

HB0361S01 compared with HB0361

~~{deleted text}~~ shows text that was in HB0361 but was deleted in HB0361S01.

Inserted text shows text that was not in HB0361 but was inserted into HB0361S01.

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Representative Michael K. McKell proposes the following substitute bill:

HORSE RACING AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses licensing related to horse racing.

Highlighted Provisions:

This bill:

- ▶ ~~{permits}~~ addresses powers and duties of the commission, including permitting the commission to contract with a ~~{private}~~ person to issue licenses related to horse racing;
- ▶ provides for exclusion of horses and owners under certain circumstances;
- ▶ addresses powers of stewards;
- ▶ ~~{provides for exclusion of horses}~~ modifies harboring or employing an unlicensed person;
- ▶ addresses fines;

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- ▶ directs the commission to make rules regarding money; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-38-102, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-38-104, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-38-201, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-38-202, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-38-203, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-38-301, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-38-401, as renumbered and amended by Laws of Utah 2017, Chapter 345

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **4-38-102** is amended to read:

4-38-102. Definitions.

As used in this chapter:

(1) "Commission" means the Utah Horse Racing Commission created by this chapter.

(2) "Executive director" means the executive director of the commission.

(3) "Mixed meet" means a race meet that includes races by more than one breed of horse.

(4) "Race meet" means the entire period of time for which a licensee has been approved [~~by the commission~~] to hold horse races.

(5) "Racetrack facility" means a racetrack within Utah approved by the commission for the racing of horses, including the track surface, grandstands, clubhouse, all animal housing and handling areas, and other areas in which a person may enter only upon payment of an admission fee or upon presentation of authorized credentials.

(6) "Recognized race meet" means a race meet recognized by a national horse breed

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association.

(7) "Utah bred horse" means a horse that is sired by a stallion standing in Utah at the time the dam was bred.

Section 2. Section 4-38-104 is amended to read:

4-38-104. Powers and duties of commission.

(1) The commission shall:

(a) ~~{subject to Subsection (3),}~~ license, regulate, and supervise ~~[all]~~ the persons involved in the racing of horses as provided in this chapter;

(b) ~~{subject to Subsection (3),}~~ license, regulate, and supervise ~~[all]~~ the recognized race meets held in this state under the terms of this chapter;

(c) cause the various places where recognized race meets are held to be visited and inspected at least once a year;

(d) assist in procuring public liability insurance coverage from a private insurance company for those licensees unable to otherwise obtain the insurance required under this chapter;

(e) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern race meets, including rules:

(i) to resolve scheduling conflicts and settle disputes among licensees;

(ii) to supervise, discipline, suspend, fine, and bar from events ~~[all persons]~~ a person required to be licensed by this chapter; ~~[and]~~

(iii) to exclude a horse from a racetrack facility in this state, or prohibit a horse from participating in a horse race or race meet; and

~~[(iii)]~~ (iv) to hold, conduct, and operate ~~{}~~all~~{}~~ recognized race ~~{}~~meets~~{}~~ meet conducted pursuant to this chapter;

(f) determine which persons participating, directly or indirectly, in recognized race meets require licenses;

(g) announce the time, place, and duration of a recognized race ~~[meets]~~ meet for which ~~[licenses shall be]~~ a license is required; and

(h) establish reasonable fees for all licenses provided for under this chapter.

(2) The commission may:

(a) grant, suspend, ~~{}~~or~~{}~~ revoke ~~{}~~licenses~~{}~~ or contract under Subsection (3) for

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~~the granting of a license~~ issued under this chapter;

(b) impose fines as provided in this chapter;

(c) access criminal history record information for ~~all~~ the licensees and commission or contracted employees; ~~and~~

(d) exclude from any racetrack facility in this state ~~any~~ a person, including an owner, who:

(i) the commission considers detrimental to the best interests of racing; or ~~any~~ ~~a~~ person who violates ~~any~~ provisions of]

(ii) violates this chapter or any rule or order of the commission~~[-];~~ and

(e) (i) exclude from a racetrack facility in this state, or prohibit from participating in a horse race or race meet, a horse that is owned, in full or part by a person:

(A) who the commission considers detrimental to the best interests of racing; or

(B) who violates this chapter or a rule or order of the commission.

~~(iii)3~~ (a) For purposes of ~~this~~ Subsection (2)(e), ownership includes a horse for which an individual or entity has a beneficial or other interest, as defined by rule.

~~(iii) b~~ The period of time a horse may be excluded or prohibited from racing under ~~this~~ Subsection (2)(e) may not exceed one calendar year from the date of the initial oral or written ruling by the stewards.

~~(iv) c~~ A change in ownership or beneficial interest in a horse excluded or prohibited from racing under ~~this~~ Subsection (2)(e) does not affect the horse's exclusion from a racetrack or prohibition from racing unless otherwise determined by the commission.

