

PROPOSED RULEMAKING

STATE HORSE RACING COMMISSION

[58 PA. CODE CH. 163]

Pennsylvania Breeding Fund Program

The State Horse Racing Commission (Commission) proposes to amend Chapter 163 (relating to rules of racing) to read as set forth in Annex A.

Statutory Authority

The Race Horse Industry Reform Act (act) (4 P. S. §§ 325.101—325.402) provides the general legal authority for this proposed rulemaking.

Section 202 of the act (4 P. S. § 325.202) provides the Commission authority to adopt rules and regulations necessary to its supervision of thoroughbred horse race meetings. Section 223(b) of the act (4 P. S. § 325.223(b)) requires the Commission to promulgate regulations describing awards under the Pennsylvania Breeding Fund Program (Program).

Purpose of the Proposed Rulemaking

The proposed rulemaking revises and clarifies several definitions regarding the Program and meets the statutory requirement that the Commission promulgate a regulation providing for Program awards.

Background

The Pennsylvania Breeding Fund (Fund) is intended to stimulate and sustain this Commonwealth's thoroughbred breeding industry. The Fund currently receives an amount equivalent to 1% of the dollar amount wagered each day on thoroughbred horses at facilities conducting pari-mutuel wagering in this Commonwealth. The Fund is a restricted account in the State Racing Fund and helps support live thoroughbred racing for a series of incentive award payments to: (1) breeders of Pennsylvania-bred thoroughbred horses sired either by a registered Pennsylvania sire or a nonregistered sire; (2) owners of registered Pennsylvania sires; and (3) licensed owners of registered Pennsylvania-bred thoroughbred horses. Since 1981, the act has provided a clear description of how awards are to be calculated and distributed, but also requires that the Commission address this subject in regulation.

The Pennsylvania Horse Breeders' Association (PHBA) retains records relevant to the Commission's administration of the Program and performs other functions described in section 223 of the act.

Overview of the Proposed Rulemaking

Proposed amendments to § 163.531 (relating to definitions) clarify the definitions of "Pennsylvania-bred horse" and "Pennsylvania sire" and add definitions for commonly used terms.

Proposed amendments to § 163.538 (relating to purses and awards) repeat the award requirements in section 223(b) of the act.

The Commission is satisfied that there are no reasonable alternatives to proceeding with this proposed rulemaking.

Affected Individuals and Organizations

There are approximately 625 persons who have foals or stallions that are currently registered with the PHBA who would be affected by this proposed rulemaking. The number of currently-registered foals and stallions is approximately 1,100. Since the number of affected persons would not be appreciably changed by the proposed rulemaking, and the requirements of the Program would not be substantively altered by the proposed rulemaking, the Commission does not expect there to be an appreciable adverse impact on the affected community.

Fiscal Impact

The proposed rulemaking will impose no additional costs and have no fiscal impact upon the Commonwealth, the public sector or the general public.

Paperwork Requirements

The proposed rulemaking will result in no additional paperwork for the Commission.

Effective Date

The proposed rulemaking will take effect upon final-form publication in the *Pennsylvania Bulletin*.

Public Comments and Contact Person

Interested persons are invited to submit written comments regarding this proposed rulemaking to Benjamin H. Nolt, Jr., Executive Secretary, State Horse Racing Commission, Room 304, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110, (717) 346-9643 within 30 calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 24, 2006, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of House State Government Committee and the Senate State Government Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

BENJAMIN H. NOLT, Jr.,
Executive Secretary

Fiscal Note: 34-65. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART IV. HORSE RACING COMMISSION

CHAPTER 163. RULES OF RACING

PENNSYLVANIA BREEDERS' FUND PROGRAM

§ 163.531. Definitions.

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

Breeder—[A breeder is the] The owner of the dam at the time of foaling, and indicated as such on the certificate of registration issued by the Jockey Club. [When a horse is held under a lease or partnership registered with the jockey club, the lease or partnership will be deemed to be the owner.]

Fund—The Pennsylvania Breeding Fund as created by section 223 of the act (4 P. S. § 325.223).

The Jockey Club—The breed registry organization for all thoroughbred horses in North America, having responsibility for maintaining the American Stud Book, which includes all thoroughbreds foaled in the United States, Canada and Puerto Rico, as well as thoroughbreds imported into those countries from other countries that maintain similar thoroughbred registries.

Pennsylvania-bred horse—[A Pennsylvania-bred horse is a thoroughbred horse foaled in this Commonwealth, which during the year of foaling, the foal or its dam spent a minimum of 90 days at a facility in this Commonwealth and is subsequently registered with the Pennsylvania Horse Breeders Association and the Jockey Club.] A thoroughbred horse with respect to which all of the following apply:

- (i) The horse was foaled in this Commonwealth.
- (ii) The horse is the subject of a current certificate of registration issued by the Jockey Club.
- (iii) The horse meets the registration eligibility qualifications for participation in the Fund program as determined by the Pennsylvania Horse Breeders Association.
- (iv) The horse is registered with the Pennsylvania Horse Breeders Association in accordance with § 163.535 (relating to records of registration).

Pennsylvania sire—[A Pennsylvania sire is a thoroughbred stallion that regularly stands for a breeding season in this Commonwealth and is registered with the Pennsylvania Horse Breeders Association.] A thoroughbred stallion with respect to which all of the following apply:

- (i) The horse regularly stands in this Commonwealth.
- (ii) The horse meets the registration eligibility qualifications for participation in the Fund program as determined by the Pennsylvania Horse Breeders Association.
- (iii) The horse is registered with the Pennsylvania Horse Breeders Association in accordance with § 163.535; and is so registered each year the stallion stands in Pennsylvania.

§ 163.538. Purses and awards.

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(b) The Pennsylvania Breeders Association shall compile awards earned by breeders [and], owners of Pennsylvania sires and owners of Pennsylvania-bred horses and maintain a separate ledger of them. Monthly, a certified report of awards earned shall be forwarded to the Commission. After the Commission has reviewed and approved them it will be forwarded to the Department of Treasury for payment to the awardees. Awards shall be provided for as follows:

(1) *Awards to breeders.* An award of 30% of the purse earned by every registered Pennsylvania-bred thoroughbred horse sired by a registered Pennsylvania sire at the time of conception of the registered Pennsylvania-bred thoroughbred horse, or an award of 20% of the purse earned by every registered Pennsylvania-bred thoroughbred horse sired by a nonregistered sire, which finishes first, second or third in any race conducted by a licensed corporation under the act shall be paid to the breeder of the registered Pennsylvania-bred thoroughbred horse. A single award under this paragraph may not exceed 1% of the total annual Fund money.

(2) *Awards to owners of registered Pennsylvania sires.* An award of 10% of the purse earned by any Pennsylvania-bred thoroughbred horse which finishes first, second or third in any race conducted by a licensed corporation under the act shall be paid to the owner of the registered Pennsylvania sire which regularly stood in Pennsylvania at the time of conception of the Pennsylvania-bred thoroughbred horse. A single award under this paragraph may not exceed .5% of the total annual Fund money.

(3) *Awards to owners of Pennsylvania-bred horses.* An award of 10% of the purse earned by any registered Pennsylvania-bred thoroughbred horse which finishes first in any race conducted by a licensed corporation under the act not restricting entry to registered Pennsylvania-bred thoroughbred horses shall be paid to the licensed owner of the registered Pennsylvania-bred thoroughbred horse at the time of winning. A single award under this paragraph may not exceed .5% of the total annual Fund money.

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