

**First Signature:** Senator Jeff Mullis (53<sup>rd</sup>)

**Co-Sponsors:** Senator Ed Harbison (15<sup>th</sup>), Senator Butch Miller (49<sup>th</sup>), Senator Billy Hickman (4<sup>th</sup>), Senator Michael ‘Doc’ Rhett (33<sup>rd</sup>), Senator Frank Ginn (47<sup>th</sup>)

**Summary:** “A BILL to be entitled an Act to amend Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for pari-mutuel horse racing in this state at a limited number of licensed equestrian centers; to create the Georgia Horse Racing Commission; to provide for the comprehensive regulation of pari-mutuel and related activities; to provide for legislative findings; to provide for definition; to enter into the Interstate Compact on Licensure of Participants in Live Racing with Pari-mutuel Wagering; to provide a short title; to provide for related matters; to provide for a contingent effective date; to repeal conflicting laws; and for other purposes.”<sup>2</sup>

**Status:** Tabled in the Senate on March 15, 2022.<sup>3</sup>

TEXT OF SENATE BILL 212 (COMMITTEE SUBSTITUTE LC 36 5240S)<sup>4</sup>

## SECTION 1.

This Act shall be known and may be cited as the “Harry Geisinger Rural Georgia Jobs and Growth Act.”

## SECTION 2.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by adding a new chapter to read as follows:

### “CHAPTER 41 ARTICLE 1”

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<sup>1</sup> S.B. 212, 156th GEN. ASSEMB., 2nd Reg. Sess. (Ga. 2022), [www.legis.ga.gov/api/legislation/document/20212022/208349](http://www.legis.ga.gov/api/legislation/document/20212022/208349) (last visited Jan. 30, 2023).

<sup>2</sup> 2021-2022 *Regular Session-SB. 212, Harry Geisinger Rural Georgia Jobs and Growth Act; enact*, GA. GEN. ASSEMB. [www.legis.ga.gov/legislation/59904](http://www.legis.ga.gov/legislation/59904)., [hereinafter S.B. 212 Status Sheet].

<sup>3</sup> *Id.*

<sup>4</sup> S.B. 212, *supra* note 1.

50-41-1.

It is found and declared by the General Assembly that:

(1) Pari-mutuel wagering, conducted pursuant to this chapter, can provide support for the state's agricultural, tourism, and convention businesses and enhance state revenues;

(2) Pari-mutuel horse racing shall only be permitted at facilities licensed by the State of Georgia; and

(3) The Georgia Horse Racing Commission shall be accountable to the General

Assembly and to the public through a system of audits and reports.

50-41-2.

25 As used in this chapter, the term:

(1) 'Advance deposit wagering' means a system of pari-mutuel wagering on races

sanctioned by this state or another jurisdiction in which wagers of an account holder are

debited and payouts are credited to an account established by the account holder,

regardless of whether the wagers are made in person at a licensed equestrian facility, by approved and licensed telephone application, or through other approved and licensed electronic means.

(2) 'Board' means the board of the commission appointed under Code Section 50-41-3.

(3) 'Bona fide coin operated amusement machine' shall have the same meaning as

provided for in subsection (b) of Code Section 50-27-70.

(4) 'Commission' means the Georgia Horse Racing Commission established under Code

Section 50-41-3.

(5) 'Commissioner' means the chief executive officer of the commission appointed by the board under Code Section 50-41-3 and known as the Georgia horse racing commissioner.

(6) 'Equestrian facility' means a mixed-use land based development consisting of a combination of various tourism amenities and facilities, including, but not limited to, a racetrack or racetracks, pari-mutuel wagering facility or

facilities, hotels, restaurants, convention facilities, attractions, entertainment facilities, service centers, and shopping centers.

(7) 'Export signal racing revenue' means moneys received by a licensed facility for the broadcast of races that occur at the equestrian facility to other facilities that are licensed or otherwise lawfully permitted to show horse races.

(8) 'Georgia Breeders Fund' means the fund or funds established under Code Section 50-41-20 to foster the industry of breeding racehorses in this state.

(9) 'Historic race wagering' means a wager on the outcome of any horse race that was completed sometime prior to the wager being placed.

(10) 'Historic race wagering machine' means a device of any kind that allows a person to engage in historic race wagering.

(11) 'Horse race' or 'horse racing' means a competition on a set course involving a

competition between horses on which pari-mutuel wagering is permitted under the terms and conditions established by the commission.

(12) 'Horseman' or 'horsemen' means any person that owns 10 percent or greater interest in a horse that is actively engaged in horse racing.

(13) 'License' means a license required under this chapter and issued by the commission.

(14) 'Licensee' means any person that holds a license issued under this chapter.

(15) 'Live pari-mutuel wagering' means pari-mutuel wagering on live horse races run at a licensed equestrian facility. Such term shall not include historic race wagering.

(16) 'Pari-mutuel wagering' means the system of wagering on horse races in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, plus any amounts voluntarily provided by an equestrian facility licensee, minus deductions required or permitted by law. Such term shall also include wagering on simulcast horse racing originating from within this state or from any other jurisdiction and live pari-mutuel wagering. Such term shall not include historic race wagering.

(17) 'Participant' means any person that:

(A) Has an ownership interest in any horse entered to race in this state;

(B) Acts as the trainer, jockey, or driver of any horse entered to race in this state; or

(C) Takes part in any horse racing subject to the jurisdiction of the commission or in the conduct of a race meeting or pari-mutuel wagering thereon, including, but not limited to, a horse owner, trainer, jockey, driver, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee, concessionaire or employee thereof, track employee, or other position the commission deems necessary to regulate to ensure the integrity of horse racing in this state.

(18) 'Person' means any individual, group of individuals, firm, company, corporation, partnership, business, trust, association, or other legal entity.

(19) 'Pool' means the amount wagered during a race meeting or during a specified period thereof.

(20) 'Race meeting' means the whole, consecutive period of time during which live horse racing with pari-mutuel wagering is conducted by a licensee which spans from the first day of the licensed racing calendar until the final racing day, including all days on which racing is not conducted within such period of time.

(21) 'Racetrack' or 'track' means an outdoor course located in this state which is laid out for horse racing and is licensed by the commission as part of an equestrian license.

(22) 'Simulcast horse racing' means the dissemination, receipt, or display of broadcasts of the audio or video portion, or both, of horse races conducted by a licensed horse racetrack, whether such races are conducted within this state or are conducted in any other jurisdiction, by satellite communication devices, television cables, telephone lines, or any other means for the purposes of conducting pari-mutuel wagering by patrons of a licensed horse racetrack or advance deposit account wagering licensee. Such term shall not include historic race wagering.

(23) 'Steward' means a racing official, duly appointed by the commission or an equestrian facility, with powers and duties prescribed by rules and regulations of the commission.

(24) 'Takeout' means the percentage of the pari-mutuel pools deducted by the racetrack prior to the distribution of the pool.

50-41-3.

(a) There is hereby established the Georgia Horse Racing Commission, which shall be a body corporate and politic. The commission shall have full legal authority over the practice of pari-mutuel wagering on horse racing in this state; provided, however, that it shall not regulate play on bona fide coin operated amusement machines. The commission shall be governed by a board that shall consist of five members appointed by the Governor.

(1) Members of the board of the commission shall serve four-year terms of office or until their respective successors are appointed. Two members' initial terms shall be two years, one member's initial term shall be three years, and two members' initial terms shall be four years as specified by the Governor in his or her initial appointments. Members may be reappointed by the Governor. Members of the board shall serve without compensation; provided, however, that members may be reimbursed for reasonable expenses associated with carrying out their respective duties on the board. Members of the board shall be residents of the State of Georgia, shall be prominent persons in their businesses or professions, and shall not have been convicted of any felony offense. At least four of the members shall satisfy at least one of the following criteria and each of the criteria shall be satisfied even if one member can satisfy two or more of the following:

(A) At least one member of the board shall possess a valid horse owner's license from any state and shall have been an owner of thoroughbred horses for at least two years;

(B) In one of the five consecutive years prior to appointment, at least one member of the board shall have registered at least one horse with The Jockey Club or a similar organization dedicated to the improvement of thoroughbred breeding and racing that has been in existence for at least 100 years;

(C) At least one member of the board shall possess a United States Trotting

Association standardbred license or the equivalent thereof and shall have been responsible for the dropping and registering of a standardbred horse in this state; and

(D) At least one member of the board shall have experience in financing and horses or horse racing generally.

