

Sports

CHAPTER 240

PARI-MUTUEL HORSE RACING

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240.01 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of Laws 1983, chapter 214, the terms defined in this section have the meanings given them.

Subd. 2. **Horse racing.** "Horse racing" is any form of horse racing in which horses carry a rider or pull a sulky.

Subd. 3. **Person.** "Person" is an individual, firm, association, partnership, corporation, trustee, or legal representative, and any licensee, participant, or patron.

Subd. 4. **Commission.** "Commission" is the Minnesota racing commission.

Subd. 5. **Pari-mutuel betting.** "Pari-mutuel betting" is the system of betting on horse races where those who bet on horses that finish in the position or positions for which bets are taken share in the total amounts bet, less deductions required or permitted by law.

Subd. 6. **Breakage.** "Breakage" is the odd cents of all money to be distributed based on each dollar bet exceeding a sum equal to the next lowest multiple of ten.

Subd. 7. **Straight pools and bets.** "Straight pool" is a licensed pari-mutuel pool in which each ticket represents a bet to win, place, or show. A "straight bet" is a bet in a straight pool.

Subd. 8. **Multiple pools and bets.** "Multiple pool" is a licensed pari-mutuel pool other than a straight pool. A "multiple bet" is a bet in a multiple pool.

Subd. 9. **Licensed racetrack.** "Licensed racetrack" is a racetrack at which horse racing is conducted on the premises and which holds a class A or class D license issued by the commission.

Subd. 10. **Racing day.** "Racing day" is a day assigned by the commission on which racing is conducted. Racing day includes televised racing day.

Subd. 11. **Racing meeting.** "Racing meeting" is a series of days in which racing days are not separated by more than five nonracing days.

Subd. 12. **Average daily handle.** "Average daily handle" means the total amount bet in all pari-mutuel pools at a licensed racetrack during the racing meeting divided by the number of days that horse racing was conducted at the racetrack during the racing meeting.

Subd. 13. **Televised racing day.** "Televised racing day" means a day assigned by the commission on which pari-mutuel betting is conducted only on horse races run at racetracks outside of the state which are broadcast by television at a licensed racetrack.

Subd. 14. **Director.** "Director" is the director of pari-mutuel racing.

Subd. 15. **Division.** "Division" is the division of pari-mutuel racing in the department of gaming.

History: 1983 c 214 s 1; 1985 c 212 s 1; 1988 c 696 s 1; 1989 c 141 s 1,2; 1989 c 334 art 1 s 1,2

240.011 DIVISION OF PARI-MUTUEL RACING.

Subdivision 1. **Division created.** A division of pari-mutuel racing is created in the department of gaming. The division is under the supervision and control of the Minnesota racing commission.

Subd. 2. **Director of pari-mutuel racing.** The governor shall appoint the director of pari-mutuel racing, who serves in the unclassified service at the governor's pleasure. The director must be a person qualified by experience in the administration and regulation of pari-mutuel racing to discharge the duties of the director. The governor must select a director from a list of one or more names submitted by the commission.

History: 1989 c 334 art 1 s 3

240.02 RACING COMMISSION.

Subdivision 1. **Commission.** A Minnesota racing commission is established within the division of pari-mutuel racing with the powers and duties specified in this section. Until the effective date of the first vacancy on the commission that occurs after the effective date of Laws 1989, chapter 334, including a vacancy caused by the expiration of a term, the commission consists of nine members appointed by the governor with the advice and consent of the senate and the commissioner of gaming as a nonvoting member. After the date of the first vacancy, the commission consists of eight members appointed by the governor with the advice and consent of the senate, plus the commissioner as a voting member. Not more than five of the members may belong to the same political party. The governor shall designate the chair of the commission. Appointments by the governor are for terms of six years. An appointment to fill a vacancy in an unexpired term is for the remainder of the term and is with the advice and consent of the senate.

Subd. 2. **Qualifications.** A member of the commission, other than the commissioner, must have been a resident of Minnesota for at least five years before appointment, and must have a background and experience as would qualify for membership on the commission. A member must, before taking a place on the commission, file a bond in the principal sum of \$100,000 payable to the state, conditioned upon the faithful performance of duties. No commissioner, nor any member of the commissioner's immediate family residing in the same household, may hold a license issued by the commission or have a direct or indirect financial interest in a corporation, partnership, or association which holds a license issued by the commission.

Subd. 3. **Compensation.** The compensation of commission members is \$35 per day spent on commission activities, when authorized by the commission, plus expenses in the same manner and amount as provided in the commissioner's plan adopted according to section 43A.18, subdivision 2.

Subd. 4. **Removal; vacancies.** The removal of commission members is as provided in section 15.0575.

Subd. 5. **Actions.** The commission may sue and be sued in its own name but no action may be brought against the commission or any of its members for actions taken in good faith in the performance of their duties. Suits and actions may be commenced against the commission or any of its members in any court of competent jurisdiction in this state by service, in the manner provided in Minnesota rules of court, of any summons, process, or pleadings authorized by the laws of this state. The attorney general is the legal counsel for the commission.

