

REGULATION 26C

OFF-TRACK PARI-MUTUEL HORSE RACE ACCOUNT WAGERING

PROPOSED AMENDMENTS TO REGULATION 26C

PURPOSE: In accordance with NRS 463.145, NRS 463.150, and S.B. 9 passed during the 2015 Legislative Session and as part of the creation of a comprehensive framework for wagering accounts through new Regulation 5.225, to amend Regulation 26C to include without limitation: 1) to amend the definitions of “secure personal identification” and “wagering account;” 2) to remove regulatory provisions that are otherwise now addressed in Regulation 5.225; 3) to clarify that a book that knows or should know that the outcome of an event has already been determined shall not accept money or its equivalent ostensibly as a wager upon such an event; 4) to clarify that a book shall not allow the use of a wagering account for forms of wagering other than off-track pari-mutuel horse race wagering, unless the establishment and use of the wagering account otherwise meets all of the requirements of regulation 5.225 and administrative approval has been granted by the chairman; and 5) to require a book that accepts wagers from business entities to implement policies and procedures designed to ensure that business entities’ wagering accounts are used only to place race book or sports pool wagers; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

(Draft Date: October 14, 2016)

~~[Deleted]~~/Added Language

26C.010 Definitions. As used in this regulation:

1. No change
2. No change
3. No change
- 4 No change
5. No change
6. No change

- 7. No change
- 8. No change
- 9. No change
- 10. No change
- 11. No change
- 12. No change
- 13. No change
- 14. No change
- 15. No change

16. “Secure personal identification” means ~~[an encoded alpha numeric character code or any other method of identifying the patron as approved by the chairman through which the book may verify a wager or account transaction was authorized by the patron]~~ a secure personal identification as that term is defined in Regulation 5.225.

17. “Wagering account” means ~~[an electronic ledger wherein the following types of transactions relative to pari mutuel horse race wagers are recorded:~~

- ~~(a) Deposits;~~
- ~~(b) Withdrawals;~~
- ~~(c) Amounts wagered;~~
- ~~(d) Amounts paid on winning wagers;~~
- ~~(e) Amounts paid for horse racing related services or merchandise;~~
- ~~(f) Service or other transaction related charges authorized by the patron; and~~
- ~~(g) Adjustments to the account.]~~

a wagering account as that term is defined in Regulation 5.225.

- 18. No change
- 19. No change

26C.050 Reserve requirements.

1. ~~[Unless the chairman for good cause permits or requires a different amount,]~~ Notwithstanding the minimum reserve requirements established for wagering accounts pursuant to Regulation 5.225(21)(b), each book shall comply with the following to calculate the minimum reserve requirements:

(a) E[e]ach book shall at all times maintain a reserve of not less than the greater of \$25,000 or the sum of the following amounts:

- ~~[(a)]~~ (1) Amounts held by the book for the account of patrons;

~~[(b)]~~ ~~(2)~~ Amounts accepted by the book as wagers on contingencies whose outcomes have not been determined; and

~~[(e)]~~ ~~(3)~~ Amounts due the patron on wagers whose outcomes have been determined but that have not been posted to the patron's wagering account.

~~[2.]~~ ~~(b)~~ Before beginning operations, each newly-licensed book must establish a reserve of at least the greater of \$25,000 or the amount the chairman projects will at least equal the sum of the amounts specified in paragraphs ~~[(a), (b) and (e)]~~ ~~(1), (2), and (3)~~ of subsection 1~~(a)~~ at the end of the first week of the book's operation. After the book begins operations, the book's reserve must comply with subsection 1.

~~[3. The reserve described in subsections 1 and 2 must be maintained in the form of cash, cash equivalent, an irrevocable letter of credit, a bond, or a combination thereof. Except as otherwise provided in subsections 4 and 5, the reserve must be unencumbered and must not be commingled with funds of the book or any of its owners, employees, affiliates, or other persons or entities associated with the book.~~

~~4.]~~ The reserve described in subsection[s] 1 ~~[and 2]~~ may be combined as a single amount for a book and its satellite books.

~~[5.]~~ ~~2.~~ The reserve described in subsection[s] 1 ~~[and 2]~~ may be combined as a single amount with the reserve described in NGC Regulation 22.040.

