


LOUISIANA STATE RACING COMMISSION





General Information Manual

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INTRODUCTION

This manual is intended to serve as general source of information and overview of horse racing and the regulation of pari-mutuel wagering in Louisiana. The information has been compiled from various source documents within the files of the domicile office of the Louisiana State Racing Commission over many years.

Horse racing is a spectator sport upon which pari-mutuel wagering is conducted. It has been known over the years as the "sport of kings." Such wagering is presently conducted at four live racing facilities in Louisiana: Delta Downs at Vinton, Evangeline Downs at Opelousas, Fair Grounds at New Orleans and Louisiana Downs at Bossier City.

While pari-mutuel wagering on other spectator sports, such as dog (greyhound) racing, is permitted in some other states, Louisiana only permits pari-mutuel wagering on horse racing and strictly prohibits wagering on dog races.¹

Beginning in 1991, other forms of gaming came to be authorized in Louisiana including Video Draw Poker devices at approved establishments, river boat casinos and a land based casino. As gaming opportunities expanded and spread throughout Louisiana, pari-mutuel revenue which sustained racing became stagnate. Eventually, the integration of pari-mutuel wagering and gaming came to be accepted as necessary to the continued growth and success of the racing industry as a whole in Louisiana.

HISTORY

Louisiana has had a popular reputation for horse racing over many years, even as far back as 1820, when Francois de Livaudais, a wealthy sugar planter, invited the general public to a racing meeting at his estate in New Orleans, just north of the French Quarter (now the upper residential districts of the city). However, the track was not an oval race course as we would know today.

In 1825, William C. Withers and associates built an elliptical course in what is now known as Chalmette, near the original Chalmette battlefield where Andrew Jackson defeated a British army. That new racing course was appropriately named the Jackson Race Course, and held a four-day meet in the winter and spring of each year.

In 1837, the Eclipse Race Course was the first race course to have organized thoroughbred (only) racing. It held a six-day meet. This race course was located in

what is now known as Audubon Park in New Orleans.

Over the next ten years, four other race tracks opened: Metairie Race Course, Eclipse Race Course, Union Race Course and Bingaman Race Course. Bingaman, named after the noted Kentucky horseman, was located in what is now known as Algiers on the Mississippi River West Bank. The Metairie course, operating from the late 1830's to December 10, 1861 (the beginning of the Civil War), and from December 23, 1866 to 1872, was located in what is now known as Metairie Cemetery, on Metairie Road.

As a result of the demise of the once-famous Metairie course, the Fair Grounds Race Course came into existence. It was built and completed at its present site in New Orleans in 1872. Its first race day, April 13, 1872, began a six-day inaugural race meet and the history of the internationally-known track. Racing at the course were the members of the Louisiana Jockey Club, the organization of horsemen established in 1871, with Gus A. Breaux as president, and H. B. Foley as secretary.²

Fair Grounds is the oldest operating track in Louisiana and third oldest operating in the United States. Sixty-nine years later, in 1941, it was officially placed under the jurisdiction of the newly created Louisiana State Racing Commission.

TYPES OF RACING

Presently, thoroughbred and quarter horse racing are authorized and conducted in Louisiana. Thoroughbred racing has the longest and most established history in Louisiana. However, harness racing lived for a short period of time in the late 1950's, at the Magnolia Race Course in Metairie. This is racing where "buggies" and their riders, called *drivers* are pulled by standardbred horses. Harness racing ended by 1960. In the early 1970's, quarter horse racing came to be popularized. Somewhat smaller than their thoroughbred counterparts, quarter horses raced shorter and faster races. Over the years, numerous tracks, some of which are no longer in existence, conducted quarter horse racing: Clarence Downs (now closed), Evangeline Downs, Delta Downs, Linzay Downs (also closed) and Fair Grounds. Quarter horse racing is now an integral part of the Louisiana racing landscape. Until the integration of slot wagering with race tracks, Delta Downs was the only race track in Louisiana to conduct extensive quarter horse racing. With the integration of slot wagering with race tracks, quarter horse racing gained new prominence in the state. Every licensed

¹La.R.S. 4:158, 4:249

²Hennessey, Louis J. Diamond Jubilee - The Fair Grounds - New Orleans - Season 1947-1948.

race track currently conducts extensive quarter horse and thoroughbred racing.

Paint horses, Arabian and Appaloosa horse racing are also authorized within the state.

DUTIES AND OBLIGATIONS OF COMMISSION

Under the leadership of Sam Houston Jones, Governor of Louisiana, the Louisiana State Racing Commission was created by Act No. 276 of 1940. The three-member board was presided over by Mr. Jno. F. Clark, Jr., appointed as Chairman, along with Commissioners Allen Mehle and Justin R. Querbes, and Secretary Albin Tausier.

At present, the laws governing racing are contained in Part I, Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950. The Louisiana State Racing Commission is created by La.R.S. 4:144 and acts as an agency within the Department of Administration according to the powers vested in it by statute.

In 1968 the legislature amended and re-enacted these statutes to provide, among other objectives, for the legislative intent and policy of state racing laws. La.R.S. 4:141 reads:

A. It is the policy of the state of Louisiana in furtherance of its responsibility to provide revenues for the operation of state government for its people, to acknowledge and declare that the providing of funds and financial assistance to licensed horse racing tracks in the state of Louisiana constitutes an authorized public function and purpose of the state of Louisiana, to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing practices;

(1) To institute and maintain a program to encourage and permit development of the business of horse racing with pari-mutuel wagering thereon on a high plane.

(2) To institute and maintain a program to encourage and permit development of the breeding and ownership of race horses in the state.

(3) To institute and maintain a regulatory program for the business of racing horses, which program assures the protection of public health, safety and welfare, vesting with the commission forceful statewide control of horse racing with full powers to prescribe rules and regulations and conditions under which all horse racing is conducted with

wagering upon the result thereof with the state.

(4) To institute and maintain a program to provide financial assistance that will encourage and permit the development of the business of horse racing by licensed horse racing tracks in the state of Louisiana.

(5) To institute and provide a program for the regulation, ownership, possession, licensing, keeping, and inoculation of animals on premises under its control and supervision not inconsistent with the rules and regulations of the state livestock and sanitary board.

B. This Chapter is an exercise of the police powers of the state to promote the public health, safety and welfare.

The Commission was previously comprised of nine members: one commissioner appointed from each of the seven congressional districts and two commissioners appointed from at-large. In 2004, La.R.S. 4:141 was amended to increase the membership by four: one commissioner from Calcasieu, St. Landry, Bossier and Orleans parishes.³

The Commission is appointed by the Governor and confirmed by the senate. Each member serves at the pleasure of the Governor who selects one member to serve as chairman. The commission selects from among the members a vice and second-vice chairman who each may serve a two year term. The Chairman and all Commissioners serve at no salary, but are allowed reimbursement of all expenses incurred as a result of their duties involved in racing, as well as per diem while serving as a board member during official meetings.⁴

No appointed member may be an official, member of any board of directors or person financially interested in any race track or race meeting licensed by the commission. No appointed member may directly or indirectly own racehorses which participate in any race meeting licensed by the commission.⁵

The Commission is vested with the "powers and duties specified by statute and all other powers necessary and proper to enable it to execute fully and effectually all of the objects, purposes, duties and policies" of the statutes by which it is created.⁶ The

³La.R.S. 4:144(A).

⁴La.R.S. 4:144(A).

⁵La.R.S. 4:144(B).

⁶La.R.S. 4:144(A).

duties include, by way of example, ensuring:

1. each racing association conducting a race meeting is operated by responsible management, and does its utmost to provide the patrons, horses and horsemen the best possible facilities it can afford;
2. the wagering management, clerks and equipment inspire patron confidence in the betting system;
3. every owner and trainer seeking to enter a horse in competition is a person of good character and of financial responsibility;
4. every horse appearing in a race is the animal it is represented to be on the program, is carrying the correct weight as assigned by the track handicapper, and is physically fit and able to participate in a race;
5. every race run represents a true competitive effort by every participating horse and rider;
6. during the running of any race no rider commits any act that would unfairly tend to make the race anything other than a true competitive test;
7. no one responsible for the custody of a competing horse has administered, or allowed to be administered, any prescribed medication to it within a specified time prior to the race; nor administered, or allowed to be administered, any illegal substance to it at any time;
8. no one who may be able to affect the outcome of a race is under the influence of any illegal substance or alcohol.

DOMICILE OFFICE

As a matter of law, the Commission is officially domiciled in New Orleans. There, it shall maintain an office "for the transaction of its business, and where it may employ assistants, clerks, or such other employees as it deems necessary for its proper functioning. It may also maintain a branch office in any other parish while racing is being conducted in that parish."⁷

The domicile office serves as Commission headquarters and provides extensive information to the general public, other state agencies, law enforcement entities, other racing jurisdictions and race tracks. It is located at 320 North Carrollton Avenue, Suite 2-B in the Mid-City Center.

⁷La.R.S. 4:145(B).

The commission must select a full-time executive director and may employ a full-time assistant executive director, whose qualifications, duties, and salaries shall be fixed by the Commission.⁸ It is the duty of the executive director to oversee the day to day functions of the domicile, or executive office. Further, the executive director is "ex officio treasurer of the commission" who is responsible to "verify licenses, verify that all fees, taxes and money provided for" are deposited, "and supervise, check, and audit the operations of the pari-mutuel pools, its conduct and distribution."⁹ It is further the responsibility of the executive director to "keep records of all proceedings, preserve all books, maps, documents, papers, records and reports entrusted to its care, and keep them open for public inspection."¹⁰

Personnel within the Administrative Division at the domicile office handles the following functions: administrative, research, clerical, meeting preparation and subpoenas, purchasing and property control, the *Rules of Racing*, licensing and revocations, equine and human drug testing programs, PC operations/network administration and data entry.

The Audit Division is led by a chief auditor who oversees several staff auditors assigned to work at either the domicile office or field (branch) offices located at the various racetracks. These individuals work with statistical and financial data on the tracks and OTB, travel expenses, and state breeder awards. The statistical information, handled by the Audit staff, includes pari-mutuel (win-place-show) wagering pools, exotic (exacta, daily double, trifecta, twin trifect, quinella, super six) wagering pools, attendance, race days, number of races, quantities of license applications, occupational license fees, fines issued for infractions of the *Rules of Racing*, pari-mutuel tax, exotic taxes, admission tax, OTB tax, purse monies, supplemental purse monies from gaming sources, breeder awards, breakage, track commissions, and uncashed winning pari-mutuel tickets.

Like other state agencies, the Commission operates on a July to June fiscal year.

The Fiscal Division handles the functions of payroll, inventory, accounting and budget.

The Field Office Supervisor is located at the domicile office and supervises branch offices located at each race track during a live race meet. The Field Office Supervisor also oversees licensing at each

⁸La.R.S. 4:145.

⁹La.R.S. 4:146(B)

¹⁰La.R.S. 4:145(C).

racetrack and off-track wagering establishment.

Branch offices of the Commission are located at each racing association and function while the association is conducting a race meeting:

Delta Downs Commission Office
2717 Delta Downs Drive
Vinton, Louisiana 70668
www.deltadowns.com
Telephone: (800) 589-7441

Evangeline Downs Commission Office
2235 Cresswell Lane Extension
Opelousas, Louisiana 70570
www.evangelinedowns.com
Telephone: (866) 472-2466

Fair Grounds Commission Office
1751 Gentilly Blvd.
New Orleans, Louisiana 70119
www.fairgroundsracecourse.com
Telephone: (504) 944-5515

Harrah's Louisiana Downs Commission Office
800 East Texas Street
Bossier City, Louisiana 71111
www.harrahs.com
Telephone: (800) 522-4700

LEGAL PROCEEDINGS

The Attorney General of the State of Louisiana designates an assistant to act as attorney for the Commission. The attorney counsels and advises the Commission, and represents it in all legal proceedings. The Commission attorney is present at each official Commission meeting, and is paid by the Attorney General's office, which is, in turn, reimbursed by the Commission.¹¹

REQUIRED TO BE LICENSED

The Commission issues a *General Information Brochure* which outlines the requirements to be licensed in Louisiana. License fees are listed, and the brochure is regularly updated as requirements and license fees change.

While the authority and discretion to regulate racing in Louisiana is delegated unto to the Commission, the criteria and mandate for obtaining a license is a matter of law. All "persons shall be required to take out a license from the commission" in

order to participate in racing at a licensed racetrack.¹²

The qualifications to be considered by Racing Commission are set forth in Revised Statute § 4:150(B). Under these guidelines, every applicant for a Louisiana racing license is subject to a suitability determination by the Racing Commission. In Louisiana, this determination may extend to the applicant's spouse and immediate family. The statute generally provides that an applicant for a Louisiana racing license: (1) shall be of good character; (2) has *not* been convicted of any felony offense, in Louisiana or elsewhere; (3) has not knowingly consorted with any person who has been convicted of a felony offense or knowingly consorted with bookmakers and the type; (4) is financially responsible; (5) possesses the required skill for the license sought; (6) fully complies with the application requirements printed by the racing commission; (7) is not the spouse of a person whose application has been denied or revoked; (8) certifies that he has read the rules of racing; (9) is not in bad standing, in any racing jurisdiction.

The application for a Louisiana license implements the guidelines described above, and includes a section which asks:

- (1) Has your license or your spouse's license ever been suspended, denied, revoked or is any complaint pending in ANY racing jurisdiction? or
- (2) Have you or any member of your immediate family ever been expelled, ejected or denied privileges by any race track; or been fined over \$100? or
- (3) Have you or any member of your immediate family ever been found guilty of any fraud or misrepresentation in connection with racing; or owned, operated a handbook or been employed by and/or associated with a bookmaker, any gambling or other illegal establishment?
- (4) Have you ever had a NON-RACING permit or license denied, suspended or revoked by any federal, state or local government agency?
- (5) Have you or your spouse ever been arrested or charged with any misdemeanor or felony, including a DWI?

"Yes" to any one of these questions will not necessarily result in the application being denied, but it will likely delay approval and/or result in further investigation into the applicant's suitability for licensing. Falsifying information on an application is

¹¹La.R.S. 4:146.

¹²La.Rev.Stat. §4:169(A)(1).

grounds for denial.¹³

OPERATING TRACKS

Racing activities are presently authorized at four racing facilities statewide. These are:

Delta Downs Racing Association, Inc., Louisiana Highway 3063, Vinton, Calcasieu Parish, approximately 25 miles west of Lake Charles. Their first race day was September 20, 1973. The track hosts approximately 90 days of live thoroughbred racing from October through April, of the following calendar year. Then, it hosts approximately 50 days of live quarter horse racing from April through July.

Evangeline Downs, formerly located at Louisiana Highway 167 North at Interstate 49, Carencro, Lafayette Parish, their first race day was Thursday, April 28, 1966. The track was relocated to 2235 Cresswell Lane Extension, Opelousas. The track hosts approximately 85 days of live thoroughbred racing from April through September. Then, it hosts approximately 40 days of live quarter horse racing from August through November.

Fair Grounds Corporation, 1751 Gentilly Boulevard, New Orleans, Orleans Parish. Their first race day was April 13, 1872. The track recently conducted its first live Quarter horse meet in August. It hosts approximately 87 days of live thoroughbred racing from November through March of the following calendar year.

Louisiana Downs, Inc., 8000 Highway 80 East, Bossier City, Bossier Parish. Their first race day was October 30, 1974. The track hosts approximately 40 days of live Quarter horse racing from January through March of each year. Then, it hosts approximately 85 days of live thoroughbred racing from May until October.

As of this time, there is approximately 482 days of live horse racing occurring over four licensed racetracks.

SIMULCAST AND OFF-TRACK PARI-MUTUEL WAGERING

In 1983, the Louisiana legislature adopted La.R.S. 4:149.2, titled "*Other track wagering.*" Section 149.2 provides in pertinent part that an association may accept wagers at its facility for the entire racing card scheduled

on horseracing events of regional, national and international interest conducted at another track outside of this state, and transmitted either by simulcast or other means of video transmission, pursuant to a contract with the association or other entity conducting the event. The statute also allows a Louisiana racetrack to transmit its races to legal, non-racing facilities out-of-state.

Subsequently, legislation was enacted to permit "full-card" simulcast of all races and the establishment of off-track wagering facilities. After an experimental three-day trial showing Fair Grounds races at Louisiana Downs in November, 1987, the Commission and the associations felt prepared to expand racing.

In 1988, other-track gaming was expanded and off-track wagering parlors were authorized. The establishment of off-track wagering greatly enhanced the horse racing industry in Louisiana, but it was not adopted without great controversy. The "OTB" bill gave the betting public, in state and out of state, an opportunity to wager on televised races at race tracks at various locations other than at the track actually conducting live racing. OTB facilities, as well as the existing tracks, were permitted to conduct off-track wagering. The establishment of an OTB, like a racetrack, may only be accomplished after a parish-wide referendum election where the OTB is proposed.

The statutes governing off-track wagering establishments is found in Chapter 4, Title 4, Part II of the Louisiana Revised Statutes and begins at La.R.S. 4:211.

INTERSTATE HORSE RACING ACT (Congressional Oversight Over Interstate Pari-mutuel Wagering)

Off-track wagering, albeit not yet legal in Louisiana, was already in place as a legal, alternative to betting on live races at the track when the United States Congress first considered issues raised by interstate pari-mutuel wagering on Horseracing. The first bills introduced on the the issue sought to *eliminate* rather than *regulate* interstate pari-mutuel wagering. Interestingly, Congress was concerned that interstate pari-mutuel wagering on simulcast would have an adverse affect on attendance at racetracks which, in turn, would reduce the demand for horses and number of individuals employed at the racetracks. Interstate pari-mutuel wagering was also perceived to be a threat to the long term viability of smaller racetracks which provided a marketplace for lesser quality horses and aspiring racing professionals. Congress ultimately concluded, however, that Horseracing and interstate pari-mutuel wagering could coexist if properly

¹³La.Rev.Stat. §4:152(A)(4)

regulated.¹⁴

In 1978, Congress passed the Interstate Horseracing Act ("IHA") to regulate interstate pari-mutuel wagering in order to further the Horseracing and legal off-track betting industries in the United States.¹⁵ The IHA mandates that before betting can be accepted in another state on a horserace simulcast from another, a number of interested parties must first consent. Title 15 of the United States Code, Section 3004(a) prohibits the acceptance of such wagers unless consent is obtained first by (1) the track which conducts the live race [termed the "host racing association"]; (2) the racing commission having jurisdiction to regulate racing within the state where the live race occurs [the "host racing commission"]; and (3) the racing commission having jurisdiction over race wagering in the state where the simulcast occurs [the "off-track racing commission"].¹⁶

In addition, the IHA requires that, as a condition precedent to obtaining the consent of the host racing association, the host racing association must also "have a written agreement with the horsemen's group" that defines the terms and conditions under which a racing association may permit interstate pari-mutuel wagering on its races.¹⁷ The "horsemen's group" is defined by the IHA as the group which represents the majority of owners and trainers racing at the horserace track.¹⁸

The IHA also provides remedies and penalties for violating the IHA. Section 3005 states that any person accepting an interstate off-track wager in violation of the IHA shall be civilly liable for damages to the host State, the host racing association and the horsemen's group. The host State, host racing association, or the horsemen's group may commence a civil action against any person alleged to be in violation for injunctive relief to restrain further violations and/or for money damages.¹⁹

The IHA provided early protection to racetracks

¹⁴*Kentucky Division, Horsemen's Benevolent & Protective Association, Inc. v. Turfway Park Racing Association, Inc.*, 20 F.2d 1406 (6th Cir. 1994).

¹⁵*Hialeah, Inc. v. Florida Horsemen's Benevolent Protective Association*, 899 F.Supp 616 (S.D. Fla. 1995)

¹⁶*Sterling Suffolk Racecourse Limited Partnership v. Burrillville Racing Ass'n, Inc.*, 989 F.2d 1266, 1267 (1st Cir.1993), *cert. denied*, 510 U.S. 1024, 114 S.Ct. 634, 126 L.Ed.2d 593 (1993).

¹⁷15 USCA § 3004(a)(1)(A).

¹⁸15 USCA § 3002(12).

¹⁹15 USCA § 3006.

from pirating their races, and it also offered a measured prominence to the host horsemen. In April 1992 when Turfway Park's contract expired with the Kentucky HBPA, Turfway Park entered negotiations for a new contract. The negotiations failed when Turfway refused to increase the percentage of revenues derived from interstate wagering on Turfway races. The Kentucky HBPA retaliated by refusing to give their consent as required by the IHA. Turfway Park responded by obtaining the consent from of individual horsemen racing at Turfway as a condition of entry in a race. The Kentucky HBPA sued to enjoin Turfway Park transmitting its races to out-of-state wagering facilities. The Kentucky Thoroughbred Association intervened in the suit on behalf of their members. Turfway Park filed a counterclaim and challenged the constitutionality of IHA claiming that it impermissibly restricted Turfway Park's commercial speech by from accepting wagers on its simulcast races. The court upheld the constitutionality of the IHA because it found that the Act did not regulate or restrict commercial speech via simulcast of races. The Act is directed only at wagering, not simulcasting.²⁰

While "sending the signal" or "simulcasting" is commonly understood within the industry as code for approval to engage in interstate wagering on races, it is the wagering which is regulated by the IHA not the video transmission of the race.

La.R.S. 4:192 (D) expressly conditions the authorization of other-track wagering in Louisiana on compliance with the Interstate Horseracing Act. Sub-paragraph D states as follows:

All contracts pursuant to this Section shall comply with all applicable laws of the United States, including 15 U.S.C. §§3001, et seq., and shall be entered into only with entities operating racetracks permitted by applicable law to conduct horseracing and wagering thereon.

EQUINE DRUG TESTING PROGRAM

The State Chemist is defined by the *Rules of Racing* as "...The chemical testing laboratory concern or business under contract with the Commission to engage in chemical testing for the Commission and sometimes referred to as the Commission Chemist and/or testing laboratory."²¹ Its primary responsibility is to analyze equine biological fluids and drug-related contraband, and to report all analysis results to the Commission.

A urine specimen and/or blood specimen is taken

²⁰*Kentucky HBPA, supra*, at. p. 1412.
Louisiana State Racing Commission. Rules of Racing 1994.

from every winning horse, plus additional alternate horses to total about 12 specimens per race day. Additional blood samples are taken to test horses for sodium bicarbonate levels, a newly established procedure. Each sample is submitted to the state chemist for analysis. The Commission may occasionally request a special sample which is tested similarly.

The Commission participates in a quality assurance program, coordinated by the Association of Racing Commissioners International, Inc. (ARCI). Under this program, the state chemist receives known and blind equine biological fluid samples to determine and confirm its performance by accuracy of analysis results achieved, and submits the results to the Commission.

HUMAN DRUG TESTING PROGRAM

This program, implemented in August, 1987, was created to assure the safety of personnel and horsemen, and to insure the integrity of the sport of racing.

At each operating track, individuals are randomly selected per race day to submit a urine sample to a Commission employee acting in the capacity of chemical inspector. The samples are shipped to the designated laboratory for analysis which then reports the results to the Commission's domicile office. The main office notifies the appropriate track, then each positive report is handled according to the specific substance discovered and the number of past occurrences of illegal substances found in each individual tested.

ON-TRACK ENFORCEMENT

In 1998, the Commission began contracting with local police departments to provide enforcement and security at the race tracks. First contracted was the Carencro Police Department, which served Evangeline Downs. Officers investigate all criminal activities which might impact racing, which includes barn searches for illegal activity, unlicensed individuals, illegal aliens, unlawful devices, illegal substances and related contraband.

Contracts with local law enforcement and/or through the Louisiana Department of Justice has permitted the Commission to obtain criminal history reports on individuals throughout the state requesting to be licensed.

ARCI MEMBERSHIP ²²

The Louisiana State Racing Commission and its Commissioners are members of the Association of Racing Commissioners International, Inc. (ARCI), previously the National Association of State Racing Commissioners (NASRC). Located at 2343 Alexandria Drive, Suite 200, Lexington, KY 40504, it was formed in 1934 and is the first national organization connected with the sport of racing (dog and horse) and pari-mutuel wagering (including jai-alai).

As of 1993, the ARCI's membership was comprised of 55 racing commissions or boards, 42 in the continental United States:

Arizona, Arkansas, California, Colorado, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Virginia, Washington, West Virginia, Wisconsin and Wyoming;

four Alabama counties:

Birmingham, Macon and Mobile;

six in Canada:

Alberta, Agriculture Canada (Ottawa), British Columbia, Manitoba, Ontario, Quebec and Saskatchewan;

and two elsewhere:

Jamaica and Puerto Rico.

Additionally, members of the Association of Office Racing Chemists (AORC) are also members of the ARCI and meet in joint session at the annual conventions of the ARCI.

The conventions of the ARCI, held annually in various states, serve as a sounding board for general discussion of every phase of racing and pari-mutuel wagering. New Orleans has hosted numerous ARCI conventions over the years.

The ARCI maintains a bulletin service for all members. This bulletin contains rulings issued from operating race tracks nationwide, orders and decisions issued by boards and commissions, texts of new rules or

changes, general announcements and numerous other matters of interest to its members, all of whom cooperate with the ARCI in exchange of rulings and other racing information.

The ARCI itself is not a regulatory or legislative body, but is an association voluntarily formed by the individual racing boards and commissions having jurisdiction in their own states or regions through the Legislation creating them. The purposes for which the ARCI was formed are to:

1. discuss and study problems of racing supervision;
2. promulgate and recommend to boards and commission rules and regulations for effective conduct of race meetings under state or regional control;
3. encourage adoption of uniform procedure and reciprocity in enforcing rules, regulations and penalties imposed by various boards and commissions;
4. assist boards and commissions and individual members in organizing the performance of their duties;
5. encourage forceful and honest nationwide control of racing for public protection;
6. assemble and disseminate pertinent racing information and data for improvement of services rendered to the public by the ARCI and for the benefit and guidance of racing boards and commissions;
7. generally aid wherever to to whomever necessary to achieve and maintain public confidence in racing.

Prior to the formation of the ARCI, the national regulation of racing in the United States was impaired by the migrant nature of the industry. Offenders whose practices proved inimical to the integrity of the sport could flee from jurisdiction to jurisdiction because there was no uniform sharing of information. Since the creation of the ARCI and its data base of offenders, a suspension from racing in one jurisdiction translates to a suspension from racing in other jurisdictions.

Safeguards enjoyed throughout the United States and Canada by horsemen and racing fans, were all accomplished since the formation of the ARCI, with some principal achievements as:

1. Exchange and acceptance of rulings whereby a penalty imposed in one jurisdiction applies equally in all other jurisdictions until the penalty is served

or the offender is reinstated. Exchange of information is electronically provided through the National Association of Racing Information Services (NASRIS) computer system, established in 1975.

2. Uniform corrupt practice rules, which include equine biological fluid tests to prevent stimulation of race horses; prevention of an owner of a horse found to have been stimulated sharing in the purse distribution; forbidden possession and/or use of batteries as a shocking device on race horses; and other prohibitions preventing alteration of the outcome of a race.
3. Installation and use of the totalisator ('tote' system) or pari-mutuel form of betting.
4. Responsibility for the successful fight against federal taxation on pari-mutuel wagering.
5. Establishment of the lip tattoo as identification of all horses.
6. Requirement that the Jockey Club certificate of every horse be filed with the racing secretary's office before a horse can start at any race track; also the immediate transfer of certificates on claimed horses.
7. Installation and use of the electric starting gate.
8. Uniform requirement of the photo finish camera.
9. Use of film patrol.
10. Establishment of uniform rules in regard to claiming races, apprentice jockeys, pre-race examinations of racing plates, compulsory safety helmets for jockeys and exercise riders, and equine health rules.
11. Establishment of a Chemistry Research Fund for drug detection research to prevent stimulating horses.

Members of various committees are appointed by the ARCI Chairman to serve during his administration, and after careful study, present their recommendations to the full membership at each annual convention.

RACING MEDICATION AND TESTING CONSORTIUM : "ARCI Model Rules"

The Racing Medication and Testing Consortium was formed in 2002 as a charitable organization to develop, promote and coordinate at a national level policies, research and educational programs directed at

ensuring fairness and integrity in racing as well as the health and welfare of the race horses. The Consortium is made up of 25 different industry organizations, including the National HBPA, Thoroughbred Racing Association, Thoroughbred Owners and Breeders Association, the Jockey Guild, Equine Practitioners and the Association of Racing Commissioners International, just to name a few. Utilizing scientific advisory committees of racing chemist, equine pharmacologist and practicing and regulatory veterinarians, the Consortium devises and revises a system of advisories devoted to equine practices and medication in race horses.²³

The Consortium's work is manifested in Chapter 11 of the Model Rules (the "Model Rules") published by the Association of Racing Commissioners International's (ARCI), an association of racing regulators. The rules underwent numerous revisions until a national consensus was achieved. Chapter 11 is titled "Equine Veterinary Practices, Health and Medication" and focuses on three key areas of regulation: (1) trainer responsibility; (2) best practices among veterinarians and (3) medication and testing standards.

Trainer Responsibility: A trainer's strict accountability for the condition of the horse he enters to race has long been one of the few truly universal rules of racing. Advancements in post-race testing in recent years have left the trainer, and owner by way of purse monies, vulnerable to regulatory action for varying levels of therapeutic medications detected in a post race analysis. The overwhelming majority of penalties assessed either by way of fines, suspension, and loss of purse is related to the presence of therapeutic medications. The model rules do not relieve a trainer of his responsibility, but it endeavors to set forth with great specificity a trainer's responsibilities for the health and well being of the horse and expressly allows for certain defenses to violations by transferring some responsibility and accountability to other licensed professionals, such as the attending veterinarian.²⁴

Best Practices Among Veterinarians: Chapter 11 of the Model Rules has a detailed rule which expands and clarifies regulatory oversight of equine veterinarians where currently, and except under extraordinary circumstances, accountability for a horses' medical history and medication records has fallen elsewhere. More specifically, rule mandates veterinarians complete and submit "Medication Reports," which shall be kept confidential, to the

regulators. The report is to detail each race horse treated by the veterinarian, any medication administered, the date and time of treatment, and the trainer's name.²⁵

Medication and Testing Standards: The balance of Chapter 11 is devoted to establishing standards for therapeutic medications in race horses and protocol for determining violations of permitted and prohibited substances. The provisions which have garnered the greatest attention are the recommended penalty guidelines, heightened regulation of Non-Steroidal Anti-Inflammatory Drugs (NSAID's), and, most especially, use of anabolic steroids.

Chapter 11 of the Model Rules was approved by the ARCI in March 2006. Since that time, racing jurisdictions, such as California, New York and Kentucky, have adopted or incorporated the model rules into existing regulation. Other jurisdictions, such as Florida, Texas and Oklahoma, are in the process of adoption.

In February 2008, a Congressional Subcommittee held a hearing entitled, "Drugs in Sports: Compromising the Health of Athletes and Undermining the Integrity of Competition." Among the issues considered by the subcommittee, the use and/or abuse of medication in race horses was discussed. Citing a recent study that 60% of starters compete on anabolic steroids, Representative Ed Whitfield of Kentucky suggested that reluctance by states to voluntarily adopt uniform standards may soon be met with federal action to amend the Interstate Horseracing Act of 1978 to predicate participation in interstate wagering on simulcast races on state's adoption of uniform, model regulation of medication in race horses.²⁶

NATIONAL RACING COMPACT

In 1999, members and activist within the ARCI committed to take up the initiative to create a national racing license. Every state racing jurisdiction, by one approach or another, requires persons interested in participating in racing to apply to a racing license. The lack of uniformity in licensing standards and comity between state racing jurisdictions, however, posed particularly cumbersome to participants to who routinely migrated from jurisdiction to jurisdiction.

The concept of a national racing license had long been discussed, but never achieved. The concept

²³See Racing Medication & Testing Consortium Organization and History at www.rmtcnet.com.

²⁴ARCI 011-025.

²⁵ARCI 011-010 and 011-015.

²⁶"Commentary: A Reasonable Approach," by Alex Waldrop. Blood-Horse, inc., BloodHorse.com March 2008.

became a reality when the National Racing Compact which was officially formed in 2000.

The licensing requirements prescribed by Louisiana are representative, but in no way identical, with that of any other jurisdiction. Most jurisdictions will inquire into past crimes. Any applicant with a prior criminal conviction is going to receive more scrutiny than one without a prior criminal record. However, every jurisdiction verifies information provided on the application through criminal histories differently. Therefore, the information obtained by one state may not be the same as the information considered by another. Then, each state may not access the information in the same manner. Furthermore, not every jurisdiction is interested in the same information. For example, the Oklahoma application asks whether the applicant has "ever been convicted of a felon," or has "ever been convicted of a violation of any law regarding gambling or controlled substance." The application does not ask whether the applicant's spouse has ever been convicted of any felony or whether the applicant has been arrested or found guilty of a misdemeanor, like driving while intoxicated.

For a majority of owners, the process of submitting to suitability in each racing jurisdiction is burdensome, and often redundant. However, the variations in standards from one racing jurisdiction to another posed a huge hurdle to achieving a national license. The first effort toward uniformity came by way of the multi-jurisdiction license application for owners.

In 1998, the Association of Racing Commissioners International (ARCI) created the multi-jurisdiction application for *owners*. Owners who planned to race in more than one jurisdiction could access the ARCI Multi-Jurisdiction License Application. The application could be completed, copied and mailed to each jurisdiction where the owner intended to race.

The uniform application lessened the burden of having to complete multiple and different licensing applications in each racing jurisdiction, but it did not solve the burden of submitting to suitability in each state or making multiple applications. Additionally, the multi-state application was not universally accepted and had no force of law. In theory, the paper work was easier, but not the process.

The larger impediment to a national racing license lied in the state racing jurisdictions inability to combine and share criminal history information. A chronic bottleneck existed in the application process for each state where criminal histories were required for licensing even though statistically the majority of applicants for owners did not have any criminal background. Because individual states, like Louisiana, were mandated to consider such information when

licensing, it was necessary to find a clearinghouse for suitability determinations that could streamline the application process in multiple racing states simultaneously.

In 1999, Association of Racing Commissioners International (ARCI) led an initiative for the development of an independent, interstate governmental entity, composed of pari-mutuel racing regulators from participating states, which would be authorized by the states and approved by the Federal Bureau of Investigations to receive criminal histories. The initiative came in the form of a National Racing Compact. The Compact's mission is as follows:

"To establish uniform requirements for and issue licenses to participants in the pari-mutuel racing to ensure that all participants, who are licensed meet a uniform standard of honesty and integrity, and to reduce the regulatory burden on those participants in pari-mutuel racing who are indisputably welcome to race in every state and province by providing them with a single license recognized in all racing states and provinces."²⁷

State racing jurisdictions join the compact by passing model legislation authorizing its participation in the interstate, governmental entity. The Compact was officially established in 2000 when five states received authorization to enter into the interstate compact via state legislation. Louisiana was one of the first five to adopt the legislation. The four other states were Delaware, Florida, Virginia and West Virginia.

Each member state delegates one representative from its regulatory body to serve on the Compact Committee. The Committee, through powers delegated and established by the Compact, is empowered to set standards for individual licenses, accept applications and fingerprints, analyze criminal history information and issue licenses which will be recognized by all member states.

The standards for licensing by the compact are, by law, comparable to the standards of the strictest participating member in the compact. Not substantially dissimilar for the Louisiana application, the application for a national license asks, for example:

Has you (or your spouse's) racing license ever been denied, suspended or revoked or is a racing complaint pending against either of you in any racing jurisdiction?

Have you (or your spouse) ever (a) pleaded nolo

²⁷National Racing Compact Mission Statement, www.racinglicense.com

contender, been found guilty or been convicted or (b) forfeited bail or been fined for any criminal offense either felony or misdemeanor, including driver under the influence of alcohol and/or drugs?

Are there now any indictments or complaints pending against you (or your spouse) for any such offense?

Are you (or your spouse) currently on parole or probation?

Like the Louisiana application, "Yes" to any one of these questions may not be determinative in and of itself whether the application will ultimately be approved or denied. Unlike a state license, notification by the Compact that the application has not been approved is, under the terms of the Compact, *not* to be considered a "denial" for purposes of making application in various state jurisdictions.

In the First Extraordinary Session of 2000, Representative Billy Montgomery authored House Bill No. 95 providing for the adoption of model legislation drafted for the National Racing Compact. Louisiana Revised Statutes §4:275 - 278 was enacted into law by Acts 2000, No. 149 and became law April 26, 2000.

Louisiana Revised Statute §4:275, captioned "Interstate Compact on Licensure of Participants in Live Horse Racing with Pari-mutuel Wagering; Louisiana's participation" begins at §1 with the purpose of the legislation:

"[e]stablish uniform requirements among the party states for the licensing of participants in live horse racing with pari-mutuel wagering, and ensure that all such participants who are licensed pursuant to this compact meet a uniform *minimum* standard of honesty and integrity." (Emphasis supplied)

"Facilitate the growth of the horse racing industry in each state and nationwide by simplifying the process for licensing participants in live racing, and reduce the duplicative and costly process of separate licensing by the regulatory agency in each state that conducts live horse racing and pari-mutuel wagering."

The Louisiana legislature makes clear that the authority delegated to Compact, is not intended to compromise or supplant the state's jurisdiction over questionable applicants. Louisiana Revised Statute §4:278, enacted as part of the Compact, provides that nothing within the Compact "shall be construed to diminish or limit the powers and responsibilities of the commission established by" law "or to invalidate any

action of the commission previously taken, including but not limited to any regulation promulgated."

Under Louisiana law, no person who has previously been convicted of a crime may be licensed, except at the discretion of the Racing Commission. Therefore, any applicant for a national racing license with a prior criminal history could not be licensed in Louisiana until such time as the person is approved by the Louisiana Racing Commission.

The Compact currently provides for a national racing license for owners, trainers and jockeys. The licenses are recognized in 23 racing jurisdictions.

ACTIVE AND FORMER RACE TRACKS IN LOUISIANA

Acadian Quarter Horse Downs, Inc. (Carencro/Lafayette Area). Established unsuccessfully in 1981; proposed 71 days of racing from 9/18/81 to 3/7/82 to be held at Evangeline Downs race track; application for racing denied by Commission.

Bingaman Race Course (Algiers - New Orleans West Bank). Very old race track established in the 1830's and ran for a few years. Named after a well-known Kentucky horsemen of that era.

Clarence Downs, Inc. (Clarence/Shreveport Area). Established in 1970; originally scheduled race meet of 12/4/70 to 3/20/71 was cancelled and rescheduled to race from 9/24/71 to 12/4/71 and from 4/7/72 to 8/26/72; after 8/26/72 the track was closed.

Crescent City Jockey Club (New Orleans). See Fair Grounds.

Delta Downs Racing Association, Inc. (Vinton/Lake Charles Area). Previously Delta Downs, Inc. Established in 1973; first (mixed) race meet was 91 days, from 9/20/73 to 3/31/74; quarter horse meet began in 1976; later separated meets for thoroughbred and quarter horse racing. Currently active.

Eagle Lake, Inc. (Vicksburg, Mississippi Area). Proposed race track to be located on Australia Island between Louisiana and Mississippi in Eagle Lake, Madison Parish. Proposal submitted by Mr. Larry D. Crowe on 2/27/86. Attempt was unsuccessful.

Eclipse Race Course (New Orleans - Audubon Park). Very old track that opened in March of 1837 and ran for a few years.

Evangeline Downs (Carencro/Lafayette Area). Established as Evangeline Downs, Inc. in 1966; first

raced 4/28/66; previously has raced mixed, thoroughbred and quarter horse meets; under new management in 1983, changed name to Evangeline Downs of Louisiana, Inc. Changed management again in November of 1985 and filed bankruptcy in October of 1986. Reorganized and reopened under new ownership in April of 1987. In September of 1989 attempted a mixed quarter horse/Arabian meet, but did not open due to lack of interest and entries. Presently racing thoroughbreds only.

