

**Discussion on Potential Changes
to Chapter 315**

TEXAS RACING COMMISSION

COMMITTEE ON RULES

Date of Request: August 1, 2011

Request for Proposed Change to an Existing Rule or Addition of a New Rule to the Rules of Racing

Please submit this information to the attention of the Executive Director *at least 21 days* in advance of the next scheduled Committee on Rules meeting. An electronic form is available to assist in your submission or feel free to add additional pages as necessary in order to provide as much detail as possible. Filing this request does not guarantee that your proposal will be considered by the Committee on Rules.

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- Personal Submission *OR*
- Submission on behalf of TxRC Staff
(Name of Organization)
- Proposed Addition to Chapter 315. Rule 315.112, Ineligibility due to Improper Lure Training
- Proposed Additions/Modification to Chapters: 309 and 311
- If known, Other Rules Affected by Proposal: none

A. Brief Description of the Issue

The Commission has learned of a licensee who trains greyhounds using live animals as a lure. This practice, once thought to be obsolete, is not only against greyhound racing rules, it is also a felony for animal cruelty under Chapter 42 of the Texas Penal Code. Following a hearing before a panel of three Commission judges, the individual agreed to surrender his Owner/Trainer license for revocation and waived all appeal rights.

The practice of using live lures in greyhound training and racing is outlawed by every jurisdiction and is banned by the American Greyhound Council and the Greyhound Racing Association of America. Both of these organizations have the following statement under the Frequently Asked Questions on their websites:

FAQ's

Does the industry use live lures?

No, the industry has banned the use of live lures in training and racing. In all states, state laws and/or racing rules prohibit the use of live lures in training or racing. Industry members who violate this practice may be expelled from the sport for life.

Most states, like Texas, also ban this practice under their state's animal cruelty laws.

TEXAS PENAL CODE

CHAPTER 42

§ 42.092. Cruelty to Nonlivestock Animals

(a) In this section:

(1) "Abandon" includes abandoning an animal in the person's custody without making reasonable arrangements for assumption of custody by another person.

(2) "Animal" means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured. The term does not include an uncaptured wild living creature or a livestock animal.

(3) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(4) "Custody" includes responsibility for the health, safety, and welfare of an animal subject to the person's care and control, regardless of ownership of the animal.

(5) "Depredation" has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(6) "Livestock animal" has the meaning assigned by Section 42.09.

(7) "Necessary food, water, care, or shelter" includes food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(8) "Torture" includes any act that causes unjustifiable pain or suffering.

(b) A person commits an offense if the person intentionally, knowingly, or recklessly:

(1) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal;

(2) without the owner's effective consent, kills, administers poison to, or causes serious bodily injury to an animal;

(3) fails unreasonably to provide necessary food, water, care, or shelter for an animal in the person's custody;

(4) abandons unreasonably an animal in the person's custody;

(5) transports or confines an animal in a cruel manner;

(6) without the owner's effective consent, causes bodily injury to an animal;

(7) causes one animal to fight with another animal, if either animal is not a dog;

(8) uses a live animal as a lure in dog race training or in dog coursing on a racetrack; or

(9) seriously overworks an animal.

(c) An offense under Subsection (b)(3), (4), (5), (6), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted

two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09. An offense under Subsection (b)(1), (2), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09.

(d) It is a defense to prosecution under this section that:

(1) the actor had a reasonable fear of bodily injury to the actor or to another person by a dangerous wild animal as defined by Section 822.101, Health and Safety Code; or

(2) the actor was engaged in bona fide experimentation for scientific research.

(e) It is a defense to prosecution under Subsection (b)(2) or (6) that:

(1) the animal was discovered on the person's property in the act of or after injuring or killing the person's livestock animals or damaging the person's crops and that the person killed or injured the animal at the time of this discovery; or

(2) the person killed or injured the animal within the scope of the person's employment as a public servant or in furtherance of activities or operations associated with electricity transmission or distribution, electricity generation or operations associated with the generation of electricity, or natural gas delivery.

