

RULE REVIEW

Racing and Wagering Board

Pursuant to section 207 of the State Administrative Procedure Act, notice is hereby provided of rules adopted by the New York State Racing and Wagering Board for the calendar years 1998 and 2003. Public comments on the continuation or modification of these rules are invited and those received by November 29, 2008, will be considered. Please forward comments to the Secretary to the New York State Racing and Wagering Board, 1 Broadway Center, Suite 600, Schenectady, New York 12305-2553 or by electronic mail to info@racing.state.ny.us.

The following contains a brief description of each rule, including the statutory authority therefore, and a statement setting forth the justification for the need for each rule and its continuation without further modification.

2003

RWB-45-02-00007-A: Pari-Mutuel Thoroughbred Racing Rules and Regulations. Amendments made in 2003 to 9 NYCRR Sections 4000-4004, 4008-4010, 4020, 4021, 4023, 4027-4031, 4033, 4037, 4038, 4040, 4041. The statutory authority for these amendments is in Racing, Pari-Mutuel Wagering, and Breeding Law, section 101. These amendments updated references to statutes, agencies, addresses, commissions, regulations, and other outdated phrases. These 2003 amendments are still accurate and should be continued without modification.

RWB-50-02-00001-A: Games of Chance. Amendments made in 2003 to 9 NYCRR 5600.2, 5606.2, 5606.10, 5607.2, 5607.5, 5607.20, 5609.1, 5610.1, 5624.1, 5624.2, and 5624.18. The statutory authority for these amendments is also found in article 9, section 188-a(1) of the General Municipal Law. These amendments updated references to current forms, Board addresses, corrected typographical errors, and added language that described forms "as prescribed by the board." These updates and references to games of chance forms are accurate and should be continued without modification.

RWB-50-02-00002-A: Bingo Rules and Regulations. Amendments made in 2003 to 9 NYCRR 5801.1, 5810.1, 5810.5, 5811.1, 5811.6, 5812.1, 5812.5, 5813.1, 5814.1-5814.4, 5814.14, 5815.2, 5815.5, 5815.18, 5821.1, 5821.2, 5822.9, and 5822.15. The statutory authority for these amendments is article 19-B, section 435(1)(a) of the Executive Law. These amendments updated references to current forms, Board addresses, corrected typographical errors, and added language that described forms "as prescribed by the board." These updates and references to games of chance forms are accurate and should be continued without modification.

1998

RWB-40-97-00002-A: Use of whips by jockeys. Amendments made in 1998 to 9 NYCRR 4035.9. This rule amended the former rule by adding a provision that protects horses from abusive whipping by jockeys by establishing a maximum popper length. The statutory authority for these rules are found in Racing, Pari-Mutuel, Wagering and Breeding Law, Section 101. This is necessary to establish a maximum length of poppers on jockeys whips of four inches. The continuation of this rule is necessary to protect race horses from exces-

sive whipping or the use of irregular whips during a thoroughbred race.

RWB-40-97-00009-A: Proposition Wagers. Amendments made in 1998 to 9 NYCRR 4011.25, 4122.47, 4127.16. This rule permits racetracks and off-track betting corporations to authorize additional wagering formats available, subject to prior permission of the Board. The statutory authority for these rules are found in Racing, Pari-Mutuel, Wagering and Breeding Law, Sections 101, 227, 228, 305, 405. This permits racetracks and off-track betting corporations to offer pari-mutuel wagering known as Proposition Wagering, which allows head-to-head horse wagering, not just wagering on the order of finish. This rule authorizes defines Proposition Wagers, and should be continued because it is one of the wagering schemes offered as part of the Breeder's Cup. This rule was amended in 2006 as a result of amendments made to Section 909 of the Racing, Wagering Breeding and Pari-Mutuel Wagering Law. This rule should be continued because it is necessary to implement the provisions of Section 909 of the RWBPL.

RWB-23-98-00041-A: Top Weight for Overnight and Claiming Handicaps, Repeal. Amendments made in 1998 to 9 NYCRR 4029.8. This rule permits the racing secretary to assign the appropriate top weight in accordance with field entries. The statutory authority for these rules are found in Racing, Pari-Mutuel, Wagering and Breeding Law, Sections 101. Repealed section 4029.8 to eliminate the 122 lb. top weight requirement and defer to appropriate top weights to the discretion of the racing secretary. This repeal should be continued because the 122 lb. top weight requirement created an unhealthy weight standard for jockeys, who were forced to consider diet and exercise regimens that could adversely affect their health and well-being. The top weight standard can be adjusted by adding weights to a horse through the handicapping process, which the racing secretary can supervise.

RWB-24-98-00006-A: Use of Whips. Amendments made in 1998 to 9 NYCRR 4117.8. This rule establishes a policy to protect standardbred horses from abusive whipping by drivers and conform to other racing jurisdictions. The statutory authority for these rules are found in Racing, Pari-Mutuel, Wagering and Breeding Law, Sections 101 and 301. This rule governs whips and their use by harness drivers on standardbreds. All of these amendments are properly within the authority and discretion of the Racing and Wagering Board pursuant to its rulemaking authority under Racing, Pari-Mutuel, Wagering and Breeding Law, Section 101 and 301.

RWB-22-98-00013-A: Apprentice Weight Allowances and Extension of Weight Allowances. Amendments made in 1998 to 9 NYCRR 4032.1 and 4032.4. This rule amendment promotes uniformity throughout the industry by prescribing the weight allowance for apprentice jockeys consistent with rules in effect throughout parts of the country. This rule is necessary to provide reasonable latitude for modern weight standards of apprentices, who previously may have been forced to consider unhealthy regimens to meet the previous weight standards. These rules should be continued without modification in order to protect the health and livelihoods of apprentice jockeys.

RWB-23-98-00005-A: Games of Chance Regulations. Amend-

ments made in 1998 to 9 NYCRR 5603.7, 5607.15, 5607.28, 5608.1-5608.13, 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. 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. This 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 the 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. The statutory authority for these rules are found in Racing, Pari-Mutuel, Wagering and Breeding Law, Sections 101. 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 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. Some of the provisions of these rules were amended since their adoption in 1998 to conform with new games of chance statutes. These rules should be continued without modification to force and effect to the Games of Chance Law.