~~[6. If a reserve is maintained in the form of cash, cash equivalent, or an irrevocable letter of credit, it must be held or issued, as applicable, by a federally insured financial institution. If the reserve is maintained in the form of a bond, it must be written by a bona fide insurance carrier. The reserve must be established pursuant to a written agreement between the book and the financial institution or insurance carrier, but the book may engage an intermediary company or agent acceptable to the chairman to deal with the institution or carrier, in which event the reserve may be established pursuant to written agreements between the book and the intermediary and between the intermediary and the financial institution or insurance carrier.~~

~~7. The agreements described in subsection 6 must reasonably protect the reserve against claims of the book's creditors other than the patrons for whose benefit and protection the reserve is established, and must provide that:~~

~~(a) The reserve is established and held in trust for the benefit and protection of patrons to the extent the book holds money for their account, has accepted wagers from them on contingencies whose outcomes have not been determined, or owes them on winning wagers;~~

~~(b) The reserve must not be released, in whole or in part, except to the board on the written demand of the chairman or to the book on the written instruction of the chairman. The reserve must be available within 60 days of the written demand or written notice. The book may receive income accruing on the reserve unless the chairman instructs otherwise pursuant to subsection 14;~~

~~(c) The book has no interest in or title to the reserve or income accruing on the reserve except to the extent expressly allowed in this section;~~

~~(d) Nevada law and this section govern the agreements and the book's interest in the reserve and income accruing on the reserve;~~

~~(e) The agreements are not effective until the chairman's approval has been obtained pursuant to subsection 8; and~~

~~(f) The agreements may be amended only with the prior, written approval of the chairman.~~

~~8. Each book shall submit to the chairman all information and copies of all documents relating to its proposed reserve arrangement, including copies of the agreements described in subsections 6 and 7, and must obtain the chairman's approval of the agreements and of the reserve arrangement generally. The chairman shall determine whether the agreements and arrangement satisfy the purposes and requirements of this section, may require appropriate changes or withhold approval if they do not, and shall notify the book of the determination.~~

~~Amendments to reserve agreements or arrangements must be approved in the same manner.~~

~~9. A book must calculate its reserve requirement each day. In the event a book determines that its reserve is not sufficient to cover the calculated requirement, the book must, within 24 hours, notify the chairman of this fact in writing and must also indicate the steps the book has taken to remedy the deficiency.~~

~~10. Each book must engage an independent certified public accountant to examine the pertinent records relating to the reserve each month and determine the reserve amounts required by this section for each day of the previous month and the reserve amounts actually~~

~~maintained by the book on the corresponding days. The book shall make available to the accountant whatever records are necessary to make this determination. The accountant shall report the findings with respect to each day of the month under review in writing to the chairman and the book no later than the tenth day of the next month. The report shall include the licensee's statement addressing each day of noncompliance and the corrective measures taken.~~

~~11. The report described in subsection 10 may be prepared by an employee of the licensee that is independent of the book if written approval has been received from the chairman. The report must contain the signature of an employee attesting to the accuracy of the submitted information.~~

~~12. If the chairman is notified pursuant to subsection 9, or the report described in subsection 10 indicates that at any time during the month under review the amount of the reserve did not meet the requirements of this section, the chairman may instruct the book to either increase the reserve accordingly or cease accepting wagers and money for the account of patrons until such time as the reserve meets the requirements of this section and is confirmed to the chairman's satisfaction.~~

~~13. If the report indicates that the amount of the reserve exceeds the requirements of this section, the chairman shall, at the book's request, instruct the financial institution, insurance carrier, or intermediary to remit the excess to the book or, in the case of a bond, to reduce the bond accordingly.~~

~~14. When a book ceases operating and its license lapses or is surrendered or revoked, the chairman may demand payment of the reserve, any income accruing on the reserve after operations cease, and, if instructions from the chairman that income accruing on the reserve not be paid to the book are in effect when operations cease, any income accruing since the instructions took effect. The board may interplead the funds in state district court for distribution to the patrons for whose protection and benefit the reserve was established and to such other persons as the court determines are entitled thereto, or shall take such other steps as are necessary to effect the proper distribution of the funds, or may do both.~~

~~15. As used in this section, "month" means a calendar month unless the chairman requires or approves a different monthly period to be used~~

for purposes of this section, in which case “month” means the monthly period so required or approved.]

