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MINNESOTA RACING COMMISSION

April 4, 2011

Legislative Reference Library
645 State Office Building
100 Constitution Avenue
St Paul, MN 55155

Re: In the Matter of the Proposed Amendment to Rules Governing Horse Racing,
Minnesota Rules, 7873 Pari-mutuel Rules, 7877 Duties and Responsibilities of Class C
Licensees, 7883 TB/QH Horse Races

Dear Librarian:

The Minnesota Racing Commission intends to adopt rules relating to Horse Medication. We plan to publish a Dual Notice of Hearing in the April 4, 2011 State Register.

The Commission has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Commission is sending the Library a copy of the Statement of Need and Reasonableness at the same time we are mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me at 952-496-7950.

Sincerely,

Marlene Swanson
Rules Coordinator
Minnesota Racing Commission

Minnesota Racing Commission

STATEMENT OF NEED AND REASONABLENESS

Proposed Amendments to Rules Governing Horse Racing, Minnesota Rules, 7873 Pari-mutuel Rules, 7877 Duties and Responsibilities of Class C Licensees, 7883 TB/QH Horse Races

INTRODUCTION

The proposed change to rule 7873 was initiated by Canterbury Park to reduce the minimum wagering amount on Trifecta betting and allow same day pick four pool carryover. The rule change would expand the betting public's options for exotic betting.

The changes to rule 7877 were requested by the jockey colony. The first change is to allow wearing mud pants during inclement weather. The second change to this rule will clarify payment of jockey mount fees when there is a change in jockeys.

Rule 7883 was amended in 2010. The height of toe grabs was changed to a maximum height of two mm. The intent of the rule change was to protect thoroughbred horses from injury. The height of toe grabs does not have the same impact on Quarter Horse or Standardbred horses because of the difference in style and length of their respective races. The Minnesota Quarter Horse Racing Association has requested a change in the rule to reflect the intent. The other change to racing equipment is the specifications for riding crops promoted by the Association of Racing Commissions for the protection of the horse.

ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape, or digital disc. To make a request, contact Ms. Marlene Swanson at the Minnesota Racing Commission, P. O. Box 630, Shakopee, MN 55379; phone 952-496-7950, fax 952-496-7954; or email at marlene.swanson@state.mn.us. TTY users may call the Racing Commission at 800-627-3529.

STATUTORY AUTHORITY

The original statutory authority to adopt rules was granted to the Minnesota Racing Commission in 1983. This authority has not expired. This rulemaking is an amendment of rules for which the Legislature has not revised the statutory authority since and so Minnesota Statutes, section 14.125, does not apply.

The Racing Commission's statutory authority to adopt the rules is set forth in Minnesota Statutes section 240.23, which provides: The Commission has the authority, in addition to all other rulemaking authority granted elsewhere in this chapter to promulgate rules governing a) the conduct of horse races held at licensed racetracks in Minnesota, 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, b) wire communications between the premises of a licensed racetrack and any place outside the premises, c) information on horse races which is sold on the premises of a licensed racetrack, d) liability insurance which it may require of all racetrack licensees, e) auditing of the books and records of a licensee by an auditor employed or appointed by the Commission, f) emergency action plans maintained by licensed racetracks and their periodic review, g) safety, security, and sanitation of stabling

facilities at licensed racetracks, h) entry fees and other funds received by a licensee in the course of conducting racing which the Commission determines must be placed in an escrow account, i) affirmative action in employment and contracting by licensed racetracks, and j) any other aspect of horse racing or pari-mutuel betting which in its opinion affects the integrity of racing or the public health, welfare, or safety.

Further statutory rulemaking delegation relating to the amendments contained herein includes M.S. 240.03 Commission Powers and Duties, and M.S. 240.13 Subd. 3 Pari-Mutuel Betting.

Under these statutes and session law, the Racing Commission has the necessary statutory authority to adopt the proposed rule amendments.

REGULATORY ANALYSIS

(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule

The proposed amendments to 7873.085 and 7873.0199 affect the racetracks and the wagering public. They will also have the potential of helping the horse owners and trainers by increasing the betting handle. The racetracks are being given more flexibility in offering more betting opportunities which is anticipated to increase wagering and revenue to the racetracks and the horsemen and women. Wagering patrons will be affected in that wagering in the pick four pool will be more available and the lower minimum bet on the trifecta allows a greater opportunity to win with a smaller wager.