(2) Members of the board shall not have any direct or indirect interest in any undertaking that puts their personal interest in conflict with that of the commission, including, but not limited to, an interest in a major procurement contract or a participating retailer, or person that applies for or has obtained an equestrian facility license by the commission.

Members of the board may have an ownership interest in or possess a permit issued by the commission to participate in horse racing.

(3) The board shall elect from its membership a chairperson and vice chairperson. The board shall also elect a secretary and treasurer who may also serve as the chief executive officer of the commission. Such officers shall serve for such terms as shall be prescribed by the rules and regulations promulgated by the commission and until their respective successors are elected and qualified. No member of the board shall hold more than one office of the commission, except that the same person may serve as secretary and treasurer.

(4) The board may delegate to any one or more of its members, to the chief executive officer, or to any agent or employee of the commission such powers and duties as it may deem proper and that are consistent with this chapter.

(5) No vacancy in the membership of the board shall impair the right of the members to exercise all the powers and perform all the duties of the board.

(b) The board shall:

(1) Approve, disapprove, amend, or modify the budget recommended by the chief executive officer for the operation of the commission;

(2) Approve, disapprove, amend, or modify the terms of major procurements recommended by the chief executive officer;

(3) Approve or disapprove of commission rules and regulations pursuant to Chapter 13 of this title; and

(4) Perform such other functions necessary for the operation of the commission consistent with this chapter.

(c) The board shall name a chief executive officer who shall be known as the Georgia horse racing commissioner and who shall serve at the pleasure of and be appointed by the board for a term that shall be decided and may be renewed by the board. The commissioner shall be empowered with all administrative duties carried out by the commission, including, but not limited to, the authority to hire and fire personnel and to appoint senior leadership.

50-41-4.

The commission shall have any and all powers necessary or convenient to its usefulness in carrying out and effectuating the purposes and provisions of this chapter which are not in conflict with the Constitution of this state and which are generally exercised by corporations engaged in entrepreneurial pursuits and state instrumentalities engaged in regulatory pursuits, including, but not limited to, the following responsibilities and powers to:

(1) Conduct background and other investigations, security checks, and auditing and enforcement of license requirements required under this chapter;

(2) Promote responsible pari-mutuel wagering in this state;

(3) Sue and be sued;

(4) Appoint and select officers, auditors, agents, and employees, including professional and administrative staff, personnel, and hearing officers;

(5) Enter into contracts of any and all types on such terms and conditions as the commission may determine;

(6) Establish and maintain banking relationships, including, but not limited to, establishment of checking and savings accounts and lines of credit;

(7) Adopt and alter a seal;

(8) Procure or provide insurance;

(9) Hold copyrights, trademarks, and service marks and enforce its rights with respect thereto;

- (10) Enter into contracts to incur debt in its own name and enter into financing agreements with the state, agencies or instrumentalities of the state, or any commercial bank or credit provider; provided, however, that any such debt must be approved by the Georgia State Financing and Investment Commission;
- (11) Administer oaths, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence relative to any investigation or proceeding conducted by the commission;
- (12) Enter into contracts or agreements with state or local law enforcement agencies, including the Department of Revenue, for the performance of law enforcement, background investigations, security checks, and auditing and enforcement of license requirements required by Article 3 of this chapter;
- (13) Regulate pari-mutuel wagering in this state, including the supervision and control of all licensing procedures and issuances;
- (14) Enter any facility issued a license by the commission, to audit the financial books and records of any facility issued a license by the commission, and to suspend, deny, revoke, or confiscate any license issued pursuant to this chapter; provided, however, that no license shall be sanctioned by the commission without due process having been afforded to the licensee, including the opportunity for judicial review of the commission's decision pursuant to Code Section 50-13-19; and
- (15) Provide a report annually on or before April 15 to the Governor and the General Assembly which shall include a financial statement of its operation of the commission.

50-41-5.

- (a) The commission shall have the authority to promulgate rules and regulations to govern pari-mutuel wagering and horse racing and to implement the provisions of this chapter. Such rules and regulations shall be promulgated pursuant to Chapter 13 of this title.
- (b) The commission shall promulgate rules and regulations that:

- (1) Require the existence of a contract between a licensed equestrian facility and a recognized majority horseman's group providing for the payment purses and prizes on horse racing conducted by the licensee;
- (2) Provide for the formation, conduct, and verification of any organization claiming to be a recognized majority horseman's group;
- (3) Require licensed equestrian facilities to provide live races no less than 60 days per year; provided, however, that the commission shall allow a licensed equestrian facility to run less than 60 days of live racing if such facility has shown reasonable good cause for failing to do so;
- (4) Authorize the circumstances under which simulcast horse racing shall be conducted at a licensed equestrian facility in this state and all other rules and regulations it deems necessary and appropriate to effectuate the purposes of this chapter. Such rules and regulations shall include provisions that all simulcast horse racing shall comply with the federal Interstate Horse Racing Act of 1978, 15 U.S.C. Section 3001, et seq., and the rules and regulations of the commission and the jurisdiction from which simulcast horse racing is received. Except as otherwise authorized pursuant to this chapter, wagering on simulcast horse racing shall take place only at a licensed equestrian facility;
- (5) Address contracts and dispute resolution between a licensed equestrian facility and a recognized majority horseman's group. Such rules and regulations shall provide at a minimum that:
  - (A) Any contract between a licensee and a recognized majority horseman's group shall be subject to the approval of the commission not less than 90 days prior to the commencement of the racing meet of the licensee. The commission's authority to approve or disapprove of the contract shall include, but shall not be limited to, the provisions regarding expenses related to the administration of the horseman's group and the purses and prizes paid on horse racing pursuant to the agreement;
  - (B) In the event that a licensee and a recognized majority horseman's group are, in good faith, unable to reach an agreement regarding purses at the live racetrack prior to the 90th day before commencement of the racing meet of the licensee, the licensed equestrian facility and recognized

majority horseman's group shall, on or before such 90th day, submit the dispute over the contract to the commission which shall refer the dispute to a third-party commercial arbitration service, and the parties shall pay their own costs of the hearing;

(C) In the event of arbitration under subparagraph (B) of this paragraph, any decision of the arbitrator involving less than \$1 million may be appealed to the chairperson of the commission, and any decision involving \$1 million or more may be appealed to the commission;

(D) When reviewing a decision of an arbitrator or arbitrators, neither the chairperson nor the commission shall substitute his, her, or its judgment for that of the arbitrator unless the findings of fact are clearly erroneous or not supported by any evidence, or if the arbitrator's conclusions of law constitute an abuse of discretion;

(E) The commission shall issue a final decision within 60 days of receiving the appeal of a decision of an arbitrator or arbitrators, and such decision shall be deemed the final agency decision and appealable pursuant to Chapter 13 of this title; provided, however, that the parties may agree to a one-time extension of up to 60 days for good cause; and

(F) If the commission does not render a decision within the initial 60 day period or the extended period, the decision shall be deemed affirmed as a matter of law and deemed the final agency decision; and

(6) Provide for addressing the appointment and retaining, through employment or contract, of stewards. Stewards shall act as racing officials to oversee the conduct of horse racing at licensed racetracks. Stewards shall enforce the commission's rules and regulations and the provisions of this chapter and shall have authority to interpret the commission's rules and regulations and to decide all questions of racing not specifically covered by the rules and regulations of the commission. Nothing in this paragraph shall limit the authority of the commission to carry out the provisions of this chapter and to exercise control of horse racing as set forth in this chapter, including the power to review all decisions and rulings of stewards.

(c) The commission shall have plenary authority throughout this state to investigate and issue citations for persons

involved in the conduct of horse racing and pari-mutuel wagering of any kind which does not comply with the provisions of this chapter and the commission's rules and regulations.

50-41-6.

(a) Except as otherwise provided in this chapter, the commission shall be subject to the provisions of Chapter 14 and Article 4 of Chapter 18 of this title; provided, however, that the following information shall be deemed to be confidential:

(1) Trade secrets, including nonpublic corporate governance information;

(2) Security measures, systems, or procedures;

(3) Background checks and investigative notes;

(4) Security reports;

(5) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the commission to contract for goods or services on favorable terms;

(6) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities;

(7) Information obtained pursuant to investigations which is otherwise confidential; and

(8) Such other information as the commission shall determine to be confidential.

(b) Meetings or portions of meetings devoted to discussing information deemed confidential pursuant to this Code section shall be exempt from Chapter 14 of this title.

(c) Information deemed confidential pursuant to this Code section shall be exempt from the provisions of Article 4 of Chapter 18 of this title.

50-41-7.