~~(3)4~~ The commission may contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, with a ~~private~~ person to issue a license required under Subsection (1)(a) or (b).

Section 3. Section **4-38-201** is amended to read:

4-38-201. Licenses -- Fees -- Duties of licensees.

(1) The commission may grant ~~licenses~~, or contract under Subsection 4-38-104(~~3)4~~) for the granting of a license, for participation in racing and other activities associated with ~~racetracks~~ a racetrack.

(2) The commission shall establish a schedule of fees for the application for and renewal and reinstatement of ~~all~~ licenses issued under this chapter.

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(3) ~~[Each]~~ A person holding a license under this chapter shall comply with this chapter and with ~~[all]~~ the rules issued and ~~[all]~~ the orders issued by the commission under this chapter.

(4) ~~[Any]~~ A person who holds a recognized race meet or who participates directly or indirectly in a recognized race meet without being first licensed ~~[by the commission]~~ as required under this chapter and any person violating ~~[any provisions of]~~ this chapter is subject to penalties under Section ~~[4-2-305]~~ 4-2-304.

Section 4. Section ~~4-38-202~~ is amended to read:

4-38-202. Stewards.

(1) (a) The commission may delegate authority to enforce commission rules and this chapter to three stewards ~~[employed by the commission]~~ at each recognized race meet. At least one of the stewards shall be selected by the commission.

(b) ~~{A decision made}~~ For the purpose of enforcing this chapter and the rules and orders of the commission, a decision by the stewards shall be ~~{made}~~ passed by a majority vote ~~{ of two stewards }~~.

~~{(b)}~~ (c) Stewards shall exercise reasonable and necessary authority as designated by rules of the commission including the following:

(i) enforce rules of the commission;

(ii) rule on the outcome of events;

(iii) evict from an event any person who has been convicted of bookmaking, bribery, or attempts to alter the outcome of any race through tampering with any animal that is not in accordance with this chapter or the rules of the commission;

(iv) levy fines not to exceed \$2,500 for violations of rules of the commission, which fines shall be reported daily and paid to the commission within 48 hours of imposition and notice;

(v) suspend licenses not to exceed one year for violations of rules of the commission, which suspension shall be reported to the commission daily; ~~[and]~~

(vi) recommend that the commission impose fines or suspensions greater than permitted by Subsections ~~{(1)(b)(iv)}~~ (1)(c)(iv) and (v) ~~{-}~~; and

(vii) exclude a horse from a racetrack facility in this state, or prohibit a horse from participating in a horse race or race meet.

(2) If a majority of the stewards agree, they may impose fines or suspend licenses.

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(3) (a) [~~Any~~] A fine or license suspension imposed by a steward may be appealed in writing to the commission within five days after the fine or license suspension imposition. The commission may affirm or reverse the decision of a steward or may increase or decrease any fine or suspension.

(b) A fine imposed by the commission under this section or Section 4-38-301 may not exceed [~~\$10,000~~] \$5,000.

(c) Suspensions of a license may be for any period of time but shall be commensurate with the seriousness of the offense.

Section 5. Section **4-38-203** is amended to read:

4-38-203. Race meets -- Licenses -- Fairs.

(1) [~~Each~~] A person making application for a license to hold a race meet under this chapter shall file an application [~~with the commission which shall set~~] that sets forth the time, place, and number of days the race meet will continue, and other information the commission may require.

(2) A person who has been convicted of a crime involving moral turpitude may not be issued a license to hold a race meet.

(3) (a) The license issued shall specify the kind and character of the race meet to be held, the number of days the race meet shall continue, and the number of races per day.

(b) The licensee shall pay in advance of the scheduled race meet to the commission a fee of not less than \$25. If unforeseen obstacles arise [~~which~~] that prevent the holding or completion of any race meet, the license fee held may be refunded to the licensee if the commission considers the reason for failure to hold or complete the race meet sufficient.

(4) (a) [~~Any~~] An unexpired license held by any person who violates [~~any of the provisions of~~] this chapter, or fails to pay to the commission any fees required under this chapter, [~~shall be~~] is subject to cancellation and revocation by the commission.

(b) This cancellation shall be made only after a summary hearing before the commission, of which seven days notice in writing shall be given the licensee, specifying the grounds for the proposed cancellation. At the hearing, the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation.

(5) (a) [~~Fair boards or fair districts that conduct race meets~~] A fair board or fair district that conducts a race meet in connection with a regularly scheduled annual [~~fairs shall be~~] fair is

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exempt from payment of the fees provided in this section, unless ~~[they sponsor]~~ the fair board or fair district sponsors a race in which the speed indexes are officially recognized under breed requirements.

