

Accordingly, this rulemaking is determined to be a consensus rulemaking, as defined in State Administrative Procedure Act (“SAPA”) § 102(11), and is proposed pursuant to SAPA § 202(1)(b)(i). Therefore, this rulemaking is exempt from the requirement to file a Regulatory Impact Statement, Regulatory Flexibility Analysis for Small Businesses and Local Governments, or a Rural Area Flexibility Analysis.

Job Impact Statement

The proposed amendments to Insurance Regulations 147 and 179 should have no impact on jobs and employment opportunities. The amendments modify current Insurance Regulations 147 and 179 to specify that two prior amendments to the regulations (i.e., the Fifth and Sixth Amendments to Regulation 147 and the Third and Fourth Amendments to Regulation 179) shall only apply to policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, 2019 with written notification provided to the Superintendent by December 31, 2018. The proposed concurrent amendments to Insurance Regulations 147 and 179 allow insurers to apply these two prior amendments, if optionally elected, for one additional year of policy issues. Insurers should not need to hire additional employees or independent contractors to comply with these amendments.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Permit Greater Purse-to-Price Ratio in Thoroughbred Claiming Races

I.D. No. SGC-42-18-00015-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 4038.2 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Permit greater purse-to-price ratio in Thoroughbred claiming races.

Purpose: To advance the best interests of Thoroughbred racing and protect the safety of the race horses.

Text of proposed rule: Section 4038.2 of 9 NYCRR would be amended, as follows:

§ 4038.2. Minimum price for claim.

The minimum price for which a horse may be entered in a claiming race shall not be less than 50 percent of the value of the purse for the race, *unless the commission approves a request from an association for a lower minimum price for all or a portion of a race meeting. The commission shall not approve such a request unless such association has implemented increased measures to ensure close examination of the competitiveness, soundness and safety of each horse entered in such race.*

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. Statutory authority: The New York State Gaming Commission (“Commission”) is authorized to promulgate these rules pursuant to Racing Pari-Mutuel Wagering and Breeding Law (“Racing Law”) Sections 103(2) and 104 (1, 19). Under Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

2. Legislative objectives: To advance the best interests of Thoroughbred racing and protect the safety of the race horses.

3. Needs and benefits. This rule making proposes to allow an increase in the ratio of the purse to the claiming price in appropriate circumstances in Thoroughbred claiming races.

The current rule requires that the claiming price, the price at which a horse entered in a claiming race may be purchased by another owner, shall not be less than 50 percent of the purse a horse could win. This limitation was adopted in 2012. At the time, an increase in claiming-race purses at Aqueduct Racetrack had caused an increase in racing injuries and horse fatalities, as trainers more freely entered horses in the hope of winning an unusually high purse for the class of horse. The limitation reduced the incentive of an owner or trainer to enter a potentially lame or uncompetitive horse in a claiming race.

The proposal would allow a Thoroughbred racetrack operator, with the approval of the Commission, to depart from this limitation under certain circumstances. The Commission has added the requirement that its approval to depart from the limitation will not be granted unless the track implements enhanced measures to ensure close examination of the competitiveness, soundness and safety of each horse in such races.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: The amendment will not add any new mandated costs to the existing rules.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendment will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel harness racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: N/A.

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel Thoroughbred racing activities.

6. Paperwork: There will be no additional paperwork.

7. Duplication: No relevant rules or other legal requirements of the state and/or federal government exist that duplicate, overlap or conflict with this rule.

8. Alternatives: The Commission considered and rejected not adding this exception to the current rules. The proposed rule changes were drafted in consideration of the improvements made to Thoroughbred horse safety since 2012 and in consultation with NYRA.

9. Federal standards: There are no minimum standards of the Federal government for this or a similar subject area.

10. Compliance schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis and a job impact statement are not required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas or jobs.

The proposed amendment is a revision to the Commission’s Thoroughbred racing rules to enhance the ability of racetracks to fill claiming races by offering a competitive purse that causes the claiming price to be less than 50 percent of the value of the purse for the race.

This rule will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

Department of Health

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Durable Medical Equipment; Medical/Surgical Supplies; Orthotic and Prosthetic Appliances; Orthopedic Footwear

I.D. No. HLT-42-18-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 505.5 of Title 18 NYCRR.