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**NEW JERSEY RACING COMMISSION
Off-Track and Account Wagering
Pilot Program Authorizing Wagering on Horse Races
through Electronic Wagering Terminals Located
in a Limited Number of Eligible Taverns,
Restaurants, and Similar Venues**

Adopted New Rules: N.J.A.C. 13:74B

Proposed: June 4, 2012 at 44 N.J.R. 1686(a).

Adopted: August 15, 2012 by the New Jersey Racing Commission,
Frank Zanzuccki, Executive Director.

Filed: October 4, 2012 as R.2012 d.184, **without change.**

Authority: N.J.S.A. 5:5-186.

Effective Date: November 5, 2012.

Expiration Date: November 5, 2019.

Summary of Public Comments and Agency Responses:

Donald F. Weinbaum, Executive Director of The Council on Compulsive Gambling of New Jersey, Inc. (Council), 3635 Quakerbridge Road, Suite 7, Hamilton, NJ 08619, submitted a written comment, dated August 1, 2012.

COMMENT: The comment set forth the Council's concerns regarding three areas: underage patrons, self-exclusion by problem gamblers, and the posting of helpline numbers and awareness messages. The Council indicates its agreement with the New Jersey Racing Commission's (Commission) statement in the Social Impact statement that, with the expansion of legalized gaming, a potential exists for negative social implications. The Council stated its belief that many of these implications can be mitigated through the broad regulatory authority granted to the Commission in P.L. 2011, c. 228.

Citing proposed N.J.A.C. 13:74B-2.4(d) and(h) and 3.2, which require the exclusion of persons under the age of 18 from wagering areas, safeguards to prevent underage persons from wagering, and the reporting of violations to the Commission annually at the time of license renewal, the Council indicates its preference that violations be reported as they occur to allow for timely investigation and appropriate remedies. The Council states its concern about the practical and logistical implications of the differing age requirements for wagering on horse racing (18) and for consuming alcohol (21), which, it believes, will complicate security and enforcement for bars and taverns that choose to set up wagering terminals. Pointing out that the proposed rules are silent on whether alcohol will be allowed within the wagering area, the Council urges that alcohol use and the service of alcohol not be allowed within the wagering area in order to reduce the risk of persons under the age of 21 being served alcohol. The Council also points out that the proposed rules are silent on whether a history of alcohol-related violations will affect the issuance of an initial or renewal license by the Commission. The Council strongly recommends that this be considered, noting that "[o]ur experience has been that underage and early on-set gambling and drinking increase the risk that vulnerable persons will develop addictions in adulthood."

Regarding problem gambling and responsible gaming, the Council first points out its concern that the proposed rules do not specifically address problem gambling awareness or the responsibility of operators to post signage with the 1-800-GAMBLER helpline number and include this number in all forms of advertising. The Council notes that the proposed rules do not include an explicit requirement for operators to exclude problem gamblers who have signed up for the Commission's self-exclusion list. Citing the variety of wagering methods in the proposed rules, the automated nature of the terminals and the absence of a pre-screening mechanism, the Council indicates that these provisions all increase the likelihood that self-excluded persons might seek to place bets. The Council recommends that the Commission's existing rules that require the posting of information about the self-exclusion program be made applicable to the newly licensed venues in the pilot program and that violations be subject to the same penalties and reporting requirements that are applicable to other venues.

The Council points out that proposed N.J.A.C. 13:74B-1.2(f) and 2.1(d), which incorporate the Commission's rules governing horse racing, harness racing and off-track and account wagering by reference, include embedded references to the existing self-exclusion rules codified at N.J.A.C. 13:74A. The Council indicates that these references may resolve some of the concerns it has raised and asks the Commission to confirm and clarify whether the pilot program is subject to all of the existing self-exclusion requirements. Noting "the unique nature of the pilot program," the Council asserts that amended or additional language also may be warranted.

Finally, the Council states that it raised a number of these concerns during the Assembly and Senate committee hearings and was advised that the committee members were sensitive to these issues and that "[i]t was their hope that the bill language was sufficiently broad as to permit the Racing Commission to address such issues in rulemaking."

RESPONSE: The Commission rejects the comments related to underage drinking and accepts the comments related to problem gambling, responsible gaming, and the requirements of New Jersey's Self-Exclusion law. The regulation and investigation of underage drinking do not lie within the Commission's authority. The Division of Alcoholic Beverage Control (ABC), within the Department of Law and Public Safety, is the unit of State government that is charged with regulating the commerce of alcoholic beverages within the State of New Jersey. ABC is required to supervise the manufacture, distribution, and sale of alcoholic beverages in such a manner as to fulfill the public policy and legislative purpose of the New Jersey Alcoholic Beverage Control law. Investigations of violations of the ABC law are conducted by the Alcoholic Beverage Control Investigations Bureau. The Commission notes that the practical and logistical implications of the differing age requirements for wagering on horse racing (18) and for consuming alcohol (21) are not limited to the pilot program as these implications presently exist at racetracks and off-track wagering facilities that also serve alcohol.

