OAH 60-9011-36227
Revisor R-4606

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Rules of the Minnesota Racing Commission on Possible Amendments to Rules Governing Horse Racing; Minnesota Breeders' Fund, Minn. Rules, Chapter 7895	**ORDER ON REVIEW OF RULES UNDER MINN. STAT. § 14.26**

The Minnesota Racing Commission (Racing Commission) is seeking review and approval of the above-entitled rules, which were adopted by the agency pursuant to Minn. Stat. § 14.26 (2020). On November 6, 2020, the Office of Administrative Hearings received the documents that must be filed by the Racing Commission under Minn. Stat. § 14.26 and Minn. R. 1400.2310 (2019). Based upon a review of the written submissions and filings, Minnesota Statutes, Minnesota Rules, and for the reasons in the Memorandum that follows,

IT IS HEREBY DETERMINED:

1. The Racing Commission has the statutory authority to adopt the rules.

2. The rules were adopted in compliance with the procedural requirements of Minnesota Statutes, chapter 14 (2020), and Minnesota Rules, chapter 1400 (2019).

3. The record demonstrates the rules are needed and reasonable.

IT IS HEREBY ORDERED THAT:

1. The rules are **APPROVED**.

2. The Racing Commission should consider making the technical changes set forth in the attached memorandum.

Dated: November 20, 2020

JAMES E. LAFAVE
Administrative Law Judge

MEMORANDUM

The Racing Commission has submitted these rules to the Administrative Law Judge for review under Minn. Stat. § 14.26. Subdivision 3(a) of that statute specifies that the Administrative Law Judge must approve or disapprove the rules as to their legality and form. In conducting the review, the Administrative Law Judge must consider the issue of whether the agency has the authority to adopt the rules; whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules; and whether the rules as modified are substantially different from the rules as originally proposed. Based on a review of the written submissions and filings, the Administrative Law Judge concludes that the rules comply with the applicable legal requirements.

The Administrative Law Judge recommends, however, that the Racing Commission make several changes to clarify or improve readability of the proposed rules. These wordings changes are merely suggestions and do not denote defects in the proposed rules. None of editorial revisions would render the proposals substantially different from the rule originally proposed by the Racing Commission. The proposed changes are set forth below:

Proposed Changes

A. Definitions, 7895.005

The definitions should be arranged alphabetically.

B. General provisions 7895.0100, subp. 2

Add a hyphen to “breed-specific registering agency.”

C. General provisions, 7895.0100, subp. 3

The sole commentator in this proceeding correctly notes that the last sentence in this subpart is problematic as it may grant the Racing Commission too much discretion and may be too vague.[1] While the language was part of the existing rules, it still should be corrected. The following language is suggested:

> Upon receipt of a written complaint from Commission staff, or a member of the public, the Racing Commission is authorized to demand affidavits or other substantive proof necessary to support a claim for Minnesota-bred registration.

D. Foal registration and certification 7895.0125, subp. 3

Add a hyphen to “Minnesota-registered broodmare.”

[1] Comment of Ian Lewenstein at p. 2 (Oct. 14, 2020).

E. Thoroughbred Registration 7895.0125, subp. 1 (E)

Items E – H address problems identical to the one addressed in item C above (Minn. R. 7895,0100, subp. 3). The following language is suggested:

Upon receipt of a written complaint from Commission staff, or a member of the public, the Racing Commission is authorized to demand written documentation demonstrating the broodmare was in Minnesota as of March 15 of the foaling year.

F. Standardbred Registration 7895.0275, subp. 1 (F)

Upon receipt of a written complaint from Commission staff, or a member of the public, the Racing Commission is authorized to demand written documentation demonstrating the stallion was in Minnesota as of January 15 of the breeding year.

G. Quarter Horse Registration 7895.0350. subp. 1 (C)

Upon receipt of a written complaint from Commission staff, or a member of the public, the Racing Commission is authorized to demand written documentation demonstrating the broodmare was in Minnesota as of March 15 of the foaling year.

H. Quarter Horse Registration 7895.0350, subp. 2 (E)

Upon receipt of a written complaint from Commission staff, or a member of the public, the Racing Commission is authorized to demand written documentation demonstrating the stallion was in Minnesota as of January 31 of the breeding year.

J. E. L.