

STATE OF MINNESOTA
MINNESOTA RACING COMMISSION

In the Matter of the
Proposed Adoption of
Rules of the Minnesota
Racing Commission concerning
Amendments to the Existing
Rules Governing Horse Racing.

STATEMENT OF NEED
AND REASONABLENESS

I. GENERAL

In an effort to improve the quality of horse racing in this state, the Minnesota Racing Commission ("Commission") proposes minor amendments to the rules of racing. The proposed amendments are consistent with rules in other racing jurisdictions and are necessary to make Minnesota competitive in the horse racing industry. The Commission believes the proposed amendments are reasonable because they are customary in other racing jurisdictions. The burdens imposed on the participants are not undue, and compliance with similar rules has been obtained in other jurisdictions.

II. STATUTORY AUTHORITY

The Commission is powered by Minn. Stat. § 240.03 to:

- 1) Regulate horse racing in Minnesota to ensure that it is conducted in the public interest;
- 2) Enforce all laws and rules governing horse racing;
- 3) Supervise the conduct of pari-mutuel betting on horse races; and

- 4) Take all necessary steps to insure the integrity of racing in Minnesota.

The Commission is also specifically authorized by Minn. Stat. § 240.23 to promulgate rules governing the "conduct of horse races held at licensed racetracks, including but not limited to the rules of racing, standards of entry, operation of claiming races, filing and handling of objections, carrying of weights, and declaration of official results" and "any other aspect of horse racing or pari-mutuel betting, which in its opinion, effects the integrity of racing or the public health, welfare or safety." Moreover, the Legislature has specifically directed the Commission to promulgate rules governing medication and medical testing for horses running at licensed racetracks. Minn. Stat. § 240.24 (1988).

These broad statutory provisions clearly authorize the Commission to promulgate the proposed amendments to the rule governing horse racing in Minnesota.

III. RULE-BY-RULE ANALYSIS

7869.0100 Definitions

This part contains the definitions relevant to Minn. Rule Ch. 7869 to 7899. The Commission proposes to amend subpart 51(M) of this part. The remaining subparts are unchanged.

7869.0100, subpart 51(M)

This subpart contains the definition of a stakes or sweepstakes race. The Commission proposes to change this subpart by deleting the portion of the subpart which reads:

No overnight race, regardless of its conditions, may be deemed a stakes race.

The proposed change is necessary to provide a definition of stakes or sweepstakes race that more closely conforms to accepted standards in the racing industry. The proposed change is reasonable because it creates a definition more easily understood by racing participants.

7873.0300 Simulcast Wagering

7873.0300, subpart 2

The Commission proposes to amend this subpart by requiring Commission approval of all simulcast races conducted at a licensed racetrack. The proposed amendment is necessary to conform the rule to an anticipated change in Minn. Stat. § 240.13, subd. 6 (1988). It is almost certain that the Legislature will permit a licensed racetrack to conduct televised horse racing at the racetrack facility on days that live horse racing is not conducted. Therefore, to avoid a conflict between a newly promulgated statute and the rule, the Commission proposes to amend this subpart accordingly.

7873.0550 Distribution of Purse Money

7873.0050, subpart 1

The 1988 Legislature amended Minn. Stat. § 240.13, subd. 5 to provide for a different method of calculating the amount of pari-mutuel money allocated for purses. The proposed amendment to this subpart is necessary and reasonable to conform the rule to the changes in the statutory language.

7877.0110 Procedure for Obtaining a Class C License

7877.0110, subpart 2

The Commission proposes to amend this subpart by deleting the requirement that persons under the age of 18 provide a fingerprint card as a condition of obtaining a Class C license. The proposed change is necessary and reasonable because the Racing Commission has been informed by the Federal Bureau of Investigation that fingerprint records on individuals under the age of 18 are not available. Accordingly, the fingerprinting of persons under the age of 18 is meaningless and an unnecessary expenditure of time and money.

