

Approved

Ginger Barr
May 4, 1990 Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Ginger Barr at
Chairperson

2:10 ~~a.m.~~ p.m. on March 15, 1990 in room 526-S of the Capitol.

All members were present except:

Representatives J. C. Long - Excused Representative Wagon
Peterson
Sebelius - Excused

Committee staff present:

Lynne Holt, Kansas Department of Legislative Research
Mary Torrence, Revisor of Statutes Office
Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

Representative Debara Schauf
Karen Tolle, Kansas Quarter Horse Racing Association (KQHRA)
Janet Chubb, Assistant Attorney General, Kansas Racing Commission (KRC)

Representative Sprague moved to approve the minutes of the February 27, 1990 meeting of the committee, seconded by Representative Blumenthal. The motion was adopted.

HB 2912

Representative Aylward moved to report the bill adversely, seconded by Representative Jenkins. The motion was adopted. Requested to be recorded as voting no were Representatives Jones and Ramirez.

HB 2913

Representative Aylward moved to report the bill adversely, seconded by Representative Jenkins. Some of the points made in committee discussion were: it is a tax issue and should be addressed by the Tax Committee; it was not part of the constitutional amendment approved by the majority of voters; the racetrack facility is on the tax rolls; it would be a means of addressing additional needs of the county; the state and not-for-profit organization seem to be the major benefactors of parimutuel revenues with the city having lost due to lack of foresight; there was a 36% increase in the county's budget (according to testimony presented in the Tax Committee) primarily as a result of the new prison being built in the county; the bill would be more palatable if it included all counties housing a racetrack facility and the monies were dedicated to state programs. The motion carried. Requested to be recorded as voting no were Representatives Jones and Ramirez.

HB 2945

Representative Schauf explained the bill as it relates to racing stewards and judges as unclassified employees, Attachment No. 1.

Attachment No. 1A is the fiscal note on the bill.

Attachment No. 1B is "advice to a steward".

Attachment No. 1C is "Responsibility of Stewards in Addition to Those Already Discussed"

Attachment No. 1D - "Selection, Appointment and Employment of Stewards in California: Judging the Judges" by Len Foote, California Racing Board

Representative Schauf acknowledged Janet Chubb, Assistant Attorney General, assigned to the KRC who she had asked to be present to answer questions. Also present was Dan Hamer, Acting Executive Director, KRC.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal and State Affairs

room 526-S, Statehouse, at 2:10 ~~xxx~~ p.m. on March 15, 1990

Committee discussion:

1. The KRC determines the salaries of stewards and judges. Currently a chief steward is paid \$235.00 per day while stewards and judges are paid \$200.00 per day.
2. The salaries are in line with that of other states. Representative Schauf, in response to a member, stated she felt the salaries were sufficient to deter stewards and judges from receiving additional compensation offered by outside sources.
3. Stewards generally do not carry liability insurance on their own.
4. Independent contractors are not considered employees under the Tort Claims Act - the bill makes racing judges and stewards an exception.

There were no opponents to the bill.

HB 2946

Representative Schauf explained the bill as it relates to rules and regulations regarding medications, purse money and adjudicated juvenile offenders, Attachment No. 2.

Attachment No. 2A is a letter from the Executive Vice President of Association Commissions International (ARCI).

Attachment No. 2B is a copy of Section 13 of rules for greyhound racing as recommended by ARCI

Attachment No. 2C is current Kansas law concerning drugs or medications as it applies to greyhound racing and practicing veterinarians

Attachment No. 2D is a balloon of HB 2946 concerning purse monies

Karen Tolle spoke in support of a specific fund at the track for deposit of monies to be paid to the horsemen, Attachment No. 3.

Janet Chubb stated the amendment, Attachment No. 4, is one of importance to the KRC for the past two years and affects more licensees than any other bill or amendment presented during the current session. She explained the amendment is from K.S.A. 74-8816 and has to do with occupation licensees and that portion of the provision which relates whether the KRC or stewards and racing judges can affect their licenses through suspension, revocation or fines. The original (g) was drafted to give the KRC authority to draft rules and regulations for temporary suspension under the Kansas Administrative Procedures Act (KAPA). Because of the original provisions of the Racing Act, the KRC has never used this subsection. The KRC is the only body with the authority to fine anyone. The procedure adopted over the last two years is one involving a number of forms to administrate a formal KAPA hearing. Each time a person (e.g. groom, trainer, kennel owner) is charged with violations, the procedure is as follows:

- a. A request for hearing is filed, generally by the security director or one of the investigators, with the KRC.
- b. The KRC appoints a hearing officer, generally stewards or racing judges.
- c. The hearing officer sets a date, not sooner than 10 days after the notice, and "have the hearing conduct the business, do nothing or fine or suspend the person".
- e. After 30 days is final action. If the person has not appealed within that time, he pays the fine and is suspended.

The general practice throughout the United States is that there is a series of small fines or short suspensions applied to certain conduct. The ceiling in the amendment is \$250 although the KRC has the authority to level fines of up to \$5,000. The amendment is presented because there has been a built-in delay of 6-12 weeks for the smallest suspension. Ms. Chubb asked that note be made there is no request for suspension of any KAPA provisions. The summary procedure requested is outlined in KAPA which requires certain small findings. The stewards and racing judges could assess fines of up to \$250.00 and suspend up to 30 days or a combination of the two. The person being charged could appeal to the KRC and have a hearing before it.

