

Racing

Editor's note: This article 32 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 32, see the comparative tables located in the back of the index.

PART 1

GENERAL PROVISIONS

44-32-101. Legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) The provisions of this article 32 are enacted through the exercise of the police powers of this state for the protection of the health, peace, safety, and general welfare of the people of this state;

(b) Horse racing is an inherently dangerous sport. Race horses weigh in excess of one thousand pounds, are almost six feet in height at the withers, and can run faster than thirty miles per hour. Horse racing brings significant physical risks to humans and horses. Jockeys and other persons working with horses have been injured before, during, and after horse races, occasionally resulting in death. As a result of these risks, it is crucial that persons working with horses in racing must at all times be free of any substances that might impair their judgement, reflexes, or ability to control a horse. Recent drug testing of horse racing licensees has shown instances of illegal drug use and consumption of alcohol in excess of statutory limitations, which could, therefore, endanger both human and equine participants. The most effective method of preventing alcohol and drug abuse and ensuring the safety of all persons and animals included in the sport of horse racing is to establish a program of alcohol and drug testing.

(c) The purposes of this article 32 include:

(I) Promoting racing and the recreational, entertainment, and commercial benefits to be derived therefrom;

(II) Raising revenue for the general fund;

(III) Establishing high standards of sport and fair play;

(IV) Protecting the health and safety of all participants, human and animal, involved in racing events both on and off the racetrack; and

(V) Fostering honesty and fair dealing in the racing industry.

(2) This article 32 shall be liberally construed for all the stated purposes in this section.

Source: L. 2018: Entire section amended, (SB 18-172), ch. 129, p. 850, § 1, effective April 12; entire article added with relocations, (HB 18-1024), ch. 26, p. 286, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-101 as it existed prior to 2018.

(2) This section was numbered as § 12-60-101 in SB 18-172. That section was harmonized with and relocated to this section as this section appears in HB 18-1024.

44-32-102. Definitions - rules. As used in this article 32, unless the context otherwise requires:

(1) "Breakage" means the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of ten cents.

(2) (a) "Class A track" means a track, located within the state of Colorado, at which a race meet of horses is conducted and that is not a class B track.

(b) "Class A track" includes a reopening class A track that has not run a meet within the past three years. Such class A track may begin to operate as a simulcast facility after the commission has approved its application for simulcasting and its application for race dates to hold a race meet within the following twelve months. Applications submitted to the commission shall include a provision for the establishment of a purse fund that complies with this article 32 and the rules of the commission.

(3) "Class B track" means a track, located within the state of Colorado, at which a race meet of horses, consisting of thirty or more race days, is being conducted or was being conducted during the immediately preceding twelve months.

(4) "Commission" means the Colorado racing commission created in part 3 of this article 32.

(5) "Cross simulcasting" means the receipt of a simulcast race of greyhounds at an out-of-state host track by a simulcast facility that is located on the premises of a track that is licensed to race horses.

(6) "Director" means the director of the division of racing events.

(7) "Division" means the division of racing events created in part 2 of this article 32.

(8) "Horse track" means either a class A track or a class B track.

(9) "Host track" means either an in-state host track or an out-of-state host track.

(10) "In-state host track" means a track, located within the state of Colorado, at which a race meet of horses is conducted.

(11) (a) "In-state simulcast facility" means:

(I) A class A or class B horse track at which a licensee has held within the preceding twelve months or is licensed and scheduled to hold within the following twelve months a race meet of at least the duration required of a class A or class B track;

(II) An additional facility that is operated by and is the responsibility of the licensee of a class B horse track, located in Colorado, and used for the handling of wagers placed on simulcast races received by the track or facility. The number of additional facilities cannot exceed the total number of facilities licensed to hold a race meet in 2003 plus one additional facility per licensee as authorized under this article 32. The additional facilities must be licensed in accordance with section 44-32-504 and must not be located within fifty miles of any class B horse track operated by another licensee without the written consent of the other licensee. The commission shall establish by rule the means of obtaining the consent.

(b) If an additional facility is jointly owned or operated as a simulcast facility by two or more licensees, the additional facility shall be deemed to be one of the additional simulcast facilities of only one of the licensees, as designated in writing to the commission.

(c) The commission, for good cause, may grant a licensed class A horse track permission to receive simulcast races at an alternate location within five miles of its track during the times when the track is not in operation.

(12) "Interstate common pool" means a pari-mutuel pool established at one location, usually but not necessarily at a host track, within which pool are combined comparable pari-mutuel pools of one or more simulcast facilities upon a race run at the host track for purposes of establishing payoff prices in the various states. There may be simulcast facilities in more than one state simultaneously combining pari-mutuel pools into the common pool of the host track. Where permitted by the laws and rules of the states in which the host track and the simulcast facilities are located and with the concurrence of the host track, the combined pari-mutuel pool may be established on a regional or other basis between two or more simulcast facilities and need not involve a merger into the host track's pari-mutuel pool. In such instances, one of the simulcast facilities shall serve as if it were the host track for the purposes of holding the common pool and calculating payoffs. The interstate common pool shall be as specified in the written simulcast racing agreement between the host track and the person operating the simulcast facility receiving the simulcast races.

(13) "Intrastate common pool" means a pari-mutuel pool, established for an in-state host track, that includes wagers made at the in-state host track as well as wagers made at in-state simulcast facilities on simulcast races of live races run at the in-state host track.

(14) "Licensee" means any person holding a current, valid race meet license issued pursuant to section 44-32-505 and any person holding a current, valid license or registration issued by the commission pursuant to sections 44-32-503 and 44-32-504. The commission, by rule, shall determine which occupational categories shall be licensed and which shall be registered. Except in connection with the licensing of race meets, the term "license" includes a registration and "applicant" includes an applicant for a registration.

(15) "Out-of-state host track" means a track, located within a state other than Colorado, that is licensed or otherwise properly authorized under the laws of the state to conduct live races of horses or greyhounds and to broadcast the races as simulcast races and that broadcasts the simulcast races to an in-state simulcast facility.

(16) "Out-of-state simulcast facility" means a track or other facility, located within a jurisdiction other than Colorado, at which pari-mutuel wagers are placed or accepted, either in person or electronically, on simulcast races pursuant to proper authorization under the laws of the jurisdiction.

(17) "Pari-mutuel pool" means a wagering pool into which pari-mutuel wagers on a live race or on a simulcast race are taken.

(18) "Pari-mutuel wagering" means a form of wagering on the outcome of horse and greyhound races in which those who wager purchase tickets of various denominations on one or more horses or greyhounds from one or more pools and all like wagers from each race are pooled and the winning ticket holders are paid prizes from the pool in amounts proportional to the total receipts in the pool minus deductions authorized by statute.

(19) "Person" means any individual, partnership, firm, corporation, or association.

(20) "Race meet" means any live exhibition of racing involving horses registered within their breed, conducted at a track located within the state of Colorado and operated by a licensee under a license granted pursuant to section 44-32-505, where the pari-mutuel system of wagering is used.

(21) "Simulcast facility" means either an in-state simulcast facility or an out-of-state simulcast facility.

(22) "Simulcast race" means a live, audio-visual broadcast, transmitted simultaneously with either the performance of a live race of horses or greyhounds by an out-of-state host track or the performance of a live race of horses by an in-state host track, that is received by a simulcast facility.

(23) "Source market fee" means a licensing fee, assessed by the director pursuant to section 44-32-202 (3)(h), in lieu of taxes and fees otherwise payable under this article 32, payable by persons outside of Colorado who conduct pari-mutuel wagering on simulcast races and who accept wagers from Colorado residents at out-of-state simulcast facilities.

(24) "Track" or "racetrack" means a track that is located within the state of Colorado and at which a race meet of horses is conducted under a license granted pursuant to section 44-32-505.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 287, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-102 as it existed prior to 2018.

44-32-103. Division and commission subject to termination. The provisions of section 24-34-104 concerning the termination schedule for regulatory bodies of the state, unless extended as provided in that section, are applicable to the division of racing events created by section 44-32-201 and the Colorado racing commission created by section 44-32-301.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 290, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-103 as it existed prior to 2018.

Cross references: For the repeal date of this article 32, see § 44-32-901.

PART 2

DIVISION OF RACING EVENTS

44-32-201. Division of racing events - creation - representation - rules. (1) There is hereby created, within the department, the division of racing events, the head of which shall be the director of the division of racing events. The director shall be appointed by, and shall be subject to removal by, the executive director of the department. The division of racing events, the Colorado racing commission created in section 44-32-301, and the director of the division of racing events shall exercise their respective powers and perform their respective duties and functions as specified in this article 32 under the department as if the same were transferred to the department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24; except that the commission shall have full and exclusive authority to promulgate rules related to racing without any approval by, or delegation of authority from, the department.

(2) The division shall make investigations and shall request the commission or the district attorney of any district, as appropriate, to prosecute, on behalf of and in the name of the division, suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the division.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 290, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-201 as it existed prior to 2018.

44-32-202. Director - qualifications - powers and duties - rules. (1) The director shall be qualified by training and experience to direct the work of the division; and, notwithstanding the provisions of section 24-5-101, shall be of good character and shall not have been convicted of any felony or gambling-related offense.

(2) The director shall not engage in any other profession or occupation that could present a conflict of interest with the director's duties as director of the division.

(3) The director, as administrative head of the division, shall direct and supervise all administrative and technical activities of the division. In addition to the duties imposed upon the director elsewhere in this article 32, it shall be the director's duty:

(a) To investigate, supervise, and administer the conduct of racing in accordance with the provisions of this article 32 and the rules of the commission;

(b) To attend meetings of the commission or to appoint a designee to attend in the director's place;

(c) To employ and direct personnel as may be necessary to carry out the purposes of this article 32, but no person shall be employed who has been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101. The director by agreement may secure and provide payment for such services as the director may deem necessary from any department, agency, or unit of the state government and may employ and compensate such consultants and technical assistants as may be required and as otherwise permitted by law. Personnel employed by the director shall include but shall not be limited to a sufficient number of veterinarians, as defined in the "Colorado Veterinary Practice Act", article 64 of title 12, so that at least one veterinarian employed by the director, or by the operator, as provided in section 44-32-706 (1), shall be present at every racetrack during weighing in of animals and at all times that racing is being conducted; and the director shall by rule authorize any such veterinarian to conduct physical examinations of animals, including without limitation blood and urine tests and other tests for the presence of prohibited drugs or medications, to ensure that the animals are in proper physical condition to race, to prohibit any animal from racing if it is not in proper physical condition to race, and to take other necessary and proper action to ensure the health and safety of racing animals and the fairness of races.

(d) To confer, as necessary or desirable and not less than once each quarter, with the commission on the conduct of racing;

(e) To make available for inspection by the commission or any member of the commission, upon request, all books, records, files, and other information and documents of the director's office;

(f) To advise the commission and recommend such rules and such other matters as the director deems necessary and advisable to improve the conduct of racing;

(g) To make a continuous study and investigation of the operation and the administration of similar laws that may be in effect in other states or countries, any literature on the subject that from time to time may be published or available, any federal laws that may affect the conduct of racing, and the reaction of Colorado citizens to existing and potential features of racing events in Colorado with a view to recommending or effecting changes that will tend to serve the purposes of this article 32;

(h) (I) To establish and adjust fees for all licenses and registrations issued pursuant to this article 32 in an amount sufficient to generate revenue that approximates the direct and indirect cost of administering this article 32; except that an increase of more than ten percent in the fee for an occupational license or registration shall be subject to ratification by the commission. Except as provided in subsection (3)(h)(II) of this section, the fees shall be credited to the racing cash fund created in section 44-32-205.

(II) In establishing and adjusting the source market fee defined in section 44-32-102 (23), the director may allocate a portion of the fee to be credited to any horse purse trust account established in accordance with section 44-32-702 (1)(f) if the director determines that such an allocation is necessary to maintain a sufficient and competitive purse structure. The total fee paid under this section must not exceed the limit set forth in section 44-32-501 (2)(d).

(i) To perform any other lawful acts that the director and the commission may consider necessary or desirable to carry out the purposes and provisions of this article 32.

(4) If so directed by the commission, the director may, on behalf of this state:

(a) Negotiate, enter into, and participate in one or more interstate compacts that enable party states to act jointly and cooperatively to create more uniform, effective, and efficient practices, programs, and rules relating to:

(I) Live horse and greyhound racing; and

(II) Pari-mutuel wagering activities, both on-track and off-track, that occur in or affect a party state;

(b) Serve as this state's authorized representative on a commission to negotiate one or more interstate compacts as described in subsection (4)(a) of this section. If the compact commission undertakes to promulgate rules to be adopted by party states, the director shall endeavor to ensure that the process by which the rules are promulgated conforms substantially to the model state administrative procedure act of 1981, as amended, insofar as the terms of the model act are appropriate to the actions and operations of the compact commission.

Source: L. 2018: IP(3) and (3)(h) amended, (SB 18-182), ch. 115, p. 811, § 1, effective April 12; entire article added with relocations, (HB 18-1024), ch. 26, p. 290, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-202 as it existed prior to 2018.

(2) Subsection IP(3) was amended in SB 18-182. Those amendments were superseded by the amendment of subsection IP(3) in HB 18-1024.

(3) Subsection (3)(h) of this section was numbered as § 12-60-202 (3)(h) in SB 18-182. That provision was harmonized with and relocated to this section as this section appears in HB 18-1024.

44-32-203. Investigators - peace officers. (1) All investigators of the division of racing events, including the director and the executive director, shall for purposes of enforcement of this article 32 be considered peace officers as described in sections 16-2.5-101 and 16-2.5-126.

(2) Nothing in this section shall be construed to prohibit local sheriffs, police departments, and other local law enforcement agencies or the Colorado bureau of investigation from enforcing the provisions of this article 32 or rules promulgated pursuant to this article 32, or from performing their other duties to the full extent permitted by law. All such sheriffs, police officers, district attorneys, other local law enforcement agencies, or the Colorado bureau of investigation shall have all the powers set forth in subsection (1) of this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 292, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-203 as it existed prior to 2018.

44-32-204. Board of stewards or judges. The division shall establish a board of three stewards or judges to assist in supervising the conduct of any race meet. Two members of the board of stewards or judges shall be employees of the division. The remaining member shall be an employee of the track at which the race meet is held, shall be subject to the approval of the commission, and may be removed by the commission at any time for any reason that the commission deems good and sufficient.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 293, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-204 as it existed prior to 2018.

44-32-205. Racing cash fund. (1) The racing cash fund is hereby established in the state treasury. Subject to appropriation by the general assembly, the division shall use the money in the racing cash fund for the direct and indirect costs of administering this article 32.

(2) Money in the racing cash fund at the end of any fiscal year shall remain in the racing cash fund and shall not revert to the general fund or any other fund. The racing cash fund shall be maintained in accordance with section 24-75-402.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 293, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-205 as it existed prior to 2018.

PART 3

COLORADO RACING COMMISSION

44-32-301. Racing commission - creation. (1) There is hereby created, within the division of racing events, the Colorado racing commission. The commission shall consist of five members, all of whom shall be citizens of the United States and shall have been residents of this state for the past five years. The members shall be appointed by the governor, with the consent and approval of the senate. No member shall have been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101. No more than three of the five members shall be members of the same political party. At the first meeting of each fiscal year, a chair and vice-chair of the commission shall be chosen from the membership by a majority of the members. Membership and operation of the commission shall additionally meet the following requirements:

(a) Two members of the commission shall have been previously engaged in the racing industry for at least five years; one member shall be a practicing veterinarian who is currently licensed in Colorado and has been so licensed for not less than five years; one member shall have been engaged in business in a management-level capacity for at least five years; and one member shall be a registered elector of the state who is not employed in any profession or industry otherwise described in this subsection (1)(a); however, no more than two members of the commission shall be from the same congressional district, and one member of the commission shall be from west of the continental divide.

(b) Initial members shall be appointed to the commission by the governor as follows: One member to serve until July 1, 1993, one member to serve until July 1, 1994, one member to serve until July 1, 1995, and two members to serve until July 1, 1996. All subsequent appointments shall be for terms of four years. No member of the commission shall be eligible to serve more than two consecutive terms.

(c) Any vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment. The member appointed to fill the vacancy shall be from the same category described in subsection (1)(a) of this section as the member vacating the position.

(d) Any member of the commission may be removed by the governor at any time.

(e) The term of any member of the commission who misses more than two consecutive regular commission meetings without good cause shall be terminated and the member's successor shall be appointed in the manner provided for appointments under this section.

(f) Commission members shall be reimbursed for necessary travel and other reasonable expenses incurred in the performance of their official duties.

(g) Prior to confirmation by the senate, each member shall file with the secretary of state a financial disclosure statement in the form required and prescribed by the executive director. The statement shall be renewed as of each January 1 during the member's term of office.

(h) The commission shall hold at least one meeting each quarter and such additional meetings as may be prescribed by rules of the commission. In addition, special meetings may be called by the chair, any two commission members, or the director, if written notification of the meeting is delivered to each member at least seventy-two hours prior to the meeting. Notwithstanding section 24-6-402, in emergency situations in which a majority of the commission certifies that exigencies of time require that the commission meet without delay, the requirements of public notice and of seventy-two hours' actual advance written notice to members may be dispensed with, and commission members as well as the public shall receive

such notice as is reasonable under the circumstances. Any action by the commission during such emergency meetings shall be limited to those issues relating to the emergency situation for which the meeting was called.

(i) A majority of the commission shall constitute a quorum, but the concurrence of a majority of the members appointed to the commission shall be required for any final determination by the commission.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 293, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-301 as it existed prior to 2018.

44-32-302. Organization and officers - duties - representation. (1) All money payable to and collected by the department through the division shall be transmitted to the state treasurer. The state treasurer shall credit the same to the general fund except for the money required by this article 32 to be deposited in the racing cash fund.

