



MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING#316

August 27, 2020
10:00 a.m.

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 715 4330



Massachusetts Gaming Commission

101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com



AMENDED

NOTICE OF MEETING and AGENDA
August 27, 2020 – 10:00 a.m.

PLEASE NOTE: Given the unprecedented circumstances resulting from the global Coronavirus pandemic, Governor Charles Baker issued an order to provide limited relief from certain provisions of the Open Meeting Law to protect the health and safety of individuals interested in attending public meetings. In keeping with the guidance provided, the Commission will conduct a public meeting utilizing remote collaboration technology. If there is any technical problem with our remote connection, an alternative conference line will be noticed immediately on our website: MassGaming.com.

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the Massachusetts Gaming Commission. The meeting will take place:

Thursday, August 27, 2020
10:00 a.m.

Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
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All documents and presentations related to this agenda will be available for your review on the morning of August 27, 2020 by [clicking here](#).

PUBLIC MEETING - #316

1. Call to order
2. Approval of Minutes
 - a. June 25, 2020
3. Statement of the Chair: MGC Regulatory Oversight and EBH
4. Administrative Update – Karen Wells, Interim Executive Director/Director of IEB
 - a. Hiring Announcement – Karen Wells, Interim Executive Director/Director of IEB
 - b. Casino Reopening Update – Karen Wells, Interim Director/Director of IEB; Loretta Lillios, Chief Enforcement Counsel/Deputy Director; Bruce Band, Gaming Agents Division Chief, Assistant Director/IEB
 - c. MGC Office Reopening Working Group Update– Karen Wells, Interim Executive Director/Director of IEB
5. Racing Division – Dr. Alex Lightbown, Director of Racing



Massachusetts Gaming Commission

- a. Horse Racing Update – Dr. Alex Lightbown
 - b. Horse Racing Committee Split – Dr. Alex Lightbown; Todd Grossman, General Counsel
VOTE
 - c. Plainridge Park Request for Premium Free Period – Dr. Alex Lightbown; Steve O’Toole, Director of Racing Plainridge Park Casino
VOTE
 - d. Plainridge Park Request to Utilize Handheld Wagering Devices (“Walk Abouts”) on Kentucky Derby Day – Dr. Alex Lightbown; Steve O’Toole, Director of Racing Plainridge Park Casino; Lisa McKenney, Compliance Manager for PPC
VOTE
6. Legal Division – Todd Grossman, General Counsel
- a. 205 CMR 134.03: Gaming Service Employees – Amendment currently adopted by emergency, allowing a gaming licensee to temporarily allow an individual(s) to assist with gaming establishment employee training and related purposes without having to become licensed or registered, from the date operations are recommenced after any period of suspension – and Amended Small Business Impact Statement. – **VOTE to finalize promulgation process**
 - b. 205 CMR 138.72: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment and Retaliation. Requiring a system of internal controls for a licensee that includes policies and procedures to ensure a workplace free from unlawful discrimination, harassment, and retaliation – and Amended Small Business Impact Statement. – **VOTE to finalize the promulgation process.**
 - c. CMR 149.04: Race Horse Development Fund: Distributions; Escrow Accounts. Amendment currently adopted by emergency, allowing the Horse Race Committee and the Commission flexibility to set the distribution percentage of monies from the Race Horse Development Fund in a manner to ensure more precise distribution of funds – and Amended Small Business Impact Statement – **VOTE to finalize the promulgation process**
7. Compliance Items Update – Karen Wells, Interim Executive Director/Director of IEB
8. Executive Director Search Update – Chair Cathy Judd-Stein; Commissioner Enrique Zuniga
9. Commissioner Updates
10. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting.
11. **Executive Session pursuant to M.G.L. Chapter 30A Section 21(a)(3) for the purpose of the following discussions:**



Massachusetts Gaming Commission

- a. The Commission is anticipated to meet in executive session in accordance with G.L. c.30A, §21(a)(3) to discuss strategy with respect to collective bargaining as discussion at an open meeting may have a detrimental effect on the bargaining position of the Commission. The public session of the Commission meeting will not reconvene at the conclusion of the executive session. **VOTE**
- b. The Commission is anticipated to meet in executive session in accordance with G.L. c.30A, §21(a)(3) to discuss strategy with respect to a matter related to *Wynn v. Wells, MGC, Wynn Resorts, et al.*, as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission. The public session of the Commission meeting will not reconvene at the conclusion of the executive session. **VOTE**
- c. The Commission is anticipated to meet in executive session in accordance with G.L. c.30A, §21(a)(3) to discuss strategy with respect to *FBT Everett Realty, LLC v. MGC v. Wynn MA, LLC* as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission. The public session of the Commission meeting will not reconvene at the conclusion of the executive session. **VOTE**
- d. The Commission is anticipated to meet in executive session in accordance with G.L. c.30A, §21(a)(3) to discuss strategy with respect to a matter related to *FBT Everett Realty, LLC v. MGC v. Wynn MA, LLC* as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission. The public session of the Commission meeting will not reconvene at the conclusion of the executive session. **VOTE**
- e. The Commission is anticipated to meet in executive session in accordance with G.L. c.30A, §21(a)(3) to discuss strategy with respect to *City of Revere, and Mohegan Sun Massachusetts, LLC v. Massachusetts Gaming Commission* as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission. The public session of the Commission meeting will not reconvene at the conclusion of the executive session. **VOTE**

I certify that on this date, this Notice was posted as “Massachusetts Gaming Commission Meeting” at www.massgaming.com and emailed to: regs@sec.state.ma.us, melissa.andrade@state.ma.us.

August 26, 2020

Cathy Judd-Stein, Chair

Date Posted to Website: August 26, 2020 at 10:00 a.m.



Massachusetts Gaming Commission

101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com



Massachusetts Gaming Commission Meeting Minutes

Date/Time: June 25, 2020 – 9:30 a.m.

Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
MEETING ID: 112 221 9704

Present: Chair Cathy Judd-Stein
Commissioner Gayle Cameron
Commissioner Enrique Zuniga
Commissioner Bruce Stebbins
Commissioner Eileen O'Brien

Given the unprecedented circumstances, Governor Charles Baker issued an order to provide limited relief from certain provisions of the Open Meeting Law to protect the health and safety of the public and individuals interested in attending public meetings during the global Coronavirus pandemic. In keeping with the guidance provided, the Commission conducted this public meeting utilizing remote collaboration technology.

Call to Order

9:30 a.m. Chair Cathy Judd-Stein called to order public meeting #310 of the Massachusetts Gaming Commission (Commission).

The Chair confirmed a quorum for the meeting with a Roll Call.

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

Administrative Update

9:30 a.m. Interim Executive Director Karen Wells noted to the Commission that the Governor indicated that Phase III of reopening businesses in Massachusetts may start as early as July 4th. In response, her team is prepared to open casinos on July

4th, should that be the date of reopening. She described the safety measures that are in place to do so.

Next, Ms. Wells updated the Commission on the agency's migration to a new operating system and stated that there will be a Town Hall this following Monday for the staff to ask questions. She advised all staff to forward their questions to Lead Executive Assistant Maryanne Dooley prior to the Town Hall meeting.

9:33 a.m. Commissioner Zuniga advised the Commission to allow flexibility for employees to accommodate safety concerns in this changing environment.

Commissioners' Update

9:35 a.m. **Elaine Driscoll, Director of Communications: Bradford Fellowship**

The Chair stated that the Commonwealth of Massachusetts' Human Resources Division announced that Director of Communications, Elaine Driscoll, is one of three recipients awarded the [Bradford Fellowship Program](#) for excellence in public administration. Ms. Driscoll will attend the Harvard University Kennedy School for the academic year of September 2020 through May 2021.

9:39 a.m. Ms. Driscoll thanked the Commissioners for their leadership and support. She stated that she pursued this opportunity because the talented public servants that she has worked with over the last eight years inspired her. Ms. Driscoll hopes that from this program, she will be able to identify a way to expand her contribution to the public and expressed her gratitude with heartfelt remarks. The Chair and each Commissioner took the opportunity to personally congratulate Ms. Driscoll and wished her well in her temporary hiatus from the Commission to pursue the fellowship.

Research and Responsible Gaming

9:54 a.m. **Updates to the Research Page on Website**

Ms. Driscoll explained that as the number of research studies grew over time to over 40 reports, a user-friendly section of the site became necessary. In response, the team developed a system that categorizes all research in a manner that allows individuals and interested parties to identify the research reports they seek with several different advanced search options.

9:59 a.m. The Commission viewed an educational video created by Digital Communications Coordinator, Austin Bumpus, that demonstrated its functionality. Ms. Driscoll made note that now when someone searches for a report, all associated documents will be connected to it as well.

