ENROLLED SENATE
BILL NO. 862

BY: WILKERSON of the SENATE

and

RHOADS (Karroll), ROBERTS (Walt) and STANLEY of the HOUSE

AN ACT RELATING TO AMUSEMENTS AND SPORTS; AMENDING 3A O.S. 1991, SECTIONS 203.4, 204, 204.2 AND 205.2, WHICH RELATE TO THE OKLAHOMA HORSE RACING COMMISSION; REQUIRING CERTAIN CLAIMS OF THE OKLAHOMA HORSE RACING COMMISSION TO BE PAID WITHIN CERTAIN TIME PERIOD; AUTHORIZING CERTAIN RACING PERSONNEL BE EMPLOYED PURSUANT TO CERTAIN PROCEDURES; LIMITING COMMISSION JURISDICTION AND SUPERVISION FOR CERTAIN RACE MEETINGS AND RACES TO CERTAIN TIME PERIOD; REQUIRING COMMISSION ADOPT CERTAIN RULES TO REGULATE NON-PARI-MUTUEL HORSE RACING AND CERTAIN TRAINING RACES; REQUIRING LICENSES FOR CERTAIN PERSONNEL BE ISSUED PURSUANT TO CERTAIN RULES; SETTING ORGANIZATION LICENSE FEE FOR CERTAIN APPLICANTS; PROVIDING FOR CODIFICATION; PROVIDING FOR NONCODIFICATION; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 203.8 of Title 3A, unless there is created a duplication in numbering, reads as follows:

Any non-pari-mutuel track, coming within the provisions of this act, shall pay, within thirty (30) days, any claims submitted by the Oklahoma Horse Racing Commission, to reimburse the Commission for any verified expenses incurred in administering this act. If such claims are not paid within the thirty-day period, the Commission may

take such action as specified in subsection J of Section 205.2 of Title 3A of the Oklahoma Statutes.

SECTION 2. AMENDATORY 3A O.S. 1991, Section 203.4, is amended to read as follows:

Section 203.4 A. At each pari-mutuel race meeting held pursuant to the provisions of the Oklahoma Horse Racing Act the Commission shall employ three individuals to be stewards. At non-pari-mutuel race meetings and for training races, the organization licensee may employ its own stewards in accordance with the rules of the American Quarter Horse Association or have the Commission employ the stewards as provided in this subsection. The Commission shall designate one of the individuals as chief steward and the other two individuals as assistant stewards. If employed by the Commission, the compensation of the stewards, including but not limited to salaries, benefits and other reimbursable expenses as determined by the Commission, shall be paid by the Commission and the Commission shall be reimbursed by the organization licensee. Said reimbursed funds shall be deposited by the Commission to the credit of the General Revenue Fund of the State Treasury.

B. All other racing personnel shall be employed for race meetings as the Commission deems necessary. All other racing personnel required by the Commission at non-pari-mutuel race meetings or training races may be employed by the organization licensee in accordance with the rules of the American Quarter Horse Association. The compensation of racing personnel employed by the Commission, including but not limited to salaries, benefits and reimbursable expenses, shall be paid by the Commission and, except for license clerks, the Commission shall be reimbursed by the organization licensee. Said reimbursed funds shall be deposited by the Commission to the credit of the General Revenue Fund of the State Treasury.

C. The stewards and other racing officials at pari-mutuel race meetings, at non-pari-mutuel race meetings and at training races shall enforce the rules and regulations of the Commission and the provisions of the Oklahoma Horse Racing Act in the manner provided by law and shall render written reports of the activities and conduct of the race meetings to the Commission.

SECTION 3. AMENDATORY 3A O.S. 1991, Section 204, is amended to read as follows:

Section 204. A. The Oklahoma Horse Racing Commission shall:

1. have supervision of:
   a. all race meetings held in this state; provided, for non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks jurisdiction of the Commission shall be limited to a period of time beginning twelve (12) hours before the commencement of the first race on a race day and ending four (4) hours after the finish of the last race on a race day,
   b. all occupation and organization licensees in this state, and
   c. all persons on the property of an organization licensee; provided, for non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks supervision of such persons shall be limited to the period set out in subparagraph a of this paragraph;
2. have the authority to promulgate rules and regulations for the purpose of administering the provisions of the Oklahoma Horse Racing Act;
3. administer and enforce the provisions of the Oklahoma Horse Racing Act and the rules and regulations of the Commission;
4. adjudicate controversies arising from the enforcement of the provisions of the Oklahoma Horse Racing Act and the rules and regulations of the Commission;

5. allocate racing days of not to exceed six (6) days per calendar week, dates, and hours which are in the best interests of the people of this state to organization licensees;

6. promulgate rules and regulations for the granting or refusing and the suspension or revoking of licenses;