Jockeys will be affected by the “mud pants” rule, the clarification on jockey mount fees and the riding crop changes contained in the proposed amendments to 7877.0170 and 7883.0170. Owners or trainers will also be affected by the jockey mount fee clarification.

All of these proposed amendments are directed in improving the integrity of this form of gambling and assuring the safety and welfare of the equine.

(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues

There is no anticipated change in costs to the Commission or to any other state or local agency due to these proposed amendments. All increase in enforcement activities required by these amendments will be absorbed in staff daily duties and responsibilities.

(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The betting amendments add no costs. The jockey’s may incur a small cost in complying with the riding crop requirements but will save money with the mud pants allowance. The jockey mount fee only clarifies existing rule.

(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule

There are no alternative methods or these proposed amendments are in and of themselves alternative methods that strengthen the Commission's regulatory oversight. The riding crop amendment will strengthen the Commission's regulatory oversight regarding the health and safety of the horses by adopting the model rules of the Association of Racing Commissions International on riding crops.

(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals

There are no probable costs to any governmental units contained in these proposals. Any increased costs to individuals (individual owners of horses, trainers of horses, jockeys) should be minimal. Some jockeys may have to purchase a new riding crop to conform to the rule but they will save money by being allowed to wear mud pants that will not show the mud when there is inclement weather.

Some of the proposals will benefit businesses. For instance reducing the wagering amount on a Trifecta bet and allowing more pick 4 pool carry over should increase the money wagered in this pool which subsequently increases revenue to the racetracks and purses for the horsemen/women.

(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals

Not adopting these rules will require making a trifecta at \$2 rather than \$.50. Though the payout is smaller at \$.50 than a \$2 wager, the proposed amendment makes this wager more affordable to the betting public. Not adopting the Pick 4 amendment whereby any carry forward from an early Pick 4 pool to another pool that day gives the wagering patron the opportunity to place another wager that day rather than having to be present the next racing day to make a wager. Not adopting the amendment allowing jockeys to wear black mud pants would continue the practice of jockeys having to purchase several pairs of white pants which would be worn on days of inclement weather so as to be properly attired while on horseback on the racetrack. The proposed amendment regarding hockey mount fees places in rule what has been current practice. Not adopting the amendment leaves this event open to an objection by any horse owner or trainer that believes they should not be burdened with paying two jockey mount fees. The Association of Racing Commissioners International (RCI) over the past several years has been working with other industry groups to get a consensus on the proper riding crops that are used in racing to assure the welfare of the equine athlete. Not adopting this proposal would allow the use of riding crops that may potentially be harmful to the horse if used in an inappropriate manner. Not adopting the toe grab proposal that specifies their used thoroughbred races only would continue their use for other breeds that are racing wherein the type of racing is affected differently by those breeds. This proposal is consistent with the RCI model rule and is being proposed by the Minnesota Quarter Horse Racing Association.

(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference

There are no differences between these proposed amendments and current federal requirements.

PERFORMANCE-BASED RULES

The Commission's mission statement states, "The Minnesota Racing Commission was established to regulate horse racing and card playing in Minnesota to ensure that it is conducted in the public interest, and to take all necessary steps in ensuring the integrity of racing and card playing in Minnesota thus promoting the breeding of race horses in order to stimulate agriculture and rural agribusiness." These proposed rule amendments affect horse racing and are being proposed as means to strengthen the Commission's statutory authorized regulatory oversight so as to ensure the continued integrity of this form of legalized gambling. Any actual occurrence or even the perception that the integrity has been compromised would have disastrous affect on not only the racetracks but also those that compete at the racetracks, some of whom rely on this activity for their livelihood. In proposing rule amendments, not only in this case but all others as well, the Commission and its staff, during the conduct of its regulatory duties and responsibilities on a day to day basis and by staying current on issues nationally, constantly strive to be aware of ways by which the integrity of racing and pari-mutuel wagering can be improved and strengthened while at the same time proposed rules that allow flexibility by racing participants and Commission staff in responding to unanticipated situations in a business like fashion.

