

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 42*

Short Title: Horse Racing in North Carolina.

(Public)

Sponsors: Representatives James; and McLawhorn.

Referred to: Agriculture.

February 4, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE HORSE RACING
3 IN NORTH CAROLINA LEGISLATIVE RESEARCH COMMISSION STUDY
4 COMMITTEE TO ESTABLISH THE NORTH CAROLINA RACING
5 COMMISSION, AFTER A BINDING REFERENDUM, TO DEVELOP A
6 PROGRAM OF HORSE RACING FOR NORTH CAROLINA, AND TO
7 PROVIDE FUNDS FOR DEVELOPMENT OF THE EQUINE INDUSTRY IN
8 NORTH CAROLINA.

9 The General Assembly of North Carolina enacts:

10 Section 1. The General Statutes are amended by adding a new Chapter to
11 read:

12 **"CHAPTER 16A.**

13 **"NORTH CAROLINA RACING ACT.**

14 **"ARTICLE 1.**

15 **"GENERAL PROVISIONS AND DEFINITIONS.**

16 **"§ 16A-1. Short title.**

17 This Chapter may be cited as the 'North Carolina Racing Act.'

18 **"§ 16A-2. Findings and policy.**

19 The General Assembly finds that horse racing events and pari-mutuel wagering will
20 generate additional revenues and incentives for development of a horse training and
21 breeding industry and further development of the equine industry in this State, for
22 farmland enhancement, and for other governmental purposes, and will provide
23 additional jobs for the residents of the State and benefit the businesses related to tourism
24 and recreation within the State.

1 It is in the public interest to permit the qualified voters of this State to determine by
2 referendum whether horse racing and pari-mutuel wagering will be permitted.

3 If horse racing is approved by the voters, it is in the public interest to provide for the
4 establishment of a racing commission to:

- 5 (1) Regulate horse racing and pari-mutuel wagering;
- 6 (2) Promote breeding and training of horses and the further development
7 of the equine industry in this State;
- 8 (3) Promote farmland enhancement, the development of new crops in this
9 State, and the enhancement of the State's agribusiness industry; and
- 10 (4) To administer and enforce the provisions of this Chapter;
- 11 (5) Develop a long-term plan for racing in North Carolina to determine the
12 appropriate location and number of tracks to be built in this State so as
13 to position any major track and its purse structure in the upper segment
14 of good quality tracks while creating a strong born, bred, and training
15 structure throughout the State.

16 **"§ 16A-3. Definitions.**

17 Unless the context clearly otherwise requires, the following definitions apply in this
18 Chapter:

- 19 (1) 'Breakage' means the odd cents of all money to be distributed based on
20 each dollar wagered exceeding a sum equal to the next lowest multiple
21 of 10.
- 22 (2) 'Breeder' means the owner of a female horse at the time the female
23 horse gives birth to a North Carolina-bred horse.
- 24 (3) 'Breeding fund' means special funds established by the Commission
25 pursuant to the provisions of this Chapter and any applicable rules of
26 the Commission concerning the breeding, raising, and racing of horses
27 in the State.
- 28 (4) 'Breeding fund fee' means a fee payable to the Commission by an
29 operator pursuant to this Chapter for deposit into the appropriate
30 horse-breeding fund.
- 31 (5) 'Commission' or 'NCRC' means the North Carolina Racing
32 Commission which is vested with control of all horse racing with pari-
33 mutuel wagering in the State and with power to adopt rules under
34 which racing and wagering shall be conducted.
- 35 (6) 'Handle', when used with reference to any specified period of time,
36 means the total amount deposited in all of the pari-mutuel pools
37 originated by an operator during the period of time.
- 38 (7) 'Horse racing' means any form of horse racing in which horses carry
39 human riders or pull sulkies with human riders.
- 40 (8) 'License' means a privilege, not a right, that is granted to the holder by
41 the Commission in accordance with the provisions of Article 3 of this
42 Chapter.
- 43 (9) 'Licensed facility' or 'licensed race facility' means all areas of a race
44 track's grounds, including the parking area, to which admission can be

- 1 obtained only by payment of an admission fee or presentation of
2 official credentials. 'Licensed facility' also means any site licensed for
3 pari-mutuel wagering.
- 4 (10) 'Member' means a member of the Commission.
- 5 (11) 'Metro area' means the counties containing a metro area population as
6 defined for the purposes of allocating government funds by the Federal
7 Office of Management and Budget.
- 8 (12) 'Multiple pool' means a licensed pari-mutuel pool (other than a straight
9 pool, a two entry pool, or a super multiple pool) involving three or four
10 combinations of wagers to win, place, or show.
- 11 (13) 'Multiple wager' means a wager in a multiple pool.
- 12 (14) 'Net revenues' means all fees (other than breeding fund fees),
13 commissions and other monies received by the Commission less all
14 expenses incurred in the administration of this Chapter.
- 15 (15) 'North Carolina-trained' is a horse which is boarded and trained in
16 North Carolina when not attending racing meetings and which has
17 been trained under the rules adopted by the Commission at a North
18 Carolina Certified Training Center and is eligible for special races.
- 19 (16) 'North Carolina-bred horse' means a horse which is registered in the
20 registry designated and administered by the Commission in accordance
21 with the Commission's rules concerning domicile and registration
22 requirements.
- 23 (17) 'North Carolina stallion' means a stallion which is standing in the State
24 at the time he is bred to the dam of a North Carolina-bred horse, which
25 is registered with the Commission in accordance with the
26 Commission's rules concerning domicile and registration requirements.
- 27 (18) 'Operator' means a corporation licensed by the Commission to conduct
28 horse racing events and pari-mutuel wagering on those events in
29 accordance with the provisions of this Chapter.
- 30 (19) 'Owner' means a corporation, partnership, or other business entity
31 licensed by the Commission to own a racing facility in accordance
32 with the provisions of this Chapter.
- 33 (20) 'Pari-mutuel wagering' means the system of wagering on horse races
34 where those who wager on the horses that finish in the position or
35 positions for which wagers are taken, share in the total amounts
36 wagered, less deductions required or permitted by law.
- 37 (21) 'Person' means an individual, firm, association, partnership,
38 corporation, trustee, or legal representative, and any licensee,
39 participant, or patron.
- 40 (21.1) 'Race facility or mobile simulcasting unit' means a race facility or
41 mobile simulcasting unit where simulcasting is conducted whether or
42 not there is live racing.
- 43 (22) 'Race track' means a flat or grass surface on which horses race.

- 1 (23) 'Racing day' means a day assigned by the Commission on which racing
2 is conducted.
- 3 (24) 'Racing meeting' means a series of days in which horse racing days are
4 not separated by more than five nonracing days.
- 5 (25) 'Resident of the State' means any one of the following:
6 a. A natural person whose principal residence is located in the
7 State; or
8 b. A natural person who does not maintain his or her principal
9 residence in the State but who owns, singly or jointly with his
10 or her spouse, real property located in the State that has an
11 original cost to that person or a current fair market value of not
12 less than one hundred thousand dollars (\$100,000); or
13 c. A corporation or partnership which has its principal place of
14 business in the State and more than fifty percent (50%) of the
15 stock or other ownership interest in which is owned by natural
16 persons described in subparagraphs a. or b. of this subdivision.
- 17 (26) 'Simulcasting' means the televised showing of a live race where pari-
18 mutuel wagering is allowed.
- 19 (27) 'Stallion owner' means the owner of a stallion standing in the State at
20 the time he was bred to the dam of a North Carolina-bred horse.
- 21 (28) 'State' means the State of North Carolina.
- 22 (29) 'State Racing Commission' means any agency of the State with the
23 powers and duties specified in G.S. 16A-9.
- 24 (30) 'Straight pool' means a licensed pari-mutuel pool in which each ticket
25 represents a wager to win, place, or show.
- 26 (31) 'Straight wager' means a wager in a straight pool.
- 27 (32) 'Super exotic pool' means a licensed pari-mutuel pool (other than a
28 straight pool, a two entry pool or a multiple pool) involving a
29 combination of five or more wagers to win, place, or show.
- 30 (33) 'Super exotic wager' means a wager in a super exotic pool.
- 31 (34) A 'teletheater' means an enclosed heated and air conditioned licensed
32 facility or race facility where simulcasting is conducted and there is no
33 live horse racing. These may include off-site wagering restaurants.
- 34 (35) 'Two entry pool' means a licensed pari-mutuel pool (other than a
35 straight pool or a multiple pool or super multiple pool) involving a
36 combination of two straight wagers to win, place, or show.
- 37 (36) 'Two entry wager' means a wager in a two entry pool.
- 38 (37) 'Two or more entry pools' means an entry in combination with other
39 entries which may be a series of separate two entry wagers in which
40 any entry combination wins; or which may be a series of combination
41 wagers as in multiple or super exotic wagers in which all of the
42 combinations must win.

1 In the case of a vacancy caused by the death, incapacity, resignation, or removal of a
2 member appointed by the Governor, the appointment by the Governor is for the
3 remainder of that term and is subject to approval by the General Assembly. Vacancies
4 in appointments by the General Assembly shall be filled in accordance with G.S. 120-
5 122. Each member of the Commission shall serve until a successor is duly appointed
6 and qualified.

