

State of Arkansas
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Legislative Research

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Memorandum

TO: ALC—Executive Subcommittee

FROM: Laura Kehler Shue, Legislative Attorney, Administrative Rules Review Section, Legal Services Division

CC: Marty Garrity, Director, Bureau of Legislative Research;
Jessica Sutton, Administrator, Administrative Rules Review Section, Legal Services Division

DATE: January 5, 2018

SUBJECT: Legal Authorization for Arkansas Racing Commission—Emergency Rule regarding total dissolved carbon dioxide levels

The Arkansas Racing Commission’s stated purpose for amending its Rule 1231(B)(3) is to bring it into compliance with the standards of the Thoroughbred Owners and Breeders Association (TOBA). The current rules allow for the total dissolved carbon dioxide concentration levels in the blood of a horse to be 39.0 millimole per liter while the TOBA maximum level is 37.0 millimole per liter. The change is necessary to ensure certification of graded stakes races at Oaklawn.

The same emergency Rule 1231(B)(3), submitted as an emergency and reviewed on February 22, 2017, expired thereafter.

The Arkansas Racing Commission has sole jurisdiction over the business and sport of horse racing in the State of Arkansas. *See* Ark. Code Ann. § 23-110-204(a). Further, the Racing Commission has full, complete, and sole power and authority to promulgate rules accordingly. *See* Ark. Code Ann. § 23-110-204(b)(1)(E). Indeed, “[f]or the purpose of regulating its own procedure and carrying out its functions, powers, and duties, the commission shall have the authority from time to time to make, amend, and enforce all necessary or desirable rules not inconsistent with law.” *See* Ark. Code Ann. § 23-110-204(d).