

**CHAPTER 185. OCCUPATIONAL LICENSES—
TEMPORARY REGULATIONS**

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Cross References

This chapter cited in 7 Pa. Code § 201.2 (relating to licensure); 7 Pa. Code § 203.1 (relating to standardbred license categories); 7 Pa. Code § 203.2 (relating to knowledge of rules); 7 Pa. Code § 203.11 (relating to licensing requirements for owners); 7 Pa. Code § 203.21 (relating to eligibility for trainer's license); 7 Pa. Code § 203.32 (relating to eligibility for groom's license); 7 Pa. Code § 203.51 (relating to application and qualifications for driver's license); 7 Pa. Code § 303.1 (relating to thoroughbred license categories); 7 Pa. Code § 303.2 (relating to knowledge of rules); 7 Pa. Code § 303.6 (relating to licensing requirements for owners); 7 Pa. Code § 303.12 (relating to eligibility); and 7 Pa. Code § 403.1 (relating to general purpose).

§ 185.1. General provisions.

(a) Every person participating in pari-mutuel racing activities within this Commonwealth must be licensed by the Commission in accordance with the provisions set forth in section 9323 of the act (relating to occupational licenses for individuals) and with the Commission's specific regulations relating to the applicant's racing occupation.

(b) In addition to the provisions set forth in Chapters 203 and 303 (relating to licensing, duties and responsibilities of Standardbred licensees; and licensing, duties and responsibilities of Thoroughbred licensees) of the Commission's regulations, the filing of an application for a particular occupational license shall authorize the Commission to investigate criminal records and employment records, to conduct a thorough background investigation and to conduct interviews to determine if the applicant's character, experience and qualifications are consistent with the best interest of racing and the general public.

(c) By acceptance of a license, a licensee consents to search and inspection by the Commission or its agents of the licensee's person, personal property and areas under the licensee's possession, care or control. The licensee explicitly consents to the seizure of any prohibited medication, drugs, paraphernalia or other illegal devices or contraband in accordance with State and Federal law and with the applicable provisions of the act.

(d) Every license is granted upon the express condition that the licensee shall accept, observe and abide by the rules and regulations of the Commission. Licensees are presumed to have knowledge of the rules of racing and are charged with the responsibility, duty and obligation to report any apparent or actual violation of the rules of racing to the Commission.

(e) As a condition of licensure, every licensee shall fully cooperate with any ongoing administrative Commission action, investigation or background review and shall comply with a properly issued Commission subpoena for the attendance of the licensee at an administrative hearing or for the production of any relevant reports, papers, documents and correspondence related to an investigation. Refusal to cooperate with a properly issued subpoena shall subject the licensee to a license suspension or revocation.

§ 185.2. Conduct of licensee.

A licensee shall not, alone or in concert with another person, engage in inappropriate, illegal or unethical conduct which violates the Commission's rules and regulations of racing, is inconsistent with the best interests and integrity of racing or otherwise undermines the general public's faith, public perception and confidence in the racing industry.

§ 185.3. License is a privilege.

While all licensees shall be afforded due process rights, in accordance with section 9323(a) of the act (relating to occupational licenses for individuals), a license is a privilege and shall not be deemed a property right.

§ 185.4. Term of occupational license.

Licenses, unless revoked for cause, shall be issued for the period of 3 years. To facilitate a convenient and orderly licensing process, the Commission may establish a staggered expiration period for occupational licenses.

§ 185.5. Occupational license fees.

In accordance with section 9312 of the act (relating to additional powers of commission), the Commission established and published a comprehensive fee schedule for all occupational licenses. Every 2 years the Commission shall review the fee schedule to determine whether to increase any fee, charge or cost associated with occupational licenses. The Commission by order, notice to the regulated

community and publication in the *Pennsylvania Bulletin*, shall amend the fee schedule as deemed necessary.

§ 185.6. Age requirement.

All applicants for licensing shall be at least 18 years of age, unless otherwise specified in these rules and regulations or by specific exemption by the Commission. An applicant seeking an age exemption must file a written request with the Commission with supporting documentation to justify an age-related exemption. The decision not to grant an age-related exemption may not be appealed. An applicant may be required to submit a certified copy of the applicant's birth certificate or other proof of age and identification.

