

LAW AND PUBLIC SAFETY

NEW JERSEY RACING COMMISSION

Horse Racing

Handicapping Contests

Proposed New Rule: N.J.A.C. 13:70-29.63

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

Authority: N.J.S.A. 5:5-30

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

Proposal Number: PRN 2002-405

Submit written comments by January 17, 2003 to:

Frank Zanzuccki, Executive Director  
New Jersey Racing Commission  
P.O. Box 088, 140 E. Front St.  
Trenton, New Jersey 08625-0088

The agency proposal follows:

Summary

The New Jersey Racing Commission ("Racing Commission") is interested in obtaining public comment regarding the proposed new rule N.J.A.C.13:70-29.63 Handicapping contests.

The proposed new rule at subsection (a) would allow a holder of a racetrack permit, and/or an Atlantic City casino authorized to conduct casino simulcasting ("Atlantic City casino"), to operate a handicapping contest and to charge an entry fee to the participants of the contest. The rule at subsection (b) requires that all such entry fees collected be distributed as prizes to the winners of the handicapping contest. In addition, the rule does

not preclude the operator of the contest from providing additional prizes or promotions. Subsection (c) of the rule requires that the racetrack permit holder or Atlantic City casino apply to and receive the approval of the Racing Commission to conduct a handicapping contest. As part of this approval process, the proposed rule would require that the Racing Commission issue a written approval as to the rules of the contest, and as to the payment of prizes, each before the acceptance of any entry fees regarding said contest.

The proposed rule sets forth additional requirements related to the conduct of a handicapping contest. Subsection (d) of the rule requires that the horse races subject of the handicapping contest be a race on which the operator of the contest is authorized to conduct wagering. Subsection (f) of the rule requires that a contest entrant personally place all wagers. Subsection (g) of the rule concerns tax liability as to winning wagers, and provides that the winner of any wagers is solely responsible for reporting, signing and deductions made. Subsection (h) of the rule prohibits employees or their families of the venue conducting a handicapping contest from participation therein. Subsection (i) of the rule sets forth requirements relevant to the contest venue and racetracks participating in a handicapping contest. Subsection (j) of the rule defines “racetrack” for purposes of the rule, to include both in and out-of-state racetracks.

A handicapping contest, within the racing industry, is a competition in which all entrants pay a prescribed fee to register. The exact parameters of the handicapping contest are dependent on the rules of the particular contest, which rules pursuant to the proposed rule must be approved by the Racing Commission. The rules of the particular contest are variable, may or may not limit the number of entrants in the contest, and establish the minimum as well as any maximum wager permitted by the contest. Each participant in a

handicapping contest purchases a cash betting stake, the amount of which betting stake will be defined in the rules of the contest. The rules of the contest also define the instruments of wagering, as well as the minimum amount of races at the prescribed tournament tracks (and the pari-mutuel pools relevant to the contest), that is, the tracks where races are being conducted as encompassed by the contest. At the end of the last race of the final tournament track participating in the contest, the entrant with the highest net profit as defined in the rules wins the contest. The contest rules also address the impact of the contest of any dead heats, that is, in races or scratches of horses (elimination of a horse from a scheduled race competition) from the tournament races. The contest rules for the specific handicapping contest, as noted above, must set forth the prizes to the winners of the contest.

Since all wagers in handicapping contests are to be introduced into accepted pari-mutuel wagering pools, no changes to the Racing Commission's existing regulations need to be made concerning horse race betting at racetracks or Atlantic City casinos.

As the Racing Commission has provided a 60-day comment period with regard to this notice of proposal, this notice is excepted from the rulemaking calendar requirements of N.J.A.C. 1:30-3.3(a)5.

### Social Impact

The social impact of proposed N.J.A.C.13:71-27.61 will be positive by allowing racetracks and/or casino simulcast venues the benefit of another promotional tool which will stimulate additional interest and patron participation in the sport.

### Economic Impact

The proposed new rule N.J.A.C. 13:71-27.61, will likely have a positive economic impact upon racetracks, casino operators and the State because of the pari-mutuel handle. The handicapping contest is designed to stimulate interest in wagering on races by increasing the opportunity for reward to entrants in a fashion based on competition in relationship to other entrants, which is in addition to the basic reward of net profits from the pari-mutuel pools. The exact arising economic impact, however, is difficult to measure because it cannot accurately be assessed whether the implementation of the rule will generate new wagering dollars, or alternatively, whether wagering dollars will be diverted from existing non-handicapping horse race wagering opportunities to new handicapping contest wagering races.

