

Sports

CHAPTER 240

PARI-MUTUEL HORSE RACING

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240.01 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Horse racing.** "Horse racing" is any form of horse racing in which horses carry a rider or pull a sulky.

Subd. 3. **Person.** "Person" is an individual, firm, association, partnership, corporation, trustee, or legal representative, and any licensee, participant, or patron.

Subd. 4. **Commission.** "Commission" is the Minnesota racing commission.

Subd. 5. **Pari-mutuel betting.** "Pari-mutuel betting" is the system of betting on horse races where those who bet on horses that finish in the position or positions for which bets are taken share in the total amounts bet, less deductions required or permitted by law.

Subd. 6. **Breakage.** "Breakage" is the odd cents of all money to be distributed based on each dollar bet exceeding a sum equal to the next lowest multiple of ten.

Subd. 7. **Straight pools and bets.** "Straight pool" is a licensed pari-mutuel pool in which each ticket represents a bet to win, place, or show. A "straight bet" is a bet in a straight pool.

Subd. 8. **Multiple pools and bets.** "Multiple pool" is a licensed pari-mutuel pool other than a straight pool. A "multiple bet" is a bet in a multiple pool.

Subd. 9. **Licensed racetrack.** "Licensed racetrack" is a racetrack at which horse racing is conducted on the premises and which holds a class A or class D license issued by the commission.

Subd. 10. **Racing day.** "Racing day" is a day assigned by the commission on which live racing is conducted.

Subd. 11. **Racing meeting.** "Racing meeting" is a series of days in which racing days are not separated by more than five nonracing days.

Subd. 12. **Average daily handle.** "Average daily handle" means the total amount bet in all pari-mutuel pools at a licensed racetrack during the racing meeting divided by the number of days that horse racing was conducted at the racetrack during the racing meeting.

Subd. 13. [Repealed, 1991 c 336 art 1 s 33]

Subd. 14. [Repealed, 1993 c 13 art 1 s 5]

Subd. 15. [Repealed, 1991 c 233 s 110]

Subd. 16. **Horseperson.** "Horseperson" means a person who is currently licensed by the commission as an owner or lessee, or a trainer.

Subd. 17. **Teleracing facility.** "Teleracing facility" means a facility at which telerace simulcasting is conducted under authority of a class E license issued by the commission.

Subd. 18. **On-track pari-mutuel betting.** "On-track pari-mutuel betting" means wagering conducted at a licensed racetrack, or at a class E licensed facility whose wagering system is electronically linked to a licensed racetrack.

Subd. 19. **Simulcasting.** "Simulcasting" means the televised display, for pari-mutuel wagering purposes, of one or more horse races conducted at another location wherein the televised display occurs simultaneously with the race being televised.

Subd. 20. **Telerace simulcasting.** "Telerace simulcasting" means simulcasting at a teleracing facility.

Subd. 21. **Teleracing program.** "Teleracing program" means a telerace simulcasting event consisting of simulcasting that includes not more than two full racing cards, plus not more than two other races.

Subd. 22. **Racing season.** "Racing season" means that portion of the calendar year starting at the beginning of the day of the first live horse race conducted by the licensee and concluding at the end of the day of the last live horse race conducted by the licensee in any year.

For purposes of this chapter, the racing season begins before the first Saturday in May and continues for not less than 25 consecutive weeks.

Subd. 23. **Full racing card.** "Full racing card" means three or more races that are: (1) part of a horse racing program being conducted at a racetrack; and (2) being simulcast or telerace simulcast at a licensed racetrack or teleracing facility.

History: 1983 c 214 s 1; 1985 c 212 s 1; 1988 c 696 s 1; 1989 c 141 s 1,2; 1989 c 334 art 1 s 1,2; 1991 c 336 art 1 s 1-10

240.011 APPOINTMENT OF DIRECTOR.

The governor shall appoint the director of the Minnesota racing commission, who serves in the unclassified service at the governor's pleasure. The director must be a person qualified by experience in the administration and regulation of pari-mutuel racing to discharge the duties of the director. The governor must select a director from a list of one or more names submitted by the Minnesota racing commission.

History: 1989 c 334 art 1 s 3; 1993 c 13 art 1 s 2,5

240.02 RACING COMMISSION.

Subdivision 1. **Commission.** A Minnesota racing commission is established with the powers and duties specified in this section. The commission consists of nine members appointed by the governor with the advice and consent of the senate. Not more than five of the members may belong to the same political party. The governor shall designate the chair of the commission. Appointments by the governor are for terms of six years. An appointment to fill a vacancy in an unexpired term is for the remainder of the term and is with the advice and consent of the senate.

Subd. 2. **Qualifications.** A member of the commission must have been a resident of Minnesota for at least five years before appointment, and must have a background and experience as would qualify for membership on the commission. A member must, before taking a place on the commission, file a bond in the principal sum of \$100,000 payable to the state, conditioned upon the faithful performance of duties. No commissioner, nor any member of the commissioner's immediate family residing in the same household, may hold a license issued by the commission or have a direct or indirect financial interest in a corporation, partnership, or association which holds a license issued by the commission.

Subd. 3. **Compensation.** The compensation of commission members for each day

spent on commission activities, when authorized by the commission, shall be the same as compensation provided for other members of boards and commissions under section 15.0575, subdivision 3, plus expenses in the same manner and amount as provided in the commissioner's plan adopted according to section 43A.18, subdivision 2.

Subd. 4. **Removal; vacancies.** The removal of commission members is as provided in section 15.0575.

Subd. 5. **Actions.** The commission may sue and be sued in its own name but no action may be brought against the commission or any of its members for actions taken in good faith in the performance of their duties. Suits and actions may be commenced against the commission or any of its members in any court of competent jurisdiction in this state by service, in the manner provided in Minnesota rules of court, of any summons, process, or pleadings authorized by the laws of this state. The attorney general is the legal counsel for the commission.

Subd. 6. **Annual report.** The commission shall on February 15 of each year submit a report to the governor and legislature on its activities, organizational structure, receipts and disbursements, and recommendations for changes in the laws relating to racing and pari-mutuel betting.

Subd. 7. **Audit.** The legislative auditor shall audit or the commission may contract for an audit of the books and accounts of the commission annually or as often as the legislative auditor's funds and personnel permit. The commission shall pay the total cost of the audit. All collections received for the audits must be deposited in the general fund.

History: 1983 c 214 s 2; 1985 c 211 s 1; 1985 c 212 s 2; 1986 c 444; 1989 c 334 art 1 s 4,5; 1991 c 233 s 88-90; 1991 c 336 art 2 s 2; 1994 c 465 art 3 s 53

240.03 COMMISSION POWERS AND DUTIES.

The commission has the following powers and duties:

- (1) to regulate horse racing in Minnesota to ensure that it is conducted in the public interest;
- (2) to issue licenses as provided in this chapter;
- (3) to enforce all laws and rules governing horse racing;
- (4) to collect and distribute all taxes provided for in this chapter;
- (5) to conduct necessary investigations and inquiries and compel the submission of information, documents, and records it deems necessary to carry out its duties;
- (6) to supervise the conduct of pari-mutuel betting on horse racing;
- (7) to employ and supervise personnel under this chapter;
- (8) to determine the number of racing days to be held in the state and at each licensed racetrack; and
- (9) to take all necessary steps to ensure the integrity of racing in Minnesota.

History: 1983 c 214 s 3; 1985 c 212 s 3; 1991 c 336 art 1 s 11

240.04 EMPLOYEES.

Subdivision 1. **Director; duties.** The director shall perform the following duties:

- (a) take and preserve records of all proceedings before the commission, maintain its books, documents, and records, and make them available for public inspection as the commission directs;
- (b) if so designated by the commission, act as a hearing officer in hearings which need not be conducted under the administrative procedure act to conduct hearings, receive testimony and exhibits, and certify the record of proceedings to the commission;
- (c) act as the commission's chief personnel officer and supervise the employment, conduct, duties, and discipline of commission employees; and
- (d) perform other duties as directed by the commission.

Subd. 1a. **Deputy director.** The commission may appoint a deputy director who serves in the unclassified service at the commission's pleasure.

