

tors may select another betting interest or cancel the wager before the start of the first pick-six jackpot race, or a designated horse will be substituted for the scratched or nonstarting horse. Subdivision (g) describes the play of the pick-six jackpot wager. If the winner of the designated six races is selected in only one wager, then the net pool and any carryover are distributed to the holder of that unique winning ticket. If none of the winning horses are selected by any bettor, then the net pool is refunded and any carryover is again carried over. Otherwise, the major share of the net pool is distributed as a single price pool to bettors selecting the greatest number of winning horses in the pick-six jackpot races, and the minor share is carried over to the next pick-six jackpot pool. Subdivision (h) sets forth the effect of race cancellations. If one or two races are cancelled or declared no race, non-betting or no contest after the first pick-six jackpot race has been made official, then the net pool is distributed as a single price pool to bettors selecting the greatest number of winning horses in the pick-six jackpot races. If such an event occurs before the first race is made official, or if three or more such events occur, then the pool is declared off and the gross pool is refunded. Subdivision (i) is reserved. Subdivision (j) concerns dead heats. Subdivision (k) concerns carryovers from prior pick-six jackpot pools, advertised guaranteed amounts and advertised added amounts. Subdivision (l) concerns intermediate distributions of accumulated carryovers when no bettor has a unique winning ticket of all six races. Subdivision (m) concerns final distributions of all accumulated carryovers during the final week of a race meeting. Subdivision (n) concerns the suspension of pick-six jackpot wagering, with the prior approval of the commission. Subdivision (o) is reserved. Subdivision (p) concerns distribution occurrences not encompassed within the explicit provisions of this section. Subdivision (q) requires the public posting of winning combinations. Subdivision (r) prohibits the transfer of pick-six jackpot wagers. Subdivision (s) restricts the disclosure of wagering information prior to the completion of the fifth designated race. Subdivision (t) is concerned with reductions in guaranteed distributions. Subdivision (u) concerns the interfacing of off-track wagers. Subdivision (v) requires that carryover monies be held in trust by track operators. Subdivision (w) concerns seed money and insurance allocation. Subdivision (x) requires the track to make copies of this section available to the public free of charge in the public betting area of the track.

**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.

#### 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). Pursuant to 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 improve harness pari-mutuel wagering and generate reasonable revenue for the support of government.

3. Needs and benefits: This rule making proposes to add a pick-six jackpot pool to the harness wagers offered by New York racetracks and wagering facilities.

The current rules offer a variety of wagers on pari-mutuel harness racing at Part 4122 of 9 NYCRR.

The proposal would add a type of pick-six wager that has proven popular in other jurisdictions, to increase the track operator's wagering handle and derive more revenue for the support of government. The new wager is known as the pick-six jackpot. It requires the winning bettor to hold the only ticket that has selected the winning horse in a designated six consecutive races. The number of possible winning tickets is displayed to the betting public as the designated races are run. This generates excitement as the holders of pick-six jackpot tickets that have won the races that have been run, and the crowd at the racetrack or viewing elsewhere, watch whether the possible winning tickets will dwindle in number to only one.

If there is not a unique winning ticket sold, the major share of the net pool is distributed as a single prize pool to the bettors selecting the greatest number of winning horses in the pick-six jackpot races, and a minor share is carried over to the next pick-six jackpot pool. If no winning horses are selected by any bettor, the net pool (excluding any carryover) is refunded. The proposal has provisions for other eventualities, including surface changes and race cancellations.

#### 4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: These amendments 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 amendments 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 harness 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 wager to the current rules. The proposed rule changes will add new wagering options that are tested and successful in other jurisdictions.

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 harness racing rules to enhance interest in wagering by allowing racetracks to offer a pick-six jackpot pool, in which the entire pool is won only if a unique ticket has selected the winning horse in designated, six consecutive races.

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.