Cross References

This section cited in 7 Pa. Code § 203.11 (relating to licensing requirements for owners); and 7 Pa. Code § 303.6 (relating to licensing requirements for owners).

§ 185.7. Protection of horses.

(a) Each person licensed by the Commission shall do all that is reasonable and within the licensee's power and scope of duty to guard against and prevent any horse entered or to be entered in an official workout or race, from coming into contact with or be administered any drug, medication or other foreign substance, including a permissible medication in excess of the maximum allowable level.

(b) No licensee or other person under the jurisdiction of the Commission shall subject or permit any animal under the licensee's care, custody, control or supervision to be subjected to or to incur any form of cruelty, mistreatment, neglect, abuse or abandonment. No licensee shall injure, maim, kill, administer a noxious substance to or otherwise deprive any animal of necessary veterinary care, sustenance or shelter.

(c) In addition to any licensing action or penalty imposed by the Commission for the previous misconduct, the Commission shall immediately notify and refer the cruelty matter to the appropriate authorities for possible criminal prosecution.

§ 185.8. License application process.

(a) An applicant shall submit the appropriate occupational license application and shall agree to be fingerprinted, as may be required by the Commission and provide complete, accurate and truthful disclosure on the application. Based upon the submission of the application, the Commission or its staff shall conduct the appropriate investigation of all criminal and employment records.

(b) Applicants for any form of license or registration issuance receipt or renewal shall be required to complete the authorization for release of confidential

or background information as may be required by the Commission. Refusal to complete the authorization shall be an automatic bar to license or registration issuance or renewal.

(c) The Commission shall require an applicant under this chapter to submit to fingerprinting for a report of Federal criminal history record information.

(1) The applicant must submit a full set of fingerprints to the Pennsylvania State Police or the Pennsylvania State Police's authorized agent for the purpose of a record check. The Pennsylvania State Police or the Pennsylvania State Police's authorized agent must then submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions.

(2) The Commission shall consider information obtained under this paragraph for the purpose of screening applicants for fitness and suitability for licensure in accordance with the provisions of the act or these regulations.

(3) National criminal history record information received by the Commission shall be handled and maintained in accordance with Federal Bureau of Investigation policy.

(4) Fingerprints obtained under this paragraph may be maintained by the Commission and Pennsylvania State Police to enforce this chapter and for general law enforcement purposes.

(5) In addition to any other fee or cost assessed by the Commission, an applicant must pay for the cost of the fingerprint process.

(6) The Commission may exempt applicants for positions not related to the care or training of horses, racing, wagering, security or the management of a licensed racing entity, from the provisions of this chapter.

§ 185.9. Fingerprinting and licensing reciprocity.

(a) The Commission may establish a modified or abbreviated application process and procedures for licensees who have been previously licensed and in good standing with another racing jurisdiction. In utilizing the reciprocal license process, the Commission may determine that a Federal Bureau of Investigation fingerprint check conducted within the previous 36 months or another period as approved by the Commission is adequate for its criminal background investigation. The Commission, for the reciprocal license process, require an abbreviated application form or affidavit, as may be required by the Commission and pay the required applicable fees prior to participating in racing in this Commonwealth.

(b) An applicant must be in good standing in each jurisdiction where they hold or have held a racing license.

(c) The applicant shall provide this jurisdiction with proof of licensure from another jurisdiction to which fingerprints were submitted.

(d) Provided the previous requirements have been met, the Commission may issue a valid occupational license in this jurisdiction.

§ 185.10. License renewal.

(a) All licenses shall be subject to renewal every 3 years upon application and review as determined by the Commission or its designee. Occupational license renewals shall not be considered automatic.

(b) The application for renewal shall be submitted at least 60 days prior to expiration of the license term and shall include:

- (1) an update of the information contained in the initial application and any prior renewal application, if applicable;
- (2) payment of the renewal fee required by the Commission.

(c) A license for which a completed renewal application and fee, if required, has been received by the Commission shall continue in effect unless and until the Commission sends written notification to the licensee that the Commission has denied the renewal of the license.

(d) Nothing in this chapter shall be construed to relieve a licensee of the affirmative duty to notify the Commission of any changes relating to the status of its license or to any other information contained in the application materials on file with the Commission.