Subd. 2. **Director of pari-mutuels.** The commission may employ a director of pari-mutuels who serves in the unclassified service at the commission's pleasure. The director of pari-mutuels shall perform the following duties:

- (a) supervise all forms of pari-mutuel betting on horse racing in the state;
- (b) inspect all machinery;
- (c) make reports on pari-mutuel betting as the commission directs;
- (d) subject to commission approval, appoint assistants to perform duties the commission designates; and
- (e) perform other duties as directed by the commission.

If no director of pari-mutuels is appointed the duties of that office are assigned to the executive director. The commission may contract with outside services or personnel to assist the executive director in the performance of these duties.

Subd. 3. **Director of racing security.** The commission may appoint a director of racing security to serve in the unclassified service at the commission's pleasure. The director of racing security shall enforce all laws and commission rules relating to the security and integrity of racing. The director of racing security and all other persons designated by the commission as security officers have free and open access to all areas of all facilities the commission licenses and may search without a search warrant any part of a licensed racetrack and the person of any licensee of the commission on the premises. The director of racing security may order a licensee to take, at the licensee's expense, security measures necessary to protect the integrity of racing, but the order may be appealed to the commission. Nothing in this chapter prohibits law enforcement authorities and agents from entering, in the performance of their duties, a premises licensed under Laws 1983, chapter 214.

If no director of racing security is appointed the duties of that office are assigned to the executive director. The commission may contract with outside services or personnel to assist the executive director in the performance of these duties.

Subd. 4. **Veterinarian.** The commission may appoint a veterinarian who must be a doctor of veterinary medicine and who serves at its pleasure in the unclassified service. The veterinarian shall, while employed by the commission, perform the following duties:

- (a) supervise the formulation, administration, and evaluation of all medical tests the commission's rules require or authorize;
- (b) advise the commission on all aspects of veterinary medicine relating to its powers and duties; and
- (c) supervise all personnel involved in medical testing, subject to the supervision of the executive director.

If no veterinarian is appointed, the duties of that office may be assigned to the executive director. The commission may contract with outside personnel to assist the executive director in the performance of these duties.

The commission may require that a licensee reimburse it for the costs of services provided by assistant veterinarians.

Subd. 5. **Other employees.** Subject to applicable laws, the commission shall employ and assign duties to other officers, employees, and agents as it deems necessary to discharge its functions.

Subd. 6. **Compensation.** The compensation of all commission employees shall be as provided in chapter 43A.

Subd. 7. **Assistance.** The commission and director may request assistance from any department or agency of the state in fulfilling its duties, and shall make appropriate reimbursement for all such assistance.

History: 1983 c 214 s 4; 1985 c 212 s 4; 1Sp1985 c 10 s 83; 1986 c 444; 1989 c 334 art 1 s 6,7

240.05 LICENSES; CLASSES.

Subdivision 1. **Classes.** The commission may issue four classes of licenses:

- (a) class A licenses, for the ownership and operation of a racetrack with horse racing on which pari-mutuel betting is conducted;
- (b) class B licenses, for the sponsorship and management of horse racing on which pari-mutuel betting is conducted;
- (c) class C licenses, for the privilege of engaging in certain occupations related to horse racing; and
- (d) class D licenses, for the conduct of pari-mutuel horse racing by county agricultural societies or associations.

No person may engage in any of the above activities without first having obtained the appropriate license from the commission.

Subd. 2. **Forms.** All application forms for licenses must contain a statement to the effect that by accepting a license from the commission a licensee consents to having property or person subject to inspection at any time by the director of racing security or by security officers designated by the commission.

Subd. 3. **Policy.** It is the intent of the legislature that authority granted by law to the commission to issue licenses not be construed as requiring the commission to issue any license.

History: 1983 c 214 s 5; 1985 c 212 s 5; 1986 c 444; 1991 c 336 art 1 s 12; 1994 c 633 art 1 s 1

240.06 RACETRACK LICENSES.

Subdivision 1. **Application.** The commission may issue one or more class A licenses, but not more than one to any one person. An application for a class A license must be on a form the commission prescribes and must be accompanied by detailed plans and specifications of the track, buildings, fences, and other improvements. The application must contain:

- (a) the name and address of the applicant and, if it is a corporation, the names of all officers, directors, and shareholders of the corporation and any of its holding corporations;
- (b) if required by the commission, the names of any person or persons holding directly, indirectly, or beneficially an interest of any kind in the applicant or any of its holding corporations, whether the interest is financial, administrative, policy making, or supervisory;
- (c) a statement of the assets and liabilities of the applicant;
- (d) an affidavit executed by the applicant setting forth that no officer, director, or other person with a present or future direct or indirect financial or management interest in the racetrack, to the best of the applicant's knowledge:
 - (1) is in default in the payment of an obligation or debt to the state under this chapter;
 - (2) has ever been convicted of a felony in a state or federal court or has a state or federal felony charge pending;
 - (3) is or has been connected with or engaged in any illegal business;
 - (4) has ever been found guilty of fraud or misrepresentation in connection with racing or breeding;
 - (5) has ever been found guilty of a violation of a law or rule relating to horse racing, pari-mutuel betting or any other form of gambling which is a serious violation as defined by the commission's rules; or
 - (6) has ever knowingly violated a rule or order of the commission or a law of Minnesota relating to racing;
- (e) an irrevocable consent statement, to be signed by the applicant, which states that suits and actions relating to the subject matter of the application or acts or omis-

sions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleadings is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission; and

(f) an affirmative action plan establishing goals and timetables consistent with the Minnesota human rights act, chapter 363, and in conformity with the goals established by the commission by rule.

Subd. 2. Hearings. Before granting a class A license the commission shall conduct one or more public hearings in the area where the racetrack is or will be located. The commission shall also request comments on the application from the city council or town board of the city or town where the track is or will be located, or from the county board if it is to be located outside a city or town and from the appropriate regional development commission or the metropolitan council, as the case may be.

Subd. 3. Investigation. Before granting a class A license the commission shall conduct, or request the division of gambling enforcement to conduct, a comprehensive background and financial investigation of the applicant and sources of financing. The commission may charge an applicant an investigation fee to cover the cost of the investigation, and shall from this fee reimburse the division of gambling enforcement for its share of the cost of the investigation. The commission has access to all criminal history data compiled by the division of gambling enforcement on class A licensees and applicants.

Subd. 4. License issuance. If after considering the information received at the hearing or hearings and the comments requested under subdivision 2, the commission determines that the license will not adversely affect the public health, welfare, and safety, that the racetrack will be operated in accordance with all applicable laws and rules, that the license will not create a competitive situation that will adversely affect racing and the public interest, and that the applicant is financially able to operate a licensed racetrack, it may issue a class A license to the applicant. The license is effective until revoked or suspended by the commission or relinquished by the licensee.

Subd. 5. Prohibited locations. A class A license may not be issued to any location where the operation of a racetrack is prohibited by a valid local zoning ordinance. Not more than one class A license may be issued by the commission within the seven-county metropolitan area.

Subd. 5a. Additional license; metropolitan area. Notwithstanding subdivision 5, the commission may issue one additional class A license within the seven-county metropolitan area, provided that the additional license may only be issued for a facility:

(1) located more than 20 miles from any other racetrack in existence on January 1, 1987;

(2) containing a track no larger than five-eighths of a mile in circumference;

(3) used exclusively for standardbred racing;

(4) not owned or operated by a governmental entity or a nonprofit organization; and

(5) that has a current road or highway system adequate to facilitate present and future vehicular traffic expeditiously to and from the facility.

The consideration of clause (5) shall prevail when two competing licensees are relatively equal regarding other considerations mandated by law or rule.

An application for an additional class A license within the seven-county metropolitan area may not delay or adversely affect an application for a class A license for a facility to be located outside the seven-county metropolitan area.

Subd. 6. Changes in ownership or management. If a change in the officers, directors, shareholders, or other persons with a present or future direct or indirect financial

or management interest in the licensee, or a change of ownership of more than five percent of the licensee's shares is made after the application is filed or the license issued, the applicant or licensee must notify the commission of the changes within five days of their occurrence and provide the affidavit required by subdivision 1, clause (d).