7877.0120 Fees

7877.0120, subpart 2

The Commission proposes to change this subpart by deleting the requirement that persons under the age of 18 submit a fee of \$14 to the Federal Bureau of Investigation for the completion of a fingerprint investigation. The proposed change is necessary and reasonable because the Commission has eliminated the requirement that persons under the age of 18 submit a fingerprint card with an application for a Class C license. Therefore, the submission of a \$14 fee is also unnecessary.

7877.0160 Duration and Extent of Class C Licenses

7877.0160, subpart 1

The Commission proposes to amend this subpart by deleting the language that requires re-licensing the third calendar year after the issuance of a Class C license. This amendment is both needed

and reasonable because Minn. Stat. § 240.08, subd. 4 provides that Class C licenses are effective for only a period of one year. Therefore, the proposed amendment is necessary to conform this subpart to the statute.

7877.0160, subpart 2, item B

The Commission proposes to amend this subpart to allow licensees to work at all licensed racetracks in Minnesota without obtaining an additional license, provided that the licensee can demonstrate employment in racing at both operating racetracks. The employment restriction is necessary to preclude licensees from gaining access to the secured areas of a racing facility when that access is not necessary for legitimate employment on the grounds of the racetrack.

7877.0160, subpart 4

The Commission proposes to amend this rule by deleting references to the validation of licenses in the two calendar years after issuance. The amendment is necessary to conform this subpart to the proposed amendment to subpart 1 which establishes a license term of one calendar year rather than three calendar years.

7883.0100 Entries and Subscriptions

7883.0100, subpart 16, item C

The Commission proposes to amend this item by deleting the requirement that a first-time starter have three gate approvals prior to entry into a race. The requirement of three gate approvals is unnecessarily burdensome on the horses and the

trainers, and offers no additional protection to the horses or riders. The rule as proposed will place the burden of approving a first-time starter solely on the racing official assigned to the starting gate. Once a horse is approved by the official at the starting gate, the horse is free to enter a race.

7883.0100, subpart 18

The Commission proposes to add this subpart to create a mechanism to challenge the eligibility of a horse entered in a race. The rule is necessary because current rules provide no opportunity for such a challenge. Occasionally, an owner, trainer, or authorized agent of an owner may believe that a horse entered in a race does not meet the race conditions or other specific requirements imposed as a condition of entering a race. The proposed rule allows certain individuals to challenge the eligibility of a horse by filing a written protest with the stewards. If the stewards determine that the horse was ineligible to participate by virtue of the horse's failure to meet specific conditions, the horse may be scratched and declared a non-starter.

7883.0120 Declarations and Scratches

7883.0120, subpart 6

The Commission proposes to amend this subpart by specifically stating that the stewards may declare a horse to be a non-starter if the horse was ineligible to participate in the race. The proposed amendment is both necessary and reasonable because it narrows the application of the rule and more clearly notifies

owners of the circumstances that may result in the scratch of a horse.

7890.0140 Bleeders

7890.0140, subpart 6

The Commission proposes to amend this subpart by providing an alternative for the administration of Lasix to qualified horses. Many racing jurisdictions including Minnesota, are exploring the possibility of eliminating the Lasix detention barn and substituting a scientifically sound test that is capable of determining the quantitative level of Lasix in the blood sample of a treated horse. Studies have shown that the detention of horses in a Lasix detention barn prior to a race may have a detrimental effect on the racing performance of the horse. Numerous recommendations have been made by other racing commissions and members of the racing industry to develop a controlled Lasix program that does not include the detention of a horse for a period of time prior to the running of a race.

Significant strides have recently been made in developing a test that would enable racing laboratories to determine the quantitative level of Lasix in the blood sample of a horse. By determining the quantitative level of Lasix in a blood sample, the lab could determine the time that the Lasix was administered to the horse. Accordingly, the lab could determine if the Lasix was administered within the time frame permitted under law.

It is conceivable that a scientifically reliable and recognized test may be developed during the course of the 1989

race meeting at Canterbury Downs. The proposed rule is therefore necessary to allow the Racing Commission to change the method for the administration of Lasix without the promulgation of formal rules. The proposed rule is reasonable because it simply provides an alternative mechanism for the Commission and allows the speedy development of a Lasix medication program that clearly benefits the horses, the owners, and the Commission as a regulatory agency.

