

Sections 4011.24 and 4122.46 of 9 NYCRR would be amended to read as follows:

§ 4011.24. Pick-four pools.

(a) Description. A winning pick-four wager requires selection of the first-place finisher in each of four designated, consecutive contests, unless otherwise provided in this section. The [association or corporation] track operator must obtain written approval from the commission concerning the scheduling of pick-four contests and the designation of the method used. Any changes to the approved pick-four format require prior approval from the commission.

(b) Separate wager. The pick-four wager is not a parlay and has no connection or relation to the other betting pools for the respective races. The pick-four pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, quinella, trifecta, superfecta or other wagering pool.

(c) No resale. Resale of pick-four tickets from one individual to another is prohibited, shall be grounds for ejection and may be deemed illegal gambling.

(d) Clear designation. Races in which pick-four pools shall be conducted shall be clearly designated in the program and racing cards issued by the [association or corporation] track operator.

(e) Ticket design. The design of the pick-four tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

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(g) Wagering tickets and winners. If neither subdivision (h) nor subdivision (i) of this section applies, then the pick-four pool shall be apportioned, with the prior written approval of the commission following the request of the track operator offering this wager, pursuant to either paragraph (1) or (2) of this subdivision, as follows [in the following order]:

(1) If no carryover, in the following order:

(i) If no pick-four ticket is sold combining the winners of the four pick-four races, all pick-four tickets designating three winners shall be considered winning tickets and the net pool distributed equally to holders of such tickets.

[(2)] (ii) If no pick-four ticket is sold combining the winners of three such races, all pick-four tickets designating two winners shall be considered winning tickets and the net pool distributed equally to holders of such tickets.

[(3)] (iii) If no pick-four ticket is sold combining the winners of two such races, all pick-four tickets designating one winner shall be considered winning tickets and the net pool distributed equally to holders of such tickets.

[(4)] (iv) If no pick-four ticket is sold designating any winner to win in the designated pick-four races, the pick-four shall be declared off and the gross pool refunded[.]; or

(2) If carryover and no consolation payout. The net pick-four pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick-four contests, based on the official order of finish, unless otherwise provided in this section. If there are no such wagers, the net pick-four pool shall be added to the carryover; or

(3) If carryover and consolation payout. The net pick-four pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick-four contests, based on the official order of finish, or to the holders of wagers selecting the first-place finisher in each of the pick-four contests with no more than one all-win race, unless otherwise provided in this paragraph. Should there be no wager selecting winners of all four designated races or to the holders of wagers selecting the winners of the designated races with no more than one all-win race, then 25 percent of the net pool, excluding carryover from the previous program, shall be distributed, less breaks, to the holders of wagers selecting the winners of the most pick-four races and 75 percent of the net pool shall be added to the carryover. In addition to the net-pool share and any carry-overs distributable when a wager correctly selects winners of all four designated races, or three winners and no more than one all-win race of a pick-four pool, there shall be distributed by the track operator from its own funds, upon such occurrence, any amounts the track operator has advertised that the track operator will add to the total distribution.

(h) Race cancellations. Except for pick-four pools in which a designated distribution is to be made, the following shall apply:

(1) If one or two of the pick-four races are cancelled or declared no race or non-betting, then those who selected the winners in the greatest number of other pick-four races shall share the net pool. If there are no such wagers and the track operator has selected the pick-four wagering option pursuant to paragraph (3) of subdivision (g) of this section, 25 percent of the net pick-four pool, excluding any carryover from previous programs, shall be distributed, less breaks, as a single price pool to those who selected the first-place finisher in the greatest number of pick-four races, and 75 percent shall be added to the carryover.

(2) If more than two of the pick-four races are cancelled or declared no race or [nonbetting] non-betting, then the entire pool shall be cancelled and all pick-four wagers shall be refunded.

(3) If any of the designated races of the pick-four sequence is cancelled or declared no race or non-betting before the first pick-four race is made official, then the pick-four pool shall be declared off and the gross pool refunded.