7. promulgate rules and regulations for the holding, conducting, and operating of all race meetings held in this state; provided, the Commission shall adopt the rules of the American Quarter Horse Association for regulation of the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks;

8. have supervision and control of the pari-mutuel machines and all other equipment at all race meetings held in this state;

9. check the making of pari-mutuel pools and the distribution of such pools and be authorized to contract with the Office of the State Auditor and Inspector to cause the places where race meetings are held to be inspected at reasonable intervals;

10. promulgate rules and regulations governing:

a. bids on leases, and

b. the rate charged by an organization licensee for admission to races, and

c. the rate charged for the performance of any service or for the sale of any article on the premises of an organization licensee;

11. approve all contracts and agreements for the payment of money and all salaries, fees, and compensations by any organization licensee;

12. have the authority to exclude, or compel the exclusion, from any race meeting:

a. any person who violates the provisions of any rule, regulation, or order of the Commission or any law of this state, any other state, or the United States, or

b. any person who has been previously convicted of violating any law of this state, any other state, or the United States, or

c. any other person, licensed or unlicensed, whose conduct or reputation is such that his presence at the race meeting may, in the opinion of the Commission reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of the race meeting. No person shall be excluded or ejected from a race meeting solely on the grounds of race, color, creed, sex, national origin, or ancestry;

13. have investigatory powers and authority to place attendants and such other persons as may be deemed necessary by the Commission in the offices, on the tracks, or in places of business of any organization licensee for the purpose of determining whether an organization or occupation licensee is complying with the provisions of the Oklahoma Horse Racing Act and the rules and regulations of the Commission;

14. have authority to acquire or contract with, or establish, maintain, and operate testing laboratories and related facilities for the purpose of conducting:

a. human substance abuse testing on occupation licensees who may affect the outcome of race results. Human substance abuse tests and the laboratories performing such tests must meet the nationally recognized standards specified in the Mandatory Guidelines for Federal Workplace Drug Testing Programs adopted by the United States Department of Health and Human Services. The Commission may require any occupation licensee to submit to a human substance abuse test if the Commission has probable cause to believe that such

licensee is possessing or using any controlled dangerous substance or any other drug in violation of any federal or state law, and

b. a saliva test, a blood test, a urine test, or other tests or combinations of tests on the horses run or to be run in any race meeting. Prior to the Commission entering into any contract pursuant to this paragraph, the Attorney General shall review and approve the contract. Any contract entered into pursuant to this paragraph shall contain the specifications that were in the request for bid for the contract;

15. approve of all proposed construction on property owned or leased by an organization licensee;

16. have authority to require that all financial, employment, or other records of an organization licensee shall be kept in such manner as prescribed by the Commission and shall be subject to inspection by the Commission. The organization licensee shall submit to the Commission an annual balance sheet, profit-and-loss statement, and any other information the Commission deems necessary in order to administer the provisions of the Oklahoma Horse Racing Act;

17. have the authority to suspend or revoke a license or impose fines in amounts not to exceed Ten Thousand Dollars ($10,000.00) against individuals for each violation and in amounts not to exceed Twenty Thousand Dollars ($20,000.00) against organization licensees for each violation of any provision of the Oklahoma Horse Racing Act, any rules or regulations adopted by the Commission, or any order of the Commission, or for any other action which, in the discretion of the Commission, is a detriment or impediment to horse racing or both such suspension or revocation and fine. Each day upon which such violation or other action by the organization licensee occurs shall constitute a separate offense;

18. have authority to suspend a horse from participating in races if the horse has been involved in any violation of the rules promulgated by the Commission or the provisions of the Oklahoma Horse Racing Act; and

19. prepare and submit an annual report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. The report shall include an account of the operations, actions, and orders of the Commission, and an accounting of all revenue received by the Commission.

B. 1. The Commission may delegate to stewards or the Executive Director, those of its powers and duties as it deems necessary to fully implement and effectuate the purposes of the Oklahoma Horse Racing Act.

2. The Commission, upon appeal or due consideration, may overrule any decision of a steward except decisions regarding disqualifications for interference during the running of a race if a preponderance of evidence indicates:

a. the stewards mistakenly interpreted the law; or

b. new evidence of a convincing nature is produced; or

c. the best interests of racing and the state may be better served.

3. Any decision pertaining to the finish of a race, as used for purposes of pari-mutuel pool distribution to winning ticket holders, may not be overruled. Any decision pertaining to the distribution of purses may be changed only if a claim is made in writing to the Commission by one of the involved owners or trainers, and a preponderance of evidence clearly indicates to the Commission that one or more of the grounds for protest, as provided for in the rules and regulations prepared by the Commission, has been substantiated.