Fair Grounds Corporation (New Orleans). Oldest operating track in Louisiana, established in 1872 where members of the Crescent City Jockey Club (horsemen's organization) raced; Commission granted license initially 8/15/41 with race meeting starting 12/25/41; traditional opening is Thanksgiving Day. Presently in operation.

Greenwood Downs, Inc. (Shreveport Area). Proposed in 1952; requested their license 8/11/52; Shreveport Kiwanis Club opposed opening and successfully prevented it; operating license denied by the Commission; predecessor to Sawyer Downs, Inc.

Horsemen's Park, Inc. (Lake Charles Area). Proposed track before Delta Downs opened.

Jackson Race Course (Chalmette - New Orleans Area). Very old race track that opened in 1825 and raced for a few years.

Jefferson Downs Corporation (Kenner/Metairie Area). In the 1950's, originally Magnolia Park, Inc., located in Metairie east of David Drive at present-day Lafreniere Park; first held harness racing Thursday, September 25, 1954. Began racing as Jefferson Downs on 3/9/59 at the Magnolia Park Race Course; not licensed to race from 1965 through 1970 due to Hurricane Betsy (9/9/65) and fire damage. Moved to 1300 Sunset Boulevard, south shore of Lake Pontchartrain, Kenner, Jefferson Parish. Built at this location and began racing on 8/2/71 as Jefferson Downs, Inc. The Lakefront Turf Club meet first ran September 4, 1975. Jefferson Downs previously conducted 105 days of thoroughbred racing April to October, plus 30 days for the Lakefront Turf Club meet in October and November; in 1989, merged its days into a 140-day Jefferson Downs meet. In 1991 and 1992, Jefferson Downs conducted split meets. Its last day of racing was November 22, 1992. See also Magnolia Park and Lakefront Turf Club.

Kenner Racing Association (Kenner). Scheduled to race at the Magnolia Park Race Course but their license was cancelled; interim name for Jefferson Downs/Magnolia Park.

Lakefront Turf Club, Inc. (Kenner). Established in

1975 as an extension to the Jefferson Downs race meeting; first raced at Jefferson Downs race track starting 9/22/76. Last raced 11/6/88 due to merging days with Jefferson Downs.

Linzay Downs, Inc. (Eunice). Proposed circa 1974-75; raced 51 days from 7/7/79 to 10/28/79, quarter horses only; went bankrupt shortly thereafter.

Louisiana Downs, Inc. (Bossier City/Shreveport Area). Previously Sawyer Downs, Inc.; changed name in January of 1973; raced 10/15/73 to the present. Almost exclusively thoroughbred racing. See also Red River Downs, Inc.

Magnolia Park, Inc. (Metairie). Second race track licensed by the Commission; predecessor to Jefferson Downs; first race meeting scheduled to start 3/15/54 was postponed to 9/23/54; raced until 4/28/56 for night harness racing; next meet from 10/3/57 to 10/14/57 for night thoroughbred racing; there was no further harness racing; went bankrupt in 1957-58.

Metairie Race Course (Metairie). One of the oldest established race tracks in the state; starting racing in the late 1830's up to 12/10/1861. Grounds later converted to a cemetery. Racing oval still visible today from the air.

Oak Downs, Inc. (Pearl River/Slidell Area). Records are unclear whether this was an unlicensed bush track. Established in 1971 and ran to 1976 without pari-mutuel wagering; reopened for 13 days in 1980; no racing since.

Pelican Downs, Inc. (Covington/Mandeville Area). Records are unclear whether this was an unlicensed bush track. Proposed track in St. Tammany Parish.

Red River Downs, Inc. (Bossier City/Shreveport Area). Established and first conducted races 10/24/84; did not race in 1985, but began racing again on 10/22/86; leased Louisiana Downs facilities. Last day of racing was November 19, 1989 due to merging its days with Louisiana Downs.

Sawyer Downs, Inc. (Bossier City/Shreveport Area). Predecessor to Louisiana Downs; licensed requested 4/4/66; refiled application 8/12/66; meet scheduled to begin 4/1/67 was cancelled; requested license again in 1971; in January, 1973, changed name to Louisiana Downs, Inc.

Union Race Course. Very old race track operating in the 1830's. No other information available.

TERMINOLOGY

RACING PLATES ²⁸

BAR: Shoe with a bar across the heel with or without 'stickers' and used primarily for the protection of quarter cracks. Used infrequently.

BLOCK HEEL STICKER:
Plate that prevents a horse from running down and at the same time incorporates features of the mud calk.

BLOCK HEEL:
Shoe constructed with raised blocks behind and used to prevent horses from running down on their heels and to prevent slipping.

CALK: Pointed extension on the shoe or heels of a horseshoe designed to prevent slipping; spiked plate fixed on the bottom of a shoe to prevent slipping and preserve the sole. See also jar calk or mud calk.

FRONT (or PLAIN):
Standard plate fashioned with a 'toe' and used on a fast or dry track.

INNER RIM FRONT:
(Also **INNER RIM BLOCK HEEL**)
Used to keep a horse standing level at all times, and are excellent plates on grass.

JAR CALK: Shoe used on front hooves for muddy and sloppy tracks. See also calk or mud calk.

MUD CALK: Plate with a 'toe' and a sharp 'sticker' on the heel which gives a horse a better grip or tread on a muddy track. See also calk or jar calk.

OUTER RIM FRONT:
Variety of the front shoe; has a 'grab' around the outer rim to keep a horse standing level and reduce hoof shock; can be used on either turf or dirt.

RAISED BAR:
Shoes equipped with raised bar or 'trailer' to provide cushion for horses who ordinarily run down badly on their heels or fetlocks. Used infrequently.

STICKERS: Calks on shoes which give a horse better grip on a muddy or soft track.

HEAD MARKINGS ²⁹

BALD: White face which includes the eyes, nostrils and upper lip.

SNIP: Separate white or flesh colored marking found between the nostrils or on the lips.

STAR: Collection of white hair found on the forehead.

STRIPE: White marking starting at eye level or below and extending to or above the upper lip.

LEG MARKINGS ³⁰

FULL WHITE ANKLE:
White marking extends up to and includes the entire ankle.

HALF WHITE PASTER:
Lower half of the pastern is white.

FULL WHITE STOCKING:
White marking extends up to and includes the entire cannon.

HALF WHITE STOCKING:
White marking extends up to and includes the lower half of the cannon.

INSIDE or OUTSIDE WHITE HEEL:
Area above the back of the hoof on either the inside or outside of the leg, is white.

QUARTER WHITE STOCKING:
White marking extends up to and includes the lower one-quarter of the cannon.

SPOTS ON CORONET:
Dark spots on a white coronet.

STOCKING: White part of the legs below the knee.

THREE QUARTERS WHITE PASTER:
Lower three quarters of the pastern is white.

THREE QUARTERS WHITE STOCKING:

White marking extends up to and includes the lower three-quarters of the cannon.

WHITE CORONET:

Small white area, circling the leg immediately above the hoof.

WHITE HEEL:

Area above the back of the hoof, extending from the inside to the outside of the leg, is white.

WHITE PASTER & PART OF ANKLE:

White marking extends up to and includes part of the ankle.

WHITE PASTER:

Entire pastern is white.

COAT COLORS AND ABBREVIATIONS ³¹

b **BAY:** Entire coat may vary from light yellowish tan (light bay) to a dark, rich shade, almost brown (auburn), and between these, a bright mahogany (blood bay). A bay always has a black mane, tail and lower legs unless white markings are present.

br **BROWN:** Sometimes difficult to tell from black or dark bay, but can be distinguished by noting the fine tan or brown hairs on the muzzle or flanks. Term no longer used individually.

blk **BLACK:** Entire coat black, including the muzzle (brown hairs on muzzle for 'br' designation), flanks, mane, tail and legs, unless white markings are present.

ch **CHESTNUT:** Entire coat may vary from a red-yellow to a golden-yellow (from dark liver color to a light washy-yellow, between which is the brilliant red-gold and copper shades). Mane, tail and legs are usually variations of coat color unless white markings are present. Chestnut never has black mane, tail or points.

dk b or br **DARK BAY OR BROWN:** Entire coat will vary from a brown, with areas of tan on the shoulders, head and flanks, to a dark brown, with tan areas seen only in

the flanks and/or muzzle. Mane, tail and lower portion of the legs are always black unless white markings are present. Marginal color.

gr **GRAY:** Majority of the coat is a mixture of white and black hairs (sometimes scarcely distinguishable from black at birth, getting lighter with age). The mane, tail and legs may be either black or gray unless white markings are present.

ro **ROAN:** Majority of the coat is a mixture of red and white hairs. The mane, tail and legs may be black, chestnut or roan unless white markings are present. There are two classes, red and strawberry, produced by intermingling of black, white and yellow hairs.

wh **WHITE:** Predominantly white. Very rare.

NOTE: Effective with the registration of foals of 1963, individual designations as 'dark bay' and 'brown' have been dropped, and the term 'dark bay or brown' has been adopted.

EQUINE MEDICAL TERMINOLOGY ³²

ANEMIA: Blood condition where the number of red blood cells or the amount of hemoglobin or both are below normal limits.

BLEEDER: A horse that has a predisposition to hemorrhaging from its nostrils (epistaxis) either during a workout or a race, or immediately after exertion. The blood comes from a ruptured vein or veins in the nostrils, pharynx or lungs.

BLISTER: A chemical ointment or liquid which, when applied to a limb, causes acute inflammation to develop. Used to hasten repair of some chronic pathology such as an osselet, ring bone, bowed tendon, etc.

BLOOD WORMS: Recognized to be the most dangerous of all internal parasites found in the horse.

The adults live in the large intestine and the larvae migrate in the arteries (blood stream) causing a thickening of the blood vessels and sometimes a local stoppage of blood flow. Usually treatable. See COLIC.

BOG SPAVIN:

Distended joint capsule of the hock, swelling on the front, inside of the hock. Does not usually cause lameness but is an eyesore. Appears spontaneously; may disappear the same way.

BONE SPAVIN:

Bony enlargement on the lower portion of the inside of the hock joints. Usually causes lameness in the affected leg.

BOTS:

Internal parasites (stomach worms) that live in their larva form in the stomach causing interference with digestion. The eggs are small and yellow and are laid on the legs and face of the horse in the fall months. Adults look like bees and are seen during the fall darting at the horse and laying eggs.

BOWED TENDON (TENDONITIS):

Inflammation of one or both flexor tendons that travel along the back of the legs from the knee or the hock to the hoof. Caused by a strain of some of the fibers making up the tendon. Hemorrhagic fluids fill in the damaged area and cause the swelling and the bowed appearance. Later, some of the swelling subsides, the tendon cools out and the horse becomes sound. Usually takes 6+ months for a tendon to heal sufficiently to stand training.

BRITTLE FEET:

Feet that have lost too much moisture and have become dried out and contracted. Certain horses have a predisposition to this condition while other horses acquire it as a result of dry weather and poor grooming. Dry feet are prone to quarter cracks, bruises and the like.

BROKEN WIND:

All-inclusive term used to describe any abnormality heard in the breathing apparatus of a horse. Usually used to describe a whistler or roarer.

BRONCHO-PNEUMONIA:

Ailment usually following EIA infecting the bronchial and respiratory system.

BUCKED SHINS:

Inflammation of the cannon bones of young horses with unseasoned legs; comes from the concussion of running on hard tracks with immature legs.

CALF-KNEED:

Conformation fault of the forelegs where the knee is seen to bend backwards when viewed from the side.

CANKER:

Chronic, moist rotting of the frog of the hoof.

CAPPED HOCK:

Swelling found at the point of the hock and caused by a bruise; usually comes from kicking in vans or in stalls.

COLIC (VERMINOUS):

1) Describes pain in the abdomen; 2) Flatulence colic is caused by excessive gas in the digestive tract; 3) impaction colic is caused by accumulation of large amounts of dry feed in the stomach or intestine; 4) Torsion colic is caused by a segment of the intestine twisting in such a way that little or no food can pass; 5) Also ailment most commonly caused by the common bloodworm, *S. vulgaris* and usually treatable.

CORN:

Bruise under the sole of the hoof and usually comes from stepping on a stone or some other hard object.

COUNTER-IRRITANTS:

See BLISTERS.

COW HOCKS:

Conformation fault where the hocks are very close to each other while the rest of the rear legs are widely separated and toed-out.

CRACKED HEELS:

Weeping moist dermatitis found on the back of the pasterns just above the quarters. Also grease heels; scratches.

CRIBBER:

A horse that constantly chews wood; usually caused by boredom and can often be stopped by painting the sills, doors and fences with creosote or red pepper paste.

CRYPTORCHID:

Male horse that has not been castrated and yet has no testicles (undescended).

CURB:

Strained, thickened ligament found at the rear of the hock about three inches below the point of the hock.

DEHYDRATION:

Occurs in hot weather when a horse is lacking fluid in his body and blood. Very weakening and must be corrected before a horse can train properly.

DROPPED HIP:

Condition where the point of the hip is 'knocked down'; due to either a fracture of the point of the hip or to the muscles being torn off the cartilaginous attachments in the area.

EPIPHYSITIS:

Inflamed horizontal growth line found at the ends of long bones. In recent years, the epiphysis has been used to determine bone maturity in young horses.

EQUINE INFECTIOUS ANEMIA (EIA):

Viral disease transmitted by unsterile instruments, exchange of equine bodily fluids of infected animals, insect bites, extended contact with infected animals. No vaccine and not curable. May produce intermittent fever, loss of weight, sweating, rapid breathing, depression, bloodshot eyes with discharge, frequent urination, diarrhea, swelling, wobbly gait, paralyzed hindquarters. In advanced stage produces anemia, pale or yellowish mucous membranes, weak pulse and irregular heartbeat. May show up from 2 to 8 weeks after infection. Attacks usually last 3 to 5 days. Sometimes fatal. Determined by Coggins test (AGID). Also called swamp fever, malarial fever, mountain fever and slow fever.

FIRING:

Old method of treating chronic pathologies found in the legs of thoroughbreds. Consists of inserting red hot points through the skin (pin firing) over the area involved. Line firing consists of burning in a bar pattern through the outer layers of the skin. Fire creates an acute inflammation which is said to hasten healing.

FISTULOUS WITHERS:

Infection of the withers coupled with fistulas that develop because of the poor drainage in the area. Usually caused by a saddle that does not fit properly.

GIMPY:

Slightly lame.

GRUNTING: The noise that most roarers make when they tense their abdomen; heard when jumping, rolling in the stall and when making quick moves.

HEAT EXHAUSTION:

Caused by over-exertion in hot, humid weather. Stops sweating, becomes listless, runs a high fever and is very sick. Salt and electrolytes in the feed usually prevents the condition.

HEAVES: Disease of the lungs when the air sacs are torn open and the lungs lose elasticity; dry cough occurs and horse must forcefully exhale air from the lungs. Seldom seen.

HIGH FLANKER:

Condition where one or both testicles are found in the inguinal canal rather than in the scrotum.

HORSE TICK FEVER:

Illness transmitted by ticks causing a high fever.

INFLUENZA:

Similar to the many strains of human influenza.

KNEES SPRUNG:

Conformation fault where the knees are bent forward when viewed from the side and are unsteady. ("Sprung at the knees")

LAMINITIS: Crippling disease that damages hoof tissue resulting in the inability to walk. Inflammation of the sensitive laminae that are found on the inside of the wall of the hoof. Usually affects both forelegs at the same time. Initially, circulation in the foot is impeded and the horse is in great pain. If circulation is not re-established in 24 hours, the sole of the foot will usually drop and the horse will become a chronic cripple.

MONORCHID:

Male horse of any age with only one

descended testicle.

MOON BLINDNESS:

Periodic ophthalmia. Eye disease where recurrent attacks usually cause blindness. Not contagious and generally thought to be inherited.

NAVICULAR DISEASE:

Ulcerated condition of the navicular bone which lies across the rear of the hoof. Acts as a pulley for the flexor tendon and usually seen to affect both forelegs at the same time. Removal of the heel nerves is the usual method of treatment.

NERVED: Neurectomy.

NEURECTOMY:

Operation in which the sensory nerve is severed with the intent to permanently eliminate pain that arises from that area. Prohibited in many states.

DIGITAL NEURECTOMY:

Heel nerves. Operation performed on the digital nerve between the fetlock and the foot. Horses that have had their heel nerves removed can run at most race tracks.

VOLAR NEURECTOMY:

High nerved. Operation performed on the volar nerve that lies between the bottom of the knee and the fetlock joint. Horses that have been high nerved are barred at most race tracks.

OSSELET: Arthritis of the fetlock joint that causes the ankle to become enlarged and out-of-shape. Firing or blistering and rest is the method of treating this condition.

OVER-REACHING:

Occurs when the rear toe strikes the quarter of the front foot on the same side, as the horse is in motion. Another name for "grabbing his quarters." Usually occurs when a horse stumbles as he breaks from the starting gate.

PIN WORMS:

Small thread-like worms living in the rectum; cause the horse to rub his tail and stamp his hind legs.

POLL EVIL: Swollen, infected area found on top of the head between the ears. Usually

caused by a bruise.

POPPED KNEE:

Describes a knee with a distended joint capsule that protrudes between the row of the carpal bones. Soft and contains an excess of synovia (joint fluid). Caused by inflammation within the joint, often due to a chip fracture.

PROUD FLESH:

Tumor-like mass of granulation tissue that is found in the healing process of certain wounds on the legs of horses.

QUARTER CRACK:

Crack in the hoof wall in the area of the quarter; usually runs from the bottom of the wall up to the coronet.

RADIAL PARALYSIS:

Condition causing the horse to have a partially paralyzed foreleg due to an injured radial nerve. When this occurs, the horse has great difficulty bringing the affected leg forward.

RING BONE:

Bony enlargement seen in front and on both sides of the pastern. If under the top of the hoof, it is called a low ring bone. If it is halfway up the pastern, it is called a high ring bone. Firing or blistering and rest is the usual treatment.

ROARER: Horse with paralyzed vocal chords. Condition causes a fluttering noise when the horse inhales and a grunt when the horse makes a quick move. Interferes with the horse's ability to race, especially distances.

ROUND WORMS:

Ascarides. Long, white, round worms that live in the intestines, causing colic and interfering with digestion.

SAND CRACKS:

Cracks in the toe of a dry and brittle hoof. May run in the direction of the coronet an inch or two.

SCALPING: When the toe of the front hoof hits the pastern of the rear foot on the same side when the horse is in motion.

SESAMOIDITIS:

The sesamoids are two pyramidal shaped bones at the rear of the fetlock

- joint. They act as a pulley for the flexor tendons. Condition when they become arthritic and become coated with mineral deposits.
- SHOE BOIL:** Large, soft, tender swelling found at the point of the elbow; usually caused by the elbow getting bruised by the hoof when the horse is lying down. Treatment consists of applying a circular boot around the pastern on the affected leg.
- SIDE BONE:** Ossification of the lateral cartilages located just above the quarters of the hoof; seldom seen in thoroughbreds and generally considered a disease of old horses.
- SINUSITIS:** Infection of one or more sinuses causing a foul-smelling nasal discharge.
- SPEEDY CUT:**
When the front foot hits the inside of the hock or the rear foot hits the outside of the front cannon bone. Caused by poor conformation and/or poor shoeing.
- SPLINT:** Small, round, bony enlargement between the splint bone and cannon bone. Disease of young horses; usually responds to firing.
- STIFLE OUT:**
Condition where the patella (part of the stifle joint) becomes dislocated.
- STRING-HALT:**
Condition found in one or both hind legs where the leg is snapped upward prior to moving forward when the horse is walked or jogged.
- SUSPENSORY LIGAMENT STRAIN:**
The suspensory ligament is a broad ligament that lies behind the cannon bone and splits into two branches a few inches above the fetlock joint, attaches to the outside of the sesamoids and ends in front of the pastern as a part of the extensor tendon. Supports the fetlock joint. When injured, becomes thickened and inflamed and loses shape. Often a fractured splint bone may cause the injury.
- THOROUGHPIN:**
Distension of a tendon sheath on both sides of the hock near the point of the hock. Usually seen in conjunction with bog spavin. Can be caused by poor conformation of the hock (too straight) or can be due to an injury.\
- THRUSH:** Moist, foul smelling, dark rot found in the frog of the foot. Usually caused by poor grooming and neglect.
- VENEZUELAN EQUINE ENCEPHALOMYELITIS (VEE):** Viral disease producing fever, loss of appetite, depression, blindness and stumbling gait, usually transmitted by biting insects and is prevented by vaccine. May be fatal. Other strains are Eastern and Western Encephalomyelitis, which require different vaccinations.
- WHISTLING:**
Wheezing sound made by the horse as he runs when suffering from inflammation of the respiratory tract. Also, sound resulting from overstraining a horse's respiratory system.
- WINDSUCKER:**
Horse that places his upper incisor teeth on a ledge, presses down and swallows air at the same time. This habit makes an annoying noise.
- WOLF TEETH:**
Extra teeth just forward to the first upper molar; must be extracted, as they are tender and interfere with the metal bit.
- DESCRIPTION OF LICENSE CATEGORIES**
- APPRENTICE JOCKEY:**
Jockey 'in training'; not yet full-fledged; beginning riding career.
- ASSISTANT STARTER:**
Helps starter load horses into the starting gates just before a race.
- AUTHORIZED AGENT:**
Represents owner(s) or trainer(s) and looks after their business on the race track.
- CLERK OF SCALES:**
Official whose chief duty is to weigh the riders before and after a race to insure that proper weight is being carried.
- EXERCISE RIDER:**
Rides horses around the track for exercise (usually early in the morning) as

- instructed by trainer; cannot ride in a race.
- FARRIER:** Same as PLATER.
- GROOM:** Responsible for the feeding, care and appearance of the horse (brush, wash, etc.).
- GUINEA:** Same as GROOM.
- HOTWALKER:**
Walks horse after a race to cool him down; frequently a trainer's employee performs this duty as a groom/hotwalker.
- IDENTIFIER:**
Official who verifies the identification of a horse by checking the lip tattoo.
- JOCKEY:** Experienced rider of a horse in an actual race.
- JOCKEY AGENT:**
Represents jockey(s) for races; arranges for mounts for the jockey(s) to ride.
- MUTUEL EMPLOYEE:**
Person that takes bets at the betting window.
- OFFICIAL:** An officer or supervisory position of a racing association. General category of many license categories.
- OUTRIDER:** Escorts horse(s) to starting gate just before the race begins; sometimes called pony boy/girl.
- OWNER:** Person actually owning a race horse; may also be an owner/trainer.
- PADDOCK JUDGE:**
Official in charge of the paddock area and saddling of the horses.
- PATROL JUDGE:**
Official who observes the progress of a race from various vantage points around the racing strip.
- PLACING JUDGE:**
Official who determines the first, second, third, (etc.) place positions at the finish of a race.
- PLATER:** Horseshoer.
- PONY PERSON:**
Similar to OUTRIDER.
- PUBLIC TRAINER:**
One whose services are not exclusively engaged by a stable and who accepts horses to train for a fee and for several owners. See also TRAINER.
- RACING SECRETARY:**
Official who drafts conditions for races; runs the office where races are arranged and scheduled.
- STABLE FOREMAN:**
Responsible to the trainer for stable employees (grooms, hotwalkers, pony persons, exercise riders, etc.) and operations of the stable.
- STARTER:** Official responsible for putting the horses into the starting gates. Oversees the assistant starters.
- STEWARDS:**
Top officials of a race meeting. Each track has one state steward and two association stewards.
- SUBAGENT:**
Agent of an authorized agent.
- SWIPE:** Same as GROOM.
- TRAINER:** Person who actually trains race horses and employs stable personnel; has complete control of horses and employees when owner is not available; the 'absolute insurer' of the horse. May also be an owner/trainer.
- VALET:** Assists jockeys and apprentices in the dressing room.
- VENDOR:** Person or company (business) offering services or a product to horsemen or patrons (feed, tack, equipment, etc.).
- VETERINARIAN:**
Animal doctor employed by the Commission, association or individual who performs medical services and treatment on horses.

GENERAL TERMINOLOGY³³

- ABORTED:** Broodmare that has been pronounced in-foal and lost her foal prematurely.
- ADDED MONEY:**
Money added by a racing association to the amount paid by owners in nomination; eligibility and starting fees.
- AIRING:** Not running at the best speed in a race.
- ALL OUT:** Horse extending itself to its utmost capabilities.
- ALLOWANCE RACE:**
Event other than claiming for which the racing secretary drafts certain racing conditions.
- ALLOWANCES:**
Weights and other conditions or requirements of a race.
- ALSO-ELIGIBLE:**
Horse officially entered but not permitted to start unless the field is reduced by scratches bringing the field below the specified number of horses allowed to race.
- ALSO RAN** Horse finishing out of the money.
- APPRENTICE ALLOWANCE:**
Weight allowance granted an apprentice jockey varying among states. Usual allowance is 5 pounds. Apprentice can be 5 pounds short of the weight allowed to a regular jockey.
- ARTIFICIAL INSEMINATION:**
Manual process of entering semen into the reproductive tract of a mare so as to initiate pregnancy without the physical mounting by a stallion. This practice is not approved by The Jockey Club, Inc.
- BACK SIDE:** Behind the racing strip; stable area.
- BACK STRETCH:**
Straightaway part of the racing strip on the far side, between turns, usually in front of the stable area.
- BAD ACTOR:**
- Fraction horse.**
- BAD DOER:** Horse with a poor appetite; may be due to nervousness or other causes.
- BALL:** Equine medicine administered orally, usually disguised with honey or molasses.
- BANDAGE:** Strips of cloth wound around lower part of a horse's legs for support or protection against injury.
- BARREN:** Mare, other than a maiden mare, that was bred at least once and did not conceive during the last breeding season.
- BARRIER:** Starting gate; device used to start races.
- BAT:** Jockey whip; gad.
- BEARING IN or OUT:**
Deviation from a straight course. May be due to punishment, infirmity, weariness or inability of rider to control mount.
- BELL:** Signal sounding when the starter opens the gate or to mark the close of betting.
- BILL DALY (ON THE):**
Horse taking the lead in a race and remaining there until the finish of the race. Term stems from "Father" Bill Daly, famous horseman who developed many great jockeys.
- BIT:** Metal bar in a horse's mouth by which he is guided and controlled.
- BRACE (BRACER):**
Rubdown linament used on a horse after a race or following exercising.
- BLANKET FINISH:**
Horses finishing in a race so closely that a blanket could cover them.
- BLIND SWITCH:**
During a race, a horse caught in a pocket (surrounded by other horses) or in such a position behind or between other horses that he cannot pursue a free course.
- BLOW-OUT:**
To exercise a horse for short distances at a moderate pace.

- BOLT:** To suddenly veer from a straight course. horses in a race.
- BOTTOM:** Stamina in a horse; subsurface of a race course. **CAR FIT:** Extreme excitability of a horse being shipped by rail, van or air.
- BOTTOM LINE:** Thoroughbred horse's breeding on the female (distaff) side. **CAST:** Horse in such a position that he cannot stand.
- BREAK (A HORSE):** To accustom a young horse to racing equipment and methods, and carrying a rider. **CHALK HORSE:** The favorite.
- BREAKAGE:** In pari-mutuel betting, that portion left over from a bettor's payoff in excess of a multiple of ten cents (five cents in other states). The payoff amount is truncated at the dime, not rounded off. The sum of these amounts is retained by the track, with a share for purse money. **CHUTE:** Extension of the backstretch or homestretch to permit a straightaway run from the start.
- BREAKDOWN:** Injury or lameness resulting to a horse. **CLUBHOUSE TURN:** Generally, the turn of the racing strip at the point where the clubhouse is located at a track.
- BREATHER:** Restrained horse for a short distance in a race to conserve his speed or strength. **COLT:** Any male horse four years old or younger, with full reproductive capabilities.
- BRED:** Act of mating horses. A horse is bred at the location where it is foaled (born). **COOLING OUT:** After a race or workout, walking a horse until he cools off and returns to a normal state.
- BREEDER:** Owner of the dam at the time of foaling, unless the dam was under a lease or foal-sharing agreement at the time of foaling. In that case, the person specified by the terms of the agreement is the breeder of the foal. **COUPLED:** Two or more horses running as one entry and a single betting unit (on a program listed as "1" and "1a," etc.)
- BREEZE:** To work a horse at a brisk pace; pipe open. **COW HOCKS:** Points of hocks that are turned inward.
- BROODMARE:** Filly or mare that has been bred and is used to produce foals. **CRIBBER:** Wind sucker; horse that clings to objects with its teeth and sucks in air.
- BRUCE LOWE SYSTEM:** Method devised by English breeding expert of the same name. Traces pedigree in the female line back to the earliest known ancestors. **CROPPER:** Horse that has fallen, usually with its rider, and usually in steeplechase or hurdle races.
- BUG:** Length of time before an apprentice jockey becomes a jockey; an apprentice rider. **CUP HORSE:** Horse qualified to engage in races over a distance.
- BULLRING:** Small race track; bushtrack. **CUPPY TRACK:** Track surface that breaks under horses' hooves.
- CALLER:** One who calls the running positions of **CUSHION:** Texture of the surface of a racing strip.
- CUT DOWN:** Horse suffering injury due to another horse striking it with its shoes. A horse can cut himself down due to a faulty stride.

DAILY DOUBLE:

Type of wagering wherein the bettor must choose the winner in the two designated consecutive races.

DAM:

Female horse that has produced, or is producing, offspring. 'Mother' of a horse (foal).

DARK DAY: A day on which no racing is conducted at a race track.

DAY:

Calendar day.

DEAD HEAT:

Two or more horses finishing in an exact tie. When in doubt, only the noses of the horses are taken into consideration (not the legs).

DECLARE TO WIN:

To specify one horse in an entry that the owner or trainer prefers to win; not obligatory.

DECLARED: Horse withdrawn from a stakes race before scratch time.

DERBY:

Race for three-year-old horses.

DOGS:

Low wooden portable rails placed a certain distance from the rail to prevent horses from churning the footing along the rail during a workout or race. A mediocre horse.

DRIVING:

Strong urging by a rider.

DWELT:

Late in breaking from the gate.

EASILY:

Type of running or winning of a horse without being pressed by a rider or any opposition.

EIGHTH:

One-eighth of a mile; one furlong; 220 yards; 660 feet.

ELIGIBLE:

Qualified to start in a race according to required conditions.

EMBRYO TRANSFER (TRANSPLANTS):

Method whereby a developing embryo or unfertilized egg is removed from its natural dam and implanted into the uterus of a host dam for a portion of the gestation period in order to produce a live foal. A practice not approved by The Jockey Club, Inc.

ENTRANCE FEE:

Money paid to start a horse, usually required only in stakes races or special events.

ENTRY:

Two or more horses owned by the same racing stable interest or trained by the same person and running as a betting unit. See FIELD.

EQUIPMENT:

Whip, spurs, blinkers, etc. carried by a horse.

EXACTA:

Type of wagering wherein the bettor must exactly choose the first and second place horses in a single race.

EXCUSED:

Allowed by the stewards to be withdrawn from a race.

EXTENDED:

Forced to run at top speed.

EXTRA WEIGHT:

More weight than the conditions of the race require.

FAST TRACK:

Track that gives horses the best footing; dry, fast and even.

FAULTS:

Weak points of a horse; deficiencies.

FEATHER:

Light weight.

FEEES:

Money paid riders or money for nomination or entering a horse in a race.

FENCE:

Outside rail; the barrier between lawns in front of stands and the racing strip.

FIELD (MUTUEL):

One or more starters running as a single betting unit. Usually horses calculated to have a lesser chance to win are grouped in a field.

FILLY:

Female horse four-years old or younger.

FINE:

Monetary penalty imposed by the stewards or the Commission on a violator of any rule of racing.

FIRST TURN:

First bend of the track beyond the starting point.

FLAG:

Signal held by a person (the 'flag man')

stationed a short distance in front of the gate at the exact starting point of the race. Official timing starts when the flag is dropped to denote a proper start.

FLAT RACE:

Races held on level ground, without hurdles.

FLATTEN OUT:

To drop its head (horse) almost in a straight line with its body. Indicates exhaustion.

FLOAT:

Piece of tack equipment dragged over a racing strip to squeeze off surface water.

FOAL:

Young horse of either sex in its first year of life.

FRACTIONAL TIME:

Intermediate time made in a race (i.e. $\frac{1}{4}$, $\frac{1}{2}$, $\frac{3}{4}$, etc.)

FREE HANDICAP:

Race in which no liability is incurred for entrance, stakes or forfeit money until acceptance of weight.

FREE LANCE:

Rider not under contract to an owner or stable; independent rider.

FRESHENING:

Resting a horse after he becomes jaded from racing or training.

FURLONG: One-eighth of a mile, 220 yards, 660 feet.

FUTURITY: Race for two-year-old horses.

GAD: Jockey whip; bat.

GALLOP: Type of gait; fast canter; to ride a horse at a galloping gait.

GELDING: Male horse of any age that is unsexed (both testicles removed).

GIMPY: Lamé or sore.

GIRTH: Band around the body of a horse to keep the saddle from slipping.

GOOD BOTTOM:

Track that is firm under the surface, but may be sloppy or with light mud.

GOOD TRACK:

Condition of footing that is between fast and slow.

GRADED RACES:

Events in which horses are graded according to class by track handicapper's estimates.

GRADUATE:

First-winner for a horse or rider.

GRANDDAM:

Grandmother of a horse.

GRANDSIRE:

Grandfather of a horse.

HALF:

One-half mile; four furlongs; 880 yards; 2,640 feet.

HALTER:

Bridle lacking a bit; used in handling a horse around a stable and when he is not being ridden.

HALTERMAN:

Person who claims a horse.

HAND:

Four-inch unit used in measuring the height of a horse from its withers to the ground.

HANDICAP: Race in which a handicapper assigns weights to be carried (may be an overnight or stakes event); to handicap a race; to allot weight; to make selections on the basis of past performances and workouts. A 'handicap horse' is one that races in handicap races or is of handicapping quality.

HANDICAPPING:

Studying all factors in past performances determining relative qualities of horses in racing; includes distance, weight, age, track conditions, riders, breeding, etc.

HANDILY:

With moderate effort, not under a whip, when working out or racing a horse.

HANDLE (MUTUEL):

The total amount of money wagered at a given period of time, such as day, meet, season, year.

HAND RIDE:

To urge a horse with the hands, not using a whip.

- HARD BOOT:**
Kentucky horseman.
- HEAD OF STRETCH:**
Beginning of the straight run home.
- HEAT:** A race; usually applies to trotting races.
- HOME STRETCH:**
Straightaway from the last turn to the finish line.
- HORSE:** When reference is made to sex, a 'horse' is an entire male five years old or older. In a broad sense in racing, any horse regardless of sex or age.
- HOTS:** Horse before it is cooled out.
- HUNG:** Horse tiring during a race, but holding its position.
- HURDLE RACE:**
Contest over obstacles; jumping race, but not a steeplechase.
- ICING:** Deadening pain by standing the horse in a bucket of ice water or by applying ice water or ice packs to its legs.
- IN-FOAL MARE:**
Filly or mare that was bred, conceived and is currently in foal (pregnant).
- IN HAND:** Better than moderate pace of a horse running, with speed in reserve at the call of the rider.
- IMPOST:** Weight carried.
- IRONS:** Stirrups.
- JOG:** Slow, easy gait.
- JUMPER:** Steeplechase or hurdle horse.
- JUVENILE:** Two-year-old horse.
- LEAD:** Strap attached to halter to lead a horse.
- LEAD PONY:**
Horse that leads the parade of field from the paddock to the starting gate; also, a horse when accompanied by a starter to the post to quiet him.
- LEAKY ROOF CIRCUIT:**
Minor track; bush track.
- LEG UP:** Having a mount by a jockey; also, to strengthen a horse's legs by exercise.
- LENGTH:** Dimension of a horse from nose to tail; about 8 feet distance between horses in a race.
- LUG:** To bear in or bear out by a horse.
- LUNGE:** To rear and plunge by a horse.
- MAIDEN:** Filly or mare that has never been bred; also, horse that has not won a race on the flat anywhere; non-winning rider.
- MAIDEN RACE:**
Event for non-winning horses.
- MARE:** Female horse five years old or older.
- MINUS POOL:**
Betting pool that occasionally occurs in mutuel betting when so much money is bet on one horse that the balance of the pool is insufficient to pay off at five or ten cents to the dollar as required by state law or commission rules. The track usually makes up the deficit.
- MORNING LINE:**
List of approximate odds quoted at the track in the morning after scratches and track conditions are known.
- MUDDER:** Horse that runs best on muddy or soft track; also 'mudlark.'
- MUZZLE:** Nose and lips of a horse; also, a guard placed over the horse's mouth to prevent biting.
- NEAR SIDE:** Left side of a horse; side on which he is mounted by a rider.
- NECK:** Unit of measurement; distance between horses in a race.
- NOD:** To lower head; to win by nodding.
- NOM DE COURSE:**
Assumed name of an owner or racing partnership.
- NOMINATOR:**
One who owns a horse when named for a future race.
- NOSE:** Slight advantage of one horse over another in a race or at the finish. See

- DEAD HEAT:** After deducting taxes and commissions, the balance is returned to the public.
- OAKS:** Stakes event for three-year-old fillies.
- OBJECTION:** Claim of foul lodged by a rider, patrol judge or other official; also, 'inquiry,' at some tracks.
- ODDS:** Chances of a horse to win, such as 5-1, 7-2, etc. The percentage may be calculated (per dollar) by dividing the second number by the sum of both numbers.
- ODDS ON:** Payoff less than even money.
- OFFICIAL (SIGN):** Sign displayed when race results are confirmed.
- OFF SIDE:** Right side of a horse.
- OFF TRACK BETTING:** Wagering held on races, but not on the grounds of a racing association. Off track betting parlors are locations where live races are televised.
- ON THE BIT:** Eagerness of a horse to run.
- OVER REACHING:** Galloping causing the toe of a hind shoe to strike a foreleg heel or back of the coronet.
- OVER LAND:** To take a horse to the outside or around the other horses; the longest way to the finish.
- OVERNIGHT LINE:** List of prices quoted just prior to a race.
- OVERWEIGHT:** Surplus weight carried by a horse when a rider cannot make the required poundage. Limited to not more than five pounds.
- PADDOCK:** Structure or area where horses are saddled and kept before post time.
- PARI-MUTUEL WAGERING (BETTING):** Type of wagering or betting that originated in France based on the amount of money wagered, the number of wagers and the odds on the horses.
- PASTEBOARD TRACK:** Lightning fast racing strip.
- PENALTIES:** Extra weight a horse carries, according to the conditions of a race.
- PHOTO FINISH:** Result of a race so close that the placing judges must consult a photograph to determine the outcome.
- PICK SIX:** See SUPER SIX.
- PICK THREE:** See TRIPLE PLAY.
- PINCH BACK:** To force back a horse in a race due to other horses closing in on one another.
- PIPE OPEN:** To exercise at a moderate speed; breeze.
- PLACE:** Second place finisher in a race. Also, a bet on this horse. Also, a horse finishing in the money (first three positions).
- PLATES:** Horseshoes.
- POCKET:** In a race, an area in which a horse can be caught where is shut off or boxed in due to horses immediately surrounding him.
- POLES:** Markers at measured distances around a track (eighth pole, quarter pole, etc.).
- POOL (WAGERING):** Collection of money bet on a particular type of wagering (win, place, show, exacta, daily double, trifecta, etc.)
- POST PARADE:** Group of horses going from the paddock to the starting gate.
- POST POSITION:** Position in the starting gate from which a horse breaks; positions are numbered from the rail outward.
- POST TIME:** Designated time for a race to start.
- PREFERRED LIST:** List of horses with prior rights to start in a race.