(a) Except as provided in Code Section 50-41-16, pari-mutuel wagering shall take place in this state only on the grounds of licensed equestrian facilities on the same parcel or parcels of property where there is a common entranceway for motor vehicles.

(b) No person shall be permitted to participate in pari-mutuel wagering unless he or she has reached the age of 21 years.

ARTICLE 250-41-8.

(a) No person shall construct, establish, or own an equestrian facility without having first obtained an equestrian facility license from the commission. Each equestrian facility license shall be limited to one location, and such license shall not authorize any person to establish satellite or freestanding locations that are not on the same parcel or parcels of property as the main location.

(b) Notwithstanding any other provision of law, and except as provided in subsection (c) of this Code section, all licensed equestrian facilities operating in this state may operate for all legal purposes, including, but not limited to, pari-mutuel wagering, hotel and hospitality operations, the sale of tobacco products, and the sale and service of food and alcoholic beverages, so long as the licensed facility is in compliance with all state and local alcohol, tobacco, zoning, occupancy, and other land use laws as the commission deems appropriate. (c) No equestrian facility operating in this state shall offer or permit on the premises of such facility historic race wagering machines, bona fide coin operated amusement machines, or any form of betting or game of skill, other than pari-mutuel wagering, that is played on a kiosk or other machine.

(d) Except upon approval of the commission, no license issued under the provisions of this chapter shall be transferable.

50-41-9.

Whenever it appears to the commission that a licensee or any other person subject to the jurisdiction of the commission has violated or may violate any provision of this chapter or any rules and regulations or final decision of the commission, the commission may apply to the appropriate superior court for an injunction against such person. The order granting or refusing such injunction shall be subject to appeal as in other cases in equity.

50-41-10.

(a) The commission's authority to award equestrian facility licenses shall be limited to a maximum of five equestrian facilities in this state.

(b) Commencing on January 1 of the first calendar year after an equestrian facility receives its license, such equestrian facility shall maintain and complete not less than 60 live racing

days annually; provided, however, that an equestrian facility may apply to the commission for a waiver of such requirement and request a lesser number of live racing days annually, but no fewer than 45 days annually, and the commission may reduce such number for that facility for that year or for a period of years specified by the commission. The commission shall be authorized to suspend the equestrian facility license of any equestrian facility that fails to satisfy this subsection; provided, however, that the commission may waive this requirement if good cause has been shown that circumstances beyond the control of an equestrian facility caused the reduced annual racing days. Horse racing with quarter horses may be used to satisfy the annual racing day requirement imposed by this Code section.

50-41-11.

(a) Any person seeking a license issued by the commission shall apply to the commission for such license.

(b) The commission shall seek applications for equestrian facility licenses by issuing a request for proposals for applications for licensure. Such request for proposals shall be for a period of not less than 90 days and the commission shall announce its intent to seek applications at least 90 days before any deadline to apply is imposed by the commission; provided, however, that the commission shall accept applications for licensure at least once within the first nine months after a local referendum approves of equestrian facility conduct as set forth in this chapter. The commission shall review all applications for licensure submitted in response to such request for proposals based on the criteria established in the request for proposals which shall be consistent with the criteria set forth in this chapter. All other licenses may be applied for at any time.

(c) Any aggrieved applicant may appeal any adverse decision of the commission, and a nonaggrieved applicant may intervene in an appeal pursuant to the procedures set forth in Chapter 13 of this title. No license applicant may challenge the application of any other license applicant.

50-41-12.

(a) A person applying for an equestrian facility license shall be required to provide financial information and information about its principal shareholders, members, officers, and board of directors as required by the commission, specifically including, at a minimum:

(1) The name and address of such person; if a corporation, the state of its incorporation, the full name and address of each officer and director thereof, and, if a foreign corporation, whether it is qualified to do business in this state; and, if a partnership or joint venture, the name and address of each officer thereof;

(2) The name and address of each stockholder or member of such corporation who has or controls a 5 percent or greater ownership or security interest or each partner of a partnership or joint venture who has or controls a 5 percent or greater ownership or security interest and of each person that has contracted for a pecuniary interest in the applicant or the enclosure where race meetings or pari-mutuel wagering will be conducted, whether such interest is an ownership or a security interest, the nature and value of such interest, and the name and address of each person that has agreed to lend money to the applicant; and

(3) Such information as the commission deems appropriate regarding the character, background, and responsibility of the applicant and the members, partners, stockholders, officers, and directors of the applicant.

(b) The commission is empowered to assess a nonrefundable fee of up to \$500,000.00 for each application.

(c) The commission may request privileged and confidential information from an applicant; provided, however, that the commission shall not be authorized to compel the production of information that is protected by privileges set forth in Chapter 5 of Title 24 or common law. In any case

when the commission requests privileged or confidential information, the information provided shall:

(1) Not be subject to inspection pursuant to Article 4 of Chapter 18 of this title;

(2) Not impose liability in any civil or criminal matter; and

(3) Be deemed not to constitute a waiver of any privilege that would otherwise have attached to the information disclosed to the commission or its agents or employees.

(d) Each application shall be verified by the oath or affirmation of an officer of the applicant. Any person that knowingly makes a false statement of fact to the commission for the purpose of obtaining a license under this chapter shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$50,000.00, or both.

50-41-13.

(a) The commission shall consider all applications for equestrian facility licenses. When evaluating an application pursuant to this Code section, the commission shall consider the experience and acts of the applicant's principal shareholders, members, officers, and board of directors as those of the applicant itself. The factors which shall be considered by the commission in determining whether to issue an equestrian facility license shall include, but shall not be limited to, the following:

(1) Whether the applicant is financially capable of constructing, operating, owning, and maintaining an equestrian facility;

(2) Whether the applicant demonstrates the greatest ability to benefit the Georgia horse racing and agricultural industries, submits the best proposal, and has been previously issued an equestrian facility license by the commission;

(3) The location and description of the equestrian facility, including the placement of the racetrack, place, or enclosure where such applicant proposes to hold race meetings or pari-mutuel wagering, including the name of any county or municipality in which any property of such racetrack is or will be located;

(4) In cases where a comparative review is required among several applications, which applicant demonstrates the

greatest ability to benefit the Georgia horse racing and agricultural industries;

(5) The applicant's history of community involvement and support in each jurisdiction in which it or its leadership operates or has operated;

(6) The applicant's record of supporting and advancing the sport of horse racing;

(7) The applicant's record or its leadership's record of cooperation and support of associations representing horsemen in all jurisdictions in which such applicant is licensed to operate horse racing tracks;

(8) The applicant's history or its leadership's history of supporting the agricultural industry in each state in which it is licensed or has been licensed to operate horse racing tracks;

(9) If any of the facilities necessary for the conduct of racing or pari-mutuel wagering are to be leased and the terms of such lease;

(10) If any of the facilities necessary for the conduct of horse racing or pari-mutuel wagering are to be constructed, the extent to which the licensee intends to utilize disadvantaged business enterprises in the construction of such facilities; and

(11) Any other similar information which the commission in its discretion deems appropriate.

(b) No application for an equestrian facility shall be considered unless the applicant, a majority of its owners who individually possess at least 5 percent of the applicant's stock or membership, or its management can demonstrate a successful history of operating at least one-horse racing track in one of the previous five years from the date of the application.

(c) The commission shall deny an application for an equestrian facility unless the applicant can demonstrate that:

(1) The facility includes a minimum investment of \$125 million;

(2) It is qualified to do business in this state and subject to the jurisdiction of the courts

of the State of Georgia, that all principal stockholders or members have submitted to the jurisdiction of the courts of the State of Georgia, and that all nonresident principal stockholders or members have designated the chairperson of the commission as their agent for receipt of process;

(3) Neither it nor its management has knowingly made a false statement of material fact or has deliberately failed to disclose any information requested or has been found guilty of any illegal, corrupt, or fraudulent act, practice, or conduct in connection with any horse racing in this or any other state; has been convicted of a felony; or has had a license or permit to hold or conduct a horse race or maintain a pari-mutuel wagering license denied for just cause, suspended, or revoked in any other state or country;

(4) It has not legally defaulted in the payment of any obligation or debt due to the State of Georgia; and

(5) It is a Georgia person subject to the jurisdiction of the laws and courts of the State of Georgia.

(d) An equestrian facility license may be suspended or revoked by the commission upon a finding that the licensee is not in good standing because it has failed to meet the minimum standards for facilities or racing quality or other minimum standards required by this chapter.