Chairman Barr recognized Mike Jones, Director of Parimutuels; Mark Roberts, Director of Security for the KRC and Clint Rankin, D.V.M., State Veterinarian also present to answer questions.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal and State Affairs,

room 526-S, Statehouse, at 2:10 ~~a.m.~~/p.m. on March 15, 1990

Committee discussion:

1. The significance of positive test results varies according to the drug. Drugs are classified as:
 - Class I - stimulants, narcotics or depressants
 - Class II - therapeutic drugs
 - Class III - nuisance drugs (polyethylene glycol, the most common)Dr. Rankin stated it was felt there had been few serious violations to date that most positive results were due to "nuisance" drugs.
2. Tests are taken at the time of the race and chemists process the results during the race. The only penalty recourse is to withhold the purse or suspension.
3. There have been approximate purses denied at Eureka.
4. Concern regarding syringes at the track was discussed. Dr. Rankin explained that Kansas has a compromise provision which provides for a locked chest at each kennel, inspected by the animal health officer. It is required that any syringes on the premises are being used by the trainer or locked in the cabinet. The doctor explained that he was on the task force recommending laws for Kansas and the reason he "gave in" concerning locking syringes is that it is a common practice to inject the female dogs with testosterone to keep them out of heat and therefore necessary to keep the syringes available to the trainers. He stated preference for being able to control and confiscate medications, if necessary, rather than prohibit them and not be able to enforce it.
5. Currently only the kennel owner or trainer has the key to the chest where the syringes are kept. No animal health officer is present at all times so there is no assurance that the syringes may not be used inappropriately. ARCI's greyhound rules and regulations were used as a model when Kansas' rules and regulations were formulated but the doctor stated it was the wishes of the Greyhound Advisory Board that the current practice be adopted. When asked if he would be amenable to an amendment permitting horse owners or trainers to keep medications in the stables under lock and key, as long as a list of medications was submitted, Dr. Rankin responded it is customary for syringes on horse tracks to be controlled by veterinarians.
8. The ARCI was unable to name any other states where greyhound owners or trainers are permitted control of syringes.
9. Mark Roberts responded he would not support syringes in stables and explained there is somewhat of a policing and enforcement problem of 40 kennels due to a shortage of manpower. He suggested a compromise which would permit a greyhound owner or trainer to administer medication with the written permission of the animal health officer.
10. There is no law requiring track accounts be kept in a certain format. There is an annual review audit which requires an accounting of how funds were kept. Concern was expressed by one member that possibly the same procedure be adopted for funds going to the not-for-profit and state.
11. Ms. Chubb explained part of the difficulty with the horsemen's fund is the difficulty in determining the handle which supports the purse structure. It is a specific, identifiable fund with which the track and KRC had differences. Chairman Barr noted the concern and suggested it may need to be addressed in a subcommittee.
12. Mr. Jones explained the bill is the response to what was a management decision at Eureka. The better the quality of horses, the more people attend the races and wager. The track gets a cut of the money wagered and part goes to the purses. The purses were raised from \$500 to \$1,000, the races were run and the handle went up but not enough to cover the increase in the purses. Six percent of the handle resulted in 60% of the purses and the track had to make up the difference. The year prior, the track was \$20,000 short and made up the difference. This year the difference was \$57,000 and the money had to be raised to meet the difference. There was no evidence of "foul play".

There were no opponents to the bill.

Attachment No. 5 is a letter from Mike Jones providing projected figures for funds available for distribution to charities from TRAK East previously requested by the committee.

The meeting was adjourned at 3:15 p.m. The next meeting of the committee is scheduled for March 19, 1990, 1:30 p.m. in Room 526-S.

DEBARA K. SCHAUF
REPRESENTATIVE, EIGHTY-FIRST DISTRICT
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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: LABOR AND INDUSTRY
FEDERAL AND STATE AFFAIRS
COMMERCIAL AND FINANCIAL
INSTITUTIONS
JOINT COMMITTEE ON ADMINISTRATIVE
RULES AND REGULATIONS

TESTIMONY ON HB2945

By: Representative Debbie Schauf

This bill was introduced to address a problem concerning the employment of Stewards and Racing Judges.

A Steward is defined as follows:

Racetrack Officials - a minimum of three Stewards preside over the racing at all tracks, one of whom is the representative of the respective State Racing Commission. The work of the Stewards is law in all matters. It is their duty to see that the race meeting is run according to the rules of racing. They rule on claims of foul or any protests and impose fines and suspensions. All suspensions are reported by them to the State Racing Commission and in turn to the National Association of State Racing Commissioners so that the offenders may be barred from taking part in other race meets in that state or any other state during the period of suspension. The Stewards have complete jurisdiction over a race meeting.

In a nutshell, the Stewards interpret and enforce the rules of racing.

Kansas Law in 74-8818 sets out the requirement that at each race meet there will be three Stewards or Judges. It specifies that they will be paid by the Commission. It also states that the commission may charge the expense for the Stewards back to the track where they serve. It does not specify whether these people will be classified or unclassified employees of the Commission.

