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LOUISIANA STATE RACING COMMISSION

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Charles A. Gardiner III
Executive Director

February 20, 2019

Senate Commerce Committee
P.O. Box 94183
Baton Rouge, LA 70804-9183

House Commerce Committee
P.O. Box 94486
Baton Rouge, LA 70804-9486

RE: ANNUAL REPORT

Dear Committee Members:

Pursuant to La. R.S. 49:968(K), I am submitting the enclosed report of action taken by the Louisiana State Racing Commission with respect to proposing, amending and adoption of rules. The report contains all actions taken on rules which were proposed or promulgated between January 1, 2018 and December 31, 2018. The report also contains information on the petitions and submissions received by the LSRC as well as the LSRC's responses to those petitions and submissions.

If you have any questions regarding the enclosed material, please contact me at (504) 483-4000.

Sincerely,

A handwritten signature in blue ink, reading "Charles A. Gardiner III".

Charles A. Gardiner III
Executive Director

CAG: tm
Enclosures

cc: Office of the State Register
R. Hamilton "Hammy" Davis, Rules Committee Chairman

LSRC ACTIONS 2018

The following is a summary of the actions taken by the Louisiana State Racing Commission with respect to amendment and adoption of proposed rules. These actions were taken from January 1, 2018 to December 31, 2018.

Commission Meeting Dates are those on which the Louisiana State Racing Commission held public hearings pursuant to La. R.S. 49:953. Oversight submittal dates are those on which documentation was submitted to the Legislative Fiscal Office and the House and Senate Commerce Committees pursuant to La. R.S. 49:968. Publication dates are those on which the notice of intended action was published in the *Louisiana Register* pursuant to La. R.S. 49:953. Public comments are accepted for submission up to 20 days (weekends and state holidays excluded) from the Notice of Intent publication date in the *Louisiana Register* pursuant to La. R.S. 49:953. Final rule promulgation dates are those on which the actions were published in the *Louisiana Register* pursuant to La. R.S. 49:954.

LAC 35: III.5704, 5706, 5707, 5709, 5710, 5713, 5714, 5723, 5724, 5764

This proposes new and amended rules to Associations' Duties and Obligations.

Commission Meeting Date (<i>Public Hearing</i>):	September 25, 2017
Oversight Submittal to House & Senate Commerce Committees:	October 13, 2017
Publication Date (Notice of Intent):	November 20, 2017
Commission Meeting (<i>Public Hearing</i>) Formal Adoption Vote:	April 24, 2018
Final Rule Promulgation Date:	May 20, 2018

LAC 46: XLI.725

This proposes an amendment to the Jockey Fee Schedule.

Commission Meeting Date (<i>Public Hearing</i>):	September 25, 2017
Oversight Submittal to House & Senate Commerce Committees:	October 13, 2017
Publication Date (Notice of Intent):	November 20, 2017
Commission Meeting (Public Hearing) Formal Adoption Vote:	April 24, 2018
Final Rule Promulgation Date:	May 20, 2018

LAC 35: XI.9909

This proposes an amendment to the Resale; Movement following Claim.

Commission Meeting Date (<i>Public Hearing</i>):	September 25, 2017
Oversight Submittal to House & Senate Commerce Committees:	October 13, 2017
Publication Date (Notice of Intent):	November 20, 2017
Commission Meeting (Public Hearing) Formal Adoption Vote:	April 24, 2018
Final Rule Promulgation Date:	May 20, 2018

LAC 35: XI.9905

This proposes an amendment to Timing of Entering Next Claiming Race.

Commission Meeting Date (<i>Public Hearing</i>):	November 20, 2017
Oversight Submittal to House & Senate Commerce Committees:	December 14, 2017
Publication Date (Notice of Intent):	January 20, 2018
Commission Meeting (Public Hearing) Formal Adoption Vote:	April 24, 2018
Final Rule Promulgation Date:	May 20, 2018

LAC 35: I.1506

This proposes a new rule for Permitted Medications in Quarter Horses.

