

**RACING AND GAMING COMMISSION[491]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 99D.7, the Racing and Gaming Commission hereby amends Chapter 8, “Wagering and Simulcasting,” Iowa Administrative Code.

This amendment establishes a new rule for advance deposit wagering to comply with 2011 Iowa Acts, Senate File 526, portions of which were effective July 1, 2011.

Notice of Intended Action including this amendment was published in the Iowa Administrative Bulletin as **ARC 9808B** on October 19, 2011. A public hearing was held on November 8, 2011, and no comments were received. This rule making was reviewed by the Administrative Rules Review Committee on November 1, 2011.

The Commission meets every six weeks; to provide prompt implementation of this rule and the enabling statute, the Commission adopted this rule at its November 10, 2011, meeting, prior to the completion of the Notice period. Pursuant to Iowa Code section 17A.4(3), the Commission finds that notice and public participation are impracticable and contrary to the public interest because of the need to promptly implement the requirements of 2011 Iowa Acts, Senate File 526.

The Commission finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendment should be waived and the amendment made effective upon filing with the Administrative Rules Coordinator. This amendment confers a benefit to the public by implementing the changes to be effective immediately at Prairie Meadows and to comply with 2011 Iowa Acts, Senate File 526.

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

This amendment is intended to implement Iowa Code chapter 99D.

This amendment became effective November 15, 2011.

The following amendment is adopted.

Adopt the following **new** rule 491—8.6(99D):

**491—8.6(99D) Advance deposit wagering.**

**8.6(1) Definitions.**

“*Account*” means an account approved by the commission for advance deposit wagering with a complete record of credits, wagers and debits established by a licensee account holder and managed by a licensee or ADWO.

“*Advance deposit wagering*” means a method of pari-mutuel wagering in which an individual may establish an account, deposit money into the account, and use the account balance to pay for pari-mutuel wagering.

“*Advance deposit wagering center*” means an actual location, equipment, and staff of a licensee, ADWO, or both involved in the management, servicing and operation of advance deposit wagering for the licensee.

“*Advance deposit wagering operator*” or “*ADWO*” means an advance deposit wagering operator licensed by the commission who has entered into an agreement with the licensee of the horse racetrack in Polk County and the Iowa Horsemen’s Benevolent and Protective Association to provide advance deposit wagering.

“*Credits*” means all positive inflows of money to an account.

“*Debits*” means all negative outflow of money from an account.

“*Deposit*” means a payment of money into an account.

“*Licensee*” means a horse racetrack located in Polk County operating under a license issued by the commission.

“*Licensee account holder*” means any individual at least 21 years of age who successfully completed an application and for whom the licensee or ADWO has opened an account. “Licensee account holder”

does not include any corporation, partnership, limited liability company, trust, estate or other formal or nonformal entity.

*“Proper identification”* means a form of identification accepted in the normal course of business to establish that the person making a transaction is a licensee account holder.

*“Secure personal identification code”* means an alpha-numeric character code provided by a licensee account holder as a means by which the licensee or ADWO may verify a wager or account transaction as authorized by the licensee account holder.

*“Source market fee”* or *“host fee”* means the part of a wager made on any race by a person who is a licensee account holder that is returned to the licensee and the Iowa Horsemen’s Benevolent and Protective Association pursuant to the terms of a negotiated agreement as required by these rules.

*“Withdrawal”* means a payment of money from an account by the licensee or ADWO to the licensee account holder when properly requested by the licensee account holder.

**8.6(2) Authorization to conduct advance deposit wagering.**

a. A licensee may request authorization from the commission to conduct advance deposit wagering pursuant to 2011 Iowa Acts, Senate File 526, section 7, and these rules. As part of the request, the licensee shall submit a detailed plan of how its advance deposit wagering system would operate. The commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system’s operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request.

b. The commission may conduct investigations or inspections or request additional information from the licensee as the commission deems appropriate in determining whether to allow the licensee to conduct advance deposit wagering.

c. The licensee shall establish and manage an advance deposit wagering center.

d. The commission may issue an ADWO license to an entity that enters into an agreement with the commission, licensee, and the Iowa Horsemen’s Benevolent and Protective Association. The terms of any ADWO’s license shall include but not be limited to:

(1) Any source market fees and host fees to be paid on any races subject to advance deposit wagering.