(2) The commission shall maintain an office within the state and shall keep detailed records of all its meetings and of all the business transacted and of all the collections and disbursements. Publications of the commission circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

(3) The attorney general shall provide legal services for the division and the commission at the request of the executive director, the director, or the commission. The attorney general shall make reasonable efforts to ensure that there is continuity in the legal services provided and that the attorneys providing legal services to the division and the commission have expertise in the field.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 294, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-302 as it existed prior to 2018.

PART 4

CONFLICT OF INTEREST

44-32-401. Director and commission members - position of trust - conflicts of interest - definition. (1) Appointment to the commission or to the position of director or employment in the division of racing events is a position of public trust, and therefore, in order to ensure the confidence of the people of the state in the integrity of the division and the commission, the director and members of the commission and the employees of the division are subject to this section. While serving as director or as a member of the commission or while employed by the division, no person nor any member of the person's immediate family shall:

(a) Hold any pecuniary interest in any racetrack operating within the state of Colorado nor in any stable, compound, or farm that houses animals licensed or registered to race within the state of Colorado;

(b) Wager money or any other chattel of value on the result of any race or race meet or sweepstakes conducted within the state of Colorado or conducted outside the state and simulcast into the state;

(c) Hold any pecuniary interest in any out-of-state host track or derive any pecuniary benefit from the racing of any animal at the track;

(d) Hold more than a five percent interest in any entity doing business with a track; or

(e) Have any interest of any kind in a license issued pursuant to this article 32, nor have any interest, direct or indirect, including employment, in any licensee, licensed premises, establishment, or business involved in or with pari-mutuel wagering.

(2) Failure to comply with the provisions of this section shall be grounds for removal from office.

(3) For purposes of this section, "immediate family" means a person's spouse and any children actually living with the person.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 295, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-401 as it existed prior to 2018.

PART 5

LICENSING AND REGISTRATION

44-32-501. Regulation of race meets and racing-related businesses. (1) (a) The commission shall license and regulate all race meets with pari-mutuel wagering held in this state at which horses participate, and shall cause the places where the race meets are held to be visited and inspected at least once a year by its members or employees, and shall require all places to be constructed, maintained, and operated in accordance with the laws of this state and the rules of the commission.

(b) The commission shall license and regulate all kennels and stables housing racing animals both in connection with a race meet and to protect the general health and welfare of horses. The commission shall cause the kennels and stables to be visited and inspected at least once a year by its members or employees and shall require all such places to be constructed, maintained, and operated in accordance with the laws of this state and the rules of the commission.

(2) (a) (I) The commission shall, at its own expense, regulate the operations of pari-mutuel machines and equipment, the operations of all money rooms, accounting rooms, and sellers' and cashiers' windows, and the weighing of jockeys.

(II) The commission shall at its own expense take or cause to be taken saliva, urine, blood, hair, or other body fluid samples or biopsy or necropsy specimens from horses selected by the commission or its employees at race meets provided for under this article 32 or when concerns are raised as to a particular animal, including the winner of a race, and shall test and determine the samples or specimens or cause the samples or specimens to be tested and determined.

(III) To protect the health and safety of licensees, racing employees, and the general public, and to ensure the orderly conduct of race meets, the commission may at its own expense take or cause to be taken, for cause or by random selection, saliva, urine, blood, hair, or other body fluid samples from licensees. The commission shall promulgate reasonable rules identifying the license categories subject to testing. The commission shall designate license categories subject to testing based on the nature of the work performed or proximity to dangerous conditions in the sport of horse racing. Samples may be collected by division employees or by certified contractors in connection with race meets. The rules must include a listing of prohibited substances. The commission shall test and determine the samples or specimens, or cause the samples or specimens to be tested, to determine the presence of any prohibited substance that may cause impairment, or mask or dilute the presence of a prohibited substance.

(IV) The commission, at its own expense and in addition to other employees, shall employ or contract with competent doctors, accountants, chemists, and other persons necessary to supervise the conduct of race meets and to ascertain that this article 32 and the rules of the commission are strictly complied with. The commission shall also seek innovative and efficient methods of testing humans and horses for prohibited substances to ensure the safety of humans and horses and maintaining the integrity of racing. Through its bidding process, the commission shall invite laboratories to include proposals for testing procedures and methods that would maintain or improve the effectiveness of test results and minimize testing cost incurred by the state or the racing industry.

(b) The commission shall establish and require compliance with internal control procedures for licensees, including accounting and reporting procedures.

(c) The commission shall license and regulate persons who manufacture or operate totalisators and shall require all totalisators to be manufactured, maintained, and operated in accordance with the laws of this state and rules of the commission.

(d) The commission may license and regulate persons outside of Colorado who conduct pari-mutuel wagering on simulcast races and who accept wagers from Colorado residents at out-of-state simulcast facilities, and shall require out-of-state simulcast facilities to be maintained and operated in accordance with the laws of this state and rules of the commission. Source market fees imposed on persons licensed under this subsection (2)(d) shall not exceed ten percent of the gross receipts of all pari-mutuel wagering by Colorado residents conducted by the persons at out-of-state simulcast facilities.

(3) The commission shall license and regulate all in-state simulcast facilities conducting pari-mutuel wagering and shall require all such in-state simulcast facilities to be maintained and operated in accordance with the laws of this state and rules of the commission.

(4) The commission shall, at its own expense, specifically regulate the operation by in-state simulcast facilities of pari-mutuel machines and equipment, the operation of all money and accounting facilities, and the operation of sellers' and cashiers' windows and ensure that the in-state simulcast facility is handling wagering as part of the pari-mutuel system of the appropriate track or simulcast facility and as part of the appropriate pari-mutuel pool, as designated in section 44-32-703. For such purposes, the commission, at its own expense, and in addition to other employees, shall employ the competent personnel necessary to supervise the wagering through in-state simulcast facilities and to ascertain that this article 32 and the rules of the commission are strictly complied with.

(5) A licensed track or its additional facility may be used for nonracing events upon advance notice to the commission, subject to the authority of the commission and the division to take all measures reasonably necessary to ensure that the nonracing events do not interfere with the safe and proper conduct of racing or the suitability of the track for racing.

Source: L. 2018: (1)(b) and (2)(a) amended, (SB 18-172), ch. 129, p. 851, § 2, effective April 12; entire article added with relocations, (HB 18-1024), ch. 26, p. 295, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-501 as it existed prior to 2018.

(2) Subsections (1)(b) and (2)(a) of this section were numbered as § 12-60-501 (1)(b) and (2)(a), respectively, in SB 18-172. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1024.

44-32-502. Delegation of authority to issue certain licenses and registrations - rules. The commission shall delegate to the division the authority to issue all business and occupational licenses and registrations contemplated in this article 32, and shall promulgate rules containing standards for the delegation. The commission shall not delegate its duty to issue or renew race meet licenses.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 297, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-502 as it existed prior to 2018.

44-32-503. Rules of commission - licensing. (1) (a) The commission shall make reasonable rules for licensees to ensure:

- (I) Fair play;
- (II) The proper and safe conduct of the sport of horse racing;
- (III) The health, safety, and welfare of persons and horses involved in a racing meet; and
- (IV) The high standards and integrity of the sport of horse racing.

(a.5) The commission rules shall also provide for the control, safety, supervision, fingerprinting, identification, and direction of applicants, registrants, and licensees. Commission rules shall provide for:

(I) The supervising, disciplining, suspending, fining, and barring from racing of all persons required to be licensed or registered by this article 32;

(II) A program for testing designated licensees for cause or by random selection to detect prohibited substances; and

(III) The holding, conducting, and operating of all races, race meets, racetracks, in-state simulcast facilities, and out-of-state wagering on simulcast races conducted pursuant to this article 32. The commission shall announce the place, time, number of races per day, duration of race meets, as provided in section 44-32-603, and types of race meets.

(b) The commission may issue a temporary license or registration for up to a maximum of ninety days for any license or registration authorized under this article 32.

(2) Every person holding a license or registration under this article 32, every person operating an in-state simulcast facility, and every owner or trainer of any horse entered in a racing contest under this article 32 shall comply with the commission's rules and orders. It is unlawful for a person to work upon the premises of a racetrack without first obtaining from the commission a license or registration under this article 32; except that the commission may waive this licensing or registration requirement for occupational categories that the commission, in its discretion, deems unnecessary to be licensed or registered. This licensing or registration requirement does not apply to the members of the commission or its employees or to persons whose only participation is individually as spectator or bettor. It is unlawful for a person who owns or leases a racing animal to allow the animal to race in this state without first obtaining an owner's license or registration from the commission, as prescribed by the rules of the commission. The commission may extend the validity of a license issued for a period not to exceed three years, and the fee for the license shall be increased proportionately; except that no temporary license or registration may be issued for a period longer than ninety days. It is unlawful for a person to hold a race meet with pari-mutuel wagering without obtaining a license for pari-mutuel wagering. It is unlawful for a person to operate an in-state simulcast facility unless that person is a licensee that has been licensed within the year to hold a race meet or is a licensee that has a written simulcast racing agreement with the in-state host track or out-of-state host track from which the simulcast race is broadcast and has filed a copy of the written simulcast racing agreement with the commission before operating as an in-state simulcast facility.

(3) No person holding a license under this article 32 shall extend credit to another person for participation in pari-mutuel wagering.

(4) With the submission of an application for a license granted pursuant to this article 32, each applicant shall submit a set of fingerprints to the commission. The commission shall forward the fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Only the actual costs of the record check shall be borne by the applicant. Nothing in this subsection (4) shall preclude the commission from making further inquiries into the background of the applicant.

Source: L. 2018: (1) amended, (SB 18-172), ch. 129, p. 852, § 3, effective April 12; entire article added with relocations, (HB 18-1024), ch. 26, p. 297, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-503 as it existed prior to 2018.

(2) Subsection (1) of this section was numbered as § 12-60-503 (1) in SB 18-172. That provision was harmonized with and relocated to this section as this section appears in HB 18-1024.

44-32-504. Business licenses. (1) Every application for a business license, excluding applications for initial or renewal race meet licenses pursuant to sections 44-32-505 and 44-32-512, shall be made under oath and filed with the commission and shall set forth the information as the rules of the commission may require in connection with the application.

(2) To determine whether a license shall be granted, the commission shall have the right to examine the financial and other records of the applicant and to compel the production of records and documents.

(3) The commission has discretion to grant or deny a business license if it finds that any applicant or any of the directors, officers, or original stockholders of a corporate applicant have violated any of the provisions of this article 32 or any rules of the commission, or failed to pay any of the sums required under this article 32, or as it determines, from the application, the character, financial ability, and experience of each individual applicant or the officers and director of each corporate applicant to be for the best interests of the state and the racing industry.

(4) When conducting investigations pursuant to this section, to the extent possible, the commission shall utilize investigative information of other state racing jurisdictions. The commission may investigate an existing licensee who is seeking to acquire ownership of another existing license.

(5) Any unexpired license held by any person who has been convicted by the commission of violating any of the provisions of this article 32 or any rule of the commission, or who has willfully or fraudulently made any false statement in any application for a license, or who fails to pay to the commission any and all sums required under the provisions of this article 32 is subject to cancellation or revocation by the commission.

(6) The commission shall have the power to issue subpoenas for the appearance of persons and the production of documents and other things in connection with applications before the commission or in the conduct of investigations.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 298, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-504 as it existed prior to 2018.

44-32-505. Meet licenses. (1) Every initial application for a license to hold race meets under this article 32 shall be made under oath and shall be filed with the commission on or before a day fixed by the commission and shall set forth the time, the place, and the number of days the meet shall continue; the kind of racing proposed to be conducted; the full name and address of the applicant and, if a corporation, the names and addresses of all of its officers and directors and all of the holders of each class of its stock and the amount of stock of each class so owned by each stockholder; the location of the racetrack and whether the racetrack is owned or leased; the names and residences of the owners of all property leased by the applicant; a statement of the assets and liabilities of the applicant; a description of the qualifications and experience of the applicant if an individual or of its officers and directors if a corporation; a full disclosure of all holding or intermediary companies associated with the applicant, as well as their shareholders, all contracts that relate to the race meet, audited balance sheets of corporate applicants, excluding nonprofit associations, and the terms and conditions of all contracts by which the applicant has received credit; a description of the land uses within a radius of two miles of the establishment in which the race meet is proposed to be conducted; and the incidental information as the rules of the commission may require in connection with the application.

(2) Upon the filing of the application, the commission shall fix a date for a hearing on the application, and the applicant shall give public notice of the time and place of the hearing by publication in one issue of a daily or weekly newspaper of general circulation in the area in which it is proposed to conduct the race meet and by posting on the site of the proposed race meet a notice, in form and size to be determined by the commission, that the application has been filed and the date and place of the hearing thereon. At the time and place mentioned in the notice, the commission shall conduct a public hearing at which evidence for and against the granting of the application may be presented.

(3) Except as otherwise limited by the provisions of this article 32, in considering an application for a license under this section, the commission may give consideration to the number of licenses already granted, and to the location of tracks previously licensed, and to the sentiments and character of the community in which the proposed race meets are to be conducted, and to the ability, character, and experience of each individual applicant or the officers and directors of each corporate applicant. The commission may require of every applicant for a license to hold a race meet, except a public nonprofit association, nonprofit corporation, or nonprofit fair, including the Colorado state fair and all county fairs, who has not, within five years prior to making an application for a license to hold a race meet, operated a race meet in the county, city, or city and county in which it is proposed to hold the race meet, a recommendation in writing of the board of county commissioners of the county in the event the race meet is to be held in unincorporated areas of the county or of the governing board of a city or city and county if the proposed race meet is to be held within a city or city and county. The commission may take the recommendation into consideration before granting or refusing the license. The commission may deny a license to operate a new racetrack to a person who is already licensed to operate a racetrack within this or any other state if, in the opinion of the commission, the granting of the license would discourage legitimate competition from other qualified applicants. The commission shall investigate any applicant and shall require the applicant to pay the actual cost of investigating the application as part of the fees and costs imposed pursuant to section 44-32-506. The applicant shall advance the money necessary for the investigation to the commission, and the commission shall return any unused portion of the money to the applicant at the conclusion of the commission's investigation. The advance of the money may either be made directly to the commission or the money may be deposited into escrow in a manner approved by the commission.

(4) The commission may grant or refuse licenses to conduct race meets under this article 32 as it determines, from the application, the character, financial ability, and experience of each individual applicant or the officers and directors of each corporate applicant, the sentiments of the community and the character of the area wherein it is proposed to conduct the race meets, and the evidence presented at the hearing, to be for the best interests of the state, the racing industry, and the area in which it is proposed to conduct the race meets.

(5) The commission has discretion to grant or deny a race meet license if it finds that any applicant has, or any of the directors, officers, or original stockholders of a corporate applicant have, violated any of the provisions of this article 32 or any rules of the commission or failed to pay any of the sums required under this article 32.

(6) Every license issued under this article 32 shall specify the number of days the licensed race meet shall continue and the number of races per day. No license shall be granted to any individual who is not a bona fide resident of Colorado nor to any foreign corporation. Every

applicant shall agree that, if granted a license under this article 32, the applicant will not thereafter sell, mortgage, or otherwise pledge or dispose of any of the assets listed and described on the application for a license or a renewal license without thirty days' prior notice to the commission, which may approve or disapprove the disposition of assets upon good cause shown. The charter of all corporate applicants shall contain a provision that, when a cumulative ten percent or more of the voting stock of the corporation is to be sold, mortgaged, or otherwise pledged or transferred, thirty days' prior notice shall be given to the commission. The corporation shall pay an investigation fee to the commission as part of the fees and costs imposed pursuant to section 44-32-506. The commission shall approve or disapprove of the disposition of the stock, upon good cause shown, within ninety days of the filing of a completed application for transfer. The commission has the power to ascertain if any capital stock of any corporate applicant or licensee is held with the intent to mislead or deceive the commission for an undisclosed principal. The involvement of an undisclosed principal shall be grounds for the denial, suspension, or revocation of a license.

(7) Upon petition by the licensee and a finding by the commission that it is impossible or impractical for a licensee, because of fire or act of God or other unforeseeable emergency not caused or participated in by the licensee, to conduct a race meet upon the dates allocated or upon a racetrack designated by the commission to the licensee, other dates and locations may be substituted and granted to the licensee. A licensee so petitioning may be granted the right to lease and utilize any other licensee's facilities for the term of the petitioning licensee's annual permit or any portion thereof, but the grant shall not be construed to allow any licensee more days of racing in any year than are prescribed by this article 32.

(8) When conducting investigations pursuant to subsections (3) and (6) of this section, to the extent possible, the commission shall utilize investigative information of other state racing jurisdictions. The commission may investigate an existing licensee who is seeking to acquire ownership of another existing license to conduct race meets.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 299, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-505 as it existed prior to 2018.

Cross references: For the authority of the executive director of the department of regulatory agencies to change the period of validity and renewal date of any license or certificate issued by any examining or licensing board or commission in the division of professions and occupations, see § 24-34-102 (7) and (8). For race meets at the Colorado state fair and industrial exposition, see § 35-65-116.

44-32-506. Application - fee - waiver of confidentiality. (1) In connection with the issuance of licenses or registrations, the commission shall establish investigation and application fees, which fees shall be credited to the racing cash fund created in section 44-32-205.

(2) The application form created by the commission shall include a waiver of any right of confidentiality and a provision that allows the information contained in the application to be accessible to law enforcement agents of this or any other state or the government of the United

States. The waiver of confidentiality shall extend to any financial or personnel record, wherever maintained.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 301, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-506 as it existed prior to 2018.

