

LAW AND PUBLIC SAFETY

NEW JERSEY RACING COMMISSION

Self-exclusion

Proposed Readoption: N.J.A.C. 13:74A

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Executive Director

Authority: N.J.S.A. 5:5-30; 5:5-65.1 and 5:5- 65.2

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2009-305

Submit written comments by December 4, 2009 to:

Michael Vukcevich, Deputy Director
New Jersey Racing Commission
P.O. Box 088, 140 East Front Street
Trenton, New Jersey 08625-0088

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 13:74A is scheduled to expire April 16, 2010. The current rules have been reviewed pursuant to Executive Order No. 66 (1978), and the Commission has found them to continue to be reasonable, necessary and effective for the purposes for which they were originally promulgated, that is, to authorize problem gamblers to voluntarily request that their names be placed on a list of self-excluded persons to be maintained by the New Jersey Racing Commission. Once placed on the list, a person would be prohibited from wagering on horse races and appearing at permitted racetracks and

licensed off-track wagering facilities where race horse race wagering is authorized in this State. The current rules proposed for readoption have benefitted the problem gambler by precluding them from having access to gambling by allowing voluntary exclusion to gambling establishments. The provisions of these proposed rules are applicable and incorporated by reference in N.J.A.C. 13:70-32.1, 13:71-30.1 and 13:74-12.1.

The chapter proposed for readoption contains six subchapters, described as follows:

Subchapter 1, General Provisions, contains definitions applicable to terms used in Chapter 74A and references the applicability of Chapter 74A to rules N.J.A.C. 13:70 (Horse Racing), 13:71 (Harness Racing) and 13:74 (Off-track and Account Wagering).

Subchapter 2, Application for and Effect of Placement on Self-Exclusion List, contains the requirements and procedures to be utilized for the placement of a person on the self-exclusion list.

Subchapter 3, Confidentiality; Exceptions, establishes requirements for the confidentiality of the self-exclusion list.

Subchapter 4, Removal of Name from Self-Exclusion List, contains the requirements and procedures for the removal of a name from the self-exclusion list.

Subchapter 5, Administrative Requirements for Permitted Racetracks, Account Wagering Licensee, Off-Track Wagering Licensee, specifies internal control procedures to be developed by permitted racetracks, licensed off-track wagering facilities and the account wagering licensee.

Subchapter 6, Penalties, Limitations on Liability, establishes penalties for violations of any permitted racetracks, licensed off-track wagering facilities, account wagering licensee,

responsible employees or agents, who willfully violate this chapter.

The Racing Commission provides for a 60-day comment period on this notice of proposal. Therefore, this notice is excepted from the rulemaking calendar requirement in accordance with N.J.A.C. 1:30- 3.3(a)5.

Social Impact

The self-exclusion rules allow individuals who believe they are problem gamblers to place themselves on a list of persons to be excluded from entry into permitted racetracks, off-track wagering facilities and from accessing the account wagering system in New Jersey. The rules are a self-help program designed to providing a deterrent to gambling for such individuals. The rules aid problem gamblers by denying them access to gambling and by preventing them from profiting by receiving or retaining gambling winnings if they violate the terms of their voluntary exclusion. The rules benefit families and friends of such individuals, as well as the public, in the way that they might be negatively impacted by the gambling activities of a person who elects to place himself or herself on the exclusion list.

Any money forfeited in connection with these rules is deposited into the State General Fund for appropriation to the Department of Health and Senior Services to provide funds for compulsive gambling treatment. Additional funds made available to compulsive gambling treatment programs will result in a positive social impact.

Economic Impact

The readoption of these rules will have a positive economic impact for problem gamblers and their families. Monetary losses sustained by problem gamblers as a result of horse racing wagering are not recoverable. However, by permitting problem gamblers to be voluntarily excluded from entry into permitted racing facilities and from accessing the account wagering system limits access to gambling opportunities that cause personal economic demise. If a person violates this prohibition and engages in horse racing, any winnings due the individual is subject to forfeiture as set forth in the rules. Such forfeited money is to be deposited into the State General Fund for appropriation by the Legislature to the Department of Health and Senior Services to provide funds for compulsive gambling treatment programs. This will result in a positive economic impact as additional funds will enhance such treatment programs.

Since the implementation of these rules, the New Jersey racetracks, off-track wagering facilities and account wagering systems have not hired additional staff and have absorbed the administrative and enforcement responsibilities imposed by the self-exclusion rules. The Racing Commission believes the requirements and obligations of the rules are reasonable and any economic impact to the entities is outweighed by the positive social impact.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption are mandated by New Jersey law, N.J.S.A. 5:5-65.1 and 65.2, and are not subject to any Federal requirements or standards.

Jobs Impact

The proposed rules for readoption impose administrative and enforcement requirements on racetracks, and the off-track and account wagering licensee, to develop and implement written internal control procedures set forth in the rules to insure that persons whose names appear on the self-exclusion list are not knowingly permitted access to their premises, are ejected upon detection and toward insuring that the provisions of the rules are achieved and enforced. The requirements may cause these entities to hire additional staff, or it may be determined that these duties can be absorbed by existing staff. Therefore, the readoption of these rules will not result in any job decrease or loss to the State.

Agriculture Industry Impact

The rules proposed for readoption will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption affect only permitted racetracks, each of which has more than 100 full-time employees, the off-track wagering licensee, the account wagering licensee and individuals who place themselves on the “self-exclusion list.” Permitted racetracks and individuals do not qualify as a small business under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et

seq. The New Jersey Sports and Exposition Authority (NJSEA), which is the account wagering licensee and the off-track wagering licensee, operates two New Jersey racetracks and does not qualify as a small business.

Smart Growth Impact Statement

The rules proposed for readoption are not anticipated to have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan as defined under Executive Order No. 4 (2002).

Housing Affordability Impact

The rules proposed for readoption will have an insignificant impact on affordable housing in New Jersey, and there is an extreme unlikelihood that the regulation would evoke change in the average costs associated with housing because the rules proposed for readoption merely authorize problem gamblers to voluntarily place their names on a list of self-excluded persons.

Smart Growth Development Impact

The rules proposed for readoption will have an insignificant impact on smart growth and there is an extreme unlikelihood that the regulation would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption merely authorize problem gamblers to voluntarily place their names on a list of self-excluded persons.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:74A.