

SENATE, No. 3817

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 20, 2021

Sponsored by:
Senator JOSEPH A. LAGANA
District 38 (Bergen and Passaic)

SYNOPSIS

Requires New Jersey Racing Commission to adopt procedures to enforce internal controls; requires annual audit.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the internal controls of the New Jersey Racing
2 Commission, amending P.L.2001, c.199, and amending and
3 supplementing P.L.1940, c.17 (C.5:5-22 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Section 14 of P.L.1940, c.17 (C.5:5-34) is amended to read
9 as follows:

10 14. No person shall be licensed in any capacity whatsoever by
11 the Racing Commission or employed in any capacity whatsoever at
12 any place, track or enclosure where a horse race meeting is
13 permitted who has been convicted of a crime involving moral
14 turpitude. Each person seeking licensure or employment shall
15 submit to the executive director the person's name, address and
16 written consent for a criminal history record background check to
17 be performed. The applicant shall submit to being fingerprinted in
18 accordance with applicable State and federal laws, rules and
19 regulations. The commission shall implement monitoring to ensure
20 licensees' fingerprints are updated and licensees are notified of
21 renewals on a timely basis. The commission shall notify a licensee
22 in writing that their fingerprints are due for renewal when the
23 licensee files an application to renew their license for that calendar
24 year. The commission shall suspend the racing licenses of all
25 individuals who fail to update their fingerprints prior to expiration.
26 The licensee shall not be permitted to participate or be re-licensed
27 until fingerprints are updated by the commission in accordance with
28 all applicable State and federal laws, rules and regulations, and
29 proof of renewal is on file with the Racing Commission and
30 recorded in the Racing Commission's system. The executive
31 director is authorized to receive criminal history record information
32 from the State Bureau of Identification in the Division of State
33 Police and the Federal Bureau of Investigation consistent with
34 applicable State and federal laws, rules and regulations. Upon
35 receipt of such notification, the executive director shall make a
36 determination regarding the person's eligibility for licensure or
37 employment. The applicant shall bear the cost for the criminal
38 history record background check, including all costs of
39 administering and processing the check. The Division of State
40 Police shall promptly notify the executive director in the event a
41 current or prospective licensee or employee, who was the subject of
42 a criminal history record background check pursuant to this section,
43 is convicted of a crime or offense in this State after the date the
44 background check was performed.
45 (cf: P.L.2003, c.199, s.2)

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 2. Section 17 of P.L.1940, c.17 (C.5:5-37) is amended to read
2 as follows:

3 17. a. The commission shall appoint a State steward and two or
4 more associate State stewards in the case of a running race meeting
5 and a State steward, presiding judge, and two or more associate
6 judges in the case of a harness race meeting, which stewards and
7 judges shall meet qualifications and standards established by the
8 commission in rules and regulations promulgated pursuant to the
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.); and a State veterinarian and such associate State veterinarians
11 as the commission deems necessary, who shall be licensed or
12 approved to practice in this State by the State Board of Veterinary
13 Medical Examiners, to serve at each horse race meeting held under
14 a permit issued under this act. These officials shall devote full-time
15 to their duties during each meeting at which they serve; shall be in
16 the unclassified service under Title 11A (Civil Service) of the New
17 Jersey Statutes and serve at the pleasure of the commission; and
18 shall, where practicable, be rotated among the running race and
19 harness tracks as appropriate. The compensation of these officials
20 shall be fixed by the commission and shall be paid weekly by the
21 holder of a permit at whose horse race track the officials shall serve.
22 These officials shall have full and free access to any portion of the
23 space or enclosure where such horse race meeting is held and shall
24 have such powers and duties as the commission may from time to
25 time delegate to them under the provisions of this act.

