

2009  
SUNSHINE  
LAW  
REVIEW

Colorado Department of Regulatory Agencies  
Office of Policy, Research and Regulatory Reform

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



October 12, 2006

# STATE OF COLORADO

---

**DEPARTMENT OF REGULATORY AGENCIES**  
Office of the Executive Director  
Tambor Williams  
Executive Director

1560 Broadway, Suite 1550  
Denver, CO 80202  
Phone: (303) 894-7855  
Fax: (303) 894-7885  
V/TDD: (303) 894-7880



---

Bill Owens  
Governor

October 12, 2006

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

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed the evaluation of the Colorado Racing Commission (Commission) and the Colorado Division of Racing Events. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2007 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

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

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

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

Sincerely,



Tambor Williams  
Executive Director

# Table of Contents

<b>Executive Summary</b> .....	<b>i</b>
<b>Background</b> .....	<b>1</b>
<i>The Sunset Process</i> .....	1
<i>Methodology</i> .....	1
<i>Profile of the Industry</i> .....	1
<i>History of Regulation</i> .....	4
<b>Legal Framework</b> .....	<b>8</b>
<i>Federal Laws</i> .....	8
<i>Colorado Laws and Rules</i> .....	8
<b>Program Description and Administration</b> .....	<b>30</b>
<i>Licensing</i> .....	32
<i>Examinations</i> .....	34
<i>Inspections</i> .....	36
<i>Complaints/Disciplinary Actions</i> .....	37
<i>Parimutuel Wagering</i> .....	41
<b>Analysis and Recommendations</b> .....	<b>43</b>
<i>Recommendation 1 – Continue the Colorado Racing Commission, the Colorado Division of Racing Events and the regulation of horse and greyhound racing for nine years, until 2016.</i> .....	43
<i>Recommendation 2 – Impose a uniform tax rate of 0.75 percent on the gross adjusted pari-mutuel handle and direct the Commission to promulgate rules concerning the manner in which gross adjusted pari-mutuel handle should be calculated.</i> .....	47
<i>Recommendation 3 – Repeal the Commission, the Division and the regulation of racing in general in the event that live racing in Colorado ceases.</i> .....	54
<i>Recommendation 4 – Eliminate the northern and southern circuits in greyhound racing and simply allow greyhound racing in Colorado</i> .....	54

<i>Recommendation 5 – Divide the proceeds from breakage and unclaimed tickets at greyhound racetracks equally between the track and that track’s purse fund. ...</i>	<i>55</i>
<i>Recommendation 6 – Require the distribution of Breeders’ Fund dollars that are not distributed to a qualified breed association within three years of the deposit of such funds into the Breeders’ Fund to the Racing Cash Fund. ....</i>	<i>56</i>
<i>Recommendation 7 – Require every recipient of distributions from the Breeders’ Fund to report to the Commission, at least annually, how such funds are spent and to which owners and breeders such funds are distributed. ....</i>	<i>59</i>
<i>Recommendation 8 – Repeal the requirement that the Commission approve the Division’s budget. ....</i>	<i>60</i>
<i>Recommendation 9 – Require the Commission to meet at least quarterly, rather than monthly. ....</i>	<i>61</i>
<i>Administrative Recommendation 1 – Refer all licensing hearings to administrative law judges. ....</i>	<i>62</i>
<i>Administrative Recommendation 2 – Immediately cease administering all licensing examinations until they have been psychometrically validated, and, thereafter, record the number of each type of examination administered and the pass rates for each. ....</i>	<i>64</i>
<i>Administrative Recommendation 3 – Conduct a complete and comprehensive review and overhaul of all Commission rules. ....</i>	<i>67</i>
<i>Administrative Recommendation 4 – Implement a system for complete and consistent complaint/case tracking. ....</i>	<i>68</i>
<b>Appendix A – Sunset Statutory Evaluation Criteria .....</b>	<b>69</b>
<b>Appendix B – Definitions.....</b>	<b>70</b>
<b>Appendix C – License and Registration Information by Occupation and Calendar Year .....</b>	<b>72</b>
<b>Appendix D – Details of General Case Types .....</b>	<b>74</b>

# 2006 Sunset Review The Colorado Racing Commission and the Colorado Division of Racing Events

Department of Regulatory Agencies

Bill Owens  
Governor

Tambor Williams  
Executive Director



## Executive Summary

### Quick Facts

**What is Regulated?** Greyhound racing, horse racing, pari-mutuel wagering and most individuals and entities associated therewith.

**Who is Regulated?** In calendar year 2005 there were 2,854 active licensees and registrants:

47 Major Business Licensees

40 Minor Business Licensees

57 Individual Key Licensees

2,164 Individual Support Licensees

546 Individual Registrants

**How is it Regulated?** License applicants are subject to fingerprint-based criminal history background checks. Registration applicants are subject to name-based criminal history background checks. Additionally, applicants for five types of licenses must take and pass examinations. All licensees and registrants may be disciplined by the Commission for violation of the racing statute or the rules of the Commission.

**What Does it Cost?** The fiscal year 04-05 expenditure to oversee this program was \$2.7 million and there were 19.0 FTE associated with this program.

In 2006, license costs were:	New	Renewal
Major Business	\$225+	\$60+
Minor Business	\$135	\$65
Key	\$225	\$75
Support	\$75	\$25
Registration	\$15	\$15

Additionally, the license fee for a greyhound racetrack was \$133,400 for each month that live races are held, and the license fee for a horse racetrack was \$418,314 for the year.

**What Disciplinary Activity is There?** During the five-year period between calendar years 2001 and 2005, the Commission's complaints and disciplinary actions consisted of:

Complaints Filed	10,038
Revocations	6
Suspensions	108
Probation	102
Fines	313
Other	193

**Where Do I Get the Full Report?** The full sunset review can be found on the internet at:  
<http://www.dora.state.co.us/opr/oprpublications.htm>

### Key Recommendations

**Continue the Commission, the Division and the regulation of horse and greyhound racing for nine years, until 2016.**

The Commission and the Division administer a statute that not only regulates the sports of horse and greyhound racing, but also a statute that regulates pari-mutuel wagering. The current regulatory scheme is designed to ensure that when an individual places a pari-mutuel wager, the race will be as fair and as honest as possible so that the individual knows that he or she has as much of a chance of winning as anyone else. In order to maintain the integrity of racing and to help to ensure that pari-mutuel wagering remains honest and fair, the Commission, the Division and regulation of racing in general should be continued until 2016.

**Impose a uniform tax rate of 0.75 percent on the gross adjusted pari-mutuel handle.**

Currently, the greyhound gross handle is taxed at a rate of 4.5 percent and the horse handle is taxed at a rate of 0.75 percent. There is no legitimate policy reason for this difference in tax rates. Additionally, limited stakes gaming facilities in Colorado are taxed based on their adjusted gross proceeds. Since the tax on pari-mutuel wagering amounts to little more than an excise tax on wagering, all such taxes, whether they are collected from a racetrack or from a casino, should be calculated on the same gross adjusted basis.

**Repeal the Commission, the Division and the regulation of racing in general in the event that live racing in Colorado ceases.**

Racing in Colorado is in decline. As a result, by 2016, there may no longer be racing in Colorado, but, as creatures of statute, the Commission and the Division would continue. To avoid this, they should be allowed to repeal, by operation of law, should live racing in Colorado cease.

## **...Key Recommendations Continued**

### **Divide the proceeds from breakage and unclaimed tickets at greyhound racetracks equally between the track and that track's purse fund.**

One area in which greyhound racing and horse racing are regulated differently is the disposition of funds realized from breakage and unclaimed pari-mutuel tickets. In order to regulate these two sports consistently, the proceeds from breakage and unclaimed tickets should be divided equally between the track and that track's purse fund.

### **Require the distribution of Breeders' Fund dollars that are not distributed to a qualified breed association to the Racing Cash Fund.**

Money is distributed out of the Breeders' Fund to the owners and breeders of Colorado-bred horses through the breed associations for each breed. However, funds have been deposited in the Breeders' Fund for breeds that have no association qualified to receive distributions. Therefore, such funds should be deposited in the Racing Cash Fund to help to offset licensing fees.

## **Major Contacts Made in Researching the 2006 Sunset Review of the Commission and the Division**

American Greyhound Council  
American Society for the Prevention of Cruelty to Animals  
Cloverleaf Kennel Club, Inc.  
Colorado Appaloosa Association  
Colorado Division of Racing Events  
Colorado Greyhound Adoption, Inc.  
Colorado Greyhound Companions  
Colorado Greyhound Kennel Association  
Colorado Horse-Racing Association  
Colorado Owners & Breeders of Racing Arabians  
Colorado Racing Commission  
Colorado Thoroughbred Breeders' Association  
Jockey's Guild, Inc.  
Mile High Racing and Entertainment  
National Greyhound Association  
People for the Ethical Treatment of Animals  
Racing Commissioners International  
Recycled Racers  
Rocky Mountain Paint Association  
Rocky Mountain Quarter Horse Association  
Southern Greyhound Association

## **What is a Sunset Review?**

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether or not they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with the public interest. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the rights of businesses to exist and thrive in a highly competitive market, free from unfair, costly or unnecessary regulation.

Sunset Reviews are Prepared By:  
Colorado Department of Regulatory Agencies  
Office of Policy, Research and Regulatory Reform  
1560 Broadway, Suite 1550  
Denver, CO 80202  
[www.dora.state.co.us/opr](http://www.dora.state.co.us/opr)

---

## **Background**

### *The Sunset Process*

The regulatory functions of the Colorado Racing Commission (Commission) and the Colorado Department of Revenue, Division of Racing Events (Division) in accordance with Article 60 of Title 12, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2007, unless continued by the General Assembly. During the year prior to this date, it is the duty of the Department of Regulatory Agencies (DORA) to conduct an analysis and evaluation of the Commission and the Division pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the Commission and the Division should be continued for the protection of the public and to evaluate the performance of the Commission and staff of the Division. During this review, the Commission and the Division must demonstrate that there is still a need for each of them and that the regulation is the least restrictive regulation consistent with the public interest. DORA's findings and recommendations are submitted via this report to the legislative committee of reference of the Colorado General Assembly. Statutory criteria used in sunset reviews may be found in Appendix A on page 69.

### *Methodology*

As part of this review, DORA staff conducted a literature review; attended Commission meetings; interviewed Division staff, representatives of various professional and breed associations, representatives of various animal welfare organizations and regulators in other states and reviewed Commission records and minutes, including complaint and disciplinary actions, Colorado statutes and Commission rules and the laws of other states.

### *Profile of the Industry*

Both horse racing and greyhound racing are legal in Colorado, as is pari-mutuel wagering on such racing. Therefore, when discussing the regulation of racing, it is necessary to differentiate between these three facets of the industry.

The racing industry uses terminology that may be unfamiliar to many individuals. Definitions of many of these terms may be found in Appendix B on page 70.

---

Race meetings, or race meets, of horses and greyhounds are sponsored by associations that obtain race meet licenses from the Commission. These associations either own or control their own racetracks or they contract with other racetracks to host their licensed race meets.

In Colorado in 2006, there are three active greyhound associations running live race meets at two tracks and one horse association running a live race meet at one track.

Cloverleaf Kennel Club is a greyhound association that runs one live race meet each year at Cloverleaf Greyhound Track in Loveland. In 2006, Cloverleaf Kennel Club's live race meet ran from February 1 through May 31, consisting of, in general, eight performances per week with 15 races per performance.

Mile High Greyhound Club is a greyhound association that runs one race meet each year at Mile High Greyhound Park in Commerce City. In 2006, Mile High Greyhound Club's live race meet ran from June 2 through September 29, consisting of, in general, seven performances per week with 15 races per performance.

Interstate Kennel Club is the final greyhound association licensed to run greyhound race meets in Colorado and it runs multiple race meets at Mile High Greyhound Park in Commerce City. In 2006, Interstate Kennel Club's live race meets ran from January 1 through January 29, and were scheduled to run, as of the time the writing of this report, from September 30 through December 31, with no races scheduled for December 24 and 25.

PostTime in Colorado Springs last hosted a live race meet from August 9 through October 29, 2005, but continues to hold a racing license and is an active simulcast facility.

Pueblo Kennel Association in Pueblo last hosted a live race meet from June 4 through June 15, 2003, but continues to operate as a simulcast facility.

Racing Associates of Colorado is the sole association in Colorado to sponsor a horse race meet and it does so at Arapahoe Park in Aurora. In 2006, Racing Associates of Colorado's live race meet ran from June 10 through September 4, consisting of, in general, three performances per week with nine races per performance.

---

In addition to sponsoring live race meets, the license held by each of these associations entitles each to host simulcast races both at the racetrack and at one additional facility. Additionally, a licensed association may sell the simulcast signals it imports to additional off-track betting facilities in the state. A simulcast presentation essentially allows consumers to participate in pari-mutuel wagering on races that occur elsewhere, either at a Colorado racetrack or at an out-of-state track.

Very generally, the number of permissible simulcast days is directly related to the number of days of live racing in Colorado with all greyhound simulcasting limited to no more than 250 total days, to be divided among licensed associations, and horse simulcasting limited to no more than 250 days per licensed association.

In greyhound racing, both males and females race one another at the same time. No drugs or medications may be present in a greyhound's system at the time of racing.

In horse races, only horses of the same gender, age and breed race one another at the same time. In Colorado, live racing of Appaloosas, Arabians, Paints, Quarterhorses and Thoroughbreds regularly occurs. Simulcasting of these breeds also occurs, as well as for Harness/Standardbreds. Certain drugs and medications, at certain levels, may be authorized to be in a horse's system at the time of racing.

In general, every person involved in the operation of a race meet, from kennel, stable, and animal owners, trainers and grooms to association employees, including concessionaires, are either licensed by or registered with the Commission. The primary goal in licensing and registering such individuals and entities is to maintain the integrity of the races so that members of the public will have sufficient confidence in such races that they will participate in pari-mutuel wagering on those races.

Pari-mutuel wagering is the reason for horse and greyhound racing to exist. Without it, racing of these animals would very likely end. Pari-mutuel wagering generates the money by which racetracks can continue to operate, by which associations pay their excise taxes and, in part, by which money for purses is raised. Pari-mutuel wagering represents the economic underpinning of horse and greyhound racing in Colorado and throughout the United States.

---

Pari-mutuel wagering is a form of wagering based on the outcome of horse and greyhound races in which those who wager purchase tickets of various denominations on one or more horses or greyhounds, as the case may be, from one or more pools and all like wagers from each race are pooled and the winning ticket holders are paid prizes from such pools in amounts proportional to the total receipts in the pool minus deductions authorized by statute, also known as the takeout.

For example, an individual could wager \$2.00 on a particular greyhound to win a particular race. That individual's \$2.00-wager is placed in a pool, in this case, the "win pool," along with all the wagers of other individuals who wagered money on which greyhound would win that particular race. If that greyhound wins the race, the individual's winnings are determined by subtracting the takeout from the "win pool" of money and dividing the remainder among all of the individuals who wagered on that greyhound to win that race in proportion to the amount each wagered.

The takeout is retained by the association hosting the race meet to cover its expenses, including, but not limited to, fees, taxes, purses, and the general operational needs of the association and the facility at which the race meet is held. The takeout must be approved by the Commission on an annual basis, and in no case may exceed 30 percent of the gross amount wagered, which is also referred to as the handle.

### *History of Regulation*

Horse and greyhound racing, as well as pari-mutuel wagering on such races, became legal in Colorado in November 1948 by way of a General Assembly-referred measure. The referendum created a three-member, Governor-appointed racing commission (Commission) and established license fees for drivers, jockeys and trainers at \$10 per year, and apprentice jockeys at \$1.00 per year.

The 1948 referendum also limited race meets to no more than 20 days and prohibited a licensee from holding more than two race meets per year. The cost of a race meet license was set at five percent of the pari-mutuel handle, with an additional five percent of the pari-mutuel handle going to the state's General Fund. The referendum permitted the Commission to retain up to 20 percent of all revenues collected to cover the costs of regulation.

Live racing began in Colorado in 1949.

In 1967, the number of categories of individuals and entities requiring licensure was expanded. License fees were removed from statute, and the Commission was granted the authority to establish such fees by rule.

---

With the passage of the Administrative Reorganization Act of 1968, the Commission was transferred to the Department of Regulatory Agencies (DORA) as a Type I agency.

After extensive modifications to the racing statute in 1973 and 1977, the General Assembly created the Division of Racing Events (Division), in DORA, in 1983. The responsibility for most of the day-to-day regulatory matters previously managed by the Commission was transferred to the Division.

In 1992, the Commission was expanded from three to five members and made a Type II board. DORA conducted a sunset review of the Commission and the Division that same year.

The resulting sunset legislation, House Bill (HB) 93-1034, implemented several of DORA's recommendations, including transferring the Commission and the Division from DORA to the Department of Revenue and continuing each, as well as the regulation of horse and greyhound racing, until 1999.

Additionally HB 93-1034 granted the Commission subpoena powers and authorized the Commission to take disciplinary action against a licensee who had been subject to any form of discipline in another jurisdiction if the basis for such discipline would have constituted a violation of Colorado law. Previously, this had been allowed only if the disciplinary action in the other jurisdiction had resulted in the suspension or revocation of the license.

Finally, HB 93-1034, redefined "licensee" as being anyone holding a license or registration issued by the Commission, and directed the Commission to determine which occupations should be licensed and which should merely be registered.

Relatively minor changes were made to the racing statute in 1994 and 1995.

The General Assembly passed two separate pieces of legislation impacting racing and the operations of the Commission and the Division in 1996. Senate Bill (SB) 96-176 defined, for the first time, pari-mutuel wagering and placed on all Division employees, the same conflict of interest prohibitions as had previously applied only to the Division Director and the Commission members. Finally, SB 96-176 elevated the Division's investigators from Level III Peace Officers to Level II Peace Officers.

The second bill that passed in 1996, HB 96-1308, more directly impacted the racing industry. For the first time, simulcasting of horse racing was permitted, but a simulcast facility was prohibited from receiving out-of-state horse race simulcast signals on any day that any Colorado-licensed horse track within 50 miles of the simulcast facility ran live horse races. Additionally, each licensed horse track was limited to no more than 250 simulcast days each year.

