

General Affairs Committee

Nebraska Legislature

One Hundred Sixth Legislature,
Second Session

LR433: An interim study to examine the State Racing Commission and review occupational licenses and regulations for jockeys and horse trainers.

Occupational License Report: Horse Trainer License

Report as required pursuant to the Occupational Board Reform Act (OBRA)

Committee Members:

Senator Tom Briese.....Chairperson
Senator John Lowe.....Vice Chair
Senator John Arch.....District 14
Senator Carol Blood.....District 3
Senator Tom Brandt.....District 32
Senator Megan Hunt.....District 8
Senator Mike Moser.....District 22
Senator Justin Wayne.....District 13

Committee Staff:

Loguen Blazek.....Legal Counsel
Alexander DeGarmo.....Committee Clerk

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Memorandum

To: Clerk of the Legislature

From: Senator Tom Briese, Chairperson General Affairs

Date: December, 2020

Subject: Occupational Licensing Report required by Neb. Rev. Statute 84-948

Occupational Licensing Update: Committee Action

Nebraska Revised Statute 84-948 requires each committee to annually review and analyze approximately twenty percent of the occupational regulations within the jurisdiction of the committee and submit an annual report. Each committee shall complete this process for all regulations within its jurisdiction within five years and every five years after.

The General Affairs Committee completed reviews of the following occupational licenses within its jurisdiction in 2020: Horse Trainer and Jockey licenses. This report is compiled in accordance with Nebraska Revised Statute 84-948 by committee staff and personnel through research into each occupational license, surveys completed by the occupational board, related committee hearings, and meetings. No formal hearings were held on the specific occupational licenses.

The following report details the background and legislative history behind each studied occupational license, relevant information about the license and its occupational board, and the current recommendation by the committee regarding the license at this time.

Sincerely,

Senator Tom Briese, District 41
Chairperson, General Affairs Committee

Background/Legislative History

Horse Trainer licenses fall under the oversight authority of the State Racing Commission.¹ The State Racing commission was created by legislation in 1935.² The bill, which created the State Racing Commission, was enacted to “promote the horse breeding industry in Nebraska,” and “establish a commission of three persons appointed by the governor for three-year terms.” The State Racing Commission has the power to prescribe and enforce rules and regulations governing horse races and race meetings licensed according to law.

In 1980, legislation was enacted that broadly required licensure of racing industry participants, race officials mutuel employees, concessionaires and other such person as deemed necessary by the commission, including jockeys.³ The intent of the regulation and licensure was to prevent and eliminate corrupt practices and fraudulent behavior and maintain a high level of integrity and honesty in the horseracing industry in Nebraska.

In 2010, the law was changed to add two additional members to the State Racing Commission.⁴ Therefore, after July 15, 2010, the commission shall consist of five members. One member of the commission from each congressional district as such districts existed on January 1, 2020, and two at large members.⁵

Today, the Nebraska State Racing Commission principles are to protect, preserve, and promote agriculture and horse racing through effective and efficient effort to prevent and eliminate corrupt practices; insure fairness in decisions affecting licenses and patrons; ensure due process in administrative proceedings; be attentive to the public and licensees and provide information concerning the industry and commission operations.

The duties of the State Racing Commission specified in Nebraska Revised Statute 2-1203.01 include:

- (1) Enforce all state laws covering horseracing as required by sections 2-1201 to 2-1229 and enforce rules and regulations adopted and promulgated by the commission under the authority of section 2-1203;
- (2) License racing industry participants, race officials, mutuel employees, concessionaires, and such other persons as deemed necessary by the commission if the license applications meet eligibility standards established by the commission;

¹ Nebraska Revised Statutes, §1201-1247

² Laws 1935, c. 173 § 1, p. 629

³ LB989 (1980)

⁴ LB861 (2010)

⁵ Nebraska Revised Statute 2-1201

- (3) Prescribe and enforce security provisions, including, but not limited to, the restricted access to areas within track enclosures and backstretch areas, and prohibitions against misconduct or corrupt practices;
- (4) Determine or cause to be determined by chemical testing and analysis of body fluids whether or not any prohibited substance has been administered to the winning horse of each race and any other horse selected by the board of stewards;
- (5) Verify the certification of horses registered as being Nebraska-bred under section 2-1213; and
- (6) Collect and verify the amount of revenue received by the commission under section 2-1208.

