

PERFORMANCE AUDIT
OF THE
OFFICE OF RACING COMMISSIONER
DEPARTMENT OF AGRICULTURE

March 2003



Michigan
Office of the Auditor General
REPORT SUMMARY

Performance Audit

Office of Racing Commissioner

Department of Agriculture

Report Number:
79-310-02

Released:
March 2003

The Office of Racing Commissioner (ORC) has responsibilities relating to licensure, enforcement, and regulation of race meetings in Michigan and persons involved in those race meetings, in accordance with Sections 431.301 - 431.336 of the Michigan Compiled Laws (the Horse Racing Law of 1995). The Racing Commissioner is appointed for a term of four years by the Governor with the advice and consent of the Senate.

Audit Objective:

To assess ORC's effectiveness in administering the provisions of Sections 431.301 - 431.336 of the *Michigan Compiled Laws* (the Horse Racing Law of 1995) relating to licensing, enforcing, regulating, and promoting horse racing and pari-mutuel wagering.

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Audit Conclusion:

We concluded that ORC was generally effective in administering the provisions of the Horse Racing Law of 1995 relating to licensing, enforcing, regulating, and promoting horse racing and pari-mutuel wagering. However, we noted reportable conditions related to timely deposits, reporting requirements, and promulgation of rules.

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Noteworthy Accomplishments:

In fiscal year 2001-02, ORC reengineered its entire State licensing system, which issues several thousand occupational licenses annually. ORC's new automated

licensing system provides enhanced collaboration and data sharing with other State commissions and Racing Commissioners International. In addition, the new system provides increased convenience for ORC employees and Michigan licensees. Increased convenience for out-of-State licensees facilitates out-of-State horse entries, thereby enhancing the quality of racing, and promotes in-State wagering and sales of simulcast signals to out-of-State tracks.

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Reportable Conditions:

ORC needs to establish controls to ensure that racetracks deposit State wagering tax revenue in a timely manner (Finding 1).

ORC needs to implement measures to improve licensed racetracks' compliance with required reporting requirements. Also, ORC needs to document the date of receipt for all daily reports submitted by the racetracks. (Finding 2)

ORC, in conjunction with the Department of Agriculture, needs to develop rules for expending State funds to promote horse racing (Finding 3).

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Agency Response:

Our audit report contains 3 findings and 4 corresponding recommendations. ORC's preliminary response indicated that it will comply with all of our recommendations.

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A copy of the full report can be obtained by calling 517.334.8050 or by visiting our Web site at: www.state.mi.us/audgen/



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AUDITOR GENERAL

March 31, 2003

Ms. Nora M. Viau, Chairperson
Commission of Agriculture
and
Mr. Dan Wyant, Director
Department of Agriculture
Constitution Hall
Lansing, Michigan

Dear Ms. Viau and Mr. Wyant:

This is our report on the performance audit of the Office of Racing Commissioner, Department of Agriculture.

This report contains our report summary; description of agency; audit objective, scope, and methodology and agency responses; comment, findings, recommendations, and agency preliminary responses; and a glossary of acronyms and terms.

The agency preliminary responses were taken from the agency's responses subsequent to our audit fieldwork. The *Michigan Compiled Laws* and administrative procedures require that the audited agency develop a formal response within 60 days after release of the audit report.

We appreciate the courtesy and cooperation extended to us during this audit.

AUDITOR GENERAL

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OFFICE OF RACING COMMISSIONER DEPARTMENT OF AGRICULTURE

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Description of Agency

The Office of Racing Commissioner (ORC) has responsibilities relating to licensure, enforcement, and regulation of race meetings* in Michigan and persons involved in those race meetings, in accordance with Sections 431.301 - 431.336 of the *Michigan Compiled Laws* (the Horse Racing Law of 1995). The Racing Commissioner is appointed for a term of four years by the Governor with the advice and consent of the Senate.

A bipartisan five-member Commission of Agriculture is responsible for the general administration of the Department of Agriculture, including the appointment of the director who serves at the pleasure of the Commission. Commission members are appointed for a term of six years by the Governor with the advice and consent of the Senate.

The legalization of full-card simulcasting* by the Horse Racing Law of 1995, effective January 1, 1996, resulted in an all-time high of pari-mutuel wagering* at Michigan's racetracks for calendar year 1997. Full-card simulcasting transformed Michigan racetracks into year-round operations creating full-time jobs where previously only seasonal work was available.

Revenue from authorized pari-mutuel wagering taxes and license fees is remitted to the State Treasurer for credit to the Michigan Agriculture Equine Industry Development Fund. A portion of this revenue is restricted for agriculture and equine industry development programs, for fairs*, and for Michigan-bred winning horses. For calendar year 2001, the Commissioner licensed seven pari-mutuel racetracks. The pari-mutuel wagering program contributed approximately \$11.9 million in pari-mutuel wagering taxes and other revenues to the State in calendar year 2001.