---

Finally, new limitations were placed on the disbursement of funds from the Horse Breeders' and Owners' Awards and Supplemental Purse Fund (Breeders' Fund) in that funds distributed from the Breeders' Fund to the various breed associations had to be distributed by the breed associations according to the by-laws of those breed associations. In effect, if a breed association desired to receive its share of Breeders' Fund dollars, that breed association now had to adopt by-laws outlining how the Breeders' Fund dollars distributed to that breed association would be further distributed. Failure to adopt such by-laws, in effect, rendered such a breed association ineligible to receive Breeders' Fund dollars.

Four separate bills were passed in 1998, three of which made substantive changes to the racing statute. Senate Bill 98-174 required, as part of a race meet license application, the submission of a written agreement between the association sponsoring the race meet and an organization representing a majority of greyhound kennel owners pertaining to the purse structure to be used at that race meet.

Senate Bill 98-192 adjusted the maximum allowable takeout rate on greyhound races up from 17.5 percent to 19.5 percent of the gross handle. Concomitantly, this bill increased the mandatory contribution to greyhound purses by the association sponsoring the race meet from four percent to five percent of the gross handle.

The final bill of that year, HB 98-1017, authorized the Commission to randomly test any occupational licensee or registrant for drugs or alcohol and authorized the Division to issue conditional and temporary licenses.

DORA conducted another sunset review of the Commission and the Division in 1998, which resulted in SB 99-081 and SB 99-066. Senate Bill 99-066 continued the regulation of horse and greyhound racing, the Commission and the Division until July 1, 2008.

Senate Bill 99-081, for the first time, permitted greyhound simulcasting and required greyhound tracks to hold 60 days of live racing in order to be a simulcast facility; prohibited simulcast facilities from being located within 50 miles of a licensed horse or greyhound track without such track's consent; authorized licensed racetracks to host non-racing events and repealed the Breeders' Fund Advisory Committee.

In 2000, the General Assembly passed two racing-related bills. House Bill 00-1301 authorized horse and greyhound purse funds to be invested in U.S. government-backed securities, and HB 00-1216 expanded the Commission's authority to enter any licensed facility, rather than just licensed racetracks.

---

The General Assembly passed five racing-related bills in 2002. Senate Bill 02-221 extended the effective dates of some simulcast provisions from 2003 to 2008; HB 02-1046 updated some citations to Colorado's criminal code and HB 02-1087 authorized associations that sponsor race meets to contract with, on a temporary or emergency basis, veterinarians, the cost of which could be deducted, at a level determined by the Commission, from the monies owed by the association to the Division.

More substantive changes were made by way of the two remaining bills from that year. House Bill 02-1089 redefined a class "A" horse track as a track that had not run a live race in the previous three years, but that would run a live race meet within the following 12 months, and allowed such a horse track to begin simulcasting operations prior to the running of a live race meet.

Finally, HB 02-1459 required the submission of fingerprints with license applications and further required that such fingerprints be submitted to the Colorado Bureau of Investigation and the Federal Bureau of Investigation for the purpose of conducting criminal history background checks.

Furthermore, SB 03-107 limited greyhound simulcasting rights of greyhound tracks by allowing seven days of simulcasting in any week in which that greyhound track ran five days of live greyhound races of 10 races each. The bill further restricted greyhound simulcasting to no more than 250 days of simulcasting, to be divided among all licensed greyhound tracks. Finally, the bill required that five percent of the gross handle realized by greyhound simulcasting be deposited in that greyhound track's purse fund.

Beyond doubt, however, SB 03-1123 represented the most dramatic shift in racing economics since racing was first legalized in Colorado in 1948. Senate Bill 03-1123 required, for the first time, that the racing industry cover the cost of regulation in a direct manner, through cash funding and the imposition of license fees on race meets without a corresponding reduction in the tax that such licensees already paid on the gross handle. The General Assembly also increased the maximum allowable takeout rate from 19.5 percent to 30 percent of gross handle, but required Commission approval of all takeout rates.

Two minor bills with racing impacts were enacted in 2004. Senate Bill 04-239, a Revisor's bill, corrected several statutory citations, and HB 04-1255 changed the sunset date of the Commission and the Division from 2008 to 2007.

Finally, HB 06-1409 made two substantive changes to the racing statute with respect to greyhound simulcasting. First, it entitled a licensed greyhound track to seven days of simulcasting for every week in which five days of live greyhound racing consisting of 10 races each day are run anywhere in Colorado. The bill also permitted any greyhound track that was licensed as such in 2003 to continue as a simulcast facility so long as at least one greyhound track continues to run live greyhound races in Colorado.

---

## Legal Framework

### *Federal Laws*

At the federal level, two laws indirectly regulate racing. The Wire Act contains a general prohibition against interstate wagering over wire communications, such as telephone lines or the Internet, on sporting events and contests.<sup>1</sup> However, the Wire Act goes on to exempt from this general prohibition, wagers on sporting events or contests transmitted from a state where betting on that sporting event or contest is legal and into a state where betting on that sporting event or contest is legal.<sup>2</sup> In other words, interstate wagering is legal, so long as it is legal in both the state from which the signal originates and in the state in which the wager is made.

In general, the Interstate Horse Racing Act of 1978 specifically permits wagering on simulcast horse racing. More specifically this act permits interstate, off-track wagering so long as the association sponsoring the race meet has a written agreement with the horsemen's group participating at that race meet granting consent for such wagering, as well as the consent of the racing commission of the state where the race actually occurs and of the racing commission of the state where the simulcast wager is placed.<sup>3</sup>

### *Colorado Laws and Rules*

The State of Colorado regulates greyhound and horse racing, as well as many of the individuals and business entities involved in such and pari-mutuel wagering on such racing. To effectuate regulation, the General Assembly enacted Article 60 of Title 12, Colorado Revised Statutes (C.R.S.), and created the Colorado Racing Commission<sup>4</sup> (Commission) and the Colorado Department of Revenue, Division of Racing Events (Division).<sup>5</sup>

Section 12-60-101, C.R.S., declares that regulation of greyhound and horse racing is imposed:

- For the protection of the health, peace, safety, and general welfare of the people of Colorado;
- For the purpose of promoting racing and the recreational, entertainment, and commercial benefits to be derived therefrom;

---

<sup>1</sup> 18 U.S.C. § 1084(a).

<sup>2</sup> 18 U.S.C. § 1084(b).

<sup>3</sup> 15 U.S.C. § 3004(a).

<sup>4</sup> § 12-60-301, C.R.S.

<sup>5</sup> § 12-60-201, C.R.S.

- 
- To raise revenue for the state’s General Fund;
  - To establish high standards of sport and fair play;
  - For the promotion of the health and safety of the animals involved in racing; and
  - To foster honesty and fair dealing in the racing industry.

The Commission consists of five Governor-appointed and Senate-confirmed members<sup>6</sup> who may serve no more than two, consecutive four-year terms.<sup>7</sup> All Commission members must have been residents of Colorado for five years and must not have been convicted of a felony or gambling-related offense.<sup>8</sup>

No more than three Commission members may be members of the same political party,<sup>9</sup> no more than two Commission members may be from the same Congressional district and at least one Commission member must be from west of the Continental Divide.<sup>10</sup>

Furthermore, the Commission’s membership must satisfy certain professional characteristics:<sup>11</sup>

- Two members must have been previously engaged in the racing industry for at least five years;
- One member must be a practicing and Colorado-licensed veterinarian;
- One member must have been engaged in business in a management-level capacity for at least five years; and
- One member who does not satisfy any of the requirements of the other seats.

The Commission must meet at least one time each month.<sup>12</sup>

The Division Director must be qualified by experience and training, must be of good character and cannot have been convicted of any felony or gambling-related offense.<sup>13</sup> Additionally, the Division Director is prohibited from engaging in any other profession or occupation that could present a conflict of interest with the Division Director’s duties.<sup>14</sup>

---

<sup>6</sup> § 12-60-301(1), C.R.S.

<sup>7</sup> § 12-60-301(1)(b), C.R.S.

<sup>8</sup> § 12-60-301(1), C.R.S.

<sup>9</sup> § 12-60-301(1), C.R.S.

<sup>10</sup> § 12-60-301(1)(a), C.R.S.

<sup>11</sup> § 12-60-301(1)(a), C.R.S.

<sup>12</sup> § 12-60-301(1)(h), C.R.S.

<sup>13</sup> § 12-60-202(1), C.R.S.

<sup>14</sup> § 12-60-202(2), C.R.S.

---

The Division Director must employ a sufficient number of licensed veterinarians so that at least one veterinarian is present at every racetrack during the weighing in of animals and at all times that racing is being conducted. These veterinarians are also authorized to conduct physical examinations of animals, including blood and urine tests to determine the presence of prohibited drugs or medications, to ensure that the animals are in proper physical condition to race, to prohibit any animal from racing if it is not in proper physical condition, and to take other necessary and proper action to ensure the health and safety of racing animals and the fairness of races.<sup>15</sup>

The Division Director and all investigators of the Division are Peace Officers.<sup>16</sup>

The statute further provides for the establishment of a board of stewards for horse races and a board of judges for greyhound races, to assist in supervising the conduct of any race meet. Each board is comprised of three members: two employees of the Division and one employee of the racetrack hosting the relevant race meet.<sup>17</sup> Each racetrack has its own board of stewards or judges, as the case may be, and each such board has authority over all licensing and racing matters at a given track.<sup>18</sup>

Members of a board of judges or stewards, as well as the Division veterinarians, other Division employees, other types of judges, starters, clockers, lure operators, clerks of scales, mutual managers, directors of racing, timers, etc., comprise a group often referred to as “racing officials.”<sup>19</sup> Racing officials are selected based on experience, criminal record, racing history, conflicts of interest, physical conditions (as appropriate) and the best interests of the racing industry.<sup>20</sup>

The Commission may fine, suspend or remove a racing official at any time for incompetence and/or failure to follow or enforce the racing statute or the rules of the Commission.<sup>21</sup>

No one interested in the result of a race because of ownership of any animal entered, or of its sire or bitch/dam or because of bets or otherwise may serve as a racing official.<sup>22</sup> Additionally, racing officials may not accept any gratuity, reward or favor in connection with a race.<sup>23</sup>

---

<sup>15</sup> § 12-60-202(3)(c), C.R.S.

<sup>16</sup> § 12-60-203, C.R.S.

<sup>17</sup> § 12-60-204, C.R.S., and Rule 4.100.

<sup>18</sup> Rule 4.200, *et seq.*

<sup>19</sup> Rule Chapter 2.

<sup>20</sup> Rule 4.102.

<sup>21</sup> Rule 4.104.

<sup>22</sup> Rule 4.106.

<sup>23</sup> Rule 4.108.

---

Section 12-60-401(1), C.R.S., prohibits the Division Director, Commission members, all employees of the Division and all immediate family members of such individuals from:

- Holding any pecuniary interest in any racetrack in Colorado nor in any kennel, stable, compound, or farm that houses animals licensed or registered to race in Colorado;
- Wagering money or any other chattel of value on the result of any race or race meet or sweepstakes conducted in Colorado or conducted outside Colorado and simulcasted in the state;
- Holding any pecuniary interest in any out-of-state host track or deriving any pecuniary benefit from the racing of any animal at such track;
- Holding more than a five percent interest in any entity doing business with a racetrack; and
- Having any interest of any kind in a license issued by the Division or Commission, nor have any interest in any licensee, licensed premises, establishment, or business involved in or with pari-mutuel wagering.

### Licensing

One of the Commission's and the Division's primary functions is licensing, registering or otherwise regulating the individuals, entities and facilities involved in horse and greyhound racing. The Commission is required to license:

- All horse and greyhound race meets with pari-mutuel wagering that are held in Colorado;<sup>24</sup>
- All kennels and stables that house racing animals participating in a licensed race meet;<sup>25</sup>
- Persons who manufacture and operate totalisators;<sup>26</sup>
- All in-state simulcast facilities conducting pari-mutuel wagering;<sup>27</sup>
- All individuals who work on the premises of a racetrack, except that the Commission may register certain occupational categories or determine that neither licensure nor registration is necessary for certain occupational categories;<sup>28</sup> and

---

<sup>24</sup> § 12-60-501(1)(a), C.R.S.

<sup>25</sup> § 12-60-501(1)(b), C.R.S.

<sup>26</sup> § 12-60-501(2)(c), C.R.S.

<sup>27</sup> § 12-60-501(3), C.R.S.

<sup>28</sup> § 12-60-503(2)(a), C.R.S.

- 
- Any person who owns or leases a racing animal.<sup>29</sup>

All licensed race meets, kennels and stables must be inspected by Division personnel at least once each year.<sup>30</sup> Furthermore, section 12-60-505, C.R.S., requires that an application for a race meet include:

- The time, place and number of days of the meet;
- The kind of racing proposed to be conducted;
- The full name and address of the applicant;
- The location of the racetrack;
- The names and residences of all property leased and owned by the applicant;
- A statement of the financial assets and liabilities of the applicant;
- A description of the qualifications and experience of the applicant;
- A full disclosure of all holding or intermediary companies associated with the applicant;
- A description of the land uses within a radius of two miles of the racetrack; and
- Such other information as the Commission may require.

All race meet licenses must specify the number of races to be held each day of the race meet.<sup>31</sup> While the applicant for a race meet license is required to specify such information in the license application,<sup>32</sup> the Commission may establish different dates for a race meet, different dates for racing within a race meet and a different number of races to be held than those proposed in the application. In making such determinations, the Commission may consider all factors involved, such as the interests of the applicant and the public, the best interests of racing and avoiding conflicts in live racing dates amongst and between different tracks.<sup>33</sup>

---

<sup>29</sup> § 12-60-503(2)(a), C.R.S.

<sup>30</sup> §§ 12-60-501(1)(a) and 12-60-501(1)(b), C.R.S.

<sup>31</sup> §§ 12-60-505(6) and 12-60-511(4), C.R.S.

<sup>32</sup> § 12-60-505(1), C.R.S.

<sup>33</sup> § 12-60-511(5)(b), C.R.S.

---

Any licensed race meet must be held at a properly constructed racetrack equipped with safe and suitable grandstands, reasonably sanitary accommodations and such other improvements that the Commission determines are necessary for the protection of the racing animals and the public.<sup>34</sup> Additionally, every person licensed to conduct a race meet must carry public liability insurance.<sup>35</sup>

However, no track licensed for racing may be within 40 miles of another track licensed for the same type of racing.<sup>36</sup> For example, no licensed greyhound track may be within 40 miles of another licensed greyhound track.

Additionally, no horse races may be held within 40 miles of the Colorado State Fair on the same dates that horse races are held at the Colorado State Fair.<sup>37</sup>

With respect to greyhound tracks, the state is divided into one north and one south circuit, with the line of demarcation being the Douglas County courthouse.<sup>38</sup> Greyhound tracks in the north circuit may run race meets not exceeding 120 consecutive days, whereas greyhound tracks in the south circuit may run race meets not exceeding 180 days.<sup>39</sup> In general, each circuit is limited to one race meet at a time<sup>40</sup> and each greyhound track is limited to one race meet in any 12-month period.<sup>41</sup>

In addition to running live horse or greyhound races, as the case may be, those holding a license to hold a race meet may broadcast such races as simulcast races.<sup>42</sup>

The racing statute limits the right to import simulcast races from out-of-state to those who possess a license, issued within the year, to hold live race meets or those licensees who possess a written simulcast agreement with an in-state host track or out-of-state host track from which the simulcast race is broadcast. Any such contracts must be submitted to the Commission.<sup>43</sup>

---

<sup>34</sup> § 12-60-511(1)(a), C.R.S.

<sup>35</sup> § 12-60-509(1), C.R.S.

<sup>36</sup> §§ 12-60-510(3), 12-60-511(1)(a) and 12-60-511(2), C.R.S.

<sup>37</sup> § 12-60-511(1)(a), C.R.S.

<sup>38</sup> § 12-60-603(2)(a), C.R.S.

<sup>39</sup> § 12-60-603(2)(c), C.R.S.

<sup>40</sup> § 12-60-603(2)(d), C.R.S.

<sup>41</sup> § 12-60-603(2)(c), C.R.S.

<sup>42</sup> §§ 12-60-602(3), 12-60-602(4), C.R.S.

<sup>43</sup> § 12-60-503(2)(a), C.R.S.

---

Just as the racing statute limits the physical location of licensed tracks, so too does it place restrictions on simulcast facilities. In general, no in-state simulcast facility that is within 50 miles of a track that is running live races may receive simulcast races on days that live races are being run at that track.<sup>44</sup>

Additionally, an in-state simulcast facility that is located on the premises of a greyhound track that is currently running live races may receive up to seven days of simulcast greyhound races during any week in which a total of five live race days of 10 races each day are run anywhere in Colorado.<sup>45</sup> The total number of out-of-state simulcast days for all greyhound tracks in Colorado may not exceed 250, and the Commission is charged with apportioning those days among the licensed greyhound tracks.<sup>46</sup>

Including its live race days, an in-state simulcast facility that is located on the premises of a horse track may receive up to 250 days of simulcast horse races from out-of-state tracks.<sup>47</sup> However, effective April 21, 2008, a horse track that runs at least 60 days of live racing may receive, each year, three days of simulcast horse races from out-of-state for each day of live horse racing it runs.<sup>48</sup>

At least one race of each day's race meet must consist exclusively of Colorado-bred horses, if such horses are available.<sup>49</sup>

Finally, on any day that an in-state horse track is running live races, an in-state simulcast facility that is conducting pari-mutuel wagering must receive the simulcast signal from the in-state horse track that is running live races.<sup>50</sup> Furthermore, any such in-state simulcast facility may receive no more than four simulcast races from any single out-of-state horse track.<sup>51</sup>

All applicants for licensure or registration must submit, among other materials required by the Commission or Division, a set of fingerprints for the purpose of conducting a state and national fingerprint-based criminal history records check.<sup>52</sup>

---

<sup>44</sup> §§ 12-60-602(3) and (4), C.R.S.

<sup>45</sup> § 12-60-602(5)(a)(I), C.R.S.

<sup>46</sup> § 12-60-602(5)(a)(I), C.R.S.

<sup>47</sup> § 12-60-602(5)(b)(I)(A), C.R.S.

<sup>48</sup> § 12-60-602(5)(b)(I.5), C.R.S.

<sup>49</sup> § 12-60-701(3), C.R.S.