(e) The award of an equestrian facility license to an applicant authorizes such applicant to begin construction or development of the equestrian facility detailed in the application submitted to the commission, provided that any county or municipality in which such equestrian facility is to be located has, by the adoption of an ordinance or resolution, indicated the desire for the location of an equestrian facility within its boundaries or any

Portion thereof. This subsection shall not excuse a licensee from obtaining zoning approval and local permits required by local ordinance and authorized by Code Section 50-41-24.

(f) Upon the award of an equestrian facility license, the applicant shall cause \$50 million to be paid to the commission within ten business days or such license shall be revoked as a matter of law.

(g) Any person holding a license to operate an equestrian facility in this state pursuant to this chapter shall be authorized to conduct pari-mutuel wagering on horse racing

subject to the provisions of this chapter and the orders, conditions, and rules and regulations of the commission.

50-41-14.

An equestrian facility license shall be for a term of ten years. An equestrian facility licensee may renew its license for a fee of \$250,000.00, and the renewal shall be granted unless the commission determines that there is a reason to revoke the license for reasons set forth in this chapter.

50-41-15.

No employee of the commission and no spouse or immediate family member of any such employee shall have any financial interest, direct or indirect, in any equestrian facility. No employee of the commission and no spouse or immediate family member of any such employee shall participate as owner of a horse or otherwise as a contestant in any race subject to the jurisdiction of the commission or have any pecuniary interest in the purse or prize contested for in any such race.

50-41-16.

(a) A license granted to an equestrian facility shall include the exclusive authorization to provide for advance deposit account wagering in this state.

(b) No person other than a licensed equestrian facility shall provide for advance deposit account wagering in this state.

(c) Any advance deposit wagering that is conducted in this state shall be limited to live pari-mutuel wagering and shall be conducted on the grounds of a licensed equestrian facility.

50-41-17.

(a) After a hearing upon at least 15 days' notice, the commission may suspend or revoke any license or fine the holder thereof a sum not to exceed \$250,000.00 in any case in which the commission has reason to believe that any provision of this chapter, or any rule, regulation, or condition of the commission, has not been complied with or has been violated. (b) The commission may revoke any equestrian facility license if the licensee, within three years of issuance of such licensure, fails to commence its licensed activity in

accordance with its license; provided, however, that the commission is empowered with the discretion to extend this deadline once for one year for good cause shown.

(c) The commission may summarily suspend any license for a period of not more than 90 days pending a de novo hearing and final determination by the commission if the commission determines that emergency action is required to protect the public health, safety, and welfare, including, but not limited to, revenues due the state, its political subdivisions, and the horsemen's purse account. The commission shall schedule a hearing within 15 business days after the license is summarily suspended and notify the licensee not less than five business days before the hearing of the date, time, and place of the hearing.

(d) Deliberations of the commission shall be conducted pursuant to the provisions of Chapter 14 of this title. If any license is suspended or revoked, the commission shall state its reasons for doing so, which shall be made a formal part of the record. Such action shall be final unless appealed in accordance with Code Section 50-41-11. Suspension or revocation of a license by the commission for any violation shall not preclude criminal liability for such violation.

50-41-18.

(a) A licensee shall notify the commission of any person that seeks to become affiliated with such licensee at a level that would have to be disclosed at the time of the application.

(b) The commission shall determine whether the investment or status of the person described in subsection (a) of this Code section would require the commission to revoke the license and it shall be authorized to seek any information needed to make that determination.

(c) If the commission determines that the proposed affiliation of the person described in subsection (a) of this Code section would impair the commission's ability to grant or renew a license issued under this chapter, it shall notify the licensee or applicant of its decision, and the decision may be appealed as set forth in this chapter.

50-41-19.

(a) No person shall engage in any horse racing or in the conduct of a race meeting or pari-mutuel wagering thereon, including, but not limited to, as a horse owner, trainer, jockey, driver, exercise rider, starter, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee, concessionaire or employee thereof, track employee, or other similar position the commission deems necessary to regulate to ensure the integrity of horse racing in this state, unless such person possesses a permit therefor from the commission and complies with the provisions of this chapter and all rules and regulations of the commission. The commission shall establish procedures for the application and permitting of employees whose services are also subject to licensure by the commission, and no application or permit fee shall exceed the amounts set forth in this chapter. The application shall include such information deemed necessary by the commission, but shall require no more information than that needed to grant or deny an application. No permit issued under the provisions of this chapter shall be transferable.

(b) The commission may waive the permit requirement for any person that possesses a valid permit or license to participate in the conduct of horse racing in another racing jurisdiction and participates in horse racing in this state on nonconsecutive racing days.

(c) Once a horse is entered to run in this state, all participants shall come under the jurisdiction of the commission and its stewards and shall be subject to the rules and regulations of the commission and sanctions it or its stewards may impose.

(d) The commission may suspend, deny, or revoke a permit issued under this chapter.

50-41-20.

(a) An equestrian facility licensee may establish the takeout for pari-mutuel pools on the live racing that it conducts and any breakage from pari-mutuel pools and the proceeds from pari-mutuel tickets that have not been redeemed within 180 days of the race on which the wager was placed shall be retained by the equestrian facility licensee in a segregated account. Such proceeds shall be used for capital expenditures and capital maintenance of the racetrack and its racing surface and stabling areas.

(b) The live pari-mutuel wagering pools shall be used as follows:

(1) Five percent shall be used for purses on live races conducted at an equestrian facility;

(2) One and one-five hundredths percent shall be used for the operational expenses of the commission as follows:

(A) One-half of 1 percent shall be deposited into a separate account to be established by the commission and known as the Georgia Breeders Fund in conjunction with racing at an equestrian facility as breeders' awards or awards to owners of registered Georgia-bred horses as breeding incentives in accordance with a plan approved by the commission;

(B) One-tenth of 1 percent shall be used by the commission solely for the promotion and growth of the equestrian racing and breeding industry in this state through allocation of such funds to the breeding industry in this state through partnerships with veterinarian schools of medicine in this state, including the College of Veterinary Medicine of the University of Georgia;

(C) Two-tenths of 1 percent shall be used by the commission for racing horse retirement;

(D) One-quarter of 1 percent shall be used by the commission as aide for the prosecution and prevention of acts of animal cruelty as well as the treatment of abused animals; and

(E) The balance of the takeout shall be retained by the equestrian facility.

(3) Three and three-fourths percent shall be held in a separate account by the commission and transferred on a quarterly basis to the state treasury to be separately accounted for in the Horse Racing for Georgia Account to be established and maintained by the State Treasurer. Upon the deposit of such funds, the moneys representing such deposit shall then become the unencumbered property of the State of Georgia. In the budget report to the General Assembly, as a separate budget category entitled 'horse race betting proceeds,' the Governor shall estimate the amount of net proceeds and treasury earnings thereon to be credited to the Horse Racing for Georgia Account during the fiscal year and the amount of unappropriated surplus estimated to be accrued in the account at the beginning of the fiscal year. In

the budget report the Governor shall specify recommendations as to the programs and purposes for which appropriations should be made from the Horse Racing for Georgia Account. The General Assembly shall appropriate from the Horse Racing for Georgia Account by specific reference to it, or by reference to 'horse race betting proceeds.' All appropriations of lottery proceeds to any particular budget unit shall be made together in a separate part entitled, identified, administered, and accounted for separately as a distinct budget unit for lottery proceeds. Such appropriations shall otherwise be made in the manner required by law for appropriations. The funds held in the Horse Racing for Georgia Account shall be used for:

- (A) Education;
- (B) Health care;
- (C) Rural development programs, including, but not limited to, programs to provide broadband and other communications technologies for rural areas; and
- (D) Programs for the prevention and treatment of compulsive and addictive betting and gambling which shall be provided for by the commission.

(c) The commission shall promulgate any rules and regulations necessary to establish uses of the live pari-mutuel pools consistent with this Code section.

50-41-21.

In addition to the funds set forth in Code Section 50-41-20, there shall be a tax of 0.625 percent imposed on export signal racing revenue. The tax shall be paid to the commission for deposit into the general fund of the state treasury.

50-41-22.

(a) The commission shall require all individuals employed by a licensed equestrian facility to register and obtain a license from the commission if the commission determines that the individual has not been convicted of a crime involving cruelty to animals, pari-mutuel wagering, or related crime.

(b) Licenses for individuals associated with owning or training horses for racing shall not exceed \$100.00 per year.

(c) Licenses for individuals employed by racetracks or advance deposit account wagering operations shall not exceed \$500.00 per year.

