



**MEETING AGENDA  
DECEMBER 13, 2016**

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM
2. CONSIDERATION OF MINUTES, MEETING OF NOVEMBER 1, 2016
3. REPORT OF EXECUTIVE DIRECTOR
4. RULEMAKING
  - A. ADOPTION: SGC-37-16-00007-P THOROUGHBRED CONTINUING TRAINER EDUCATION
  - B. ADOPTION: SGC-38-16-00004-P- DEFINITION OF THE “WIRE” AT THE FINISH OF A HARNESS RACE
  - C. ADOPTION: SGC-42-16-00002-P CASINO ALCOHOLIC BEVERAGE LICENSES
  - D. ADOPTION: SGC-42-16-00003-P METHOD OF NOTICE TO REGULATED ENTITIES AND PERSONS IN REGARD TO RELEASE OF INFORMATION; WAGERING RESTRICTIONS.
  - E. ADOPTION: SGC-42-16-00004-P STANDARDS FOR ELECTRONIC TABLE GAME SYSTEMS
  - F. PROPOSED: THOROUGHBRED RULEMAKING SHOW WAGERING
  - G. PROPOSED: THOROUGHBRED RULEMAKING PICK FIVE AND PICK SIX WAGERING
5. ADJUDICATIONS
  - A. IN THE MATTER OF WHITESTONE AUTO CENTER INC.
6. OLD BUSINESS/NEW BUSINESS
7. SCHEDULING OF NEXT MEETING
8. ADJOURNMENT

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**NEW YORK STATE  
GAMING COMMISSION**

**MINUTES**

**MEETING of NOVEMBER 1, 2016**

**NEW YORK, NEW YORK**

A meeting of the Commission was conducted in New York, New York.

**1. Call to Order**

Executive Director Robert Williams called the meeting to order at 1:26 p.m. Establishment of a quorum was noted by Acting Secretary Kristen Buckley. In attendance were Commissioners John Crotty, Peter Moschetti, John Poklemba, Barry Sample and Todd Snyder. Commissioner Crotty was unanimously elected as presiding officer for the meeting.

**2. Consideration of the Minutes from September 26, 2016**

The Commission considered previously circulated draft minutes of the meeting conducted on September 26, 2016. Commissioner Poklemba suggested two amendments. The minutes were then accepted as amended.

**3. Report of the Executive Director**

Executive Director Williams provided a brief report on the Racing Fan Advisory Council and the passing of Cornell University College of Veterinary Medicine Dean Emeritus Donald Smith.

**4. Rulemaking**

**a. ADOPTION: SGC-37-16-00007-P, Thoroughbred Continuing Trainer Education**

The Commission tabled considered of the adoption of proposed regulations regarding Thoroughbred Continuing Trainer Education to allow appropriate consideration of an industry comment from the New York Thoroughbred Horsemen's Association.

**b. ADOPTION: SGC-37-16-00016-P Casino Gaming: Accounting Controls**

The Commission considered adoption of regulations regarding gaming facility accounting controls.

ON A MOTION BY: Commissioner Snyder  
APPROVED: 5-0

**c. ADOPTION: SGC-37-16-00017-P Casino Gaming: Electronic Gaming Devices and Equipment**

The Commission considered adoption of regulations regarding electronic gaming devices.

ON A MOTION BY: Commissioner Poklemba  
APPROVED: 5-0

**d. ADOPTION: SGC-37-16-00018-P Casino Gaming: Slot Tournaments and Progressive Gaming Devices**

The Commission considered adoption of regulations regarding slot tournaments and progressive gaming devices.

ON A MOTION BY: Commissioner Moschetti  
APPROVED: 5-0

**e. ADOPTION: SGC-37-16-00019-P Casino Gaming: Table Gaming Rules**

The Commission considered adoption of regulations regarding rules for table games.

ON A MOTION BY: Commissioner Snyder  
APPROVED: 5-0

**f. ADOPTION: SGC-37-16-00020-P Casino Gaming: Monitoring Control Systems and Validation**

The Commission considered adoption of regulations regarding gaming facility monitoring and control systems and validation.

ON A MOTION BY: Commissioner Poklemba  
APPROVED: 5-0

**g. ADOPTION: SGC-37-16-00021-P Casino Gaming: Standards for Gaming Devices**

The Commission considered adoption of regulations regarding gaming facility gaming devices.

ON A MOTION BY: Commissioner Moschetti  
APPROVED: 5-0

**h. ADOPTION: SGC-37-16-00022-P Casino Gaming: Cage and Count Standards**

The Commission considered adoption of regulations regarding cage and count standards and kiosks at casinos.

ON A MOTION BY: Commissioner Snyder  
APPROVED: 5-0

**5. Adjudications**

**a. In the Matter of LUIS SAEZ**

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 5-0 vote, to reject the Hearing Officer's recommendation that the charge of careless riding be dismissed without prejudice due to a defect on the Charging Notice and instead return the case to the Hearing Officer to substantively rule on the merits of the charges based upon the existing record.

**6. New Business/Old Business**

**a. Old Business**

No old business was offered for discussion.

**b. New Business**

No new business was offered for discussion.

**7. Scheduling of Next Meeting**

No specific date for the next Commission meeting was set.

**8. Adjournment**

The meeting was adjourned at 1:53 p.m.

**###**



## Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500

[www.gaming.ny.gov](http://www.gaming.ny.gov)

John A. Crotty, Commissioner  
Peter J. Moschetti, Jr., Commissioner  
John J. Poklemba, Commissioner  
Barry Sample, Commissioner  
Todd R. Snyder, Commissioner

Robert Williams, Executive Director  
Edmund C. Burns, General Counsel

**To:** Commissioners

**From:** Edmund C. Burns

**Date:** December 8, 2016

**Re:** Adoption of Rulemaking for Thoroughbred Trainer Continuing Education (9 NYCRR §§ 4002.8)

For Commission consideration is the adoption of revisions to the Commission's thoroughbred racing rules in regard to the qualifications for an occupational license as a thoroughbred trainer or assistant trainer. The text of the proposed rules was published in the *State Register* on September 14, 2016, a copy of which is attached.

This proposal would require that all thoroughbred trainers (including assistant and private trainers) complete at least four hours of continuing education each year. The Jockey Club has developed and is offering online programs for trainers. The stewards have provided continuing education programs for interested trainers for many years at New York racetracks. The proposal includes an exemption for a trainer who rarely participates in New York racing, subject to the permission of the State steward.

The public comment period expired on October 31, 2016. Three comments were received. The Association of Racing Commissioners International states that it strongly encourages the Commission to approve this continuing education requirement. ARCI notes that there are continuing education programs approved by ARCI and that the Commission should allow such programs and others approved by the Commission. ARCI expressed interest in playing a role in tracking earned continuing education credits in its database. Staff notes that the proposed rule does provide for continuing education courses to be approved by the Commission in order to satisfy the rule.

The Jockey Club ("TJC") reasserted support for the Commission's proposed continuing education requirement for Thoroughbred trainers and emphasized the training modules that are currently available. TJC noted that it has developed free online trainer continuing education programs and that it will track and notify the racing commissions when a trainer completes one of its modules.

The New York Thoroughbred Horsemen's Association ("NYTHA") suggests that there should be a continuing education rule for categories of Commission licensees other than Thoroughbred trainers, such as horse owners, jockeys, Standardbred trainers and harness racing drivers. NYTHA does not indicate why this is a matter of concern to NYTHA, other than to suggest that the proposal

“singles out” Thoroughbred trainers. NYTHA states that NYTHA gives “full support” to the concept of trainer continuing education and suggests that such a program will benefit trainers.

NYTHA also stated a concern that there are too few available continuing education courses for trainers to take. NYTHA suggests that the rule should include a “comprehensive list of approved courses” that should be “extensive.” NYTHA expressed willingness to assist in identifying topics and courses for inclusion on this list. Staff believes that NYTHA’s concern is unfounded. The Association of Racing Commissioners International, Inc. (“ARCI”) is prepared to assist member states in tracking continuing education compliance in all states and to recommend programs. The Jockey Club has four modules presently available and plans to supplement the offerings. On-track presentations by the State Equine Medical Director, undertaken before the commencement of each race meet, would also be appropriate for satisfaction of the proposed continuing education requirements. Coupled, these free-of-charge materials are enough course material to satisfy two years of the proposed requirements.

NYTHA further suggests that the Commission review its protocol for granting licenses to new Thoroughbred and Standardbred trainers and assistant trainers and recommends “raising the bar on the standards necessary to qualify.” This matter is not the subject of this proposed rulemaking and is not presently before the Commissioners.

NYTHA requests that the proposal be withdrawn. TJC and ARCI support the proposal. Commission staff believes that existing Commission training programs, with the full support of Commission stewards and the Commission’s equine medical director and aided by the program development activities of TJC and ARCI, will meet readily the concerns of NYTHA.



cc: Robert Williams, Executive Director  
Ronald Ochrym, Director, Division of Horse Racing and Pari-Mutuel Wagering

## New York State Gaming Commission

### PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

#### Require Thoroughbred Horse Trainers to Complete Four Hours of Continuing Education Each Year

**I.D. No.** SGC-37-16-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Amendment of section 4002.8 of Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

**Subject:** Require thoroughbred horse trainers to complete four hours of continuing education each year.

**Purpose:** To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

**Text of proposed rule:** Section 4002.8 of 9 NYCRR would be amended as follows:

§ 4002.8. Qualifications for license.

(a) If the commission [shall find] *finds* that the financial responsibility, experience, character and general fitness of the applicant are such that the participation of such person will be consistent with the public interest, convenience or necessity and with the best interests of racing generally in conformity with the purposes of the law, [it] *the commission* shall grant a license. In this connection, the commission may establish criteria to be met concerning specific license occupations as a condition for licensing. If the commission [shall find] *finds* that the applicant fails to meet any of said conditions, [it] *the commission* shall not grant such license and [it] *the commission* shall notify the applicant of the denial.

(b) *In order to maintain a current license, trainers and assistant trainers must complete at least four hours per calendar year of continuing education courses approved by the commission. Trainers and assistant trainers who are not domiciled in New York and have 12 or fewer starts during the previous 12 months may request a waiver of this requirement from the State steward.*

**Text of proposed rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 45 days after publication of this notice.

#### Regulatory Impact Statement

1. Statutory Authority: The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2) and 104(1, 19). Under Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

2. Legislative Objectives: To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

3. Needs and Benefits: This rule making proposes to amend the minimum qualifications for a thoroughbred trainer license to require the completion of four hours of continuing education each year.

The current rule, 9 NYCRR § 4002.8, does not require that any thoroughbred trainers (including assistant and private trainers) complete a continuing education requirement. The national model rule of the Association of Racing Commissioners International, Inc. recommends requiring four hours of such continuing education for thoroughbred trainers. The Jockey Club provides online continuing education training modules, free of charge, to thoroughbred trainers. In addition, the stewards have provided continuing education programs for interested trainers for many years at New York racetracks, also without charge.