ADDITIONAL NOTICE

These proposed amendments were discussed at regularly scheduled Commission meetings and Commission Work Sessions. All rules discussion was clearly included on all agenda duly prepared and mailed or e-mailed 7 days prior to these meetings. Agendas were also posted on the Commission's website. The meetings were held on August 19, 2010, September 9, 2010, October 1, 2010, October 21, 2010, November 18, 2010, December 7, 2010, and January 4. Minutes from these meetings are available on the Commission's website at www.mrc.state.mn.us.

The Racing Commission began work on the proposed legislation and rules proposals in July, 2010 and has provided updates on the status of the rulemaking proceedings at its monthly meetings. Continued updates will be provided on a monthly basis during the course of the formal rulemaking process.

The Commission's Rulemaking Docket, which is publicly posted in the Commission's office as well as on the Commission's website, will be updated as necessary to reflect the status of these rules.

Our Notice Plan includes:

1. Publishing the Request for Comments in the December 6, 2010 edition of the State Register.
2. Posting the Request for Comments and the language of the proposed rules on the Commission's website.
3. Mailing or e-mailing the Request for Comments to Class A & B licensees as well as horsemen's organizations that are affected by horse racing in Minnesota, including the Minnesota Thoroughbred Association, the Horsemen's Benevolent and Protective Association, Minnesota Harness Racing, Inc., the Minnesota Quarter Horse Racing Association, the Jockey's Guild, and the United States Trotting Association.

4. Mailing or e-mailing the Request for Comments to organizations in Minnesota identified as having an interest in animal health including the Minnesota Board of Animal Health, the Minnesota Humane Society, the Minnesota Veterinary Medical Association, and the University Of Minnesota College Of Veterinary Medicine.

Our Notice Plan also includes giving notice required by statute. We will mail the rules and Notice of Intent to Adopt to everyone who has registered to be on the Commission's rulemaking list under Minnesota Statutes, section 14.14, subdivision 1a. We will also give notice to the Legislature per Minnesota Statutes, section 14.116. The Proposed Rules and the Notice of Intent to Adopt will also be published in the State Register.

5. The Commission will provide a copy of the rules and Notice of Intent to Adopt Rules to Class A & B licensees, horsemen's organizations, and animal health organizations in Minnesota as noted in #3 and #4.

CONSULT WITH MMB ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Department will consult with the Minnesota Management and Budget (MMB)). We will do this by sending the MMB copies of the documents that we send to the Governor's Office for review and approval on the same day we send them to the Governor's office. We will do this before the Department's publishing the Notice of Intent to Adopt. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Department will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH at the hearing or with the documents it submits for ALJ review.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION

As required by Minnesota Statutes, section 14.128, subdivision 1, the agency has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The Commission has determined that they do not because all activity that these amendments affect occur on licensed racetrack grounds, not out in the local community. There are times where we may have to contact local law enforcement or county/city attorney offices, but that is in the normal course of fulfilling our duties and responsibilities when events warrant. It is not anticipated that these amendments will either increase or decrease those contacts.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

Agency Determination of Cost

As required by Minnesota Statutes, section 14.127, the Racing Commission has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Racing Commission has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city. None of the proposed amendments affect any small business or small city as all of the amendments affect individuals licensed as horse owners, trainers, or jockeys working at a racetrack, or will benefit the racetracks.

LIST OF WITNESSES

If these rules go to a public hearing, the Racing Commission anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

1. Mr. Richard G. Krueger, Executive Director of the Commission will testify about the development and content of the rules.
2. Ms. Mary Manney, Deputy Executive Director of the Commission will testify about the development and content of the rules.
3. Dr. Lynn Hovda, Chief Veterinarian of the Commission will testify about the development and content of the medication and testing proposals.
4. Ms. Marlene Swanson, Licensing Assistant will testify about the development of the rules.

RULE-BY-RULE ANALYSIS

Part 7873.0185, Subp. 2, Trifecta. Price of Tickets.

During the Commission meeting conducted on April 15, 2010 the Commission approved a variance to its rules (M.R. ch. 7897, Horse Race Rule Variance) that allowed the racetracks to offer a \$.50 minimum trifecta bet and \$1.50 minimum should the patron elect to box three horses in a bet. This was requested by Canterbury Park as a means to increase the betting handle by making this wager more affordable and attractive to those players who would like to include more than three betting interests thereby increasing the potential of having a winning ticket. This rule amendment is needed as that minimum bet was well received and, rather than approving another variance request, the Commission desires that this minimum bet amount be stipulated in rule. Doing this is reasonable in that it will apply to both racetracks (Canterbury Park and Running Aces Harness Park) as it will now be included in Commission rule. It is reasonable in that simulcasting offered by other out of state racetracks currently also are authorized to offer this minimum bet for the trifecta which provides for more consistency and uniformity in betting options and pricing for the wagering public. This is simply a change in the minimum bet in the trifecta pool; patrons may still make bets in higher denominations if desired.

