

§275-D. Off-track betting

1. Off-track betting on simulcast racing. A person may conduct pari-mutuel wagering at an off-track betting facility that is licensed under this section if the facility is located and operated within a hotel, as defined in Title 28-A, section 2, subsection 15, paragraph H, with public dining facilities, a Class A lounge, as defined in Title 28-A, section 2, subsection 15, paragraph L, a Class A restaurant, as defined in Title 28-A, section 2, subsection 15, paragraph R, or a Class A restaurant/lounge, as defined in Title 28-A, section 2, subsection 15, paragraph R-1. [PL 2019, c. 626, §10 (AMD).]

2. Application for off-track betting. To obtain a license to conduct pari-mutuel wagering at an off-track betting facility, a person must submit to the commission the fee required in subsection 2-A and an application on a form prescribed by the commission that specifies at least the following:

- A. The number of permanent and part-time jobs to be created at the proposed facility; [PL 1993, c. 388, §8 (NEW).]
- B. The population of the municipality and surrounding area where the proposed facility is to be located; [PL 1993, c. 388, §8 (NEW).]
- C. The exact location of the proposed facility and its proximity to any other approved off-track betting facility or licensed racetrack; [PL 1993, c. 388, §8 (NEW).]
- D. The type of seating to be provided, including areas in the proposed facility where patrons can handicap races; [PL 1993, c. 388, §8 (NEW).]
- E. The total seating capacity of the proposed facility; [PL 1993, c. 388, §8 (NEW).]
- F. The size and number of toilet facilities; [PL 1993, c. 388, §8 (NEW).]
- G. The availability of food and beverages, including the number of tables, chairs, kitchen facilities and concession stands; [PL 1993, c. 388, §8 (NEW).]
- H. The number of available parking spaces; [PL 1993, c. 388, §8 (NEW).]
- I. A description of the general design or style of the proposed facility, including lighting, decor and plans for the exterior of the facility; [PL 1993, c. 388, §8 (NEW).]
- J. The number of betting windows and stand-alone betting terminals to be provided; [PL 1993, c. 388, §8 (NEW).]
- K. A description of the heating and air-conditioning units, the smoke removal equipment and other climate control devices; [PL 1993, c. 388, §8 (NEW).]
- L. The total area in square feet of the proposed facility; [PL 1993, c. 388, §8 (NEW).]
- M. The number, type and quality of the television equipment to be installed and, if applicable, the name and place of business of any proposed independent contract operator; [PL 1993, c. 388, §8 (NEW).]
- N. The full name and address of the person, association or corporation applying for the license; if an association, the names and residences of the members of the association; and if a corporation, the name of the state under which it is incorporated with its principal place of business and the names and addresses of its directors and stockholders; [PL 1993, c. 388, §8 (NEW).]
- O. The dates and times of day or night when it is desired to conduct wagering; [PL 1993, c. 388, §8 (NEW).]
- P. Whether the facility is owned or leased and, if leased, the name and residence of the fee owner or, if a corporation, the names and residences of the directors and stockholders of that corporation; [PL 1993, c. 388, §8 (NEW).]

Q. A statement of the assets and liabilities of the person, association or corporation submitting the application; and [PL 1993, c. 388, §8 (NEW).]

R. The name of the entity that will originate each simulcast likely to be offered for wagering at the facility and other information required by the commission regarding that entity. [PL 1993, c. 388, §8 (NEW).]

[PL 1997, c. 528, §18 (AMD).]

2-A. Application fee. The fee for an initial application for an off-track betting facility is \$1,000. The fee for a renewal is \$250.

[PL 1997, c. 528, §19 (NEW).]

2-B. Renewal. An off-track betting facility license must be renewed annually.

[PL 1997, c. 528, §19 (NEW).]

3. Notice to commercial racetracks; objections. An applicant shall send written notice of its application for an off-track betting license to any commercial racetrack in whose market area the facility will be located and shall present proof to the commission that it has provided the notice. The notice must include all information contained in the application except information described in subsection 2, paragraph Q. A commercial racetrack shall notify the commission within 30 days of receiving notice if the racetrack objects to the location of the facility based on adverse impact to the commercial track. The commission shall suspend consideration of the application for the 30-day objection period. If the commission receives an objection from a racetrack in whose market area the facility would be located within the 30-day period, the commission shall reject the application. If the commission does not receive an objection within that period, the commission may proceed to consider the application. For purposes of this subsection, the market area is determined by measuring a distance of 50 miles from the center of the racetrack along the most commonly used roadway adjacent to the racetrack, as determined by the Department of Transportation, drawing a circle around the center of the racetrack using that 50-mile measurement.