This proposal would require that all thoroughbred trainers (including

assistant and private trainers) complete at least four hours of continuing education each year. It is anticipated that such programs will be offered (and required) in most racing jurisdictions, and that the process of finding such programs and demonstrating compliance will be available online. The proposal includes an exemption for a trainer who rarely participates in New York racing, subject to the approval of the State steward.

This proposal should result in more competitive racing in New York, safer and better conditions for race horses, and greater wagering activity and revenue for government.

The proposal also makes changes in style to clarify the rules.

#### 4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: The amendment will not add any new mandated costs to the existing rules at this time. Continuing trainer education programs are currently available without charge from The Jockey Club and from the stewards. These programs are online or available conveniently at New York racetracks. The Commission has no indication at this time that anyone intends to charge for this type of program, but it is likely that future programs might arise that would impose a fee for attendance and that trainers might have to take such a program, particularly if the trainer does not attempt to comply with the new requirement until the last moment. The well-established, voluntary and free continuing education programs are the basis for the cost estimate.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel harness racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: N/A.

5. Local Government Mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel thoroughbred racing activities.

6. Paperwork: The trainer is required to maintain a record of completion of the continuing education course. The provider of such training will be required to report such information electronically to the Commission.

7. Duplication: No relevant rules or other legal requirements of the state and/or federal government exist that duplicate, overlap or conflict with this rule.

8. Alternatives: The Commission considered not requiring this program, but rejected this alternative because of the national movement toward the adoption of this requirement and the benefits of continuing education.

9. Federal Standards: There are no minimum standards of the Federal government for this or a similar subject area.

10. Compliance Schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

#### Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas, or jobs.

This proposal would require that all thoroughbred trainers (including assistant and private trainers) complete at least four hours of continuing education each year. The Jockey Club has developed and is offering online programs for trainers. The stewards have provided continuing education programs for interested trainers for many years at New York racetracks. These programs are free of charge. The proposal includes an exemption for a trainer who rarely participates in New York racing, subject to the permission of the State steward.

This rule will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

### PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

#### Accounting Standards for a Licensed Gaming Facility

**I.D. No.** SGC-37-16-00016-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Addition of Part 5315 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), (2)(f), (m) through (o), 1334, 1351, 1353 and 1354



# Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500

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Todd R. Snyder, Commissioner

Robert Williams, Executive Director  
Edmund C. Burns, General Counsel

**To:** Commissioners

**From:** Edmund C. Burns

**Date:** December 8, 2016

**Re:** Adoption of Proposed Rulemaking for the Standardbred Definition of "Wire"  
(9 NYCRR § 4100.1).

For the Commission's consideration is the adoption of a technical revision to the Commission's definition of the term "wire," which denotes the finish line of the race, in Standardbred racing rules. The text of the proposed rule was published in the *State Register* on September 21, 2016, a copy of which is attached.

The public comment period expired on November 7, 2016. One comment was received. The Empire State Harness Horsemen's Alliance, comprising five horsemen's associations whose members race at six New York harness tracks, expressed support of the proposal.

[REDACTED]

cc: Robert Williams, Executive Director  
Ronald Ochrym, Director, Division of Horse Racing and Pari-Mutuel Wagering

## NOTICE OF ADOPTION

**To Set Forth the Practices and Procedures for the Conduct and Operation of Table Games****I.D. No.** SGC-28-16-00011-A**Filing No.** 840**Filing Date:** 2016-09-06**Effective Date:** 2016-09-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of Part 5323 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), (2)(g), 1335(4) and (6)

**Subject:** To set forth the practices and procedures for the conduct and operation of table games.

**Purpose:** To regulate the conduct and operation of gaming tables.

**Substance of final rule:** The addition of Part 5323 of Subtitle T of Title 9 NYCRR will allow the New York State Gaming Commission (“Commission”) to prescribe requirements for the conduct and operation of table games.

Section 5323.1 sets forth the definitions applicable to the Part. Section 5323.2 sets forth the requirement for table game staffing plans, table game equipment schematics and table game layouts to be submitted to the Commission for approval. Section 5323.3 requires a gaming facility licensee to establish a dealer training program as part of its system of internal controls. Sections 5323.4 through 5323.7 set forth the table inventory, opening, shift change and closing requirements for table games. Sections 5323.8 and 5323.9 establish requirements for the distribution and removal of chips and coins. Section 5323.10 sets forth the requirements for the acceptance and exchange of cash and coupons for gaming chips or plaques. Section 5323.11 requires a gaming facility licensee to receive commission approval for minimum and maximum table game wagers. Sections 5323.12 and 5323.13 require a gaming facility licensee to post payout odds and table game rules at a table game. Section 5323.14 requires gaming facility licensees to maintain and make available the complete text of authorized table game rules. Sections 5323.15 and 5323.16 set for the requirements for a progressive table game system and payment of progressive wagers. Section 5323.17 sets forth the requirements for the conduct of table game tournaments. Section 5323.18 requires a gaming facility licensee to submit new table games or new features to the Commission for approval. Section 5323.19 authorizes the temporary operation of a new table game or table game feature.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in section 5323.13(a).

**Text of rule and any required statements and analyses may be obtained from:** Kristen Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

**Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

The Commission made a nonsubstantive change to section 5323.13 in Part 5323 Table Game Standards. The change does not necessitate a revision to the previously published RIS and consolidated RFA, RAFA and JIS statement.

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The Gaming Commission received comments from one entity, Fox Rothschild LLP on behalf of Montreign Operating Company, LLC, in regard to this proposed rulemaking. The Commission has considered each of the comments received and decided that no changes were appropriate at this time. In particular:

1. Proposed Rule 5323.2(c) through (e). The commentator requested the 30-day review period be shortened to seven days. The Commission disagrees and reserves the right to the 30-day review for more complex matters.

2. Proposed Rule 5323.5(d). The commentator requested that only discrepancies of \$25 or more should be reported to the Commission. The Commission disagrees and believes it is prudent to be notified of all discrepancies.

3. Proposed Rule 5323.10(a)(3). The commentator requested that

supervisor approval not be required before a dealer or boxperson distributes chips to a player. The Commission disagrees because the proposed rule does not prescribe the method of obtaining approval.

4. Proposed Rule 5323.17. The commentator suggested that gaming facilities should be allowed to offer tournaments without providing notice to the Commission. The Commission believes that ongoing and/or recurring tournaments do not require notice to the Commission.

5. Proposed Rule 5323.17(a)(3). The commentator requested that the disclosure requirement should be limited to instances where the number of patrons is known in advance of the tournament. The Commission disagrees and believes that the proposed rule should apply in all circumstances.

## NOTICE OF ADOPTION

**Registration of Lobbyists****I.D. No.** SGC-28-16-00012-A**Filing No.** 841**Filing Date:** 2016-09-06**Effective Date:** 2016-09-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of Part 5309 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1) and 1329

**Subject:** Registration of lobbyists.

**Purpose:** To govern the registration of lobbyists.

**Text or summary was published** in the July 13, 2016 issue of the Register, I.D. No. SGC-28-16-00012-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kristen Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The agency received no public comment.

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED****Definition of the “Wire” at the Finish of a Harness Race****I.D. No.** SGC-38-16-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Amendment of section 4100.1 of Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19) and 301(1)

**Subject:** Definition of the “wire” at the finish of a harness race.

**Purpose:** To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

**Text of proposed rule:** Paragraph 48 of subdivision (a) of section 4100.1 of 9 NYCRR would be amended as follows:

§ 4100.1. Definitions.

(a) As used in this Subchapter, the following definitions are applicable:

\* \* \*

(48) Wire means a real or imaginary *finish* line *across the track* from the [center of the judge’s stand] *photo-finish camera* to a point immediately across[,] *from the camera* and at right angles to[,] the track.

**Text of proposed rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, P.O. Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 45 days after publication of this notice.

**Regulatory Impact Statement**

1. Statutory authority: The New York State Gaming Commission (“Commission”) is authorized to promulgate these rules pursuant to Rac-

ing Pari-Mutuel Wagering and Breeding Law (“Racing Law”) Sections 103(2), 104(1, 19), and 301(1). Under Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities. Under Section 301(1), the Commission is authorized to supervise generally all harness race meetings and to adopt rules to prevent the circumvention or evasion of its regulatory purposes and provisions.

2. Legislative objectives: To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

3. Needs and benefits: This rule making is needed to make a technical correction to the definition of “wire” in the harness racing rules.

The current definition of “wire,” at 9 NYCRR § 4000.1(a)(48), includes an unnecessary reference to a structure, the judges’ stand. As a result, in cases of temporary and unavoidable relocation of such stand, the definition is needlessly inaccurate. The proposal would amend such rule to delete this reference. The definition of “wire” will continue to include the location of the photo-finish camera and to designate the finish line of the race.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: These amendments will not add any new mandated costs to the existing rules.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel harness racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: N/A.

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel thoroughbred racing activities.

6. Paperwork: There will be no additional paperwork.

7. Duplication: No relevant rules or other legal requirements of the state and/or federal government exist that duplicate, overlap or conflict with this rule.

8. Alternatives: The Commission considered not changing this rule, but decided to propose making the definition of “wire” more accurate.

9. Federal standards: There are no minimum standards of the Federal government for this or a similar subject area.

10. Compliance schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

#### **Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas or jobs.

The proposed amendment is a technical revision to the Commission’s standardbred racing rules’ current definition of the term “wire” to omit an unnecessary reference to a structure.

This rule will not impose an adverse economic impact or reporting, recordkeeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

**Action taken:** Addition of Subpart 67-4 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, sections 1370-a and 1110

**Finding of necessity for emergency rule:** Preservation of public health, public safety and general welfare.

**Specific reasons underlying the finding of necessity:** Lead exposure is associated with impaired cognitive development in children. The known adverse health effects for children from lead exposure include reduced IQ and attention span, learning disabilities, poor classroom performance, hyperactivity, behavioral problems, and impaired growth. Although measures can be taken to help children overcome any potential impairments on cognition, the effects are considered irreversible.

Lead can enter drinking water from the corrosion of plumbing materials. Facilities such as schools, which have intermittent water use patterns, may have elevated lead concentration due to prolonged water contact with plumbing material. This source is increasingly being recognized as an important relative contribution to a child’s overall lead exposure. Recent voluntary testing by school districts in New York State and other jurisdictions demonstrate the need to provide clear direction to schools on the requirements and procedures to sample drinking water for lead.

Every school should supply drinking water to students that meets or exceeds federal and state standards and guidelines. Although the federal Environmental Protection Agency (“EPA”) has established a voluntary testing program—known as the “3Ts for Reducing Lead in Drinking Water in Schools”—there is no federal law that requires schools to test their drinking water for lead or that requires an appropriate response, if lead is determined to be present in school drinking water.