In an effort to obtain more uniform standards in the horse racing industry and the occupational licenses within that industry, the National Racing License Compact was formed. Nebraska is a member of the National Racing License Compact. The Compact was created to establish uniform requirements for and issue licenses to participants in pari-mutuel racing to ensure that all participants who are licensed meet a uniform standard of honesty and integrity, and to reduce the regulatory burden on those participants in pari-mutuel racing who are indisputably welcome to race in every state and province by providing them with a single license recognized in all racing states and provinces.⁶

The compact was officially established early in 2000 when five states received authorization to enter into the interstate compact. The initial compact members are the Delaware Thoroughbred Racing Commission, the Florida Division of Pari-Mutuel Wagering, the Louisiana State Racing Commission, the Virginia Racing Commission and the West Virginia Racing Commission. The Kentucky Racing Commission, Nebraska Racing Commission, and Washington Racing Commission joined the Compact in spring, 2001. California and New York joined the Compact before the end of 2001. Membership in the National Racing Compact is open to all racing states that pass the model legislation. By the end of 2001 ten states had passed the necessary legislation to join the Compact Committee. Non-member states have the option of recognizing the national license, potentially extending the acceptability of license to most states in a short time.

In Nebraska the State Racing Commission sets out specific horse trainer license requirements and sets rules and regulations for such a license.⁷ A horse trainer's responsibility includes the condition, soundness, and eligibility of the horses entered by the trainer in the race.

A horse trainer must be at least 19 years old to be eligible to work at Nebraska racetracks and must be tested and approved by the Board of Stewards at all racetracks.

⁶ <http://www.racinglicense.com/info.html>

⁷ Nebraska State Racing Board Rules and Regulation, Chapter 11 (Jockeys and Apprentice Jockeys)

A felony conviction may be grounds for denial of the license. The fee for a horse trainer license or assistant horse trainer license is \$40 annually.

A horse trainer must meet the requirements and follow the rules and regulations of the horse trainer license set out in State Racing Commission rules and regulations, Chapter 12, regulations 12.007.01 – 12-007.20. Those rules and regulations include restrictions on certain type of behavior on the part of a horse trainer such as betting on races and must pass certain criminal background checks. Horse trainers are responsible for the condition of a horse trained by him/her and are responsible for providing necessary information on each horse trained by him/her to the Stewards/necessary individuals. Overall these rules and regulations a horse trainer must meet in order to obtain and retain a license are in place to ensure the safety and integrity of all involved in the horseracing industry.

Committee Findings:

Pursuant to Nebraska Revised statute 84-948 each report issued by a standing committee of the Legislature must contain the following information:

1. The title of the regulation occupation and the name of the occupational board responsible for the enforcement of the occupational regulations.

Regulated Occupation: Horseracing, Horse Trainer

Occupational Board: Nebraska State Racing Commission

2. The statutory citation or other authorization for the creation of the occupational regulations and occupational board.

Nebraska Revised Statutes 2-1207 – 2-1247

3. The numbers of members of the occupational board and how the members are appointed.

There are 5 members of the occupational board. They are appointed by the Governor and confirmed by the Legislature.

4. The qualifications for membership on the occupational board.

The members of the State Racing Commission shall include: one from each of the three congressional districts and two at large members. Not more than three members of the commission shall belong to the same political party. No more than two members shall reside in any one county.

5. The number of times the occupational board is required to meet during the year and the number of times it actually met.

Not Applicable

6. Annual budget information for the occupational board for the five most recently completed fiscal years.

Spending Authority is from Neb. Rev. Statute 2-1209.

- a. Fiscal Year 2015-2016

- 975783
- b. Fiscal Year 2016-2017
1385771
- c. Fiscal Year 2017-2018
1009387
- d. Fiscal Year 2018-2019
1329063
- e. Fiscal Year 2019-2020
720603

7. For the immediately preceding five calendar years, or for the period of time less than five years for which the information is practically available: the number of government certifications, occupational licenses, and registrations the occupational board has issued, revoked, denied, or assessed penalties against listed anonymously and separately per type of credential, and the reasons for such revocations, denials, and other penalties.

Number of certificates issues within last five years: 7, 652. That number includes all license categories listed in Nebraska State Racing Commission Rule 10.007.01. (see below)

- (a) Admission Employee..... \$ 15.00
- (b) Apprentice Jockey..... 50.00
- (c) Assistant Starter..... 20.00
- (d) Assistant Trainer..... 40.00
- (e) Authorized Agent..... 15.00
- Title 294
- Chapter 10
- (f) Concession Employee..... 15.00
- (g) Concession Operator.....
minimum..... 25.00
gross sales over \$50,000
and less than \$200,000..... 50.00
gross sales over \$200,000.. 100.00
- (h) Custodian (Jockey Room)..... 30.00
- (i) Duplicate License..... 10.00
- (j) Exercise Rider..... 30.00
- (k) Family Pass..... 10.00
- (l) Groom (Hot Walker)..... 15.00
- (m) Horsemen's Bookkeeper..... 30.00
- (n) Jockey..... 50.00
- (o) Jockey Agent..... 25.00
- (p) Mutuel Employee..... 20.00
- (q) Official..... 30.00
- (r) Owner..... 30.00