(d) Licenses for individuals employed by entities doing business with racetracks or advance deposit wagering account operations shall not exceed \$500.00 per year.

50-41-23.

Although the power to license, regulate, and collect certain revenues of pari-mutuel wagering in this state is vested with the commission, the governing authority of any county, municipality, or consolidated government in this state shall be authorized to enact and enforce certain ordinance provisions authorized by this Code section. Permissible local ordinances are those that provide for:

(1) Zoning restrictions related to distance from specified structures and uses and building and related permits so long as the distance requirements, use restrictions, and building permits applied to licensed equestrian facilities are no more restrictive, onerous, or expensive than the requirements and restrictions applicable to all hotels and resorts located within the jurisdiction;

(2) The procurement and public display of a business license at an equestrian facility by a licensee, provided that such requirements are no more restrictive, onerous, or expensive than the requirements and restrictions applicable to all hotels and resorts located within the jurisdiction;

(3) The procurement of a local alcohol license by a licensee for an equestrian facility, provided that such requirements are no more restrictive, onerous, or expensive than the requirements and restrictions applicable to all hotels and resorts located within the jurisdiction that are licensed to sell and serve alcoholic beverages;

(4) Compliance of a licensed equestrian facility with local fire and safety codes, provided that such requirements are no more restrictive, onerous, or expensive than the requirements and restrictions applicable to all hotels and resorts located within the jurisdiction; or

(5) The elimination of any ordinance or local regulation on the ability of a licensed equestrian facility to operate on a 24 hour basis for all legal purposes, including, but not limited to, pari-mutuel

wagering, hotel and hospitality operations, and the sale and service of food and alcoholic beverages.

50-41-24.

All pari-mutuel wagering conducted in this state shall be regulated, licensed, subjected to revenue collection, or taxed only in accordance with the provisions of this chapter and the rules and regulations of the commission and shall not be subject to any licensing requirements, regulatory considerations, revenue collection, or taxes pursuant to Chapter 27 of this title or any other state or local law or rules, regulations, ordinances, or resolutions.

50-41-25.

(a) All conduct authorized by this chapter that takes place at a licensed equestrian facility or by authorized advance deposit wagering shall not constitute gambling or any other conduct made illegal by Article 2 of Chapter 12 of Title 16.

(b) The provisions of Code Section 13-8-3 regarding the illegality and non-enforceability of gambling contracts and any debt associated with them shall not be applicable to contracts or debt arising out of legal pari-mutuel wagering conducted in accordance with the requirements of this chapter and the rules and regulations of the commission.

50-41-26.

(a) A credit instrument accepted by a licensee on or after the effective date of this chapter and the debt that such credit instrument represents are valid and may be enforced by the legal process. (b) A licensee may accept a credit instrument:

(1) That is payable to an affiliated company or may complete a credit instrument in the name of an affiliated company as payee if such credit instrument otherwise complies with this Code section and the records of the affiliated company pertaining to the credit instrument are made available to agents of the commission upon request; and

(2) Before, at the time, or after the patron incurs the debt. The credit instrument and the debt that such credit instrument represents are enforceable without regard to whether such credit instrument was accepted before, at the time, or after the debt was incurred.

(c) This Code section shall not prohibit the establishment of an account by a deposit of cash, recognized traveler's check, or any other instrument which is equivalent to cash.

(d) The commission shall have all necessary authority to promulgate rules, regulations, policies, and procedures:

(1) Regarding the issuance of credit instruments by licensees; and

(2) Prescribing the conditions under which a credit instrument may be redeemed or presented to a bank or credit union for collection or payment.

(e) Except as provided in Code Section 50-41-16, no pari-mutuel wagering shall occur anywhere in this state except on the premises of a licensed equestrian facility.

#### 50-41-27

All licensees shall, in addition to maintaining full compliance with the obligations of this chapter and the rules and regulations of the commission, adhere to the federal record-keeping, reporting, and compliance program demands required of similar licensees by the Financial Crimes Enforcement Network (FinCEN) of the United States Department of the Treasury. Such obligations include, but are not limited to, adhering, when applicable, to the requirements of the federal Bank Secrecy Act of 1970, as amended, and its associated regulations in 31 C.F.R. Part 103.

### ARTICLE 3

#### 50-41-30.

(a) Any person that, with the intent to defraud, acts to alter the outcome of any horse race or pari-mutuel wagering through:

(1) The use of any device, electrical or otherwise, except those specifically permitted by the rules, regulations, policies, or procedures of the commission;

(2) The administration or introduction of any foreign substance or item; or

(3) Any other impermissible means under the rules, regulations, policies, and procedures of the commission shall be guilty of a felony and, upon conviction thereof, shall

be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$25,000.00, or both.

(b) Any person that, with the intent to defraud, influences or conspires with another to alter the outcome of any horse race or pari-mutuel wagering through:

(1) The use of any device, electrical or otherwise, except those specifically permitted by the rules, regulations, policies, or procedures of the commission;

(2) The administration or introduction of any foreign substance or item; or

(3) Any other impermissible means under the rules, regulations, policies, and procedures of the commission shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$100,000.00, or both.

(c) Any person that, with the intent to defraud:

(1) Alters or misrepresents the outcome of a horse race or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(2) Places, increases, or decreases a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of a horse race or any event that affects the outcome of the horse race or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing, or decreasing a bet or determining the course of play contingent upon that event or outcome;

(3) Places or increases a wager after acquiring knowledge of the outcome of the

gambling game or other event which is the subject of the bet, including past posting and pressing bets;

(4) Reduces the amount wagered or cancels the bet after acquiring knowledge of the outcome of a pari-mutuel wager or other event which is the subject of the bet, including pinching bets; or

(5) Offers, promises, or gives anything of value to anyone for the purpose of influencing the outcome of a race upon which a wager may be made, or places, increases, or decreases a wager after acquiring knowledge, not available to the general public, that anyone has been offered,

promised, or given anything of value for the purpose of influencing the outcome of the contest or race upon which the wager is placed, increased, or decreased shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$25,000.00, or both.

50-41-31.

It shall be unlawful for any person to use, possess with the intent to use, or assist another person in using or possessing with the intent to use any computerized, electronic, electrical, or mechanical device, or any software or hardware, or any combination thereof, which is designed, constructed, altered, or programmed to obtain an advantage at making any pari-mutuel wager in a licensed equestrian facility. A person violating this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$25,000.00, or both.

50-41-32.

(a) It shall be unlawful for any licensee, employee, or other person, not a duly authorized employee of a licensee acting in furtherance of his or her employment within a licensed equestrian facility, to possess, use, sell, or manufacture any counterfeit instruments, counterfeit tickets, or other counterfeit items that are used to determine the outcome of any contest or promotional activity conducted by or on behalf of any licensee.

(b) It shall be unlawful for any individual, not a duly authorized employee of a licensee acting in furtherance of his or her employment within a licensed equestrian facility, to have on his or her person or in his or her possession on or off the premises of any licensed equestrian facility any device intended to be used to violate the provisions of this chapter or the rules, regulations, policies, and procedures of the commission.

(c) Any person violating the terms of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$25,000.00, or both.

50-41-33.

It shall be unlawful for any person, whether the person is an owner or employee of or a player in a licensed equestrian facility, to knowingly cheat at pari-mutuel wagering. Any individual found to be knowingly cheating shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$25,000.00, or both.

50-41-34.

(a) As used in this Code section, 'medium of communication' includes, but shall not be limited to, mail, telephone, television, telegraph, facsimile, cable, wire, internet, or any other similar medium.

(b) Except as otherwise provided in subsection (d) of this Code section, a person, alone or with others, shall not knowingly, within or outside of this state:

(1) Accept or receive, directly or indirectly, through any medium of communication a wager from another person that is physically present within this state; or

(2) Allow a lessee, agent, or employee to accept or receive, directly or indirectly, through any medium of communication, a wager from another person that is physically present within this state.

(c) Except as otherwise provided in this Code section, a person, alone or with others, shall not knowingly:

(1) From within this state, place, send, transmit, or relay through a medium of

communication a wager to another person or equestrian facility that is located within or outside of this state; or

(2) From outside of this state, place, send, transmit, or relay through a medium of

communication a wager to another person or licensed equestrian facility that is located within this state.

(d) The provisions of subsections (b) and (c) of this Code section shall not apply to a wager placed by a person for the person's own benefit or, without compensation, for the benefit of another that is accepted or received by, placed with, or sent, transmitted, or relayed to any other person or licensed equestrian facility that is licensed to engage in wagering pursuant to this chapter, if the wager is accepted or

received within this state and otherwise complies with all other applicable laws and rules and regulations concerning wagering.

