



Economic Impact Analysis Virginia Department of Planning and Budget

11 VAC 10-20 – Regulations Pertaining to Horse Racing With Pari-Mutuel Wagering Virginia Racing Commission

December 6, 2004

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The General Assembly in §59.1-369 of the Code of Virginia mandates that the Virginia Racing Commission (VRC) promulgate regulations and conditions under which horse racing with pari-mutuel wagering be conducted in the Commonwealth.

The proposed regulation establishes additional notification requirements for applicants seeking VRC approval for their acquisition of control of a licensee authorized to conduct race meeting(s) with pari-mutuel privileges in Virginia. If the acquisition of control is done without prior approval from VRC, the agency is authorized to revoke the license, order compliance with the requirements of the regulation, or take any other action deemed appropriate. In addition, the proposed regulation requires that VRC approve or deny an application to become a partner, member, or principle shareholder of a licensee within 60 days of its receipt. The proposed changes are intended to bring the regulation into compliance with the Code of Virginia. Section §59.1-386 of the Code of Virginia (Acquisition of interest in licensee) was amended to this effect

by Chapter 705 of the 2003 Acts of Assembly. The proposed regulation also makes a number of other changes intended to clarify the existing regulation, correct inaccuracies in it, and make it consistent with the Code of Virginia.

An emergency regulation identical to the proposed regulation has been in effect since July 2004.

Estimated Economic Impact

The proposed regulation establishes additional notification requirements for applicants seeking VRC approval for their acquisition of control (direct or indirect, individual or in concert with others) of a licensee authorized to conduct race meeting(s) with pari-mutuel privileges.¹ These requirements include submitting a proposal for the future operation of an existing racetrack, a planned racetrack, or a satellite facility owned or operated by the licensee. Applicants are also required to submit any information required to assure VRC that they have the experience, expertise, financial responsibility, and commitment to comply with (i) the relevant provisions of the Code of Virginia, (ii) VRC regulations and orders, (iii) requirements for the continued operation of the licensee in accordance with the requisite terms and conditions, (iv) any existing contract with a recognized majority horsemen's group, and (v) any proposal submitted to VRC by the applicant. Applicants are also allowed to submit any additional information relevant to the application. In the event that approval is not obtained prior to acquisition of control, VRC is authorized to revoke the license, order compliance with the requirements of the regulation, or take any other action deemed appropriate. The proposed change brings the regulation into compliance with the Code of Virginia. Section §59.1-386 of the Code of Virginia (Acquisition of interest in licensee) was amended to this effect by Chapter 705 of the 2003 Acts of Assembly.

According to VRC, the proposed change is in response to a need for greater notification in the event of a change in the form or legal status of the entity holding the license, such as between being a partnership, a privately owned company, and a publicly held company. The agency believes that these requirements will help in ensuring that racing and wagering in Virginia is of the highest quality and conducted in a manner that is free of any corrupt, incompetent, dishonest, or unprincipled practices, as required by the Code of Virginia. The

¹ The proposed change applies to limited and unlimited licenses.

proposed requirement is intended to provide information regarding the financial stability of the person acquiring the interest, future plans as to the operation of any facility owned and/or operated by the licensee, and the ability of the person acquiring the interest to meet existing obligations and requirements.

The proposed change is not likely to have a significant economic impact. The existing regulation requires a person seeking to become a partner, member, or principle shareholder of a licensee to apply to VRC for approval. In order to approve or deny an application, §59.1-386 of the Code of Virginia allows VRC to demand any such information from the applicant that the agency deems necessary. Thus, under existing laws, VRC could require applicants seeking to acquire control of a licensee to submit documentation similar to that being proposed. By specifying the documentation to be submitted, the proposed regulation clarifies the requirements for acquiring control of a licensee. The proposed change is not likely to impose significant economic costs. According to VRC, applicants are already likely to have the documentation required for submission under the proposed regulation. Moreover, the agency does not intend to charge a fee for review of these applications. Thus, to the extent that the proposed change clarifies aspects of the regulation and improves its understanding and implementation, it is likely to produce some small economic benefits.

The proposed regulation also includes a number of other changes. It requires that VRC approve or deny an application to become a partner, member, or principle shareholder of a licensee within 60 days of receipt of the application. It also makes changes intended to clarify the existing regulation, correct inaccuracies in it, and make it consistent with the Code of Virginia. These changes are not likely to have a significant economic impact. No additional costs are likely to be imposed by the proposed changes. In fact, to the extent that they streamline the approval process and lead to better understanding and implementation of the regulation, they are likely to produce some small economic benefits.

Businesses and Entities Affected

The proposed regulation will affect owners, operators, and owner-operators licensed under a limited or an unlimited license to conduct race meeting(s) with pari-mutuel privileges in Virginia and individuals seeking to acquire a controlling interest in them. Currently, there are

two entities likely to be affected by the proposed regulation, Colonial Downs and the Maryland Virginia Racing Circuit.

Localities Particularly Affected

The proposed regulation applies to all localities in the Commonwealth.

Projected Impact on Employment

The proposed regulation is not likely to have a significant impact on employment.

Effects on the Use and Value of Private Property

The proposed regulation is not likely to have significant impact on the use and value of private property.