The Commission accepts the comments related to problem gambling, responsible gaming, and the requirements of New Jersey's Self-Exclusion law. The Council correctly points out that the Commission's rules in N.J.A.C. 13:74 require off-track wagering facilities to comply with all aspects of New Jersey's Self-Exclusion law. Specifically, N.J.A.C. 13:74-12.1, Self-exclusion list rules incorporated herein by reference, mandates that all of the Commission's self-exclusion rules in N.J.A.C. 13:74A are applicable to N.J.A.C. 13:74 and are incorporated into that chapter by reference.

P.L. 2011, c. 228, which establishes the pilot program, supplemented the Off-Track and Account Wagering Act by allowing this new form of off-track wagering at a limited number of taverns, restaurants, and similar venues in certain designated areas of the State through the use of electronic wagering terminals. As noted by the Council, proposed N.J.A.C. 13:74B-1.2(f) mandates that "N.J.A.C. 13:70, 13:71, and 13:74 shall be applicable to all persons licensed by the Commission and every patron who places a parimutuel wager pursuant to the pilot program." As a result, the self-exclusion rules have been incorporated by reference and they are fully applicable to the pilot program.

Jean Public, New Jersey, submitted a written comment, dated June 7, 2012.

COMMENT: The Racing Commission received an e-mail from a member of the public identifying herself as "Jean Public." The comment is largely devoted to a dissatisfaction with horse racing generally. The commenter states her belief that "horse racing is a vile, stupid activity for druggies and dopies" and that the social impact is negative, not beneficial, when horses are abused and dying in increasing numbers. According to the commentator, "the backstretch alleged 'benevolence' left out the horses' welfare" and the security guards need to protect the horses from drugging. The commenter argues that most of the jobs generated are held by illegal immigrants and questions the benefit of horse breeding "when horses are being sent to the slaughterhouse to die ugly deaths." Regarding the pilot program, the commenter asks why an applicant has to pay for a horse race. The commenter states that "the NY system of this type of wagering has been a huge bust and loss for the taxpayers." The commenter asserts that taxpayers do not want this

program and that the pilot program needs to provide for the horses' benefit.

RESPONSE: The Racing Commission does not accept the comment, which in large part voices objection to horse racing generally and provides little or no support or opposition to the rules. The commenter misunderstands the proposed rules. The rules require an applicant seeking licensure to pay a license fee and not, as the commenter suggests, to pay for a horse race. Contrary to the commenter's statement, New York has not and does not allow the type of wagering authorized by the pilot program. The commenter's assertion that this type of wagering "has been a huge bust and loss for the taxpayers" in New York is factually unsupported.

Federal Standards Statement

A Federal standards analysis is not required because the adopted rules are dictated by statute, N.J.S.A. 5:5-186, and are not subject to any Federal requirements or standards.

Full text of the adopted new rules follows:

CHAPTER 74B

PILOT PROGRAM AUTHORIZING WAGERING ON HORSE RACES THROUGH ELECTRONIC WAGERING TERMINALS LOCATED IN A LIMITED NUMBER OF ELIGIBLE TAVERNS, RESTAURANTS, AND SIMILAR VENUES

SUBCHAPTER 1. GENERAL PROVISIONS

13:74B-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Account wagering system" means the system through which account wagers are processed by the account wagering licensee.

"Act" means the Off-Track and Account Wagering Act, P.L. 2001, c. 199, as amended.

"Authority" means the New Jersey Sports and Exposition Authority created by section 4 of P.L. 1971, c. 137 (N.J.S.A. 5:10-4).

"Authorized tavern, restaurant, or similar venue" or "authorized venue" means an eligible tavern, restaurant, or similar venue selected by the pilot program applicant for participation in the pilot program that has completed and submitted a joint application with the pilot program applicant to the Commission pursuant to N.J.A.C. 13:74B-2.1, has established its suitability for licensure, and has been issued a license by the Commission to participate in the pilot program.

"Commission" means the New Jersey Racing Commission created by section 1 of P.L. 1940, c. 17 (N.J.S.A. 5:5-22).

"Electronic wagering terminal" means a mechanical, electrical, or other device connected to a totalisator, which upon the insertion of a credit card, credit voucher, currency, or any combination thereof, and the selection of a permissible wager, automatically issues a pari-mutuel ticket together with a credit voucher or currency for any balance, which may be due; and which, upon the insertion of a winning or refunded pari-mutuel ticket, reads the ticket and automatically issues a credit voucher or currency in the amount of the correct payout; and which, upon the entry of a New Jersey account wagering account number and correct personal identification number by a patron, allows the patron to access his or her New Jersey wagering account for the purposes of placing wagers by selecting a permissible wager in an amount not to exceed the balance of the patron's account.

"Eligible taverns, restaurants, and similar venues" means those taverns, restaurants, and similar venues that serve food, alcoholic beverages, or both to the public for on-premises consumption and that are located in the northern part of the State, in Bergen, Hudson, Essex, Passaic, Union, Morris, Somerset, Hunterdon, Warren, Sussex, northern Middlesex, and northern Ocean counties.

"Executive Director" means the Executive Director of the Commission.