<sup>50</sup> § 12-60-602(5)(b)(III), C.R.S.

<sup>51</sup> § 12-60-602(5)(b)(IV), C.R.S.

<sup>52</sup> § 12-60-503(4), C.R.S., and Rule 3.206.

---

Additionally, the Commission is required to regulate:

- The operations of pari-mutuel machines and equipment;<sup>53</sup>
- Money rooms;<sup>54</sup>
- Accounting rooms;<sup>55</sup> and
- Sellers' and cashiers' windows.<sup>56</sup>

By rule, the Commission has divided participants in the racing industry into three occupational licensure categories – business, key and support -- and an occupational registration category.<sup>57</sup>

Although Rule 3.102 states that the Commission “shall establish appropriate sub-categories within each occupational category,” it has not done so by rule. Rather, the Division has completed this task and, according to documents submitted by the Division to the Department of Regulatory Agencies (DORA), the subcategories for occupational business licenses include affiliated business (off-track betting facility (OTB)), association OTB, tote company, concessions/food service, feed supplier, kennel owner/operator, OTB facility, other support services, photo finish business, satellite communications, tack shop, training track and video company.

The subcategories for occupational key licenses include assistant general manager, associate person, association judge, association steward, association veterinarian, corporate director, corporate officer, director of racing, director of simulcasting, general manager/track, mutuel manager, racing secretary,<sup>58</sup> security director and tote operator.

---

<sup>53</sup> §§ 12-60-501(2)(a) and 12-60-501(4), C.R.S.

<sup>54</sup> §§ 12-60-501(2)(a) and 12-60-501(4), C.R.S.

<sup>55</sup> §§ 12-60-501(2)(a) and 12-60-501(4), C.R.S.

<sup>56</sup> §§ 12-60-501(2)(a) and 12-60-501(4), C.R.S.

<sup>57</sup> Rule 3.102.

<sup>58</sup> Pursuant to Rules 4.490, 4.494 and 4.700, *et seq.*, the racing secretary is responsible for maintaining a complete record of all races, receiving all stakes and entrance money, receiving all entries and declarations and inspecting all papers and documents dealing with trainers, owners, partnership agreements and appointments of authorized agents.

---

The subcategories for occupational support licenses include apprentice jockey, assistant mutuel manager, assistant racing secretary, assistant starter, assistant trainer, authorized agent, chart writer,<sup>59</sup> clerk of scales,<sup>60</sup> horsemen's bookkeeper,<sup>61</sup> hub supervisor, identifier,<sup>62</sup> jockey, jockey agent, lure operator, minor business employee, money room manager, mutuel employee, OTB manager, owner, owner-ARCI, owner/assistant trainer, owner/trainer, paddock judge,<sup>63</sup> placing judge,<sup>64</sup> plant/track supervisor, security-armed, security-unarmed, stall superintendent,<sup>65</sup> starter,<sup>66</sup> tote technician, trainer, veterinarian technician/assistant and veterinarian-practicing.

Trainers and assistant trainers must be at least 18 years old<sup>67</sup> and, if not previously licensed, or if previously licensed but the license has been expired for more than three years, applicants for such license types must take an oral, written and/or practical examination.<sup>68</sup>

Jockeys and jockey apprentices must be at least 16 years old<sup>69</sup> and must have a physical examination completed within 30 days of the start of the race meet.<sup>70</sup> A jockey is prohibited from having an ownership or other financial interest in any horse racing at a meet where the jockey is riding.<sup>71</sup>

---

<sup>59</sup> Pursuant to Rule 4.400, a chart writer is responsible for providing an accurate accounting of each greyhound's performance in a race.

<sup>60</sup> Pursuant to Rule 4.410, the clerk of scales is responsible for weighing each greyhound in and out. Pursuant to Rule 4.600, at a horse track, the clerk of scales is responsible for ensuring that jockeys carry the correct assigned weight.

<sup>61</sup> Pursuant to Rule 4.630, the horsemen's bookkeeper is responsible for ensuring that no money is deducted from a horseman's account by any person other than the owner of the account. Such money is on deposit at the track for the purpose of paying fees, pony fees, starting fees, nomination fees or other monies due.

<sup>62</sup> Pursuant to Rule 4.620, the identifier is responsible for ensuring that every horse that races is the horse that it is represented to be.

<sup>63</sup> Pursuant to Rule 4.472, at a greyhound track, the paddock judge is responsible for verifying the identification of all greyhounds starting in races. Pursuant to Rules 4.660, 4.662, 4.666, 4.668, 4.670 and 4.672, at a horse track, the paddock judge is responsible for recording a horse's equipment; ensuring the cleanliness of the paddock, inspecting bandages used on horses; ensuring that a plater is available and giving the command, "riders up" and the order to proceed to the post parade at the proper time.

<sup>64</sup> Pursuant to Rule 4.690, the placing judge is responsible for determining the actual order of finish for each horse race.

<sup>65</sup> Pursuant to Rule 4.730, at a horse track, the stable superintendent is responsible for the overall sanitation, safety, fire protection and security of the stable area.

<sup>66</sup> Pursuant to Rule 4.510, at a greyhound track, the starter is responsible for ensuring that all muzzles and blankets fit properly before greyhounds enter the starting box. Pursuant to Rules 4.740 and 4.744, at a horse track, the starter is responsible for all activity on the racing strip from the time the horses enter the strip for the post parade through the actual start of the race and is responsible for loading all horses in the starting gate in order of post position.

<sup>67</sup> Rule 3.504.

<sup>68</sup> Rule 3.506.

<sup>69</sup> Rule 3.600.

<sup>70</sup> Rule 3.601.

<sup>71</sup> Rule 3.604.

---

The subcategories for occupational registrations include adoption program located at a licensed track, announcer, brakeman, clocker,<sup>72</sup> concession employee, exercise person, facility manager OTB, groom, head leadout,<sup>73</sup> jockey room custodian,<sup>74</sup> kennel helper, kennel master,<sup>75</sup> maintenance employee, office personnel, outrider,<sup>76</sup> pharmaceutical representative, photographer/photo finish, plater, pony person, racing form employee, track superintendent/maintenance,<sup>77</sup> valet, video operator and video technician.

Each supervisor, owner and trainer is responsible for ensuring that all employees are properly licensed or registered, as the case may be, and is responsible for ensuring that discharged employees surrender their licenses.<sup>78</sup>

All licenses are valid for three years and all registrations are valid for one year.

### Discipline

Pursuant to section 12-60-507, C.R.S., the Commission may, either upon its own motion or upon receipt of a written complaint, investigate the activities of any licensee, registrant or applicant. The Commission may issue a letter of admonition, fine, suspend, deny or revoke a license or registration upon finding that such licensee, registrant or applicant has:

- Disregarded or violated any provision of section 12-60-101, *et seq.*, C.R.S., or any Commission rule;

---

<sup>72</sup> Pursuant to Rule 4.760, the clocker is responsible for recording the times of all workouts, trials and morning races for horses eligible to be entered at the meet.

<sup>73</sup> Pursuant to Rule 4.430, *et seq.*, lead outs are responsible for walking greyhounds from the kennels to the starting box.

<sup>74</sup> Pursuant to Rules 4.640, 4.642, 4.644 and 4.646, the jockey room custodian is responsible for ensuring that proper cleanliness and conduct are maintained in the jockey and scale rooms; ensuring that no person other than jockeys, valets and racing officials are admitted to the jockey room; supervising the valets and ensuring that jockeys wear the proper colors/numbers.

<sup>75</sup> Pursuant to Rule 4.420, the kennel master is responsible for unlocking the kennels immediately before weigh-in time to see that the kennels are in perfect repair and that nothing has been deposited in any of the kennels for the greyhound's consumption and shall be sure that the kennels are sprayed, disinfected and kept in proper sanitary condition. The kennel master or any assistant must receive the greyhounds from the trainers, one at a time, and see that the greyhounds are placed in their kennels. The kennel master is responsible from that time until the greyhounds are removed for the last race.

<sup>76</sup> Pursuant to Rules 4.652, 4.654 and 4.656, the outriders are responsible for leading the parade of horses to the starting gate, ensuring that no rider dismounts and observing the jockeys and pony riders in order to prevent the use of illegal equipment.

<sup>77</sup> Pursuant to Rule 4.770, the track superintendent is responsible for the condition of the horse track.

<sup>78</sup> Rule 3.406.

- 
- Been convicted of, or entered a plea of guilty or *nolo contendere* to a criminal charge under the laws of any state or of the United States, or entered into a plea agreement for acts or omissions that, if committed in Colorado, would have been grounds for discipline in Colorado;
  - Current prosecution pending against him or her in any jurisdiction;
  - Committed fraud, willful misrepresentation or deceit in racing;
  - Failed to disclose to the Commission complete ownership or beneficial interest in a racing animal entered to be raced;
  - Committed misrepresentation or attempted misrepresentation in connection with the sale of a racing animal or other matter pertaining to racing or the registration of racing animals;
  - Failed to comply with any order or rulings of the Commission, stewards, judges or a racing official pertaining to a racing matter;
  - Possessed an ownership interest in or participated in any manner in any bookmaking, pool-selling, touting, bet solicitation or illegal enterprise;
  - Employed or harbored unlicensed or unregistered persons on the premises of a racetrack;
  - Been a person, employed a person, or been assisted by a person who is not of good record or good moral character;
  - Discontinued or is ineligible for the activity for which the license was issued;
  - Been subject to disciplinary action in another state for acts or omissions that would have been grounds for discipline in Colorado;
  - Possessed, on a racetrack, firearms or a battery, buzzer, electrical device or other appliance other than a whip that could be used to alter the speed of a racing animal in a race or while working out or schooling;
  - Possessed, on a racetrack, a hypodermic needle, hypodermic syringe or other similar device, or any substance, compound items or combination thereof of any medicine, narcotic, stimulant, depressant or anesthetic which could alter the normal performance of a racing animal unless specifically authorized by the Commission's veterinarian;
  - Been cruel to or neglected a racing animal;
  - Offered, promised, given, accepted or solicited a bribe in any form to or by a person having any connection with the outcome of a race, or failed to report knowledge of such act immediately to the stewards, judges or the Commission;

- 
- Caused, attempted to cause or participated in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of such act immediately to the stewards, judges or the Commission;
  - Entered or aided and abetted the entry of a racing animal that is ineligible or unqualified for the race entered;
  - Willfully or unjustifiably entered or raced any animal in any race under any name or designation other than the name or designation assigned to such animal by and registered with the official recognized registry for that breed of animal;
  - Aided or abetted any person in the violation of any Commission rule;
  - Raced at a racetrack without having a racing animal registered to race at that racetrack; and
  - Been on the premises of a racetrack for which the licensee is required to be licensed without being able to show proof of gainful employment at that racetrack at that time.

Any person who engages in any of the above-enumerated activities commits a Class 2 misdemeanor,<sup>79</sup> which is punishable by between 3 and 12 months in prison, a fine of between \$250 and \$1,000, or both a fine and imprisonment.<sup>80</sup> Furthermore, any person who violates a Commission rule commits a Class 2 petty offense, which may result in a fine of not more than \$100.<sup>81</sup>

Additionally, the Commission may deny a license or registration to any person who demonstrates untrustworthiness or incompetency.<sup>82</sup>

No owner, trainer, racing official or other association employee may accept any bribe, gift, reward, favor or gratuity in any form that is intended to, or might, influence the results of a race.<sup>83</sup>

No licensee, registrant or association employee may be under the influence of drugs or alcohol while working as such.<sup>84</sup> To enforce this provision, the Division is authorized to conduct both random and targeted testing of such individuals.<sup>85</sup>

---

<sup>79</sup> § 12-60-801(1), C.R.S.

<sup>80</sup> § 18-1.3-501(1), C.R.S.

<sup>81</sup> § 12-60-801(2), C.R.S.

<sup>82</sup> Rule 3.304.

<sup>83</sup> Rule 3.426.

<sup>84</sup> Rule 3.436.

<sup>85</sup> Rule 3.437.

---

Furthermore, while in a restricted or secured area, no licensee or registrant may illegally sell or distribute any controlled substance or alcoholic beverage, possess any alcoholic beverage or possess, without a valid prescription, any controlled substance.<sup>86</sup>

The Division Director may summarily suspend the license or registration of any person, pending a hearing, who has been cruel to or neglected a racing animal.<sup>87</sup>

All proceedings before the Commission with respect to the denial, suspension or revocation of licenses or the imposition of fines must be conducted pursuant to the Administrative Procedure Act.<sup>88</sup> However, the Commission may delegate its authority to conduct hearings with respect to the denial or suspension of licenses or the imposition of fines to the relevant board of stewards or judges or to a hearing officer.<sup>89</sup> Additionally, the Commission may direct that any hearing be held before an administrative law judge.<sup>90</sup>

The board of judges or stewards, or a hearing officer, may hold hearings to determine whether the Commission's rules or the racing statute have been violated.<sup>91</sup> Appeals of board of judges or stewards, or hearing officer, decisions regarding the disqualification of a racing animal, animal placement or a derogatory comment of a racing animal must be made to the race review committee prior to any appeals to the Commission.<sup>92</sup> Otherwise, all appeals of board of judges or stewards, or hearing officer decisions, are made directly to the Commission.<sup>93</sup>

Additionally, the board of judges or stewards, or a hearing officer, may refer a case directly to the Commission.<sup>94</sup>

In general, all appeals of the decisions of the board of stewards or judges, or of hearing officers, are to the Commission.<sup>95</sup> All appeals of final Commission actions are to the Colorado Court of Appeals.<sup>96</sup>

---

<sup>86</sup> Rule 3.437.

<sup>87</sup> § 12-60-507(1.5), C.R.S.

<sup>88</sup> § 12-60-508(1), C.R.S.

<sup>89</sup> § 12-60-508(3)(a), C.R.S.

<sup>90</sup> § 12-60-508(3)(b), C.R.S.

<sup>91</sup> Rule 6.240.

<sup>92</sup> Rule 6.401.

<sup>93</sup> Rule 6.400.

<sup>94</sup> Rule 6.530.

<sup>95</sup> § 12-60-508(5), C.R.S.

<sup>96</sup> § 12-60-507(3), C.R.S.

---

## Taxes, Fees, Takeouts and Purses

On an annual basis, the Commission establishes fees for race meets and other licenses to cover the direct and indirect costs associated with administering the racing statute.<sup>97</sup>

Additionally, licensed greyhound tracks and simulcast facilities that receive simulcast greyhound races are required to pay, in the form of an excise tax, 4.5 percent of the gross receipts derived from pari-mutuel wagering to the Department of Revenue.<sup>98</sup>

Similarly, licensed horse tracks and simulcast facilities that receive simulcast horse races are required to pay, in the form of an excise tax, 0.75 percent of the gross receipts derived from pari-mutuel wagering to the Department of Revenue.<sup>99</sup> In addition, horse tracks and simulcast facilities must pay 0.25 percent of gross receipts on exotic pari-mutuel wagering to Colorado State University's School of Veterinary Medicine for racing-related equine research.<sup>100</sup> Finally, horse tracks and simulcast facilities must pay 0.5 percent of gross receipts on win-place-show pari-mutuel wagering, and 1.5 percent of gross receipts on exotic wagering to the Horse Breeders' and Owners' Awards and Supplemental Purse Fund<sup>101</sup> (Breeders' Fund).

The Breeders' Fund is a pool of money that is paid out to owners and breeders of Colorado-bred horses.<sup>102</sup> To receive such funds, the owners and breeders of each breed must establish a breed association that includes in its by-laws procedures for distributing such funds to individual owners and breeders.<sup>103</sup>

Funds are distributed from the Breeders' Fund to the respective Colorado breed associations according to the percentage, not to exceed 80 percent, of the actual handle that each horse breed generated.<sup>104</sup>

The Commission is charged with determining, on an annual basis, the amount of authorized take-out, which may not exceed 30 percent of the gross receipts of any pari-mutuel wagering on greyhound and horse races originating in Colorado.<sup>105</sup>

---

<sup>97</sup> § 12-60-701(4), C.R.S.

<sup>98</sup> § 12-60-701(1), C.R.S.

<sup>99</sup> § 12-60-701(2)(a)(I), C.R.S.

<sup>100</sup> § 12-60-701(2)(a)(II), C.R.S.

<sup>101</sup> § 12-60-701(2)(b), C.R.S., and Rule 9.300.

<sup>102</sup> § 12-60-704(1), C.R.S.

<sup>103</sup> § 12-60-704(3)(c), C.R.S., and Rule 9.312.

<sup>104</sup> Rule 9.316.

<sup>105</sup> § 12-60-702(1)(b)(II), C.R.S., and Rule 11.211.

---

Licensed horse tracks must commit 50 percent of the breakage attributable to pari-mutuel wagering on horses to purses for the horse races run at that track<sup>106</sup> with the remaining 50 percent being retained by the track.<sup>107</sup> “Breakage” is the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of 10 cents.<sup>108</sup> For example, if a consumer wins \$10.27 on a pari-mutuel wager, the consumer is actually paid \$10.20, and the remaining \$0.07 is the breakage.

Similarly, licensed greyhound tracks must commit at least five percent of gross receipts on pari-mutuel wagering to purses for greyhound races run at that track.<sup>109</sup> However, a licensed greyhound track may retain all of the breakage,<sup>110</sup> as well as the proceeds from all unclaimed pari-mutuel tickets,<sup>111</sup> but all monies collected from unclaimed pari-mutuel tickets must be spent on capital improvements at the greyhound track.<sup>112</sup>

Greyhound purses are further augmented through the requirement imposed by section 12-60-602(5)(a)(IV), C.R.S., whereby five percent of the gross receipts from pari-mutuel wagers placed at an in-state simulcast facility on simulcast greyhound races are deposited into the purse fund at the track hosting the current live greyhound meet through which the in-state simulcast facility receives the broadcast signal.

### Anti-Doping

Only veterinarians licensed by the Colorado Board of Veterinary Medicine and the Division may administer medications to a horse at any location under the jurisdiction of the Commission.<sup>113</sup> No medications may be administered to racing greyhounds.

By rule, the Commission has divided drugs into five classifications.<sup>114</sup> Placement in a classification is substantially determined by the particular drug’s potential for altering the performance of the horse and, thus, affecting the outcome of a race.