- PREP (RACE):**
Training event preliminary to another (usually) more important engagement.
- PRODUCE RACE:**
Race for the produce of horses named or described at the time of entry.
- PROP:** To refuse to break from the starting gate; to stand flat-footed.
- PROTEST:** Objection.
- PURSE:** Money or prize in a race in which owners do not contribute, and is distributed to the winners of the race. The purse distribution in Louisiana in thoroughbred races is: first place 60%; second place 20%; third place 11%; fourth place 6%; and fifth place 3%.
- QUARTER:** One-quarter of a mile; two furlongs; 440 yards; 1,320 feet.
- Q U A R T E R P O L E :**
Marker at one-quarter of a mile from the finish.
- QUINELLA:** Type of wagering wherein the bettor must choose the first and second place horses, but either order, in a single race. Boxed exacta.
- RACE DAY:** Day on which racing is conducted at a race track.
- RAIL RUNNER:**
Horse that prefers to run alongside the rail.
- RECEIVING BARN:**
Barn at some tracks in which horses are isolated for a period of time before post time to prevent tampering.
- REFUSE:** To not break at the gate; in steeplechasing, balking at a jump.
- RIDDEN OUT:**
Urged to the utmost by his rider; a horse finishing a race.
- RIDE SHORT:**
To use short stirrup leathers.
- RIDGLING (RIG):**
Monorchid or cryptorchid.
- ROGUE:** Tempered horse.
- ROGUE'S BADGE:**
Blinkers.
- ROMP:** To run with the utmost ease.
- RUN DOWN:**
Weakened or tired (horse); list of odds.
- RUN-OUT BIT:**
Special type of bit used to prevent a horse from bearing in or out.
- SADDLE CLOTH:**
Cloth under saddle on which a number is placed to denote its post position in a race.
- SALIVA TEST:**
Laboratory test using horse saliva to determine if a horse has been drugged.
- SAVAGE:** Horse that bites a man or another horse.
- SCALE OF WEIGHT:**
Fixed imposts to be carried by horses in a race, according to age, sex, season and distance.
- SCHOOLING:**
Accustoming a horse to start from a gate and racing practices. In steeplechasing, particularly teaching a horse to jump.
- SCHOOLING LIST:**
List of horses required by a starter to undergo barrier education.
- SECOND CALL:**
To engage a jockey to ride whose contract commitments permit.
- SECOND DAM:**
Granddam.
- SELLING RACE:**
Loose term for claiming race.
- SET DOWN:** To suspend a rider from racing.
- SEVEN FURLONGS:**
Seven-eighths of a mile; 1,540 yards; 4,620 feet.
- SHANK:** Rope or strap attached to a halter or bridle by which a horse is led.
- SHED ROW:** Stable area; row of barns.
- SHORT:** Not at best form; when a horse needs

- additional training.
- SHOW:** Third place finisher in a race. Also, a bet on this horse.
- SILKS:** Rider's jacket and cap in a race.
- SIRE:** Horse's father.
- SIX FURLONGS:**
Three-quarters of a mile; 1,320 yards; 3,960 feet.
- SIXTEENTH:**
One-sixteenth of a mile; one-half furlong; 110 yards; 330 feet.
- SKINNED TRACK:**
Dirt racing strip with a contrasted turf or grass course.
- SKULL CAP:**
Leather or composition helmet worn by a rider under his racing cap.
- SLIPPED:** Broodmare that has been pronounced in-foal and lost her foal prematurely.
- SNUG:** Mild restraining hold by a rider.
- SOLID HORSE:**
Contender; strong competitor.
- SOPHOMORE:**
Three-year-old; horse in second season in racing.
- SPEEDY CUT:**
Injury to the knee or hock caused by a strike from the opposite foot.
- SPIT BOX:** Receptacle for saliva specimens taken from horses for testing; place or area for same.
- STALE:** Off from.
- STALL WALKER:**
Horse that frets and does not rest; like a human that paces back and forth.
- STALLION:** Male horse with full reproductive capabilities, and is used to produce foals.
- STARTING GATE:**
Mechanical device with partitions for horses where they are confined until the starter releases the doors to begin a race.
- STAYER:** Horse with great stamina that can race long distances.
- STEEPLECHASE:**
Jump race with obstacles (banking, hedge, brush, pools of water, etc.).
- STICK:** Jockey whip; gad; bat.
- STRAIGHT AS A STRING:**
In a race, fully extended and doing its best.
- STRETCH:** Straightaway portion of a racing strip, particularly the homestretch.
- STRETCH TURN:**
Bend of the track into the homestretch.
- STRIDE:** Measurement of the step of a horse.
- STUD:** Stallion.
- STUD BOOK:**
Registry and genealogy record book of the breeding of thoroughbreds maintained by The Jockey Club, Inc. Only thoroughbreds of accepted lineage are eligible.
- STUD FARM:**
Breeding farm.
- SUBSCRIPTION:**
Fee paid by an owner to nominate his horse for a stakes race or to maintain his eligibility for it.
- SUBSTITUTE RACE:**
Emergency event which is run if a regularly scheduled race does not fill or is cancelled.
- SUCKLING:** Foal of any sex in its first year of life while it is still nursing.
- SULK:** To refuse to extend itself to its fullest (horse).
- SUPER SIX or PICK SIX:**
Type of wagering wherein the bettor must choose the winners in six designated consecutive races.
- SWAYBACK:**
Horse with a dipped backbone.
- TACK:** Equipment of a rider; stable gear.

- TAKEOUT (MUTUEL):**
Money deducted from mutuel pools that is shared by the track and the state.
- TIGHT:** Ready to race.
- TIMBER TOPPER:**
Jumper or steeplechaser.
- TONGUE STRAP:**
Strap, tape or bandage used to tie down a horse's tongue to prevent him from swallowing it or choking on it during a race or workout.
- TOP LINE:** Thoroughbred's line of breeding on the sire's side.
- TOP WEIGHT:**
Maximum poundage allowed.
- TOTALISATOR:**
Computerized machine which issues betting tickets and determines the proper amount of payoff to the public. Also called tote or totalizator.
- TRACK RECORD:**
In racing, the shortest racing time of any horse on record at a given track, at a given distance.
- TRAIN OFF:** To become juded after attaining racing fitness.
- TRIAL:** Workout. Also, a preliminary race.
- TRIFECTA:** Type of wagering wherein the bettor must exactly choose the horses in first, second and third place positions in a single race.
- TRIPLE CROWN:**
In the United States, the Kentucky Derby, Preakness Stakes and Belmont Stakes. In England, the Two-Thousand Guinea, Epsom Derby and St. Leger.
- TRIPLE PLAY or PICK THREE:**
Type of wagering wherein the bettor must choose the winners in three designated consecutive races.
- TURF COURSE:**
Grass racing course.
- TWIN TRIFECTA:**
Type of wagering wherein the bettor must exactly choose the horses in first, second and third place positions in two designated consecutive races.
- TWITCH:** Device used on a horse for discipline, consisting of a stick with a loop of rope on one end to be placed around the horse's nose and upper lip.
- TWO-YEAR OLD:**
Colt, filly or gelding in its third calendar year of life (beginning January 1 of the year following its yearling year). In Louisiana, two-year-olds are not allowed to be given any type of medication prior to a race.
- UNDER CONTRACT:**
Rider or trainer formally signed for a specific time with compensation.
- UNDER PUNISHMENT:**
Whipped and spurred (horse).
- UNDER WRAP:**
Under restraint in a race or workout (horse).
- UNTRIED:** Not raced or tested for speed; also, stallion not yet bred.
- UNWIND:** To gradually withdraw a horse from intensive training to prepare to retire him temporarily or permanently.
- URINALYSIS:**
Laboratory urine test to determine if a horse has been drugged.
- VAN:** Front of the field; head end.
- WALK HOT:** To cool down a horse after a workout or race.
- WALKOVER:**
Race in which all horses are scratched except one. The horse must gallop the entire distance for the win to be official.
- WARM UP:** To gallop a horse on the way to post position.
- WASHY:** In a nervous sweat before a race (horse).
- WEANLING:**
Foal of any sex in its first year of life after being separated from its dam.
- WEAVING:** Swaying motion by a horse in a stall; also, the act of threading its way through

a field in a race.

WEIGHT FOR AGE:

Fixed weight scale to be carried by horses according to age, sex, distance and season.

WINDED: Breathing with difficulty after a workout or race; tired.

WHIP: Instrument, usually of leather, with which a rider strikes a horse to increase his speed; bat; gad; stick.

WIN: First place finisher in a race. Also, a bet on this horse.

WINNER-TAKE-ALL:

Winner receiving all purse or stakes money.

WORK: To exercise a horse; to workout.

WORKHORSE:

Horse of better quality used to accompany another horse in a workout.

WPS: Win, place or show. Usually refers to the grouping of betting money on wagering in these categories as a whole.

YEARLING: Colt, filly or gelding in its second calendar year of life (beginning January 1 and ending December 31 of the year following its yearling year).

DIAGRAMS, ABBREVIATIONS & TRIVIA

Insert CONFORMATION OF A HORSE

Insert TYPICAL HEAD MARKINGS

Insert COWLICK GUIDE

Insert ABBREVIATIONS & PURSE VALUE INDEX

Insert TRIVIA

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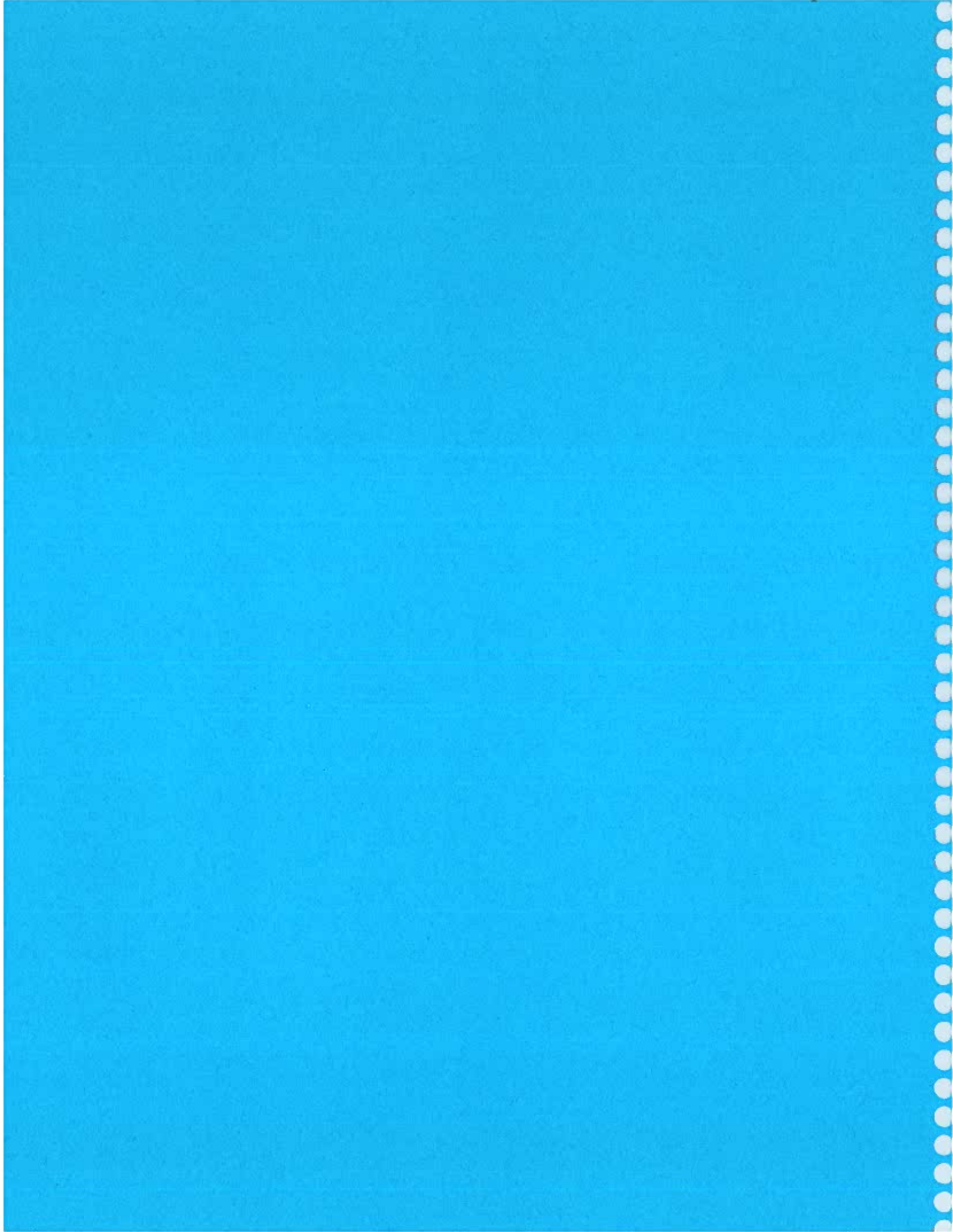
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LOUISIANA STATE RACING COMMISSION

Synopsis of Applicable Law and Jurisprudence

**By: Kim Raines Chatelain
Assistant Attorney General**

Horse racing is a sport which is the subject of extensive and detailed legislation, and the conduct of that sport has been entrusted to the Commission.

Owens v. La. State Racing Comm'n, 466 So.2d 764.

I. Introduction: Louisiana State Racing Commission

The Louisiana State Racing Commission was created by statute to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing practices.¹

Among its specific duties:

The Commission is responsible for promulgating rules, regulations and conditions for the holding and conducting and operating of all race tracks, race meets and races held in this state and for the conduct of the racing industry.²

It is the responsibility of the Commission to license and determine the suitability for licensing of associations to conduct live horse racing for pari-mutuel wagering and to set the dates for racing meets.³

It is the responsibility of the Commission to grant, refuse, suspend, or withdraw licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise boys, veterinarians, valets, platers and/or anyone else licensed pursuant to law or any rules and regulations the Commission adopts.⁴

II Regulation through Licenses

A. Constitutional Considerations

1. "Property Interest" in License, U.S.C.A. Const. Amends 14th

The United States Constitution guarantees the following in the 14th Amendment:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due

¹La.R.S. §4:141.

²La.R.S. §4:148.

³La.R.S. §4:148

⁴La.R.S. §4:150.

process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

While possessing a racing license is a privilege, not a right, the United States Supreme Court, as well as our own state courts, recognize that an individual has a property interest in a license, once issued, which he may not be deprived without due process of law.⁵

An individual right to procedural due process under the 14th Amendment is satisfied by the provisions of the Louisiana Administrative Procedural Act:

Except as otherwise provided by this Section, the commission's hearings, practice and procedure, and the rule making procedure are as provided in the Administrative Procedure Act.⁶

2. Search and Seizure, U.S.C.A. 4th Amendment

a. Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

b. Searches, La.Ad.Code Section 35:I.1749

The commission, or the steward representing the commission, investigating violations of law or the rules of the commission, shall have the power to authorize searches of the person or the power to authorize entry and search of the stables, rooms vehicles, or any other place within the track enclosure at which a race meeting is being held, or other tracks or places where horses eligible to race at the race meeting are kept.

The commission, or the steward representing the commission, shall also have the

⁵ *Barry v. Barchi*, 443 U.S. 55, 99 S.Ct. 2643 (1978).

⁶La.R.S. §4:154.

authority to conduct or authorize searches of all persons licensed by the commission, and of all employees and agents of any race track association.

Each licensee and permittee, in accepting a license, shall be deemed to have consented to such search and does waive and release all claims or possible actions for damages that he may have by virtue of any action taken under this rule.

Pullin v. La. State Racing Comm'n, 484 So.2d 105 (La. 1986) is a Louisiana Supreme Court case involving a search and seizure of prohibited drugs by state police during a search of a barn. Pullin contended that the search was not authorized by the commission and, therefore, the commission could not consider evidence of drugs during a revocation hearing. The Louisiana Supreme Court held that the commission could consider the evidence in an administrative proceeding, but the evidence would be excluded in any criminal proceeding.

c. Testing for Dangerous Substance Abuse, La.Ad.Code 35:I.1791

Every person licensed by the commission at any licensed racetrack may be subjected to a urine test, or other noninvasive fluid test at the discretion of the state steward in a manner prescribed by the commission.

B. Regulation through Professional Licenses

The commission may grant, refuse, suspend, or withdraw licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise boys, veterinarians, valets, platers, and/or anyone licensed pursuant to this Part and any rules and regulations the commission adopts and upon the payment of a license fee as fixed pursuant to this Part.⁷

No license shall be refused to any applicant who is qualified in accordance with the rules and regulations adopted by the commission; and no license shall be revoked without just cause.

Additional qualifications for license are further set forth in La.R.S. §4:150(B).

Grounds for denial or termination of racing privileges – other than association – are set forth at La.R.S. §4:152.

⁷La.R.S. §4:150(A)

C. Regulation through Association Licenses**1. Specific duties of the Commission, La.R.S. §4:147**

“The commission shall carry out the provisions of this Part, including the following specific duties:

(1) To set the dates during which any race meetings may be conducted in this state, including dates which limit racing at particular tracks for quarter horses only, provided that:

(a) it shall prohibit the conducting of any thoroughbred race meetings having the same or overlapping dates for such race meetings at thoroughbred race tracks within a radius of 100 miles of each other; and

(b) it shall prohibit the conducting of any exclusively quarter horse race meetings having the same or overlapping dates for such race meetings at any other exclusively quarter horse track within a radius of 100 miles of each other. However, nothing herein shall prevent presently licensed and existing tracks from conducting quarter horse races with any exclusive quarter horse track having the same or overlapping dates for race meetings.

(2)(a) The commission shall appoint three stewards to serve each day of each race meeting conducted under the provisions of this Part. One of the stewards shall be appointed by the commission to represent the Louisiana State Racing Commission and shall be designated as the state steward who shall upon appointment be residing in the state.

(b) The amount to be paid by the commission to the state steward as compensation for his services shall be at least the same amount paid to the two stewards appointed to represent an association, and the association shall reimburse the commission in an amount equal to the amount paid by it to the state steward as his compensation, as aforesaid, which amount shall be considered an additional fee due the state by an association for the privileges granted in its license.

© Two of the stewards shall be nominated by the association conducting a race meeting under the provisions of this Part and, prior to serving as such, shall be approved and appointed by the

commission. The amounts to be paid these two stewards as compensation for their services shall be paid by the association nominating them, which amounts shall also be considered an additional fee due the state by an association for the privileges granted in its license.

(d) The commission may appoint other stewards to be compensated by it and assign to each such duties as are consistent with this Part; however, such other stewards shall not serve as a steward in the stewards stand during any race meeting conducted under the provisions of this Part, except with the written consent of the association conducting such race meeting.

(e) The commission shall be required to show just cause for not appointing any racing official submitted to it for its approval....

(4) To require of each applicant seeking a license to operate a race meeting an application setting forth:

(a) The full name of the person, and if a corporation the name of the state under which it is incorporated, and the names of the corporation's agents for the service of process within Louisiana.

(b) If an association or corporation, the names of the stockholders and directors of the corporation or the names of the members of the association.

© The exact location where it is desired to conduct or hold a racing meet.

(d) Whether or not the racing plant is owned or leased, and if leased the name and address of the owner, or if the owner is a corporation, the names of its directors and shareholders. However, nothing in this Part prevents any person from applying to the commission for a permit to conduct races where the racing plant has not yet been constructed.

- (e) A statement of the assets and liabilities of the person applying for a license.
 - (f) The kind of racing to be conducted and the dates requested
 - (g) Such other information as the commission may require.
- (5) To require an oath of every applicant, by the person or executive officer of the association or corporation, stating that the information contained in the application is true.
- (6) To make rules and regulations for the holding, conducting, and operating of all race tracks, race meets, and races held in Louisiana, provided such regulations are uniform in their application and effect.”

Fox v. La.State Racing Comm'n, 433 So.2d 1123 (La.Ct.App. 4th Cir. 1983) holding that private corporation did not have proprietary right for its own reasons to unilaterally exclude permittee of Commission from its race track; rather, only the stewards and commission have authority to deny permittee under jurisdiction of commission.

2. Production of books, memoranda or documents; removal of official or employee; manner of keeping books; penalty La.R.S. §4:153

“The commission may:

- (1) Compel the production of all books, memoranda, or documents showing the receipts and disbursements of any person licensed to conduct race meetings under the provisions of this Part;
- (2) At any time require the removal of any employee or official employed by any licensee in any case where it has reason to believe that the employee or official has been guilty of any dishonest practice in connection with horse racing, has failed to comply with any condition of the licensee's license, or has violated any rule adopted by the commission;
- (3) Require that the books, financial statement, or other statement of any licensee under this Part be kept in a manner provided by the commission;
- (4) Visit, investigate, and place auditors and inspectors in the

offices, tracts, or places of business of any such licensee;

(5) Summon witnesses before its meetings, administer oaths to such witnesses, and require testimony on any issue before it.

Any person failing to appear before the commission, or failing to produce books, records, and documents ordered, or refusing to testify thereon, shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both."

III. Regulation through Rule Making Authority

A. Rules, Regulations and Conditions, La.R.S. §4:148

"The commission shall make rules, regulations and conditions for the holding, conducting and operating of all race tracks, race meets and races held in this state and for the conduct of the racing industry of this state under this Part. Special rules, regulations and conditions may be promulgated separately for thoroughbred racing and for quarter horse racing. Said rules, regulations and conditions shall be consistent with this Part and provide for and deal with all matters necessary to the holding of such race meetings."

B. Wagering; Rules and Regulations, La.R.S. §4:149

"The commission may prescribe rules and regulations under which shall be conducted all horse races upon the results of which there is wagering. The commission shall, as may be necessary, prescribe additional special rules and regulations applicable separately to thoroughbreds and quarter horses. The commission shall make rules governing, permitting, and regulating the wagering on horse races under the form of mutuel wagering by patrons, known as pari-mutuel wagering. Only those persons receiving a license from the commission may conduct this type of wagering, and shall restrict this form of wagering to a space within the race meeting grounds. All other forms of wagering on the result of horse races are illegal, and all wagering on horse races outside the enclosure where horse races have been licensed by the commission is illegal."

C. Adoption of Rules Under The Administrative Procedure Act

La.R.S. §4:154 provides that the commission's rule making procedure are as provided in the Administrative Procedure Act (APA). The APA permits adoption via two methods: (1) ordinary adoption and (2) emergency adoption.

1. Ordinary Procedure

La.R.S. §49:953 provides that prior to adoption, amendment, or repeal of any rule, the agency shall:

- A. Give notice of its intended action and a copy of the proposed rule as least ninety days prior to taking action on the rule.

The notice shall be published at least once in the Louisiana Register and shall be submitted with full text of the proposed rule to the Louisiana Register at least one hundred days prior to the date the agency will take action on it.

- B. Afford all interested persons reasonable opportunity to submit data, views, comments, or arguments, orally or in writing.
- C. Provide a statement of fiscal impact.

The notice must be published at least once in the Louisiana Register in its full text at least one hundred days prior to the date on which the commission will act upon the rule. After having afforded all interested persons the opportunity to comment or submit written materials commenting on the rule, the commission may take action toward its adoption.

2. Emergency Procedure

If, however, the commission finds that an imminent peril to the public health, safety or welfare requires adoption of a rule upon shorter notice than that provided, then it may proceed to adoption without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable to adopt an emergency rule.

IV. Regulation Through Racing Stewards

The stewards serve several functions. They, on behalf of the commission, may summarily suspend a license pending a final disposition before the full commission. They also possess a designated statutory authority to adjudicate matters. Lastly, but most importantly, they serve as the enforcement arm of the commission.

A. Steward Hearing

1. Summary Suspension

State's interest in maintaining integrity of horse racing is sufficient justification for racing stewards' authority to impose a penalty without full blown due process being afforded at that stage of proceeding, since stewards' action is subject to immediate review with attendant due process.

Actions of racing stewards in conducting hearing on racing issue did not fall under definition of "adjudication" so as to require application of Administrative Procedure Act.⁸

2. Right to Notice

Even though the Administrative Procedure Act does not apply *per se* to stewards hearing, the Administrative Procedure Act mandates that no formal agency proceeding may institute to revoke a license without first providing notice to the licensee of the violations charged and opportunity to show compliance for the retention of the license.⁹

This requirement is essentially satisfied by the stewards' hearing.

Olybrch v. La. State Racing Comm'n, 451 So.2d 1253 (La.Ct.App. 4th Cir. 1984) holding that stewards were required to conduct hearing before suspending horse trainer's license on ground that trainer's horse tested positive for prohibited drug, and because hearing involved property right, trainer must be given adequate and timely notice, be advised of alleged offense, and be granted the right to be present and represented.

⁸*Caracci v. La. State Racing Comm'n*, 556 So.2d 1249 (La. 1990).

⁹La.R.S. §49:961.

Briley v. La. State Racing Comm'n, 410 So.2d 802 (La.Ct.App. 3d Cir. 1982) holding that commission's imposition of sanctions upon trainer for violation of section not charged by stewards was error, however, as record fully supported finding that other sections upon which suspension was based were violated, error was harmless.

B. Steward Decision, Finality

In addition to providing pre-suspension hearings and or facilitating summary suspensions, the stewards also have a designated statutory authority to penalize licenses;

The stewards may suspend for no greater period than the duration of the meeting plus ten days or for a period not to exceed six months, whichever is greater, or they may impose a fine not to exceed one thousand dollars. All such suspensions and fines must be reported to the commission.¹⁰

Romero v. La. State Racing Comm'n, 359 So.2d 1061 (La.Ct.App. 1978) holding that a person must appeal the stewards' decision or accept finality.

Lambert v. La. State Racing Comm'n, 506 So.2d 641 (La.Ct.App. 4th Cir. 1978) holding that veterinarian who failed to appeal racing stewards' decision to suspend him for balance of racing season was subsequently barred from contesting correctness of stewards' ruling at hearing before commission.

C. Enforcement, "Policemen" of Commission

In general stewards are charged with the responsibility of enforcing rules and regulations of the commission. In a sense, they are the "policemen" of the commission.¹¹

La.R.S. §4:172(A) provides the following:

In matters pertaining to racing, the orders of the stewards supersede the orders of the officers and directors of the association and the stewards shall have supervision of the daily conduct of racing. The stewards have full authority to investigate, inspect, search and inquire into all matters under their supervision.

¹⁰La.R.S. §4:172.

¹¹*Sider v. La. State Racing Comm'n*, 451 So.2d 1265 (La.Ct.App. 4th Cir. 1984).

Bourque v. La. State Racing Comm'n, 611 So.2d 742 (La.Ct.App. 4th Cir. 1992) holding that stewards' request that jockey "come to office" was not "lawful order" that would support suspension of jockey for willful disobedience of lawful order of racing official when jockey refused to accompany racing steward who sought to conduct special urine test.

V. Adjudications: Final Agency Decision, Administrative Procedure Act, La.R.S. §49:955 et seq

A. Notice

1. Requirements of Notice, La.R.S. §49:955

In an adjudication, all parties who do not waive their rights shall be afforded an opportunity for hearing after reasonable notice.

Notice must include (1) statement of time, place and nature of hearing; (2) legal authority and jurisdiction under which the hearing is to be held; (3) reference to particular sections of statutes and rules; (4) plain statement of matters asserted.

2. Special Notice Requirements; Revocation of License. La.R.S. §49:961

No revocation, suspension, annulment or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gives notice by mail to the licensee of fact or conduct which warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceeding for revocation or other action. These proceedings shall be promptly instituted and determined.

Durham v. La. State Racing Comm'n, 439 So.2d 1191 (La.Ct.App. 4th Cir. 1983) holding that trainer, who was informed of a suspension to be held by the commission on June 25, 1982, in a letter which, though dated June 15, 1982, was not received by trainer until June 22, 1982 was not denied his right to due process by reason of insufficient time to prepare for defense where trainer requested an expedient appeal from stewards' ruling.

Benoit v. La. State Racing Comm'n, 576 So.2d 578 (La.Ct.App. Cir. 4th 1991) holding that notice racing commission gave to trainer of alleged violation of LAC was deficient and that thus commission violated trainer's right to due process by

conducting hearing and suspending trainer; notice commission sent to trainer cited wrong LAC.

Colson v. La. State Racing Comm'n, 623 So.2d 680 (La.Ct.App. 4th Cir. 1993) holding that stipulation in license application that any notice for Racing Commission would be sent to address included in licensing documents did not waive notice requirements of Administrative Procedure Act; notice by certified mail was returned unclaimed after hearing date, no other attempts were made to notify jockey, and jockey never had actual notice of suspension hearing and was deprived of due process.

B. Subpoena, La.R.S. §49:956

Any agency or its subordinate presiding officer shall have power to sign and issue subpoenas in the name of the agency requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to La.R.S. §13:3661 and La.R.S. §13:3671.

C. Hearings

Matters come to be heard for adjudication before the commission by one or both of two means: (1) an individual penalized by the stewards appeals the stewards' decision to the commission for a final determination; or (2) the matter is referred by the stewards to the commission for further consideration of the penalty imposed. One action does not pretermitt the other. Therefore, many persons appearing before the commission have been referred by the stewards for further consideration, but upon referral, the licensee appeals the stewards' action.

1. Appeal from Stewards; La.R.S. §4:154

A final appeal, in the case of any person penalized, or disciplined by the stewards, may be taken to the commission. Such an appeal must be filed in writing at the office of the commission within five (5) days of the date of said penalty or imposition of said discipline.

An appeal from the decision of the stewards to the commission shall not effect such decision until the appeal has been acted upon by the commission.

The commission must grant a hearing within ten (10) days of the receipt of this appeal, and must render a decision within forty-eight hours following the conclusion of the appeal hearing. Any continuance of a hearing must be reasonable in duration and for just cause.

In the absence of a timely appeal, the decision of the stewards becomes final. *Delahoussaye v. La. State Racing Comm'n*, 446 So.2d 490 (La.Ct.App. 4th Cir. 1984) holding that continuance of hearing on rulings holding horse trainers to have violated rule relating to administration of prohibited medication violated statute requiring hearing to be held within ten (10) days of receipt of appeal and, as trainer's substantive rights were prejudiced, commission was properly permanently enjoined from conducting a hearing.

2. Referral From Stewards, La.R.S. §4:172(M)

The stewards may suspend a licensee for no greater period than the duration of a race meet plus ten days, or for a period not longer than 6 months, whichever is greater, or they may impose a fine not to exceed one thousand dollars. If a greater period of suspension and the fine herein authorized is not, in the opinion of the stewards sufficient, they shall refer the matter to the commission for a trial de novo (all anew).

If the stewards refer the matter to the commission for further adjudication, then the matter is tried a new before the commission and decided upon the evidence presented. At that point, it is of no moment whether the individual "appealed" the stewards' ruling because the case must nonetheless be heard. The burden of proof rests with the agency, the commission, to establish just cause for the imposition of the suspension or fine.

Guajardo v. La. State Racing Comm'n, 508 So.2d 173 (La.Ct.App. 4th Cir. 1987) holding that jockey had standing to challenge the commission's ruling rendered on referral from stewards' ruling revoking license in court even though jockey had not appealed the stewards' decision to the commission; the commission's actions, not those of the stewards, constituted the final administrative adjudication and thus were subject to judicial review.

3. **Suspensive Appeal; La.Ad.Code 35:V.8301**

Any person penalized or disciplined by the stewards may apply to the commission for a suspensive appeal staying the effects of the stewards' action pending disposition of such appeal by the commission. All appeals must be filed in writing at the office of the commission within five (5) days of the date of the penalty or imposition of the discipline.

4. **Ex parte consultationg and recusation, La.R.S. §49:960**

Unless required for the disposition of *ex parte* matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a case of adjudication noticed and docketed for hearing shall not communicate, directly or indirectly, in connection with any issue of fact or law, with any party or his representative, or with any officer, employee, or agency engaged in the performance of investigative, prosecuting or advocating functions, except upon notice and opportunity for all parties to participate.

Allen D.D.S. v. La. State Bd. Of Dentistry, 543 So.2d 908 (La. 1989) involved a dentist, Dr. Allen, who was formally charged by the board for violations of the La. Dental Practice Act. The charges were investigated by counsel for the board and the matter was set for administrative hearing. The attorney for the board then prosecuted the charges which he investigated. After hearing the matter, the board deliberated. The Chairman subsequently contacted the board's attorney to advise him of their decision and instruct him to prepare the decision and findings of fact.

The court held that the statutory due process rights of Dr. Allen were violated. IN reaching its conclusion, the court considered evidence that while deciding the case the Board had not reached detailed findings of fact. Rather, the Board considered it the job of its attorney to draft the findings of fact. This action was done *ex parte* and without approved for participation of counsel for Dr. Allen. The court noted that the Administrative Procedure Act requires only a simple statement of the board's findings of fact which need not be cast in legalese. The court reasoned that the Administrative Procedure Act is designed to insure that persons subject to the process receive a fair hearing before a neutral decision maker. This purpose was defeated when the attorney for the board actually participated in the adjudicatory process by making the findings of fact.

D. Evidence**1. La.R.S. §49:956**

Agencies may, under the Administrative Procedure Act, give probative effect to evidence which possess probative value commonly accepted by reasonably prudent men in conduct of their affairs.

All evidence, including records and documents in the possession of the agency of which it desires to avail itself, shall be offered and made a part of the record. Materials incorporated into the record shall be available for examination by the parties before being received in evidence.

2. Examination of evidence, La.R.S. §49:957

When in an adjudication proceeding a majority of the officials of the agency who are to render the final decision have not heard the case or read the records, or the proposed order is not prepared by a member of the agency, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made final until a proposed order is served upon the parties and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are rendered the decision.

Miller v. La. State Racing Comm'n, 508 So.2d 585 (La.Ct.App. 4th Cir. 1987) holding that ruling on positive drug tests performed on horse against trainer was based entirely on documentary hearsay evidence, the basis for which trainer was not able to inquire into, and thus, ruling violated minimum due process standards.

Barkley v. La. State Racing Comm'n, 506 So.2d 580 (La.Ct.App. 4th Cir. 1987) holding that suspension of trainer's license based on Commission's *in globo* introduction of documentary evidence without any foundational testimony or opportunity for cross-examination deprived licensee of due process.

Bourque v. La. State Racing Comm'n, 591 So.2d 1361 (La.Ct.App. 4th Cir. 1992) holding that minimal standards of due process were not met with respect to commission 15 year suspension of license of jockey whose urine sample tested positive for cocaine, since jockey had been denied opportunity to cross-examine positive test results; commission did not offer any live testimony detailing actual receipt and testing of sample at state university laboratory, and testimony of state chemist was largely hearsay because he did not personally receive, handle or test sample.

Segura v. La. State Racing Comm'n, 577 So.2d 1031 (La.Ct.App. 4th Cir. 1991) holding that state chemist report showing positive test results on urine specimen of race horse when coupled with testimony of state chemist before commission satisfied requirement that chemist shall present documentary or demonstrative evidence in support of his professional opinion. Commission established by preponderance of evidence that there were no breach in chain of custody of specimen were crucial events in chain of custody were attested to by test barn veterinarian and state chemist, and trainer failed to produce any positive evidence showing that horse's specimen was tampered with, lost, or that specimen tested was not in fact same as one taken from his horse.

E. Decisions and Orders, La.R.S. §49:958

A final decision or order adverse to a party in an adjudication proceeding shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

Durousseau v. La. State Racing Comm'n, 399 So.2d 1288 (La.Ct.App. 4th Cir. 1981) holding that statutory scheme governing form of decision of Racing Commission does not require that decision be in writing, but affords option to Commission to state its decision in the record.

F. Judicial Review, La.R.S. §49:964 and 965

Any person who is aggrieved by a final decision or order in an adjudication proceeding is entitled to judicial review under this Chapter whether or not he has applied to the agency for rehearing, without limiting, however, utilization of or the scope of judicial review available under other means of review, redress, relief, available under other means of law.

Proceeding for review may be instituted by filing a petition in the district court of the parish in which the agency is located within thirty days after mailing of notice of final decision by the agency.

VI. Other Considerations: Applying Administrative Act

A. Equine Positives

1. Absolute Insurer

a. Constitutionality

LaBorde v. La. State Racing Comm'n, 506 So.2d 634 (La.Ct.App. 4th Cir. 1987) holding that absolute insurer rule is not unconstitutional.

Olbrych v. La. State Racing Comm'n, 451 So.2d 1253 (La.Ct.App. 4th Cir. 1985) holding that imposing liability on trainers as absolute insurer of horse at time of race does not violate due process and are not otherwise unconstitutional, being based on governmental interest of ensuring honest and safe race as well as protecting integrity of industry.

b. Burden of Proof

LaBorde v. La. State Racing Comm'n, 506 So.2d 634 (La.Ct.App. 4th Cir. 1987) Despite fact that trainer is absolute insurer of horse, Commission could not limit evidence in disciplinary proceeding against trainer to only chemist's report and record of steward's hearing.

Robideaux v. La. State Racing Comm'n 470 So.2d 139 (La.Ct.App. 4th Cir. 1985) holding that trainer who waived his right to have split sample tested was relegated to denying he used the substance on the horse. Still, the chemist's report did not conclude the commission's case. The commission was required to prove that the drug detected was a stimulant, depressant, or anesthetic used in a manner which might affect, or attempt to affect, racing performance of the horse.

2. "Arbitrary and capricious"

Sturrock v. La. State Racing Comm'n, 437 So.2d 357 (La.Ct.App. 4th Cir. 1983) holding that commission could suspend trainer's license for three years, notwithstanding that on same day it suspended for only one year license of another horse trainer charged with similar violation involving presence of prohibited drug in postrace urine of horse.