10:03 a.m. Director of Research and Responsible Gambling Mark Vander Linden then described the strategic research plan and stated that the update will do well to

fulfill the legislative mandate. The Commissioners then made remarks in support of the upgrade to make all information available on this research.

10:09 a.m. The Chair stated that this might be an opportunity for Mr. Vander Linden to provide staff training to navigate the new website. Commissioner Stebbins suggested that this training be provided to the host and surrounding communities and local public health officials to help communities as they construct their Community Mitigation Fund award applications.

10:12 a.m. **Introducing Massachusetts Open Data Exchange (MODE)**
Next, Mr. Vander Linden announced the launch of a robust online research library and data sharing portal, which will improve transparency and access to MGC's extensive and growing collection of gaming-related datasets.

Mr. Vander Linden described the [new web-based information platform](#), located at MassGaming.com, which offers a categorized and centralized repository of the research program's wide-ranging studies and data.

10:15 a.m. Dr. Tom Land, Associate Professor of Medicine at the University of Massachusetts Medical School, provided a detailed overview of this initiative. He stated that data will be provided to the public data warehouse, using the information concerning gambling effects on health to understand the implications of problem gambling. The Research and Responsible Gaming data will be added to other data sets in this initiative.

10:19 a.m. Mr. Vander Linden described the process for researchers to obtain data by filling out an application in MODE.

10:24 a.m. **GameSense Impact Report**
Mr. Vander Linden with Ms. Driscoll, Program Manager of Research and Responsible Gaming Teresa Fiore, and Mr. Bumpus led the Commission through a slide presentation. Mr. Bumpus described the impact of the GameSense program on the gaming community, the program's method of operation, and its promotion.

10:35 a.m. Ms. Fiore commented on the diversity statistics concerning the program's outreach and listed the languages that the GameSense advisors speak. She also stated that there are currently 25 GameSense advisors across the Massachusetts properties. Ms. Fiore stated that this report is a final draft, but she welcomes any feedback the Commissioners may have. The Chair and commissioners made comments regarding the importance of this program for the local communities.

Community Mitigation Fund

11:00 a.m. **Community Mitigation Fund (CMF) Application Review – Group 2**

Construction Project Oversight Manager Joe Delaney and Project Manager Mary Thurlow led the Commission through the analysis of 2020 CMF grant applications. Mr. Delaney described that he will be reviewing Transportation grants, Specific Impact grants, Transportation Construction Project grants, and the Tribal Technical Assistance grant. He will provide a summary of each grant application and ask for any questions from the Commission. After reviewing all of the applications, he will request a vote on each application.

11:01 a.m.

Boston – Sullivan Square / Rutherford Avenue

The City of Boston is requesting a Transportation Planning grant of \$200,000 for a portion of the design cost of improvements to Sullivan Square and Rutherford Avenue. He then described the responses from the licensee and MassDOT.

Mr. Delaney stated that the Review Team strongly agrees that the design for the improvements is related to impacts directly related to the gaming facility. The team continues to support this year's requested funding for this important project and recommends that the Commission award \$200,000 to the City of Boston for the Sullivan Square/Rutherford Avenue project.

The Chair noted that Encore Boston Harbor is contributing \$25M to this project.

11:05 a.m.

Everett – Broadway Gondola Feasibility Study

The City of Everett is requesting a Transportation Planning grant of \$200,000 to evaluate the feasibility of using Broadway's alignment for an aerial ropeway system that would connect Encore Boston Harbor in Everett to Everett City Hall. The aerial connection would serve pedestrians, bicycles, and other non-motorized modes. He noted the responses from the licensee and MassDOT.

Mr. Delaney stated that the Review Team believes that it is premature to award a grant to investigate an extension of Encore's proposed aerial tram due to the uncertainty of that project's status. Therefore, the Review Team does not recommend awarding a grant to the City of Everett for the Broadway Gondola Feasibility Study.

11:06 a.m.

Everett/Somerville – Silver Line Extension Planning and Design

The Cities of Everett and Somerville are jointly requesting a Transportation Planning grant of \$425,000 for the advancement of engineering design for city-owned streets and infrastructure to accommodate the MBTA Silver Line and other overlapping bus/BRT services. He discussed the responses from the licensee and MassDOT.

Mr. Delaney stated that the Review Team does not recommend that the Commission award a Transportation Planning Grant to Everett and Somerville for 2020. The recommendation comes from the Review Team's concern regarding the status of Everett and Somerville's collaboration with MassDOT to ensure there would be no duplication of effort in their two related studies. MassDOT is

also concerned about the utility of any detailed design work completed for a Silver Line extension before the completion of the planning study.

[11:08 a.m.](#)

Lynn – Western Avenue

The City of Lynn is seeking a Transportation Planning Grant for \$200,000 to perform preliminary design for the Route 107 (Western Ave) corridor.

Mr. Delaney described the Review Team's analysis that there appear to be minor impacts on Lynn's streets but believes that it is appropriate to provide some additional planning funds to help advance this project. He discussed the responses from the licensee and MassDOT.

The Review Team recommends that the Commission award \$100,000 to the City of Lynn for this project, and that no more funding be provided to this project in future grant rounds unless the City of Lynn can affirmatively demonstrate that the actual impact of the casino significantly exceeds those that were estimated as part of the Encore MEPA process.

[11:15 a.m.](#)

Malden – Transit Action Plan / Transportation Planner

The City of Malden is requesting a Transportation Planning grant of \$150,000 to develop a Transit Action Plan and \$50,000 to subsidize the salary of existing staff in the Engineering Office over two years. The original proposal was to partially use the \$50,000 to fund a new Transportation Planner position; however, due to the pandemic, the City is unable to hire additional staff to oversee the Transit Action Plan. He discussed the responses from the licensee and MassDOT.

Mr. Delaney stated that the Review Team recommends that the Commission award the City of Malden \$150,000 to develop the Transit Action Plan. However, the team does not recommend awarding a grant for Engineering Office staff. It does not believe that existing employees in the Engineering Office would spend sufficient time on the Transit Action Plan to justify the expense.

[11:17 a.m.](#)

Revere/Saugus – Advanced Planning and Design of Route 1 Traffic Improvement

Revere and Saugus seek a Transportation Planning grant of \$425,000 to continue further studies of Route 1 to identify a "stand-alone" project that could be funded through available sources and provide incremental improvement. He described the responses from the licensee and MassDOT.

Mr. Delaney stated that the Review Team does not recommend awarding a grant to Revere/Saugus for Advanced Planning and Design of Route 1 Traffic Improvements. The team is reluctant to award an additional grant when the expenditures on their existing grant have just begun.

[11:20 a.m.](#)

West Springfield – Complete Streets – Main Street Corridor

The Town of West Springfield is requesting a Transportation Planning grant of \$200,000 to design a "Complete Streets" roadway for the Main Street corridor, which connects the Merrick Neighborhood to the two primary travel routes through West Springfield to MGM Springfield. This will include improved and safer access to public transit, accommodations for pedestrians and cyclists, and traffic alleviation.

The Review Team does not recommend awarding a grant to West Springfield for the Main Street Complete Streets Project. The application did not provide specific documentation of the impacts indicated.

[11:23 a.m.](#) Commissioner Cameron asked if there will be additional data that will help the review team's analysis next year. Mr. Delaney explained how this could prove to be difficult, as impact studies were not able to be completed due to business closures. He noted that postponing data collection until the casinos return to a more steady state of operations is necessary for accurate analysis.

[11:26 a.m.](#) **Chelsea – Beacham & Williams Streets Reconstruction**
The City of Chelsea is requesting a Specific Impact grant of \$500,000 for roadway and utility reconstruction, intersection upgrades, and pedestrian and bicycle facilities for Beacham and Williams Streets. The Commission will defer this discussion because it contains a separate construction grant request, and a full review can take place at a later date.

[11:27 a.m.](#) **Everett – Data-Driven Strategies in Marketing and Economic Development**
The City of Everett is requesting a Specific Impact grant for \$150,000 to develop a data-driven marketing and communications growth plan. The plan is a data-mining initiative to identify behavioral patterns of people in the City of Everett, to effectuate targeted marketing and economic development strategies. The City aims to maximize the positive economic development impacts of the Encore facility and mitigate the adverse effects on certain local businesses.

The Review Team does not recommend funding this project for 2020, as there is a concern about the current state of the casino, the expected ramp-up of activities upon reopening, as well as other points. The Review Team does encourage the City of Everett to continue to pursue additional data regarding business impacts and consider applying for CMF funds in a future round.

[11:32 a.m.](#) Commissioner Zuniga remarked that taking a regional approach would be important to consider. The Chair added that she would like to incentivize a regional approach to strengthening, bringing awareness, and sharing ideas.

