

LAW AND PUBLIC SAFETY

NEW JERSEY RACING COMMISSION

Harness Racing

Starting Gate

Proposed Amendment: N.J.A.C. 13:71-17.1

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 2010-185.

Submit written comments by December 6, 2010 to:

Frank Zanzuccki, Executive Director

New Jersey Racing Commission

P.O. Box 088

140 E. Front Street

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Racing Commission is proposing an amendment at N.J.A.C. 13:71-17.1, Starting gate. The amendment is the result of a rulemaking petition filed with the Racing Commission by Alan Schott by e-mail dated June 21, 2009. On August 19, 2009, the Racing Commission determined to advertise the proposed rule for public comment. See 41 N.J.R. 3464(b).

The proposed amendment to N.J.A.C. 13:71-17.1 will implement a "fair start pole," which will be erected approximately 200 feet before the start. The fair start pole shall be yellow and protrude at least two feet above the inner rail. The fair start pole would be used to disqualify a horse from the pari-mutuel wagering pools if the horse has not reached the fair start pole when the starting gate reaches the starting point. The proposed rule provides an opportunity for bettors to receive a refund of their wagers if a horse they wagered on did not receive a fair start and was disqualified.

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

Limited negative social impacts are anticipated with the proposed amendment to N.J.A.C. 13:71-17.1 as the amendment provides for the removal of a horse from wagering if it does not reach a certain point in the race defined

as the fair start pole. Bettors who have included the horse in their wagers may be upset as a result of not winning the wager if the horse happens to recover from the bad start and places in a wagering position. A positive social impact could result if the horse never recovers from the poor start and finishes out of the money for wagers placed on it since they will receive a refund of their wagers.

Economic Impact

The bettor would receive an economic benefit if a horse on which he or she placed a wager was disqualified from all pari-mutuel wagering (and performed poorly) as a result of not reaching the fair start pole at the proper time. In that case, all wagers on the horse would be refunded.

The amendment will have a negative economic impact on bettors who wagered on the horse that was removed from pari-mutuel wagering if it were to recover sufficiently to be part of a winning wager. Although the chance of this happening is remote, it is possible. However, more often than not, the horse that did not reach the fair start pole and was disqualified from the wagering will not be part of a winning wager resulting in a positive economic benefit to the bettor.

Racetracks and all others that receive a percentage (share in the commissions taken out) of each wager will also be negatively affected when a

horse is removed from pari-mutuel wagering since the total amount bet on the race would decrease.

In regard to the actual construction of the fair start pole, the racetrack permit holder will be economically impacted as they will be responsible for erecting the fair start pole and will bear the cost of the installation.

Federal Standards Statement

A Federal standards analysis is not required because the rules of racing are authorized by State statute, N.J.S.A. 5:5-22 et seq., and the proposed amendment is not subject to any Federal standards or requirements.

Jobs Impact

The proposed amendment will have no impact on jobs.

Agriculture Industry Statement

The proposed amendment will have no impact on the agriculture industry in the State. Racehorses are not considered livestock for the purpose of determining any impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendment imposes no reporting, recordkeeping or compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The permit holder will be responsible for complying with the installation of a fair start pole and racetracks are not considered small businesses because they employ more than 100 employees.

Smart Growth Statement

The proposed amendment will not affect the smart growth policies associated with the implementation of the State Development and Redevelopment Plan as defined under Executive Order No. 4 (2002).

Housing Affordability Impact

The proposed amendment will not impact affordable housing in New Jersey. The proposed amendment affects wagering results.

Smart Growth Development Impact

The proposed amendment does not affect Smart Growth Development in the State since it has no relevance to housing or other types of development recommended for Planning Areas 1 or 2 or designated centers under the State Development and Redevelopment Plan, as the rule affects wagering results.

Full text of the proposal follows (additions indicated in boldface **thus**):

SUBCHAPTER 17. STARTING

13:71-17.1 Starting gate

(a) - (f) (No change.)

(g) The licensee shall erect a fair start pole at a point approximately 200 feet before the starting point. The fair start pole shall be yellow in color and shall protrude at least two feet above the inner rail.

(h) If a horse has not reached the fair start pole when the horses are released at the starting point by the starter, the judges

**shall cause the inquiry sign to be displayed immediately and
shall request the horse be scratched from the mutuels.**

Recodify existing (g) - (p) as **(i) - (r)** (No change in text.)