Commission Meeting Date (<i>Public Hearing</i>):	July 16, 2018
Oversight Submittal to House & Senate Commerce Committees:	September 14, 2018
Publication Date (Notice of Intent):	October 20, 2018
Commission Meeting (Public Hearing) Formal Adoption Vote:	January 28, 2019
Final Rule Promulgation Date:	February 20, 2019

LAC 35: V.6336

This proposes an amendment to Preference for Eliminated Horses.

Commission Meeting Date (<i>Public Hearing</i>):	August 27, 2018
Oversight Submittal to House & Senate Commerce Committees:	September 14, 2018
Publication Date (Notice of Intent):	October 20, 2018
Commission Meeting (Public Hearing) Formal Adoption Vote:	January 28, 2019
Final Rule Promulgation Date:	February 20, 2019

PETITIONS AND SUBMISSIONS TO LSRC 2018

The following is a summary of the petitions and submissions received by the Louisiana State Racing Commission (hereinafter “LSRC”) with respect to amendment and adoption of rules and the LSRC’s response to those petitions and submissions from January 1, 2018 to December 31, 2018.

I. Petitions and Submissions Resulting in Rulemaking

LAC 35: III.5704, 5706, 5707, 5709, 5710, 5713, 5714, 5723, 5724, 5764 “Associations’ Duties and Obligations”

Petition: Following a performance audit by the Louisiana Legislative Auditor in March of 2015 the auditor recommended that the LSRC should consider further developing sufficient regulations to ensure racetracks comply with health, safety, and welfare standards for all participants in horse racing, even where licensed racing associations may already comply with higher standards than required by rule.

Comments: LSRC first placed discussion of the new and amended rules for LAC 35: III.Chapter 57 “Associations’ Duties and Obligations” based on the auditor’s recommendations on the October 26, 2015 Agenda for discussion. At the meeting, LSRC requested the licensed racing associations and other interested parties submit written positions and comments about the rules for further discussion. Delta Downs, Evangeline Downs, Fair Grounds, Louisiana Downs, Jockeys’ Guild, and the Louisiana Horsemen’s Benevolent and Protective Association (LaHBPA) submitted written comments stating their positions on the possible rule changes. LSRC placed the rules for discussion and/or Notice of Intent on the LSRC Meeting Agendas of December 14, 2015, November 21, 2016, April 24, 2017, and September 25, 2017. Mr. David Waguespack, Outside Counsel for Fair Grounds, and Mr. John Beech, Regional Manager of the Jockeys’ Guild, made comments regarding the amended rules at the November 21, 2016 LSRC Meeting.

Response: With no opposition at the September 25, 2017 LSRC Meeting, LSRC initiated rule-making procedures with a Notice of Intent that was published on November 20, 2017. With no opposition at the April 24, 2018 LSRC Meeting, LSRC approved Formal Adoption of the rules.

LAC 46: XLI.725 “Jockey Fee Schedule”

Petition: Ms. Mindy Coleman, Counsel to the Jockeys’ Guild, sent a letter dated August 16, 2017 to LSRC requesting amendments to LAC 46: XLI.725 “Jockey Fee Schedule”. The proposed rule amendments were two-fold. The first change was clerical, clarifying the purse amount categories that were incomplete. The second was an increase in the fee for jockeys who are unplaced (third place finish or worse) in races with purses of \$3,500 and higher by an additional five (5) dollars. To keep the fee schedule consistent, jockeys who place third in the two purse categories of \$5,000 to \$9,999 and \$10,000 to \$14,999 would now receive an additional five (5) dollars.

Comments: Mr. Benard Chatters, President of LaHBPA, sent a letter dated September 19, 2017 expressing that the LaHBPA Board of Directors voted in support of the rule amendments. At the September 25, 2017 LSRC Meeting, Ms. Coleman discussed the requested amendments, and Mr. Chatters and Mr. John Beech, Regional Manager of the Jockeys’ Guild, expressed the support for the rule amendments on behalf of their respective organizations.