[11:35 a.m.](#) **Everett Fire Department Supplemental Personnel and Operational Funds**
The City of Everett Fire Department seeks a Specific Impact grant of \$629,455.75 to supplement the additional personnel and operational costs incurred due to the increased staffing levels and service calls in response to Encore's operations.

Based on the analysis discussed, the Review Team recommends that the Commission award a grant for \$200,000 City of Everett for additional costs associated with fire details needed during the casino opening period.

[11:39 a.m.](#)

Everett Police Department Supplemental Personnel and Operational Funds

The City of Everett Police Department is requesting a Specific Impact grant for \$183,783.75 to supplement the additional personnel and operational costs incurred as a result of the increased staffing levels, equipment, and service calls in response to the Encore's operations.

The Review Team recommends that the Commission award a grant to the City of Everett for \$184,000 for Police Department operating costs.

[11:42 a.m.](#)

The Chair noted that the core of the Commission's mission is to ensure public safety in the licensed facilities. Mitigating the impact of the casinos through this funding is a vital component of the CMF team. The Commission also must consider external factors, such as training the police departments to ensure public safety in these large venues where people congregate. She also suggested that for police applications, the Commission may consider encouraging training on community policing and unconscious bias by inserting it into the guidelines. The Commissioners all made comments in support of the Chair's suggestion.

[11:49 a.m.](#)

Foxborough Police Department Traffic Mitigation Vehicle

The Town of Foxborough is requesting a Specific Impact grant of \$82,467 to purchase traffic safety equipment and a full-size pickup truck to mitigate traffic and tow the town's equipment trailer.

Mr. Delaney stated that the Review Team that the Commission award a grant for \$83,000 to the Town of Foxborough. He further recommends that the Town of Foxborough make this vehicle available to their mutual aid partners.

[11:53 a.m.](#)

Hampden County District Attorney's Office

The Hampden County District Attorney's Office is requesting a Specific Impact grant of \$75,000 to be used for personnel to mitigate the additional burdens in caseloads created directly and indirectly by the influx of people into the downtown area due to the casino presence.

The Review Team recommends that the Commission award a grant to the Hampden County District Attorney's office for \$75,000, as there is a direct benefit to citizens when the District Attorney's Office has the resources to absorb the work of additional prosecutions created by the presence of the casino in downtown Springfield.

11:54 a.m. **Hampden County Sheriff's Department**

The Hampden County Sheriff's Department is requesting its annual Specific Impact Grant of \$400,000, to supplement its fifth year of a ten-year lease due to the relocation of Western Massachusetts Recovery and Wellness Center from 26 Howard Street to 155 Mill Street Springfield, MA. The application states that the Sheriff's Department has experienced a significant lease offset due to this forced move to make way for the MGM Casino.

The Review Team recommends that the Commission approve \$400,000 in funding to assist the Hampden County Sheriff's office with its lease costs through FY2021.

11:55 a.m. Commissioner Zuniga asked how much longer the Commission should anticipate seeing this impact to continue funding. Mr. Delaney stated that this is an item on the Review Team's agenda to discuss when preparing the guidelines for next year.

11:57 a.m. **Malden Fire Department**

Malden is requesting a Specific Impact Grant of \$500,000 to purchase a new fire engine equipped with a built-in, automatic, rapidly deployed firefighting foam system to extinguish flammable liquid fires. This equipment would improve Malden's response time in a hazardous materials situation in a densely populated region, which has experienced strong economic growth resulting from Encore's opening.

Mr. Delaney stated that the applicant could not demonstrate a direct connection to an impact from the casino, or that there has been an increase in hazardous material fires since the opening of the casino. Therefore, the Review Team does not recommend funding this project.

12:00 p.m. **Springfield – Implementation Blueprint**

The City of Springfield is requesting a Specific Impact grant for \$500,000 to advance its Implementation Blueprint plan and develop a property stabilization fund to secure and prevent properties from further disrepair.

After an exhaustive analysis, the Review Team recommends a grant of \$250,000 to advance the Implementation Blueprint in the Main Street corridor across from MGM, the Court Square area, and Willow Street from State Street to Union Street.

However, the Review Team does not have enough information to make an informed decision to grant the remaining \$250,000 for a property stabilization fund to secure and prevent further disrepair, threats to public safety, and address growing blight around the casino district. The Review Team suggests that the applicant reapply next year after the Blueprint Implementation portion of the project has been conducted and provides the necessary information to move forward with the proposed Stabilization Fund.

[12:06 p.m.](#)

Springfield – City Stage

The City of Springfield is requesting a Specific Impact Grant of \$300,000 to perform significant capital improvements and system upgrades to the City Stage building in downtown Springfield. City Stage is a public, multi-use cultural and entertainment venue with a main theater and a Black Box studio theater.

The Review Team recommends that the Commission award a grant for \$300,000 to the City of Springfield for improvements to the City Stage space. The Team further recommends that Springfield re-evaluate the proposal as the design progresses, to identify possible savings from the application, especially the need for constructing an additional new elevator in particular.

[12:09 p.m.](#)

Commissioner Stebbins remarked that the Commission would be remiss if it did not stress to the licensee that once Focus Springfield vacates its current location, the desire is not for that very visible corner of Springfield to lose its vibrancy. He added that he would like to know what plans are being formulated to reinvigorate that corner.

Next, Commissioner Stebbins stated that he has questions regarding the budget items within the proposal but will consult with Mr. Delaney and his team as they prepare the budget scope and contract award.

[12:12 p.m.](#)

Springfield Fire Department

The Springfield Fire Department is requesting a Specific Impact grant for \$436,602.34 to staff their Tactical Unit's Emergency Response Vehicle with two firefighters 24 hours a day, seven days a week.

Based on the Review Team's understanding of the Host Community Agreement, it has concluded that increased calls to the fire department associated with MGM were anticipated by the City and were accounted for in the annual Community Impact Payment. Therefore, the Review Team does not recommend awarding a grant to the City of Springfield for the Tactical Unit.

[12:14 p.m.](#)

Springfield Police Department

The City of Springfield Police Department is requesting a Specific Impact grant for \$124,325 to purchase specific equipment (a list is provided in the application) to address public safety needs at MGM Springfield as part of the Springfield Police Department's Metro Unit.

Mr. Delaney stated that in the Review Team's initial review earlier in the year, it had recommended that the Commission award the full amount of the grant. Given recent events around the country, there was a discussion about whether it is appropriate for the Commission to fund all items listed in the application. He urged the Commission to consider whether it should fund or not fund any part of this grant.

[12:15 p.m.](#) Commissioner Zuniga expressed that he is not in favor of providing protective riot shields to the Springfield Police Department.

[12:16 p.m.](#) Commissioner O'Brien noted that much of the requested equipment is for working large events and was requested during the aftermath of the MGM Las Vegas shooting. She asked if there could be a broader discussion in terms of the request potentially being in response to that incident. Senior Enforcement Counsel Kate Hartigan stated that the request for shields is considered part-and-parcel of a request for police protection gear. She noted that the term "riot shield" may not do this versatile piece of equipment justice, as shields can be used for crowd control when walking in formation. Ms. Hartigan acknowledged the timing of the request.

[12:20 p.m.](#) Commissioner Cameron clarified the difference between shields and active shooter gear. She stated that she is in favor of funding everything except for the military-style shields. Ms. Hartigan explained that the shields are a replacement for the existing outdated shields they already have. There was discussion around the replacement of the old shields that would perpetuate a military-style approach.

[12:26 p.m.](#) Mr. Delaney suggested changing the dollar amount in the motion to reflect the denial of the cost of the shields, as the Commission has determined that there is no nexus between the necessity of riot shields in connection with the presence of a casino.

[12:28 p.m.](#) *Commissioner O'Brien moved that in consideration of the recommendations made by the Community Mitigation Fund Review Team, as it relates to the Springfield Police Department's request, that the total application be amended to reflect the deletion of \$15,000 for the protective riot shields and amount to a total of \$110,000. Commissioner Stebbins seconded the motion.*

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

[12:30 p.m.](#) **Springfield – Revenue Recovery**

The City of Springfield is requesting a Specific Impact grant for \$100,000 to conduct updated parking demand and feasibility studies downtown and furthering solutions that reestablish sources of revenue for the Parking Authority. The plan will also effectively identify premium parking in areas while clearing open land for critical redevelopment.

The Review Team recommends that the Commission award a grant for \$100,000 for Springfield to study parking demand in the downtown area.

[12:32 p.m.](#) Commissioner Stebbins commented that MGM is currently dealing with people using MGM's free parking, but not patronizing the casino.

[12:34 p.m.](#) **West Springfield – Police and Fire/EMS Direct Impact**

West Springfield is requesting a Specific Impact grant of \$200,000 to offset costs associated with additional Police and Fire/EMS personnel hired for the impact on municipal services resulting from the opening of MGM Springfield.