There may be a limited economic impact associated with the implementation of the new rule. This impact will result from the development or acquisition of computer software necessary to offer handicapping contests. This cost will be borne by the racetracks or casino operators who intend to offer handicapping contests, either directly or through a third party agent. There may also be costs associated with advertising the availability of handicapping contests to the wagering public, but these costs (as well as the software development or acquisition costs) will likely be offset from the profits associated with this new method of horse race wagering. It is not anticipated that an economic impact will arise due to new

manpower needs associated with offering handicapping contest wagering, as existing staff at racetracks and casinos simulcast facilities is considered sufficient.

#### Federal Standards Statement

A Federal standard's analysis is not required because the rules of racing are dictated by State statute N.J.S.A. 5:5-22 et seq. and the proposed new rule is not subject to any Federal requirements or standards.

#### Jobs Impact

The proposed new rule will likely have no impact on the work force in the State. No jobs will be gained or lost due to the proposed rule. The existing number of mutuel clerks (persons who issue pari-mutuel tickets to patrons in exchange for cash or vouchers), SAM machines (self-activated machines, which machines issue pari-mutuel tickets in exchange for cash or vouchers) and Tiny Tim Machines (TIMS, or portable ticket issuing machines which, as opposed to actually issuing pari-mutuel tickets, allow for pari-mutuel wagers to be placed with funds on account) are adequate to handle the wagering opportunities arising as a result of the implementation and operation of the handicapping contests to be authorized by this rule.

#### Agriculture Industry Impact

The proposed new rule will have an impact on the agriculture industry in the State. In anticipation of increased pari-mutuel handle due to the inception of handicapping contests, the ratio of increased handle will also be evidenced in the horse breeding and development, stallion, and other horse breed promotions conducted by the Department of Agriculture as per N.J.S.A. 5:5-88.

#### Regulatory Flexibility Statement

The proposed new rule imposes certain compliance requirements (see Economic Impact Statement) on racetracks and those Atlantic City casinos which offer casino simulcasting. However, because these businesses employ over 100 individuals full-time, they are not “small businesses” as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., and a regulatory flexibility analysis is not therefore required.

#### Smart Growth Impact

The proposed new rule is not anticipated to have an impact on the achievement of smart growth implementation of the State Development and Redevelopment Plan as defined under Executive Order No. 4 (2002).

Full text of the proposed new rule follows:

13:70-29.63 Handicapping contests

(a) Notwithstanding any other provision of law to the contrary, a permit holder, casino simulcasting licensee or a combination thereof may operate a handicapping contest at which the participants may be charged an entry fee. The contest must be conducted in accordance with the provisions of this rule.

(b) The operator of a handicapping contest shall distribute all of the entry fees as prizes to the winners of the contest. Nothing in this section shall preclude an operator from providing additional prizes or promotions.

(c) Operators must apply to and receive the approval of the New Jersey Racing Commission to conduct a handicapping contest in New Jersey. The operators must secure the Commission’s written approval of the rules and the payment of prizes prior to the acceptance of any entry fees regarding said contest.

(d) The horse races that are the subject of the handicapping contest must be races

on which the operator of the contest is authorized to conduct wagering.

(e) The operator of a handicapping contest must apply to the Racing Commission for approval of each and every contest.

(f) An entrant must personally place all wagers. No person shall directly or indirectly act as a transmitter, intermediary, or agent in placing wagers for the entrant.

(g) Winners of wagers where taxes apply are solely responsible for the reporting, signing and deductions made to the appropriate State or Federal Tax Agencies.

(h) Employees or their families of the venue conducting a handicapping contest are not eligible to participate in any tournament.

(i) Denominations of wagers and types of pools wagered must be agreed to in contract form between the contest venue and the racetracks participating in a handicapping contest.

(j) Racetracks, for the purpose of this section, are defined as both in and out-of-state.

(k) All track rulings are official in the event of scratches and disqualifications.