7 **"§ 16A-7. Actions.**

8 The Commission may sue and be sued in its own name but no action may be brought
9 against the Commission or any of its members for actions taken in good faith in the
10 performance of its duties. Suits and actions may be commenced against the
11 Commission or any of its members in any court of competent jurisdiction in this State
12 by the service on the Secretary of State of any summons, process, or pleadings
13 authorized by the laws of this State. If any summons, process, or pleadings is served
14 upon the Secretary of State, it shall be by duplicate copies. One copy shall be retained
15 in the office of the Secretary of State and the other copy shall be forwarded immediately
16 by certified mail to the Chairman of the Commission at the current address of the
17 Commission. The Executive Secretary of the Commission shall inform the Secretary of
18 State of the mailing address of the Commission and any changes.

19 **"§ 16A-8. Annual report.**

20 (a) The Commission shall submit an annual report to the Governor and the
21 General Assembly on February 15 of each year. This report shall contain information
22 necessary for the proper oversight of the Commission's operations and responsibilities,
23 including:

- 24 (1) The Commission's activities for the prior year;
- 25 (2) The Commission's organizational structure and personnel;
- 26 (3) The Commission's receipts and disbursements;
- 27 (4) The Commission's recommendations for changes in the laws relating
28 to racing and pari-mutuel wagering;
- 29 (5) The impact of horse racing and pari-mutuel wagering on economic
30 development in this State, including the impact on travel and tourism
31 and agriculture;
- 32 (6) Multiyear projections on the future costs of operating the Commission
33 and on regulating horse racing and pari-mutuel wagering in this State;
34 and
- 35 (7) Recommendations on adjustment of the take-out rates needed to
36 enhance the development of horse racing in North Carolina.

37 (b) The General Assembly finds that off-site wagering is essential to successful
38 accomplishment of the purposes of this Chapter, and to that end, it is the intent of the
39 General Assembly that any off-site wagering technology developed and used in any
40 other state in which horse racing and pari-mutuel wagering have been legalized and in
41 which horse racing is conducted shall be permitted in this State. The Commission shall
42 conduct an ongoing study of the types of off-site wagering that are appropriate for this
43 State and shall include the results of that study in each of its annual reports submitted to
44 the General Assembly pursuant to subsection (a) of this section. These reports shall

1 include the Commission's findings, recommendations, and a summary of arguments
2 opposing the Commission's recommendations on issues related to off-site wagering
3 including, but not limited to, present and anticipated technologies and appropriate take-
4 out rates and funding allocations. The Commission shall also include in the annual
5 report any required legislation to implement off-site wagering.

6 (c) The Commission shall report the extent of minority employment and
7 contracting related to enterprises associated with the operations of licensed facilities
8 over which the Commission has jurisdiction or influence. The Commission shall
9 establish a task force charged with the monitoring of minority involvement and charged
10 with advising the Commission relative to enhancing minority participation in the
11 enterprises associated with the operations of licensed facilities.

12 **"§ 16A-9. Commission powers and duties.**

13 The Commission is vested with control of all horse racing and pari-mutuel wagering
14 on horse races in the State and may adopt rules under which racing and pari-mutuel
15 wagering shall be conducted and under which this Chapter shall be implemented and, in
16 addition, has the following specific powers and duties:

- 17 (1) To issue permits to build only quality racing facilities that are designed
18 to permit year-round racing;
- 19 (2) To assign dates and adopt rules for the conduct of horse racing;
- 20 (3) To license all racing personnel and to adopt licenses as provided in this
21 Chapter;
- 22 (4) To enforce all laws and rules governing horse racing;
- 23 (5) To audit books and distribute funds and to collect and distribute all
24 taxes as provided for in this Chapter;
- 25 (6) To conduct necessary investigations and inquiries and compel the
26 submission of information, documents, and records it deems necessary
27 to carry out its duties;
- 28 (7) To initiate hearings or appeals of alleged wrongdoings;
- 29 (8) To provide testing facilities for racing animals;
- 30 (9) To supervise the conduct of pari-mutuel wagering on horse racing;
- 31 (10) To employ and supervise personnel under the laws of this Chapter;
- 32 (11) To ensure that all operations are cleanly, efficiently, safely, and
33 honestly run;
- 34 (12) To take all necessary steps to ensure the integrity of racing in North
35 Carolina;
- 36 (13) To maintain the goal of service to the public within the objectives of
37 developing the agribusiness, the equine, and the travel and tourism
38 industries in North Carolina.

39 **"§ 16A-10. Executive Secretary.**

40 (a) The Executive Secretary is in charge of executing the rules adopted by the
41 Commission and in charge of conducting the business of the Commission. The
42 Executive Secretary shall guarantee that pertinent records and statistics are kept for use
43 in annual reports to appropriate parties and coordinate this information with other pari-

1 mutuel states in the Association of Racing Commissioners, International and other
2 organizations acceptable to the Commission.

3 (b) The Executive Secretary is responsible for the licensing department and the
4 racing and pari-mutuel field personnel. The Executive Secretary is responsible for hiring
5 and supervising the office force necessary to carry out the Commission's duties,
6 including the field personnel under the Commission's jurisdiction. The Executive
7 Secretary furnishes staff support to the State Steward.

8 (c) The Executive Secretary shall receive a salary in an amount established by
9 the Commission plus travel and subsistence allowance in accordance with G.S. 136-6.

10 (d) The Executive Secretary shall be the administrative officer of the
11 Commission and shall hire, organize, and direct any personnel necessary to carry out the
12 functions and responsibilities assigned by the Commission, including a Chief of Racing
13 Security, a Medical Officer, and an Auditor/Inspector of Pari-Mutuels whose duties are
14 set forth in subsequent sections of this Chapter. The Executive Secretary may neither
15 hire or dismiss the Auditor/Inspector of Pari-Mutuels without the approval of the
16 Commission. All personnel except the Executive Secretary shall be subject to the
17 provisions of the State Personnel Act.

18 (e) In addition to the above listed duties the Executive Secretary shall perform
19 the following:

20 (1) Take and preserve records of all proceedings before the Commission,
21 maintain its books, documents, and records, and make them available
22 for public inspection as the Commission directs;

23 (2) If so designated by the Commission, to act as a hearing officer in
24 hearings conducted under the Administrative Procedure Act, to
25 conduct hearings, receive testimony and exhibits, and certify the
26 record of proceedings to the Commission;

27 (3) Act as the Commission's chief personnel officer and supervise the
28 employment, conduct, duties, and discipline of all Commission
29 employees; and

30 (4) Perform other duties as directed by the Commission.

31 **"§ 16A-11. Auditor/Inspector of Pari-Mutuels.**

32 (a) The Executive Secretary may employ an Auditor/Inspector of Pari-Mutuels.
33 The Auditor/Inspector of Pari-Mutuels is responsible for the accuracy of the revenues
34 paid from the facility to the Commission and for seeing that the various funds flow to
35 the appropriate categories as specified by this Chapter. The Auditor/Inspector of Pari-
36 Mutuels is the Commission's auditor.

37 (b) The Auditor/Inspector of Pari-Mutuels shall, while employed by the
38 Commission, devote full time to the duties of the position, which are:

39 (1) To supervise all forms of pari-Mutuel wagering on horse racing in the
40 State;

41 (2) To inspect all pari-mutuel machinery;

42 (3) To make reports on pari-mutuel wagering as the Commission directs;

43 (4) Subject to Commission approval, to appoint deputy auditors to
44 perform duties the Commission designates; and

1 (5) To perform other duties as directed by the Commission.

2 (c) If no Auditor/Inspector of Pari-Mutuels is appointed, his duties are assigned
3 to the Executive Secretary. The Commission may contract with outside services or
4 personnel to assist the Executive Secretary in the performance of these duties.

5 (d) In extraordinary circumstances, when the Auditor/Inspector determines that
6 the integrity or efficiency of the Commission is in jeopardy, the Auditor/Inspector shall
7 have direct access to the Commission and using this direct access shall not be
8 considered 'just cause' for any disciplinary action under Chapter 126A of the General
9 Statutes, the State Personnel Act.

10 **"§ 16A-12. Chief of Racing Security.**

11 (a) The Executive Secretary may appoint a Chief of Racing Security.

12 (b) The Chief of Racing Security shall devote full time to the duties of the
13 position while employed by the Commission. The Chief of Racing Security shall
14 enforce all laws and Commission rules relating to the security and integrity of racing.

15 (c) Chief of Racing Security and all other persons designated by the Commission
16 as security officers shall have free and open access to all areas of all facilities the
17 Commission licenses and may search without a search warrant any part of a licensed
18 race facility and the person of any licensee of the Commission on the premises.

19 (d) The Chief of Racing Security may order a licensee to take, at the licensee's
20 expense, security measures that are necessary to protect the integrity of racing, but the
21 order may be appealed to the Commission.

22 (e) Nothing in this Chapter prohibits other law enforcement authorities and
23 agents from entering premises licensed under this Chapter, in the performance of their
24 duties.

25 (f) If no Chief of Racing Security is appointed, the duties of the position are
26 assigned to the Executive Secretary. The Commission may contract with outside
27 services or personnel to assist the Executive Secretary in the performance of these
28 duties.

29 (g) In extraordinary circumstances, when the Chief of Racing Security
30 determines that the integrity or efficiency of the Commission is in jeopardy, the
31 Auditor/Inspector shall have direct access to the Commission and using this direct
32 access shall not be considered 'just cause' for any disciplinary action under Chapter
33 126A of the General Statutes, the State Personnel Act.