"Hub facility" means the intermediary between the authorized venues, the in-State racetracks, and the out-of-State racetracks, with respect to the transmission of pari-mutuel wagering data. The hub facility shall be located in New Jersey and shall be responsible for generating all reports

necessary for the reconciliation of payments between the pilot program licensee, authorized venues, sending in-State racetracks, sending out-of-State racetracks, and the Commission. The hub facility may also, but is not required to, perform other functions, including the transmission of pictures of simulcast horse races and pari-mutuel non-wagering data to the authorized venues.

"Internal control procedures" means the written procedures required to be maintained and updated as necessary, for Commission approval, by:

1. The pilot program licensee and authorized venues, which sets forth the operational procedures to effectively operate the racing and pari-mutuel wagering aspects of each authorized venue and to protect the fiscal soundness, technical reliability, and integrity of wagering;

2. The pilot program licensee and authorized venues, which sets forth the operational procedures to effectively operate the racing and pari-mutuel wagering aspects of the pilot program wagering system and to protect the fiscal soundness, technical reliability, and integrity of wagering; and

3. The hub facility, which sets forth the operational procedures to effectively operate the hub facility in connection with wagering at the authorized venues, any other racing related functions performed by the hub facility, and to protect the fiscal soundness, technical reliability, and integrity of wagering.

"Joint application" means the part of the application for the pilot program license, which shall be completed and submitted to the Commission jointly by the pilot program applicant and each of the pilot program applicant's proposed selected venues pursuant to N.J.A.C. 13:74B-2.1.

"Outstanding pari-mutuel ticket" means a winning or refundable pari-mutuel ticket that is not claimed within six months of sale, which six-month period is to be calculated as set forth in N.J.A.C. 13:70, 13:71, and 13:74.

"Pari-mutuel" means any system whereby wagers with respect to the outcome of a horse race are placed with or in a wagering pool conducted by an authorized person, and in which the participants are wagering with each other and not against the person conducting the wagering pool.

"Pari-mutuel ticket" means a ticket, which evidences the legally-valid placement of a pari-mutuel wager on a horse race.

"Participation agreement" means the written contract and any addenda entered into pursuant to N.J.S.A. 5:5-130 that provides for the establishment or implementation of an off-track wagering facility or facilities, the manner in which the off-track wagering facility or facilities shall be managed, operated, and capitalized, as well as how expenses and revenues shall be allocated and distributed by and among the Authority and other eligible participants.

"Permit holder" means the holder of an annual permit issued by the Commission to conduct a horse race meeting within this State.

"Pilot program" means the pilot program to be implemented by the Commission authorizing the placement of pari-mutuel wagers on horse racing at electronic wagering terminals located in a limited number of eligible taverns, restaurants, and similar venues.

"Pilot program applicant" means an entity that has entered into an agreement with the Authority for the sale or lease of a State-owned racetrack, has obtained a permit issued by the Commission authorizing the entity to conduct a horse race meeting at that racetrack, and has completed and submitted the required application or applications for the pilot program license on a form prescribed by the Commission.

"Pilot program license" means the license issued by the Commission to a eligible entity that has entered into an agreement with the Authority for the sale or lease of a State-owned racetrack, has obtained a permit issued by the Commission authorizing the entity to conduct a horse race meeting at that racetrack, has completed and submitted the required application or applications for the pilot program license and established its suitability for licensure. The pilot program license shall be a temporary license subject to review and renewal on an annual basis. The pilot program license shall expire within three years of the date it was initially issued.

"Pilot program licensee" means the entity that has entered into an agreement with the Authority for the sale or lease of a State-owned racetrack, obtained a permit issued by the Commission authorizing the entity to conduct a horse race meeting at that racetrack, has completed

and submitted the required application or applications for the pilot program license, has established its suitability for licensure, and has been issued the pilot program license by the Commission.

"Racetrack" means a facility within this State where a permit holder conducts a live horse race meeting or meetings with pari-mutuel wagering or an out-of-State facility that is authorized by that state to conduct a live horse race meeting or meetings with pari-mutuel wagering.

"Selected venue" means a eligible tavern, restaurant, and similar venue selected by the pilot program applicant for participation in the pilot program, which submits a joint application with the pilot program applicant pursuant to N.J.A.C. 13:74B-2.1.

"Simulcast horse races" means horse races conducted at an in-State sending racetrack or an out-of-State sending racetrack, as the case may be, and transmitted simultaneously by picture to an authorized venue licensed by the Commission to participate in the pilot program.

"Simulcasting facility" means a licensed facility approved by the Commission at a New Jersey racetrack or casino, which makes simulcast horse races available to patrons by picture and accepts pari-mutuel wagers placed on those simulcast horse races.

"Totalisator" means a computer situated within the hub facility which, among other things, directly or indirectly through one or more other totalisators receives pari-mutuel wagering information, calculates payoffs for winning pari-mutuel tickets, generates reports with respect to such information, and in the event that the transmission of data from a sending or host racetrack has been interrupted, automatically ceases wagering in accordance with the internal control procedures of the hub facility.

"Wagering account" means an account through which an account holder may place account wagers through the account wagering system.