Subd. 6. **Annual report.** The commission shall on February 15 of each year submit a report to the governor and legislature on its activities, organizational structure,

receipts and disbursements, and recommendations for changes in the laws relating to racing and pari-mutuel betting.

Subd. 7. **Audit.** The legislative auditor shall audit or the commission may contract for an audit of the books and accounts of the commission annually or as often as the legislative auditor's funds and personnel permit. The commission shall pay the total cost of the audit. All collections received for the audits must be deposited in the general fund.

History: 1983 c 214 s 2; 1985 c 211 s 1; 1985 c 212 s 2; 1986 c 444; 1989 c 334 art 1 s 4,5

240.03 COMMISSION POWERS AND DUTIES.

The commission has the following powers and duties:

- (1) to regulate horse racing in Minnesota to ensure that it is conducted in the public interest;
- (2) to issue licenses as provided in Laws 1983, chapter 214;
- (3) to enforce all laws and rules governing horse racing;
- (4) to collect and distribute all taxes provided for in Laws 1983, chapter 214;
- (5) to conduct necessary investigations and inquiries and compel the submission of information, documents, and records it deems necessary to carry out its duties;
- (6) to supervise the conduct of pari-mutuel betting on horse racing;
- (7) to employ and supervise personnel under Laws 1983, chapter 214;
- (8) to determine the number of racing days to be held in the state and at each licensed racetrack;
- (9) to take all necessary steps to ensure the integrity of racing in Minnesota.

History: 1983 c 214 s 3; 1985 c 212 s 3

240.04 EMPLOYEES.

Subdivision 1. **Director; duties.** The director shall perform the following duties:

- (a) take and preserve records of all proceedings before the commission, maintain its books, documents, and records, and make them available for public inspection as the commission directs;
- (b) if so designated by the commission, act as a hearing officer in hearings which need not be conducted under the administrative procedure act to conduct hearings, receive testimony and exhibits, and certify the record of proceedings to the commission;
- (c) act as the commission's chief personnel officer and supervise the employment, conduct, duties, and discipline of commission employees; and
- (d) perform other duties as directed by the commission.

Subd. 1a. **Deputy director.** The commission may appoint a deputy director who serves in the unclassified service at the commission's pleasure.

Subd. 2. **Director of pari-mutuels.** The commission may employ a director of pari-mutuels who serves in the unclassified service at the commission's pleasure. The director of pari-mutuels shall perform the following duties:

- (a) supervise all forms of pari-mutuel betting on horse racing in the state;
- (b) inspect all machinery;
- (c) make reports on pari-mutuel betting as the commission directs;
- (d) subject to commission approval, appoint assistants to perform duties the commission designates; and
- (e) perform other duties as directed by the commission.

If no director of pari-mutuels is appointed the duties of that office are assigned to the executive director. The commission may contract with outside services or personnel to assist the executive director in the performance of these duties.

Subd. 3. Director of racing security. The commission may appoint a director of racing security to serve in the unclassified service at the commission's pleasure. The director of racing security shall enforce all laws and commission rules relating to the security and integrity of racing. The director of racing security and all other persons designated by the commission as security officers have free and open access to all areas of all facilities the commission licenses and may search without a search warrant any part of a licensed racetrack and the person of any licensee of the commission on the premises. The director of racing security may order a licensee to take, at the licensee's expense, security measures necessary to protect the integrity of racing, but the order may be appealed to the commission. Nothing in this chapter prohibits law enforcement authorities and agents from entering, in the performance of their duties, a premises licensed under Laws 1983, chapter 214.

If no director of racing security is appointed the duties of that office are assigned to the executive director. The commission may contract with outside services or personnel to assist the executive director in the performance of these duties.

Subd. 4. Veterinarian. The commission may appoint a veterinarian who must be a doctor of veterinary medicine and who serves at its pleasure in the unclassified service. The veterinarian shall, while employed by the commission, perform the following duties:

(a) supervise the formulation, administration, and evaluation of all medical tests the commission's rules require or authorize;

(b) advise the commission on all aspects of veterinary medicine relating to its powers and duties; and

(c) supervise all personnel involved in medical testing, subject to the supervision of the executive director.

If no veterinarian is appointed, the duties of that office may be assigned to the executive director. The commission may contract with outside personnel to assist the executive director in the performance of these duties.

The commission may require that a licensee reimburse it for the costs of services provided by assistant veterinarians.

Subd. 5. Other employees. Subject to applicable laws, the commission shall employ and assign duties to other officers, employees, and agents as it deems necessary to discharge its functions.

Subd. 6. Compensation. The compensation of all commission employees shall be as provided in chapter 43A.

Subd. 7. Assistance. The commission and director may request assistance from any department or agency of the state in fulfilling its duties, and shall make appropriate reimbursement for all such assistance.

