

Minnesota Racing Commission**Proposed Expedited Permanent Rules Relating to Advance Deposit Wagering****7869.0100 DEFINITIONS.**

[For text of subps 1 to 6a, see M.R.]

Subp. 6b. **Amount wagered by a Minnesota resident.** "Amount wagered by a Minnesota resident," as used in Minnesota Statutes, section 240.01, subdivision 20a, means all pari-mutuel wagers, pooled or community wagers, and contest entry fees.

[For text of subps 7 and 8, see M.R.]

Subp. 8a. **Beneficial owner.** "Beneficial owner" means persons or entities holding at least five percent ownership or voting interest in a vendor, racing or gaming-related vendor, applicant, or license holder.

[For text of subps 9 to 32a, see M.R.]

Subp. 32b. **Key employee.** "Key employee" means officers, directors, partners, sales representatives, sole proprietors, and signatories on agreements with licensed racetracks.

[For text of subps 33 to 51a, see M.R.]

Subp. 51b. **Racing or gaming-related vendor.** "Racing or gaming-related vendor" means a person that manufactures, sells, provides, or distributes equipment or supplies used at a Class A facility, or provides services to a Class A facility or Class B license holder, that are directly related to simulcasting, pari-mutuel wagering, or card club operations. Racing or gaming-related vendor includes an advance deposit wagering provider.

[For text of subps 52 to 69, see M.R.]

7877.0100 GENERAL REQUIREMENTS.

Subpart 1. **Scope.** Except as otherwise provided by rule, an individual who serves on the association board of directors, an association officer, a racing or gaming-related vendor, and any person whose work, in whole or in part, is conducted at a licensed racetrack shall first obtain a Class C license from the commission.

[For text of subp 2, see M.R.]

7877.0110 PROCEDURE FOR OBTAINING CLASS C LICENSE.

[For text of subp 1, see M.R.]

Subp. 2. **Individual application content.** An application from an individual for a Class C license must include the following information with respect to the applicant:

[For text of items A to G, see M.R.]

Subp. 2a. **Racing or gaming-related vendor application content.** An application for a Class C racing or gaming-related vendor license must be on a form prescribed by the commission and must include, at minimum, the following:

A. name and address of entity, including physical address and Web site or e-mail address;

B. name, title, and contact information of an individual authorized to communicate with the commission on matters relating to the application and license;

C. type of goods or services offered to a Class A or Class B license holder;

D. executive summary of current business plan;

E. a description of the applicant's anti-money-laundering policies and procedures;

F. details of the applicant's corporate structure and copies of current corporate filings and certificate of good standing in jurisdiction where the entity is registered or incorporated;

G. tax identification number or Social Security number;

H. identity of all key employees and beneficial owners;

I. list of all criminal, civil, and regulatory actions where the applicant, any key employee or beneficial owner, or any business that had a key employee or beneficial owner in common with the applicant, was the subject of the action;

J. details of racing or gaming-related licenses that have been denied, suspended, or revoked by any racing or gaming jurisdiction, including licenses where any key employee or beneficial owner of the applicant was a key employee or beneficial owner of the entity whose license was denied, suspended, or revoked;

K. copies of all contracts with Minnesota licensed racetracks and an assurance that the commission will be notified of any other agreements or understandings between the licensed racetrack and the vendor, whether oral or written;

L. surety bond or other form of financial security as required by Minnesota statutes or rules;

M. consent to submit to the jurisdiction of Minnesota courts and agencies in any action relating to the subject matter of the license, application, or business with a Class A or Class B license holder; and

N. any other information the commission determines is necessary to evaluate the fitness of the applicant under applicable laws or rules.

Subp. 3. **Application submission.** An application shall not be considered filed until the application form has been filled out completely ~~and~~₂ all information requested by the commission has been supplied~~;~~ and the license fee has been paid. Failure to file a

complete application, or knowingly filing an application that contains false or misleading information, shall be grounds for denial of the application.

[For text of subp 4, see M.R.]