(e) A person that violates the provisions of subsection (b) or (c) of this Code section shall be guilty of a misdemeanor.

50-41-35.

(a) Any person that conspires, confederates, or combines with another, either inside or outside this state, to commit a felony prohibited by this chapter shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$100,000.00, or both.

(b) Any person that attempts to commit any act prohibited by this chapter shall be guilty of a criminal offense and shall be punished as provided in Code Section 16-4-6.

50-41-36.

Any person not licensed in accordance with this chapter who conducts pari-mutuel wagering or horse racing on which pari-mutuel wagering is conducted with his or her knowledge or consent shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$100,000.00, or both.

50-41-37.

Any person other than the lawful holder thereof who has in his or her possession any credential, license, or permit issued by the commission or a forged or simulated credential, license, or permit of the commission and who uses such credential, license, or permit for the purpose of misrepresentation, fraud, or touting shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$100,000.00, or both. Any credential, license, or permit issued by the commission if used by the holder thereof for a purpose other than identification and in the performance of legitimate duties on a racetrack shall be automatically revoked whether so used on or off a racetrack.

50-41-38.

Any person that knowingly transmits information as to the progress or results of a horse race or information as to wagers, betting odds, post or off times, or jockey changes in any race by any means whatsoever for the purposes of carrying on illegal betting in violation of Part 1 of Article 2 of Chapter 12 of Title 16 or to a person engaged in illegal betting shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$100,000.00, or both. This Code section shall not be construed to prohibit a newspaper from printing such results or information as news or any television or radio station from telecasting or broadcasting such results or information as news. This Code section shall not be construed to place in jeopardy any common carrier or its agents performing operations within the scope of a public franchise or any gambling operation authorized by law.

50-41-39.

Any person that knowingly and intentionally by false representation attempts to or does persuade, procure, or cause another person to wager on a horse in a race to be run in this state or elsewhere and upon which money is wagered in this state and that asks for or demands compensation as a reward for information or purported information given in such case shall be guilty of touting and, upon conviction, shall be punished as for a misdemeanor.

50-41-40.

Any person that gives, promises, or offers to any jockey, driver, groom, or any person participating in any race meeting, including owners of racetracks and their employees, stewards, trainers, judges, starters, and special peace officers, any valuable thing with intent to influence him or her to attempt to lose or cause to be lost a horse race in which such person is taking part or expects to take part or has any duty or connection to or any individual who, being either jockey, driver, or groom or participant in a race meeting, solicits or accepts any valuable thing to influence him or her to lose or cause to be lost a horse race in which he or she is taking part or expects to take part or has any duty or connection to shall

be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$100,000.00, or both.

50-41-41.

(a) Any person that, with the intent to defraud, acts to alter the outcome of a horse race by:

(1) The administration of any substance foreign to the natural horse, except those substances specifically permitted by the rules and regulations of the commission; or

(2) The use of any device, electrical or otherwise, except those specifically permitted by the rules and regulations of the commission, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than three years or a fine not to exceed \$25,000.00, or both.

(b) Any person that, with the intent to defraud, influences or conspires with another to alter the outcome of a race by:

(1) The administration of any substance foreign to the natural horse, except those substances specifically permitted by the rules and regulations of the commission; or

(2) The use of any device, electrical or otherwise, except those specifically permitted by the rules and regulations of the commission, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$100,000.00, or both.

(c) Any person that:

(1) Administers any substance foreign to the natural horse, except those substances specifically permitted by the rules and regulations of the commission, when the horse is entered to start; or

(2) At any time exposes any substance foreign to the natural horse with the intent of impeding or increasing the speed, endurance, health, or condition of a horse shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$100,000.00, or both.

(d)(1) The commission shall implement or contract with an independent third party to implement a split-sample

procedure for testing racehorses under this Code section. The commission shall split each urine and blood sample using the split-sample procedure into a primary sample and a secondary or split sample upon collection. The commission shall transfer custody of the primary sample to the commission laboratory, with custody of the split sample remaining with the commission except as provided in this subsection.

(2) The commission shall notify the owner or trainer, the stewards, and the equestrian facility of all drug test results. If a drug test result is positive, upon request by the affected trainer or owner of the horse from which the sample was obtained, the commission shall send the split sample to an approved independent laboratory for analysis. The commission shall establish standards and rules for uniform enforcement and shall maintain a list of at least five approved independent laboratories from which an owner or trainer can select if a drug test result is positive.

(3) If the commission laboratory's findings are not confirmed by the independent laboratory, no further administrative or disciplinary action under this Code section shall be pursued.

(4) If the independent laboratory confirms the commission laboratory's positive result, the commission shall commence enforcement proceedings against the offending individuals, including the owner, trainer, and veterinarian. For purposes of this subsection, the commission shall in good faith attempt to obtain a sufficient quantity of the test fluid to allow both a primary test and a secondary test to be made. If there is an insufficient quantity of the split sample for confirmation of the commission laboratory's positive result, the commission shall not take further action on the matter against the owner or trainer, and any resulting license suspension shall be immediately lifted.

(5) The commission shall require its laboratory and the independent laboratories to annually participate in an externally administered quality assurance program designed to assess testing proficiency in the detection and appropriate quantification of medications, drugs, and naturally occurring substances that may be administered to racehorses. The administrator of the quality assurance program shall report

its results and findings to the commission and the Department of Agriculture.

(e) The commission may inspect or coordinate inspections with law enforcement of any area of an equestrian facility where horses are raced, trained, housed, or maintained, including any areas where food, medications, or other supplies are kept, to ensure the humane treatment of racehorses and in compliance with this chapter and the rules and regulations of the commission.

(f) In order to protect the safety and welfare of racehorses and the integrity of the races in which the horses participate, the commission shall adopt rules establishing the conditions of use maximum concentrations of medications, drugs, and naturally occurring substances identified in the Controlled Therapeutic Medication Schedule by the Association of Racing Commissioners International, Inc. (ARCI). Controlled therapeutic medications include only the specific medications and concentrations allowed in biological samples which have been approved by ARCI as controlled therapeutic medications.

(g) The commission's rules and regulations shall designate the appropriate biological specimens by which the administration of medications, drugs, and naturally occurring substances is monitored and shall determine the testing methodologies, including measurement uncertainties, for screening such specimens to confirm the presence of medications, drugs, and naturally occurring substances.

(h) The commission's rules and regulations shall include a classification system for drugs and substances and a corresponding penalty schedule for violations which incorporates the ARCI's Uniform Classification Guidelines for Foreign Substances and Recommended Penalties Model Rule. The commission's rules and regulations shall specify that a drug not listed in the Controlled Therapeutic Medication Schedule which is present in a sample taken from a horse immediately after a race is a prohibited substance. The presence of a prohibited substance in a sample may result in summary suspension of a permit or license holder. (i) Medications authorized by the commission pursuant to this Code section shall only be administered by the track veterinarian or the state veterinarian.

50-41-42.

The possession or transportation of any drug except those permitted by rules and regulations of the commission within the racing enclosure is prohibited except upon a bona fide veterinarian's prescription with a complete statement of uses and purposes on the container. A copy of such prescription shall be filed with the stewards. Any person knowingly violating the provisions of this Code section relating to the legal possession of drugs shall be guilty of a misdemeanor. The provisions of Chapter 13 of Title 16 shall apply in situations when drugs regulated by that chapter are within the racing enclosure.

50-41-43.

Any person that knowingly enters or races any horse in any horse race under any name or designation other than the name or designation duly assigned to such horse by and registered with The Jockey Club, the United States Trotting Association, the American Quarter Horse Association, or other applicable association or who knowingly instigates, engages in, or in any way furthers any act by which any horse is entered or raced in any horse race under any name or designation other than the name or designation duly assigned by and registered with The Jockey Club, the United States Trotting Association, the American Quarter Horse Association, or other applicable association shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or a fine not to exceed \$100,000.00, or both.

50-41-44.

No person shall wager on or conduct any wagering on the outcome of a horse race pursuant to the provisions of this chapter unless such person is 21 years of age or older. No person shall accept any wager from a minor. Any person violating the provisions of this Code section shall be guilty of a misdemeanor.”

**SECTION 3.**

Providing that an amendment to the Constitution of the State of Georgia that authorizes pari-mutuel wagering is passed by the General Assembly and ratified by the voters in the 2022 general election, this Act shall become effective on January 1, 2023.

**SECTION 4.**

All laws and parts of laws in conflict with this Act are repealed.

