

CHAPTER 74

OFF-TRACK WAGERING AND ACCOUNT WAGERING

Authority

N.J.S.A. 5:5-30 and 5:5-127 et seq.

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Chapter Historical Note

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Subchapter 12, "Self-Exclusion List" Rules, was adopted as new rules by R.2004 d.399, effective October 18, 2004. See: 36 N.J.R. 2980(a), 36 N.J.R. 4828(a).

Chapter 74, Off-Track Wagering and Account Wagering, was re-adopted as R.2007 d.335, effective September 20, 2007. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

13:74-1.1 Definitions

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

"Account holder" means a resident of this State, 18 years of age or older, who establishes an account through which account wagers are placed.

"Account wagering" means a form of pari-mutuel wagering in which an account holder may deposit money in an account with the account wagering licensee and then use the account balance to pay for pari-mutuel wagers by the account holder.

"Account wagering licensee" means the New Jersey Sports and Exposition Authority, provided that the Commission has granted its approval for the Authority to establish an account wagering system.

"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.

"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).

"Closed-loop system" means a system of telephone, computer or other electronic based wagering as approved by the Commission, whose key elements shall be located in this State. The key elements shall include, but not be limited to, the hub facility, permanent information databases, banking databases, system monitoring equipment and account information representatives including those situated at the phone bank. The non-key elements of such system, as determined by the Commission upon application to and approval by it, may be located outside this State.

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

"Delay period" means the time difference between off-time and the start of a simulcast horse race.

"Dormant account" means a wagering account, established pursuant to the Act and this chapter, which has remained inactive for a continuous period of 24 months in that, during such 24-month continuous period, no valid pari-mutuel wagers were made utilizing funds in that account, no valid deposits or credits were made to the wagering account, and no valid debits or withdrawals were made to the wagering account.

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

"Hub facility" means a facility located in this State which acts as an intermediary between each off-track wagering facility and an in-State sending track or out-of-State sending track; and which acts as an intermediary between the account wagering licensee and an in-State host track or out-of-State host track, with respect to the transmission of pari-mutuel wagering data. The hub facility shall be responsible for generating all reports necessary for the reconciliation of payments between the off-track wagering licensee or off-track wagering facilities, the account wagering licensee, sending tracks 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 to off-track wagering facilities and pari-mutuel non-wagering data.

“In-State host track” means a racetrack within this State that is operated by a permit holder which conducts a horse race upon which account wagers are placed.

“In-State track” means an in-State host track or an in-State sending track.

“In-State sending track” means a racetrack within this State that is operated by a permit holder and is equipped to conduct off-track simulcasting.

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

1. The off-track wagering licensee, which sets forth the operational procedures to effectively operate the racing and pari-mutuel wagering aspects of each off-track wagering facility and to protect the fiscal soundness, technical reliability and integrity of wagering;
2. The account wagering licensee, which sets forth the operational procedures to effectively operate the racing and pari-mutuel wagering aspects of the account 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 off-track wagering, account wagering, any other racing related functions performed by the hub facility, and to protect the fiscal soundness, technical reliability and integrity of wagering.

“Interstate common pool” means a pari-mutuel pool established in this State, in another state or in another country, within which is combined the pari-mutuel pools of one or more receiving tracks located in one or more states or countries, upon a race at an out-of-State sending track or out-of-State host track for purposes of establishing payoff prices to winning pari-mutuel ticket holders in various jurisdictions participating in the interstate common pool.

“Manual merge” means the process used in the event of a systems or communications failure by which the off-track wagering licensee, the account wagering licensee and hub facility transmits to an in-State track or out-of-State track through telephone, facsimile machine, cellular telephone or other means of communication, the off-track wagering licensees or account wagering licensees pari-mutuel information and the process by which the in-State track or out-of-State track includes such pari-mutuel wagers in the common pari-mutuel pool in such event.

“Minus pari-mutuel pool” means a pari-mutuel pool in which insufficient monies have been wagered to permit the minimum payoffs of winnings required by the rules of pari-mutuel wagering governing the race.

“New Jersey Racing Industry Special Fund” means the fund established pursuant to section 27 of the Act, N.J.S.A. 5:5-153.

“Off-time” means when wagering is ceased prior to the start of a horse race by a signal transmitted from an in-State track or out-of-State track to the totalisator, through which the account wagering system or an off-track wagering facility is conducting wagering, or in the event that the transmission of data has been interrupted, by the totalisator in accordance with the internal controls of the hub facility.