(s) Owner-Trainer.....	50.00
(t) Partnership.....	15.00
(u) Photo-Finish Operator.....	
less than 25 race days.....	25.00
26-50 race days.....	50.00
more than 50 race days.....	100.00
(v) Plater (horseshoer).....	30.00
(w) Pony Person/Outrider.....	30.00
(x) Security Guard.....	15.00
(y) Stable Foreman.....	40.00
(z) Stable Name.....	50.00
(i) Track Photographer.....	
less than 25 race days.....	25.00
26-50 race days.....	50.00
more than 50 race days.....	100.00
(ii) Trainer.....	40.00
(iii) Valet.....	30.00
(iv) Veterinarian (official).....	50.00
(v) Veterinarian (practicing)	
less than 25 race days.....	25.00
26-50 race days.....	50.00
more than 50 race days.....	100.00
(vi) Veterinary Assistant.....	20.00

The number of licenses revoked during that same period is 37. The reasons for the revoked licenses include: a positive equine drug test, human positive drug test, financial issues or falsifying an application.

The number of license denied in that same period is 41. The reasons for the denied licenses include: the individual was not eligible for licensing, the license was suspended in another state, and the individual was not authorized to work in the United States.

The number of licenses with penalties against it in that same time period is 88. The reasons for such penalties were for rules violations.

8. A review of the basic assumptions underlying the creation of the occupational regulations.

The creation of occupational licenses involved in horse racing, including horse trainers is to promote agriculture and horse racing, ensure safety for those participating in such horseracing, and prevent and eliminate corrupt practices in horse racing. According to the Commission,

"If occupational licenses were no longer issued it would be impossible to keep the integrity of horseracing. Licenses are issued to workers on racetracks to allow them to work in specific areas of a racetrack and enforce certain rules and regulations upon certain license types. All licensees are fingerprinted and a background investigation is conducted. We do not want licensed individuals to have felonies or major criminal histories. Licensing allows the commission to keep seedy elements out of racing"

9. A statement from the occupational board on the effectiveness of the occupational regulations.

"Our occupational regulations have been effective, as we have not had major racing scandals in Nebraska. Through our program we have been able to eliminate persons with felonies and extensive criminal records. We have been able to check individuals which may not have been able to work in the United States through the SAVE system as required by law."

10. A comparison of whether and how other states regulate the occupation.

Statement from the Commission: "All states regulate horse racing licenses in a similar way." "We regulate licensing with fewer staff and a lower budget, many states receive general fund appropriations and we do not."

Nebraska has similar licensing requirements and regulations regarding jockeys as many other states. Nebraska is also part of the National Racing Compact, which all contain similar licensing regulations of the horse racing industry and therefore have reciprocity of recognized licenses across the states.

The National Racing License is recognized in 24 jurisdictions.⁸ The National Racing Compact was created to help with universal licensing and ensuring information on background checks and criminal history could be shared between states. In order to be a member of the NRC, a state must adopt model legislation that authorizes its commissioners to meet with commissioners from other NRC member states and discuss criminal history information that the NRC receives from the FBI. Member states have agreed, via the model legislation, to accept anyone licensed by the Compact. Member states are equally represented on the board of the Compact, participate in the development and adoption of the multi-state licensing criteria and have the opportunity to provide input on individual licensing decisions.

⁸ <http://www.racinglicense.com/accepted.html>

Compact Members include: Arizona, California, Delaware, Florida, Kentucky, Louisiana, Maryland, (Nebraska), New Jersey, New York, Ohio, Oklahoma, Virginia, Washington and West Virginia. States that have participating jurisdictions include Arkansas, Illinois, Indiana, Iowa, Michigan, New Mexico, Pennsylvania, Texas and Wyoming. Participating jurisdictions participate in the compacts share of information and most rules and regulations regarding licenses but issue its own state license pending adoption of legislation to official join the Compact.

Therefore, the states in the Compact and many others have similar jockey occupational licensing and require consistent rules and regulations. Those states also have jockey licenses overseen by their own states version of a State Racing Commission or similar board/commission.

OBRA Analysis:

Each report issued by a standing committee of the Legislature must analyze whether the occupational regulations meet the policy goals established under OBRA and consider the following recommended courses of action for meeting such policy goals.

1. If the need is to protect consumers against fraud, the likely recommendation will be to strengthen powers under the Uniform Deceptive Trade Practices Act or require disclosures that will reduce misleading attributes of the specific goods or services.

Not applicable.

2. If the need is to protect consumers against unclean facilities or to promote general health and safety, the likely recommendation will be to require periodic inspections of such facilities.