---

<sup>106</sup> §§ 12-60-702(1)(c) and (1)(h)(I), C.R.S.

<sup>107</sup> § 12-60-702(1)(h)(I), C.R.S.

<sup>108</sup> § 12-60-102(1), C.R.S.

<sup>109</sup> § 12-60-702(1)(e)(I), C.R.S., and Rule 11.344.

<sup>110</sup> § 12-60-702(1)(h)(II), C.R.S.

<sup>111</sup> § 12-60-702(1)(i), C.R.S.

<sup>112</sup> § 12-60-702(1)(i), C.R.S., and Rule 11.330.

<sup>113</sup> Rule 5.248.

<sup>114</sup> Rule 5.300.

---

The judges, stewards or the Division veterinarian may take a saliva, urine, blood or other bodily fluid sample from any greyhound or horse at a race track.<sup>115</sup> Additionally, every horse that wins a race, as well as any other horse selected by the Commission or stewards, must give a blood and urine sample immediately after the race.<sup>116</sup>

If a sample tests positive for a prohibited or non-approved substance, the Division must immediately launch an investigation.<sup>117</sup> In any such case, there is a rebuttable presumption that the animal's trainer was responsible for the administration of the unauthorized medication,<sup>118</sup> since the trainer is responsible for the condition of animals entered to race for that trainer's stable or kennel, regardless of the acts of any third party.<sup>119</sup>

### Live Racing

The actual running of greyhound and horse races is governed by Commission rule. The associations that sponsor race meets must install automatic timing devices<sup>120</sup> and a photo-finish camera at the racetrack.<sup>121</sup> Such associations are also responsible for ensuring that the racing strip is well-lighted, consistent and safe.<sup>122</sup>

#### Live Greyhound Racing

Prior to the first greyhound race each day, the Division veterinarian and a judge must walk the track to determine whether it is safe.<sup>123</sup>

All greyhounds entered to race in Colorado must be registered with the National Greyhound Association.<sup>124</sup>

All greyhounds that are to race on a particular day must be weighed in by the clerk of scales, at the track, at least an hour before the start of the first race for that particular day<sup>125</sup> and the greyhound's weight must be within two pounds of its set, or established, racing weight.<sup>126</sup>

---

<sup>115</sup> Rule 5.402.

<sup>116</sup> Rule 5.410.

<sup>117</sup> Rule 5.432.

<sup>118</sup> Rule 5.500.

<sup>119</sup> Rule 5.502.

<sup>120</sup> Rule 11.420.

<sup>121</sup> Rule 11.422.

<sup>122</sup> Rules 11.440 and 11.462.

<sup>123</sup> Rule 11.442.

<sup>124</sup> Rule 2.102.

<sup>125</sup> Rules 2.404 and 4.410.

<sup>126</sup> Rule 2.414.

---

After a greyhound is weighed in, the kennel master takes custody and responsibility for the greyhound and ensures that each greyhound is placed in a kennel.<sup>127</sup> Kennels must be structurally sound, kept in good repair and protect the greyhounds from injury.<sup>128</sup> Furthermore, the kennel area must have a climate control system that maintains a temperature of between 68 and 85 degrees.<sup>129</sup>

The Division veterinarian may examine a greyhound or take a sample for drug testing during weigh-in or during a pre-race inspection.<sup>130</sup> The Division veterinarian may scratch from a race any greyhound for health or physical reasons.<sup>131</sup>

Prior to entering the track, each greyhound must be weighed out by the clerk of scales, and such weight may not reflect a loss of more than one and one-half pounds from the weigh-in weight.<sup>132</sup> The greyhounds are then led out onto the track by the leadouts, who also are responsible for ensuring that the greyhounds are placed in the proper positions in the starting box.<sup>133</sup>

During the running of a greyhound race, the lure must remain ahead of the greyhounds. If a greyhound passes or catches the lure, the judges must declare the race a “no race.”<sup>134</sup>

#### Live Horse Racing

Any horse participating in a race meet must be stabled at the racetrack<sup>135</sup> and the stable area must become a restricted area 21 days before the start of the race meet.<sup>136</sup> Stable stalls must be at least 10 feet by 10 feet.<sup>137</sup>

Any horse that races in Colorado must be registered with the breed association for that breed of horse that is recognized by the Commission and the horse's past performance must be published in or by a Commission-recognized publication or organization. Table 1 reflects the registries and charts that have been recognized by the Commission for the indicated breeds.

---

<sup>127</sup> Rule 4.420.

<sup>128</sup> Rule 11.558:5:2.

<sup>129</sup> Rule 11.558:5:2(b).

<sup>130</sup> Rule 5.706.

<sup>131</sup> Rule 5.708.

<sup>132</sup> Rules 2.412 and 4.410.

<sup>133</sup> Rules 4.430 and 4.434.

<sup>134</sup> Rule 2.512.

<sup>135</sup> Rule 11.480.

<sup>136</sup> Rule 11.481.

<sup>137</sup> Rule 11.544:5:3(e).

**Table 1**  
**Commission-Recognized**  
**Breed Registries and Official Charts**

Breed	Registry	Official Chart
Thoroughbred <sup>138</sup>	American Stud Book	Daily Racing Form
Quarter Horse <sup>139</sup>	Official Stud Book of the American Quarter Horse Association	American Quarter Horse Association
Appaloosa <sup>140</sup>	Official Stud Book of the Appaloosa Horse Club	Appaloosa Horse Club
Paint <sup>141</sup>	Official Stud Book of the American Paint Horse Association	American Paint Horse Association
Harness/Standardbred <sup>142</sup>	Official Stud Book of the United States Trotting Association	The United States Trotting Association Year Book
Arabian <sup>143</sup>	Official Stud Book	Daily Racing Form

On a live race day, every horse entered to race that day must be inspected by the Division veterinarian or by an association veterinarian.<sup>144</sup> If a horse is determined to be unfit to race, that horse is placed on the veterinarian's list<sup>145</sup> and may not race for at least four days, or until the horse has recovered from the condition that placed the horse on the list.<sup>146</sup>

Prior to the start of a race, the jockeys must report to the clerk of scales to report their weights, and after having so reported, they may not leave the jockeys' room.<sup>147</sup> Jockeys that ride Arabian or Thoroughbred horses must weigh at least 118 pounds, and those that ride Appaloosa, Paint, Quarter Horses or mules must weigh at least 123 pounds.<sup>148</sup> Additionally, every horse must carry at least 10 pounds of riding gear,<sup>149</sup> plus any other weight allowances claimed.<sup>150</sup>

---

<sup>138</sup> Rules 9.100 and 9.102.

<sup>139</sup> Rules 9.110 and 9.112.

<sup>140</sup> Rules 9.120 and 9.122.

<sup>141</sup> Rules 9.130 and 9.132.

<sup>142</sup> Rules 9.140 and 9.142.

<sup>143</sup> Rules 9.150 and 9.152.

<sup>144</sup> Rule 5.604.

<sup>145</sup> Rule 5.608.

<sup>146</sup> Rule 5.610.

<sup>147</sup> Rule 7.634.

<sup>148</sup> Rule 7.631.

<sup>149</sup> Rule 7.532.

<sup>150</sup> Rule 7.500.

---

Jockeys are weighed out by the clerk of scales not less than 10 minutes before post time.<sup>151</sup> The jockeys then proceed to the paddock, where every horse must be present not less than 12 minutes before post time.<sup>152</sup>

Each horse is saddled in the paddock<sup>153</sup> under the supervision of the horse's trainer.<sup>154</sup> The jockeys then mount their horses and parade the horses to the starting gate.

During the running of a race, jockeys must ride to win,<sup>155</sup> and they are prohibited from willfully or carelessly striking or touching any other jockey or horse.<sup>156</sup>

At the conclusion of the race, the jockeys must unsaddle their horses and report to the clerk of scales to be weighed in.<sup>157</sup> If the jockey is more than two pounds lighter than the weight at which the jockey weighed out, the jockey's horse may be disqualified.<sup>158</sup>

### Pari-Mutuel Wagering

The racing statute and Commission rules also place certain limitations on who may place a pari-mutuel wager and when.

Section 12-60-102(20.5), C.R.S., defines pari-mutuel wagering as:

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

No one under 18 years of age may purchase, redeem or attempt to purchase or redeem any pari-mutuel ticket.<sup>159</sup> Similarly, pari-mutuel tellers must be at least 18 years old.<sup>160</sup>

---

<sup>151</sup> Rule 7.644.

<sup>152</sup> Rule 7.662.

<sup>153</sup> Rule 7.664.

<sup>154</sup> Rule 7.666.

<sup>155</sup> Rule 7.730.

<sup>156</sup> Rule 7.710.

<sup>157</sup> Rules 7.750 and 7.752.

<sup>158</sup> Rule 7.760.

<sup>159</sup> § 12-60-601(1), C.R.S., and Rule 12.136.

<sup>160</sup> Rule 11.228.

---

During working hours, licensed pari-mutuel employees and security personnel are prohibited from wagering.<sup>161</sup> No association general partner, officer, director or racing official may wager on any live race conducted at such individual's facility or on any race where such an individual may have wagering information not available to the public.<sup>162</sup>

Pursuant to Rule 3.425, those who have immediate care and custody of racing animals, including but not limited to jockeys and jockey agents, may:

- Not wager on a race if such individual has more than one animal entered in that particular race.
- Wager on a race in which no animal under such person's care is entered.
- Wager on a race where such an individual has an animal entered in a particular race, but such wager is generally limited to wagering on the animal over which such individual has immediate care and custody.

A jockey is prohibited from wagering on a race in which the jockey is riding.<sup>163</sup>

No racing official may wager on any race at the race meet at which such racing official is employed.<sup>164</sup>

Leadouts are prohibited from wagering on any race at the racetrack at which they work while on duty or on any race they will be working.<sup>165</sup>

Every association that sponsors a race meet must maintain a totalisator system,<sup>166</sup> and Commission and Division personnel must have unrestricted access to that system.<sup>167</sup> A totalisator is a system or electronic device that accepts and cashes wagers, calculates the odds and prices of such wagers and records, displays and stores pari-mutuel wagering information.<sup>168</sup>

Each pari-mutuel ticket, as dispensed by the totalisator, must contain the following information:<sup>169</sup>

- Name of the association sponsoring the race meet;
- A unique identifying number;

---

<sup>161</sup> Rule 3.424.

<sup>162</sup> Rule 3.424.

<sup>163</sup> Rule 3.636.

<sup>164</sup> Rule 4.110.

<sup>165</sup> Rule 4.444.

<sup>166</sup> Rule 12.100.

<sup>167</sup> Rule 12.106.

<sup>168</sup> Rule Chapter 2.

<sup>169</sup> Rule 12.140.

- 
- Identification of the terminal that issued the ticket;
  - Designation of the performance on which the wager was made;
  - Race number for which the pool is conducted;
  - Type of wager made;
  - Number of the animal on which the wager is made; and
  - Amount of money wagered.

Pari-mutuel tickets must be cashed within one year from the date issued.<sup>170</sup>

Many types of pari-mutuel wagers exist and new types of wagers are constantly being developed. The more traditional types of wagers are for win, place and show:

- Win: a wager based on which animal will finish the race first.<sup>171</sup>
- Place: a wager based on which animal will finish the race second.<sup>172</sup>
- Show: a wager based on which animal will finish the race third.<sup>173</sup>

Non-traditional wagers, typically referred to as “exotics,” include, but are not limited to:

- Daily Double: a wager based on which animal will finish first in each of two, predetermined, races.<sup>174</sup>
- Select Three: a wager based on which animal will finish first in each of three, predetermined, races.<sup>175</sup>
- Select (n): a wager based on which animal will finish first in each of a predetermined number (n) of races.<sup>176</sup>
- Quiniela: a wager based on which animals will finish first and second, in any order, in the selected race.<sup>177</sup>
- Quiniela Double: a wager based on which animals will finish first and second, in any order, in each of two consecutive, predetermined races.<sup>178</sup>

---

<sup>170</sup> Rule 12.178.

<sup>171</sup> Rule 12.640.

<sup>172</sup> Rule 12.650.

<sup>173</sup> Rule 12.660.

<sup>174</sup> Rule 12.660.

<sup>175</sup> Rule 12.680.

<sup>176</sup> Rule 12.690.

<sup>177</sup> Rule 12.700.

<sup>178</sup> Rule 12.710.

- 
- Exacta: a wager based on which animals will finish first and second, in exact order of finish, in the selected race.<sup>179</sup>
  - Trifecta: a wager based on which animals will finish first, second and third, in exact order of finish, in the selected race.<sup>180</sup>
  - Superfecta: a wager based on which animals will finish first, second, third and fourth, in exact order of finish, in the selected race.<sup>181</sup>
  - Super Five: a wager based on which animals will finish first, second, third, fourth and fifth, in exact order of finish, in the selected race.<sup>182</sup>
  - Twin Quiniela: a wager based on which animals will finish first and second, in any order, in each of two, predetermined races.<sup>183</sup>
  - Twin Trifecta: a wager based on which animals will finish first, second and third, in exact order of finish, in each of two, predetermined races.<sup>184</sup>
  - Tri-Superfecta: a wager based on which animals will finish first, second and third, in exact order of finish, in the first of two, predetermined races, and which animals will finish first, second, third and fourth, in exact order of finish, in the second of the two, predetermined races.<sup>185</sup>
  - Twin Superfecta: a wager based on which animals will finish first, second, third and fourth, in exact order of finish, in each of two, predetermined races.<sup>186</sup>
  - Place Pick (n): a wager based on selecting the greatest number of animals to finish first or second in a predetermined number (n) of races.<sup>187</sup>

Importantly, each type of wager has its own pari-mutuel pool so that individuals pay into, and possibly receive payouts from, pools that were built by like wagers. For example, an individual who wins on a “win” wager receives payouts from the “win pool,” and an individual who wins a quiniela wager receives payouts from the “quiniela pool” only.

The Commission has promulgated rules governing the payouts for each type of wager, whether traditional or exotic.

---

<sup>179</sup> Rule 12.720.

<sup>180</sup> Rule 12.730.

<sup>181</sup> Rule 12.740.

<sup>182</sup> Rule 12.750.

<sup>183</sup> Rule 12.760.

<sup>184</sup> Rule 12.770.

<sup>185</sup> Rule 12.780.

<sup>186</sup> Rule 12.790.

<sup>187</sup> Rule 12.800.

---

## **Program Description and Administration**

Generally, the Colorado Racing Commission (Commission) meets on the second Tuesday of each month. Five Governor-appointed members comprise the Commission:

- One member who is a practicing veterinarian with at least five years experience as such;
- One member who has been engaged in business in a management-level position for at least five years;
- Two members who were previously engaged in the racing industry for at least five years; and
- One member who does not fall into one of the above enumerated descriptions.

Although most Commission meetings are held at the Colorado Department of Revenue, Division of Racing Events' (Division's) headquarters in Lakewood, the Commission routinely meets at least once per year at Cloverleaf Greyhound Park and Arapahoe Park racetracks during those racetracks' live race meets.

Commission meetings typically last two hours and are generally well attended by both Commission members and members of the public. In fact, on average, approximately 13 members of the public attend each Commission meeting.

The statutorily created Division operates under an annual budget of approximately \$2.6 million and, in fiscal year 04-05, had a staff of 19 full-time equivalent (FTE) employees.

**Table 2**  
**Agency Fiscal Information**

<b>Fiscal Year</b>	<b>Total Program Expenditure</b>	<b>FTE</b>
00-01	\$4,415,642	31.5
01-02	\$3,465,852	29.0
02-03	\$2,964,619	26.7
03-04	\$2,854,190	19.0
04-05	\$2,665,790	19.0

Due to some internal Department of Revenue restructuring, the staff of the Division was reduced slightly, beginning in fiscal year 05-06. Table 3 provides a description of the Division's 18.5 FTE for fiscal year 05-06.

**Table 3  
Description of Division FTE**

<b>FTE</b>	<b>Position</b>	<b>Job Duties</b>
<b>3.0</b>	<b>Administration</b>	
1.0	Management	Division Director
1.0	Administrative Assistant III	Provides administrative support to the Division Director and the Commission.
1.0	Legal Assistant II	Aids in legal research and preparation for hearings and criminal cases.
<b>1.0</b>	<b>Audit</b>	
1.0	Auditor III	Reconciles taxes collected and ensures compliance with totalisator standards.
<b>2.8</b>	<b>Licensing</b>	
1.0	Program Assistant I	Administers the licensing program and supervises office administrative staff.
1.8	Administrative Assistant II	Serves as licensing technician and receptionist, and provides administrative support.
<b>4.0</b>	<b>Enforcement</b>	
1.0	Criminal Investigator II	Manages staff at racetracks, processes renewal association license applications.
2.0	Criminal Investigator I	Investigates complaints.
1.0	Program Assistant II	Ensures compliance at all "additional wagering facilities."
<b>3.3</b>	<b>Division Veterinarians</b>	
1.0	Veterinarian II	Division Veterinarian. Serves as staff veterinarian and advisor on animal welfare issues.
1.3	Veterinarian I	Part-time staff veterinarians. 0.2 FTE is a seasonal position for horse races.
1.0	Administrative Assistant II	Serves as veterinarian assistant and collects samples from race animals.
<b>3.0</b>	<b>Greyhound Racing Circuit</b>	
1.0	General Professional V	Manages staff at racetracks. Processes renewal association license applications.
1.0	General Professional III	Judges greyhound races for finish and infractions. Holds hearings for racing judgments.
1.0	Program Assistant II	Ensures totalisator compliance. Serves as on-track licensing technician. Serves as additional Judge as needed.
<b>1.4</b>	<b>Horse Racing Circuit</b>	
1.0	Criminal Investigator II	Manages staff at racetrack. Processes renewal association license applications. Investigates complaints.
0.4	General Professional III	Judges horse races for finish and infractions. Holds hearings for racing judgments. This is a seasonal position.
<b>18.5</b>	<b>TOTAL FTE</b>	

The 1.3 FTE Veterinarian I actually comprises three part-time veterinarians, all of whom work at greyhound racetracks. The Division Veterinarian is the only state-employed veterinarian at the state's sole horse track.

---

The 0.4 FTE General Professional III for the horse racing circuit comprises two part-time, seasonal steward positions. Recall that Arapahoe Park, the state's only active horse racetrack, runs live races three days each week, in general, so full-time stewards are not necessary.