History: 1983 c 214 s 4; 1985 c 212 s 4; 1Sp1985 c 10 s 83; 1986 c 444; 1989 c 334 art 1 s 6,7

240.05 LICENSES; CLASSES.

Subdivision 1. Classes. The commission may issue four classes of licenses:

(a) class A licenses, for the ownership and operation of a racetrack with horse racing on which pari-mutuel betting is conducted;

(b) class B licenses, for the sponsorship and management of horse racing on which pari-mutuel betting is conducted;

(c) class C licenses, for the privilege of engaging in certain occupations related to horse racing; and

(d) class D licenses, for the conduct of pari-mutuel horse racing by county agricultural societies or associations.

No person may engage in any of the above activities without first having obtained the appropriate license from the commission.

Subd. 2. Forms. All application forms for licenses must contain a statement to the

effect that by accepting a license from the commission a licensee consents to having property or person subject to inspection at any time by the director of racing security or by security officers designated by the commission.

Subd. 3. **Policy.** It is the intent of the legislature that authority granted by law to the commission to issue licenses not be construed as requiring the commission to issue any license.

History: 1983 c 214 s 5; 1985 c 212 s 5; 1986 c 444

240.06 RACETRACK LICENSES.

Subdivision 1. **Application.** The commission may issue one or more class A licenses, but not more than one to any one person. An application for a class A license must be on a form the commission prescribes and must be accompanied by detailed plans and specifications of the track, buildings, fences, and other improvements. The application must contain:

(a) the name and address of the applicant and, if it is a corporation, the names of all officers, directors, and shareholders of the corporation and any of its holding corporations;

(b) if required by the commission, the names of any person or persons holding directly, indirectly, or beneficially an interest of any kind in the applicant or any of its holding corporations, whether the interest is financial, administrative, policy making, or supervisory;

(c) a statement of the assets and liabilities of the applicant;

(d) an affidavit executed by the applicant setting forth that no officer, director, or other person with a present or future direct or indirect financial or management interest in the racetrack, to the best of the applicant's knowledge:

(1) is in default in the payment of an obligation or debt to the state under Laws 1983, chapter 214;

(2) has ever been convicted of a felony in a state or federal court or has a state or federal felony charge pending;

(3) is or has been connected with or engaged in any illegal business;

(4) has ever been found guilty of fraud or misrepresentation in connection with racing or breeding;

(5) has ever been found guilty of a violation of a law or rule relating to horse racing, pari-mutuel betting or any other form of gambling which is a serious violation as defined by the commission's rules; or

(6) has ever knowingly violated a rule or order of the commission or a law of Minnesota relating to racing;

(e) an irrevocable consent statement, to be signed by the applicant, which states that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleadings is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission; and

(f) an affirmative action plan establishing goals and timetables consistent with the Minnesota human rights act, chapter 363.

Subd. 2. **Hearings.** Before granting a class A license the commission shall conduct one or more public hearings in the area where the racetrack is or will be located. The commission shall also request comments on the application from the city council or town board of the city or town where the track is or will be located, or from the county board if it is to be located outside a city or town and from the appropriate regional development commission or the metropolitan council, as the case may be.

Subd. 3. Investigation. Before granting a class A license the commission shall conduct, or request the division of gambling enforcement to conduct, a comprehensive background and financial investigation of the applicant and sources of financing. The commission may charge an applicant an investigation fee to cover the cost of the investigation, and shall from this fee reimburse the division of gambling enforcement for its share of the cost of the investigation. The commission has access to all criminal history data compiled by the division of gambling enforcement on class A licensees and applicants.

Subd. 4. License issuance. If after considering the information received at the hearing or hearings and the comments requested under subdivision 2, the commission determines that the license will not adversely affect the public health, welfare, and safety, that the racetrack will be operated in accordance with all applicable laws and rules, that the license will not create a competitive situation that will adversely affect racing and the public interest, and that the applicant is financially able to operate a licensed racetrack, it may issue a class A license to the applicant. The license is effective until revoked or suspended by the commission or relinquished by the licensee.

Subd. 5. Prohibited locations. A class A license may not be issued to any location where the operation of a racetrack is prohibited by a valid local zoning ordinance. Not more than one class A license may be issued by the commission within the seven-county metropolitan area.

Subd. 5a. Additional license; metropolitan area. Notwithstanding subdivision 5, the commission may issue one additional class A license within the seven-county metropolitan area, provided that the additional license may only be issued for a facility:

(1) located more than 20 miles from any other racetrack in existence on January 1, 1987;

(2) containing a track no larger than five-eighths of a mile in circumference;

(3) used exclusively for standard-bred racing;

(4) not owned or operated by a governmental entity or a nonprofit organization; and

(5) that has a current road or highway system adequate to facilitate present and future vehicular traffic expeditiously to and from the facility.

The consideration of clause (5) shall prevail when two competing licensees are relatively equal regarding other considerations mandated by law or rule.

An application for an additional class A license within the seven-county metropolitan area may not delay or adversely affect an application for a class A license for a facility to be located outside the seven-county metropolitan area.