(2) An annual ADWO license fee in an amount to be determined by the commission.

(3) Completion of all necessary background investigations.

(4) Acceptance of wagers on live races conducted at the horse racetrack in Polk County from all of its licensee account holders.

(5) A bond or irrevocable letter of credit on behalf of the ADWO to be determined by the commission.

(6) A detailed description and certification of systems and procedures used by the ADWO to validate the identity and age of licensee account holders and to validate the legality of wagers accepted.

(7) Certification of prompt commission access to all records relating to licensee account holder identity and age in hard-copy or standard electronic format acceptable to the commission.

(8) Certification of secure retention of all records related to advance deposit wagering and accounts for a period of not less than three years or such longer period as specified by the commission.

(9) Utilization and communication of pari-mutuel wagers to a pari-mutuel system meeting all requirements for pari-mutuel systems employed by licensed racing facilities in Iowa.

e. Commission access to and use of information concerning advance deposit wager transactions and licensee account holders shall be considered proprietary, and such information shall not be disclosed publicly except as may be required pursuant to statute or court order or except as part of the official record of any proceeding before the commission. This requirement shall not prevent the sharing of this information with other pari-mutuel regulatory authorities or law enforcement agencies for investigative purposes.

f. For each advance deposit wager made for an account by telephone, the licensee or ADWO shall make a voice recording of the entire transaction and shall not accept any such wager if the voice-recording system is inoperable. Voice recordings shall be retained for not less than six months and shall be made available to the commission for investigative purposes.

**8.6(3) *Establishing an account.***

*a.* A person must have an established account in order to place advance deposit wagers. An account may be established in person at the licensee's facility or with the ADWO by mail or electronic means. For establishing an account, the application must be signed or otherwise authorized in a manner acceptable to the commission and shall include: the applicant's full legal name, principal residence address, telephone number, and date of birth and any other information required by the commission.

*b.* Each application submitted will be subject to electronic verification with respect to the applicant's name, principal residence address and date of birth by either a national, independent individual reference service company or by means of a technology which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by individual reference service companies. An applicant's social security number may be necessary for completion of the verification process and for tax reporting purposes. If there is a discrepancy between the application submitted and the information provided by the electronic verification or if no information on the applicant is available from such electronic verification, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. If these measures prove unsatisfactory, then the applicant will be contacted and given instructions as to how to resolve the matter.

*c.* The identity of a licensee account holder must be verified via electronic means or copies of other documents before the licensee account holder may place an advance deposit wager.

*d.* Each account shall have a unique identifying account number. The identifying account number may be changed at any time by the licensee or ADWO provided that the licensee or ADWO informs the licensee account holder in writing prior to the change.

*e.* The applicant shall provide the licensee or ADWO with an alpha-numeric code to be used as a secure personal identification code when the licensee account holder is placing an advance deposit wager. The licensee account holder has the right to change this code at any time.

*f.* The licensee account holder shall receive at the time the account is approved a unique account identification number; a copy of the advance deposit wagering rules and such other information and material pertinent to the operation of the account; and such other information as the licensee, ADWO or commission may deem appropriate.

*g.* The account is nontransferable.

*h.* The licensee or ADWO may close or refuse to open an account for what it deems good and sufficient reason and shall order an account closed if it is determined that information used to open an account was false or that the account has been used in violation of these rules or the licensee's or ADWO's terms and conditions.

**8.6(4) *Operation of an account.*** The ADWO shall submit operating procedures with respect to licensee account holder accounts for commission approval.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.