## SPONSOR'S RATIONALE

Proponents of expanded gambling in the state of Georgia have attempted for years to pass legislation that would legalize games beyond the state lottery.<sup>5</sup> Senate Bill 212 suggested limiting gaming expansion to horse racing.<sup>6</sup> Senate Bill 212 was sponsored by the Senate Rules Committee Chairman, Senator Jeff Mullis, signaling a growing interest in the issue.<sup>7</sup> According to Chairman Mullis, allowing betting on horse races in Georgia is both popular among constituents and sound economic policy.<sup>8</sup> Senator Mullis stated, "I believe it will be good for Georgia, and it will help Georgia, and you never know what could be connected, a horse hall of fame in Macon, or rural health care or HOPE scholarships or other things but the main thing is it will provide lots of jobs, good jobs, not ill-repute jobs, but good jobs for the people of Georgia."<sup>9</sup>

Co-sponsor Senator Billy Hickman agreed.<sup>10</sup> He has a personal desire to see horse racing come to the state but his personal feelings did not persuade him to sign onto the Bill.<sup>11</sup> He said, "I have a huge passion for horse racing. At the same time as I got a huge passion, I've got to remember I'm a CPA and things got to make economic sense to me for me to go forward."<sup>12</sup> A recent study by Georgia Southern University, done at Hickman's request, found that building three horse racing tracks in the state would create a \$1.28 billion industry adding 8,500 jobs.<sup>13</sup> In response to the concerns about "racinos" Senator Hickman says, "I really believe that the pari-mutuel betting could survive on its own, but you wouldn't have the quality of races."<sup>14</sup> Even supporters of the Bill have mixed opinions about whether horse racing could survive on its own.<sup>15</sup> Historical Horse Racing machines (HHRs) further complicate matters because some consider HHRs both inevitable and allowed by the Georgia Constitution as currently

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<sup>5</sup> Ross Williams, *Horse Racing Bills Break Out Of Georgia's Legislative Gate In New Bid To Beat Long Odds*, GPB (Feb. 18, 2022, 12:26 PM).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Maya T. Prabhu, *Senate Panel Passes Bills Setting Up Horse Racing In Georgia*, ATL J. CONST (Mar. 3, 2022), [www.ajc.com/politics/senate-panel-passes-bills-setting-up-horse-racing-in-georgia/U6NLF5B66RGUDN4KNW36P6UNAE/](http://www.ajc.com/politics/senate-panel-passes-bills-setting-up-horse-racing-in-georgia/U6NLF5B66RGUDN4KNW36P6UNAE/).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> See Williams, *supra* note 5.

written.<sup>16</sup> In order to ensure that Georgia horse racing is competitive Senator Hickman suggests, “you’ve got to have other forms of money to supplement the horses.”<sup>17</sup> He also notes the difference between slot machine and HHRs, “whereas slot machines, which are random number generator winners, these machines are based on 100,000 prior horse races.<sup>18</sup> And so, they tell us that those are not slot machines, just like the COAMs (coin operated amusement machines) are not slot machines.”<sup>19</sup>

In 2019, the Georgia State Senate created the Gaming and Pari-mutuel wagering on Horse Racing and Growing Georgia’s Equine Industry Study Committee.<sup>20</sup> Senator Brandon Beach, was the Chairman of that Study Committee and he supports Senate Bill 212.<sup>21</sup> Senator Beach described his reason for the supporting the Bill, “We believe we’re going to create a new industry, that will bring \$1.2 billion of economic impact to the state of Georgia with horse farms, hay farms.”<sup>22</sup>

Dean Reeves is Chairman of the Georgia Horse Racing Coalition, a group committed to bringing horse racing to the state.<sup>23</sup> He lives in Suwanee, Georgia and owns the celebrated thoroughbred racehorse, Mucho Macho Man.<sup>24</sup> Reeves said, “we have to weigh the benefits against any potential drawbacks.”<sup>25</sup> According to Reeves the benefit of horse racing is “that industry itself creates a tremendous amount of jobs and these are blue collar jobs that are always needed. And to me, that’s something that reaches the entire state; it’s not just a benefit for city of Atlanta.”<sup>26</sup> He also sees sponsorship deals and broad economic opportunities associated with the tracks themselves.<sup>27</sup> “A track would give a unique opportunity for corporations to have outings for customer and employees.<sup>28</sup> What could be

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<sup>16</sup> See Glier, Ray, *Would Georgia Horse Racing Put State On The Track For Riches Or Road To Ruin? State Senate Legislation Proposes To Let The Voters Decide*, GEORGIA RECORDER (Mar. 10, 2022, 1:00 AM), [www.georgiarecorder.com/2022/03/10/would-georgia-horse-racing-put-state-on-track-for-riches-or-road-to-ruin/](http://www.georgiarecorder.com/2022/03/10/would-georgia-horse-racing-put-state-on-track-for-riches-or-road-to-ruin/) (Historical Horse Racing (HHR) machines are electronic gaming machines used at race tracks in eight states. HHRs allow players to bet on 100,000 past races that have already run in the U.S.. Opponents of these machines claim they are just another version of the slot machine).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Williams, *supra* note 5.

<sup>20</sup> *Id.*

<sup>21</sup> Amy, Jeff, *Georgia Voters Could Decide On Legalizing Horse Race Betting*, WABE (Mar. 2, 2022), [www.wabe.org/georgia-voters-could-decide-on-legalizing-horse-race-betting/](http://www.wabe.org/georgia-voters-could-decide-on-legalizing-horse-race-betting/).

<sup>22</sup> *Id.*

<sup>23</sup> Glier, *supra* note 16.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

better than bringing a group to the Coca-Cola Classic, which might be a million-dollar race, and the advertising they would get from it.”<sup>29</sup> In response to moral concerns Reeves explained, “you have to ask yourself what is there about pari-mutuel betting that really is different than the lottery? People are pouring money into the lottery, which goes to education and people seem to be OK with that.”<sup>30</sup> Reeves also distinguished HHR machines by describing them as “more of a game” of skill rather than pure chance like slot machines.<sup>31</sup> He says fears of the “racino” are overblown.<sup>32</sup> “It’s not been the big issue that people think it is. It has worked well in Kentucky and its not that it has spread like a wildfire and gone through the entire state and there are historical racing machines all over the state.”<sup>33</sup>

#### OPPOSITION’S RATIONALE

Despite bi-partisan support in both the Senate and House, Senate Bill 212 faced strong opposition from powerful interest groups including the Georgia Baptist Convention and state legislators concerned that any expansion of gambling beyond the lottery will lead to more gambling addictions and more crime generally.<sup>34</sup> They also note the slippery slope that is likely to follow any such expansion.<sup>35</sup>

Mike Griffin, a lobbyist with the Georgia Baptist Mission Board, said that “pure horse racing would probably be the lesser of three evils.”<sup>36</sup> However, he went on to say, “my experience of being here through the years is that typically one thing leads to another . . . Two years from now there’s a possibility this group will be back here saying, ‘We’re going to have to add (more types of gambling) in here because we’re not making money.’”<sup>37</sup> During his testimony in the senate committee hearing Griffin said, “horse tracks can’t make the money off of just racing.”<sup>38</sup> Historical Horse Racing Machines will inevitably come next and bring along with them a casino type environment.”<sup>39</sup> He reiterated, “its gambling and that is

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<sup>28</sup> Glier, *supra* note 16.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> Glier, *supra* note 16.

<sup>34</sup> See *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> See Prabhu, *supra* note 12.

<sup>37</sup> *Id.*

<sup>38</sup> Georgia Baptist Mission Board, *Mike Griffin Testimony Gambling in GA*, VIMEO, [www.vimeo.com/513416768](http://www.vimeo.com/513416768).