Not applicable.

3. If the need is to protect consumers against potential damages from failure by providers to complete a contract fully or up to standards, the likely recommendation will be to require that providers be bonded.

Not applicable.

4. If the need is to protect a person who is not party to a contract between the provider and consumer, the likely recommendation will be to require that the provider have insurance.

Not applicable.

5. If the need is to protect consumers against a shortfall or imbalance of knowledge about the goods or services relative to the provider's knowledge, the likely recommendation will be to enact government certification.

Not applicable.

6. If the need is to address a systematic information shortfall such that a reasonable consumer is unable to distinguish between the quality of providers, there is an absence of institutions that provide adequate guidance to the consumer, and the consumer's inability to distinguish between providers and the

lack of adequate guidance allows for undue risk of present, significant and substantiated harms, the likely recommendation will be to enact an occupational license.

Not applicable.

Committee Conclusion/Recommendation:

The Committee recommends that horse trainers continue to be licensed in Nebraska. The Committee does not recommend any specific immediate changes to the regulation and licensing of horse trainers in this State at this time.

Since horse trainer licenses are a part of the horse racing industry and are included in the licenses considered under the National Racing Compact, to which Nebraska is a member, the committee does not wish to remove or change horse trainer licenses at this time. The concern is that with Nebraska being a member of the National Racing Compact and with most states having similar licensing requirements for horse trainers, if the state were to make any significant unilateral state licensing changes to the licensure of horse trainers, it could have a negative impact on the horse racing industry here in Nebraska and create hardships for trainers who wish to participate in horse training and racing in this state and in others. There are also justifiable safety and integrity concerns which are addressed by the licensure and regulation requirements for horse trainers.

However, the Committee recommends that the committee and legislature continue to further examine and study horse trainer licensing requirements as horseracing standards and practices evolve, and the horseracing industry changes here in Nebraska. The goal is to ensure that Nebraska is using the least restrictive means necessary to regulate the horse trainer profession while protecting public health and safety, and maintaining integrity within the industry.

Committee of Jurisdiction:

General Affairs

Occupation Regulated:

Horseracing- Trainer

Occupational Board:

Nebraska State Racing Commission

Contact:

Tom Sage

Purpose:

The purpose of the State Racing Commission is to provide statewide regulation of horseracing in order to prevent and eliminate corrupt practices and fraudulent behavior, and thereby maintain a high level of integrity and honesty in the horseracing industry of Nebraska and to insure that all funds received by the commission are properly distributed.

Regulated Professionals:

One profession, A number of license categories

Year Created:

1935

Year Active:

1935

Sunset Date:

Unknown

Authorization**Statutory Authorization:**

2-1207 2-1247

Parent Agency:

N/A

Memberships**Number of Members:****Who Appoints:****Legislative Approval:**

Qualifications of Members:

Per Diem:

Expense Reimbursement:

Term Length:

Terms Rotate or Expire at Once:

Meetings

Required FY 2020-2019:

0

Held FY 2020-2019:

0

Required FY 2019-2018:

0

Held FY 2019-2018:

0

Required FY 2018-2017:

0

Held FY 2018-2017:

0

Required FY 2017-2016:

0

Held FY 2017-2016:

0

Required FY 2016-2015:

0

Held FY 2016-2015:

0

Operations

Support Staff:

6 during live racing- 2 non live racing

Shared or Separate:

shared

FY 2020-2019 Budget:

720602

FY 2019-2018 Budget:

1329063

FY 2018-2017 Budget:

1009387

FY 2017-2016 Budget:

1385771

FY 2016-2015 Budget:

975783

Other Funding Sources:

N/A

Spending Authority:

2-1209

Other

Government Certificates Issued:

7652

Issued Certificate Descriptions:

License categories listed in NSRC rule 14.007.01

Government Certificates Revoked:

37

Revoked Certificate Descriptions:

License application falsification. Poistive human drug test. Positive equine drug test

Government Certificates Denied:

41

Denied Certificate Descriptions:

Not eligible for licensing, suspended in other states, license application falsification, not eligible to work in the United States

Government Certificates Penalties Against:https://nebraskalegislature.gov/reports/committeesurvey_view.php

88

Penalty Certificate Descriptions:

Violating racing rules

Explanation of Effectiveness:

[Explanation PDF](#)

Potential Harm"

If occupational license were no longer issued it would be imposable to keep the integrity of horseracing. License are issued to workers on the racetrack to allow them to work in specific areas of the racetrack. All licenses are fingerprinted and a backg

Regulation Comparison:

[Comparison PDF](#)

Subject to Regulations of Act(LB407):

No

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All state regulate licensing in a very similar way. We regulate licensing with fewer staff and a low budget. May state receive general fund appropriations, as we do not.