

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR XX.00: RACE HORSE DEVELOPMENT FUND

Section

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XX.01: Definitions

As used in 205 CMR XX.00, the following words and phrases shall have the following meaning, unless the context clearly requires otherwise:

Commission is defined in M.G.L. c. 23K § 2.

Meeting means a meeting as defined in 205 CMR 3.02 and 205 CMR 4.02, respectively.

Harness Race means a race involving standardbreds as defined in 205 CMR 3.02.

Harness Racing Association means an association as defined in 205 CMR 3.02.

Horse Race means a race involving thoroughbreds as defined in 205 CMR 4.02.

Horse Racing Association means an association as defined in 205 CMR 4.02.

Horse Racing Committee means the committee established pursuant to M.G.L. c. 23K, § 60(b).

Horsemen has the meaning ascribed to the term in M.G.L. c.23K §60 and refers to Harness Horsemen and Thoroughbred Horsemen respectively.

License means a license to conduct a harness race, horse race, or both issued pursuant to M.G.L. c. 128A.

Race Horse Development Fund means the fund established pursuant to M.G.L. c. 23K, § 60.

Race Horse Development Fund Escrow account means an escrow account established pursuant to 205 CMRXX.03 (2) (a) and XX.04.

Race Track is defined in M.G.L. c. 128A, § 1.

XX.02: Distributions from the Race Horse Development Fund

(1) (a) The commission shall make distributions from the race horse development fund between harness racing associations and horse racing associations in accordance with the requirements of M.G.L. c. 23K, § 60, 205 CMR XX.02 and 205 CMR XX.04 and the recommendations of the horse racing committee.

(b) If there is more than one harness racing association or more than one horse racing association, the horse racing committee shall determine how the distributions from the race horse development fund are shared between each harness racing association or horse racing association.

(2) A harness racing association or horse racing association shall distribute funds received from the race horse development fund in accordance with M.G.L. c. 23K, § 60(c) and 205 CMR XX.04.

(3) In order for a harness racing association or horse racing association to be eligible to receive funds from the race horse development fund such harness racing association or horse racing association shall comply with all safety standards adopted by the Commission and applicable to such harness racing association or horse racing association.

XX.03: Notice to Commission of Intent to Discontinue Racing

(1) A harness racing association or horse racing association shall provide the commission at least thirty(30) days prior written notice of its intent to take any of the following actions:

- (a) To discontinue harness races or horse races for the remainder of a harness meeting or horse meeting
- (b) To permanently discontinue harness races or horse races;
- (c) To close a race track used for harness races or horse races;
- (d) To abandon or relinquish a license;
- (e) To not apply for the renewal of a license; or
- (f) To transfer a race track to any other entity.

(2) Upon receipt of a written notice of intent pursuant to 205 CMR XX.03(1), or upon learning that the harness racing association or horse racing association has failed to timely notify the commission pursuant thereto or that any event described in 205 CMR XX.03(1) (a)-(f) has occurred or will occur, the commission may take one or more of the following actions:

- (a) Hold a public hearing to determine:

(i) whether monies from the race horse development fund which the harness racing association or horse racing association would have received pursuant to M.G.L. c. 23K, § 60, should be placed in a racing escrow account for distribution pursuant to 205 CMR XX.04;

(ii) whether to transfer monies from the race horse development fund which the harness racing association or horse racing association would have received pursuant to M.G.L. c. 23K, § 60 to a different harness racing association or horse racing association;

(iii) whether to transfer the harness racing association's or horse racing association's license to a different harness racing association or horse racing association;

(iv) whether to take any other action within its authority to protect:

- i. the interests of the commonwealth;
- ii. employees or former employees of the harness racing association or horse racing association;
- iii. harness racing horsemen and horse racing horsemen; and
- iv. the intended beneficiaries of the race horse development fund, any other fund established pursuant to M.G.L. cc. 23K, 128A or 128C, and any other fund to which the harness racing association or horse racing association was required to contribute.

(b) Require the harness racing association or horse racing association to pay to the commission any amounts required pursuant to the terms of its license, M.G.L. cc. 23K, 128A, and 128C, and 205 CMR XX.00 including, without limitation, all unclaimed winnings and breaks, assessments, taxes, and fees.

XX.04: Race Horse Development Fund: Distributions; Escrow Accounts

(1) If the commission determines pursuant to 205 XX.03 (2) (a) that monies due to a harness racing association or horse racing association from the race horse development fund should be placed in an escrow account, the commission shall establish a race horse development fund escrow account to hold such funds and any interest thereon for distribution in accordance with M.G.L. c. 23K, § 60(c), the recommendations of the horse racing committee, and 205 CMR XX.00.

(2) The commission shall establish a separate race horse development fund escrow account concerning each harness racing association or horse racing association for which it determines such an account is necessary pursuant to 205 CMR XX.03(2)(a)

(3) The commission shall hold funds in such race horse development fund escrow accounts subject to the following requirements:

(a) Monies held in a race horse development fund escrow account shall be held in escrow for no more than three years from the date of the Commission's determination to hold the funds in escrow. After three years, any monies remaining in such race horse development fund escrow accounts shall be transferred or distributed by the commission in accordance with the recommendations of the horse racing committee.

