

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 149.00: RACE HORSE DEVELOPMENT FUND

Section

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149.01: Definitions

As used in 205 CMR 149.00, the following words and phrases shall have the following meaning, unless the context clearly requires otherwise:

Commission is defined in M.G.L. c. 23K, § 2.

Harness Race means a race involving standardbreds as defined in 205 CMR 3.02: *Definitions*.

Harness Racing Association means an association as defined in 205 CMR 3.02: *Definitions*.

Horse Race means a race involving thoroughbreds as defined in 205 CMR 4.02: *Definitions*.

Horse Racing Association means an association as defined in 205 CMR 4.02: *Definitions*.

Horse Racing Committee means the committee established pursuant to M.G.L. c. 23K, § 60(b).

Horsemen has the meaning ascribed to the term in M.G.L. c. 23K, § 60 and refers to Harness Horsemen and Thoroughbred Horsemen respectively.

Horsemen's Organization means the horsemen's organization that represents the horse owners and trainers at a meeting.

License means a license to conduct a harness race, horse race, or both issued pursuant to M.G.L. c. 128A.

Meeting means a meeting as defined in 205 CMR 3.02: *Definitions* and 4.02: *Definitions*, respectively.

Race Horse Development Fund means the fund established pursuant to M.G.L. c. 23K, § 60.

Race Horse Development Fund Escrow Account means an escrow account established pursuant to 205 CMR 149.03(2)(a) and 149.04.

Race Track is defined in M.G.L. c. 128A, § 1.

149.02: Distributions from the Race Horse Development Fund

(1) The commission shall make distributions from the race horse development fund between harness racing associations and horse racing associations in accordance with the requirements of M.G.L. c. 23K, § 60, 205 CMR 149.02 and 149.04 and the recommendations of the horse racing committee.

(2) A harness racing association or horse racing association shall distribute funds received from the race horse development fund in accordance with M.G.L. c. 23K, § 60(c) and 205 CMR 149.04.

(3) In order for a harness racing association or horse racing association to be eligible to receive funds from the race horse development fund such harness racing association or horse racing association shall comply with all safety standards adopted by the Commission and applicable to such harness racing association or horse racing association.

149.03: Notice to Commission of Intent to Discontinue Racing

- (1) A harness racing association or horse racing association shall provide the commission at least 30 days prior written notice of its intent to take any of the following actions:
  - (a) To discontinue harness races or horse races for the remainder of a harness meeting or horse meeting;
  - (b) To permanently discontinue harness races or horse races;
  - (c) To close a race track used for harness races or horse races;
  - (d) To abandon or relinquish a license;
  - (e) To not apply for the renewal of a license; or
  - (f) To transfer a race track to any other entity.
  
- (2) Upon receipt of a written notice of intent pursuant to 205 CMR 149.03(1), or upon learning that the harness racing association or horse racing association has failed to timely notify the commission pursuant thereto or that any event described in 205 CMR 149.03(1)(a) through (f) has occurred or will occur, the commission may take one or more of the following actions:
  - (a) Hold a public hearing to determine:
    1. whether monies from the race horse development fund which the harness racing association or horse racing association would have received pursuant to M.G.L. c. 23K, § 60, should be placed in a racing escrow account for distribution pursuant to 205 CMR 149.04;
    2. whether to transfer monies from the race horse development fund which the harness racing association or horse racing association would have received pursuant to M.G.L. c. 23K, § 60 to a different harness racing association or horse racing association;
    3. whether to transfer the harness racing association's or horse racing association's license to a different harness racing association or horse racing association;
    4. whether to take any other action within its authority to protect:
      - a. the interests of the commonwealth;
      - b. employees or former employees of the harness racing association or horse racing association;
      - c. harness racing horsemen and horse racing horsemen; and
      - d. the intended beneficiaries of the race horse development fund, any other fund established pursuant to M.G.L. c. 23K, 128A or 128C, and any other fund to which the harness racing association or horse racing association was required to contribute.
  - (b) Require the harness racing association or horse racing association to pay to the commission any amounts required pursuant to the terms of its license, M.G.L. c. 23K, 128A, and 128C, and 205 CMR 149.00 including, without limitation, all unclaimed winnings and breaks, assessments, taxes, and fees.

149.04: Race Horse Development Fund: Distributions; Escrow Accounts

- (1) If the commission determines pursuant to 205 CMR 149.03(2)(a) that monies due to a harness racing association or horse racing association from the race horse development fund should be placed in an escrow account the commission shall request authorization from the Office of the Treasurer and Receiver General in accordance with M.G.L. c. 29, §§ 23 and 34.
  