13:74B-1.2 Establishment and regulation of pilot program

(a) Pursuant to the legislative authority set forth in P.L. 2011, c. 228, the Commission hereby establishes a pilot program allowing the placement of pari-mutuel wagers on horse racing at electronic wagering terminals located in a limited number of eligible taverns, restaurants, and similar venues that serve food, alcoholic beverages, or both to the public for on-premises consumption and that are located in the northern part of the State, in Bergen, Hudson, Essex, Passaic, Union, Morris, Somerset, Hunterdon, Warren, Sussex, northern Middlesex, and northern Ocean counties. The pilot program requires that eligible patrons who are physically present at a tavern, restaurant, or similar venue licensed by the Commission be able to place pari-mutuel wagers on in-State and out-of-State simulcast horse races through the use of the electronic wagering terminals located there.

(b) The Commission shall issue only one license authorizing participation in the pilot program, which license shall be in lieu of a maximum of one off-track wagering facility license that remains to be utilized or implemented by the Authority or any lessee of the Authority under the Act, as amended and supplemented. The Commission shall award the one pilot program license, upon proper application, to an entity that has entered into an agreement with the Authority for the sale or lease of a State-owned racetrack that has also complied with the following requirements:

1. The entity has obtained a permit issued by the Commission authorizing that entity to conduct a horse race meeting at the racetrack made available to the entity through the sale or lease agreement with the Authority; and

2. The entity has become a party to the off-track wagering participation agreement.

(c) The pilot program license shall remain the property of the pilot program licensee upon proper application for renewal and subject to the pilot program licensee establishing its continued suitability for licensure as required in N.J.A.C. 13:74B-2.4.

(d) Notwithstanding (b) above, the pilot program licensee may enter into an agreement with another licensed entity that has also entered into an agreement with the Authority for the sale or lease of a State-owned racetrack and has obtained a permit issued by the Commission authorizing that entity to conduct a horse race meeting at that racetrack, to jointly undertake and share the proceeds from the licensed activities under the pilot program, which agreement shall be subject to the approval of the Authority.

(e) All licenses issued pursuant to the pilot program shall be temporary, subject to review and renewal on an annual basis, and shall expire within three years of issuance of the initial pilot program license. When issuing any license pursuant to the pilot program, the Commission shall require the person or entity accepting the license to sign a waiver documenting that the licensee understands the terms and conditions of the license.

(f) The issuance of the pilot program license shall permit the placement of a maximum of 20 electronic wagering terminals in total within a maximum of 12 eligible taverns, restaurants, and similar venues, which have entered into agreement with the pilot program licensee, filed a joint application, and have been determined to be eligible in accordance with this chapter. The conduct of pari-mutuel wagering pursuant to the pilot program shall be subject to N.J.A.C. 13:70, 13:71, and 13:74. N.J.A.C. 13:70, 13:71, and 13:74 shall be applicable to all persons licensed by the Commission and every patron who places a pari-mutuel wager pursuant to the pilot program.

(g) The pilot program licensee shall be responsible for entering into agreements with the selected taverns, restaurants, and similar venues and the pilot program licensee may terminate these agreements with notice to the Commission. If the pilot program licensee terminates an agreement with a selected venue that has been licensed by the Commission, the pilot program licensee shall notify the Commission immediately and no later than 24 hours after the termination of the agreement. The pilot program licensee shall be responsible for ensuring that all pari-mutuel wagering at the authorized venue shall cease immediately upon the termination of the agreement.

(h) The pilot program licensee shall have the authority to enter into contracts with vendors, operators, and other entities, as the case may be, for the establishment and operation of the approved electronic wagering terminals.

SUBCHAPTER 2. LICENSURE

13:74B-2.1 Application for pilot program license to establish electronic wagering terminals in eligible taverns, restaurants, and similar venues.

(a) Pursuant to P.L. 2011, c. 228, the Commission shall issue only one pilot program license. The Commission shall consider applications for the pilot program license in the order in which the submitted applications have been determined to be complete.

(b) An entity that has entered into an agreement with the Authority for the sale or lease of a State-owned racetrack and has obtained a permit issued by the Commission authorizing the entity to conduct a horse race meeting at that racetrack shall make an application for the pilot program license on a form prescribed by the Commission, which shall be accompanied by a non-refundable filing fee of \$2,500.

(c) The application for the pilot program license shall have two parts. Part A of the application shall be completed and submitted by an entity that has entered into an agreement with the Authority for the sale or lease of a State-owned racetrack and has obtained a permit issued by the Commission authorizing the entity to conduct a horse race meeting at that racetrack that is seeking the issuance of the pilot program license. Part B of the application shall be completed and submitted to the Commission jointly by the pilot program applicant and each eligible tavern, restaurant, and similar venue selected by the pilot program applicant for participation in the pilot program. Pursuant to the requirements of P.L. 2011, c. 228, the Commission shall not issue licenses authorizing participation in the pilot program to more than 12 eligible taverns, restaurants, and similar venues.