Subd. 7. License suspension and revocation. The commission:

(1) may revoke a class A license for (i) a violation of law, order, or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, or for an intentional false statement made in a license application, or (ii) a willful failure to pay any money required to be paid by Laws 1983, chapter 214, and

(2) may revoke a class A license for failure to perform material covenants or representations made in a license application; and

(3) shall revoke a class A license if live racing has not been conducted on at least 50 racing days assigned by the commission during any period of 12 consecutive months, unless the commission authorizes a shorter period because of circumstances beyond the licensee's control.

The commission may suspend a class A license for up to one year for a violation of law, order, or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, and may suspend a class A license indefinitely if it determines that the licensee has as an officer, director, shareholder, or other person with a direct, indirect, or beneficial interest a person who is in the commission's opinion inimical to the integrity of horse racing in Minnesota or who cannot be certified under subdivision 1, clause (d).

A license revocation or suspension under this subdivision is a contested case under sections 14.57 to 14.69 of the Administrative Procedure Act, and is in addition to criminal penalties imposed for a violation of law or rule.

Subd. 8. Work areas. A class A licensee must provide at no cost to the commission suitable work areas for commission members, officers, employees, and agents, including agents of the division of gambling enforcement, who are directed or requested by the commission to supervise and control racing at the licensed racetrack.

History: 1983 c 214 s 6; 1984 c 654 art 3 s 80; 1985 c 212 s 6; 1987 c 68 s 1; 1987 c 384 art 2 s 1; 1989 c 334 art 1 s 8.9; 1991 c 233 s 91; 1991 c 330 s 1; 1991 c 336 art 1 s 13; 1994 c 633 art 1 s 2

NOTE: The amendments to subdivision 7 by Laws 1994, chapter 633, article 1, section 2, are effective April 1, 1995. See Laws 1994, chapter 633, article 1, section 18.

240.07 RACING LICENSES.

Subdivision 1. Application. The commission may issue one or more class B licenses for the sponsorship and management of horse racing at licensed racetracks. An application for a class B license must be on a form the commission prescribes, and must be accompanied by a bond in the principal amount of \$500,000 payable to the state of Minnesota conditioned on the licensee's payment of all fees, taxes, and other money due and payable under Laws 1983, chapter 214, including horse owner's purses and payouts on winning pari-mutuel tickets.

The application must contain:

(a) the name and address of the applicant and, if it is a corporation or association, the names of all officers, directors, and shareholders, including those of any of its holding companies;

(b) if required by the commission, the names of any person or persons holding, directly, indirectly, or beneficially, an interest of any kind in the applicant or any of its holding companies, whether the interest is financial, administrative, policy making, or supervisory;

(c) a statement of the assets and liabilities of the applicant;

(d) an affidavit of the type described in section 240.06, subdivision 1, clause (d);

(e) an irrevocable consent statement, to be signed by the applicant, which states

that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleadings is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission; and

(f) an affirmative action plan establishing goals and timetables consistent with the Minnesota Human Rights Act, chapter 363, and in conformity with the goals established by the commission by rule.

Subd. 2. Hearings; investigations. Before granting an initial class B license the commission shall hold at least one public hearing on the license. Comprehensive investigations must be conducted and their costs paid in the manner prescribed by section 240.06, subdivision 3. The commission has access to all criminal history data compiled by the division of gambling enforcement on class B licensees and applicants.

Subd. 3. License issuance. If after considering the information received from the hearing and investigations, the commission determines that the applicant will conduct horse racing in accordance with all applicable laws and rules, will not adversely affect the public health, welfare, and safety, that the license will not create a competitive situation that will adversely affect racing and the public interest and that the applicant is fit to sponsor and manage racing, the commission may issue a class B license. The license is for a period of one year.

Subd. 4. Renewal. On making the same determination as in subdivision 3, the commission may renew a class B license without a hearing unless it determines a hearing to be necessary.

Subd. 5. Changes in ownership. If a change in the officers, directors, or other persons with a direct or indirect financial or management interest in the licensee, or a change of ownership of more than five percent of the licensee's shares is made after the initial application or license issuance, the applicant or licensee must notify the commission of the changes within five days of their occurrence and provide the affidavit required in subdivision 1.

Subd. 6. License suspension and revocation. Suspension, revocation, and refusal to renew a class B license is as provided in section 240.06, subdivision 7. A license suspension or revocation or a refusal to renew a class B license, is a contested case under section 14.57 to 14.69 of the Administrative Procedure Act, and is in addition to criminal penalties imposed for a violation of law or rule.

Subd. 7. Multiple licenses. A person may simultaneously hold one class A and one class B license.

History: 1983 c 214 s 7; 1987 c 384 art 2 s 1; 1989 c 334 art 1 s 10; 1991 c 330 s 2

240.08 OCCUPATION LICENSES.

Subdivision 1. Authority. The commission may issue class C occupational licenses to persons who wish to be employed in horse racing where pari-mutuel betting is conducted as:

- (a) horse owners or lessees;
- (b) jockeys or drivers;
- (c) exercise riders;
- (d) grooms;
- (e) trainers and their assistants;
- (f) pari-mutuel personnel;
- (g) security officers;
- (h) other occupations the commission by rule determines require licensing to ensure the integrity of horse racing in Minnesota.

Subd. 2. **Application.** An application for a class C license must be on a form the commission prescribes and must be accompanied by an affidavit of qualification that the applicant:

(a) is not in default in the payment of an obligation or debt to the state under Laws 1983, chapter 214;

(b) has never been convicted of a felony in a state or federal court and does not have a state or federal felony charge pending;

(c) is not and never has been connected with or engaged in an illegal business;

(d) has never been found guilty of fraud or misrepresentation in connection with racing or breeding;

(e) has never been found guilty of a violation of law or rule relating to horse racing, pari-mutuel betting or any other form of gambling which is a serious violation as defined by the commission's rules; and

(f) has never knowingly violated a rule or order of the commission or a law of Minnesota relating to racing.

The application must also contain an irrevocable consent statement, to be signed by the applicant, which states that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleading authorized by the laws of this state. If any summons, process, or pleading is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission.

Subd. 3. **Investigations.** The commission shall investigate each applicant for a class C license to the extent it deems necessary, and may request the assistance of and may reimburse the division of gambling enforcement in investigating applicants. The commission may by rule require that an applicant be fingerprinted or furnish the applicant's fingerprints. Investigations must be conducted and their costs paid in the manner prescribed by section 240.06, subdivision 3. The commission may cooperate with national and international organizations and agencies in conducting investigations. The commission may by rule provide for examining the qualifications of an applicant for the license being applied for. The commission has access to all criminal history data compiled by the division of gambling enforcement on class C applicants and licensees.

Subd. 4. **License issuance and renewal.** If the commission determines that the applicant is qualified for the occupation for which licensing is sought and will not adversely affect the public health, welfare, and safety or the integrity of racing in Minnesota, it may issue a class C license to the applicant. If it makes a similar finding for a renewal of a class C license it may renew the license. Class C licenses are effective for one year.

Subd. 5. **Revocation and suspension.** The commission may revoke a class C license for a violation of law or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, or for an intentional false statement made in a license application.

The commission may suspend a class C license for up to one year for a violation of law, order or rule.

The commission may delegate to its designated agents the authority to impose suspensions of class C licenses, and the suspension may be appealed to the commission according to its rules.

A license revocation or suspension for more than 90 days is a contested case under sections 14.57 to 14.69 of the administrative procedure act and is in addition to criminal penalties imposed for a violation of law or rule. The commission may summarily suspend a license for more than 90 days prior to a contested case hearing where it is necessary to ensure the integrity of racing. A contested case hearing must be held within 20 days of the summary suspension and the administrative law judge's report must be

issued within 20 days from the close of the hearing record. In all cases involving summary suspension the commission must issue its final decision within 30 days from receipt of the report of the administrative law judge and subsequent exceptions and argument under section 14.61.

History: 1983 c 214 s 8; 1984 c 655 art 1 s 35; 1985 c 212 s 7,8; 1986 c 444; 1987 c 69 s 1; 1989 c 334 art 1 s 11

240.09 COUNTY FAIR LICENSES.

Subdivision 1. Application. The commission may issue class D licenses to county agricultural societies or associations incorporated under chapter 38 or nonprofit corporations organized under chapter 317A in existence and operating fairs on April 21, 1951, to conduct and manage, on their own fairgrounds, horse racing on which pari-mutuel betting is conducted. An application for a class D license must be on a form the commission prescribes and must be accompanied by a certified copy of a resolution of the county board of the county where racing is to be conducted stating that it has reviewed the license application and does not object to it. An application for a class D license must be accompanied by detailed plans and specifications of the track, buildings, fences, and other improvements.