44-32-507. Investigation - denial, suspension, and revocation actions against licensees - unlawful acts. (1) The commission upon its own motion may, and upon complaint in writing of any person shall, investigate the activities of any licensee or applicant within the state or any person upon the premises of any facility licensed pursuant to this article 32. In addition to its authority under any other provision of this article 32, the commission may issue a letter of admonition to a licensee, fine a licensee, suspend a license, deny an application for a license, or revoke a license, if the person has committed any of the following violations:

(a) Disregarding or violating any provision of this article 32 or any rule promulgated by the commission in the interests of the public and in conformance with the provisions of this article 32;

(b) Been convicted of, or entered a plea of guilty or nolo contendere to, a criminal charge under the laws of this or any other state or of the United States, or entered into a plea bargain for acts or omissions that, if committed in Colorado, would have been grounds for discipline in this state. A certified copy of the judgment of the court in which any such conviction occurred shall be presumptive evidence of the conviction in any hearing under this article 32. This subsection (1)(b) shall be applied in accordance with section 24-5-101.

(c) Current prosecution or pending charges in any jurisdiction, against the applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant, for any felony; except that, at the request of the applicant or the person charged, the commission shall defer decision upon the application during the pendency of the charge;

(d) Fraud, willful misrepresentation, or deceit in racing;

(e) Failure to disclose to the commission complete ownership or beneficial interest in a racing animal entered to be raced;

(f) Misrepresentation or attempted misrepresentation in connection with the sale of a racing animal or other matter pertaining to racing or registration of racing animals;

(g) Failure to comply with any order or rulings of the commission, the stewards, the judges, or a racing official pertaining to a racing matter;

(h) Ownership of any interest in or participation by any manner in any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise;

(i) Employing or harboring unlicensed persons on the premises of a racetrack;

(j) Being a person, employing a person, or being assisted by a person who is not of good record or good moral character;

(k) Discontinuance of or ineligibility for the activity for which the license was issued;

(l) Being currently under suspension or revocation of a racing license in another racing jurisdiction, or having been subject to disciplinary action by the commission or equivalent agency of another jurisdiction for acts or omissions that, if committed in Colorado, would have

been grounds for discipline in this state; except that this subsection (1)(l) shall not furnish the basis for the imposition of fines;

(m) Possession on the premises of a racetrack of:

(I) Firearms; or

(II) A battery, buzzer, electrical device, or other appliance other than a whip that could be used to alter the speed of a racing animal in a race or while working out or schooling;

(n) Possession, on the premises of a racetrack, by a person other than a licensed veterinarian, of:

(I) A hypodermic needle, hypodermic syringe, or other similar device;

(II) Any substance, compound items, or combination thereof of any medicine, narcotic, stimulant, depressant, or anesthetic that could alter the normal performance of a racing animal unless specifically authorized by the commission veterinarian;

(o) Cruelty to or neglect of a racing animal;

(p) Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of the act immediately to the stewards, the judges, or the commission;

(q) Causing, attempting to cause, or participating in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of the act immediately to the stewards, the judges, or the commission;

(r) Entering, or aiding and abetting the entry of, a racing animal ineligible or unqualified for the race entered;

(s) Willfully or unjustifiably entering or racing of any animal in any race under any name or designation other than the name or designation assigned to the animal by and registered with the official recognized registry for that breed of animal, or willfully soliciting, instigating, engaging in or in any way furthering any act by which any racing animal is entered or raced in any race under any name or designation other than the name or designation duly assigned by and registered with the official recognized registry for that breed of animal;

(t) Aiding or abetting any person in the violation of any rule of the commission;

(u) Racing at a racetrack without having a racing animal registered to race at that racetrack;

(v) Being on the premises of a racetrack for which the licensee is required to be licensed without being able to show proof of gainful employment at that racetrack;

(w) Failing to comply with the requirements of article 33 of this title 44 or any rule promulgated by the executive director pursuant to section 44-33-108 (3).

(2) The director may summarily suspend the license of any person pending a hearing concerning violation of subsection (1)(o) of this section.

(3) Any person who fails to pay within the time period established by rule a fine imposed pursuant to this article 32 shall pay, in addition to the fine due, a penalty amount equal to the fine. Any person who submits to the department through the division a check in payment of a fine or license fee requirement imposed pursuant to this article 32, which check is not honored by the financial institution upon which it is drawn, shall pay, in addition to the fine or fee due, a penalty amount equal to the fine or fee. All money received pursuant to a penalty amount imposed by this subsection (3) shall be credited to the general fund of the state.

(4) Any person aggrieved by a final action or order of the commission may appeal the action to the Colorado court of appeals.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 301, § 2, effective October 1; IP(1) and (1)(w) amended, (SB 18-035), ch. 15, p. 258, § 5, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-507 as it existed prior to 2018.

(2) Subsection IP(1) was amended in SB 18-035. Those amendments were superseded by the amendment of subsection IP(1) in HB 18-1024.

(3) Subsection (1)(w) of this section was numbered as § 12-60-507 (1)(w)(I) in SB 18-035. That provision was harmonized with and relocated to this section as this section appears in HB 18-1024.

44-32-508. License - mandatory disqualification - criteria. (1) The commission shall deny a license to any applicant on the basis of any of the following criteria:

(a) Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article 32;

(b) Failure of the applicant to provide information, documentation, and assurances required by this article 32 or requested by the commission, failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria;

(c) Conviction of the applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant, of any of the following:

(I) Any gambling-related offense or theft by deception;

(II) Any crime involving fraud or misrepresentation committed within ten years prior to the date of the application, notwithstanding the provisions of section 24-5-101;

(d) Current prosecution or pending charges in any jurisdiction against the applicant, or against any person listed in subsection (1)(c) of this section, for any of the offenses enumerated in subsection (1)(c) of this section; except that, at the request of the applicant or the person charged, the commission shall defer decision upon the application during the pendency of the charge.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 304, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-507.5 as it existed prior to 2018.

44-32-509. Hearings - review - rules. (1) Except as otherwise provided in this section, all proceedings before the commission with respect to the denial, suspension, or revocation of licenses or the imposition of fines shall be conducted pursuant to the provisions of sections 24-4-104 and 24-4-105.

(2) The proceedings shall be held in the county where the commission has its office or in such other place as the commission may designate. The commission shall notify the applicant or licensee by mailing by first-class mail a copy of the written notice required to the last address furnished by the applicant or licensee to the commission.

(3) (a) The commission may delegate its authority to conduct hearings and impose discipline with respect to the denial or suspension of licenses or the imposition of a fine to the division, through its board of stewards or judges, or a hearing officer. Proceedings before the division, through its board of stewards or judges, or a hearing officer shall not be governed by the procedural or other requirements of sections 24-4-104 and 24-4-105, but rather shall be conducted in accordance with rules adopted by the commission.

(b) The commission may direct that any hearing be conducted before an administrative law judge appointed pursuant to part 10 of article 30 of title 24.

(4) The commission, the division, through its board of stewards or judges, and any hearing officer shall have the authority to administer oaths and affirmations, sign and issue subpoenas and order the production of documents and other evidence, and regulate the course of the hearing, pursuant to rules adopted by the commission.

(5) Any party aggrieved by a final order or ruling issued by the division, through its board of stewards or judges, or a hearing officer shall have a right to appeal the order or ruling to the commission, pursuant to procedural rules that shall be adopted by the commission. The aggrieved party may petition the commission for a stay of execution pending appeal to the commission.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 304, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-508 as it existed prior to 2018.

44-32-510. Liability insurance - bond for race meets. (1) For the protection of the public and the exhibitors, contestants, and visitors, every person licensed to conduct a race meet under the provisions of this article 32 shall carry public liability insurance in the form of a contract and with a company to be approved by the commission.

(2) An organization representing the majority of the owners of racing animals participating in any race meet may require the licensee conducting the race meet to provide and deliver to the commission evidence of a bond signed by a surety company authorized to do business in this state, in an amount sufficient to cover all awards and purses due to the contestants at the race meet and conditioned that the licensee will pay and discharge all obligations to the contestants in connection with the race meet.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 305, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-509 as it existed prior to 2018.

44-32-511. Racing of standardbred harness horses. (1) Notwithstanding any other provision of this article 32 to the contrary, the commission shall grant licenses to conduct the racing of standardbred harness horses pursuant to the provisions of this article 32 and in accordance with subsections (2) and (3) of this section.

(2) The licenses granted may be issued to conduct not more than three race meets in any one year at a racetrack specifically designed and used for the racing of no animals other than

standardbred harness horses, but the race meets may not be held on the same dates as race meets authorized by the commission for animals other than standardbred harness horses that are held within forty miles of the track licensed for the racing of standardbred harness horses. In addition, licenses may be issued by the commission to conduct three race meets for the racing of standardbred harness horses in any one year at any racetrack at which horse race meets are held and that is not within forty miles of any other racetrack licensed for the racing of horses or the racing of standardbred harness horses.

(3) No tracks licensed for the racing of standardbred harness horses may be located within forty miles of one another, but the tracks may be located within forty miles of any track licensed for the racing of animals other than standardbred harness horses subject to the limitations in subsection (2) of this section.

(4) The provisions of subsection (3) of this section shall not restrict the right of a county to conduct extended standardbred harness horse race meets, upon being licensed by the commission, at a county fairground if the race meets are not within fifteen miles of any racetrack licensed in Colorado for the racing of horses.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 305, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-510 as it existed prior to 2018.

44-32-512. Eligibility to operate race meets - renewal or revocation. (1) (a) No person shall be eligible to operate a race meet under a license issued under the provisions of this article 32 unless the person is the owner or controls the possession of a properly constructed racetrack suitable for the conduct of racing and improved with safe and suitable grandstands; equipped with reasonably sanitary accommodations and also such accommodations, including track conditions, as the commission may require for the care and control of the animals racing at the meet; and also such other improvements as, in the opinion of the commission, may be required for the protection of the public, human and animal participants, and others likely to be present at the race meet. In consideration of the location of the track and other structures and erections and the probable capacity requirements to accommodate the crowd and the number of people that will reasonably be expected to occupy the grandstands and attend the race meets, a major racing operation license shall not be issued for the racing of horses at a class A track that is within forty miles of any other major racing operation licensed under this article 32 for the racing of horses at a class A track; nor shall a major racing operation license be issued for the racing of horses at a class B track that is within forty miles of any other major racing operation licensed under this article 32 for the racing of horses at a class B track. In no event shall any racing operation licensed under this article 32 for the racing of horses at a horse track located within forty miles of the Colorado state fair and industrial exposition conduct race meets of horses on the same dates as the race meets of horses at the state fair.

(b) As used in subsection (1)(a) of this section, "major racing operation" means nonprofit corporations and commercial tracks conducting race meets that exceed fifteen racing days.

(2) Applications for renewal of a license shall be filed with the commission on or before a day fixed by the commission and shall set forth the name of the applicant and if a corporation

the names and addresses of its officers and directors with a list attached thereto of the names and addresses of all the holders of its stock, as of a date not more than thirty days prior to the filing of the application, and the amount of voting stock held by each stockholder. If any of its voting stock is known by any applicant to be registered in the name of a person not the actual owner thereof, the list shall also show the name and address of the actual owner.

(3) The application shall set forth the proposed dates of race meets, the dates within the race meets on which the applicant intends to conduct racing at the meet and the number of races intended to be run on the dates, and the address of the establishment where the meets are to be held and shall have attached thereto the most recent financial statement of the applicant as of a date not more than twelve months prior to the date of the application for renewal of the license. The application shall also contain such other information as the rules of the commission may provide to ensure that the licensee is conducting race meets in accordance with the provisions of this article 32 and the rules of the commission. To determine whether an application for renewal of the license to conduct race meets shall be granted, the commission shall have the right to examine the financial and other records of the licensee, to compel the production of records and documents, to conduct hearings, to summon witnesses, and to administer oaths.

(4) (a) As soon as is practicable after the date fixed for the filing of applications for renewal, the commission shall meet and determine the granting or denial thereof. If the commission finds that the applicant has fully complied with the requirements and conditions for renewal, the application for renewal shall be granted, and the commission shall allot and assign to the respective applicants, in the manner stated in this subsection (4), dates for race meets and dates for racing within the race meet and the number of races on the dates.

(b) Except as otherwise provided in this article 32, the commission may allot different dates for race meets, different dates for racing within a race meet, and a different number of races on the dates from those requested in the application for renewal. In making its allotment of dates, the commission shall endeavor to allot to each applicant the dates requested by the applicant in the application, after giving due consideration to all factors involved, including the interests of the applicant and the public and the best interests of racing. In its allotment of dates, the commission shall also endeavor, whenever possible, to avoid a conflict in live horse race dates between class A tracks or between class B tracks located within fifty miles of each other; except that the commission may allot dates to a state, county, or other fair commission or association holding not more than one race meet annually for a period not exceeding six days, despite the fact that the dates conflict with the dates allotted to another applicant conducting live horse racing. When the granting of requested initial or renewal race dates would result in a conflict, the commission may grant race dates so as to avoid conflict to the extent possible, giving preference to requests for race dates from license applicants whose licensed race meet in the previous year included the same dates.

(5) In the event the commission finds that any applicant for a renewal of a license to conduct race meets under this article 32 has violated any of the provisions of this article 32 or any rule of the commission, or has willfully or fraudulently made any false statement in an original application for a license to hold race meets or for the renewal of the license, or has failed to pay the commission any sums required by this article 32, or lacks the ability, experience, or finances to conduct race meets, the commission may refuse to grant a renewal of the license.

(6) Any unexpired license held by any person who has been convicted by the commission of violating any of the provisions of this article 32 or any rule of the commission, or

who has willfully or fraudulently made any false statement in any application for a license to hold a race meet or for the renewal of the license, or who fails to pay to the commission any and all sums required under the provisions of this article 32 is subject to cancellation or revocation by the commission. The cancellation shall be made only after a summary hearing before the commission, of which three days' notice in writing shall be given the licensee specifying the grounds for the proposed cancellation and at which hearing the licensee shall be given an opportunity to be heard in person and by counsel in opposition to the proposed cancellation. No license shall be granted or continued to any licensee for any race meet licensed under this article 32 who has made default in any payment of any premium or prizes on any race meets held under this article 32 or who has failed to meet any monetary obligations in connection with any race meet held in this state.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 306, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-511 as it existed prior to 2018.

44-32-513. Division of racing events - access to records. The division, for purposes of this article 32, shall have full authority to procure, at the expense of the division, any records furnished to or maintained by any law enforcement agency in the United States, including state and local law enforcement agencies in Colorado and other states for the purposes of carrying out its responsibilities. Upon request from the Colorado bureau of investigation, the division shall provide copies of any and all information obtained pursuant to this part 5.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 308, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-512 as it existed prior to 2018.

44-32-514. Payments of winnings - intercept. Before making a payment of cash winnings from pari-mutuel wagering on horse or greyhound racing for which the licensee is required to file form W-2G, or a substantially equivalent form, with the United States internal revenue service, the licensee shall comply with the requirements of article 33 of this title 44.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 308, § 2, effective October 1; entire section amended, (SB 18-035), ch. 15, p. 259, § 6, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-513 as it existed prior to 2018.

(2) This section was numbered as § 12-60-513 (1) in SB 18-035. That provision was harmonized with and relocated to this section as this section appears in HB 18-1024.

PART 6

UNLAWFUL ACTS

44-32-601. Underage wagering. (1) No person under the age of eighteen years shall purchase, redeem, or attempt to purchase or redeem any pari-mutuel ticket.

(2) No person shall sell any pari-mutuel ticket to a person under the age of eighteen years.

(3) Any person who violates this section commits a class 2 petty offense, and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 308, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-601 as it existed prior to 2018.

44-32-602. Simulcast facilities and simulcast races - unlawful act - repeal. (1) It is unlawful for any person to accept or place wagers on any simulcast race within the state of Colorado except under the provisions of this article 32. It is lawful to conduct pari-mutuel wagering on simulcast races of horses or greyhounds that are received by an in-state simulcast facility authorized and operated pursuant to this article 32.

(2) Cross simulcasting between an in-state host track or an out-of-state host track and an in-state simulcast facility, or between an in-state host track and an out-of-state simulcast facility, is permissible.

(3) A race meet of horses that is conducted at an in-state host track may be received as a simulcast race by any simulcast facility; except that, notwithstanding any consent granted pursuant to section 44-32-102 (11), an in-state simulcast facility that is located within fifty miles of a horse track that has held, within the previous twelve months, or is licensed and scheduled to hold within the next twelve months, a horse race meet of no less than thirty race days, may not receive simulcast races of horses on any day on which the horse track is running live horse races unless the licensee of the horse track consents thereto.

(4) (a) (I) An in-state simulcast facility may, subject to the commission's approval, receive the broadcast signal of greyhounds from an out-of-state host track and conduct pari-mutuel wagering on the signal through an in-state simulcast facility located on the premises of a class B track that has conducted, or is scheduled to conduct during the next twelve months, a live race meet of horses of at least the duration required for a class B track.

(II) The specified portions of the gross receipts from pari-mutuel wagers placed at an in-state simulcast facility on simulcast greyhound races being held on out-of-state host tracks from signals received through a class B track shall be distributed in accordance with section 44-32-701 (2).

(b) (I) (A) An in-state simulcast facility that is located on the premises of a class B track may receive simulcast horse races from an out-of-state host track as authorized by the commission. The total includes, and is not in addition to, the days on which live racing is held.

(B) A facility that is reopening as a track pursuant to section 44-32-503 (2) may receive three days of simulcast horse races from an out-of-state host track for each day of live horse racing for which the commission has granted it a race date for the subsequent year. A day of simulcast horse races, for the purposes of this subsection (4)(b), shall not include a day on which

live horse races are conducted at the horse track at which the simulcast facility is located or a day on which the simulcast facility receives only simulcast races of horses from a race meet conducted at an in-state host track.

(II) An in-state simulcast facility that is not located on the premises of a horse track that runs a horse race meet of at least thirty live race days may receive a broadcast signal of a simulcast horse race conducted at an out-of-state host track only through an in-state simulcast facility that is located on the premises of a horse track that runs a horse race meet of at least thirty live race days.