(d) Part A of the application for the pilot program license shall not be considered complete unless each of the following requirements have been met:

1. The pilot program applicant demonstrates through the application that all of the requirements of P.L. 2011, c. 228, have been satisfied;

2. The pilot program applicant demonstrates to the satisfaction of the Commission that it has entered into an agreement with the Authority for the sale or lease of a State-owned racetrack;

3. The pilot program applicant has obtained a permit issued by the Commission authorizing it to conduct a horse race meeting at the

racetrack made available to it by the sale or lease agreement with the Authority;

4. The pilot program applicant demonstrates to the satisfaction of the Commission that it has become a party to the off-track wagering participation agreement;

5. The pilot program applicant has provided the Commission with complete information regarding the electronic wagering terminals it proposes to use in the selected venues and has demonstrated, to the satisfaction of the Commission, that the proposed electronic wagering terminals will comply with all of the requirements set forth in N.J.A.C. 13:70, 13:71, and 13:74;

6. The pilot program applicant has completely answered each question in the application, attached all required information to the application and complied with the requirements of this chapter;

7. If the pilot program applicant has entered into an agreement with another licensed entity that has also entered into an agreement with the Authority for the sale or lease of a State-owned racetrack and that entity has obtained a permit issued by the Commission authorizing that entity to conduct a horse race meeting at that racetrack to jointly undertake and share the proceeds from the licensed activities under the pilot program, the pilot program applicant shall attach the executed agreement and demonstrate to the satisfaction of the Commission that the agreement has been approved by the Authority; and

8. The pilot program applicant has submitted a certification, signed and dated by a high managerial agent of the applicant, attesting that the disclosures within both Part A and Part B of the application and within all attachments to Part A and Part B of the application are true, accurate, and complete.

(e) One copy of Part B of the application for the pilot program license shall be separately submitted for each eligible tavern, restaurant, and similar venue selected by the pilot program applicant. The pilot program applicant shall be responsible for entering into agreements with the selected venues and may terminate these agreements with notice to the Commission. Each Part B of the application filed with the Commission shall be jointly completed and submitted by the pilot program applicant and one selected venue. No selected venue shall be allowed to participate in the pilot program unless the Commission has first issued a license to the selected venue that authorizes its participation. Pursuant to P.L. 2011, c. 228, the Commission shall issue a license authorizing participation in the pilot program to no more than 12 selected venues and authorizing no more than a total of 20 electronic wagering terminals to be sited within the selected venues that are licensed.

(f) Each submission of Part B of the application for a pilot program license shall not be considered complete unless each of the following requirements has been met, the pilot program applicant and the selected venue:

1. Include complete information detailing the location physical plan, security, proposed number of electronic wagering terminals, security, and the proposed hours of operation for the selected venue;

2. Include complete information establishing to the satisfaction of the Commission that the selected venue is an eligible tavern, restaurant, or similar venue;

3. Include complete information detailing the availability of financial resources sufficient to enable the selected venue to establish and conduct pari-mutuel wagering through the electronic wagering terminals with appropriately staffed and managed operations;

4. Include complete information detailing their ability to comply fully with all of the requirements in this chapter, including, but not limited to, N.J.A.C. 13:74B-3 and 4;

5. Identify the distance in miles between the selected venue and all racetracks, off-track wagering facilities, and simulcasting facilities that are planned or existing in the State of New Jersey. The pilot program applicant and the selected venue shall bear the burden of establishing to the satisfaction of the Commission that the issuance of a license for the establishment of electronic wagering terminals at the selected venue would not be inimical to the interests of a planned or existing racetrack, off-track wagering facility, or simulcasting facility;

6. Include complete information detailing the space relationship between wagering and non-wagering related amenities, the number of employees at the selected venue, the number of jobs expected to be

created at the selected venue, the gross revenues expected to be generated by the selected venue, the fire evacuation plan for the selected venue, the type of food, beverages, and, if applicable, alcoholic beverages to be offered at the selected venue;

7. Shall have attached a written internal controls procedure, which shall set forth the procedures to be implemented to effectively operate and manage the selected venue and the procedures to be implemented to effectively maintain the integrity of wagering and the proceeds from wagering within the selected venue. The internal control procedures shall include a procedure to foster and insure that the selected venue, if licensed by the Commission to participate in the pilot program, complies with the requirements of P.L. 2011, c. 228 and this chapter; and

8. Have each submitted a certification, signed and dated by a high managerial agent, attesting that the disclosures within Part B of the application and within all attachments to Part B of the application are true, accurate, and complete.

(g) The pilot program applicant and selected venues seeking licensure to participate in the pilot program shall fully cooperate with the Commission in its review of the applications and shall provide all information requested by the Commission on an expedited basis. Failure to provide the Commission with information deemed necessary to complete the applications within 14 days from the date of the Commission's written request may result in a denial of an application.

13:74B-2.2 Evaluation of completed applications for pilot program licensure

(a) Upon reaching the determination that an application for the pilot program license is complete, the Commission shall have 30 days to review the completed application to insure that it is in due form and meets the requirements of law in all respects.

(b) Upon being satisfied that the requirements of this subchapter are met, the Executive Director shall issue written notification to all New Jersey racetrack permit holders, off-track wagering licensees, and simulcasting facilities utilizing the procedure set forth in N.J.A.C. 13:70-1.34, informing them of the location of the selected venues that applied for licensure and the scheduled date upon which the Commission will consider the application at a public meeting. The Executive Director shall also inform the New Jersey racetrack permit holders, off-track wagering licensees, and simulcasting facilities that they shall have the opportunity to submit comments to the Commission pursuant to the procedure set forth in N.J.A.C. 13:70-1.35. Comments shall be limited to the issue as to whether the grant of a license for the establishment of electronic wagering terminals at one or more of the identified selected venues would be inimical to the interests of a planned or existing racetrack, off-track wagering facility, or simulcasting facility in this State.

