be filed with the Department of Revenue and each document related to an audit or investigation by any Federal, State or local regulatory agency to the commission.
- (3) Remit to the commission a copy of each document required to be filed with any Federal, State or local regulatory agency.

(b) Requirements.--

(1) A licensee shall submit quarterly reports to the commission providing amounts wagered by residents in this Commonwealth and amounts wagered on races in this Commonwealth.

(2) A licensee shall enter into an agreement with each licensed racing entity in this Commonwealth on whose races the licensee offers wagering regarding payment of host fees and any other applicable fees, costs or payments of any kind to be paid to the licensed racing entity. The licensed racing entity and the applicable horsemen's organization shall negotiate a separate agreement for contributions to the purse account.

(3) A licensee shall not commingle account funds with other funds.

(4) A licensee shall provide quarterly financial statements to the commission for the first calendar year of operation if the licensee does not have audited financial statements for the last three years as referenced in section 9353(a)(4) (relating to license application procedures).

(5) A licensee shall use and communicate pari-mutuel wagers to a totalisator licensed by the commission.

(6) A licensee shall operate and communicate with the totalisator in such a way as not to provide or facilitate a wagering advantage based on access to information and processing of wagers by account holders relative to individuals who wager at licensed racing entities or simulcast facilities.

(7) All personnel processing wagers made by residents of this Commonwealth shall be licensed by the commission.

(8) Accounts shall only be accepted in the name of an individual and shall not be transferable. Only individuals who have established accounts with a licensee may wager through a licensee.

(9) Each account holder shall provide personal information as the licensee and the commission require, including all of the following:

- (i) Name.
- (ii) Principal residence address.

- (iii) Telephone number.
- (iv) Social Security number.
- (v) Date of birth.
- (vi) Other information necessary for account administration.

(10) The information supplied by the account holder shall be verified by the licensee using means acceptable to the commission. A secondary pari-mutuel organization must verify that the account holder does not reside within the primary market area of a licensed racing entity.

(11) The licensee shall provide each account holder a secure personal identification code and password to be used by the account holder to confirm the validity of every account transaction.

(12) An employee or agent of the licensee shall not disclose any confidential information except as follows:

- (i) To the commission.
- (ii) To the account holder as required by this chapter.
- (iii) To the licensee and its affiliates.
- (iv) To the licensed racing entity as required by the agreement between the licensee and the licensed racing entity.
- (v) As otherwise required by law.

(13) The licensee shall provide each account holder a copy of account holder rules and the terms of agreement and other information and materials that are pertinent to the operation of the account.

(14) The licensee may refuse to establish an account if it is found that any of the information supplied is false or incomplete or for any other reason the licensee deems sufficient.

(15) Each account shall be administered in accordance with the account holder rules and the terms of agreement provided to account holders, including:

- (i) Placing of wagers.
- (ii) Deposits to accounts.
- (iii) Credits to accounts.
- (iv) Debits to accounts.
- (v) Refunds to accounts.
- (vi) Withdrawals from accounts.
- (vii) Minimum deposit requirements.
- (viii) Fees per wager.
- (ix) Rebates.

(16) Each licensee shall have protocols in place and shall publicize to its account holders when the wagers are excluded from a host racetrack's wagering pool. These protocols shall include an immediate electronic mail message to affected account holders and immediate posting on the licensee's publicly accessible Internet website.

(17) A licensee shall maintain complete records of the application and the opening of an account for the life of the account plus two additional years. A licensee shall also maintain complete records of the closing of an account for two years after closing. These records shall be provided to the commission upon request.

(18) A licensee shall maintain complete records of all transactions, including deposits, credits, debits, refunds, withdrawals, fees, wagers, rebates and earnings for two years. These records shall be provided to the commission upon request.

(19) All wagering conversations, transactions or other wagering communications, verbal or electronic, shall be recorded by means of the appropriate electronic media and the tapes or other records of the communications shall be kept by the licensee for a period of two years. These tapes and other records shall be made available to the commission upon request.

(20) The recording of the confirmation of the transaction, as reflected in the voice or other data recording, shall be deemed to be the actual wager regardless of what was

recorded by the totalisator.

(21) A licensee shall not accept wagers if its recording system is not operable.

(22) The commission may monitor the equipment and staff and review the records of a licensee and any of the transactions conducted by the licensee with regards to wagers made by residents of this Commonwealth.