Subd. 2. Occupational licenses. A person who participates in the management or conduct of horse racing or pari-mutuel betting for a county fair holding a class D license who is in an occupation listed in section 240.08, subdivision 1, or the rules of the commission must have a class C license from the commission except for active members, as defined in section 349.12, of nonprofit organizations who act without compensation as concession workers.

Subd. 3. Hearing. Before granting an initial class D license, the commission must hold at least one public hearing in the county where the license is to be issued, and if the racetrack to be licensed is within a city, it must also request comments on the application from the city council.

Subd. 3a. Investigation. Before granting a class D license the director shall conduct, or request the division of gambling enforcement to conduct, a comprehensive background and financial investigation of the applicant and the sources of financing. The director may charge an applicant an investigation fee to cover the cost of the investigation, and shall from this fee reimburse the division of gambling enforcement for its share of the cost of the investigation. The director has access to all criminal history data compiled by the division of gambling enforcement on class A licensees and applicants.

Subd. 4. Issuance. If after considering the information received at the hearing or hearings and considering the comments requested under subdivision 3, the commission determines that the license will not adversely affect the public health, welfare, and safety and that the racing to be licensed will be conducted in accordance with all applicable laws and rules, it may issue a class D license to the applicant. The license is for a period of one year.

Subd. 5. Renewal. On making the same determination as in subdivision 4, the commission may renew a class D license without a hearing unless it determines a hearing is necessary.

Subd. 6. Revocation and suspension. Revocation and suspension of class D licenses, and refusals to renew class D licenses, are as provided in section 240.06, subdivision 7. A license suspension or revocation or a refusal to renew a class D license is a contested case under sections 14.57 to 14.69 of the administrative procedure act and is in addition to criminal penalties imposed for a violation of law or rule.

History: 1983 c 214 s 9; 1983 c 216 art 2 s 17 subd 1; 1985 c 212 s 9-11; 1989 c 304 s 137; 1991 c 336 art 2 s 3; 1994 c 633 art 1 s 3

240.091 [Repealed, 1994 c 633 art 1 s 17]

240.10 LICENSE FEES.

The fee for a class A license is \$10,000 per year. The fee for a class B license is \$100 for each assigned racing day on which racing is actually conducted, and \$50 for each day on which simulcasting is authorized and actually takes place. The fee for a class D license is \$50 for each assigned racing day on which racing is actually conducted. The fee for a class E license is \$1,000 per year. Fees imposed on class B and class D licenses must be paid to the commission at a time and in a manner as provided by rule of the commission.

The commission shall by rule establish an annual license fee for each occupation it licenses under section 240.08 but no annual fee for a class C license may exceed \$100.

License fee payments received must be paid by the commission to the state treasurer for deposit in the general fund.

History: 1983 c 214 s 10; 1989 c 141 s 3; 1991 c 336 art 1 s 15

240.11 LICENSES NONTRANSFERABLE.

A license issued under this chapter may not be transferred.

History: 1983 c 214 s 11; 1991 c 336 art 1 s 16

240.12 LICENSE AGREEMENTS.

The commission may enter into agreements with comparable bodies in other racing jurisdictions for the mutual recognition of occupational licenses issued by each body. The commission may by rule provide for and may charge a fee for the registration of each license issued in another jurisdiction.

History: 1983 c 214 s 12

240.13 PARI-MUTUEL BETTING.

Subdivision 1. **Authorized.** (a) Class B and class D licenses give the licensees authority to conduct pari-mutuel betting on the results of races run at the licensed racetrack, and on other races as authorized by the commission under this section.

(b) A class B or class D license gives the licensee the authority to transmit and receive telecasts and conduct pari-mutuel betting on the results of horse races run at its class A facility, and of other horse races run at other locations, as authorized by the commission. The class B or class D licensee may present racing programs separately or concurrently.

(c) Subject to the approval of the commission the types of betting, takeout, and distribution of winnings on pari-mutuel pools on simulcast races at a class B or class D facility are those in effect at the sending racetrack. Pari-mutuel pools may be commingled with pools at the sending racetrack, for the purposes of determining odds and payout prices, via the totalizer computer at the class A facility.

(d) The commission may not authorize a class B licensee to conduct simulcasting or telrace simulcasting unless 125 days of live racing, consisting of not less than eight live races on each racing day, have been conducted at the class A facility within the preceding 12 months. The number of live racing days required may be adjusted by agreement between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races at the licensee's class A facility during the preceding 12 months. The number of live racing days required must be reduced by one day for each assigned racing day that the licensee is unable to conduct live racing due to natural occurrences or catastrophes beyond its control.

(e) The commission may authorize no more than five class D licensees to conduct simulcasting in any year. Simulcasting may be conducted at each class D licensee's facility:

(1) only on races conducted at another class D facility during a county fair day at that facility; and

(2) only on standardbred races.

A class D licensee may not conduct simulcasting for wagering purposes unless the licensee has a written contract, permitting the simulcasting, with a horseperson's organization representing the standardbred industry the breed being simulcast under authority of the class D license.

Subd. 2. Requirements. (a) A licensee conducting pari-mutuel betting must provide at the licensed track:

- (1) the necessary equipment for issuing pari-mutuel tickets; and
- (2) mechanical or electronic equipment for displaying information the commission requires. All mechanical or electronic devices must be approved by the commission before being used.

(b) A licensee conducting pari-mutuel betting must post prominently at each point of sale of pari-mutuel tickets, in a manner approved by the commissioner of human services, the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section 245.98.

Subd. 3. Types of betting. The commission shall by rule designate those types of pari-mutuel pools which are permitted at licensed racetracks, and no licensee may conduct any type of pari-mutuel pool which has not been so designated.

Subd. 4. Takeout; distribution of winnings. A licensee conducting pari-mutuel betting must deduct from a straight pari-mutuel pool, before payments to holders of winning tickets, an amount equal to not more than 17 percent of the total money in that pool. The licensee must deduct from a multiple pari-mutuel pool, before payments to the holders of winning tickets, an amount equal to not more than 23 percent of the total money in that pool. The remaining money in each pool must be distributed among the holders of winning tickets in a manner the commission by rule prescribes for each type of pool. Breakage must be computed on the basis of payoffs rounded down to the next lowest increment of 10 cents, with a minimum payoff of \$1.10 on a \$1 ticket, except that the licensee may reduce the minimum payoff to \$1.05 on a \$1 ticket if there is not a sufficient amount in a pool to make a minimum payoff of \$1.10.

Subd. 5. Purses. (a) From the amounts deducted from all pari-mutuel pools by a licensee, an amount equal to not less than the following percentages of all money in all pools must be set aside by the licensee and used for purses for races conducted by the licensee, provided that a licensee may agree by contract with an organization representing a majority of the horsepersons racing the breed involved to set aside amounts in addition to the following percentages:

(1) for live races conducted at a class A facility, and for races that are part of full racing card simulcasting that takes place within the time period of the live races, 8.4 percent;

(2) for simulcasts conducted during the racing season other than as provided for in clause (1), 50 percent of the takeout remaining after deduction for taxes on pari-mutuel pools, payment to the breeders fund, and payment to the sending out-of-state racetrack for receipt of the signal; and

(3) for simulcasts conducted outside of the racing season, 25 percent of the takeout remaining after deduction for the state pari-mutuel tax, payment to the breeders fund, payment to the sending out-of-state racetrack for receipt of the signal and, before January 1, 2005, a further deduction of eight percent of all money in all pools. In the event that wagering on simulcasts outside of the racing season exceeds \$125 million in any calendar year, the amount set aside for purses by this formula is increased to 30 percent on amounts between \$125,000,000 and \$150,000,000 wagered; 40 percent on amounts between \$150,000,000 and \$175,000,000 wagered; and 50 percent on amounts in excess of \$175,000,000 wagered. In lieu of the eight percent deduction, a deduction as agreed to between the licensee and the horsepersons' organization representing the majority of horsepersons racing at the licensee's class A facility during the preceding 12 months, is allowed after December 31, 2004.