“Off-track simulcasting” means the simultaneous video transmission which may include a simultaneous audio transmission, of horse races conducted live at in-State or out-of-State racetracks to off-track wagering facilities and pari-mutuel wagering at those off-track wagering facilities on the results of those races.

“Off-track wagering” means pari-mutuel wagering at an off-track wagering facility within this State.

“Off-track wagering facility” means a licensed facility within this State, other than a racetrack or casino simulcast facility operated within the premises of an Atlantic City casino, where no live racing is conducted.

“Off-track wagering licensee” means the Authority, provided that the Commission has granted its approval for the authority to conduct an off-track wagering facility.

“Out-of-State host track” means a racetrack in a jurisdiction other than this State, the operator of which is lawfully permitted to conduct a horse race meeting and which conducts horse races upon which account wagers may be placed.

“Out-of-State sending track” means a racetrack in a jurisdiction other than this State, which is equipped to conduct off-track simulcasting and the operator of which is lawfully permitted to conduct a horse race meeting and to provide simulcast horse races to off-track wagering facilities within this State.

“Out-of-State track” means an out-of-State host track or an out-of-State sending track.

“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 this chapter.

“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.

“Participation agreement” means the written contract that provides for the establishment or implementation of either an off-track wagering facility or facilities or an account wagering system. Each such contract shall set forth the manner in which the off-track wagering facility or facilities or the account wagering system shall be managed, operated and capitalized, as well as how expenses and revenues shall be allocated and distributed by and among the Authority and the 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.

“Phone bank” means a facility located within this State operated by the account wagering licensee or an assignee or assignees, as approved by the Commission, the functions of which facility shall include the processing of all account wagers placed by telephone and, unless otherwise approved by the Commission, such other functions related to account wagering and the administration thereof as set forth in this chapter.

“Racetrack” means the facility within this State where a permit holder conducts a live horse race meeting or meetings with pari-mutuel wagering.

“Racing costs” means the prospective and actual costs for all licensing, investigation, operation, regulation, supervision and enforcement activities and functions performed by the Commission.

“Scratch” means the withdrawal of an entered horse from a race after the closing of overnight entries.

“Self-service pari-mutuel machine” means a mechanical, electrical or other device connected to a totalisator which upon the insertion of a credit voucher, coupon or currency, or any combination thereof, and the selection of a permissible wager, automatically issues a pari-mutuel ticket together with a credit voucher 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 in the amount of the correct payout; and which, upon the entry of an account wagering account number and correct personal identification number by a patron, allows the patron to access his or her wagering account for the purposes of placing wagers by selecting a permissible simulcast wager in an amount not to exceed the balance of the patron’s account.

“Simulcast horse races” means horse races conducted at an in-State sending track or an out-of-State sending track, as the case may be, and transmitted simultaneously by picture to a receiving track or an off-track wagering facility.

“Successor in interest” means:

1. The party to whom, with the prior approval of the Commission, the annual permit to conduct a horse race meeting issued by the Commission has been transferred; or
2. The party to whom, with the prior approval of the Commission and Attorney General, an initial off-track wagering license, renewed off-track wagering license, initial account wagering license, or renewed account wagering license has been transferred or assigned.

“Takeout” means that portion of a wager that is deducted from or not included in the pari-mutuel pool, and which is distributed other than to persons placing wagers.

“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 track 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.

13:74-1.2 Rules of the Racing Commission

Except as otherwise provided in the Act or this chapter, the rules of racing and the conduct of pari-mutuel wagering in off-track wagering facilities, or in connection with account wagering, shall be subject to the rules of the Racing Commission. These rules shall be applicable to all persons licensed by the Commission and every patron of an off-track wagering facility or of the account wagering system.

SUBCHAPTER 2. APPLICATION FOR INITIAL OFF-TRACK WAGERING LICENSE; APPLICATION FOR RENEWAL OF OFF-TRACK WAGERING LICENSE

13:74-2.1 Prerequisites to and procedures for grant of initial off-track wagering license

(a) The Authority shall make an application for an initial off-track wagering license on a form prescribed by the Commission, accompanied by a non-refundable filing fee of \$2,500. An initial application, accompanied by the non-refundable filing fee, shall be filed for each off-track wagering facility proposed by the Authority.