(b) ~~[All fair boards and fair meets shall be]~~ A race meet in connection with a fair is limited to 14 race days, unless otherwise permitted by a unanimous vote of the commission.

(6) The exemption from the payment of fees under Subsection (5)(a) does not apply to ~~[those]~~ a race meet qualifying for official speed index races.

Section 6. Section **4-38-301** is amended to read:

4-38-301. Investigation -- License denial and suspension -- Grounds for revocation -- Fines.

(1) The commission or board of stewards of a recognized race meet, upon their own motion may, and upon verified complaint in writing of any person shall, investigate the activities of ~~[any]~~ a licensee within the state or ~~[any]~~ a licensed person upon the premises of a racetrack facility.

(2) The commission or board of stewards may fine, suspend a license, or deny an application for a license.

(3) A person with whom the commission contracts under Subsection 4-38-104~~(3)~~(4) may deny an application for a license.

~~(3)~~ (4) The commission may revoke a license, if the licensee has committed any of the following violations:

(a) substantial or willful misrepresentation;

(b) disregard for or violation of ~~[any provisions of]~~ this chapter or of ~~[any]~~ a rule issued by the commission;

(c) conviction of a felony under the laws of this or any other state or of the United States, a ~~[certified]~~ true and correct copy of the judgment of the court of conviction of which shall be presumptive evidence of the conviction in any hearing held under this section;

(d) fraud, willful misrepresentation, or deceit in racing;

(e) falsification, misrepresentation, or omission of required information in a license application ~~[to the commission]~~;

(f) failure to disclose to the commission a complete ownership or beneficial interest in a horse entered to be raced;

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(g) misrepresentation or attempted misrepresentation in connection with the sale of a horse or other matter pertaining to racing or registration of racing animals;

(h) failure to comply with [~~any~~] an order or [~~rulings~~] ruling of the commission, the stewards, or a racing official pertaining to a racing matter;

(i) ownership of any interest in or participation by any manner in any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise;

(j) being unqualified by experience or competence to perform the activity permitted by the license possessed or being applied for;

(k) employment or harboring of any unlicensed person on the premises of a racetrack facility if a license is required by this chapter or rule;

(l) discontinuance of or ineligibility for the activity for which the license was issued;

(m) being currently under suspension or revocation of a racing license in another racing jurisdiction;

(n) possession on the premises of a racetrack facility of:

(i) firearms; or

(ii) a battery, buzzer, electrical device, or other appliance other than a whip which could be used to alter the speed of a horse in a race or while working out or schooling;

(o) possession, on the premises of a racetrack facility, by a person other than a licensed veterinarian of a hypodermic needle, hypodermic syringe, or other similar device that may be used in administering medicine internally in a horse, or any substance, compound items, or combination of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a horse unless:

(i) specifically authorized by a commission-approved veterinarian; or

(ii) as otherwise allowed by the stewards for the conditions of that horse race or race meet;

(p) cruelty to or neglect of a horse;

(q) offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of such act immediately to the stewards, the patrol judges, or the commission;

(r) causing, attempting to cause, or participation in any way in any attempt to cause the

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prearrangement of a race result, or failure to report knowledge of such act immediately to the stewards, the patrol judges, or the commission;

(s) entering, or aiding and abetting the entry of, a horse ineligible or unqualified for the race entered;

(t) willfully or unjustifiably entering or racing any horse in any race under any name or designation other than the name or designation assigned to the animal by and registered with the official recognized registry for that breed of animal, or willfully setting on foot, instigating, engaging in, or in any way furthering any act by which any horse is entered or raced in any race under any name or designation other than the name or designation duly assigned by and registered with the official recognized registry for the breed of animal; or

(u) racing at a racetrack facility without having that horse registered to race at that racetrack facility.

~~[(4)]~~ (5) (a) ~~[Any]~~ A person who fails to pay in a timely manner ~~[any]~~ a fine imposed pursuant to this chapter shall pay, in addition to the fine due, a penalty amount equal to the fine.

(b) ~~[Any]~~ A person who submits to the commission a check in payment of a fine or license fee requirement imposed pursuant to this chapter, which is not honored by the financial institution upon which ~~[it]~~ the check is drawn, shall pay, in addition to the fine or fee due, a penalty amount equal to the fine.

Section 7. Section **4-38-401** is amended to read:

4-38-401. Race meet escrow.

(1) ~~[Each race meet licensee shall deposit in escrow all added money and money from payment races in a FDIC bank that has received prior approval from the commission]~~ The commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to determine how all the added money and money from payment races shall be collected and disbursed.

(2) ~~[All payment]~~ Payment deposits shall be made in a timely manner determined by the commission, and each licensee shall provide proof of deposits as required by the commission.