### Licensing

The Division issues three types of licenses: business, key and support, and it also issues registrations. Table 4 illustrates, for calendar years 2001 through 2005, the total number of active licenses and registrations.

**Table 4**  
**Licensing Information by License Type and Calendar Year**

License Type	2001	2002	2003	2004	2005
Business	97	92	91	91	87
Key	130	108	102	82	57
Support	2,934	2,920	2,804	2,452	2,164
Registration	678	700	643	464	546
<b>TOTAL</b>	<b>3,839</b>	<b>3,820</b>	<b>3,640</b>	<b>3,089</b>	<b>2,854</b>

Within each of these general categories are more specific types of licenses, which are issued based on the occupation of the particular individual. Specifically, there are 13 types of business licenses, 14 types of key licenses, 33 types of support licenses and 26 types of registrations. Appendix C on page 72 provides a more detailed list of the types of occupational licenses and the total number of each for calendar years 2001 through 2005.

Business, key and support licenses are valid for three years from the date of issue and registrations are valid for one year. In addition, the Division may issue temporary licenses and registrations, each of which is valid for 30 days.

License and registration applications may be submitted to the Division's headquarters in Lakewood, or at any of the Division's field offices, one of which is located at each of the state's active racetracks.

License applicants must submit, at the time of application, a fingerprint card so that the Division may conduct a criminal history background check using the databases of the Colorado Bureau of Investigation (CBI) and the Federal Bureau of Investigation. For registration applicants, the Division conducts a CBI name check.

---

In addition, the Division checks each license and registration applicant against the National Racing Database for disciplinary actions taken in other jurisdictions, and ensures that the applicant is not delinquent on any Colorado taxes.

Upon application for a license, the Division's field office may issue a temporary license to the applicant following a CBI name check. Temporary licenses are valid for 30 days and are issued, in general, to permit the applicant to work until the fingerprint-based criminal history background check is completed.

Once the criminal history background check has been completed and the applicant is cleared for licensure, the Division issues a photo-bearing license badge that must be displayed at all times during which the licensee is working. Registrants, too, are issued photo-bearing badges.

The photo-bearing badges come in three colors, with each color signifying the license type and, more importantly, those areas of the racetrack to which the individual has access. A green badge grants access to all restricted stable and kennel areas. A blue badge grants access to restricted mutuel areas. A red badge, which is reserved for appropriate Division staff and racing officials, grants access to all restricted areas.

To cover the cost of regulation, the Division assesses fees for each type of license and registration issued. For fiscal years 05-06 and 06-07, the Division assessed the following fees on the indicated license types and registrations:

New Minor Business License .....	\$135
Renewal Minor Business License.....	\$65
New Major Business License .....	\$225+
Renewal Major Business License.....	\$60+
New Support License .....	\$75
Renewal Support License.....	\$25
New Key License.....	\$225
Renewal Key License .....	\$75
Registration .....	\$15
Multi-Jurisdictional Owner License .....	\$85

Before issuing a major business license, the Division investigates each corporate officer, director, owner, partner and manager and bills the applicant at the rate of \$36.05 per hour to cover the cost of such investigations.

---

Colorado is a participant, though not a full member, in the Interstate Racing Compact. This is a group of states that shares licensing information with one another so as to avoid individual licensees from needing to undergo complete criminal history records checks in each jurisdiction. The Division recognizes such licenses and will issue a Colorado license to such individuals for \$15.

Additionally, the Division charges \$10 for additional license/registration badges and \$15 for temporary licenses.

The Division also licenses race meets. In fact, this is the source of the bulk of the Division's revenues. In fiscal year 06-07, the license fee for a greyhound race meet is \$133,400 for each month that live races are held.

The state's sole horse race meet has elected to spread its license fee payments over the course of the year so that the license fee for the horse race meet is \$34,859.49 per month for 12 months of the year, or \$418,313.88 for the year.

### *Examinations*

The Division requires the passage of a competency examination for five license types only. Table 5 illustrates the license types required to take and pass such examinations, as well as whether the required examination is written, oral or practical.

**Table 5  
Examination Information**

<b>License Type</b>	<b>Written</b>	<b>Practical</b>	<b>Oral</b>
Trainer- Horse	X	X	X
Pony Person - Horse		X	
Exercise Rider - Horse		X	
Trainer - Greyhound	X		
Assistant Trainer - Greyhound	X		

At greyhound tracks, the Division administers written examinations for trainers and assistant trainers. These examinations consist of multiple-choice, true/false and short answer items.

---

At horse tracks, the Division administers the following examinations for the indicated license types:

**Horse Trainer** – The examination consists of three parts: oral, practical and written. On the oral examination, Division staff asks questions to get to know the applicant, like “why do you want to be a trainer?” as well as knowledge-based questions. The practical examination has no checklist or formal structure. The written examination consists of between 100 and 150 true/false, multiple-choice and short-answer questions covering topics including, but not limited to horse anatomy, Colorado rules and laws, how to enter a horse in a race and how to claim a horse. Test items are written by Division staff. A passing score is 75 percent and if the applicant fails, he or she must wait 30 days to retake the test.

**Exercise Rider** - The examination is a kind of practical/schooling type examination where the applicant spends time schooling with a signatory who shows the applicant what to do. When the signatory is satisfied that the applicant understands that particular aspect of the occupation and can perform it, the signatory signs off. Three racing officials must sign-off on an exercise rider examination: one outrider, one starter and one steward. If the applicant is not currently licensed by the Commission in any capacity, Division staff has the applicant obtain a groom license first, so the applicant can be on the track.

**Pony Person** - The examination is a kind of practical/schooling type examination where the applicant spends time schooling with a signatory who shows the applicant what to do. When the signatory is satisfied that the applicant understands that particular aspect of the occupation and can perform it, the signatory signs off. Three racing officials must sign-off on a pony person examination: two outriders and one steward. If the applicant is not currently licensed by the Commission in any capacity, Division staff has the applicant obtain a groom license first, so the applicant can be on the track.

**Plater** - The examination is given if the applicant has had no formal training. The applicant must shoe a horse four times in front of: two licensed platers (who are appointed by the board of stewards) and one Division-licensed practicing veterinarian. Additionally, one steward must sign-off on the application.

Unfortunately, the Division has not historically tracked the number of each type of examination administered or the pass rates on each, so such figures cannot be reported here.

Importantly, none of these examinations has ever been psychometrically validated.

---

## Inspections

The Division also inspects all licensed kennels, stables and racetracks at least once each year. Additional inspections may be conducted based upon complaints received.

Table 6 illustrates, for fiscal years 00-01 through 04-05, the total number of inspections and audits conducted.

**Table 6**  
**Inspection and Audit Information**

<b>Fiscal Year</b>	<b>Number of Inspections</b>	<b>Number of Audits</b>
00-01	105	10
01-02	182	3
02-03	122	2
03-04	123	6
04-05	141	5
<b>TOTAL</b>	<b>673</b>	<b>26</b>

On an inspection, Division staff seeks to ensure compliance with all relevant laws and Commission rules.

The Division audits each racetrack's totalisator system at least once each year, or as warranted, to ensure that odds are calculated correctly, that complete and accurate records are generated and maintained and to ensure that pari-mutuel wagering is conducted according to the standards established in the racing statute and in the Commission's rules.

---

## Complaints/Disciplinary Actions

The Commission, the Division and the boards of judges and stewards receive complaints from licensees, registrants, license applicants, registration applicants, and members of the wagering or viewing public. Table 7 illustrates, for the five fiscal years indicated, the number and general types of complaints that have been received.

**Table 7  
Complaint Information**

<b>Nature of Complaints</b>	<b>FY 00-01</b>	<b>FY 01-02</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Administrative Violations	207	179	131	90	147
Criminal Violations	25	46	14	15	34
Human Drug Test	129	143	73	55	72
Incidents	65	25	15	43	39
Background Investigations	128	187	165	107	158
Routine Applications	1,600	1,526	1,393	1,063	1,115
Inspections	175	186	122	237	329
<b>TOTAL</b>	<b>2,329</b>	<b>2,292</b>	<b>1,913</b>	<b>1,610</b>	<b>1,894</b>

Appendix D on page 74 provides greater detail as to what types of complaints constitute each of the general categories outlined in Table 7. Unfortunately, the Division's investigators do not consistently report similar types of violations or complaints similarly or even in the same computer system or format, so there is no reliable mechanism by which more detailed figures can be reported.

Since the processing of license and registration applications involves conducting criminal history background checks and utilizes the time of the Division's inspectors, information pertaining to background investigations and routine applications is included in Table 7 to provide a more comprehensive picture of actual enforcement-related workload.

With the exception of complaints pertaining to animal welfare, all complaints must be signed and submitted in writing. Animal welfare complaints need not be in writing or signed and are, generally, acted upon immediately.

---

For most other types of complaints, the complaint is assigned to an investigator, who first determines whether the case involves administrative or criminal issues. The complaint is then logged into the appropriate tracking system.

Following an investigation, the investigator drafts a report, which is submitted to the enforcement coordinator for review. If it is possible to resolve the case at this point, Division staff attempts to resolve the case. Such cases may involve a situation in which nothing improper was done, but the complaining party (possibly a member of the wagering public) simply did not understand something that happened.

If the case cannot be resolved, the case is referred to the appropriate district attorney, if it is a criminal issue, or the case is set for an administrative hearing, if it is an administrative issue.

The Division attempts to resolve all cases within 30 to 60 days.

Depending upon the nature of the complaint, as well as where and when the complaint is made, a hearing may be held before the board of judges, board of stewards or before the Commission. Most cases involving the outcome of, or conduct of licensees during a race are resolved by the board of judges or stewards, as the case may be.

Table 8 illustrates, for the five years indicated, the number of cases processed by each body.

**Table 8**  
**Cases Processed by a Board of Judges, Board of Stewards and the Commission**

<b>Calendar Year</b>	<b>Greyhound Judges</b>	<b>Horse Stewards</b>	<b>Commission</b>	<b>TOTAL</b>
2001	25	31	5	61
2002	10	56	19	85
2003	9	65	3	77
2004	8	30	3	41
2005	7	27	15	49
<b>TOTAL</b>	<b>59</b>	<b>209</b>	<b>45</b>	<b>313</b>

As Table 8 clearly shows, more hearings are generated by horse racing than by greyhound racing. This is somewhat surprising given the relatively few number of horse races held each year in comparison to the number of greyhound races. However, several propositions may help to explain this.

First, the potential money to be won by the wagering public, and the purses to be won by horse breeders and owners, can be significantly higher in horse racing. Thus, individuals have greater incentive to complain about even minor infractions in the hopes of changing the official outcome of a race.

Second, and perhaps more convincingly, there is more room for human action in horse racing. Horse racing involves a human jockey riding the horse, and jockeys themselves can violate the laws and rules governing racing. Thus, there is a greater body of evidence about which to complain.

Table 9 illustrates, for calendar years 2001 through 2005, the number and types of final agency actions that have resulted from the various hearings held before the boards and the Commission.

**Table 9  
Disciplinary Actions**

Type of Action	2001	2002	2003	2004	2005
Revocation	3	2	0	1	0
Surrender of License	0	1	0	0	0
Suspension	22	36	18	13	19
License Granted with Probation / Practice Limitations (Stipulations)	11	29	18	25	19
License Denied	23	49	33	19	8
Fine	61	85	77	41	49
Other	27	51	30	36	49
<b>TOTAL DISCIPLINARY ACTIONS</b>	<b>147</b>	<b>253</b>	<b>176</b>	<b>135</b>	<b>144</b>

As this data shows, very few licenses are ever revoked or surrendered. In most cases, a license is suspended or placed on probation for a period of time, or a fine is issued.

Additionally, the Division's investigators are also Peace Officers and can issue citations with fines attached to them. Although the Division does not track the number or value of fines issued, Table 10 illustrates, for calendar years 2001 through 2005, the total number of fines collected and the value of those fines. If a fine is not paid, it is doubled and the license or registration, as the case may be, of the violator is suspended.

**Table 10**  
**Fines**

<b>Calendar Year</b>	<b>Number of Fines</b>	<b>Total Value of Fines Collected</b>
2001	120	\$10,410
2002	122	\$16,235
2003	124	\$18,543
2004	105	\$9,022
2005	105	\$12,263
<b>TOTAL</b>	<b>576</b>	<b>\$66,473</b>

Thus, the Division, the Commission and the boards issued, on average, 115 fines each year, with the average fine amounting to \$115.

Finally, the Commission and Division also have jurisdiction over the illegal medicating of racing animals, sometimes referred to as “doping.” Table 11 illustrates, for the five calendar years indicated, the number of illegal substances rulings that have been made.

**Table 11**  
**Animal Medication- and Illegal Substances-Related Violations**

<b>Calendar Year</b>	<b>Horse Total</b>	<b>Greyhound Total</b>	<b>TOTAL</b>
2001	1	4	5
2002	12	6	18
2003	7	0	7
2004	6	11	17
2005	13	0	13
<b>TOTAL</b>	<b>39</b>	<b>21</b>	<b>60</b>

Although 60 violations in five years may seem, at first blush, to be problematic, this number must be put into context. Considering the number of races and the number of racing animals that race in Colorado each year, the figures reported in Table 11 actually indicate that Colorado has a remarkably compliant racing community with respect to the doping of racing animals.

---

## Parimutuel Wagering

Recall that the Division and Commission were originally created to ensure the integrity of horse and greyhound racing for the benefit of the wagering public. As Table 12 illustrates for the years indicated, the number of live greyhound race days has declined significantly. Horse racing, on the other hand, has remained relatively stable in terms of both live and simulcast race days.

**Table 12**  
**Race Days – Live and Simulcast**  
**Five-Year Snapshot**

Calendar Year	Greyhound Live	Greyhound Simulcast	Horse Live	Horse Simulcast
2001	608	0	37	214
2002	437	0	41	249
2003	316	174	47	262
2004	279	248	37	251
2005	269	249	37	240

The simulcasting of greyhound races was not legalized in Colorado until 2003, thus there were no simulcast greyhound race days in 2001 or 2002.

The number of race days directly translates into wagering opportunities for the wagering public. Table 13 illustrates the amount of money wagered on live and simulcast racing for the calendar years indicated.

**Table 13**  
**Pari-Mutuel Handle**  
**Five-Year Snapshot**

Calendar Year	Greyhound Live	Greyhound Simulcast	Horse Live	Horse Simulcast	Total
2001	\$151,233,959	\$0	\$17,520,111	\$64,369,662	\$233,123,732
2002	\$132,684,446	\$0	\$6,901,712	\$79,594,183	\$219,180,341
2003	\$107,114,046	\$14,852,367	\$7,670,563	\$77,049,825	\$206,686,801
2004	\$87,393,282	\$28,165,139	\$5,307,773	\$65,304,384	\$186,170,578
2005	\$64,416,233	\$29,829,271	\$3,486,746	\$61,731,903	\$159,464,153

An examination of the level of pari-mutuel wagering on live races from year to year, as well as total wagering, clearly indicates that pari-mutuel wagering is in decline.

---

In live greyhound racing, wagering has declined from approximately \$151.2 million in 2001, to \$64.4 million in 2005, a decrease of 57.4 percent.

Similarly, in live horse racing, wagering has declined from approximately \$17.5 million in 2001, to \$3.5 million in 2005, a decrease of 80.1 percent.

Wagering on simulcast races, on the other hand, has fluctuated a bit for horse racing, but nearly doubled for greyhound racing in just three years.

Recall that the tax rate on pari-mutuel wagering is 4.5 percent of the gross handle in greyhound racing and 0.75 percent of the gross handle in horse racing. As the handle, or amount wagered, decreases, so too do the taxes assessed on that wagering. Table 14 illustrates, for calendar years 2001 through 2005, the total tax dollars realized through these excise taxes from both greyhound and horse racing.

**Table 14  
Pari-Mutuel Taxes  
Five-Year Snapshot**

<b>Calendar Year</b>	<b>Taxes Realized from Greyhound Racing</b>	<b>Taxes Realized from Horse Racing</b>	<b>Total Taxes Realized from Racing</b>	<b>Percent Difference from Previous Year</b>
2001	\$5,288,542	\$606,682	\$5,895,224	-8.16
2002	\$4,425,452	\$631,453	\$5,056,905	-14.22
2003	\$3,929,859	\$626,970	\$4,556,829	-9.89
2004	\$3,584,048	\$530,234	\$4,114,282	-9.71
2005	\$3,067,060	\$483,866	\$3,550,926	-13.69

As the information reported in Table 14 clearly demonstrates, the tax dollars realized by the State of Colorado through the imposition of excise taxes on greyhound and horse racing has declined along with the pari-mutuel handle. These tax dollars have fallen by more than \$2.3 million, or 39.8 percent.

---

## Analysis and Recommendations

*Recommendation 1 – Continue the Colorado Racing Commission, the Colorado Division of Racing Events and the regulation of horse and greyhound racing for nine years, until 2016.*

The first sunset criterion asks whether regulation is necessary to protect the public health, safety or welfare. In order to address this criterion, it is necessary to identify what is being regulated.

The Colorado Racing Commission (Commission) and the Colorado Department of Revenue, Division of Racing Events (Division) administer a statute that not only regulates the sports of horse and greyhound racing, but also a statute that regulates pari-mutuel wagering.

Whether legalized pari-mutuel wagering serves the public interest is an issue that lies beyond the scope of this sunset review. However, if pari-mutuel wagering on horse racing, greyhound racing or both is to continue in Colorado, whether that wagering needs to be regulated and whether the Commission, the Division or both are the ideal governmental entities to accomplish that regulation is well within the scope of this review. Indeed, that is the focus of this sunset review and it is the conclusion of the Department of Regulatory Agencies (DORA) that such regulation is necessary.

Without pari-mutuel wagering, it is theorized by many in the industry, racing in Colorado would cease. Likewise, most in the industry agree that without some form of regulation over the sport of racing, pari-mutuel wagering would cease. Therefore, it is valid to examine whether the sport of racing itself serves the public interest and should be continued.

According to a 2005 study commissioned by the American Horse Council Foundation, horse racing produced a total economic impact of \$94 million in Colorado in 2004.<sup>188</sup> Moreover, this same study found that horse racing generated 600 direct and 1,500 total jobs in Colorado that year.<sup>189</sup> The study did not examine whether these were seasonal or full-time, permanent jobs.

