

## **Order Establishing Terms, Conditions, and Fees for Third-Party Facilitators**

In 2019, the Horse Racing Law of 1995 (Racing Act) was amended to provide that any form of pari-mutuel wagering on the results of live or simulcast horse races must be conducted or operated by a race meeting licensee, which may use contracted licensed third-party facilitators to facilitate wagering on live and simulcast racing.

Section 8(1)(d) of the Racing Act, MCL 431.308(1)(d), added licensing for third-party facilitators and provides that the Racing Commissioner (Executive Director) shall establish the terms and conditions and the appropriate fee for a third-party facilitator license.

The terms, conditions, and fees for TPF licensing are as follows:

- (1) A TPF may apply for a license to operate an account wagering system whereby wagers are debited, and payouts are credited to an account held by a TPF on behalf of a person.
- (2) Before applying for a license, a TPF must have a joint contract with all race meeting licensees and certified horsemen's organizations in this state and provide a proposed plan of operation detailing how the account wagering system would operate.
- (3) If a license is issued to the TPF, any changes in a proposed plan must be submitted to the executive director. No changes in the system's operation may occur unless approved by the executive director.
- (4) A person applying for a TPF's license and a person required to be qualified as part of the application must submit a complete application and disclosure forms in the manner and form prescribed by the executive director.
- (5) A person applying for a TPF's license must provide the name, address, and phone number of a representative to act as a liaison to the executive director or his or her designee. The liaison will assist and cooperate with the executive director or his or her designee.
- (6) In granting, renewing, or denying a TPF license, the executive director may consider the following:

- a. The applicant or licensee's financial history and current financial status.
  - b. The applicant or licensee's experience in the racing industry.
  - c. The character, honesty, integrity, and reputation of persons associated with the TPF.
  - d. The applicant or licensee's history of compliance with laws in this jurisdiction or any other jurisdiction.
  - e. Whether the applicant or licensee is licensed in another jurisdiction or has had a license suspended, revoked, or denied.
  - f. Whether the applicant or licensee, or persons associated with the applicant or licensee who hold a beneficial or ownership interest in the business activities or who have power or ability to influence or control the business decisions or actions of the applicant or licensee pose a threat to the public interest of this state or to the security and integrity of horse racing or pari-mutuel wagering on the result of horse races in this state.
  - g. Any other information determined to be relevant by the executive director.
- (7) If a TPF license is granted, the TPF must comply with all federal, state, and local laws, and executive director orders.
- (8) The following nonrefundable TPF license application fees must be submitted to the executive director, together with the required completed application form or forms:
- a. TPF license application fee: \$1,000.
  - b. Renewal TPF license application fee: \$500.
- (9) The license or renewal application fee will be used by the executive director to conduct a background investigation. No portion of a remitted fee will be refunded.
- (10) Additional background investigation charges may be assessed to the extent the executive director's investigative cost exceeds the applicant or licensee's application fee. Unless otherwise determined by the executive director, a license may not be issued or renewed until payment of the additional assessed charge for the background investigation is received by the executive director.

- (11) An applicant or licensee is under a continuing duty to promptly disclose in writing any material changes in the information or documentation provided in or with the application, renewal, and disclosure forms submitted to the executive director.
- (12) At the discretion of the executive director, all persons employed by TPFs involved in accepting pari-mutuel wagers, and employees with access to facilities where such wagers are placed, or systems and records relating to account wagering are operated and secured, must hold an occupational license with a recognized horse racing regulatory agency. The TPF must provide and maintain with the executive director a current list of such employees.
- (13) Failure to provide information requested by the executive director to assist in any investigation, inquiry, hearing, or failure to comply with the act or rules promulgated by the executive director, may result in a fine, denial, suspension, or revocation of a license.
- (14) A licensed TPF must utilize and communicate pari-mutuel wagers to a pari-mutuel system which meets all requirements for pari-mutuel systems employed by race meeting licensees in this jurisdiction.
- (15) A licensed TPF must operate and communicate with the totalisator system in such a way as not to provide or facilitate a wagering advantage based on access to information and processing of wagers by TPF account holders relative to persons who wager at race tracks or public off track wagering facilities. .
- (16) The executive director may issue a fine, suspend, or revoke a TPF license if:
  - a. The TPF fails to comply with all federal, state, and local laws.
  - b. The TPF has knowingly provided false or misleading information to the executive director, withheld information required to be provided or made material changes in the account wagering system without prior approval of the executive director.
  - c. The TPF has had a license denied, suspended, or revoked in another jurisdiction.
  - d. The TPF fails to comply with any conditions on the license imposed by the executive director; or

- e. The TPF poses a threat to the public interest or the integrity of racing or wagering in Michigan.
  - f. There is just cause.
- (17) A suspension or revocation of a TPF license may be appealed under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.
- (18) A licensed TPF may not sell or share an applicant or account holder's confidential information or use an applicant or account holder's confidential information for any purpose not related to authorized account wagering, except as authorized by the applicant or account holder.

IT IS THEREFORE ORDERED that an applicant for a third-party facilitator license must follow the procedure set forth herein to apply for a license.

IT IS FURTHER ORDERED that an application will be reviewed, and a determination made as set forth herein.

IT IS FURTHER ORDERED that an applicant and/or licensee will be bound by these terms, conditions, and fees as set forth herein.

IT IS SO ORDERED.

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 /S/  
 Richard S. Kalm, Executive Director  
 Michigan Gaming Control Board

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 May 5, 2020  
 Date