

OCCUPATIONS CODE

TITLE 13. SPORTS, AMUSEMENTS, AND ENTERTAINMENT

SUBTITLE A-1. TEXAS RACING ACT

CHAPTER 2022. TEXAS RACING COMMISSION

SUBCHAPTER A. COMPOSITION AND OPERATION

Sec. 2022.001. COMMISSION MEMBERSHIP. (a) The commission consists of:

(1) seven members appointed by the governor with the advice and consent of the senate; and

(2) two ex officio members who have the right to vote.

(b) The ex officio members are:

(1) the chair of the Public Safety Commission, or a member of the Public Safety Commission designated by the chair; and

(2) the comptroller or the comptroller's designee.

(c) Of the appointed commission members:

(1) five members must be representatives of the general public and have general knowledge of business or agribusiness;

(2) one additional member must have special knowledge or experience related to horse racing; and

(3) one additional member must have special knowledge or experience related to greyhound racing.

(d) At least one of the members appointed under Subsection (c)(1) may be a veterinarian. Holding a veterinarian's license satisfies the requirement that the person have general knowledge of business or agribusiness.

(e) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(f) In making appointments to the commission, the governor shall attempt to reflect the minority groups found in the state's general populace.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.002. TERM OF OFFICE. (a) Appointed commission members hold office for staggered terms of six years with the terms of two or three members expiring February 1 of each odd-numbered year.

(b) An ex officio member holds office on the commission for the time the member holds the member's other office.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.003. FINANCIAL STATEMENT REQUIRED. (a) Each appointed commission member and the executive director is an "appointed officer of a major state agency" for purposes of Chapter 572, Government Code.

(b) An appointed commission member shall file a detailed financial statement with the secretary of state of the type required by the Texas Department of Banking in the application for a state bank charter. The financial statement is public information under Chapter 552, Government Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.004. RESTRICTIONS ON COMMISSION APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a commission member and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding.

(c) A person may not be a commission member or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(d) An appointed member is not eligible to serve on the commission unless that member has been a resident of this state for at least 10 consecutive years immediately before appointment.

(e) A person is not eligible for appointment as a commission member if:

(1) A person is not eligible for appointment as a commission member if:

(A) is licensed by the commission, except as a commissioner;

(B) is employed by the commission or participates in the management of a business entity or other organization regulated by the commission or receiving funds from or through the commission;

(C) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from or through the commission; or

(D) uses or receives a substantial amount of tangible goods, services, or funds from or through the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or

(2) the person:

(A) owns any financial interest in a racetrack or its operation or is related within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, to a person who owns any financial interest in a racetrack or its operation; or

(B) has been convicted of a felony or of any crime involving moral turpitude.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.005. GROUND FOR REMOVAL. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Sections 2022.001, 2022.004, and 2022.057;

(2) does not maintain during service on the commission the qualifications required by Sections 2022.001, 2022.004, and 2022.057;

(3) violates a prohibition established by Section 2022.004;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest officer of the commission, who shall notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.006. MEMBER TRAINING. (a) To be eligible to take office as a commission member, a person appointed to the commission must complete at least one course of a training program

that complies with this section.

(b) The training program must provide information to the person regarding:

(1) the enabling legislation that created the commission;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) commission rules, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

(6) the results of the most recent formal audit of the commission;

(7) the requirements of:

(A) Chapter 551, Government Code;

(B) Chapter 552, Government Code; and

(C) Chapter 2001, Government Code;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a commission member.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.007. MEMBER PER DIEM AND REIMBURSEMENT FOR EXPENSES. (a) An appointed commission member is entitled to:

(1) a per diem in an amount prescribed by legislative appropriation for each day spent in performing the duties of the office; and

(2) reimbursement for actual and necessary expenses incurred in performing the duties of the office.

(b) Reimbursement for expenses under this section is subject to any applicable limitation in the General Appropriations Act.

(c) An ex officio commission member is entitled to reimbursement for expenses from the member's agency as provided by law for expenses incurred in the performance of the member's other official duties.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.008. PRESIDING OFFICER. The governor shall designate a public member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.009. COMMISSION MEETINGS; RECORD OF COMMISSION VOTES. (a) The commission shall hold at least six regular meetings each year on dates fixed by the commission.

(b) The commission shall adopt rules providing for the holding of special meetings.

(c) The commission shall keep at the commission's general office a public record of every vote.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.010. COMMISSION OFFICES. The commission shall maintain a general office of the commission in Austin and may also establish branch offices.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.011. MONEY PAID TO COMMISSION. All money paid to the commission under this subtitle is subject to Subchapter F, Chapter 404, Government Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.012. LEGAL REPRESENTATION. The attorney

general shall:

(1) designate at least one member of the attorney general's staff to counsel and advise the commission and to represent the commission in legal proceedings; and

(2) make available to the appropriate prosecuting attorneys any information obtained regarding violations of this subtitle.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.013. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution shall conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.014. PUBLIC PARTICIPATION. (a) The commission by rule shall develop and implement policies that provide the

public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

(b) The executive director shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs and services.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

#### SUBCHAPTER B. COMMISSION STAFF

Sec. 2022.051. EXECUTIVE DIRECTOR; DUTIES. (a) The commission shall employ an executive director. The executive director serves at the pleasure of the commission on a full-time basis and may not hold other employment.

(b) The executive director shall:

- (1) keep the records of the commission; and
- (2) perform other duties required by the commission.

(c) The executive director or the executive director's designee shall provide to commission members and employees, as often as necessary, information regarding their qualification for office or employment under this subtitle and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.052. EMPLOYEES; RESTRICTIONS ON EMPLOYMENT. (a) The commission shall hire employees as necessary to administer this subtitle.

(b) The commission shall employ the executive director and other employees to reflect the diversity of the state's population with regard to race, color, disability, sex, religion, age, and national origin.