To help ensure that children are protected from lead exposure while in school, the Commissioner of Health has determined it necessary to file these regulations on an emergency basis. State Administrative Procedure Act § 202(6) empowers the Commissioner to adopt emergency regulations when necessary for the preservation of the public health, safety or general welfare and that compliance with routine administrative procedures would be contrary to the public interest.

**Subject:** Lead testing in school drinking water.

**Purpose:** Requires lead testing and remediation of potable drinking water in schools.

**Text of emergency rule:** Pursuant to the authority vested in the Commissioner of Health by Public Health Law sections 1370-a and 1110, Subpart 67-4 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is added, to be effective upon filing with the Secretary of State, to read as follows:

#### **SUBPART 67-4: Lead Testing in School Drinking Water**

##### **Section 67-4.1 Purpose.**

*This Subpart requires all school districts and boards of cooperative educational services, including those already classified as a public water system under 10 NYCRR Subpart 5-1, to test potable water for lead contamination and to develop and implement a lead remediation plan, where applicable.*

##### **Section 67-4.2 Definitions.**

*As used in this Subpart, the following terms shall have the stated meanings:*

(a) *Action level means 15 micrograms per liter (µg/L) or parts per billion (ppb). Exceedance of the action level requires a response, as set forth in this Subpart.*

(b) *Building means any structure, facility, addition, or wing of a school that may be occupied by children or students. The terms shall not include any structure, facility, addition, or wing of a school that is lead-free, as defined in section 1417 of the Federal Safe Drinking Water Act.*

(c) *Commissioner means the State Commissioner of Health.*

(d) *Department means the New York State Department of Health.*

(e) *Outlet means a potable water fixture currently or potentially used for drinking or cooking purposes, including but not limited to a bubbler, drinking fountain, or faucets.*

(f) *Potable water means water that meets the requirements of 10 NYCRR Subpart 5-1.*

(g) *School means any school district or board of cooperative educational services (BOCES).*

##### **Section 67-4.3 Monitoring.**

(a) *All schools shall test potable water for lead contamination as required in this Subpart.*

(b) *First-draw samples shall be collected from all outlets, as defined in this Subpart. A first-draw sample volume shall be 250 milliliters (mL), collected from a cold water outlet before any water is used. The water shall be motionless in the pipes for a minimum of 8 hours, but not more than 18 hours, before sample collection. First-draw samples shall be collected pursuant to such other specifications as the Department may determine appropriate.*

(c) *Initial first-draw samples.*

(1) *For existing buildings in service as of the effective date of this*

## Department of Health

### EMERGENCY RULE MAKING

#### Lead Testing in School Drinking Water

**I.D. No.** HLT-38-16-00007-E

**Filing No.** 842

**Filing Date:** 2016-09-06

**Effective Date:** 2016-09-06

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:



# Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500  
[www.gaming.ny.gov](http://www.gaming.ny.gov)

**John A. Crotty**, Commissioner  
**Peter J. Moschetti, Jr.**, Commissioner  
**John J. Poklemba**, Commissioner  
**Barry Sample**, Commissioner  
**Todd R. Snyder**, Commissioner

**Robert Williams**, Executive Director  
**Edmund C. Burns**, General Counsel

**To:** Commissioners

**From:** Edmund C. Burns

**Date:** December 8, 2016

**Re:** Adoption of Rulemaking for Casino Alcoholic Beverages (9 NYCRR Part 5328)

For Commission consideration is the adoption of rules in regard to alcoholic beverages for casinos. Racing, Pari-Mutuel Wagering and Breeding Law section 1340 gives jurisdiction over casino alcoholic beverage licenses to the Commission and requires the Commission to consult regularly with the State Liquor Authority, or its designee, on all licensing and enforcement matters. Additionally, Racing, Pari-Mutuel Wagering and Breeding Law section 1340(4) incorporates the alcoholic beverage control law and the rules, regulations, bulletins, orders and advisories promulgated by the State Liquor Authority, with the ability of the Commission to grant variances to accommodate for the uniqueness of the gaming facilities, pursuant to section 1340(5).

The text of the proposed rule was published in the *State Register* on October 19, 2016. A copy of that notice is attached. One public comment was received from Capital Region Gaming, LLC, the casino licensee developing the Rivers casino in Schenectady. The commenter asserts that “flexibility” is needed in the regulations in order for the counties “to extend” alcohol serving hours. Capital Region Gaming suggests the following revision:

(c) Pursuant to [paragraph eight of Racing,] Pari-Mutuel Wagering and Breeding Law section 1340, a gaming facility licensee holding a casino alcoholic beverage license may [provide complimentary] serve alcoholic beverages between the hours of four ante meridiem and eight ante meridiem Monday through Saturday and between the hours of four ante meridiem and ten ante meridiem on Sunday to a patron under the following conditions:

(1) there shall be no delivery of more than two drinks to one patron at a time, except that a bottle of wine may be served to one or more patrons;

- (2) there shall be no sale or delivery to any patron an unlimited number of drinks during any set period of time for a fixed price (*i.e.* open bar), except at invitation-only private functions not open to the public;
- (3) there shall be no game or contest that involves drinking alcoholic beverages or the awarding of alcoholic beverages as prizes; and
- (4) there shall be no service of any alcoholic beverage to minors; and
- (5) nothing in this regulation shall limit the jurisdiction of the county to further restrict the hours in which alcohol may be served.

The commenter is mistaken that the proposed revisions are necessary to enable on-premises alcohol sales at casinos between 4 a.m. and 8 a.m. and between 8 a.m. and 10 a.m. on Sunday mornings. Alcoholic Beverage Control Law section 106(5) generally prohibits sales during those times (with an exception for Sunday mornings from 8 a.m. to 10 a.m. for permitted licensees, pursuant to Alcoholic Beverages Control Law section 99-h), but Racing, Pari-Mutuel Wagering and Breeding Law section 1340(5) gives the Commission the power to make “special rulings and findings as may be necessary for the proper enforcement, regulation and control of alcoholic beverages in gaming facilities when the commission finds that the uniqueness of gaming facility operations and the public interest require that such...rulings and finding are appropriate.” Proposed Rule 5328.3(b) provides that in granting a casino alcoholic beverage license, the Commission “may impose such conditions, restrictions, limitation or covenants upon a casino alcoholic beverage license...as the Commission may deem appropriate in its discretion to...serve the best interests of gaming in this State.” In regards to a particular license, therefore, the Commission has the appropriate power in statute and proposed regulation to allow for extended alcohol serving hours, if the Commission deems it appropriate to do so under the circumstances.

[REDACTED]

attachment

cc: Robert Williams, Executive Director  
Chris Palmer, Deputy Director, Division of Gaming

operate in every county in this state, including rural areas as defined by State Administrative Procedure Act § 102(10).

2. Reporting, recordkeeping and other compliance requirements; and professional services: The rule imposes additional reporting, recordkeeping, and other compliance requirements by requiring workers' compensation RSOs, including RSOs located in rural areas, to submit a report to the Superintendent of Financial Services ("Superintendent") regarding policies receiving the credit, including information regarding policy year payrolls, indemnity losses, indemnity claim counts, and medical losses by classification, and such other information as the Superintendent may require.

An insurer may be subject to additional reporting, recordkeeping, or other compliance requirements because the insurer must verify that a health care facility has a safe patient handling program implemented pursuant to Public Health Law § 2997-k(2). However, this is a consequence of Part A of Chapter 60 of the Laws of 2014, which requires the Superintendent to make rules establishing requirements for health care facilities to obtain a reduced workers' compensation insurance rate for safe patient handling programs implemented pursuant to Public Health Law § 2997-k(2), by requiring an insurer to provide a credit on each workers' compensation insurance policy issued or renewed in New York State to a health care facility that implements and maintains a safe patient handling program pursuant to the requirements prescribed in the Public Health Law.

An insurer or workers' compensation RSO in a rural area should not need to retain professional services, such as lawyers or auditors, to comply with this rule.

3. Costs: The rule may result in additional costs to workers' compensation RSOs, including RSOs located in rural areas, because it requires workers' compensation RSOs to submit a report to the Superintendent regarding policies receiving the credit, including information regarding policy year payrolls, indemnity losses, indemnity claim counts, and medical losses by classification, and such other information as the Superintendent may require. Such costs are difficult to estimate because of several factors, such as the number of policies that will receive the credit. However, this report is necessary in order to implement the statutory mandate that the Superintendent report to the Legislature the effects of the credit. In addition, any additional costs to workers' compensation RSOs in rural areas should be commensurate with costs for workers' compensation RSOs in non-rural areas.

An insurer may incur additional compliance costs because the insurer must verify that a health care facility has a safe patient handling program implemented pursuant to Public Health Law § 2997-k(2). However, this is a consequence of Part A of Chapter 60 of the Laws of 2014, which requires an insurer to provide a credit on each workers' compensation insurance policy issued or renewed in New York State to a health care facility that implements and maintains a safe patient handling program that meets the requirements of the Public Health Law.

4. Minimizing adverse impact: This rule uniformly affects insurers and workers' compensation RSOs that are located in both rural and non-rural areas of New York State. The rule should not have an adverse impact on rural areas.

5. Rural area participation: Insurers and workers' compensation RSOs in rural areas were provided an opportunity to participate in the rule-making process when the notice of emergency adoption and proposed rule-making was published in the State Register on July 20, 2016 and posted on the Department of Financial Services' website.

**Job Impact Statement**

This rule should not adversely impact jobs or employment opportunities in New York State. With regard to insurers, the rule merely implements Part A of Chapter 60 of the Laws of 2014 by requiring that for each workers' compensation insurance policy issued or renewed in New York State, an insurer provide a credit to a health care facility that implements and maintains a safe patient handling program that meets the requirements of Public Health Law § 2997-(k)(2). The amount of the credit and the manner in which it is applied must be in accordance with the approved manual filed by the rate service organization ("RSO") of which the insurer is a member. The rule also requires every workers' compensation RSO to file certain information with the Superintendent of Financial Services ("Superintendent") by June 1 of each year so that the Superintendent may collect information for the statutorily-required reports due to the Legislature in 2018 and 2020.

**New York State Gaming Commission**

**NOTICE OF EXPIRATION**

The following notice has expired and cannot be reconsidered unless the New York State Gaming Commission publishes a new notice of proposed rule making in the *NYS Register*.

**Reimbursement of Awards for Capital Improvement Projects at Video Lottery Gaming ("VLG") Facilities**

I.D. No.	Proposed	Expiration Date
SGC-39-15-00006-P	September 30, 2015	September 29, 2016

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Casino Alcoholic Beverage Licenses**

**I.D. No.** SGC-42-16-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Addition of Part 5328 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), 1340(1), (5), (8) and (11)

**Subject:** Casino alcoholic beverage licenses.

**Purpose:** To regulate the presence and sale of alcoholic beverages on the premises of gaming facilities.

**Text of proposed rule:** PART 5328

*Alcoholic Beverages*

§ 5328.1. Definitions.