[PL 2003, c. 401, §12 (AMD).]

4. Notice to off-track betting facilities; objections. An applicant shall send written notice of its application for an off-track betting license to any existing off-track betting facility in whose market area the proposed facility will be located and shall present proof to the commission that it has provided the notice. The notice must include all information contained in the application except information described in subsection 2, paragraph Q. An existing off-track betting facility shall notify the commission within 30 days of receiving notice if the facility objects to the location of the proposed facility. The commission shall suspend consideration of the application for the 30-day objection period. If the commission receives an objection from an off-track betting facility in whose market area the facility would be located within the 30-day period, the commission shall reject the application. If the commission does not receive an objection within that period, the commission may proceed to consider the application. For purposes of this subsection, the market area is determined by measuring a distance of 35 miles from the off-track betting facility along the most commonly used roadway adjacent to the off-track betting facility, as determined by the Department of Transportation, drawing a circle around the center of the off-track betting facility using that 35-mile measurement.

[PL 2003, c. 401, §13 (AMD).]

5. Municipal approval. The commission may not grant a license to conduct pari-mutuel wagering at an off-track betting facility unless the facility is approved in accordance with this subsection by the municipal officers of the municipality in which the facility is to be located.

A. Within 15 days after receiving an application for an off-track betting facility license or within 15 days after the expiration of the 30-day objection period described in subsections 3 and 4 when the proposed facility is located within the market area of an existing off-track betting facility or a commercial racetrack, the commission shall notify the municipal officers of the municipality in

which the facility is to be located and shall send a copy of the application to those officers. The municipal officers shall hold a public hearing for the consideration of the application in accordance with this subsection. [PL 1993, c. 388, §8 (NEW).]

B. The municipal officers shall provide public notice of a hearing held under this subsection by causing a notice stating the name and place of hearing, at the applicant's prepaid expense, to appear on at least 6 consecutive days before the date of hearing in a daily newspaper of general circulation in the municipality where the facility will be located or on 2 consecutive weeks before the date of the hearing in a weekly newspaper of general circulation in the municipality where the facility is to be located. [PL 1993, c. 388, §8 (NEW).]

C. Following the public hearing, the municipal officers shall grant or deny approval of the facility, indicate the reasons for their decision and provide a copy to the applicant. [PL 1993, c. 388, §8 (NEW).]

D. Approval of a facility may be denied on one or more of the following grounds:

- (1) Objection on policy or other grounds to the conduct of pari-mutuel wagering within the municipality;
- (2) Conviction by the applicant or a holder of more than 50% of the shares or other interests of the applicant of a Class A, Class B or Class C crime;
- (3) Noncompliance of the facility or the facility's use with a local zoning ordinance or other land use ordinance;
- (4) Conditions of record, such as waste disposal violations, health or safety violations and repeated parking or traffic violations, on or in the vicinity of the facility and caused by persons patronizing or employed by the facility or other conditions caused by persons patronizing or employed by the facility that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the facility to use their property in a reasonable manner;
- (5) Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the facility and caused by persons patronizing or employed by the facility; or
- (6) A violation of any provision of this section. [PL 1993, c. 388, §8 (NEW).]

E. An applicant aggrieved by the decision of the municipal officers under this section may appeal to the Superior Court. Denial of approval on the grounds listed under paragraph D, subparagraph (1) is not reviewable by the court. [PL 1993, c. 388, §8 (NEW).]

[PL 1993, c. 388, §8 (NEW).]

6. Requirements for approval of license. The commission shall review the application and hold a public hearing on the application. The commission may issue a license to conduct pari-mutuel wagering at an off-track betting facility if:

A. The commission finds that the facility:

- (1) Will not adversely affect the public interest;
- (2) Will not adversely affect the integrity of live racing;
- (3) Will not have an adverse impact on the local community;
- (4) Provides a potential for job creation, including jobs in the racing and wagering industries and other service jobs;
- (5) Has adequate seating facilities, toilet facilities and parking;
- (6) Will not adversely affect the value of abutting property;

(7) Will be operated by an applicant with financial ability to maintain the facility in a manner that meets the standards set forth in this paragraph;

(8) Provides segregated areas for conducting betting separate from the areas in which restaurant or other services are provided to the general public for nonbetting purposes; and

(9) Will not adversely affect existing licensed off-track betting facilities within 35 miles of the proposed facility. [PL 1993, c. 388, §8 (NEW).]

B. The municipal officers of the municipality in which the facility is to be located have approved the facility pursuant to subsection 5; [PL 1993, c. 388, §8 (NEW).]