In 74-8805(e) it states that all employees of the Commission not otherwise specified in the act will be in classified service under the Kansas Civil Service Act.

In 1988 for the initial short racing season at Eureka and in 1989 the Stewards were hired as temporary employees. I am unsure as to whether they were considered classified or unclassified.

When the dog tracks came on line in September of 1989, the Commission made the decision to contract for the services of Racing Judges. Subsequently they have decided to contract with all Stewards and Judges for the 1990 race seasons.

The following questions have been raised:

- 1) Does the Commission have the authority to hire independent contractors, or state contract employees outside the classified service regardless of 74-8805(e)?
- 2) If they do have that authority, then are those racing officials still covered by the "tort claims protection" of state employees if someone contests their decision and their position has been defended in court?

Many other states do contract with Stewards and Judges and because of Federal and State employee benefit requirements, etc. this is a reasonable approach. However, I believe it is quite important that to insure loyalty to the State of Kansas and to best protect the integrity of racing for the betting public, they should never be placed in a position of first having to consider their own risk of liability when rendering a decision.

This bill would extend that protection to those officials. I also suspect that we need to consider an amendment to 74-8818 which would clarify the authority of the Commission to employ Stewards and Judges outside of the classified service.

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DIVISION OF THE BUDGET

MIKE HAYDEN,
Governor
MICHAEL F. O'KEEFE
Director of the Budget

Room 152-E
State Capitol Building
Topeka, Kansas 66612-1575
(913) 296-2436

March 8, 1990

The Honorable Ginger Barr, Chairperson
House Committee on Federal and State Affairs
House of Representatives
Third Floor, Statehouse

Dear Representative Barr:

SUBJECT: Fiscal Note for HB 2945 by Representative Schauf

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2945 is respectfully submitted to your committee.

HB 2945 would amend KSA 75-6102 to stipulate under the Tort Claims Act that the term "Employee" includes Stewards and Racing Judges of the Kansas Racing Commission regardless of whether their services are rendered as a private contractor.

This act provides state liability for the action of Stewards and Racing Judges when conducted as a part of the performance of their responsibilities.

If no suit is brought against these individuals, no fiscal impact would result from passage of this measure. However, if a suit were made and if the extent of the suit exceeded the capability or expertise of existing counsel for the Commission, then the state would be liable for the additional cost incurred to represent the individual or individuals involved. As no suits against these individuals have been made to date, no basis exists upon which to determine the cost of a suit should one occur. Any such expense would be expected to vary considerably from year to year, with most years having no expense over the expenditures and position limitations as included in the *FY 1990 Governor's Report on the Budget*.

A handwritten signature in black ink, appearing to read "m f o'keefe".

Michael F. O'Keefe
Director of the Budget

cc: Representative Debara Schauf
Dan Hamer, Racing Commission

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HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 1A
March 15, 1990

ADVICE TO A STEWARD

Always take as much time for an important decision as you possibly can.

Never take action against a person until he has had an opportunity to be heard and everyone else who may contribute may be heard as well.

Never disqualify a horse unless the facts are clear. When in doubt don't disqualify.

A disqualification does not indicate a punishment to the rider unless he is guilty of deliberate acts or is guilty of overzealous acts that may hinder another horse, or if he is guilty of carelessness.

Trust everyone until you learn differently, but watch everyone.

Your failure to do your job well is more serious than the act of a careless jockey.

Listen to every complaint. Investigate thoroughly. Get corroboration before action.

Hire a private investigator of your own, at your own expense, if necessary. You owe it to racing to do a good job.

Spend one or two mornings each week in the stable area. Be on hand for scratch time and entry-taking time.

Allow anyone to scratch without questioning his reason if it does not reduce the field below policy requirement. Below that, for any good reason.

Listen to every groom, exercise boy or anyone's complaint and try to render good advice. Be careful not to take action which isn't provided for by rules or law.

Try to encourage a weekly meeting at or before luncheon of all major officials for informal discussion.

Remember that although the Stewards have control over all other officials, each official has his own prerogative and domain. Do not interfere unless absolutely necessary.

Go into the jockeys' room at intervals to inspect for faults and to help.

Do not get too familiar with jockeys or horsemen but be a good friend at all times.

Take a walk around the grounds occasionally to include the track itself. Although you are not responsible for it you should be able to render service when requested.

Study the form of all entries before the races and have established in your mind how each horse should run.

Study every jockey to learn his characteristics.

Learn all racing colors well and identify each horse on the way to the post, noting his equipment as you do so on your program.

Make notes on your program of all happenings in a race that you see and if reported by another, note them but put initials of person reporting. Save your programs.

If anything occurs that may be serious, question the jockeys or persons involved immediately.

Send for people to come to the Stewards' Stand only when time is essential. Otherwise, see them in the Stewards' Room. Make notes of all questions and answers and keep filed for future reference.

Keep your own records of fines and punishments of all persons so you recall more readily when you hear a name.

Never rush to get home after the last race. Take your time as important matters may come up after you leave.

Study track conditions and construction. Spend time with the track superintendent. Carefully watch how a track is worked and why.