Although no similar studies have been conducted regarding greyhound racing in Colorado, Division representatives and industry members estimate that greyhound racing produces a total economic impact of between \$30 million and \$100 million each year for the state.

---

<sup>188</sup> *American Horse Council Foundation: The Economic Impact of the Colorado Horse Industry*, Deloitte, 2005, p. 1.

<sup>189</sup> *American Horse Council Foundation: The Economic Impact of the Colorado Horse Industry*, Deloitte, 2005, p. 1.

---

Racing, in general, therefore, is estimated to generate a total economic impact of between \$100 million and \$200 million each year, including hundreds, if not thousands of jobs. It is logical to conclude that horse and greyhound racing serve the public interest in terms of total economic impact and job creation. As such, horse and greyhound racing should be allowed to continue in Colorado.

The question, however, is whether state regulation of racing serves the public interest.

There is little doubt that racing survives because of pari-mutuel wagering. Although it may be entertaining to watch a horse or greyhound race, pari-mutuel wagering is what draws crowds to the racetrack. Pari-mutuel wagering gives spectators a stake in the outcome of the race, thereby establishing racing's entertainment value.

From the racing industry's perspective, pari-mutuel wagering is the economic engine that makes racing financially viable. The winners of horse and greyhound races win purses, which are cash prizes, thus providing the economic incentive for the owners and breeders of the animals to enter those animals in races.

Pari-mutuel wagering generates profits for the racetracks, thereby enabling the racetracks to offer purses to the winners of the races. As racetrack profits decrease, so too do purses. As racetrack profits increase, so too do purses. As purses increase, the quality of racing animals entered at a given track increases, thus, arguably, generating more consumer interest and increased pari-mutuel wagering.

Each element is dependent on the others. The model is simple: the higher the quality of the race, the higher the profit potential for everyone involved. Inherent in the quality of the race, is integrity.

In 1999, the National Gambling Impact Study Commission observed:

[N]owhere is gambling regarded as merely another business, free to offer its wares to the public. Instead, it is the target of special scrutiny by governments in every jurisdiction where it exists, including even such gambling-friendly states as Nevada. The underlying assumption – whether empirically based or not – is that, left unregulated and subject only to market forces, gambling would produce a number of negative impacts on society and that government regulation is the most appropriate remedy.

---

Much of gambling regulation is focused on policing functions that differ little from community to community. The most immediate of these is ensuring the integrity of the games offered.<sup>190</sup>

This sentiment was consistently echoed in DORA's interviews of industry and Division representatives and Commission members. There is a general recognition, even among those who advocate for less regulation, that some form of state oversight is necessary in order to maintain the integrity of racing.

Left to market forces, many fear that the wagering public would lose confidence in the integrity of the races. According to this line of reasoning, owners, breeders and trainers of racing animals would have an economic incentive to give their animals performance enhancing drugs, thereby effecting the outcome of the races those animals entered.

Worse, many fear, as the National Gambling Impact Study Commission stated, that racing is the ideal setting for criminal activity. Left to market forces alone, many fear that owners, breeders and trainers of racing animals would have an economic incentive to "fix" races. That is, to agree on some outcome of the race before the race even begins.

Add into this mix the wagering public. It is possible to analyze pari-mutuel wagering on racing as somewhat analogous to securities markets. When an investor invests in a security, there is an understanding that the investor could lose if the value of the security decreases, or win if the value of the security increases. The federal and state governments regulate securities markets not to ensure that investors never lose, but rather to ensure that issuers of securities operate under the same set of rules and that investors operate on a level playing field. Disclosure is the key to making securities markets operate fairly and, thus, efficiently.

The key to investing, therefore, is each investor analyzing the same information and making his or her own decision as to which investments are worth the risk and which are not. Without the assurance that all investors are making such decisions with the same information, the incentive to invest is lost. Disclosure is the key. As a result, the sanction for insider trading (buying or selling securities based on non-public information) is severe.

---

<sup>190</sup> *Report of the National Gambling Impact Study Commission*, June 18, 1999, p. 3-1.

---

Similarly, the wagering public must have some assurance that all are placing their wagers based on the same information. As in the regulation of securities markets, there is disclosure in racing. The racing program provides this disclosure in the form of identifying which animals will participate in a particular race, and, for each animal, the race record in terms of wins, losses and purses won; weight; jockey and the jockeys' records; etc. All members of the wagering public take this information and "handicap" the race. That is, they analyze the information and predict some aspect of the outcome of the race.

However, the incentive to place a pari-mutuel wager would be eliminated if the wagering public knew, or even suspected, that the outcome of the race were to be determined by some factor that was not disclosed. Importantly, even the perception of this would be sufficient to dissuade a significant number of individuals from placing wagers.

State regulation, then, serves to ensure that races are run in the most fair, open and honest manner possible. State regulation seeks to prevent the use of performance enhancing drugs, race fixing and other forms of cheating that could effect the outcome of a race. In the end, state regulation of racing, like state regulation of securities markets, ensures that everyone who places a pari-mutuel wager does so based on the same information.

The Commission, the Division and regulation in general accomplish this through a variety of means. First, everyone involved in racing is either licensed or registered by the Commission. This process involves criminal history background checks, of varying degrees, to ensure that those participating in racing are as honest as can realistically be predicted.

According to one researcher,

Licensing is perhaps the single most important component of safety and integrity regulation . . . The safety and integrity aspects of regulation facilitate the development of competitive markets: they (a) establish the procedures that seek to make racing safe [for racing animals] and for all participants; (b) set standards for integrity, which are necessary to encourage bettors to participate fully in pari-mutuel pools, and (c) generally establish the "rules of the game" and the role of the referees."<sup>191</sup>

---

<sup>191</sup> Louis Guth, *Thoroughbred Racetrack Economics: Emerging Issues in Competition, Regulation, and Wagering*, NERA Economic Consulting, 2004, p. 35.

---

Second, a primary mission of the Commission and Division is animal welfare. This includes not only policing the industry for banned drugs in racing animals, but also includes analysis of animal injury reports, racetrack surface testing and ensuring that racing animals are treated humanely. The outcome of the race should be determined, to the greatest extent possible, by the animals (and the jockeys, in the case of horses), not by any external, undisclosed factors.

Finally, the Commission, through its boards of stewards, boards of judges and race review committees ensures that the rules of the race are adhered to. Jockeys can be disciplined for interfering with other race participants. Greyhound trainers can be disciplined for “derogatory comments” (misbehavior on the racetrack) of their racing greyhounds.

All of this is designed to ensure that when an individual places a pari-mutuel wager, the race will be as fair and as honest as possible so that that individual knows that he or she has as much of a chance of winning as anyone else.

In this manner, regulation of racing and pari-mutuel wagering is necessary to protect the public welfare. Pari-mutuel wagering without regulation could lead to any number of dishonest practices, all of which would serve to cheat the individual who places a pari-mutuel wager out of his or her money.

To be sure, not everyone in Colorado’s racing industry agrees that the current level of regulation is justified. Most such arguments focus on the current economics of racing, however, not actual regulation. While these arguments have merit, and many of them are addressed in Recommendation 2 of this report, they are not persuasive in terms of whether the Commission, Division and regulation in general should be continued.

Since racing contributes to the state’s economy, since racing exists because of pari-mutuel wagering and since pari-mutuel wagering must be regulated in order to protect the wagering public, the Commission, Division and regulation in general should be continued for nine years, until 2016.

*Recommendation 2 – Impose a uniform tax rate of 0.75 percent on the gross adjusted pari-mutuel handle and direct the Commission to promulgate rules concerning the manner in which gross adjusted pari-mutuel handle should be calculated.*

With few exceptions, most individuals and entities involved in racing in Colorado agree on one thing: racing in Colorado is in severe decline. Although the most popular reason cited for this is often referred to as “cash funding,” a thorough analysis of Colorado and national data indicate that, at most, cash funding merely accelerated the decline of the industry.

---

Prior to 2003, the Colorado racing industry funded the Commission, Division and regulation in general through the payment of an excise tax on the gross pari-mutuel handle. Greyhound handle was taxed at a rate of 4.5 percent and horse handle was taxed at a rate of 0.75 percent. The General Assembly then appropriated a portion of these funds to the Division each year to cover the costs of regulation. Those funds not spent on regulation remained in the state's General Fund.

Senate Bill 03-1123, however, required, for the first time, that the racing industry cover the cost of regulation in a direct manner, through cash funding and the imposition of license fees on race meets without a corresponding reduction in the tax that such licensees already paid on the gross handle. At the same time, the General Assembly increased the maximum allowable takeout rate from 19.5 percent to 30 percent of gross handle, but required Commission approval of all takeout rates.

Recall that the takeout is what the racetrack withholds from payment to winners of pari-mutuel wagers to cover the racetrack's costs. The racetrack then uses the takeout to pay any licensing fees and pari-mutuel taxes owed the state, as well as the track's own overhead, such as wages, improvements to the property, etc. The takeout is the sole mechanism by which a racetrack makes money on pari-mutuel wagering.

Cash funding is frequently blamed for racing's decline in Colorado, this theory maintains, because the racetracks now pay the same amount of tax they used to pay, but now must also pay fees to fund the Division. To compensate, the racetracks have been allowed to raise the takeout. Since an increase in takeout results in lower payouts to those who win on pari-mutuel wagers, it is commonly argued that those who place pari-mutuel wagers have decreased or ceased their wagering on Colorado races because the payout potential in Colorado is lower than in other states. As a result, the handle has decreased. This decrease in handle has resulted in racetracks having to pay their fees with less money, resulting in decreasing purse value. This has resulted in lower quality races, which has led to lower consumer interest, less pari-mutuel wagering and thus, lower handle. It is a downward spiral.

An analysis of the handle, as reported by the Division for calendar years 1995 through 2005, lends credibility to this line of reasoning.

**Table 15**  
**Pari-Mutuel Handle**  
**10-Year Historical Perspective**

Calendar Year	Greyhounds		Horses		TOTAL	
	Handle	Percent Difference	Handle	Percent Difference	Handle	Percent Difference
1995	\$195,213,166		\$61,896,167		<b>\$257,109,333</b>	
1996	\$205,758,779	5.40%	\$52,536,826	-15.12%	<b>\$258,295,605</b>	<b>0.46%</b>
1997	\$196,450,662	-4.52%	\$55,417,788	5.48%	<b>\$251,868,450</b>	<b>-2.49%</b>
1998	\$172,736,182	-12.07%	\$62,368,635	12.54%	<b>\$235,104,817</b>	<b>-6.66%</b>
1999	\$168,940,048	-2.20%	\$75,628,353	21.26%	<b>\$244,568,401</b>	<b>4.03%</b>
2000	\$155,567,451	-7.92%	\$75,256,831	-0.49%	<b>\$241,368,462</b>	<b>-1.31%</b>
2001	\$151,233,959	-2.79%	\$81,889,773	8.81%	<b>\$233,123,732</b>	<b>-3.42%</b>
2002	\$132,684,446	-12.27%	\$86,495,895	5.62%	<b>\$219,180,341</b>	<b>-5.98%</b>
2003	\$121,966,413	-8.08%	\$84,720,388	-2.05%	<b>\$206,686,801</b>	<b>-5.70%</b>
2004	\$115,558,421	-5.25%	\$70,612,157	-16.65%	<b>\$186,170,578</b>	<b>-9.93%</b>
2005	\$94,245,504	-18.44%	\$65,218,651	-7.64%	<b>\$159,464,155</b>	<b>-14.35%</b>
<b>Total</b>		<b>-51.72%</b>		<b>5.37%</b>		<b>-37.98%</b>

While Table 15 clearly shows that handle has been steadily declining for the entire 10-year period, this decline accelerated dramatically in 2004, the first complete year of cash funding. Between 2002 and 2003, handle decreased by 5.7 percent, but between 2003 and 2004, the decrease rose to 9.93 percent. Finally, 2005 witnessed, by far, the largest year-over-year decline during the reporting period – 14.35 percent. In the end, the pari-mutuel handle in Colorado, in 2005, was down almost 38 percent when compared to the handle of 1995.

Observe, however, that the decline in handle was borne most heavily by greyhound racing, which saw a 52 percent decrease during this 10-year period.

As a result of the decline in handle, it is reasonable to expect a similar decline in pari-mutuel taxes. Table 16 illustrates, for calendar years 1995 through 2005, the amount of pari-mutuel taxes Colorado greyhound and horse tracks paid into the state's General Fund.

**Table 16**  
**Pari-Mutuel Taxes**  
**10-Year Historical Perspective**

Calendar Year	Greyhounds		Horses		TOTAL	
	Taxes	Percent Difference	Taxes	Percent Difference	Taxes	Percent Difference
1995	\$7,637,291		\$468,987		<b>\$8,106,279</b>	
1996	\$7,259,471	-4.95%	\$431,959	-7.90%	<b>\$7,691,430</b>	<b>-5.12%</b>
1997	\$6,759,045	-6.89%	\$435,072	0.72%	<b>\$7,194,118</b>	<b>-6.47%</b>
1998	\$6,197,949	-8.30%	\$472,716	8.65%	<b>\$6,670,665</b>	<b>-7.28%</b>
1999	\$5,975,088	-3.60%	\$567,491	20.05%	<b>\$6,542,580</b>	<b>-1.92%</b>
2000	\$5,384,306	-9.89%	\$560,581	-1.22%	<b>\$6,419,232</b>	<b>-1.89%</b>
2001	\$5,288,542	-1.78%	\$606,682	8.22%	<b>\$5,895,224</b>	<b>-8.16%</b>
2002	\$4,425,452	-16.32%	\$631,453	4.08%	<b>\$5,056,906</b>	<b>-14.22%</b>
2003	\$3,929,859	-11.20%	\$626,970	-0.71%	<b>\$4,556,829</b>	<b>-9.89%</b>
2004	\$3,584,048	-8.80%	\$530,234	-15.43%	<b>\$4,114,283</b>	<b>-9.71%</b>
2005	\$3,067,060	-14.42%	\$483,866	-8.74%	<b>\$3,550,926</b>	<b>-13.69%</b>
1995 – 2005 Differences		-59.84%		3.17%		<b>-56.20%</b>

Although the overall amount of pari-mutuel taxes paid declined by 56 percent, whereas the handle declined by only 38 percent, the focus again must come to rest on greyhound racing.

First, as Tables 15 and 16 clearly show, the handle in greyhound racing, and thus the amount of pari-mutuel taxes paid by greyhound racetracks far exceeds similar figures for horse racing. Additionally, recall that the tax rate on greyhound handle is 4.5 percent, which is substantially higher than the 0.75 percent tax rate on the horse handle. As a result, the greyhound handle represents a much larger tax base, relative to the horse handle, so any decrease in greyhound handle will have a more pronounced effect on the total amount of pari-mutuel taxes paid. Again, this is reflected in Table 16.

Finally, Table 17 illustrates, for calendar years 2003 through 2005, the value of the fees collected by the Division pursuant to the cash funding initiative.

**Table 17  
Cash Funds Collected**

Calendar Year	Greyhounds		Horses		Total	
	Cash Fund Fees	Percent Difference	Cash Fund Fees	Percent Difference	Cash Fund Fees	Percent Difference
2003	\$870,305	N/A	\$217,576	N/A	\$1,087,881	N/A
2004	\$1,577,298	81.24%	\$394,324	81.24%	\$1,971,623	81.24%
2005	\$1,413,964	-10.36%	\$353,491	-10.36%	\$1,767,455	-10.36%

Cash funds collected in 2003 were significantly lower than in 2004 and 2005 because Senate Bill 03-1123 became effective July 1, 2003, so the figures reported in Table 17 for 2003 represent the fees collected for only one-half of the year.

When examining the data in Tables 16 and 17, however, it becomes clear that, under cash funding, Colorado's horse and greyhound tracks are paying approximately 50 percent more to the state in taxes and fees, than before cash funding.

However, at a national level, in terms of constant 2000 dollars, the annual national handle from greyhounds has decreased from approximately \$4.25 billion in 1987, to approximately \$1.75 billion in 2004,<sup>192</sup> and the annual national handle from horse racing has decreased from approximately \$25 billion in 1974 to approximately \$16 billion in 2004.<sup>193</sup>

Similarly, in 2004, the national handle from greyhounds has down 8.5 percent from 2003, and the national handle from horses was down 2.1 percent from 2003.<sup>194</sup>

Since there has been a nationwide, long-term decline in handles, it would be inaccurate to attribute all of the decline in Colorado handle to cash funding alone. On the other hand, the data presented in Tables 15, 16 and 17 make it reasonable to conclude that cash funding has accelerated this trend in Colorado.

<sup>192</sup> Association of Racing Commissioners International: Annual Report 2005, p. 41.

<sup>193</sup> Association of Racing Commissioners International: Annual Report 2005, p. 12.

<sup>194</sup> Association of Racing Commissioners International: Annual Report 2005, pp. 12 and 41.

Similarly, it may not be entirely accurate to attribute the decline to the fact that racetracks in Colorado pay both taxes and fees. Of the 44 states that currently regulate greyhound racing, horse racing or both, at least 12, including Colorado, impose fees and collect taxes.

Admittedly, the tax rate on pari-mutuel handle in most states is substantially lower than in Colorado, especially with respect to greyhound racing.

Therefore, based on the evidence presented herein, it is reasonable to conclude that, although all of racing's problems cannot be attributed to cash funding, the current system of imposing fees and collecting taxes on gross pari-mutuel handle has certainly exacerbated the problems racing already faced in 2003.

Additionally, since the tax on handle no longer funds regulation, there is no longer any readily apparent public policy reason as to why the handle from greyhound racing should be taxed differently than the handle from horse racing. In the past, this differential might have been explained by arguing that it costs more to regulate greyhound racing than horse racing. This is demonstrated by the number of racing days held each year for each type of racing.