Subd. 6. Changes in ownership or management. If a change in the officers, directors, shareholders, or other persons with a present or future direct or indirect financial or management interest in the licensee, or a change of ownership of more than five percent of the licensee's shares is made after the application is filed or the license issued, the applicant or licensee must notify the commission of the changes within five days of their occurrence and provide the affidavit required by subdivision 1, clause (d).

Subd. 7. License suspension and revocation. The commission may revoke a class A license for a violation of law, order, or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, or for an intentional false statement made in a license application, or for a willful failure to pay any money required to be paid by Laws 1983, chapter 214, and may revoke for failure to perform material covenants or representations made in a license application.

The commission may suspend a class A license for up to one year for a violation of law, order, or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, and may suspend a class A license indefinitely if it determines that the licensee has as an officer, director, shareholder, or other person with a direct, indirect, or beneficial interest a person who is in the commission's opinion inimical to the integrity of horse racing in Minnesota or who cannot be certified under subdivision 1, clause (d).

A license revocation or suspension under this subdivision is a contested case under sections 14.57 to 14.69 of the Administrative Procedure Act, and is in addition to criminal penalties imposed for a violation of law or rule.

Subd. 8. **Work areas.** A class A licensee must provide at no cost to the division suitable work areas for commission members, officers, employees, and agents, including agents of the division of gambling enforcement, who are directed or requested by the commission to supervise and control racing at the licensed racetrack.

History: 1983 c 214 s 6; 1984 c 654 art 3 s 80; 1985 c 212 s 6; 1987 c 68 s 1; 1987 c 384 art 2 s 1; 1989 c 334 art 1 s 8,9

240.07 RACING LICENSES.

Subdivision 1. **Application.** The commission may issue one or more class B licenses for the sponsorship and management of horse racing at licensed racetracks. An application for a class B license must be on a form the commission prescribes, and must be accompanied by a bond in the principal amount of \$500,000 payable to the state of Minnesota conditioned on the licensee's payment of all fees, taxes, and other money due and payable under Laws 1983, chapter 214, including horse owner's purses and payouts on winning pari-mutuel tickets.

The application must contain:

(a) the name and address of the applicant and, if it is a corporation or association, the names of all officers, directors, and shareholders, including those of any of its holding companies;

(b) if required by the commission, the names of any person or persons holding, directly, indirectly, or beneficially, an interest of any kind in the applicant or any of its holding companies, whether the interest is financial, administrative, policy making, or supervisory;

(c) a statement of the assets and liabilities of the applicant;

(d) an affidavit of the type described in section 240.06, subdivision 1, clause (d);

(e) an irrevocable consent statement, to be signed by the applicant, which states that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleadings is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission; and

(f) an affirmative action plan establishing goals and timetables consistent with the Minnesota Human Rights Act, chapter 363.

Subd. 2. **Hearings; investigations.** Before granting an initial class B license the commission shall hold at least one public hearing on the license. Comprehensive investigations must be conducted and their costs paid in the manner prescribed by section 240.06, subdivision 3. The commission has access to all criminal history data compiled by the division of gambling enforcement on class B licensees and applicants.

Subd. 3. **License issuance.** If after considering the information received from the hearing and investigations, the commission determines that the applicant will conduct horse racing in accordance with all applicable laws and rules, will not adversely affect the public health, welfare, and safety, that the license will not create a competitive situation that will adversely affect racing and the public interest and that the applicant is fit to sponsor and manage racing, the commission may issue a class B license. The license is for a period of one year.

Subd. 4. **Renewal.** On making the same determination as in subdivision 3, the commission may renew a class B license without a hearing unless it determines a hearing to be necessary.

Subd. 5. Changes in ownership. If a change in the officers, directors, or other persons with a direct or indirect financial or management interest in the licensee, or a change of ownership of more than five percent of the licensee's shares is made after the initial application or license issuance, the applicant or licensee must notify the commission of the changes within five days of their occurrence and provide the affidavit required in subdivision 1.

Subd. 6. License suspension and revocation. Suspension, revocation, and refusal to renew a class B license is as provided in section 240.06, subdivision 7. A license suspension or revocation or a refusal to renew a class B license, is a contested case under section 14.57 to 14.69 of the Administrative Procedure Act, and is in addition to criminal penalties imposed for a violation of law or rule.

Subd. 7. Multiple licenses. A person may simultaneously hold one class A and one class B license.

History: 1983 c 214 s 7; 1987 c 384 art 2 s 1; 1989 c 334 art 1 s 10

240.08 OCCUPATION LICENSES.

Subdivision 1. Authority. The commission may issue class C occupational licenses to persons who wish to be employed in horse racing where pari-mutuel betting is conducted as:

- (a) horse owners or lessees;
- (b) jockeys or drivers;
- (c) exercise riders;
- (d) grooms;
- (e) trainers and their assistants;
- (f) pari-mutuel personnel;
- (g) security officers;

(h) other occupations the commission by rule determines require licensing to ensure the integrity of horse racing in Minnesota.