Go on the morning rounds with the examining vets. Watch them work and learn to know when they do their work properly - what to look for in physical unfitness and identification marks.

Watch horses train in the morning with any of the trainers you know. Watch feeding, care and comforts of the horse, the grooms and entire stable help - their living conditions, eating facilities, etc.

Stay at the tracks at night for a few hours while horses are being fed and bedded down.

Watch the track being groomed the next day.

Find out about horse feed and where it is obtained; what is used and the prices. All the knowledge that you can obtain about these facts might help you to be of value to the horsemen at some time a dispute may arise.

Study the sanitary conditions around the barn area.

Watch the men under you to assure yourself that they are the right men for the jobs. Don't let sentiment influence you. Misfits spoil the industry. Know each man's job as well or better than they do.

Be careful not to interfere in another man's domain. You are not the manager or other official, or owner, trainer or jockey. Only give advice when you are asked. Don't criticize unless you are sure that you have a remedy for the thing you criticize.

Learn your rule book backwards so you can apply the proper rule to the proper occasion. Always bear in mind that your every act may be reviewable in the courts. Don't be timid but be sure you are right before going ahead.

Have a care for the physical inspection of the jockeys. They must have periodic blood tests as well as physical check-ups to be in the proper condition to ride and do justice for the public who bet their money.

Remember you are the standard. Do all that is right and proper, so live accordingly. If you are not prepared to do just that, don't take on this job because from the day you take it you are like an actor on a stage and neither the public nor the personnel will accept mistakes in conduct.

See everyone who wants to talk with you or the stewards. Insist on respect for the position that you occupy but do not be high-hat with anyone. Do not lower your dignity by entering into word fights or other conflicts. There are plenty of paid police to take care of the unruly.

Be friendly with the press but never partial. Give news to all and not to one or two.

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Responsibilities of Stewards in addition to those already discussed

- (1) Handling scratches;
- (2) Considering approval of jockey change requests and name riders when a trainer has not done so;
- (3) Approving claims;
- (4) Review and make recommendations on license applications;
- (5) Maintaining nominal control over all officials;
- (6) Approve changes in horse ownership upon submission of satisfactory documentation such as a bill of sale;
- (7) Lock pari-mutuel machines;
- (8) Consider requests for changes of equipment;
- (9) Consider requests to work horses out beyond the finish, or between races;
- (10) Decide photo finishes in jurisdictions which have eliminated placing judges;
- (11) Consider approval of lease agreements;
- (12) Give tests for license applicants to be trainers or jockey agents for the first time, or to some licensees from other jurisdictions;
- (13) Maintenance of the Stewards' List;
- (14) Designate horses to be inspected for racing soundness by state or track veterinarians.
- (15) Designate horses to be "specialied"---sent to the Detention Barn, in addition to the winner, for post-race tests, usually both urine and blood, based on a racing performance which was out of character from the horse's recent past performance.

SELECTION, APPOINTMENT AND EMPLOYMENT OF STEWARDS IN CALIFORNIA:
JUDGING THE JUDGES

By Len Foote, California Horse Racing Board

"Steward" is an Anglo-Saxon word, which, during the Middle Ages, denoted the Chief Executive Officer of each of the barons who ruled England, and of the King to whom all owed allegiance. Under feudal law the stewards were the presiding magistrate of the manorial courts while the King's Lord High Steward, though a retinue of Sheriffs, similarly administered justice in the areas directly responsible to the Crown. Generally speaking, the stewards ruled the countryside through the manorial courts while the Sheriffs applied the laws in the larger cities through the Royal Courts. And while Royal Courts were held with pomp and ceremony, often the traditions and customs were overlooked in favor of the artifices of jurisprudence; whereas the stewards recognized any plea made according to the custom of the manor and might well issue a summary judgement from the back of his horse -- a summary judgement based upon the practical customs and experiences of the locale.

Horse racing was a common diversion of gentlemen knights during the Middle Ages and, as today, the results of races were often arguable. Wagers then, as now, rode on the outcome of the decision. And so, if no agreement to the outcome of a race could be decided by the gentlemen participants, the power of decision was placed in the hands of the steward and all abided by the stewards' decision without further contest or appeal.

With a change to the political winds a stronger monarchy developed, the barons and the manorial courts lost their autonomous authority and the Crown gradually assumed the judicial functions of the baronial stewards.

The Lord High Steward retained many of his judicial powers and to this day is the presiding magistrate in the House of Lords, presiding over trials of noblemen before their peers.

But the country barons, relegated to the lower rung of the ladder of nobles retained their interest in sports, especially horse racing, and retained the concept of their principal referee: the steward. Nothing then, nor since, has changed that concept: stewards are the voice of decision in horse racing.

But why three stewards? Well, Henry VIII raced horses and passed a law to eliminate under-sized horses. He adopted a time-honored custom of the judging of such horses by "three honest men" and so the panel of three stewards became accepted for the judging of races. With the adoption of rules for the turf in the reign of James I, and more detailed rules under Charles II, the selection

of judges became more important and the major participants and contributors of the racing meeting met to elect their "stewards". With the founding of The Jockey Club in England, the governors of the Club were designated as stewards, and ultimately, were called upon to render decisions on contested races throughout England pursuant to The Jockey Club rules.