(b) An application for an initial off-track wagering license shall not be considered complete unless:

1. The Authority is in compliance with the minimum live race date requirements of the Act;
2. The Authority includes within the application a copy of a fully executed participation agreement, the terms of which encompass the license period, which it has entered into with all parties or successors in interest that held a valid race permit in 2000 (who are each in compliance with said permit, who are each in compliance with any minimum live race dates requirements of the Act, and who each are in good standing with the Racing Commission and State);
3. All parties to the participation agreement are licensed by the Commission, or otherwise qualified to participate in off-track wagering;

4. The Authority demonstrates through the application that the requirements of the Act have been satisfied, including a statement evidencing that the governing body of the local municipality within which the proposed off-track wagering facility is to be sited has not issued a resolution disapproving the proposed off-track wagering facility; and

5. The Authority has completely answered each question within the application and complied with the requirements of this section.

(c) The initial application form, as prescribed by the Commission, shall include disclosure requirements concerning, but not limited to, the physical plan and location of the proposed off-track wagering facility subject of the specific application including the space relationship between wagering and non-wagering related amenities, the number of jobs expected to be created at the proposed facility, the gross revenues expected to be generated by the facility, the fire evacuation plan for the proposed facility, the type of food and beverages to be available and, if alcoholic beverages are to be offered at the proposed facility, whether the requirements of the Act have been satisfied, and the proposed hours of operation of the off-track wagering facility.

(d) The initial application form shall have attached a written internal controls procedure which shall set forth the procedures to be implemented to effectively operate and manage the proposed off-track wager facility, and the procedures to be implemented to effectively maintain the integrity of wagering and the proceeds from wagering within the proposed off-track wagering facility. The internal control procedures shall include a procedure to foster and insure that the off-track wagering licensee complies with the requirement of the Act, which creates a right of first refusal as to certain individuals for certain employment opportunities within off-track wagering facilities.

(e) The initial application form shall be accompanied by a certification, signed and dated by a high managerial agent of the Authority, attesting that the disclosures within the application and within its attachments are true, accurate and complete.

(f) The initial application for an off-track wagering facility may be filed with the Commission at any time following the effective date of the Act, and any initial license granted pursuant to such application shall be for a period of one year.

(g) Following a determination that the application for an initial off-track wagering license is complete, the Executive Director shall within 14 days review the application in accordance with the Act to insure that the application is in due form and meets the requirements of law in all respects. Upon the Executive Director being satisfied that these requirements are met, and consistent with the public notice requirements of the Act, the Commission within 45 days of

the receipt of the completed application, certification and non-refundable \$2,500 filing fee shall at the cost of the Authority hold a public hearing in the municipality in which the proposed off-track facility is to be located.

(h) Between 30 days and 60 days following closing of the record on the public hearing described in (g) above, the Commission shall make a final determination on the application. The Commission shall approve the application if it determines that the Authority by clear and convincing evidence has demonstrated, through its application and internal control procedures, that:

1. The plan for the proposed facility, including its size, seating capacity, parking and services to be provided reflects appropriate standards of quality;

2. The grant of a license to establish the proposed off-track wagering facility will not be inimical to the interest of the public and the horse racing industry in this State;

3. The participation agreement meets the requirements of the Act to the satisfaction of the Commission and Attorney General;

4. The proposed off-track wagering facility site is not in an area zoned residential;

5. The Authority has submitted its plans to the municipal planning board, and complied with the provisions of section 22 of P.L. 1975, c.291 (N.J.S.A. 40:55D-31); and

6. The Authority has made reasonable efforts to address the reasonable concerns, if any, as expressed by the appropriate municipal planning board.

(i) The Commission's determination on the application shall be submitted to the Attorney General, for review and approval, within three business days following the Commission's determination. The determination of the Commission shall be deemed approved by the Attorney General if not affirmatively approved or disapproved by the Attorney General within 14 days of the date of submission. The decision of the Attorney General shall be deemed a final decision. The Commission shall issue the license upon approval of the Attorney General.

(j) Any off-track wagering license issued to the Authority shall specify the effective dates of the license, the location of the off-track wagering facility subject of the license, the periods of time during the calendar year and the maximum hours of operation during which off-track wagering is permitted at the facility, and prescribe any other conditions or terms the Commission deems appropriate, including, but not limited to, the requiring of an annual audit of the off-track wagering licensee's books and records pertaining to off-track wagering, as well as the imposition of a condition consistent with N.J.A.C. 13:74-11.2.