Subd. 2. Application. An application for a class C license must be on a form the commission prescribes and must be accompanied by an affidavit of qualification that the applicant:

- (a) is not in default in the payment of an obligation or debt to the state under Laws 1983, chapter 214;
- (b) has never been convicted of a felony in a state or federal court and does not have a state or federal felony charge pending;
- (c) is not and never has been connected with or engaged in an illegal business;
- (d) has never been found guilty of fraud or misrepresentation in connection with racing or breeding;
- (e) has never been found guilty of a violation of law or rule relating to horse racing, pari-mutuel betting or any other form of gambling which is a serious violation as defined by the commission's rules; and
- (f) has never knowingly violated a rule or order of the commission or a law of Minnesota relating to racing.

The application must also contain an irrevocable consent statement, to be signed by the applicant, which states that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleading authorized by the laws of this state. If any summons, process, or pleading is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission.

Subd. 3. Investigations. The commission shall investigate each applicant for a class

C license to the extent it deems necessary, and may request the assistance of and may reimburse the division of gambling enforcement in investigating applicants. The commission may by rule require that an applicant be fingerprinted or furnish the applicant's fingerprints. Investigations must be conducted and their costs paid in the manner prescribed by section 240.06, subdivision 3. The commission may cooperate with national and international organizations and agencies in conducting investigations. The commission may by rule provide for examining the qualifications of an applicant for the license being applied for. The commission has access to all criminal history data compiled by the division of gambling enforcement on class C applicants and licensees.

Subd. 4. License issuance and renewal. If the commission determines that the applicant is qualified for the occupation for which licensing is sought and will not adversely affect the public health, welfare, and safety or the integrity of racing in Minnesota, it may issue a class C license to the applicant. If it makes a similar finding for a renewal of a class C license it may renew the license. Class C licenses are effective for one year.

Subd. 5. Revocation and suspension. The commission may revoke a class C license for a violation of law or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, or for an intentional false statement made in a license application.

The commission may suspend a class C license for up to one year for a violation of law, order or rule.

The commission may delegate to its designated agents the authority to impose suspensions of class C licenses, and the suspension may be appealed to the commission according to its rules.

A license revocation or suspension for more than 90 days is a contested case under sections 14.57 to 14.69 of the administrative procedure act and is in addition to criminal penalties imposed for a violation of law or rule. The commission may summarily suspend a license for more than 90 days prior to a contested case hearing where it is necessary to ensure the integrity of racing. A contested case hearing must be held within 20 days of the summary suspension and the administrative law judge's report must be issued within 20 days from the close of the hearing record. In all cases involving summary suspension the commission must issue its final decision within 30 days from receipt of the report of the administrative law judge and subsequent exceptions and argument under section 14.61.

History: 1983 c 214 s 8; 1984 c 655 art 1 s 35; 1985 c 212 s 7,8; 1986 c 444; 1987 c 69 s 1; 1989 c 334 art 1 s 11

240.09 COUNTY FAIR LICENSES.

Subdivision 1. Application. The commission may issue class D licenses to county agricultural societies or associations incorporated under chapter 38 or nonprofit corporations organized under chapter 317A in existence and operating fairs on April 21, 1951, to conduct and manage, on their own fairgrounds, horse racing on which pari-mutuel betting is conducted. An application for a class D license must be on a form the commission prescribes and must be accompanied by a certified copy of a resolution of the county board of the county where racing is to be conducted stating that it has reviewed the license application and does not object to it. An application for a class D license must be accompanied by detailed plans and specifications of the track, buildings, fences, and other improvements.

Subd. 2. Occupational licenses. A person who participates in the management or conduct of horse racing or pari-mutuel betting for a county fair holding a class D license who is in an occupation listed in section 240.08, subdivision 1, or the rules of the commission must have a class C license from the commission except for active members, as defined in section 349.12, of nonprofit organizations who act without compensation as concession workers or pari-mutuel clerks.

Subd. 3. Hearing. Before granting an initial class D license, the commission must

commission or be reviewed by it on its own initiative. The commission may provide for appeals to be heard by less than a quorum of the commission. A hearing on a penalty imposed by a board of stewards must be granted on request.

Subd. 3. Procedural powers. A board of stewards has the authority to administer oaths, issue subpoenas, order the production of documents and other evidence, and regulate the course of hearings before it, according to the commission's rules. Hearings held by a board of stewards are not subject to the provisions of the Administrative Procedure Act except those provisions which the commission by rule makes applicable.

Subd. 4. Rules. In addition to rules under subdivision 3, the commission may promulgate rules governing the qualifications, appointment, approval, authority, removal, and compensation of stewards.

Subd. 5. Costs. The commission may require that a licensee reimburse it for the costs of providing a state-paid steward or stewards to supervise racing at the licensee's racetrack.

Subd. 6. Compensation. The total compensation of stewards who are employees of the commission must be commensurate with the compensation of stewards who are not commission employees.

