

## Alabama Code Title 11. Counties and Municipal Corporations. § 11-65-2

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(a) The following words and phrases used in this chapter, and others evidently intended as the equivalent thereof, shall, unless the context clearly indicates otherwise, have the following respective meanings:

(1) Alabama-bred. When this term is used with reference to a horse, it means a horse which is registered in the registry designated and administered by a commission in accordance with such rules concerning domicile and registration requirements as may be established by such commission and which is either (i) foaled from a mare domiciled in the state during the 10-year period beginning with January 1, 1991, or (ii) sired by an Alabama stallion and foaled from a mare domiciled in the state at any time after the expiration of such 10-year period.

(2) Alabama stallion. A stallion which is standing in the state at the time he is bred to the dam of an Alabama-bred horse, which is registered with a commission, and which is owned or leased by a resident of the state. For purposes of this definition, the commission with which any Alabama stallion may be registered shall have the power to prescribe rules and regulations governing the qualifications of residence in the state for the owner or lessor of such stallion and the manner by which such qualifications shall be confirmed to the commission.

(3) Breakage. The odd cents by which the amount payable on each dollar wagered exceeds a multiple of 10 cents.

(4) Breeder. The owner of a mare at the time such mare gives birth to an Alabama-bred foal.

(5) Breeding fund. A special fund established by a commission pursuant to the provisions of Section 11-65-34 and any applicable rules and regulations of such commission for the purpose of promoting the breeding, raising, and racing of horses in the state.

(6) Breeding fund fee. A fee payable to a commission by a horse racing operator pursuant to Section 11-65-34 for deposit into the breeding fund established by such commission.

(7) Commission. Any public corporation organized pursuant to the provisions of this chapter.

(8) Commission greyhound wagering fee. The license fee payable to a commission by a greyhound racing operator for a particular calendar year, the amount and payment schedule of which are to be determined in accordance with the provisions of Section 11-65-30.

(9) Commission horse wagering fee. The license fee payable to a commission by a horse racing operator for a particular calendar year, the amount and payment schedule of which are to be determined in accordance with the provisions of Section 11-65-30.

(10) Commission municipal jurisdiction. The territory of a sponsoring municipality that is located within the boundaries of the host county.

(11) Disqualified person. Any of the following shall constitute disqualified persons:

a. Any person who has ever been found guilty in a court of competent jurisdiction of any corrupt or fraudulent act, practice, or conduct in connection with horse or dog racing or any activity involving legal gambling in any state of the United States of America or any other country, or any person who has ever had a license or permit to participate in horse or dog racing or in any activity involving legal gambling denied for just cause, suspended, or revoked in any state of the United States of America or in any other country; or

b. Any person who has ever been found guilty in a court of competent jurisdiction of a felony involving moral turpitude, or who has ever been the subject of injunctive or disciplinary action by any federal or state court or regulatory body charged with protecting the

public against fraudulent or illegal conduct; or

c. Any person who has ever been indicted by three separate grand juries for any felony or misdemeanor involving moral turpitude, even though such indictments did not result in a conviction; or

d. Any person who has ever been made a principal subject, either singly or in conjunction with others, of investigations by either federal or state law enforcement agencies into activities that violate federal or state laws against criminal conspiracy, racketeering, illegal gambling, and other activities associated with organized crime, provided that no person shall be deemed to be a disqualified person because of any such investigations unless they have involved at least three geographically distinct or factually different instances of illegal conduct, or unless they provide convincing grounds, based upon the seriousness and number of alleged offenses, for believing that the person in question has been actively and systematically involved in organized crime and racketeering with one or more persons previously indicted for or convicted of crimes involving moral turpitude; or

e. Any person if a commission determines that, for any reason, it is not in the best interests of the people of the state, the host county, or the sponsoring municipality for such person to own an interest in a horse racing facility licensee or an operator, or any person if the circuit court of the host county determines, pursuant to a proceeding instituted by the district attorney of the host county under the provisions of Section 11-65-22, that, for any reason, it is not in the best interests of the people of the state, the host county or the sponsoring municipality for such person to own an interest in a horse racing facility licensee or an operator, provided that any such determination, whether made by the commission or the circuit court, is made pursuant to a hearing of the commission or circuit court, as the case may be, of which such person has notice and an opportunity to be heard; or