(i) *Surface transfers.* When the condition of a turf course warrants a change of racing surface to a non-turf course in any of the pick-four races, and such change has not been known to the public before the close of wagering for the pick-four pool, such changed race shall be deemed an all win race for pick-four wagering purposes. An [all win] *all-win* race means the winning horse of that race is assigned to each pick-four ticket holder as such ticket holder's selection for that race. If there is a surface transfer in one or more of the pick-four races, then those who selected the winners in the greatest number of races without a surface transfer shall share the net pool. If there are no wagers selecting the winner of at least one of the races without a surface transfer, then the entire pool for such program shall be refunded. If any of the designated races is cancelled or declared "no race," then the pick-four pool will be determined by the winners of the remaining race or races. For racetrack operators that have selected the pick-four wagering option pursuant to either paragraph (2) or (3) of subdivision (g) of this section, except for pick-four pools in which a final distribution is to be made, a pick-four pool with a surface transfer or transfers shall be handled as follows:

(1) If there was a surface change to a non-turf course in only one of the pick-four races, then the bettors who selected the winners of the three pick-four races for which there were no surface changes shall share that day's net pool for such wager as well as any carryover. If there are no such wagers and the track operator has selected the pick-four wagering option pursuant to paragraph (3) of subdivision (g) of this section, 25 percent of the net pick-four pool, excluding any carryover from previous programs, shall be distributed, less breaks, as a single price pool to those who selected the first-place finisher in the greatest number of pick-four races, and 75 percent shall be added to the carryover.

(2) If there was a surface change to a non-turf course in more than one of the pick-four races, then the bettors who selected the winners of all the other pick-four races shall share that day's net pool for such wager but shall not share any carryover (any such previous carryover to be carried over to the next performance's pick-four wager pool). If there are no such wagers and the track operator has selected the pick-four wagering option pursuant to paragraph (3) of subdivision (g) of this section, 25 percent of the net pick-four pool, excluding any carryover from previous programs, shall be distributed, less breaks, as a single price pool to those who selected the first-place finisher in the greatest number of pick-four races, and 75 percent shall be added to the carryover.

* * *

(k) Carryovers.

(1) The pick-four carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the pick-four carryover equals or exceeds the designated cap, then the pick-four carryover will be frozen until such carryover is won or distributed under the other provisions of this section. After the pick-four carryover is frozen, 100 percent of the net pool that ordinarily would be added to the pick-four carryover shall be distributed to those whose selection finished first in the greatest number of pick-four contests for that performance.

(2) A written request for permission to distribute the pick-four carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived and the intended date and performance for the distribution.

(3) If for any reason the pick-four carryover must be held over to a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The pick-four carryover plus accrued interest shall then be added to the net pick-four pool of the following meet on a date and performance so designated by the commission.

(4) With the written approval of the commission, the track operator may contribute to the pick-four carryover a sum of money up to the amount of any designated cap.

(l) Other designated distributions. The pick-four carryover may be designated for distribution on a specified date and performance, other than as a final distribution, as set forth in subdivision (m) of this section, only under the following circumstances:

(1) upon written approval from the commission as provided in subdivision (i) of this section; or

(2) upon written approval from the commission when there is a change in the carryover cap, a change from one type of pick-(n) wagering to another, or when the pick-four pool is discontinued.

If the pick-four carryover is designated for distribution on a specified date and performance in which there are no wagers selecting the winner in each of the pick-four races, then the net pool, with any carryover, shall be distributed as a single-price pool to those whose selection finished first in the greatest number of pick-four contests.

(m) Final distribution. The track operator shall select, with the approval of the commission, a date and program during the final week of the annual assigned racing dates of the track operator, and also during the year during the final week of a meeting at a track after which such track operator will operate at another track, when there shall be a final distribution of all accumulated carryovers together with the net pool of the pick-four pool conducted during such program to the holders of wagers selecting the

winners of the most pick-four races contested during such program. If all pick-four races on the program designated for final distribution are cancelled and no further programs are conducted at the meeting, then no other pick-four pools shall be conducted during such week and the commission shall require that a pick-four pool be conducted on the first program of the next race meeting conducted at such track by such track operator to provide for final distribution for such prior meeting. The commission may also order a final distribution for an earlier time in the commission's discretion.

(n) *Suspension of wager.* The track operator may suspend previously approved pick-four wagering with the prior approval of the commission. Any carryover shall be held until the suspended pick-four wagering is reinstated. A track operator may request approval of a pick-four wager or separate wagering pool for specific performances.