7877.0120 FEES.

Subpart 1. **License fees.** Each application for a Class C license, or its renewal, shall be accompanied by the payment of an annual fee according to the following schedule:

[For text of items A to AA, see M.R.]

BB. owner/trainer/driver, \$100; ~~and~~

CC. with the exception of owner/trainer/driver, all applicants to participate at a Class B or D licensed facility where the meet to be conducted is seven or fewer days, \$10~~;~~ and

DD. advance deposit wagering provider, \$10,000 for the first year and \$2,500 for each year thereafter.

[For text of subps 2 to 4, see M.R.]

7877.0125 CRITERIA FOR DETERMINING ELIGIBILITY.

Subpart 1. **Age.** An individual applicant for a Class C license, except an individual owner's license, shall be at least 14 years of age unless an older age is required by statute or rule; however individual Class C licensees who work in proximity to horses shall be at least 16 years of age.

Subp. 2. **Burden of proof.** If an applicant for a Class C license, a key employee or beneficial owner of the applicant, or an entity with a key employee or beneficial owner in common with the applicant, has had a license denied ~~or had his or her license,~~ suspended or revoked or been excluded ~~by~~ in Minnesota or another racing jurisdiction, or has engaged in conduct that the commission determines would adversely affect the

public health, welfare, and safety or the integrity of racing in Minnesota, the commission shall consider such fact as prima facie evidence that the applicant is unfit to be granted a Class C license, and the burden of proof shall rest upon the applicant to establish his or her fitness. In reviewing such applications, the commission shall consider the factors provided in part 7877.0100, subpart 2.

[For text of subp 3, see M.R.]

7877.0160 DURATION AND EXTENT OF CLASS C LICENSES.

Subpart 1. **Duration.** A Class C license shall expire at midnight on December 31 of the calendar year after its issuance. A license to conduct advance deposit wagering issued after October 15 of any calendar year shall expire on December 31 of the following calendar year.

[For text of subps 2 to 4, see M.R.]

CHAPTER 7880

ADVANCE DEPOSIT WAGERING

7880.0010 SCOPE.

This chapter applies to advance deposit wagering providers licensed by the commission under Minnesota Statutes, section 240.131. Advance deposit wagering providers shall not accept wagers from Minnesota residents on races conducted in Minnesota. The activities of a licensed advance deposit wagering provider are deemed to be relevant to the integrity of horse racing activities in Minnesota for purposes of Minnesota Statutes, sections 240.03 and 240.08.

7880.0020 LICENSING OF ADVANCE DEPOSIT WAGERING PROVIDERS.

Subpart 1. **License required.** No person shall offer or accept advance deposit wagers from Minnesota residents after November 1, 2016, unless the person holds a license in

good standing as an advance deposit wagering provider under chapter 7877 and complies with all requirements of this chapter and applicable laws or rules.

Subp. 2. **Information required at time of application.** In addition to the information required in part 7877.0110, an applicant for a Class C license to provide advance deposit wagering shall provide the following information to the commission at the time of application:

A. the names, addresses, and dates of birth of all key employees and beneficial owners;

B. if an owner is a corporation, the date and place of its incorporation and an organization chart showing all related business entities;

C. evidence of approval to conduct advance deposit wagering from the appropriate regulatory authority in the state where the principal office of the advance deposit wagering provider is located;

D. fingerprints of any key employee or beneficial owner if required by the commission;

E. written agreements between the applicant and Class A or Class B license holders that meet the requirements of Minnesota Statutes, section 240.131, subdivision 3, including written documentation of approval by the applicable horsepersons' groups;

F. a description of the processes and procedures implemented to identify and report possible odds manipulation;

G. a description of the security measures used to protect account holder information and the integrity of the wagering process;

H. a complete list of licenses held by the applicant with other racing jurisdictions;

I. total wagers accepted from Minnesota residents during the two years preceding the application, broken down by zip code if possible; and

J. any other information the commission determines is necessary to establish the applicant's suitability for licensure and to fulfill its duties under Minnesota Statutes, chapter 240.