C. The commission is satisfied that the provisions of this chapter and any rules prescribed by the commission will be fully complied with during the coming year by the person, association or corporation applying for a license; that the applicant, its members, directors, officers, shareholders, employees, creditors and associates are of good moral character; and that the applicant is financially responsible; and [PL 1993, c. 388, §8 (NEW).]

D. No commercial racetrack or off-track betting facility in whose market area the facility would be located has filed a written objection to the facility within the time period prescribed in subsections 3 and 4. [PL 1993, c. 388, §8 (NEW).]

[PL 1993, c. 388, §8 (NEW).]

7. Operation of facility. An off-track betting licensee may not permit a person under the age of 16 to enter the facility unless accompanied by a parent, legal guardian or custodian, as defined in Title 22, section 4002. The off-track betting licensee may not permit a person under the age of 18 within 15 feet of a betting window or other place for accepting wagers.

[PL 1993, c. 388, §8 (NEW).]

8. Requirements for simulcasting. The following requirements apply to simulcasting by off-track betting facilities.

A. An off-track betting facility located within a 75-mile radius of a noncommercial racing licensee may not present a simulcast at the same time that racing licensee is conducting live racing, unless the racing licensee consents and the facility pays the racing licensee 2% of the wagers made at the facility at the time live racing is being conducted. An off-track betting facility within a 50-mile radius of a noncommercial racing licensee may not present a simulcast during any day on which that racing licensee is conducting live racing, unless the racing licensee consents and the facility pays the racing licensee 1% of the wagers made on that day. Amounts payable under this section are taken from the facility's share of wagers authorized in section 286. If the racing licensee is conducting simulcasting pursuant to section 295, subsection 2, then the racing licensee is not entitled to payment by the facility under this section. [PL 1997, c. 528, §21 (AMD).]

B. If live racing being conducted in this State is available for simulcast, all off-track betting facilities shall provide broadcasts originated in the State on the monitors in the facility, as required by rule of the commission, and shall accept wagers on those races on all of its pari-mutuel selling terminals. The races must be broadcast as announced on the track. At any time harness racing originated in the State is available for simulcast, the facility may not broadcast harness racing from outside the State without approval of:

(1) Each racetrack in the State conducting harness racing at that time; and

(2) Either the association representing the horsemen at those tracks at that time or the commission. [PL 1997, c. 528, §22 (AMD).]

[PL 1997, c. 528, §§21, 22 (AMD).]

9. Annual report. The department shall report annually by March 1st to the joint standing committee of the Legislature having jurisdiction over legal affairs matters and to the joint standing

committee of the Legislature having jurisdiction over agricultural matters on the effect of off-track betting facilities on the local economy, the public interest, the integrity of live racing and other matters the department finds appropriate. The department may include in its report any recommendations for necessary changes in laws governing off-track betting.

[PL 2019, c. 626, §11 (AMD).]

10. License nontransferable. An off-track betting facility license issued is not transferable or assignable.

[PL 1997, c. 528, §24 (NEW).]

11. Revocation. The District Court Judge, as designated in Title 4, chapter 5, may revoke any license issued at any time for violation of the commission's rules or licensing provisions upon notice and hearing. The license of any corporation is automatically revoked, subject to Title 5, chapter 375, upon the change in ownership, legal or equitable, of 50% or more of the voting stock of the corporation, and the corporation may not conduct off-track betting without a new license.

[PL 1999, c. 547, Pt. B, §26 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

12. Approval of dates. An applicant for an initial off-track betting facility license or renewal of an off-track betting facility license shall identify the dates on which pari-mutuel wagering will be conducted. When approving an initial license or the renewal of a license for an off-track betting facility, the commission shall identify the dates on which pari-mutuel wagering is permitted at the off-track betting facility.

[PL 1997, c. 528, §24 (NEW).]

13. Conditions. The commission is authorized to impose conditions on a license if one or more of the criteria established in this section are not met at the time the license is issued and the licensee is able to comply with the conditions within a specified time period during the licensing year or if the conditions are requested both by the municipality as a condition of its approval and by the applicant.

[PL 1997, c. 735, §5 (AMD).]

SECTION HISTORY

RR 1993, c. 2, §6 (COR). PL 1993, c. 388, §8 (NEW). PL 1995, c. 408, §7 (AMD). PL 1997, c. 528, §§17-24 (AMD). PL 1997, c. 735, §5 (AMD). PL 1999, c. 421, §1 (AMD). PL 1999, c. 547, §B26 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 401, §§12,13 (AMD). PL 2003, c. 493, §1 (AMD). PL 2003, c. 493, §14 (AFF). PL 2011, c. 99, §1 (AMD). PL 2019, c. 626, §§10, 11 (AMD).

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