ORC activities are funded with pari-mutuel wagering taxes and other revenues. As of August 1, 2002, ORC had 60 employees. These employees include full-time, temporary, and seasonal employees. ORC's main office is in Livonia. Field offices are located at each racetrack. ORC recorded expenditures of approximately \$3.9 million for calendar year 2001.

* See glossary at end of report for definition.

Audit Objective, Scope, and Methodology and Agency Responses

Audit Objective

The objective for our performance audit* of the Office of Racing Commissioner (ORC), Department of Agriculture, was to assess ORC's effectiveness* in administering the provisions of Sections 431.301 - 431.336 of the *Michigan Compiled Laws* (the Horse Racing Law of 1995) relating to licensing, enforcing, regulating, and promoting horse racing and pari-mutuel wagering.

Audit Scope

Our audit scope was to examine the program and other records of the Office of the Racing Commissioner. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Audit Methodology

Our audit procedures, conducted from May through August 2002, included testing ORC records and activities primarily for the period July 1, 1998 through August 2, 2002.

We conducted a preliminary review of ORC's operations to formulate a basis for defining the audit objective and scope. Our review included interviewing ORC personnel; reviewing applicable statutes, policies and procedures, and other reference materials; and obtaining an understanding of ORC's operational activities related to the licensing process, wagering tax revenues from simulcasting, horse drug testing, the complaint process, and regulatory enhancement and promotional activities.

We assessed ORC's effectiveness in administering licensing functions in accordance with statutory and administrative licensing requirements. We analyzed license files for documentation of the licensing process to determine whether licensing and permit actions were complete, accurate, and in accordance with statutory and administrative requirements.

* See glossary at end of report for definition.

We assessed ORC's controls related to the cash receipt and revenue collection process. We verified a sample of cash receipts collected by the licensing clerks at each of the racetracks; we also verified that the State tax revenue from simulcasting was appropriately deposited into the State's accounts. In addition, we analyzed the pari-mutuel racing audit program used by public accounting firms to conduct audits of pari-mutuel betting revenue at each racetrack. We reviewed these audits for each of the racetracks from fiscal year 1997-98 through fiscal year 2000-01.

We assessed ORC's effectiveness in administering horse drug testing functions in accordance with statutory and administrative requirements. We reviewed a sample of drug testing files to determine whether drug tests were completed and whether ORC initiated appropriate action resulting from positive drug test results in accordance with statutory and administrative drug testing and enforcement requirements.

We gained a general understanding of the complaint process and reviewed documentation for identified regulatory enhancements and promotional activities for fiscal years 2001-01 and 2001-02.

Agency Responses

Our audit report contains 3 findings and 4 corresponding recommendations. ORC's preliminary response indicated that it will comply with all of our recommendations.

The agency preliminary response that follows each recommendation in our report was taken from the agency's written comments and oral discussion subsequent to our audit fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and Department of Management and Budget Administrative Guide procedure 1280.02 require the Department of Agriculture to develop a formal response to our audit findings and recommendations within 60 days after release of the audit report.

COMMENT, FINDINGS, RECOMMENDATIONS, AND AGENCY PRELIMINARY RESPONSES

EFFECTIVENESS OF ADMINISTERING THE PROVISIONS OF THE HORSE RACING LAW OF 1995

COMMENT

Audit Objective: To assess the Office of Racing Commissioner's (ORC's) effectiveness in administering the provisions of Sections 431.301 - 431.336 of the *Michigan Compiled Laws* (the Horse Racing Law of 1995) relating to licensing, enforcing, regulating, and promoting horse racing and pari-mutuel wagering.

Conclusion: We concluded that ORC was generally effective in administering the provisions of the Horse Racing Law of 1995 relating to licensing, enforcing, regulating, and promoting horse racing and pari-mutuel wagering. However, we noted reportable conditions* related to timely deposits, reporting requirements, and promulgation of rules.

Noteworthy Accomplishments: In fiscal year 2001-02, ORC reengineered its entire State licensing system, which issues several thousand occupational licenses annually. ORC's new automated licensing system provides enhanced collaboration and data sharing with other State commissions and Racing Commissioners International. In addition, the new system provides increased convenience for ORC employees and Michigan licensees. Increased convenience for out-of-State licensees facilitates out-of-State horse entries, thereby enhancing the quality of racing, and promotes in-State wagering and sales of simulcast signals to out-of-State tracks.

Also, as of January 1, 2002, ORC required all pari-mutuel tellers in Michigan to have an occupational license from ORC to work at a Michigan racetrack. Licensing tellers increased ORC's regulatory activity to include the screening of teller applicants for felonies, financial-related crimes, and other crimes before the applicants could become employees of a Michigan racetrack.