**Table 18**  
**Race Days - Live and Simulcast**  
**10-Year Historical Perspective**

Calendar Year	Greyhound				Horse			
	Live Race Days	Percent Difference	Simulcast Race Days	Percent Difference	Live Race Days	Percent Difference	Simulcast Race Days	Percent Difference
1995	720		0		268		0	
1996	601	-16.53%	0	N/A	242	-10%	0	N/A
1997	600	-0.17%	0	N/A	260	7%	0	N/A
1998	629	4.83%	0	N/A	38	-85%	0	N/A
1999	609	-3.18%	0	N/A	43	13%	0	N/A
2000	544	-10.67%	0	N/A	37	-14%	213	N/A
2001	608	11.76%	0	N/A	37	0%	214	0%
2002	437	-28.13%	0	N/A	41	11%	249	16%
2003	316	-27.69%	174	N/A	47	15%	262	5%
2004	279	-11.71%	248	42.53%	37	-21%	251	-4%
2005	269	-3.58%	249	0.40%	37	0%	240	-4%
<b>1995 - 2005 Differences</b>	<b>-451</b>	<b>-62.64%</b>	<b>75</b>	<b>43.10%</b>	<b>-231</b>	<b>-86.19%</b>	<b>27</b>	<b>13%</b>

Obviously, greyhounds have more racing days each year than do horses. In the past, this may have meant that the cost of regulation for greyhounds was higher, thus the higher tax rate on the greyhound pari-mutuel handle.

---

However, this is no longer the case. Cash funding has resulted in a different funding mechanism for regulating the racing industry. As such, the tax on pari-mutuel handle is nothing more than an excise tax on pari-mutuel handle. From a public policy standpoint, it is reasonable to conclude that, as such, the tax rates should be equalized.

Pursuant to section 12-60-101, Colorado Revised Statutes (C.R.S.), one of the Commission's purposes is to generate revenue for the state's General Fund. This mandate will be impossible to fulfill if racing in Colorado ceases.

Recall from Table 16 that in 2005, the state received approximately \$3.5 million from the tax on pari-mutuel wagering. In terms of the overall state budget, this is relatively insignificant. However, it is not insignificant to the racing industry in Colorado.

Therefore, to implement a more consistent public and tax policy and to ensure the continued viability of an industry that contributes, according to some estimates, between \$100 million and \$200 million to the state's economy each year, the General Assembly should revise the current tax regime.

First, the tax on pari-mutuel handle should be based on gross adjusted handle, rather than gross handle. This will enable the racetracks to deduct their actual expenses, including fees paid to the Division, from the figure upon which they will pay the tax. This is similar to the manner in which individuals pay income tax on their adjusted gross income and, perhaps more appropriately, the manner in which limited stakes gaming establishments in Colorado pay their gambling taxes.

This would also require the Commission to promulgate rules concerning allowable deductions in calculating the adjusted gross handle.

Since the tax on pari-mutuel handle is little more than a tax on gambling, it is sound public policy to require all gambling establishments (i.e., casinos and racetracks) to calculate the basis for this tax in a similar manner.

Finally, the tax rate on greyhound handle should be reduced from the current 4.5 percent to 0.75 percent, so as to be equal to the rate at which horse tracks pay their tax on handle.

While it is true that in the short term, the amount of money paid into the state's General Fund will decrease, this strategy will not only help to ensure the continued viability of racing in Colorado, and all the concomitant taxes associated therewith, but also help to ensure a continual stream of revenue from pari-mutuel wagering.

---

It must be noted, however, that since this Recommendation 2 effects taxes, there could be Taxpayer Bill of Rights implications that may require the General Assembly to refer a measure to the people of Colorado.

Since the current structure of taxing pari-mutuel handle is no longer justified and is contributing to the decline of a multi-million dollar per year industry, the General Assembly should require that pari-mutuel taxes be paid on the adjusted gross handle and that the tax rate on greyhound pari-mutuel handle be reduced to 0.75 percent so as to equal the tax rate imposed on horse pari-mutuel handle. The General Assembly should further direct the Commission to promulgate rules regarding allowable deductions for calculating adjusted gross handle.

*Recommendation 3 – Repeal the Commission, the Division and the regulation of racing in general in the event that live racing in Colorado ceases.*

Recommendation 1 of this sunset report advocates for the continuation of the Commission, the Division and the regulation of racing in general, until 2016. However, as Recommendation 2 suggests, racing in Colorado is in severe decline. As a result, by 2016, there may no longer be live racing in Colorado, but, as creatures of statute, the Commission, the Division and regulation would continue.

To avoid this absurd situation, Article 60 of Title 12, C.R.S., should be allowed to repeal as a matter of law when such provisions are no longer necessary, which will be when live racing in Colorado ceases.

*Recommendation 4 – Eliminate the northern and southern circuits in greyhound racing and simply allow greyhound racing in Colorado.*

Section 12-60-603(2)(a), C.R.S., divides the state into one north and one south circuit for the operation of greyhound tracks, with the line of demarcation being a latitudinal line drawn through the location of the Douglas County courthouse in Castle Rock as of June 6, 1991.

However, with the exception of a single race meeting in Colorado Springs in 2005, live racing has not occurred in the southern circuit in four years and even then, that race meet was held so that the track could maintain its simulcasting rights.

---

The passage of House Bill 06-1409 virtually guaranteed that live racing in the southern circuit will not occur again anytime soon by allowing any racetrack that held a license in 2003 to continue to simulcast so long as at least one racetrack in Colorado continues to run live races.

As a result, racing in the southern part of the state has ceased and the economics of racing are now such that it is very unlikely that live racing will return there. Even if live racing were to return to the southern part of the state, there is no valid public policy reason to retain a north-south division.

Since there is no racing in the southern circuit and since there is no other reason to maintain two greyhound racing circuits in the state, the General Assembly should repeal all references to and any requirements pertaining to two circuits and simply allow greyhound racing in the state, wherever it may occur.

*Recommendation 5 – Divide the proceeds from breakage and unclaimed tickets at greyhound racetracks equally between the track and that track's purse fund.*

One area in which greyhound racing and horse racing are regulated differently is the disposition of funds realized from breakage and unclaimed pari-mutuel tickets.

Breakage is the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of 10 cents.

Unclaimed pari-mutuel tickets represent wagers that actually won, but were not redeemed within one year.

Pursuant to section 12-60-702(1)(h)(I), C.R.S., 50 percent of the breakage at any horse race meeting is retained by the licensed racetrack and 50 percent of the breakage must be paid in purses for races at that racetrack.

Pursuant to section 12-60-702(1)(h)(II), C.R.S., however, 100 percent of the breakage at any greyhound race meeting is retained by the licensed racetrack.

Similarly, pursuant to section 12-60-704(2), C.R.S., the proceeds from unclaimed tickets at a horse race meeting are divided equally between the licensed racetrack and the Horse Breeders' and Owners' Awards and Supplemental Purse Fund (Breeders' Fund).

---

However, pursuant to section 12-60-702(1)(i), C.R.S., the proceeds from unclaimed tickets are retained by the licensed greyhound racetrack, but must be used for capital improvements at the track.

Horse owners and breeders receive half of all breakage and unclaimed tickets in one form or another and greyhound owners and breeders receive nothing. As highlighted in other recommendations, there is no readily apparent public policy reason for this differentiation in treatment.

While it is true that there is no greyhound equivalent of a Breeders' Fund, greyhound owners and breeders could still be awarded such funds through purses.

Since there is no apparent public policy reason for treating breakage and unclaimed tickets differently depending upon whether such occurs at a horse track or a greyhound track, the General Assembly should require that any proceeds realized from breakage and unclaimed tickets through greyhound racing be divided equally between the licensed racetrack and that racetrack's purse fund.

*Recommendation 6 – Require the distribution of Breeders' Fund dollars that are not distributed to a qualified breed association within three years of the deposit of such funds into the Breeders' Fund to the Racing Cash Fund.*

The Breeders' Fund is created in section 12-60-704, C.R.S., and is funded by a variety of mechanisms, including unclaimed tickets, breakage and simulcast revenues. Money is distributed out of the Breeders' Fund to the owners and breeders of Colorado-bred horses through the breed associations for each breed.

Section 12-60-704(3)(c), C.R.S., requires the funds to be distributed to individual owners and breeders in accordance with the by-laws of the breed association to which funds were distributed from the Breeders' Fund.

The Breeders' Fund, then, is a pool of money that is paid out to owners and breeders of Colorado-bred horses. To receive such funds, the owners and breeders of each breed must establish a breed association that includes in its by-laws procedures for distributing such funds to individual owners and breeders.

---

Pursuant to Commission Rule 9.316, funds are distributed from the Breeders' Fund to the respective Colorado breed associations according to the percentage, not to exceed 80 percent, of the actual handle that each horse breed generated. Pursuant to section 12-60-704(1), C.R.S., the breed association may retain up to five percent to cover overhead.

Table 19 details the total amount credited towards each breed in calendar year 2005, and distributed in calendar year 2006, as well as the percentage of the total Breeders' Fund funds awarded to each breed.

**Table 19  
Breeders' Fund Totals for 2005**

<b>Breed</b>	<b>Total Funds</b>	<b>Percentage of Total for Breed</b>
Thoroughbred	\$757,459	76.9%
Quarter Horse	\$153,092	15.6%
Harness/Standardbred	\$46,490	4.7%
Arabian	\$21,347	2.2%
Paint	\$3,609	0.4%
Appaloosa	\$1,827	0.2%

Recall, however, that in order to receive distributions from the Breeders' Fund, there must be a breed association to which to distribute the funds and that breed association must have by-laws that govern the distribution of such funds to individual owners and breeders. As a result of these requirements, two breeds, Harness/Standardbreds and Appaloosas, have not received distributions from the Breeders' Fund.

As of June 2006, the Breeders' Fund held \$171,515 in trust for Harness/Standardbred owners and breeders and \$18,703 for Appaloosa owners and breeders. These funds total \$190,218. Since there is currently no statutory provision directing the Commission or the Division on what to do with Breeders' Fund funds when such funds cannot be distributed, these funds continue to sit in trust, accrue interest and receive additional deposits each year.

This is particularly problematic for the funds owed to the owners and breeders of Harness/Standardbred horses because this breed no longer races in Colorado and has no breed association in Colorado.

This is less problematic for the owners and breeders of Appaloosa horses because Appaloosas currently race in Colorado and there is an active breed association in Colorado, the Colorado Appaloosa Race Association (Appaloosa Association). The problem, according to representatives of the Division, is that the Appaloosa Association has no by-laws governing the distribution of Breeders' Fund dollars to owners and breeders of Appaloosa horses.

---

During the course of this sunset review, a representative of DORA contacted a representative of the Appaloosa Association to determine why the Appaloosa Association has not adopted by-laws in order to claim its \$18,703. The representative of the Appaloosa Association assured DORA's representative that the Appaloosa Association has such by-laws, but they have not yet been submitted to the Division. This is expected to occur relatively soon.

Therefore, the primary question remains, what should be done with the \$171,515 that sits in trust for Harness/Standardbred horse owners and breeders. This is a significant amount of money and, as a result, there is no shortage of plans on how to spend it.

Unfortunately, the racing statute does not permit the funds to be distributed. Therefore, a statutory change is necessary.

Although there is currently no racing of Harness/Standardbred horses in Colorado, there could be at some point in the future, however unlikely. Therefore, a mechanism must be developed to allow any such future owners and breeders the opportunity to claim this money.

It is reasonable to establish a timetable for distribution based on a rolling three-year cycle. Each year, funds are deposited into the Breeders' Fund. If those funds are not distributed within three years, they should be distributed to the Racing Cash Fund, which is created in section 12-60-205, C.R.S., where they will serve to augment the costs of regulation, resulting in lower license fees.

For example, Table 20 provides five years of hypothetical data for a hypothetical breed.

**Table 20**  
**Hypothetical Breeders' Fund Dollars Owed to Hypothetical Breed Association**

<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
\$41,000	\$42,000	\$43,000	\$44,000	\$45,000

In Year 4, funds from Year 1 would be distributed to the Racing Cash Fund. In Year 5, funds from Year 2 would be distributed to the Racing Cash Fund, and so on.

This approach will allow the funds currently sitting in trust to be used, but will also avoid completely depleting those funds should one of the affected breeds establish a breed association with the proper by-laws so that funds can be distributed to that breed association.

---

Since more than \$190,000 currently sits in trust in the Breeders' Fund with no mechanism by which to distribute such funds, the General Assembly should amend the racing statute to direct that distributions be made to the Racing Cash Fund from the Breeders' Fund when deposits sit in trust in the Breeders' Fund for more than three years.

*Recommendation 7 – Require every recipient of distributions from the Breeders' Fund to report to the Commission, at least annually, how such funds are spent and to which owners and breeders such funds are distributed.*

As Table 19 on page 57 illustrated, particularly with respect to Thoroughbreds and Quarter Horses, breed associations receive significant amounts of money from the Breeders' Fund each year. However, once these funds are distributed to the respective breed associations, there is no requirement that the breed associations report back to the Commission on how these funds are distributed.

This is problematic for several reasons. First, the Breeders' Fund was created to promote the breeding of horses in Colorado. Without some kind of report from the breed associations to the Commission concerning how Breeders' Fund dollars are distributed, there is no way to ensure that this goal is being accomplished.

Second, since the Breeders' Fund is a creation of statute and since the Division Director is a signatory on the trust account that holds Breeders' Fund deposits, the Breeders' Fund is, arguably, state money. It is unacceptable that the breed associations not be required to at least report how that state money is spent and distributed.

Third, this requirement would be no different than the requirement placed on Colorado State University (CSU), which receives money from the racing industry pursuant to section 12-60-701(2)(a)(II), C.R.S. A condition of this funding is that CSU report to the Commission how it spends such funds, which must be spent on equine research. The Commission has no authority to approve individual research projects. The provision simply requires CSU to inform the Commission how it spends the money it receives by virtue of the racing statute.

Similarly, this recommendation does not advocate that the Commission be granted the authority to approve the expenditures or distributions of the breed associations. Rather, this recommendation merely advocates that recipients of state largesse be required to report to the state that such funds are distributed as intended. If problems are identified, legislation can then be proposed to address such problems.

Admittedly, at least one breed association already reports this information to the Commission. Table 21 provides a breakdown of that breed association's distributions to the indicated number of owners and breeders, according to a letter to the Commission dated March 10, 2006.

**Table 21**  
**One Breed Association's Distributions to Owners/Breeders**

Number of Owners/Breeders Receiving Distributions	Amount Distributed
27	\$0.01 - \$99
42	\$100 - \$999
18	\$1,000 - 1,999
7	\$2,000 - \$2,999
3	\$3,000 - \$3,999
2	\$4,000 - \$4,999
1	\$6,000 - \$6,999
1	\$7,000 - 7,999
1	\$25,000 - \$25,999

This information reveals that relatively few individuals receive a disproportionate amount of Breeders' Fund distributions. Since the breed associations typically distribute funds using a formula based on the number of race starts and the placement of each horse in a race, the information regarding distributions to owners and breeders is useful in identifying which owners and breeders seem to be having the most success. This is important in reviewing the relative success of efforts to breed race horses in Colorado.

Since the Breeders' Fund is state money and since there is currently no requirement that breed associations report to the Commission how such funds are distributed, the General Assembly should require breed associations that receive distributions from the Breeders' Fund to report to the Commission, at least annually, how those funds are spent and to which owners and breeders they are distributed.

*Recommendation 8 – Repeal the requirement that the Commission approve the Division's budget.*

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

[A]nnually prepare and submit to the [C]ommission, for its approval, a proposed budget for the ensuing fiscal year, which budget shall present a complete financial plan setting forth all proposed expenditures and anticipated revenues of the [D]ivision.

---

Furthermore, section 12-60-701(4), C.R.S., directs the Commission to approve all license fees to be assessed.

However, as a practical matter, the General Assembly, through the appropriations process, approves the Division's budget, not the Commission.

While it is likely helpful for the Commission to be informed of the Division's budget and the fees to be assessed, the Commission has no real authority to approve the Division's budget since the Commission has no control over the monies appropriated to the Division each year.

Since these provisions are obsolete, the General Assembly should repeal them.

*Recommendation 9 – Require the Commission to meet at least quarterly, rather than monthly.*

Section 12-60-301(1)(h), C.R.S., requires the Commission to hold at least one meeting each month.

If the Commission has business to address on a monthly basis, this provision does not pose a problem. However, this provision requires the Commission to meet even if there is no business to address.

A common solution to this predicament is to require boards and commissions to meet at least quarterly. This would allow the Commission to meet more frequently if needed, but would not require the Commission to meet if such a meeting is not needed.

In the end, this is an issue of governmental efficiency. Although the costs associated with holding a Commission meeting may be negligible, there are costs nonetheless, both in terms of expenditures and Division staff time that could otherwise be devoted to carrying out regulatory functions.

Since it is inefficient to require the Commission to meet when it has nothing to discuss, the General Assembly should require the Commission to meet at least quarterly.

---

*Administrative Recommendation 1 – Refer all licensing hearings to administrative law judges.*

Section 12-60-508(1), C.R.S., requires that,

[A]ll proceedings before the [C]ommission with respect to the denial, suspension, revocation of licenses or the imposition of fines shall be conducted pursuant to the provisions of section 24-4-104 and 24-4-105.

Thus, the Commission has the authority to hold hearings on licensing matters and those hearings must be held in accordance with the Administrative Procedure Act.

Pursuant to section 12-60-508(3)(a), C.R.S., the Commission may delegate this authority, with respect to license denials and suspensions and the imposition of fines to the Division through the boards of stewards and/or judges, or to a hearing officer.

Finally, pursuant to section 12-60-508(3)(b), C.R.S., the Commission “may direct that any hearing be conducted before an administrative law judge [(ALJ)].”

Taken together, these provisions make it clear that the Commission has the authority to hold hearings or direct that hearings be held before a board of judges, board of stewards, a hearing officer or an ALJ.

Although the Commission has delegated limited authority to hold hearings on license suspensions and the imposition of fines to its boards of stewards and judges, the Commission continues to hold all other hearings itself. This is problematic.

During the course of this sunset review, a representative of DORA attended Commission meetings and the Commission held several licensing hearings at those meetings.

At every one of these hearings, the Assistant Attorney General (AAG) who normally advises the Commission on legal matters represented the state at the hearing before the Commission. While this is not unusual, what is unusual is the absence of conflicts counsel. Conflicts counsel is simply another AAG who assumes the role of advisor to the Commission. This is necessary because of the inherent conflict that arises when the Commission’s customary counsel is prosecuting a case before the body that that AAG normally advises.