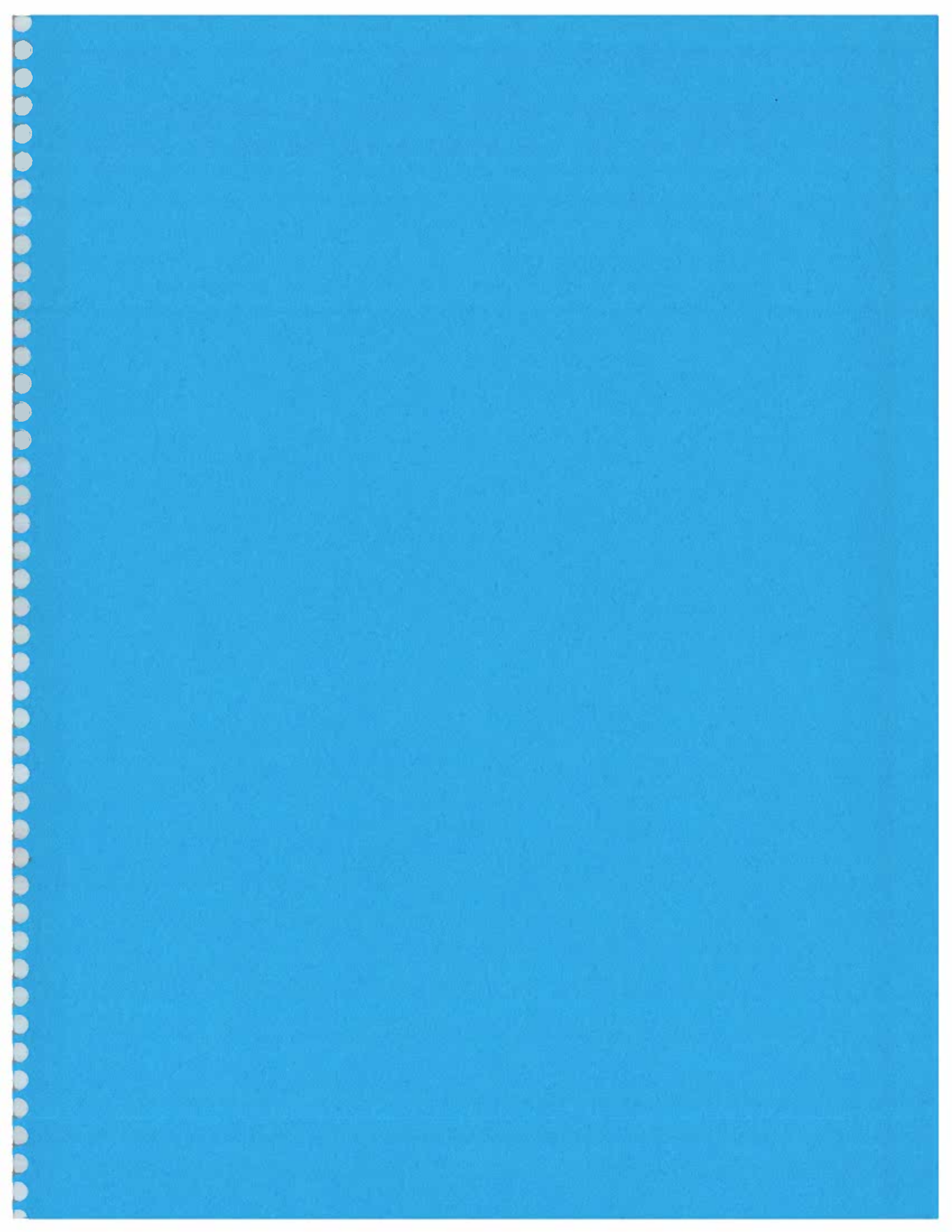
3. "Abuse of discretion"

Granger v. Garrett, 445 So.2d 18 (La.Ct.App. 4th Cir. 1983) holding that suspension of trainer's license based upon evidence that horses had been given prohibited drug in absenced of mass spectrometer test to determine existence of such drug, constituted abuse of discretion and denied trainer equal protection where two other cases which were identical in all relevant aspects were dismissed by commission for failure to determine presence of drug by mass spectrometer test.

B. Spousal Disqualification

La.R.S. 4:150(B)(12) regarding qualifications for licenses provides that no applicant may be the spouse of a person whose application has been denied or whose license has been revoked, unless judicially separated or divorced. However, La.R.S. 4:152 regarding grounds for denial or termination of racing privileges does not provide that the disqualification of a spouse is grounds to revoke an existing license.

Durham v. La. Racing Comm'n, 449 So.2d 475 (La.Ct.App. 4th Cir. 1984) holding that by virtue of the statute the legislature intended that revocation of denial of a spouse's license does not provide grounds for the termination of existing license.





Open Meeting Law

**LOUISIANA REVISED STATUTES
TITLE 42. PUBLIC OFFICERS AND
EMPLOYEES
CHAPTER 1. TERMS OF OFFICE OR
EMPLOYMENT**

**§ 4. Public officers appointed by the
Governor**

A. In all other cases, all public officers who are appointed by the Governor shall serve at the pleasure of the Governor. This Section shall not apply to officers appointed by the Governor upon recommendation or from lists submitted by others where the law requires appointments to be so made, nor to those whose terms of office are fixed by the constitution and those who are required by the constitution to be appointed with the advice and consent of the Senate.

B. This Section shall not apply to the Louisiana State Board of Public Welfare, the Louisiana Merit System Council, the Board of Review and the State Advisory Council of the office of employment security of the Louisiana Department of Labor.

**§ 4.1. Public policy for open meetings;
liberal construction**

A. It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy. Toward this end, the provisions of R.S. 42:4.1 through 10 shall be construed liberally.

B. Further, to advance this policy, all public bodies shall post a copy of R.S. 42:4.1 through 13.

§ 4.2. Definitions

A. For the purposes of R.S. 42:1 through R.S. 42:12:

(1) "Meeting" means the convening of a quorum of a public body to deliberate or act on a matter over which the public body has supervision, control, jurisdiction, or advisory power. It shall also mean the convening of a quorum of a public body by the public body or by another public official to receive information regarding a matter over which the public body has supervision, control, jurisdiction, or advisory power.

(2) "Public body" means village, town, and city governing authorities; parish governing authorities; school boards and boards of levee and port commissioners; boards of publicly operated utilities; planning, zoning, and airport commissions; and any other state, parish, municipal, or special district boards, commissions, or authorities, and those of any political subdivision thereof, where such body possesses policy making, advisory, or administrative functions, including any committee or subcommittee of any of these bodies enumerated in this paragraph.

(3) "Quorum" means a simple majority of the total membership of a public body.

B. The provisions of R.S. 42:4.1 through R.S. 42:12 shall not apply to chance meetings or social gatherings of members of a public body at which there is no vote or other action taken, including formal or informal polling of the members.

**§ 5. Meetings of public bodies to be open
to the public**

A. Every meeting of any public body shall

be open to the public unless closed pursuant to R.S. 42:6, R.S. 42:6.1, or R.S. 42:6.2.

B. Each public body shall be prohibited from utilizing any manner of proxy voting procedure, secret balloting, or any other means to circumvent the intent of R.S. 42:4.1 through R.S. 42:8.

C. All votes made by members of a public body shall be viva voce and shall be recorded in the minutes, journal, or other official, written proceedings of the body, which shall be a public document.

D. Except school boards, which shall be subject to R.S. 42:5.1, each public body conducting a meeting which is subject to the notice requirements of R.S. 42:7(A) shall provide an opportunity for public comment at such meeting, subject to reasonable rules, regulations, and restrictions as adopted by the public body.

§ 6. Executive Sessions

A public body may hold executive sessions upon an affirmative vote, taken at an open meeting for which notice has been given pursuant to R.S. 42:7, of two-thirds of its constituent members present. An executive session shall be limited to matters allowed to be exempted from discussion at open meetings by R.S. 42:6.1; however, no final or binding action shall be taken during an executive session. The vote of each member on the question of holding such an executive session and the reason for holding such an executive session shall be recorded and entered into the minutes of the meeting. Nothing in this Section or R.S. 42:6.1 shall be construed to require that any meeting be

closed to the public, nor shall any executive session be used as a subterfuge to defeat the purposes of R.S. 42:4.1 through R.S. 42:8.

§ 6.1. Exceptions to open meetings

A. A public body may hold an executive session pursuant to R.S. 42:6 for one or more of the following reasons:

(1) Discussion of the character, professional competence, or physical or mental health of a person, provided that such person is notified in writing at least twenty-four hours before the meeting and that such person may require that such discussion be held at an open meeting, and provided that nothing in this Subsection shall permit an executive session for discussion of the appointment of a person to a public body. In cases of extraordinary emergency, written notice to such person shall not be required; however, the public body shall give such notice as it deems appropriate and circumstances permit.

(2) Strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the public body.

(3) Discussion regarding the report, development, or course of action regarding security personnel, plans, or devices.

(4) Investigative proceedings regarding allegations of misconduct.

(5) Cases of extraordinary emergency, which shall be limited to natural disaster, threat of

epidemic, civil disturbances, suppression of insurrections, the repelling of invasions, or other matters of similar magnitude.

(6) Any meeting of the State Mineral Board at which records or matters entitled to confidential status by existing law are required to be considered or discussed by the board with its staff or with any employee or other individual, firm, or corporation to whom such records or matters are confidential in their nature, and are disclosed to and accepted by the board subject to such privilege, for the exclusive use in evaluating lease bids or development covering state-owned lands and water bottoms, which exception is provided pursuant to and consistently with the Public Records Act, being Chapter I of Title 44 of the Louisiana Revised Statutes of 1950, as amended, and other such statutes to which the board is subject.

(7) Discussions between a city or parish school board and individual students or the parents or tutors of such students, or both, who are within the jurisdiction of the respective school system, regarding problems of such students or their parents or tutors; provided however that any such parent, tutor, or student may require that such discussions be held in an open meeting.

(8) Presentations and discussions at meeting of civil service boards of test questions, answers, and papers produced and exhibited by the office of the state examiner, municipal fire and police civil service, pursuant to R.S. 33:2492 or 2552.

(9) The portion of any meeting of the Second Injury Board which records or

matters regarding regarding the settlement of a worker's compensation claim are required to be considered or discussed by the board with its staff in order to grant written approval as required by R.S. 23:1378(A)(8).

(10) Or any other matters now provided for or as may be provided for by the legislature.

B. The provisions of R.S. 42:4.1 through R.S. 42:12 shall not apply to judicial proceedings.

C. The provisions of R.S. 42:4.1 through R.S. 42:12 shall not prohibit the removal of any person or persons who willfully disrupt a meeting to the extent that orderly conduct of the meeting is seriously compromised.

D. The provisions of R.S. 42:7 and R.S. 42:7.1 shall not apply to any meeting of a private citizens' advisory group or a private citizens' advisory committee established by a public body, when the members of such group or committee do not receive any compensation and serve only in an advisory capacity, except textbook advisory committees of the State Department of Education or the Board of Elementary and Secondary Education. However, all other provisions contained in R.S. 42:4.1 through 42:12 shall be applicable to such group or committee and the public body which established such group or committee shall comply with the provisions of R.S. 42:7 in providing the required notice of meetings of such group or committee.

§ 7. Notice of meetings

A. (1)(a) All public bodies, except the legislature and its committees and subcommittees, shall give written public notice of their regular meetings, if established by law, resolution, or ordinance, at the beginning of each calendar year. Such notice shall include the dates, times, and places of such meetings.

(b)(i) All public bodies, except the legislature and its committees and subcommittees, shall give written public notice of any regular, special, or rescheduled meeting no later than twenty-four hours before the meeting.

(ii) Such notice shall include the agenda, date, time, and place of the meeting, provided that upon unanimous approval of the members present at a meeting of a public body, the public body may take up a matter not on the agenda. Any such matter shall be identified in the motion to take up the matter not on the agenda with reasonable specificity, including the purpose for the addition to the agenda, and entered into the minutes of the meeting. Prior to any vote on the motion to take up a matter not on the agenda by the public body, there shall be an opportunity for public comment on any such motion in accordance with R.S. 42:5 or 5.1. The public body shall not use its authority to take up a matter not on the agenda as a subterfuge to defeat the purpose of 42:4.1 through 8.

(iii) Following the above information there shall also be attached to the written public notice of the meeting, whether or not such matters will be discussed in an executive

session held pursuant to R.S. 42:6.1(A)(2):

(aa) A statement identifying the court, case number, and the parties relative to any pending litigation to be considered at the meeting.

(bb) A statement identifying the parties involved and reasonably identifying the subject matter of any prospective litigation for which formal written demand has been made that is to be considered at the meeting.

(iv) In cases of extraordinary emergency, such notice shall not be required; however, the public body shall give such notice of the meeting as it deems appropriate and circumstances permit.

(2) Written public notice given by all public bodies, except the legislature and its committees and subcommittees, shall include, but need not be limited to:

(a) Posting a copy of the notice at the principal office of the public body holding the meeting, or if no such office exists, at the building in which the meeting is to be held; or by publication of the notice in an official journal of the public body no less than twenty-four hours before the meeting.

(b) Mailing a copy of the notice to any member of the news media who requests notice of such meetings; any such member of the news media shall be given notice of all meetings in the same manner as is given to members of the public body.

B. Reasonable public notice of day to day sessions of either house of the legislature, and of all matters pertaining to such

meetings, including but not necessarily restricted to the content of notices, quorums for the transaction of business, proxy voting, viva-voce votes, and recordation of votes, shall be governed by the provisions of the Louisiana Constitution, the rules of procedure of the Senate and the House of Representatives, and the Joint Rules applicable to both houses. Reasonable public notice of meetings of legislative committees and subcommittees shall be given in accordance with such rules as are adopted by the respective houses for the purpose.

§ 7.1. Written minutes

A. All public bodies shall keep written minutes of all of their open meetings. The minutes to be kept by the legislature and legislative committees and subcommittees shall be governed by the provisions of R.S. 42:7.2. The minutes of all other public bodies shall include but need not be limited to:

- (1) The date, time, and place of the meeting.
- (2) The members of the public body recorded as either present or absent.
- (3) The substance of all matters decided, and, at the request of any member, a record, by individual member, of any votes taken.
- (4) Any other information that the public body requests be included or reflected in the minutes.

B. The minutes shall be public records and shall be available within a reasonable time after the meeting, except where such

disclosures would be inconsistent with R.S. 42:6, R.S. 42:6.1, and R.S. 42:6.2, or rules adopted under the provisions of R.S. 42:7.2.

R.S. 8. Sonic and video recordings; live broadcast

A. All or any part of the proceedings in a public meeting may be video or tape recorded, filmed, or broadcast live.

B. A public body shall establish standards for the use of lighting, recording or broadcasting equipment to insure proper decorum in a public meeting.

§ 9. Voidability

Any action taken in violation of R.S. 42:4.1 through R.S. 42:8 shall be voidable by a court of competent jurisdiction. A suit to void any action must be commenced within sixty days of the action.

§ 10. Enforcement

A. The attorney general shall enforce the provisions of R.S. 42:4.1 through R.S. 42:8 throughout the state. He may institute enforcement proceedings on his own initiative and shall institute such proceedings upon a complaint filed with him by any person, unless written reasons are given as to why the suit should not be filed.

B. Each district attorney shall enforce the provisions of R.S. 42:4.1 through R.S. 42:8 throughout the judicial district within which he serves. He may institute enforcement proceedings on his own initiative and shall institute such proceedings upon a complaint

filed with him by any person, unless written reasons are given as to why the suit should not be filed.

C. Any person who has been denied any right conferred by the provisions of R.S. 42:4.1 through R.S. 42:8 or who has reason to believe that the provisions of R.S. 42:4.1 through R.S. 42:8 have been violated may institute enforcement proceedings.

§ 11. Remedies; jurisdiction; authority; attorney fees

A. In any enforcement proceeding the plaintiff may seek and the court may grant any or all of the following forms of relief:

- (1) A writ of mandamus.
- (2) Injunctive relief.
- (3) Declaratory judgment.
- (4) Judgment rendering the action void as provided in R.S. 42:9.
- (5) Judgment awarding civil penalties as provided in R.S. 42:13.

B. In any enforcement proceeding the court has jurisdiction and authority to issue all necessary orders to require compliance with, or to prevent noncompliance with, or to declare the rights of parties under the provisions of R.S. 42:4.1 through R.S. 42:12. Any noncompliance with the orders of the court may be punished as contempt of court.

C. If a person who brings an enforcement proceeding prevails, he shall be awarded

reasonable attorney fees and other costs of litigation. If such person prevails in part, the court may award him reasonable attorney fees or an appropriate portion thereof. If the court finds that the proceeding was of a frivolous nature and was brought with no substantial justification, it may award reasonable attorney fees to the prevailing party.

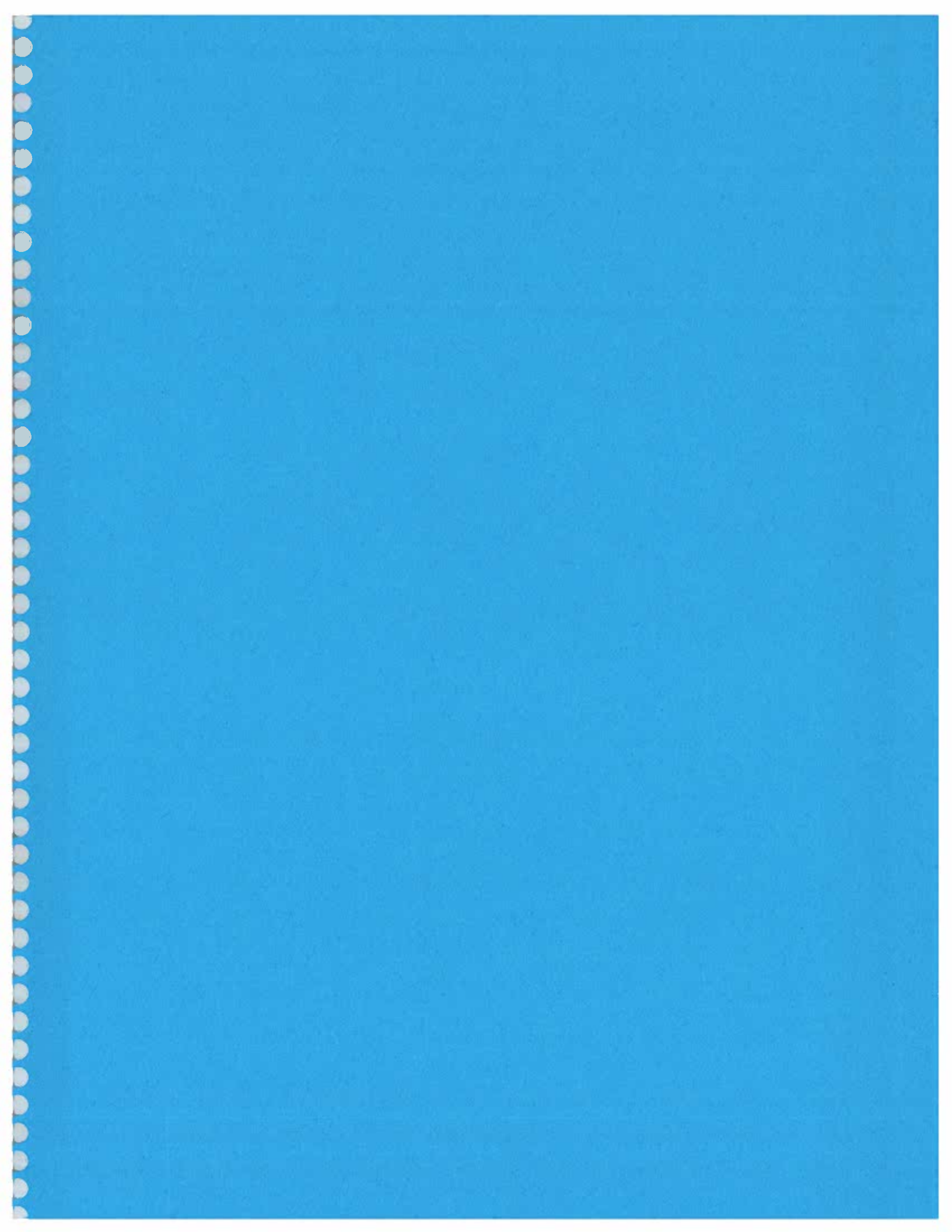
§ 12. Venue; summary proceedings

A. Enforcement proceedings shall be instituted in the district court for the parish in which the meeting took place or will take place.

B. Enforcement proceedings shall be tried by preference and in a summary manner. Any appellate court to which the proceeding is brought shall place it on its preferential docket, shall hear it without delay, and shall render a decision as soon as practicable.

R.S. 13. Civil penalties

Any member of a public body who knowingly and wilfully participates in a meeting conducted in violation of R.S. 42:4.1 through R.S. 42:8, shall be subject to a civil penalty not to exceed one hundred dollars per violation. The member shall be personally liable for the payment of such penalty. A suit to collect such penalty must be instituted within sixty days of the violation.





Administrative Procedure Act

**LOUISIANA REVISED STATUTES
TITLE 49. STATE ADMINISTRATION
CHAPTER 13. ADMINISTRATIVE
PROCEDURE**

§ 951. Definitions

As used in this Chapter:

(1) "Adjudication" means agency process for the formulation of a decision or order.

(2) "Agency" means each state board, commission, department, agency, officer, or other entity which makes rules, regulations, or policy, or formulates, or issues decisions or orders pursuant to, or as directed by, or in implementation of the constitution or laws of the United States or the constitution and statutes of Louisiana, except the legislature or any branch, committee, or officer thereof, any political subdivision, as defined in Article VI, Section 44 of the Louisiana Constitution, and any board, commission, department, agency, officer, or other entity thereof, and the courts.

(3) "Decision" or "order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of any agency, in any matter other than rulemaking, required by constitution or statute to be determined on the record after notice and opportunity for an agency hearing, and including non-revenue licensing, when the grant, denial, or renewal of a license is required by constitution or statute to be preceded by notice and opportunity for hearing.

(4) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(5) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency, except that an agency is a "person" for the purpose of appealing an administrative ruling in a disciplinary action brought pursuant to Title 37 of the Louisiana Revised Statutes of 1950 prior to the final adjudication of such disciplinary action.

(6) "Rule" means each agency statement, guide, or requirement for conduct or action, exclusive of those regulating only the internal management of the agency and those purporting to adopt, increase, or decrease any fees imposed on the affairs, actions, or persons regulated by the agency, which has general applicability and the effect of implementing or interpreting substantive law or policy, or which prescribes the procedure or practice requirements of the agency. "Rule" includes, but is not limited to, any provision for fines, prices or penalties, the attainment or loss of preferential status, and the criteria or qualifications for licensure or certification by an agency. A rule may be of general applicability even though it may not apply to the entire state, provided its form is general and it is capable of being applied to every member of an identifiable class. The term includes the amendment or repeal of an existing rule but does not include declaratory rulings or orders or any fees.

(7) "Rulemaking" means the process employed by an agency for the formulation of a rule. Except where the context clearly provides otherwise, the procedures for adoption of rules and of emergency rules as provided in R.S. 49:953 shall also apply to adoption of fees. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in an

agency decision upon or disposition of a particular matter as applied to a specific set of facts involved does not render the same a rule within this definition or constitute specific adoption thereof by the agency so as to be required to be issued and filed as provided in this Subsection.

§ 952. Public information; adoption of rules; availability of rules and orders

Each agency which engages in rulemaking shall:

(1) File with the Department of the State Register a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

(2) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available.

(3) Make available for public inspection all rules, preambles, responses to comments, and submissions and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions and publish an index of such rules, preambles, responses to comments, submissions, statements, and interpretations on a regular basis.

(4) Make available for public inspection all final orders, decisions, and opinions.

§ 953. Procedure for adoption of rules

A. Prior to the adoption, amendment, or repeal of any rule, the agency shall:

(1)(a) Give notice of its intended action and a copy of the proposed rules at least ninety days prior to taking action on the rule. The notice shall include:

(i) A statement of either the terms or substance of the intended action or a description of the subjects and issues involved;

(ii) A statement, approved by the legislative fiscal office, of the fiscal impact of the intended action, if any; or a statement, approved by the legislative fiscal office, that no fiscal impact will result from such proposed action;

(iii) A statement, approved by the legislative fiscal office, of the economic impact of the intended action, if any; or a statement, approved by the legislative fiscal office, that no economic impact will result from such proposed action;

(iv) The name of the person within the agency who has the responsibility for responding to inquiries about the intended action;

(v) The time when, the place where, and the manner in which interested persons may present their views thereon; and

(vi) A statement that the intended action complies with the statutory law administered by the agency, including a citation of the enabling legislation.

(vii) A statement indicating whether the agency has prepared a preamble which explains the basis and rationale for the intended action, summarizes the information

and data supporting the intended action, and provides information concerning how the preamble may be obtained.

(viii) A statement concerning the impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

(b)(i) The notice shall be published at least once in the Louisiana Register and shall be submitted with a full text of the proposed rule to the Louisiana Register at least one hundred days prior to the date the agency will take action on the rule.

(ii) Upon publication of the notice, copies of the full text of the proposed rule shall be available from the agency proposing the rule upon written request within two working days.

(c) Notice of the intent of an agency to adopt, amend, or repeal any rule and the approved fiscal and economic impact statements, as provided for in this Subsection, shall be mailed to all persons who have made timely request of the agency for such notice, which notice and statements shall be mailed at the earliest possible date, and in no case later than ten days after the date when the proposed rule change is submitted to the Louisiana Register.

(d) For the purpose of timely notice as required by this Paragraph, the date of notice shall be deemed to be the date of publication of the issue of the Louisiana Register in which the notice appears, such publication date to be the publication date as stated on the outside cover or the first page of said issue.

(2) (a) Afford all interested persons reasonable opportunity to submit data, views, comments, or arguments, orally or in writing. In case of substantive rules, opportunity for oral presentation or argument must be granted if requested within twenty days after publication of the rule as provided in this Subsection, by twenty-five persons, by a governmental subdivision or agency, by an association having not less than twenty-five members, or by a committee of either house of the legislature to which the proposed rule change has been referred under the provisions of R.S. 49:968.

(b) (i) Make available to all interested persons copies of any rule intended for adoption, amendment, or repeal from the time the notice of its intended action is published in the Louisiana Register. Any hearing pursuant to the provisions of this Paragraph shall be held no earlier than thirty-five days and no later than forty days after the publication of the Louisiana Register in which the notice of the intended action appears. The agency shall consider fully all written and oral comments and submissions respecting the proposed rule.

(ii) The agency shall issue a response to comments and submissions describing the principal reasons for and against adoption of any amendments or changes suggested in the written or oral comments and submissions. In addition to the response to comments, the agency may prepare a preamble explaining the basis and rationale for the rule, identifying the data and evidence upon which the rule is based, and responding to comments and submissions. Such preamble and response to comments and submissions

shall be furnished to the respective legislative oversight subcommittees at least five days prior to the day the legislative oversight subcommittee hearing is to be held on the proposed rule, and shall be made available to interested persons no later than one day following their submission to the appropriate legislative oversight subcommittee. If no legislative oversight hearing is to be held, the agency shall issue a response to comments and submissions and preamble, if any, to any person who presented comments or submissions on the rule and to any requesting person not later than fifteen days prior to the time of publication of the final rule.

(iii) The agency shall, upon request, make available to interested persons the report submitted pursuant to R.S. 49:968(D) no later than one working day following the submittal of such report to the legislative oversight subcommittees.

(3)(a) For the purposes of this Subsection, the statement of fiscal impact shall be prepared by the proposing agency and submitted to the Legislative Fiscal Office for its approval. Such fiscal impact statement shall include a statement of the receipt, expenditure, or allocation of state funds or funds of any political subdivision of the state.

(b) For the purposes of this Subsection, the statement of economic impact shall be prepared by the proposing agency and submitted to the Legislative Fiscal Office for its approval. Such economic impact statements shall include an estimate of the cost to the agency to implement the proposed action, including the estimated

amount of paperwork; an estimate of the cost or economic benefit to all persons directly affected by the proposed action; an estimate of the impact of the proposed action on competition and the open market for employment, if applicable; and a detailed statement of the data, assumptions, and methods used in making each of the above estimates.

B. (1) If an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon shorter notice than that provided in Subsection A of this Section and within five days of adoption states in writing to the governor of the state of Louisiana, the attorney general of Louisiana, the speaker of the House of Representatives, the president of the Senate, and the Department of the State Register, its reasons for that finding, it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule. The provisions of this Paragraph also shall apply to the extent necessary to avoid sanctions or penalties from the United States, or to avoid a budget deficit in the case of medical assistance programs or to secure new or enhanced federal funding in medical assistance programs. The agency statement of its reason for finding it necessary to adopt an emergency rule shall include specific reasons why the failure to adopt the rule on an emergency basis would result in imminent peril to the public health, safety, or welfare, or specific reasons why the emergency rule meets other criteria provided in this Paragraph for adoption of an emergency rule.

(2) Notice of the emergency rule shall be mailed to all persons who have made timely request of the agency for notice of rule changes, which notice shall be mailed within five days of adoption of the emergency rule. The office of the state register may omit from the Louisiana Register any emergency rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the emergency rule in printed or processed form is made available on application to the adopting agency, and if the Louisiana Register contains a notice stating the general subject matter of the omitted emergency rule, the reasons for the finding of the emergency submitted by the agency, and stating how a copy thereof may be obtained.

(3) The validity of an emergency rule or fee may be determined in an action for declaratory judgment in the district court of the parish in which the agency is located. The agency shall be made a party to the action. An action for a declaratory judgment under this Paragraph may be brought only by a person to whom such rule or fee is applicable or who would be adversely affected by such rule or fee and only on the grounds that the rule or fee does not meet the criteria for adoption of an emergency rule as provided in Paragraph (1) of this Subsection. The court shall declare the rule or fee invalid if it finds that there is not sufficient evidence that such rule or fee must be adopted on an emergency basis for one or more of the reasons for adoption of an emergency rule as provided in Paragraph (1) of this Subsection. Notwithstanding any other provision of law to the contrary, the emergency rule or fee shall remain in effect until such declaratory judgment is rendered.

The provisions of R.S. 49:963 shall not apply to any action brought pursuant to this Paragraph. The provisions of this Paragraph are in addition to R.S. 49:963 and shall not limit any action pursuant to R.S. 49:963.

(4)(a) Within sixty days after adoption of an emergency rule or fee, an oversight subcommittee of either house may conduct a hearing to review the emergency rule or fee and make a determination of whether such rule or fee meets the criteria for an emergency rule or fee as provided in Paragraph (1) of this Subsection and those determinations as provided in R.S. 49:968(D)(3). If within such time period an oversight subcommittee finds an emergency rule or fee unacceptable, it shall prepare a written report containing a copy of the proposed rule or proposed fee action and a summary of the determinations made by the committee and transmit copies thereof as provided in R.S. 49:968(F)(2).

(b) Within sixty days after adoption of an emergency rule or fee, the governor may review such rule or fee and make the determinations as provided in Subparagraph (a) of this Paragraph. If within such time period the governor finds an emergency rule or fee unacceptable, he shall prepare a written report as provided in Subparagraph (a) and transmit copies thereof to the agency proposing the rule change and the Louisiana Register no later than four days after the governor makes his determination.

(c) Upon receipt by the agency of a report as provided in either Subparagraph (a) or (b) of this Paragraph, the rule or fee shall be nullified and shall be without effect.

C. An interested person may petition an agency requesting the adoption, amendment, or repeal of a rule. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rule making proceedings in accordance with this Chapter.

D. When a rule is adopted, amended, or repealed in compliance with federal regulations, the adopting agency's notice of intent and the actual text of the rule as published in the Louisiana Register, must be accompanied by a citation of the Federal Register issue in which the determining federal regulation is published, such citation to be by volume, number, date, and page number.

E. Beginning January 1, 1987, no agency shall adopt, amend, or repeal any rule if the accompanying fiscal impact statement approved by the Legislative Fiscal Office indicates that said rule change would result in any increase in the expenditure of state funds, unless said rule is adopted as an emergency rule pursuant to the requirements of this Section or unless the legislature has specifically appropriated the funds necessary for the expenditures associated with said rule change.

F. (1) Notwithstanding any other provision of this Chapter to the contrary, if the Department of Environmental Quality proposes a rule that is not identical to a federal law or regulation or is not required for compliance with a federal law or

regulation, the Department of Environmental Quality shall adopt and promulgate such proposed rule separately from any proposed rule or set of proposed rules that is identical to a federal law or regulation or required for compliance with a federal law or regulation. However, if the only difference between the proposed rule or set of proposed rules and the corresponding federal law or regulation is a proposed fee, the Department of Environmental Quality shall not be required to adopt and promulgate such proposed rule or set of proposed rules separately. For purposes of this Subsection, the term "identical" shall mean that the proposed rule has the same content and meaning as the corresponding federal law or regulation.

(2) When the Department of Environmental Quality proposes a rule that is not identical to a corresponding federal law or regulation, or is not required for compliance with a federal law or regulation, the Department of Environmental Quality shall provide a brief summary which explains the basis and rationale for the proposed rule, identifies the data and evidence, if any, upon which the rule is based, and identifies any portions of the proposed rule that differ from federal law or regulation if there is a federal law or regulation which is not identical but which corresponds substantially to the proposed rule. Such summary shall be provided along with the notice of intent and shall be published in the Louisiana Register or made available along with the proposed rule as provided in Item A(1)(b)(ii) of this section. The Department of Environmental Quality may also provide such a summary when proposing a rule identical to a corresponding federal law or regulation or proposing a rule which is required for compliance with

federal law or regulation to explain the basis and rationale for the proposed rule.

(3) Notwithstanding any other provision of this Chapter to the contrary, when the Department of Environmental Quality proposes a rule that is identical to a federal law or regulation applicable in Louisiana, except as provided in Paragraph (4) of this Subsection, it may use the following procedure for the adoption of the rule:

(a) The department shall publish a notice of the proposed rule at least sixty days prior to taking action on the rule as provided below. The notice, which may include an explanation of the basis and rationale for the proposed rule, shall include all of the following:

(i) A statement of either the terms or substance of the intended action or a description of the subjects and issues involved.

(ii) A statement that no fiscal or economic impact will result from the proposed rule.

(iii) The name of the person within the department who has responsibility for responding to inquiries about the intended action.

(iv) The time, place, and manner in which interested persons may present their views thereon including the notice for a public hearing required by R.S. 30:2011(D)(1).

(v) A statement that the intended action complies with the law administered by the department, including a citation of the specific provision, or provisions, of law

which authorize the proposed rule.

(b) Notice of the proposed rule shall be published at least once in the Louisiana Register and shall be submitted with a full text of the proposed rule to the Louisiana Register at least seventy days prior to the date the department proposes to formally adopt the rule. The office of the state register may omit from the Louisiana Register any such proposed rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the Louisiana Register contains a notice stating the general subject matter of the omitted proposed rule, the process being employed by the department for adoption of the proposed rule, and stating how a copy of the proposed rule may be obtained.

(c) Notice of the intent of the department to adopt the rule shall be mailed to all persons who have made timely request for such notice, which notice shall be mailed at the earliest possible date, and in no case later than ten days after the date when the proposed rule is submitted to the Louisiana Register.

(d) For the purpose of timely notice as required by this Paragraph, the date of notice shall be deemed to be the date of publication of the issue of the Louisiana Register in which the notice appears, such publication date to be the publication date as stated on the outside cover or the first page of said issue.

(e) The department shall afford all interested persons an opportunity to submit data, views, comments, or arguments related to

the proposed rule, in writing, during a period of no less than thirty days. The department shall consider fully all written comments and submissions respecting the proposed rule.

(f) The department shall make available to all interested persons copies of the proposed rule from the time the notice of its adoption is published in the Louisiana Register.

(g) The department shall issue a response to comments and submissions describing the principal reasons for and against adoption of any amendments or changes suggested in the written comments and submissions and specifically addressing any assertion that the proposed rule is not identical to the federal law or regulation upon which it is based. The department shall issue such response to comments and submissions to any person who presented comments or submissions on the rule and to any requesting person no later than fifteen days prior to the time of publication of the final rule.

(h) No later than fifteen days prior to the time of publication of the final rule in the Louisiana Register, the secretary or any authorized assistant secretary of the department shall (i) certify, under oath, to the governor of the state of Louisiana, the attorney general of Louisiana, the speaker of the House of Representatives, the president of the Senate, the chairman of the House Committee on the Environment, the chairman of the Senate Committee on Environmental Quality, and the office of the state register that the proposed rule is identical to a specified federal law or regulation applicable in Louisiana and (ii) furnish the chairman of the Senate

Committee on Environmental Quality and the chairman of the House Committee on the Environment the response to comments and submissions required under Subparagraph (g) of this Paragraph, together with a copy of the notice required under Subparagraph (a) of this Paragraph.

(i) Unless specifically requested, in writing, by the chairman of the House Committee on the Environment or the chairman of the Senate Committee on Environmental Quality within ten days of the certification provided under Subparagraph (h) of this Paragraph, there shall be no legislative oversight of the proposed rule. If, however, legislative oversight is properly requested, R.S. 49:968 and Items A(2)(b)(ii) and (iii) of this Section, shall thereafter apply with respect to the proposed rule.

(j) In the absence of legislative oversight, the proposed rule may be adopted by the Department of Environmental Quality no earlier than sixty days, nor later than twelve months, after the official notice of the proposed rule was published in the Louisiana Register; provided, however, that the proposed rule shall be effective upon its publication in the Louisiana Register, said publication to be subsequent to the act of adoption.

(4) The procedures set forth in Paragraph (3) of this Subsection for the adoption by the Department of Environmental Quality of rules identical to federal laws or regulations applicable in Louisiana shall not be available for the adoption of any rules creating or increasing fees.

G. (1) Prior to or concurrent with publishing notice of any proposed policy, standard, or regulation pursuant to Subsection A of this Section and prior to promulgating any policy, standard, or final regulation whether pursuant to R.S. 49:954 or otherwise under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the Department of Environmental Quality, after August 15, 1995, shall publish a report, or a summary of the report, in the Louisiana Register which includes:

(a) A statement identifying the specific risks being addressed by the policy, standard, or regulation and any published, peer-reviewed scientific literature used by the department to characterize the risks.

(b) A comparative analysis of the risks addressed by the policy, standard, or regulation relative to other risks of a similar or analogous nature to which the public is routinely exposed.

(c) An analysis based upon published, readily available peer-reviewed scientific literature, describing how the proposed and final policy, standard, or regulation will advance the purpose of protecting human health or the environment against the specified identified risks.

(d) An analysis and statement that, based on the best readily available data, the proposed or final policy, standard, or regulation presents the most cost-effective method practically achievable to produce the benefits intended regarding the risks identified in Subparagraph (a) of this Paragraph.

(2) No regulation shall become effective until the secretary complies with the requirements of Paragraph (1) of this Subsection.

(3) This provision shall not apply in those cases where the policy, standard, or regulation:

(a) Is required for compliance with a federal law or regulation.

(b) Is identical to a federal law or regulation applicable in Louisiana.

(c) Will cost the state and affected persons less than one million dollars, in the aggregate, to implement.

(d) Is an emergency rule under Subsection B of this Section.

(4) For purposes of this Subsection, the term "identical" shall mean that the proposed rule has the same content and meaning as the corresponding federal law or regulation.

(5) In complying with this Section, the department shall consider any scientific and economic studies or data timely provided by interested parties which are relevant to the issues addressed herein and the proposed policy, standard, or regulation being considered.

§ 954. Filing; taking effect of rules

A. No rule adopted on or after January 1, 1975, is valid unless adopted in substantial compliance with this Chapter. Each rule making agency shall file a certified copy of its rules with the Department of the State

Register. No rule, whether adopted before, on, or after January 1, 1975, shall be effective, nor may it be enforced, unless it has been properly filed with the Department of the State Register. No rule, adopted on or after November 1, 1978, shall be effective, nor may it be enforced, unless prior to its adoption a report relative to the proposed rule change is submitted to the appropriate standing committee of the legislature or to the presiding officers of the respective houses as provided in R.S. 49:968. No rule, adopted on or after September 12, 1980, shall be effective, nor may it be enforced, unless the approved economic and fiscal impact statements, as provided R.S. 49:953A, have been filed with the Department of State Register and published in the Louisiana Register. The inadvertent failure to mail notice and statements to persons making request for such mail notice, as provided in R.S. 49:953, shall not invalidate any rule adopted hereunder. A proceeding under R.S. 49:963 to contest any rule on the grounds of noncompliance with the procedures for adoption, as given in this Chapter, must be commenced within two years from the date upon which the rule became effective.

B. Each rule hereafter adopted shall be effective upon its publication in the Louisiana Register, said publication to be subsequent to the act of adoption, except that:

- (1) If a later date is required by statute or specified in the rule, the later day is the effective date.
- (2) Subject to applicable constitutional or statutory provisions, an emergency rule shall

become effective on the date of its adoption, or on a date specified by the agency to be not more than sixty days future from the date of its adoption, provided written notice is given within five days of the date of adoption to the governor of Louisiana, the attorney general of Louisiana, the speaker of the House of Representatives, and the president of the Senate, and the Department of the State Register as provided in R.S. 49:953(B). Such emergency rule shall not remain in effect beyond the publication date of the Louisiana Register published in the month following the month in which the emergency rule is adopted, unless such rule and the reasons for adoption thereof are published in said issue; provided, however, that any emergency rule so published shall not be effective for a period longer than one hundred twenty days, except as provided by R.S. 49:967 (D), but the adoption of an identical rule under Paragraphs (1), (2) and (3) of Subsection A of R.S. 49:953 is not precluded. The agency shall take appropriate measures to make emergency rules known to the persons who may be affected by them.