13:74B-2.3 Specific geographic proximity and impact criteria for evaluating proposed locations

(a) In considering an application for the pilot program license and the pilot program applicant's proposed selected venues, the Commission shall consider the proximity of the selected venues to planned or existing racetracks, off-track wagering facilities, and simulcasting facilities in this State.

(b) The Commission shall deny a license to a selected venue if, in the opinion of the Commission, the issuance of a license for the establishment of electronic wagering terminals at the selected venue would be inimical to the interests of a planned or existing racetrack, off-track wagering facility, or simulcasting facility. The Commission shall deny the license even if the selected venue has otherwise met all eligibility criteria.

(c) In determining whether the location of a selected venue would be inimical to the interests of a planned or existing racetrack, off-track wagering facility, or simulcasting facility, the Commission shall consider the following geographic proximity and impact criteria:

1. The distance in miles between the proposed selected venue and the racetrack, off-track wagering facility, or simulcasting facility;
2. The time it takes to travel between the proposed selected venue and the racetrack, off-track wagering facility, or simulcasting facility;
3. Available wagering data or market analyses evaluating the wagering population, its saturation, and the wagering draw areas in proximity to the

racetrack, off-track wagering facility, or simulcasting facility and in proximity to the proposed selected venue;

4. Any proposed plans of the pilot program applicant and its proposed selected venues intended to attract a new wagering population within the area in proximity to the racetrack, off-track wagering facility, or simulcasting facility or in proximity to the proposed selected venue;

5. Whether the racetrack, off-track wagering facility, or simulcasting facility in proximity to one or more of the proposed selected venues opposes, consents, or takes no position regarding the licensure of the selected venues; and

6. Any other information relevant to the impact that pari-mutuel wagering through electronic wagering terminals at a proposed selected venue may have on the interests of a planned or existing racetrack, off-track wagering facility, or simulcasting facility in this State.

13:74B-2.4 Grant or denial of the pilot program license and licenses authorizing electronic wagering terminals in the proposed selected venues, issuance of licenses and applications for license renewal

(a) The Commission shall refuse to issue a license or renewal license if it finds that the pilot program applicant or a selected venue has failed to demonstrate its suitability for licensure by clear and convincing evidence.

(b) The Commission shall deny a license or renewal license if, in the opinion of the Commission, the issuance of that license authorizing electronic wagering terminals at a selected venue would be inimical to the interests of a planned or existing racetrack, off-track wagering facility, or simulcasting facility. The Commission shall deny the license or renewal license even if the selected venue has otherwise met all eligibility criteria.

(c) The Commission shall deny a license or renewal license if, in the opinion of the Commission, the pilot program applicant or selected venue has failed to meet its burden of establishing:

1. Proof of financial resources sufficient to establish and operate electronic wagering terminals in compliance with this chapter with appropriately staffed and managed operations;
2. Evidence of good character, honesty, competency, and integrity;
3. The absence of a conviction for a crime involving fraud, dishonesty, or moral turpitude; and
4. Compliance with all requirements and considerations set forth in N.J.A.C. 13:74-5.8.

(d) The Commission shall refuse to issue a license or renewal license if it finds that the application and internal control procedures for a selected venue do not, as required by N.J.A.C. 13:74B-3.1, provide:

1. Adequate security to ensure the safety of its patrons and to enhance the integrity of wagering and the integrity of proceeds from wagering;
2. Necessary safeguards to ensure that persons under the age of 18 years shall not be permitted within the space in the venue where electronic wagering terminals are placed; or
3. Necessary safeguards to prevent persons under the age of 18 years from wagering.

(e) Upon reaching a determination to grant or deny the initial pilot program license to the pilot program applicant and the initial licenses sought by those selected venues that filed joint applications with the Commission, the Commission shall issue written notification to all such applicants of its decision within 14 days from the date of the Commission's decision. The Commission shall follow the same procedure when reaching a determination to grant or deny the renewal of the pilot program license to the pilot program licensee and the renewal of licenses issued to authorized venues upon the proper completion and filing of applications or joint applications seeking the renewal of these licenses.

(f) All licenses and renewal licenses issued by the Commission authorizing participation in the pilot program shall expire at midnight, Eastern Standard Time, on the 365th day after the effective date of the license. All licenses and renewal licenses issued by the Commission shall include the effective date of the license; the expiration date of the license; the expiration date of the pilot program, the name of the pilot program licensee, and the name and location of the authorized venue to whom the license is issued. All licenses and renewal licenses shall also prescribe any other conditions or terms attached to that license which the Commission deems appropriate.

(g) When issuing a license or renewal license authorizing participation in the pilot program, the Commission shall require the person or entity accepting that license to sign a certification that documents that the licensee understands the terms and conditions of the license.

(h) Renewal applications for all licenses issued by the Commission authorizing participation in the pilot program shall be completed and filed with the Commission at least 60 days prior to the expiration date of the license on an application form prescribed by the Commission. A renewal application filed by the pilot program licensee shall be accompanied by a non-refundable filing fee of \$1,000.