Unless the context indicates otherwise, the following definitions apply throughout this Part. The definitions contained in *Alcoholic Beverage Control Law*, to the extent to which they are not in conflict with this Part, are fully incorporated into this Part by reference.

(a) *Casino alcoholic beverage license* means a license issued to a gaming facility licensee, or a licensed or registered vendor providing alcoholic beverages within a gaming facility, for the sale of alcoholic beverages at retail in accordance with Racing, Pari-Mutuel Wagering and Breeding Law section 1340 and this Part.

(b) *Complimentary* means without payment of money or other form of monetary-like consideration.

§ 5328.2. *Casino alcoholic beverage license.*

(a) A gaming facility licensee or casino vendor licensee or registrant applying for a casino alcoholic beverage license shall establish by clear and convincing evidence its good character, honesty and integrity, and provide such other financial information as may be required by the commission. Each casino vendor licensee or registrant that intends to purchase and select alcoholic beverage product and profit from the sale of such product at a gaming facility shall not do so unless and until duly licensed pursuant to this Part.

(b) A gaming facility licensee or casino vendor licensee or registrant intending to serve alcoholic beverages within a gaming facility shall file a casino alcoholic beverage license application the commission supplies and may amend from time to time, except that the commission may instead consider an application for facilities applying for a conversion of an existing alcoholic beverage license pursuant to subdivision (g) of this section.

(c) A gaming facility licensee or casino vendor licensee or registrant intending to serve alcoholic beverages at the commencement of operations of a gaming facility shall file its application at least 30 days prior to the projected date, except for an application for conversion of an existing alcoholic beverage license pursuant to subdivision (g) of this section, which the commission may accept at any time.

(d) Each casino alcoholic beverage licensee shall submit to the commission for review and approval any amendments to its casino alcoholic beverage license at least 30 days prior to the intended implementation of such amendment. The casino alcoholic beverage licensee may implement a proposed amendment on the 30th calendar day following the filing of such amendment with the commission, unless the commission provides notice pursuant to subdivision (e) of this section objecting to such amendment.

(e) If during the 30-day review period the commission determines that any amendment is inconsistent with the intent of this Part, the commission shall, by delivering written notice to the casino alcoholic beverage licensee, object to such amendment. Such objection notice shall:

(1) specify the nature of the objection and, when possible, an acceptable alternative; and

(2) direct that such amendment not be implemented.

(f) When the commission has objected to an amendment pursuant to subdivision (e) of this section, the casino alcoholic beverage licensee may submit a revised amendment for review within seven days of delivery of the commission's objection, pursuant to subdivision (d) of this section.

(g) A gaming facility licensee holding an active alcoholic beverage license issued by the state liquor authority may file a request in writing to the commission for the conversion of such license to a casino alcoholic beverage license, as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1340(11), along with a sworn statement detailing any violations or penalties imposed by the state liquor authority in regard to such existing license in the five-year period preceding the request.

(h) A casino alcoholic beverage applicant or licensee shall require each employee authorized to serve or deliver alcohol to complete an alcohol training and awareness program certified by the state liquor authority and submit to the commission such employee's certificate of completion.

#### § 5328.3. License determination.

(a) Upon receipt of a completed application for a casino alcoholic beverage license, the commission shall confirm that the gaming facility licensee or casino vendor licensee or registrant has met the requirements set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1340 and this Part.

(b) The commission, following consultation with the state liquor authority, or the designee of the state liquor authority, shall either:

(1) grant the application for a casino alcoholic beverage license, if the commission determines that doing so is in the best interests of gaming in this State; or

(2) deny the application for a casino alcoholic beverage license and notify the applicant of the reason or reasons for denial.

If the application is for conversion of an existing alcoholic beverage license and there are no state liquor authority violations or penalties in regard to the existing license, the commission shall grant the request for conversion of the license. If there are one or more state liquor authority violations or penalties in regard to the existing license, the commission shall consider whether granting the request for conversion of the license is in the best interests of gaming in this State. The commission may impose such conditions, restrictions, limitation or covenants upon a casino alcoholic beverage license, whether from a request for conversion of an existing license or otherwise, as the Commission may deem appropriate in its discretion to mitigate risk of violations, protect the public health safety or welfare, or serve the best interests of gaming in this State.

#### § 5328.4. Review of license determination.

Within 30 days of the denial of a casino alcoholic beverage license, the applicant may submit a written request to the commission for a review of such determination. The commission or its designee shall confirm the denial or grant the application within 30 days of the request for review.

#### § 5328.5. Form and posting of license.

(a) Following the grant of a casino alcoholic beverage license, the commission shall issue a license document that contains at a minimum:

(1) a complete identification of the applicant's identity and address;

(2) any conditions; and

(3) the signature of the secretary of the commission.

(b) Each casino alcoholic beverage license shall at all times be displayed in a conspicuous place in the gaming facility where alcoholic beverages are sold or distributed so that all patrons visiting such licensed area may readily see such license.

(c) Each point of sale location approved under the casino alcoholic beverage license shall display a certificate issued by the commission for that point of sale location.

#### § 5328.6. Duration.

A casino alcoholic beverage license shall expire two years from the date of issuance and shall be renewable thereafter for a period of no less than three years. An application to renew a casino alcoholic beverage license shall be submitted to the commission at least 30 days prior to the expiration of the license.

#### § 5328.7. Restrictions and limitations.

(a) Any violation of the Alcoholic Beverage Control Law, the regulations and rulings promulgated by the state liquor authority, Racing, Pari-Mutuel Wagering and Breeding Law section 1340 or this Subdivision by a

casino alcoholic beverage license or its agents or employees shall be grounds for suspension or revocation of a casino alcoholic beverage license or other disciplinary action, including, without limitation, monetary penalties following notice and an opportunity for a hearing.

(b) Pursuant to paragraph five of Racing, Pari-Mutuel Wagering and Breeding Law section 1340, the commission may from time to time by means of bulletins, special rulings or findings notify casino alcoholic beverage licensees of provisions of the alcoholic beverage control law and rules, regulations, bulletins, orders, and advisories promulgated by the state liquor authority that are inapplicable to gaming facilities or portions of gaming facilities.

(c) Pursuant to paragraph eight of Racing, Pari-Mutuel Wagering and Breeding Law section 1340, a gaming facility licensee holding a casino alcoholic beverage license may provide complimentary alcoholic beverages to a patron under the following conditions:

(1) there shall be no delivery of more than two drinks to one patron at a time, except that a bottle of wine may be served to one or more patrons;

(2) there shall be no sale or delivery to any patron an unlimited number of drinks during any set period of time for a fixed price (i.e. open bar), except at invitation-only private functions not open to the public;

(3) there shall be no game or contest that involves drinking alcoholic beverages or the awarding of alcoholic beverages as prizes; and

(4) there shall be no service of any alcoholic beverage to minors.

#### § 5328.8. Special events.

A gaming facility licensee seeking to serve alcoholic beverages in an unlicensed area of the facility shall submit a Special Event Casino Alcoholic Beverage permit application, on a form the commission prescribes. The commission shall approve the application and issue the permit if the commission determines that the application contains all required information and issuance would not compromise the integrity of gaming or the public health, welfare or safety. The application shall be submitted to the commission at least 30 days prior to the proposed event and contain, at a minimum:

(a) name and description of the event;

(b) a description of the mapped location of the event;

(c) date, time and duration of the event;

(d) a copy of the advertisement, program and promotional material for the event;

(e) number of persons anticipated to attend the event;

(f) admission price to the event;

(g) type of alcoholic beverages to be served;

(h) security and staffing arrangements;

(i) the identity of any jointly responsible person, persons, sponsor or sponsors, including the contact information and casino vendor enterprise license or registration number or numbers issued in accordance with Part 5307 of this Subchapter; and

(j) the identities of the licensed employees for the special event area, including the license or registration numbers of such employees issued in accordance with Parts 5304 through 5306 of this Subchapter.

**Text of proposed rule and any required statements and analyses may be obtained from:** Kristen Buckley, Acting Secretary, New York State Gaming Commission, One Broadway Center, 6th Floor, Schenectady, NY 12305, (518) 388-3407, email: gamingrules@gaming.ny.gov

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 45 days after publication of this notice.

#### Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1340(1) authorizes the Commission to grant any license or permit for alcoholic beverages in, on, or about the gaming facilities.

Racing Law section 1340(5) authorizes the Commission to establish regulations necessary for the proper enforcement, regulation, and control of alcoholic beverages in gaming facilities to accommodate for the uniqueness of the gaming facilities.

Racing Law section 1340(8) authorizes the Commission to establish regulations for facilities providing complimentary beverages.

Racing Law section 1340(11) authorizes the Commission to establish regulations for the conversion of an existing alcoholic beverage license into a casino alcoholic beverage license.

2. **LEGISLATIVE OBJECTIVES:** The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. **NEEDS AND BENEFITS:** The proposed rules implement the above listed statutory directives regarding the issuance and regulation of casino alcoholic beverage licenses. The rules provide specificity with respect to the above listed statutory directives to ensure the proper licensing and regulation of alcoholic beverages at a gaming facility. The rules provide the process of applying for a casino alcoholic beverage license, the standard of review for the license, the restrictions and limitations that may be placed on a license, and the duration of a casino alcoholic beverage license.

4. **COSTS:**

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: The regulated parties will incur minimal costs associated with the filing of the application for a casino alcoholic beverage license. Additionally, the regulated parties may incur costs for the alcohol training awareness program required for each employee authorized to serve or deliver alcoholic beverages. An alcohol training and awareness program costs between twenty-five and thirty-five dollars per employee.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: These rules will impose costs to the Commission for the review and issuance of a casino alcoholic beverage license. Based upon the Commission's experience in conducting hearings in lottery, video lottery gaming and horse racing, the Commission anticipates that the hearing costs associated with the proposed rules would be negligible. These rules will not impose any additional costs on local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The costs associated with the alcoholic training and awareness programs are based upon the actual costs of the approved programs listed by the state liquor authority. All other cost estimates are based on the Commission's experience regulating racing and gaming activities within the State.

5. **LOCAL GOVERNMENT MANDATES:** There are no local government mandates associated with these rules.

6. **PAPERWORK:** The rules impose paperwork burdens on gaming facility licensees and casino vendors or registrants intending to serve or sell alcoholic beverages upon the premises of the gaming facilities by requiring the submission of an application for a casino alcoholic beverage license.

7. **DUPLICATION:** These rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. **ALTERNATIVES:** The Commission consulted with the state liquor authority and reviewed other gambling jurisdiction best practices and regulations. Alternatives were discussed and considered with the state liquor authority and compared to other jurisdiction regulations. These included the documentation required to be provided to the Commission to apply for a casino alcoholic beverage license, the review of the license application by the Commission, and the types of restrictions or limitations the Commission may place on a license.