§ 954.1. Louisiana Administrative Code and Louisiana Register; publication; distribution; copies; index; interagency rules

A. The Department of the State Register shall compile, index, and publish a publication to be known as the Louisiana Administrative Code, containing all effective rules adopted by each agency subject to the provisions of this Chapter, and all boards, commissions, agencies and departments of the executive branch, notwithstanding any other provision of law

to the contrary. The Louisiana Administrative Code shall also contain all executive orders issued by the governor on or after May 9, 1972, which are in effect at the time the Louisiana Administrative Code is published. The Louisiana Administrative Code shall be supplemented or revised as often as necessary and at least once every two years.

B. The Department of the State Register shall publish at least once each month a bulletin to be known as the Louisiana Register which shall set forth the text of all rules filed during the preceding month and such notices as shall have been submitted pursuant to this Chapter. It shall also set forth all executive orders of the governor issued during the preceding month and a summary or digest of and fiscal note prepared for each such order as required by the provisions of R.S. 49:215. In addition, the Department of the State Register may include in the Louisiana Register digests or summaries of new or proposed rules; however, if any conflict should arise between the written digest of a rule and the rule, the rule shall take precedence over the written digest.

C. The Department of the State Register shall publish such rules, notices, statements, and other such matters as submitted by the rulemaking agency without regard to their validity. However, the State Register may omit from the Louisiana Register or Louisiana Administrative Code any rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the rule in printed or processed form is made available on application to the adopting agency, and if the

Louisiana Register or Louisiana Administrative Code, as the case may be, contains a notice stating the general subject matter of the omitted rule and stating how a copy thereof may be obtained.

D. One copy, or multiple copies if practical, of the Louisiana Register and Louisiana Administrative Code shall be made available upon request to state depository libraries free of charge, and to other agencies or persons at prices fixed by the department of the state register to recover all or a portion of the mailing and publication costs.

Notwithstanding the provisions of R.S. 49:951(2) of this Chapter to the contrary, the department of the state register shall provide free copies of the Louisiana Register and the Louisiana Administrative Code to the David R. Poynter Legislative Research Library, the Senate Law Library, and the Huey P. Long Memorial Law Library.

E. The Department of the State Register shall prescribe a uniform system of indexing, numbering, arrangement of text and citation of authority and history notes for the Louisiana Administrative Code.

F. The Department of the State Register may publish advertisements for bids and other legal notices in the Louisiana Register in addition to other publications thereof required by law.

G. The Department of the State Register is hereby authorized and empowered to promulgate and enforce interagency rules for the implementation and administration of this Section.

H. The governor shall be the publisher of the Louisiana Administrative Code and Louisiana Register provided for through the Department of the State Register.

§ 955. Adjudication; notice; hearing; records

A. In an adjudication, all parties who do not waive their rights shall be afforded an opportunity for hearing after reasonable notice.

B. The notice shall include:

- (1) A statement of the time, place, and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and rules involved;
- (4) A short and plain statement of the matters asserted.

If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

C. Opportunity shall be afforded all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

D. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default.

E. The record in a case of adjudication shall include:

- (1) All pleadings, motions, intermediate rulings;
- (2) Evidence received or considered or a resume thereof if not transcribed;
- (3) A statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;
- (4) Offers of proof, objections, and rulings thereon;
- (5) Proposed findings and exceptions;
- (6) Any decision, opinion, or report by the officer presiding at the hearing.

F. The agency shall make a full transcript of all proceedings before it when the statute governing it requires it, and, in the absence of such requirement, shall, at the request of any party or person, have prepared and furnish him with a copy of the transcript or any part thereof upon payment of the cost thereof unless the governing statute or constitution provides that it shall be furnished without cost.

G. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

§ 956. Rules of evidence; official notice; oaths and affirmations; subpoenas; depositions and discovery; and confidential privileged information

In adjudication proceedings:

(1) Agencies may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. Agencies may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(2) All evidence, including records and documents in the possession of the agency of which it desires to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.

(3) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or

otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(4) Any agency or its subordinate presiding officer conducting a proceeding subject to this Chapter shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing of briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues.

(5)(a) Any agency or its subordinate presiding officer shall have power to sign and issue subpoenas in the name of the agency requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

(b) A subpoena issued pursuant to this Section shall be served by any agent of the agency, by the sheriff, by any other officer authorized by law to serve process in this state, by certified mail, return receipt requested, or by any person who is not a party and who is at least eighteen years of age. Witnesses subpoenaed to testify before an agency only to an opinion founded on special study or experience in any branch of

science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witness as may be fixed by the agency with reference to the value of the time employed and the degree of learning or skill required.

(c) Whenever any person summoned under this Section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the agency may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. It shall be the duty of the judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him, to proceed to a hearing of the case; and upon such hearing, the judge shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

(6) The agency or a subordinate presiding officer or any party to a proceeding before it may take the depositions of witnesses, within or without the state and may conduct discovery in all manners as provided by law in civil actions. Depositions so taken and admissions, responses, and evidence produced pursuant to discovery shall be admissible in any proceeding affected by this Chapter. The admission of such depositions, admissions, responses, and

evidence may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the agency or presiding officer in accordance with the rules of evidence provided in this Chapter.

(7) Repealed by Acts 1995, No. 760, § 2, eff. June 27, 1995.

(8)(a) Records and documents, in the possession of any agency or of any officer or employee thereof including any written conclusions drawn therefrom, which are deemed confidential and privileged shall not be made available for adjudication proceedings of that agency and shall not be subject to subpoena by any person or other state or federal agency.

(b) Such records or documents shall only include any private contracts, geological and geophysical information and data, trade secrets and commercial or financial data, which are obtained by an agency through a voluntary agreement between the agency and any person, which said records and documents are designated as confidential and privileged by the parties when obtained, or records and documents which are specifically exempt from disclosure by statute.

(c) Any violation of this prohibition shall be a waiver of governmental immunity from suit for damage resulting from any such disclosure.

(d) Notwithstanding the provisions of Subparagraphs (a) and (c) of this Paragraph, the state boards and agencies identified in R.S. 13:3715.1(J) may make available and use records and documents, including any

written conclusions drawn therefrom, which are otherwise deemed confidential or privileged and which are in the possession of such board or agency or any officer, employee, or agent thereof, or any attorney acting on its behalf in any adjudication proceedings of such agency, provided that in any case involving medical or patient records, the identity of any patient shall be maintained in confidence. Any such records shall be altered so as to prevent the disclosure of the identity of the patient to whom such records or testimony relates. Disclosure by such board or agency or any officer, employee, agent, or attorney acting on behalf of any of them, of any material otherwise deemed privileged or confidential under state law, which is made in response to a federal subpoena, shall not constitute a waiver of governmental immunity from suit for damages resulting from such disclosure. Such boards and agencies, including their officers, employees, agents, and attorneys, shall nevertheless assert any privilege which is recognized and applicable under federal law when responding to any such federal subpoena.

§ 957. Examination of evidence by agency

When in an adjudication proceeding a majority of the officials of the agency who are to render the final decision have not heard the case or read the record, or the proposed order is not prepared by a member of the agency, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made final until a proposed order is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the

officials who are to render the decision. The proposed order shall be accompanied by a statement of the reasons therefor and of the disposition of each issue of fact or law necessary to the proposed order, prepared by the person who conducted the hearing or by one who has read the record. No sanction shall be imposed or order be issued except upon consideration of the whole record and as supported by and in accordance with the reliable, probative, and substantial evidence. The parties by written stipulation may waive, and the agency in the event there is no contest may eliminate, compliance with this Section.

§ 958. Decisions and orders

A final decision or order adverse to a party in an adjudication proceeding shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record. The parties by written stipulation may waive, and the agency in the event there is no contest may eliminate, compliance with this Section.

§ 959. Rehearings

A. A decision or order in a case of

adjudication shall be subject to rehearing, reopening, or reconsideration by the agency, within ten days from the date of its entry. The grounds for such action shall be either that:

- (1) The decision or order is clearly contrary to the law and the evidence;
- (2) The party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing;
- (3) There is a showing that issues not previously considered ought to be examined in order properly to dispose of the matter; or
- (4) There is other good ground for further consideration of the issues and the evidence in the public interest.

B. The petition of a party for rehearing, reconsideration, or review, and the order of the agency granting it, shall set forth the grounds which justify such action. Nothing in this Section shall prevent rehearing, reopening or reconsideration of a matter by any agency in accordance with other statutory provisions applicable to such agency, or, at any time, on the ground of fraud practiced by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence. On reconsideration, reopening, or rehearing, the matter may be heard by the agency, or it may be referred to a subordinate deciding officer. The hearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing shall be timely filed, the period within which judicial

review, under the applicable statute, must be sought, shall run from the final disposition of such application.

§ 960. Ex parte consultations and recusations

A. Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a case of adjudication noticed and docketed for hearing shall not communicate, directly or indirectly, in connection with any issue of fact or law, with any party or his representative, or with any officer, employee, or agent engaged in the performance of investigative, prosecuting, or advocating functions, except upon notice and opportunity for all parties to participate.

B. A subordinate deciding officer or agency member shall withdraw from any adjudicative proceeding in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of a subordinate deciding officer or agency member, on the ground of his inability to give a fair and impartial hearing, by filing an affidavit, promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the agency, or, if it affects a member or members of the agency, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a subordinate deciding officer, the agency shall assign another in his stead or shall

conduct the hearing itself. Upon the disqualification of a member of an agency, the governor immediately shall appoint a member pro tem to sit in place of the disqualified member in that proceeding. In further action, after the disqualification of a member of an agency, the provisions of R.S. 49:957 shall apply.

§ 961. Licenses

A. When the grant, denial, or renewal of a license is required to be preceded by notice and opportunity for hearing, the provisions of this Chapter concerning adjudication shall apply.

B. When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

C. No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gives notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered

pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

§ 962. Declaratory orders and rulings

Each agency shall provide by rule for the filing and prompt disposition of petitions for declaratory orders and rulings as to the applicability of any statutory provision or of any rule or order of the agency. Declaratory orders and rulings shall have the same status as agency decisions or orders in adjudicated cases.

§ 963. Judicial review of validity or applicability of rules

A. (1) The validity or applicability of a rule may be determined in an action for declaratory judgment in the district court of the parish in which the agency is located.

(2) The agency shall be made a party to the action.

B. (1) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court.

(2) The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

C. The court shall declare the rule invalid or inapplicable if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without substantial compliance with required rulemaking procedures.

D. An action for a declaratory judgment under this Section may be brought only after the plaintiff has requested the agency to pass upon the validity or applicability of the rule in question and only upon a showing that review of the validity and applicability of the rule in conjunction with review of a final agency decision in a contested adjudicated case would not provide an adequate remedy and would inflict irreparable injury.

E. Upon a determination by the court that any statement, guide, requirement, circular, directive, explanation, interpretation, guideline, or similar measure constitutes a rule as defined by R.S. 49:951(6) and that such measure has not been properly adopted and promulgated pursuant to this Chapter, the court shall declare the measure invalid and inapplicable. It shall not be necessary that all administrative remedies be exhausted.

§ 964. Judicial review of adjudication

A. (1) Except as provided in R.S. 15:1171 through 1177, a person who is aggrieved by a final decision or order in an adjudication proceeding is entitled to judicial review under this Chapter whether or not he has applied to the agency for rehearing, without limiting, however, utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary,

procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy and would inflict irreparable injury.

(2) No agency or official thereof, or other person acting on behalf of an agency or official thereof shall be entitled to judicial review under this Chapter.

B. Proceedings for review may be instituted by filing a petition in the district court of the parish in which the agency is located within thirty days after mailing of notice of the final decision by the agency or, if a rehearing is requested, within thirty days after the decision thereon. Copies of the petition shall be served upon the agency and all parties of record.

C. The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay ex parte upon appropriate terms, except as otherwise provided by Title 37 of the Louisiana Revised Statutes of 1950, relative to professions and occupations. The court may require that the stay be granted in accordance with the local rules of the reviewing court pertaining to injunctive relief and the issuance of temporary restraining orders.

D. Within thirty days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be

shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

E. If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

F. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

G. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

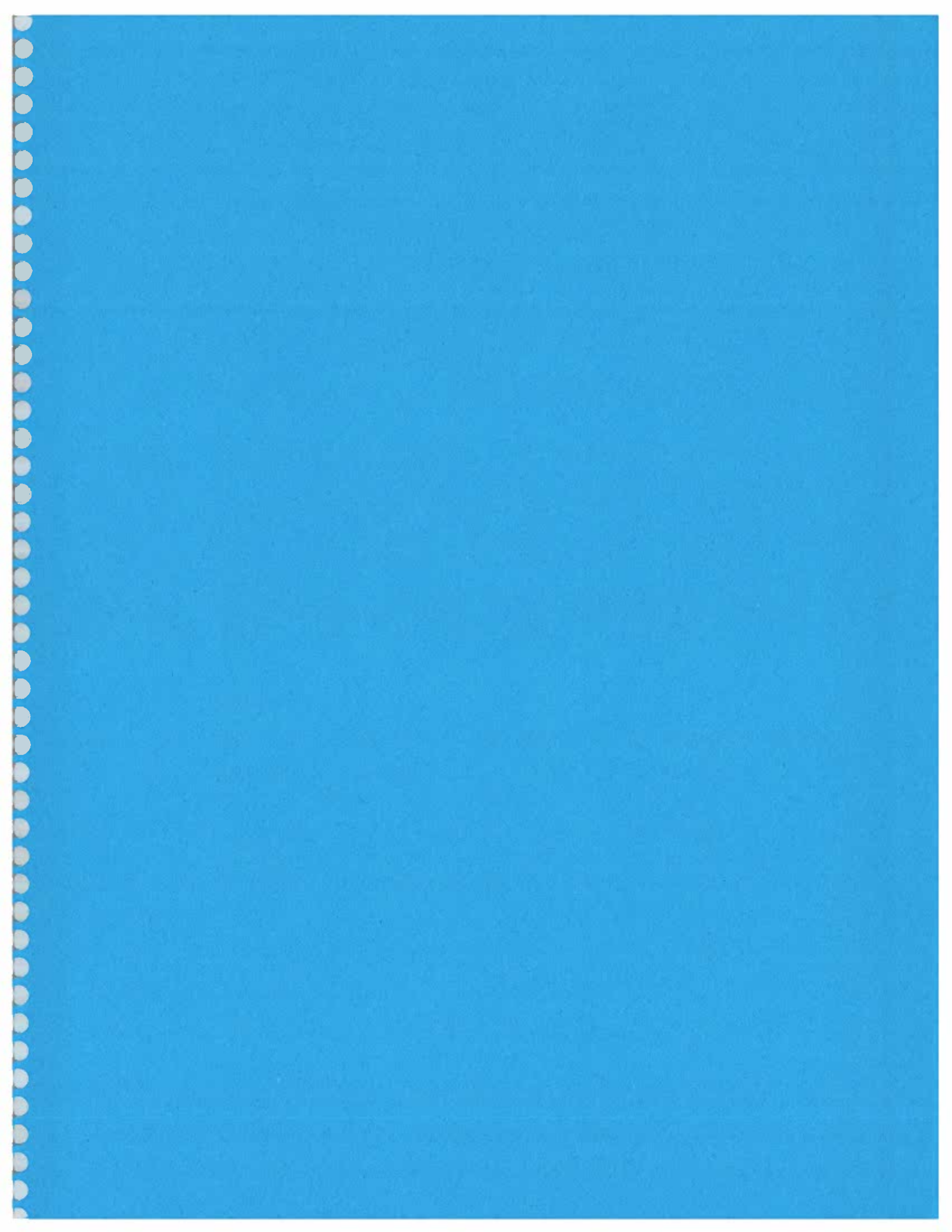
- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the

agency;

- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (6) Not supported and sustainable by a preponderance of evidence as determined by the reviewing court. In the application of this rule, the court shall make its own determination and conclusions of fact by a preponderance of evidence based upon its own evaluation of the record reviewed in its entirety upon judicial review. In the application of the rule, where the agency has the opportunity to judge the credibility of witnesses by first-hand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.

§ 965. Appeals

An aggrieved party may obtain a review of any final judgment of the district court by appeal to the appropriate circuit court of appeal. The appeal shall be taken as in other civil cases.





Video Draw Poker Device Law

**LOUISIANA REVISED STATUTES
TITLE 27. LOUISIANA GAMING
CONTROL LAW
CHAPTER 6. VIDEO DRAW POKER
DEVICES**

Current through all 2008 Regular and
Extraordinary Session Acts

§ 301. Short title and definitions

A. This Chapter shall be known and may be cited as the "Video Draw Poker Devices Control Law".

B. As used in this Chapter, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise:

(1) "Certified technicians level ones" means qualified service personnel trained by a manufacturer, distributor, or other qualified entity, or in a training program approved by the division, who are capable of clearing paper or money jams, changing paper contained within the video draw poker devices, or retrieving money from video draw poker devices.

(2) "Certified technicians level two" means qualified service personnel trained by a manufacturer, distributor, or other qualified entity, or in a training program approved by the division, who are capable of clearing paper or money jams, changing paper contained within the video draw poker devices, or retrieving money from video draw poker devices, performing any repairs, parts replacements, maintenance, cleaning, and other matters related to servicing of video draw poker devices.

(3) "Device operation" means the privilege of operating a video draw poker device in accordance with the provisions of this Chapter.

(4) "Device owner" means a person other than a distributor, who owns and operates, maintains, repairs, or services one or more video draw poker devices in licensed establishments.

(5) "Distributor" means any person who buys, sells, leases, services, or repairs video draw poker devices and provides a facility for the inspection of those devices as required by the division.

(6) "Division" means the video gaming division of the gaming enforcement section of the office of state police within the Department of Public Safety and Corrections.

(7) "Hotel" or "motel" means an operating commercial establishment which possesses all appropriate licensing as a hotel or motel and which is engaged primarily in the renting of rooms, generally at a daily rate basis, which provides overnight lodging to the general public.

(7.1) "Institutional investor" means a person that is:

(a) A plan or trust established and maintained by the United States Government, a state, a political subdivision of a state for the benefit of their respective employees.

(b) An investment company that is registered under the Investment Company Act of 1940.

(c) A collective investment trust organized by a bank under Part Nine of the rules of the Comptroller of the Currency.

(d) A closed end investment trust registered with the United States Securities and Exchange Commission.

(e) A mutual fund.

(f) A life insurance company or property and casualty insurance company.

(g) A federal or state bank.

(h) An investment advisor registered under the Investment Advisors Act of 1940.

(8) "Licensed establishment" means an establishment that has a Class A-- General retail permit or a Class A--Restaurant permit as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, for the sale of alcoholic beverages for on-premises consumption or a Louisiana state racing commission licensed race track, pari-mutuel wagering facility, or offtrack wagering facility, or a qualified truck stop facility as defined in R.S. 27:306. Licensed establishment shall not include any premises leased to or utilized by a bona fide nonprofit organization for the conducting of charitable gaming nor any convenience store, quick-stop, food-mart, service station, grocery store, barber shop, laundromat/washateria, package or discount liquor/cigarette establishment, movie theater, or beauty shop.

(9) "Manufacturer" means any person who manufactures or assembles and programs

video draw poker devices for use in this state.

(10) "Net device revenue" means the gross revenue of a device less the value of prizes paid as shown on the meters of the device.

(11) "Person" means any individual, partnership, corporation, or other legal entity.

(12) "Restaurant, bar, tavern, cocktail lounge, or club" means an operating establishment primarily engaged in the retail sale of prepared foods or the sale of alcoholic beverages for on-premises or immediate consumption that meets all of the following criteria:

(a) Has been granted a Class A--General retail permit or a Class A--Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, for the sale of alcoholic beverages for on-premises consumption.

(b) Prepares and serves food or prepares, dispenses, and sells alcoholic beverages for on-premises consumption during the hours it is open to the public.

(c) Maintains financial records that segregate the sales of alcoholic beverages prepared for on-premises or immediate consumption from any other sales on the premises.

(d) Operates a fully equipped kitchen containing commercial appliances used for the preparation of uncooked food for on-premises or immediate consumption, which

may include but is not limited to a range, an oven, and refrigerated storage appliances; or it must have a person whose primary duty is tending bar on duty while the establishment is open for business and have a permanently affixed wet bar facility, including plumbing and sinks.

(13) "Service entity" means any person other than a distributor or device owner who repairs, services, inspects, or examines video draw poker devices in the presence of a device owner or owner's employee.

(14) "Suitability", "suitable", or "suitability requirements" means the criteria provided for in R.S. 27:310.

(15) "Video draw poker device" means any unit, mechanism, or device authorized pursuant to the provisions of this Chapter, that, upon insertion of cash, is available to play or simulate the play of the game of draw poker or other card games approved by the division, utilizing a cathode ray tube or video display screen and microprocessors in which the player may win games or credits that can be redeemed for cash only. The term does not include a device that directly dispenses coins, cash, tokens, or anything else of value, except the ticket voucher required in accordance with the provisions of this Chapter. The term does not include any device authorized to be used in the conducting of charitable gaming.

(16) "Video draw poker" means any card game approved by the division that utilizes one deck of cards per hand with multiple hands permitted per game.

(17) "Video draw poker employee" means a person issued a permit pursuant to the provisions of R.S. 27:311.1.

C. Notwithstanding any provision of law to the contrary, the placement, operation, maintenance, and play of approved video draw poker devices in accordance with the provisions of this Section is legal and such devices shall not be considered gambling devices.

D. Any license applied for, granted, or issued under the provisions of this Chapter is a pure and absolute privilege, the awarding, denial, or withdrawal of which is solely within the discretion of the division and, except as provided in this Chapter, without recourse at law. Any license issued or renewed under the provisions of this Chapter is not property or a protected interest under the constitutions of either the United States or the state of Louisiana.

E. A service entity shall not perform any accounting functions including but not limited to recording meter readings or handling or transporting funds procured from the video draw poker device. A service entity shall not perform any actions which would fulfill state reporting requirements other than those directly related to the physical repair of video draw poker devices.

§ 302. Description and specifications of devices

A. Each video draw poker device shall:

(1) Be inspected by the division or its designee for certification and compliance.

(2) Be connected with a system consisting of player operated terminals and a self-contained control computer.

(3) Not have any device or program that will alter the reading of the values or amounts of play to reflect values or amounts other than actually played or any switches, jumpers, wire posts, or any other means of manipulation that could affect the operation or outcome of a game.

(4) Not have any device, switch, program, or function that can alter the readings of the actual amounts or values relating to any function or occurrence of the device.

(5) Offer the game of draw poker or such other card games as are approved by the division and have the following method of operation:

(a) The cards must be shuffled after each hand is dealt.

(b) The game must utilize a deck of cards consisting of fifty-two standard playing cards, and up to two jokers may also be used. The deck must be shuffled by use of a random number generator to exchange each card in the deck with another randomly selected card.

(c) After shuffling, a required number of cards must be dealt from the top of the deck.

(d) Any discarded cards must be replaced by remaining cards in the deck, starting with the next subsequent card and using the cards in the order of the deck.

(e) The game must display the hands for which won games or credits will be awarded and the number of won games or credits for each hand, not to exceed the value of five hundred dollars.

(f) The device must have separate secure areas with locking doors for the game logic board and software, the cash compartment, and the mechanical meters as required by the rules and regulations of the division. These areas must be locking and separated. Access to one from the other must not be allowed at any time.

(g) The device must use a display with images of cards that closely resemble standard poker playing cards.

(h) The device must be capable of printing a ticket voucher for the player at the completion of each game. If credits are owed the player, the ticket must contain each of the following:

(i) The name of the licensed establishment.

(ii) The name of the municipality or parish in which the licensed establishment is located.

(iii) The value of the prize in numbers.

(iv) The value of the prize in words.

(v) The time of day, in hours and minutes in a twenty-four-hour format.

(vi) The date.

(vii) The device license number or serial number up to eight digits.

(viii) The sequential number of the ticket voucher.

(ix) An encrypted validation number from which the validity of the prize can be determined.

(i) The device may have a mechanism that accepts cash in the form of bills with a denomination not to exceed twenty dollars.

(j) An exact copy of each printed ticket voucher must be printed and retained within the device, or other means of capturing and retaining an electronic copy of the ticket data as approved by the division for a minimum of five thousand tickets. If a thermal printer is used and the duplicate information is stored electronically in the device, any duplicate voucher printed by the device must have the prominent word " DUPLICATE" printed on the face of the voucher.

(k) The device must have nonresettable mechanical meters housed in a secure compartment that keep a permanent record of all of the following:

(i) Total coins accepted.

(ii) Total credits generated by the bill acceptor if the device has a bill acceptor.

(iii) Total credits played by players.

(iv) Total credits won by players.

(v) Total credits printed out by the ticket voucher printer.

(l) The device must contain electronic

metering using meters that record all of the following:

(i) Total coins in the coin acceptor or acceptors and, if the device has a bill acceptor, the total credits generated by the bill acceptor.

(ii) Total credits in, total credits played, total credits won, and total credits paid.

(iii) Total hands of poker played and total hands of poker won.

(iv) Total winning hands, consisting of one pair, two pairs, three of a kind, a straight, a flush, a full house, four of a kind, a straight flush, or five of a kind or such other winning hand as allowed by rule and regulation of the division.

(v) Total errors from the logic board random access memory.

(vi) Total examination of electronic meters.

(m) The device may not have any functions or parameters adjustable by or through any separate video display or input codes, except for the adjustment of features that are wholly cosmetic.

(n) The device must issue, by activation of an external switch, an accounting ticket containing a performance synopsis of the device. The ticket must contain:

(i) The name of the licensed establishment.

(ii) The name of the city, town, or parish in which the licensed establishment is located.

- (iii) The license number of the device.
- (iv) The time of day, in hours and minutes in a twenty-four-hour format.
- (v) The date.
- (vi) The electronic meter readings required by Subparagraph (1) of this Paragraph.
- (vii) A circuit-interrupting device, method, or capability which will disable the machine if the division-approved program is accessed or altered.
- (o) The device must be linked by telecommunication to a central computer for purposes of polling or reading device activities and for central computer remote shutdown of device operations. However, if the central computer system fails as a result of a malfunction or catastrophic event, the device may remain in operation until the central computer system is restored.
- (p) Notwithstanding the provisions of R.S. 27:302(A)(5)(b), (c), and (d) when they are in conflict, multi-hand games shall be an authorized game for play when approved by an authorized device testing laboratory and the division, provided that, with respect to any video draw poker device located in Orleans Parish, no multi-hand game is or may be authorized unless it has been determined by the Louisiana Gaming Control Board that permitting such game in Orleans Parish will not violate any of the terms or provisions of Section 1.3 of the Amended and Renegotiated Casino Operating Contract entered into pursuant to R.S. 27:201, et seq., on October 30, 1998, as amended, effective

October 19, 1999, March 29, 2001, and March 31, 2001. Any authorization of a multi-hand game by the division in violation of this Subparagraph shall be null and void.

B. Each video draw poker device shall have a serial number or other identification number permanently affixed to the device by the manufacturer.

C. The division may provide for additional specifications for devices to be approved and authorized pursuant to the provisions of this Chapter as it deems necessary to maintain the integrity of video draw poker devices and operations. The division shall not provide for any additional specifications which would have the effect of reducing to fewer than four the number of manufacturers who make devices that meet the specifications of this Chapter.

D. (1) The division may establish by rule criteria for the physical placement of video draw poker devices within a licensed establishment.

(2) Any establishment which allows minors to enter the area where video draw poker devices are located or operated shall separate any video draw poker devices from the sight of any minor by placing a partition of at least five feet in height between the video draw poker devices and any area where a minor may be present.

E. Notwithstanding any provision of law to the contrary, video draw poker devices in any facility licensed pursuant to this Chapter, in any parish other than Orleans, may schedule games with no minimum wager. A

video draw poker device shall accept coins in the amount of the minimum wager offered by that device. That video draw poker device shall provide one game for each coin of that denomination deposited in that machine. Video draw poker devices may accept coins or currency of denominations of multiples of the minimum wager, but shall provide one game for each amount of the minimum wager deposited in that video draw poker device. The provisions of this Subsection shall not be construed to affect the limitations on the amount of money played and the limitation on the value of prizes established in R.S. 27:304.

F. Video draw poker devices in any facility licensed pursuant to this Chapter located in Orleans Parish may schedule games with such minimum wager as may be approved by the division, provided it has been determined by the Louisiana Gaming Control Board that permitting such minimum wager in Orleans Parish will not violate any of the terms or provisions of Section 1.3 of the Amended and Renegotiated Casino Operating Contract entered into pursuant to R.S. 27:201, et seq., on October 30, 1998, as amended, effective October 19, 1999, March 29, 2001, and March 31, 2001. Any change to the minimum wager in violation of this Subsection shall be null and void.

§ 303. Winning percentage

Each device must have dual electronic accounting devices to verify net device revenue and winning percentages, and access to the stored data must be readily available to the division.

§ 304. Limitation on amount of money played and value of prizes

A device may not allow more than four dollars to be placed on a game or award won games or credits in excess of the value of one thousand dollars. At establishments where live racing is conducted, as defined by R.S. 4:211(5), and pari-mutuel wagering is offered a device may not allow for credits in excess of the value of one thousand dollars.

§ 305. Expected payback; verification

A. The division shall prescribe the expected payback value of one credit played to be at least eighty percent of the value of a credit. Each video draw poker device must have an electronic accounting device that the division may use to verify the winning percentage. The division may not publish or otherwise disseminate income figures and other statistics obtained in the payback verification process or contained in payback verification reports in a manner that allows or helps a person to identify a particular device or to match a particular device with a particular income or statistic except as is required for enforcement of the provisions of this Chapter.

B. Repealed by Acts 2001, No. 1222, § 2, eff. July 2, 2001.

§ 306. State license qualifications; limitations; right to hearing

A. (1) The legislature hereby recognizes the importance of a controlled gaming industry to the development of the economy of the state of Louisiana. The legislature further

recognizes that the success and growth of gaming are dependent upon public confidence and trust that gaming activities and particularly video draw poker gaming activities are conducted honestly and are free from criminal and corruptive elements. The state of Louisiana has a legitimate interest in providing strict regulation of all persons, practices, associations, and activities related to the operation of licensed establishments licensed to offer video draw poker devices, and the manufacture, supply, or distribution of video draw poker gaming devices and supplies, in order to maintain public confidence and trust in the video draw poker gaming industry. The legislature hereby finds that the types of establishments which may place video draw poker devices at their licensed establishments each possess unique features, some of which are volume of business, number of establishments, and hours required of the division to insure suitability prior to licensing. Therefore, in order to provide the most effective regulation and control of the video draw poker gaming industry, it is necessary to develop three categories of licenses which may be issued to qualified establishments for the privilege of operating video draw poker devices.

(2)(a) A person who has been granted a Class A-General retail permit or a Class A-Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, to sell alcoholic beverages for consumption on the premises of a restaurant, bar, tavern, cocktail lounge, club only, or such an establishment located within a motel or hotel only may be granted a license for the placement of not more than three video draw

poker devices in his licensed establishment.

(b) A person who is the owner of more than one restaurant, bar, tavern, cocktail lounge, or club which is located within a single building or structure, and who has been granted a Class A-General retail permit or a Class A-Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, to sell alcoholic beverages for consumption on the premises of each such facility, may make available for play not more than three video draw poker devices at each separate facility, not to exceed a total of nine video draw poker devices for the single building or structure, if that person and each facility complies with all other requirements of this Chapter and of the administrative rules that are applicable to the operation of video draw poker devices. The limitation on the number of facilities contained in this Subparagraph shall not apply to any person or entity who owns and operates multiple facilities which are located in a publicly owned and operated transportation facility offering any transportation to interstate and international destinations.

(c) For purposes of Subparagraph (b) of this Paragraph, a person shall be deemed to own more than one restaurant, bar, tavern, cocktail lounge, or club located within a single building or structure when the person has an ownership interest in each restaurant, bar, tavern, cocktail lounge, club, or other facility located within the single building or structure.

(d) Except as provided in Subparagraph (b), (c), or (e) of this Paragraph, when a

restaurant, bar, tavern, cocktail lounge, or club is owned by one person, each establishment shall be physically separate and noncontiguous in order to qualify for a license to operate video draw poker devices at each such establishment.

(e) A licensee owning or leasing a licensed establishment which is a hotel or motel which has more than one lounge or facility and which has a Class A-General retail permit or a Class A-Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, to sell alcoholic beverages for on-premises consumption on a single licensed premises may make available for play not more than three video draw poker devices at each lounge or separate facility, not to exceed a total of twelve video draw poker devices for the hotel or motel, if all other requirements of this Chapter are met. Each separate lounge or facility shall meet the following criteria:

(i) It must be a physically separate noncontiguous facility.

(ii) It must have separate and independent beverage preparation areas.

(iii) It must prepare, dispense, and sell alcoholic beverages for on-premises consumption.

(iv) It must have a person whose primary duty is tending bar on duty while the lounge or facility is open for business and have a permanently affixed wet bar facility including plumbing and sinks.

(v) It must be able to accommodate a minimum of twenty-five patrons.

(3) A person owning a Louisiana State Racing Commission licensed pari-mutuel wagering facility or an offtrack wagering facility may be granted a license for the placement of video draw poker devices in his facility if all other requirements of this Chapter are met. There shall be no limit on the number of video draw poker devices which may be placed at the facility. Notwithstanding any provision of law to the contrary, video draw poker devices in these facilities may schedule games with no minimum wager.

(4)(a) A person owning a qualified truck stop facility may be granted a license for the placement of not more than fifty video draw poker devices in his facility based on the fuel sales as provided in Subparagraph (b) of this Paragraph, in an area separated for adult patronage only, if all other requirements of this Chapter are met. There shall be only one license granted for the operation of video draw poker devices at each qualified truck stop facility.

(b) The number of video draw poker devices placed at a qualified truck stop facility shall be based on the average monthly fuel sales as follows:

(i) One hundred thousand gallons of fuel of which forty thousand gallons are diesel--not more than fifty devices.

(ii) Seventy-five thousand gallons of fuel of which thirty thousand gallons are diesel--not more than forty devices.

(iii) Fifty thousand gallons of fuel of which ten thousand are diesel--not more than thirty-five devices.

(c) As used in this Section a qualified truck stop facility shall mean a facility covering at least five developed contiguous acres which sells fuel, lubricating oil, and other vehicular merchandise, such as batteries, tires, or vehicle parts for eighteen-wheel tractor-trailers, and which also meets all of the following criteria:

(i) It must be located adjacent to a major state or interstate highway, as defined by the division through rules and regulations adopted by the division for this purpose, subject to legislative oversight.

(ii) It must have an on-site restaurant, except for reason of force majeure affecting the ability to maintain the on-site restaurant for a reasonable period of time as determined by the division following the interruption of such ability, which for the purposes of qualifying as a qualified truck stop facility, shall be required to have only the following features:

(aa) Provides seating for at least fifty patrons.

(bb) Provides full table service for sit-down meals.

(cc) Is open at least twelve hours a day.

(dd) Offers a varied menu.

(ee) Operates a fully equipped kitchen which includes but is not limited to a range, an oven, and refrigerated storage appliances

used for the preparation of foods for on-premises or immediate consumption.

(iii) It must have parking areas with each of the following:

(aa) A stable parking area for at least fifty eighteen-wheel tractor-trailer motor vehicles, either paved or concrete, to support eighteen-wheel tractor-trailer motor vehicles and their loads, constructed according to industry specifications, subject to approval by the division. All other parking areas not paved or concrete must be certified by an authorized company and proof provided that compaction tests were conducted, subject to approval by the division.

(bb) Parking of sufficient size is allowed for safe ingress and egress.

(cc) Parking areas for other vehicles around business entrance ways and exits shall not constitute parking areas for eighteen-wheel tractor-trailer motor vehicles.

(iv) It must have diesel and gasoline fuel facilities. The fuel facility shall offer, in the regular course of business, fuel sales for individual vehicle consumption. Bulk sales or transfers shall not be used to calculate monthly averages. All fuel sales must correspond to state-accepted daily sales reports which correspond to monthly state sales tax reports and shall be verified by fuel tickets from the truck stop facility. To be considered a fuel facility at a qualified truck stop facility for the purpose of licensing that qualified truck stop to operate video draw poker devices, the fuel facility shall not be

subject to the fuel sales requirements provided for in Subpart E of Part VIII of Chapter 1 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:421 through 427, and the requirements of Chapter 13 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:1401 through 1419. The provisions of this Item provide for the fuel sales requirements for the purpose of licensing criteria for the operation of video draw poker devices at a qualified truck stop facility. The provisions of this Item shall not be construed to repeal, limit, or supersede any requirements for the sale of fuel by fuel facilities as otherwise provided for by law. The provisions of this Item shall not be construed to repeal, limit, or supersede the authority of the office of the attorney general to enforce the Unfair Trade Practices or Consumer Protection Law or the authority of any district attorney to prosecute violations of Subpart E of Part VIII of Chapter 1 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:421 through 427.

(v) It must have on-site repair service facilities for eighteen-wheel tractor-trailer motor vehicles. The on-site repair service may be in the form of contracted services from a business which regularly offers this type of service. A copy of any contractual agreement shall be submitted for approval to the division for review and processing.

(vi) It must have at least four of the following amenities, except for reason of force majeure affecting the ability to maintain the amenities for a reasonable period of time, as determined by the division following the interruption of such ability:

(aa) A separate truckers' television lounge.

(bb) A full-service laundry facility located in a convenient area for truckers' use.

(cc) Private showers for men and women and not located in an area open to general public restroom facilities.

(dd) A travel store with items commonly referred to as truckers' supplies (items commonly used only by commercial motor vehicles).

(ee) Truck scales.

(ff) Separate truckers' telephones.

(gg) Permanent storage facilities for fuel.

(vii) It must have an area separated for adult patronage only.

(d)(i) The criteria and amenity requirements for a qualified truck stop facility provided for by this Paragraph shall be suspended for that criteria or amenity if any portion of the property upon which a qualified truck stop is located is expropriated by the state of Louisiana or one of its political subdivisions. The suspension for that criteria or amenity shall remain in effect until such time as it is possible for the licensee to meet the requirements of this Paragraph. During the period of suspension the licensee may continue to operate video draw poker devices without meeting the requirements for that particular criteria or amenity affected by the expropriation as otherwise provided for by this Paragraph if all other provisions of this Chapter are met.

(ii) The provisions of this Subparagraph shall not be construed to adversely affect parish boundary surveys or good faith reliance upon those surveys as provided for in R.S. 27:325.

(5)(a) The qualified truck stop facility shall be owned or leased by a person who meets all the personal qualifications for a Class A--General retail permit or a Class A--Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, to serve or sell alcoholic beverages for on-premises consumption. However, when no such permit is obtainable or available, no such permit shall be required.

(b) An owner or lessor of a qualified truck stop facility may lease or sublease any restaurant, convenience store, fuel facility, or any other business operation located on the premises of the qualified truck stop facility to another person, provided that such person executes a written lease which contains a requirement that the lessee or sublessee comply with the laws and regulations which govern the operation of video draw poker devices. If such lease or sublease is granted, the owner or lessor of such qualified truck stop facility shall maintain ultimate supervision and control of his entire truck stop premise. No such lessee or sublessee shall be required to meet suitability requirements unless he receives, as a result of the lease, any video draw poker device operation revenue, or unless he exercises some management or control over video draw poker devices. Any violation of the laws and regulations which govern the operation of video draw poker devices by such lessee or sublessee shall be considered a violation by the licensee. No financial

lending institution or pawnshop shall be located on the premises of a qualified truck stop facility. Nothing herein shall prohibit the placement of automatic teller machines on the premises of a qualified truck stop.

