

Colorado Racing Commission
August 17, 2022
Meeting Minutes

Call to Order

The regular scheduled meeting of the Colorado Racing Commission (“Commission”) was held on Wednesday, August 17, 2022 via video conference provided by Zoom and in person in the Directors Room at Bally’s Arapahoe Park Horse Track. The meeting was called to order at 9:40 AM.

Members Present

David Lynn Hoffman, Chair (In-person)
Tina Estes, Vice Chair (Remote)
Sandra Bowen, Member (In-person)

Staff Present

Donia Amick, Director of the Division of Racing Events
Janina Rivera, Executive Assistant to Division Director
Sarah Killeen, Assistant Attorney General
Zach Ceriani, Policy Analyst
Ed Kulp, Agent in Charge
Suzanne Karrer, Communications Supervisor for the Specialized Business Group

Motion to move agenda item 3, Annual Commissioner Training to after agenda item 5, Protocol and Procedures.

Motion made by Commissioner Bowen to move agenda item 3, Annual Commissioner Training, to follow agenda item 5, Protocol and Procedures with Racing Commission and Staff, with a second made by Commissioner Estes.

Motion passed unanimously.

1. Approval of 6.14.2022 Minutes

Minutes approved for June 14, 2022.

DISCUSSION ITEMS

- 2 Presentation of HISA update information

Sarah Killeen, AAG provided an overview of the Horseracing Integrity and Safety Act (HISA). She stated it was implemented into law in December of 2021 and is Federally mandated. She said HISA only applies

to Thoroughbred horses with the option for other breeds to join. The HISA safety rules went into effect in July of this year and the medication violation rules are still being drafted. Several lawsuits have been filed against HISA with the majority of them being dismissed. Currently, Louisiana and West Virginia have filed a lawsuit against HISA which the Division and AG is monitoring.

Chair Hoffman asked what powers does HISA have?

Sarah Killeen, AAG responded that the authority granted by the HISA statute is to regulate horseracing nationally that are involved in interstate commerce.

Chair Hoffman asked about the HISA rule-making process?

Sarah Killeen, AAG responded that the federal Administrative Procedure Act (APA) provides a comment period. HISA published the safety rules for 15 days.

4 Advanced Deposit Wagering (ADW) Memorandum

Zach Ceriani, Policy Analyst explained an ADW is an Advance Deposit Wagering facility. By Colorado law, an ADW is located outside of Colorado but takes wagers on races from Colorado residents. Each ADW pays a licensing fee that can be up to ten percent of "gross receipts of all pari-mutuel wagering by Colorado residents conducted by the [ADW]." §44-32-501(1)(d), C.R.S. The current fee is five percent, which means that ADWs pay five percent of the handle they receive from Colorado bettors in fees.

The licensing fee is called a "source market fee" or "SMF." Source market fees are collected by the director and credited to the Racing Cash Fund to pay the direct and indirect costs of administering the Racing Statute. §§ 44-32-706(2) and (3). The Department of Revenue Budget Unit works with the Division and the Joint Budget Committee to determine the Division's budget – or appropriation – for the next fiscal year, which runs from July 1 to June 30. The 2022-2023 appropriation was approximately \$1.8M.

State law caps the revenue the Division can collect based on the appropriation. Because the SMF owed by statute have historically exceeded the appropriation, the legislature empowered the Director with the ability – but not the requirement – to direct the ADWs to pay the SMF to the purse trust instead of the Racing Cash Fund. § 44-32-202(2)(h)(II), C.R.S. This ability may only be exercised "if the director determines that such an allocation is necessary to maintain a sufficient and competitive purse structure." Id. Otherwise, the only alternative is to refund the SMF back to the ADWs.

Once the SMF has been placed into the purse trust, the director may also authorize the release of the ADW funds "as otherwise authorized by rules of the commission." § 44-32-702(1)(f)(II), C.R.S. Rule 6.114 permits the use of SMF money "for the limited purposes of ensuring the continuity of racing operations or Capital Improvements to the licensed racing facility." CRCR 6.114.

ADW handle statistics are reported to the Division within a few days of the start of the month. A Division employee sends each ADW a notice which states the amount that is owed and the account (Racing Cash Fund vs. Purse Trust) that the funds are to be deposited into.

Chair Hoffman asked who can bet with an ADW?

Zach Ceriani, Policy Analyst responded that any Colorado resident can bet with an ADW.

Chair Hoffman asked to explain cash funding

Director Amick responded that cash funding is funding that comes from licensing fees or source market fees.

Bruce Seymore, Executive Director of Mile High Racing & Entertainment agreed with the majority of what Mr. Ceriani said. He did not however agree that ADW funds were available for only the continuity of racing. Bruce said the initial intent of the ADW fund was for the money to be available for purses or to be used for something the track and CHA agreed on.

Jim Mulvihill, Interim Director of Colorado Horseracing Association (CHA) wanted to know how the ADW money is tracked.

Director Amick reported that the division is working to be as transparent as possible. A new full time auditor position will soon be posted and the division has granted CHA access to the view transactions in the purse trust account.

Jim Mulvihill, Interim Director of the Colorado Horseracing Association (CHA) commented that at the moment there is no simple place for him to reference how much is in the purse fund.

5 Protocol and Procedures with Racing Commission and Staff - Bruce Seymore, Executive Director of Colorado Operations Ballys at Arapahoe Park

Bruce Seymore, Executive Director of Mile High Racing & Entertainment presented a question and that question being who is in charge of the division? Is it the division, is it the Commission or is it a combination of the two? He requested clarification and how they are going to operate going forward. He goes on to mention he wants to make things better and move forward not backwards.

Chair Hoffman stated that the industry is losing the betting population and has organizations that want to stop horse racing. He said the industry is expensive and Arapahoe park being an investment company of Bally's, why they are not seeing potential revenue. He also stated that the division has worked with HISA without the Commission. Commissioner Hoffman expressed a desire for a rule that mandates the Division work with the Commission on HISA matters going forward.

Jim Mulvihill, Interim Director of the Colorado Horseracing Association (CHA) suggested that all parties come together on a regular basis for better communication and problem solving.

3 Annual Commission Training

Sarah Killeen, AAG presented the annual commission training to the Commissioners present.

Adjournment

The August 17, 2022 meeting of the Colorado Racing Commission was adjourned at 11:42 a.m.

Minutes Approved by the Commission

Janina Rivera

Janina Rivera, Executive Assistant to the Director

I certify these minutes were approved by the Commission on the 11th day of October, 2022