

7870.0170 CLASS A LICENSE CRITERIA.

The commission may issue a Class A license if it determines on the basis of all the facts before it that: the applicant is financially able to operate a racetrack; issuance of a license will not create a competitive situation that will adversely affect racing and the public interest; the racetrack will be operated in accordance with all applicable laws and rules; and the issuance of the license will not adversely affect the public health, safety, and welfare. In making the required determinations, the commission must consider the following factors and indices:

A. the integrity of the applicant, its partners, directors, officers, policymakers, managers, and holders of ownership or other voting interests or control, including:

- (1) criminal record;
- (2) involvement in litigation over business practices;
- (3) involvement in disciplinary actions over a business license or permit or refusal to renew a license or permit;
- (4) involvement in proceedings in which unfair labor practices, discrimination, or government regulation of horse racing or gambling was an issue;
- (5) involvement in bankruptcy proceedings;
- (6) failure to satisfy judgments, orders, or decrees;
- (7) delinquency in filing of tax reports or remitting taxes; and
- (8) any other indices related to integrity which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;

B. the types and variety of pari-mutuel horse racing which applicant will offer;

C. the quality of physical improvements and equipment in applicant's facility, including:

- (1) racetrack or tracks;
- (2) stabling;
- (3) grandstand;
- (4) detention barn;
- (5) paddock;
- (6) jockeys' and drivers' quarters;
- (7) pari-mutuel tote;
- (8) parking;

- (9) access by road and public transportation;
- (10) perimeter fence;
- (11) other security improvements and equipment;
- (12) starting, timing, photo finish, and photo-patrol or video equipment;
- (13) commission work areas; and

(14) any other indices related to quality which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;

D. imminence of completion of facility;

E. financial ability to develop, own, and operate a pari-mutuel horse racing facility successfully, including:

- (1) ownership and control structure;
- (2) amounts and reliability of development costs;
- (3) certainty of site acquisition or lease;
- (4) current financial condition;

(5) sources of equity and debt funds, amounts, terms and conditions and certainty of commitment;

(6) provision for cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other financial adversity;

(7) feasibility of financial plan; and

(8) any other indices related to financial ability which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;

F. status of governmental actions required by the applicant's facility, including:

- (1) necessary road improvements;
- (2) necessary public utility improvements;
- (3) required governmental approvals for development, ownership, and operation of the facility;

(4) acceptance of any required environmental assessment and preparation of any required environmental impact statement; and

(5) any other indices related to status of governmental actions which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;

G. management ability of the applicant, including:

(1) qualifications of managers, consultants, and other contractors to develop, own, and operate a pari-mutuel horse racing facility;

(2) security plan;

(3) plans for human and animal health and safety;

(4) marketing, promotion, and advertising plans;

(5) concessions plan;

(6) plan for training personnel;

(7) equal employment and affirmative action plans; and

(8) any other indices related to management ability which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;

H. compliance with applicable statutes, charters, ordinances, or regulations;

I. efforts to promote orderly growth of horse racing in Minnesota and educate public with respect to horse racing and pari-mutuel betting;

J. impact of facility, including:

(1) economic impact, including employment created, purchases of goods and services, public and private investment and taxes generated;

(2) ecological impact;

(3) impact on energy conservation and development of alternative energy sources;

(4) social impact;

(5) costs of public improvements; and

(6) any other indices related to impact which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;

K. extent of public support and opposition; and

L. effects on competition, including:

(1) number, nature, and relative location of other Class A licenses;

(2) minimum and optimum number of racing days sought by the applicant;
and

(3) any other indices of the impact of competition which the commission deems crucial to decision making as long as the same indices are considered with regard to all applicants.

The commission also must consider any other information which the applicant discloses and is relevant and helpful to a proper determination by the commission.

Statutory Authority: *MS s 240.23*

History: *8 SR 1823*

Published Electronically: *April 16, 2007*