[(k)–(o)] (o) [Reserved]

(p) *Other occurrences.* In the event of occurrences not encompassed within the explicit provisions of this section, distribution shall be formulated on the basis of established pari-mutuel practice and in accordance with the distribution philosophy set forth in this section; provided, nevertheless, that if full distribution of the pool is made on the basis of outstanding tickets, then the method of formulation announced by the track operator, and the basis upon which payments have been made, shall be deemed conclusively correct and not subject to review.

* * *

(s) *Betting information.* A track operator may display publicly information in regard to combinations wagered upon, amounts wagered on such combinations, numbers of tickets sold or number of tickets still capable of winning a pick-four pool. The operation of the totalisator equipment and reports generated thereby shall be subject to the strict supervision of the commission.

[(s)–(w)] (t)–(w) [Reserved]

(x) *Rule availability.* Copies of this section shall be made available free of charge by the track operator to the public in the public betting area of the track.

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PART 4122

Pari-Mutuel Wagering

Section	
4122.1	Pari-mutuel wagering
4122.2	Heat as race
4122.3	Sale of pari-mutuel tickets
4122.4	Time for wagering

NYS Gaming Commission Pick-four wagering amendments (proposed)

Text to be deleted appears in [brackets]

Text to be added is underlined

- 4122.5 Bookmaking
- 4122.6 Betting by minors
- 4122.7 Time for wagering to close
- 4122.8 No wagering after close
- 4122.9 Denomination of pari-mutuel tickets
- 4122.10 Method of wagering
- 4122.11 Notice to pari-mutuel manager before wagering opens
- 4122.12 Limited wagering fields
- 4122.13 Coupled entries wagering
- 4122.14 Field wagering
- 4122.15 Payments
- 4122.16 Official result of race to be reported and effect thereof
- 4122.17 Payment where no wagering on a position
- 4122.18 Dead heats and coupled entries
- 4122.19 Incomplete finishes
- 4122.20 Payoff errors
- 4122.21 Time to present winning tickets
- 4122.22 Daily doubles
- 4122.23 Daily double terms
- 4122.24 Daily double: failure to select a winner and race cancellations; dead heats; scratches
- 4122.25 Refunds and exchanges
- 4122.26 Effect of scratch
- 4122.27 Coupled entry scratch
- 4122.28 Race declared off
- 4122.29 Forms
- 4122.30 Report of unpaid tickets
- 4122.31 Report if no totalisator
- 4122.32 Report of payoff
- 4122.33 Report of attendance and handle
- 4122.34 Test of mutuel equipment
- 4122.35 Display of public information
- 4122.36 Personnel
- 4122.37 Daily reports
- 4122.38 Parlay betting
- 4122.39 Exacta
- 4122.40 Triple
- 4122.41 Jackpot super high five
- 4122.42 Quinella
- 4122.43 Shortages
- 4122.44 Payments to the Agriculture and New York State Horse Breeding Development Fund
- 4122.45 Super exotic pools
- 4122.46 [Pick four pools] Pick-four pools
- 4122.47 Pick-six jackpot pools

4122.48 Grand Slam wager

4122.49 Additional authorized wagers

§ 4122.46. [Pick four pools] Pick-four pools.

* * *

(a) *Description.* The [pick four] pick-four (or other approved name) is a form of pari-mutuel wagering conducted on four races specifically designated as [pick four] pick-four races by the commission. Each bettor selects, in order, the first placed horse in each of the four races designated and advertised by the track as [pick four] pick-four races, in the race order so designated by the commission.

(b) *Separate wager.* The [pick four] pick-four is not a parlay and has no connection with nor relation to the other betting pools for the respective races. The [pick four] pick-four pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, quinella, triple, superfecta or other wagering pool.

(c) *No resale.* Resale of [pick four] pick-four tickets from one individual to another is prohibited, shall be grounds for ejection, and may be deemed illegal gambling.

(d) *Clear designation.* Races in which [pick four] pick-four pools shall be conducted shall be clearly designated in the program and racing cards issued by the [corporation] track operator.