26C.070 Acceptance of wagers.

1. No change.
2. No change.
3. A book that knows or should know that the outcome of an event has already been determined shall not [~~knowingly~~] accept money or its equivalent ostensibly as a wager upon such an event [~~whose outcome has already been determined~~].
4. No change.
5. No change.
6. No change.

26C.160 Wagering communications; establishing patron wagering accounts for pari-mutuel race wagering.

1. No change.
2. Each book shall prepare a written description of its house rules and procedures for wagering communications, and shall [~~furnish a copy~~] make a copy available to each patron for whom a wagering account is established. Prior to adopting or amending such house rules, a book shall submit such rules to the chairman for approval.
3. [~~Each book shall issue each patron a secure personal identification reasonably designed to prevent the acceptance of wagers from persons other than the patrons for whom wagering accounts are established. More than one patron may be assigned to a single wagering account; however, each patron assigned to an account must comply with the provisions of subsections 4, 5 or 6, as applicable.~~
—4.] A race book licensed to accept off-track pari-mutuel horse race wagers may establish wagering accounts for residents of Nevada and residents of any state or foreign jurisdiction in accordance with Regulation 5.225 and this regulation. Patrons having established a wagering account may place off-track pari-mutuel horse race wagers from within Nevada or from other states or foreign jurisdictions in which pari-mutuel horse race wagering is legal provided that the state or foreign jurisdiction does not otherwise restrict wagering on accounts located outside its borders. [~~Such accounts may be established remotely or in person.~~] Before a race book accepts a wagering communication, or

a call center accepts a wagering instruction, on an off-track pari-mutuel horse race, the following must occur:

(a) A race book must register the patron and create a wagering account for the patron in accordance with Regulation 5.225.

(b) A race book shall confirm that the state or foreign jurisdiction in which the patron resides is a jurisdiction in which off-track pari-mutuel horse race wagering is legal, and that the state or foreign jurisdiction does not otherwise restrict wagering on accounts located outside its borders, prior to the book accepting wagers on such accounts. The race book shall maintain a record of such confirmation.

(c) The race book must have the patron affirm in writing that the patron has been informed and acknowledges that, with regard to off-track pari-mutuel horse race wagers, the book may accept such wagers from patrons only when the patron is located within Nevada or other states or foreign jurisdictions in which pari-mutuel horse race wagering is legal and such wagering on accounts located outside its borders is not otherwise restricted.

~~[Patrons having established an account pursuant to this subsection may place wagers only within the borders of the state or foreign jurisdiction in which the patron resides or a jurisdiction in which pari-mutuel horse race wagering is legal, and that the state or foreign jurisdiction does not otherwise restrict wagering on accounts located outside its borders. Before a book accepts a wagering communication:~~

~~(a) For an individual patron, the patron must provide, and the account wagering system must record and maintain, the patron's:~~

~~—(1) Name, permanent home address (other than a post office box number), and home telephone number;~~

~~—(2) Mailing address and, if the mailing address is not a post office box number and is a residence or place of business of the patron, the telephone number of the residence or place of business;~~

~~—(3) Date of birth, gender, and a description and number of the identity credential provided and social security number, for United States residents only; and~~

~~—(4) Method used to verify the patron's identity and residence, and a description, including the document number, of the identity credential provided;~~

~~—(b)]~~ (d) Notwithstanding the requirements of subsection 5 of Regulation 5.225, Ffor a business entity patron, the patron must

provide an employee of the book, and the book must record and maintain, the information required pursuant to NRS Chapter 463.800 before the book registers and creates a wagering account for the patron. The employee must record such information. Unless a book has otherwise been granted approval by the chairman pursuant to subsection 6(a)(2) of Regulation 22.140, the information required pursuant to NRS 463.800 shall be provided by the patron to an employee of the book at the premises of the book or, for central site books, at an outstation, satellite or affiliated book;

~~[(e) The account wagering system must record and maintain the patron's acknowledgment of statements attesting that the patron:~~