34 **"§ 16A-13. Medical services.**

35 (a) The Executive Secretary may appoint a Medical Officer, who shall be a
36 doctor of veterinary medicine licensed in the State of North Carolina.

37 (b) The Medical Officer shall, while employed by the Commission, devote full
38 time to the duties of the position, which are:

39 (1) To supervise the formulation, administration, and evaluation of all
40 medical tests the Commission's rules require or authorize;

41 (2) To advise the Commission on all aspects of veterinary medicine
42 relating to its powers and duties;

43 (3) To supervise all personnel involved in medical testing, subject to the
44 supervision of the Executive Secretary;

1 **"§ 16A-19. Licenses nontransferable.**

2 A license issued under this Chapter may not be transferred.

3 **"§ 16A-20. Classes.**

4 (a) The Commission may issue five classes of licenses:

5 (1) Class A ownership licenses. For the ownership and use of a race
6 facility with horse racing on which pari-mutuel wagering is conducted;

7 (2) Class B operator licenses. For the function, sponsorship, and
8 management of horse racing on which pari-mutuel wagering is
9 conducted;

10 (3) Class C occupational licenses. For the privilege of engaging in certain
11 occupations relating to horse racing;

12 (4) Class D special licenses. For the privilege of engaging in certain
13 occupations, services, events, and promotions that by their nature
14 require State sanction and control. This includes any special events,
15 promotions, or public service performances by or for associations
16 which by their size and/or nature necessitate the approval or
17 cooperation of various other governmental agencies; and

18 (5) Class E off-site wagering restaurant/teletheater license. For the
19 ownership and use of a facility, without horse racing, in which pari-
20 mutuel wagering is conducted. Class E licenses are necessary only
21 when the same licensee does not own a Class A or Class B license. No
22 Class E licenses may be issued on or after the fifth anniversary of the
23 effective date of this Chapter unless a racing facility has been built and
24 live racing is conducted in this State.

25 (b) All application forms for licenses shall contain a statement to the effect that
26 by accepting a license from the Commission, a licensee consents to having his property
27 or person subject to inspection at any time by the Chief of Racing Security or by
28 security officers designated by the Commission.

29 **"§ 16A-21. Policy.**

30 (a) Insofar as practical, the Commission shall follow the guidelines on the
31 uniform licensing rules adopted by the Association of State Racing Commissioners,
32 International.

33 (b) It shall be the policy of the Commission to favor the applications for Class A
34 licenses from applicants which are corporations with widespread ownership of stock or
35 which are limited partnerships, provided the majority of stockholders or partners are
36 residents of this State.

37 **"§ 16A-22. Class A license application.**

38 (a) The Commission may issue one or more Class A licenses.

39 (b) An application for a Class A license shall be on a form the Commission
40 prescribes and shall be accompanied by detailed plans and specifications of the
41 facilities, buildings, fences, and other improvements as well as possible future additions
42 including living quarters or other buildings around the outside perimeter of the oval
43 racing track. An application may also contain plans for one or more off-site wagering

1 facilities. An application for a Class A license shall be accompanied with a
2 nonrefundable application fee of one hundred thousand dollars (\$100,000).

3 (c) The application shall contain:

4 (1) The name and address of the applicant and, if it is a corporation, the
5 names and addresses of all officers and directors, and the names of all
6 shareholders of the corporation, foreign corporation, partnership or
7 joint venture, and any of its holding corporations;

8 (2) If required by the Commission, the names of any person or persons
9 holding directly, indirectly, or beneficially an interest of any kind in
10 the applicant or any of its holding corporations, whether the interest is
11 financial, administrative, policy-making, or supervisory;

12 (3) A statement of the assets and liabilities of the applicants, and any other
13 information that the Commission deems appropriate regarding the
14 character and responsibility of the applicant and the members,
15 partners, stockholders, officers, and directors of the applicant;

16 (4) An affidavit executed by the applicant setting forth that no officer,
17 director, or other person with a present or inchoate direct or indirect
18 financial or management interest in the race facility, to the best of the
19 applicant's knowledge:

20 a. Is in default in the payment of an obligation or debt to the State
21 under the current General Statutes of North Carolina;

22 b. Has ever been convicted of a felony in a state or federal court or
23 has a state or federal felony charge pending;

24 c. Is or has been connected with or engaged in any illegal
25 business;

26 d. Has ever been found guilty of fraud or misrepresentation or a
27 false statement in connection with racing or breeding;

28 e. Has ever been found guilty of a violation of a law or rule
29 relating to horse racing, pari-mutuel wagering or any other form
30 of gambling which is a serious violation as defined by the
31 Commission's rules;

32 f. Has ever knowingly violated a rule or order of the Commission
33 or a law of North Carolina relating to racing; or

34 g. Is not qualified to do business in North Carolina or is not
35 subject to the jurisdiction of the courts of the State.

36 (5) An irrevocable consent statement, to be signed by the applicant, which
37 states that suits and actions relating to the subject matter of the
38 application or acts or omissions arising from it may be commenced
39 against the applicant in any court of competent jurisdiction in this State
40 by the service on the Secretary of State of any summons, process, or
41 pleadings authorized by the laws of this State. If any summons,
42 process, or pleadings is served upon the Secretary of State, it shall be
43 by duplicate copies. One copy shall be retained in the office of the
44 Secretary of State and the other copy shall be forwarded immediately

1 by certified mail to the address of the applicant, as shown by the
2 records of the Commission; and

- 3 (6) Any other information which the Commission in its discretion deems
4 appropriate.

5 **"§ 16A-23. Denial of license.**

6 The Commission shall deny a license to any applicant unless it finds as follows:

- 7 (1) That over fifty percent (50%) of the natural persons having an
8 ownership interest in the applicant, either directly or indirectly, shall
9 have been residents of the State continuously for a period of five years
10 next preceding the date of the application in question; and

- 11 (2) That the applicant's facilities will meet the following minimum
12 standards:

13 a. That the primary horse racing facility will provide a track
14 racing surface of at least one mile for horse racing;

15 b. That the facilities will be designed with quality construction and
16 weather protection for year-round racing and shall have
17 sufficient parking to avoid traffic congestion;

18 c. That racing surfaces designed for harness racing shall be at least
19 five-eighths of a mile in length, except for racing surfaces at the
20 state fair or at county fairs; and

21 d. That facilities for simulcasting will be appropriately heated and
22 air conditioned for the conduct of a year-round operation.

23 **"§ 16A-24. License statement.**

24 (a) Every license issued by the Commission shall contain a statement to the
25 effect that the license is a privilege granted by the State and that all forms of racing
26 conducted under the license shall be subject to the provisions of this Chapter and to the
27 rules issued by the Commission.

28 (b) An owner's license shall state the name of the person to whom the license is issued,
29 the duration of the license, the location of the proposed race facility or simulcast
30 facility, and any other conditions of the license and related information that the
31 Commission deems proper.

32 **"§ 16A-25. Hearing.**

33 Before granting a Class A license, the Commission shall:

- 34 (1) Hold at least one public hearing in the area where the race facility is or
35 will be located.

- 36 (2) Request comments on the application from the governing body of the
37 city or town where the facility is or will be located, or from the county
38 board of commissioners if it is to be located outside a city or town and
39 from the appropriate regional council of governments, as the case may
40 be.

41 **"§ 16A-26. Investigation.**

42 (a) Before granting a Class A license, the Commission shall conduct, or request
43 that the State Bureau of Investigation conduct, a comprehensive background and
44 financial investigation of the applicant and its sources of financing.

1 (b) The Commission may charge an applicant an investigation fee, in an amount
2 determined by the Commission, to cover the cost of the investigation.

3 (c) If the Commission requests that the State Bureau of Investigation conduct the
4 investigation, the Commission shall reimburse the State Bureau of Investigation for its
5 share of the cost of the investigation.

6 (d) The Commission shall have access to all criminal history data compiled by
7 the State Bureau of Investigation on Class A licenses and applicants.

8 **"§ 16A-27. License issuance.**

9 (a) In the granting of licenses and allocating dates for racing, the Commission
10 shall give due consideration to:

11 (1) The character, reputation, experience, and financial integrity of the
12 applicants;

13 (2) Their facilities and accommodations for the conduct of racing
14 meetings;

15 (3) The location of the facilities in relation to: the principal centers of
16 population, the other principal cities, and the major resort areas of the
17 State; and

18 (4) Other factors which in the discretion of the Commission are worthy of
19 consideration.

20 (b) If, after considering the information received at the hearing or investigations
21 and the comments requested under G.S. 16A-25, the Commission determines:

22 (1) That the license will not adversely affect the public health, welfare,
23 and safety;

24 (2) That the race facility will be operated in accordance with all applicable
25 laws and rules;

26 (3) That the license will not create a competitive situation that will
27 adversely affect racing and the public interest; and

28 (4) That the applicant is financially able to operate a licensed race facility;

29 it may issue a Class A license to the applicant.

30 The license is effective until revoked or suspended by the Commission or
31 relinquished by the licensee.

32 **"§ 16A-28. Prohibited locations.**

33 The Commission shall issue rules on the permitted and prohibited locations for all
34 licensed facilities, including race tracks, teletheater facilities, or off-track wagering
35 facilities.