(e) *Ticket design.* The design of the [pick four] pick-four tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(f) *Scratched horses and nonstarters.* At any time after wagering begins on the [pick four] pick-four pool, should an entire betting entry or field be scratched or declared a nonstarter in any [pick four] pick-four race, no further tickets selecting such betting entry or field shall be issued, and wagers upon such betting entry or field, for purposes of the [pick four] pick-four pool, shall be deemed wagers upon the betting entry or field (designated horse) upon which the most wagering money has been registered at the track in the win pool at the close of win pool betting for such race. (In the event of a money tie, the tied betting entry or field upon which the most wagering money has been registered at the track in the place pool at the close of place pool betting for that race shall be designated.) Wagers in the [pick four] pick-four pool upon an entry or field of horses from which a starter or starters may have been scratched will, in the case of such entry or field, be deemed wagers upon the horse or horses remaining in such entry or field; except at tracks with totalisator capability to record wagers selecting a coupled entry (or field) and wagers selecting any individual constituent horses therein (merging such wagers for odds display and payoff purposes), in which case, the wagers upon scratched constituent horses will be deemed wagers upon the “designated horse” in such race. In case no starter remains representing any betting entry or field, wagers upon such entry or field shall be deemed wagers upon the “designated horse” in the race affected by the scratch. Should the balance of a betting entry or field race as a

[nonbetting] non-betting starter for purposes of other pari-mutuel pools, as provided in section 4122.27 of this Part, wagers upon such entry or field shall be deemed wagers upon the “designated horse” for such race. Should a programmed starter be scratched or declared a nonstarter in any pick-four race prior to the start of the first leg, the betting operator shall be authorized to refund any tickets designating betting entries affected thereby prior to such first leg.

(g) [*Failure to select a winning combination.*] Wagering Tickets and Winners. If subdivision (h) of this section does not apply, then:

(1) the track operator may, with the prior written approval of the commission following the request of the track operator offering this wager, elect to apportion the pick-four pool in the following order:

(i) If no [pick four] pick-four ticket is sold combining the winners of the four [pick four] pick-four races, all [pick four] pick-four tickets designating three winners shall be considered winning tickets and the net pool distributed equally to holders of said tickets.

[(2)] (ii) If no [pick four] pick-four ticket is sold combining the winners of three such races, all [pick four] pick-four tickets designating two winners shall be considered winning tickets and the net pool distributed equally to holders of said tickets.

[(3)] (iii) If no [pick four] pick-four ticket is sold combining the winners of two such races, all [pick four] pick-four tickets designating one winner shall be considered winning tickets and the net pool distributed equally to holders of said tickets.

[(4)] (iv) If no [pick four] pick-four ticket is sold designating any winner to win in the designated [pick four] pick-four races, the [pick four] pick-four shall be declared off and the gross pool refunded[.]; or

[(5) If any of the designated races are cancelled or declared “no race,” the pick four will be determined by the winners of the remaining race or races.]

(2) If carryover and no consolation payout. The net pick-four pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick-four contests, based on the official order of finish, unless otherwise provided in this section. If there are no such wagers, the net pick-four pool shall be added to the carryover; or

(3) If carryover and consolation payout. The net pick-four pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick-four contests, based on the official order of finish, or to the holders of wagers selecting the first-place finisher in each of the pick-four contests with no more than one all-win race, unless otherwise provided in this paragraph. Should there be no wager selecting winners of all four designated races

or to the holders of wagers selecting the winners of the designated races with no more than one all-win event, then 25 percent of the net pool, excluding carryover from the previous program, shall be distributed, less breaks, to the holders of wagers selecting the winners of the most pick-four races and 75 percent of the net pool shall be added to the carryover. In addition to the net-pool share and any carry-overs distributable when a wager correctly selects winners of all four designated races, or three winners and no more than one all-win race of a pick-four pool, there shall be distributed by the track operator from its own funds, upon such occurrence, any amounts it has advertised that it will add to the total distribution.

(h) Race cancellations. Except for pick-four pools in which a designated distribution is to be made, the following shall apply:

(1) If one or two of the pick-four races are cancelled or declared no race or non-betting, then those who selected the winners in the greatest number of other pick-four races shall share the net pool. If there are no such wagers and the corporation has selected the pick-four wagering option pursuant to paragraph (3) of subdivision (g) of this section, 25 percent of the net pick-four pool, excluding any carryover from previous programs, shall be distributed, less breaks, as a single price pool to those who selected the first-place finisher in the greatest number of pick-four races, and 75 percent shall be added to the carryover.