This is the first time the Review Team has considered public safety personnel costs as part of the CMF review process and did not reach a consensus on this application. After careful review and discussions, the team concluded that this should be a policy decision by the Commission to interpret the use of CMF funds in the supplement versus supplant argument.

[12:39 p.m.](#) Delaney presented both sides of the argument for the Commission.

[12:41 p.m.](#) There was a discussion around what portion of the increased calls needed the requested staffing. Mr. Delaney stated that it is difficult to put a dollar amount on this. Commissioner Stebbins noted that he would lean in favor of approving this request with a major stipulation.

[12:51 p.m.](#) Commissioner O'Brien stated that she is inclined to allow the funding with a deeper dive. Commissioner Cameron said that she would like to move forward with the caveat that more information will need to be provided to the Commission in the future, and noted that there was no access to required information due to the current circumstances.

[1:02 p.m.](#) The Commissioners reached a consensus to defer this request until additional information can be provided to the Commission. The Commissioners will send along their questions to Mr. Delaney, no later than July 30th so those can be shared with the applicant.

[1:04 p.m.](#) *Commissioner Stebbins moved that the Commission defer consideration of the application from the Town of West Springfield for police and fire assistance as presented in the Commissioners' Packet and as discussed here today.*

Commissioner O'Brien seconded the motion.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

The Commission took a 30-minute recess.

[1:40 p.m.](#)

Boston – Connecting the Lost Village

Mr. Delaney stated to the Commission that Transportation Construction Project grants are a new category this year.

The City of Boston is seeking a Transportation Construction Project grant for \$533,900 to make geometric changes to the intersection of Brighton Street and Cambridge Street in Charlestown, creating safer crosswalks and driving conditions, as well as a fiber connection from Sullivan Square to the Park Street intersection.

The Review Team recommends that the Commission award the City of Boston up to \$295,000 for the Lost Village project. The Review Team further recommends that the City of Boston refine their work scope to only use the grant funds on the Cambridge Street and Maffa Way portions of the project.

[1:45 p.m.](#)

Chelsea – Beacham and Williams Street Reconstruction

The City of Chelsea is requesting a Transportation Construction grant for \$1,000,000 for the comprehensive reconstruction of Beacham and Williams Streets, from Spruce Street to the City's boundary with Everett. This project consists of roadway and utility reconstruction, intersection upgrades, and the installation of pedestrian and bicycle facilities.

Mr. Delaney stated that the Review Team strongly recommends that the Commission award a Specific Impact Grant for \$500,000 and a Transportation Construction Project Grant in the amount of \$1,000,000 for the Beacham and Williams Street Reconstruction project. He noted that this is precisely the type of project envisioned when the scope of the CMF was expanded to include construction projects. Even though the total amount of this grant exceeds the \$1 million maximum identified in the guidelines, the review team felt strongly that the City's use of multiple sources of funding and the relatively modest contribution from the CMF as compared to the overall construction cost made this request appropriate.

[1:51 p.m.](#)

The Chair made comments in support of this application, stating that Chelsea could perhaps be one of the guest speakers as any outreach effort events that would help interested parties with their applications.

[1:53 p.m.](#)

Everett – Northern Strand Community Trail Extension

The City of Everett is requesting a Transportation Construction grant for \$375,000 towards the extension of the Northern Strand Community Trail from its current terminus north of Route 16 to the Gateway Connector that was constructed as part of the Encore Boston Harbor Development. The original application was for \$1,000,000, but based on more recent cost estimates, the City of Everett has reduced the request to \$375,000.

The Review Team recommends that the Commission award a grant in the amount of up to \$375,000 to the City of Everett for the Northern Strand Community Trail Extension. The Review Team further recommends that the exact dollar figure of the grant be determined after project bids have been received and final costs are allocated.

[1:57 p.m.](#)

The Chair asked if any data on bicycle use in Everett has been collected for analysis. Mr. Delaney stated that Everett had conducted some studies showing the amount of traffic on Broadway and other locations around the City, so they have robust data on bicycle use. He opined that many cyclists that use Broadway would then use this new route. The Commission agreed that this is a sound request.

[2:01 p.m.](#)

Lynn – Citywide Traffic Signals Upgrade at Various Locations

The City of Lynn is requesting a Transportation Construction grant for \$750,000 for a project that would include traffic signal upgrades associated with the CMF planning grant that inventoried traffic signals citywide. Work would consist of retiming of signals, optimizing traffic operations, repairing and/or replacing equipment, including 53 intersections with damaged or missing equipment and 17 intersections requiring new cabinet equipment, vehicle detection, or both.

The Review Team agrees that this project would provide benefits to travelers on Lynn's streets. However, because of the relatively small impact of Encore related traffic on the City of Lynn's roadway network and the lack of matching funds associated with this project, the Review Team does not recommend funding this project.

[2:05 p.m.](#)

Medford – Wellington Greenway

The City of Medford is requesting \$945,000 towards the construction of Phase IV of the Wellington Greenway. This grant would construct the last phase of the Wellington Greenway. This 0.3-mile path will connect residents/employees to the Encore Resort via waterfront paths along the Mystic and Malden Rivers.

The Review Team recommends that the Commission award a grant of up to \$530,000 for Phase 4 of the Wellington Greenway. The review team further recommends that the exact value of the grant be established after the project is bid and final costs have been determined.

[2:13 p.m.](#)

Commissioner Zuniga stated that the recommendation feels fair, and the Commission can monitor whether there has been progress over time. If necessary, they could come back and revisit this request.

[2:14 p.m.](#)

Revere/Saugus – Route 1 Improvements

Revere and Saugus are jointly requesting a Transportation Construction grant of \$500,000 to undertake limited improvements to the Route 1 north right of way

just beyond the planned relocation of exit and entrance ramps to Salem Street in the Overlook Ridge development.

The Review Team agrees that this project would provide benefits to travelers on Route 1. Still, analysis and deliberations brought the Review Team to determine that it does not recommend that this project be funded under the Transportation Construction Project Grant category.

[2:17 p.m.](#) The Chair noted that the training she mentioned earlier regarding assistance with the applications would apply here.

[2:17 p.m.](#) **West Springfield – Complete Streets – Park Street/Park Avenue**
The Town of West Springfield is requesting a Transportation Construction grant for \$1,000,000 for “Complete Streets” transportation improvements to the Park Avenue and Park Street corridors from the Elm Street/Union Street intersection to the North End Rotary.

The Review Team recommends that the Commission award a grant of up to \$1,000,000 to the Town of West Springfield for the Park Street/Park Avenue Complete Streets project. The Review Team further recommends that the award of these funds be contingent upon the Town of West Springfield appropriating their share of the project funds and certifying that they are available for use.

[2:28 p.m.](#) **Southeast Regional Planning & Economic Development District (SPREDD)**
SRPEDD is requesting \$200,000 to provide technical assistance to communities in geographic proximity to the potential Tribal Gaming facility in Taunton concerning traffic capacity and operational impacts should the construction of the Tribal Gaming facility move forward.

The Review Team recommends that the Commission award SRPEDD a grant for \$200,000 for technical assistance to the communities surrounding the Tribal Gaming facility in Taunton. The Review Team further recommends that this grant only be awarded when it is determined that the Tribal Gaming facility has restarted construction.

[2:30 p.m.](#) **Holyoke Community College**
Holyoke Community College is requesting \$350,000 for a Workforce Development grant for its Work Ready 2021 initiative. Work Ready 2021 is a collaborative effort between Holyoke Community College, Springfield Technical Community College, Springfield Public Schools, MGM Springfield, and the region's workforce development partners. It proposes to provide a combination of Adult Basic Education, work readiness preparation, and occupational skills training to connect the un- and underemployed to employment opportunities currently available in the marketplace, including MGM Springfield's urgent need for line cooks, dealers, and hospitality industry workers.

The Review Team recommends that the Commission does not fund the culinary training or gaming school portions of the proposal, resulting in a grant to Holyoke Community College for \$199,000 for the Hampden Prep, Springfield Public Schools and Ahead of the Game portions of the grant application, as well as the Regional Collaboration award

[2:33 p.m.](#)

(Title) Crystal Howard explained that the applicant had modified the program to accommodate social distancing requirements. They would like to rollover funds to complete the program with social distancing in place.

[2:34 p.m.](#)

Commissioner Stebbins moved that the Commission approve the rollover of \$40,965.73 from the CMF FY19 award to the FY20 award for the use of completing the Cohort of Culinary Training. Commissioner Cameron seconded the motion.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

[2:35 p.m.](#)

Commissioner Stebbins suggested that the Commission defer action on the balance of the request above what is requested here today for specific skills training. When work resumes after the business closures in Massachusetts, more technical training may be provided as it may be identified. Commissioner Cameron stated that if keeping the funds aside is legally sound, she has no objection.