(III) On any day on which an in-state simulcast facility receives simulcast horse races, either directly from an out-of-state host track or through another in-state simulcast facility or facility that is reopening as a track, and on which one or more in-state host tracks are running live horse races, the in-state simulcast facility shall receive and conduct pari-mutuel wagering on the broadcast signal of simulcast horse races from at least one such in-state host track, if the broadcast signal is made available to it on usual and customary terms and conditions, including price, as determined by the commission.

(IV) All simulcasting of horse races shall comply with the federal "Interstate Horseracing Act of 1978", 15 U.S.C. secs. 3001-3007, as amended.

(V) For purposes of administering this subsection (4)(b), each operating year of an in-state simulcast facility located on the premises of a class B track shall be deemed to begin on April 21 and end on the following April 20. Simulcast days allotted to such a facility pursuant to this subsection (4)(b) may be used at any time during the operating year, but unused days remaining as of the end of one operating year may not be carried forward to the next operating year.

(5) An in-state simulcast facility having a written simulcast racing agreement with an in-state or out-of-state host track pursuant to section 44-32-503 (2) may receive simulcast races, as specified in subsections (2) to (4) of this section, on any day, including a day not within the race meet of the in-state simulcast facility that is also a track and a day on which no live race is conducted within the race meet of the in-state simulcast facility that is also a track.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 309, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-602 as it existed prior to 2018.

44-32-603. Duration of meets. (1) It is unlawful to conduct any race meet at which wagering is permitted except under the provisions of this article 32. It is lawful to conduct pari-mutuel wagering on live horse races that are part of a race meet licensed and conducted under this article 32. The duration of a horse race meet at a class B track is as specified in section 44-32-102 (3); except that the commission may prescribe a lesser number of race days in the event of unforeseen circumstances or acts of God.

(2) A race day is any period of twenty-four hours beginning at 12 midnight Colorado time and included in the period of a race meet and upon which day live racing is held. Dark days within a race meet are not counted as race days. Days on which an in-state simulcast facility that is a track receives simulcast races but does not conduct live races are not counted as race days.

Subject to this article 32, the commission shall determine the number and kind of race meets to be held at any one track; however, race meet days are permitted on Sundays.

(3) In order to promote live racing of horses throughout the state of Colorado, the commission, when determining the number and kind of race meets held and the dates and times of races held at race meets, may take into consideration the interests of the racing industry as a whole throughout the state but shall give particular consideration to the racing dates and times requested by or assigned to the following:

(a) In the case of class A tracks, other class A tracks; and

(b) In the case of class B tracks, other class B tracks.

(4) The commission shall determine, consistent with all other provisions of this article 32, the total number of races conducted and performances held during a race meet.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 311, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-603 as it existed prior to 2018.

44-32-604. Greyhound racing prohibited. No live greyhound racing involving the betting or wagering on the speed or ability of the greyhounds racing shall be conducted in Colorado. The commission shall not accept or approve an application or request for race dates for live greyhound racing in Colorado.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 311, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-604 as it existed prior to 2018.

44-32-605. Wagering on historic races - definitions. (1) The state, a municipality, city and county, county, or any state or local agency, board, commission, or official thereof, shall not approve or permit the use of a racing replay and wagering device.

(2) A licensee shall not operate, offer to operate, or use a racing replay and wagering device or allow any person to use a racing replay and wagering device to place a wager on any previously run sporting event.

(3) This section does not apply to a simulcast race.

(4) As used in this section, unless the context otherwise requires:

(a) "Racing replay and wagering device" means a mechanical, electronic, or computerized piece of equipment that:

(I) Can display a previously run sporting event, regardless of how the sporting event is displayed, rebroadcast, or replayed; and

(II) Gives a player who places a wager on the outcome of the previously run sporting event an opportunity to win a thing of value, whether due to the skill of the player, chance, or both.

(b) "Sporting event" means a contest in which animals, people, or machines compete individually or as teams for the purpose of winning a race, game, contest, or other competition.

(c) "Wager" means to place at risk of loss any valuable consideration, including coin, currency, or the electronic equivalent of any coin or currency.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 312, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-605 as it existed prior to 2018.

PART 7

TAXES AND FEES

44-32-701. License fees and Colorado-bred horse race requirement. (1) Subject to section 44-32-702 (1), for the privilege of conducting racing under a license issued under and of operating an in-state simulcast facility pursuant to this article 32, a licensee for the racing of greyhounds and an operator of an in-state simulcast facility that receives simulcast races of greyhounds shall pay to the department through the division four and one-half percent of the gross receipts derived from pari-mutuel wagering during any such race meet or placed on the simulcast races that are received through a live greyhound track.

(2) (a) (I) For the privilege of conducting racing under a license issued under and of operating an in-state simulcast facility pursuant to this article 32, a licensee for the racing of horses and an operator of an in-state simulcast facility that receives simulcast races of horses or greyhounds pursuant to section 44-32-602 (4)(a)(I) shall pay to the department through the division three-fourths of one percent of the gross receipts of the pari-mutuel wagering at any race meet or placed on the simulcast races; except that a licensee for the racing of horses at a class B track race meet shall pay to the department through the division three-fourths of one percent of the gross receipts of the pari-mutuel wagering at any such race meet.

(II) (A) Except as otherwise provided in subsection (2)(a)(II)(B) of this section, in addition to the amount paid to the department through the division in subsection (2)(a)(I) of this section, a licensee for the racing of horses and an operator of an in-state simulcast facility that receives simulcast races of horses or greyhounds pursuant to section 44-32-602 (4)(a)(I) shall pay to Colorado state university for allocation to its school of veterinary medicine one-fourth of one percent of the gross receipts of all pari-mutuel wagering, except on win, place, or show, at the horse race meet or placed on the simulcast races, to be used for racing-related equine research. To receive research funding under this subsection (2)(a)(II), an institution or individual must describe and report to the commission on all projects upon completion.

(B) In the case of pari-mutuel wagers on greyhound simulcast signals received by a class B track, in lieu of the amounts otherwise payable to Colorado state university pursuant to subsection (2)(a)(II)(A) of this section, the licensee shall instead pay an equivalent amount into a trust account for distribution in accordance with rules of the commission under section 44-32-702 (1)(e)(I).

(b) In addition to any money to be paid pursuant to subsection (2)(a) of this section, a licensee for the racing of horses and an operator of an in-state simulcast facility that receives simulcast races of horses or greyhounds pursuant to section 44-32-602 (4)(a)(I) shall pay to a trust account one-half of one percent of the gross receipts of pari-mutuel wagering on win, place,

and show and one and one-half percent of the gross receipts from all other pari-mutuel wagering at any such race meet or placed on the simulcast races for the horse breeders' and owners' awards and supplemental purse fund established in section 44-32-705.

(c) (I) The operator of a simulcast facility that receives simulcast races of horses or greyhounds pursuant to section 44-32-602 (4)(a)(I) shall retain five percent of the gross receipts of pari-mutuel wagering placed on the simulcast races at that facility, to be used to cover the particular expenses incurred in operating a simulcast facility.

(II) Of the five percent of gross receipts retained pursuant to subsection (2)(c)(I) of this section, the operator of a simulcast facility that is not located at a class B track and that receives simulcast races of horses shall remit to the operator of the class B track from which the simulcast races were received one-fifth, representing one percent of the gross receipts of pari-mutuel wagering placed on the simulcast races at the simulcast facility.

(3) For the purpose of encouraging the breeding, within the state, of race horses registered within their breeds, at least one race of each day's live horse race meet shall consist exclusively of Colorado-bred horses, if Colorado-bred horses are available. This requirement shall not apply to an in-state simulcast facility that is a horse track and that receives simulcast races of horses on any given race meet day but does not conduct a live horse race on such day.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 312, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-701 as it existed prior to 2018.

44-32-702. Unlawful to wager - exception - excess - taxes - special provisions for simulcast races - rules. (1) (a) It is unlawful to conduct pool selling or bookmaking, or to circulate handbooks, or to bet or wager on any race meet licensed under the provisions of this article 32 other than by the pari-mutuel method.

(b) (I) Except as otherwise provided in subsection (4) of this section, it is unlawful for a racing or simulcast facility licensee for the racing of greyhounds or horses to take more than the percentage of the gross receipts authorized by the commission pursuant to subsection (1)(b)(II) of this section of any pari-mutuel wagering on the races or simulcast races.

(II) The commission may annually determine the authorized take-out under subsection (1)(b)(I) of this section by rule, but the take-out shall not exceed thirty percent of the gross receipts of any pari-mutuel wagering on races originating within Colorado.

(c) Each licensee for the racing of horses shall pay as purses for the races in any horse race meet conducted at its in-state host track fifty percent of the breakage attributable thereto, and fifty percent of the track's commission. For purposes of this subsection (1)(c), "track's commission" means the maximum allowable percentage that may be taken, pursuant to subsection (1)(b) of this section, by a licensee for the racing of horses from the gross receipts from all pari-mutuel wagering placed on the races at the in-state host track, after deduction of the amounts specified in sections 44-32-701 (2)(a) and (2)(b) and 44-32-705 (2).

(d) For each horse race meet it conducts, a licensee shall file with its license application with the commission an agreement between the licensee and the organization that represents the majority of the owners of horses participating at the race meet. The agreement shall specify the

purse structure that shall apply to the races conducted at the horse race meet, including minimum purses per race and any conditions relating to overpayments or underpayments.

(e) (I) Each operator of an in-state simulcast facility that receives simulcast races of horses from either an in-state host track or an out-of-state host track, or of greyhounds from an out-of-state host track, shall pay to purse funds for the racing of horses and to the in-state or out-of-state tracks and simulcast facilities described in the simulcast agreement filed with the commission, the percentages of the gross pari-mutuel wagering on the simulcast races, after deduction of a signal fee required by an out-of-state host track or an in-state host track, paid during the current year or a previous year, and the applicable amounts specified in subsection (2)(b) of this section and in sections 44-32-701 (1) and (2) and 44-32-705 (2), as specified in the simulcast agreement. In the case of pari-mutuel wagers on greyhound simulcast signals received by a class B track from an out-of-state host track, the operator shall deposit the amounts payable pursuant to section 44-32-701 (2)(a)(II)(B) into a trust account for distribution, in accordance with rules of the commission, to greyhound welfare and adoption organizations.

(II) To defray operating expenses, the operator of a simulcast facility located at a class B track may retain up to twenty percent of the net purses earned and payable to the horse purse fund as provided in subsection (1)(e)(I) of this section.

(f) A licensee or operator shall retain horse purse funds, including funds established in section 44-32-705, payable by the licensee or operator under this section in a trust account in a commercial bank located in Colorado until the purse funds are paid to the horse owners or to the host track for payment to the horse owners; except that:

(I) The money deposited in any such trust account shall be invested in a fund that invests in obligations of the United States government with maturities of less than one year or that is account insured in full by an agency of the federal government; and

(II) Money credited to a horse purse trust account from the source market fee in accordance with section 44-32-202 (3)(h)(II) shall be paid as authorized by the director as purses for races held at live race meets in Colorado or as otherwise authorized by rules of the commission.

(g) Except as otherwise provided in subsection (4) of this section:

(I) It is unlawful for any licensee to compute breaks in the pari-mutuel system in excess of ten cents; and

(II) If, during any race meet conducted under this article 32, there are underpayments of the amount actually due to the wagerers, the amount of the excess of the underpayments over and above overpayments to wagerers, at the expiration of thirty days from the end of the meet, shall revert and belong to the state of Colorado and be paid to the department through the division and become a part of its funds, and it shall not be retained by the licensee under whose license the race meet was held.

(h) (I) Fifty percent of the breakage at any horse race meet shall be retained by the licensee under whose license the horse race meet was held and the remainder shall be paid as purses for the races conducted at the race meet.

(II) The breakage at any greyhound race meet shall be retained by the licensee under whose license the greyhound race meet was held.

(III) Except as otherwise provided in subsection (1)(h)(IV) or (4) of this section, the breakage on any simulcast race of horses or greyhounds received by an in-state simulcast facility shall be retained by the operator of the in-state simulcast facility.

(IV) In the case of simulcast races of horses received from an in-state host track, fifty percent of the breakage shall be paid to the licensee of the in-state host track within sixty days after the end of the race meet from which the simulcast race was broadcast and the remainder shall be paid as purses for the races conducted at the in-state host track.

(i) An operator of an in-state simulcast facility shall retain the proceeds derived from all unclaimed pari-mutuel tickets for each simulcast race of greyhounds received for a race held at an out-of-state host track and, after a period of one year following the simulcast race, the proceeds revert and belong to the operator.

(2) (a) In the event the federal government or any federal governmental agency imposes a levy on the licensee by a tax on the money so wagered and upon and against its receipts, the licensee may collect, in addition to the percentage and breaks allowed in this section, the amount of the tax so levied.

(b) The tax and breaks and license fee provided for in this article 32 shall be in lieu of all other license fees and privilege taxes or charges by the state of Colorado or any county, city, town, or other municipality or taxing body for the privilege of conducting any race meet provided for in this article 32 and licensed by the authority of this article 32; except that any county, city, town, or other municipality or taxing body that imposed any fee, tax, or charge prior to July 1, 1982, on the money so wagered, or upon and against the licensee's receipts, or for the privilege of conducting any race meet provided for and licensed by authority of this article 32 shall have the authority to amend, repeal and reenact, or repeal any such fee, tax, or charge and impose a new or different fee or tax on the money so wagered, or upon and against the licensee's receipts, or for the privilege of conducting any race meet provided for and licensed by authority of this article 32, and no provision of this article 32 shall affect the authority of the county, city, town, or other municipality or taxing body with respect to such fees or taxes unless the provision specifically refers to this subsection (2)(b). Notwithstanding subsection (1) of this section, it is lawful for the licensee to take such fee or tax from the gross receipts on pari-mutuel wagering; and in such cases the licensee shall pay the fee or tax directly to the county, city, town, or other municipality or taxing body.

(3) Unless expressly authorized by this article 32, no person may act for consideration as an agent or courier for another person for the purpose of placing wagers or cashing or redeeming winning pari-mutuel tickets. In addition to the remedies otherwise provided for violations of this article 32, the commission may petition any court of competent jurisdiction for an order enjoining a violation of this subsection (3).

(4) Pursuant to a valid simulcasting agreement, an operator of an in-state simulcast facility that receives simulcast signals of horse or greyhound races held in another state may:

(a) Take the percentage of the gross receipts of any pari-mutuel wagering on the simulcast races as is allowable under the laws and rules of the other state; and

(b) Adopt the procedures for computation and distribution of breakage as are allowable under the laws and rules of the other state.

Source: L. 2018: (1)(f)(II) added, (SB 18-182), ch. 115, p. 812, § 2, effective April 12; entire article added with relocations, (HB 18-1024), ch. 26, p. 314, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-702 as it existed prior to 2018.

(2) Subsection (1)(f)(II) of this section was numbered as § 12-60-702 (1)(f)(III) in SB 18-182. That provision was harmonized with and relocated to this section as this section appears in HB 18-1024.

44-32-703. Pari-mutuel pools for race meets and simulcast races. (1) The pari-mutuel pool for a horse race meet and for simulcast races of the race meet shall be an intrastate common pool; except that, if the simulcast races are received by an out-of-state simulcast facility, the pari-mutuel pool may be an interstate common pool, and, in that case, it shall be operated by the in-state host track conducting the horse race meet.

(2) An in-state simulcast facility receiving simulcast races from an out-of-state host track may participate either in a pari-mutuel pool into which only the pari-mutuel wagers on the simulcast races that are placed at the in-state simulcast facility are taken or in an interstate common pool. The commission shall permit an operator of an in-state simulcast facility participating in an interstate common pool to adopt the takeout percentage of the out-of-state host track for the interstate common pool.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 317, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-703 as it existed prior to 2018.

44-32-704. Limitations on pari-mutuel wagering. (1) Wagers on pari-mutuel horse or greyhound races conducted in or out of this state may only be placed upon the premises of a racetrack or an in-state simulcast facility licensed by the commission or the out-of-state racetrack or simulcast facility as authorized by the commission. No wagering or betting on the results of any of the races licensed under this article 32 shall be conducted outside a licensed or approved racetrack or simulcast facility.

(2) (a) No person or agent or employee of any person shall place, receive, offer, or agree to place or receive a wager on a pari-mutuel horse or greyhound race, conducted in or broadcast in this state, by messenger, telephone, telegraph, facsimile machine, or other electronic device; except that this subsection (2) shall not apply to associations or simulcast facilities licensed by the commission. Nothing in this section shall be construed to prohibit gambling as provided in section 18-10-102 (2)(d).

(b) Any person who violates subsection (2)(a) of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 317, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-703.5 as it existed prior to 2018.

44-32-705. Horse breeders' and owners' awards and supplemental purse fund - awards - advisory committee - rules. (1) There is hereby created a fund, to be known as the horse breeders' and owners' awards and supplemental purse fund, referred to in this section as the "fund", that shall consist of money deposited thereto by the licensee for the racing of horses and

by an operator of an in-state simulcast facility that receives simulcast races of horses for the purposes of this section, to be held in a trust account, which money shall be paid out to owners and breeders of Colorado-bred horses as provided in this section and by rules of the commission. The rules shall provide for an administrative fee to be paid to the Colorado horse breeder associations for registering and maintaining breeding records for the administration of the fund. The fees shall not exceed ten percent of the total money generated by the unclaimed pari-mutuel tickets and the money provided by section 44-32-701 (2)(b).

(2) The money derived pursuant to section 44-32-701 (2)(b) shall be paid to a trust account for the fund on the fifteenth day of the calendar month immediately following the month in which the sum was received. In addition, the proceeds derived from all unclaimed pari-mutuel tickets for each horse race meet and for each simulcast race of horses received by an in-state simulcast facility shall be paid to a trust account for the fund after a period of one year following the end of the race meet.