36 **"§ 16A-29. Changes in ownership or management.**

37 If a change in the officers, directors, shareholders, or other persons with a present or
38 inchoate direct or indirect financial or management interest in the licensee, or a change
39 of ownership of more than five percent (5%) of the licensee's shares, is made after the
40 application is filed or the license issued, the applicant or licensee shall notify the
41 Commission of the changes within five days of their occurrence and provide the
42 affidavit required by G.S. 16A-22(4).

43 **"§ 16A-30. License suspension and revocation.**

1 (a) The Commission may revoke a Class A license for a violation of law, order,
2 or rule which in the Commission's opinion adversely affects the integrity of horse racing
3 in North Carolina, or for an intentional false statement made in a license application, or
4 for a willful failure to pay any money required to be paid under this Chapter, or for
5 failure to perform material covenants or representations made in a license application.

6 (b) The Commission may suspend a Class A license for up to one year for a
7 violation of law, order, or rule which in the Commission's opinion adversely affects the
8 integrity of horse racing in North Carolina, and it may suspend a Class A license
9 indefinitely if it determines that the licensee has an officer, director, shareholder, or
10 other person with a direct, indirect, or beneficial interest in the licensee who is a person
11 who is in the Commission's opinion inimical to the integrity of horse racing in North
12 Carolina or who cannot be certified under G.S. 16A-22(4).

13 (c) If the holder of a Class A, B, or D license is found to have more than fifty
14 percent (50%) ownership or control by residents outside of this State, then the holder
15 shall be considered inimical to the integrity and best interests of racing in North
16 Carolina and shall be subject to license suspension and revocation provided the licensee
17 has not complied by remedying the situation by a reasonable procedure and within a
18 specified time allowance as ordered by the Commission.

19 (d) A license revocation or suspension under this subdivision is a contested case
20 under the North Carolina Administrative Procedure Act, Chapter 150B of the General
21 Statutes. In addition, criminal penalties may be imposed as provided in Article 5.

22 **"§ 16A-31. Multiple licenses.**

23 A licensee may be permitted to hold multiple Class A licenses or Class A and Class
24 B licenses provided the applicant is a corporation or partnership with widespread
25 ownership of the stock or limited partnership interests held by North Carolina residents.

26 **"§ 16A-32. Work areas.**

27 A Class A licensee shall provide, at no cost to the Commission, suitable work areas
28 for Commission members, officers, employees, and agents who are directed by the
29 Commission to supervise and control racing at the licensed race facility.

30 **"§ 16A-33. Class B license application.**

31 (a) The Commission may issue one or more Class B licenses for the operation,
32 sponsorship, and management of race facilities.

33 (b) The application for a Class B license shall be on a form the Commission
34 prescribes and shall be accompanied by a bond in the principal amount of five hundred
35 thousand dollars (\$500,000) payable to the State of North Carolina conditioned upon the
36 licensee's payment of all fees, taxes, and other money due and payable under this
37 Chapter, including the horse owner's purses and payouts on winning pari-mutuel tickets.

38 (c) The application shall contain:

39 (1) The name and address of the applicant, and if it is a corporation or
40 association, the names of all officers, directors, and shareholders,
41 including those of any of its holding companies;

42 (2) If required by the Commission, the names of any person or persons
43 holding, directly, indirectly, or beneficially, an interest of any kind in

1 the applicant or of any of its holding companies, whether the interest is
2 financial, administrative, policy-making, or supervisory;

3 (3) A statement of the assets and liabilities of the applicant;

4 (4) An affidavit of the type described in G.S. 16A-22(4); and

5 (5) An irrevocable consent statement to be signed by the applicant, which
6 states that suits and actions relating to the subject matter of the
7 application or acts or omissions arising from it may be commenced
8 against the applicant in any court of competent jurisdiction in this State
9 by the service on the Secretary of State of any summons, process, or
10 pleadings authorized by the laws of this State.

11 If any summons, process, or pleadings is served upon the Secretary
12 of State, it shall be by duplicate copies. One copy shall be retained in
13 the office of the Secretary of State and the other copy shall be
14 forwarded immediately by certified mail to the address of the
15 applicant, as shown by the records of the Commission.

16 **"§ 16A-34. Hearings; investigations.**

17 (a) Before granting an initial Class B license, the Commission shall hold at least
18 one public hearing on the license.

19 (b) Comprehensive investigations shall be conducted and their costs paid in the
20 manner prescribed by G.S. 16A-26.

21 (c) The Commission shall have access to all criminal history data compiled by
22 the State Bureau of Investigation on Class B licensees and applicants.

23 **"§ 16A-35. License issuance.**

24 (a) If, after considering the information received from the hearing and
25 investigations, the Commission determines that:

26 (1) The applicant will conduct horse racing in accordance with all
27 applicable laws and rules;

28 (2) The issuance of a license will not adversely affect the public health,
29 welfare, and safety;

30 (3) The license will not create a competitive situation that will adversely
31 affect racing and the public interest; and

32 (4) The applicant is fit to sponsor and manage racing;

33 then, the Commission may issue a Class B license.

34 (b) The license shall be granted for a period of 20 years, but it shall be reviewed
35 annually.

36 **"§ 16A-36. Renewal.**

37 On making the same determination required in G.S. 16A-25, the Commission may
38 renew a Class B license without a hearing.

39 **"§ 16A-37. Changes in ownership or management.**

40 If a change in the officers, directors, or other persons with a direct or indirect
41 financial or management interest in the licensee or a change of ownership of more than
42 five percent (5%) of the licensee's shares is made after the initial application or license
43 issuance, the applicant or licensee shall notify the Commission of the changes within
44 five days of their occurrence and provide the affidavit required in G.S. 16A-22(4).

1 **"§ 16A-38. License suspension and revocation.**

2 (a) Suspension, revocation, and refusal to renew a Class B license is as provided
3 in G.S. 16A-30.

4 (b) A license suspension or revocation or a refusal to renew a Class B license is a
5 contested case under the North Carolina Administrative Procedure Act.

6 **"§ 16A-39. Authority to issue Class C occupational licenses.**

7 The Commission may issue Class C occupational licenses to persons who wish to be
8 employed in horse racing where pari-mutuel wagering is conducted as:

9 (1) Horse owners or lessees;

10 (2) Jockeys or drivers;

11 (3) Exercise workers;

12 (4) Grooms;

13 (5) Trainers and their assistants;

14 (6) Pari-mutuel personnel;

15 (7) Security officers;

16 (8) Other occupations the Commission determines require licensing to
17 guarantee the integrity of horse racing in North Carolina.

18 **"§ 16A-40. License agreements.**

19 The Commission may enter into agreements with comparable bodies in other racing
20 jurisdictions for the mutual recognition of occupational licenses issued by each body.
21 The Commission may, by rule, provide for and may charge a fee to be determined by
22 the Commission for the registration of each license issued in another jurisdiction.

23 **"§ 16A-41. Application.**

24 An application for a Class C license shall be on a form the Commission prescribes
25 and shall be accompanied by an affidavit of qualification that the applicant:

26 (1) Is not in default in the payment of an obligation or debt to the State;

27 (2) Has never been convicted of a felony in a state or federal court and
28 does not have a state or federal felony charge pending;

29 (3) Is not and never has been connected with or engaged in an illegal
30 business;

31 (4) Has never been found guilty of fraud or misrepresentation in
32 connection with racing or breeding;

33 (5) Has never been found guilty of a violation of law or rule relating to
34 horse racing, pari-mutuel wagering, or any other form of gambling
35 which is a serious violation as defined by the Commission's rules; and

36 (6) Has never knowingly violated a rule or order of the Commission or a
37 law of North Carolina relating to racing.

38 The application shall also contain an irrevocable consent statement, to be signed by
39 the applicant, which states that suits and actions relating to the subject matter of the
40 application or acts or omissions arising from it may be commenced against the applicant
41 in any court of competent jurisdiction in this State by the service on the Secretary of
42 State of any summons, process, or pleading authorized by the laws of this State. If any
43 summons, process, or pleading is served upon the Secretary of State, it shall be by
44 duplicate copies. One copy shall be retained in the office of the Secretary of State and

1 the other copy shall be forwarded immediately by certified mail to the address of the
2 applicant, as shown by the records of the Commission.

3 **"§ 16A-42. Investigations.**

4 (a) The Commission shall investigate each applicant for a Class C license to the
5 extent it deems necessary and may request the assistance of and may reimburse the State
6 Bureau of Investigation in investigating applicants.

7 (b) The Commission may by rule require that an applicant be fingerprinted or
8 furnish his fingerprints. Investigations shall be conducted and their costs paid in the
9 manner prescribed by G.S. 16A-26.

10 (c) The Commission may cooperate with national and international organizations
11 and agencies in conducting investigations.

12 (d) The Commission may, by rule, provide for examining the qualifications of an
13 applicant for the license for which the application is being made.

14 (e) The Commission shall have access to all criminal history data compiled by
15 the State Bureau of Investigation on Class C applicants and licensees.

16 **"§ 16A-43. License issuance and renewal.**

17 (a) If the Commission determines that the applicant is qualified for the
18 occupation for which licensing is sought and issuance of a license will not adversely
19 affect the public health, welfare, and safety or the integrity of racing in North Carolina,
20 it may issue a Class C license to the applicant.