[2:42 p.m.](#)

Commissioner Stebbins moved that the Commission approve the expenditure of \$199,000 of the Hampden Prep Springfield Public Schools and the Ahead of the Game portions of the grant application and defer consideration on the balance of the request for Holyoke Community College.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

Masshire Metro North Workforce Board and the City of Boston (MBRGHC)

MBRGHC is requesting a Workforce Development grant of \$400,000 for a regional project to address the workforce needs of the hospitality sector impacted by the Encore Boston Harbor gaming facility. The consortium of partners proposed providing career and employment services, English for Speakers of

Other Languages, and occupational skills training to prepare residents for high-quality hospitality careers.

In summary, the Review Team recommends that the Commission does not fund the NECAT and BEST portion of the proposal, resulting in a grant to MBRGHC for \$172,000 for the Community Engagement, Career Advising, and Employment Services as well as the Regional Need portions of the grant application.

Commissioner Stebbins moved that the Commission approve the grant to the Masshire Metro North Workforce Board for \$172,000 for the community engagement career advising and employment services, as well as the regional needs portion of the grant application and defer consideration on the balance of the application request. Commissioner Cameron seconded the motion.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

[2:48 p.m.](#)

Commissioner O'Brien moved that the Commission approve the applications for the Community Mitigation Fund grants consistent with the recommendations set forth in the memorandum included in the [Commissioners' Packet](#), and as amended during the Commission meeting today. Commissioner Zuniga seconded the motion.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Commissioner Judd-Stein: Aye.

The motion passed unanimously.

[2:59 p.m.](#)

With no further business, Commissioner Stebbins moved to adjourn. Commissioner Cameron seconded the motion.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated June 25th, 2020
2. GameSense Impact Report
3. Community Mitigation Fund Analysis Memo

/s/ Bruce Stebbins
Secretary

DRAFT



July 20, 2020

The Honorable Michael D. Hurley
Clerk of the Senate
State House, Room 335
Boston, MA 02133
(VIA EMAIL: house.clerk@state.ma.us)

The Honorable Steven T. James
Clerk of the House of Representatives
State House, Room 145
Boston, MA 02133
(VIA EMAIL: senate.clerk@state.ma.us)

RE: Race Horse Development Fund distribution percentages

Dear Mr. Hurley and Mr. James,

Please accept this filing as required in accordance with G.L. c.23K, §60(b). The Horse Racing Committee convened a public meeting on July 15, 2020 at which it voted on recommended distribution percentages from the Race Horse Development Fund as follows:

80% distributions for purses for live races (§60(c)(i)):
70% to Standardbred, 30% to Thoroughbred

16% distributions for breeding programs (§60(c)(ii)):
70% to Standardbred, 30% to Thoroughbred

4% distributions for health and pension benefits (§60(c)(iii)):
40% to Standardbred, 60% to Thoroughbred

For your reference, you may view a recording of the July 15, 2020 meeting via this link: <https://massgaming.com/news-events/article/horse-racing-committee-meeting-july-15-2020-2/>. We would be happy to provide any further information requested. Thank you for your consideration.

HORSE RACING COMMITTEE

By:

/s/ Brian Fitzgerald
Chair



Massachusetts Gaming Commission

101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com



Division of Racing

TO: Cathy Judd-Stein, Chair
Gayle Cameron, Commissioner
Eileen O'Brien, Commissioner
Bruce Stebbins, Commissioner
Enrique Zuniga, Commissioner

FROM: Alexandra Lightbown, Director of Racing

CC: Karen Wells, Interim Executive Director
Todd Grossman, Acting General Counsel

DATE: August 24, 2020

RE: Plainridge Request for Premium Free Period

Dear Commissioners:

Plainridge Park Casino Director of Racing Steve O'Toole has submitted a request for approval of a Premium Free Period from Sunday June 14 through and including Saturday September 5, 2020. This is in accordance with Massachusetts General Laws Chapter 128C, Section 2 (4).

Recommendation: That the Commission approve the request of Plainridge Park Casino for a premium free period of June 14th through and including September 5th, 2020.



Massachusetts Gaming Commission

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PLAINRIDGE PARK
CASINO

August 24, 2020

Alexandra Lightbown
Director of Racing
Massachusetts Gaming Commission
101 Federal St.
Boston, MA 02110

Dear Director Lightbown,

Plainville Gaming and Redevelopment, LLC respectfully requests approval for the period from Sunday June 14, 2020 to Saturday September 5, 2020 as the period identified and elected for "which no premium need be paid" for simulcast signals received in accordance with MGL 128C, section 2 (4).

Sincerely,

Steve O'Toole
Director of Racing
Plainridge Park Casino
Plainville Gaming and Redevelopment, LLC

August 14, 2020

VIA ELECTRONIC MAIL to Dr. Alex Lightbown

Dr. Alex Lightbown, Director of Racing
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, Massachusetts 02110

Re: Kentucky Derby Race Day Drive-thru and Walk About Request

Dear Dr. Lightbown:

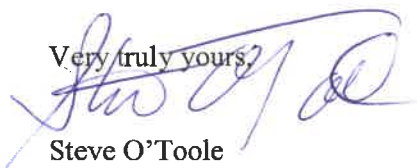
Plainridge Park Casino is seeking the Massachusetts Gaming Commission's approval to utilize handheld wagering devices (aka: "Walk Abouts") for customers to place wagers outside the racing area on Kentucky Derby Race day, by designated drive-thru and walk-up areas on the Plainridge Park Casino property.

Many casual horse racing fans traditionally place wagers on the Kentucky Derby at Plainridge and then watch the Kentucky Derby on NBC – TV with coverage starting at 5 o'clock in the afternoon and post time for the race at 6:50PM. NBC-Sports also carries an afternoon airing of the earlier Grade I Stakes from Churchill Downs that customers may also place wagers on. Historically, our occupancy is at its peak on Kentucky Derby Race day. The Commission's approval for the use of the designated drive-thru and walk-up areas would mitigate customer congestion and overflow inside the racing area, provide social distancing and convenience for customers utilizing the drive-thru/walk-up areas for purposes of addressing Covid-19 related concerns.

Please refer to Attachments A-C for the details of our request.

Should you have any questions, please do not hesitate to contact Lisa McKenney, Compliance Manager or myself.

Very truly yours,



Steve O'Toole
Director of Racing Operations, PPC
[508] 576-4480
Steve.O'Toole@pngaming.com

cc: Karen Wells, Director of Investigations and Enforcement Bureau, MGC
Lance George, General Manager, PPC
Lisa McKenney, Compliance Manager, PPC



Attachment A

Request:

Allow pari-mutuel wagers to be taken outside the Racing Area on Plainridge Park Casino property by drive-thru and walk-up areas on Saturday, September 5, 2020.

Technology:

Pari-Mutuel Totalizer Company Sportech, the onsite tote provider at Plainridge, has the technologic availability to service patrons through “Walk About” handheld pari-mutuel ticket producing machines. As recently as August 4, 2020, the Meadowlands Racetrack utilized this technology for walk-up wagering as an added convenience for the public due to reduced capacity. Please refer to the link below for related article:

<http://ustrottingnews.com/meadowlands-offers-walk-up-teller-for-hambletonian-day/>

Plan:

Schedule two Pari-Mutuel Clerks with “Walk Abouts” in the parking lot to accept wagers. One racing Supervisor and a Plainville Police Officer on detail will accompany the pari-mutuel clerks. Two lines, drive thru style will be set up under *surveillance coverage. The location will be in Lot J. Lot J provides an easy entrance and exit from the property. Traffic will be routed away from entrances to the Casino and Racing leading customers placing advance wagers to the drive-thru area. Lot J will have sufficient WiFi accessibility to power the “Walk About” technology.

Schedule two Pari-Mutuel Clerks with “Walk Abouts” in the Racing Shack located on the Racing Apron to accept walk-up wagers.

- * Please refer to Attachment B for map detailing drive-thru surveillance coverage and traffic patterns.
- Please refer to Attachment C for map detailing walk-up surveillance coverage and traffic patterns.



Legal Division

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this amended Small Business Impact Statement in accordance with G.L. c.30A, § 5 relative to the amendment to **205 CMR 134.03: Gaming Service Employees** was adopted by emergency, and for which a public hearing was held on August 27, 2020.

The amendment allows a gaming licensee to temporarily allow an individual(s) to assist with gaming establishment employee training and related purposes without having to become licensed or registered, from the date operations are recommenced after any period of suspension. This amendment is primarily governed by G.L. c. 23K, §4(28), 5.