7892.0120 Taking of Samples

7892.0120, subpart 1

The Commission proposes to amend this subpart by creating more easily understandable categories to determine which horses will be tested following the running of a race. Item A is amended simply by adding the word "and". The addition of the word "and" is necessary to make the rule clear and grammatically correct.

Item B is amended by making some necessary grammatical changes, and by allowing the random selection of horses for testing the quantitative level of furosimide (Lasix) in the plasma of treated horses. The proposed amendments to item B are necessary to allow the Commission to conduct random screenings prior to the implementation of a controlled Lasix program based on a determination of the quantitative level of Lasix in the plasma of a horse.

Item C is amended by adding some necessary grammatical changes. The substance of the rule remains unchanged.

Item D is added as a separate item of this subpart.

7895.0110 Thoroughbred Breeders Fund

7895.0110, subpart 2, item B

The Commission proposes to amend this item by deleting the reference to races which are restricted to Minnesota bred or Minnesota foaled horses. The amendment is necessary to conform the rule to a 1988 statutory change.

7895.0350 Quarterhorse Registration

7895.0350, subpart 1, item A

The Commission proposes to amend this item by inserting the word "be". The proposed change is both necessary and reasonable because it clarifies a minor language omission in the current rule.

7897.0100 Prohibited Acts

7897.0100, subpart 10

The Commission proposes to amend this subpart by providing an opportunity for the creditors of a licensee who willfully or deliberately refuses to pay money when due for any service supplies or fee connected with his or her activities as a licensee, to obtain relief from the Commission under certain specified circumstances. The proposed rule is necessary to eliminate and address the non-payment of bills by Racing Commission licensees. The proposed amendment allows a creditor to obtain redress for amounts in excess of \$2,000 but not exceeding \$5,000 for goods or services provided within a 45 day period. The limitations are necessary because the creditor may

easily obtain a judgment in conciliation court and present the judgment to the Racing Commission for action if the amount in controversy is less than \$2,000. However, collection of amounts in excess of \$2000 often requires the initiation of a legal proceeding in district court -- a proceeding that takes a substantial amount of time and money. Accordingly, for all amounts between \$2000 and \$5000, the Commission has provided a method of redress. The Commission is unwilling to provide a remedy unless the creditor brings the matter to the attention of the stewards before the amount in arrears exceeds \$5,000 and 45 days of non-payment. This limitation requires creditors to take remedial action within a reasonable time after the debt is incurred, and before the debt becomes substantial. The rule is reasonable because it creates a mechanism for collection that was not previously available to creditors of Commission licensees.

7899.0100 Variances

7899.0100, subpart 2

The Commission proposes to amend this subpart by deleting the requirement that persons seeking variance requests must submit to the Commission 12 copies of all pertinent documents. The deletion is necessary because the Commission has delegated the handling of variances requests to a three-member panel. Therefore, the submission of 12 copies is unnecessary and burdensome to the applicant.

7899.0100, subpart 3

The Commission proposes to amend this subpart by deleting certain requirements contained in item A. The Commission proposes to delete the requirement that all persons who have registered their names with the Commission for the purpose of being notified of rulemaking proceedings receive copies of all variance requests. The deletion is necessary because many persons have notified the Commission that while they are interested in receiving notices of rulemaking, they are not interested in receiving notices of variance requests. Therefore, in the interests of administrative economy, the Commission has deleted the requirement that such notice be provided.

The Commission has also deleted a provision requiring notice of a variance hearing that contains a brief description of the variance request and a statement that any person wishing to comment on the request may do so in writing. The deletion is necessary because in the five years the Commission has been in existence and handling variance requests, not one person has submitted a comment or requested to attend a variance hearing.

Again, in the interests of administrative economy, the Commission proposes to streamline the variance procedure in a manner that is expedient, fair, and in conformance with the wishes and desires of members of the industry.

MINNESOTA RACING COMMISSION

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