

CHAPTER 228

AN ACT concerning the placement of horse racing wagers at certain locations and supplementing the "Off-Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.5:5-186 Pilot program for placement of horse racing wagers at certain locations.

1. Notwithstanding the provisions of the "Off-Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), or any other law, rule, or regulation to the contrary, the New Jersey Racing Commission shall implement a pilot program to license a lessee or purchaser of a State-owned racetrack to provide patrons with the ability to place wagers on horse races through electronic wagering terminals to be located at a limited number of eligible taverns, restaurants, and similar venues where food, alcoholic beverages, or both, are served to the public for on-premises consumption, subject to regulation and control by the commission and as further provided by this act, P.L.2011, c.228 (C.5:5-186).

a. In lieu of a maximum of one off-track wagering facility license that remains to be utilized or implemented by the New Jersey Sports and Exposition Authority or any lessee of the authority under the "Off-Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), as amended and supplemented, the commission shall issue one license to be awarded to an entity that has entered into an agreement with the authority for the sale or lease of a State-owned racetrack for the establishment at not more than 12 qualified taverns, restaurants, and similar venues, of not more than 20 electronic wagering terminals in total in this State to enable patrons to place wagers on in-State and out-of-State horse races, which wagers shall be placed by eligible patrons who are physically present at those locations. Only one license shall be issued under this pilot program, except that the licensed entity may enter into an agreement with another licensed entity that has also entered into an agreement with the authority for the sale or lease of a State-owned racetrack, to jointly undertake and share the proceeds from the licensed activities under the pilot program, which agreement shall be subject to the approval of the authority. The license issued under this pilot program shall be temporary, subject to review and renewal on an annual basis, and shall expire within three years of issuance of the initial license. When issuing the license, the commission shall require the licensed entity to sign a waiver showing that the licensee understands the terms and conditions of the license.

b. The pilot program authorized pursuant to this act, P.L.2011, c.228 (C.5:5-186), shall be implemented only in the northern part of the State, in Bergen, Hudson, Essex, Passaic, Union, Morris, Somerset, Hunterdon, Warren, Sussex, and northern Middlesex and Ocean counties. The commission shall develop an application form and process, solicit completed applications to be submitted jointly by a lessee or purchaser of a State-owned racetrack and that entity's selected taverns, restaurants, and similar venues located within the aforementioned geographic region, and evaluate each applicant's eligibility using specified criteria which shall include, but not be limited to:

(1) proof of financial resources sufficient to enable the applicant to establish and conduct the electronic wagering terminals with appropriately staffed and managed operations;

(2) evidence of good character, honesty, competency and integrity;

(3) the absence of a conviction for a crime involving fraud, dishonesty or moral turpitude; and

(4) any additional standards and criteria the commission may establish by rule or regulation.

In evaluating an application for a license, the commission shall ensure that each selected applicant has met all required eligibility criteria. In awarding the license, the commission shall also consider the proximity of the applicant's venue to planned or existing racetracks, off-track wagering facilities, and simulcasting facilities in this State. If, in the opinion of the commission, the issuance of a license for the establishment of electronic wagering terminals at the applicant's venue would be inimical to the interests of a planned or established racetrack, off-track wagering facility, or simulcasting facility, the commission shall deny the license even when the applicant has otherwise met all eligibility criteria.

A license issued under this section shall at all times remain the property of the permit holder and shall be subject to all conditions of a participation agreement pursuant to section 4 of P.L.2001, c.199 (C.5:5-130), as amended and supplemented. The permit holder shall be responsible for entering into agreements with qualified taverns, restaurants and similar venues. The permit holder and qualified tavern, restaurant or similar venue shall jointly submit to the commission any applications and information as required by the commission in determining eligibility for a license. The permit holder may terminate agreements for individual licenses with notice to the commission.

c. To effectuate the provisions of this act, P.L.2011, c.228 (C.5:5-186), the commission shall promulgate rules and regulations necessary to:

(1) determine the number of locations at which electronic wagering terminals shall be established under the program, provided that the license shall be limited to a maximum of 12 locations, which maximum number of locations shall be reduced by one per each off-track wagering facility in the authority's share that is newly-established during the implementation of the pilot program, and provided further that not more than 20 electronic wagering terminals shall be established in total in this State;

(2) evaluate the types of electronic wagering terminals and equipment that may be used in wagering, and the number of such machines to be established at each licensed venue, subject to approval by the commission;

(3) develop geographic proximity and impact criteria to determine whether a proposed location would be inimical to the interest of planned or existing racetracks, off-track wagering facilities, and simulcasting facilities in this State, and which criteria shall be used to deny a license as provided under subsection b. of this section;

(4) authorize the licensee to enter into contracts with vendors, operators, and other entities, as the case may be, for the establishment and operation of the approved electronic wagering terminals;

(5) ensure that amounts wagered through the electronic wagering terminals are properly distributed to winning bettors, the licensed venue, and others in a manner similar to that provided under section 44 of P.L.1940, c.17 (C.5:5-64), section 21 of P.L.2001, c.199 (C.5:5-147) for sums wagered on in-State races, and sections 22 through 25 of P.L.2001, c.199 (C.5:5-148 through C.5:5-151) for sums wagered on out-of-State races, except that a local impact fee of 1% of the licensee's share of revenues shall be paid to the host municipality for general municipal purposes;

(6) provide that an amount of the revenues from electronic wagering terminals shall be distributed for the funding of horse racing purses in accordance with the statutes cited under paragraph (5) of this subsection;

(7) ensure that persons under the age of 18 years shall not be permitted within the space in the venue where electronic wagering terminals are placed, and that necessary safeguards are in place to prevent minors from wagering; and

(8) regulate any other aspects of the electronic wagering operation the commission deems appropriate.

d. Notwithstanding any other provision of this act or the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commission shall, within 90 days of the effective date of this act and after notice provided in accordance with this subsection, authorize the temporary adoption of any rule concerning the conduct of wagering under this act, P.L.2011, c.228 (C.5:5-186). Any temporary rulemaking authorized by this subsection shall be subject to such terms and conditions as the commission may deem appropriate. Notice of any temporary rulemaking action taken by the commission pursuant to this subsection shall be published in the New Jersey Register, and provided to the newspapers designated by the commission pursuant to subsection d. of section 3 of P.L.1975, c.231 (C.10:4-8), at least seven days prior to the implementation of the temporary rules. Nothing herein shall be deemed to require the publication of the text of any temporary rule adopted by the commission or notice of any modification of any temporary rulemaking initiated in accordance with this subsection. The text of any temporary rule adopted by the commission shall be available in each venue participating in the temporary rulemaking and shall be available upon request from the commission. The temporary rules promulgated pursuant to this subsection shall not be effective for more than 180 days unless promulgated in accordance with normal rule-making procedures.

e. Within three years of the issuance of the license under the pilot program, the commission shall issue a report to the Governor, and to the Legislature as provided under section 2 of P.L.1991, c.164 (C.52:14-19.1), containing an evaluation of the pilot program. The report shall also provide the commission's opinion as to whether the pilot program should be continued and, if so, recommendations for further improvement and implementation. The pilot program shall end upon the expiration of the license issued under the program unless the Legislature enacts a law to continue the program.

2. This act shall take effect immediately, and shall be retroactive to December 31, 2011.

Approved January 17, 2012.