Subp. 3. **Granting of license.** If an applicant for a Class C license to conduct advance deposit wagering submits a complete application that meets all criteria in applicable laws and rules, the commission may grant a license. Licensure is a privilege and the commission shall not be required to grant any license to conduct advance deposit wagering.

Subp. 4. **Changes.** The commission may require changes or additions to the application, or changes to the proposed plan of operation, as a condition of granting a license if necessary to carry out its duties under Minnesota Statutes, chapter 240, or to ensure compliance with applicable laws or rules.

Subp. 5. **Notification.** After a license is granted, the commission must be notified in writing of any material changes to the information provided during the application process.

Subp. 6. **Denial of license.** The commission may deny a license to conduct advance deposit wagering if any of the following conditions exist:

A. the applicant does not submit a complete application or supply all additional information requested by the commission;

B. the commission determines the applicant has intentionally withheld relevant information or provided false or misleading information in connection with the application;

C. the commission determines the bond or other evidence of financial responsibility provided by the applicant is inadequate to ensure the protection of Minnesota account holders and racetracks;

D. the applicant, or any entity with a key employee or owner in common with the applicant, has had a license revoked or denied in Minnesota or another jurisdiction;

E. the key employees or owners cannot sign the affidavit required in Minnesota Statutes, section 240.08, subdivision 2; or

F. the commission determines that licensure would not be in the public interest or would negatively impact the integrity of racing in Minnesota.

Subp. 7. **License not transferable.** A license to conduct advance deposit wagering shall not be transferable. An advance deposit wagering provider shall inform the commission any time there is a change in its controlling interest or when any key employee or beneficial owner listed on its original application is no longer a key employee or beneficial owner.

7880.0030 PLAN OF OPERATION.

Subpart 1. **Submission of plan.** An advance deposit wagering provider shall have a plan of operation approved by the commission which addresses the following issues in addition to those listed in Minnesota Statutes, section 240.131, subdivision 5:

A. types of wagering and contests offered and the manner in which wagering and contests will be conducted;

B. methods to be used for pooling wagers;

C. a complete description of the totalizator, transmission, and data processing programs and equipment to be used;

D. methods for detecting and deterring the use of accounts for illegal activity;

E. methods for accurately verifying an account holder's identity, age, and residence prior to establishing an account;

F. processes for account holders to make deposits to, and withdrawals from, their accounts;

G. a plan for reporting dormant accounts and unclaimed funds that complies with Minnesota Statutes, section 345.39 and 345.41; and

H. any other issues as required by the commission.

After the plan of operation has been approved by the commission, the licensee may amend the plan of operation only with the commission's approval. The commission may withdraw its approval of a plan of operation, if the license holder fails to follow the plan or makes material changes that do not meet the requirements of applicable laws or rules. A violation of an approved plan of operation is deemed to be a violation of Minnesota Statutes, section 240.22.

7880.0040 ESTABLISHMENT OF ACCOUNTS.

Subpart 1. **Requirement.** An individual customer of an advance deposit wagering provider must establish an account prior to placing an advance deposit wager. An account may only be established with a licensed advance deposit wagering provider.

Subp. 2. **Natural persons.** Accounts shall only be established by natural persons and shall not be transferable between persons.

Subp. 3. **Procedure.** To establish an account, an application must be signed or otherwise authorized in a manner acceptable to the commission and must contain the following information.

A. the applicant's full legal name;

B. the applicant's primary residence address;

C. the applicant's telephone number;

D. proper identification or certification demonstrating that the applicant is at least 18 years old; and

E. any other information the commission determines is necessary to carry out its duties under applicable laws and rules.

Subp. 4. **Account holder information.** An advance deposit wagering provider may not sell or share an applicant or account holder's information unless required by law or court order. An advance deposit wagering provider may not use an applicant or account holder's information for any purpose not related to authorized advance deposit wagering.

Subp. 5. **Verification of information.** Each application for an account shall be verified with respect to name, primary residence address, and date of birth either by an independent service provider or another means adequate to ensure the accuracy of the information. If the applicant's information cannot be reliably verified, the account shall not be established.