* See glossary at end of report for definition.

In addition, ORC maintained an active involvement and leadership in the Drug Testing Standards and Practices Committee of Racing Commissioners International. ORC has upgraded its drug-testing program, thereby increasing its capabilities and proficiencies in drug testing and detection, especially for such drugs as TC02, Salix, and Eliza. ORC is capable of detecting illegal drugs in horses that, prior to this upgrade, would not have been evident. This ensures a higher integrity race program for both horsemen and the wagering public.

FINDING

1. Timely Deposits

ORC needs to establish controls to ensure that racetracks deposit State wagering tax revenue in a timely manner.

The Horse Racing Law of 1995 states that each holder of a race meeting license shall remit the money due to the State or other entities under this Law at the close of the day of operation with a detailed statement of that money as required by this Law. Also, the Law states that the Racing Commissioner has the powers and duties prescribed in this Law and shall administer the provisions of this Law relating to licensing, enforcement, and regulation. The Law provides the Racing Commissioner with powers to implement and enforce this Law.

We reviewed 424 days of receipts, a total of \$2,365,658, from Michigan's seven racetracks. We found that 151 (36%), a total of \$513,584, of the State wagering tax revenue receipts reviewed were deposited from 4 to 15 days after the date of receipt.

Depositing cash receipts on a daily basis helps reduce the risk of loss from theft, missed investment opportunities, and other unforeseen circumstances.

RECOMMENDATION

We recommend that ORC establish controls to ensure that the racetracks deposit State wagering tax revenue in a timely manner.

AGENCY PRELIMINARY RESPONSE

ORC agrees with the audit finding and will comply with the related recommendation. ORC is working with the Department of Treasury and depository banks, which have the deposit information, in order to obtain notification of when

deposits are actually made. This information will be used to identify untimely deposits so that staff can correct any future problems.

FINDING

2. Reporting Requirements

ORC needs to implement measures to improve licensed racetracks' compliance with required reporting requirements. Also, ORC needs to document the date of receipt for all daily reports submitted by the racetracks.

The Horse Racing Law of 1995 requires that daily audit reports be forwarded to the Racing Commissioner not later than 2 business days after the day for which the report is made.

We reviewed 433 daily reports for each of the racing days included in 70 randomly selected weeks and found that 238 (55%) of the daily reports tested were submitted to ORC from 4 to 21 days after the date of the race meeting. Also, ORC did not document the date of receipt for 49 (11%) of 433 reports reviewed.

Receiving daily reports in a timely manner helps increase ORC's ability to monitor racing activity on an ongoing basis. Documenting the date of receipt helps determine whether reports are received in a timely manner.

RECOMMENDATIONS

We recommend that ORC implement measures to improve licensed racetracks' compliance with required reporting requirements.

We also recommend that ORC document the date of receipt for all daily reports submitted by the racetracks.

AGENCY PRELIMINARY RESPONSE

ORC agrees with the audit finding and will comply with the related recommendations. ORC informed us that it now has most tracks submitting their daily reports electronically, which allows for easier monitoring, and that timely submission of reports was made a condition of issuing "race dates" for 2003.

ORC also informed us that, since August 2002, manual reports have been date stamped to document the date received and that ORC is maintaining verification when electronic submissions are received.

FINDING

3. Promulgation of Rules

ORC, in conjunction with the Department of Agriculture, needs to develop rules for expending State funds to promote horse racing.

The Horse Racing Law of 1995 has granted the Commissioner the authority to promulgate rules pursuant to Sections 24.201 - 24.328 of the *Michigan Compiled Laws*. The Law states that the rules promulgated shall be designed to regulate and promote horse racing in Michigan. However, the current rules, which have been in place since 1985, do not address the types of promotional activities appropriate for State funding.

In addition, the Law provides that the director of the Department of Agriculture shall promulgate rules related to the funding of programs, including the development, implementation, and administration of new programs that promote the proper growth and development of the horse racing and breeding industry in Michigan.

ORC expended \$96,876 on promotional activities in fiscal year 2000-01 and as of August 2002 expended \$92,754 in fiscal year 2001-02. Promotional expenditures are intended to encourage growth in the horse racing industry through increased public participation or increased public interest. The projects that ORC funded were as follows:

- a. ORC cosponsors an annual horse racing promotional event (the Horse of the Year Ball) with a nonprofit organization. ORC expended \$14,309 in fiscal year 2000-01 and \$11,774 in fiscal year 2001-02 for the event. The nonprofit organization expended \$5,203 in fiscal year 2000-01 and \$2,650 in fiscal year 2001-02. The event included a silent auction, dinner, and the Michigan Equestrian Princess Pageant. All money collected from the silent auction, sponsorships, and ticket sales (\$9,630 in fiscal year 2000-01 and \$10,659 in fiscal year 2001-02) was given to the nonprofit organization for deposit and disbursement. The State received no reimbursement for the amounts

expended by ORC. ORC informed us that the money was deposited into the bank account of the nonprofit organization for future disposition as directed by ORC. Also, ORC informed us that the Department of Attorney General recommended that ORC not handle the accounting for the event. We obtained the related memorandum from the Department of Attorney General, which stated, "Significant liability issues exist with respect to the event. I find no provision in the Horse Racing Law of 1995 or the racing rules authorizing the State's sponsorship of such an event." This memorandum supports the need for promulgated rules related to promotional expenditures.

