

7870.0750 CLASS D LICENSE CRITERIA.

The commission may issue a Class D license if it determines on the basis of all the facts before it that: racing will be operated according to applicable laws and rules, and issuance of a license will not adversely affect the public health, safety, and welfare. In making the required determinations, the commission must consider the following factors and indices:

A. the integrity of the applicant, its directors, trustees, officers, managers, and holders of voting interests or control, including:

- (1) criminal records;
- (2) involvement in litigation over business practices;
- (3) involvement in disciplinary actions over a business license or permit or refusal to review a license or permit;
- (4) involvement in proceedings in which unfair labor practices, discrimination, or government regulation of horse racing or gambling was an issue;
- (5) involvement in bankruptcy proceedings;
- (6) failure to satisfy judgments, orders, or decrees;
- (7) delinquency in filing of tax reports or remitting taxes; and
- (8) any other indices related to integrity which the commission deems crucial to decision making as long as the same indices are considered with regard to all applicants;

B. the types and variety of pari-mutuel racing which the applicant will offer;

C. the quality of physical improvements and equipment the applicant will use, including:

- (1) racetrack or tracks;
- (2) stabling;
- (3) grandstand;
- (4) detention area;
- (5) paddock;
- (6) jockeys' and drivers' quarters and equipment;
- (7) pari-mutuel tote;
- (8) parking;
- (9) access by road and public transportation;
- (10) backstretch security fence;

- (11) other security improvements and equipment;
- (12) starting, timing, and photo finish equipment;
- (13) commission work areas; and
- (14) any other indices related to quality which the commission deems crucial to decision making as long as the same indices are considered with regard to all applicants;

D. imminence of completion of facility;

E. financial ability to develop, sponsor, and manage pari-mutuel horse racing successfully, including:

- (1) ownership and control structure;
- (2) amounts and reliability of development costs;
- (3) certainty of site acquisition or lease;
- (4) terms and conditions of the applicant's authorization to use facility;
- (5) current financial condition;
- (6) sources of equity and debt funds, amounts, terms and conditions, and certainty of commitment;
- (7) provision for cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues, or other financial adversity;
- (8) feasibility of the financial plan; and
- (9) any other indices related to financial ability which the commission deems crucial to decision making as long as the same indices are considered with regard to all applicants;

F. status of necessary government approvals and compliance with applicable statutes, charters, ordinances, and regulations;

G. management ability of the applicant, including:

- (1) qualifications of managers, consultants, and other contractors to manage pari-mutuel horse racing;
- (2) security plan;
- (3) plans for human and animal health and safety;
- (4) marketing, promotion, and advertising plans;
- (5) plan for conducting horse racing;
- (6) plan for purses;

- (7) plan for pari-mutuel betting;
- (8) concessions plans;
- (9) plan for personnel training;
- (10) equal employment and affirmative action compliance; and
- (11) any other indices related to management which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;

H. efforts to promote orderly growth of horse racing in Minnesota and educate the public with respect to horse racing and pari-mutuel betting;

I. extent of public support and opposition; and

J. effects on competition, including:

- (1) number, nature, and relative location of other Class D licenses;
- (2) minimum and optimum number of racing days sought by the applicant;

and

(3) any other indices related to effects on competition which the commission deems crucial to decision making as long as the same indices are considered with regard to all applicants.

The commission also must consider any other information which the applicant discloses and is relevant and helpful to a proper determination by the commission.

Statutory Authority: *MS s 240.23*

History: *16 SR 484*

Published Electronically: *April 16, 2007*