21 (b) If the Commission makes a similar finding for a renewal of a Class C license,
22 it may renew the license.

23 (c) Class C licenses are effective for one year.

24 **"§ 16A-44. License suspension and revocation.**

25 (a) The Commission may revoke a Class C license for a violation of law or rule
26 which in the Commission's opinion adversely affects the integrity of horse racing in
27 North Carolina or for an intentional false statement made in a license application.

28 (b) The Commission may suspend a Class C license for up to one year for a
29 violation of law, order, or rule.

30 (c) The Commission may delegate to its designated agents the authority to
31 impose suspensions of Class C licenses, and the suspension may be appealed to the
32 Commission according to its rules.

33 (d) A license revocation or suspension is a contested case under the North
34 Carolina Administrative Procedure Act.

35 **"§ 16A-45. Application for Class D license.**

36 (a) The Commission may issue special privilege Class D licenses to Class B
37 license holders for engaging in activities listed in G.S. 16A-20(4) while operating,
38 conducting, and managing horse racing on which pari-mutuel wagering is conducted.

39 (b) An application for a Class D license shall be on a form the Commission
40 prescribes. An application for a Class D license shall be accompanied by detailed plans
41 and specifications of the event, promotion, services, logistics, and other details
42 requested by the Commission.

43 **"§ 16A-46. Occupational licenses.**

1 (a) A person who participates in the management or conduct of horse racing or
2 pari-mutuel wagering holding a Class D license, who is in an occupation listed in G.S.
3 16A-39, shall have a Class C license from the Commission except for active members
4 of nonprofit organizations who act without compensation as concession workers, pari-
5 mutuel clerks, or grounds attendants.

6 (b) The Commission shall issue regulations and shall make decisions that are
7 designed to increase the likelihood of employment for North Carolina citizens as
8 occupational licensees without harming the racing industry.

9 **"§ 16A-47. Hearing.**

10 Before granting an initial application for a Class D license, the Commission may
11 hold a public hearing in the county where the license is to be issued, and if the race
12 facility to be licensed is within a city or town, it may also request comments on the
13 application from the governing body of the city or town.

14 **"§ 16A-48. Issuance of Class D license.**

15 (a) If after considering the information received at any hearing or hearings and
16 considering the comments requested under G.S. 16A-47, the Commission determines
17 that the license will not adversely affect the public health, welfare, and safety and that
18 the racing to be licensed will be conducted in accordance with all applicable laws and
19 rules, it may issue a Class D license to the applicant.

20 (b) The license shall be valid for a period of one year or less, with the term to be
21 specified in the license.

22 **"§ 16A-49. Renewal.**

23 After making the determinations required in G.S. 16A-47, the Commission may
24 renew a Class D license without a hearing.

25 **"§ 16A-49.1. Revocation and suspension.**

26 (a) Revocation and suspension of Class D licenses, and refusals to renew Class D
27 licenses, are as provided in G.S. 16A-30.

28 (b) A license suspension or revocation or a refusal to renew a Class D license is a
29 contested case under the North Carolina Administrative Procedure Act.

30 (c) Criminal penalties may also be imposed as provided in Article 5 of this
31 Chapter.

32 **"§ 16A-49.2. License fees.**

33 (a) The fee for a Class A license is twelve thousand dollars (\$12,000) payable at
34 two thousand dollars (\$2,000) per month for a period of six months from the date of
35 issuance of the owner's license to the date of the beginning of the operation of the
36 related race facility. The license fee shall be used by the Commission for operating
37 expenses prior to the beginning of operation of the race facility.

38 (b) The fee for a Class B horse racing license is one hundred dollars (\$100.00)
39 for each assigned racing day on which racing is actually conducted.

40 (c) Fees imposed on Class B and Class D licenses shall be paid to the
41 Commission at the time and in the manner provided by rules adopted by the
42 Commission.

1 (d) The Commission shall adopt rules establishing an annual license fee for each
2 occupation it licenses under G.S. 16A-39, but no annual fee for a Class C license may
3 exceed one hundred dollars (\$100.00).

4 (e) All license fees received by the Commission shall be paid into the
5 Commission's State Treasurer disbursement account, according to G.S. 16A-63.

6 **"ARTICLE 4.**

7 **"WAGERING/TV/RACE DATES/STEWARDS.**

8 **"§ 16A-50. Authority.**

9 A Class B license gives the licensee authority to conduct pari-mutuel wagering on
10 the results of races run at the licensed race facility, and on other races as authorized by
11 the Commission in G.S. 16A-66.

12 **"§ 16A-51. Requirements.**

13 A licensee conducting pari-mutuel wagering shall provide in a licensed heated and
14 air conditioned facility:

15 (1) The necessary equipment for issuing pari-mutuel tickets; and

16 (2) Mechanical or electronic equipment for displaying information the
17 Commission requires. All mechanical or electronic devices shall be
18 approved by the Commission before being used.

19 **"§ 16A-52. Types of wagering.**

20 (a) The Commission shall by rule designate those types of pari-mutuel pools
21 which are permitted at licensed facilities, and no licensee may conduct any type of pari-
22 mutuel pool which has not been so designated.

23 (b) In addition to publication required under the Administrative Procedure Act,
24 these rules shall be published by the Commission in book or pamphlet form for general
25 distribution to all interested persons.

26 (c) Under the authorized pari-mutuel system of wagering, a licensee shall be
27 permitted to provide separate pools for bets to win, place, and show, as well as separate
28 pools for more complex wagers involving such combinations of races and combinations
29 of the outcome of races as shall be approved by the Commission.

30 (d) Each pool, less the amount the licensee is permitted to retain pursuant to the
31 provisions of this Chapter, shall be distributed separately to the winners in accordance
32 with the rules of the Commission for that kind of pari-mutuel pool.

33 (e) If there is no ticket wagered on the winning horse for any pari-mutuel pool,
34 the portion of the pool which would have been distributed to any winners shall be
35 distributed to the holders of tickets for that pool in accordance with the rules of the
36 Commission for that kind of pari-mutuel pool.

37 **"§ 16A-53. Take-out; distribution of winnings.**

38 (a) A licensee conducting pari-mutuel wagering shall deduct from a straight pari-
39 mutuel pool, before payments to holders of winning tickets, an amount equal to sixteen
40 percent (16%) of the total money in that pool plus the breakage applicable to the
41 winning wagers for that pool.

42 (b) A licensee shall deduct from a two entry pool, before payments to holders of
43 winning tickets, an amount equal to seventeen percent (17%) of the total money in that
44 pool plus the breakage applicable to the winning wagers for that pool.

1 (c) A licensee shall deduct from a multiple three- or four-selection pool, before
2 payments to holders of winning tickets, an amount equal to eighteen percent (18%) of
3 the total money in that pool plus the breakage applicable to the winning wagers for that
4 pool.

5 (d) A licensee shall deduct from a super exotic pool of five or more selections an
6 amount equal to nineteen percent (19%) of the total money in that pool plus the
7 breakage applicable to the winning wagers for that pool.

8 (e) It is the intent of the General Assembly that the take-out rates at all licensed
9 pari-mutuel facilities, including any off-site wagering facilities, be uniform throughout
10 the State.

11 (f) The remaining money in each pool shall be distributed among the holders of
12 winning tickets in a manner the Commission by rules prescribes for each type of pool.

13 **"§ 16A-54. Breakage.**

14 (a) Breakage shall be computed on the basis of payoffs rounded down to the next
15 lowest increment of ten cents (10¢), with a minimum payoff of two dollars and twenty
16 cents (\$2.20) on a two-dollar (\$2.00) ticket, except that the licensee may reduce the
17 minimum payoff to two dollars and ten cents (\$2.10) on a two-dollar (\$2.00) ticket if
18 there is not a sufficient amount in a pool to make a minimum payoff of two dollars and
19 twenty cents (\$2.20).

20 (b) A licensee shall be permitted to retain all monies representing the breakage
21 provided that those funds are used for special events, publicity, promotions, and projects
22 of the facility.

23 **"§ 16A-55. Backstretch Fund.**

24 A licensee shall annually furnish to the Commission all net underpayments over net
25 overpayments. The funds received by the Commission under this section shall be used
26 by the Commission for a Backstretch Fund to provide services to jockeys and race track
27 workers who would reside at the licensed facilities including dormitories, the track
28 chaplaincy, jockey and worker disability payments, and other social and educational
29 services.

30 **"§ 16A-56. Capital improvements.**

31 (a) From the amounts deducted from all pari-mutuel pools by a licensee, an
32 amount equal to one percent (1%) of all money in all pools shall be set aside by the
33 licensee and used for capital improvements.

34 (b) With the permission of the Commission, that amount may be accumulated
35 from year to year provided the funds are directly specified to be used on a qualified
36 project.

37 **"§ 16A-57. Purses.**

38 (a) From the amounts deducted from all horse racing pari-mutuel pools by a
39 licensee, an amount equal to seven percent (7%) of all money in all pools shall be set
40 aside by the licensee for horse racing and used for purses for horse races conducted by
41 the licensee.

42 (b) From the amounts deducted from all pari-mutuel pools by all licenses, an
43 amount equal to one percent (1%) of all money in all pools shall be set aside by the
44 licensee for use in the North Carolina Horse Breeding Funds described in this Chapter.

"§ 16A-58. Payments to State.