And so, at the race meetings themselves, the stipendiary steward -- that is, a paid official steward -- came into existence while the stewards of The Jockey Club were to act much as a Racing Commission does today, exercising the duties of arbiter of racing disputes brought to them by appeal from a decision of the stipendiary stewards.

Racing in America developed its guiding rules by adoption of The Jockey Club rules. Prominent stewards at early American race meetings included George Washington, Thomas Jefferson and Andrew Jackson. In California, the pioneer Course for racing was opened in San Francisco in 1850 and General Sutter, Samuel Brannan and other notable pioneers served as stewards in California during the Gold Rush period. Stewards were amateurs in those early days in America, whereas in England in 1770 the Jockey Club had appointed its first professional racing official. In criticism of amateur officiating in the United States led - in the 1870's and 1880 - to the hiring of professional racing officials and the Washington Park Jockey Club in the 1880's paid its stewards \$100 per day.

The creation of Racing Commissions and Racing Boards, entities of government empowered to regulate racing, had its historical precedent when the Crown assumed the judicial functions of the stewards. So it is today. With the plethora of racing meetings and the competition for racing dates and racing dollars, the State through its Commission or Board has been called upon to coordinate racing in its jurisdiction and to supervise closely all matters connected with its authorized horse racing. We may have lost a sport and gained a business industry. And as horse racing became more regulated, and with the social changes of our society, more and more the Commission is called upon - as the Crown - to supplant autonomous authority of the stewards. But there is no substitute for daily supervision over racing by the professional racing officials.

The selection of professional racing stewards is not an easy undertaking. A professional - one who engages in a principal calling, vocation or employment - may or may not be required to have long or extensive academic preparation. In the case of the professional steward there is no substitute for the specialized form of knowledge required to officiate successfully at horse racing meetings. Testing by examination is one manner to determine

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whether a candidate possesses that specialized knowledge. Certainly it is not the only means of determining a candidate's knowledge, nor is it always the best way. But the written examination can be used adequately to disqualify among an excess of candidates. The oral interviews by a panel provides additional insight into the steward candidate's temperament, speaking ability, bearing and general fitness. Physical examination requirements provide information as to the overall health of the applicant, and standards for eyesight and hearing must be met. And so we select from the candidates those deemed qualified to serve as steward. But the proof of the ability to perform is the performance itself. So far, in the one year of the program, three new stewards were adjudged qualified: all three for harness racing.

The appointments process is as demanding on the executive as the selection process. With over 950 days of racing in California one would think that the required 3,000 steward man-days would provide plenty of latitude for the process of selection. Not so! The appointments scheduling is a difficult and thankless task to match the right combination of expertise and disciplines into a cohesive Board of stewards. When the appointment schedule is adopted by the Board the next step is the preparation of contracts of employment. Stewards in California are contract employees of the State but are outside the civil service system. Contracts are renegotiated annually; all stewards are - at present - paid the same rate. The Board, in turn, assesses the racing associations for the services of the stewards. The present assessment rate is \$240 per day and an additional \$205 for each Sunday. Stewards receive - without deduction - \$191.53 per day. Additionally, contributions are made on their behalf for retirement and health plans, and there is a \$5 per day meal allowance which in some cases is added to the steward's salary and in other cases paid directly to the association for furnishing a meal. The majority of stewards in California work in excess of 38 weeks per year and in some circuits with Sunday racing may earn \$56,000 to \$60,000 per year. Surely a professional's salary.

The Board demands of its stewards full accountability for the conduct of each race meeting. The stewards advise the Board on the qualifications of the junior racing officials nominated by the association to serve at a meeting; may place the racing officials in their respective working assignments, supervise the racing office procedures to assure rule compliance, provide the Board with professional advice regarding possible rule changes, and in general, act as the Board's surrogates at the race meeting where assigned. This, of course, is in addition to the accepted duties of the stewards as to judging the conduct of the races and the application of administrative law

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penalties on rule violators.

Of all the function of the Racing Board, few are not supervised by the stewards. Among those functions reserved to the Board are: the issuance of occupational licenses, the investigation and enforcement of positive drug cases, matters involving complaints against the stewards themselves, and matters dealing with the license of racing associations.

In summary, the selection of those racing officials to be qualified for appointment as stewards is based upon a certain level of experience and physical, written and oral examinations. The individuals so selected become eligible for appointment by the Board as stewards. Employment contracts are offered to those appointed and the stewards become contract State employees.

We believe the California system, where stewards are classified as public officers of the State, will do much to perpetuate the traditional antecedents of their historical profession: three good and honest men administering justice based on the customs and rules of the sport, beholden to none, fair to all, and experienced and wise in the time-honored sport of kings.

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TOPEKA

HOUSE OF
REPRESENTATIVES

TESTIMONY ON HB2946

By: Representative Debbie Schauf

COMMITTEE ASSIGNMENTS
MEMBER: LABOR AND INDUSTRY
FEDERAL AND STATE AFFAIRS
COMMERCIAL AND FINANCIAL
INSTITUTIONS
JOINT COMMITTEE ON ADMINISTRATIVE
RULES AND REGULATIONS

This bill covers three separate areas which have been identified as problems within our current system.