9. **FEDERAL STANDARDS:** There are no federal standards applicable to the licensing of gaming facilities in New York; it is purely a matter of New York State law.

10. **COMPLIANCE SCHEDULE:** The Commission anticipates that the affected parties will be able to achieve compliance with these rules upon adoption.

**Regulatory Flexibility Analysis**

1. **EFFECT OF RULE:** These rules provide for the issuance of casino alcoholic beverage licenses for the sale and service of alcoholic beverages upon the premises of gaming facilities. Small business casino vendor enterprises or vendor registrants intending to hold a casino alcoholic beverage license will be impacted by these rules. Local government will not be affected by these rules.

2. **COMPLIANCE REQUIREMENTS:** These rules require all casino vendor enterprises or registrants intending to serve or sell alcohol to apply for and obtain a casino alcoholic beverage license with the Commission.

3. **PROFESSIONAL SERVICES:** No new or additional professional services are required in order to comply with these rules.

4. **COMPLIANCE COSTS:** Casino vendor enterprises and registrants intending to serve or sell alcohol need to apply for a casino alcoholic beverage license with the Commission and may incur costs associated with the paperwork burden of filing the application. Additionally, all employees selling or delivering alcoholic beverages are required to complete a certified alcohol training and awareness program. These programs cost approximately twenty-five to thirty-five dollars per person.

5. **ECONOMIC AND TECHNOLOGICAL FEASIBILITY:** These rules

will not impose any technological costs on small businesses or local government.

6. **MINIMIZING ADVERSE IMPACT:** These rules do not impose adverse impacts on small businesses or local government.

7. **SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION:** Small businesses and host local governments will have the opportunity to participate in the rule making process during the public comment period which will commence when these rules are formally proposed.

**Rural Area Flexibility Analysis and Job Impact Statement**

These rules will not have any adverse impact on rural areas or jobs. These rules provide the process of applying for a casino alcoholic beverage license, the standard of review for the license, the restrictions and limitations that may be placed on a license, and the duration of a casino alcoholic beverage license.

These rules apply uniformly throughout the state and therefore do not have an adverse impact upon rural areas. These rules will have no adverse impact on job opportunities.

Accordingly, a full Rural Area Flexibility Analysis and Job Impact Statement are not required and have not been prepared.

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Prescribing Methods of Notice to Applicants, Registrants, and Licensees and Restrictions on Employee Wagering**

**I.D. No.** SGC-42-16-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Amendment of Part 5300 of Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), (2)(d) and 1336(2)

**Subject:** Prescribing methods of notice to applicants, registrants, and licensees and restrictions on employee wagering.

**Purpose:** To set forth the methods of notice and restrict employee wagering.

**Text of proposed rule:** Part 5300

General

§ 5300.1. Definitions.

Unless the context indicates otherwise, the following definitions and the definitions set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1301 are applicable throughout this Subchapter:

(a) Ancillary casino vendor means a vendor providing goods or services to a gaming facility applicant or licensee that are ancillary to gaming activity.

(b) Casino vendor means a vendor providing goods or services to a gaming facility applicant or licensee that directly relate to gaming activity.

(c) Career or professional offender means any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, using such methods as are deemed criminal violations of the public policy of this State.

(d) Career offender cartel means any group of persons who operate together as career offenders.

(e) Commission means the commissioners, staff and designees of the New York State Gaming Commission.

(f) Credit slip means a form used to record either the return of chips from a gaming table to the cage or the transfer of markers or negotiable checks from a table game to a cage or bankroll.

(g) Dealer means a person assigned to operate games.

(h) Drop box means the box attached to a table game that is used to collect the following items:

(1) currency;

(2) coin;

(3) cash equivalents;

(4) damaged chips; and

(5) all other forms used by the gaming facility and deposited in the drop box as part of the audit trail.

(i) Excluded person means a person who is excluded from a gaming facility pursuant to Part 5326 of this Subchapter.

(j) Fill means a transaction whereby a supply of chips or coins is transferred from a bankroll to a table.

(k) Gaming cheat means a person who is engaging in or attempting to engage in, or who is suspected of cheating, theft, embezzlement, a violation of this Subchapter or other illegal activities, or activities that are deemed a violation under Penal Law article 225 or equivalent violations in other jurisdictions, including a person who is required to be excluded or



# Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500

[www.gaming.ny.gov](http://www.gaming.ny.gov)

John A. Crotty, Commissioner  
Peter J. Moschetti, Jr., Commissioner  
John J. Poklemba, Commissioner  
Barry Sample, Commissioner  
Todd R. Snyder, Commissioner

Robert Williams, Executive Director  
Edmund C. Burns, General Counsel

**To:** Commissioners

**From:** Edmund C. Burns

**Date:** December 7, 2016

**Re:** Adoption of Rulemaking for Casino General Provisions (9 NYCRR Part 5300)

For Commission consideration are the adoption of additions to the general section of casino regulations to address certain matters that statutes either direct the Commission to regulate or give the Commission discretion to regulate.

The first of these amendments concerns the method of notice to be provided to an applicant, registrant or licensee in regard to the release of information or data provided to the commission from any applicant, registrant, or licensee. See Racing, Pari-Mutuel Wagering and Breeding Law section 1307(2)(d). The proposed rule sets forth posting on the Commission's website as the method of such notice.

The second of these amendments addresses how the Commission will interpret which gaming facility employees are subject to the prohibitions on employee wagering set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1336(2). That section of law provides that any employee who is not a casino key employee may not wager in the employer's gaming facility or any other gaming facility in New York owned or operated by the same employer or an affiliate, if the employee "is directly involved with the conduct of gaming operations" in the judgment of the Commission. Gaming facility licensees have sought direction from Commission staff on the interpretation of that provision. The proposed rule sets forth gaming employee registrants as those directly involved in the conduct of gaming.

The text of the proposed rule was published in the *State Register* on October 19, 2016. A copy of that notice is attached. The public comment period expired on December 5, 2016. No comments were received.

[REDACTED]

attachment

cc: Robert Williams, Executive Director  
Chris Palmer, Deputy Director, Division of Gaming

2. **LEGISLATIVE OBJECTIVES:** The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. **NEEDS AND BENEFITS:** The proposed rules implement the above listed statutory directives regarding the issuance and regulation of casino alcoholic beverage licenses. The rules provide specificity with respect to the above listed statutory directives to ensure the proper licensing and regulation of alcoholic beverages at a gaming facility. The rules provide the process of applying for a casino alcoholic beverage license, the standard of review for the license, the restrictions and limitations that may be placed on a license, and the duration of a casino alcoholic beverage license.

4. **COSTS:**

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: The regulated parties will incur minimal costs associated with the filing of the application for a casino alcoholic beverage license. Additionally, the regulated parties may incur costs for the alcohol training awareness program required for each employee authorized to serve or deliver alcoholic beverages. An alcohol training and awareness program costs between twenty-five and thirty-five dollars per employee.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: These rules will impose costs to the Commission for the review and issuance of a casino alcoholic beverage license. Based upon the Commission's experience in conducting hearings in lottery, video lottery gaming and horse racing, the Commission anticipates that the hearing costs associated with the proposed rules would be negligible. These rules will not impose any additional costs on local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The costs associated with the alcoholic training and awareness programs are based upon the actual costs of the approved programs listed by the state liquor authority. All other cost estimates are based on the Commission's experience regulating racing and gaming activities within the State.

5. **LOCAL GOVERNMENT MANDATES:** There are no local government mandates associated with these rules.

6. **PAPERWORK:** The rules impose paperwork burdens on gaming facility licensees and casino vendors or registrants intending to serve or sell alcoholic beverages upon the premises of the gaming facilities by requiring the submission of an application for a casino alcoholic beverage license.

7. **DUPLICATION:** These rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. **ALTERNATIVES:** The Commission consulted with the state liquor authority and reviewed other gambling jurisdiction best practices and regulations. Alternatives were discussed and considered with the state liquor authority and compared to other jurisdiction regulations. These included the documentation required to be provided to the Commission to apply for a casino alcoholic beverage license, the review of the license application by the Commission, and the types of restrictions or limitations the Commission may place on a license.

9. **FEDERAL STANDARDS:** There are no federal standards applicable to the licensing of gaming facilities in New York; it is purely a matter of New York State law.

10. **COMPLIANCE SCHEDULE:** The Commission anticipates that the affected parties will be able to achieve compliance with these rules upon adoption.

**Regulatory Flexibility Analysis**

1. **EFFECT OF RULE:** These rules provide for the issuance of casino alcoholic beverage licenses for the sale and service of alcoholic beverages upon the premises of gaming facilities. Small business casino vendor enterprises or vendor registrants intending to hold a casino alcoholic beverage license will be impacted by these rules. Local government will not be affected by these rules.

2. **COMPLIANCE REQUIREMENTS:** These rules require all casino vendor enterprises or registrants intending to serve or sell alcohol to apply for and obtain a casino alcoholic beverage license with the Commission.

3. **PROFESSIONAL SERVICES:** No new or additional professional services are required in order to comply with these rules.

4. **COMPLIANCE COSTS:** Casino vendor enterprises and registrants intending to serve or sell alcohol need to apply for a casino alcoholic beverage license with the Commission and may incur costs associated with the paperwork burden of filing the application. Additionally, all employees selling or delivering alcoholic beverages are required to complete a certified alcohol training and awareness program. These programs cost approximately twenty-five to thirty-five dollars per person.

5. **ECONOMIC AND TECHNOLOGICAL FEASIBILITY:** These rules

will not impose any technological costs on small businesses or local government.

6. **MINIMIZING ADVERSE IMPACT:** These rules do not impose adverse impacts on small businesses or local government.

7. **SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION:** Small businesses and host local governments will have the opportunity to participate in the rule making process during the public comment period which will commence when these rules are formally proposed.

**Rural Area Flexibility Analysis and Job Impact Statement**

These rules will not have any adverse impact on rural areas or jobs. These rules provide the process of applying for a casino alcoholic beverage license, the standard of review for the license, the restrictions and limitations that may be placed on a license, and the duration of a casino alcoholic beverage license.

These rules apply uniformly throughout the state and therefore do not have an adverse impact upon rural areas. These rules will have no adverse impact on job opportunities.

Accordingly, a full Rural Area Flexibility Analysis and Job Impact Statement are not required and have not been prepared.

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Prescribing Methods of Notice to Applicants, Registrants, and Licensees and Restrictions on Employee Wagering**

**I.D. No.** SGC-42-16-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Amendment of Part 5300 of Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), (2)(d) and 1336(2)

**Subject:** Prescribing methods of notice to applicants, registrants, and licensees and restrictions on employee wagering.

**Purpose:** To set forth the methods of notice and restrict employee wagering.

**Text of proposed rule:** Part 5300

General

§ 5300.1. Definitions.