(3) After money from the fund has been distributed to the respective breeder associations, further distribution shall be governed by the bylaws of the associations. Nothing in this section shall be construed to prohibit the distribution of money from the fund to owners and breeders of Colorado-bred horses that are otherwise eligible under the bylaws of the associations and that run in races outside Colorado.

(4) Notwithstanding section 24-30-204, the commission may establish by rule a period for distribution of money in the fund that is not consistent with the state's general fiscal-year period.

(5) Any money credited to the fund and not distributed within three years shall be paid, as authorized by the commission, either:

- (a) As purses for races held at live race meets in Colorado; or
- (b) As fees required for participation in an interstate compact to which Colorado is a party pursuant to section 44-32-202 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 318, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-704 as it existed prior to 2018.

44-32-706. Payments to state - disposition. (1) (a) Except as otherwise provided in subsection (1)(b) of this section and in sections 44-32-701, 44-32-702 (1), and 44-32-705, all sums referred to in sections 44-32-701, 44-32-702 (1), and 44-32-705, including all sums collected for license fees and fines pursuant to the provisions of this article 32, shall be paid to the department through the division on the tenth business day of the month immediately following the month in which each performance took place, and the licensee shall make a return as required by rules of the commission.

(b) In temporary or emergency situations, a licensed operator for the racing of animals, with the approval of and under the direction of the director or the director's designee, may provide for veterinary services as described in section 44-32-202 (3), at the licensed operator's expense, and the expense thus incurred may be deducted from the payment made to the department in accordance with subsection (1)(a) of this section; except that the amount deducted shall not exceed the amount set by the commission for those veterinary services.

(2) All money collected by the department through the division shall, on the next business day following the receipt thereof, be transmitted to the state treasurer, who shall credit the same to the general fund of the state; except that license fees established and collected by the director pursuant to section 44-32-202 (3)(h) shall be credited to the racing cash fund created in section 44-32-205. The department shall have all the powers, rights, and duties provided in article 21 of title 39 to carry out the collection.

(3) The general assembly shall annually appropriate from the racing cash fund created in section 44-32-205 the direct and indirect costs of administering this article 32.

(4) Any person who fails to make a return or pay any tax required under this article 32 shall be liable for penalties and interest as follows:

(a) A penalty of the greater of fifteen dollars for each failure to make a return and for each failure to pay a tax when due, or ten percent thereof plus one-half percent per month from the date when due, not exceeding eighteen percent, in the aggregate; and

(b) Interest on any tax due, from the date due, at the rate specified in section 39-21-110.5.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 318, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-705 as it existed prior to 2018.

44-32-707. Agreement of this state. In the event any county or municipality development revenue bonds are issued in reliance on the provisions of this article 32, the state of Colorado does hereby covenant and agree with the holders of any such bonds that the state will not limit or alter the rights or powers of the owners of the bonds or to repeal, amend, or otherwise directly or indirectly modify this article 32 or the effect thereof as to the assessments, fees, charges, pledged revenues, or any combination thereof in such a manner as to impair adversely any such outstanding bonds, until all such bonds have been paid and discharged in full or provision for their payment and redemption has been fully made. The covenant and agreement may be included in any agreement with the holders of the bonds.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 319, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-706 as it existed prior to 2018.

PART 8

ENFORCEMENT AND PENALTIES

44-32-801. Criminal penalties. (1) Except as provided in section 44-32-601, any person who commits any of the acts enumerated in section 44-32-507 (1), other than those that also constitute crimes under the "Colorado Criminal Code", title 18, commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2) Any person who violates any rule of the commission promulgated under the authority granted in this article 32, other than those that also constitute crimes under the "Colorado Criminal Code", title 18, commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

(3) The penalties set forth in this section are cumulative and do not preclude the imposition of civil or administrative penalties, sanctions, actions against licenses or registrations, or any other penalties otherwise authorized.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 320, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-801 as it existed prior to 2018.

44-32-802. Cancellation of license. In case of a willful violation of this article 32 by a person holding a license, the commission, upon conviction of the offender, may cancel the offender's license, and the cancellation shall operate as a forfeiture of all rights and privileges granted by the commission and of all sums of money paid to the department through the division by the offender, and the action of the commission in this respect shall be final.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 320, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-802 as it existed prior to 2018.

44-32-803. Exclusion from licensed premises. The commission or the division may exclude from any and all licensed premises any person who has been convicted of a felony under the laws of this or any other state or of the United States, subject to the provisions of section 24-5-101. Any person so excluded by the commission or the division has a right to a hearing before the commission as to the basis of the exclusion, subject to the provisions of section 24-4-104. No such person shall enter or remain upon premises owned by any licensee conducting a race meet or operating a simulcast facility under the jurisdiction of the commission, and all such persons, upon discovery or recognition, shall be forthwith excluded or ejected from the premises. Any person so ejected or excluded from the premises of any licensee shall be denied admission to its premises and the premises of all other licensees of the commission until permission for entering has thereafter been obtained from the commission. The commission may also exclude any person from the licensed premises who willfully violates any of the provisions of this article 32 or any rule issued by the commission.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 320, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-803 as it existed prior to 2018.

PART 9

REVIEW AND TERMINATION PROVISIONS

44-32-901. Repeal of article - review of functions. This article 32 is repealed, effective September 1, 2023. Before its repeal, the division and its functions are scheduled for review in accordance with section 24-34-104.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 320, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-901 as it existed prior to 2018.

Cross references: Pursuant to § 44-32-103, the division and the commission are subject to the termination schedule in § 24-34-104.

ARTICLE 33

Gambling Payment Intercept Act

Editor's note: This article 33 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 33, see the comparative tables located in the back of the index.

44-33-101. Short title. The short title of this article 33 is the "Gambling Payment Intercept Act".

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 252, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-601 as it existed prior to 2018.

44-33-102. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Parents should provide financial support to their minor children who cannot care for themselves;

(b) The state should intervene when parents fail to meet their support obligations;

(c) Children are adversely affected when parents divert their financial support to limited gaming and pari-mutuel wagering;

(d) A parent's winnings from money diverted from a child's support should be applied to the parent's outstanding support obligations;

(e) Section 44-30-102 (1)(c) of the "Limited Gaming Act of 1991" recognizes that the limited gaming industry must be assisted in protecting the general welfare of the people of the state;

(f) Victims of crime and all the people of the state are adversely affected when criminal offenders divert restitution to limited gaming and pari-mutuel wagering;

- (g) A criminal offender's winnings from money diverted from restitution should be applied to the offender's outstanding criminal court obligations;
- (h) An uncollected debt to the state should be deducted from a person's winnings.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 252, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-602 as it existed prior to 2018.

44-33-103. Definitions. As used in this article 33, unless the context otherwise requires:

(1) "Licensee" means a licensee as defined in section 44-32-102 (14) or an operator or retail gaming licensee under section 44-30-501 (1)(b) or (1)(c).

(2) (a) "Outstanding debt" means:

(I) Unpaid child support debt or child support costs to the state pursuant to section 14-14-104, and arrearages of child support requested as part of an enforcement action pursuant to article 5 of title 14, or arrearages of child support that are the subject of enforcement services provided pursuant to section 26-13-106;

(II) Restitution that a person has been ordered to pay pursuant to section 18-1.3-603 or 19-2-918, regardless of the date that the restitution was ordered; and

(III) Any unpaid debt due to the state that is referred pursuant to section 24-30-202.4 (2) to the state controller or the central collection services section of the division of finance and procurement, or any successor section, in the department of personnel, and including the collection fee and any allowable fees and costs pursuant to section 24-30-202.4 (8). "Outstanding debt" does not include any debt collected by the department of personnel for a political subdivision of the state.

(b) Notwithstanding any provision of subsection (2)(a) of this section, an outstanding debt shall not be less than three hundred dollars.

(3) "Payment" means cash winnings from limited gaming or from pari-mutuel wagering on horse or greyhound racing payable by a licensee for which the licensee is required to file form W-2G, or a substantially equivalent form, with the United States internal revenue service.

(4) "Registry" means the registry created and maintained by or for the department pursuant to section 44-33-104.

(5) "Registry operator" means the department or the private entity that maintains the registry under the direction and control of the department.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 253, § 2, effective October 1; (1) amended, (HB 18-1024), ch. 26, p. 323, § 16, effective October 1.

Editor's note: (1) This section is similar to former § 24-35-603 as it existed prior to 2018.

(2) Subsection (1) of this section was numbered as § 24-35-603 (1) in HB 18-1024. That provision was harmonized with and relocated to this section as this section appears in SB 18-035.

44-33-104. Registry - creation - information. (1) The department shall create and maintain, or contract with a private entity pursuant to section 44-33-108 to create and maintain, the registry in accordance with this section.

(2) On and after the date that the judicial department receives notice from the department pursuant to section 44-33-106 (2)(b)(I), the judicial department shall certify to the registry operator the information indicated in subsection (6) of this section regarding persons with an outstanding debt as specified in section 44-33-103 (2)(a)(II).

(3) The department of human services shall certify to the registry operator the information indicated in subsection (6) of this section regarding each child support obligor with an outstanding debt as specified in section 44-33-103 (2)(a)(I).

(4) On and after January 1, 2012, the department of personnel shall certify to the registry operator the information indicated in subsection (6) of this section regarding each person with an outstanding debt as specified in section 44-33-103 (2)(a)(III).

(5) The registry operator shall enter in the registry the information certified to the registry operator by the judicial department, the department of human services, and the department of personnel pursuant to subsections (2), (3), and (4) of this section.

(6) The registry shall contain the following information:

(a) The name of each person with an outstanding debt;

(b) The social security number of each person with an outstanding debt;

(c) The account or case identifier assigned to the outstanding debt by the department that certified the information to the registry operator;

(d) The name, telephone number, and address of the department that certified the information to the registry operator regarding each person with an outstanding debt; and

(e) The amount of the outstanding debt.

(7) On and after the date that the judicial department receives notice from the department pursuant to section 44-33-106 (2)(b)(I), the registry operator shall add a fee of twenty-five dollars to each outstanding debt certified by a department pursuant to this section.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 254, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-604 as it existed prior to 2018.

44-33-105. Payments - limited gaming and pari-mutuel wagering licensees - procedures. (1) On and after July 1, 2008:

(a) A licensee shall have the means to communicate with the registry operator.

(b) Before making a payment to a winner, the licensee shall obtain the name, address, and social security number of the winner from form W-2G, or a substantially equivalent form, to be filed with the United States internal revenue service and submit the required information to the registry operator. The registry operator shall inform the licensee whether the winner is listed in the registry. The licensee shall comply with subsection (2) of this section.

(2) (a) If the registry operator replies that the winner is not listed in the registry or if the licensee is unable to receive information from the registry operator after attempting in good faith to do so, the licensee may make the payment to the winner.

(b) If the registry operator replies that the winner is listed in the registry:

(I) The reply from the registry operator to the licensee shall indicate the name, telephone number, and address of the department that certified the information to the registry and the amount of the winner's outstanding debt.

(II) The licensee shall withhold from the amount of the payment an amount equal to the amount certified pursuant to section 44-33-104. If the amount of the payment is less than or equal to the amount certified, the licensee shall withhold the entire amount of the payment. The licensee shall refer the winner to the department that reported the outstanding debt to the registry.

(III) Within twenty-four hours after withholding a payment pursuant to subsection (2)(b)(II) of this section, the licensee shall send the amount withheld to the registry operator and report to the registry operator the full name, address, and social security number of the winner, the account or case identifier assigned by the department that reported the outstanding debt to the registry, the date and amount of the payment, and the name and location of the licensee.

(IV) The registry operator shall send to the certifying department the money and information received from a licensee pursuant to subsection (2)(b)(III) of this section. If more than one department certified a winner, the registry operator shall send the information to each certifying department and distribute the money among the departments as follows:

(A) The registry operator shall send to the department of human services any amount certified by the department of human services.

(B) Of any money remaining after the distribution, if any, to the department of human services pursuant to subsection (2)(b)(IV)(A) of this section, the registry operator shall send to the judicial department any amount certified by the judicial department.

(C) Of any money remaining after the distribution, if any, to the judicial department pursuant to subsection (2)(b)(IV)(B) of this section, the registry operator shall send to the department of personnel any amount certified by the department of personnel.

(V) The department of human services shall process money received from the registry operator pursuant to subsection (2)(b)(IV) of this section in accordance with section 26-13-118.7. The judicial department shall process money received from the registry operator pursuant to subsection (2)(b)(IV) of this section in accordance with the rules of the department. The department of personnel shall process money received from the registry operator pursuant to subsection (2)(b)(IV) of this section in accordance with the rules of the department of personnel, with the understanding that any state agency or state-supported institution of higher education debt will be paid before any debt for a political subdivision of the state assigned to central collection services.

(3) The registry operator shall deduct an amount equal to the fee added to the outstanding debt pursuant to section 44-33-104 (7) from each payment received from a licensee and forward the amount to the state treasurer for deposit in the gambling payment intercept cash fund created in section 44-33-106.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 255, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-605 as it existed prior to 2018.

44-33-106. Gambling payment intercept cash fund - creation - gifts, grants, donations - intercepts for restitution. (1) There is hereby created in the state treasury the gambling payment intercept cash fund, referred to in this section as the "fund". The fund shall consist of any money deposited in the fund pursuant to section 44-33-105 (3), any allocations made to the fund pursuant to section 24-33.5-506 (1)(c.5)(I), any other money appropriated to the fund by the general assembly, and any gifts, grants, or donations from private or public sources, that the department is hereby authorized to seek and accept for the purposes set forth in this section. All private and public funds received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the fund. The state treasurer shall also credit to the fund any money that is allocated thereto pursuant to section 24-33.5-506 (1)(c.5)(I).

(2) (a) The money in the fund shall be continuously appropriated to the department for the purpose of expanding the program established by this article 33 to include intercepts of restitution that a person has been ordered to pay pursuant to section 18-1.3-603 or 19-2-918, as certified by the judicial department. As soon as there is sufficient money in the fund, the department shall expand the program for that purpose.

(b) Once the intercept program has been expanded as described in subsection (2)(a) of this section:

(I) The department shall notify the judicial department and the registry operator that the judicial department may begin certifying outstanding debt pursuant to section 44-33-104 (2); and

(II) Money in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the administration of this article 33.

(c) Any money in the fund not expended for the purposes set forth in subsections (2)(a) and (2)(b) of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of money in the fund shall be credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred or revert to the general fund or any other fund.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 256, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-605.5 as it existed prior to 2018.

44-33-107. Liability - immunity. (1) A licensee that fails to comply with the provisions of section 44-33-105 shall be subject to sanctions by its licensing authority pursuant to sections 44-30-524 (1) and 44-32-507 (1).

(2) A licensee that makes a payment to a winner in violation of section 44-33-105 shall not be liable to the person to whom the winner owes an outstanding debt.

(3) Except as provided in this section, a licensee shall be immune from civil and criminal liability for acting in compliance with the provisions of this article 33.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 257, § 2, effective October 1; (1) amended, (HB 18-1024), ch. 26, p. 323, § 17, effective October 1.

Editor's note: (1) This section is similar to former § 24-35-606 as it existed prior to 2018.

(2) Subsection (1) of this section was numbered as § 24-35-606 (1) in HB 18-1024. That provision was harmonized with and relocated to this section as this section appears in SB 18-035.

44-33-108. Contracting authority - memoranda of understanding - rules. (1) The executive director may enter into a contract with a private entity, in accordance with the "Procurement Code", articles 101 to 112 of title 24, to create and maintain the registry.

(2) The department may enter into memoranda of understanding with the judicial department, the department of human services, and the department of personnel to implement this article 33. If the registry is operated by a private entity pursuant to this section, the registry operator may enter into memoranda of understanding with the judicial department, the department of human services, and the department of personnel to implement this article 33.

(3) The executive director shall promulgate rules in accordance with article 4 of title 24 to implement this article 33. The rules shall include, but need not be limited to, rules regarding:

(a) The removal from the registry of information regarding persons who satisfy their outstanding debts;

(b) The manner in which a licensee shall communicate with the registry, including the information a licensee shall submit to the registry and the procedures to be followed if the registry is inaccessible due to technical or other problems;

(c) The protection of the confidentiality of information in the registry; and

(d) The circumstances and means by which an outstanding debt may be collected from a licensee pursuant to section 44-33-105 (2)(b)(IV).

(4) The executive director shall promulgate a rule in accordance with article 4 of title 24 allowing a licensee to retain at least thirty dollars of each payment withheld pursuant to this article 33 to cover the licensee's costs of compliance with this article 33, which amount shall be added to the debtor's outstanding debt.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 257, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-607 as it existed prior to 2018.

LOTTERY

ARTICLE 40

State Lottery Division

Editor's note: This article 40 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 40, see the comparative tables located in the back of the index.

44-40-101. Definitions. As used in this article 40, unless the context otherwise requires:

(1) "Cash prize" means any prize paid in cash in its entirety, including any expenditures made to fund Colorado or multistate prize reserves.

(2) "Commission" means the Colorado lottery commission.

(3) "Director" means the director of the state lottery division.

(4) "Division" means the state lottery division.

(5) "Lottery" means any and all lotteries created and operated pursuant to this article 40, including, without limitation, the game commonly known as lotto, in which prizes are awarded on the basis of designated numbers conforming to numbers selected at random, electronically or otherwise, by or at the direction of the commission, and any multistate lottery or game that is authorized by a multistate agreement to which the division is party. All references in this article 40 to "the lottery" shall be construed to include any or all lotteries within the meaning of this subsection (5). "Lottery" shall not include a promotional drawing as defined in subsection (8) of this section.

(6) "Multistate agreement" means an agreement entered into by the division and at least one other state's lottery authority that authorizes the division to allow Colorado residents to participate in one or more multistate lotteries pursuant to rules promulgated by the commission.

(7) "Noncash prize" means any prize paid in merchandise or a combination of cash and merchandise.