- b. ORC provided matching grants to horse racing industry organizations for projects expected to increase the public's awareness of the entertainment available at Michigan racetracks. ORC expended \$38,945 in fiscal year 2000-01 and \$21,000 in fiscal year 2001-02 for this grant program. Fiscal year 2000-01 awards were:

Grant Recipient	Amount Granted	Description of Use
1. Great Lakes Downs	\$5,000	Radio, television, and newspaper advertising for horse racing's Triple Crown horse races.
2. Sports Creek Raceway	\$5,992	Highway billboard advertising.
3. Hazel Park Harness Raceway	\$5,000	Eleven-week radio advertising.
	\$ 900	Clubhouse lobby improvements.
4. Michigan Thoroughbred Owners and Breeders Association	\$5,578	The production of a promotional newsletter.
5. Michigan Standardbred Breeders Association	\$4,000	Advertising of racing events at Hazel Park Harness Raceway and Saginaw Harness Raceway.
6. Jackson Harness Raceway	\$3,354	Radio and newspaper advertising and entertainment for a promotional event.
7. Saginaw Harness Raceway	\$2,323	Various items such as electrical equipment, newspaper advertising, roses, polo shirts, and store gift certificates.

Fiscal year 2001-02 awards were:

Grant Recipient	Amount Granted	Description of Use
1. Hazel Park Harness Raceway	\$3,000	Cable television advertising.
2. Michigan Harness Horsemen's Association	\$3,000	Monthly magazine promoting horseracing.
3. Sports Creek Raceway	\$3,000	Radio and television campaign promoting live race meetings and major racing events.
4. Saginaw Harness Raceway	\$3,000	Television and radio advertising.
5. Mt. Pleasant Meadows	\$3,000	Highway billboard and the restoration of signs at the racetrack.
6. Michigan Thoroughbred Owners and Breeders Association	\$3,000	Production of a promotional magazine.
7. Michigan Horsemen's Benevolent and Protective Association	\$3,000	Radio advertising to promote racing at Great Lakes Downs.

- c. ORC sponsored a booth and promotional activities at the Michigan State Fair for which ORC expended \$43,622 in fiscal year 2000-01 and \$59,980 in fiscal year 2001-02.

We could not determine the impact of these promotional efforts.

The promulgation of rules that specifically identify guidelines for acceptable ORC promotional activities and eligible State expenditures would enhance the accountability for the operations of ORC.

RECOMMENDATION

We recommend that ORC, in conjunction with the Department of Agriculture, develop rules for expending State funds to promote horse racing.

AGENCY PRELIMINARY RESPONSE

ORC agrees with the audit finding and will comply with the related recommendation. In January 2003, initial steps will be taken to promulgate a rule(s) to identify guidelines for "promotional expenditures."

Glossary of Acronyms and Terms

effectiveness	Program success in achieving mission and goals.
efficiency	Achieving the most outputs and outcomes practical with the minimum amount of resources.
fair	Any county, district, community, or State fair.
full-card simulcasting	An entire simulcast racing program of one or more race meeting licenses located in Michigan, or an entire simulcast racing program of one or more races simulcast from one or more racetracks located outside Michigan.
goals	The agency's intended outcomes or impacts for a program to accomplish its mission.
mission	The agency's main purpose or the reason that the agency was established.
ORC	Office of Racing Commissioner.
outcomes	The actual impacts of the program.
pari-mutuel wagering	A system of betting on races whereby the winners divide the total amount bet, after deducting management expenses, in proportion to the sums they have wagered individually.
performance audit	An economy and efficiency audit or a program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve public accountability and to facilitate decision making by parties responsible for overseeing or initiating corrective action.

race meeting	The entire period of consecutive days that is granted by the Racing Commissioner to an association for the conduct of horse racing.
reportable condition	A matter that, in the auditor's judgment, represents either an opportunity for improvement or a significant deficiency in management's ability to operate a program in an effective and efficient manner.
simulcast	The live transmission of video and audio signals conveying a horse race held inside or outside Michigan to a licensed race meeting in Michigan for the purpose of wagering.