- ~~— (1) Confirms the accuracy of the information recorded;~~
- ~~— (2) Has received a copy of the book's rules and procedures for wagering communications;~~
- ~~— (3) Has been informed and understands that, with regard to pari-mutuel horse race wagers, a race book licensed to accept off track pari-mutuel wagers may accept such wagers from patrons only when located within a state or foreign jurisdiction in which the patron resides or in a jurisdiction in which pari-mutuel horse race wagering is legal, and that the state or foreign jurisdiction does not otherwise restrict wagering on accounts located outside its borders; and~~
- ~~— (4) Consents to the monitoring and recording by the board of any wagering communications;~~

~~— (d) Upon completion of the application process, the account wagering system must record and maintain the:~~

- ~~— (1) Date the patron's account with the book is opened;~~
- ~~— (2) Account wagering number with the book; and~~
- ~~— (3) Approved credit limit or the amount of the patron's initial wagering account deposit;~~

~~— (e) The race book shall utilize the services of an independent third party to perform identity, residence, and age verification services with regard to the individual patron(s) establishing the wagering account. The book shall maintain a record of such verification; and~~

~~— (f) The race book shall confirm that the state or foreign jurisdiction in which the patron resides is a jurisdiction in which pari-mutuel horse race wagering is legal, and that the state or foreign jurisdiction does not otherwise restrict wagering on accounts located outside its borders;~~

~~prior to the book accepting wagers on such accounts. The book shall maintain a record of such confirmation.~~

~~—5. A race book licensed to accept off track pari-mutuel horse race wagers may establish a wagering account for any patron that is not a resident of Nevada that will place wagers on such an account from within Nevada's borders. Such accounts must be established in person. Before a book accepts a wagering communication on such an account:~~

~~—(a) The patron must personally appear at the premises of the book or, for central site books, at an outstation, satellite or affiliated book, to open a wagering account;~~

~~—(b) For an individual patron, an employee of the book must examine, in the patron's presence, the patron's:~~

~~—(1) Driver's license;~~

~~—(2) Passport;~~

~~—(3) Non-resident alien identification card;~~

~~—(4) Other reliable government issue identification credential; or~~

~~—(5) Other picture identification credential normally acceptable as a means of identification when cashing checks;~~

~~—(c) For an individual patron, the employee must record:~~

~~—(1) The patron's name, permanent home address (other than a post office box number), and home telephone number;~~

~~—(2) The patron's mailing address and, if the mailing address is not a post office box number and is a residence or place of business of the patron, the telephone number of the residence or place of business;~~

~~—(3) Date of birth, gender, a description and number of the identity credential provided, and social security number, for United States residents only;~~

~~—(4) Method used to verify the patron's identity and residence, and a description, including the document number, of the identity credential provided;~~

~~—(5) The patron's approved credit limit or the amount of the patron's initial wagering account deposit;~~

~~—(6) The patron's account number with the book; and~~

~~—(7) The date the patron's account with the book is opened;~~

~~—(d) For a business entity patron, the patron must provide an employee of the book with the information required pursuant to NRS Chapter 463. The employee must record such information;~~

~~—(e) The patron must sign, in the presence of a supervising employee of the book, statements attesting that the patron:~~

~~—(1) Confirms the accuracy of the information recorded;~~

~~—(2) Has received a copy of the book's rules and procedures for wagering communications;~~

~~—(3) Has been informed and understands that patrons that establish a wagering account pursuant to this subsection 5 are prohibited by law from placing wagering communications from outside Nevada and that the book is prohibited by law from accepting them;~~

~~—(4) Has read, understands, and is bound by the provisions of subsection 6; and~~

~~—(5) Consents to the monitoring and recording by the board of any wagering communications; and~~

~~—(f) The employee who verifies the patron's identity and residence and who obtains and records the information on behalf of the book and the supervising employee described in subparagraph (e), must each sign statements that they witnessed the patron's signature and confirmed the patron's identity and residence.~~

~~—6. With regards to accounts opened pursuant to subsection 5, the book shall accept pari mutuel horse race wagers on the patron's wagering account only during the year after the account is opened, unless:~~

~~—(a) The patron places account wagers in person at the licensed Nevada gaming establishment in which the wagering account was established;~~

~~—(b) The patron places account wagers in person at another licensed Nevada gaming establishment through the use of communications technology specifically approved for such use; or~~

