

205 CMR: STATE RACING COMMISSION

205 CMR 11.00: RULES AND REGULATIONS REGARDING THE DISTRIBUTION OF FUNDS TO PURSE ACCOUNTS OF LICENSEES

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11.01: Background

(1) Under St. 2001, c. 139, § 9(h), all pari-mutuel taxes paid to the commission... all assessments, association license fees, occupational license fees, fines, penalties and miscellaneous revenues, other than unclaimed wagers, paid to the commission shall be deposited in a separate account under the control and supervision of the commission. This money is to be expended in the order of priority specified in the law, as follows:

- (a) To provide and pay local aid to respective host communities under M.G.L. c. 58, § 18D.
- (b) To set aside an amount to fund the annual budget of the state racing commission.
- (c) To pay any amount specifically funded under any general or special law.
- (d) To pay \$80,000 to an organization to provide social services to stable and backstretch workers employed at the running horse licensee in Suffolk county, \$20,000 for economic assistance to any person employed at the running horse licensee in Suffolk county, and \$65,000 to an organization that represents the majority of jockeys licensed in the commonwealth for the purpose of providing health and other welfare benefits to jockeys.
- (e) To pay \$130,000 to a compulsive gambling organization.
- (f) To pay the remaining revenues credited during any calendar year to all the racing licensees, up to but not exceeding \$4,500,000, to the purse accounts of the licensees. Any amount in excess of \$4,500,000 shall be deposited in the General Fund.

(2) In accordance with St. 2001, c. 139, §9(h)(6), the amount credited to each licensee's purse account shall be based on a formula established by the commission. These rules and regulations are intended to establish the formula and regulations regarding the distribution of these funds.

11.02: Eligibility

Racing meeting licensees that are permitted to simulcast pursuant to M.G.L. c. 128C, § 2 shall be eligible for purse assistance. The licensees from Bristol County shall be considered as a single licensee.

11.03: Minimum Purse Distributions

The amount credited to each licensee shall be based on a formula established by the commission and, in no instance, shall the amount paid to the purse account of each licensee be less than \$400,000 unless the commission collects insufficient funds to make such minimum payment to all licensees.

Should the commission deem that sufficient funds are available, the commission may distribute \$100,000 as a quarterly minimum payment to the purse account of each licensee, upon authorization of the commissioners, for the quarters ended March, June, September, and December.

11.04: Determining Amount Available for Purse Distributions

The commission may distribute the remainder of the account, up to the maximum amount as defined in 205 CMR 11.03. As soon as practicable, at the end of each calendar year, after all revenue has been collected, and all expenditures in the order of priority specified in the law, have been set aside an accounting of the fund shall be made to the commissioners. The accounting shall report the total revenue received by revenue source and by licensee, the expenditures by each category in the order of priority, minimum purse distributions previously made, the amount available for the final calendar year distribution and any amounts to be deposited to the general fund. The commissioners will then obligate the total amount of money to be distributed as the final purse account distribution for the calendar year ended.

11.05: Determining Purse Account Distributions to Each Licensee

(1) The allocation of the amount of money to be distributed to each licensee shall be based on the considerations cited in St. 2001, c. 139, § 9(h)(6). Each consideration is assigned a point value as reported herein. Points for each consideration will be allocated to each licensee in proportion to the values determined in the criteria listed or defined herein:

(a) The Relative Needs for Increased Purses of Each Licensee – 30 Points. Relative needs for increased purses of each licensee is defined as the actual amount paid for purses by each licensee during the meet / calendar year for which the distribution will be made. Each licensee must submit an affidavit attesting to the amount of purses actually paid. All purse accounts are subject to audit by the commission.

(b) The Number of Live Racing Days Conducted by Each Licensee – 10 Points. Number of live racing days is defined as the actual number of live performances conducted during the meet / calendar year for which the distribution will be made. Each licensee must submit an affidavit attesting to the number of live racing days. The commission also maintains this data.

(c) The Amount of Live Racing Handle of Each Licensee – 10 Points. The amount of live racing handle is defined as the amounts wagered on site at live racing performances (including account wagering and host pools) of each licensee during the meet / calendar year for which the distribution will be made. Each licensee must submit an affidavit attesting to the amount of live account wagering host pool racing handle. The commission also maintains this data.

(d) The Total Amount of Employment, Both Direct and Indirect, Attributable to Each Licensee – 10 Points. The total amount employment, direct and indirect, is defined as the number of employees who have or will have received a Form W-2 and / or Form 1099 MISC for the calendar year for which the distribution will be made. In addition, indirect employment may include people who work at the licensee's facility but not employed by the licensee. These people include sub-contract concession employees, security, maintenance, tote company staff and backstretch workers. Each licensee must submit an affidavit attesting to the numbers of employees, direct and indirect. This data must be supported by Forms W-2 and / or Form 1099 MISC filed or to be filed, a list of people with occupational licensed issued other than those who receive a W-2 of 1099 by the commission and / or statements from sub-contract companies as to the number of employees assigned to that facility. This data is subject to audit by the commission.

(e) Each Licensee's Total Payroll – 10 Points. The Licensee's Total Payroll Is Defined as the Total Remuneration Paid to Employees of the Licensee Who Had Received or Will Have Received a Form W-2. Each Licensee must Submit an affidavit attesting to the total remuneration paid to employees. This data is subject to audit by the commission.

(f) Capital Investments Made by Each Licensee – 10 Points. Capital investments made by the licensee are defined as equity as reported on the most recent audited balance sheet. Equity of the licensee is the difference between total assets and total liabilities and may be reported as stockholders equity for a corporation, members capital for a limited liability company or net assets for a not for profit company. Each licensee must submit an affidavit attesting to capital investment and that amount must be consistent with audited financial statements. This data is subject to audit by the commission.

(g) The Amount of Tax Revenue and Other Revenues Payable to the Commonwealth – 10 Points. The amount of tax revenue and other revenues payable to the commonwealth is defined as the total Massachusetts income tax withheld from employees, Massachusetts sales taxes paid to the commonwealth for calendar year for which the distribution will be made and Massachusetts corporate taxes actually paid or payable for the most recent fiscal year. Each licensee must submit an affidavit attesting to the amounts paid to the commonwealth. Amounts reported must be supported by appropriate source documents such as Forms W-2, M941, sales tax remittance forms, and income tax returns. This data is subject to audit by the commission.

(h) Total Pari-mutuel Tax Revenue Generated and Payable to the Commonwealth by Each Licensee – 10 Points. Total pari-mutuel tax revenue generated and payable to the commonwealth is defined as state commissions, assessments, association license fees, occupational license fees, fines, penalties and miscellaneous revenues, other than unclaimed wagers, paid to the commission and deposited in the separate account under the control and supervision of the commission during the meet / calendar year for which the distribution will be made. Each licensee must submit an affidavit attesting to pari-mutuel revenue paid to the commonwealth. The commission also maintains this data.

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11.05: continued

(2) The commission shall compile all this information and assign the apportioned points from each category to each licensee. A total of 100 points is available to all racing licensees. The final calendar year purse distributions shall be made in the total amount obligated in accordance with 205 CMR 11.04. The amount of the purse distribution to each racing licensee will be in proportion to the number of points assigned to relative to the total 100 available.

(3) The final decision regarding the pool distribution will be made by the Commission.

REGULATORY AUTHORITY

205 CMR 11.00: M.G.L. c. 128A and St. 2001, c. 139

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