SECTION 4. AMENDATORY 3A O.S. 1991, Section 204.2, is amended to read as follows:

Section 204.2 A. The Oklahoma Horse Racing Commission shall issue occupation licenses to horse owners, trainers, jockeys, agents, apprentices, grooms, exercise persons, veterinarians, valets, blacksmiths, concessionaires, stewards, starters, timers, judges, supervisors of mutuels, guards, and such other personnel designated by the Commission whose work, in whole or in part, is conducted upon racetrack grounds which are owned by an organization licensee. The licenses shall be obtained prior to the time such persons engage in their vocations upon such racetrack grounds at any time during the calendar year for which the organization license has been issued. No person required to be licensed pursuant to the provisions of this section may participate in any capacity in any race meeting without a valid license authorizing such participation.

B. Each application for an occupation license shall be on a form prescribed and furnished by the Commission and shall include a search waiver. The license shall be renewed either annually or triennially beginning January 1. The application shall be accompanied by a fee in an amount of not more than One Hundred Dollars ($100.00) if renewed annually or not more than Three Hundred Dollars ($300.00) if renewed triennially. Each application shall contain the following information concerning the applicant:

1. full name and address; and

2. age; and

3. whether the applicant was issued any prior occupation license from this state; and

4. whether the applicant was issued any occupation license from another state; and

5. whether an occupation license from another state is or has been denied, suspended, or revoked; and

6. whether the applicant has been convicted of a felony in this state or any other state; and

7. such other information as required by the Commission.

C. The Commission may refuse an occupation license to any person:

1. who has been convicted of a felony; or

2. who has been convicted of violating any law regarding gambling or controlled dangerous substances of the United States, this state, or any other state; or

3. who is unqualified to perform the duties required of the applicant; or

4. who fails to disclose or states falsely any information required in the application; or

5. who has been found guilty of a violation of any provision of the Oklahoma Horse Racing Act or of the rules and regulations of the Commission; or

6. whose license has been suspended, revoked, or denied for just cause in any other state.

D. The Commission may suspend or revoke any occupation license or fine an occupation licensee for:

1. violation of any of the provisions of the Oklahoma Horse Racing Act; or

2. violation of any provision of the rules or regulations of the Commission; or

3. any cause which, if known to the Commission, would have justified the refusal of the Commission to issue the occupation license; or

4. any other just cause as determined by the Commission.

E. Except as provided for in this subsection, the license fees received by the Commission pursuant to the provisions of this section shall be deposited to the credit of the General Revenue Fund of the State Treasury. Of the original application fee for an occupation license, the amount of the fingerprinting fee shall be deposited in the OSBI Revolving Fund.

F. Notwithstanding any other provision of the Oklahoma Horse Racing Act, Section 200 et seq. of this title, licenses for personnel specified in subsection A of this section whose work is limited to racetrack grounds which are owned by an organization licensee which only conducts non-pari-mutuel race meetings or training races shall be issued pursuant to rules adopted by the Commission in accordance with the American Quarter Horse Association rules.

SECTION 5. AMENDATORY 3A O.S. 1991, Section 205.2, is amended to read as follows:

Section 205.2 A. Applications for organization licenses must be filed with the Commission at a time and place prescribed by the rules and regulations of the Commission. Beginning with organization license applications for the 1993 calendar year, the Commission shall develop and use separate application forms for applicants requesting an organization license to conduct horse racing with the pari-mutuel system of wagering and applicants requesting an organization license to conduct horse racing without the pari-mutuel system of wagering. If such application forms are not ready for use for the 1993 calendar year organization licenses, an applicant requesting to conduct horse racing without the pari-mutuel system of wagering may make application with the Commission on American Quarter Horse Association application forms. Each applicant requesting an organization license to conduct horse racing with the pari-mutuel system of wagering shall include with each application a nonrefundable license fee equal to the sum of Five Thousand Dollars ($5,000.00) for each race meeting and Two Hundred Dollars ($200.00) for each racing day requested. Provided, the fee for Five Thousand Dollars ($5,000.00) shall be waived for applicants applying pursuant to the provisions of Section 208.2 of this title. Each applicant requesting an organization license to conduct horse racing without the pari-mutuel system of wagering or to conduct accredited work or training races shall include with each application a nonrefundable license fee of Five Hundred Dollars ($500.00) for each race meeting. Such fee shall be in the form of a certified check or bank draft payable to the order of the Commission. Within thirty (30) days after the date specified for filing, the Commission shall examine the applications for compliance with the provisions of the Oklahoma Horse Racing Act and such rules and regulations as may be promulgated by the Commission. If any application does not comply with the provisions of the Oklahoma Horse Racing Act or the rules and regulations promulgated by the Commission, the application may be rejected or the Commission may direct the applicant to comply with the provisions of the Oklahoma Horse Racing Act or the rules and regulations of the Commission within a reasonable time as determined by the Commission. Upon proof by the applicant of compliance, the Commission may reconsider the application. If it is found to be in compliance with the provisions of the Oklahoma Horse Racing Act and the rules and regulations of the Commission, the Commission may then issue an organization license to the applicant.

