

ND RACING COMMISSION
Gunner laCour, Director
10 A.M., September 12, 2013

Administrative Rules Committee
Legislative Assembly
Rough Rider Room, State Capitol
Representative Bill Devlin, Chairman

The North Dakota Racing Commission began the administrative rules process in February of 2013 to add the 123racing Pick-N-Wager as a pari-mutuel pool permitted under Administrative Rule 69.5-01-08-04.

The proposed rule change did not result from statutory changes made by the Legislative Assembly nor is it related to any federal statute or regulation. The rule change came through negotiations between the North Dakota Racing Commission and the account deposit wagering companies that are promoting the use of tournament style wagering such as the 123racing Pick-N-Wager.

The rule change process began on February 15, 2013 when the Racing Commission Director presented the 123racing Pick-N-Wager to the Commission as an addition to the currently available pari-mutuel pools. The Racing Commission authorized the Director to draft an amendment to allow for this specific wager.

On March 21, 2013 the Racing Commission contacted the ND Newspaper Association requesting them to publish an Abbreviated Notice of Intent to Adopt and Amend Administrative Rules Relating to pari-mutuel wagering systems. The North Dakota Newspaper Association was paid \$1,518.62 to publish the notice. A Full Notice of Intent to Adopt and Amend Administrative Rules Relating to Account Deposit Wagering and Licensing Fees and the proposed rule and amendment were also sent to John Walstad of the Legislative Council on March 21, 2013.

The public hearing was conducted in the North Dakota Racing Commission Offices on April 25, 2013. No one from the public attended the meeting.

As stated in the public hearing notice, written comments could be made to the Racing Commission until May 6, 2013. There were no written comments by the public. There were no oral concerns, objections, or complaints submitted by the public for the Racing Commission's consideration with regard to the rule change.

The 123racing Pick-N-Wager is a unique wager being introduced into horse racing in the U.S. market and internationally. The North Dakota Racing

Commission drafted the wager and managed it through the administrative rule process. This wager is innovative and is intended to be used throughout the horse racing industry. It has the potential to generate significant revenue which would further develop the breeding of horses in North Dakota and stimulate a small developing horse industry in our state.

The 123racing Pick-N-Wager is conducted by having each bettor wager \$2 into a "tournament" pool. The bettor then selects one horse per race for each race which is a part of the tournament. After each race is run, the bettor receives points based on the live odds of his chosen horse as if he had placed a win, place, show bet, or what is called an "across the board" bet. In other words, if the bettor receives points, the bettor's horse finishes in the top three. After all races have been run, the three bettors with the most points receive a percentage of the pool based on whether they came in first, second or third in the point totals.

While the specific rules and conduct of the wager are unique, this "tournament style" concept of wagering is not new to the racing industry. In fact, the Association of Racing Commissioners International (ARCI) Model Rules already include a Tournament Style Wager which is very similar in

conduct to the 123racing Pick-N-Wager. For those of you not already aware of the ARCI, the organization is an independent entity which has established model rules for the conduct of live horse racing and pari-mutuel wagering. The ARCI works with the most respected regulators, horseman, veterinarians and other industry members to create a set of rules not only aimed at supporting the industry, but also protecting participants therein with an effective and clear regulatory framework.

Further, the 123racing Pick-N-Wager uses many of the same methods of pari-mutuel wagering already implemented in the North Dakota

) Administrative Rules regarding the Pick 1-2-3 Pool and the Pick 1-2-3-4-5 Pool.

Essentially, the 123racing Pick-N-Wager and these previously approved wagers allow bettors to wager on the outcome of multiple races with the chance to win a pool consisting of all bets made by participants in the wager.

No regulatory analysis was issued. The 123racing Pick-N-Wager is a new wager implemented into law in North Dakota and does not exist in any other state. Information does not currently exist to determine the fiscal impact within the account deposit wagering companies that will market this wager. At this time the Racing Commission does not have the ability to

determine the success of this wager; therefore, cannot ascertain the impact on the regulated community.

A small entity regulatory analysis and small entity economic impact statement was completed and is attached.

A fiscal note was not completed. This wager is new and financial information does not currently exist.

A constitutional takings assessment was not required for this requested rule change.

The adopting of this rule was not an emergency and the administrative rule process was followed.



SMALL ENTITY REGULATORY ANALYSIS

The 123racing Pick-n Wager© is a new concept in horse race wagering. The 123racing Pick-n Wager© is a new tournament style wager that will be implemented into administrative law in North Dakota and does not exist in any other state. The Racing Commission cannot predict the success of this wager; therefore, cannot ascertain the impact on the regulated community which will be unknown.

Neither the Governor nor a member of the Legislative Assembly has filed a written request for a regulatory analysis. The proposed rule is not expected to have an impact on the regulated community in excess of \$50,000.

There is no evidence of the need for a regulatory analysis; therefore, it was not available prior to the publishing of a public notice.

SMALL ENTITY ECONOMIC IMPACT STATEMENT

The proposed rule change implements the addition to a new tournament style wager. The 123racing Pick-n Wager© is a new concept to the North Dakota Administrative Rules that allow wagers.

All North Dakota Racing Commission licensed account deposit wagering, simulcast wagering and live horse racing associations have access to this proposed new wager. There are no additional state costs involved in using this wager. The wager will provide another form of recreational wagering for those who participate in horse racing wagering. There will be no additional cost to private persons or consumers by this proposed rule.

The rule does not assess additional costs to those providing the 12racing Pick-n Wager©.

Winston Satran
Director of Racing
ND Racing Commission
March 21, 2013