1. An application for the renewal of a license issued by the Commission authorizing participation in the pilot program shall not be considered complete unless the information required by N.J.A.C. 13:74B-2.1(d) and (f) has been submitted to the Commission.

2. An application for the renewal of a license issued by the Commission authorizing participation in the pilot program shall include:

i. A report of all wagering activity that took place at each authorized venue since the initial date of licensure; and

ii. A report of all violations of N.J.A.C. 13:70, 13:71, and 13:74 and this chapter that occurred since the initial date of licensure including, but not limited to:

(1) Security breaches and the placement of wagers by persons under the age of 18 years in violation of N.J.A.C. 13:74B-3.2;

(2) Malfunction of any equipment and software used in connection with the simulcasting of horse races, availability of race information, and pari-mutuel wagering;

(3) Failure of persons requiring licensure as required by N.J.A.C. 13:74B-3.1 to obtain the necessary license; and

(4) A summary of all patron complaints and the licensee's response as required by N.J.A.C. 13:74-6.13 and 13:74B-3.6.

3. The pilot program licensee and authorized venues seeking renewal of their licenses to participate in the pilot program shall fully cooperate with the Commission in its review of the applications and shall provide all information requested by the Commission on an expedited basis. Failure to provide the Commission with information deemed necessary to complete the applications to renew licenses within 14 days from the date of the Commission's written request may result in a denial of an application.

SUBCHAPTER 3. OPERATION OF AUTHORIZED TAVERNS, RESTAURANTS, OR SIMILAR VENUES LICENSED BY THE COMMISSION

13:74B-3.1 Persons requiring licensure

(a) All individuals employed at an authorized tavern, restaurant, or similar venue, all persons regardless of location who are responsible for the supervision or oversight of any aspect of the authorized venue and all persons who engage in the profession or business of selling any kind of equipment or merchandise to the authorized venue shall be required to apply for and receive an appropriate license from the Commission. The annual application fee for each license shall be as follows:

1. Pari-mutuel employee - \$25.00;
2. Identification license - \$10.00; and
3. Vendor license - \$50.00.

(b) Unless the Commission or Executive Director shall determine, the issuance of a license to be unnecessary upon the filing of a petition by a prospective applicant for an exemption from the vendor license requirements of this section, based upon the nature of the service provided and volume of business, the following vendors shall be required to take out a license from the Commission:

1. Any vendor who maintains an on-site presence at the authorized venue; and

2. Any vendor who supplies racing-related or pari-mutuel-wagering related equipment, supplies, information, or data to the authorized venue.

(c) All persons licensed by the Commission shall be required to be fingerprinted and photographed. An applicant for a license shall pay the cost of the fingerprint card consistent with the charge set by the Federal and/or State reviewing agencies for the type of inquiry requested.

13:74B-3.2 Security

(a) The authorized venue shall provide adequate security to ensure the safety of its patrons and to enhance the integrity of wagering and the integrity of proceeds from wagering.

(b) The authorized venue shall provide necessary safeguards to ensure that persons under the age of 18 years shall not be permitted within the space in the venue where electronic wagering terminals are placed.

(c) The authorized venue shall provide necessary safeguards to prevent persons under the age of 18 years from wagering.

13:74B-3.3 Testing of equipment and software

(a) Prior to receiving approval from the Commission to begin wagering at an authorized venue, the pilot program licensee shall provide written notice to the Commission that all equipment and software used in connection with pari-mutuel wagering has been tested. The written notice shall set forth what testing has been accomplished and the results of the testing to ensure the integrity of the wagering and related proceeds. The Commission may require additional testing, as it deems appropriate, before approval is granted to begin pari-mutuel wagering at the authorized venue.

(b) Unless an emergency situation exists, in which case verbal notice to the Executive Director or his designee shall be acceptable, the pilot program licensee shall provide written notice to the Commission of any new equipment or software, or change in equipment or software, to be utilized at the authorized venue. The written notice shall identify the testing that has been accomplished with regard to the new equipment or software, or change in equipment or software, and the results of the testing, to insure the integrity of the wagering and related proceeds. The Commission may require such additional testing as it determines appropriate, before authorizing the implementation of such equipment or software at the authorized venue.

(c) The pilot program licensee shall comply with the commingling and transmission failure notices required by N.J.A.C. 13:74-6.4.

13:74B-3.4 Availability of race information

(a) An authorized venue shall make race information available to patrons in a manner consistent with N.J.A.C. 13:70, in the case of thoroughbred races, and in a manner consistent with N.J.A.C. 13:71, in the case of harness races.

(b) An authorized venue shall prominently display in its facility, the approximate odds for each horse in a simulcast race for the purpose of informing the patrons of the actual wagering on each horse.

13:74B-3.5 Wagering tickets

(a) All electronic wagering terminals in an authorized venue shall be locked at off-time and wagering shall cease no later than off-time. No pari-mutuel ticket may be issued for any particular race at an individual sending racetrack after the totalisator has been locked or wagering has ceased, whichever occurs first. No wager shall be honored for payment, and no payment shall be made on any wager, where the corresponding pari-mutuel ticket is found to have been issued in violation of this section.