---

In such a case, conflicts counsel provides legal advice to the Commission during the course of the hearing. Such advice may be substantive or procedural. Regardless of the type of advice given, it is essential to the due process rights of the licensee that is the respondent in such a hearing that the individual prosecuting the case against the licensee not be providing legal advice to the adjudicatory body.

In a proper hearing, then, the Commission's customary AAG plays the role of prosecutor by representing the state (the Division), the licensee and the licensee's counsel play the role of defendant, the Commission plays the role of adjudicator and conflicts counsel provides legal advice to the Commission. The roles of the AAGs, the Commission and the Division are separate, clear and distinct.

However, based on interviews conducted by a representative of DORA with various industry members and based upon this representative's own observations, conflicts counsel has not been present at Commission hearings.

Indeed, the reason for conflicts counsel became appallingly clear as a result of these observations. During the course of several hearings, Commission members, who, with one exception are lay people, routinely inquired of the Commission's AAG, who was prosecuting the case, and Division staff, who was sitting at the same table as the AAG, numerous legal questions. In general, these questions pertained to legal options available to the Commission, procedural issues, and the legal consequences of various possible actions.

This is entirely unacceptable. The due process rights of the licensee involved are violated when the agency seeking to deny, revoke or otherwise discipline the license tells the adjudicator what to do. This does not constitute a fair hearing for due process purposes.

Additionally, it is unfair and unrealistic of the state to expect lay people, such as the Commission members, to possess the knowledge and expertise to hold a legally sufficient hearing. Rulings pertaining to the examination of witnesses, discovery and other motions can be complicated even for well-versed jurists.

While it is true that most policy autonomous boards and commissions in state government have the authority to hold hearings or to refer such hearings to an ALJ, the vast majority of those bodies refer the hearings to an ALJ because of the reasons cited herein.

---

Therefore, the Commission should refer all hearings pertaining to licensing matters to a hearing officer or to an ALJ. Under such a system, the AAG would represent the Division before the ALJ and the ALJ would make and issue findings of fact, conclusions of law and recommended disciplinary sanctions. If either the Division or the licensee disagreed with the ALJ's decision, either party could file exceptions with the Commission within the timeframes outlined in the Administrative Procedure Act. The Commission could then uphold or alter the ALJ's decision, thus rendering a final agency action. If neither party filed exceptions, the ALJ's decision would become the final agency action by operation of law at the end of the specified time period. The final agency action could then be appealed to the Colorado Court of Appeals.

This process is cleaner than the process currently utilized by the Commission and is entirely in line with other programs in state government.

Since the Commission has the authority to hold hearings and since the Commission's hearings have raised serious concerns regarding due process, the Commission should refer all licensing hearings to ALJs.

*Administrative Recommendation 2 – Immediately cease administering all licensing examinations until they have been psychometrically validated, and, thereafter, record the number of each type of examination administered and the pass rates for each.*

The Division administers four licensing examinations at horse tracks and two licensing examinations at greyhound tracks.

At horse tracks, the Division administers the following examinations for the indicated license types:

**Horse Trainer** – The examination consists of three parts: oral, practical and written. On the oral exam, Division staff asks questions to get to know the applicant, like “why do you want to be a trainer?” as well as knowledge-based questions. The practical examination has no checklist or formal structure. The written examination consists of between 100 and 150 true/false, multiple-choice and short-answer questions covering topics including, but not limited to horse anatomy, Colorado rules and laws, how to enter a horse in a race and how to claim a horse. Test items are written by Division staff. A passing score is 75 percent and if the applicant fails, he or she must wait 30 days to retake the test.

---

**Exercise Rider** - The examination is a kind of practical/schooling type examination where the applicant spends time schooling with a signatory who shows the applicant what to do. When the signatory is satisfied that the applicant understands that particular aspect of the occupation and can perform it, the signatory signs off. Three racing officials must sign-off on an exercise rider examination: one outrider, one starter and one steward. If the applicant is not currently licensed by the Commission in any capacity, Division staff has the applicant obtain a groom license first, so the applicant can be on the track.

**Pony Person** - The examination is a kind of practical/schooling type examination where the applicant spends time schooling with a signatory who shows the applicant what to do. When the signatory is satisfied that the applicant understands that particular aspect of the occupation and can perform it, the signatory signs off. Three racing officials must sign-off on a pony person examination: two outriders and one steward. If the applicant is not currently licensed by the Commission in any capacity, Division staff has the applicant obtain a groom license first, so the applicant can be on the track.

**Plater** - The examination is given if the applicant has had no formal training. The applicant must shoe a horse four times in front of: two licensed platers (who are appointed by the board of stewards) and one Division-licensed practicing veterinarian. Additionally, one steward must sign-off on the application.

There are a number of serious problems with this system. First, none of these examinations have been psychometrically validated. Psychometric validation ensures that the examination is actually testing on what it purports to be testing on.

Psychometric validation is crucial to state licensing examinations because it helps to ensure that such examinations are legally defensible should they be challenged. Considering the due process rights attached to obtaining and retaining a state professional or occupational license, this is crucial.

Second, this examination process is structurally flawed. With respect to oral examination questions such as, "why do you want to be a trainer," such questions are completely irrelevant to whether the applicant is a competent trainer. Licensing examinations should address minimum competency and nothing else.

With respect to practical examinations, the Division's process is flawed in the sense that there is not so much as a checklist of tasks that all examinees are required to perform. Similarly, there are no guidelines as to what is required to satisfactorily perform a given task. The entire process is subjective and leaves too much discretion in the hands of the examination administrator.

---

Indeed, Division staff admitted hearing examinees who had failed particular examinations complain that a particular examination administrator simply did not like that examinee. While many individuals, regardless of profession or occupation, may feel similarly when they fail an examination, this is particularly problematic when the examination process itself is so subjective that the feelings and preferences of an individual examination administrator may very well have played a key role in the examinee's failure.

Fortunately for the Division, it does not appear as though anyone who has failed a licensing examination has appealed the pass/fail status or otherwise challenged the validity of the examinations. Regardless, it is a very likely scenario and the Division should not depend on this lack of litigiousness to continue in perpetuity.

Therefore, the Division should immediately cease administering all licensing examinations until they have been psychometrically validated.

An additional factor in the Division's examination process is the Division's lack of records pertaining to the examinations it administers. As part of this sunset review, DORA requested the number of each type of examination administered as well as the pass rates on each examination. These are routine requests during a sunset review and constitute generally accepted minimum standards of governmental recordkeeping and accountability.

However, the Division was unable to provide the requested data because it is not retained or maintained in any form. This only adds to the perception that the entire licensing examination process is seriously flawed.

Since due process rights attach to a state-issued license, since the Division's examination process is vulnerable to serious due process attacks and since the Division has not kept records to establish the number of examinations administered or the pass rates on those examinations, the Division should immediately cease administering all licensing examinations until they have been psychometrically validated, and, thereafter, the Division should record and track the number of each type of examination administered and the pass rates associated with each.

---

*Administrative Recommendation 3 – Conduct a complete and comprehensive review and overhaul of all Commission rules.*

The rules promulgated by the Commission consist of over 180 pages. Although the Commission typically revises its rules on an annual basis, such revisions have been relatively *ad hoc* in nature.

During the course of this sunset review, a representative of DORA identified a handful of rules that are either obsolete, unenforceable, inappropriate or that have been suspended by the Commission.

The following are examples of these instances:

- Provisions pertaining to jockey weight were suspended by the Commission for the 2005 and 2006 horse race meeting (Rules 7.631 and 7.646).
- References to the *Colorado Rules Governing Horse Racing* appear in the current rules, but no longer exist (Rules 9.206 and 9.208).
- A provision that the Commission may fine or otherwise discipline a licensee for filing a frivolous appeal (Rule 6.644).
- Provisions requiring pony persons, outriders, leadouts and jockeys to present a neat and clean appearance (Rules 3.812, 4.432 and 4.646).

Since the Commission's rules are relatively comprehensive and regulate the licensing/registration and discipline of professions, occupations and businesses; pari-mutuel wagering and the sports of horse and greyhound racing and since this sunset review discovered several rules that should either be repealed or amended, the Commission should undertake a comprehensive review of all of its rules to ensure their applicability, appropriateness and clarity.

---

*Administrative Recommendation 4 – Implement a system for complete and consistent complaint/case tracking.*

The Division maintains three computer systems into which data regarding complaints and investigations are input. However, there is no consistency among the Division's investigators as to which system they report information. As a result, there is no reliable way to ascertain the number of cases opened or closed by the Division's investigators.

This is problematic for the purposes of this sunset review, since this information cannot be reliably reported the General Assembly. It is also problematic from a more general government accountability viewpoint.

The number and types of complaints received and cases opened is a routine performance measure for regulatory agencies. Since this information is reported so inconsistently inside the Division, it is not possible to report reliable data to anyone, including the General Assembly.

Since the Division should be able to reliably report on the number of cases it investigates and the general allegations involved in those cases and since the Division cannot currently perform this rudimentary function, the Division should immediately implement a system so that it can report such information in the future.

---

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

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

---

## Appendix B – Definitions

The racing industry uses terminology that may be unfamiliar to many individuals. Terms used in the statutes, rules, industry and this sunset report are defined below. This list is not exhaustive.

**Breakage:** The odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of 10 cents.

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

**Class “A” track:** Any horse track which is not a Class “B” track.

**Class “B” track:** A horse racetrack at which a race meet consisting of 30 or more race days is being conducted or was being conducted during the previous year.

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

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

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

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

**Meet or meeting:** The entire consecutive period for which a license to conduct racing has been approved.

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

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

---

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

**Performance:** A group of live horse or greyhound races taking place on a single race day.

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

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

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

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

## Appendix C – License and Registration Information by Occupation and Calendar Year

Occupation Classification	License Type	2001	2002	2003	2004	2005
Corporation/LLC	Corp/LLC	26	29	34	35	37
Affiliated Business (OTB)	Major Business	1	1	2	3	2
Association OTB	Major Business	6	6	6	12	6
Tote Company	Major Business	2	1	1	2	2
<b>Total Major Business Licenses</b>		<b>35</b>	<b>37</b>	<b>43</b>	<b>52</b>	<b>47</b>
Concessions/Food Service	Minor Business	1	0	1	2	3
Feed Supplier	Minor Business	13	11	8	6	4
Kennel Operator	Minor Business	35	32	28	25	25
OTB Facility	Minor Business	3	2	1	0	0
Other Support Services	Minor Business	2	2	3	2	2
Photo Finish Business	Minor Business	1	1	1	0	1
Satellite Communications	Minor Business	0	0	0	0	1
Tack Shop	Minor Business	5	3	2	1	1
Training Track	Minor Business	1	2	2	2	1
Video Company	Minor Business	1	2	2	1	2
<b>Total Minor Business Licenses</b>		<b>62</b>	<b>55</b>	<b>48</b>	<b>39</b>	<b>40</b>
Assistant General Manager	Key	1	2	2	2	2
Associate Person	Key	28	0	0	0	0
Association Judge	Key	4	3	3	2	2
Association Steward	Key	2	3	2	2	2
Association Veterinarian	Key	1	1	1	1	1
Corporate Director	Key	13	19	21	12	5
Corporate Officer	Key	23	16	19	20	14
Director of Racing	Key	3	4	5	4	3
Director of Simulcasting	Key	1	0	0	0	0
General Manager/Track	Key	6	6	5	4	5
Mutuel Manager	Key	10	11	9	7	4
Racing Secretary	Key	4	4	6	5	3
Security Director	Key	7	7	7	5	4
Tote Operator	Key	27	32	22	18	12
<b>Total Key Licenses</b>		<b>130</b>	<b>108</b>	<b>102</b>	<b>82</b>	<b>57</b>
Apprentice Jockey	Support	9	6	4	3	4
Assistant Mutuel Manager	Support	7	5	3	3	2
Assistant Racing Secretary	Support	7	9	6	5	2
Assistant Starter	Support	34	27	21	22	26
Assistant Trainer	Support	96	98	77	61	51
Authorized Agent	Support	93	107	102	78	55
Chartwriter	Support	10	10	4	4	3
Clerk of Scales	Support	22	17	16	12	13
Horsemen's Bookkeeper	Support	3	3	2	1	1
Hub Supervisor	Support	1	1	2	1	1
Identifier	Support	2	2	1	2	1
Jockey	Support	86	104	107	112	103
Jockey Agent	Support	12	19	17	15	9
Lure Operator	Support	10	12	11	6	3
Minor Business Employee	Support	11	13	9	10	11
Money Room Manager	Support	5	6	7	5	5
Mutuel Employee	Support	337	289	298	257	233

Occupation Classification	License Type	2001	2002	2003	2004	2005
OTB Manager	Support	3	1	2	1	1
Owner	Support	1,447	1,497	1,455	1,301	1,144
Owner – ARCI	Support	11	0	0	0	0
Owner/Assistant Trainer	Support	15	17	18	15	11
Owner/Trainer	Support	274	292	285	262	241
Paddock Judge	Support	15	9	8	9	8
Placing Judge	Support	1	2	2	2	1
Plant/Track Supervisor	Support	5	2	3	4	6
Security – Armed	Support	34	28	23	12	8
Security – Unarmed	Support	158	130	113	82	77
Stall Superintendent	Support	1	2	3	3	2
Starter	Support	17	21	22	19	8
Tote Technician	Support	31	26	14	5	7
Trainer	Support	167	156	155	126	113
Veterinarian Technician/Assistant	Support	2	2	6	6	6
Veterinarian - Practicing	Support	8	7	8	8	8
<b>Total Support Licenses</b>		<b>2,934</b>	<b>2,920</b>	<b>2,804</b>	<b>2,452</b>	<b>2,164</b>
Mutuel Employee Trainee	Trainee	44	49	55	7	12
Adoption Program	Registration	0	0	1	1	2
Announcer	Registration	5	2	3	4	2
Brakeman	Registration	7	6	3	4	4
Clocker	Registration	4	7	2	3	2
Concession Employee	Registration	12	21	10	8	3
Exercise Person	Registration	42	42	53	29	42
Facility Manager OTB	Registration	0	1	0	0	1
Groom	Registration	416	451	403	302	355
Head Leadout	Registration	11	4	2	2	3
Jockey Room Custodian	Registration	1	1	0	0	0
Kennel Helper	Registration	78	58	51	31	26
Kennel Master	Registration	11	6	8	7	8
Maintenance Employee	Registration	15	16	22	9	13
Office Personnel	Registration	4	4	5	6	4
Other	Registration	11	16	14	4	16
Outrider	Registration	1	1	3	2	2
Pharmaceutical Representative	Registration	1	0	0	0	0
Photographer/Photo Finish	Registration	4	6	3	0	1
Plater	Registration	15	11	12	14	17
Pony Person	Registration	23	30	29	23	32
Racing Form Employee	Registration	0	0	0	0	0
Track Superintendent/Maintenance	Registration	4	1	1	2	0
Valet	Registration	2	2	4	2	2
Video Operator	Registration	10	12	12	6	9
Video Technician	Registration	1	2	2	5	2
<b>Total Registrations</b>		<b>678</b>	<b>700</b>	<b>643</b>	<b>464</b>	<b>546</b>

---

## Appendix D – Details of General Case Types

### Administrative

- Allowing Unauthorized Person into Area
- Animal in Season
- Entering an Ineligible Horse
- Entering an Ineligible Greyhound
- Failure to be Present for Saddling
- Failure to Bring Horse to Paddock
- Failure to Comply with State Official
- Failure to Follow Licensing Procedures
- Failure to Follow Scratch Procedures
- Failure to Fulfill Riding Engagement
- Failure to Have Employee Properly Licensed
- Failure to Have Greyhound at Weigh-in
- Failure to Perform Proper Maintenance
- Failure to Properly Display License
- Freezer on OS Kennel Not Locked
- Improper Operation of Tote
- Incorrect Information in Program
- Information Item Non-Liquor
- Jockey/Rider Inspection Routine
- Kennel Roster Not Updated
- Late to Paddock
- Medication Violation
- Mistreatment of Racing Animals
- Misuse of License
- Misuse of Whip
- Mutuel Department Operation (Minor)
- Mutuel Department Operation (operations and security)
- No Race – Greyhound
- Overweight Greyhound
- Overweight Jockey
- Positive Drug Test (Animal)
- Racing Office Violation
- Suspension and Exclusion
- Unauthorized Employee Wagering
- Underweight Greyhound
- Unsecured Kennel
- Using Abusive Language
- Violation of Steward Guidelines
- Working Without a License

---

## **Criminal**

- Assault, Aggravated, Non-Family
- Assault, Free Text
- Assault, Simple
- Assist Other Agency, Arrest
- Assist Other Agency, Crimes Against Persons
- Assist Other Agency, Information
- Assist Other Agency, Property Crimes
- Burglary of Safe, Vault or Machine
- Child Neglect
- Complaint, Non-Liquor-Related
- Conflict of Interest
- Counterfeiting
- Disorderly Conduct
- Disorderly Conduct/Disturbance
- Drug Possession, Cocaine
- Drug Possession, Marijuana
- Drug, Sell Marijuana
- Drugs, Free Text
- Fugitive, other Jurisdiction Arrest on Warrant
- Forgery, Not of Checks
- Fraud by Check
- Fraud, Free Text
- Harassing Communication
- Homicide
- Immigration, Free Text
- Making False Report
- Menacing/Intimidation
- Passing Counterfeit Instrument
- Public Peace, Free Text
- Robbery, Free Text
- Sex Offense
- Stolen Property
- Suspicious Incident
- Theft
- Traffic
- Trespassing
- Weapons

## **Human Drug Tests**

Drug Test Cause – Human (Negative)  
Drug Test Cause – Human (Refused)  
Drug Test Cause – Human (Positive)  
Drug Test Random – Human (Negative)  
Drug Test Random – Human (Refused)  
Drug Test Random – Human (Positive)

## **Inspections**

Kennel Inspection - Investigation  
Kennel Inspection - Routine  
Kennel Inspection - Violation Search  
Pre-Meet Inspection - Routine  
Simulcast Inspection - Investigation  
Simulcast Inspection - Routine  
Stable Inspection  
Stable Inspection – Violation Search

## **Incident Reports**

Incident, All Other Non-Liquor  
Incident, Investigation Off Track  
Incident, Investigation on OTB  
Incident, Investigation on Track

## **Background Investigations**

License Background, Business  
License Background, Disclosure  
License Background, Key  
License Background, Other  
License Background, Taxes