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Restrictions on Wagering by Key Employees of Casino Vendors

I.D. No. SGC-35-20-00012-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 5000.3 of Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1305(2), 1326(4) and 1336(1)

**Subject:** Restrictions on wagering by key employees of casino vendors.

**Purpose:** To maintain the integrity of the gaming facilities.

**Text of proposed rule:** Section 5300.3 of 9 NYCRR would be re-classified as a new subdivision (a) and a new subdivision (b) would be added, to read as follows:

§ 5300.3. Restrictions on employee wagering.

(a) *Gaming facility employees.* In addition to the requirements set forth in section 1336 of the Racing, Pari-Mutuel Wagering and Breeding Law, all employees of a gaming facility licensee holding a gaming employee registration issued by the commission are prohibited from wagering in any facility in which the employee is employed or any facility owned or operated by that gaming facility or an affiliate of that gaming facility.

(b) *Casino vendor enterprise employees.* All employees of a casino vendor enterprise required to be qualified pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1326(4) are prohibited from wagering in any gaming facility in which such casino vendor enterprise provides goods or services.

**Text of proposed rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301-7500, (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.

**Regulatory Impact Statement**

1. **STATUTORY AUTHORITY:** Racing, Pari-Mutuel Wagering and Breeding Law §§ 104(19), 1305(20), 1326(4), 1336(1).

2. **LEGISLATIVE OBJECTIVES:** This rule making mirrors the legislative objectives to maintain the integrity of the gaming facilities and implements the requirements that employees of a casino vendor are subject to the same restrictions on wagering as a casino key employee.

3. **NEEDS AND BENEFITS:** Employees of casino vendor registrants who have responsibility for services to a casino are regulated similarly to casino employees. Such employees must qualify for registration under the standards for qualification of a casino key employee and therefore should be subject to at least the same wagering restrictions as casino gaming employee registrants. There could be an appearance of impropriety if, for example, a vendor servicing slot machines wagered at that casino.

4. **COSTS:**

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: None anticipated.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: None anticipated.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: There regulation seeks to inhibit an individual's ability to wager at a facility in which they provide goods or services. The prospective inability to wager would enable the impacted parties to have greater dominion over the discretionary income they otherwise would have committed to recreating at a commercial casino.

5. **LOCAL GOVERNMENT MANDATES:** No anticipated impact upon local governments.

6. **PAPERWORK:** These rules are not expected to impose any significant paperwork requirements for casino vendor registrants other than the paperwork necessary for the application submission and the licensee reporting requirements.

7. **DUPLICATION:** These rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. **ALTERNATIVES:** No alternatives were considered.

9. **FEDERAL STANDARDS:** There are no federal standards applicable to prohibition of wagering by employees of a casino vendor. It is purely a matter of New York State law.

10. **COMPLIANCE SCHEDULE:** The Commission anticipates that the affected parties will be able to achieve compliance with these rules upon adoption.

**Regulatory Flexibility Analysis**

1. **EFFECT OF RULE:** These rules require that employees of those vendors providing goods and services to a licensed commercial casino(s) forebear on wagering at the facility or facilities in which the vendor provides goods or services.

2. **COMPLIANCE REQUIREMENTS:** The employees of a small business that is a vendor to a commercial casino will have to comply with these rules.

3. **PROFESSIONAL SERVICES:** No new or additional professional services are required in order to comply with these rules.

4. **COMPLIANCE COSTS:** Small businesses will have to inform current and prospective employees about the wagering prohibition.

5. **ECONOMIC AND TECHNOLOGICAL FEASIBILITY:** These rules will not impose any technological costs on small businesses or local governments.

6. **MINIMIZING ADVERSE IMPACT:** These rules require that employees of those vendors providing goods and services to a licensed commercial casino(s) forebear on wagering at the facility or facilities in which the vendor provides goods or services.

7. **SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION:** Small businesses and host local governments will have the opportunity to participate in the rule making process during the public comment period which will commence when these rules are formally proposed.