Item 1: page 3 in lines 3 thru 22

If you will refer to my handout you will find copies of the current medication rules and regulations for greyhounds and for horses.

Current law allows the Commission to establish rules and regulations. You will see that our current rules allow for greyhound kennels to have medication and syringes stored in their kennels. Horse rules do not allow such medication or equipment without the specific written permission of an authorized animal health officer.

I contacted the ARCI which sets the standard for rules of racing in the industry to comment on our rules when I received information as a member of the Rules and Regulations Committee on this apparent conflict. A letter from their director and a copy of their proposed rule for greyhounds is also attached. As you see they do not recommend the language used in Kansas. At a recent Commission meeting, Dr. Rankin, our State Veterinarian, recently reported the following information for the 1989 racing season in Kansas:

At Rooks County 24 horses were tested with 1 sample resulting in a positive test.

At Eureka there were 1571 tested with 22 positives or 1.49%.

At the Woodlands Greyhound Tracks there were 1700 dogs tested with 38 positives of 2.24%.

At Wichita Greyhound Park there were 2379 dogs tested with
44 positives or 1.85%

You all understand the effect drugs or medications can have on the performance of an animal in a race. One of the most important ways to protect the betting public is to insure against the use of drugs or medication to influence the performance of an animal. I would like to see the legislature set a policy in the act that no medication should be stored or administered by anyone other than the animal health officer, however, I would concede to an amendment which would allow such medication administered by a trainer with the written permission of an animal health officer.

I have asked that the Director of Security for the Commission be here today so we can ask him about the problems with the security of enforcing our current rules.

Item 2: Page 22 in lines 15 thru 24

It is very important to make sure the money advertised as purse money be paid to the horse owner. Last year at Eureka Downs the purse money collected from the 6% of the handle became co-mingled with the track's operational money. Because of various management actions, including the payment of purses in excess of the 6% required by law, the horseman's account was short of funds at the end of the year. This shortage was made up by the members of the community and the members of the Fair Board, however, it was that problem which prompted this change in legislation.

In my handout, I have a copy of a balloon amendment which would better clarify the solution we need to achieve.

I have asked that the Director of Parimutuals for the Racing Commission be here today to answer any questions from a regulatory standpoint.

Item 3: The balance of the changes in this bill deal with juvenile offenders who are not convicted as felons but are adjudicated. This language was incorporated in this bill after discussions with the attorney for the Commission and the Director of Security. They are both present to answer your questions.

FSA
2-2
3-15-90

ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL, INC.

NATIONAL HORSE CENTER
KENTUCKY HORSE PARK



4067 IRON WORKS PIKE
LEXINGTON, KY 40511-8434
PHONE (606) 254-4060
FAX (606) 255-4810

January 31, 1990

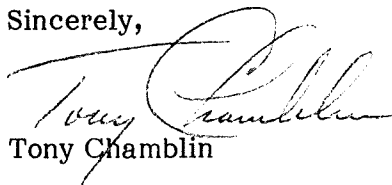
Representative Debbie Schauf
State House
Topeka, KS 66612

Dear Rep. Schauf:

Pursuant to your inquiry, I am enclosing a set of rules for greyhound racing as recommended by this association. With specific reference to your medication question, please see Section 13 (No. 14), page 26.

Please advise if I can be of further assistance.

Sincerely,



Tony Chamblin

TC:ew

Enclosure

Stuart O. Goldsmith
President

Wayne Shumate
President-Elect

Joe M. Smreker
First Vice
President

L. Erich Braun
Second Vice
President

Joseph P. Neglia
Treasurer

Tony Chamblin
Executive Vice
President

SECTION 13

MEDICATION AND DRUGS (cont'd)

9. Refusal to allow the taking of any such specimen or refusal to sign the specimen tag to the taking of a specimen, or any act or threat to impede or prevent or otherwise interfere therewith shall be reported to the Judges who shall subject the person or persons guilty thereof to immediate suspension by the Judges of the meeting and the matter shall be referred to the Commission for such further action as, in its discretion, it may determine.
10. The representative of the Commission may take for analysis samples of any medicine or other materials suspected of containing improper medications or drugs which could affect the racing conditions of a greyhound in a race, which may be found in the track area or in the possession of any person connected with racing on such tracks.
11. Any portion of the purse, if not already paid, which is to be redistributed in accordance with the provisions of this Section, shall be held until such redistribution is approved by the Commission. This rule shall apply only to the amount payable to the owner or owners of the disqualified greyhound and shall not prevent payment due to other greyhounds in the race pending approval of the Commission.
12. Every owner, trainer or authorized agent shall immediately, whenever requested by the Commission, submit any greyhound or greyhounds of which he is owner, trainer or authorized agent, to any Veterinary Surgeon designated by the Commission for such examination or tests as said Veterinarian may deem advisable.
13. Any test or examination made by the Veterinarian designated by the Commission may be witnessed by the Commission or any of its representatives and by the owners or his authorized agent, or by the trainer of the greyhounds so examined or tested.
14. No person within the track enclosure of a greyhound racing association licensed by the Commission shall have in or upon the premises which he occupies or controls or has the right to occupy or control within said track enclosure or in his personal property or effects within said track enclosure any hypodermic syringe, hypodermic needle or other device which could be used for the injection or other infusion into a greyhound or a drug, stimulant, narcotic, depressant or local anesthetic. Every association licensed by the Commission is required to use all reasonable efforts to prevent the violation of this rule.

