



## **Notice of Public Hearing**

Notice is hereby provided that in accordance with G.L. c. 30A § 2, the Massachusetts Gaming Commission (“Commission”) will convene a public hearing for purposes of gathering comments, ideas, and information relative to the proposed adoption of regulations. The regulations were promulgated pursuant to G.L. chs. 23N, § 4, 23K, §7, and 128A § 9, as part of the Commission’s regulatory process, and concern the following regulations:

### **205 CMR 3.00 Harness Horse Racing, specifically 205 CMR 3.12: Judges and 205 CMR 3.29: Medications and Prohibited Substances**

205 CMR 3.12 is being amended to address the timing of qualifying mile requirements of race horses; and to provide Racing Judges with broader discretion to impose financial and suspension penalties – generally in non-medication instances, consistent with the recommendations of the Association of Racing Commissioners International (ARCI). Portions of 205 CMR 3.29 are being amended to clarify the discretion of racing stewards in crafting penalties for medication violations, and their ability to consider United States Trotting Association (USTA) records in addition to ARCI records.

### **205 CMR 6.24: Deposits**

This regulation is being amended to mirror the statutory language more closely within G.L. c. 128A, § 5C and eliminate any inconsistencies where a previous version of the regulation stated that deposits to Advance Deposit Wagering accounts could not be made by credit or debit cards.

### **205 CMR 257: Data Privacy**

Sections within this regulation are being amended to provide clarity surrounding Sports Wagering Operators’ ability to utilize Personally Identifiable Information and Confidential Information for legitimate business purposes including permissible advertising to patrons. Amendments include: clarifications surrounding patron consent for *categories* of permissible uses; the use of algorithms; the use of individuated data to address responsible gaming issues; and clarifying language that an Operator’s data privacy policy should not include information that may make the Operator’s data privacy program vulnerable to attack.

### **Scheduled hearing date and time:**

**Tuesday, May 21, 2024, at 9:30 AM EST**

Given the unprecedented circumstances, Governor Charles Baker issued an order to provide limited relief from certain provisions of the Open Meeting Law to protect the health and safety of the public and individuals interested in attending public meetings during the global Coronavirus pandemic. In keeping with the guidance provided, the Commission will conduct this hearing utilizing remote collaboration technology.

**CONFERENCE CALL NUMBER: 1-646-741-5292**

**PARTICIPANT CODE: 112 314 5180    PASSCODE: 417383**



Massachusetts Gaming Commission

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A complete copy of the draft regulations referenced above may be downloaded by visiting [www.massgaming.com](http://www.massgaming.com), clicking on 'Regulations and Compliance' and selecting the '[Proposed Rulemaking](#)' Section. Anyone wishing to offer comments on these regulations can email [Judith.Young@massgaming.gov](mailto:Judith.Young@massgaming.gov) and request the virtual hearing link to appear and speak. Alternatively, written comments may also be submitted to the same email address with 'Regulation Comment' in the subject line.

**Comments must be received by 5:00 PM EST on May 20, 2024.** Additionally, please find the accompanying Small Business Impact Statements in accordance with M.G.L. c. 30A, § 2 attached.



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## **SMALL BUSINESS IMPACT STATEMENT**

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed adoption of **205 CMR 3.00 Harness Horse Racing, specifically sections 3.12 Judges and 3.29 Medications and Prohibited Substances.**

These regulations are being promulgated as part of the process of updating regulations governing live racing in the Commonwealth. Specifically, they extend the amount of time that horses have to show a satisfactory racing line and update the range of racing penalties available to racing judges, and updating penalty regulations speaking to multiple medication positives.

The proposed amendments to 205 CMR 3.12(7) and (20) apply to prospective and current race track operators and those participating in racing in the Commonwealth. 205 CMR 3.29(2)(f) applies to standardbred trainers whose horses test positive for multiple medications. 205 CMR 3.29(2A)(d) clarifies what judges will reference for a trainer’s past record of violations. Accordingly, this regulation may have an impact on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

Small businesses that own or race horses or employ trainers may be subject to these regulatory changes but it would be a relatively small number of businesses compared to the total number of small businesses in the Commonwealth.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation. This regulation clarifies penalties surrounding multiple medication positives in standardbred racehorses.

3. State the appropriateness of performance standards versus design standards:

The standards set forth are process focused, akin to design standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

These regulatory changes are unlikely to encourage or deter the formation of new business in the Commonwealth.

Massachusetts Gaming Commission  
By:

/s/ Justin Stempeck  
Justin Stempeck, General Counsel

Dated: April 4, 2024

## **SMALL BUSINESS IMPACT STATEMENT**

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed adoption of **205 CMR 6.24, DEPOSITS.**

This regulation is being promulgated as part of the process of updating regulations governing live racing in the Commonwealth. Specifically, it sets forth the depositing process for betting accounts with racing meeting licensees.

The proposed 205 CMR 6.24 applies to prospective and current race track operators, individual bettors and credit card / debit card companies. Accordingly, this regulation is unlikely to have an impact on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

Small businesses are unlikely to be subject to this regulation.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation. This regulation governs prospective and current race track operators, individual bettors and credit card / debit card companies, none of which will be or are small businesses.

3. State the appropriateness of performance standards versus design standards:

The standards set forth are process focused, akin to design standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This regulation, which clarifies the deposit process for betting accounts with racing meeting licensees, will support the formation of small businesses supporting race track operations in the Commonwealth.

Massachusetts Gaming Commission

By:

/s/ Justin Stempeck  
Justin Stempeck, General Counsel

Dated: April 4, 2024



## **SMALL BUSINESS IMPACT STATEMENT**

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed amendments to **205 CMR 257 SPORTS WAGERING DATA PRIVACY**.

This regulation was promulgated as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is authorized by G.L. c. 23N, §4. It governs the use, protection and retention of patron data by Sports Wagering Operators.

This regulation is unlikely to have an impact on small businesses as it governs the behavior of Sports Wagering Operators who are not small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

This regulation is unlikely to have an impact on small businesses.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation.

3. State the appropriateness of performance standards versus design standards:

No standards applicable to small businesses are set forth. Provided standards are performance standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This amendment is unlikely to have any impact on the formation of new businesses in the Commonwealth.



Massachusetts Gaming Commission

Massachusetts Gaming Commission  
By:

/s/ Carrie Torrisi  
Carrie Torrisi, Deputy General Counsel

Dated: February 1, 2024



Massachusetts Gaming Commission

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