(8) "Promotional drawing" means a prize promotion involving the conduct of giveaways through the use of free chances, including the use of nonwinning tickets from existing or prior games, for purposes of commercial advertisement of the lottery, the creation of goodwill, the promotion of new lottery products, or the collection of names.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 334, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-201 as it existed prior to 2018.

44-40-102. State lottery division - creation - location - enterprise status. (1) (a) There is hereby created, within the department, the state lottery division, the head of which is the director of the state lottery division, who shall be appointed and subject to removal by the executive director in accordance with section 13 of article XII of the state constitution. The state lottery division shall be headquartered in the city of Pueblo in facilities provided at the expense of the lottery division.

(b) The state lottery division and the Colorado lottery commission, created in section 44-40-108, shall constitute an enterprise for the purposes of section 20 of article X of the state constitution, so long as the commission retains the authority to issue revenue bonds and the division receives less than ten percent of its total annual revenues in grants, as defined in section 24-77-102 (7), from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this section, the state lottery division and the Colorado lottery commission shall not be subject to any of the provisions of section 20 of article X of the state constitution.

(2) The state lottery division, including the Colorado lottery commission created in section 44-40-108, and the director of the state lottery division shall exercise their powers and perform their duties and functions specified in this article 40 under the department as if the same

were transferred to the department by a **type 2** transfer, as that transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24; except that the commission shall have full and exclusive authority to promulgate rules related to the lottery without any approval by, or delegation of authority from, the department.

(3) For purposes of part 2 of article 72 of title 24, the records of the division and the commission shall be public records, as defined in section 24-72-202 (6), regardless of whether the state lottery division and the Colorado lottery commission constitute an enterprise pursuant to subsection (1) of this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 335, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-202 as it existed prior to 2018.

44-40-103. Function of division. The function of the division is to establish, operate, and supervise the lottery authorized by section 2 of article XVIII of the state constitution, as approved by the electors.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 336, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-203 as it existed prior to 2018.

44-40-104. Director - qualifications - powers and duties. (1) The director shall be qualified by training and experience to direct a lottery and the work of the division; and, notwithstanding the provisions of section 24-5-101, shall be of good character and shall not have been convicted of any felony or gambling-related offense.

(2) The director shall devote his or her entire time and attention to the duties of his or her office and shall not be engaged in any other profession or occupation.

(3) The director may promote the lottery by:

(a) Establishing promotional drawings. The general assembly hereby finds and declares that promotional drawings shall not be subject to regulation under this article 40. No award of prizes through a promotional drawing shall be deemed a lottery or game of chance.

(b) Selling memorabilia or other promotional items. Any revenue generated from the sale of the items shall be transmitted to the state treasurer to be credited to the lottery fund created in section 44-40-111 (1).

(4) The director, as administrative head of the division, shall direct and supervise all its administrative and technical activities. In addition to the duties imposed upon the director elsewhere in this article 40, it shall be the director's duty:

(a) To supervise and administer the operation of the lottery in accordance with the provisions of this article 40 and the rules of the commission, state fiscal rules, state personnel rules, and state procurement rules, to perform all duties and obligations pursuant to and administer any multistate agreements, and to provide for all expenses incurred in connection with any multistate agreements unless the expenses are otherwise provided for in the multistate agreements;

(b) To attend meetings of the commission or to appoint a designee to attend in his or her place;

(c) To employ and direct the personnel as may be necessary to carry out the purposes of this article 40, but no person shall be employed who has been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101. The director by agreement may secure and, pursuant to section 44-40-111 (2), provide payment for any services that the director may deem necessary from any department, agency, or unit of the state government and may employ and compensate consultants and technical assistants as may be required and as otherwise permitted by law. The director shall ensure that the division conducts full criminal background investigations of vendors, officers of licensed sales agents, members of the commission, and division employees as are necessary to ensure the security and integrity of the operation of the state lottery. The executive director may request the division of gaming to perform the investigations on members of the commission, division employees, and vendors.

(d) To license, in accordance with the provisions of section 44-40-107 and the rules of the commission, as agents to sell lottery tickets persons that in his or her opinion will best serve the public convenience and promote the sale of tickets or shares;

(e) To deny, suspend, or revoke any lottery license subject to the provisions of section 24-4-104. The director may designate an administrative law judge, pursuant to part 10 of article 30 of title 24, to take evidence and to make findings and report them to the director.

(f) To confer, as necessary or desirable and not less than once each month, with the commission on the operation of the lottery;

(g) To make available for inspection by the commission or any member of the commission, upon request, all books, records, files, and other information and documents of his or her office;

(h) To advise the commission and recommend rules and other matters as he or she deems necessary and advisable to improve the operation of the lottery;

(i) To make a continuous study and investigation of the operation and the administration of similar laws that may be in effect in other states or countries, any literature on the subject that from time to time may be published or available, and any federal laws that may affect the operation of the lottery, and the reaction of Colorado citizens to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to serve the purposes of this article 40;

(j) To take any action that may be necessary to protect the security and integrity of the lottery games;

(k) To determine the manner of payment of prizes to the holders of winning tickets or shares, which determination shall include consideration of whether a prize should be awarded as a lump sum or as an amortized annuity in light of the "Internal Revenue Code of 1986", as amended, and the rules promulgated pursuant thereto;

(l) To determine any other matters that are necessary or desirable for the efficient and economical operation and administration of the lottery; and

(m) To perform any other lawful acts that he or she and the commission may consider necessary or desirable to carry out the purposes and provisions of this article 40.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 336, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-204 as it existed prior to 2018.

44-40-105. Executive director - duties. (1) It shall be the executive director's duty:

(a) To enter into contracts for materials, equipment, and supplies to be used in the operation of the lottery, for the design and installation of games or lotteries, and for promotion of the lottery. No contract shall be legal or enforceable that provides for the management of the lottery or for the entire operation of its games by any private person, firm, or corporation, because management of the lottery and control over the operation of its games shall remain with the state; except that management of and control over the operation of a multistate lottery shall be determined by the terms of a multistate agreement. Except for advertising and promotional contracts, when a contract other than a multistate agreement is awarded, a performance bond satisfactory to the executive director, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the state, in an amount set annually by the executive director shall be delivered to the state and shall become binding on the parties upon execution of the contract.

(b) To annually prepare and submit to the commission a proposed budget for the ensuing fiscal year, which budget shall present a complete financial plan setting forth all proposed expenditures and anticipated revenues of the division. The fiscal year of the division shall commence on July 1 and end on June 30 of each year.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 338, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-204.5 as it existed prior to 2018.

44-40-106. Contractors supplying services, equipment, or materials - gaming equipment - disclosures - definitions. (1) Any person, firm, association, or corporation, referred to in this section as "supplier", that enters into a contract to supply services, equipment, or materials or gaming materials or equipment for use in the operation of the state lottery shall first disclose to the division:

(a) In addition to the supplier's business name and address, the names and addresses of the following:

(I) If the supplier is a partnership, all of the general and limited partners;

(II) If the supplier is a limited liability company, all of the members;

(III) If the supplier is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

(IV) If the supplier is an association, the members, officers, and directors;

(V) If the supplier is a corporation, the officers, directors, and each owner or holder, directly or indirectly, of any equity security or other evidence of ownership of any interest in the corporation; except that, in the case of owners or holders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those owning or holding five percent or more of the publicly held securities need be disclosed;

(VI) If the supplier is a subsidiary or intermediary company, the intermediary company, holding company, or parent company involved therewith, and the officers, directors, and stockholders of each; except that, in the case of owners or holders of publicly held securities of

an intermediary company or holding company that is a publicly traded corporation, only the names and addresses of those owning or holding five percent or more of the publicly held securities need be disclosed;

(b) If the supplier is a corporation, all the states in which the supplier is incorporated to do business, and the nature of that business;

(c) Other jurisdictions in which the supplier has contracts to supply gaming materials or equipment;

(d) The details of any criminal conviction, state or federal, of the supplier or any person whose name and address are required by subsection (1)(a) of this section. This subsection (1)(d) applies irrespective of any of the laws of the state to the contrary regarding expungement or sealed records.

(e) The details of any disciplinary action taken by any state against the supplier or any person whose name and address are required by subsection (1)(a) of this section regarding any matter related to the selling, leasing, offering for sale or lease, buying, or servicing of gaming materials or equipment;

(f) A statement of the gross receipts realized in the preceding year from the sale, lease, or distribution of gaming materials or equipment to states operating lotteries and to private persons licensed to conduct gambling, which statement shall differentiate that portion of the gross receipts attributable to transactions with states operating lotteries from that portion of the gross receipts attributable to transactions with private persons licensed to conduct gambling;

(g) The name and address of any source of gaming materials or equipment for the supplier;

(h) The number of years the supplier has been in the business of supplying gaming materials or equipment;

(i) Any other information, accompanied by any documents, that the commission, by rule, may require as being necessary or appropriate in the public interest to accomplish the purposes of this article 40.

(2) If the supplier is a subsidiary or intermediary company, the intermediary company, holding company, or parent company involved therewith shall supply the same information required by this section of the supplier.

(3) The costs of any investigation into the background of the apparent successful bidder shall be assessed against the bidder and shall be paid by the bidder at the time of billing by the state. The investigation may be conducted by the department or the attorney general, and no contract may be signed until the investigation is completed. Investigators shall have peace officer authority during the period of investigation.

(4) No person, firm, association, or corporation contracting to supply services, equipment, or materials or gaming equipment or materials to the state for use in the operation of the state lottery shall be directly or indirectly connected with any person, firm, association, or corporation licensed as a sales agent under this article 40, any employee of the department, the director, or the members of the commission.

(5) No contract shall be formed with any supplier if:

(a) A person disclosed pursuant to subsection (1)(a) or (1)(g) of this section is a person who has been convicted of a felony or gambling-related offense, who has engaged in any form of illegal gambling, who is not of good character and reputation relevant to the secure and efficient operation of the lottery, or who has been convicted of a crime involving fraud or

misrepresentation. However, when a felony conviction, other than a gambling-related offense, is an issue in the formation of a contract with a supplier, the director may determine that the supplier is otherwise of good character and reputation. The director's determination shall be submitted to a three-member panel who shall approve or reject the determination. The panel's decision shall constitute final agency action for purposes of section 24-4-106. The panel shall be composed of the chairman of the lottery commission, the executive director, and the secretary of state. Upon the determination and approval, the director may enter into a contract with the supplier.

(b) A disciplinary action disclosed pursuant to subsection (1)(e) of this section was resolved adversely to the supplier.

(6) No contract for the supply of services, equipment, or materials or gaming materials or equipment for use in the operation of the state lottery shall be enforceable against the state if the provisions of this section are not complied with.

(7) In the case of any procurement for a contract for lottery tickets, lottery consulting services, or lottery terminals or equipment having a value of one hundred thousand dollars or more, or in the case of procurement for a contract for drawing equipment regardless of value, each prospective corporate supplier shall, prior to entering into a contract, provide a verified affidavit as to ownership, if any, of any interest, direct or indirect, in any operator of a casino, jai alai fronton, racetrack, or other gaming establishment, a current personal financial statement, and individual federal and state income tax returns from the past three years for each of its officers and each of the directors. The executive director shall determine, depending upon the organization of each company, by rule, which officers of any parent, intermediary, and holding companies, and which directors of the supplier or of a parent, intermediary, or holding company, are affiliated with the lottery and are required to file a current personal financial statement and individual federal and state income tax returns from the past three years. The provision of said affidavit, financial statement, and tax returns shall not be required at the time of submission of the prospective corporate supplier's bid or proposal.

(8) (a) Any contractor that has entered into a contract to supply gaming materials or equipment to the lottery shall report to the division any change in, addition to, or deletion from the information disclosed to the division in accordance with the provisions of subsections (1)(a), (1)(d), (1)(e), (2), and (7) of this section. The report shall be written and addressed to the division and shall be mailed or delivered to the division within thirty days of the date the change in, addition to, or deletion from the information takes place or becomes effective.

(b) Any costs associated with an investigation regarding the information disclosed in the report shall be paid by the contractor who shall remit the costs within thirty days of billing by the division.

(c) (I) If the report contains any information, or if the division receives any information from any source other than the contractor, which information would have prohibited the director from awarding the contract to the contractor if the information had been provided or had been effective before the director awarded the contract, the director may terminate the contract following an investigation.

(II) If the report contains any information, or if any information is discovered by the division from any source other than the contractor, which information would have given the director discretion to refuse to enter the contract had the information been provided or been

effective before the director awarded the contract, the director, following an investigation, may terminate the contract.

(III) Any termination shall be accomplished in accordance with the termination provisions of the contract.

(9) Every contract for the supply of gaming equipment or material shall provide the following:

(a) The director shall exclude from lottery facilities an employee of a contractor who has been convicted of a felony.

(b) The director shall also exclude employees of a contractor from participating in activities involving the gaming materials or equipment supplied pursuant to the contract.

(10) (a) Each supplier, prior to entering into a contract to supply gaming materials or equipment, shall submit a set of fingerprints to the division. The division shall forward the fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Only the actual costs of the record check shall be borne by the supplier. Nothing in this subsection (10) shall preclude the division from making further inquiries into the background of the supplier.

(b) Notwithstanding any other provision of this section to the contrary, for purposes of this subsection (10), "supplier" means an individual or any person described in subsection (1)(a) or (1)(g) of this section.

(11) The requirements of the "Procurement Code", articles 101 to 112 of title 24, shall apply to all contracts entered into by the lottery. The executive director shall ensure that any competitive solicitation process conducted by the lottery is designed to encourage broad vendor competition.

(12) The evaluation team for any bid for a contract for services, equipment, or materials or for the purchase or lease of gaming equipment and materials, the amount of which bid is in excess of one million dollars, shall include an individual who is neither employed by nor affiliated with the division and who possesses specific expertise in the procurement of the services, equipment, or materials or in the purchase or lease of the gaming equipment or materials that are the subject of the bid. The individual shall be selected by the executive director in accordance with the requirements of this subsection (12).

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 338, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-205 as it existed prior to 2018.

Cross references: For those who serve as peace officers within the criminal code when enforcing laws and rules regarding the lottery, see § 16-2.5-121.

44-40-107. Licenses. (1) The director shall issue, suspend, revoke, and renew licenses for lottery sales agents pursuant to subsection (3) of this section and rules adopted by the commission. Licensing rules shall include requirements relating to the financial responsibility of the licensee, the accessibility of the licensee's place of business or activity to the public, the sufficiency of existing licenses to serve the public interest, the volume of expected sales, the

character of the licensee, the security and efficient operation of the lottery, the licensed agent recovery reserve authorized in section 44-40-121, and other matters necessary to protect the public interest and trust in the lottery and to further the sales of lottery tickets or shares. Rules shall also require that licenses be prominently displayed in areas visible to the public.

(2) (a) A license shall be revoked upon a finding that the licensee:

(I) Has provided false or misleading information to the division;

(II) Has been convicted of any gambling-related offense;

(III) Has endangered the security of the lottery;

(IV) Has become a person whose character is no longer consistent with the protection of the public interest and trust in the lottery; or

(V) Has intentionally refused to pay a prize in his or her possession to a person entitled to receive the prize under this article 40.

(b) A license may be suspended, revoked, or not renewed for any of the following causes:

(I) A change of business location;

(II) An insufficient sales volume;

(III) A delinquency in remitting money owed to the lottery;

(IV) The endangering of the efficient operation of the lottery;

(V) Any violation of this article 40 or any rule adopted pursuant to this article 40; or

(VI) Conviction of any felony.

(3) Procedures for issuance, suspension, revocation, and renewal of licenses shall be in accordance with article 4 of title 24, and the director shall have all the powers and shall be subject to all the requirements of article 4 of title 24 in conducting any hearings relating to the granting, suspension, revocation, or renewal of licenses. When a felony conviction or a conviction involving fraud is an issue in the issuance, suspension, revocation, or renewal of a lottery sales agent's license, the director's determination shall be submitted to a three-member panel who shall approve or reject the determination. The panel's decision shall constitute final agency action for the purposes of section 24-4-106. The panel shall be composed of the chairman of the lottery commission, the executive director, and the secretary of state.

(4) Licensed sales agents may include persons, firms, associations, or corporations, profit or nonprofit, but the following are ineligible for any license as a sales agent:

(a) Any person who will engage in business exclusively as a lottery sales agent;

(b) Any person who has been convicted of a gambling-related offense, notwithstanding the provisions of section 24-5-101;

(c) Any person who is or has been a professional gambler or gambling promoter;

(d) Any person who has engaged in bookmaking or any other form of illegal gambling;

(e) Any person who is not of good character and reputation, notwithstanding the provisions of section 24-5-101, in the community where he or she resides;

(f) Any person who has been convicted of a crime involving misrepresentation, notwithstanding the provisions of section 24-5-101;

(g) Any firm or corporation in which a person defined in subsections (4)(b) to (4)(f) of this section has a proprietary, equitable, or credit interest;

(h) Any organization in which a person defined in subsections (4)(b) to (4)(f) of this section is an officer, director, or managing agent, whether compensated or not; or

(i) Any organization in which a person defined in subsections (4)(b) to (4)(f) of this section is to participate in the management or sales of lottery tickets or shares.

(5) Licensed sales agents may include persons, firms, associations, or corporations, profit or nonprofit, but the following may be determined to be ineligible for any license as a sales agent:

(a) Any person who has been convicted of a felony or a crime involving fraud, notwithstanding the provisions of section 24-5-101;

(b) Any firm or corporation in which a person defined in subsection (5)(a) of this section has a proprietary, equitable, or credit interest;

(c) Any organization in which a person defined in subsection (5)(a) of this section is an officer, director, or managing agent, whether compensated or not; or

(d) Any organization in which a person defined in subsection (5)(a) of this section is to participate in the management or sales of lottery tickets or shares.