Unless the context indicates otherwise, the following definitions and the definitions set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1301 are applicable throughout this Subchapter:

(a) Ancillary casino vendor means a vendor providing goods or services to a gaming facility applicant or licensee that are ancillary to gaming activity.

(b) Casino vendor means a vendor providing goods or services to a gaming facility applicant or licensee that directly relate to gaming activity.

(c) Career or professional offender means any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, using such methods as are deemed criminal violations of the public policy of this State.

(d) Career offender cartel means any group of persons who operate together as career offenders.

(e) Commission means the commissioners, staff and designees of the New York State Gaming Commission.

(f) Credit slip means a form used to record either the return of chips from a gaming table to the cage or the transfer of markers or negotiable checks from a table game to a cage or bankroll.

(g) Dealer means a person assigned to operate games.

(h) Drop box means the box attached to a table game that is used to collect the following items:

(1) currency;

(2) coin;

(3) cash equivalents;

(4) damaged chips; and

(5) all other forms used by the gaming facility and deposited in the drop box as part of the audit trail.

(i) Excluded person means a person who is excluded from a gaming facility pursuant to Part 5326 of this Subchapter.

(j) Fill means a transaction whereby a supply of chips or coins is transferred from a bankroll to a table.

(k) Gaming cheat means a person who is engaging in or attempting to engage in, or who is suspected of cheating, theft, embezzlement, a violation of this Subchapter or other illegal activities, or activities that are deemed a violation under Penal Law article 225 or equivalent violations in other jurisdictions, including a person who is required to be excluded or

ejected from the licensed facility under Racing, Pari-Mutuel Wagering and Breeding Law section 1342 or Part 5327 of this Subchapter.

(l) Gaming facility means the premises approved under a gaming license, which includes a gaming area and any other nongaming structure related to the gaming area and may include, without limitation, hotels, restaurants and other amenities.

(m) Hand means either one game in a series, one deal in a card game or the cards held by a player in a card game, as the context requires.

(n) Match-play coupon means a coupon with a fixed, stated value that is issued and redeemed and the stated value of which, when presented by a patron with chips that are equal to or greater in value to the stated value of the coupon, is included in the amount of the patron's wager in determining the payout on any winning bet at an authorized game.

(o) Material change means modification to physical or financial aspects in a manner that creates an inconsistency with the application submitted by a licensee or applicant for license. Physical aspects impact the proposed gaming facility or project site through addition, removal or alteration of the quality and nature of gaming and non-gaming amenities. Financial aspects impact the capital and financing structure through addition, removal or alteration of financing source or sources, schedule of financing source or sources and arrangement or agreements of financing plan.

(p) Non-gaming employee means any natural person, not otherwise included in the definition of casino key employee or gaming employee, who is employed by a gaming facility licensee or an affiliate, intermediary, subsidiary or holding company of a gaming facility licensee.

(q) Passive investor means an investor owning, holding or controlling up to 25 percent of the publicly traded securities issued by a gaming facility licensee or applicant or holding, intermediate or parent company of a licensee in the ordinary course of business for investment purposes only and who does not, nor intends to, exercise influence or control over the affairs of the issuer of such securities, nor over any licensed subsidiary of the issuer of such securities.

(r) Pit means the area enclosed or encircled by the arrangement of table games in which gaming facility personnel administer and supervise the live games played at the tables by patrons located outside the perimeter of such area.

(s) Promotional gaming chip and promotional coupon mean non-cashable instruments that may be used for game play.

(t) Qualified institutional investor means an institutional investor holding up to 15 percent of the publicly traded securities of a gaming facility applicant or licensee, or holding, intermediary or subsidiary company thereof, for investment purposes only and does not, nor intends, to exercise influence or control over the affairs of the issuer of such securities, nor over any licensed subsidiary of the issuer of such securities. To qualify as an institutional investor, an investor, other than a State or Federal pension plan, must meet the requirements of a qualified institutional buyer as defined in regulations of the United States Securities and Exchange Commission. A qualified institutional investor includes, without limitation, any of the following:

- (1) bank as defined under Federal securities laws;
- (2) an insurance company as defined under Federal investment company laws;
- (3) an investment company registered under Federal investment company laws;
- (4) an investment advisor registered under Federal investment company laws;
- (5) collective trust funds as defined under Federal investment company laws;
- (6) an employee benefit plan or pension fund subject to the Employee Retirement Income Security Act, subject to certain exclusions;
- (7) a State or Federal government pension plan; and
- (8) such other persons as the commission may determine for reasons consistent with policies of the commission.

(u) Qualifier means a related party in interest to an applicant, including, without limitation, a close associate or financial resource of such applicant. Qualifiers may include, without limitation:

- (1) if the gaming facility applicant is a corporation:
  - (i) each officer;
  - (ii) each director;
  - (iii) each shareholder holding five percent or more of the common stock of such company; and
  - (iv) each lender;
- (2) if the gaming facility applicant is a limited liability corporation:
  - (i) each member;
  - (ii) each transferee of a member's interest;
  - (iii) each director;
  - (iv) each manager; and
  - (v) each lender;
- (3) if the gaming facility applicant is a limited partnership:
  - (i) each general partner;

(ii) each limited partner; and

(iii) each lender;

(4) if the gaming facility applicant is a partnership:

(i) each partner; and

(ii) each lender;

(5) any gaming facility licensee manager or operator;

(6) any direct and indirect parent entity of a gaming facility applicant or licensee, including any holding company;

(7) any entity having a beneficial or proprietary interest of five percent or more in a gaming facility applicant or licensee;

(8) any other person or entity that has a business association of any kind with the gaming facility applicant or licensee; and

(9) any other person or entity that the commission may designate as a qualifier.

(v) Shift means the normal daily work period of a group of employees administering and supervising the operations of live gaming devices.

(w) Supervisor means a person employed in the operation of the authorized games in a gaming facility in a supervisory capacity or empowered to make discretionary decisions that regulate gaming facility operations, including without limitation, pit managers, floorpersons, gaming facility shift managers, the assistant gaming facility manager and the gaming facility manager.

(x) Temporary service provider means a vendor, a vendor's agents, servants and employees engaged by a gaming facility licensee to perform temporary services at a gaming facility for no more than 30 days in any 12-month period.

(y) Vendor registrant means any vendor that offers goods and services to a gaming facility applicant or licensee that is not a casino vendor or an ancillary casino vendor.

#### § 5300.2. Method of Notice

Pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1307(2)(d), the Commission shall post on its website as notice to all applicants, registrants, or licensees, the specifications of the confidentiality of all information provided to the Commission by any applicant, registrant, or licensee, and the release thereof.

#### § 5300.3. Restrictions on employee wagering.

In addition to the requirements set forth in section 1336 of the Racing, Pari-Mutuel Wagering and Breeding Law, all employees of a gaming facility licensee holding a gaming employee registration issued by the commission are prohibited from wagering in any facility in which the employee is employed or any facility owned or operated by that gaming facility or an affiliate of that gaming facility.

**Text of proposed rule and any required statements and analyses may be obtained from:** Kristen Buckley, New York State Gaming Commission, One Broadway Center, 6th Floor, Schenectady, NY 12305, (518) 388-3407, email: kristen.buckley@gaming.ny.gov

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 45 days after publication of this notice.

#### Regulatory Impact Statement

1. **STATUTORY AUTHORITY:** Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) grants rule making authority to the Commission to implement, administer and enforce the provisions of Racing Law Article 13.

Racing Law section 1307(2)(d) requires the Commission to prescribe the method of notice to be provided to an applicant, registrant, or licensee in regard to the release of information or data provided to the commission from any applicant, registrant, or licensee.

Racing Law section 1336(2) authorizes the Commission to prescribe restrictions and prohibitions on employee wagering at gaming facilities.

2. **LEGISLATIVE OBJECTIVES:** The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. **NEEDS AND BENEFITS:** The proposed amendment to the rules implement the above listed statutory directives regarding the method of notice to be provided to applicants, registrants, or licensee for the release of information or data provided by such applicant, registrant, or licensee to the Commission. The proposed amendments to the rules also prescribe necessary clarification to the restrictions on employee wagering at gaming facilities.

#### 4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: These amendments to the rules will not impose any additional costs on the regulated parties. The amendments

impose requirements upon the Commission and clarify the prohibitions on employee wagering at gaming facilities.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: These amendments only require the Commission to publish the Commission's policy on the release of information provided to the Commission by any applicant, registrant, or licensee on its website. Based upon the Commission's experience in regulating racing and gaming activities within the state, any costs associated with this rule will be negligible. The rule will not impose any additional costs on other State or local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost estimate is based: Cost estimates are based on the Commission's experience regulating racing and gaming activities within the State.

5. LOCAL GOVERNMENT: The rule does not impose any mandatory program, service, duty, or responsibility upon local government.

6. PAPERWORK: The rule is not expected to impose any significant paperwork or reporting requirements for regulated entities.

7. DUPLICATION: The rule does not duplicate, overlap or conflict with any existing State or federal requirements.

8. ALTERNATIVES: The Commission created the rule to fulfill the statutory mandate in Racing Law section 1307(2)(d) and to clarify restrictions on employee wagering, therefore, no alternatives were considered.

9. FEDERAL STANDARDS: There are no federal standards applicable to the rule. It is purely a matter of New York State law.

10. COMPLIANCE SCHEDULE: The Commission anticipates that affected parties will be able to achieve compliance with the rule upon adoption.

#### **Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

These amendments will not have any adverse impact on small businesses, local governments, jobs or rural areas. The proposed amendments to the rules implement the method of notice to be provided to applicants, registrants, or licensee for the release of information or data provided by such applicant, registrant, or licensee to the Commission. Additionally, the proposed amendments set forth restrictions on employee wagering at gaming facilities. The amendments impose no obligations on any regulated party, local government or small business. Therefore this rule amendment will not impact local governments or small businesses. This rule applies uniformly throughout the state and does not adversely impact rural areas. This rule will have no impact on job opportunities.

These rules will not adversely impact small businesses, local governments, jobs, or rural areas. Accordingly, a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, and Job Impact Statement are not required and have not been prepared.