f. Any person who owns, directly or indirectly, or holds five percent or more of

1. The combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation, or

2. The capital interest or the profits interest of a partnership, or

3. The beneficial interest of a trust, estate, or other unincorporated entity,

if such corporation, partnership, trust, estate, or unincorporated entity, as the case may be, is a person described in any of the foregoing subparagraphs a through e, inclusive; or

g. The brother or sister, niece or nephew, spouse, ancestor, lineal descendent, or any spouse or former spouse of any person described in the foregoing subparagraphs a through f, inclusive; or

h. A corporation, partnership, trust, estate, or other unincorporated entity of which (or in which) five percent or more of

1. The combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation, or

2. The capital interest or profits interest of such partnership, or

3. The beneficial interest of such trust, estate, or other unincorporated entity is owned, directly or indirectly, or held by one or more persons described in any of the foregoing subparagraphs a through g, inclusive; or

i. Any person who owns, directly or indirectly, or holds five percent or more of

1. The combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of any corporation that is described in any of the foregoing subparagraphs a through h, inclusive, or

2. The capital interest or profits interest of any partnership that is described in any of the foregoing subparagraphs a through h, inclusive, or

3. The beneficial interest of any trust, estate, or other unincorporated entity that is described in any of the foregoing subparagraphs a through h, inclusive; or

j. An officer or director (or an individual having powers or responsibilities similar to those of officers or directors), a general or managing partner, an individual acting as executor, administrator or trustee, or a highly compensated employee, professional advisor, or consultant (in any case earning five percent or more of the aggregate yearly wages or other compensation paid by an employer for professional services), of any person described in any of the foregoing subparagraphs a through i, inclusive; or

k. Any person who owns, directly or indirectly, or holds an interest of five percent or more of the capital or profits in any partnership or joint venture of which any person described in any of the foregoing subparagraphs a through j, inclusive, also has an interest of five percent or more of the capital or profits in such partnership or joint venture.

For purposes of subparagraphs f1, h1 and i1, the ownership of stock, membership interests, and voting power or rights shall be determined in accordance with the rules for constructive ownership of stock under Section 267(c) of the Internal Revenue Code of 1986, as amended from time to time and successor provisions thereof, except that, for purposes of this paragraph, Section 267(c)(4) of

the Internal Revenue Code of 1986 shall be treated as providing that the members of the family of an individual are the members listed in subparagraph g.

For purposes of subparagraphs f2 and f3, h2 and h3, and i2 and i3, and k the ownership of profits or beneficial interest shall be determined in accordance with the rules for constructive ownership of stock provided in Section 267(c) of the Internal Revenue Code of 1986, as amended from time to time and successor provisions thereof (other than Section 267(c)(3)), except that Section 267(c)(4) shall be treated as providing that the members of the family of an individual are the members listed in subparagraph g.

No person shall be deemed to be a disqualified person hereunder unless he is given notice of the determination that he is a disqualified person, together with the reasons therefor, and, upon request filed within ten days of such notice, is granted a hearing before the commission or the circuit court making such determination, is permitted to examine the evidence upon which such determination is based, is permitted to cross-examine any witnesses relied upon in such determination, and is permitted to testify in his own behalf and to present witnesses and other evidence on his behalf in public or closed session, as may be requested by such person. Any determination by a commission shall be subject to appeal as provided in Section 11-65-12 on the record of such hearing.

(12) Greyhound racing handle. When used with reference to any specified period of time, this term means the total amount of all wagers received by a greyhound racing operator for all pari-mutuel pools originated during such period of time with respect to wagering on greyhound racing at the location where such operator is licensed by the commission to conduct greyhound racing (including wagering on greyhound racing events televised to such licensed location from elsewhere).

(13) Greyhound racing operator. Any corporation, partnership, or other business entity licensed by a commission to conduct greyhound racing and pari-mutuel wagering thereon in accordance with the provisions of this chapter.

(14) Horse racing facility license. A license issued by a commission to own or lease a horse racing facility, or to have and enjoy the use thereof, which is recognized by the commission as effective with respect to a horse racing facility licensee, whether as the result of the original issuance of such license to the licensee, the assignment to the licensee of such license or all or part of any interest therein, or any other legal arrangement providing for the use and enjoyment of such license by the licensee.

