

**CHAPTER 187. RACING VENDORS AND TOTALISATORS—
TEMPORARY REGULATIONS**

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Cross References

This chapter cited in 7 Pa. Code § 191.1 (relating to general requirements).

§ 187.1. General provisions.

(a) As set forth in section 9351(a.1) of the act (relating to general license requirements), racing vendors and totalisator companies, irrespective of their physical location and operation, seeking to provide racing related services to licensed racing entities within this Commonwealth, must be properly licensed by the Commission in accordance with this chapter.

(1) An incomplete application shall not be reviewed or considered for licensure.

(2) A racing vendor or totalisator system may not begin operations until approved by the Commission or its designee.

(b) In accordance with section 9351(b)(1) of the act, a racing vendor or totalisator license shall be renewed annually.

(1) Racing vendor or totalisator licenses shall not be renewed automatically. The appropriate renewal application shall be submitted on or before 120 days before the expiration of the license term.

(2) If the renewal application is approved by the Commission, the license renewal shall take effect January 1 thereafter.

§ 187.2. License costs and fees.

(a) The applicant shall submit, along with its initial license application, the applicable license fees set forth in section 9352(3)(ii) of the act (relating to licensing costs and fees). The applicant shall also pay all costs incurred by the Commission in reviewing an application for an initial license, including any legal and investigative costs and the cost of other necessary outside professionals and consultants as set forth in the act.

(1) Any portion of the payment not required to complete the investigation shall be refunded to the applicant as provided in the act.

(3) To the extent additional costs will be necessary, the applicant shall reimburse the Commission in an amount reasonably requested by the Commission within 10 days of receipt of the request. Failure to submit an additional requested payment shall result in suspension of the processing of the license application and may result in denial of the license.

(b) For purposes of a renewal license, a racing vendor or totalisator company shall submit a renewal application, along with the applicable renewal fee and costs as set forth in section 9352(4)(ii) for the review to the Commission.

§ 187.3. Application requirements.

(a) The application for an initial or renewal license for a racing vendor or totalisator company shall be in the form and manner prescribed by the Commission in accordance with the provisions of the act and this chapter. The Commission may deny a license to an applicant that provides false or misleading information or omits material information from the application. The SPMO application shall include all of the following:

- (1) The applicant's legal name.
- (2) The location of the applicant's principal office.
- (3) The name, address and date of birth of each principal with a 5% or greater share of ownership or beneficial interest in the applicant.
- (4) Audited financial statements for the last 3 years or, if the applicant does not have audited financial statements, financial and other pertinent information as required by the Commission to determine that the applicant is financially capable of operating as a going concern and protecting accounts.
- (5) A detailed plan of how the applicable racing, wagering or other system to be licensed will operate. The Commission may require changes in the proposed plan of operations as a condition of granting a license. There shall not be subsequent material changes in the plan of operations unless ordered by the Commission or until approved by the Commission after receiving a written request.
- (6) A list of all personnel assigned to work in this Commonwealth including processing wagers on races made by residents of this Commonwealth. This list shall be kept current and be provided to the Commission upon request.
- (7) Copies of all documents required under this subsection by the Commission.
- (8) Certification of compliance with totalisator standards and licensing requirements adopted by the Commission.
- (9) A type II SAS 70 report or other independent report in a form acceptable to the Commission completed within the preceding 12 months, to assure adequate financial controls are in place in the secondary pari-mutuel organization.

(10) An agreement to allow the Commission, if requested, to inspect and monitor each facility used by the racing vendor or totalisator in the performance of its racing related duties within this Commonwealth.

(11) Certification of the use of a pari-mutuel system which meets all requirements for a pari-mutuel system utilized by a licensed racing entity in this Commonwealth.

(12) Written evidence of tax compliance as set forth in section 9361 of the act (relating to tax compliance requirement).

§ 187.4. Review and approval.

(a) The Commission shall determine the suitability, fitness and experience of a racing vendor or totalisator company and their key employees, consistent with the public interest, convenience and necessity and the best interests of racing generally.

(b) As set forth in section 9353(b) of the act (relating to license application procedures), the Commission may also consider the following information in making a determination for a racing vendor or totalisator initial license or renewal application:

(1) The integrity of the applicant and its principals, including:

(i) Whether the applicant or its principals are unsuitable.

(ii) Whether the applicant or its principals have been a party to litigation over business practices, disciplinary actions over a business license or refusal to renew a license.

(iii) Whether the applicant or its principals have been a party to proceedings in which unfair labor practices, discrimination or violation of government regulations pertaining to racing or gaming laws was an issue or bankruptcy proceedings.

(iv) Whether the applicant or its principals have failed to satisfy judgments, orders or decrees.

(v) Whether the applicant or its principals have been delinquent in filing tax reports or remitting taxes.

(2) The quality of physical facilities and equipment.

(3) The financial ability of the applicant to conduct wagering.

(4) The protections provided to safeguard accounts, including a certification from the licensee's chief financial officer that account funds will not be commingled with other funds as required under this chapter.

(5) The management ability of the applicant and its principals.

(6) Compliance of the applicant with applicable statutes, charters, ordinances and administrative regulations.

(7) The efforts of the applicant to promote, develop and improve the horse racing industry in this Commonwealth.

(8) The efforts of the applicant to safeguard and promote the integrity of pari-mutuel wagering in this Commonwealth.

(9) The economic impact of the applicant upon the Commonwealth.

(10) The racing vendor or totalisator organizations' owners and sources of funds must have sufficient financial means to participate in the applicable pari-mutuel racing related activities, including sufficient assets and means to pay industry-related debts and obligations and to fund the operations of the entity.

§ 187.5. Good-faith cooperation.

The applicant or licensed racing vendors and totalisators must be fully cooperative and act in good faith with all disclosure and other duties involved in a due diligence investigation, voluntarily submit to regulatory and investigating body oversight, permit inspection of each business record upon request by a regulatory authority or investigating body, promptly honor regulatory or investigating body requests for wagering patterns or other information and, after reasonable notice, permit full access to each facility and property by a regulatory authority or investigating body.

§ 187.6. Waiver.

A due diligence investigation may rely on an investigation and oversight conducted by a Commission-approved entity or other gaming regulator.

§ 187.7. Additional application information.

The Commission may request additional information from an applicant if the additional information would assist the Commission in deciding whether to issue or renew a license, including all of the following:

- (1) Copies of any documents used by the applicant in preparing the application.
- (2) A list of each contract between the applicant and a third party related to operations. The Commission may review the contracts at any time upon request.

§ 187.8. Racing vendor or totalisator operations.

Before doing business in this Commonwealth may also require all of the following from either a racing vendor or totalisator licensee:

- (1) Be qualified to do business in this Commonwealth.
- (2) Submit a copy of each document required to be filed with the Department of Revenue and each document related to an audit or investigation by any Federal, State or local regulatory agency to the Commission.
- (3) Remit to the Commission a copy of each document required to be filed with any Federal, State or local regulatory agency.

§ 187.9. Penalties and enforcement.

The Commission shall have all rights, powers and remedies necessary to carry out the provisions of this chapter and to ensure the licensees' compliance with the act, including revocation, suspension or modification of a license and the imposition of fines under section 9325 of the act (relating to power of commission to impose fines).

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