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## LEGAL UPDATE

Legal Services Division



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### ADMINISTRATIVE RULES REVIEW COMMITTEE MEETING — MARCH 11, 2024

**Purpose.** *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

#### **STATE RACING AND GAMING COMMISSION, Proceedings; Sports Wagering; Fantasy Sports Contests, 02/21/24 IAB, ARC 7634C, ADOPTED.**

**Background.** This rulemaking makes various changes relating to procedures and requirements for sports wagering and fantasy sports contests, including additional procedures and requirements for wagering and entry restrictions, account registration, advance deposit wagering, system testing, and service provider operating requirements. The rulemaking provides for a list of persons who are prohibited from engaging in sports wagering and fantasy sports, including coaches, athletic trainers, officials, and players. The rulemaking also clarifies the authority of a designee of the administrator of the State Racing and Gaming Commission (commission).

**Commentary.** Ms. Tina Eick, administrator of the commission, provided background information on the commission's rulemaking process and reviewed the substance of the rulemaking. Committee members expressed concern that stakeholders were not able to offer public comments to the commission. Ms. Eick explained that no one attended the public hearing on the notice of intended action, but the commission did receive comments from the public and from the committee. She further explained that the commission received additional comments after the public comment period ended and shortly before the commission was to adopt the final rules. Because the comments were received so close to final adoption, the commission felt it was too late to make additional changes to the rulemaking. She stated that the previous administrator of the commission felt the commission had addressed all of the comments received up until then. Members expressed dissatisfaction with the commission not acting on all public comments received. Members asked if a collegiate governing body such as the National Collegiate Athletic Association had commented on the rulemaking, and she responded that she was not aware of any comments from such a body.

Committee members asked what led the commission to initiate the rulemaking. Ms. Eick explained that the Governor's office asked the commission to work with the Department of Criminal Investigation (DCI) to pursue rulemaking on this matter. The commission reviewed how other states regulate this area to determine what Iowa operators were already required to do in other states so that compliance in Iowa would be workable. She explained that 38 other states have regulations with some similarity to what the commission adopted. Members stated that DCI had not handled this matter well. Mr. Nate Ristow, Administrative Rules Coordinator, clarified that the Governor's office did not ask the commission to pursue the rulemaking, but that the previous administrator of the commission had brought the matter to the Governor's office and expressed interest in implementing a better screening process for electronic betting. Mr. Ristow explained that while the Governor's office had authorized the commission to pursue the matter after the previous administrator inquired, the Governor's office did not initiate the discussion and had not received any complaints about the rulemaking until January.

Committee members stated that the rulemaking exceeded the commission's statutory authority and that the commission should have pursued legislation on this matter instead. Members asked whether certain terms in the

rulemaking, such as “direct involvement,” were defined. Ms. Eick explained that the terms were not defined in the rulemaking or in statute.

Committee members had extensive questions regarding the prohibited persons list required by the rulemaking. Ms. Eick explained that licensees would be required to check persons signing up to bet electronically against the prohibited persons list. Iowa would be the first state to require a prohibited persons list, although other states are considering it. The commission would not maintain the list. The list would be maintained by a third-party company, U.S. Integrity, using a program called Prohibet. Licensees would also have the option of maintaining their own list. The commission would only access the list in the event of a possible violation. Ms. Eick noted that U.S. Integrity does not currently have an agreement with the Big 10 athletic conference, so the University of Iowa would not be covered by Prohibet. She explained that the Big 10 was not yet comfortable providing names to U.S. Integrity. She explained that U.S. Integrity is currently offering to maintain prohibited persons lists for free, although it may not always remain free. She was unsure how much it would cost licensees to maintain their own lists. Members expressed concern that the cost of maintaining a list may be high.

Committee members noted that some athletes criminally charged with placing unlawful bets had subsequently had the charges dismissed. Members expressed concern that DCI could gain access to a prohibited persons list without a warrant and asked if this was possible. Ms. Eick stated she was unsure, but historically, if the commission has a question that is not addressed in statute, the commission seeks advice from the Attorney General’s office. Members asked what happens if a list is inaccurate. She explained that a list which meets the requirements of the rulemaking would be sufficient even if omissions are found. Members expressed concern that additional third parties may prepare lists which may be of low quality. She explained that any third party offering a prohibited persons list must be evaluated by the commission. Members expressed concern that it may not always be clear who should be on a prohibited persons list, particularly for persons with tangential connections to athletes.

**Action.** A motion for a session delay pursuant to Iowa Code section 17A.8(9) on items 8-16 of ARC 7634C carried on a 7-0 roll call vote. The effective date of these items is delayed until the adjournment of the 2025 regular session of the General Assembly.

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