Part 7873.0199, Subp. 6a. B(2), C(2) Pick Four. Calculation of pool with a pick four pool designated to have a carryover.

During the Commission meeting conducted on May 20, 2010 the Commission approved a variance to its rules (M.R. ch 7897, Horse Race Rule Variance) that allowed the racetracks to carry over undistributed pool amounts to another pick four pool on the same day rather than, as current rule stipulates, that it must be carried over to the next race day. This variance was requested by both racetracks, Canterbury Park and Running Aces Harness Park. As with the trifecta this was requested as a means to increase the betting handle by giving the wagering patrons the opportunity to place another bet in a second pick four pool on the same day in the event that there are no tickets issued that correctly designate the official winning in four races comprising the pick four. This rule amendment is needed as the Commission desires to stipulate this in rule rather than having to address other variance requests for what is a successful wagering opportunity available to the betting public. Doing this is reasonable in that it will apply to both racetracks as it will now be included in Commission rule and it will not give either track a benefit that is not available to the other track. A carry over the same race day or the next race is at the option of the racetracks upon approval by the Commission, it is not mandated by the Commission. This is reasonable in that it does not impair the intent and purpose of Commission rule and will not be a threat to the integrity of pari-mutuel wagering at either racetrack. It is reasonable in that it will permit both racetracks to compete with other out of state racetracks that are currently authorized to offer the same options in pick four betting. The purpose and intent of this proposed amendment is to increase betting handle and participation in these pools thereby increasing monies available for purses and in turn increase the quality of racing at both racetracks.

Part 7877.0170, Duties and Responsibilities of Class C Licensees, Subp. 3. Jockeys and apprentice jockeys.

Part 7877.0170, Subp 3L stipulates the attire that must be worn by a jockey while riding in a race. This amendment is needed so as to allow jockeys to wear black mud pants, with the approval of the Stewards, on days when inclement weather is in the area of the racetrack. This amended language was submitted by members of the jockey colony that rode here last year. It is their reasonable intent and desire to reduce the cost of acquiring multiple sets of pants that would be needed should they be required to compete in multiple races on a day when bad weather is occurring and the fact that some of the debris pick up on the racetrack while racing results in stains on white pants that may not come out. It is also reasonable that a race not be delayed because a jockey, having just finished a race and is named on the next race, is having difficulty cleaning dark stains from white pants.

Part 7877.0170, Subp. 3V stipulates the fee that must be paid to a jockey who is named to compete in a race. It clarifies existing rule as to when the fee attaches.

Part 7883.0170 Racing Equipment.

Part 7883.0170, Subp.A.2 specifies the required characteristics of a riding crop as set out in the Association of Racing Commissions International (ARCI) model rules. The required characteristics of the riding crop are for the safety and well being of the horse. This rule is needed to satisfy the Racing Commissions duty to protect the well being of the race track equine population.

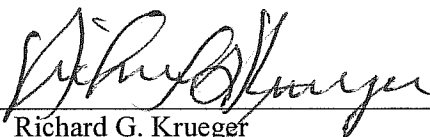
Part 7883.0170, Subp. A.3 is a clarification of an earlier amendment regarding toe grabs. The 7883 rule was amended and adopted on 2/22/2010. The height of toe grabs was changed to a maximum height of two mm. The intent of the rule change was to protect thoroughbred horses from injury. The height of toe grabs does not have the same impact on Quarter Horse or Standardbred horses because of the difference in style and length of their respective races. The Minnesota Quarter Horse Racing Association has requested a change in the rule to reflect the intent. This is supported by the Chief State Veterinarian. This change is necessary to remove an unnecessary restriction on Quarter Horse or Standardbred horses.

LIST OF EXHIBITS (Optional)

CONCLUSION

Based on the foregoing, the proposed rules are both needed and reasonable.

3/7/11
Date


Richard G. Krueger
Executive Director