Response: With no opposition at the September 25, 2017 LSRC Meeting, LSRC initiated rule-making procedures with a Notice of Intent that was published on November 20, 2017. With no opposition at the April 24, 2018 LSRC Meeting, LSRC approved Formal Adoption of the rule.

LAC 35: XI. 9909 “Resale; Movement”

Petition: Mr. Jason Boulet, Senior Director of Racing at the Fair Grounds, requested an amendment to LAC 35:XI.9909 “Resale; Movement” in a February 27, 2017 email to LSRC staff. He requested to remove the restriction on claimed horses by allowing them to enter and run at any licensed race track after the close of entries for the last racing day at the meet during which the horse was claimed. At the September 25, 2018 LSRC Meeting, Mr. Ed Fenasci, Executive Director of LaHBPA, and Mr. Scott Jones, Racing Secretary at Fair Grounds, expressed support for the rule amendment on behalf of their respective organizations.

Response: With no opposition at the September 25, 2017 LSRC Meeting, LSRC initiated rule-making procedures with a Notice of Intent that was published on November 20, 2017. With no opposition at the April 24, 2018 LSRC Meeting, LSRC approved Formal Adoption of the rules.

LAC 35: XI.9905 “Timing of Entering Next Claiming Race”

Petition: Mr. Benard Chatters, President of LaHBPA, sent a letter dated July 21, 2017 to LSRC requesting an amendment to LAC 35: XI.9905 “Timing of Entering Next Claiming Race”. The requested amendment provided that, for the last 10 days of the 30 days following a horse being claimed, the horse would be eligible to enter and run in a race for the same claiming price or higher, making the rule less restrictive for claiming horses.

Comments: At the September 25, 2018 LSRC Meeting, Mr. Ed Fenasci, Executive Director of LaHBPA, Mr. Ron Faucheux, LaHBPA Board Member, and Mr. Scott Jones, Racing Secretary at Fair Grounds, expressed support for the rule amendment on behalf of their respective organizations.

Response: Following discussion at the September 25, 2018 LSRC Meeting, LSRC drafted a rule amendment. With no opposition at the November 20, 2017 LSRC Meeting, LSRC initiated rule-making procedures with a Notice of Intent that was published on January 20, 2018. With no opposition at the April 24, 2018 LSRC Meeting, LSRC approved Formal Adoption of the rule.

LAC 35: I.1506 “Permitted Medications in Quarter Horses”

Petition: Ms. Janet VanBebber, Chief Racing Officer of the American Quarter Horse Association (AQHA), was included on the April 24, 2018 LSRC Meeting Agenda at her request and requested a ban on Clenbuterol use in Quarter Horse.

Comments: At the July 16, 2018 LSRC Meeting, Mr. Donald Kelly, Esq., Attorney for a group of Louisiana-licensed Quarter Horse trainers, stated that his clients would not contest promulgation of this rule. At the July 16, 2018 LSRC Meeting, Mr. Benard Chatters, President of LaHBPA, stated that his group had no opposition to the promulgation of this rule. At the August 27, 2018 LSRC Meeting, Mr. Lyle Guillory, Representative of the AQHA, requested an additional amendment to the rule that any horse found positive for Clenbuterol be kept out of competition for 60 days. At the August 27, 2018 LSRC Meeting, Mr. Benard Chatters stated that the LaHBPA is opposed to keeping horses with positive tests for Clenbuterol out of competition for 60 days.

Response: At the April 24, 2018 LSRC Meeting, LSRC voted to send the matter to the Rules Committee to research the topic and report back on how the rule is being implemented nationally. The Rules Committee drafted LAC 35:I.1506 “Permitted Medications in Quarter Horses”, which would ban Clenbuterol use in Quarter Horse racing. LSRC added further discussion as a topic on the July 16, 2018 LSRC Meeting Agenda and voted to initiate rule-making procedures with a Notice of Intent that was published on October 20, 2018. At the August 27, 2018 LSRC Meeting, LSRC added further discussion

of adding possible sanctions to the rule but deferred adding sanctions pending further discussion and research by the Rules Committee, Laboratory, and Equine Medical Director.