(a) There is imposed on the total amount wagered on all pari-mutuel pools on each racing day a tax of one-half of one percent (1/2 of 1%) except that the State shall receive an additional one-half of one percent (1/2 of 1%) of all super exotic pools involving five or more selections.

(b) A licensee annually shall furnish to the Commission all net underpayments over net overpayments.

(c) The licensee shall designate and pay to the Commission for deposit in the respective North Carolina Horse Breeding and Development Funds one percent (1%) of the total amount wagered on all pari-mutuel pools on each racing day.

(d) The taxes imposed by this section shall be paid from the amounts permitted to be withheld by a licensee under G.S. 16A-57.

(e) The Commission may impose an additional admissions tax of not more than ten cents (10¢) per person at any licensed race facility if:

(1) The additional tax is requested by a local unit of government within whose borders the facility is located;

(2) A public hearing is held on the request; and

(3) The Commission finds that the local unit of government requesting the additional tax is in need of its revenue to meet extraordinary expenses caused by the facility.

"§ 16A-59. Payment.

(a) The licensee shall remit the tax to the Commission or its representative within seven days of the day on which it was collected.

(b) The payments shall be accompanied by a detailed statement of the remittance on a form the Commission prescribes.

(c) The Commission may by rule provide for the direct deposit of required payments in the Commission's account in a financial institution within the State and for determining the time of applicability of different tax rates under G.S. 16A-58.

"§ 16A-60. Tax exclusive.

The tax imposed by G.S. 16A-58 is in lieu of any tax or license fee, other than the taxes on real property, imposed by a political subdivision and is in lieu of any other sales or excise tax imposed by the State on race facility admissions or pari-mutuel pools or pari-mutuel ticket sales.

"§ 16A-61. Reports.

(a) Within 100 days of the end of a racing meeting, a licensee subject to the tax imposed by the payments to the Commission or State shall file with the Commission a certified statement of receipts from all sources during the racing meeting and of expenses and disbursements, itemized on a form the Commission prescribes after consultation with the State Auditor, showing the licensee's net revenues from all sources.

(b) The statement shall be prepared by a certified public accountant in accordance with generally accepted auditing standards.

"§ 16A-62. Breeding Funds.

1 (a) The Commission shall establish the North Carolina Horse Breeding and
2 Development Funds with the respective monies from horse racing paid to it under G.S.
3 16A-58.

4 (b) The Commission shall issue rules that shall provide that after paying the
5 current cost of administering the funds, the remaining funds shall be distributed for:

- 6 (1) North Carolina Purse Enrichment;
- 7 (2) Breeders Awards;
- 8 (3) North Carolina Stallion Owner Awards;
- 9 (4) Owners Premium Awards; and
- 10 (5) Research related to racing horses.

11 (c) The Commission shall issue rules defining the requirements for qualifying for
12 payments under subsection (b) of this section and for the distribution of the funds.

13 (d) The Commission may establish advisory committees to advise it on the
14 distribution of money under this section, provided that the members of any advisory
15 committee shall serve without compensation.

16 **"§ 16A-63. Distribution of taxes and fees collected by the Commission.**

17 (a) The Commission shall distribute all money received under this section and all
18 money received from license fees in the following manner:

- 19 (1) All money designated for deposit in the North Carolina Horse
20 Breeding and Development Funds shall be paid into those funds for
21 distribution under G.S. 16A-62.
- 22 (2) Revenue from an additional admissions tax of ten cents (10¢) per
23 person imposed under G.S. 16A-58 shall be paid to the local unit of
24 government at whose request it was imposed, at times and in the
25 manner the Commission, by rule, determines.
- 26 (3) All other revenues received under this Chapter by the Commission,
27 and all license fees and other revenues it receives, shall be paid to the
28 Commission and shall be deposited by the State Treasurer to the
29 account of the Commission.

30 All monies remaining after (i) the payment of all expenses incurred in the
31 administration of this Chapter; and (ii) the deposit into the North Carolina Horse
32 Breeding and Development Funds of all amounts required by G.S. 16A-52, shall be
33 allocated, combined by the Commission with other excess funds, or paid not less
34 frequently than once each calendar year, twenty-five percent (25%) to:

- 35 (1) Agricultural research;
- 36 (2) Agriculture extension education (includes 4-H);
- 37 (3) Nonracing horse breeds;
- 38 (4) North Carolina State University Veterinary Teaching Hospital
39 to be used to help develop the laboratory facilities needed for
40 drug testing and drug research;
- 41 (5) Agricultural program at North Carolina A&T; and
- 42 (6) Other allocations as specified by the General Assembly for any
43 fiscal year, in furtherance of the purposes of this Chapter.

1 The remaining seventy-five percent (75%) and any other funds not allocated to these
2 programs will be returned to the State Treasurer for deposit in the General Fund.

3 (b) If any allocation of any portion of the net revenues of the Commission
4 pursuant to any provision of this Article cannot be made for any reason, then the failure
5 of the allocation shall not impair the validity or effectiveness of any part of this Chapter
6 other than the provisions specifically providing for that allocation, nor shall the failure
7 of the allocation adversely affect any other allocation of net revenues under this
8 Chapter.

9 **"§ 16A-64. Policy.**

10 It is expressly declared that the primary purpose of this Chapter is to provide a
11 means for permitting and regulating horse racing and pari-mutuel wagering, and,
12 further, that it is not a primary purpose of this Chapter to provide funds for the various
13 governmental bodies and public or private institutions and organizations to which
14 allocations or portions of the net revenues of the Commission are made pursuant to this
15 Article. The allocations of any net revenues made pursuant to this Article represent the
16 legislative effort to confer incidental incentives and benefits upon a spectrum of animal,
17 agricultural, and governmental activities that develop the State's tourism, equine
18 industry, and farmland usage.

19 **"§ 16A-65. Prohibited acts.**

20 (a) A licensee may not accept a wager from any person under the age of 21 years.

21 (b) A licensee may not accept a wager of less than two dollars (\$2.00) from
22 anyone.

23 (c) No one under 21 years of age is allowed to be in the betting area.

24 (d) During day hours, there is no minimum age for attendance at a racing facility.
25 During night hours, minors ages 12 to 17 shall be accompanied by an adult, and no
26 person under the age of 12 shall be permitted to attend.

27 **"§ 16A-66. Televised races.**

28 (a) The Commission by rule may permit a Class B licensee to conduct pari-
29 mutuel wagering on horse races run in this or other states and broadcast by television on
30 the premises of the licensed racing facility.

31 (b) All provisions of law governing pari-mutuel wagering apply to pari-mutuel
32 wagering on televised races except as otherwise provided in this section or in the
33 Commission's rules.

34 (c) Pari-mutuel pools conducted on televised races may consist only of money
35 wagered on the premises and may, pursuant to rules issued by the Commission, be
36 commingled with other pools off the premises.

37 (d) Proceeds from the pari-mutuel pool may be used by the licensee, pursuant to
38 rules issued by the Commission, to:

39 (1) Pay a fee to the person or entity conducting the race for the privileges
40 of conducting pari-mutuel wagering on the race;

41 (2) Pay the cost of transmitting the broadcast of the race; and

42 (3) Pay part of the take-out designated to enhance purses to the sending
43 facility and to enhance purse structure.

1 (e) Pari-mutuel wagering on a televised race may be conducted on a racing day
2 other than a racing day assigned by the Commission.

3 (f) The take-out and taxes on pari-mutuel pools on televised races are as
4 provided for other pari-mutuel pools.

5 (g) All televised races under this section shall comply with the Interstate Horse
6 Racing Act of 1978 as found in the United States Code, Title 15, section 3001 and the
7 following relevant sections.

8 (h) Nothing contained in this Chapter shall be construed to authorize or legalize
9 any wagering or gambling at any location other than the pari-mutuel facilities licensed
10 by this Commission.

11 **"§ 16A-67. Racing dates.**

12 (a) An operator's racing license issued under this Chapter shall permit the holder
13 to conduct one or more race meetings each year at the race facility to which the license
14 applies.

15 (b) Racing may be conducted any six of seven afternoons or nights a week
16 throughout the year, except post or matinee starting times on Sundays shall not be
17 before 1:30 p.m. and not after 6:00 p.m.

18 **"§ 16A-68. Assignment of racing days.**

19 (a) The Commission shall assign racing days to each licensee authorized to
20 conduct racing with pari-mutuel wagering and a licensee may conduct matinee and
21 evening racing with pari-mutuel wagering only on a racing day assigned by the
22 Commission.

23 (b) The Commission may assign racing days for up to three years beyond the
24 year in which the assignment is made.

25 (c) The assignments of racing days in any year shall be made by July 1 of the
26 previous year, except that days may be assigned after that date to a licensee whose
27 license is issued after that date.

28 **"§ 16A-69. Racing days; hearing.**

29 (a) A public hearing is required before the Commission may:

30 (1) Make an assignment of racing days;

31 (2) Revise the assignment during the year; or

32 (3) Assign racing days to a licensee whose license is issued after the initial
33 assignment.

34 (b) The Commission may without a hearing assign one additional racing day to a
35 licensee for each originally assigned racing day during the same racing meeting on
36 which racing was not conducted for reasons beyond the licensee's control.

37 **"§ 16A-70. Prohibited assignments.**

38 (a) The Commission may not assign a license for racing days to any facility not
39 in operation at least 10 months out of the year offering horse racing or simulcasting.