The amendment to 205 CMR 134.03 applies to the gaming licensees and employees. Accordingly, this regulation is unlikely to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses will be negatively impacted by this amendment as it solely relates to licensee employee training. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements by this amendment.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

This amendment does not impose any reporting requirements.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

There are no design or operational standards required in the proposed amendment.



Massachusetts Gaming Commission

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This amendment is not likely to deter or encourage the formation of new businesses in the Commonwealth as it is limited in its likely impact on the business community.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

This amendment does not create any adverse impact on small businesses.

Massachusetts Gaming Commission
By:

Shara Bedard
Paralegal
Legal Division

Dated: _____



Massachusetts Gaming Commission

Regulation Review Checklist

Agency Contacts for This Specific Regulation		
Name	Email	Phone
Todd Grossman		
Overview		
CMR Number	205 CMR 134.03	
Regulation Title	Gaming Service Employees	
<input type="checkbox"/> Draft Regulation		<input checked="" type="checkbox"/> Final Regulation
Type of Proposed Action		
<input checked="" type="checkbox"/> Please check all that apply		
<input checked="" type="checkbox"/> Retain the regulation in the current form.		
<input type="checkbox"/> New regulation (Please provide statutory cite requiring regulation):		
<input type="checkbox"/> Emergency regulation (Please indicate the date regulation must be adopted):		
<input type="checkbox"/> Amended regulation (Please indicate the date regulation was last revised):		
<input type="checkbox"/> Technical correction		
<input type="checkbox"/> Other Explain:		

Summary of Proposed Action
The amendment enables a gaming licensee to temporarily allow an individual(s) to assist with gaming establishment employee training and related purposes without having to become licensed or registered, from the date operations are recommenced after any period of suspension.
Nature of and Reason for the Proposed Action
This amendment was adopted by emergency in an effort to fairly remedy an issue that emerged as a result of the unanticipated closures of the gaming establishments.

Regulation Review Checklist

Additional Comments or Issues Not Earlier Addressed by this Review	
Required Attachments	
✓ Please check all that apply	
<input checked="" type="checkbox"/> Redlined version of the proposed amendment to the regulation, including repeals	<input type="checkbox"/> Clean copy of the regulation if it is a new chapter or if there is a recommendation to retain as-is
<input type="checkbox"/> Text of statute or other legal bases for regulation	
<input type="checkbox"/> Small Business Impact Statement (SBIS)	<input checked="" type="checkbox"/> Amended SBIS

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 1434.00: LICENSING AND REGISTRATION OF EMPLOYEES, VENDORS, JUNKET ENTERPRISES AND REPRESENTATIVES, AND LABOR ORGANIZATIONS

134.03: Gaming Service Employees

(2) During the pre-opening phase of a gaming establishment, and continuing for up to 30 days from the date an Operation Certificate is issued in accordance with 205 CMR **or from the date operations are recommenced after any period of suspension**, a gaming licensee may temporarily allow an individual(s) who is employed at a gaming property which is owned and/or operated by it, its parent, or an affiliated company to assist with gaming establishment **strategy**, employee training and related **preparation** purposes for up to 60 days without those individuals having to become licensed or registered in accordance with 205 CMR 134.00, provided that the gaming licensee does the following:

- (a) Supplies the Bureau a reasonable time in advance of arrival with the name of the individual, name of the gaming property at which they are employed, the position at the gaming property at which they are employed, a description of the reason for the individual being at the gaming establishment including the services to be performed, the anticipated duration of their stay, and any other information requested by the Bureau;
- (b) Ensures all individuals performing services under 205 CMR 134.03(2) carry identification and wear a badge issued by the gaming licensee that is distinguishable from those that are issued to employees of the gaming establishment and that is clearly visible at all times while at the gaming establishment;
- (c) If the individual is licensed, certified, or otherwise approved for employment by the jurisdiction which the gaming property in which they are employed is located, an individual licensed as a key gaming employee in accordance with 205 CMR 134.00 shall attest in writing that the individual is in good standing in that jurisdiction; and
- (d) Ensures that the individual is accompanied by an individual who is licensed or registered in accordance with 205 CMR 134.00 anytime they are in a restricted area of the gaming establishment.

(3) The Division of Licensing, after consultation with the Bureau, may extend the period of allowance set forth in 205 CMR 134.03(2) for a period not to exceed six months from the date an Operations Certificate is issued **or from the date operations are recommenced after any period of suspension**, following consideration of the gaming licensee's written explanation of need, continuing training plan, and expected duration.



Legal Division

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this amended Small Business Impact Statement in accordance with G.L. c.30A, § 5 relative to the amendment to **205 CMR 138.72: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment and Retaliation**, for which a public hearing was held on August 27, 2020.

The proposed regulation requires a system of internal controls for a licensee that includes policies and procedures to ensure a workplace free from unlawful discrimination, harassment, and retaliation. This regulation is largely governed by MGL c. 23K, §§ 4(37), and 5.

This regulation applies to gaming licensees, their corporate parent qualifying entity, and their respective employees. Accordingly, it is not anticipated to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

This regulation applies to and creates reporting requirements for gaming licensees, their corporate parent qualifying entity, and their respective employees. However, there are no reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements by this regulation.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

This regulation does not impose any reporting requirements for small businesses.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:



Massachusetts Gaming Commission

5. A performance standard is appropriate to facilitate the adoption of specific written policies in compliance with all applicable federal, state and local laws relating to unlawful discrimination, harassment and retaliation.
6. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

The intent of this regulation is to ensure a workplace free from unlawful discrimination, harassment, and retaliation, and will not deter or encourage the formation of small businesses.

7. Minimizing adverse impact on small businesses by using alternative regulatory methods:

This amendment does not create any adverse impact on small businesses.

Massachusetts Gaming Commission
By:

Shara Bedard
Paralegal
Legal Division

Dated: _____



Massachusetts Gaming Commission

Regulation Review Checklist

Agency Contacts for This Specific Regulation		
Name	Email	Phone
Commissioner Gayle Cameron; Commissioner Eileen O'Brien; Loretta Lillios, IEB Chief Enforcement Counsel; Carrie Torrisi, Associate General Counsel; Trupti Banda, Human Resources Manager		
Overview		
CMR Number	205 CMR 138.72	
Regulation Title	Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment and Retaliation	
<input type="checkbox"/> Draft Regulation	<input checked="" type="checkbox"/> Final Regulation	
Type of Proposed Action		
✓ Please check all that apply		
<input checked="" type="checkbox"/> Retain the regulation in current form.		
<input type="checkbox"/> New regulation (Please provide statutory cite requiring regulation):		
<input type="checkbox"/> Emergency regulation (Please indicate the date regulation must be adopted):		
<input type="checkbox"/> Amended regulation (Please indicate the date regulation was last revised):		
<input type="checkbox"/> Technical correction		
<input type="checkbox"/> Other Explain:		

Summary of Proposed Action
The proposed regulation requires a system of internal controls for a licensee that includes policies and procedures to ensure a workplace free from unlawful discrimination, harassment, and retaliation.
Nature of and Reason for the Proposed Action
This regulation was created to ensure that licensees have in place policies and procedures to ensure a workplace free from unlawful discrimination, harassment, and retaliation.

Additional Comments or Issues Not Earlier Addressed by this Review
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Regulation Review Checklist

Required Attachments	
✓ Please check all that apply	
<input type="checkbox"/> Redlined version of proposed amendment to regulation, including repeals	<input checked="" type="checkbox"/> Clean copy of the regulation if it is a new chapter or if there is a recommendation to retain as is
<input checked="" type="checkbox"/> Text of statute or other legal basis for regulation: M.G.L. c. 151B § 3A: Employers' policies against sexual harassment; preparation of model policy; education and training programs. (a) All employers, employment agencies and labor organizations shall promote a workplace free of sexual harassment. (b) Every employer shall: (1) adopt a policy against sexual harassment which shall include: (i) a statement that sexual harassment in the workplace is unlawful; (ii) a statement that it is unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of a complaint for sexual harassment; (iii) a description and examples of sexual harassment; (iv) a statement of the range of consequences for employees who are found to have committed sexual harassment; (v) a description of the process for filing internal complaints about sexual harassment and the work addresses and telephone numbers of the person or persons to whom complaints should be made; and (vi) the identity of the appropriate state and federal employment discrimination enforcement agencies, and directions as to how to contact such agencies.	

Regulation Review Checklist

(2) provide annually to all employees an individual written copy of the employer's policy against sexual harassment; provided, however, that a new employee shall be provided such a copy at the time of his employment.

(c) The commission shall prepare and provide to employers subject to this section a model policy and poster consistent with federal and state statutes and regulations, which may be used by employers for the purposes of this section.