(4) (a) The commission shall make distributions from the race horse development fund or from a race horse development fund escrow account created under 205 CMR XX.03 because of a harness racing association as follows, in accordance with M.G.L. c. 23K, § 60, and 205 CMR XX.00:

- i. Eighty per cent of the funds approved by the commission shall be paid weekly to a harness racing association, or if there is more than one harness racing association, as recommended by the horse racing committee, weekly by the Commission into a separate, interest-bearing purse account to be established by and for the benefit of harness racing horsemen. The earned interest on this account shall be credited to the purse account and shall be combined with revenues from existing purse agreements to fund purses for live harness races consistent with those agreements, with the advice and consent of the harness racing horsemen.
- ii. Sixteen percent of the funds approved by the commission shall be deposited by the Commission into an account for the benefit of the Massachusetts Standardbred Breeding Program authorized by the commission.
- iii. Four percent shall be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at the harness horse racing association's race track for the benefit of the organization's members, their families, employees and others under the rules and eligibility requirements of the organization, as approved by the commission. This amount shall be deposited by the Commission within five business days of the end of each month into a separate account to be established by each respective horsemen's organization at a banking institution of its choice. Of this amount, the commission shall determine how much shall be paid annually by the horsemen's organization to the standardbred drivers' organization at the harness racing association's race track for health insurance, life insurance or other benefits to active and

disabled standardbred drivers under the rules and eligibility requirements of that organization.

(b) The commission shall make distributions from the race horse development fund or a race horse development fund escrow account created under 205 CMR XX.03 because of a horse racing association as follows, in accordance with M.G.L. c. 23K, § 60, and 205 CMR XX.00:

- i. Eighty per cent of the funds approved by the commission shall be paid weekly to a horse racing association, or if there is more than one horse racing association, as recommended by the horse racing committee, weekly by the Commission into deposited weekly into a separate, interest-bearing purse account to be established by and for the benefit of horse racing horsemen. The earned interest on this account shall be credited to the purse account and shall be combined with revenues from existing purse agreements to fund purses for live horse races consistent with those agreements, with the advice and consent of the horse racing horsemen.
- ii. Sixteen percent of the funds approved by the commission shall be deposited by the Commission into an account for the benefit of the Massachusetts Thoroughbred Breeding Program authorized by the commission.
- iii. Four percent shall be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at the horse racing association's race track for the benefit of the organization's members, their families, employees and others under the rules and eligibility requirements of the organization, as approved by the commission. This amount shall be deposited by the Commission within five business days of the end of each month into a separate account to be established by each respective horsemen's organization at a banking institution of its choice. Of this amount, the commission shall determine how much shall be paid annually by the horsemen's organization to the thoroughbred jockeys organization at the horse racing association's race track for health insurance, life insurance or other benefits to active and disabled thoroughbred jockeys under the rules and eligibility requirements of that organization.

(4) If the commission awards a license to a harness racing association, after placing the funds in escrow pursuant to 205 CMR XX.03 the commission may transfer funds to that harness racing association, for use in accordance with M.G.L. c. 23K § 60 and 205 CMR XX.00, from

any race horse development fund escrow account then in existence that was created under 205 CMR XX.03

(5) If the commission awards a license to a horse racing association after placing the funds in escrow pursuant to 205 CMR XX.03 the commission may transfer funds to that horse racing association, for use in accordance with M.G.L. c. 23K § 60 and 205 CMR XX.00, from any race horse development fund escrow account then in existence that was created under 205 CMR XX.03.

(6) The commission may, upon the recommendation of the horse racing committee, transfer all or a portion of the funds held in a race horse development fund escrow account to any one or more harness racing associations or horse racing associations for distribution in accordance with M.G.L. c. 23K, § 60, and 205 CMR XX.00.

REGULATORY AUTHORITY

205 CMR XX: M.G.L. c. 23K, §§ 2, 4(37), 4(38), 5, 7, 60; c. 128A, §§ 1, 2, 3, 9, 9B.

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR _____ SUPPLEMENTAL LICENSURE PROCEDURES

XX.01: Supplemental Procedures for Licensure Pursuant to M.G.L. c. 128A, § 2.

(1) Any person desiring to hold or conduct a horse racing meeting within the commonwealth shall make an application to the commission for a license so to do in accordance with M.G.L. c. 128A, § 2. The commission may waive the deadlines for filing of and action on any such application in the event that there is no horse racing association then licensed in the commonwealth or any such association previously licensed has submitted written notice of intent pursuant to 205 CMR XX.03 (1), has failed to timely notify the commission pursuant thereto or has caused or suffered any event described in 205 CMR XX.03 (a)-(f) to have occurred.

(2) The commission may deem an application for a license submitted pursuant to M.G.L. c. 128A, § 2 complete as of the date first filed, notwithstanding the fact that the applicant provided additional or supplemental information in support of that application at a later time, provided all such additional or supplemental information has been provided to the commission no later than 90 days before the proposed commencement of a meeting requested in the application.

(3) The commission may, at an applicant's request, hold the certified checks or bank drafts required as part of an application of a license pursuant to M.G.L. c. 128A, § 2 in escrow until 30 days after the award of a license.

(4) A harness racing association or horse racing association awarded a license pursuant to M.G.L. c. 128A must provide the commission with the bond required pursuant to M.G.L. c. 128A, § 3(o) within 30 days of the award of the license.

REGULATORY AUTHORITY

205 CMR XX: M.G.L. c. 23K, §§ 2, 4(37), 4(38), 5, 7, 60; c. 128A, §§ 1, 2, 3, 9, 9B.