- (2) If the commission receives authorization from the Office of the Treasurer and Receiver General, the commission shall establish a race horse development fund escrow account to hold such funds and any interest thereon for distribution in accordance with M.G.L. c. 23K, § 60(c), the recommendations of the horse racing committee, and 205 CMR 149.00.
  
- (3) The commission shall establish a separate race horse development fund escrow account concerning each harness racing association or horse racing association for which it determines such an account is necessary pursuant to 205 CMR 149.03(2)(a)
  
- (4) The commission shall hold funds in such race horse development fund escrow accounts subject to the following requirements: Monies held in a race horse development fund escrow account shall be held in escrow for no more than three years from the date of the Commission's determination to hold the funds in escrow. After three years, any monies remaining in such race horse development fund escrow accounts shall be transferred or distributed by the commission in accordance with the recommendations of the horse racing committee.

149.04: continued

(5) (a) The commission shall make distributions from the race horse development fund, or from a race horse development fund escrow account created under 205 CMR 149.03, in the distribution percentage(s) approved by the commission upon a recommendation of the horse racing committee between thoroughbred and standardbred racing as follows, in accordance with M.G.L. c. 23K, § 60, and 205 CMR 149.00:

1. 80% of the funds approved by the commission shall be paid weekly into separate, interest bearing purse accounts in accordance with M.G.L. c. 23K, § 60(c)(i). If there is more than one racing association within a particular breed, the funds allocated to that breed shall be divided between the associations at the discretion of the commission. The earned interest on those accounts shall be credited to the respective purse accounts and shall be combined with revenues from existing purse agreements to fund purses for live races consistent with those agreements, with the advice and consent of the applicable horsemen.

2. 16% of the funds approved by the commission shall be deposited by the Commission in accordance with M.G.L. c. 23K, § 60(c)(ii) for the benefit of the respective breeding programs authorized by the commission.

3. 4% of the funds approved by the commission shall be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at a horse racing facility for the benefit of the organization's members, their families, employees and others under the rules and eligibility requirements of the organization, as approved by the commission in accordance with M.G.L. c. 23K, § 60(c)(iii), provided, however, that if there is more than one horsemen's organization within a particular breed, the funds allocated to that breed shall be divided at the discretion of the commission. This amount shall be deposited by the Commission within five business days of the end of each month into a separate account to be established by each respective horsemen's organization at a banking institution of its choice. Of this amount, the commission shall determine how much shall be paid annually by the horsemen's organization to the thoroughbred jockeys or standardbred drivers' organization at the horse racing facility for health insurance, life and/or accident insurance or other benefits to active and disabled thoroughbred jockeys or standardbred drivers under the rules and eligibility requirements of that organization.

(b) The commission may distribute less than the entire amount of the funds in 205 CMR 149.04(5)(a)1. if the commission determines in its sole discretion that such distribution shall be beneficial or if a lesser amount is requested by the harness racing association or the horse racing association. Funds under 205 CMR 149.04(5)(a)1. that remain after payment by the commission under 205 CMR 149.04 shall remain in the race horse development fund and shall be available for payment in future years in the commission's discretion, after applying the distribution percentage recommendation of the horse racing committee.

(6) If the commission awards a license to a harness racing association after placing the funds in escrow pursuant to 205 CMR 149.03, the commission may transfer funds to that harness racing association, for use in accordance with M.G.L. c. 23K, § 60, and 205 CMR 149.00, from any race horse development fund escrow account then in existence that was created under 205 CMR 149.03.

(7) If the commission awards a license to a horse racing association after placing the funds in escrow pursuant to 205 CMR 149.03, the commission may transfer funds to that horse racing association, for use in accordance with M.G.L. c. 23K, § 60, and 205 CMR 149.00, from any race horse development fund escrow account then in existence that was created under 205 CMR 149.03.

(8) The commission may, upon the recommendation of the horse racing committee, transfer all or a portion of the funds held in a race horse development fund escrow account to any one or more harness racing associations or horse racing associations for distribution in accordance with M.G.L. c. 23K, § 60, and 205 CMR 149.00.

#### REGULATORY AUTHORITY

205 CMR 149.00: M.G.L. c. 23K, §§ 2, 4(37), 4(38), 5, 7, 60; M.G.L. c. 128A, §§ 1, 2, 3, 9 and 9B.