(c) Any licensee who has leased or subleased a restaurant or convenience store prior to August 15, 1997, which lease does not meet the requirements provided in Subparagraph (b) of this Paragraph shall have until June 30, 1998, to comply with such provisions.

(d) Repealed by Acts 2004, No. 918, § 3.

(6)(a) Any person applying for a license for the placement of video draw poker devices at a truck stop facility shall have, prior to any required re-zoning, construction application, or construction of the truck stop which the applicant seeks to establish as a qualified truck stop facility, publish a notice of his intention to build a truck stop that may qualify for a license to operate video draw poker devices as a qualified truck stop facility.

(b) The notice shall be published on two separate days in the official journal of the parish where the facility is to be located and in another newspaper with a larger circulation within the parish than the official journal of the parish, if there is one. All costs associated with publication of this notice shall be borne by the person seeking application for a licensed truck stop facility.

(c) Requirements for the notice required in this Paragraph shall be prescribed by the Louisiana Gaming Control Board, which requirements shall include:

(i) Prominent placement in the newspaper in a section other than the classified advertisement or public notice section.

(ii) Formatting in a box with a bolded outline.

(iii) A size of not less than two inches by four inches.

(iv) Print in bold face type.

(v) The additional publications in the official journal as required by this Subparagraph shall be provided by the official journal at a charge not in excess of the rates assessed and charged for regular commercial advertising.

(vi) Failure to timely accomplish such publication shall make an application for a licensed truck stop null, void, and of no effect until the person seeking application has fully complied with the requirements of advertising pursuant to this Paragraph.

(vii) Each person required to publish public notice pursuant to this Paragraph shall also provide notice to the local governing authority in its parish or district as the case may be.

(d) In addition to the requirements for publication provided for in this Paragraph, the person seeking application shall issue a press release to newspapers with substantial distribution within the parish where the facility is to be located and to area broadcast media.

(7)(a) Any person applying for a truck stop facility license must meet all requirements provided by this Chapter and must have fuel

sales reports and verifiable fuel tickets which indicate average fuel sales of sufficient gallons, as required by this Chapter, for the ninety days immediately prior to licensing.

(b) If after a qualified truck stop facility is licensed and an initial determination has been made to authorize the placement and operation of devices at the facility based upon the average of the fuel sales reports for three months, and the qualified truck stop facility thereafter becomes unable to sell a sufficient number of gallons of fuel to permit the minimum number of devices to be operated at the facility, for reasons of force majeure or due to other noncommercial circumstances, such as road or other governmental construction projects contiguous to, or otherwise directly affecting the fuel sales of the qualified truck stop facility as determined by the division, the facility shall continue to be authorized to place and operate the number of devices based upon the last average calculation of monthly fuel sales reports prior to the interruption in the fuel sales. Upon resolution of the reasons causing the reduction in fuel sales, the division shall use the next three months of monthly fuel sales reports to determine the number of devices authorized to be placed and operated at the facility.

(8) Notwithstanding any other provision of law to the contrary, a licensed establishment located at a public or private golf course licensed to operate video draw poker devices pursuant to the provisions of this Chapter prior to January 1, 2004, issued a Class A-Restaurant-Conditional permit issued pursuant to the authority granted in R.S.

26:71.1(4)(d) shall be authorized to continue to operate video draw poker devices, provided that the licensee of such a licensed establishment maintains continuous suitability and meets all other licensing criteria required by the provisions of this Chapter.

(9) No license shall be granted for the establishment of a qualified truck stop facility at a location that requires or required re-zoning to accommodate the establishment of the facility unless any signage required to be posted under the re-zoning requirements in the parish contains in clear and easily readable form the information that the re-zoning is proposed for consideration to provide for the establishment of a qualified truck stop facility.

B. Each applicant for a license shall on the application form disclose to the division any present or previous experience or involvement as an owner or operator of gambling devices and establishments as defined by the division. Present or previous experience or involvement includes:

(1) Controlling of gambling devices as an owner or operator.

(2) Employment with the owner or operator of gambling devices.

(3) Employment in establishments where gambling is offered to the public.

(4) Conviction of violation of federal, state, or local gambling laws in any jurisdiction.

C. (1) A licensee may not have on the premises or make available for play on the

premises of his licensed establishment more video draw poker devices than as provided in Subsection A of this Section.

(2)(a)(i) Notwithstanding any provision of law to the contrary, no license shall be granted to any truck stop facility located, at the time application is made for a license to operate video draw poker devices, within five hundred feet of any property that is on the National Historic Registry, any public playground, or a building used exclusively as a church, synagogue, public library, or school.

(ii) Notwithstanding any provision of law to the contrary, no license shall be issued for any truck stop facility unless previously applied for or licensed as of January 1, 2008, located, at the time application is made for a license to operate video draw poker devices, within two thousand five hundred feet of any property that is on the National Historic Registry, any public playground, or a building used exclusively as a church, synagogue, public library, or school unless the applicant for the license has applied prior to January 1, 2008, with the local governing authority of the parish where the truck stop is located for a certificate of compliance with applicable zoning ordinances and building codes and a statement of approval for the operation of video draw poker devices at a truck stop facility as required by R.S. 27:324(C) or has applied with the appropriate authority for a building permit prior to January 1, 2008.

(b) In municipalities and in unincorporated areas which are divided into subdivisions with streets, blocks, and sidewalks, this

distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the property on the National Historic Registry, public playground, church, synagogue, public library, or school to the nearest point of the premises to be licensed.

(c) Outside of municipalities and unincorporated areas which are not divided into subdivisions with streets, blocks, or sidewalks, the measurement of this distance shall be a straight line from the nearest point of the truck stop facility to the nearest point of the church, synagogue, or school.

(3) The prohibitions in Paragraph (2) of this Subsection do not apply to any truck stop licensed for the placement of video draw poker devices for a period of one year or longer prior to July 1, 1994. The subsequent construction, erection, development, or movement of a property on the National Historic Registry, public playground, church, synagogue, public library, or school which causes the truck stop facility to be located within the prohibited distance as provided in Paragraph (2) of this Subsection shall not be cause for revocation, withholding, denial of an application, nonrenewal of a license, or issuance of a new license. The subsequent construction, erection, development, or movement of a property on the National Historic Registry, public playground, church, synagogue, public library, or school following the application for a license to operate video draw poker devices at a truck stop facility and the granting of that license which causes the truck stop facility to be located within the prohibited distance as provided in Paragraph (2) of this Subsection

shall not be cause for the revocation, withholding, denial of an application, nonrenewal of a license, or issuance of a new license.

(4) No license shall be issued for any truck stop facility to an applicant who has applied with the local governing authority where the truck stop is located for a building permit prior to August 1, 2007, and who has described the boundaries of the proposed truck stop facility within that application, for any truck stop facility located outside the boundaries described in that application if the location of the proposed truck stop facility is within two thousand five hundred feet of any property that is on the National Historic Registry, any public playground, or a building used exclusively as a church, synagogue, public library, or school.

D. (1) If the lease of a truck stop facility, which is a licensed establishment for the operation of video draw poker devices, expires or is terminated without legal cause by the lessor, then, in either event, neither the lessor nor a new lessee shall have the right to apply for a video draw poker device license at the same truck stop location for a period of six years from the date of expiration or termination of the lease.

(2) The former lessee/licensee shall have any of the following rights:

(a) To continue operations at the licensed facility by agreement with the lessor or the new lessee.

(b) To transfer the existing license to any other new or existing truck stop facility

which meets all of the qualifying requirements contained in this Chapter, except:

(i) That such former lessee/licensee shall not be required to wait before making application and commencing video draw poker operation at a new or existing facility.

(ii) That such former lessee/licensee shall be required to perform at the new facility any existing sublease or other contracts with licensed device owners/operators in effect at the time of expiration or termination of the lease.

(3) Nothing herein shall affect or apply to any truck stop facility in which the lessor is the holder of the license for the operation of video poker devices.

E. (1) When a licensed establishment which requires an alcoholic beverage license as a condition of the receipt of a video draw poker device license is sold or transferred, the video gaming devices shall be allowed to continue to operate if the new owner applies for a state Class "A" license within fifteen days of purchasing the business, and upon issuance of a state Class "A" license, the new owner applies for a video draw poker license within fifteen days.

(2) The video draw poker devices shall be allowed to be continued in operation under the old license until the issuance of a video draw poker license in the name of the owner, until any of the following occur:

(a) A determination by the division that the new applicant is unsuitable.

(b) Denial of the new license application.

(c) The passage of one hundred eighty days from submission of the application to the division. The provisions of this Subparagraph shall not apply to new owner applicants for a video draw poker license who are licensed at the time of such application. However, if the applicant fails to provide requested information to the division in a timely manner, the devices may be disabled after one hundred eighty days have elapsed.

(3) The division shall adopt and promulgate rules to implement this Subsection.

(4) All establishment licensees shall within five days of the change in ownership notify the division, in writing, of any facts which indicate that the licensed establishment has had a change in ownership. This notification requirement shall only apply to device owners when they have been given notice by certified mail of the change in ownership. The device owner when given notice by certified mail of the change in ownership shall notify the division within five days of receipt of the notice of the change in ownership of the licensed establishment.

F. (1) Each applicant for a license or renewal of a license shall provide to the division in addition to the application form a signed sales tax clearance from the secretary of the Department of Revenue, which clearance request shall be processed within seven business days.

(2) No license shall be granted to any applicant unless he has submitted proof to

the division, as required by Paragraph (1) of this Subsection, that he does not owe the state or local governing authority of the parish or municipality in which the establishment is located any delinquent sales taxes, penalties, or interest, excluding items under formal appeal or protest as provided by law.

G. When an applicant for a license files its application with the division, the applicant shall send notice with a copy of the application to the local governing authority and submit evidence of the notification to the division.

H. (1) Prior to the expiration of the license term, a licensee who is licensed under the provisions of this Chapter for the placement of not more than three video draw poker devices in an approved, qualified establishment shall apply for renewal of the license by completing an affidavit in a form approved by the Louisiana Gaming Control Board that certifies that there have been no changes in the prior qualification and suitability information previously furnished to the board. This affidavit shall be executed by the licensee and each person required to meet qualification and suitability requirements under R.S. 27:310, provided that the licensee or person previously submitted all information required by the board in its initial suitability determination. Notwithstanding the above, the licensee and all persons required to meet suitability shall furnish such releases, affidavits, and documents as may be required by the board. Additionally, the licensee shall furnish with each renewal application all of the following:

(a) A current local sales tax clearance certificate.

(b) A current local governing authority and taxing authority notification.

(c) A current state sales tax clearance certificate.

(d) A Class A-General retail permit or a Class A-Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, to sell alcoholic beverages for consumption on the premises.

(2) Failure to disclose changes in prior qualification and suitability information shall result in denial of the renewal application or revocation of the video draw poker gaming license.

(3)(a) It shall be unlawful for any person intentionally to submit a false affidavit under this Subsection or to make or cause to be made or aid, assist, or procure another to make or submit a false affidavit.

(b) Whoever is convicted of violating the provisions of this Subsection shall be imprisoned, with or without hard labor, for not more than ten years or be fined not more than ten thousand dollars, or both.

(4) The provisions of this Subsection shall not apply to, and affidavits shall not be used for renewal of, a license for the operation of video draw poker devices at a hotel or motel, a Louisiana State Racing Commission licensed pari-mutuel wagering facility, an offtrack wagering facility, or a qualified

truck stop facility.

§ 307. Rules and regulations; reporting to division

A. The division shall promulgate rules and regulations for the counting and collecting of all net device revenues and for the timely payment of all license fees and penalties. The division may institute proceedings for the collection of fees and penalties.

B. Each month, the device owner must give the division a report containing the:

(1) Serial number of each video draw poker device.

(2) Name and address of the establishment where each device is located.

(3) Computer printouts of the net revenue of each device taken directly from the device's electronic accounting devices, if requested by the division.

C. The division may require any device owner to maintain or submit any data, information, record, or reports required by this Chapter in any computer form, program, or storage consistent with its recordkeeping or computer system or access. Any rule or regulation promulgated pursuant to this Subsection shall apply to the records of all device owners.

D. Video draw poker devices placed in a licensed establishment which is a restaurant shall be operated and played only in a designated area, as approved by the division, which is separated from restaurant patrons

seated in the dining area of the restaurant.

E. Except for a uniform logo and advertising notice approved by the division, the division may promulgate rules to prohibit licensed establishments from advertising video gaming activities on the outside of the premises where video gaming devices are located.

§ 308. Powers and duties of division; restrictions; permits

A. The division shall promulgate rules and regulations necessary to facilitate implementation of this Chapter and specifically to:

(1) Provide permit, application, and licensing procedures.

(2) Prescribe necessary application and reporting forms.

(3) Establish qualifications and duties of certified technicians.

(4) Provide for the protection of legitimate economic interests of licensees, creditors, and other parties involved in the operation, financing, manufacture, distribution, sale, and servicing of video draw poker devices and equipment.

B. (1) The board or division, as may be applicable, may deny or condition any license or permit applied for or issued pursuant to the provisions of this Chapter for any violation of the provisions of this Chapter, Chapter 2 of this Title, or any rule of the board. The board or division, as may be applicable, shall not levy a penalty, condition the license or permit of, or reinstate the license or permit of any person

or the approval of any device unless and until the person or device meets all the criteria and requirements to be licensed or approved for play.

(2) Notwithstanding the provisions of Paragraph (B)(1) of this Subsection, no sanction or denial of a license renewal application, revocation of a license, or license suspension shall be imposed for a period in excess of ten calendar days against any person to whom a license for the operation of video draw poker devices has been issued for the failure to disclose all criminal charges resulting in any misdemeanor conviction, provided that the person has not previously been cited for the same nondisclosure regulatory offense within a one-year period prior to the current regulatory offense. However, the failure to disclose all charges resulting in any misdemeanor conviction may be considered and utilized within the provisions set forth under R.S. 27:310, and there shall be no limitation as to the sanction imposed.

(3) The board or division, as may be applicable, may initiate an administrative action as defined in R.S. 27:3 and may revoke or suspend the license of any person or approval of any device issued pursuant to the provisions of this Chapter for violations as provided for in R.S. 27:308.2(A).

(4) The board or division, as may be applicable, shall allow a licensee to temporarily turn in his license for reason of force majeure affecting the ability to operate the business described in the application for an indefinite period of time as determined by the division. During the time the license is

turned in, the licensee shall be eligible to renew the license. When the licensee is able to resume business operations and is in compliance with all applicable physical amenities and permit requirements, the license shall be returned to the licensee within ten days of completion of a compliance inspection by the division.

(5) The board or division, as may be applicable, shall terminate the device operation fees, paid pursuant to R.S. 27:311(A)(5), when a licensed video draw poker device is destroyed as the result of force majeure. In such a case, the device operation fees will terminate in the quarter following the quarter in which the device was destroyed.

C. The board or division, as may be applicable, may initiate an administrative action as defined in R.S. 27:3 against any licensee issued a license, permit, or approval and may revoke or suspend the license or permit of any person or approval of any device issued pursuant to the provisions of this Chapter if the division finds that the person licensed or permitted or device approved did not meet, at the time of application, or does not continue to meet the suitability requirements provided for in this Chapter, Chapter 2 of this Title, or in any rules adopted by the board and promulgated in Chapter III or XI of Title 42 of the Louisiana Administrative Code governing the operation of video draw poker devices which provide for suitability criteria.

D. For a period of five years from the date of the revocation of the license, no license authorized by this Chapter may be granted to any person whose previous license was

revoked by the division.

E. The division and its agents may:

- (1) Inspect and examine all premises where video draw poker devices are offered for play or where video draw poker devices or equipment are manufactured, sold, or distributed.
- (2) Inspect all video draw poker devices and related equipment and supplies in, upon, or about such premises.
- (3) Summarily seize and remove from such premises and impound any video draw devices, equipment, or supplies for the purpose of examination and inspection.
- (4) Promulgate rules and regulations requiring licensees or former licensees to maintain specified records, including financial and income records, of video draw poker devices and operations.
- (5) Promulgate rules and regulations to provide for minimum physical security standards at licensed establishments to maintain safety and integrity within the gaming area.

F. The division shall have the authority to issue subpoenas and to compel the attendance of witnesses before it, to administer oaths at its official proceedings, to require testimony under oath, and to punish as contempt the failure to obey its orders. Appeal of an action by the division holding a person in contempt shall be to the Nineteenth Judicial District Court.

G. The division, within ten days after granting a license for the placement of video draw poker devices in a licensed establishment, shall notify the local governing authority of the municipality or, if not in a municipality, of the parish where the licensed establishment is located of the approval and granting of the license.

H. When an establishment licensed to operate video draw poker devices requests the division to disable such devices, such licensee shall also provide the notice of such request to the owner of the devices. The division may promulgate rules to implement this process.

§ 308.1. Civil penalties; violations; adoption of schedule of penalties

A. (1) All civil penalties for violations of this Chapter, Chapter 2 of this Title, or any rule of the board governing this Chapter shall be adopted as a schedule of penalties.

(2) The Louisiana Gaming Control Board shall adopt as a rule the schedule of penalties provided for by this Subsection. All rules shall be adopted pursuant to the provisions of the Administrative Procedure Act.

B. (1) The board or division, as may be applicable, shall review the penalty schedule provided for in Subsection A of this Section to determine whether a penalty provided for in the penalty schedule is appropriate and applicable to a particular violation and, if the issuance of a civil penalty is warranted, may impose the applicable appropriate penalty.

(2) Any hearing officer of the board shall

review the penalty schedule provided for in Subsection A of this Section to determine whether a penalty provided for in the penalty schedule and issued by the board or division, as may be applicable, is appropriate and applicable to a particular violation.

C. A civil penalty shall not exceed fifty thousand dollars for each violation of any provision of this Chapter, Chapter 2 of this Title, or rule of the board.

D. (1) For the purposes of this Chapter and the provisions of R.S. 27:15(F), violations shall be determined as follows:

(a) A licensee shall be provided notice of the charged violation and may admit the violation and accept the penalty or may deny the violation and demand a hearing be held, pursuant to R.S. 27:25, to make a determination regarding the charge.

(b) For the purposes of determining whether a second or subsequent violation has occurred, each violation of the same rule or statutory provision shall have occurred on a separate occasion, by the same licensee or permittee, and only violations that have occurred within a one-year period, regardless of when they were charged, admitted, or found to have occurred, shall be considered.

(2) For persons having more than one license issued pursuant to the provisions of this Chapter, civil penalties as provided in this Subsection shall only apply to the license incurring the violation.

E. Payment of the civil penalty shall be a requirement for the retention of any permit

or license held by the entity which violated any such provisions.

F. If the licensee or permittee contests the imposition of the civil penalty, the penalty shall be imposed only after an adjudicatory hearing is conducted pursuant to R.S. 27:25 and a basis for imposition of the penalty is determined to exist.

§ 308.2. Revocation or suspension of permit or license; civil penalty; consent agreements or settlements

A. The board or division, as may be applicable, shall initiate an administrative action and may revoke or suspend the license or permit of any person or the approval of any device issued pursuant to the provisions of this Chapter for any of the following:

(1) The failure to meet the requirements of suitability as defined in this Chapter, Chapter 2 of this Title, or in any rules adopted by the board and promulgated in Chapter III or XI of Title 42 of the Louisiana Administrative Code, governing the operation of video draw poker devices, which provide for suitability criteria.

(2) The failure to meet the requirements for the issuance of a license or permit as provided for in this Chapter, Chapter 2 of this Title, or in any rules adopted by the board and promulgated in Chapter III or XI of Title 42 of the Louisiana Administrative Code, governing the operation of video draw poker devices, which provide for licensing criteria.

(3) Repeated violations of any of the

provisions of this Chapter, Chapter 2 of this Title, or any rule of the board governing this Chapter. "Repeated violations" shall mean three violations of the same rule or statutory provision which have occurred on separate occasions by the same licensee or permittee within a one-year period. The date of a violation shall be considered to be the date the citation for that violation is issued.

B. For all other violations not listed in Subsection A of this Section, the board or division, as may be applicable, may issue a civil penalty pursuant to the provisions of R.S. 27:308.1.

C. In addition to or in lieu of the revocation or suspension of a license or permit issued pursuant to the provisions of this Chapter, the board or division, as may be applicable, may impose a civil penalty not to exceed fifty thousand dollars for each violation of any provision of this Chapter, Chapter 2 of this Title, or any rule of the board governing this Chapter.

D. In lieu of revocation or suspension of a license or permit, the licensee or permittee may enter into a consent agreement or settlement to pay a penalty not to exceed fifty thousand dollars. No consent agreement or settlement shall exceed fifty thousand dollars.

E. Except as otherwise provided for in R.S. 49:961(C) or R.S. 27:313, no suspension imposed pursuant to the provisions of this Chapter shall exceed a period of thirty days.

F. The provisions of this Section or of R.S. 27:308.1 shall not be construed to require that any persons licensed pursuant to the

provisions of this Chapter, except for video draw poker manufacturers, be required to meet the suitability standards contained in R.S. 27:28.

§ 309. Video draw poker crimes and penalties; unauthorized devices

A. Any person who intentionally makes, causes to be made, or aids, assists, or procures another to make a false statement in any report disclosure, application, permit form, or any other document required by this Chapter may, upon conviction, be imprisoned, with or without hard labor, for not more than ten years or be fined not more than ten thousand dollars, or both.

B. Any person who manufactures, distributes, sells, possesses, or operates a gambling device as described in R.S. 15:31, or a video draw poker device as described in this Chapter without the license required by this Chapter or at a location or on premises not authorized by the division shall, upon conviction, be imprisoned with or without hard labor for not more than ten years or be fined not more than ten thousand dollars, or both.

C. Skimming of video draw poker proceeds is the intentional excluding, or the taking of any action in an attempt to exclude, anything or its value from the deposit, counting, collection, or computation of revenues from video draw poker. Whoever commits skimming of video draw poker proceeds shall be imprisoned at hard labor for not less than one year nor more than ten years and may be fined not more than twenty-five thousand dollars.

D. Any video draw poker device used or offered for play in violation of the provisions of this Chapter shall be considered a gambling device for purposes of R.S. 15:31.

§ 310. Suitability requirements

A. No person may be eligible to apply or be granted a license under the provisions of this Chapter if he has been convicted in any jurisdiction of any of the following offenses within ten years prior to the date of the application or less than ten years has elapsed between the date of application and the successful completion or service of any sentence, deferred adjudication, or period of probation or parole for any of the following:

- (1) Any offense punishable by imprisonment for more than one year.
- (2) Theft or any crime involving false statements or declarations.
- (3) Gambling as defined by the laws or ordinances of any municipality, any parish, any state, or the United States.

B. (1) No person shall be granted a license under the provisions of this Chapter unless the applicant has demonstrated to the division that he is suitable for licensing. For purposes of this Chapter, suitability means the applicant or licensee is:

- (a) A person of good character, honesty, and integrity.
- (b) A person whose prior activities, arrest or criminal record if any, reputation, habits, and associations do not pose a threat to the

public interest of this state or to the effective regulation of video draw poker, and do not create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and operations in the activities authorized by this Chapter and financial arrangements incidental thereto.

(c) Likely to conduct business as authorized by this Chapter in complete compliance with the provisions of this Chapter.

(d) Not prohibited from making application or disqualified from licensure under the provisions of Subsection A of this Section.

(e) A person who does not owe the state or local governing authority of the parish or municipality in which the establishment is located any delinquent sales taxes, penalties, or interest, excluding items under formal appeal or protest as provided by law.

(2) An applicant who is not disqualified from making application or licensure as a result of Subsection A of this Section shall still be required to demonstrate to the division that he otherwise meets the remaining requirements for suitability, particularly those contained in Subparagraphs (1)(a), (b), and (c) of this Subsection. Evidence of or relating to an arrest, summons, charge, or indictment of an applicant, or the dismissal thereof, shall be considered by the division even if the arrest, summons, charge, or indictment results in acquittal, deferred adjudication, probation, parole, or pardon.

C. All licensees and persons required to be qualified under this Chapter shall have a continuing duty to inform the division of any action which they believe would constitute a

violation of this Chapter. No person who so informs the division shall be discriminated against by an applicant or licensee because of supplying such information.

D. Every person who has or controls directly or indirectly more than a five percent ownership, income, or profit interest in an entity which has or applies for a license in accordance with the provisions of this Chapter, or who receives more than five percent revenue interest in the form of a commission, finder's fee, loan repayment, or any other business expense related to the gaming operation, or who has the ability, in the opinion of the division, to exercise a significant influence over the activities of a licensee authorized or to be authorized by this Chapter, shall meet all suitability requirements and qualifications for licensees. For the purposes of this Chapter, all gaming related associations, outstanding loans, promissory notes, or other financial indebtedness of an applicant or licensee must be revealed to the division for the purposes of determining significant influence and suitability.

E. A person whose application for a license has been denied, or whose license has been issued subject to a condition or suspended or revoked, or against whom a fine has been levied has the right to a hearing before the division. The hearing must be conducted in accordance with the provisions of the Administrative Procedure Act. All parties, including the division, shall have the right to appeal any adverse ruling to the Nineteenth Judicial District Court. The division shall be provided with legal counsel and representation through the office of general

counsel of the Department of Public Safety and Corrections. The division may seek additional legal assistance upon the recommendation and advice of its legal counsel. The office of general counsel of the Department of Public Safety and Corrections may issue advisory opinions relative to the statutes that are enacted and rules that are adopted by the division. Such advisory opinions may be issued within ten days of the receipt of a written request for opinion. In no event shall an advisory opinion have the effect of law.

F. Notwithstanding the provisions of Subsection D of this Section, if any person required to be found qualified or suitable pursuant to Subsection D of this Section fails to provide all or part of the documents or information required by the Louisiana Gaming Control Board or the division, and if, as a result, any person holding a license issued pursuant to the provisions of this Chapter is not or may no longer be qualified or suitable, the board shall issue, under penalty of revocation of the license, a condition naming the person who failed to provide all or part of the documents or information required by the board or the division, and declaring that such person may not:

- (1) Receive dividends or interest on securities of a corporation holding a license, if the person has or controls directly or indirectly more than a five percent ownership, income, or profit interest in such corporation.
- (2) Exercise directly, or through a trustee or nominee, a right conferred by securities of a

corporation holding a license, if the person has or controls directly or indirectly more than a five percent ownership, income, or profit interest in such corporation.

(3) Receive remuneration or other economic benefit from any person holding a license issued pursuant to the provisions of this Chapter.

(4) Exercise significant influence over the activities of a person holding a license issued pursuant to the provisions of this Chapter.

(5) Continue owning or holding a security of a corporation holding a license if the person has or controls directly or indirectly more than a five percent ownership, income, or profit interest in such corporation.

G. (1) An institutional investor otherwise required to be found suitable or qualified pursuant to the provisions of this Chapter and the rules adopted pursuant thereto shall be presumed suitable or qualified upon submitting documentation sufficient to establish qualifications as an institutional investor as provided herein, and upon certifying that:

(a) It owns, holds, or controls publicly traded securities issued by a licensee or permittee or a holding, intermediate, or parent company of a licensee or permittee in the ordinary course of business for investment purposes only.

(b) It does not exercise influence over the affairs of the issuer of such securities or over any licensed or permitted subsidiary of the issuer of such securities.

(c) It does not intend to exercise influence over the affairs of the issuer of such securities, or over any licensed or permitted subsidiary of the issuer of such securities, in the future, and that it agrees to notify the board in writing within thirty days if such intent should change.

(2) The exercise of voting privileges with regard to publicly traded securities shall not be deemed to constitute the exercise of influence over the affairs of a licensee.

(3) This subsection shall not be construed to preclude the Louisiana Gaming Control Board or the division from investigating the suitability or qualifications of an institutional investor should the Louisiana Gaming Control Board or division become aware of facts or information which may result in such institutional investor being found unsuitable or disqualified.

§ 311. Licensing by division; fees; franchise payments; enforcement activities

A. The division or the Louisiana Gaming Board shall issue the kinds of licenses set forth in this Section. The kinds of licenses issued under this Section and the annual fee to be paid by the holder of each license shall be as follows:

(1) Repealed by Acts 2001, No. 1222, § 2, eff. July 2, 2001.

(2) Distributor
\$10,000

(3) Service Entity
\$ 2,000

(4) Device Owner
\$ 2,000

(5) Device Operation:

(a) A restaurant, bar, tavern, cocktail lounge, club, motel, or hotel \$ 250

(b) (i) A Louisiana State Racing Commission licensed pari-mutuel wagering facility \$ 1,250

(ii) A Louisiana State Racing Commission licensed offtrack wagering facility \$ 1,000

(c) A qualified truck stop facility \$ 1,000

(6) Licensed Establishment \$ 100

B. A device owner shall pay a device owner fee for the privilege of owning and operating video draw poker devices and shall not be required to pay more than one device owner fee. A separate device operation fee, payable by the device owner, shall be levied for each video draw poker device placed by the device owner at a licensed establishment. The device operation fee may be paid in quarterly installments.

C. The device owner fee shall be due and payable in addition to any licensed establishment fee resulting from the placement of a video draw poker device at that establishment. If more than one video draw poker device is placed at a licensed establishment, only one licensed establishment fee is due for that establishment.

D. (1) Each device owner shall remit to the division a franchise payment, in an amount equal to a percentage of the net device revenue derived from the operation of each video draw poker device owned by him. The amount of the percentage shall be based on

the type of licensed establishment authorized by the division for the placement of video draw poker devices, as follows:

(a) A restaurant, bar, tavern, cocktail lounge, club, motel, or hotel 26%.

(b) A qualified truck stop facility 32.5%.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, when the distribution of net device revenues is governed by R.S. 27:318, the franchise payment shall be twenty-two and one-half percent of the net device revenues.

(3) Revenues received from franchise payments shall be deposited in the state treasury and may be used for enforcement activities, subject to legislative appropriation, in accordance with the provisions of R.S. 27:312.

(4) Of the amount attributable to the payment of franchise fees as required in this Section, an amount equal to the avails of one-half of one percent of the franchise fee rate shall be allocated as provided in R.S. 27:312 and appropriated by the legislature as provided in R.S. 27:323.

E. No license shall be issued by the division except upon receipt of a sworn application and a finding by the division that the applicant, the application, and all persons described in R.S. 27:310 meet the requirements of that Section.

F. (1) A device owner shall not be required to maintain a minimum balance or security in their video gaming sweep account unless that device owner has had a nonsufficient

fund return within the past three years.

(2) In the event of a nonsufficient fund return, as provided for in Paragraph (1) of this Subsection, the device owner shall be fined two hundred fifty dollars for the first offense, five hundred dollars for the second offense, and for a third or subsequent offense, a fine of one thousand dollars or be subject to administrative action including but not limited to suspension or revocation of license, or both.

G. Any license issued pursuant to the provisions of this Chapter shall be personal to the licensee to whom it was issued and shall not be transferable.

H. A processing fee shall be charged by the division as follows:

(1) New applications for establishments authorized to operate up to twelve devices, offtrack wagering facilities, and pari-mutuel wagering facilities, one thousand dollars.

(2) New applications for truck stop facilities, ten thousand dollars.

(3) License renewals or the submission of the annual fee required by the provisions of Paragraph (K)(4) of this Section for facilities authorized to operate up to twelve devices, offtrack wagering facilities, and pari-mutuel wagering facilities, one hundred dollars.

(4) License renewals or the submission of the annual fee required by the provisions of Paragraph (K)(4) of this Section for truck stop facilities, one thousand dollars.

(5) Stock or membership sales or transfers of

fifty percent or more of a licensed corporation or limited liability company, one thousand dollars.

I. No person who is licensed as a distributor, device owner, or service entity and whose business is located in a parish in which a majority of the electors voted against the continuance of the operation of video draw poker devices in the election authorized in R.S. 18:1300.21 shall be required to relocate his business in a parish in which a majority of the electors voted in favor of permitting the continuation of the operation of video draw poker devices in order to maintain his license. The business or office location of any person who is licensed as a distributor, device owner, or service entity may be located in a parish in which a majority of the electors voted against the continuance of the operation of video draw poker devices in the election authorized in R.S. 18:1300.21.

J. Within a maximum period of one hundred twenty days from receipt of the license application, the Louisiana Gaming Control Board shall either issue the license or send a detailed explanation as to why the license has not been issued to the license applicant.

K. (1) All licenses to operate video draw poker devices in parishes in which a majority of the electors voted against the operation of video draw poker devices in a valid election provided for by R.S. 18:1300.21 expired on June 30, 1999, and shall not be renewed.

(2)(a) In any parish which, after June 30, 1999, withdraws such authority as the result of an election held in the parish on the question of the operation of video draw poker devices in the parish, the term of any

licenses issued for the operation of video draw poker devices shall terminate on the date of termination of such authority in such parish regardless of when the license was issued or for what term.

(b) If the state terminates the authority to operate video draw poker devices in the entire state or any part of the state, the term of any licenses issued for the operation of video draw poker devices shall terminate on the date of termination of such authority regardless of when the license was issued or for what term.

(3) Except as provided in this Subsection, all licenses to operate video draw poker devices in parishes which have not voted against the operation of video draw poker devices shall be for a term of five years. Licenses issued on and subsequent to July 1, 2004, shall expire on June thirtieth of the fifth year from the date of issuance. The board may establish by rule a procedure to implement this provision.

(4)(a) Each license issued is contingent upon the payment by July first of each year of the annual fees required in this Section. Each license issued is also contingent on the continuation of the authority in each parish to operate video draw poker devices. The payment of the annual fee provided for in this Paragraph shall apply to the fees authorized by the provisions of Subsections A and H of this Section.

(b) If the required annual fees are submitted after July first but on or before July thirty-first, the licensee shall be subject to the following penalty:

(i) Establishments authorized to operate up to three video draw poker devices, two hundred fifty dollars.

(ii) Establishments authorized to operate more than three video draw poker devices, device owners, service entities, and distributors, five hundred dollars.

(c) If the required annual fees are submitted after July thirty-first but on or before August thirty-first, the licensee shall be subject to the following penalty:

(i) Establishments authorized to operate up to three video draw poker devices, five hundred dollars.

(ii) Establishments authorized to operate more than three video draw poker devices, device owners, service entities, and distributors, one thousand dollars.

(d) Failure to submit the annual fee on or before August thirty-first may be cause for suspension or revocation of the license. In lieu of suspension or revocation of the license, the board may levy a fine not to exceed ten thousand dollars.

(5) The Gaming Control Board shall establish by rule a procedure for issuing and renewing licenses that are issued or renewed prior to July 1, 2004, so that a similar number of licenses will come up for renewal in each subsequent year. The rule may provide for a one-time renewal period of less than a five-year duration. Licenses shall be issued to qualified persons who meet the definitions provided in R.S. 27:301 and the state license qualifications set forth in R.S.

27:306 and who comply with the provisions of this Chapter.

L. If a complete application for renewal is filed with the division within thirty calendar days after the expiration of the license, the renewal application will be processed according to established procedures; however, the applicant shall be subject to a five-hundred dollar penalty for late submission of the application.

M. If a complete application for renewal has not been filed with the division on or before the thirtieth calendar day from the date of expiration of the license, the license shall expire, and a new application, along with all appropriate fees, shall be required to be filed.

§ 311.1. Video draw poker employee permits; categories; permit term

A. Except as provided in R.S. 27:311.5, on or after January 1, 2004, no person shall be employed as a video draw poker employee unless that person is the holder of a valid video draw poker employee permit.

B. There shall be the following categories of video draw poker employee permits:

(1) Certified technician level one. A person issued this permit shall be authorized to conduct the activities as defined in R.S. 27:301(B)(1).

(2) Certified technician level two. A person issued this permit shall be authorized to conduct the activities as defined in R.S. 27:301(B)(2).

(3) Designated representative. A person

issued this permit shall be authorized to hold or exercise management or operating authority over gaming activities at a licensed qualified truck stop facility, Louisiana State Racing Commission licensed pari-mutuel wagering facility, or an offtrack wagering facility. Designated representatives shall not be required for restaurants, bars, taverns, cocktail lounges, clubs, or such establishments located in motels or hotels licensed for the placement of not more than three video draw poker devices.

C. A video draw poker employee permit shall not be transferable.

D. The term of a video draw poker employee permit shall be five years.

§ 311.2. Video draw poker employee permit; application

A. A person desiring to obtain a video draw poker employee permit shall apply to the division for the issuance of a video draw poker employee permit.

B. The application for the issuance of a video draw poker employee permit shall be in writing and on forms prescribed by the Louisiana Gaming Control Board.

C. Each applicant for a video draw poker employee permit shall submit to the division any information and documentation required by the division.

§ 311.3. Suitability requirements; issuance of video draw poker employee permit

A. No person shall be issued a video draw

poker employee permit unless the applicant has demonstrated to the division that he is suitable for the issuance of a video draw poker employee permit.

B. For the purposes of this Chapter, suitable for the issuance of a video draw poker employee permit means:

(1) The applicant has met the suitability requirements provided for in R.S. 27:310(A) and R.S. 27:310(B)(1)(a), (b), (c), and (d).

(2) The applicant can demonstrate to the division knowledge of the rules adopted by the division and applicable laws regarding the operation of video draw poker devices.

(3) The applicant has attended all hearings, meetings, seminars, and training sessions required by the division.

C. Notwithstanding the provisions of R.S. 27:311.1 through 311.6 a certified technician level two employee may be issued a video draw poker employee permit even though ten years have not elapsed since the successful completion or service of any sentence, deferred adjudication, or period of probation or parole as provided for in R.S. 27:310(A) if all of the following occur:

(1) The certified technician level two employee has been employed for ten or more years by a video draw poker licensee.

(2) The certified technician level two employee has had no further convictions during the ten year period of employment.

§ 311.4. Division; determination as to

issuance or denial of employee permit; rules

A. If the division determines that the applicant is suitable for the issuance of a video draw poker employee permit as provided for in R.S. 27:311.3, then the division shall issue a video draw poker employee permit to the applicant.

B. If the division determines that the applicant is not suitable for the issuance of a video draw poker employee permit, as provided for in R.S. 27:311.3, then the division shall deny the applicant and shall not issue the video draw poker employee permit.

C. The Louisiana Gaming Control Board may adopt rules necessary for the implementation of the provisions of R.S. 27:311.1 through R.S. 27:311.6, in accordance with the Administrative Procedure Act and the provisions of R.S. 27:15(B)(8).

§ 311.5. Provisional authorization to work pending suitability determination

A. Upon receipt of an application and supporting documentation for the issuance of a video draw poker employee permit, the division shall send an acknowledgment to the applicant that the division has received the application and supporting documentation.

B. The document acknowledging receipt of the application and supporting documentation shall serve as a provisional authorization for the applicant to work in the

capacity for which the applicant is seeking the video draw poker employee permit.

C. The provisional authorization shall expire when the division approves or denies the application for the issuance of a video draw poker employee permit.

§ 311.6. Holder of video draw poker employee permit

The holder of a video draw poker employee permit is authorized to work for any video draw poker licensee in the capacity specified on the video draw poker employee permit.

§ 311.7. Application for additional licenses by person previously found suitable; personal history and financial information not required under certain circumstances

A. A person previously found suitable for licensing for the operation of video draw poker devices by the Louisiana Gaming Control Board may not be required to submit personal history and personal financial information when filing an application for an additional license to operate video draw poker devices if the Louisiana Gaming Control Board determines all of the following:

(1) The person previously submitted personal history and personal financial information with an application for a license to operate video draw poker devices which is active and the person is still associated with the

license.

