

RULE REVIEW

RACING AND WAGERING BOARD

Review of existing rules pursuant to State Administrative Procedure Act Section 207.

Section 207 of the State Administrative Procedure Act (SAPA) requires that each agency review, after five years and thereafter at five year intervals, each of its rules which is adopted on or after January 1, 1997 to determine whether such rules should be modified or continued without modification.

Pursuant to SAPA section 207, the New York State Racing and Wagering Board submits the following rules that were adopted during calendar year 1998 that the Department has reviewed and determined should be continued without modification. All section and part references are to Title 9E of the New York Code of Rules and Regulations.

1. *Section:* 4035.9 of Title 9 NYCRR - Use of whips by jockeys.

Description: This rule amended the former rule by adding a provision that protects horses from abusive whipping by jockeys by establishing a maximum popper length.

Analysis of Need for the Rule: This rule version is necessary to establish a maximum length of poppers on jockeys' whips of four inches.

Legal Basis for the Rule: Racing, Pari-Mutuel, Wagering and Breeding Law §101.

Assessment of Public Comment: No comments were received.

2. *Sections:* 4011.25, 4122.47 and 4127.16 of Title 9 NYCRR.

Description: Amendments of §§4011.25, 4122.47 and 4127.16 to provide flexibility for tracks and off-track betting corporations to offer pari-mutuel wagering formats, as defined in Chapter 9 of the Uniform Rules of Racing of the Association of Racing Commissions, International.

Analysis of Need of Rule: Permits racetracks and off-track betting corporations to authorize additional wagering formats available, subject to prior permission of the Board.

Legal Basis for Rule: Racing, Pari-Mutuel, Wagering and Breeding Law §§101, 227, 228, 305 and 405.

Assessment of Public Comment: No comments were received.

3. *Section:* 4029.8. Top Weight for Overnight and Claiming handicaps. Repeal.

Description: Repealed §4029.8 to eliminate the 122 lb. top weight requirement and defer appropriate top weights to the discretion of racing secretary.

Analysis of Need of Rule: The racing secretary can assign the appropriate top weight in accordance with field entries.

Legal Basis for the Rule: Racing, Pari-Mutuel, Wagering and Breeding Law §101.

Assessment of Public Comment: No comments were received.

4. *Section:* §4117.8. Use of whips.

Description: Governs whips and their use by harness drivers on standardbreds.

Analysis of Need of Rule: To establish a policy to protect standardbred horses from abusive whipping by drivers and conform to other racing jurisdictions.

Legal Basis for the Rule: Racing, Pari-Mutuel, Wagering and Breeding Law §§ 101 and 301.

Assessment of Public Comment: No comments were received.

5. *Section:* §4032.1 and §4032.4 of Title 9 NYCRR.

Description: Governs weight allowances for apprentice jockeys.

Analysis of Need of Rule: To promote uniformity throughout the industry by prescribing the weight allowance for apprentice jockeys consistent with rules in effect throughout parts of the country.

Legal Basis for Rule: Racing, Pari-Mutuel, Wagering and Breeding Law §101.

Assessment of Public Comment: No comments were received.

6. *Games of Chance Regulations* - (Sections 5603.7, 5607.15, 5607.28, 5608.1, 5608.2, 5608.3, 5608.4, 5608.5, 5608.6, 5608.7, 5608.8, 5608.9, 5608.10, 5608.11, 5608.12, 5608.13, 5609.1, 5610.1, 5610.2, 5611.1, 5611.2, 5620.19, 5622.12, 5622.13, 5622.22, 5623.1, 5624.1, 5624.3, 5624.5 and 5624.21 of Title 9 NYCRR)

Description: These rules amended various provisions of the Games of Chance Rules and Regulations. The rules establish a regulatory structure for the sale and distribution of bell jar tickets, establish the additional licensing fee, clarify the licensing requirements for the use of the bell jar ticket vending machines and clarify the status of organizations of veterans regarding the one-third charitable donation requirement.

Analysis of Need for the Rule: This rule is necessary to codify statutory amendments to the Games of Chance Laws enacted by Chapter 480 of the Laws of 1991, Chapter 177 of the Laws of 1994, Chapter 386 of the Laws of 1995 and Chapter 309 of the Laws of 1996. The rule is necessary to ensure that bell jar games are distributed and played in accordance within constitutional and statutory limits as they apply to charitable gaming; that bell jar licensing and financial reporting procedures are established; that the sale and use of bell jar vending machines are conducted in accordance with constitutional and statutory limits; and that veterans' organizations are exempt from the Board requirement that one-third of their charitable gaming funds be donated to other charities.

Legal Basis for the Rule: General Municipal Law Article 9-A §§186, 188-a, 189, 189-a, 195-c, 195-f, 195-n, 195-o, 195-p, 195-q and 195-r.

Assessment of Public Comment: No comments were received.

Dated: September 16, 2003