8. **FOR RULES THAT EITHER ESTABLISH OR MODIFY A VIOLATION OR PENALTIES ASSOCIATED WITH A VIOLATION:** Pursuant to the requirements of Chapter 524 of the Laws of 2011, this rulemaking will neither establish nor modify a violation, nor will it require a provision for a period to afford small businesses or local governments a period of time to come into compliance with the rule before it is enforced.

**Rural Area Flexibility Analysis**

The decision to restrict the wagering opportunities for key employees of a casino vendor will not have a meaningful economic impact. These rules impact a small population set of individuals and only inhibits such individuals' ability to wager in a casino with which their employer does business. Accordingly, a rural flexibility analysis is not required and one has not been prepared.

**Job Impact Statement**

1. **NATURE OF IMPACT:** The Commission has determined that these rules will not have a substantial adverse impact on jobs and employment opportunities.

2. **CATEGORIES AND NUMBERS AFFECTED:** N/A.

3. **REGIONS OF ADVERSE IMPACT:** The Commission does not anticipate regions of the state to suffer a disproportionate adverse impact in regards to jobs or employment opportunities.

4. **MINIMIZING ADVERSE IMPACT:** These rules do not create any unnecessary adverse impact on existing jobs.

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Amend the Out-of-Competition Testing Rule for Thoroughbred Racing

**I.D. No.** SGC-35-20-00014-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 4012.5 of Title 9 NYCRR.

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

**Subject:** Amend the out-of-competition testing rule for thoroughbred racing.

**Purpose:** To enhance the integrity and safety of thoroughbred horse racing.

**Text of proposed rule:** Section 4012.5 of 9 NYCRR would be repealed and replaced, as follows:

§ 4012.5. Out-of-competition testing.

(a) *Out-of-competition testing authorized. The commission may at a reasonable time on any date take blood, urine or other biologic samples (e.g., hair) from a horse to enhance the ability of the commission to enforce the commission's equine drug and anti-doping rules (e.g., the prohibitions of section 4043.8 of this Article). The commission shall own such samples. This rule authorizes only the collection and testing of samples and does not independently make impermissible the administration to or presence in any horse of any drug or other substance. A race-day prohibition or restriction of a substance by a commission rule is not applicable to an out-of-competition test unless there is an attempt to race the horse in a manner that violates such rule.*

(b) *Horses eligible to be tested. Any horse that has been engaging in activities related to competing in pari-mutuel horse racing in New York may be tested. This includes without limitation any horses that are training outside the jurisdiction to participate in racing in New York and all horses that are training in New York, but excludes weanlings, yearlings and horses no longer engaged in horse racing (e.g., retired broodmares).*

(1) *A horse is presumed eligible for out-of-competition testing if such horse:*

(i) *is on the grounds at a racetrack or training center under the jurisdiction of the commission;*

(ii) *is under the care or control of a trainer licensed by the commission;*

(iii) *is owned by an owner licensed by the commission;*

(iv) *is entered or nominated to race at a premises licensed by the commission;*

(v) *has raced within the previous 12 months at a premises licensed by the commission; or*

(vi) *is nominated to a program based on racing in New York, including without limitation breeders' awards, the thoroughbred breeding and development fund and thoroughbred stakes races.*

(2) *Such presumptions are conclusive in the absence of evidence that a horse is not engaged in activities related to competing in horse racing in New York State.*

(c) *Selection of horses to be tested.*

(1) *Horses shall be selected for sampling by a commission veterinarian, executive director, director of horse racing and pari-mutuel wagering, equine medical director or steward, or a designee of any of the foregoing.*

(2) *Horses may be selected to be tested at random, for cause or as otherwise determined in the discretion of the commission.*

(3) *Collectors shall for suspicionless collections of samples abide by a plan that has been approved by a supervisor not in the field and that identifies specific horses or provides neutral and objective criteria to follow in the field to determine which horses to sample. Such a supervisor may consider input from persons in the field during the operation of the plan and select additional horses to be sampled.*

(d) *Cooperation with the commission.*

(1) *Licensees of the commission are required to cooperate and comply fully with the provisions of this rule.*