~~—(c) The patron renews the account. Patrons may renew accounts for one and only one additional year by appearing personally at the premises of the book prior to the expiration of the initial year and signing a renewal form. Two employees of the book, at least one of whom must be a supervising employee, shall witness the patron's signature on the renewal form and each shall attest thereto by signing the renewal form. When the renewal period expires, the book shall accept no further wagering communications from the patron until the patron again complies with the provisions of subparagraphs (a), (b), (d) and (e) of subsection 5. Additionally, a book shall not accept a wager on such an account if the patron is not physically located within Nevada's borders.~~

~~—7. For each wagering account established for the purpose of accepting wagering communications, the book shall record the secure personal identification assigned to the patron, and the date/time and amount of each:~~

~~—(a) Deposit;~~

~~—(b) Withdrawal;~~

~~—(c) Wager placed and accepted including the wagering transaction number;~~

~~—(d) Payout on winning wager;~~

~~—(e) Charge for horse racing related services or merchandise;~~

~~—(f) Service or other transaction related charge authorized by the patron; and~~

~~—(g) Adjustment to the account.~~

~~—8.]~~ 4. In addition to the posting of the wager in the off-track pari-mutuel race system, all wagering communications shall be electronically recorded and retained for a period of 60 days. The method of recording the wager must be approved by the chairman. Such recordings must be made immediately available to any board agent upon request.

~~[9.]~~ 5. All wagering account applications or amendments thereto for active accounts must be retained by the book. All wagering account applications or amendments thereto for rejected applications shall be retained by the book for no less than one year following the rejection of the related application. All wagering account applications or amendments thereto for closed accounts shall be retained by the book for no less than one year following the closure of the related wagering account.

6. A race book shall not allow the use of a wagering account established pursuant to this section for forms of wagering other than off-track pari-mutuel horse race wagering unless:

(a) The establishment and use of the wagering account otherwise meets all of the requirements of regulation 5.225; and

(b) Administrative approval has been granted by the chairman.

~~[26C.180 Account wagering rules. Each book that offers account wagering shall adopt, conspicuously display at its licensed premises, make available through the account wagering system, and adhere to written, comprehensive house rules governing account wagering~~

~~transactions with patrons. Prior to adopting or amending such house rules, a book shall submit such rules to the chairman for approval. Without limiting the generality of the foregoing, the rules must include statements to the effect that:~~

~~—1. All applicable house rules apply to wagering accounts.~~

~~—2. The book shall provide each patron, upon reasonable request and consistent with its internal control policies, with a statement of account showing each wagering account deposit, each wagering account withdrawal, each credit to a wagering account, and each debit to the wagering account made during the time period reported by the account statement. The patron may dispute any transaction according to NGC Regulation 7A.~~

~~—3. For all wagering communications the book is required to make a voice, print, electronic or other approved record of the entire transaction and shall not accept any such wager or transaction if the recording system is inoperable. The record of the patron's confirmation of all wagering information shall be deemed to be the transaction of record, regardless of what was recorded by the off track pari mutuel race system. The records are made available to the board upon request.~~

~~—4. The book has the right to:~~

~~—(a) Refuse the establishment or maintenance of accounts for what it deems good and sufficient reason;~~

~~—(b) Refuse deposits to accounts for what it deems good and sufficient reason;~~

~~—(c) Refuse to accept all or part of any wager for what it deems good and sufficient reason;~~

~~—(d) Declare the account wagering system closed for receiving any or all wagers;~~

~~—(e) Suspend or close any account at any time, provided, however, when an account is closed, the book shall, within five business days, return the balance of the wagering account at the time of said action, subject to compliance with these regulations, the book's house rules, and federal and state laws and regulations, by sending a check to the patron's address of record; or~~

~~—(f) Close any wagering account when the patron thereof attempts to operate with an insufficient balance or when the account is dormant for a period established by the book. In either case, the book shall refund~~

~~the balance of the wagering account, subject to compliance with these regulations, the book's house rules, and federal or state law.~~

~~—5. The book shall keep confidential, except from the patron, the board, or as otherwise required by federal or state law:~~

~~—(a) The amount of money credited to, debited from, or present in any particular patron's wagering account;~~

~~—(b) The amount of money wagered by a particular patron on any event;~~

~~—(c) The account number and secure personal identification method that identifies the patron;~~

~~—(d) The identities of particular entries on which a patron is wagering or has wagered; and~~