<sup>39</sup> *Id.*

why you have to have 11 pages of regulation because it is so corrupt and it brings that into our state.”<sup>40</sup>

Gambling critic John Kindt is concerned about expansion of gambling generally in the state and particularly HHR machines with wagering on horse races.<sup>41</sup> “A gambling addiction is like an opioid addiction.<sup>42</sup> Racino slot machines will cause significant increases in suicides, child abuse, spousal abuse, bankruptcies, property crimes, sex related crimes. I don’t have a problem with pari-mutuel wagering, it’s slot machines, slot machines, slot machines, and the industry knows that. They’re the crack cocaine. That’s where the money comes in.”<sup>43</sup>

Additional critiques of the Bill come from members of the Georgia General Assembly like Senator Bill Cowsert.<sup>44</sup> Senator Cowsert echoes concern that horse racing cannot make money on its own and perhaps the HHR machines are inevitable and dangerous.<sup>45</sup> Senator Harbin, another critique of the bill said, “we’ve all met people who could not handle gambling.<sup>46</sup> Money goes from the table.<sup>47</sup> Money goes from paying for housing.<sup>48</sup> It’s a health problem, because among those who are addicted to gambling there’s a high suicide rate as well that goes along with that.”<sup>49</sup>

#### IMPLICATIONS IN GEORGIA

In 2018, the United States Supreme Court overturned the Professional and Amateur Sports Protection Act allowing individual states to immediately implement sports betting within their borders.<sup>50</sup> This prompted many states to begin serious debate over the gaming industry, including sports betting, casino gaming, and pari-mutuel wagering.<sup>51</sup> While

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<sup>40</sup> *Id.*

<sup>41</sup> Williams, *supra* note 5.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Finley, *Georgia Legislator Renews Effort to Legalize Horse Racing in State*, TDN (Aug. 11, 2022, 6:16 PM), [www.thoroughbreddailynews.com/georgia-legislator-renews-effort-to-legalize-horse-racing-in-state/](http://www.thoroughbreddailynews.com/georgia-legislator-renews-effort-to-legalize-horse-racing-in-state/).

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Murphy v. Nat’l Collegiate Athletic Ass’n*, 138 U.S. 1461 (2018) (striking down the Professional and Amateur Sports Protection Act (PASPA) as an unconstitutional violation of anti-commandeering principles rooted in the Tenth Amendment. PASPA prohibited states from legalizing sport betting. Following this decision, states were free to legalize sports gambling at casinos and horseracing tracks as desired).

<sup>51</sup> Ga. S. Rsch. Off., *THE FINAL REPORT OF THE SENATE GAMING AND PARI-MUTUAL WAGERING ON HORSE RACING AND GROWING GEORGIA’S EQUINE INDUSTRY STUDY*

Senate Bill 212 deals exclusively with pari-mutuel betting and horse race tracks, passage of any legislation within the scope of the gaming industry will have broad implications due to the constitutional changes required to bring horse racing to Georgia.<sup>52</sup> The three main implications of Senate Bill 212 are: (1) the necessity of a constitutional amendment; (2) the economic impact of a newly legalized industry; and (3) the potential for tax revenue available to support social programs within the state.<sup>53</sup>

Senate Bill 212 sought to expand gambling in Georgia to include pari-mutuel betting<sup>54</sup>. Because all forms of gambling are limited by the state Constitution with pari-mutuel betting expressly outlawed, an amendment was required for Senate Bill 212 to move forward.<sup>55</sup> Under the Georgia Constitution “all lotteries, and the sale of lottery tickets, and all forms of pari-mutuel betting and casino gambling are hereby prohibited.”<sup>56</sup> *Sparkman* defines lottery under Georgia law as games requiring “prize, chance, and consideration.”<sup>57</sup> However, there is a current exception in Georgia law allowing certain coin operated machines designed for amusement purposes so long as the machines payout noncash rewards only.<sup>58</sup> Under this exception, gas stations and other establishments throughout the state are able to legally generate revenue from coin operated amusement machines.<sup>59</sup> Senate Resolution 131 was introduced as the companion Bill to Senate Bill 212.<sup>60</sup> Senate Resolution 131 would have given voters the opportunity to authorize horse racetracks and allow wagging on horse races at those tracks.<sup>61</sup> Currently, the only gambling exception, allows for the Georgia General Assembly to operate and regulate a lottery on behalf of the state with the proceeds going towards educational programs such as the HOPE

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COMMITTEE (2019).  
[www.dlg.galileo.usg.edu/ggpd/docs/2019/ga/1408/\\_pm1/2019/g3/elec\\_p\\_btext.com/1.pdf](http://www.dlg.galileo.usg.edu/ggpd/docs/2019/ga/1408/_pm1/2019/g3/elec_p_btext.com/1.pdf)  
[hereinafter FINAL REPORT].

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> See GA CONST Art. 1, § 2 ¶ VIII.

<sup>56</sup> *Id.*

<sup>57</sup> *Sparkman v. State*, 434 S.E.2d 564, 566-567 (Ga. Ct. App. 1993) (ruling that criminal gambling under OCGA § 16-12-22(a)(2) and (6) is not limited to the commercial collection of funds for the express purpose of distributing cash prizes based on chance).

<sup>58</sup> *Patel v. State*, 801 S.E.2d 551, 552 (Ga. App. 2017) (recognizing that gaming machines involving some skill in the operation are exempted from Georgia’s gambling statutes. However, the machines can only pay out non cash prizes. Lottery tickets are considered a prohibited cash payout under Georgia law).

<sup>59</sup> *Id.* at 552.

<sup>60</sup> FINAL REPORT, *supra* note 51.

<sup>61</sup> *Id.*

scholarship.<sup>62</sup> Since Senate Resolution 131 proposed a Constitutional Amendment, it required passage in both chambers by a two-thirds majority.<sup>63</sup> When the Senate failed to pass Senate Resolution 131 there was no path forward for Senate Bill 212.<sup>64</sup>

Theoretically, the legalization of pari-mutuel betting on horse races would bring billions of dollars and create thousands of jobs.<sup>65</sup> Pari-mutuel wagering as covered by Senate Bill 212 is the form of gambling most often associated with horse racing.<sup>66</sup> Therefore, if Georgia legalizes pari-mutuel wagering, it will have a direct impact on the equine industry of the state.<sup>67</sup> Currently, the equine industry contributes roughly \$750 million per year to Georgia's economy.<sup>68</sup> Growth potential within the industry as it relates to horse racing notes the additional demands of care and management for equine athletes.<sup>69</sup> Horse racing requires the employment of trainers, care givers, feed suppliers, facility managers, and others.<sup>70</sup> Economic impact studies commissioned on the topic have estimated that with adding only a limited number of tracks, Georgia would create between 3,700 to 8,500 jobs and contribute approximately \$4.49 billion in profit largely benefiting rural areas of the state.<sup>71</sup>

Anticipating substantial revenue, Senate Bill 212 required horse racetracks to pay 3.75% of revenue to education, gambling addiction services, health care, and rural broadband.<sup>72</sup> Nationwide in 2018, the gaming industry produced \$41.7 billion in revenue which resulted in the collection of \$9.7 billion in gaming taxes paid to state and local governments.<sup>73</sup> Furthermore, the legalization of sports wagering in Georgia would reduce illegal gambling markets and offshore gambling sites which currently operate within the state tax free.<sup>74</sup> Approximately \$150 billion is spent annually on these illegal sites.<sup>75</sup> Similarly, as more neighboring states legalize sports wagering including pari-mutuel wagering, legislation like Senate Bill 212 would allow Georgia to retain potential tax revenue which

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> FINAL REPORT, *supra* note 53.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> FINAL REPORT, *supra* note 53.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

would otherwise flow to the neighboring states where gambling is legalized more broadly.<sup>76</sup>

Across the country states have legalized various combinations of gambling and sports betting.<sup>77</sup> Unlike other economic development projects, most gaming does not require a state to offer tax incentives to draw the business into the jurisdiction.<sup>78</sup> Meaning, the revenue benefits would not be offset by state tax breaks to the gaming operators.<sup>79</sup> However, there is a risk of economic cost associated with social implications of increased gambling.<sup>80</sup> The risk of increased gambling addictions within the state may require additional state funding to combat the problem.<sup>81</sup> The Bill attempted to address this risk by requiring that a portion of the revenue generated go towards relevant state programs.<sup>82</sup>

Given that the 2022 Legislative Session was the second year of a two-year term, Senate Bill 212 must be re-introduced as new legislative during the 2023 session if the sponsors wish to pursue final passage.<sup>83</sup>

#### LEGISLATIVE GENEALOGY

Senate Bill 212 was introduced in the Senate Hopper on February 18, 2021.<sup>84</sup> It was read and referred to the Senate Regulated Industries and Utilities Committee on February 22, 2021.<sup>85</sup> The Committee favorably reported the Bill by substitute on March 4, 2022.<sup>86</sup> On March 8, 2022 the Senate read Senate Bill 212 for the second time.<sup>87</sup> On March 15, 2022 the Bill was read for the third time and ultimately tabled by the Senate.<sup>88</sup>

**Prepared by:** *Taylor Blumenthal*

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<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> FINAL REPORT, *supra* note 53.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> S.B. 212 Status Sheet, *supra* note 2.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*