The commission may by rule provide for the administration and enforcement of

this subdivision. The deductions for payment to the sending out-of-state racetrack must be actual, except that when there exists any overlap of ownership, control, or interest between the sending out-of-state racetrack and the receiving licensee, the deduction must not be greater than three percent unless agreed to between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races during the existing racing meeting or, if outside of the racing season, during the most recent racing meeting.

In lieu of the amount the licensee must pay to the commission for deposit in the Minnesota breeders fund under section 240.15, subdivision 1, the licensee shall pay 5-1/2 percent of the takeout from all pari-mutuel pools generated by wagering at the licensee's facility on full racing card simulcasts of races not conducted in this state.

(b) From the money set aside for purses, the licensee shall pay to the horseperson's organization representing the majority of the horsepersons racing the breed involved and contracting with the licensee with respect to purses and the conduct of the racing meetings and providing representation, benevolent programs, benefits, and services for horsepersons and their on-track employees, an amount, sufficient to perform these services, as may be determined by agreement by the licensee and the horseperson's organization. The amount paid may be deducted only from the money set aside for purses to be paid in races for the breed represented by the horseperson's organization. With respect to racing meetings where more than one breed is racing, the licensee may contract independently with the horseperson's organization representing each breed racing.

(c) Notwithstanding sections 325D.49 to 325D.66, a horseperson's organization representing the majority of the horsepersons racing a breed at a meeting, and the members thereof, may agree to withhold horses during a meeting.

(d) Money set aside for purses from wagering, during the racing season, on simulcasts must be used for purses for live races conducted at the licensee's class A facility during the same racing season, over and above the 8.4 percent purse requirement or any higher requirement to which the parties agree, for races conducted in this state. Money set aside for purses from wagering, outside of the racing season, on simulcasts must be for purses for live races conducted at the licensee's class A facility during the next racing season, over and above the 8.4 percent purse requirement or any higher requirement to which the parties agree, for races conducted in this state.

(e) Money set aside for purses from wagering on simulcasts must be used for purses for live races involving the same breed involved in the simulcast except that money set aside for purses and payments to the breeders fund from wagering on full racing card simulcasts of races not conducted in this state, occurring during a live mixed meet, must be allotted to the purses and breeders fund for each breed participating in the mixed meet in the same proportion that the number of live races run by each breed bears to the total number of live races conducted during the period of the mixed meet.

(f) The allocation of money set aside for purses to particular racing meets may be adjusted, relative to overpayments and underpayments, by contract between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed involved at the licensee's facility.

(g) Subject to the provisions of this chapter, money set aside from pari-mutuel pools for purses must be for the breed involved in the race that generated the pool, except that if the breed involved in the race generating the pari-mutuel pool is not racing in the current racing meeting, or has not raced within the preceding 12 months at the licensee's class A facility, money set aside for purses may be distributed proportionately to those breeds that have run during the preceding 12 months or paid to the commission and used for purses or to promote racing for the breed involved in the race generating the pari-mutuel pool, or both, in a manner prescribed by the commission.

(h) This subdivision does not apply to a class D licensee.

Subd. 6. Simulcasting. (a) The commission may permit an authorized licensee to conduct simulcasting at the licensee's facility on any day authorized by the commis-

sion. All simulcasts must comply with the Interstate Horse Racing Act of 1978, United States Code, title 15, sections 3001 to 3007.

(b) The commission may not authorize any day for simulcasting at a class A facility during the racing season, and a licensee may not be allowed to transmit out-of-state telecasts of races the licensee conducts, unless the licensee has obtained the approval of the horsepersons' organization representing the majority of the horsepersons racing the breed involved at the licensed racetrack during the preceding 12 months.

(c) The licensee may pay fees and costs to an entity transmitting a telecast of a race to the licensee for purposes of conducting pari-mutuel wagering on the race. The licensee may deduct fees and costs related to the receipt of televised transmissions from a pari-mutuel pool on the televised race, provided that one-half of any amount recouped in this manner must be added to the amounts required to be set aside for purses.

(d) With the approval of the commission and subject to the provisions of this subdivision, a licensee may transmit telecasts of races it conducts, for wagering purposes, to locations outside the state, and the commission may allow this to be done on a commingled pool basis.

(e) Except as otherwise provided in this section, simulcasting may be conducted on a separate pool basis or, with the approval of the commission, on a commingled pool basis. All provisions of law governing pari-mutuel betting apply to simulcasting except as otherwise provided in this subdivision or in the commission's rules. If pools are commingled, wagering at the licensed facility must be on equipment electronically linked with the equipment at the licensee's class A facility or with the sending racetrack via the totalizer computer at the licensee's class A facility. Subject to the approval of the commission, the types of betting, takeout, and distribution of winnings on commingled pari-mutuel pools are those in effect at the sending racetrack. Breakage for pari-mutuel pools on a televised race must be calculated in accordance with the law or rules governing the sending racetrack for these pools, and must be distributed in a manner agreed to between the licensee and the sending racetrack. Notwithstanding subdivision 7 and section 240.15, subdivision 5, the commission may approve procedures governing the definition and disposition of unclaimed tickets that are consistent with the law and rules governing unclaimed tickets at the sending racetrack. For the purposes of this section, "sending racetrack" is either the racetrack outside of this state where the horse race is conducted or, with the consent of the racetrack, an alternative facility that serves as the racetrack for the purpose of commingling pools.

(f) If there is more than one class B licensee conducting racing within the seven-county metropolitan area, simulcasting may be conducted only on races run by a breed that ran at the licensee's class A facility within the 12 months preceding the event.

Subd. 6a. [Repealed, 1991 c 336 art 1 s 33]

Subd. 7. **Time limit for payments.** The licensee must pay off on an uncashed ticket presented for payment within 90 days of the end of the racing meeting during which it was issued. A ticket not presented for payment within that period is an unredeemed ticket and shall be reported to the commission as provided in section 240.15, subdivision 5.

Subd. 8. **Prohibited acts.** (a) A licensee may not accept a bet or a pari-mutuel ticket for payment from any person under the age of 18 years. It is an affirmative defense to a charge under this paragraph for the licensee to prove by a preponderance of the evidence that the licensee, reasonably and in good faith, relied upon representation of proof of age described in section 340A.503, subdivision 6, in accepting the bet or pari-mutuel ticket for payment.

Subd. 9. **Transmission to Indian lands; pooling of bets.** A licensed racetrack may, with the approval of the horsepersons' organization representing the majority of horsepersons racing the breed involved, transmit telecasts of races the licensee conducts to sites on Indian lands of tribes who are lawfully conducting pari-mutuel wagering authorized by a tribal-state compact entered into pursuant to the Indian Gaming Regu-

latory Act, Public Law Number 100-497, or through litigation, arbitration, or mediation relative to that act. Nothing in this subdivision shall be construed to indicate that state policy or law permits or encourages the transmission of telecasts to sites on Indian lands. With prior approval of the commission, a licensed racetrack transmitting telecasts of races it conducts, to sites on Indian lands within or outside of Minnesota or to other locations outside the state, may commingle the amounts bet at the receiving entity with the pools at the sending licensed racetrack.

History: 1983 c 214 s 13; 1985 c 212 s 12,13; 1986 c 444; 1987 c 327 s 1; 1988 c 696 s 2-4; 1989 c 141 s 4-7; 1989 c 334 art 1 s 12; 1991 c 336 art 1 s 17-23; art 2 s 4; 1992 c 513 art 3 s 46,47; 1994 c 633 art 1 s 4-9

240.14 RACING DAYS.

Subdivision 1. Assignment of racing days. The commission shall assign racing days to each racetrack licensee authorized to conduct racing with pari-mutuel betting, and a licensee may conduct racing with pari-mutuel betting only on a racing day assigned by the commission. The assignment of racing days and times of racing to a facility licensed under section 240.06, subdivision 5a, may not prevent the commission from assigning to a racetrack in existence on January 1, 1987, the same or overlapping days or times. The commission may not assign non-standard-bred racing days for a racetrack licensed under section 240.06, subdivision 5a. The commission may assign racing days for up to three years beyond the year in which the assignment is made. Assignments of racing days in any year must be made by December 31 of the previous year, except that days may be assigned after that date to a licensee whose license is issued after that date.