(2) If more than two of the pick-four races are cancelled or declared no race or non-betting, then the entire pool shall be cancelled and all pick-four wagers shall be refunded.

(3) If any of the designated races of the pick-four sequence is cancelled or declared no race or non-betting before the first pick-four race is made official, then the pick-four pool shall be declared off and the gross pool refunded.

(i) [Reserved]

(j) Dead heats. In the event of a dead heat for win in [any or all pick four races] a pick-four race, all [pick four] pick-four tickets designating [either] any such horse to win [in said race or races] shall be eligible for participation in the remaining [pick four] pick-four races, and the net pool shall be equally distributed to the winners, that is, the net pool will be divided by the total amount represented by all winning tickets and the resulting price, per dollar, and after breakage, shall be the payoff price, which shall be uniform for any winning combination.

(k) Carryovers.

(1) The pick-four carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the pick-four carryover equals or exceeds the designated cap, then the pick-four carryover will be frozen until such carryover is won or distributed under the other provisions of this section. After the pick-four carryover is frozen, 100 percent of the net pool that

ordinarily would be added to the pick-four carryover shall be distributed to those whose selection finished first in the greatest number of pick-four contests for that performance.

(2) A written request for permission to distribute the pick-four carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived and the intended date and performance for the distribution.

(3) If for any reason the pick-four carryover must be held over to a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The pick-four carryover plus accrued interest shall then be added to the net pick-four pool of the following meet on a date and performance so designated by the commission.

(4) With the written approval of the commission, the corporation may contribute to the pick-four carryover a sum of money up to the amount of any designated cap.

(l) *Other designated distributions.* The pick-four carryover may be designated for distribution on a specified date and performance, other than as a final distribution, as set forth in subdivision (m) of this section, only upon written approval from the commission when there is a change in the carryover cap, a change from one type of pick-(n) wagering to another, or when the pick-four pool is discontinued.

If the pick-four carryover is designated for distribution on a specified date and performance in which there are no wagers selecting the winner in each of the pick-four races, then the net pool, with any carryover, shall be distributed as a single-price pool to those whose selection finished first in the greatest number of pick-four contests.

(m) *Final distribution.* The track operator shall select, with the approval of the commission, a date and program during the final week of the annual assigned racing dates of the track operator, and also during the year during the final week of a meeting at a track after which such track operator will operate at another track, when there shall be a final distribution of all accumulated carry-overs together with the net pool of the pick-four pool conducted during such program to the holders of wagers selecting the winners of the most pick-four races contested during such program. If all pick-four races on the program designated for final distribution are cancelled and no further programs are conducted at the meeting, then no other pick-four pools shall be conducted during such week and the commission shall require that a pick-four pool be conducted on the first program of the next race meeting conducted at such track by such track operator to provide for final distribution for such prior meeting. The commission may also order a final distribution for an earlier time in the commission's discretion.

(n) *Suspension of wager.* The track operator may suspend previously approved pick-four wagering with the prior approval of the commission. Any carryover shall be held

NYS Gaming Commission Pick-four wagering amendments (proposed)

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until the suspended pick-four wagering is reinstated. A corporation may request approval of a pick-four wager or separate wagering pool for specific performances.

(o) [Reserved]

[(i)] (p) *Other occurrences.* In the event of occurrences not encompassed within the explicit provisions of this section, distribution shall be formulated on the basis of established pari-mutuel practice and in accordance with the distribution philosophy set forth in this section; provided, nevertheless, that if full distribution of the pool is made on the basis of outstanding tickets, the method of formulation announced by the track operator, and upon which basis payments have been made, shall be deemed conclusively correct and not subject to review.

(q) *Posting of winning combinations.* Every pick-four wagering combination entitled to a payoff shall be posted publicly by the track operator together with the payoff price.

(r) *Non-transferability.* Pick-four tickets shall be nontransferable, and violations of this subdivision may lead to confiscation and cancellation of such tickets in addition to other disciplinary action.

(s)-(w) [Reserved]

[(j)] (x) *Rule availability.* Copies of this section shall be made available free of charge by the track operator to the public in the public betting area of the track.