### **PROPOSED RULE MAKING NO HEARING(S) SCHEDULED**

#### **To Set Forth the Standards for Electronic Table Game Systems**

**I.D. No.** SGC-42-16-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Addition of sections 5317.41 and 5319.60 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1) and 1335(8)

**Subject:** To set forth the standards for electronic table game systems.

**Purpose:** To prescribe the technical standards for the testing and certification of electronic table game systems.

**Text of proposed rule:** A new section 5317.41 would be added to 9 NYCRR as follows:

§ 5317.41. *Electronic table games system.*

(a) *This section shall apply when an electronic table game (ETG) or games operate as a part of a table game system that is independent of any external gaming system.*

(b) *All electronic table games systems shall meet the requirements set forth in sections 5317.16, 5317.17, 5317.26, 5317.33, and 5317.36 of this Part.*

(c) *All communications in ETGs shall pass through at least one application-level firewall approved by the commission and shall not have a facility that allows for an alternate network path.*

(1) *A firewall application shall:*

(i) *maintain an audit log of the following information:*

(a) *all changes to configuration of the firewall;*

(b) *all successful and unsuccessful connection attempts through the firewall; and*

(c) *the source and destination IP addresses, port numbers and MAC addresses; and*

(i) *disable all communications and generate an error event if the audit log becomes full.*

(2) *The system shall provide for interrogation that enables online comprehensive searching of the significant-event log.*

(3) *The system shall contain an access-level control structure that is capable of limiting access to programs, menu items or other secure areas of the system by means of a user name and login combination, personal identification number or other equivalent means.*

(4) *The system shall not permit the alteration of any significant log information without supervised access control.*

(5) *There shall be a system administrator notification and user lockout or audit trail entry after a set number of unsuccessful login attempts.*

(6) *The system shall record:*

(i) *date and time of the login attempt;*

(ii) *username supplied; and*

(iii) *success or failure.*

(7) *The use of generic user accounts on servers is not permitted.*

(8) *The system shall not permit the alteration of any accounting or significant event log information without supervised access controls. In the event financial data is changed, an audit log shall be capable of being produced to document:*

(i) *data element altered;*

(ii) *data element value prior to alteration;*

(iii) *data element value after alteration;*

(iv) *time and date of alteration; and*

(v) *user login.*

(d) *In addition to the requirements set forth in section 5317.36 of this Part, a gaming facility licensee or a licensed manufacturer shall submit to the commission for review and approval procedures to be established in the use of remote access as set forth in subdivision (b) of section 5321.10 of this Subchapter. Such procedures shall designate, at a minimum, authorized users and authorized settings of the electronic table game or games.*

(1) *Remote access shall authenticate all computer systems based on the authorized settings of the electronic table game and firewall application that establishes a connection with the electronic table game pursuant to the following requirements:*

(i) *a remote access user activity log is maintained by both the gaming facility and the licensed manufacturer, depicting the following information:*

(a) *authorizing individual;*

(b) *purpose;*

(c) *user login;*

(d) *time and date; and*

(e) *duration and activity while logged in;*

(ii) *unauthorized remote user administration functionality is prohibited;*

(iii) *unauthorized access to the database is prohibited;*

(iv) *unauthorized access to the operating system is prohibited; and*

(v) *if remote access is to be on a continuous basis, then a network filter shall be installed to protect access, as approved by the commission.*

(2) *The system shall implement self-monitoring of all critical interface elements and shall have the ability to notify effectively the system administrator of any error condition, provided the condition is not catastrophic.*

(3) *The system shall be able to perform the operation prescribed in paragraph (2) of this section with a frequency of at least once in every 24-hour period and during each power-up and power reset.*

(e) *A gaming facility licensee shall report any requirements that cannot be met as a result of manual intervention from a live dealer to the commission prior to submission for required testing as set forth in Part 5318 of this Subchapter.*

A new section 5319.60 would be added to 9 NYCRR as follows:

§ 5319.60. *Electronic table games.*

All electronic table games (ETGs) shall meet the requirements set forth in sections 5319.12, 5319.13, 5319.14 and 5319.35 of this Part.

(a) *Communication protocol. Each component of an ETG system shall function as indicated by the communication protocol implemented. All protocols shall use communication techniques that have proper error detection and/or recovery mechanisms that are designed to prevent unauthorized access or tampering, employing data encryption standards or equivalent encryption with secure seeds or algorithms. Any alternative measures shall require approval of the commission in writing.*

(b) *System integrity. The server or system component or components shall reside in a secure area where access is limited to authorized staff as set forth in the gaming facility licensee's approved system of internal controls. Access to the logic components of the game shall be logged on the system or on a computer or other logging device that resides outside*



# Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500

[www.gaming.ny.gov](http://www.gaming.ny.gov)

John A. Crotty, Commissioner  
Peter J. Moschetti, Jr. Commissioner  
John J. Poklemba, Commissioner  
Barry Sample, Commissioner  
Todd R. Snyder, Commissioner

Robert Williams, Executive Director  
Edmund C. Burns, General Counsel

**To:** Commissioners  
**From:** Edmund C. Burns  
**Date:** December 7, 2016  
**Re:** Adoption of Rulemaking for Electronic Table Games Systems  
(9 NYCRR §§ 5317.41 and 5319.60)

For Commission consideration is the adoption of rules for electronic table game systems. Electronic table games are similar to table games, but players make wagers through electronic systems, rather than with dealers. Proposed section 5317.41 addresses the technical standards for the certification of such systems. Proposed section 5319.60 sets forth requirements for communication protocol, system integrity, random number generators, maintenance of critical memory, player interface terminals and notification in case of non-conformance.

Notice of the proposed rulemaking was published in the *State Register* on October 19, 2016, a copy of which is attached. The public comment period ended on December 5, 2016. No comments were received.

[REDACTED]

attachment

cc: Robert Williams, Executive Director  
Chris Palmer, Deputy Director, Division of Gaming

impose requirements upon the Commission and clarify the prohibitions on employee wagering at gaming facilities.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: These amendments only require the Commission to publish the Commission's policy on the release of information provided to the Commission by any applicant, registrant, or licensee on its website. Based upon the Commission's experience in regulating racing and gaming activities within the state, any costs associated with this rule will be negligible. The rule will not impose any additional costs on other State or local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost estimate is based: Cost estimates are based on the Commission's experience regulating racing and gaming activities within the State.

5. LOCAL GOVERNMENT: The rule does not impose any mandatory program, service, duty, or responsibility upon local government.

6. PAPERWORK: The rule is not expected to impose any significant paperwork or reporting requirements for regulated entities.

7. DUPLICATION: The rule does not duplicate, overlap or conflict with any existing State or federal requirements.

8. ALTERNATIVES: The Commission created the rule to fulfill the statutory mandate in Racing Law section 1307(2)(d) and to clarify restrictions on employee wagering, therefore, no alternatives were considered.

9. FEDERAL STANDARDS: There are no federal standards applicable to the rule. It is purely a matter of New York State law.

10. COMPLIANCE SCHEDULE: The Commission anticipates that affected parties will be able to achieve compliance with the rule upon adoption.

#### **Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

These amendments will not have any adverse impact on small businesses, local governments, jobs or rural areas. The proposed amendments to the rules implement the method of notice to be provided to applicants, registrants, or licensee for the release of information or data provided by such applicant, registrant, or licensee to the Commission. Additionally, the proposed amendments set forth restrictions on employee wagering at gaming facilities. The amendments impose no obligations on any regulated party, local government or small business. Therefore this rule amendment will not impact local governments or small businesses. This rule applies uniformly throughout the state and does not adversely impact rural areas. This rule will have no impact on job opportunities.

These rules will not adversely impact small businesses, local governments, jobs, or rural areas. Accordingly, a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, and Job Impact Statement are not required and have not been prepared.

### **PROPOSED RULE MAKING NO HEARING(S) SCHEDULED**

#### **To Set Forth the Standards for Electronic Table Game Systems**

**I.D. No.** SGC-42-16-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Addition of sections 5317.41 and 5319.60 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1) and 1335(8)

**Subject:** To set forth the standards for electronic table game systems.

**Purpose:** To prescribe the technical standards for the testing and certification of electronic table game systems.

**Text of proposed rule:** A new section 5317.41 would be added to 9 NYCRR as follows:

§ 5317.41. *Electronic table games system.*

(a) *This section shall apply when an electronic table game (ETG) or games operate as a part of a table game system that is independent of any external gaming system.*

(b) *All electronic table games systems shall meet the requirements set forth in sections 5317.16, 5317.17, 5317.26, 5317.33, and 5317.36 of this Part.*

(c) *All communications in ETGs shall pass through at least one application-level firewall approved by the commission and shall not have a facility that allows for an alternate network path.*

(1) *A firewall application shall:*

(i) *maintain an audit log of the following information:*

(a) *all changes to configuration of the firewall;*

(b) *all successful and unsuccessful connection attempts through the firewall; and*

(c) *the source and destination IP addresses, port numbers and MAC addresses; and*

(i) *disable all communications and generate an error event if the audit log becomes full.*

(2) *The system shall provide for interrogation that enables online comprehensive searching of the significant-event log.*

(3) *The system shall contain an access-level control structure that is capable of limiting access to programs, menu items or other secure areas of the system by means of a user name and login combination, personal identification number or other equivalent means.*

(4) *The system shall not permit the alteration of any significant log information without supervised access control.*

(5) *There shall be a system administrator notification and user lockout or audit trail entry after a set number of unsuccessful login attempts.*

(6) *The system shall record:*

(i) *date and time of the login attempt;*

(ii) *username supplied; and*

(iii) *success or failure.*

(7) *The use of generic user accounts on servers is not permitted.*

(8) *The system shall not permit the alteration of any accounting or significant event log information without supervised access controls. In the event financial data is changed, an audit log shall be capable of being produced to document:*

(i) *data element altered;*

(ii) *data element value prior to alteration;*

(iii) *data element value after alteration;*

(iv) *time and date of alteration; and*

(v) *user login.*

(d) *In addition to the requirements set forth in section 5317.36 of this Part, a gaming facility licensee or a licensed manufacturer shall submit to the commission for review and approval procedures to be established in the use of remote access as set forth in subdivision (b) of section 5321.10 of this Subchapter. Such procedures shall designate, at a minimum, authorized users and authorized settings of the electronic table game or games.*

(1) *Remote access shall authenticate all computer systems based on the authorized settings of the electronic table game and firewall application that establishes a connection with the electronic table game pursuant to the following requirements:*

(i) *a remote access user activity log is maintained by both the gaming facility and the licensed manufacturer, depicting the following information:*

(a) *authorizing individual;*

(b) *purpose;*

(c) *user login;*

(d) *time and date; and*

(e) *duration and activity while logged in;*

(ii) *unauthorized remote user administration functionality is prohibited;*

(iii) *unauthorized access to the database is prohibited;*

(iv) *unauthorized access to the operating system is prohibited; and*

(v) *if remote access is to be on a continuous basis, then a network filter shall be installed to protect access, as approved by the commission.*

(2) *The system shall implement self-monitoring of all critical interface elements and shall have the ability to notify effectively the system administrator of any error condition, provided the condition is not catastrophic.*

(3) *The system shall be able to perform the operation prescribed in paragraph (2) of this section with a frequency of at least once in every 24-hour period and during each power-up and power reset.*

(e) *A gaming facility licensee shall report any requirements that cannot be met as a result of manual intervention from a live dealer to the commission prior to submission for required testing as set forth in Part 5318 of this Subchapter.*

A new section 5319.60 would be added to 9 NYCRR as follows:

§ 5319.60. *Electronic table games.*

All electronic table games (ETGs) shall meet the requirements set forth in sections 5319.12, 5319.13, 5319.14 and 5319.35 of this Part.