(f) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1) form of conduct occurring solely for the purpose of or in support of:

(A) fishing, hunting, or trapping; or

(B) wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2) animal husbandry or agriculture practice involving livestock animals.

(g) This section does not create a civil cause of action for damages or enforcement of the section.

B. Discussion of the Issue and Problem

Provide background on the issue to build context. Address the following:

- *What specific problems or concerns are involved in this issue?*
- *Who does the issue affect?*
- *What existing model rules relate to this issue?*
- *Provide relevant quantitative or statistical information if possible.*

TEXAS RULES

SECTION 309.359. Live Lures.

(a) An association may not permit the use of a live lure on association grounds.

(b) An association may not permit a greyhound to be kennelled or to race on association grounds if the association knows or can reasonably be expected to know that the greyhound was trained in a state that by statute or rule does not prohibit the knowing use of live lures.

Following are pertinent parts of the RCI Model Rule and selections from other jurisdictions' rules.

RCI MODEL RULE:

ARCI-016-010 Prohibited Acts

(pertinent sections)

No person shall:

(14) use any lure except the association's artificial lure for training or racing a greyhound at any time at any facility under the Commission's jurisdiction or at anyplace after the greyhound has been booked to race in this jurisdiction;

(15) use live animals or animals killed for the purpose of training greyhounds;

(46) submit any animal in their charge to cruel or inhumane treatment. Cruel or inhumane treatment includes, but is not limited to:

(d) prohibited conduct described in (jurisdiction's cruelty statute) in the form the statute provided on the effective date of this rule.

ARIZONA

Rules of Greyhound Racing

R19-2-311. Prohibited Acts

Generally:

14. Any person licensed by the Department found guilty of using live rabbits, cats, or fowl in the training of racing greyhounds may be fined or suspended or both by the stewards, who shall report all such cases to the Department.

FLORIDA

Chapter 550.2415. Racing of animals under certain conditions prohibited; penalties; exceptions.

(6)(a) It is the intent of the Legislature that animals that participate in races in this state on which pari-mutuel wagering is conducted and animals that are bred and trained in this state for racing be treated humanely, both on and off racetracks, throughout the lives of the animals.

(b) The division shall, by rule, establish the procedures for euthanizing greyhounds. However, a greyhound may not be put to death by any means other than by lethal injection of the drug sodium pentobarbital. A greyhound may not be removed from this state for the purpose of being destroyed.

(c) It is a violation of this chapter for an occupational licensee to train a greyhound using live or dead animals. A greyhound may not be taken from this state for the purpose of being trained through the use of live or dead animals.

(d) Any act committed by any licensee that would constitute cruelty to animals as defined in s. 828.02 involving any animal constitutes a violation of this chapter. Imposition of any penalty by the division for violation of this chapter or any rule adopted by the division pursuant to this chapter shall not prohibit a criminal prosecution for cruelty to animals.

MINNESOTA

343.315 Live lure greyhound training or racing.

No person may train a greyhound for racing using a live lure or live bait or conduct a greyhound race using a live lure or live bait.

WEST VIRGINIA

Rules of Racing 178-2-40. Disciplinary Action

40.7 It is a misdemeanor for any person to use any animal or fowl in the training or racing of greyhounds, which are being trained for pari-mutuel racing. Any greyhound that has been trained utilizing an animal or fowl shall be banned from participating in pari-mutuel racing for life. The Racing Commission shall notify the pari-mutuel racing facilities within the state in which it has jurisdiction and shall notify all jurisdictions within the United States that the greyhound is on the banned list.