(6) Each licensed sales agent shall keep a complete set of books of account, correspondence, and all other records necessary to show fully the lottery transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination of the division or its duly authorized representatives. The division may require any licensed sales agent to furnish the information that the division considers necessary for the proper administration of this article 40 and may require an audit to be made of the books of account and records when the division considers necessary by an auditor, selected by the director, who shall likewise have access to all the books and records of the licensee, and the licensee may be required to pay the expense thereof.

(7) All licenses for lottery sales agents shall specify the place that sales shall take place, and no license shall be effective upon residential premises.

(8) The costs of any investigation into the background of an applicant seeking a license for a lottery sales agent shall be assessed against the applicant and shall be paid by the applicant at the time of billing by the state. The investigation may be conducted by the division or the attorney general. Investigators shall have peace officer authority during the period of investigation.

(9) If there are more applications to operate lotto than there are outlets available, then at least one hundred locations will be decided by a drawing by lot with the balance of all lotto outlets to be located at the direction of the division. Any person licensed as a lottery sales agent pursuant to the provision of this section shall be eligible to enter into this drawing by lot to determine if the person will be allowed to operate a lotto game at the same location.

(10) If the rental payments for the business premises of any lottery sales agent are based in whole or in part on a percentage of retail sales, and the computation of retail sales in the rental agreement does not specifically include the sale of tickets or shares in the lottery, the compensation received by the sales agent, as determined by the commission pursuant to section 44-40-109 (2)(h), and not the gross revenues from the sale of lottery tickets or shares shall be the amount of the retail sale for the purpose of computing the rental payment.

(11) (a) Each applicant for a lottery sales agent license, with the submission of the application, shall submit a set of fingerprints to the division. The division shall forward the fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Only the actual costs of the record check

shall be borne by the applicant. Nothing in this subsection (11) shall preclude the division from making further inquiries into the background of the applicant.

(b) For purposes of this subsection (11), "applicant" means an individual or each officer or director of a firm, association, or corporation that is applying for a license pursuant to this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 342, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-206 as it existed prior to 2018.

Cross references: For those who serve as peace officers within the criminal code when enforcing laws and rules regarding the lottery, see § 16-2.5-121.

44-40-108. Colorado lottery commission - creation. (1) There is hereby created, within the state lottery division, the Colorado lottery commission, consisting of five members, all of whom shall be citizens of the United States and residents of this state, appointed by the governor, with the consent of the senate. No member shall have been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101. No more than three of the five members shall be members of the same political party. A chairman and a vice-chairman of the commission shall be chosen from the membership by a majority of the members at the first meeting of each fiscal year.

(2) At least one member of the commission shall have been a law enforcement officer for not less than five years; at least one member shall be an attorney admitted to the practice of law in Colorado for not less than five years; and at least one member shall be a certified public accountant who has practiced accountancy in Colorado for at least five years.

(3) Initial members shall be appointed to the commission by the governor as follows: One member to serve until July 1, 1983, one member to serve until July 1, 1984, one member to serve until July 1, 1985, and two members to serve until July 1, 1986. All subsequent appointments shall be for terms of four years. No member of the commission shall be eligible to serve more than two terms.

(4) Any vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment.

(5) Any member of the commission may be removed by the governor at any time and for any reason.

(6) Commission members shall receive as compensation for their services up to one hundred dollars per month for each month in which there is an official commission meeting and shall be reimbursed for necessary traveling and other reasonable expenses incurred in the performance of their official duties. Upon appointment, and prior to confirmation by the senate, each member shall file with the secretary of state a financial disclosure statement in the form required to be filed by elected state officials. The statement shall be renewed as of each January 1 during the member's term of office. The chairperson of the lottery commission shall also be reimbursed for necessary traveling and other reasonable expenses incurred in the performance of his or her duties related to his or her participation on the three-member panel established in sections 44-40-106 (5)(a) and 44-40-107 (3).

(7) (a) The commission shall hold at least one meeting each month and any additional meetings that may be prescribed by rules of the commission. In addition, special meetings may be called by the chairman, any two commission members, or the director, upon delivery of seventy-two hours' written notice to each member. Notwithstanding the provisions of section 24-6-402, in emergency situations in which a majority of the commission certifies that exigencies of time require that the commission meet without delay, the requirements of public notice and of seventy-two hours' written notice to members may be dispensed with, and commission members as well as the public shall receive the notice as is reasonable under the circumstances.

(b) For purposes of part 4 of article 6 of title 24, the commission shall be a state public body, as defined in section 24-6-402 (1)(d), regardless of whether the state lottery division and the Colorado lottery commission constitute an enterprise pursuant to section 44-40-102 (1).

(8) A majority of the commission shall constitute a quorum, and the concurrence of a majority of the commission shall be required for any final determination by the commission. The commission shall keep a complete and accurate audio record of all its meetings for a period of at least three years.

Source: L. 2018: (3) amended, (SB 18-066), ch. 172, p. 1203, § 2, effective August 8; entire article added with relocations, (HB 18-1027), ch. 31, p. 345, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 24-35-207 as it existed prior to 2018.

(2) Subsection (3) of this section was numbered as § 24-35-207 (3) in SB 18-066. That provision was harmonized with and relocated to this section as this section appears in HB 18-1027.

44-40-109. Commission - powers and duties - rules. (1) In addition to any other powers and duties set forth in this article 40, the commission shall have the following powers and duties:

(a) To promulgate rules governing the establishment and operation of the lottery as it deems necessary to carry out the purposes of this article 40. The director shall prepare and submit to the commission written recommendations concerning proposed rules for this purpose.

(b) To conduct hearings upon complaints charging violations of this article 40 or rules promulgated pursuant to this article 40, other than any hearings relating to the granting, suspension, revocation, or renewal of licenses for lottery sales agents, and to conduct other hearings as may be provided by rules of the commission;

(c) To carry on a continuous study and investigation of the lottery throughout the state for the purpose of ascertaining any defects in this article 40 or in the rules issued under this article 40 whereby any abuses in the administration and operation of the lottery or any evasion of this article 40 or the rules may arise or be practiced, for the purpose of formulating recommendations for changes in this article 40 and the rules to prevent any abuses and evasions, to guard against the use of this article 40 and the rules as a cloak for the carrying on of organized gambling and crime, and to ensure that the law and rules shall be in the form and be so administered as to serve the true purposes of this article 40;

(d) To report immediately to the governor, the attorney general, the speaker of the house of representatives, the president of the senate, the minority leaders of both houses, and any other

state officers, as from time to time the commission deems appropriate, any matters that it deems to require an immediate change in the laws of this state in order to prevent abuses and evasions of this article 40 or rules promulgated thereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery;

(e) To require any special reports from the director that it may consider desirable;

(f) To authorize and issue revenue bonds pursuant to the provisions of section 44-40-122;

(g) To annually set the amount of the performance bond required of persons entering into contracts to provide materials, equipment, or supplies used in the operation of the lottery or to design or install games or lotteries; and

(h) To investigate and participate in multistate agreements and to regulate multistate lotteries. The director shall act as the commission's agent in the investigations if the commission so directs.

(2) Except as provided in subsection (3) of this section, rules promulgated pursuant to subsection (1) of this section shall include, but shall not be limited to, the following:

(a) The types of lotteries to be conducted, but no lottery conducted under this article 40 other than instant scratch games shall be based upon the game of chance commonly known as bingo, nor shall any lottery be conducted that depends upon the outcome of any athletic contest except races at state-licensed dog or horse tracks if approved by the Colorado racing commission;

(b) The price of tickets or shares in the lottery;

(c) The numbers, sizes, and payment of the prizes on the winning tickets or shares;

(d) The manner of selecting the winning tickets or shares. All drawings shall be held in public and witnessed by an independent auditor employed by a certified public accountant firm, and all drawing equipment used in the public drawings must be examined prior to and after each public drawing by an independent auditor employed by a certified public accountant firm.

(e) The frequency of the drawing or selection of winning tickets or shares, without limitation;

(f) Without limit to number, the types of locations where tickets or shares may be sold; except that the commission shall not promulgate any rule, issue any order, or adopt any policy or interpretation before July 1, 2017, that authorizes or permits the purchase of tickets, including instant scratch tickets, or shares by means of the internet, telephone, computer, or any other electronic device or equipment that the purchaser can access or use to purchase lottery tickets other than by doing so personally at a licensed lottery sales agent's physical place of business;

(g) The method to be used in selling tickets or shares, but all sales shall be on a cash-only basis;

(h) The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public;

(i) The manner in which lottery sales revenues are to be collected.

(3) (a) The commission shall promulgate rules pursuant to subsection (1) of this section for the general administration of all instant scratch games. The rules shall include, but shall not be limited to:

(I) The method to be used in selling instant scratch game tickets, but all sales shall be on a cash-only basis;

(II) The method of paying prizes on winning instant scratch game tickets; and
(III) The manner and amount of compensation, if any, to be paid to licensed sales agents necessary to provide for the adequate availability of instant scratch game tickets to prospective buyers and for the convenience of the public.

(b) (I) The commission shall establish and approve all instructions governing instant scratch games. The instructions shall include, but shall not be limited to:

- (A) The method for determining instant scratch game winners;
- (B) The establishment of claim periods;
- (C) The price of instant scratch game tickets;
- (D) The numbers and sizes of prizes; and
- (E) The method for selecting and validating winning instant scratch game tickets.

(II) The commission shall publish all approved instructions governing instant scratch games in a clearly identifiable section on the official website of the state lottery. The published instructions shall be binding on purchasers and claimants of instant scratch game tickets.

(III) The procedural rule-making requirements of section 24-4-103 shall not apply to the commission's duties specified in this subsection (3)(b).

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 346, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-208 as it existed prior to 2018.

44-40-110. Conflict of interest. (1) Members of the commission and employees of the division are declared to be positions of public trust and, therefore, in order to insure the confidence of the people of the state in the integrity of the division, its employees, and the commission, the following restrictions shall apply:

(a) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall have any personal pecuniary interest in any lottery or in the sale of any lottery tickets or shares or in any corporation, association, or firm contracting with the state to supply gaming equipment or materials for use in the operation of the lottery or in any corporation, association, or firm licensed as a sales agent under this article 40. Employment by any political subdivision, or service on the governing body or on any board, agency, or commission of any political subdivision that is entitled to receive a portion of the proceeds of the lottery shall not constitute an interest prohibited by this section, except for the purposes of appointment to or service on the commission.

(b) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall receive any gift, gratuity, employment, or other thing of value from any person, corporation, association, or firm that contracts with or that offers services, supplies, materials, or equipment used by the division in the normal course of its operations.

(c) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall purchase any ticket for any lottery conducted under this article 40; except that lottery investigators may purchase lottery tickets when authorized to do so by the director for investigative purposes. No person described in this subsection (1)(c) shall be eligible to receive any prize awarded in such a lottery.

(d) No person, corporation, or firm that contracts with the division or that offers services, supplies, materials, or equipment used by the division in the normal course of its operations shall offer any gift, gratuity, employment, or other thing of value to any commission member, employee of the division, or members of their immediate families except as authorized by rules promulgated pursuant to subsection (1)(b) of this section.

(e) No member of the commission or employee of the division who terminates his or her relationship with the commission or the division shall, for a period of one year from the date of termination of membership on the commission or employment with the division, as applicable, accept employment with any lottery vendor or represent any lottery vendor before the division or the commission.

(f) The commission shall adopt by rule a code of ethics that shall be binding upon all of its members. Each member of the commission shall complete training at least once each year on the code and shall further certify on an annual basis that he or she is knowledgeable about the code and has no conflicts of interest proscribed by this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 349, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-209 as it existed prior to 2018.

44-40-111. Lottery fund - creation. (1) There is hereby created, in the office of the state treasurer, the lottery fund. The initial appropriation to the division, and all subsequent revenues of the division not earlier paid as prizes, shall be paid into the lottery fund. All expenses of the division, including the expenses of organized crime investigation and prosecution relating to the lottery, shall be paid from the lottery fund. For the purposes of this section and section 44-40-109, "expenses" do not include amounts expended for lottery prizes. Prizes for the lottery shall be paid only from the lottery fund or from money collected from the sale of lottery tickets or shares. Amounts for prizes and expenses are hereby appropriated to the division, except as provided in subsection (3) of this section.

(2) The division shall deposit all liquidated damages into the lottery fund, and any revenues received from liquidated damages shall not be expended by the division unless appropriated by the general assembly. The division shall not receive any goods or services in lieu of an assessment of liquidated damages, nor shall the division require a vendor to purchase goods and services in lieu of an assessment of liquidated damages.

(3) Expenses of the division shall be paid from the lottery fund only as appropriated by the general assembly.

(4) Upon request, it is the duty of the state treasurer to report to the director or the commission the amount of money on hand in the lottery fund. All accounts and expenditures from the lottery fund shall be certified by the director and paid by the state treasurer upon warrants drawn by the controller. The controller is authorized as directed to draw warrants payable out of the lottery fund upon vouchers therefor properly certified.

(5) (a) The amount to be transferred from the lottery fund to the conservation trust fund shall be forty percent of the net proceeds of the lottery for the preceding fiscal quarter after payment of the expenses of the division and any prizes for the lottery and after reserving sufficient money, as of the end of the fiscal year, to ensure the operation of the lottery for the

ensuing fiscal year. The money reserved by the lottery shall be held in cash and investments. Beginning with the fourth quarter of fiscal year 1998-99, and each fiscal year thereafter, distributions of net lottery proceeds to the conservation trust fund shall be made in accordance with the provisions of section 33-60-104 (1)(a).

(b) (I) Beginning with the first quarter of fiscal year 1998-99 and each fiscal year thereafter, distributions of net lottery proceeds to the division of parks and wildlife shall be made in accordance with the provisions of section 33-60-104 (1)(b).

(II) The appropriation of money from the state lottery for capital construction shall be consistent with part 13 of article 3 of title 2 until part 13 is repealed.

(c) The lottery money available for appropriation to the division of parks and wildlife pursuant to subsection (5)(b) of this section shall be appropriated and expended for the acquisition and development of new state parks, new state recreation areas, or new recreational trails, for the expansion of existing state parks, state recreation areas, or recreational trails, or for capital improvements of both new and existing state parks, state recreation areas, or recreational trails. Except as provided in section 33-60-105, in addition to appropriation for the division's capital construction budget, said lottery money may be appropriated for the division's operating budget for expenditures attributable to the maintenance and operation of state parks, state recreation areas, or recreational trails, or any portions thereof, that have been acquired or developed with lottery money.

(d) This subsection (5) becomes effective on September 1, 1998.

(6) The state treasurer shall invest the money in the lottery fund so long as said money is timely available to pay the expenses of the division, to pay the prizes to the lottery winners, to make authorized transfers to the conservation trust fund, and to fund the annual appropriations authorized by subsection (5) of this section. Investments shall be those otherwise permitted by state law, and interest or any other return on the investments shall be paid into the lottery fund.

(7) The division shall be operated so that, after the initial state appropriation, it shall be self-sustaining.

(8) No claim for the payment of any expense of the division or the payment of any lottery prize can be made unless it is against the lottery fund or against money collected from the sale of lottery tickets or shares. No other money of the state of Colorado shall be used or obligated to pay the expenses of the division or prizes of the lottery.

(9) The total disbursements for lottery prizes shall be no less than fifty percent of the total revenue accruing from the sale of lottery tickets or shares.

(10) (a) Net lottery proceeds to be distributed to the conservation trust fund, as computed pursuant to this section, shall be transferred to the conservation trust subaccount of the lottery fund, which subaccount is hereby created, once each month. Transfers shall be made from net lottery proceeds reflected in the monthly statement for the period ending sixty days prior to each monthly distribution. The state treasurer shall invest all money in the conservation trust subaccount in investments permitted by state law. Notwithstanding subsection (6) of this section, interest or any other return on the investments shall be distributed to the conservation trust fund with other money in the conservation trust subaccount pursuant to section 33-60-103.

(b) Beginning with the first quarter of fiscal year 1998-99, distributions shall be made on a quarterly basis in accordance with the provisions of section 33-60-104, with the distribution of net lottery proceeds for the first quarter occurring on December 1 of the fiscal year, distribution of net lottery proceeds for the second quarter occurring on March 1 of the fiscal year,

distribution of net lottery proceeds for the third quarter occurring on June 1 of the fiscal year, and distribution of net lottery proceeds for the fourth quarter occurring on September 1 following the close of the fiscal year.

(11) The general assembly may establish priorities in the general appropriation act for expenditures for projects to be financed from net lottery proceeds appropriated for capital construction. The priorities shall govern the use of quarterly distributions from the lottery fund in order to assure that available revenues are used to fund higher priority projects before they are used to fund lower priority projects.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 350, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-210 as it existed prior to 2018.

Cross references: For the creation of the conservation trust fund, see § 29-21-101 (2).

44-40-112. Audits and annual reports. (1) The lottery fund shall be audited at least annually by or under the direction of the state auditor, who shall submit a report of the audit to the legislative audit committee. The annual audit shall include compliance with section 3 of article XXVII of the state constitution. The expenses of the audit shall be paid from the lottery fund.

(2) The director shall evaluate the lottery's expenditures to determine areas where the expenditures may be reduced with the goal of increasing net proceeds as a percentage of sales paid to the beneficiaries. Not later than July 1, 2005, the director shall report to the governor, the legislative audit committee, and the joint budget committee on any recommendations he or she desires to make based upon the evaluation.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 352, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-211 as it existed prior to 2018.

44-40-113. Prizes. (1) The right of any person to a prize is not assignable; except that payment of any prize may be paid to:

(a) The estate of a deceased prizewinner; or

(b) Any person pursuant to a voluntary assignment of the right to receive future annual prize payments, in whole or in part, if the assignment is made pursuant to an appropriate judicial order of the district court located in the city and county of Denver or the judicial district where the assignor resides or where the commission's headquarters are located.

(2) (a) A copy of the petition for an order described in subsection (1)(b) of this section and of all notices of any hearing in the matter shall be served on the executive director no later than ten days prior to any hearing or entry of any order.