§ 185.11. Licensing action.

(a) *Withdrawal of application:* The Commission, the Bureau Directors, the Director of Licensing or any other Commission designee may, instead of issuing a formal application denial, grant the applicant permission to withdraw the application without prejudice.

(b) *License approval:* The Commission may grant a license if, after a thorough background investigation, it finds that the experience, character and general fitness of the applicant are that the participation of the person in horse racing meets and pari-mutuel racing activities in this Commonwealth will be consistent with the public interest and with the best interests of racing in conformity with the purpose of the act.

(c) *License denial:* In addition to the provisions of section 9323 of the act (relating to occupational licenses for individuals), the Commission may formally deny an application in accordance with these rules and regulations. The applicant shall be notified of the reasons for the denial in writing. The license denial shall also be issued as a formal ruling which may be reported to the Association of Racing Commissioners International or the USTA or to any other racing jurisdiction.

§ 185.12. Grounds for refusal, denial, suspension or revocation of license.

(a) In accordance with the provisions of section 9323(g) of the act (relating to occupational licenses for individuals) the following shall apply:

- (1) The Commission may not issue a license under this section to an individual who has been convicted in a jurisdiction of a felony offense, a misde-

meanor gambling offense or a fraud or misrepresentation in connection with horse racing or breeding, unless 15 years has passed from the date of conviction of the offense.

(2) Following expiration of a period applicable to an applicant under paragraph (1), in determining whether to issue a license to an applicant, the Commission shall consider the following factors:

- (i) The nature of the applicant's involvement with horse racing.
- (ii) The nature and seriousness of the offense or conduct.
- (iii) The circumstances under which the offense or conduct occurred.
- (iv) The age of the applicant when the offense or conduct occurred.
- (v) Whether the offense or conduct was an isolated or a repeated incident.
- (vi) Any evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received and the recommendations of persons who have substantial contact with the applicant.

(b) The Commission may deny an application for a license or suspend, revoke or refuse to renew a license issued under this section if it determines that the applicant or licensee meets any of the following:

- (1) Has been convicted of any violation or attempts to violate any law, rule or regulation of horse racing in any jurisdiction.
- (2) Has been convicted of an offense under 18 Pa.C.S. Subchapter B, §§ 5531—5561 (relating to cruelty to animals) (as amended).
- (3) Has violated a rule, regulation or order of the Commission.
- (4) Has been convicted in any jurisdiction of an offense related to fixing or rigging horse races including 18 Pa.C.S. § 4109 (relating to rigging publicly exhibited contest) or § 7102 (relating to administering drugs to race horses) or any similar crime in any other jurisdiction, unless the conviction has been overturned on appeal under the laws of the jurisdiction of the original finding or a pardon has been issued.
- (5) Has not demonstrated by clear and convincing evidence that the applicant or licensee:
 - (i) Is a person of good character, honesty and integrity.
 - (ii) Is a person whose prior activities, criminal record, if any, reputation, habits and associations:
 - (A) do not pose a threat to the public interest or the effective regulation and control of horse racing.
 - (B) do not create or enhance the danger of unsuitable, unfair or illegal practices, methods and activities in the conduct of horse racing or the carrying on of the business and financial arrangements incidental to the conduct of horse racing.

§ 185.13. License restrictions, limitations and conditions.

(a) Based upon the Commission's background investigation of an applicant or licensee, the Commission may impose the following restrictions, limitations or conditions upon the licensee and the licensee's racing activities:

(1) grant a temporary license for 4 months within a 12-month period pending a final determination. A temporary license shall expire at the end of 4 months with no expectation or guarantee of renewal.

(2) grant a license upon the terms and conditions as deemed necessary and appropriate by the Commission or its designee to protect the integrity and best interest of the racing industry.

(b) A licensee having been granted a conditional license as set forth in subsection (a) shall abide by all the terms and conditions set forth in the license. As agreed upon by the licensee, a violation of the terms and conditions set forth in the conditional license shall be deemed separate grounds for suspension or revocation of the occupational license.

§ 185.14. Employer responsibility.

The employment or harboring of any unlicensed person at facilities under the jurisdiction of the Commission is prohibited. Every licensed racing entity, owner or trainer shall report, in writing, the discharge of a licensed employee to the Commission or its designee, including the person's name, occupation and reason for the discharge.