LAC 35: V.6336 “Preference for Eliminated Horses”

Petition: Mr. Jason Boulet, Senior Director of Racing at the Fair Grounds, requested an amendment to LAC 35:V.6336 “Preference for Eliminated Horses” in an August 15, 2018 email and at the August 27, 2018 LSRC meeting. He requested that the preference of a single entry (where a trainer has one horse entered) over a double entry (where a single trainer has entered two horses with different owners) be removed so that single entries and double entries would be treated equally in overfilled races.

Response: LSRC drafted the recommended amendment and placed the matter for discussion on the August 27, 2018 LSRC Meeting Agenda. LSRC granted the opportunity for comment on the rule at the meeting, but no comments or positions were expressed. Afterward, LSRC initiated rule-making procedures with a Notice of Intent that was published on October 20, 2018.

II. Petitions and Submissions that have not resulted in Rulemaking at this time

LAC 35: III.5713 “Ambulance”

Petition: At the October 24, 2018 LSRC Meeting, Mr. Kerwin Clark, Louisiana-licensed Jockey, and Mr. John Beech, Regional Manager of the Jockeys’ Guild, petitioned for rulemaking to require the Louisiana racing associations to have two ambulances properly equipped and ready for duty on the race tracks during racing and a helipad for emergency transport as needed.

Response: LSRC sent a memo to the four Louisiana racing associations to request that they comply with the petitioned amendments and drafted an amendment to the rule to include the requirements of two ambulances and a helipad on the race tracks. The matter was placed on the agenda of the January 28, 2019 Commission Meeting for Discussion/Notice of Intent. Commissioner and Jockeys’ Guild requested additional amendments to the rule to clarify that the ambulance is required to be advanced life support equipped. The matter was deferred to the next Commission Meeting to allow Rules Committee to draft changes.

LAC 35: XIII.Chapter 116 “Pick N”

Petition: Prior to the August 27, 2018 LSRC Meeting, Mr. Gary Palmisano, VIP Player Services Manager for Churchill Downs, verbally petitioned for additional rules to implement new or amended exotic wagers in the Rules of Racing.

Response: LSRC requested further information from Mr. Palmisano and the Fair Grounds. The matter was deferred to the Rules Committee to engage in communication with the Fair Grounds regarding their requested rulemaking

Petition for Rulemaking regarding keeping a returning horse’s prior claiming price

Petition: At the April 24, 2018 LSRC Meeting, Mr. Benard Chatters, President of the Louisiana Horsemen’s Benevolent and Protective Association (LaHBPA), advocated for a rule amendment that would allow a horse that is given time off for an injury or to heal from wear and tear to be able to run for the same price that it ran for at its last race.

Response: LSRC requested further information and discussion from the LaHBPA. LaHBPA has not yet provided specific language or information regarding their rulemaking request.

Petition for Fee to benefit horse rescue in Louisiana

Petition: Ms. Maggi Moss, representing the National Thoroughbred Welfare Organization, was included on the July 16, 2018 LSRC Meeting Agenda at her request and advocated for a \$5 opt-out fee per start for every horse race in Louisiana to go towards horse rescue operations to be conducted by her organization.

Response: LSRC requested further information from the Assistant Attorney General regarding whether the addition of the fee would require Legislative action or if the LSRC could initiate rulemaking to create the fee.

Petition for Rulemaking regarding Horse Slaughter Investigation and Enforcement

Petition: Ms. Ana Haber with icareihelp Thoroughbred Rescue was included on the July 16, 2018 LSRC Meeting Agenda at her request and advocated for rulemaking that would establish a process of investigation and fact gathering for possible connections between Louisiana-licensed horsemen and horse slaughter and a procedure of enforcement to prevent Louisiana horses from going to slaughter.

Response: LSRC created a committee to research and discuss the issue and potential options moving forward.