(d) An employer's failure to provide the information required to be provided by this section shall not, in and of itself, result in the liability of said employer to any current or former employee or applicant in any action alleging sexual harassment. An employer's compliance with the notice requirements of this section shall not, in and of itself, protect the employer from liability for sexual harassment of any current or former employee or applicant.

(e) Employers and labor organizations are encouraged to conduct an education and training program for new employees and members, within one year of commencement of employment or membership, which includes at a minimum the information set forth in this section.

Employers are encouraged to conduct additional training for new supervisory and managerial employees and members within one year of commencement of employment or membership, which shall include at a minimum the information set forth in subsection (b), the specific responsibilities of supervisory and managerial employees and the methods that such employees should take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints. Employers, labor organizations and appropriate state agencies are encouraged to cooperate in making such training available.

☐ Small Business Impact Statement (SBIS)

☒ Amended SBIS

205 CMR 138.00: UNIFORM STANDARDS OF ACCOUNTING PROCEDURES AND
INTERNAL CONTROLS

138.72: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment and Retaliation

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures, or incorporate by reference existing corporate policies, relative to ensuring a workplace free from unlawful discrimination, harassment and retaliation. These policies and procedures shall comply with all federal, state, and local laws relating to unlawful discrimination, harassment, and retaliation, and shall include, at a minimum:

- (a) Specific written policies prohibiting unlawful discrimination, harassment and retaliation in the workforce, as well as a statement that the gaming licensee complies with all applicable federal, state and local laws relating to unlawful discrimination, harassment and retaliation. Without limiting any of the below, such policies shall at a minimum incorporate all elements of the Massachusetts Commission Against Discrimination (MCAD) Model Sexual Harassment Policy;
- (b) Specific written procedures outlining how concerns, allegations or claims regarding unlawful discrimination, harassment and retaliation are to be reported, including multiple reporting options such as reporting to: an employee's direct supervisor or another supervisor within the organization; any member of the human resources staff; the general manager or president of the property where the employee works; a reporting hotline; and/or any member of the gaming licensee's legal department. The procedures shall identify by name and/or title, address and telephone number at least two individuals to whom concerns of discrimination, harassment or retaliation may be reported; provided, further, that any employee with supervisory powers shall report complaints, concerns or other matters arising or reported under these policies and procedures to the representatives of the organization so identified, and shall be trained on the obligation to ensure immediate and appropriate corrective action in addressing harassment complaints. The licensee shall ensure and shall inform employees that individuals of different genders are available for reporting of complaints. The licensee's procedures may suggest, but need not require, a specific reporting process;
- (c) The identification of a specific position at the property or corporate level (or both) that is responsible for overseeing and enforcing the policies and procedures;
- d) A requirement that each employee receive a copy of the policies and procedures as part of the gaming licensee's onboarding process;

(e) A requirement that training on unlawful discrimination, harassment and retaliation be provided by the gaming licensee to all employees within ninety (90) days of the date of hire and every two years thereafter;

(f) A personal relationships policy that identifies prohibited personal relationships as well as the disclosure requirements for personal relationships;

(g) A statement in the policies and procedures that all concerns, allegations or claims will be investigated promptly and that all concerns, allegations or claims will be handled in a confidential manner to the extent possible to ensure a thorough and complete investigation of the concern, allegation or claim;

(h) A listing of the federal and state agencies located in the Commonwealth that enforce the unlawful discrimination, harassment and retaliation laws, including names and addresses of each location within the Commonwealth of the offices of such agencies.

(2) A gaming licensee shall create a process and procedure to track that all employees attend training as required.

(3) A gaming licensee shall review its policies and procedures every two years to ensure that such policies and procedures comply with all federal, state and local laws relating to unlawful discrimination, harassment and retaliation.

(4) A gaming licensee and its corporate parent qualifying entity (as designated by the Bureau) shall each maintain the following information for the previous calendar year regarding their respective employees:

(a) each concern, allegation or claim of unlawful discrimination, harassment or retaliation reported to the gaming licensee and/or to the corporate parent qualifying entity and the method used to report such concerns, allegations or claims.

(b) for each concern, allegation or claim identified in paragraph 4(a):

(i) the identity, by name or title, of the representative of the licensee or corporate parent qualifying entity who investigated the concerns, allegations or claims;

(ii) the manner in which the concerns, allegations or claims were investigated; and

(iii) the ultimate resolution of the concern, allegation or claim, such as whether the concern, allegation or claim was resolved internally (by agreement, disciplinary action up to and including termination, or settlement and/or separation agreement) and/or filed with the appropriate federal, state or local authority; provided further, if the matter was resolved by settlement or separation agreement, the licensee or corporate parent qualifying entity shall maintain a copy of such agreement;

(c) a general description of the concerns, allegations or claims, i.e., sexual harassment, unlawful discrimination, retaliation;

(d) a listing of the number of concerns, allegations or claims awaiting investigation or resolution ~~and an explanation of why such concerns, allegations or claims have not been investigated and resolved;~~

(e) a breakdown of the concerns, allegations or claims by the type of concern, allegation or claim and by the level of employee, member of the public/patron or vendor against whom the concern, allegation or claim was made;

(f) the gaming licensee's unlawful discrimination, harassment or retaliation policies and procedures with any changes made to the policies and procedures within the last year highlighted;

(g) information relating to the training required by paragraph 1(e), above, including a listing of the training sessions provided and the number of employees trained by position records of the dates of training; names of participants/sign-in sheets; the identity and qualifications title of the trainers; and a brief description of the training; and

(h) a statement signed by the gaming licensee's head of human resources at the gaming licensee's corporate level that the gaming licensee and the corporate parent qualifying entity have complied with their policies and procedures and that the information compiled as required in this section is true and correct to the best of such representatives' knowledge and belief.

The Commission shall have the right to review such information upon reasonable notice to the licensee. When providing information identified in sub-paragraphs (a) - (d), inclusive, for review, the licensee and the corporate parent qualifying entity may produce such information in a format that does not include: names of the individual(s) reporting the concern, allegation or claim; the names of witnesses; and specific details of the concern, allegation or claim which could be used to identify the individuals involved in the underlying incident(s).

(5) The gaming licensee shall ensure that any concerns, allegations or claims relating to unlawful discrimination, harassment or retaliation are investigated and resolved in accordance with these regulations and all other applicable laws and regulations.

(6) The commission shall have the right, upon request and notice to the gaming licensee, to review any gaming licensee records pertaining to the policies and procedures outlined in 205 CMR 138.72.



Legal Division

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this amended Small Business Impact Statement in accordance with G.L. c.30A, § 5 relative to the amendment to **205 CMR 149.04: Race Horse Development Fund: Distributions; Escrow Accounts**. These amendments were adopted by emergency on June 4, 2020, and a public hearing was held on August 27, 2020.

The amendment allows the Horse Racing Committee and the Commission flexibility to set the distribution percentage of monies from the Race Horse Development Fund in a manner to ensure more precise distribution of funds. These amendments are primarily governed by G.L. c. 23K, §§ 4(37), and 5.

The amendments effectively apply directly to all members of the Standardbred and Thoroughbred racing industry. Accordingly, these amendments will likely have a positive impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

These amendments do not create any compliance or reporting requirements, they merely address the manner in which the Horse Racing Committee and Commission establish the distribution percentage. Accordingly, there are no less stringent compliance or reporting requirements for small businesses that can be established.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements established by these amendments.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

These amendments do not impose any reporting requirements for small businesses.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:



Massachusetts Gaming Commission

There are no design or operational standards required in the proposed amendments that affect small businesses that could be replaced by a performance standard.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This amendment updates the method of determining the distribution of funds from the Race Horse Development Fund to the Standardbred and Thoroughbred racing industries. The proposed changes are designed to encourage the formation of small businesses by allowing the Committee and Commission a greater ability to direct monies from the Fund with greater precision based on need.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

These amendments do not create any adverse impact on small businesses. To the contrary, the horsemen and breeders participating in the industry in Massachusetts may see positive impacts from the proposed amendments.