Subd. 1a. [Repealed, 1991 c 336 art 1 s 33]

Subd. 2. **Hearing.** A public hearing is required before the commission may:

- (a) make an assignment of racing days;
- (b) revise the assignment during the year; or
- (c) assign racing days to a licensee whose license is issued after the initial assignment.

The commission may without a hearing assign one additional racing day to a licensee for each originally assigned racing day during the same racing meeting on which racing was not conducted for reasons beyond the licensee's control.

Subd. 3. County fair racing days. The commission may assign to a class D licensee the following racing days:

- (1) those racing days, not to exceed ten racing days, that coincide with the days on which the licensee's county fair is running; and
- (2) additional racing days.

Subd. 4. Rescinding of racing days. The commission may, after a public hearing, rescind one or more racing days assigned to a licensee if it determines that the licensee has not met or will not meet the terms of the license. A day or days so rescinded may be reassigned to another licensee.

History: 1983 c 214 s 14; 1985 c 208 s 1; 1985 c 212 s 14; 1986 c 444; 1987 c 68 s 2; 1989 c 141 s 8; 1992 c 513 art 3 s 48

240.15 PAYMENTS TO STATE.

Subdivision 1. Taxes imposed. (a) There is imposed a tax at the rate of six percent of the total amount withheld from all pari-mutuel pools by the licensee, including breakage and amounts withheld under section 240.13, subdivision 4.

In addition to the above tax, the licensee must designate and pay to the commission a tax of one percent of the total amount bet on each racing day, for deposit in the Minnesota breeders fund.

The taxes imposed by this clause must be paid from the amounts permitted to be withheld by a licensee under section 240.13, subdivision 4.

(b) The commission may impose an admissions tax of not more than ten cents on each paid admission at a licensed racetrack on a racing day if:

(1) the tax is requested by a local unit of government within whose borders the track is located;

(2) a public hearing is held on the request; and

(3) the commission finds that the local unit of government requesting the tax is in need of its revenue to meet extraordinary expenses caused by the racetrack.

Subd. 2. Payment. The licensee must remit the tax to the commission or its representative within seven days of the day on which it was collected. The payments must be accompanied by a detailed statement of the remittance on a form the commission prescribes. The commission may by rule provide for the direct deposit of required payments in the commission's account in a financial institution within the state and for determining the time of applicability of different tax rates under subdivision 1.

Subd. 3. Tax exclusive. The tax imposed by subdivision 1 is in lieu of any tax or license fee, other than taxes on real property, imposed by a political subdivision and in lieu of any other sales or excise tax imposed by the state on pari-mutuel pools or pari-mutuel ticket sales.

Subd. 4. Reports. Within 100 days of the end of each calendar year a licensee subject to the tax imposed by subdivision 1 must file with the commission a certified financial report disclosing receipts from all sources during the racing meeting and expenses and disbursements. The financial report must be prepared by an independent certified public accountant in accordance with generally accepted auditing standards.

Subd. 5. Unredeemed tickets. Not later than 100 days after the end of a racing meeting a licensee who sells pari-mutuel tickets must remit to the commission or its representative an amount equal to the total value of unredeemed tickets from the racing meeting. The remittance must be accompanied by a detailed statement of the money on a form the commission prescribes.

Notwithstanding any provision to the contrary in chapter 345, unredeemed pari-mutuel tickets shall not be considered unclaimed funds and shall be handled in accordance with the provisions of this subdivision. Any person claiming to be entitled to the proceeds of any unredeemed ticket who fails to claim said proceeds prior to their being remitted to the commission, may within one year after the date of remittance to the commission file with the commission a verified claim for such proceeds on such form as the commission prescribes along with the pari-mutuel ticket. Unless the claimant satisfactorily establishes the right to the proceeds, the claim shall be rejected. If the claim is allowed, the commission shall pay the proceeds without interest to the claimant. There is hereby appropriated from the general fund to the commission an amount sufficient to make payment to persons entitled to such proceeds.

Subd. 6. Disposition of proceeds. The commission shall distribute all money received under this section, and all money received from license fees and fines it collects, as follows: all money designated for deposit in the Minnesota breeders fund must be paid into that fund for distribution under section 240.18 except that all money generated by full racing card simulcasts must be distributed as provided in section 240.18, subdivisions 2, paragraph (d), clauses (1), (2), and (3); and 3. Revenue from an admissions tax imposed under subdivision 1 must be paid to the local unit of government at whose request it was imposed, at times and in a manner the commission determines. All other revenues received under this section by the commission, and all license fees, fines, and other revenue it receives, must be paid to the state treasurer for deposit in the general fund.

History: 1983 c 214 s 15; 1985 c 212 s 15,16; 1988 c 696 s 5-9; 1991 c 336 art 1 s 24; 1992 c 513 art 3 s 49; 1994 c 633 art 1 s 10

240.155 REIMBURSEMENT ACCOUNTS AND PROCEDURES.

Subdivision 1. Reimbursement account credit. Money received by the commission as reimbursement for the costs of services provided by assistant veterinarians and stew-

ards must be deposited in the state treasury and credited to a racing commission reimbursement account, except as provided under subdivision 2. Receipts are appropriated to the commission to pay the costs of providing the services.

Subd. 2. **General fund credit.** Money received by the commission as reimbursement for the compensation of a steward who is an employee of the commission for which a general fund appropriation has been made must be credited to the general fund.

History: *1Sp1985 c 10 s 84; 1991 c 233 s 92*

240.16 STEWARDS.

Subdivision 1. **Powers and duties.** All horse races run at a licensed racetrack must be presided over by a board of three stewards, who must be appointees of the commission or persons approved by it. The commission shall designate one steward as chair. At least two stewards for all races either shall be employees of the commission who shall serve in the unclassified service, or shall be under contract with the commission to serve as stewards. The commission may delegate the following duties and powers to a board of stewards:

- (a) to ensure that races are run in accordance with the commission's rules;
- (b) to supervise the conduct of racing to ensure the integrity of the sport;
- (c) to settle disputes arising from the running of horse races, and to certify official results;
- (d) to impose on licensees, for violation of law or commission rules, fines not exceeding \$2,000 and license suspensions not exceeding 90 days;
- (e) to recommend to the commission where warranted penalties in excess of those in clause (d);
- (f) to otherwise enforce the laws and rules of racing; and
- (g) to perform other duties and have other powers assigned by the commission.

Subd. 1a. **Simulcast.** All simulcasts are subject to the regulation of the commission. The commission may assign an official to preside over these activities and, if so assigned, the official has the powers and duties provided by rule.

Subd. 2. **Appeals; hearings.** A ruling of a board of stewards may be appealed to the commission or be reviewed by it on its own initiative. The commission may provide for appeals to be heard by less than a quorum of the commission. A hearing on a penalty imposed by a board of stewards must be granted on request.

Subd. 3. **Procedural powers.** A board of stewards has the authority to administer oaths, issue subpoenas, order the production of documents and other evidence, and regulate the course of hearings before it, according to the commission's rules. Hearings held by a board of stewards are not subject to the provisions of the Administrative Procedure Act except those provisions which the commission by rule makes applicable.

Subd. 4. **Rules.** In addition to rules under subdivision 3, the commission may promulgate rules governing the qualifications, appointment, approval, authority, removal, and compensation of stewards.

Subd. 5. **Costs.** The commission may require that a licensee reimburse it for the costs of providing a state-paid steward or stewards to supervise racing at the licensee's racetrack.

Subd. 6. **Compensation.** The total compensation of stewards who are employees of the commission must be commensurate with the compensation of stewards who are not commission employees.

History: *1983 c 214 s 16; 1985 c 212 s 17,18; 1985 c 248 s 39; 1986 c 444; 1987 c 69 s 2; 1989 c 141 s 9; 1991 c 336 art 1 s 25; 1994 c 633 art 1 s 11*

240.17 LOCAL OPTION.

Subdivision 1. **Cities.** An issuance of a class A license for a location in a city is not effective until it has been approved by a majority vote of the city council. Failure to

act on a license within 30 days of its referral to a city council by the commission constitutes approval.

Subd. 2. Towns. An issuance of a class A license for a location in a town is not effective until it has been approved by a majority vote of the town board. Failure to act on a license within 30 days of its referral to the town board by the commission constitutes approval.