(23) A licensee may suspend or close any account for violation of the account holder rules and the terms of agreement or any other reason it deems sufficient, if the licensee returns to the account holder all money then on deposit within seven calendar days.

### **§ 9357. Transfers of licenses.**

A transfer of licenses shall be done in accordance with the following:

(1) A license issued under this chapter shall not be transferable or assignable.

(2) A substantial change in ownership in a licensee shall result in termination of the license unless prior written approval has been obtained from the commission. A request for approval of a substantial change in ownership shall be made on a form designated by the commission. Upon receipt of all required information, the commission shall, as soon as practicable, make a determination whether to authorize and approve the substantial change in ownership.

(3) Notice of a nominal change in ownership shall be filed with the commission within 15 days of the execution of the documents upon which the proposed nominal change in ownership will be based.

(4) For purposes of paragraph (3), notice is not required for any of the following:

(i) A nominal change in ownership if the licensee is a publicly traded corporation.

(ii) The transfer of an ownership interest in a licensed racing entity, whether substantial or nominal, direct or indirect, if by a publicly traded corporation, and if the beneficial ownership transferred is acquired by an individual who holds the voting securities of the publicly traded corporation for investment purposes only.

(5) Any attempt to effect a substantial change in ownership under this section if not done so in writing shall be considered void by the commission.

### **§ 9358. Duration of license.**

A license issued under this chapter SUBCHAPTER shall be valid for one calendar year for which the license is issued.

### **§ 9359. Penalties and enforcement.**

All of the following apply:

(1) The commission shall have all of the rights, powers and remedies necessary to carry out this chapter and to ensure compliance with this chapter, including revocation, suspension or modification of a license and the imposition of fines under section 9325 (relating to power of commission to impose fines).

(2) With respect to an individual or entity that offers pari-mutuel wagering to residents of this Commonwealth without a license issued by the commission, the commission may take the measures deemed necessary, including referral to the appropriate regulatory and law enforcement authorities for civil action or criminal penalties.

(3) Upon the finding of a violation by a secondary pari-mutuel organization or totalisator of this chapter or of a commission regulation or order or upon the finding of

unlicensed electronic or advanced deposit account wagering by an individual or entity, the commission may impose a fine as authorized under section 9325.

**SUBCHAPTER D  
COMPLIANCE**

**Sec.**

**9361. Tax compliance requirement.**

**§ 9361. Tax compliance requirement.**

(a) Applicant.--An applicant must be tax compliant to be eligible for a license issued under this chapter. Upon receipt of an application for a license, the commission shall request the Department of Revenue to conduct a tax compliance review of the applicant.

(b) Licensees.--A licensee must be tax compliant to be eligible for renewal of a license issued under this chapter. Prior to renewing a license, the commission shall request the Department of Revenue to conduct a tax compliance review of the licensee.

(c) Commissioners and commission employees.--An individual must be tax compliant to be eligible to serve as a commissioner or to be employed by the commission. Commissioners and commission employees shall be subject to an annual tax compliance review to ensure they are tax compliant. This subsection may not apply to commission employees subject to a collective bargaining agreement.

(d) Contractors.--Each contractor of the commission shall be subject to an annual tax compliance review to ensure that the contractor is tax compliant.

(e) Review.--The tax compliance review under subsections (a) and (b) and the annual tax compliance review under subsections (c) and (d) must be performed on the dates as determined by the commission.

(f) Definitions.--For purposes of this section, the following words and phrases shall have the following meanings:

"Tax compliant." Being current with all applicable Commonwealth tax filing and reporting obligations for any applicable tax year and current with payment of any balance of tax, interest or penalty due the Commonwealth as determined by the Department of Revenue for an applicable tax year.

"Tax compliance review." The process by which the Department of Revenue determines whether an individual or entity is tax compliant.