26 b. The commission shall employ persons to supervise the
27 operation of mutuels at each horse race meeting held under a permit
28 issued pursuant to P.L.1940, c.17 (C.5:5-22 et seq.). These
29 employees shall be in the unclassified service under Title 11A
30 (Civil Service) of the New Jersey Statutes. The compensation of
31 these employees shall be paid by the commission, which shall be
32 reimbursed by the permit holders at whose racetracks these persons
33 serve. Such compensation shall be computed based on the number
34 of days that each person has worked at each track and shall be
35 remitted to the commission on a monthly basis. The persons
36 employed by the commission to supervise the operation of mutuels
37 shall have full and free access to any portion of the space or
38 enclosure where such horse race meeting is held and shall have such
39 powers and duties as the commission may from time to time
40 delegate to them under the provisions of P.L.1940, c.17 (C.5:5-22 et
41 seq.).

42 c. The commission and the Department of Law and Public
43 Safety Information Technology Unit shall monitor all employees
44 who have access to use the New Jersey Racing Commission
45 Licensing, Mutuels, and Bleeder's system, which records revenue
46 billed and collected, rulings and fines issued, and related horse data.
47 The commission shall review, every six months, access privileges
48 granted to employees who use the system to determine whether

1 access rights are commensurate with the employees' job duties and
2 classification. The commission shall develop and adopt a formal
3 written policy establishing rules to grant and remove employee
4 access privileges to the system. The written policy shall establish
5 and document formal account creation, registration, and removal
6 processes including a written or electronic request from an
7 appropriate authorized manager. The executive director of the
8 commission or his or her designee shall be designated as the person
9 responsible for the oversight and administration of monitoring
10 employee access privileges. The executive director shall document
11 and implement internal controls sufficient to ensure the safe and
12 proper access to the system and to mitigate the potential for fraud
13 and abuse.

14 (cf: P.L.1992, c.120, s.1)

15

16 3. (New section) a. To maintain proper oversight of the
17 general health of race horses and to observe trends in racing-related
18 fatalities of race horses, verbal notification of the death of a race
19 horse shall be reported to the State Steward or a New Jersey Racing
20 Commission veterinarian within one hour of the race horse's death.
21 The race horse's carcass shall not be removed without the written
22 authorization of the State Steward or the Chief State Veterinarian,
23 or their designee. To prevent the unauthorized removal of the
24 remains of a deceased race horse and to ensure that complete and
25 adequate information is provided to the commission, the carcass of
26 a race horse that died on the racetrack shall be transported to a
27 facility identified by the commission as qualified to conduct a post-
28 mortem necropsy. The post-mortem necropsy shall be conducted
29 by a qualified veterinarian on the remains of any race horse that
30 died on the racetrack during racing or training, or which died within
31 one hour after racing or training on a racetrack, to determine the
32 cause of death.

33 b. An equine fatality report shall be submitted to the
34 commission regarding any equine death occurring on the grounds of
35 any licensed racetrack or approved off-track stabling facility. It
36 shall be the responsibility of the trainer or custodian of the deceased
37 animal to file the report which shall be complete in all particulars
38 with the commission's State Steward or Chief State veterinarian
39 within 48 hours of the equine death. The commission shall time
40 stamp each equine fatality report upon receipt and review for
41 completeness within three days of receipt of the report. The
42 completed review of the report shall be signed by the executive
43 director of the commission and each of the commissioners
44 certifying the review.

45 c. The report shall be on forms prescribed by the commission
46 and shall include the following information and any other
47 information deemed necessary by the commission:

- 1 (1) Name and tattoo number of deceased equine or other
- 2 registration identification such as freeze brands and microchips;
- 3 (2) Trainer of record;
- 4 (3) Owner of record and particulars regarding purchase of
- 5 equine;
- 6 (4) Particulars as to time, date and place of death;
- 7 (5) Disclosure of any post-mortem examination;
- 8 (6) Attending veterinarian;
- 9 (7) Cause of death;
- 10 (8) Particulars as to removal of carcass; and
- 11 (9) Pertinent information regarding existing insurance coverage.

12
13 4. Section 48 of P.L.1940, c.17 (C.5:5-68) shall be amended as
14 follows:

15 48. a. All moneys received by said commission under the
16 provisions of this act shall be by it paid into the State treasury and,
17 except as to moneys deposited in the New Jersey Horse Breeding and
18 Development Account, or distributed as otherwise provided by law,
19 shall be part of the free treasury funds.