B. The Commission may exercise discretion in the issuing of organization licenses to qualified applicants. The Commission may also determine and grant racing dates different from those requested by the applicants in their applications.

C. The Commission may determine and grant the number of racing days to be allotted to each applicant. When granting organization licenses and allocating dates for race meetings which will, in the judgment of the Commission, be conducive to the best interests of the public and the sport of horse racing, the Commission shall give consideration to:

1. the character, reputation, experience, and financial integrity of each applicant and of any other person that:

a. directly or indirectly controls such applicant, or

b. is directly or indirectly controlled by such applicant or by a person who directly or indirectly controls such applicant; and

2. the facilities and accommodations of the applicant for the conduct of race meetings; and

3. the location of the race meeting of the applicant in relation to the principal centers of population of this state; and

4. the highest prospective total revenue to be derived by the state from the conduct of the race meeting.

D. Prior to the issuance of an organization license to conduct pari-mutuel race meetings, the applicant shall file with the Commission a bond payable to the State of Oklahoma in an amount determined by the Commission which is not less than Two Hundred Thousand Dollars ($200,000.00) and not more than the total financial liability of the organization licensee throughout the race meeting for which the organization license is requested, executed by the applicant and a surety company or companies authorized to do business in this state, and conditioned upon the payment by the organization licensee of all taxes and other monies due and payable pursuant to the provisions of the Oklahoma Horse Racing Act and all purses due and payable, and upon the fact that, upon presentation of winning tickets, the organization licensee will distribute all sums due to the patrons of pari-mutuel pools. The financial liabilities incurred by the organization licensee in the form of real estate mortgages shall not be included in the determination of the bond amount.

E. The Commission shall notify each applicant of the racing dates allotted to such applicant. The notice shall be in writing and sent by registered mail to the applicant at the address stated in the application. The notice shall be mailed within two (2) business days of the date the allotment is made. After the mailing of such notice of allotment, each applicant shall file with the Commission within ten (10) days an acceptance of such allotment on a form prescribed and furnished by the Commission.

F. Each organization license shall specify the name of the person to whom it is issued, the dates upon which horse racing is permitted, and the location, place, track, or enclosure where the race meeting is to be held.

G. All employees of an organization licensee shall be citizens of the United States, and not less than ninety percent (90%) of such employees shall be residents of this state for not less than eighteen (18) months immediately preceding such employment.

H. All horse racing conducted pursuant to the provisions of an organization license is subject to the provisions of the Oklahoma Horse Racing Act and of the rules, regulations and directives promulgated by the Commission, and every organization license issued by the Commission shall contain a statement to that effect.

I. Any organization licensee may provide, with prior approval by the Commission, that at least one horse race a day may be devoted to the racing of a type of horse which is different from the type of horse being raced in the other races conducted by the organization licensee on that day. When scheduled races are trial heats for futurities or stakes races electronically timed from the starting gates, no organization licensee shall move the starting gates or allow the starting gates to be moved until all trial heats are complete, except in an emergency as determined by the stewards.

J. Organization licenses may be revoked if the organization licensee or any person owning an interest in the organization licensee:

1. violates any provision of the Oklahoma Horse Racing Act; or

2. violates any provision of the rules and regulations promulgated pursuant to the provisions of the Oklahoma Horse Racing Act; or

3. has been convicted of a felony; or

4. has been convicted of violating any law regarding gambling or controlled dangerous substances of the United States, this state, or any other state; or

5. has failed to disclose or has stated falsely any information contained in the application; or

6. has concealed in whole or in part the true ownership of the organization licensee.

Any organization license revocation proceeding shall be conducted pursuant to the provisions of Sections 301 through 326 of Title 75 of the Oklahoma Statutes.

K. The fees received by the Commission pursuant to the provisions of this section shall be deposited to the credit of the General Revenue Fund of the State Treasury.

L. The provisions of the Oklahoma Horse Racing Act and rules promulgated by the Commission shall apply to an organization licensee during the entire calendar year in which the license was issued.

SECTION 6. For the 1992 calendar year, any applicant for an organization license to conduct horse racing without the pari-mutuel system of wagering that has had an organization license sometime during the twelve (12) months preceding the effective date of this act and had submitted an application for an organization license for the 1992 calendar year, shall be issued an organization license within five (5) days of the effective date of this act unless the Commission, during the five-day period, denies the license in the manner provided by law.

SECTION 7. Section 6 of this act shall not be codified in the Oklahoma Statutes.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.