History: 1983 c 214 s 16; 1985 c 212 s 17,18; 1985 c 248 s 39; 1986 c 444; 1987 c 69 s 2; 1989 c 141 s 9

240.17 LOCAL OPTION.

Subdivision 1. Cities. An issuance of a class A license for a location in a city is not effective until it has been approved by a majority vote of the city council. Failure to act on a license within 30 days of its referral to a city council by the commission constitutes approval.

Subd. 2. Towns. An issuance of a class A license for a location in a town is not effective until it has been approved by a majority vote of the town board. Failure to act on a license within 30 days of its referral to the town board by the commission constitutes approval.

Subd. 3. Unorganized territory. An issuance of a class A license for a location in unorganized territory is not effective until it has been approved by a majority vote of the county board. Failure to act on a license within 30 days of its referral to the county board by the commission constitutes approval.

History: 1983 c 214 s 17

240.18 BREEDERS' FUND.

The commission shall establish a Minnesota breeders' fund with the money paid to it under section 240.15, subdivision 1. The commission, after paying the current costs of administering the fund, shall apportion the remaining net proceeds into categories corresponding with the various breeds of horses which are racing at licensed Minnesota racetracks in proportion to each category's contribution to the fund and distribute the available net proceeds in each category as follows:

(1) With respect to available money apportioned in the thoroughbred and quarter-horse categories, 20 percent must be expended as grants for equine research and related education at public institutions of post-secondary learning within the state.

(2) After deducting the amount for paragraph (1), the balance of the available proceeds in each category may be expended by the commission to:

(a) supplement purses for races held exclusively for Minnesota-bred or Minnesota-foaled horses, and supplement purses for Minnesota-bred or Minnesota-foaled horses racing in nonrestricted races in that category;

(b) pay breeders' or owners' awards to the breeders or owners of Minnesota-bred horses in that category which win money at licensed racetracks in the state; and

(c) provide other financial incentives to encourage the horse breeding industry in Minnesota.

(3) With respect to the available money apportioned in the standardbred category, 20 percent must be expended as follows:

(a) one-half of that amount to supplement purses for standardbreds at non-pari-mutuel racetracks in the state;

(b) one-fourth of that amount for the development of non-pari-mutuel standardbred tracks in the state; and

(c) one-fourth of that amount as grants for equine research and related education at public institutions of post-secondary learning in the state.

(4) After deducting the amount for paragraph (3), the balance of the available proceeds in the standardbred category must be expended by the commission to:

(a) supplement purses for races held exclusively for Minnesota-bred and Minnesota-foaled standardbreds;

(b) pay breeders or owners awards to the breeders or owners of Minnesota-bred standardbreds which win money at licensed racetracks in the state; and

(c) provide other financial incentives to encourage the horse breeding industry in Minnesota.

The commission shall adopt rules governing the distribution of the fund. The commission may establish advisory committees to advise it on the distribution of money under this section, provided that the members of an advisory committee shall serve without compensation.

History: 1983 c 214 s 18; 1984 c 502 art 14 s 2; 1985 c 212 s 19; 1988 c 696 s 10

240.19 CONTRACTS.

The commission shall by rule require that all contracts entered into by a class A, class B, or class D licensee for the provision of goods or services, including concessions contracts, be subject to commission approval. The rules must require that the contract include an affirmative action plan establishing goals and timetables consistent with the Minnesota Human Rights Act, chapter 363. The commission may require a contract holder to submit to it documents and records the commission deems necessary to evaluate the contract.

History: 1983 c 214 s 19

240.20 APPEALS.

Appeals from a decision of the commission must be made in the manner prescribed by sections 14.63 to 14.68.

History: 1983 c 214 s 20

240.21 RIGHT OF INSPECTION.

The commission and its representatives, including representatives of the division of gambling enforcement, have the right to inspect the licensed premises of a licensee and to examine the licensee's books and other records at any time without a search warrant.

History: 1983 c 214 s 21; 1986 c 444; 1989 c 334 art 1 s 13

240.22 FINES.

The commission shall by rule establish a graduated schedule of civil fines for violations of laws related to horse racing or of the commission's rules. The schedule must include minimum and maximum fines for each violation and be based on and reflect the culpability, frequency and severity of the violator's actions. The commission may impose a fine from this schedule on a licensee for a violation of those rules or laws relating to horse racing. The fine is in addition to any criminal penalty imposed for the same violation. Fines imposed by the commission must be paid to the commission and forwarded to the state treasurer for deposit in the general fund. A fine in excess of \$2,000 is a contested case under the administrative procedure act.

History: 1983 c 214 s 22; 1985 c 212 s 20; 1987 c 69 s 3

240.23 RULEMAKING AUTHORITY.

The commission has the authority, in addition to all other rulemaking authority granted elsewhere in Laws 1983, chapter 214, to promulgate rules governing:

- (a) the conduct of horse races held at licensed racetracks in Minnesota, including but not limited to the rules of racing, standards of entry, operation of claiming races, filing and handling of objections, carrying of weights, and declaration of official results;
- (b) wire communications between the premises of a licensed racetrack and any place outside the premises;
- (c) information on horse races which is sold on the premises of a licensed racetrack;
- (d) liability insurance which it may require of all class A, class B, and class D licensees;
- (e) the auditing of the books and records of a licensee by an auditor employed or appointed by the commission;
- (f) emergency action plans maintained by licensed racetracks and their periodic review;
- (g) safety, security, and sanitation of stabling facilities at licensed racetracks;
- (h) entry fees and other funds received by a licensee in the course of conducting racing which the commission determines must be placed in escrow accounts; and
- (i) any other aspect of horse racing or pari-mutuel betting which in its opinion affects the integrity of racing or the public health, welfare, or safety.

Rules of the commission are subject to chapter 14, the Administrative Procedure Act.

History: 1983 c 214 s 23

240.24 MEDICATION.

Subdivision 1. Rules. The commission shall make and enforce rules governing medication and medical testing for horses running at licensed racetracks. The rules must provide that no medication, as the commission defines that term by rule, may be administered to a horse within 48 hours of a race it runs at a licensed racetrack. The rules must also provide that no horse participating in a race shall carry in its body any substance foreign to the natural horse. The commission shall by rule establish the qualifications for laboratories used by it as testing laboratories to enforce its rules under this section.

Subd. 2. Exception. Notwithstanding subdivision 1, the commission by rule shall allow the use of: (1) topical external applications that do not contain anesthetics or steroids; (2) food additives; (3) Furosemide or other pulmonary hemostatic agents if the agents are administered under the visual supervision of the veterinarian or assistant veterinarian employed by the commission; and (4) nonsteroidal anti-inflammatory drugs, provided that the test sample does not contain more than three micrograms of the substance or metabolites thereof per milliliter of blood plasma. For purposes of this clause, "test sample" means any bodily substance including blood, urine, saliva, or other substance as directed by the commission, taken from a horse under the supervision of the commission veterinarian and in such manner as prescribed by the commission for the purpose of analysis.

The commission shall adopt emergency rules to implement the provisions of this subdivision.

Subd. 3. Fees. The commission shall establish by rule a fee or schedule of fees to recover the costs of medical testing of horses running at racetracks licensed by the commission. Fees charged for the testing of horses shall cover the cost of the medical testing laboratory. Fee receipts shall be deposited in the state treasury and credited to the general fund.

History: 1983 c 214 s 24; 1985 c 211 s 2; 1985 c 212 s 21; 1Sp1985 c 10 s 85; 1987 c 69 s 4,5

240.25 PROHIBITED ACTS.

Subdivision 1. **Illegal bets.** No person may place or accept a bet as defined in section 609.75 on or off the premises of a licensed racetrack other than a bet made with an approved pari-mutuel system.

Subd. 2. **Off-track bets.** No person shall:

(1) for a fee, directly or indirectly, accept anything of value from another to be transmitted or delivered for wager in any licensed pari-mutuel system of wagering on horse races, or for a fee deliver anything of value which has been received outside of the enclosure of a licensed racetrack holding a race meet licensed under this chapter, to be placed as wagers in the pari-mutuel system of wagering on horse racing within the enclosure; or

(2) give anything of value to be transmitted or delivered for wager in any licensed pari-mutuel system of wagering on horse races to another who charges a fee, directly or indirectly, for the transmission or delivery.

Subd. 3. **Influencing races.** No person may influence or attempt to influence a horse race by:

(a) making threats;

(b) offering anything of value to a person involved in the conduct of a race in return for that person's committing an illegal act or failing to perform a duty; or

(c) conniving with or seeking or having an understanding or agreement with a person involved in the conduct of a race to commit an illegal act or to fail to perform a duty.

Subd. 4. **Tampering with horses.** No person may:

(a) on the premises of a licensed racetrack use, possess, or knowingly assist another person in using a battery or buzzer, electrical or mechanical, or other device or appliance, which can be used to affect a horse's racing condition or performance, other than an ordinary whip;

(b) affect or attempt to affect the racing condition or performance of a horse at a race or workout through the use of a drug or medication in violation of the commission's rules; or

(c) use any method, injurious or otherwise, to affect a horse's racing condition or performance at a race or workout in violation of the commission's rules.

Subd. 5. **Reporting of information.** A person licensed by the commission who has information regarding a violation of any provision of this section must report that information promptly to the commission or an agent of the commission.

Subd. 6. **False statement.** No person may knowingly make a false statement in a document or application required to be submitted to the commission or in a sworn statement to or testimony before the commission.

Subd. 7. **Altered tickets.** No person may knowingly offer for payment any pari-mutuel ticket which has been altered or any counterfeit or forged pari-mutuel ticket.

History: 1983 c 214 s 25; 1983 c 216 art 2 s 17 subd. 2; 1985 c 212 s 22,23; 1986 c 444; 1986 c 467 s 1

240.26 PENALTIES.

Subdivision 1. **Felonies.** A violation of the prohibition against accepting a bet in section 240.25, subdivision 1, a violation of section 240.25, subdivision 2, clause (1), and a violation of section 240.25, subdivisions 3, 4, and 7 is a felony.

Subd. 2. **Gross misdemeanors.** A violation of the prohibition against placing a bet in section 240.25, subdivision 1, a violation of section 240.25, subdivision 2, clause (2), and a violation of section 240.25, subdivisions 5 and 6, is a gross misdemeanor.

Subd. 3. **Misdemeanors.** A violation of any other provision of Laws 1983, chapter 214 or of a rule or order of the commission for which another penalty is not provided is a misdemeanor.

Subd. 4. **Prosecution by attorney general.** Notwithstanding section 388.051, subdivision 1, paragraph (c), the attorney general has primary jurisdiction to prosecute felony violations of section 240.25, subdivisions 2, 3, 4, and 7, and felony violations of section 240.25, subdivision 1, when the bet was allegedly accepted on the premises of a licensed racetrack.

History: 1983 c 214 s 26; 1985 c 211 s 3; 1986 c 467 s 2,3

240.27 EXCLUSION OF CERTAIN PERSONS.

Subdivision 1. **Persons excluded.** The commission may exclude from any and all licensed racetracks in the state a person who:

- (a) has been convicted of a felony under the laws of any state or the United States;
- (b) has had a license suspended, revoked, or denied by the commission or by the racing authority of any other jurisdiction; or
- (c) is determined by the commission, on the basis of evidence presented to it, to be a threat to the integrity of racing in Minnesota.

Subd. 2. **Hearing; appeal.** An order to exclude a person from any or all licensed racetracks in the state must be made by the commission at a public hearing of which the person to be excluded must have at least five days' notice. If present at the hearing, the person must be permitted to show cause why the exclusion should not be ordered. An appeal of the order may be made in the same manner as other appeals under section 240.20.

Subd. 3. **Notice to racetracks.** Upon issuing an order excluding a person from any or all licensed racetracks, the commission shall send a copy of the order to the excluded person and to all racetracks named in it, along with other information as it deems necessary to permit compliance with the order.

Subd. 4. **Prohibitions.** It is a gross misdemeanor for a person named in an exclusion order to enter, attempt to enter, or be on the premises of a racetrack named in the order while it is in effect, and for a person licensed to conduct racing or operate a racetrack knowingly to permit an excluded person to enter or be on the premises.

Subd. 5. **Exclusions by racetrack.** The holder of a license to conduct racing may eject and exclude from its premises any licensee or any other person who is in violation of any state law or commission rule or order or who is a threat to racing integrity or the public safety. A person so excluded from racetrack premises may appeal the exclusion to the commission and must be given a public hearing on the appeal upon request. At the hearing the person must be given the opportunity to show cause why the exclusion should not have been ordered. If the commission after the hearing finds that the integrity of racing and the public safety do not justify the exclusion, it shall order the racetrack making the exclusion to reinstate or readmit the person. An appeal of a commission order upholding the exclusion is governed by section 240.20.

History: 1983 c 214 s 27; 1986 c 444

240.28 CONFLICT OF INTEREST.

Subdivision 1. **Financial interest.** No person may serve on the commission or be employed by the division who has an interest in any corporation, association, or partnership which holds a license from the commission or which holds a contract to supply goods or services to a licensee or at a licensed racetrack, including concessions contracts. No member of the commission or employee of the division may own, wholly or in part, or have an interest in a horse which races at a licensed racetrack in Minnesota. No member of the commission or employee of the division may have a financial interest in or be employed in a profession or business which conflicts with the performance of duties as a member or employee.

Subd. 2. **Betting.** No member of the commission or employee of the division may bet or cause a bet to be made on a race at a licensed racetrack while serving on the commission or being employed by the division. No person appointed or approved by the director as a steward may bet or cause a bet to be made at a licensed racetrack during

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a racing meeting at which the person is serving as a steward. The commission shall by rule prescribe such restrictions on betting by its licensees as it deems necessary to protect the integrity of racing.

Subd. 3. Violation. A violation of subdivisions 1 and 2 is grounds for removal from the commission or termination of employment. A bet made directly or indirectly by a licensee in violation of a rule made by the commission under subdivision 2 is grounds for suspension or revocation of the license.

History: 1983 c 214 s 28; 1986 c 444; 1989 c 334 art 1 s 14

240.29 REQUIRED RACES.

Each holder of a class B or D license must declare and schedule, on each racing day it conducts, except for televised racing days, at least one race which:

(a) before January 1, 1988, is limited to horses which are Minnesota-bred, Minnesota-foaled, or Minnesota-owned, and

(b) on and after January 1, 1988, is limited to horses which are Minnesota-bred or Minnesota-foaled.

If there is not a sufficient number of such horses entered in the declared race to make up an adequate slate of entries, another similarly restricted race may be substituted.

The commission shall by rule define "Minnesota-bred," "Minnesota-foaled," and "Minnesota-owned."

History: 1983 c 214 s 29; 1985 c 212 s 24; 1989 c 141 s 10