STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 331 By: Kerr

AS INTRODUCED

An Act relating to amusements and sports; amending 3A O.S. 2001, Section 203.3, which relates to the executive director of the Oklahoma Horse Racing Commission; expanding duties of the director; amending 3A O.S. 2001, Section 204, which relates to the duties of the Oklahoma Horse Racing Commission; expanding duties of the Commission; and providing an effective date.

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

SECTION 1. AMENDATORY 3A O.S. 2001, Section 203.3, is amended to read as follows:

Section 203.3 A. The Commission shall appoint an executive director who shall have the same qualifications as a member of the Commission. The qualification regarding the residency requirement for Commission members shall not apply to the executive director. The executive director shall have experience in the horse racing industry of a character and for a length of time sufficient, in the opinion of the Commission, to fulfill the duties required of the executive director. The Commission shall determine the duties and compensation of the executive director.

B. The executive director shall recommend to the Commission the administrative organization and the number and qualifications of employees necessary without regard to race, color, gender, creed or national origin, to implement the provisions of the Oklahoma Horse Racing Act <u>and to fulfill the responsibilities of the Commission imposed by the State-Tribal Gaming Act</u>. A written equal opportunity plan will be developed for the Commission, by the executive director as part of the organizational plan. Upon approval of the

organizational plan by the Commission, the executive director may employ such persons as are deemed necessary to implement the provisions of the Oklahoma Horse Racing Act and to fulfill the responsibilities of the Commission imposed by the State-Tribal Gaming Act.

C. 1. The organizational plan adopted by the Commission shall provide for a law enforcement division which shall have the responsibility for conducting investigations relating to the proper conduct of horse racing and the pari-mutuel system of wagering including but not limited to barring undesirables from horse racing, undercover investigations, fingerprinting persons licensed by the Commission, and reviewing license applications. The person in charge of the law enforcement division shall be a professional law enforcement officer with a minimum of five (5) years of experience in the field of law enforcement and a graduate of a four-year college with a degree in law enforcement administration, law, criminology or a related science, or in lieu thereof a minimum of ten (10) years of experience in the field of law enforcement.

2. The officers and agents of the law enforcement division of the Commission, and such other employees as the person in charge of said division shall designate to perform duties in the investigation and prevention of crime and the enforcement of the criminal laws of the state, shall have and exercise all the powers and authority of peace officers, including the right and power of search and seizure.

3. The Oklahoma State Bureau of Investigation shall provide such information within its possession as is requested by the law enforcement division of the Commission for the purpose of reviewing license applications.

4. If upon investigation by the Commission there is substantial evidence indicating that the security at any track is not satisfactory, the Commission may order the organization licensee to remedy the deficiency. If after ten (10) days following the order

the organization licensee has not remedied the deficiency, the Commission may institute its own security personnel program until the deficiency in security is remedied, and may charge the organization licensee the actual costs incurred for said security. The organization licensee may petition the Commission for a hearing at any time to review the necessity of the Commission further maintaining its own security personnel.

5. The provisions of this subsection shall not be construed to restrict or prohibit any federal, state, or local law enforcement officer from performing any duties imposed upon the law enforcement officer by law.

D. The executive director shall obtain a surety bond in the amount of One Hundred Thousand Dollars ($100,000.00) before entering into the duties of the office. The surety bond shall be conditioned upon the faithful performance of the duties of the executive director and the proper accounting of all moneys and property received by the executive director by virtue of the office. The cost of the surety bond shall be paid by the Commission.

SECTION 2. AMENDATORY 3A O.S. 2001, 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 for the purpose of administering the provisions of the Oklahoma Horse Racing Act and the provisions of the State-Tribal Gaming Act as it relates to gaming conducted by organization licensees;

3. Administer and enforce the provisions of the Oklahoma Horse Racing Act and the rules of the Commission;

4. Adjudicate controversies arising from the enforcement of the provisions of the Oklahoma Horse Racing Act and the rules 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 for the granting or refusing and the suspension or revoking of licenses;

7. Promulgate rules for the holding, conducting, and operating of all race meetings held in this state; provided, 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 shall serve as the rules for the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks, except that appeals from decisions of the stewards shall be to the Commission, until such time as the Commission has promulgated substantially similar rules 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 shall:

a. contract with the Office of the State Auditor and Inspector to conduct an annual audit and inspection of live race meets in this state, and

b. reimburse the Office of the State Auditor and Inspector for the cost of these services;

10. Promulgate rules governing:

a. bids on leases,

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 or order of the Commission or any law of this state, any other state, or the United States,

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

c. any other person, licensed or unlicensed, whose conduct or reputation is such that his or her 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 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. Provided, on and after July 1, 1994, such testing shall be in compliance with the provisions of the Standards for Workplace Drug and Alcohol Testing Act, 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 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,

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 prepared by the Commission, has been substantiated.

SECTION 3. This act shall become effective November 1, 2005.

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