(2) The applicant has completed an affidavit in a form approved by the board which certifies that there have been no changes to the prior qualification and suitability information previously submitted to the board required by the board in making the initial determination that the applicant was qualified and suitable for licensing as required by R.S. 27:310.

(3) The applicant has submitted any other releases, affidavits, documents, or information required by the board for the issuance of the additional license.

B. The provisions of this Section shall not apply to the conducting of suitability determinations in connection with the renewal of existing licenses held by the applicant.

C. The Louisiana Gaming Control Board shall adopt rules to implement the provisions of this Section. The rules shall be adopted in accordance with the Administrative Procedure Act and the provisions of R.S. 27:15(B)(8).

§ 311.8. Operation of video draw poker devices in certain parishes not affected by change of parish boundaries

A. In any parish in which a majority of the electors of the parish voted to permit the operation of video draw poker devices in the election authorized in R.S. 18:1300.21, and conducted at the 1996 congressional general election, the operation of video draw poker devices may be conducted within the parish

boundaries as the parish boundaries were recognized and taxed by the local governing authority of the parish at the time of that election. The operation of video draw poker devices shall not be affected if the parish boundaries are changed, established, or taxed subsequent to the election provided for in R.S. 18:1300.21 via the statutory process provided for in R.S. 50:221 et seq., R.S. 33:141 et seq., annexation or in any other manner for any reason.

B. In any parish in which a majority of the electors voted against the continuance of the operation of video draw poker devices in the election authorized in R.S. 18:1300.21, and conducted at the 1996 congressional general election, then no license or permit shall be issued to conduct the operation of video draw poker devices within the parish boundaries as the parish boundaries were recognized and taxed by the local governing authority of the parish at the time of that election. The prohibition on the operation of video draw poker devices shall not be affected if the parish boundaries are changed, established, or taxed subsequent to the election provided for in R.S. 18:1300.21 via the statutory process provided for in R.S. 50:221 et seq., R.S. 33:141 et seq., annexation or in any other manner for any reason.

C. The Louisiana Gaming Control Board shall not issue a license to operate video draw poker devices in any parish in which a majority of the electors voted against the continuance of the operation of video draw poker devices in the election authorized in R.S. 18:1300.21, and conducted at the 1996 congressional general election. The

prohibition on the issuance of a video draw poker license in such a parish shall not be affected if the parish boundaries are changed, established, or taxed subsequent to the election provided for in R.S. 18:1300.21 via the statutory process provided for in R.S. 50:221 et seq., R.S. 33:141 et seq., annexation or in any other manner for any reason.

§ 311.9. Application for change of name of licensee operating video draw poker devices; exemption from processing fee

A. A person licensed for the operation of video draw poker devices shall not be required to submit the processing fees provided for in R.S. 27:311(H) when filing an application for a transfer of ownership among subsidiaries and/or a parent corporation or its subsidiaries, if the Louisiana Gaming Control Board determines that all of the following are applicable:

- (1) The only change requested in the license is a change in the corporate structure of the licensee.
- (2) All persons associated with the licensee or parties to a license have previously submitted personal history and personal financial information with an application for a license to operate video draw poker devices and those same persons were previously found suitable, have not changed, and remain associated with the licensee.
- (3) The ownership of the licensed establishment has not changed.
- (4) The applicant has completed an affidavit

in a form approved by the board which certifies that there have been no changes to the prior qualification and suitability information previously submitted to the board and required by the board in making the initial determination that the applicant was qualified and suitable for licensing as required by R.S. 27:310.

(5) The applicant has submitted all other releases, affidavits, documents, or information required by the board.

B. The provisions of this Section shall not apply to the conducting of suitability determinations in connection with the renewal of existing licenses held by the applicant.

C. This Section shall not be construed to preclude the Louisiana Gaming Control Board or the division from investigating the suitability or qualifications of any person should the Louisiana Gaming Control Board or division become aware of facts or information which may result in such person being found unsuitable or disqualified.

D. The Louisiana Gaming Control Board may adopt rules to implement the provisions of this Section. The rules shall be adopted in accordance with the Administrative Procedure Act and the provisions of R.S. 27:15(B)(8).

§ 312. Video Draw Poker Device Fund; distribution and expenditure

A. The division shall collect all fees, fines, and penalties assessed under the provisions of this Chapter and under the rules and regulations of the division.

B. (1)(a) All revenues and other monies received by the division, except those monies specified by the provisions of R.S. 27:311(D)(4) which shall be deposited as provided by R.S. 27:323, shall be forwarded by the division to the state treasurer for immediate deposit in the state treasury.

(b) Funds so deposited shall first be credited to the Bond Security and Redemption Fund in accordance with Article VII, Section 9(B) of the Constitution of Louisiana.

(c) Thereafter, the state treasurer shall, each fiscal year, credit to a special fund, which is hereby created in the state treasury and entitled the Video Draw Poker Device Fund, an amount equal to all revenues received by the division pursuant to the provisions of this Chapter, except those funds specified by the provisions of R.S. 27:311(D)(4), which shall be deposited as provided by R.S. 27:323 and those funds withheld pursuant to R.S. 27:319(A)(2) which shall be remitted for deposit to the Compulsive and Problem Gaming Fund provided for in R.S. 28:842.

(2) After complying with the provisions of Paragraph (1) of this Subsection, the state treasurer shall, each fiscal year, credit the following amounts to the following special funds:

(a) One percent, not to exceed five hundred thousand dollars, to the Compulsive and Problem Gaming Fund established by R.S. 28:842.

(b) To a special fund, which is hereby created in the state treasury and entitled the Video Draw Poker Device Fund, an amount

equal to all revenues received by the division pursuant to the provisions of this Section, less any monies credited to another fund pursuant to the provisions of Subparagraph (a) of this Paragraph.

C. Except as provided in Paragraph (3) of this Subsection, the monies in the Video Draw Poker Device Fund shall only be withdrawn pursuant to appropriation by the legislature and shall be distributed as follows:

(1) Twenty-five percent to be distributed in the following priority:

(a) First, sufficient funds shall be deposited in the state treasury to provide district attorneys and assistant district attorneys any increased compensation which may be provided to them by any law enacted in the 1992 Regular Session, not to exceed five million, four hundred thousand dollars.

(b) Second, except as provided by R.S. 33:171(B) and (C), the money remaining after the distribution provided for in Subparagraph (1)(a) shall be distributed as follows:

(i) To the governing authorities of municipalities in which video draw poker devices are operated, the amount of the distribution to be based upon the proportion of the total amount of fees, fines, and penalties the municipality contributes to the statewide total, to be used for enforcement of the provisions of this Chapter, offenses relating to gambling, and any other purpose.

(ii) To the governing authority of each parish in which video draw poker devices are operated and the sheriff of each such parish, to be divided equally between them, the amount of the distribution to be based upon the proportion of the total amount of fees, fines, and penalties the parish contributes, outside of any incorporated areas, to the statewide total, to be used for enforcement of the provisions of this Chapter, offenses relating to gambling, and any other purpose.

(iii) Amounts distributed pursuant to this Subparagraph may be redistributed among the authorized recipients pursuant to a written agreement, ratified by a vote of the governing authority of each recipient, among all affected recipients when, as a result of a change in governmental organizational circumstances, the proportionate distribution among the recipients has changed.

(2) An amount shall be allocated to the Department of Public Safety and Corrections and to the Department of Justice, pursuant to legislative appropriation, for regulatory, administrative, investigative, enforcement, legal, and such other expenses as may be necessary to carry out the provisions of this Chapter and for activities associated with enforcement of laws and regulations governing video draw poker devices.

(3) Any monies in the fund not required to meet the purposes provided for in Paragraphs (1) and (2) shall be credited to and deposited in the state general fund as they become available. Any unexpended or unencumbered monies remaining in the Video Draw Poker Device Fund at the end of the fiscal year shall revert to the state general

fund.

(4) An amount equal to all franchise payments exempted pursuant to R.S. 27:321 shall be considered to be part of the Video Draw Poker Device Fund for purposes of calculating the distribution of the fund pursuant to Paragraphs (1) and (2).

§ 313. Investigations and violations

A. The division shall conduct such investigations, hearings, and inquiries as it deems necessary to fulfill its responsibilities under the provisions of this Chapter. A license may be suspended prior to a hearing upon a written finding of danger to public health and welfare.

B. As a condition of receiving a license under the provisions of this Chapter, each licensee agrees that the division and its agents and employees shall have unrestricted access and the right to inspect any premises under the control of the licensee in which any activity relating to the provisions of this Chapter is conducted.

§ 314. Preemption of local laws and taxes

Video draw poker devices or similar devices licensed and permitted pursuant to this Chapter are exempt from taxes, fees, and licensing restrictions imposed by any governmental entity, except that a local governing authority may levy an occupational license tax on the operation of video draw poker devices within its jurisdiction in an amount not to exceed fifty dollars per device.

§ 315. Illegal lottery devices

Notwithstanding any provision of the law to the contrary, no video draw poker device licensed for play at a licensed establishment according to the provisions of this Chapter shall be considered an illegal lottery device for purposes of R.S. 47:9075.

§ 316. Prohibited relationships; division employees; licensees

A. (1) In addition to any prohibition found in Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950, [FN1] no person employed by or performing any function on behalf of the division may:

(a) Be an officer, director, owner, or employee of any person or entity licensed by the division; or

(b) Have or hold any interest, direct or indirect, in or engage in any commerce or business relationship with any entity licensed by the division.

(2) The Board of Ethics shall administer and enforce the provisions of this Subsection. The procedures and penalties provided for in the Code of Governmental Ethics [FN2] shall apply to the administration and enforcement of the provisions of this Subsection.

B. No person licensed by the division as a manufacturer, distributor, or device owner may participate in the operation of any computer program, software, or device which is used for the polling or reading of video draw poker device operations or for

the remote shutdown of those operations as provided for in R.S. 27:302(A)(5)(o).

§ 317. Residence and domicile requirements; licensees

A. Except as provided in Subsection B of this Section, no distributor, device owner, or service entity license shall be renewed or issued to any person, other than a corporation, pursuant to the provisions of this Chapter unless the division finds that the person applying has resided and been domiciled in the state of Louisiana for a period of two years prior to the date of the application. If the person applying is a corporation, then a distributor, device owner, or service entity license may be renewed or issued to an otherwise qualified and suitable corporation if a majority of the common and preferred stock is owned by an individual person or persons who have resided and been domiciled in the state for a period of two years prior to the date of application. Nothing in this Subsection shall be construed to deprive an originally licensed distributor, device owner, or service entity, who has met the residency and domiciliary requirements of this Subsection, of the right to renew the license by terminating their residency and domiciliary status in the state of Louisiana, provided that the distributor, device owner, or service entity licensee has been domiciled in the state for a period of not less than two years after obtaining the original license.

B. An applicant for a device owner license who owns and operates a pari-mutuel wagering facility or an off-track wagering facility in this state shall not be required to meet the residency requirement for device

owners provided for in Subsection A of this Section.

C. The provisions of this Section shall not apply to a device owner of video draw poker devices located at any pari-mutuel wagering facility or off-track wagering facility.

§ 318. Distribution of device revenues; particular licensed establishments; pari-mutuel wagering facilities

A. The owner of the licensed establishment shall pay twenty percent of the net device revenue derived from the operation of devices at that licensed establishment to be used to supplement purses for horsemen as provided in Subsection B of this Section. Such monies shall be made available for use as purses monthly, prior to the twentieth day of the month following the month in which they are earned.

B. Revenues earned for purse supplements under Subsection A shall be disbursed, accounted for, and used as follows:

(1) Monies earned for purse supplements from devices located at a racing facility currently conducting live racing shall be in addition to all other monies currently provided for purses and purse supplements under other provisions of law and shall be used at the current race meeting.

(2) Monies earned for purse supplements from devices located at an eligible racing facility not currently conducting live racing shall be placed in an interest bearing account until the first day of the next live race meeting conducted at that facility, at which

time the accumulated monies derived from this Paragraph and interest earned on such monies shall be added to all other monies currently provided for purses and purse supplements at that race meeting under other provisions of the law and shall be used at that race meeting.

(3) Monies earned for purse supplements from devices located at an eligible off-track wagering facility shall be used for purse supplements at the racing facilities of the owners of the off-track wagering facility where the net device revenues were earned. Where such facilities are jointly owned, the monies earned for purse supplements at that facility shall be divided in direct proportion to ownership of the facility for use at their respective racing facilities. Distribution of monies earned for purse supplements in accordance with this Paragraph shall be distributed as provided for in Paragraphs (1) and (2) of this Subsection.

(4) Four percent of all monies earned or authorized in accordance with the provisions of this Section for purse supplements shall be paid the authorized representative of the horsemen for the use and benefit of such persons and other horsemen as medical and hospital benefits. However, provisions of this Paragraph shall not apply if provisions of R.S. 4:183 as currently in effect require such a deduction from monies earned for purse supplements under this Section, and provisions of this Paragraph would result in duplication of designated funds for hospitalization for horsemen.

C. The division shall require all contracts between licensed device owners, operators,

or service entities and owners of licensed establishments offering pari-mutuel wagering to be in writing and submitted to the division within ten days of signing. The division shall promulgate rules and regulations necessary to require correct reporting and timely use of those funds designated for use as horsemen's purses.

D. The provisions of this Section shall only apply to pari-mutuel wagering facilities.

§ 319. Allowing underage persons to play video draw poker devices; penalties; revocation of license

A. (1) No person licensed pursuant to the provisions of this Chapter, or any agent or employee thereof, shall allow a person under the age of twenty-one to play or operate a video draw poker device at a licensed establishment.

(2) The person licensed pursuant to provisions of this Chapter shall withhold all winnings from patrons who are determined to be under the age of twenty-one.

(3) The person licensed pursuant to provisions of this Chapter shall each quarter report and remit to the division all winnings withheld from patrons who are determined to be under the age of twenty-one.

B. (1) Violations of Subsection A of this Section shall be penalized by the division as follows:

(a) For allowing a person under the age of twenty-one to play or operate a video draw poker device at a licensed establishment,

unless the licensee, his employee, or agent reasonably believed that the person was twenty-one years old or older:

(i) For a first or second violation, a fine of one thousand dollars shall be imposed.

(ii) For a third or subsequent violation, license revocation shall be imposed.

(b) For allowing a person under the age of twenty-one to play or operate a video draw poker device at a licensed establishment when the licensee, his employee, or agent is shown to have known or reasonably believed he was allowing a person under the age of twenty-one years old to play or operate a video draw poker device, or for allowing a person under the age fifteen years old to play or operate a video draw poker device at a licensed establishment regardless of what the licensee, his employee or agent knew or reasonably believed about the age of that person:

(i) For a first or second violation, license revocation may be imposed.

(ii) For a first or second violation, a fine of one thousand dollars shall be imposed if the license is not revoked.

(iii) For a third or subsequent violation, license revocation shall be imposed.

(2)(a) A licensee shall be provided notice of the charged violation and may concede the violation and accept the penalty or may deny the violation and demand a hearing be held, pursuant to R.S. 27:25, to make a

determination regarding the charge.

(b) A violation shall have occurred only if the charged violation is conceded by the licensee to have occurred or is found to have occurred at a hearing held for that purpose.

(c) For the purposes of determining whether a second or subsequent violation has occurred, every violation shall have occurred on a separate occasion, at the same licensed location, and only violations that have occurred within a one-year period, regardless of when they were charged, conceded, or found to have occurred, shall be considered.

(d) For persons having more than one license issued pursuant to the provisions of this Chapter, license revocation as provided in this Subsection, shall only apply to the license of the licensed establishment where the violations occurred.

C. (1) It is unlawful for any person under twenty-one years of age to play or operate a video poker device.

(2) Whoever violates the provisions of this Subsection shall be fined not more than one hundred dollars.

(3) Any person apprehended while violating the provisions of this Subsection may be issued a citation by the apprehending law enforcement officer, which shall be paid in the same manner as provided for the offenders of local traffic violations.

§ 320. Toll-free telephone assistance for compulsive gamblers; posting of signs on premises

The division shall require the posting of one or more signs on licensed premises at points of entry to the areas where devices are located to inform customers of the toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling. Failure by the owner of the licensed premises to post and maintain such a sign or signs shall be cause for the imposition of a fine not to exceed one thousand dollars per day.

§ 321. Horse racing emergency relief; exemption from franchise payments

A. Owners of video draw poker devices located in licensed establishments owned or operated by a licensed racing association eligible for emergency relief as determined by the Interim Emergency Board shall be exempt from the franchise payment otherwise due on such machines as required in R.S. 27:311 for a period of time to be determined by the board. However, in no case shall this exemption exceed a period of fifteen years.

B. Owners of video draw poker devices exempted from the franchise payment as provided in this Section shall remit directly to an eligible licensed racing association an amount equal to the franchise payment otherwise due for the duration of the exemption period. All funds received by a licensed racing association pursuant to this Section shall be used for the sole purpose of providing emergency relief to eligible pari-mutuel facilities, but by no event shall this tax exemption exceed two million five hundred thousand dollars annually.

C. The use of funds received by a licensed racing association pursuant to this Section shall be subject to review and prior approval by the Joint Legislative Committee on the Budget and shall be subject to continued oversight by the committee. The committee may specify such reporting and accounting procedures as it deems necessary to fulfill such approval and oversight. The committee may, at any time, reduce the exemption authorized pursuant to this Section if the racing association, through its audited financial records, cannot verify and document to the committee's satisfaction that the exemption is fully needed to allow for the on-going economic viability of the racing association.

D. The financial records pertaining to all use of funds pursuant to this Section shall be audited by the legislative auditor.

E. At such time as the emergency relief for any licensed racing association granted pursuant to this Section exceeds the required annual debt service on any bonds or other indebtedness incurred to address the emergency situation, such indebtedness shall not exceed twenty-five million dollars, the excess of such funds shall be remitted to the state treasury for deposit into the Video Draw Poker Device Fund. The proceeds of any settlement of disputed claims involving the emergency situation shall be used solely and exclusively to retire in advance of maturity or defease outstanding bonds or other indebtedness.

F. In the event the licensed racing association or owner of the facilities ceases to operate the facilities as pari-mutuel

wagering facilities at any time during the authorized period of the exemption, the exemption shall immediately cease and the full amount of franchise payments exempted from inception of the exemption shall be reimbursed to the state treasury.

G. The provisions of this Section shall only apply to emergency relief sought for catastrophic occurrences which occurred prior to June 7, 1994.

H. In the event that a pari-mutuel facility is leased to another pari-mutuel operator or is sold, the state treasury shall be paid the full aggregate extent of the exemption granted under Subsection A of this Section.

§ 322. Check cashing; prohibitions

A. (1) No person who has been granted a license to place video draw poker devices in his truck stop facility and no servant, agent, or employee of the licensee shall cash or accept for cashing an identifiable employee payroll check.

(2) No such person in his capacity as a licensee or a servant, agent, or employee of a licensee shall cash or accept in exchange for cash any document evidencing or stating title to or ownership of, whether unencumbered or encumbered by a privilege, mortgage, or security interest, any classification of motor vehicle, manufactured home, or immovable property, including any building or dwelling situated therein.

(3) No such person in his capacity as a licensee or a servant, agent, or employee of a licensee shall cash or accept in exchange for

cash any check that represents a Family Independence Temporary Assistance Program (FITAP), Temporary Assistance for Needy Families (TANF), or supplemental security income payment.

(4) The provisions of this Section shall not prohibit any transaction or commerce which is unrelated to the use or operation of video draw poker devices.

B. Whoever violates or permits the violation of the provisions of this Section may be imprisoned for not more than six months or fined not more than five hundred dollars, or both.

§ 323. Video Draw Poker Device Purse Supplement Fund; distribution and expenditure

A. Funds specified pursuant to the provisions of R.S. 27:311(D)(4) shall be forwarded by the division to the state treasurer for immediate deposit in the state treasury. The funds so deposited shall first be credited to the Bond Security and Redemption Fund in accordance with Article VII, Section 9(B) of the Constitution of Louisiana. Thereafter, the state treasurer shall, each fiscal year, credit to a special fund, which is hereby created in the state treasury and entitled the Video Draw Poker Device Purse Supplement Fund, an amount equal to all funds specified pursuant to R.S. 27:311(D)(4). Monies in the Video Draw Poker Purse Supplement Fund shall only be withdrawn pursuant to an appropriation by the legislature and shall be used solely as provided in Subsection B of this Section.

B. Monies in the Video Draw Poker Device Purse Supplement Fund shall be annually appropriated to the Louisiana State Racing Commission within the office of the governor, and shall be allocated by the commission as follows:

(1) Two-thirds of the funds appropriated to the commission pursuant to this Section shall be allocated and provided to the licensed racing associations in the state which conduct live horse racing on the basis of the proportion the number of thoroughbred race days each association conducted for the preceding year bears to the total number of thoroughbred race days conducted statewide for the preceding year, and such funds shall be used solely to supplement purses in accordance with a schedule or formula established by the purse committee of the Louisiana Thoroughbred Breeders Association on Louisiana-bred thoroughbred races.

(2) Except as otherwise provided in this Paragraph, one-third of the funds appropriated to the commission pursuant to this Section shall be allocated and provided to the Louisiana Quarterhorse Breeders' Association to be used to supplement purses for Louisiana bred quarterhorses. Within fifteen days of receipt, the first fifty thousand dollars of the amount allocated by the Louisiana State Racing Commission to the Louisiana Quarterhorse Breeders' Association shall be disbursed as follows:

(a) Twenty-five thousand dollars shall be paid to the Louisiana Quarterhorse Association to be used for the promotion of youth interest in quarterhorses.

(b) Twenty-five thousand dollars shall be paid to the Quarterhorse Racing Association of Louisiana to be spent at the direction of a majority of the voting members of the board of directors.

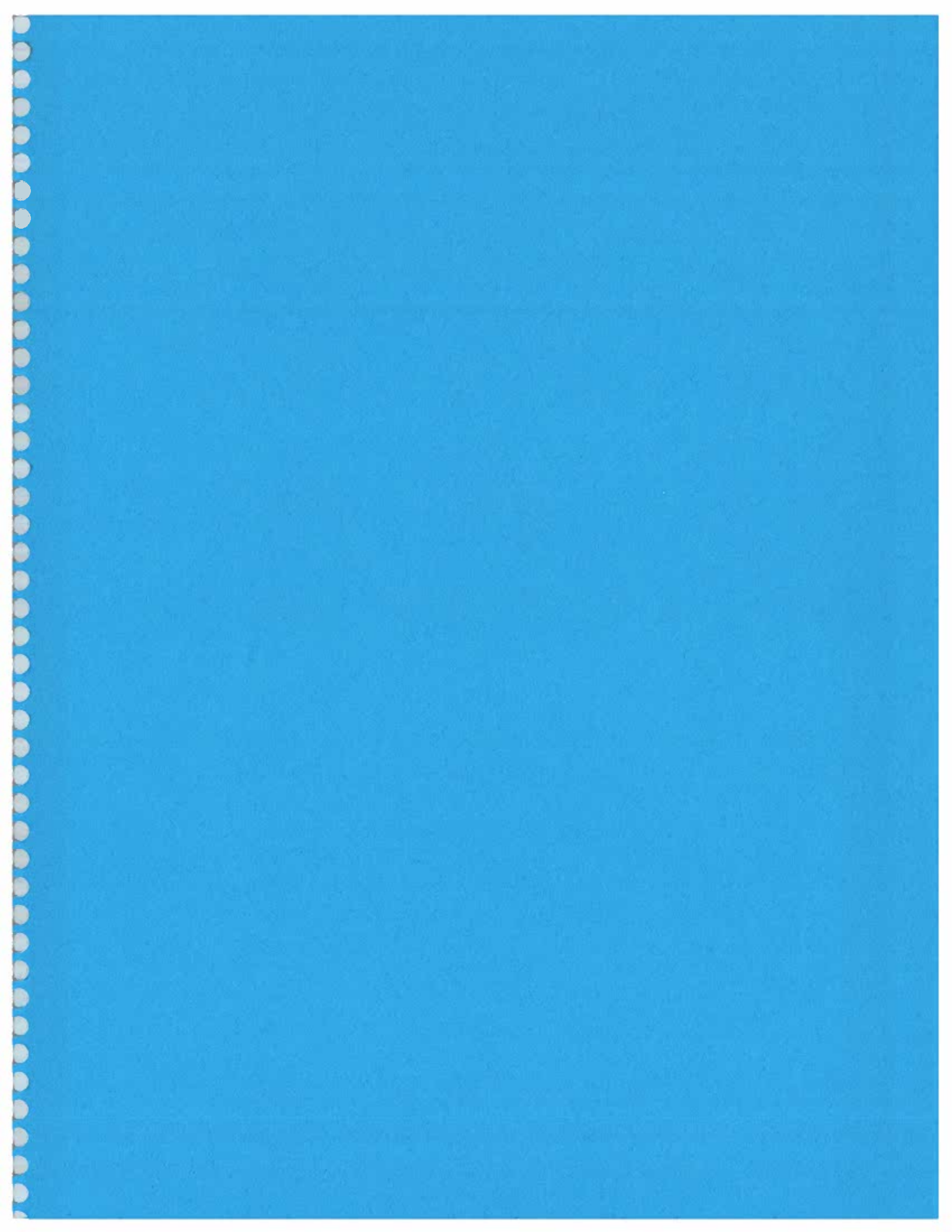
§ 324. Local zoning ordinances


A. Notwithstanding the provisions of R.S. 27:314, local governing authorities shall be authorized to enact zoning ordinances and building codes to regulate and restrict the placement or use of video draw poker devices, or the location, design, and construction of buildings, structures, and land for licensed video draw poker device operation at qualified truck stop facilities, except that such ordinances shall not exempt any device owner or operator or any other licensee from any of the restrictions on the ownership, operation, use, or location of video draw poker devices as provided in this Chapter.

B. The provisions of this Section shall not be construed as limiting, superseding, or repealing any grant of zoning authority heretofore granted to any governing authority either by statute or home rule charter.

C. (1) No license shall be issued to an applicant unless his application includes a certificate of compliance with applicable zoning ordinances and a statement of the approval for the operation of video draw poker devices at a truck stop facility from the applicable local governing authority.

(2) The provisions of this Subsection shall apply only when the local governing authority has adopted zoning ordinances





Pari-Mutuel Live Racing Facility
Economic Redevelopment
and Gaming Control Act
(Slots)

**LOUISIANA REVISED STATUTES
TITLE 27. LOUISIANA GAMING
CONTROL LAW
CHAPTER 7. PARI-MUTUEL LIVE
RACING FACILITY ECONOMIC
REDEVELOPMENT AND GAMING
CONTROL ACT
PART I. GENERAL PROVISIONS**

§ 351. Title

This Chapter shall be referred to as the "Louisiana Pari-mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act".

§ 352. Policy

The legislature hereby finds and declares it to be the public policy of this state that:

(1) Pari-mutuel wagering facilities which offer live horse racing have historically made great contributions to the economic development of the state at large and particularly the agricultural and horse breeding industries.

(2) Recent legalization of additional forms of wagering other than pari-mutuel wagering on horse races such as lottery, riverboat gaming, and land-based casino gaming have, and will continue to have, a substantial negative and detrimental effect upon live horse racing as well as the thoroughbred and quarterhorse industries in general.

(3) Authorization of certain specified gaming activities, such as the competitive offering of slot machine gaming at specifically defined eligible live racing facilities, will revitalize and rehabilitate those facilities within strategically located geographic areas of the state, and will further result in overall economic development and additional

revenues to the state and parishes where those facilities are located.

§ 353. Definitions

When used in this Chapter, the following terms shall have these meanings:

(1) "Board" means Louisiana Gaming Control Board.

(2) "Designated slot machine gaming area" means the contiguous area of an eligible live racing facility at which slot machine gaming may be conducted in accordance with the provisions of this Chapter, determined by measuring the area, in square feet, inside the interior walls of the licensed eligible facility, excluding any space therein in which gaming activities may not be conducted, such as bathrooms, stairwells, cage and beverage areas, and emergency evacuation routes of any width that meet or exceed the minimum size required by law.

(3) "Division" shall have the same meaning as that term defined in R.S. 27:3(6).

(4) "Eligible facility" means no more than one facility in St. Landry Parish, Bossier Parish, Orleans Parish, and Calcasieu Parish at which the Louisiana State Racing Commission has licensed the conduct or at which the commission has approved the future licensing of the conduct of not less than eighty days within a consecutive twenty-week period each year of live horse race meetings, unless the commission approves the conduct of less than eighty days within a consecutive twenty-week period or a different consecutive or nonconsecutive period, whenever an eligible facility is prevented from conducting live racing as a result of a natural disaster, an act of God, force majeure, a catastrophe, or such other

occurrence over which the eligible facility has no control. Such a determination by the commission shall not adversely affect the status of the eligible facility to conduct slot machine gaming. For the 2005 racing season, "eligible facility" shall also include the facility in St. Landry Parish that will not be able to meet such requirements due to repairs or construction to the racetrack which are necessary in order to protect the safety of riders and thoroughbred racehorses and to preserve the revenues to be received and distributed to the state and local governments at such facility or as otherwise provided in R.S. 4:214.1.

(4.1) "Emergency Evacuation Route" means those areas within the designated slot machine gaming area of a licensed eligible facility which are clearly defined and identified by the licensee as necessary and approved by the State Fire Marshal or other federal or state regulatory agency for the evacuation of patrons and employees from the facility, and from which and in which no gaming activity may occur.

(5) "License" means the authorization applied for by or issued to the owner of an eligible facility by the board to conduct slot machine gaming at an eligible facility issued pursuant to the provisions of this Chapter. "License" also means the authorization issued by the board to a slot machine owner, a manufacturer, distributor, or a service technician to participate in slot machine gaming operations at eligible facilities.

(6) "Licensee" means any person issued a license by the board.

(7) "Manufacturer" means any person who

manufactures or assembles and programs slot machines for use in this state.

(8) "Net slot machine proceeds" means the total of all cash and property received by a licensee from slot machine gaming operations minus the amount of cash or prizes paid to winners.

(9) "Person" shall have the same meaning as that term defined in R.S. 27:3(21).

(10) "Service technician" means any person other than a licensee or manufacturer who repairs, services, inspects, or examines slot machines.

(11) Repealed by Acts 2001, No. 1222, § 2, eff. July 2, 2001.

(12) "Slot machine gaming" means the use, operation, offering, or conducting of slot machines at an eligible facility in accordance with the provisions of this Chapter.

(13) "Taxable net slot machine proceeds" means "net slot machine proceeds" less the amount of support, payment, or contributions required as provided in R.S. 27:361(B)(4).

(14) "Slot machine" means any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token, or similar object therein or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or anything of value,

whether the payoff is made automatically from the machine or in any other manner.

§ 354. Power of Louisiana State Racing Commission

Nothing in this Chapter shall be construed to abrogate, limit, or diminish in any way the powers granted to the Louisiana State Racing Commission.

§ 355. Requirements for slot machines

Slot machines shall:

- (1) Be inspected by the board or its designee for certification and compliance.
- (2) Have a serial number or other identification number permanently affixed to the device by the manufacturer.
- (3) Be connected to a central computer operated and maintained as directed by the board.
- (4) Offer the same minimum winning percentage and payout as slot machines on riverboats.

**PART II. CONDUCT OF SLOT MACHINE GAMING ACTIVITY
SUBPART A. AUTHORIZED ACTIVITY AND REQUIRED ACTIONS**

§ 361. Conduct of slot machine gaming; temporary conduct

A. Subject to the limitation in Subsection C of this Section, upon sworn application by the owner of an eligible facility and upon a finding by the board, after investigation, that

the application is complete and the owner is suitable, the board shall issue a license to the owner to conduct slot machine gaming in an eligible facility. Once licensed, slot machine gaming may be conducted subject to the requirements of this Chapter and rules adopted pursuant to the authority granted in this Chapter.

B. As a condition of licensing and to maintain continued authority for the conduct of slot machine gaming at the licensed eligible facility, the owner of the licensed eligible facility shall:

- (1) Maintain continuous suitability.
- (2) Repealed by Acts 2001, No. 1222, § 2, eff. July 2, 2001.
- (3) Permit unrestricted access and right of inspection by the board, any agent of the board, and the division to any portion of the premises of an eligible facility in which any activity relative to the conduct of slot machine gaming is conducted.
- (4) Contribute to the support of pari-mutuel wagering facilities in the state at large and the horse breeding industry by paying annually from the annual net slot machine proceeds received from slot machine gaming operations at the licensed eligible facility as provided in this Paragraph:

(a) The licensed eligible facility shall pay a fixed percentage of fifteen percent of the annual net slot machine proceeds received from slot machine gaming operations at the licensed eligible facility to supplement purses as follows:

(i) Seventy percent to supplement purses for thoroughbred races at that facility or any facility licensed by the Louisiana State Racing Commission to conduct additional or substitute races or race days as authorized by R.S. 4:147.1, thirty percent of which shall be for Louisiana-bred thoroughbred horses. Four percent of this amount shall go to the Horsemen's Benevolent and Protective Association in accordance with law.

(ii) Thirty percent to supplement purses for quarter horse races at that facility or any facility licensed by the Louisiana State Racing Commission to conduct additional or substitute races or race days as authorized by R.S. 4:147.1, sixty percent of which shall be for Louisiana-bred quarter horses. Four percent of this amount shall go to the Horsemen's Benevolent and Protective Association in accordance with law.

(b) The licensed eligible facility shall pay annually a fixed percentage of two percent of the annual net slot machine proceeds received from slot machine gaming operations at the licensed eligible facility to the Executive Committee of the Louisiana Thoroughbred Breeders' Association. The Executive Committee shall distribute such amount according to a schedule or formula and within a time period which shall be established by the committee for special breeder awards to the breeders of accredited Louisiana-bred horses.

(c) The licensed eligible facility shall pay annually a fixed percentage of one percent of the annual net slot machine proceeds received from slot machine gaming operations at the licensed eligible facility to the Executive Committee of the Louisiana

Quarter Horse Breeders' Association. The Executive Committee shall distribute such amount according to a schedule or formula and within a time period which shall be established by the committee for special breeders' awards to the breeders of accredited Louisiana-bred quarter horses.

C. (1) An application may be approved by the board only after the electorate in the parish in which the eligible facility is located or, is proposed to be located, as provided for in Subsection D of this Section, has approved the conduct of slot machine gaming at such facility at an election, as provided in Part III of this Chapter.

(2) In addition to the requirements of Paragraph (1) of this Subsection, an application for an eligible facility in Orleans Parish may be approved by the board only after the Amended and Renegotiated Casino Operating Contract entered into pursuant to R.S. 27:201 et seq., on October 30, 1998, as amended effective October 19, 1999, March 29, 2001, and March 31, 2001, has been further amended to provide that the inclusion, licensing, or operation of an eligible facility in Orleans Parish shall not constitute an Exclusivity Violation or prohibited land-based gaming as defined in such contract, as amended, following approval of such amendment by the Joint Legislative Committee on the Budget as required by the provisions of Subsection B of Section 3 of Act No. 1 of the First Extraordinary Session of 2001.

D. The owner of a pari-mutuel live horse racing facility which has been licensed by the Louisiana State Racing Commission to conduct live race meetings, as provided in

Part I of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950, although the facility necessary to conduct live race meetings has not been completed and live racing has not begun to be conducted may be licensed as provided in Subsections A through C of this Section and may conduct slot machine gaming under such license in a designated slot machine gaming area approved by the board, provided that the facility for the conduct of a live race meeting be constructed and a schedule of live race meetings be established no later than twenty-four months following the receipt of a license to conduct slot machine gaming. All authority to conduct slot machine gaming shall cease if at the end of twenty-four months the requirements of this Subsection are not met.

E. (1) The license provided for in this Section shall be issued for a period of five years and shall be renewed for succeeding five-year periods upon application for such renewal, provided such application includes all revisions to the information in the original application which are necessary to maintain such information as both accurate and current and provided the board continues in its finding of suitability.

(2)(a) The license provided for in this Section shall not be transferrable.

(b)(i) The board shall provide by rule for establishing when a change in the interests in a licensed owner constitutes a change of ownership of sufficient significance that continuing the license would violate the provisions of this Paragraph.

(ii) The board shall provide by rule for an

opportunity for a proposed buyer of an eligible facility to undergo the same processing and investigation by the board that would be conducted regarding an applicant for licensing to conduct slot machine gaming as an owner of an eligible facility in advance of the proposed buyer's concluding the purchase. In such a case, the board shall determine and inform the proposed buyer of whether or not based on the processing and investigation the proposed buyer would be licensed to conduct slot machine gaming as the owner of the facility should he apply for such a license. The advance process and investigation provided for in this Item shall not replace the application of the owner of an eligible facility to conduct slot machine gaming in such facility; however, additional processing and investigation shall be required only to supplement the prior processing and investigation in order that all matters related to such an application be complete and current.

F. Wagering at an eligible live racing facility may be made with tokens, chips, vouchers, coupons, or electronic cards issued by the licensed eligible facility or an approved facility manager acting on behalf of the facility. Electronic cards may be used which are affixed with a magnetic storage media, a "smart card" or those containing an integrated circuit chip, but excluding credit cards issued by any other entity or institution.

§ 362. Repealed, Acts 2001, No. 1222 §2, effective July 2, 2001

§ 363. Suitability standards

A. No applicant shall be granted a license under the provisions of this Chapter unless the applicant has demonstrated to the board that he is suitable for licensing.

B. For purposes of this Chapter, suitable for licensing means:

(1) The applicant has met the standards provided in R.S. 27:28.

(2) Repealed by Acts 2001, No. 1222, § 2, eff. July 2, 2001.

(3) The applicant is capable of conducting the activity for which a license is sought, which means that the applicant can demonstrate the capability, through either training, education, business experience, or a combination of them, to conduct such activities.

(4) Particularly as to the owner of the eligible facility, the applicant can demonstrate that the proposed financing of slot machine gaming at the eligible facility is adequate for the nature of the proposed operation and from a source suitable and acceptable to the board.

C. (1) The applicant must have a good faith plan to recruit, train, and upgrade minorities in all employment classifications.

(2) It shall be required by the owners, to provide the maximum practical opportunities, for participation by the broadest number of minority-owned businesses. Such offering of participation by owners to the disadvantaged business enterprises who qualify under the provision of this Chapter, shall be at a price not to

exceed the price paid per share or interest paid by the ownership interests.

(3) The legislature hereby further directs that the written policies, procedures, and regulations shall provide for the inclusion of businesses owned by minorities to the maximum extent practicable.

(4)(a) All businesses or vendors selected by the eligible facility for any purpose shall strictly adhere to the nondiscrimination policies and practices embodied in applicable federal, state, and local law.

(b) Any business, vendor, and/or contractor selected by the eligible facility to operate slot machine gaming contemplated herein shall, as nearly as practicable, employ minorities consistent with the population of the state.

D. A person whose application for a license has been denied, or whose license has been issued subject to a condition or whose license has been suspended or revoked, or against whom a fine has been levied has the right to a hearing before the board pursuant to R.S. 27:25 and an appeal from a decision of the board, pursuant to R.S. 27:26.

E. Repealed by Acts 2001, No. 1222, § 2, eff. July 2, 2001.

§ 364. Gaming Control Board; powers and duties

A. The board shall:

(1)(a) Adopt, pursuant to the Administrative Procedure Act, all rules necessary to implement, administer, and regulate slot machine gaming as authorized in this

Chapter.

(b) Such rules shall include:

(i) Procedures for applying for a license and seeking renewal of a license.

(ii) Establishing technical qualifications beyond suitability as provided for in this Chapter which shall be necessary to be licensed as a manufacturer and a service technician.