West Virginia's animal cruelty law

61-8-19

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

C. Possible Solutions and Impact

Provide possible recommendations to solve the problem. Include details on each proposed solution such as:

- *What solution does this proposal provide?*
- *How will the solution fix the problem?*
- *How will the change affect any entities or stakeholders?*
- *How will you or your organization be affected by the proposed change?*
- *What are the benefits of the proposed change?*
- *What are the possible drawbacks of the proposed change?*
- *Identify possible fiscal impact of the recommended change.*

Proposed Solution:

Amend the present rule and add additional rules to ensure that the training of any greyhound by using any animal or fowl, living or dead, in this state or out of this state is a violation of the Texas Racing Commission's rules and is grounds for license revocation. Additionally, any greyhound that was trained using this method shall be banned for life from participating in pari-mutuel racing in Texas. Any greyhound whelped or trained at a specific facility or by a specific person that has been found to have used a live or dead animal or fowl shall also be banned for life. The Racing Commission will notify all greyhound racing jurisdictions and the National Greyhound Association of any banned greyhounds.

D. Support or Opposition

Please identify any affected stakeholder groups that expressed support or opposition. (These stakeholders may include the racetracks, breed registries, owners, kennel owners, trainers, jockeys, veterinarians, or others.)

- *For those stakeholder groups that have expressed an opinion, please list the points on which they agree or disagree, and the arguments they have expressed.*
- *Are there any affected stakeholder groups that have not been consulted on this proposal?*
- *Please submit any formal letters of support or opposition by stakeholder groups.*

As this practice is banned by both regulators and the national associations for greyhounds, there should be no opposition to strengthening the rules to ensure compliance. To prevent animal cruelty while training greyhounds and to ensure each greyhound is competing with similar training practices, the Texas Rules of Racing should explicitly ban this practice. These changes will protect the animals, the industry, and the wagering public.

E. Proposal

Provide rule language you are proposing. If you are proposing that current rule language be eliminated, please strikeout the language to be deleted. Please show new language with underlined text.

TEXAS RULES

Sec. 315.112. Ineligibility due to Improper Lure Training

(a) The board of racing judges may ban a greyhound for life from being kenneled or participating in racing on association grounds if it finds that the greyhound's owner, trainer, or kennel owner has engaged in any detrimental practice related to the training of greyhounds using a live or dead animal or fowl.

(b) The board of racing judges may ban a greyhound for life from being kenneled or participating in racing on association grounds if it finds that the greyhound has been trained at any facility that has engaged in any detrimental practice related to the training of greyhounds using a live or dead animal or fowl.

Sec. 309.359. Live Lures Training.

(a) An association may not permit the use of a live or dead animal or fowl for training purposes lure on association grounds.

(b) An association may not permit a greyhound to be kenneled or to race on association grounds if the association knows or can reasonably be expected to know that the greyhound was trained in a state that by statute or rule does not prohibit the knowing use of a live or dead animal or fowl for training purposes lures.

(c) An association may not permit a greyhound to be kenneled or to race on association grounds if the greyhound has been banned from pari-mutuel racing by any racing jurisdiction.

Sec. 311.6. Denial, Suspension, and Revocation of Licenses.

(a) (No change.)

(b)(1)–(4) (No change.)

(5) **Detrimental Practices.** A license may be denied, suspended or revoked if it is determined that the licensee is engaged in activities or practices that are detrimental to the best interests of the public or to the racing industry. These practices include, but are not limited to, using a live or dead animal or fowl to train a greyhound, or sending a greyhound to a facility located in this state or out of state for the purpose of being trained using a live or dead animal or fowl as a lure.

Sec. 311.102. Greyhound Owners.

(a)–(c) (No change.)

(d) **Restriction on Racing.** An owner may not enter a greyhound or cause a greyhound to be entered in a race at a racetrack if:

(1) the owner knows or can reasonably be expected to know that the greyhound was trained using a live or dead animal or fowl as a lure in this state or out of this state.

(2) the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack;

(3)(2) the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds.

Sec. 311.104. Trainers.

(a)–(e) (No change.)

(f) **Restriction on Racing.** A trainer may not enter a race animal or cause a race animal to be entered in a race at a racetrack if:

(1) the trainer knows or can reasonably be expected to know that the greyhound was trained using a live or dead animal or fowl as a lure in this state or out of this state.

(2) the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack;

(3)(2) the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds.