

RACING AND GAMING COMMISSION[491]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 3, “Fair Information Practices,” Chapter 5, “Track, Gambling Structure, and Excursion Gambling Boat Licensees’ Responsibilities,” Chapter 6, “Occupational and Vendor Licensing,” Chapter 8, “Wagering, Simulcasting and Advance Deposit Wagering,” Chapter 10, “Thoroughbred and Quarter Horse Racing,” Chapter 11, “Gambling Games,” and Chapter 12, “Accounting and Cash Control,” Iowa Administrative Code.

Item 1 adds records that are to be considered confidential and makes a corrective change in subparagraph 3.13(2)“f”(3).

Item 2 clarifies that advanced deposit wagering licensees need to follow the same rule as other licensees.

Item 3 clarifies that all remodeling associated with the licensed facility needs to be submitted for approval.

Item 4 adds a provision for exceptions to be approved.

Item 5 clarifies that a list of the person(s) hired should be filed before the person(s) begins working.

Item 6 lowers minimum payoff for win, place and show wagers.

Item 7 removes allowance for coupled entries.

Item 8 clarifies requirements for jockey clothing.

Item 9 clarifies disqualifications.

Item 10 changes the amount of time allowed to declare overweight limit for jockeys.

Item 11 removes allowance for coupling.

Item 12 clarifies that a riding suspension relates to a careless riding infraction and that each trial race ridden by a jockey is counted as one race for the purpose of applying suspension days.

Item 13 allows a trainer to enter a horse to race without papers on file if certain other conditions are met.

Item 14 removes allowance for coupled entries.

Item 15 clarifies eligibility for in-foal fillies.

Item 16 clarifies that prescriptions for race horses shall only be written and dispensed by licensed veterinarians.

Item 17 specifies labeling requirements for prescription medications.

Item 18 clarifies that prescription medications must be prescribed in compliance with certain requirements.

Items 19 and 20 declare that practicing veterinarians shall not have contact with an entered horse to race within 24 hours of the race except in the case of emergency.

Item 21 specifies which software must be tested and secured for table games.

Item 22 imposes a minimum payout in instances where an operator sets an aggregate payback limit.

Item 23 allows for the game Big Six.

Item 24 removes the requirement for each facility to provide certain names with regard to alarm system access.

Any person may make written suggestions or comments on the proposed amendments on or before November 28, 2017. Written material should be directed to the Racing and Gaming Commission, 1300

Des Moines Street, Suite 100, Des Moines, Iowa 50309; or irgc@iowa.gov. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

A public hearing will be held on November 28, 2017, at 9 a.m. in the office of the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 99D and 99F as amended by 2017 Iowa Acts, House File 462.

The following amendments are proposed.

ITEM 1. Amend subrule 3.13(2) as follows:

3.13(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. to e. No change.

f. Those portions of commission staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by commission staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) and (2) No change.

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2 and 17A.3)

g. and h. No change.

i. Information gathered during an investigation during pendency of the investigation or information requested for inspection by the commission or a representative of the commission. (Iowa Code sections 99D.7(8) ~~and~~, 99D.19(3), 99F.4(6) and 99F.12(4))

j. Personnel files and employee records. Information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

k. Security plans, surveillance system plans and records, ~~and~~ network audits, internal controls, and compliance records of the licensees that are made available to the commission that would enable law violators to avoid detection and give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2, 17A.3, ~~and~~ 22.7(18), 99D.19(3) and 99F.12(4).)

l. Promotional play receipts records and marketing expenses. (Iowa Code sections 99D.19(3) and 99F.12(4))

m. Patron and customer records. (Iowa Code sections 99D.19(3) and 99F.12(4))

n. Supplemental schedules to the certified audit that are obtained by the commission in connection with the annual audit under Iowa Code sections 99D.20 and 99F.13. (Iowa Code sections 99D.19(3) and 99F.12(4))

ITEM 2. Amend paragraph 5.4(12)“a,” introductory paragraph, as follows:

a. The holder of a license to operate gambling games and the holder of a license to accept simulcast wagering shall adopt and implement policies and procedures designed to:

ITEM 3. Amend subrule 5.4(15) as follows:

5.4(15) Remodeling. For any ~~change to be made~~ construction to the facility ~~itself directly associated with racing or gaming~~ or change in the structure of the boat itself, the licensee must first submit plans to and receive the approval of the administrator.

ITEM 4. Amend subrule 5.5(11) as follows:

5.5(11) Designated wagering area. The designated wagering area is a rectangular area within a minimum of five feet from the front and from either side of a stationary wagering window or self-service wagering device, not otherwise obstructed by a wall or other barrier. The facility shall either section

off or clearly delineate the floor of the area and post a sign near the area, which is visible to patrons approaching the area, denotes the wagering area and specifies that the wagering area is not accessible to persons under the age of 21. The designation applies only when the wagering window or device is open to transact wagering. A floor plan identifying the area shall be filed with the administrator for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation. Exceptions to this rule must be approved in writing by the commission.

ITEM 5. Amend subrule 6.9(2) as follows:

6.9(2) When a facility hires a person who is already in possession of a current occupational license, a list of the person(s) hired must be filed weekly with the local commission office before the person(s) begins working. The list should contain the license number, name, social security number, and birth date of each person hired.

ITEM 6. Amend subrule 8.2(20) as follows:

8.2(20) Minimum wager and payoff. The minimum wager to be accepted by any licensed facility for win, place and show wagering shall be \$2. The minimum payoff on a \$2 wager shall be ~~\$2.20~~ \$2.10. For all other wagers, the minimum wager to be accepted by any licensed facility shall be \$1. The minimum payoff for a \$1 wager shall be ~~\$1.10~~ \$1.05. Any deviation from these minimums must be approved by the administrator. In cases where a minus pool occurs, the facility is responsible for the payment of the minimum payoff and no breakage shall be incurred from that pari-mutuel pool.

ITEM 7. Amend subparagraph **10.4(4)“d”(3)** as follows:

(3) Fouls.

1. No change.

~~2. Coupled entry. When a horse is disqualified under 10.4(4)“d”(3)“1” and that horse was a part of a coupled entry and, in the opinion of the stewards, the act which led to the disqualification served to unduly benefit the other part of the coupled entry, the stewards may disqualify the other part of the entry.~~

~~3. 2. Jockey guilty of foul. The stewards may discipline any jockey whose horse has been disqualified as a result of a foul committed during the running of a race.~~

ITEM 8. Amend subparagraph **10.5(2)“j”(1)** as follows:

(1) Clothing and appearance. A jockey shall wear the racing colors furnished by the owner ~~of~~ facility with the of the horse the jockey is to ride, plus solid white riding pants, top boots, and a number on the right shoulder on the saddlecloth corresponding to the mount's number given as shown on the saddlecloth and in the racing daily program. ~~A jockey shall maintain a neat and clean appearance while engaged in duties on facility premises and shall wear a clean jockey costume, cap, helmet (approved by commission), a jacket of silk or waterproof fabric, breeches, and top boots. The Jockeys' Guild logo, the Permanently Disabled Jockeys Fund logo, or the jockey's name may be displayed on the solid white pants. The size of the display of the jockey's name on the solid white pants is limited to a maximum of 32 square inches on each thigh of the pants on the outer sides between the hip and the knee, and 10 square inches on the rear at the base of the spine. A jockey shall not wear advertising or promotional material of any kind on clothing during a race, unless the following criteria are met:~~

1. A maximum of 32 square inches on each thigh of the pants on the outer side between the hip and knee and 10 square inches on the rear of the pant at the waistline at the base of the spine.

2. A maximum of 24 square inches on boots and leggings on the outside of each nearest the top of the boot.

3. A maximum of 6 square inches on the front center of the neck area (on a turtleneck or other undergarment).

4. Such advertising or promotional material does not compete with, conflict with, or infringe upon any current sponsorship agreement to the racing association race or race meet.

5. The stewards, at their discretion, may disallow any advertising that is not in compliance with this rule, any other rules of racing, or any advertising the stewards deem to be inappropriate, indecent, in poor taste, or controversial.

ITEM 9. Amend subparagraph **10.5(2)“m”(2)** as follows:

(2) The offending horse may be disqualified if, in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful, or the result of careless riding. When a horse causes interference under this rule, every horse in the same race entered by the same owner or trainer who benefited from the interference may be disqualified at the discretion of the stewards.

ITEM 10. Amend paragraph **10.5(2)“r,”** introductory paragraph, as follows:

r. Overweight limited. No jockey may weigh more than two pounds or, in the case of inclement weather, four pounds over the weight the horse is assigned to carry unless with consent of the owner or trainer and unless the jockey has declared the amount of overweight to the clerk of scales at least 45 60 minutes before the scheduled post time of the first race. However, a horse shall not carry more than seven pounds overweight, except in inclement weather when nine pounds shall be allowed. The overweight shall be publicly announced and posted in a conspicuous place both prior to the first race of the day and before the running of the race.

ITEM 11. Amend subparagraph **10.5(2)“r”(4)** as follows:

(4) Underweight. When any horse places first, second, or third in a race, ~~or is coupled in any form of multiple exotic wagering,~~ and thereafter the horse's jockey is weighed in short by more than two pounds of the weight of which the jockey was weighed out, the mount may be disqualified and all purse moneys forfeited.

ITEM 12. Amend subparagraph **10.5(2)“v”(4)** as follows:

(4) Riding suspensions of ten days or less and participating in designated races. The stewards appointed for a race meeting shall immediately, prior to the commencement of that meeting, designate the stakes, futurities, futurity trials, or other races in which a jockey will be permitted to compete, notwithstanding the fact that such jockey is ~~technically~~ under suspension for ten days or less for a careless riding infraction at the time the designated race is to be run.

1. to 3. No change.

4. A day in which a jockey participated in one designated race while on suspension shall count as a suspension day. If a jockey rides in more than one designated race on a race card while on suspension, the day shall not count as a suspension day. ~~Designated trials~~ Each designated trial race for a stake shall be considered one race.

ITEM 13. Amend subparagraph **10.6(1)“b”(2)** as follows:

(2) The horse's breed registration certificate is not on file with the racing secretary, or horse identifier, ~~except in the case of a quarter horse where the racing secretary has submitted the certificate to the breed registry for correction or transfer of ownership.~~ The stewards may, in their discretion, waive the requirement ~~in nonclaiming races provided the registration certificate is in the possession of another board of stewards, a copy of the registration certificate is on file with the racing secretary; and the horse is otherwise properly identified.~~ For claiming races, if the claimed horse has been approved by the stewards to run without the registration certificate on file in the racing office, then the registration certificate must be provided to the racing office within seven business days for transfer to the new owner before claiming funds will be approved for transfer by the stewards.

ITEM 14. Amend subrule 10.6(11) as follows:

10.6(11) Racing numbers.

a. No change.

~~*b. Coupled entries.* In the case of a coupled or other entry that includes more than one horse, each horse in the entry shall carry the same number, with a different distinguishing letter following the number. As an example, two horses in the same entry shall be entered as 1 and 1-A.~~

~~*c. b. Field horses.* In a combined field of horses, each horse in the field shall carry a separate number.~~

ITEM 15. Adopt the following **new** paragraph **10.6(18)“l”**:

l. Eligibility of in-foal filly or mare. An in-foal filly or mare shall be eligible to be entered into a claiming race only if the following conditions are fulfilled:

- (1) Full disclosure of such fact is on file with the racing secretary and such information is posted in the secretary's office;
- (2) The stallion service certificate has been deposited with the racing secretary's office before the horse runs;
- (3) All payments due for the service in question and for any live progeny resulting from that service are paid in full;
- (4) The release of the stallion service certificate to the successful claimant at the time of claim is guaranteed; and
- (5) The cutoff for racing is 150 days of gestation.

ITEM 16. Amend subparagraph **10.7(1)“d”(2)**, introductory paragraph, as follows:

(2) No person except a veterinarian shall have in the person's possession any prescription drug. Prescriptions shall be written or dispensed or both only by duly licensed veterinarians in the context of a valid veterinarian-client-patient relationship and based upon a specific medical diagnosis. However, a person may possess a noninjectable prescription drug for animal use if:

ITEM 17. Amend subparagraph **10.7(1)“d”(4)** as follows:

(4) No veterinarian or any other person shall dispense, sell, or furnish any feed supplement, tonic, veterinary preparation, medication, or any other substance that can be administered or applied to a horse by any route, to any person within the premises of the facility unless ~~there is a label specifying the name of the substance dispensed, the name of the dispensing person, the name of the horse or horses for which the substance is dispensed, the purpose for which said substance is dispensed, the dispensing veterinarian's recommendations for withdrawal before racing (if applicable), and the name of the person to whom dispensed,~~ it is labeled in conformance with this rule or is otherwise labeled as required by law. A substance does not comply with this rule if the label is missing, illegible, tampered with, or altered.

1. Labels for all substances must include the name of the substance dispensed; the name of the dispensing person; the name of the horse or horses for which the substance is dispensed; the purpose for which the substance is dispensed; the dispensing veterinarian's recommendations for withdrawal before racing, if applicable; and the name of the person to whom dispensed.

2. Labels for medications or other prescribed substances must include all items from subparagraph 10.7(1) “d”(1) and, in addition, the date the prescription was filled; the name of the trainer or owner of the horse for whom the product was dispensed; dose; dosage; route of administration; duration of treatment of the prescribed product; and expiration date.

ITEM 18. Adopt the following new subparagraph **10.7(1)“d”(7)**:

(7) Any drug or medication for horses which is used or kept on facility premises and which requires a prescription must be prescribed in compliance with applicable state law and regulations by a veterinarian who is duly licensed by the commission, the Iowa veterinary board, or the state in which the horse was located at the time of the examination, diagnosis and prescription.

ITEM 19. Rescind paragraph **10.7(4)“d”** and adopt the following new paragraph in lieu thereof:

d. Practicing veterinarians shall not have contact with an entered horse within 24 hours before the scheduled post time of the race in which the horse is scheduled to compete unless approved by the state veterinarian except in the case of emergency. In case of an emergency, the state veterinarian must be notified prior to entering the stall. A documented attempt to contact the state veterinarian prior to entering the stall shall comply with the notification requirements pursuant to this rule. Any unauthorized contact may result in the horse's being scratched from the race in which it was scheduled to compete and may result in further disciplinary action by the stewards.

ITEM 20. Rescind paragraph **10.7(4)“h.”**

ITEM 21. Rescind subrule 11.7(1) and adopt the following new subrule in lieu thereof:

11.7(1) Devices that determine or affect the outcome of wagers or are used in the collection of wagers on table games are subject to the requirements of rule 491—11.4(99F) and subrule 11.5(3). Removable storage media shall be sealed with tamper-evident tape by a commission representative prior to its implementation.

ITEM 22. Rescind subrule 11.7(2) and adopt the following **new** subrule in lieu thereof:

11.7(2) Wagers.

- a.* All wagers at table games shall be made by placing gaming chips or coins on the appropriate areas of the layout.
- b.* Information pertaining to the minimum and maximum allowed at the table shall be posted on the game.
- c.* A facility may impose an aggregate payout limit on a per-wager basis. The aggregate may only affect the highest award per wager and shall not be less than 85 percent of the maximum available payout. Maximum available payout shall be calculated using the maximum wager as posted on the game multiplied by the payout of the highest award offered at the game. Additional restrictions may be imposed on aggregate payout limits, as determined by the administrator. Aggregate payout limits shall be posted on the game.
- d.* Any other fee collected to participate in a table game shall be subject to the wagering tax pursuant to Iowa Code section 99F.11.

ITEM 23. Adopt the following **new** subrule 11.7(6):

11.7(6) Big six.

- a.* Wagers must be made before the spin of the wheel.
- b.* Each player shall be responsible for the correct positioning of the player's wager on the layout regardless of whether that player is assisted by the dealer.
- c.* The wheel may be spun in either direction, but must complete at least three revolutions to be considered a valid spin.
- d.* Each wager shall be settled strictly in accordance with its position on the layout when the wheel stops with the winning indicator in a compartment of the wheel. In accordance with subrule 11.4(3), the rules shall include procedures addressing wheel stops that land between two compartments of the wheel. These procedures shall be posted at the game.

ITEM 24. Amend subrule 12.4(3) as follows:

12.4(3) Each facility shall place on file with the commission the names of all persons authorized to enter the cashier's cage; and persons who possess the combination or keys to the locks securing the entrance to the cage; ~~and persons who possess the ability to operate alarm systems.~~