112-10-34. Drugs or medication, greyhound. (a) No individual shall administer any drug or medication to any greyhound entered in a race for 24 hours before the race in which the greyhound is to run and continuing until after the race is run.

(b) Each laboratory analysis of saliva, urine, blood or other sample taken from a greyhound that indicates the presence of a drug or medication shall be evidence that the drug or medication was present in the greyhound's system during the running of the race.

(c) Except as authorized by these Kansas administrative regulations, if the presence of any drug, its metabolites or analogs, or any substance foreign to the greyhound is detected in the test sample taken from a greyhound at a racetrack facility, the greyhound shall be disqualified by the racing judges. Each owner or trainer of a greyhound disqualified because of a violation of this regulation shall not be paid any portion of the purse or stakes. Each trophy or other award delivered to the owner or trainer of a disqualified greyhound shall be returned.

(d) Despite each provision to the contrary in this regulation, liniments, including Dimethylsulfoxide, may be administered to a greyhound as an external topical application. If the assistant animal health officer determines there has been excessive use of liniment on the racing greyhound, the assistant animal health officer may scratch the greyhound.

(e) Despite each provision to the contrary in this regulation, procaine, trimethoprim and sulfa shall be permitted medications subject to the following condition. Procaine, trimethoprim and sulfa shall not be permitted medications if the racing chemist in consultation with the animal health officer determines that a test sample contains procaine, trimethoprim or sulfa in a quantity considered:

- (1) Significant; or
- (2) capable of altering the performance of a greyhound. Procaine shall not be transported or possessed on the race course.

(f) No individual shall possess, transport or use any drug or medication or equipment for administering a drug or medication within the confines of the kennel compound except when licensed as a veterinarian by the state of Kansas and the commission or when licensed as a kennel owner or trainer by the commission. Each kennel owner or trainer who possesses a drug or medication or equipment for administering a drug or medication shall place the drug or medication in the designated area, including the refrigerator, in the kennel building. Each drug or medication at a racetrack facility shall be in a container bearing a veterinarian's prescription or in the original container bearing the manufacturer's label with the serial or lot number. Each veterinarian or kennel owner or trainer shall not abandon a drug or medication or equipment for administering the drug or medication and shall destroy the equipment before it is discarded. Each drug or medication in the kennel owner's or trainer's possession shall be listed on a form approved by the animal health

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(6) perform other duties prescribed by the animal health officer and the commission.

(f) Each other assistant animal health officer shall:

(1) Be at the racing secretary's or stewards' office to report to the racing secretary or stewards on the assistant animal health officer's inspection of horses and the horses' conditions before scratch time on each race day at the time designated by the stewards;

(2) scratch a horse at any time until the horse enters the starting gate;

(3) determine whether each horse is sound to race and, if a horse is unsound, place the horse's name on the veterinarian's list where it shall remain a minimum of four calendar days;

(4) direct a horse to be isolated or declare the horse ineligible to race if it has symptoms of chronic unsoundness. If a horse is declared ineligible to race, the assistant animal health officer shall report the fact to the stewards who shall write a formal ruling against the horse and write the reason for the ruling on the horse's registration papers;

(5) accompany and observe each field of horses from the time the horses enter the paddock to be saddled for the race until they are dispatched from the starting gate;

(6) be in the paddock to inspect horses after the finish of each race;

(7) in an emergency, treat any horse or humanely destroy any horse that is so seriously injured that the assistant animal health officer believes the action is necessary. Each horse owner and trainer at a racetrack facility, or trainer if the owner is not present, shall consent to the assistant animal health officer's humane destruction of a seriously injured horse; and

(8) perform other duties prescribed by the animal health officer, the senior assistant animal health officer, the stewards or the commission. (Authorized by K.S.A. 1988 Supp. 74-8804; implementing K.S.A. 1988 Supp. 74-8806, 74-8810; effective T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-10-3. Practicing veterinarians. (a) Each practicing veterinarian at a racetrack facility shall be licensed to practice veterinary medicine in the state of Kansas and shall secure an occupation license in accordance with the Kansas parimutuel racing act and commission regulations. Before an occupation license issues, each practicing veterinarian shall meet with the animal health officer to verify that the practicing veterinarian has reviewed article 112 of the Kansas administrative regulations and is informed about existing medication practice. Each practicing veterinarian, the animal health officer and each assistant animal health officer shall be the only individuals who may administer veterinary treatment, medicine or medication to any horse at the racetrack facility or to any horse registered to race at the racetrack facility. Recognized feed supplements, oral tonics or

substances approved by the animal health officer shall not be subject to this regulation.

(b) Each practicing veterinarian at a racetrack facility who treats a horse for any contagious or communicable disease shall report the fact immediately in writing to the animal health officer or assistant animal health officers on a form approved by the animal health officer.