(iii) A process for counting and collecting net slot machine proceeds.

(iv) A standard for determining whether changes in interests in various licensees are sufficiently significant such that to continue the license in the licensee would violate the prohibitions in R.S. 27:361(E)(2).

(v) A prescription of the types of slot machines which may be operated and the games which may be permitted on such machines. No game may be permitted on such machines by prescription of the board which resembles a game the play of which requires, or typically includes, the participation of another natural person.

(vi) A procedure for the withholding of progressive slot machine annuities, of persons who have outstanding child support arrearages or child support overpayments. The board may require an agency reporting current child support arrearages, or overpayments of child support payments collected and distributed to a custodial parent by support enforcement services to the board to provide information relating to such arrearages or overpayments in a manner,

format, or record approved by the board. The board or any entity licensed or permitted under this Title shall not be liable for withholding or failing to withhold any progressive slot machine annuities, based upon information provided to it. The board shall enact such rules and regulations by January 1, 2007.

(c) Such rules may include:

(i) Requiring licensees or former licensees to maintain specified records and submit any data, information, record, or report including financial and income records, required by this Chapter or determined by the board to be necessary to the proper implementation and enforcement of this Chapter.

(ii) Requiring certain minimum physical security standards be observed in designated slot machine gaming areas.

(iii) Requiring a standard of maintenance of slot machines.

(2) Revoke or suspend the license of any person who is found, after receiving a license, to have been unsuitable at the time of application for the license or who is otherwise found unsuitable.

(3) Conduct any investigation or cause any investigation to be conducted by the division the board determines necessary to fulfill its responsibilities under the provisions of this Chapter.

(4) Permit slot machines to be linked for the offering of progressive jackpots.

(5) Approve the location, plans, and

construction of the designated slot machine gaming area in an eligible facility.

B. The board may direct the division to:

(1) Inspect and examine all premises where slot machines are offered for play or where slot machines or equipment are manufactured, sold, or repaired.

(2) Inspect all slot machines and related equipment and supplies.

(3) Summarily seize and remove slot machines and related equipment and supplies from any facility wherein such machines are or have been operated pursuant to this Chapter.

C. The board may:

(1) Deny, revoke, condition, or suspend the license of any person who violates any provision of this Chapter or any rule adopted pursuant to the authority granted in this Chapter. This is a power in addition to the requirement of Paragraph (2) of Subsection A of this Section and is not intended to limit that requirement.

(2) Take steps necessary to collect fees owed to the board, including filing a suit.

(3) Direct the division to act on its behalf in any manner relative to investigation, inspection, and enforcement.

§ 365. Division; powers and duties

The division shall:

(1) Upon the direction of the board or

pursuant to any agreement with the board, investigate any applicant or licensee, make any other investigation or inspection, or take any enforcement action necessary to the thorough and efficient implementation of this Chapter.

(2) Subject to the direction of the board, establish, maintain, and operate the mechanism necessary to conduct remote polling or reading of slot machine operations or for the remote shutdown of those operations.

(3) Inspect, examine, and seize and impound all slot machines or equipment or records related to operating slot machines as directed by the board or as agreed with the board.

(4) Report to the board any violation of law or rule discovered by the division.

(5) Impose and collect an annual fee not in excess of fifty dollars on each slot machine to defray the costs of acquiring, implementing, and maintaining the central computer system required by the provisions of R.S. 27:355(3) and Paragraph (2) of this Section. The amount of the fee shall be established and the fee shall be collected in accordance with the provisions of R.S. 27:114.

PART II. CONDUCT OF SLOT MACHINE GAMING ACTIVITY SUBPART B. PROHIBITED ACTIVITIES

§ 371. Prohibition on operation of video draw poker devices; prohibition on any other type of game

A. The operation of video draw poker devices shall be prohibited and may not be licensed to operate in any eligible facility in which slot machine gaming occurs. Except as provided in Subsection B of this Section, on or after June 1, 2003, no slot machine in an eligible facility, where slot machine gaming is conducted in accordance with the provisions of this Chapter, shall offer the game of poker for operation or play.

B. The owner of an eligible facility where slot machine gaming is being conducted on June 1, 2003, in accordance with the provisions of this Chapter, shall have until December 31, 2006, to bring the eligible facility into full compliance with the provisions of Subsection A of this Section. The owner of the eligible facility shall reduce the number of slot machines which offer the game of poker for operation or play as follows:

(1) By July 1, 2004, ten percent of the slot machines offering the game of poker on June 1, 2003, shall be replaced or modified so that they no longer offer the game of poker for operation or play.

(2) By July 1, 2005, an additional forty percent of the slot machines offering the game of poker on June 1, 2003, shall be replaced or modified so that they no longer offer the game of poker for operation or play.

(3) By December 31, 2006, all remaining slot machines offering the game of poker on June 1, 2003, shall be replaced or modified so that they no longer offer the game of poker for operation or play.

C. Nothing in this Chapter shall be construed

to permit the operation or play of any type of game the play of which requires the participation of an employee of the licensee.

§ 372. Slot machine gaming area limitations

A. The size of the designated gaming area in an eligible facility shall not exceed fifteen thousand square feet.

B. No gaming devices other than slot machines and authorized pari-mutuel wagering devices and equipment shall be in the designated slot machine gaming area.

§ 372.1. Limitations on the number of slot machines operated at an eligible facility in Orleans Parish

A. Notwithstanding any provision of law to the contrary, a license issued by the board to conduct slot machine gaming at an eligible facility in Orleans Parish shall be authorized to have a maximum of seven hundred slot machines.

B. Notwithstanding the provisions of Subsection A of this Section if the Amended and Renegotiated Casino Operating Contract entered into on October 30, 1998, as previously amended effective October 19, 1999, March 29, 2001, and March 31, 2001, is terminated and the state of Louisiana does not become a party to any other casino operating contract as defined in R.S. 27:205(6) which contains exclusivity provisions in accordance with R.S. 27:201 et seq., the eligible facility located in Orleans Parish shall not be limited to a fixed number of slot machines which may be placed in the designated gaming area provided for in R.S.

27:372.

C. An eligible facility located in Orleans Parish shall be subject to all licensing requirements and limitations provided by this Chapter in addition to the provisions of this Section.

§ 373. Prohibited relationships

A. (1) In addition to any prohibition found in Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950, no person employed by or performing any function on behalf of the board or the division may:

(a) Be an officer, director, owner, or employee of any person or entity licensed by the board.

(b) Have or hold any interest, direct or indirect, in or engage in any commerce or business relationship with any entity licensed by the board.

(2)(a) No elected public official as defined in R.S. 42:1 shall engage in any business activity with a licensee except as a patron.

(b) As used in this Paragraph, business activity shall specifically include but is not limited to contracts:

(i) For the sale or purchase of goods, merchandise, and services.

(ii) To provide or receive legal services, advertising, public relations, or any other business or personal service.

(iii) For the listing, purchase, or sale of immovable property or options or real rights

relating thereto.

(iv) Modifying ownership or possessory interests in stocks, bonds, securities, or any financial instruments.

(3) The Board of Ethics shall administer and enforce the provisions of this Subsection. The procedures provided for in the Code of Governmental Ethics shall apply to the administration and enforcement of the provisions of this Subsection.

B. No person licensed by the board as a manufacturer, distributor, or slot machine owner may participate in the operation of any computer program, software, or device which is used for the polling or reading of slot machine operations or for the remote shutdown of those operations as provided for in R.S. 27:365(2).

§ 374. Illegal lottery devices

Notwithstanding any provision of the law to the contrary, no slot machine operated according to the provisions of this Chapter shall be considered an illegal lottery device for purposes of R.S. 47:9075.

§ 375. Crimes and penalties; false statements; unauthorized slot machines; skimming of slot machine proceeds; payroll check cashing; gambling devices

A. Repealed by Acts 2001, No. 1222, § 2, eff. July 2, 2001.

B. Except as otherwise permitted by law, any person who possesses or operates a slot machine without the license required by this Chapter or at other than an eligible facility

shall, upon conviction, be imprisoned with or without hard labor for not more than ten years or be fined not more than ten thousand dollars, or both.

C. Any person who intentionally excludes, or takes any action in an attempt to exclude, anything or its value from the deposit, counting, collection, or computation of revenues from slot machine activity shall be imprisoned at hard labor for not less than one year nor more than ten years and may be fined not more than twenty-five thousand dollars.

D. Any owner of an eligible facility who has been granted a license to operate slot machine gaming who cashes or accepts for cashing or permits any employee or other person to cash or accept for cashing an identifiable employee payroll check in the designated slot machine gaming area shall, upon conviction, be imprisoned for not more than six months or fined not more than five thousand dollars, or both.

E. Any slot machine used or offered for play in violation of the provisions of this Chapter, except as otherwise permitted by law, shall be considered a gambling device for purposes of R.S. 15:31.

§ 376. Allowing minors to play slot machines; penalties; revocation of license

A. (1) No person licensed pursuant to the provisions of this Chapter, or any agent or employee thereof, shall intentionally allow a person under the age of twenty-one to play or operate a slot machine.

(2) The person licensed pursuant to provisions of this Chapter shall each quarter report and remit to the division all winnings withheld from customers who are determined to be under the age of twenty-one.

B. The board shall revoke the license of any person issued pursuant to the provisions of this Chapter, who is found by the board to have committed or allowed a violation of Subsection A of this Section.

§ 377. Toll-free telephone assistance for compulsive gamblers; posting of signs on premises

The board shall require the posting of one or more signs at points of entry to the slot machine gaming areas to inform customers of the toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling.

PART III. ELECTION PROVISIONS

§ 381. Parishwide election on slot machine gaming

A. Notwithstanding any provision of law to the contrary, no slot machine gaming shall be allowed in an eligible facility in any parish unless the operation and conduct of slot machine gaming pursuant to this Chapter has first been approved at an election held for such purpose.

B. Any person desiring to operate and conduct slot machine gaming at an eligible facility in a parish shall make application to

the governing authority of the parish in which the proposed slot machine gaming is to be conducted. The application shall state the location of the proposed slot machine gaming and describe the facilities proposed to be constructed for the holding of slot machine gaming and shall have attached the license, or a certified copy thereof, for the live horse race meeting issued by the Louisiana State Racing Commission to conduct such live horse racing at the eligible facility.

C. Upon receipt of the application, the governing authority of the parish in which the slot machine gaming is proposed to be held shall call and conduct a referendum election within the parish for the purpose of submitting to the qualified electors of the parish the proposition whether or not the proposed slot machine gaming shall be allowed.

D. Except as provided in this Section, the elections shall be held in compliance with the Election Code provisions governing proposition elections. In addition to the notice required by the Election Code, the parish governing authority also shall have five spot announcements, at least two days apart, of the election broadcast on radio or television channels readily receivable in the parish and shall make notice of the election available to the news media. All qualified electors of the parish shall be entitled to vote in the election.

E. The proposition to be printed on the election ballot shall be: "TO AUTHORIZE SLOT MACHINE GAMING AT LIVE HORSE RACING FACILITIES. Shall the business of slot machine gaming at a live

horse racing facility be conducted within the parish of _____" and the voters shall vote for or against the proposition, a vote for the proposition being a "Yes" vote and a vote against the proposition being a "No" vote. The election shall be conducted as provided in the Election Code. Any elector who was qualified to vote in the election may demand a recount of the ballots or contest the election in the manner and within the time provided by law for recount or contest of elections under the general election laws of the state.

F. The parish governing authority shall notify the applicant and the Gaming Control Board promptly of the results of the election. If slot machine gaming has been approved, the applicant may proceed in accordance with this Chapter and rules adopted pursuant to the authority of this Chapter. If the proposed slot machine gaming has not been approved at the election, the board shall not grant a license therefor and shall not accept or consider an application for such a license in the same parish until the expiration of at least two years from the date of the election at which the slot machine gaming in the parish was disapproved.

PART IV. TAXES AND FEES; DISTRIBUTION OF REVENUES

§ 391. Authorization of local governing authority tax

A. Except in Bossier Parish and Calcasieu Parish, the local governing authorities in the parish in which the licensed eligible facility is located may levy a tax not to exceed four percent in the aggregate of the weekly taxable net slot machine proceeds.

B. In Bossier Parish the local governing authorities are authorized to levy taxes not to exceed four percent in the aggregate on taxable net slot machine proceeds as follows:

(1) The school board of the parish of Bossier may levy a tax at a rate not to exceed .06 percent on weekly taxable net slot machine proceeds solely for the purpose of depositing the revenues from such tax into the Bossier Parish Educational Excellence Fund. It is the intention of the legislature that the levy of such tax shall insure that such fund shall receive annually approximately the same amount of revenue as will be received individually by the city, by the sheriff or the law enforcement district, and the parish on behalf of itself and the towns provided for in Paragraph (3)(b), when such revenue is combined with the revenue to be received by the fund pursuant to the provisions of R.S. 33:9561(E)(3) and/or R.S. 27:392(B)(3)(a).

(2) The governing authority of the city in which the licensed eligible facility is located may levy a tax not to exceed .985 percent of the weekly taxable net slot machine proceeds.

(3)(a) The governing authority of the parish of Bossier may levy a tax not to exceed 1.97 percent of the weekly taxable net slot machine proceeds.

(b) One-half of the avails of the tax levied pursuant to Subparagraph (a) of this Paragraph shall be distributed monthly as follows:

(i) One-third to the town of Benton.

(ii) One-third to the town of Haughton.

(iii) One-third to the town of Plain Dealing.

(4) The Bossier Parish sheriff or the governing authority of the law enforcement district of Bossier Parish in which the licensed eligible facility is located may levy a tax not to exceed .985 percent of the weekly taxable net slot machine proceeds.

C. (1) The governing authority of the parish of Calcasieu may levy a tax not to exceed four percent of the weekly taxable net slot machine proceeds.

(2) The authority granted to local governing authorities in Calcasieu Parish in Paragraph (1) of this Subsection may be assigned to a gaming district established in accordance with R.S. 33:9576.

§ 392. Collection and disposition of fees and taxes

A. The division shall collect all fees, fines, and state taxes imposed or assessed under the provision of this Chapter and under the rules and regulations of the board.

B. (1) All fees, fines, revenues, state taxes, and other monies collected by the division shall be forwarded upon receipt to the state treasurer for immediate deposit into the state treasury. Funds so deposited shall first be credited to the Bond Security and Redemption Fund in accordance with Article VII, Section 9(B) of the Constitution of Louisiana.

(2)(a) After complying with the provisions of Paragraph (1) of this Subsection, the state treasurer shall, each fiscal year, credit one percent from the combined net slot machine

proceeds collected by the state from each licensed facility, not to exceed five hundred thousand dollars, to the Compulsive and Problem Gaming Fund established by R.S. 28:842. After crediting such proceeds to the Compulsive and Problem Gaming Fund, the state treasurer shall, each fiscal year, credit the remainder of all taxes generated pursuant to R.S. 27:393 and all fines and other monies collected by the division to a special fund which is hereby created in the state treasury and entitled the "Pari-mutuel Live Racing Facility Gaming Control Fund", hereinafter referred to as the "Gaming Control Fund".

(b) Monies in the Gaming Control Fund shall be withdrawn only pursuant to appropriation by the legislature and shall be used solely for the expenses of the board, the Department of Justice, the division, and the Louisiana Racing Commission which are necessary to carry out the provisions of this Chapter. Monies in the fund remaining after appropriation for expenses of the board, the Department of Justice, the division, and the Louisiana Racing Commission shall be credited as hereinafter provided in this Subsection.

(c) Monies in the Gaming Control Fund shall be invested by the state treasurer in the same manner as monies in the state general fund. Interest earned on investment of monies in the Gaming Control Fund shall be credited to the state general fund. Unexpended and unencumbered monies in the Gaming Control Fund at the end of each fiscal year shall be deposited in the state general fund.

(3) After complying with the provisions of Paragraphs (1) and (2) of this Subsection, the state treasurer shall, each fiscal year, credit

five percent of the state portion of taxable net slot machine proceeds collected from each licensed eligible facility to the following special funds:

(a)(i) The Bossier Parish Truancy Program Fund, which is hereby created in the state treasury from the proceeds derived from the licensed eligible facility in Bossier Parish. Monies in the Bossier Parish Truancy Program Fund, for purposes of this Subparagraph referred to as the "fund", shall be withdrawn only pursuant to appropriation by the legislature and shall be used solely and exclusively by the district attorney in the Twenty-Sixth Judicial District to support a truancy program and truancy-related matters within the Twenty-Sixth Judicial District.

(ii) Monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund. Interest earned on investment of monies in the fund shall be credited to the fund. Unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund.

(b)(i) The St. Landry Parish Excellence Fund in St. Landry Parish which is hereby created in the state treasury from proceeds derived from the licensed eligible facility in St. Landry Parish. Monies in the St. Landry Parish Excellence Fund, for purposes of this Subparagraph referred to as the "fund", shall be withdrawn only pursuant to appropriation by the legislature and shall be used solely and exclusively by the St. Landry School Board for elementary and secondary education, or for the construction and operation of a Career and Technology Center to be located in St. Landry Parish, and/or the

enhancement and expansion of existing vocational and technical programs and curricula. The Career and Technology Center shall serve secondary, including junior high school, and postsecondary students and shall provide occupational and workforce training. All courses of instruction provided at the Career and Technology Center shall be developed by the school board in collaboration with the Board of Supervisors of Community and Technical Colleges. Monies in the fund appropriated to the St. Landry Parish School Board shall be used solely and exclusively for enhancements to the education program in St. Landry Parish.

(ii) Monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund. Interest earnings on investment of monies in the fund shall be credited to the fund. Unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund.

(c)(i) The Calcasieu Parish Fund, which is hereby created in the state treasury, from the proceeds derived from the licensed eligible facility in Calcasieu Parish. Monies in the Calcasieu Parish Fund, for purposes of this Subparagraph referred to as the "fund", shall be withdrawn only pursuant to appropriation by the legislature. Monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund. Interest earnings on investment of monies in the fund shall be credited to the fund. Unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund.

(ii) Monies in the fund shall be appropriated

annually as follows:

(aa) Sixty percent to the Calcasieu Parish School Board.

(bb) Thirty percent to McNeese State University.

(cc) Ten percent to Sowell Technical Institute.

(iii) Beginning July 1, 2008:

(aa) Monies in the fund appropriated to McNeese State University and to SOWELA Technical Community College shall not replace, displace, or supplant any other funds received from the state or from any other source. The Board of Regents shall not consider or use such monies in determining or funding the higher education formula. Monies in the fund appropriated to McNeese State University and SOWELA Technical Community College shall be used solely for the purposes of planning, development, or capital improvements.

(bb) McNeese State University and SOWELA Technical Community College may issue bonds for capital improvements payable from a pledge and dedication of the amounts of proceeds of the tax in the Calcasieu Parish Fund. Whenever such bonds are issued, the legislature shall annually appropriate, to the extent of deposits in the fund, monies sufficient to pay the principal, interest, and premiums, if any, due on the bonds each year. If the legislature, after a diligent and good faith effort, fails to appropriate sufficient monies to pay the principal, interest, and premium, if any, due on the bonds each year, or if such

appropriation cannot be effected, the full faith and credit of the state shall not be pledged to repay any bonds issued as provided in this Section and the state shall in no way be a party to any contractual rights arising from the bonds issued, nor shall the state be in any way obligated for any payments due to holders of the bonds issued under the provisions of this Subsection. For the purposes of this Section, "capital improvements" shall mean expenditures for acquiring lands, buildings, equipment, or other permanent properties, or for their construction, preservation, development, or permanent improvement, or for payment of principal, interest, or premium, if any, and other obligations incident to the issuance, security, and payment of bonds or other evidences of indebtedness associated therewith.

(d) The Orleans Parish Excellence Fund which is hereby created in the state treasury from the proceeds derived from the licensed eligible facility in Orleans Parish. Monies in the Orleans Parish Excellence Fund, for purposes of this Subparagraph referred to as the "fund", shall be withdrawn only pursuant to appropriation by the legislature and shall be used solely and exclusively by the Louisiana Community and Technical College System as provided in this Subparagraph. Monies in the fund shall be used solely and exclusively for the construction and operation of an Allied Health and Nursing Program and campus to be located in Orleans Parish. The Allied Health and Nursing Program and campus shall serve secondary and postsecondary students and shall provide occupational and workforce training. All courses of instruction provided at the Allied Health and Nursing

Program shall be approved by the Board of Supervisors of Community and Technical Colleges. Monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund. Interest earnings on investment of monies in the fund shall be credited to the fund. Unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund.

(4) After complying with the provisions of Paragraphs (1) through (3) of this Subsection, the state treasurer shall, each fiscal year, credit a total of twelve million dollars from the combined taxable net slot machine proceeds collected by the state from each licensed eligible facility, as defined herein, to the fund previously established by R.S. 3:277. These proceeds shall be expended, utilizing any or all powers granted to the Louisiana Agricultural Finance Authority, including the funding or securing of revenue bonds, exclusively for meeting the needs of the Boll Weevil Eradication program and other agricultural, agronomic, horticultural, silvicultural or aquacultural industrial, or economic development programs.

(5) After complying with the provisions of Paragraphs (1) through (4) of this Subsection, the state treasurer shall, each fiscal year, credit a total of two million dollars from the combined taxable net slot machine proceeds collected by the state from each licensed eligible facility, as defined herein, to the "Rehabilitation for the Blind and Visually Impaired Fund", for the purposes of this Paragraph, the "fund", hereby created in the state treasury. Monies in the fund shall be withdrawn only pursuant

to appropriation by the legislature and shall be used solely to fund the Affiliated Blind of Louisiana, the Louisiana Center for the Blind at Ruston, The Louisiana Association for the Blind, and the Lighthouse for the Blind in New Orleans, Inc., rehabilitation services for the blind, deaf-blind, and visually impaired and for training the older visually impaired. Appropriations for this purpose shall be allocated equally to the Affiliated Blind of Louisiana, the Louisiana Center for the Blind at Ruston, The Louisiana Association for the Blind, and the Lighthouse for the Blind in New Orleans, Inc. Monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund. Interest earned on investment of such monies shall be credited to the state general fund. Unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund.

(6) After complying with the provisions of Paragraphs (1) through (5) of this Subsection and contingent upon the Revenue Estimating Conference's recognition of revenues from the Bossier Parish horse racing facility in the Fiscal Year 2003-2004 official forecast and in each fiscal year thereafter, the state treasurer shall deposit in and credit the following amounts to the following special funds, which amounts shall be reduced on a pro rata basis if insufficient funds are available to fully fund each item:

(a) Seven hundred fifty thousand dollars each fiscal year shall be deposited in and credited to the Equine Health Studies Program Fund, which is hereby established in the state treasury. Monies in the fund shall be withdrawn from the treasury only by appropriations made in accordance with this

Subsection. Monies in the fund shall be invested in the same manner as monies in the state general fund. Interest earned on investment of monies in the fund shall be credited to the state general fund. Unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund. Monies in the fund shall be appropriated and expended solely and exclusively to support the Equine Health Studies Program at the Louisiana State University School of Veterinary Medicine.

(b) Seven hundred fifty thousand dollars each fiscal year shall be deposited in and credited to the Southern University AgCenter Program Fund, which is hereby established in the state treasury. Monies in the fund shall be withdrawn from the treasury only by appropriations made in accordance with this Subsection. Monies in the fund shall be invested in the same manner as monies in the state general fund. Interest earned on investment of monies in the fund shall be credited to the state general fund. Unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund. Monies in the fund shall be appropriated and expended solely and exclusively to support the Southern University AgCenter programs.

(7) After compliance with the provisions of Paragraphs (1) through (6) of this Subsection, two hundred thousand dollars each fiscal year shall be deposited in and credited to the Beautification and Improvement of the New Orleans City Park Fund, hereinafter referred to as the "fund", which is hereby established in the state treasury. Monies in the fund shall be withdrawn only pursuant to appropriation by

the legislature and shall be used solely and exclusively by the New Orleans City Park Improvement Association for the improvement and beautification of the New Orleans City Park. Monies in the fund shall be invested in the same manner as monies in the state general fund. Interest earned on the investment of monies in the fund shall be credited to the fund. Unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund.

(8) After compliance with the provisions of Paragraphs (1) through (5) of this Subsection, pursuant to an annual appropriation by the legislature, remaining monies in an amount of fifty thousand dollars shall be used solely and exclusively for the Southern University Urban Tourism and Marketing Program and fifty thousand dollars shall be used solely and exclusively for the Orleans Parish District Attorney's Office.

(9) After compliance with the provisions of Paragraphs (1) through (8) of this Subsection, remaining monies shall be deposited in and credited to the state general fund.

C. Notwithstanding the provisions of Subsection B of this Section to the contrary and after complying with the provisions of Paragraphs (1) through (3) of Subsection B of this Section, the state treasurer shall in each fiscal year deposit and credit the remaining portion of taxable net slot machine proceeds collected from the licensed eligible facility in Orleans Parish as follows:

<Text of par. (C)(1) effective until

occurrence of contingency in § 3(B) of Acts 2006, No. 591. See italic notes, post.>

(1) Thirty percent, not to exceed one million three hundred thousand dollars, shall be deposited in and credited to the Beautification and Improvement of the New Orleans City Park Fund. Monies in the fund shall be used solely and exclusively for the purposes as specified in R.S. 27:392(B)(7).

<Text of par. (C)(1) effective upon occurrence of contingency in § 3(B) of Acts 2006, No. 591. See italic notes, post.>

(1) Thirty percent, not to exceed two million dollars, shall be deposited in and credited to the Beautification and Improvement of the New Orleans City Park Fund. Monies in the fund shall be used solely and exclusively for the purposes as specified in R.S. 27:392(B)(7).

<Text of par. (C)(2) effective until occurrence of contingency in § 3(B) of Acts 2006, No. 591. See italic notes, post.>

(2) Twenty percent, not to exceed three hundred fifty thousand dollars, shall be deposited in and credited to the Greater New Orleans Sports Foundation Fund, hereinafter referred to in this Paragraph as the "fund", which is hereby established in the state treasury. Monies in the fund shall be withdrawn only pursuant to appropriation by the legislature and shall be used solely and exclusively by the Greater New Orleans Sports Foundation. Monies in the fund shall be invested in the same manner as monies in

the state general fund. Interest earned on the investment of monies in the fund shall be credited to the fund. Unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund.

<Text of par. (C)(2) effective upon occurrence of contingency in § 3(B) of Acts 2006, No. 591. See italic notes, post.>

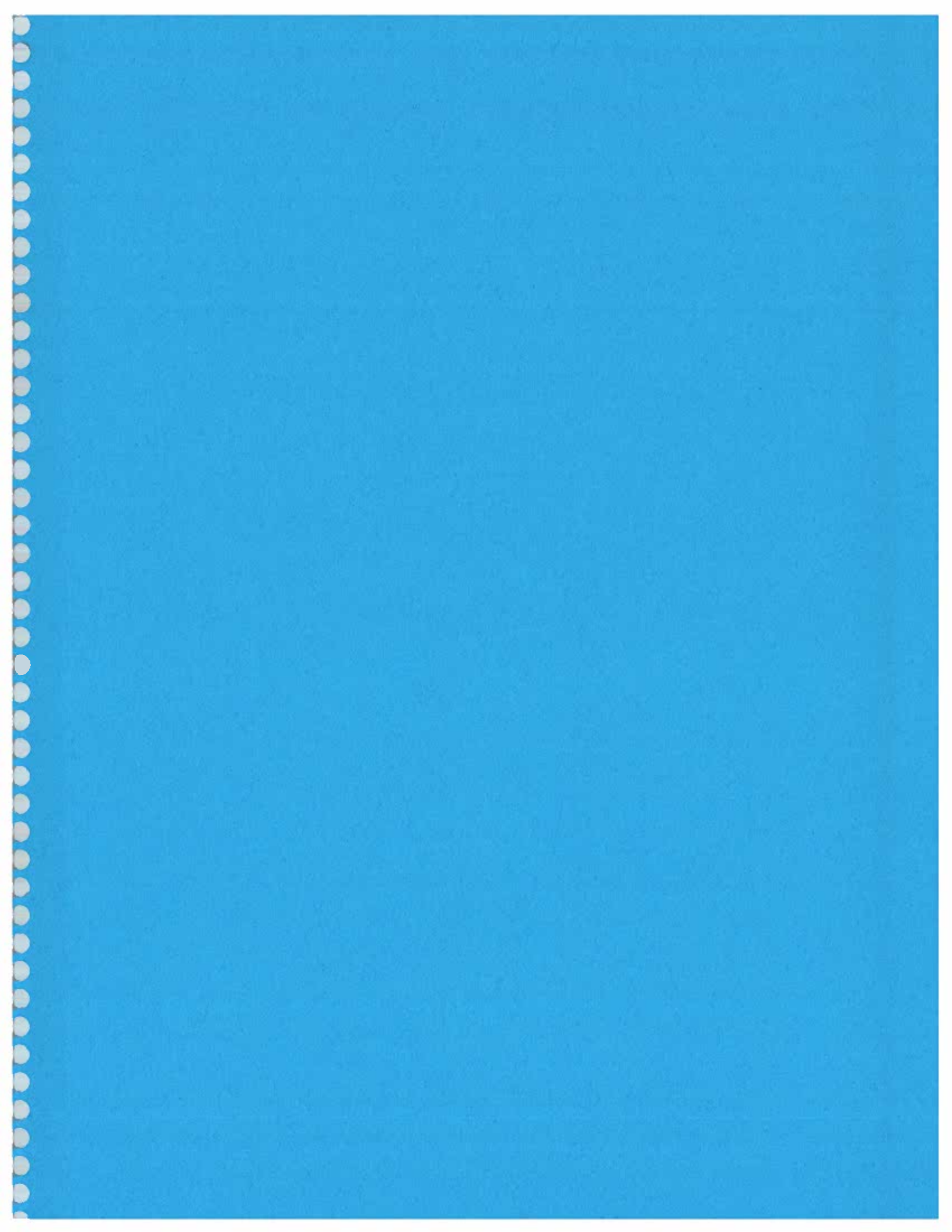
(2) Twenty percent, not to exceed one million dollars, shall be deposited in and credited to the Greater New Orleans Sports Foundation Fund, hereinafter referred to in this Paragraph as the "fund", which is hereby established in the state treasury. Monies in the fund shall be withdrawn only pursuant to appropriation by the legislature and shall be used solely and exclusively by the Greater New Orleans Sports Foundation. Monies in the fund shall be invested in the same manner as monies in the state general fund. Interest earned on the investment of monies in the fund shall be credited to the fund. Unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund.

(3) Twenty percent, not to exceed one hundred thousand dollars annually, shall be deposited in and credited to the Algiers Economic Development Foundation Fund, hereinafter referred to in this Paragraph as the "fund", which is hereby established in the state treasury. Monies in the fund shall be withdrawn only pursuant to appropriation by the legislature and shall be used solely and exclusively by the Algiers Economic Development Foundation. Monies in the fund shall be invested in the same manner as monies in the state general fund. Interest earned on the investment of monies in the

fund shall be credited to the fund. Unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund.

(4) Twenty percent, not to exceed one hundred thousand dollars annually, shall be deposited in and credited to the New Orleans Urban Tourism and Hospitality Training in Economic Development Foundation Fund, hereinafter referred to in this Paragraph as the "fund", which is hereby established in the state treasury. Monies in the fund shall be withdrawn only pursuant to appropriation by the legislature and shall be used solely and exclusively by the New Orleans Tourism Hospitality Training and Economic Development, Inc. Monies in the fund shall be invested in the same manner as monies in the state general fund. Interest earned on the investment of monies in the fund shall be credited to the fund. Unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund.

(5) Five percent, not to exceed one hundred thousand dollars annually, shall be deposited in and credited to the Beautification Project for New Orleans Neighborhoods Fund, hereinafter referred to in this Paragraph as the "fund", which is hereby established in the state treasury. Monies in the fund shall be withdrawn only pursuant to appropriation by the legislature and shall be used solely and exclusively by the Beautification Project for New Orleans Neighborhoods, Inc. Monies in the fund shall be invested in the same manner as monies in the state general fund. Interest earned on the investment of monies in the fund shall be credited to the fund. Unexpended and unencumbered monies in the fund at the end of the fiscal year shall





Interstate Horseracing Act

**UNITED STATES CODE ANNOTATED
TITLE 15. COMMERCE AND TRADE
CHAPTER 57--INTERSTATE
HORSERACING**

§ 3001. Congressional findings and policy

(a) The Congress finds that--

(1) the States should have the primary responsibility for determining what forms of gambling may legally take place within their borders;

(2) the Federal Government should prevent interference by one State with the gambling policies of another, and should act to protect identifiable national interests; and

(3) in the limited area of interstate off-track wagering on horseraces, there is a need for Federal action to ensure States will continue to cooperate with one another in the acceptance of legal interstate wagers.

(b) It is the policy of the Congress in this chapter to regulate interstate commerce with respect to wagering on horseracing, in order to further the horseracing and legal off-track betting industries in the United States.

§ 3002. Definitions

For the purposes of this chapter the term--

(1) "person" means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other organization or entity;

(2) "State" means each State of the United States, the District of Columbia, the

Commonwealth of Puerto Rico, and any territory or possession of the United States;

(3) "interstate off-track wager" means a legal wager placed or accepted in one State with respect to the outcome of a horserace taking place in another State and includes pari-mutuel wagers, where lawful in each State involved, placed or transmitted by an individual in one State via telephone or other electronic media and accepted by an off-track betting system in the same or another State, as well as the combination of any pari-mutuel wagering pools;

(4) "on-track wager" means a wager with respect to the outcome of a horserace which is placed at the racetrack at which such horserace takes place;

(5) "host State" means the State in which the horserace subject to the interstate wager takes place;

(6) "off-track State" means the State in which an interstate off-track wager is accepted;

(7) "off-track betting system" means any group which is in the business of accepting wagers on horseraces at locations other than the place where the horserace is run, which business is conducted by the State or licensed or otherwise permitted by State law;

(8) "off-track betting office" means any location within an off-track State at which off-track wagers are accepted;

(9) "host racing association" means any person who, pursuant to a license or other permission granted by the host State, conducts the horserace subject to the interstate wager;

(10) "host racing commission" means that person designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate the conduct of racing within the host State;

(11) "off-track racing commission" means that person designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate off-track betting in that State;

(12) "horsemen's group" means, with reference to the applicable host racing association, the group which represents the majority of owners and trainers racing there, for the races subject to the interstate off-track wager on any racing day;

(13) "parimutuel" means any system whereby wagers with respect to the outcome of a horserace are placed with, or in, a wagering pool conducted by a person licensed or otherwise permitted to do so under State law, and in which the participants are wagering with each other and not against the operator;

(14) "currently operating tracks" means racing associations conducting parimutuel horseracing at the same time of day (afternoon against afternoon; nighttime against nighttime) as the racing association conducting the horseracing which is the subject of the interstate off-track wager;

(15) "race meeting" means those scheduled days during the year a racing association is granted permission by the appropriate State racing commission to conduct horseracing;

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

(17) "special event" means the specific individual horserace which is deemed by the off-track betting system to be of sufficient national significance and interest to warrant interstate off-track wagering on that event or events;

(18) "dark days" means those days when racing of the same type does not occur in an off-track State within 60 miles of an off-track betting office during a race meeting, including, but not limited to, a dark weekday when such racing association or associations run on Sunday, and days when a racing program is scheduled but does not take place, or cannot be completed due to weather, strikes and other factors not within the control of the off-track betting system;

(19) "year" means calendar year;

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

(21) "regular contractual process" means those negotiations by which the applicable horsemen's group and host racing association reach agreements on issues regarding the conduct of horseracing by the horsemen's group at that racing association;

(22) "terms and conditions" includes, but is not limited to, the percentage which is paid by the off-track betting system to the host racing association, the percentage which is

paid by the host racing association to the horsemen's group, as well as any arrangements as to the exclusivity between the host racing association and the off-track betting system.

§ 3003. Acceptance of interstate off-track wager

No person may accept an interstate off-track wager except as provided in this chapter.

§ 3004. Regulation of interstate off-track wagering

(a) Consent of host racing association, host racing commission, and off-track racing commission as prerequisite to acceptance of wager

An interstate off-track wager may be accepted by an off-track betting system only if consent is obtained from--

(1) the host racing association, except that--

(A) as a condition precedent to such consent, said racing association (except a not-for-profit racing association in a State where the distribution of off-track betting revenues in that State is set forth by law) must have a written agreement with the horsemen's group, under which said racing association may give such consent, setting forth the terms and conditions relating thereto; provided,

(B) that where the host racing association has a contract with a horsemen's group at the time of enactment of this chapter which contains no provisions referring to interstate

off-track betting, the terms and conditions of said then-existing contract shall be deemed to apply to the interstate off-track wagers and no additional written agreement need be entered into unless the parties to such then-existing contract agree otherwise. Where such provisions exist in such existing contract, such contract shall govern. Where written consents exist at the time of enactment of this chapter between an off-track betting system and the host racing association providing for interstate off-track wagers, or such written consents are executed by these parties prior to the expiration of such then-existing contract, upon the expiration of such then-existing contract the written agreement of such horsemen's group shall thereafter be required as such condition precedent and as a part of the regular contractual process, and may not be withdrawn or varied except in the regular contractual process. Where no such written consent exists, and where such written agreement occurs at a racing association which has a regular contractual process with such horsemen's group, said agreement by the horsemen's group may not be withdrawn or varied except in the regular contractual process;

(2) the host racing commission;

(3) the off-track racing commission.

(b) Approval of tracks as prerequisite to acceptance of wager; exceptions

(1) In addition to the requirement of subsection (a) of this section, any off-track betting office shall obtain the approval of--

(A) all currently operating tracks within 60 miles of such off-track betting office; and

(B) if there are no currently operating tracks within 60 miles then the closest currently operating track in an adjoining State.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any off-track betting office in a State with at least 250 days of on-track parimutuel horseracing a year, may accept interstate off-track wagers for a total of 60 racing days and 25 special events a year without the approval required by paragraph (1), if with respect to such 60 racing days, there is no racing of the same type at the same time of day being conducted within the off-track betting State within 60 miles of the off-track betting office accepting the wager, or such racing program cannot be completed. Excluded from such 60 days and from the consent required by subsection (b)(1) of this section may be dark days which occur during a regularly scheduled race meeting in said off-track betting State. In order to accept any interstate off-track wager under the terms of the preceding sentence the off-track betting office shall make identical offers to any racing association described in subparagraph (A) of subsection (b)(1) of this section. Nothing in this subparagraph shall be construed to reduce or eliminate the necessity of obtaining all the approvals required by subsection (a) of this section.

(c) Takeout amount

No parimutuel off-track betting system may employ a takeout for an interstate wager which is greater than the takeout for

corresponding wagering pools of off-track wagers on races run within the off-track State except where such greater takeout is authorized by State law in the off-track State.

§ 3005. Liability and damages

Any person accepting any interstate off-track wager in violation of this chapter shall be civilly liable for damages to the host State, the host racing association and the horsemen's group. Damages for each violation shall be based on the total of off-track wagers as follows:

(1) If the interstate off-track wager was of a type accepted at the host racing association, damages shall be in an amount equal to that portion of the takeout which would have been distributed to the host State, host racing association and the horsemen's group, as if each such interstate off-track wager had been placed at the host racing association.

(2) If such interstate off-track wager was of a type not accepted at the host racing association, the amount of damages shall be determined at the rate of takeout prevailing at the off-track betting system for that type of wager and shall be distributed according to the same formulas as in paragraph (1) above.

§ 3006. Civil action

(a) Parties; remedies

The host State, the host racing association, or the horsemen's group may commence a civil action against any person alleged to be