20 b. The commission shall ensure that all revenues collected are
21 deposited in a timely manner, properly recorded in the State
22 accounting system, and accounted for in the Racing Commission's
23 system and that State funds are deposited on the same day as received.
24 All deposits are to be recorded in the State accounting system with
25 dates that are consistent with the actual credit date to the State bank
26 account.

27 The commission shall be responsible for retaining all
28 documentation relating to deposits. The documentation shall include
29 either the deposit slip or other appropriate documentation relating to
30 electronic credit to the State bank account.

31 (1) For physical deposits, cash and checks, the date of entry of
32 funds into the State accounting system shall correspond to the bank
33 validation on the deposit slip.

34 (2) For electronic receipts such as wire transfers and Automated
35 Clearing House credits, the date of entry of funds into the State
36 accounting system will correspond to the actual date the funds are
37 credited by the bank. The Office of Management and Budget shall
38 advise the commission of the receipt of electronic funds.

39 (3) Networks shall be established to communicate information
40 directly from the bank to the depository agency for high volume
41 applications.

42 (4) Foreign checks shall be deposited separately and presented at
43 the bank for collection. The exchange amount credited on the
44 validated deposit slip shall be entered into the State accounting system.
45 Foreign checks shall not be an acceptable form of payment and shall
46 be discouraged

47 c. The commission shall manage the collection of unpaid and
48 overdue amounts associated with fines, fees, penalties, and other

1 assessments, other than non-tax debt, to ensure all efforts are expended
2 to maximize revenue and operational efficiency. All fines imposed by
3 the commission shall be paid by the due date indicated in the ruling.
4 The commission shall make every effort to collect amounts due. If the
5 fine is not paid, the licensee shall be suspended and placed on the
6 security guide in the New Jersey Racing Commission Licensing,
7 Mutuels, and Bleeder's system. The licensee shall not be permitted to
8 participate or be re-licensed until the fine is collected by the
9 commission. If the commission is not able to collect a debt within 90
10 days, the account shall be transferred to the Department of the
11 Treasury, Division of Revenue and Enterprise Services, Cross Agency
12 Collection and Services Bureau for further collection efforts.

13 d. All non-tax debt that is only on the records of the commission
14 and the Division of Revenue and Enterprise Services and deemed
15 uncollectible and eligible for write-off by the Division of Revenue and
16 Enterprise Services shall be submitted to the Chief of the Division of
17 Revenue and Enterprise Services, Cross Agency Collection and
18 Services Bureau for final approval of removal of uncollectible non-tax
19 debt from the commission's records. Those non-tax debts that appear
20 in the State's general ledger shall be submitted to the Director of the
21 Office of Management and Budget for final approval of removal.
22 Once final approval has been obtained, those accounts may be
23 removed from the record of the commission.

24 (cf: P.L.1971, c. 45, s. 2)

25

26 5. Section 27 of P.L.2001, c.199 (C.5:5-153) is amended to
27 read as follows:

28 27. The commission shall establish and administer a separate
29 fund to be known as the "New Jersey Racing Industry Special
30 Fund" into which shall be deposited the sums dedicated to the fund
31 by sections 19, 21 and 25 of this act. Money deposited in this
32 special fund shall be disbursed monthly by the commission and
33 used as follows:

34 a. 92% shall be distributed as follows:

35 (1) in the case of money deposited into the special fund from the
36 off-track wagering facility located on the former site of the Atlantic
37 City Race Course, or, if no off-track wagering facility exists on that
38 former site, the off-track wagering facility located closest to that
39 former site, 100% to permit holders conducting thoroughbred
40 racing;

41 (2) except as provided in paragraph (1), 65% to permit holders
42 conducting thoroughbred racing and 35% to permit holders
43 conducting harness racing;

44 Of the allocations made pursuant to this subsection to permit
45 holders conducting thoroughbred racing, specific distributions shall
46 be made to the overnight thoroughbred purse account of each permit
47 holder and for programs designed to aid the thoroughbred horsemen
48 and the New Jersey Thoroughbred Horseman's Association.