(c) Each practicing veterinarian who treats a horse at a racetrack facility shall record the treatment in a log that has been approved by the animal health officer. Each practicing veterinarian shall deliver the log by 10:00 a.m. of the day after the treatment to the assistant animal health officers' office at the racetrack facility. Each log shall be the practicing veterinarian's commission report.

(d) Each practicing veterinarian at a racetrack facility also shall maintain a treatment record on each horse the practicing veterinarian treats during a race meeting. The records shall be compiled in a form similar to the treatment record ordinarily maintained by the practicing veterinarian in private practice. Each practicing veterinarian shall promptly surrender the treatment records to the commission upon its request. Information to be recorded in the treatment record shall include but not be limited to the:

(1) Name and location of the horse treated;

(2) name of the trainer;

(3) nature of the condition treated or probable diagnosis;

(4) nature of the treatment and medication administered; and

(5) date and hour of treatment.

(e) Each veterinarian shall not leave or abandon or deliver to another individual at a racetrack facility a syringe or injectable medication except upon written authorization of the animal health officer or racing senior assistant animal health officer. (Authorized by K.S.A. 1988 Supp. 74-8804; implementing K.S.A. 1988 Supp. 74-8810, 74-8816; effective T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-10-4. Drugs or medication. Except as authorized by article 112 of the Kansas administrative regulations, each individual shall not administer any drug or medication to any horse entered in a race for 24 hours before the race in which the horse is to run and continuing until after the race is run. If the presence of any drug, its metabolites or analogs, or any substance foreign to the natural horse is detected in the test sample taken from a horse at a racetrack facility, the horse shall be disqualified by the stewards. Each owner or owners of a horse disqualified because of a violation of this regulation shall not be paid any portion of the purse or stakes. Each trophy or other award delivered to the owner or owners of a disqualified horse shall be returned. (Authorized by and implementing K.S.A. 1988 Supp. 74-8811; effective T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

FSA
20-2
3-15-90

TO: Committee on Federal and State Affairs

RE: House Bill No. 2946

My name is Karen Tolle. I am here to represent the Kansas Quarter Horse Racing Association in support of the proposed changes in HB 2946.

The Kansas Quarter Horse Racing Association has been sponsoring races in Kansas since 1951. Prior to the Pari-Mutuel act purse money from these races to the horsemen were distributed through our office.

The races we sponsor in Kansas have a total gross purse of approximately \$450,000.00. These purse monies are for eight different races run at Kansas race tracks.

At a time prior to the finals of these races and when the distribution of the purse is determined, we would like to be able to deposit these funds at the race tracks for their dispersement to the horsemen. To do so we want to be confident that these moneys are handled by a responsible bonded person and that such money is deposited in a specific account and not co-mingled with money for the operation of the race track.

By the tracks being able to distribute these purse monies, it makes the distribution of these purses to the owners, trainers and jockeys more timely.

If the proposed change in HB 2946 is not allowed the Kansas Quarter Horse Racing Association will have no choice but to distribute these purse moneys as done prior to the pari-mutuel act. We need to have assurance that these funds will be placed in the proper accounts for distribution to the horsemen following the running of these races.

Karen S. Tolle
Executive Secretary
Kansas Quarter Horse Racing Association

(g) ~~The commission may provide by rules and regulations for the temporary suspension of~~ The stewards at any horse race meeting and the racing judges at any greyhound race meeting ~~may impose a fine not exceeding \$250 and suspend an occupation license by summary adjudicative proceedings in accordance with the Kansas administrative procedure act. upon finding that there is probable cause to believe that grounds exist for a permanent suspension or revocation of such license.~~ Such suspension shall be for a period not exceeding 30 days. Upon expiration of such suspension, the license shall be restored unless the license has been suspended or revoked pursuant to subsection (f).

HB2946.JAC-cd

STATE OF KANSAS



KANSAS RACING COMMISSION

3400 Van Buren
Topeka, Kansas 66611-2228
(913) 296-5800

TO: Representative Ginger Barr

FROM: Michael W. Jones, Inspector of Parimutuels *MWJ*

RE: Funds Available for Distribution to Charitable Organizations from the Kansas City Racing Facility

DATE: March 15, 1990

On the 6th of March you requested some data on funds available for distribution to charities from the Kansas City racing facility. The following is a projection of available funds arising out of the management agreement between TRAK East and Sunflower Racing, Inc. It was prepared by Arthur Anderson and Company and was paid for by Sunflower. Figures are for calendar years.

| | 1990 | 1991 | 1992 | 1993 |
|-----------|-----------|-----------|-----------|-----------|
| High Case | \$600,450 | \$401,069 | \$470,810 | \$713,876 |
| Low Case | \$250,000 | \$300,000 | \$350,000 | \$400,000 |

There are no projected funds available for 1989 in the agreement. The low case figures shown above reflect the "guaranteed" minimal amount for each year as set out in the agreement. The high case figures reflect the result of the track performing at the top end of the forecasted range of business activity, in which case the agreed upon percentage of net cash flow would yield a higher distribution than the guaranteed figure.

I hope this answers your questions. If not, please let me know and I will provide the additional details you desire.

MWJ#62-cd