(k) The Commission shall issue no more than 15 off-track wagering facility licenses, and no more than eight such licenses may be granted in the two year period commencing on the effective date of the Act.

13:74-2.2 Prerequisites to and procedures for grant of renewal of an off-track wagering license

(a) These procedures shall apply where the Authority has been granted an initial license for an off-track wagering facility within a particular municipality, which initial license has not lapsed, where the grant of that initial license occurred pursuant to the provisions of the Act and N.J.A.C. 13:74-2.1, and where the Authority or its successor in interest makes proper application for the renewal of an initial or previously renewed license for an off-track wagering facility itself subject of an initial license grant.

(b) A renewal license for an off-track wagering facility, as issued by the Commission, shall run for a one year period commencing January 1 and ending on December 31 of the same year. Where, however, an initial one year off-track wagering license granted pursuant to the procedure set forth in N.J.A.C. 13:74-2.1 shall by operation of the calendar expire on a date which would result in a lapse of such license if these dates were to be complied with, the Commission on a one-time basis and at no additional cost to the off-track wagering licensee may renew the initial license period to the last day of December of the year in question.

(c) A renewal application for an existing off-track wagering facility license shall be made by the off-track wagering licensee on a form prescribed by the Commission, accompanied by a non-refundable filing fee of \$1,250, and shall be filed no later than October 15 of the year prior to that for which the license renewal is sought.

(d) A renewal application shall not be considered complete unless:

1. The Authority is in compliance with the minimum live race date requirements of the Act;
2. The off-track wagering licensee includes with the application a copy of a fully executed participation agreement which the off-track wagering licensee has entered into with all parties or successors in interest that held a valid race permit in 2000 (who are each in compliance with the permit, who each are in compliance with any minimum live race dates of the Act, and who each are in good standing with the Commission and State);
3. All parties to the participation agreement are licensed by the Commission, or otherwise qualified to participate in off-track wagering; and
4. The off-track wagering licensee has completely answered each question within the renewal application and complied with the requirements of this section.

(e) The renewal application shall include as attachments a written internal controls procedure as required by N.J.A.C. 13:74-2.1(d).

(f) The renewal application shall be accompanied by a certification, signed and dated by a high managerial agent of the off-track wagering licensee, attesting that the disclosures within the application and its attachments are true, accurate and complete.

(g) Following the Executive Director's determination that the renewal application is complete, the Executive Director shall at the cost of the off-track wagering licensee cause a hearing to be held before the Commission. Any such hearing may be held at a properly and regularly convened public meeting of the Commission, and at a location in this State at the Commission's discretion.

(h) Following the Commission's consideration of the renewal application, and prior to the expiration date of the initial license or previously renewed license under which the off-track wagering facility is then operating, the Commission subject to the review and approval of the Attorney General shall issue to the off-track wagering licensee an off-track renewal license if appropriate. An off-track renewal license shall be issued to the off-track wagering licensee where it demonstrates by clear and convincing evidence that:

1. The plan for the continued operation of the facility, including its size, seating capacity, parking and services to be provided, reflects appropriate standards of quality;
2. The grant of an off-track wagering license renewal to continue the operations of the off-track wagering facility will not be inimical to the interests of the public and the horse racing industry in this State;
3. The participation agreement meets the requirements of the Act to the satisfaction of the Commission and Attorney General; and
4. The off-track wagering licensee is in compliance with the Act, this chapter and any conditions imposed upon it by the Commission.

(i) A renewed off-track wagering license issued to the off-track wagering licensee shall specify the effective dates of the renewal license, the location of the off-track wagering facility subject of the license renewal, the periods of time during the calendar year and the hours of operation during which off-track wagering is permitted at the facility, and prescribe any other conditions or terms the Commission deems appropriate, including, but not limited to, the requiring of an annual audit of the off-track wagering licensee's books and records pertaining to the off-track wagering, as well as the imposition of any condition consistent with N.J.A.C. 13:74-11.2.

SUBCHAPTER 3. APPLICATION FOR INITIAL ACCOUNT WAGERING LICENSE; APPLICATION FOR RENEWAL OF ACCOUNT WAGERING LICENSE

13:74-3.1 Prerequisites to and procedures for grant of initial account wagering license

(a) An application for an initial account wagering license shall be made by the Authority on a form prescribed by the Commission, accompanied by a non-refundable filing fee of \$7,500.