(b) Wagering on all races offered at an authorized venue from an in-State sending racetrack shall be subject to the refund rule set forth at N.J.A.C. 13:70-29.29, for wagers placed on thoroughbred races, and 13:71-27.28, for wagers placed on harness races.

(c) Wagering on all races offered at an authorized venue from an out-of-State sending racetrack shall be subject to the provisions of N.J.A.C. 13:74-8.6(b) where an interstate common pool is formed and the provisions of the refund rule set forth at N.J.A.C. 13:74-8.5.

(d) For pari-mutuel tickets issued at an authorized venue, the cancellation rule as set forth at N.J.A.C. 13:74-6.7 shall apply.

(e) Subject to the time limitations set forth in N.J.A.C. 13:74-6.9(a) as to claiming of a pari-mutuel ticket, a winning pari-mutuel ticket, a refundable pari-mutuel ticket, or credit voucher issued at an authorized venue, the ticket claims rule set forth at N.J.A.C. 13:74-6.8 shall apply.

(f) Expiration of pari-mutuel tickets and vouchers presented at an authorized venue shall be subject to the expiration rules set forth at N.J.A.C. 13:74-6.9.

13:74B-3.6 Patron complaints

An authorized venue shall comply with the patron complaint rule set forth at N.J.A.C. 13:74-6.13.

SUBCHAPTER 4. CONDUCT OF WAGERING

13:74B-4.1. Distribution of pari-mutuel pools

(a) The pilot program licensee shall ensure that the amounts wagered through the electronic wagering terminals located in the authorized venues be properly distribute to winning bettors, the licensed venue, and others: including for funding of horse racing purses, in a manner similar to that provided under section 44 of P.L. 1940, c. 17 (N.J.S.A. 5:5-64); section 21 of P.L. 2001, c. 199 (N.J.S.A. 5:5-147) for sums wagered on in-State races; and sections 22 through 25, of P.L. 2001, c. 199 (N.J.S.A. 5:5-148 through 151) for sums wagered on out-of-State races, except that a local impact fee of one percent of the pilot program licensee's share shall be paid to the host municipality for general municipal purposes.

(b) The pilot program licensee shall be required to distribute the one percent local impact fee from its share directly to the host municipality and provide the commission with documentation that such payments have been made on a monthly basis.

13:74B-4.2. Hub requirements and receipt of simulcast horse races

(a) Pari-mutuel wagering conducted at an authorized venue is subject to the minimum standards for a hub facility as set forth at N.J.A.C. 13:74-9.

(b) The receipt of simulcast horse races from in-State racetracks at an authorized venue are subject to the requirements as set forth at N.J.A.C. 13:74-8.2(a) and (b).

(c) The receipt of simulcast horse races from out-of-State racetracks are subject to the requirements as set forth at N.J.A.C. 13:74-8.3(a) and (b).

13:74B-4.3. Formation of pari-mutuel pool

(a) The formation of pari-mutuel pool for horse races from in-State sending racetracks or in-State host racetracks at an authorized venue are subject to requirements set forth at N.J.A.C. 13:74-8.4(a) and (b).

(b) The formation of pari-mutuel pool for horse races from out-of-State sending racetracks or out-of-State host racetracks at an authorized venue are subject to requirements set forth at N.J.A.C. 13:74-8.5.

(c) The formation of interstate common pool at an authorized venue are subject to requirements set forth at N.J.A.C. 13:74-8.6(a) and (b).

13:74B-4.4. Simulcast agreements with sending racetracks

A simulcast agreement between an authorized venue and a sending racetrack or host racetrack are subject to the requirements set forth at N.J.A.C. 13:74-8.7(a) and (b).

SUBCHAPTER 5. COOPERATION OF LICENSEES AND ACCESS BY COMMISSION

13:74B-5.1. Cooperation and full access

(a) A person or entity that is licensed to participate in the pilot program who comes into possession of knowledge concerning any violation of the Act and/or this chapter shall immediately report the information to the Commission for investigation and such action as the case may warrant.

(b) All persons licensed to participate in the pilot program shall have the duty to fully cooperate in any investigation being conducted by the Commission and shall give every possible cooperation, aid, and assistance to any department, bureau, division, officer, agent or inspector, or any other person connected with the United States government or with this State, who may be investigating or prosecuting any matter involving a violation of law or any rules of the Commission. Failure to cooperate shall subject the person or persons involved to a fine, suspension, or both.

(c) The Commission, its agents and representatives, in furtherance of its regulatory responsibilities, shall have unrestricted access to all authorized venues licensed to participate in the pilot program.

SUBCHAPTER 6. EXPIRATION OF PILOT PROGRAM

13:74B-6.1. Expiration of pilot program and termination of licensure

All licenses issued by the Commission authorizing participation in the pilot program shall expire within three years after the effective date of the first pilot program license issued by the Commission. Within three years after the effective date of the first pilot program license issued by the

Commission, the Commission shall issue a report to the Governor and to the Legislature as provided under section 2 of P.L. 1991, c. 164 (N.J.S.A. 52:14-19.1), which shall contain an evaluation of the pilot program. The report shall also provide the Commission's opinion as to whether the pilot program should be continued and, if so, recommendations for further improvement and implementation. The pilot program shall end upon the expiration of the licenses issued under the pilot program unless the Legislature enacts a law to continue the program.