Subd. 3. Unorganized territory. An issuance of a class A license for a location in unorganized territory is not effective until it has been approved by a majority vote of the county board. Failure to act on a license within 30 days of its referral to the county board by the commission constitutes approval.

History: 1983 c 214 s 17

240.18 BREEDERS' FUND.

Subdivision 1. Establishment; apportionment. The commission shall establish a Minnesota breeders' fund with the money paid to it under section 240.15, subdivision 1. The commission, after paying the current costs of administering the fund, shall apportion the remaining net proceeds into categories corresponding with the various breeds of horses which are racing at licensed Minnesota racetracks in proportion to each category's contribution to the fund and distribute the available net proceeds in each category as provided in this section.

Subd. 2. Thoroughbred and quarterhorse categories. (a) With respect to available money apportioned in the thoroughbred and quarterhorse categories, 20 percent must be expended as follows:

(1) at least one-half in the form of grants, contracts, or expenditures for equine research and related education at the University of Minnesota school of veterinary medicine; and

(2) the balance in the form of grants, contracts, or expenditures for one or more of the following:

(i) additional equine research and related education;

(ii) substance abuse programs for licensed personnel at racetracks in this state; and

(iii) promotion and public information regarding industry and commission activities; racehorse breeding, ownership, and management; and development and expansion of economic benefits from racing.

(b) As a condition of a grant, contract, or expenditure under paragraph (a), the commission shall require an annual report from the recipient on the use of the funds to the commission, the chair of the house of representatives committee on general legislation, veterans affairs, and gaming, and the chair of the senate committee on gaming regulation.

(c) The commission shall include in its annual report a summary of each grant, contract, or expenditure under paragraph (a), clause (2), and a description of how the commission has coordinated activities among recipients to ensure the most efficient and effective use of funds.

(d) After deducting the amount for paragraph (a), the balance of the available proceeds in each category may be expended by the commission to:

(1) supplement purses for races held exclusively for Minnesota-bred or Minnesota-foaled horses, and supplement purses for Minnesota-bred or Minnesota-foaled horses racing in nonrestricted races in that category;

(2) pay breeders' or owners' awards to the breeders or owners of Minnesota-bred horses in that category which win money at licensed racetracks in the state; and

(3) provide other financial incentives to encourage the horse breeding industry in Minnesota.

Subd. 3. Standardbred category. (a) With respect to the available money apportioned in the standardbred category, 20 percent must be expended as follows:

(1) one-half of that amount to supplement purses for standardbreds at non-pari-mutuel racetracks in the state;

(2) one-fourth of that amount for the development of non-pari-mutuel standardbred tracks in the state; and

(3) one-fourth of that amount as grants for equine research and related education at public institutions of post-secondary learning in the state.

(b) After deducting the amount for paragraph (a), the balance of the available proceeds in the standardbred category must be expended by the commission to:

(1) supplement purses for races held exclusively for Minnesota-bred and Minnesota-foaled standardbreds;

(2) pay breeders or owners awards to the breeders or owners of Minnesota-bred standardbreds which win money at licensed racetracks in the state; and

(3) provide other financial incentives to encourage the horse breeding industry in Minnesota.

Subd. 3a. Other categories. Available money apportioned to breeds other than breeds contained in subdivisions 2 and 3 must be distributed as financial incentives to encourage horse racing and horse breeding for such breeds.

Subd. 4. Rules; advisory committees. The commission shall adopt rules governing the distribution of the fund. The commission may establish advisory committees to advise it on the distribution of money under this section, provided that the members of an advisory committee shall serve without compensation.

History: 1983 c 214 s 18; 1984 c 502 art 14 s 2; 1985 c 212 s 19; 1988 c 696 s 10; 1991 c 336 art 2 s 5; 1992 c 513 art 3 s 50

240.19 CONTRACTS.

The commission shall by rule require that all contracts entered into by a class A, class B, class D, or class E licensee for the provision of goods or services, including concessions contracts, be subject to commission approval. The rules must require that the contract include an affirmative action plan establishing goals and timetables consistent with the Minnesota Human Rights Act, chapter 363. The rules may also establish goals to provide economic opportunity for disadvantaged and emerging small businesses, racial minorities, women, and disabled individuals. The commission may require a contract holder to submit to it documents and records the commission deems necessary to evaluate the contract.

History: 1983 c 214 s 19; 1991 c 330 s 3; 1991 c 336 art 1 s 26

240.20 APPEALS.

Appeals from a decision of the commission must be made in the manner prescribed by sections 14.63 to 14.68.

History: 1983 c 214 s 20

240.21 RIGHT OF INSPECTION.

The commission and its representatives, including representatives of the division of gambling enforcement, have the right to inspect the licensed premises of a licensee and to examine the licensee's books and other records at any time without a search warrant.

History: 1983 c 214 s 21; 1986 c 444; 1989 c 334 art 1 s 13

240.22 FINES.

The commission shall by rule establish a graduated schedule of civil fines for violations of laws related to horse racing or of the commission's rules. The schedule must include minimum and maximum fines for each violation and be based on and reflect the culpability, frequency and severity of the violator's actions. The commission may impose a fine from this schedule on a licensee for a violation of those rules or laws relating to horse racing. The fine is in addition to any criminal penalty imposed for the same violation. Fines imposed by the commission must be paid to the commission and for-

warded to the state treasurer for deposit in the general fund. A fine in excess of \$2,000 is a contested case under the administrative procedure act.

History: 1983 c 214 s 22; 1985 c 212 s 20; 1987 c 69 s 3

240.23 RULEMAKING AUTHORITY.

The commission has the authority, in addition to all other rulemaking authority granted elsewhere in this chapter to promulgate rules governing:

(a) the conduct of horse races held at licensed racetracks in Minnesota, including but not limited to the rules of racing, standards of entry, operation of claiming races, filing and handling of objections, carrying of weights, and declaration of official results;

(b) wire communications between the premises of a licensed racetrack and any place outside the premises;

(c) information on horse races which is sold on the premises of a licensed racetrack;

(d) liability insurance which it may require of all class A, class B, class D, and class E licensees;

(e) the auditing of the books and records of a licensee by an auditor employed or appointed by the commission;

(f) emergency action plans maintained by licensed racetracks and their periodic review;

(g) safety, security, and sanitation of stabling facilities at licensed racetracks;

(h) entry fees and other funds received by a licensee in the course of conducting racing which the commission determines must be placed in escrow accounts;

(i) affirmative action in employment and contracting by class A, class B, and class D licensees;

(j) the operation of telercing facilities; and

(k) any other aspect of horse racing or pari-mutuel betting which in its opinion affects the integrity of racing or the public health, welfare, or safety.

Rules of the commission are subject to chapter 14, the Administrative Procedure Act.

History: 1983 c 214 s 23; 1991 c 330 s 4; 1991 c 336 art 1 s 27

240.24 MEDICATION.

Subdivision 1. Rules. The commission shall make and enforce rules governing medication and medical testing for horses running at licensed racetracks. The rules must provide that no medication, as the commission defines that term by rule, may be administered to a horse within 48 hours of a race it runs at a licensed racetrack. The rules must also provide that no horse participating in a race shall carry in its body any substance foreign to the natural horse. The commission shall by rule establish the qualifications for laboratories used by it as testing laboratories to enforce its rules under this section.

Subd. 2. Exception. Notwithstanding subdivision 1, the commission by rule shall allow the use of: (1) topical external applications that do not contain anesthetics or steroids; (2) food additives; (3) Furosemide or other pulmonary hemostatic agents if the agents are administered under the visual supervision of the veterinarian or a designee of the veterinarian employed by the commission; and (4) nonsteroidal anti-inflammatory drugs, provided that the test sample does not contain more than three micrograms of the substance or metabolites thereof per milliliter of blood plasma. For purposes of this clause, "test sample" means any bodily substance including blood, urine, saliva, or other substance as directed by the commission, taken from a horse under the supervision of the commission veterinarian and in such manner as prescribed by the commission for the purpose of analysis.

The commission shall adopt emergency rules to implement the provisions of this subdivision.