40 (b) The Commission may not assign a licensee for county fair racing days;
41 however, all racing facilities shall advertise to their patrons county fair events and
42 agricultural products produced in the State.

43 **"§ 16A-71. Rescinding of racing days.**

1 The Commission may, after a public hearing, rescind one or more racing days
2 assigned to a licensee if it determines that the licensee has not met or will not meet the
3 terms of the license. A rescinded day or days may be reassigned to another licensee.

4 **"§ 16A-72. Stewards, powers and duties.**

5 (a) All horse races run at a licensed race facility shall be presided over by a board
6 of three stewards, two of whom shall be appointees of the Commission or persons
7 approved by it, and one appointed by the licensee conducting the race meeting.

8 (b) The Commission shall designate one steward as chairman.

9 (c) At least two stewards for all races shall be employees of the Commission and
10 they shall be exempt from the State Personnel Act.

11 (d) The Commission may delegate the following duties and powers to a board of
12 stewards:

13 (1) To ensure that races are run in accordance with the Commission's
14 rules;

15 (2) To supervise the conduct of racing to ensure the integrity of the sport;

16 (3) To settle disputes arising from the running of horse races, and to
17 certify official results;

18 (4) To impose on licensees, for violation of law or Commission rules,
19 finances not exceeding five hundred dollars (\$500.00) and license
20 suspensions not exceeding 30 days;

21 (5) To recommend to the Commission where penalties are warranted in
22 excess of those in subdivision (4);

23 (6) To otherwise enforce the laws and rules of racing; and

24 (7) To perform other duties and have other powers assigned by the
25 Commission.

26 **"§ 16A-73. Board of stewards; appeals, hearings.**

27 (a) A ruling of a board of stewards may be appealed to the commission or be
28 reviewed by it on its own initiative.

29 (b) The Commission may provide for appeals to be heard by less than a quorum
30 of the Commission.

31 (c) A hearing on a penalty imposed by a board of stewards shall be granted on
32 request.

33 (d) A Commission decision with regard to a ruling by a board of stewards
34 constitutes a final agency decision for purposes of appeal under the Administrative
35 Procedure Act.

36 **"§ 16A-74. Board of stewards; procedural powers.**

37 A board of stewards may administer oaths, issue subpoenas, order the production of
38 documents and other evidence, and regulate the course of hearings before it, according
39 to the Commission's rules.

40 **"§ 16A-75. Board of stewards; rules.**

41 The Commission may adopt rules governing the qualifications, appointment,
42 approval, authority, removal, and compensation of stewards.

43 **"§ 16A-76. Board of stewards; costs.**

- 1 (4) Liability insurance which it may require of all Class A, Class B, and
2 Class D licensees;
3 (5) The auditing of the books and records of a licensee by an auditor
4 employed or appointed by the Commission;
5 (6) Emergency action plans maintained by licensed race facilities and their
6 periodic review;
7 (7) Safety, security, and sanitation of stabling facilities at licensed race
8 facilities as well as general guidelines regarding off-track stables;
9 (8) Entry fees and other funds received by a licensee in the course of
10 conducting racing which the commission determines shall be placed in
11 escrow accounts; and
12 (9) Any other aspect of horse racing or pari-mutuel wagering which in its
13 opinion affects the integrity of racing or the public health, welfare, or
14 safety.

15 Rules of the Commission are subject to the North Carolina Administrative Procedure
16 Act.

17 **"§ 16A-83. Illegal wagering.**

18 No person may place or accept a wager on or off the premises of a licensed race
19 facility other than a wager made within a licensed pari-mutuel system.

20 **"§ 16A-84. Off-track wagers; bookmaking.**

21 No person may, as part of an organized commercial activity, place or accept a wager
22 off the premises of a licensed race facility for delivery to a licensed race facility.

23 **"§ 16A-85. Transmission of racing information prohibited.**

24 (a) With the exception of television or radio coverage of races authorized in
25 accordance with G.S. 16A-66, it shall be unlawful for any person to transmit or
26 communicate to another by any means whatsoever the results, changing odds, track
27 conditions, or other information relating to any horse race from any race facility in this
28 State between the period of time beginning one hour prior to the first race of the day and
29 ending 30 minutes after the posting of the official results of each race, as to that
30 particular race, except this period may be reduced to permit the transmitting of the result
31 of the last race each day not sooner than 15 minutes after the official posting of the
32 results.

33 (b) The Commission may by rule permit the immediate transmission by radio,
34 television (other than television or radio coverage pursuant to G.S. 16A-66), or press
35 wire of any pertinent information concerning special or feature races.

36 (c) It shall be unlawful for any person to transmit by any means whatsoever
37 racing information to any other person or relay the same to any other person by word of
38 mouth, by signal, or by use of telephone, telegraph, radio or any other means when the
39 information is knowingly used or intended to be used for illegal gambling purposes or is
40 used in furtherance of illegal gambling purposes.

41 **"§ 16A-86. Influencing races.**

42 No person may influence or attempt to influence a horse race by:

- 43 (1) Making threats;

- 1 (2) Offering anything of value to a person involved in the conduct of a
2 race in return for that person's committing an illegal act or failing to
3 perform a duty; or
4 (3) Conspiring with or seeking or having an understanding or agreement
5 with a person involved in the conduct of a race to commit an illegal act
6 or to fail to perform a duty.

7 **"§ 16A-87. Tampering with horses.**

8 No person may:

- 9 (1) On the premises of a licensed race facility, use, have in his possession
10 with intent to use, or knowingly assist another person in using a
11 battery or buzzer, electrical or mechanical, or other device or
12 appliance, which can be used to affect a horse's racing condition or
13 performance, other than an ordinary whip for a horse;
14 (2) Affect or attempt to affect the racing condition or performance of a
15 horse at a race or workout through the use of a drug or medication in
16 violation of the Commission's rules;
17 (3) Use any method, injurious or otherwise, to affect a horse's racing
18 condition or performance at a race or workout in violation of the
19 Commission's rules;
20 (4) Knowingly enter or cause to be entered in a race any horse under an
21 assumed name or out of its proper grade or class;
22 (5) Change the name of any horse for the purpose of entry in a race after
23 the horse has once raced except as provided by the operator's rules
24 under which the contest is advertised to be run; or
25 (6) Knowingly misrepresent or fraudulently conceal the public
26 performance in any former race of any horse that is proposed to be
27 entered in a race, whether the horse is actually entered or not.

28 **"§ 16A-88. False time by official timer.**

29 No official timer at any race shall willfully and falsely announce a slower or faster
30 time than that actually run by a horse when the result of that race is to constitute a
31 record.

32 **"§ 16A-89. Determination of class.**

33 The grade or class to which a horse belongs for the purpose of an entry in any race
34 shall be determined by the public performance of that horse in any former race, except
35 as provided by the operator's rules under which the proposed race is advertised to be
36 run.

37 **"§ 16A-90. Reporting of information.**

38 A person licensed by the Commission who has information regarding a violation of
39 any provision of this Chapter shall report that information promptly to the Commission
40 or an agent of the Commission.

41 **"§ 16A-91. False statement.**

42 No person may knowingly make a false statement in a document or application
43 required to be submitted to the Commission or in a sworn statement to or testimony
44 before the Commission.

1 **"§ 16A-92. Altered tickets.**

2 No person may knowingly offer for payment any pari-mutuel ticket which has been
3 altered or any counterfeit or forged pari-mutuel ticket.

4 **"§ 16A-93. Conducting race without license.**

5 (a) Any person who directly or indirectly holds any horse race without having
6 procured a license as prescribed in this Chapter shall be guilty of a misdemeanor.

7 (b) Any person wagering upon the results of a race conducted without the proper
8 license, except in the case of pari-mutuel wagering conducted by an operator in
9 accordance with the provisions of this Chapter, shall be guilty of a misdemeanor.

10 **"§ 16A-94. Misuse of license.**

11 Any credential, license or permit issued by the Commission, if used by the holder for
12 a purpose other than identification and in the performance of legitimate duties on a race
13 facility, shall be automatically revoked whether so used on or off a race facility.

14 **"§ 16A-94.1. Class G felonies.**

15 A violation of G.S. 16A-86 or G.S. 16A-87 is a Class G felony, in addition to any
16 civil penalty which may be imposed pursuant to this Article.

17 **"§ 16A-95. Class H felonies.**

18 A violation of the prohibition contained in G.S. 16A-84 or a violation of G.S. 16A-
19 92 is a Class H felony, in addition to any civil penalty which may be imposed pursuant
20 to this Article.

21 **"§ 16A-96. Class I felonies.**

22 A violation of G.S. 16A-90 or G.S. 16A-91 is a Class I felony, in addition to any
23 civil penalty which may be imposed pursuant to this Article.

24 **"§ 16A-97. Misdemeanors.**

25 A violation of any other provision of this Chapter or North Carolina General Statutes
26 relating to this Chapter, or of a rule or order of the Commission for which another
27 penalty is not provided is a misdemeanor, in addition to any civil penalty which may be
28 imposed pursuant to this Chapter.