1 Expenditures for programs designed to aid the thoroughbred
2 horsemen and the New Jersey Thoroughbred Horseman's
3 Association shall not exceed 2.9% of such allocations. Distribution
4 among thoroughbred permit holders shall be based on the following
5 formula: total overnight thoroughbred purse distribution for each
6 permit holder in the prior calendar year divided by the total
7 overnight thoroughbred purse distribution of all permit holders in
8 the prior calendar year. Notwithstanding the foregoing, the sum
9 allocated to permit holders conducting thoroughbred races under
10 this subsection may be distributed as provided by a contractual
11 agreement authorized under section 12 of P.L.2013, c.266 (C.5:5-
12 189).

13 Of the allocations made pursuant to this subsection to permit
14 holders conducting standardbred racing, specific distributions shall
15 be made to the overnight standardbred purse account of each permit
16 holder and for programs designed to aid the standardbred horsemen
17 and the Standardbred Breeders' and Owners' Association of New
18 Jersey. Expenditures for programs designed to aid the standardbred
19 horsemen and the Standardbred Breeders' and Owners' Association
20 of New Jersey shall not exceed 5% of such allocations. Distribution
21 among standardbred permit holders shall be based on the following
22 formula: total overnight standardbred purse distribution for each
23 permit holder in the prior calendar year divided by the total
24 overnight standardbred purse distribution of all permit holders in
25 the prior calendar year. Notwithstanding the foregoing, the sum
26 allocated to permit holders conducting harness racing under this
27 subsection may be distributed as provided by a contractual
28 agreement authorized under section 11 of P.L.2013, c.266 (C.5:5-
29 188).

30 b. 8% shall be distributed as follows:

31 (1) in the case of money deposited into the special fund from the
32 off-track wagering facility located on the former site of the Atlantic
33 City Race Course, or, if no off-track wagering facility exists on that
34 former site, the off-track wagering facility located closest to that
35 former site, 100% to thoroughbred funds; and

36 (2) except as provided in paragraph (1), 65% to thoroughbred
37 funds and 35% to harness funds.

38 Of the amounts distributed to thoroughbred funds pursuant to
39 this subsection, the following distributions shall apply: 94% to
40 Thoroughbred Breeders and Stallions; 3% to Backstretch
41 Benevolency; and 3% to Breeding and Development.

42 Of the amount distributed to harness funds pursuant to this
43 subsection, the following distributions shall apply: 75% to Sire
44 Stakes; 8% to Breeders and Stallions; 3.5% to Backstretch
45 Benevolency; 10% to Health and Welfare; and 3.5% to Breeding
46 and Development.

47 c. In the case of interfund transactions between the New Jersey
48 Racing Industry Special Fund and the General Fund, the

1 commission shall process the transaction with the assistance of the
2 Department of Treasury.

3 (cf: P.L.2013, c.266, s.6.)
4

5 6. (New section) a. The commission, at the end of each fiscal
6 year, shall cause to be made an audit to determine whether certain
7 internal controls of the commission have been enforced. The audit
8 shall include:

9 (1) an annual review, including findings and recommendations,
10 made by the commission to ensure that all fingerprinting procedures
11 are followed to determine whether licensees' fingerprints are
12 recorded and updated in a timely manner in accordance with all
13 applicable State and federal laws; licensees are notified of renewals
14 in writing that their fingerprints are due for renewal when they file
15 an application to renew their license for that calendar year; and
16 licensees who fail to update their fingerprints have their licenses
17 suspended and are not eligible to participate until their fingerprints
18 are updated and proof of renewal is on file with the commission.

19 (2) an annual review, including findings and recommendations,
20 made by the commission and the Department of Law and Public
21 Safety Information Technology Unit verifying the findings of each
22 six-month review of all employees' access privileges to the New
23 Jersey Racing Commission Licensing, Mutuels, and Bleeder's
24 system to ensure that all employees access privileges are authorized
25 and commensurate with their job duties and classifications.