Subp. 6. **Notice to applicants.** An advance deposit wagering provider must provide the following information to each applicant when an account is established:

- A. the process for funding accounts and making withdrawals from accounts;
- B. wagering rules and procedures, methods, and timing of crediting and debiting accounts, and other information that is pertinent to the operation of the account;
- C. notice that the account holder may place wagers only on races authorized for pari-mutuel wagering under Minnesota Statutes, chapter 240;
- D. a unique account number;
- E. notice that an account holder must be at least 18 years old and that individuals under the age of 18 shall not have access to the account;
- F. information on responsible wagering and how to obtain assistance with problem gambling, including the contact information for at least one problem gambling assistance program; and

G. procedures for resolving disputes between the account holder and the advance deposit wagering provider.

Subp. 7. **Personal identification code.** An account holder shall be required to supply a secure unique personal identification code when establishing an account. The account holder must be required to supply the code when making deposits or withdrawals from the account and when placing a wager. The account holder has the right to change the code at any time.

Subp. 8. **Denial of accounts.** An advance deposit wagering provider may refuse to open an account for what it deems good and sufficient reason.

7880.0050 OPERATION OF ACCOUNTS.

Subpart 1. **Deposits.** An account holder may make deposits to the account in the following forms:

A. cash, which may be deposited at financial or retail outlets designated by the advance deposit wagering provider;

B. check, money order, or negotiable order of withdrawal sent to an advance deposit wagering provider;

C. charges made to an account holder's credit or debit card upon authorization of the account holder; and

D. electronic funds transfer from an account owned by the account holder, in which case the account holder shall be responsible for any fees imposed by the remitting entity.

Subp. 2. **Credits.** The following credits shall be posted to an account by the advance deposit wagering provider as soon as practicable after the race is declared official:

A. credit for winnings from wagers; and

B. credit for wagers for entries that were declared nonstarters.

Subp. 3. **Debit.** Upon receipt of a wager, the advance deposit wagering provider may debit the account in the amount of the wager.

Subp. 4. **Suspension or refusal.** An advance deposit wagering provider may suspend or refuse deposits to an account for what it deems good and sufficient reason.

Subp. 5. **Disputes.** Disputes between an account holder and an advance deposit wagering provider shall be administered under the dispute resolution procedures contained in the plan of operation approved by the commission. If the advance deposit wagering provider fails to resolve the dispute, the commission may take appropriate action under chapter 7897, or may make claims against the bond or other form of financial security if the commission determines funds are owed to an account holder.

7880.0060 CONDUCT OF WAGERING.

Subpart 1. **Acceptance of wagers.** An advance deposit wagering provider may accept wagers via any wired or wireless communications device, subject to applicable laws or rules and the approved plan of operation.

Subp. 2. **No extension of credit.** An advance deposit wagering provider shall not accept wagers from an account holder in excess of the account balance. No credit shall be extended by an advance deposit wagering provider to an account holder.

Subp. 3. **Refusal.** An advance deposit wagering provider may at any time refuse to accept a wager for what it deems to be good and sufficient reason.

Subp. 4. **Information of account holders.** No employee of an advance deposit wagering provider shall divulge any information related to the placing of any wager or the operation of any account, except to the account holder or as authorized by law. No employee may use any such information for personal benefit.

7880.0070 CLOSING OF ACCOUNTS.

Subpart 1. **Account holders.** An account holder has the right to close an account at any time for any reason.

Subp. 2. **Providers.** An advance deposit wagering provider may close an account for what it deems good and sufficient reason.

Subp. 3. **Inactivity.** An advance deposit wagering provider may close an account on which there has been no activity for at least six months.

Subp. 4. **Requirement to close account.** An advance deposit wagering provider shall close an account if it determines:

A. the information used to open the account was false;

B. the account has been used in furtherance of any illegal activity; or

C. the account has been used in violation of any state or federal law or rule.

An advance deposit wagering provider shall provide a written report to the commission within 30 days whenever an account is closed pursuant to this subpart.