(b) The commission may intervene as of right in any proceeding solely to protect the interests of the commission but shall not be deemed an indispensable or necessary party.

(c) The court receiving the petition is authorized to issue an order approving the assignment and directing the executive director to pay to the assignee all future prize payments so assigned upon finding that all of the following conditions have been met:

(I) The assignment has been memorialized in writing and executed by the assignor and is subject to Colorado law;

(II) The assignor provides a sworn declaration to the court attesting to the facts that the assignor has had the opportunity to be represented by independent legal counsel in connection with the assignment, has received independent financial and tax advice concerning the effects of the assignment, and is of sound mind and not acting under duress; and

(III) The proposed assignment does not and will not include or cover payments or portions of payments subject to offsets pursuant to subsection (6) of this section, unless appropriate provision is made in the order to satisfy the obligations giving rise to the offset.

(d) Within ten days of receipt of a certified copy of a court order granted pursuant to this subsection (2), the executive director shall acknowledge in writing to both the assignor and the assignee the executive director's agreement to make the payments in accordance with the provisions of the order. The executive director shall make the payments pursuant to said order.

(e) The commission shall not adopt rules for the implementation of this subsection (2) that are more restrictive than the provisions of this subsection (2), that impose requirements in addition to those set forth in this subsection (2), or that are inconsistent with the expressed intent of the general assembly.

(f) The executive director is authorized to establish a reasonable fee to defray any administrative expenses of the executive director associated with assignments made pursuant to this section. The fee amounts shall reflect the direct and indirect costs associated with processing the assignments.

(3) Notwithstanding any provision of this article 40 to the contrary, the commission may authorize licensed sales agents to retain all prizes pursuant to the rules of the commission for the persons entitled to the prizes for one hundred eighty days after the termination dates of the lottery games for which the prizes were won. The prizes shall be held in trust on behalf of the division for payment to the persons so entitled. No separate accounting of the prizes needs to be made by the licensed sales agent unless requested by the director. Any person who fails to claim a prize during the one-hundred-eighty-day period shall forfeit all rights to the prize, and the amount of the prize shall become the property of the licensee. All other unclaimed prizes shall be retained by the division for the persons entitled to the prizes for the one-hundred-eighty-day period. Any person who fails to claim a prize that is held by the division or its designee during that time shall forfeit all rights to the prize, and the amount of the prize shall remain in the lottery fund.

(4) The division shall be discharged of all liability upon the payment of any prize pursuant to this article 40.

(5) Any prize won by a person under eighteen years of age who purchased a winning ticket in violation of section 44-40-116 (1)(c) shall be forfeited. If a person otherwise entitled to a prize or a winning ticket is under eighteen years of age, the director may direct payment of the prize by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of the minor.

(6) (a) Prior to the payment of any lottery cash prize or noncash prize required by rule of the commission to be paid only at the lottery offices and subject to state and federal tax

reporting, the department shall require the winner to submit the winner's social security number and federal employer identification number, if applicable, and shall check the social security number of the winner with those certified by the department of human services for the purpose of the state lottery winnings offset as provided in section 26-13-118. For a lottery cash prize, beginning January 1, 2012, the department shall also check the social security number of the winner with those certified by the department of personnel for the purpose of the state lottery winnings offset as provided in section 24-30-202.7. The social security number and the federal employer identification number shall not become part of the public record of the department. If the social security number of a lottery winner appears among those certified by the department of human services, the department shall obtain the current address of the winner, notify the department of human services, and suspend the payment of the cash prize or noncash prize until the requirements of section 26-13-118 are met. If, after consulting with the department of human services, the department determines that the lottery winner owes a child support debt or child support costs pursuant to section 14-14-104, or owes child support arrearages as part of an enforcement action pursuant to article 5 of title 14, or owes child support arrearages or child support costs that are the subject of enforcement services provided pursuant to section 26-13-106, then the department shall withhold from the amount of the cash prize paid to the lottery winner an amount equal to the amount of child support debt, child support arrearages, and child support costs that are due or, if the amount of the cash prize is less than or equal to the amount of child support debt, arrearages, and costs due, shall withhold the entire amount of the lottery cash prize. Any cash prize so withheld for the department of human services shall be transmitted to the state treasurer for disbursement by the department of human services as directed in section 26-13-118. If the social security number of a lottery cash prize winner appears among those certified by the department of personnel, the department shall obtain the current address of the winner, notify the department of personnel, and suspend the payment of the cash prize until the requirements of section 24-30-202.7 are met. If, after consulting with the department of personnel, the department determines that the lottery winner owes an outstanding debt that has been certified pursuant to section 24-30-202.7, then the department shall withhold from the amount of the cash prize paid to the lottery winner an amount equal to the amount of the outstanding debt or, if the amount of the cash prize is less than or equal to the amount of the outstanding debt, shall withhold the entire amount of the lottery cash prize. Any cash prize so withheld for the department of personnel shall be transmitted to the state treasurer for disbursement in accordance with section 24-30-202.7 (4).

(b) A lottery winner of a noncash prize who owes child support debt, child support arrearages, or child support costs shall forfeit the prize, unless:

(I) (A) All of the child support debt, child support arrearages, and child support costs are paid by the lottery winner within ten working days after claiming the suspended noncash prize; and

(B) The department of human services has notified the department that payment has been received; or

(II) An administrative review is requested pursuant to section 26-13-118 (2), and the requirements set forth in subsection (6)(c) of this section are met.

(c) If an administrative review is requested pursuant to section 26-13-118 (2), the noncash prize shall remain suspended until the department of human services notifies the department that the administrative review process has been completed pursuant to rules of the

state board of human services. If at the administrative review it is determined that the winner owes child support debt, child support arrearages, or child support costs, the winner shall forfeit the noncash prize unless:

(I) The winner pays the child support debt, child support arrearages, and child support costs in full within ten days after the date of the letter informing the lottery winner of the results of the administrative review; and

(II) The department of human services notifies the department that payment has been received.

(d) If forfeited by the lottery winner, the noncash prize shall be sold at fair market value. The proceeds of the sale shall be transmitted to the state treasurer for disbursement in accordance with the requirements of section 26-13-118 (3).

(e) (I) Notwithstanding any provision of this subsection (6) to the contrary, if, in addition to owing an outstanding debt, a lottery winner owes either restitution as described in section 44-40-114 or a child support debt or arrearages or child support costs as described in this subsection (6), any lottery winnings offset against the restitution or child support debt or arrearages or child support costs shall take priority and be applied first. If, in such instance, the lottery winner owes both types of debts, both offsets shall take priority and the provisions of section 44-40-114 (3) shall apply.

(II) The remaining lottery winning money, if any, after the offsets described in subsection (6)(e)(I) of this section shall be applied toward the payment of outstanding debt and processed in accordance with this section.

(7) Notwithstanding any provision of this section to the contrary, all or any part of a prize won by a person may be pledged as collateral for a loan; however, the pledging of all or any part of the prize creates no liability to the state of Colorado.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 353, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-212 as it existed prior to 2018.

44-40-114. Prizes - lottery winnings offset for restitution. (1) Prior to the payment of any lottery winnings required by rule of the commission to be paid only at the lottery offices, the department shall require the winner to submit the winner's social security number and federal employer identification number, if applicable, and shall check the social security number of the winner with those certified by the judicial department for the purpose of the state lottery winnings offset as provided in section 16-18.5-106.5. The social security number and the federal employer identification number shall not become part of the public record of the department.

(2) If the social security number of a lottery winner appears among those certified by the judicial department, the department shall suspend the payment of the winnings until the requirements of section 16-18.5-106.5 are met. If, after consulting with the judicial department, the department determines that the lottery winner is obligated to pay the amounts certified under section 16-18.5-106.5, then the department shall withhold from the amount of winnings paid to the lottery winner an amount equal to the amount of restitution that is due or, if the amount of winnings is less than or equal to the amount of restitution due, shall withhold the entire amount

of the lottery winnings. Any money so withheld shall be transmitted to the state treasurer for disbursement as directed in section 16-18.5-106.5 (3).

(3) If a lottery winner owes a child support debt or arrearages or child support costs as described in section 44-40-113 (6), and also owes restitution as described in this section, the lottery winnings offset against the child support debt or arrearages or costs shall take priority and be applied first. The remaining lottery winning money, if any, shall be applied toward the payment of outstanding restitution and processed in accordance with this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 356, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-212.5 as it existed prior to 2018.

44-40-115. Legal services. (1) The attorney general shall provide legal services for the division and the commission at the request of the director or the commission. The attorney general shall make reasonable efforts to ensure that there is continuity in the legal services provided and that the attorneys providing legal services to the division and the commission have expertise in the field.

(2) The director shall cause the attorney general to make investigations and to prosecute and defend, on behalf of and in the name of the division, suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the division.

(3) Expenses of the attorney general incurred in the performance of his or her responsibilities under this section shall be paid from the lottery fund.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 357, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-213 as it existed prior to 2018.

44-40-116. Unlawful acts. (1) It is unlawful for any person:

(a) To sell a lottery ticket or share at a price greater than or less than that fixed by the commission; however, a lottery ticket or share that is offered at no additional charge in conjunction with the sale of a product or service shall not be deemed to violate this section unless the offer is made to a person under eighteen years of age;

(b) To sell a lottery ticket or share unless authorized or licensed by the director to do so, but this shall not prevent lottery tickets or shares from being given as gifts;

(c) To sell a lottery ticket or share to any person under eighteen years of age or for any person under eighteen years of age to purchase a lottery ticket or share, but this shall not prevent receipt of a lottery ticket or share given as a gift to a person under eighteen years of age;

(d) To sell a lottery ticket or share at any place other than that place authorized and specified on the license.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 357, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-214 as it existed prior to 2018.

44-40-117. Penalties. (1) In addition to any other penalties that may apply, any person violating any of the provisions of section 44-40-116 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2) Any person violating the sale restrictions of section 44-40-116 (1)(c) may also be proceeded against pursuant to section 18-6-701 for contributing to the delinquency of a minor.

(3) Any person issuing, suspending, revoking, or renewing contracts pursuant to section 44-40-106 or licenses pursuant to section 44-40-107 for any personal pecuniary gain or any thing of value as defined in section 18-1-901 (3)(r), or any person violating any of the provisions of section 44-40-110, commits a class 3 felony and shall be punished as provided in section 18-1.3-401.

(4) Any person violating any of the provisions of this article 40 relating to disclosure by providing any false or misleading information commits a class 6 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 358, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-215 as it existed prior to 2018.

44-40-118. Advertising. Any promotional advertising regarding the lottery shall set forth the odds of winning and the average return on the dollar in prize money to the public. All promotional advertising expenses shall be paid from the lottery fund.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 358, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-216 as it existed prior to 2018.

44-40-119. Other laws inapplicable. Any other state or local law in conflict with this article 40 is inapplicable, but this section does not supersede or affect part 6 of article 21 of title 24.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 358, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-217 as it existed prior to 2018.

44-40-120. Division subject to termination - annual financial audits of the division.

(1) (a) Unless continued or reestablished by the general assembly acting by bill, the division shall terminate on July 1, 2049.

(b) (I) The state auditor shall conduct annual financial audits of the division.

(II) At least once every five years, and more frequently in the state auditor's discretion, the state auditor shall conduct an analysis and evaluation of the performance of the division and

shall submit a written report, together with any supporting materials as may be requested, to the general assembly. The first report shall be completed by January 1, 2004.

(c) In conducting the analysis and evaluation required by subsection (1)(b)(II) of this section, the state auditor shall take into consideration, but not be limited to considering, the following factors:

(I) The amount of revenue generated by the lottery for its beneficiaries as specified in article XXVII of the state constitution;

(II) The administrative and other expense of lottery dollar collections as compared to revenue derived;

(III) An evaluation of the contracts, and compliance with the contracts, of lottery equipment contractors and licensed sales agents;

(IV) Whether there has been an increase in organized crime related to gambling within the state;

(V) A report on the results of the analysis prepared by the division on the socioeconomic profile of persons who play the lottery, including information comparing the results of past analyses to assess the movement of persons from various categories;

(VI) Whether the commission encourages public participation in its decisions rather than participation only by the people whom it regulates;

(VII) An evaluation of the effectiveness and efficiency of the division's complaint, investigation, and disciplinary procedures;

(VIII) Whether the division performs its statutory duties efficiently and effectively;

(IX) Whether administrative or statutory changes are necessary to improve the operation of the lottery in the best interests of the state's citizens;

(X) Any other matters of concern about the operation and functioning of the lottery; and

(XI) A report on any gifts and gratuities received by members of the commission and employees of the division.

(2) Prior to any revision of the division's functions, a committee of reference in each house of the general assembly shall hold a public hearing thereon to consider the report provided by the state auditor, as required by subsection (1)(b)(II) of this section. The hearing shall include the factors set forth in subsection (1)(c) of this section.

Source: L. 2018: (1)(a) amended, (SB 18-066), ch. 172, p. 1203, § 1, effective August 8; entire article added with relocations, (HB 18-1027), ch. 31, p. 358, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 24-35-218 as it existed prior to 2018.

(2) Subsection (1)(a) of this section was numbered as § 24-35-218 (1)(a) in SB 18-066. That provision was harmonized with and relocated to this section as this section appears in HB 18-1027.

44-40-121. Licensed agent recovery reserve - payments from reserve - revocation of license. (1) There is hereby created in the lottery fund the licensed agent recovery reserve, which shall be used under the direction of the division in the manner prescribed in this section.

(2) (a) Beginning January 1, 1988, each licensed sales agent shall pay to the division a fee.

(b) The amount of the fee and the frequency with which it shall be collected shall be established by the commission pursuant to rule.

(c) All fees collected by the division pursuant to subsection (2)(b) of this section shall be transmitted to the state treasurer, who shall credit the same to the lottery fund, and the fees shall be maintained administratively as part of the licensed agent recovery reserve. Any interest earned on the investment of the fees in the fund shall be credited at least annually to said reserve.

(d) No money shall be appropriated from the general fund for the payment of any expenses incurred under this section, and no expenses shall be charged against the state.

(3) When a licensed sales agent has failed to remit any money owed to the lottery under rule, the division shall transfer money in the amount equivalent to the unpaid amount from the licensed agent recovery reserve to the lottery fund.

(4) If the division is required to make a transfer pursuant to subsection (3) of this section, the director shall revoke the sales agent's license in accordance with the provisions of section 44-40-107 (3). If the license is revoked, the sales agent shall not be eligible to be licensed again until he or she has repaid in full the amount paid from the licensed agent recovery reserve.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 359, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-219 as it existed prior to 2018.

44-40-122. Revenue bonds - authority - issuance - requirements - covenants. (1) (a) The commission may, by resolution that meets the requirements of subsection (2) of this section, authorize and issue revenue bonds in an amount not to exceed ten million dollars in the aggregate for expenses of the division. The bonds may be issued only after approval by both houses of the general assembly either by act or joint resolution and after approval by the governor in accordance with section 39 of article V of the state constitution. The bonds shall be payable only from money allocated to the division for expenses of the division pursuant to section 44-40-111 (1).

(b) All bonds issued by the commission shall provide that:

(I) No holder of any such bond may compel the state or any subdivision thereof to exercise its appropriation or taxing power; and

(II) The bond does not constitute a debt of the state and is payable only from the net revenues allocated to the division for expenses as designated in the bond.

(2) (a) Any resolution authorizing the issuance of bonds under the terms of this section shall:

(I) State the date of issuance of the bonds;

(II) State a maturity date or dates during a period not to exceed thirty years from the date of issuance of the bonds;

(III) State the interest rate or rates on, and the denomination or denominations of, the bonds;

(IV) State the medium of payment of the bonds and the place where the bonds will be paid.

(b) Any resolution authorizing the issuance of bonds under the terms of this section may:

(I) State that the bonds are to be issued in one or more series;

(II) State a rank or priority of the bonds;

(III) Provide for redemption of the bonds prior to maturity, with or without premium.

(3) Any bonds issued pursuant to the terms of this section may be sold at public or private sale. If bonds are to be sold at a public sale, the commission shall advertise the sale in any manner that the commission deems appropriate. All bonds issued pursuant to the terms of this section shall be sold at a price not less than the par value thereof, together with all accrued interest to the date of delivery.

(4) Notwithstanding any provisions of the law to the contrary, all bonds issued pursuant to this section are negotiable.

(5) (a) A resolution pertaining to issuance of bonds under this section may contain covenants as to:

(I) The purpose to which the proceeds of sale of the bonds may be applied and to the use and disposition thereof;

(II) Any matters that are customary in the issuance of revenue bonds including, without limitation, the issuance and lien position of other or additional bonds; and

(III) Books of account and the inspection and audit thereof.

(b) Any resolution made pursuant to the terms of this section shall be deemed a contract with the holders of the bonds, and the duties of the commission under the resolution shall be enforceable by any appropriate action in a court of competent jurisdiction.

(6) Bonds issued under this section and bearing the signatures of members of the commission in office on the date of the signing thereof shall be valid and binding obligations, regardless of whether, prior to the delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon have ceased to be members of the commission.

(7) (a) Except as otherwise provided in the resolution authorizing the bonds, all bonds of the same issue under this section shall have a prior and paramount lien on the net revenues pledged therefor. The commission may provide for preferential security for any bonds, both principal and interest, to be issued under this section to the extent deemed feasible and desirable by the commission over any bonds that may be issued thereafter.

(b) Bonds of the same issue or series issued under this section shall be equally and ratably secured, without priority by reason of number, date, sale, execution, or delivery, by a lien on the net revenue pledged in accordance with the terms of the resolution authorizing the bonds.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 360, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-221 as it existed prior to 2018.

44-40-123. Immunity. A lottery sales agent licensed pursuant to section 44-40-107 shall not be liable for monetary damages or otherwise for the sale of a lottery ticket that complies with this article 40, rules promulgated pursuant to this article 40, or orders issued by the director.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 362, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-222 as it existed prior to 2018.