§ 185.15. Workers' compensation insurance required.

(a) All licensed employers shall carry workers' compensation insurance covering their employees as required by the laws of the Commonwealth. Owners and trainers shall provide a list of employees on the badge list and shall produce evidence of coverage on an ongoing basis.

(b) No licensed owner or trainer shall grant, give or provide an ownership interest in a horse to their employee to avoid the worker's compensation insurance requirement. An owner, trainer and the owner or trainer's employee shall file an affidavit and provide the documentation, as required by the Commission, to evidencing a true and proper ownership interest of the horse by the employee.

(c) Notwithstanding the language in subsections (a) and (b), licensed racing entities may establish their own guidelines, requirements and procedures governing worker's compensation insurance coverage.

§ 185.16. Misuse of license.

A person may not exercise or attempt to exercise the rights of an occupational license not otherwise properly authorized by the Commission through the appropriate licensing procedures set forth in this chapter. The Commission will exer-

cise the power to regulate the conduct of persons holding licenses or who are participating in racing by the use of rights of a licensee.

§ 185.17. Relationships with suspended or inactive persons prohibited.

(a) A person shall not train a horse or practice veterinary medicine for the benefit, credit, reputation, or satisfaction of an inactive or suspended person. This prohibition shall not prevent the partners in a veterinary practice from providing services to horses so long as the inactive person does not receive a pecuniary benefit from those services.

(b) An employee or associated person of a suspended or inactive person shall not:

(1) Assume the suspended person's responsibilities at a location under the jurisdiction of the Commission;

(2) Complete an entry form for a race on behalf of or for the suspended or inactive person or an owner or customer for whom the suspended or inactive person has worked; or

(3) Pay or advance an entry fee on behalf of the suspended or inactive person or owner or customer for whom the inactive person has worked.

(c) An employee or associated person who assumes the responsibility for the care, custody or control of a horse owned (fully or partially), leased or trained by a suspended or inactive person shall not:

(1) Be paid a salary directly or indirectly by or on behalf of the inactive person;

(2) Receive a bonus or any other form of compensation in cash, property or other remuneration or consideration from the inactive person;

(3) Make a payment or give remuneration or other compensation or consideration to the suspended or inactive person; or

(4) Train or perform veterinarian work for the inactive person or an owner or customer of the inactive person at a location under the jurisdiction of the Authority.

(d) A person who is responsible for the care, training or veterinarian services provided to a horse formerly under the care, training or veterinarian services of a suspended or inactive person shall:

(1) Bill customers directly for any services rendered at or in connection with any race meeting;

(2) Maintain a checking account totally separate from and independent of that of the suspended or inactive person to be used to pay expenses of and deposit income from an owner or client of the suspended inactive person;

(3) Not use the services, directly or indirectly, of current employees of the suspended or inactive person; and

(4) Pay bills related to the care, training, and racing of the horse from a separate and independent checking account. Copies of the invoices for these expenses shall be retained for not less than 6 months after the date of the rein-

statement of the license of the inactive person or the expiration of the suspension of the inactive person's license.

§ 185.18. Association with undesirables.

If a person under the jurisdiction of the Commission shall be approached with an offer, promise, request or a suggestion for a bribe or for an improper, corrupt or fraudulent act in relation to racing or that a race shall be conducted otherwise than fairly and in accordance with the rules of this Commission, it shall be the duty of the person to immediately report the matter to the Commission or one of its appointed representatives.

§ 185.19. Wagering misconduct.

A licensee or employee of a licensed racing entity or its concessionaires may not knowingly, by false representation, attempt to cause another person to wager on a horse in a race to be run nor may he demand compensation as a reward for a racing prediction provided to a person or entity for wagering purposes. This does not apply to the vending of newspapers or to other publications approved by the Commission.

§ 185.20. Spousal disqualification.

Disqualification of one spouse applies to the other only if it can be demonstrated that the horses owned or controlled by the disqualified spouse are also under the ownership or control of the spouse who has not been disqualified. The Commission shall determine the necessary information, documentation and evidence to demonstrate separate and independent ownership or control of the horse by the non-disqualified spouse.

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