Subp. 5. **Procedures.** Except as provided in subpart 6, whenever an account is closed, an advance deposit wagering provider shall, within seven calendar days:

A. ensure that all required debits and credits have been made; and

B. return to the account holder all money then on deposit by sending a check to the primary residence address of the account holder.

Subp. 6. **Account holder deceased.** In the event an account holder is deceased, unclaimed cash balances in the account shall be released to the decedent's legal representative upon receipt of a copy of a valid death certificate, after which the account shall be closed.

7880.0080 RECORD KEEPING AND REPORTING.

Subpart 1. **Maintenance of records.** An advance deposit wagering provider shall maintain the following information on each account for a minimum of two years:

A. a record of all deposits, credits, and debits; and

B. a record of all wagers made.

Subp. 2. **Information to be available.** An advance deposit wagering provider shall make available to each account holder the information listed in subpart 1 as well as current account balances.

Subp. 3. **Records.** Upon request of the account holder, an advance deposit wagering provider shall provide any records it maintains on the account or the account holder. Records may be provided in paper or electronic format.

Subp. 4. **Audit.** An advance deposit wagering provider shall allow the commission and its designees to review and audit all records related in any way to its licensure, financial solvency, accounts, and the conduct of wagering by Minnesota residents. This information shall be made available to the commission or its designees quarterly or upon request and in a format required by the commission.

Subp. 5. **Annual financial statement.** A licensed advance deposit wagering provider shall provide an annual audited financial statement to the commission.

Subp. 6. **Report.** A licensed advance deposit wagering provider shall report to the commission quarterly all source market fees and other payments made to licensed racetracks, the pari-mutuel activity on which the source market fees were paid, and the number of accounts held by Minnesota residents that were opened and closed during the reporting period.

7880.0090 PAYMENTS TO THE STATE.

Subpart 1. **Agreement.** A licensed racetrack must negotiate a separate agreement, with the horsepersons organization representing a majority of horsepersons racing at the licensed racetrack, for the apportionment of source market fees set aside for purse accounts and the breeders' fund pursuant to Minnesota Statutes, section 240.131, subdivision 6, paragraph (d). The agreement must be approved by the commission.

Subp. 2. **Payment to state.** A licensed racetrack shall remit source market fees set aside for the breeders' fund pursuant to Minnesota Statutes, section 240.131, subdivision 6, paragraph (d), to the state no later than seven days after the end of the month in which it receives the fees from the advance deposit wagering provider.

7880.0100 VARIANCES.

The commission, its executive director, or its director of pari-mutuels may grant a variance to any part of this chapter if it determines there are equivalent alternative measures in place to ensure the integrity of wagering and the protection of accounts held by Minnesota residents.

7880.0110 PENALTIES.

Subpart 1. **Suspension or revocation.** The commission may suspend or revoke a license to provide advance deposit wagering, issue a fine, or deny or withdraw approval of a contract between a licensed racetrack and an advance deposit wagering provider if:

- A. the licensee violates applicable laws or rules;
- B. the bond or other form of financial security is canceled or expired and not replaced by another form of financial security approved by the commission;
- C. the licensee has knowingly provided false or misleading information to the commission or withheld information required to be provided;
- D. the licensee has had a license denied, suspended, or revoked in another state;

E. the licensee fails to comply with any conditions on the license imposed by the commission; or

F. the licensee poses a threat to the public interest or the integrity of racing or wagering in Minnesota.

Subp. 2. **Contested case hearing.** If the commission suspends or revokes a Class C racing and gaming-related license to provide advance deposit wagering, the license holder shall have the right to request a contested case hearing under Minnesota Statutes, chapter 14, to be held as set forth in parts 1400.8505 to 1400.8612. The request must be made in writing to the commission by certified mail or personal service. A request sent by certified mail must be postmarked within ten days after the license holder receives the suspension or revocation order from the commission. An appeal sent by personal service must be received by the commission within ten days after the license holder receives the order from the commission.