Subd. 3. **Fees.** The commission shall establish by rule a fee or schedule of fees to recover the costs of medical testing of horses running at racetracks licensed by the commission. Fees charged for the testing of horses shall cover the cost of the medical testing laboratory. Fee receipts shall be deposited in the state treasury and credited to the general fund.

History: 1983 c 214 s 24; 1985 c 211 s 2; 1985 c 212 s 21; 1Sp1985 c 10 s 85; 1987 c 69 s 4,5; 1991 c 336 art 2 s 6

240.25 PROHIBITED ACTS.

Subdivision 1. **Illegal bets.** No person may place or accept a bet as defined in section 609.75 on or off the premises of a licensed racetrack other than a bet made with an approved pari-mutuel system.

Subd. 2. **Off-track bets.** No person shall:

(1) for a fee, directly or indirectly, accept anything of value from another to be transmitted or delivered for wager in any licensed pari-mutuel system of wagering on horse races, or for a fee deliver anything of value which has been received outside of the enclosure of a licensed racetrack holding a race meet licensed under this chapter, to be placed as wagers in the pari-mutuel system of wagering on horse racing within the enclosure or facility; or

(2) give anything of value to be transmitted or delivered for wager in any licensed pari-mutuel system of wagering on horse races to another who charges a fee, directly or indirectly, for the transmission or delivery.

Subd. 3. **Influencing races.** No person may influence or attempt to influence a horse race by:

(a) making threats;

(b) offering anything of value to a person involved in the conduct of a race in return for that person's committing an illegal act or failing to perform a duty; or

(c) conniving with or seeking or having an understanding or agreement with a person involved in the conduct of a race to commit an illegal act or to fail to perform a duty.

Subd. 4. **Tampering with horses.** No person may:

(a) on the premises of a licensed racetrack use, possess, or knowingly assist another person in using a battery or buzzer, electrical or mechanical, or other device or appliance, which can be used to affect a horse's racing condition or performance, other than an ordinary whip;

(b) affect or attempt to affect the racing condition or performance of a horse at a race or workout through the use of a drug or medication in violation of the commission's rules; or

(c) use any method, injurious or otherwise, to affect a horse's racing condition or performance at a race or workout in violation of the commission's rules.

Subd. 5. **Reporting of information.** A person licensed by the commission who has information regarding a violation of any provision of this section must report that information promptly to the commission or an agent of the commission.

Subd. 6. **False statement.** No person may knowingly make a false statement in a document or application required to be submitted to the commission or in a sworn statement or testimony before the commission.

Subd. 7. **Altered tickets.** No person may knowingly offer for payment any pari-mutuel ticket which has been altered or any counterfeit or forged pari-mutuel ticket.

Subd. 8. **Age under 18.** A person under the age of 18 may not place a bet or present a pari-mutuel ticket for payment with an approved pari-mutuel system.

History: 1983 c 214 s 25; 1983 c 216 art 2 s 17 subd 2; 1985 c 212 s 22,23; 1986 c 444; 1986 c 467 s 1; 1991 c 336 art 1 s 28; 1994 c 633 art 1 s 12,13

240.26 PENALTIES.

Subdivision 1. **Felonies.** A violation of the prohibition against accepting a bet in section 240.25, subdivision 1, a violation of section 240.25, subdivision 2, clause (1), and a violation of section 240.25, subdivisions 3, 4, and 7 is a felony.

Subd. 2. **Gross misdemeanors.** A violation of the prohibition against placing a bet in section 240.25, subdivision 1, a violation of section 240.25, subdivision 2, clause (2), and a violation of section 240.25, subdivisions 5 and 6, is a gross misdemeanor.

Subd. 3. **Misdemeanors.** A violation of any other provision of this chapter or of a rule or order of the commission for which another penalty is not provided is a misdemeanor.

Subd. 4. **Prosecution by attorney general.** Notwithstanding section 388.051, subdivision 1, paragraph (c), the attorney general has primary jurisdiction to prosecute felony violations of section 240.25, subdivisions 2, 3, 4, and 7, and felony violations of section 240.25, subdivision 1, when the bet was allegedly accepted on the premises of a licensed racetrack.

History: 1983 c 214 s 26; 1985 c 211 s 3; 1986 c 467 s 2,3; 1994 c 633 art 1 s 14

240.27 EXCLUSION OF CERTAIN PERSONS.

Subdivision 1. **Persons excluded.** The commission may exclude from any and all licensed racetracks in the state a person who:

- (a) has been convicted of a felony under the laws of any state or the United States;
- (b) has had a license suspended, revoked, or denied by the commission or by the racing authority of any other jurisdiction; or
- (c) is determined by the commission, on the basis of evidence presented to it, to be a threat to the integrity of racing in Minnesota.

Subd. 2. **Hearing; appeal.** An order to exclude a person from any or all licensed racetracks or licensed telereading facilities in the state must be made by the commission at a public hearing of which the person to be excluded must have at least five days' notice. If present at the hearing, the person must be permitted to show cause why the exclusion should not be ordered. An appeal of the order may be made in the same manner as other appeals under section 240.20.

Subd. 3. **Notice to racetracks.** Upon issuing an order excluding a person from any or all licensed racetracks or licensed telereading facilities, the commission shall send a copy of the order to the excluded person and to all racetracks or telereading facilities named in it, along with other information as it deems necessary to permit compliance with the order.

Subd. 4. **Prohibitions.** It is a gross misdemeanor for a person named in an exclusion order to enter, attempt to enter, or be on the premises of a racetrack or a telereading facility named in the order while it is in effect, and for a person licensed to conduct racing or operate a racetrack or a telereading facility knowingly to permit an excluded person to enter or be on the premises.

Subd. 5. **Exclusions by racetrack.** The holder of a license to conduct racing or operate a telereading facility may eject and exclude from its premises any licensee or any other person who is in violation of any state law or commission rule or order or who is a threat to racing integrity or the public safety. A person so excluded from racetrack premises or telereading facility may appeal the exclusion to the commission and must be given a public hearing on the appeal upon request. At the hearing the person must be given the opportunity to show cause why the exclusion should not have been ordered. If the commission after the hearing finds that the integrity of racing and the public safety do not justify the exclusion, it shall order the racetrack or telereading facility making the exclusion to reinstate or readmit the person. An appeal of a commission order upholding the exclusion is governed by section 240.20.

History: 1983 c 214 s 27; 1986 c 444; 1991 c 336 art 1 s 29; 1994 c 633 art 1 s 15

240.28 CONFLICT OF INTEREST.

Subdivision 1. **Financial interest.** No person may serve on or be employed by the commission who has an interest in any corporation, association, or partnership which holds a license from the commission or which holds a contract to supply goods or services to a licensee or at a licensed racetrack, including concessions contracts. No member or employee of the commission may own, wholly or in part, or have an interest in a horse which races at a licensed racetrack in Minnesota. No member or employee of the commission may have a financial interest in or be employed in a profession or business which conflicts with the performance of duties as a member or employee.

Subd. 2. **Betting.** No member or employee of the commission may bet or cause a bet to be made on a race at a licensed racetrack while serving on or being employed by the commission. No person appointed or approved by the director as a steward may bet or cause a bet to be made at a licensed racetrack during a racing meeting at which the person is serving as a steward. The commission shall by rule prescribe such restrictions on betting by its licensees as it deems necessary to protect the integrity of racing.

Subd. 3. **Violation.** A violation of subdivisions 1 and 2 is grounds for removal from the commission or termination of employment. A bet made directly or indirectly by a licensee in violation of a rule made by the commission under subdivision 2 is grounds for suspension or revocation of the license.

History: 1983 c 214 s 28; 1986 c 444; 1989 c 334 art 1 s 14; 1991 c 233 s 93; 1991 c 336 art 1 s 30; 1994 c 633 art 1 s 16

240.29 REQUIRED RACES.

Each holder of a class B or D license must declare and schedule, on each racing day it conducts, at least one race which is limited to horses which are Minnesota-bred or Minnesota-foaled.

If there is not a sufficient number of such horses entered in the declared race to make up an adequate slate of entries, another similarly restricted race may be substituted.

The commission shall by rule define "Minnesota-bred," "Minnesota-foaled," and "Minnesota-owned."

History: 1983 c 214 s 29; 1985 c 212 s 24; 1989 c 141 s 10; 1991 c 336 art 1 s 31