26 (3) an annual review, including findings and recommendations,
27 of all equine fatality reports to ensure that they are complete and
28 submitted in a timely manner to the commission during the fiscal
29 year.

30 (4) an annual review, including findings and recommendations,
31 made by the State Treasurer to ensure that all fiscal year revenues
32 collected are deposited in a timely manner, properly recorded in the
33 State accounting system, and accounted for in the Racing
34 Commission system. The annual review shall ensure that all State
35 funds are deposited on the same day as received and that all
36 deposits are recorded in the State accounting system with dates that
37 are consistent with the actual credit date to the State bank account.

38 (5) an annual review, including findings and recommendations,
39 made by the commission and the Division of Revenue Enterprise
40 Services in the Department of Treasury of the fines, fees, and
41 penalties imposed and collected by the commission to ensure that
42 the licenses of individuals who do not pay their fines are suspended
43 and that unpaid fines after 90 days are transferred to the Division of
44 Revenue Enterprise Services.

45 (6) an annual review, including findings and recommendations,
46 made by the State Treasurer of all interfund transactions between
47 the New Jersey Racing Industry Special Fund and the General Fund

1 to ensure that all such transactions are processed and accounted for
2 properly and with the assistance of the Department of Treasury

3 b. The executive director of the commission shall publish a
4 report of the findings and recommendations of each of the
5 individual reviews required to be included in the audit and an
6 evaluation of those findings and recommendations and deliver it to
7 each commissioner of the commission by December 30 of each
8 fiscal year. The executive director of the commission and the
9 commissioners shall certify that they have received the audit report
10 within seven days of receipt.

11 c. The commissioners shall, within 60 days of receipt of the
12 audit report, review the audit report, findings and
13 recommendations, and evaluative comments; recommend actions
14 they deem necessary to correct any identified deficiencies in
15 internal controls; acknowledge in writing that they have read the
16 audit report, findings and recommendations, and evaluative
17 comments; and certify that it does not contain any untrue statement
18 of a material fact or omission of a material fact that makes the
19 statements misleading and that based on their knowledge, the audit
20 presents all material aspects of the internal controls and operating
21 results of the commission.

22 d. A corrective action plan of any identified deficiencies shall
23 be completed under the direction of the executive director of the
24 commission by April 30 of each fiscal year. Copies of the audit
25 report, recommendations, and the corrective action plan shall be
26 transmitted to the Attorney General's Office and the Legislature by
27 May 15, of each fiscal year.

28 e. The audit report, recommendations, and corrective action
29 plan shall be included in an appropriate section on the
30 commission's website.

31 f. The costs for the annual audit shall be borne by the
32 commission and shall not be passed through to the racetracks.

33
34 7. This act shall take effect immediately.
35
36

37 STATEMENT

38
39 This bill is in response to the comments and recommendations
40 contained in the State Auditor's Report regarding a July 1, 2016 to
41 March 31, 2020 review of selected programs of the New Jersey
42 Racing Commission in the Department of Law and Public Safety.

43 The bill will establish procedures to enforce internal controls of
44 the New Jersey Racing Commission. The bill will require an annual
45 audit to ensure those procedures are followed. The bill requires the
46 enforcement of internal control monitoring procedures to ensure
47 that all licensees of the commission have their fingerprints taken
48 and that all fingerprints are renewed in a timely manner and in

1 accordance with all applicable State and federal laws; all
2 employees' access privileges to the New Jersey Racing Commission
3 Licensing, Mutuels, and Breeders system are authorized and are
4 commensurate with their job duties and classification; all equine
5 fatality reports are complete and submitted in a timely manner to
6 the commission during the fiscal year; all revenues are collected in
7 a timely manner, properly recorded in the State accounting system,
8 and accounted for in the New Jersey Racing Commission Licensing,
9 Mutuels, and Breeders system; all fines and fees imposed on
10 licensees are collected and licensees who do not pay their fines are
11 suspended; and all interfund transactions between the New Jersey
12 Racing Industry Special Fund and the General Fund are processed
13 with the assistance of the Department of Treasury.