(a) *Communication protocol. Each component of an ETG system shall function as indicated by the communication protocol implemented. All protocols shall use communication techniques that have proper error detection and/or recovery mechanisms that are designed to prevent unauthorized access or tampering, employing data encryption standards or equivalent encryption with secure seeds or algorithms. Any alternative measures shall require approval of the commission in writing.*

(b) *System integrity. The server or system component or components shall reside in a secure area where access is limited to authorized staff as set forth in the gaming facility licensee's approved system of internal controls. Access to the logic components of the game shall be logged on the system or on a computer or other logging device that resides outside*

the secure area and is not accessible to the employee or employees gaining access to the secure area.

(1) The logged data shall include time and date and user login.

(2) The resulting logs shall be retained for a minimum of 90 days.

(c) RNG. Each RNG shall meet the requirements set forth in section 5319.35 of this Part and the following requirements:

(1) In the game selection process:

(i) each possible permutation or combination of game elements that produces winning or losing game outcomes shall be available for random selection at the initiation of each play, unless otherwise denoted by the game;

(ii) after selection of the game outcome, the ETG shall not make a variable secondary decision that affects the result shown to the player; and

(iii) an ETG shall use protocols that effectively protect the RNG and random selection process from influence by associated equipment that may be communicating with the ETG.

(2) The RNG shall be cycled continuously in the background between games and during game play at a speed that cannot be timed by the player. Periods when the RNG may not be cycled (e.g., interrupts) shall be kept to a minimum.

(3) The first seed shall be determined randomly by an uncontrolled event such that the seed randomly changes after every game. A licensed manufacturer is not required to use a random seed so long as such manufacturer shall ensure that games do not synchronize.

(4) Games depicting cards being drawn from a deck shall meet the following requirements:

(i) at the start of each hand, the cards shall be drawn from a randomly shuffled deck;

(ii) replacement cards shall not be drawn until needed and allow for multi-deck and depleting decks in accordance with game rules;

(iii) cards once removed from the deck shall not be returned to the deck except as provided by the rules of the game depicted; and

(iv) as cards are removed from the deck, such cards shall be used immediately as directed by the rules of the game.

(d) Maintenance of critical memory. Critical memory storage may be maintained by the player terminal or the system, where applicable.

(e) Player interface terminal requirements. Player interface terminals may either be a display mechanism where the system performs all operations of the game (also known as thin client) or a mechanism that contains its own logic function in conjunction with the ETG (also known as thick client). Such player interface terminals shall meet the hardware and software requirements set forth in this Part.

(f) Notification of non-compliance. A gaming facility shall report any requirements that cannot be met as a result of manual intervention from a live dealer to the commission prior to submission for required testing as set forth in Part 5318 of this Subchapter.

**Text of proposed rule and any required statements and analyses may be obtained from:** Kristen Buckley, New York State Gaming Commission, One Broadway Center, 6th Floor, Schenectady, NY 12305, (518) 388-3407, email: kristen.buckley@gaming.ny.gov

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 45 days after publication of this notice.

#### Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1335(8) authorizes the Commission to regulate the testing of gaming devices and associated equipment.

Racing Law section 1335(8) authorizes the Commission to establish technical standards for the testing and certification of gaming devices and associated equipment.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. NEEDS AND BENEFITS: The proposed rules implement the above listed statutory directives regarding the technical specifications for the testing and certification of electronic table game systems. The rules represent the best practices in areas of communication protocol, system integrity, random number generators, maintenance of critical memory, player interface terminals and notification in case of non-conformance.

#### 4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: The gaming facilities are required to have electronic table game systems tested and certified by an independent testing laboratory. The total fee for an independent testing laboratory's inspection and certification will be approximately \$500,000 to \$750,000 annually.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The costs to the Commission for the implementation of and continued administration of the rule will be negligible given that all such costs are the responsibility of the gaming facility. These rules will not impose any additional costs on local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The cost estimates are based on the Commission's experience regulating racing and gaming activities within the State.

5. LOCAL GOVERNMENT: There are no local government mandates associated with these rules.

6. PAPERWORK: The rule is not expected to impose any significant paperwork or reporting requirements for regulated entities.

7. DUPLICATION: These rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulation. Alternatives were discussed and considered with stakeholders and compared to other jurisdictions regulations. These include clarifications on the definition of an authorized person, remote access procedures and denotation of games where winning and losing game outcomes are not available for random selection at the initiation of each play.

9. FEDERAL STANDARDS: There are no federal standards applicable to the licensing of gaming facilities in New York; it is purely a matter of New York State law.

10. COMPLIANCE SCHEDULE: The Commission anticipates that the affected parties will be able to achieve compliance with these rules upon adoption.

#### Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

These rules establish the standards for electronic table game systems and will not have any adverse impact on small businesses, local governments, jobs or rural areas.

These rules do not impact local governments or small businesses as it is not expected that any local government or small business will hold a gaming facility license.

These rules impose no adverse impact on rural areas. These rules apply uniformly throughout the state and solely apply to licensed gaming facilities.

These rules will have no adverse impact on job opportunities.

These rules will not adversely impact small businesses, local governments, jobs, or rural areas. Accordingly, a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, and Job Impact Statement are not required and have not been prepared.

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## Department of Health

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### NOTICE OF ADOPTION

#### Perinatal Services

**I.D. No.** HLT-06-16-00002-A

**Filing No.** 901

**Filing Date:** 2016-09-28

**Effective Date:** 2017-01-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 405.21 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 2505-a

**Subject:** Perinatal Services.

**Purpose:** To update the Breastfeeding Mother's Bill of Rights to conform with recommended standards of care.

**Text of final rule:** Subdivision (f)(3) Section 405.21 is amended to read as follows:

(f)(3) Education and orientation of the mother who is planning to raise the baby.



# Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500

[www.gaming.ny.gov](http://www.gaming.ny.gov)

John A. Crotty, Commissioner  
Peter J. Moschetti, Jr., Commissioner  
John J. Poklemba, Commissioner  
Barry Sample, Commissioner  
Todd R. Snyder, Commissioner

Robert Williams, Executive Director  
Edmund C. Burns, General Counsel

**To:** Commissioners  
**From:** Edmund C. Burns  
**Date:** December 7, 2016  
**Re:** Proposed Rulemaking for Show Wagering in Thoroughbred Racing (9 NYCRR § 4009.22).

For Commission consideration is a proposed revision to the Commission's Thoroughbred racing pari-mutuel wagering rules in regard to show wagers. Current rules require show wagers to be offered in all races with five or more betting interests, except in sweepstakes races. The proposal would make show wagers optional in all races of four or more betting interests. This change would help the tracks minimize the risk of loss on a race with an anticipated heavy favorite, because the track is required to pay a minimum of \$2.10 on a \$2 wager, regardless of how many bettors in the pool select the horse that pays off, even when such horse is a heavy favorite. See Rule 4009.6 (Minimum payoff).

The Commission's Division of Horse Racing and Pari-Mutuel Wagering formulated the proposal in consultation with The New York Racing Association, Inc., which supports the proposal. Staff is informed that Finger Lakes racetrack has no objection to the proposal.

The text of the proposal is as follows:

## **§ 4009.22. Pools dependent on entries.**

In all races [except sweepstakes] with [five] four or more separate entries that start, a racing association shall provide win[, ] and place [and show] pools and at such racing association's option may conduct a show pool. [In all races with four separate entries that start, a racing association shall provide win and place pools and at such racing association's option may conduct a show pool.] In races of three separate entries, a racing association shall provide a win pool and, at such racing association's option may conduct a place pool. For two separate entries that start, a racing association shall provide only a win pool. Pari-mutuel tickets shall be sold accordingly; provided, however, that in sweepstakes with fewer than four separate entries that start, a racing association may, at such racing association's option, provide that there shall be no betting, and in such cases an additional race with betting shall be added to the program, if feasible.

Commissioners  
December 7, 2016  
Page 2



cc: Robert Williams, Executive Director  
Ronald Ochrym, Acting Director, Division of Horse Racing and Pari-Mutuel Wagering



# Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500  
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Robert Williams, Executive Director  
Edmund C. Burns, General Counsel

**To:** Commissioners  
**From:** Edmund C. Burns  
**Date:** December 7, 2016  
**Re:** Proposed Rulemaking for Pick-Five and Pick-Six Wagering in Thoroughbred Racing (9 NYCRR §§ 4011.25 and 4011.26).

For Commission consideration is a proposed revision to the Commission’s Thoroughbred racing pari-mutuel wagering rules in regard to pick-five and pick-six wagers. Current rules prohibit a track from displaying wagering information about pick-five or pick-six combinations other than will-pays after the penultimate race in the sequence. The proposed revision would permit a track to disclose publicly combinations wagered upon, amounts wagered on such combinations, numbers of tickets sold or number of tickets still capable of winning a pick-five or pick-six pool. This change may enhance interest in the pick-five and pick-six wagers.

The Commission’s Division of Horse Racing and Pari-Mutuel Wagering formulated the proposal in consultation with The New York Racing Association, Inc., which supports the proposal. Staff is informed that Finger Lakes racetrack has no objection to the proposal.

The text of the proposal is as follows:

**§ 4011.25. Pick-five pools.**

\* \* \*

(o) [Other than the display of the will-pays after the penultimate pick-five race, providing information to any person in regard to covered combinations, amounts wagered on specific combinations, numbers of tickets sold or number of live tickets remaining is strictly prohibited. This subdivision shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.]  
[Reserved]

\* \* \*

(s) *Betting information.* [Unless otherwise ordered by the commission, information concerning combinations wagered upon or not wagered upon in a pick-five pool shall not be disclosed by the tote operator, or otherwise, until the final pick-five race remains as the only race to be contested for completion of the pick-five wager.] A racing association 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-five pool. The operation of the totalisator equipment and reports generated thereby[, as well as the communication of any information concerning such pool,] shall be subject to the strict supervision of the commission.

\* \* \*

**§ 4011.26. Pick-six pools.**

\* \* \*

(o) [Other than the display of the will-pays after the penultimate pick-six race, providing information to any person in regard to covered combinations, amounts wagered on specific combinations, numbers of tickets sold or number of live tickets remaining is strictly prohibited. This subdivision shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.]  
[Reserved]

\* \* \*

(s) *Betting information.* [Unless otherwise ordered by the commission, information concerning combinations wagered upon or not wagered upon in a pick-six pool shall not be disclosed by the tote operator, or otherwise, until the final pick-six race remains as the only race to be contested for completion of the pick-six wager.] A racing association 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-six pool. The operation of the totalisator equipment and reports generated thereby[, as well as the communication of any information concerning such pool,] shall be subject to the strict supervision of the commission.



cc: Robert Williams, Executive Director  
Ronald Ochrym, Acting Director, Division of Horse Racing and Pari-Mutuel Wagering