29 **"§ 16A-98. Persons excluded.**

30 The Commission may exclude from any and all licensed race facilities in the State a
31 person who:

- 32 (1) Has been convicted of a felony under the laws of any state or the
33 United States;
34 (2) Has had a license suspended, revoked, or denied by the Commission or
35 by the racing authority of any other jurisdiction; or
36 (3) Is determined by the Commission, on the basis of evidence presented
37 to it, to be a threat to the integrity of racing in North Carolina.

38 **"§ 16A-99. Disqualification due to gambling activities.**

39 No person who engages in the practice of professional gambling on horse races, or
40 in the practice of making gambling or wagering books on races, or who knowingly takes
41 any part in that practice, shall be eligible as an applicant for any license or permit to
42 own or operate a race facility or conduct racing activities under the provisions of this
43 Chapter, or to be connected therewith in any capacity; and any corporation, partnership,
44 or other entity which has an officer, director, stockholder, partner or executive or who

1 employs any person who engages in those practices shall likewise be ineligible as a
2 licensee; and the Commission may inquire into these matters in considering any
3 application and otherwise in administering this Chapter.

4 **"§ 16A-100. Appeal; hearing.**

5 An order to exclude a person from any or all licensed race facilities in the State shall
6 be made by the Commission at a public hearing of which the person to be excluded shall
7 have at least 15 days' notice. If the person is present at the hearing, the person shall be
8 permitted to show cause why the person should not be excluded. An appeal of the order
9 may be made in the same manner as other appeals under G.S. 16A-79.

10 **"§ 16A-101. Notice to race facilities.**

11 Upon issuing an order excluding a person from any or all licensed race facilities, the
12 Commission shall send a copy of the order to the excluded person and to all race
13 facilities named in it along with other information as it deems necessary to permit
14 compliance with the order.

15 **"§ 16A-102. Prohibitions.**

16 It is a misdemeanor for a person named in an exclusion order to enter, attempt to
17 enter, or be on the premises of a race facility named in the order while it is in effect, and
18 for a person licensed to conduct racing or operate a race facility knowingly to permit an
19 excluded person to enter or be on the premises.

20 **"§ 16A-103. Exclusions by race facility.**

21 The holder of a license to conduct racing may eject and exclude from its premises
22 any licensee or any other person who is in violation of any State law or Commission
23 rule or order or who is a threat to racing integrity or the public safety. A person so
24 excluded from a race facility premises may appeal his exclusion to the Commission and
25 shall be given a public hearing on his appeal if the person so requests. At the hearing the
26 person shall be given the opportunity to show cause why the person should not be so
27 excluded. If the Commission, after the hearing finds that the integrity of racing and the
28 public safety do not justify the exclusion, it shall order the race facility making the
29 exclusion to reinstate or readmit the person. An appeal of a Commission order
30 upholding the exclusion is governed by G.S. 16A-79.

31 **"ARTICLE 6.**

32 **"MISCELLANEOUS.**

33 **§ 16A-104. Medication.**

34 (a) The Commission shall adopt and enforce rules governing medication and
35 medical testing for horses running at licensed race facilities. The rules shall provide
36 which, if any, medication may be administered to a horse within a specified number of
37 hours of a race before it runs at a licensed race facility.

38 (b) The Commission shall adopt rules establishing the qualifications for on- and
39 off- premise laboratories used by it as testing laboratories to enforce its rules under this
40 section.

41 **"§ 16A-105. Possession of certain drugs prohibited.**

42 (a) The possession or transportation of any drug or chemical except those
43 permitted by regulations of the Commission within the racing enclosure is prohibited

1 except upon a bona fide veterinarian's prescription with complete statement of uses and
2 purposes on the container.

3 (b) A copy of the prescription shall be filed with the stewards.

4 (c) The Commission may allow medical emergency exceptions.

5 **"§ 16A-106. Advisory committee.**

6 The Commission may establish an advisory committee to advise it on medication
7 under this section, provided that the members of an advisory committee shall serve
8 without compensation.

9 **"§ 16A-107. Financial interest.**

10 No person may serve on the Commission or be employed by it who has an interest in
11 any corporation, association, or partnership which holds a license from the Commission
12 or which holds a contract to supply goods or services to a licensee or at a licensed race
13 facility, including concessions contracts. No member or employee of the Commission
14 may own wholly, or in part, or have an interest in a horse which races at a licensed race
15 facility in North Carolina. No member or employee of the Commission may have a
16 financial interest in or be employed in a profession or business which conflicts with the
17 performance of his duties as a member or employee.

18 **"§ 16A-108. Wagering.**

19 No member or employee of the Commission may wager or cause a wager to be
20 made on a race at a licensed race facility while serving on or being employed by the
21 Commission. No person appointed or approved by the Commission as a steward may
22 wager or cause a wager to be made at a licensed race facility during a racing meeting at
23 which that person is serving as a steward. The Commission shall by rule prescribe any
24 restrictions on wagering by its licensees as it deems necessary to protect the integrity of
25 racing.

26 **"§ 16A-109. Violation.**

27 A violation of G.S. 16A-107 or G.S. 16A-108 is grounds for removal from the
28 Commission or termination of employment. A wager made directly or indirectly by a
29 licensee in violation of a rule made by the Commission under G.S. 16A-108 is grounds
30 for suspension or revocation of the license.

31 **"§ 16A-110. Required races.**

32 By rule the Commission may set the number of required races. Each holder of a
33 Class B license shall declare and schedule, on each racing day it conducts, at least one
34 race which:

35 (1) Before January 1, 1999, is limited to horses which are North Carolina-
36 bred, North Carolina-foaled, North Carolina-trained, or North
37 Carolina-owned, and

38 (2) On and after January 1, 1999, is limited to horses which are North
39 Carolina-bred, or North Carolina-foaled, and which are North
40 Carolina-trained. If there are not a sufficient number of these horses
41 entered in the declared race to make up an adequate slate of entries,
42 another race may be substituted. The Commission shall by rule define
43 'North Carolina-foaled,' 'North Carolina-owned,' and 'North Carolina-
44 trained.'

1 **"§ 16A-111. Provisions of this Chapter control.**

2 Insofar as the provisions of this Chapter may be inconsistent with the provisions of
3 any other law concerning activities and actions authorized by this Chapter, including but
4 not limited to Chapters 14 and 16 of the General Statutes, the provisions of this Chapter
5 shall control, it being specifically declared that any other provisions of existing law,
6 ordinance, or regulation that prohibit or regulate horse racing, admissions, gambling or
7 pari-mutuel wagering shall not be applicable to any activities or actions authorized by
8 this Chapter."

9 Sec. 2. G.S. 14-289 reads as rewritten:

10 **"§ 14-289. Advertising lotteries.**

11 Except in connection with a lawful raffle as provided in Part 2 of this Article, if
12 anyone by writing or printing or by circular or letter or in any other way, advertise or
13 publish an account of a lottery, whether within or without this State, stating how, when
14 or where the same is to be or has been drawn, or what are the prizes therein or any of
15 them, or the price of a ticket or any share or interest therein, or where or how it may be
16 obtained, he shall be guilty of a misdemeanor. As used in this Article, the word 'lottery'
17 does not include pari-mutuel wagering conducted in accordance with the provisions of
18 Chapter 16A of the General Statutes."

19 Sec. 3. G.S. 14-292 reads as rewritten:

20 **"§ 14-292. Gambling.**

21 Except as provided in Part 2 of this Article, any person or organization that operates
22 any game of chance or any person who plays at or bets on any game of chance, other
23 than pari-mutuel wagering conducted in accordance with the provisions of Chapter 16A
24 of the General Statutes, at which any money, property or other thing of value is bet,
25 whether the same be in stake or not, shall be guilty of a misdemeanor."

26 Sec. 4. There is appropriated from the General Fund to the North Carolina
27 Racing Commission the sum of one hundred fifty thousand dollars (\$150,000) for fiscal
28 year 1991-92 to provide initial start-up funds for the Commission. This appropriation
29 shall be repaid to the General Fund out of the proceeds collected under the provisions of
30 this Chapter.

31 Sec. 5. It is the intent of this act that the Commission shall be a self-
32 supporting agency of State government located in the Department of Commerce. No
33 appropriations, loans, or other transfer of State funds shall be made to the Commission
34 except for appropriations for initial start-up costs of the Commission as provided by this
35 act. Any other appropriation, loan, or transfer of State funds to any other entity for the
36 purposes of horse racing with pari-mutuel wagering is prohibited.

37 Sec. 5.1. G.S. 120-123 is amended by adding a new subdivision to read:

38 "(60) The North Carolina Racing Commission as established by G.S.16A-4."

39 Sec. 6. G.S. 147-69.2(a) is amended by adding a new subdivision to read:

40 "(21) The North Carolina Racing Commission."

41 Sec. 7. If approved by the qualified voters of the State of North Carolina,
42 Sections 1 through 6 of this act shall become effective on the first day of the second
43 month following the election. The question of approval of this act shall be submitted to

1 the qualified voters of the State of North Carolina at an election held on November 2,
2 1993.

3 The referendum shall be held in accordance with the provisions of Chapter
4 163 of the General Statutes, and the form of the ballot shall be:

5 "[] FOR approval of an act establishing horse racing and a State Racing
6 Commission.

7 [] AGAINST approval of an act establishing horse racing and a State
8 Racing Commission."

9 If less than a majority of the votes are cast in favor of the approval of this act,
10 it shall have no force or effect.

11 Sec. 8. Sections 7 and 8 of this act are effective upon ratification.