(c) The commission may not employ or continue to employ a person who:



(1) owns or controls a financial interest in a commission license holder;

(2) is employed by or serves as a paid consultant to a commission license holder, an official state breed registry, or a Texas trade association, as defined by Section 2022.004(a), in the field of horse or greyhound racing or breeding;

(3) owns or leases a race animal that participates in pari-mutuel racing in this state;

(4) accepts or is entitled to any part of the purse or Texas-bred incentive award to be paid on a horse or a greyhound in a race conducted in this state; or

(5) resides with or is related within the first degree by affinity or consanguinity to a person subject to a disqualification prescribed by this subsection.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.053. COMMISSION INVESTIGATORS. (a) The commission may commission as many investigators as the commission determines necessary to enforce this subtitle and commission rules.

(b) An investigator commissioned under this section shall take the constitutional oath of office and file it with the commission.

(c) An investigator commissioned under this section has the powers of a peace officer.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.054. CAREER LADDER; PERFORMANCE EVALUATIONS. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the commission. The program shall require intra-agency posting of all positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations based on documented employee performance. All merit pay for

commission employees must be based on the system established under this subsection.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.055. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that comply with the requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission workforce that meets federal and state laws, rules, regulations, and instructions directly promulgated from those laws, rules, and regulations;

(3) procedures by which a determination can be made about the extent of underuse in the commission workforce of all persons for whom federal or state laws, rules, regulations, and instructions directly promulgated from those laws, rules, and regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(c) The policy statement must:

(1) cover an annual period and be updated annually;

(2) be reviewed by the Texas Workforce Commission for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.056. DIVISION OF RESPONSIBILITY. The commission by rule shall develop and implement policies that

clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and the commission staff.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.057. BACKGROUND CHECKS AND QUALIFICATION CRITERIA. Each person appointed to or employed by the commission is subject to all background checks and qualification criteria required to hold a racetrack license or other license under this subtitle.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.058. PROHIBITION ON EMPLOYMENT OF FORMER COMMISSION MEMBERS OR EMPLOYEES BY RACETRACK ASSOCIATION; CRIMINAL PENALTY. (a) A racetrack association may not employ a person who has been a commission member, the executive director, or a commission employee in a position in the state employment classification plan of grade 12 or above, or a person related within the second degree by affinity or the third degree by consanguinity, as determined under Chapter 573, Government Code, to such a member or employee, during the one-year period immediately preceding the employment by the racetrack association.

(b) A person may not seek or accept employment with a racetrack association if the racetrack association would violate this section by employing the person.

(c) A racetrack association or person who violates this section commits an offense.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

#### SUBCHAPTER C. RECORDS AND INFORMATION

Sec. 2022.101. PUBLIC INTEREST INFORMATION. (a) The commission shall prepare information of public interest describing the functions of the commission and the procedures by which

complaints are filed with and resolved by the commission.

(b) The commission shall make the information described by Subsection (a) available to the public and appropriate state agencies.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.102. INFORMATION RELATING TO COMPLAINT PROCEDURES. (a) The commission by rule shall establish methods by which racetrack patrons are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide the notification:

(1) on every race performance program provided by each racetrack association; or

(2) on signs prominently displayed in the common public areas on the premises of each racetrack.

(b) The commission shall keep information about each complaint filed with the commission. The information must include:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all persons contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) for complaints for which the commission took no action, an explanation of the reason the complaint was closed without action.

(c) The commission shall keep a file about each written complaint filed with the commission that the commission has authority to resolve. The commission shall provide to the person filing the complaint and to the persons who are subjects of the complaint the commission's policies and procedures pertaining to complaint investigation and resolution.

(d) The commission, at least quarterly and until final disposition of a complaint, shall notify the person filing the

complaint and the persons who are subjects of the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.103. COMMISSION INVESTIGATIVE FILES  
CONFIDENTIAL. (a) The contents of the investigatory files of the commission are not public records and are confidential except:

- (1) in a criminal proceeding;
- (2) in a hearing conducted by the commission;
- (3) on court order; or
- (4) with the consent of the party being investigated.

(b) Except as otherwise provided by this subtitle, the files, records, information, compilations, documents, photographs, reports, summaries, and reviews of information and related matters that are collected, retained, or compiled by the Department of Public Safety in the discharge of the department's duties under this subtitle are confidential and are not subject to public disclosure, but are subject to discovery by a person who is the subject of the files, records, information, compilations, documents, photographs, reports, summaries, and reviews of information and related matters that are collected, retained, or compiled by the department in the discharge of the department's duties under this subtitle.

(c) An investigation report or other document submitted by the Department of Public Safety to the commission becomes part of the investigative files of the commission and is subject to discovery by a person who is the subject of the investigation report or other document submitted by the department to the commission that is part of the investigative files of the commission.

(d) Information that is in a form available to the public is not privileged or confidential under this section and is subject to public disclosure.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.104. INTERAGENCY SHARING OF RECORDS. The commission may share with another regulatory agency of this state any investigatory file information that creates a reasonable suspicion of a person's violation of a law or rule under that agency's jurisdiction. The agency may use the information as if it was obtained through that agency's investigatory process.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.105. BOOKS AND RECORDS; INSPECTION. (a) The commission shall require racetrack associations, managers, totalisator license holders, and concessionaires to keep books and records and to submit financial statements to the commission.

(b) Except as provided by Section 2024.002(b), the commission shall adopt rules relating to the matters described by Subsection (a).

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2022.106. PUBLIC INSPECTION OF RECORDS. (a) All commission records that are not made confidential by other law are open to inspection by the public during regular office hours.

(b) The commission shall maintain all applications for a license under this subtitle and make the applications available for public inspection during regular office hours.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.