

Administrative Rule Review Report – ARR12-023
Legislative Service Office
18-Apr-12

AGENCY: Pari-mutuel Commission

DATE SUBMITTED: 4/18/2012

SUBJECT: Chapter 1 – Definitions; Chapter 7 – Licensing/Licensees, Section 1, (a), (b), (d), (i)

NATURE OF RULES: Legislative and procedural.

STATUTORY AUTHORITY: W.S. 11-25-104(f)

DETERMINATION OF PROCEDURAL COMPLIANCE BASED UPON INFORMATION SUBMITTED BY THE AGENCY TO LSO: Apparently complete to date. Notice of the proposed adoption of the new rules was provided by the LSO as required by W.S. 28-9-103(d). No comments have been received to date.

SUMMARY OF RULES: The rules implement legislation limiting the requirements for licensing of every employee within a simulcasting facility. In doing so, the rules provide for requiring a list of employees and requiring licensing of concession operators and persons with access to restricted areas. Other employees will be issued a “tax-free pass” rather than a license. The rules increase the license fees for simulcast operators.

FINDINGS: In Chapter 7, Section 1(a)(iv), the rules provide that a “tax-free pass” will be issued to employees “considered desirable and meeting all requirements of a licensee”. There are no parameters on the Commission’s discretion in determining what parameters might be used to deem an employee desirable. This language would likely be determined to be unconstitutionally vague and overbroad. Other than this section, the rules appear to be within the scope of statutory authority and legislative intent.

STAFF RECOMMENDATION: That the Council request the Governor to use his line item veto authority under W.S. 16-3-103(d) to address the concerns raised in this rule review report. This could be done by striking the words “deemed desirable and” in Chapter 7, Section 1(a)(iv). Alternatively, the Council could request the Governor to rescind the rules and direct the commission to repromulgate the rules after addressing the issues raised in this rule review.

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