~~—(e) Unless otherwise authorized by a patron, the name, address, and other information in the possession of the book that would identify the patron to anyone other than the board or the book.~~

~~—6. Books shall disclose their policy regarding the acceptance of personal checks, cashier's checks, wire transfers, money orders, debit cards, credit cards and electronic transfers of money to the patron.~~

~~—7. Books shall disclose their policy regarding the patron's use of the wagering account while the patron is on the premises of the book.~~

~~—8. Books shall disclose their policy that pari mutuel race wagers are accepted from patrons only when located within a state or foreign jurisdiction in which the patron resides or in a jurisdiction in which pari mutuel horse race wagering is legal, and that the state or foreign jurisdiction does not otherwise restrict wagering on accounts located outside its borders.]~~

26C.185 Business Entity Wagering.

1. No change.

2. No change.

3. No change.

4. No change.

5. No change.

6. No change.

7. No change.

8. A book may only accept wagering activity from a business entity acting through one or more designated individuals, through a wagering account established by the business entity and may only deposit

winnings into such wagering account. The book must use an account wagering system for such wagering activity. The requirement to use an account wagering system is effective on January 1, 2017.

9. No change.

10. No change.

11. No change.

12. A book that accepts wagers from business entities shall implement policies and procedures designed to ensure that business entities' wagering accounts are used only to place book wagers.

13. As used in this section, "holding company" means any corporation, firm, partnership, limited partnership, limited-liability company, trust or other form of business organization which, directly or indirectly:

(a) Owns, as defined in Regulation 15.482-6;

(b) Controls, as defined in Regulation 15.482-4; or

(c) Holds with power to vote

□ any part of a business entity subject to this section. In addition to any other reasonable meaning of the words used, a holding company "indirectly" has, holds or owns any power, right or security if it does so through any interest in a subsidiary or successive subsidiaries, however many such subsidiaries may intervene between the holding company and the business entity subject to this section.

26C.190 Wagering account transactions.

1. Except as otherwise provided herein, deposits, credits, and debits to wagering accounts shall be made in accordance with Regulation 5.225.

~~[Wagering account deposits may be made by any of the following means:~~

~~—(a) Cash deposits made directly;~~

~~—(b) Personal checks, cashier's checks, wire transfers, and money order deposits made directly or mailed;~~

~~—(c) Credit instruments issued pursuant to Regulation 6.120 and in accordance with the Regulation 6.090 minimum internal control standards or the Regulation 6.100 internal control procedures, as applicable;~~

~~—(d) Transfers from safekeeping or front money accounts otherwise held by the licensed gaming establishment excluding other race or sports wagering accounts;~~

~~—(e) Debits from a patron’s debit card or credit card, upon direct instructions of the patron, provided the use of such card has been pre-approved by the book and designated by the patron;~~

~~—(f) Debits by electronic transfers of money from a monetary account controlled by a patron. The patron may be liable for any charges imposed by the transmitting and receiving entity and the charges may be deducted from the patron’s wagering account; and~~

~~—(g) Any other means approved by the chairman.~~

~~—2. Wagering account credits may be made by any of the following means:~~

~~—(a) Deposits; and~~

~~—(b) Amounts won by a patron.~~

~~—3. Wagering account debits may be made by any of the following means:~~

~~—(a) Amounts wagered by a patron;~~

~~—(b) Service or other transaction related charges authorized by the patron;~~

~~—(c) Purchases of horse racing related merchandise and services requested by a patron; and~~

~~—(d) Withdrawals.~~

~~—4. Wagering account withdrawals shall be completed within five business days after the book receives a request from a patron by mail, telephone, or a communications technology accompanied by the valid account number and the patron’s secure personal identification and, if by mail, a signed completed withdrawal slip. If sufficient funds are available, the book shall refund to the patron the amount of the requested withdrawal to the address of record. An electronic transfer of money may be used in lieu of a check at the discretion of the patron. Patrons may make withdrawals in person with such identification as required by the book, the valid account number and the patron’s secure personal identification.~~

~~—5.] **2.** Business entity wagering account deposits and withdrawals may only be made by transfers to and from the bank or financial institution account maintained by the business entity. Business entity wagering account deposits and withdrawals may not be made in cash.~~