Massachusetts Gaming Commission
By:

Shara Bedard
Paralegal
Legal Division

Dated: _____



Massachusetts Gaming Commission

Regulation Review Checklist

Agency Contacts for This Specific Regulation		
Name	Email	Phone
Todd Grossman		
Overview		
CMR Number	205 CMR 149.04(4)	
Regulation Title	Race Horse Development Fund: Distributions; Escrow Accounts	
<input type="checkbox"/> Draft Regulation	<input checked="" type="checkbox"/> Final Regulation	
Type of Proposed Action		
✓ Please check all that apply		
<input type="checkbox"/> Retain the regulation in current form.		
<input type="checkbox"/> New regulation (Please provide statutory cite requiring regulation):		
<input type="checkbox"/> Emergency regulation (Please indicate the date regulation must be adopted):		
<input checked="" type="checkbox"/> Amended regulation (Please indicate the date regulation was last revised): June 4, 2020		
<input type="checkbox"/> Technical correction		
<input type="checkbox"/> Other Explain:		

Summary of Proposed Action
<p><u>Overview.</u> The regulatory amendments presently before the Commission were previously enacted by emergency on June 4, 2020 and are now before you for consideration of final adoption. The Horse Racing Committee (“Committee”) convened a meeting on July 15, 2020 at which it reviewed the distribution percentages in the manner allowed pursuant to these amendments for purposes of making recommendations to the Commission. Those recommendations are also before the Commission for consideration of final approval.</p> <p>The proposed amendments to 205 CMR 149.04(4) represent technical adjustments to the process outlined in the Commission’s regulations governing the distribution of funds from the Race Horse Development Fund (“the Fund”). The Fund was established by G.L. c.23K, §60. Prior to adoption of the present amendments by emergency, the existing regulations largely mirrored the statute, but also contained language, though intended to clarify the statute, that presented an impediment to the previously discussed new approach to distributing monies from the Fund.</p>

Regulation Review Checklist

Background. The Fund was established by G.L. c.23K, §60 and is comprised of monies received from a number of different sources, but primarily from the daily assessments based on the gross gaming revenues from the gaming licensees. See G.L. c.23K, §55(c) (“a category 2 licensee shall pay a daily assessment of 9 per cent of its gross gaming revenue to the Race Horse Development Fund established in section 60.”), and G.L. c.23K, §59(2)(l) (“100 per cent of the revenue received from a category 1 licensee shall be transferred as follows: ... (l) 2.5 per cent to the Race Horse Development Fund established in section 60.”). The Commission is charged with administering the Fund. The monies in the Fund are intended to be distributed between the two breeds: thoroughbred and standardbred. Pursuant to §60(c), the funds must be distributed in the following percentages for the following essential purposes:

- 80% to fund purses for live races;
- 16% into the respective breeds’ breeding programs approved by the Commission; and
- 4% to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at a horse racing facility for the benefit of the organization's members, their families, employees and others.

In accordance with §60, “[t]he horse racing committee shall make recommendations on how the funds [] shall be distributed between thoroughbred and standardbred racing facilities to support the thoroughbred and standardbred horse racing industries under this section. ... The committee shall submit distribution recommendations to the clerks of the senate and house of representatives not later than 30 days before submitting the recommendations to the commission for final approval.” The distribution percentage has come to be known colloquially as “the split.” Notably, when it comes to adjusting the established split, the statute provides that “[t]he commission shall only change the distribution percentage upon a recommendation by the committee.” See G.L. c.23K, §60(b).

Past practice and the present regulation. When determining the split in the past, the Committee recommended one overall percentage by which all of the available monies in the Fund would be split. The split is presently set at 65% to the standardbred interests and 35% to the thoroughbred. So, for example, if there were \$10 million available for distribution in the Fund, \$6.5 million would go towards the standardbreds and \$3.5 million to the thoroughbreds. From there, in accordance with the percentages established in §60(c), as set out for reference in the bullet points above, the monies are further broken into the three categories for distribution. In the example, then, the \$6.5 million and \$3.5 million amounts would each be broken down into the 80%/16%/4% categories for distribution.

Without the amendments, the language contained in 205 CMR 149.04(4) directs that the distributions be conducted in accordance with this method. This is an entirely appropriate approach and consistent with the language of the statute. However, with the benefit of a number of years of experience, and given the present circumstances confronting the horse

Regulation Review Checklist

racine industry, the Committee expressed an interest in determining the distribution percentage in a similar, but alternative, method which is also consistent with §60. Where the regulation only permitted distribution in accordance with the previously described method though, a modification of the regulations by the Commission would be required if this new approach, as described below, is to be employed.

The new approach. Employing the new approach that was implemented by emergency adoption, the Committee made individual split recommendations by category instead of determining one overall percentage for the entire split. So, there is one recommended distribution percentage for the purse category, one for the breeding category, and one for the health and pension benefit category. By untethering the individual categories from one another, this approach affords the Committee, and ultimately the Commission, a greater ability to direct funds to the respective breeds based upon specific factors with increased precision. Importantly, under this new approach, the exact same number of actual dollars in the aggregate will be distributed within each of the three categories. That is, 80% will still go to purses, 16% will still go to the breeders programs, and 4% will still go to health and pension benefits. However, the amount distributed to a particular breed within a category may be adjusted based upon specific considerations related to that category.

Conclusion. While the proposed amendments would not themselves result in any the change to the existing 65%/35% split, if adopted the Commission will be able to adopt the Committee's recommendations as to the distribution percentages in accordance with the new approach.

Nature of and Reason for the Proposed Action

As discussed above, the proposed amendments to the regulations would allow the Committee, and ultimately the Commission, to direct available monies in the Fund by breed with greater precision based upon specific facts and circumstances.

Additional Comments or Issues Not Earlier Addressed by this Review

Required Attachments

✓ Please check all that apply

Regulation Review Checklist

<input checked="" type="checkbox"/> Redlined version of proposed amendment to regulation, including repeals	<input type="checkbox"/> Clean copy of the regulation if it is a new chapter or if there is a recommendation to retain as is
<input type="checkbox"/> Text of statute or other legal basis for regulation	
<input type="checkbox"/> Small Business Impact Statement (SBIS)	<input checked="" type="checkbox"/> Amended SBIS

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 149.00: RACE HORSE DEVELOPMENT FUND

149.04: Race Horse Development Fund: Distributions; Escrow Accounts

(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 149.03, **in the distribution percentage(s) approved by the commission upon a recommendation of the horse racing committee** ~~because of a harness racing association~~ **between thoroughbred and standardbred racing** as follows, in accordance with M.G.L. c. 23K, § 60 and 205 CMR 149.00:

1. 80% of the funds approved by the commission shall be paid weekly ~~into a harness racing association~~ **separate, interest bearing purse accounts in accordance with M.G.L. c. 23K, § 60(c)(i).** If there is more than one ~~harness racing association~~ **within a particular breed,** ~~such~~ **the funds allocated to that breed** shall be divided between the ~~harness racing~~ associations at the discretion of the commission. ~~Such funds shall be paid into a separate, interest bearing purse account to be established by the harness racing association for the benefit of the harness racing horsemen.~~ The earned interest on this **those** accounts shall be credited to the **respective** purse accounts 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~~ **applicable horsemen.**
2. 16% of the funds approved by the commission shall be deposited by the Commission **in accordance with M.G.L. c. 23K, § 60(c)(ii)** ~~into an account~~ for the benefit of the ~~Massachusetts Standardbred Breeding Program~~ **respective breeding programs** authorized by the commission.
3. 4% **of the funds approved by the commission** 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~~ **a horse racing association's race track facility** 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 **in accordance with M.G.L. c. 23K, § 60(c)(iii),** provided, however, that if there is more than one horsemen's organization **within a particular breed, the funds allocated to that breed shall be divided at the discretion of the commission,** ~~the commission shall divide the amount available under 205 CMR 149.04 evenly between the horsemen's organizations.~~ 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 or standardbred drivers' organization** at the ~~harness horse racing associations race track~~ **facility** for health insurance, life and/or accident insurance or other

benefits to active and disabled **thoroughbred jockeys or** 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 149.03 because of a horse racing association as follows, in accordance with M.G.L. c. 23K, § 60 and 205 CMR 149.00:~~

- ~~1. 80% of the funds approved by the commission shall be paid weekly to a horse racing association. If there is more than one horse racing association such funds shall be divided between the horse racing associations at the discretion of the commission. Such funds shall be paid into a separate, interest-bearing purse account to be established by the horse racing association for the benefit of the 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.~~
- ~~2. 16% 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.~~
- ~~3. 4% 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 provided, however, that if there is more than one horsemen's organization, the commission shall divide the amount available under 205 CMR 149.04 evenly between the horsemen's organizations. 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 horse racing association's race track for health insurance, life and/or accident insurance or other benefits to active and disabled standardbred jockeys under the rules and eligibility requirements of that organization.~~ **RESERVED**

(c) The commission may distribute less than the entire amount of the funds in 205 CMR 149.04(4)(a)1. ~~and (b)1.~~ if the commission determines in its sole discretion that such distribution shall be beneficial or if a lesser amount is requested by the harness racing association or the horse racing association. Funds under 205 CMR 149.04(4)(a)1. ~~or (b)1.~~ that remain after payment by the commission under 205 CMR 149.04 shall remain in the race horse development fund and shall be available for payment in future years in the commission's discretion, after applying the **distribution percentage recommendation** ~~determination~~ of **the** race horse **racing** committee ~~regarding allocation between harness racing and horse racing.~~