**SUBCHAPTER E  
MEDICATION RULES AND ENFORCEMENT PROVISIONS**

**Sec.**

**9371. Mandatory requirements for medication rules.**

**9372. Establishment of Pennsylvania Race Horse Testing Program.**

**9373. Equipment, supplies and facilities.**

**9374. Costs of enforcement of medication rules or regulations.**

**§ 9371. Mandatory requirements for medication rules.**

(a) Regulations for medication.--When a licensed racing entity conducts a horse race meeting with pari-mutuel wagering, the commission shall have in effect rules or regulations to control the use and administration of any medication and the use and administration of any device that affects the performance of a race horse. The commission may establish permitted tolerance levels and therapeutic dose allowances for all medication to be used or administered to a race horse. The commission shall adopt a comprehensive schedule of equine drugs, medications, therapeutic substances or metabolic derivatives which are authorized to be administered to race horses, including tolerance levels. In order to properly determine the schedule of drugs and the tolerance levels under this subsection, the commission may conduct research or contract with a vendor to conduct the research. The commission may consult with the Pennsylvania Board of Veterinary Medicine, academic institutes and associations representing the majority of the horse owners and experts.

(b) Penalty.--The commission shall establish in their rules or regulations penalty provisions for the violation of these rules or regulations.

**§ 9372. Establishment of Pennsylvania Race Horse Testing Program.**

(a) Establishment.--There is hereby established the Pennsylvania Race Horse Testing Program. The program shall be administered by the commission. All costs of the program shall be paid by the appropriations allocated under section 9374 (relating to costs of the enforcement of medication rules or regulations).

(b) Purpose.--The purposes of the Pennsylvania Race Horse Testing Program are to analyze samples for the presence in race horses of any medication, to develop techniques, equipment and procedures, to collect and test for the presence of medication in race horses, to ascertain permitted tolerance levels or therapeutic dose allowances for medication, to offer consultation and advice to the public on all issues regarding the medication of race horses and to conduct research in medication issues involving race horses.

**§ 9373. Equipment, supplies and facilities.**

The costs of all equipment, supplies and facilities, except holding barns or stables, to be located at race horse meeting facilities, grounds or enclosures or at other locations designated by the management committee shall be paid by the commission.

**§ 9374. Costs of enforcement of medication rules or regulations.**

(a) Authorization.--Beginning July 1, 2016, and each year thereafter, the General Assembly shall authorize the transfer of funds from the Pennsylvania Race Horse Development Fund to the State Racing Fund to provide for each cost associated with the collection and research of and testing for medication, which shall include the cost of necessary personnel, equipment, supplies and facilities, except holding barns or stables, to be located at horse race facilities, grounds or enclosures or at other locations designated by the commission. All such costs shall be reviewed and approved by the commission. The

transfer shall be made in 52 equal weekly installments during the fiscal year before any other distribution from the Pennsylvania Race Horse Development Fund.

(b) Expiration.--Subsection (a) shall expire at 11:59 p.m. on June 30, 2020. After June 30, 2020, all costs for the Pennsylvania Race Horse Testing Program and the collection and testing of samples for any manner of medication shall be paid by the commission.

Section 5. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 3 Pa.C.S. Ch. 93.

(2) Article XXVIII-D of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed.

Section 6. The addition of 3 Pa.C.S. Ch. 93 is a continuation of Article XXVIII-D of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. The following apply:

(1) Except as otherwise provided in 3 Pa.C.S. Ch. 93, all activities initiated under Article XXVIII-D of The Administrative Code of 1929 shall continue and remain in full force and effect and may be completed under 3 Pa.C.S. Ch. 93. Orders, regulations, rules and decisions which were made under Article XXVIII-D of The Administrative Code of 1929 and which are in effect on the effective date of section 5(2) of this act shall remain in full force and effect until revoked, vacated or modified under 3 Pa.C.S. Ch. 93. Contracts, obligations and collective bargaining agreements entered into under Article XXVIII-D of The Administrative Code of 1929 are not affected nor impaired by the repeal of Article XXVIII-D of The Administrative Code of 1929.

(2) Except as set forth in paragraph (3), any difference in language between 3 Pa.C.S. Ch. 93 and Article XXVIII-D of The Administrative Code of 1929 is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Article XXVIII-D of The Administrative Code of 1929.

(3) Paragraph (2) does not apply to the addition of 3 Pa.C.S. § 9336(b), (b.1), (c), (d), (d.1) and (e).

Section 7. The following shall apply:

(1) The addition of 3 Pa.C.S. § 9336(b), (c), (d), (e)(1) and (f) shall apply retroactively to February 23, 2016.

(2) The addition of 3 Pa.C.S. § 9336(a.1), (b.1), (d.1) and (e)(2) shall apply January 1, 2017.

Section 8. This act shall take effect immediately.