(15) Horse racing facility licensee. Any person which, through direct issuance by a commission or other legal arrangements accepted or sanctioned by the commission, possesses a horse racing facility license for its use and benefit.

(16) Horse racing handle. When used with reference to any specified period of time, this term means the total amount of all wagers received by a horse racing operator for all pari-mutuel pools originated during such period of time with respect to wagering on horse racing at the location where such operator is licensed by the commission to conduct horse racing (including wagering on horse racing events televised to such licensed location from elsewhere).

(17) Horse racing operator. Any corporation, partnership, or other business entity licensed by a commission to conduct horse racing and pari-mutuel wagering thereon in accordance with the provisions of this chapter.

(18) Host county. Any county in which a sponsoring municipality is located. With respect to a sponsoring municipality located in more than one county, this term means the county in which a majority of the residents of the sponsoring municipality reside, as determined by the most recent federal decennial census.

(19) Host county house delegation. With respect to a host county, the members of the House of Representatives of the Legislature of Alabama from those representative districts in which all or a majority of the residents of such district reside in the host county, as determined by the most recent federal decennial census.

(20) Host county senate delegation. With respect to a host county, the members of the Senate of the Legislature of Alabama from those senatorial districts in which all or a majority of the residents of such district reside in the host county, as determined by the most recent federal decennial census.

(21) Member. A member of a commission.

(22) Net commission revenues. All fees (other than breeding fund fees), commissions and other moneys received by a commission and remaining after the payment of all expenses incurred in the administration of this chapter. This term does not include any state horse wagering fees or state dog racing privilege taxes, which are required to be paid directly to the state by the operator liable therefor.

(23) Operator. As may in the context be appropriate, this term means a horse racing operator or a greyhound racing operator.

(24) Person. Any natural person, corporation, partnership, joint venture, trust, government or governmental body, political subdivision, or other legal entity as in the context may be possible or appropriate.

(25) Racing day. Whether used with reference to horse racing or greyhound racing, this term means a period which begins at 8:00 o'clock, A.M. on any calendar day (including Saturdays) except any Sunday, Thanksgiving Day or Christmas Day and which continues until 2:00 o'clock, A.M. on the next succeeding calendar day.

(26) Racing facility or racetrack facility. When used with respect to any facility located in the state, these terms, and any similar thereto, mean a racetrack at which live horse racing or greyhound racing can be conducted for direct viewing by spectators, together with the viewing stands, pari-mutuel wagering facilities, restaurants, and other physical facilities and improvements that together constitute such racing facility or racetrack facility. Under no circumstances shall the terms racing facility or racetrack facility, or any similar thereto, be construed to refer to any public or private place of assembly or accommodation of any kind (other than a racetrack facility where live horse racing or greyhound racing can be conducted) where so-called "off-track betting" could be conducted.

(27) Sponsoring municipality. Any municipality for which a commission shall be created in accordance with the provisions of this chapter.

(28) Stallion owner. The owner of a stallion standing in the state at the time he was bred to the dam of an Alabama-bred horse.

(29) State. The State of Alabama.

(30) State dog racing privilege tax. The privilege tax levied by the state pursuant to Chapter 26A, Title 40, on every person engaged in the business of operating a dog racing track.

(31) State racing commission. Any department, agency, or instrumentality of the state, whether or not constituting a corporate entity separate from the state, that may at any time, whether before or after April 5, 1984, be created, organized or established for the purpose, among other purposes, of licensing, regulating or supervising horse racing and pari-mutuel wagering thereon or greyhound racing and pari-mutuel wagering thereon.

(32) State horse wagering fee. The license fee payable to the state by a horse racing operator, the amount and payment schedule of which are to be determined in accordance with the provisions of Section 11-65-29 hereof.

(b) The words "herein," "hereby," "hereunder," "hereof," and other equivalent words refer to this chapter as an entirety and not solely to the particular section or portion thereof in which any such word is used. The definitions set forth herein shall be deemed applicable whether the words defined are used in the singular or plural. Whenever used herein any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

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