

INSTRUCTIONS

Required Licenses

Section 60-1-6-C of the Horse Racing Act prohibits the issuance of a license to conduct a horse racing meet (hereinafter referred to as the primary licensee) unless each person having any direct or indirect interest therein of any nature whatsoever, whether financial, administrative, policy making or supervisory, is individually licensed (hereinafter referred to as "secondary licensees"). If the primary licensee is a corporation, every stockholder of the corporation must individually be licensed as secondary licensees.

Change of Licensee

It shall be the duty of every corporation holding a license to conduct a race meet in this state to notify, immediately, the Racing Commission when it appears from the stock records of the corporation that a person not licensed by the Commission holds ten percent or more of the total authorized, issued and outstanding shares of the corporation. Horse Racing Act 60-1-6-F (1) All persons acquiring ten percent or more of the stock of a licensed corporation are required to be licensed as secondary licensees. If the stockholder is refused a license by the Commission, he shall be ordered by the Commission to divest himself of those shares. Horse Racing Act 60-1-6-I.

If a licensed corporation desires to change or add any administrative, policy making or supervisory personnel during the license period, the new personnel shall be licensed by the Commission prior to performing any financial, administrative, policy making or supervisory functions. ***Failure of the primary licensee to ensure licensure of all persons required to obtain secondary licenses shall be cause for revocation or denial of a primary license. Horse Racing Act 60-1-6-M.***

Submission Requirements

The attached application is designed to ascertain the information necessary prior to consideration of the granting or renewal of an application to conduct a horse racing meeting in New Mexico. ***It is the duty of the applicant to complete the Application to Conduct a Horse Racing Meet. All Applications for Secondary Licenses must be attached to the application for a Primary License. The burden of proving qualifications to receive and hold a primary or secondary license is at all times on the applicant or licensee. Horse Racing Act 60-1-6-A.*** If it is determined that an application is incomplete at the time of filing, the applicant will be granted ninety (90) days in which to complete the application. If after that time, the applicant fails to complete the application, it will be rendered inactive and the applicant will be required to file a new application.

Definitions

Renewal: A renewal of a primary application shall be made no later than June 1st for all proposed racing meets and dates to be run in the succeeding calendar year. (Items 1 through 17 and Item 34 need only be completed for a renewal.) An occupational application in lieu of a secondary application will be submitted with, or attested to, the renewal application.

Person means one or more individuals, a partnership, association, organization, corporation, joint venture, legal representative, limited liability company, trustee, receiver, syndicate or other legal entity.

"Primary Licensee" or "applicant for primary license" means a person licensed or a person applying for a license to conduct a horse racing meet in this state.

“Secondary Licensee” or “applicant for a secondary license” means every person who is licensed or is applying for a license to have a direct, indirect or beneficial interest in a primary licensee of any nature whatsoever, whether financial, administrative, policy making or supervisory.

“Occupational Licensee” or “applicant for occupational license” means all persons required to be licensed pursuant to Section 60-1-5-A of the Horse Racing Act, including all persons engaged in racing or employed on the primary licensee’s premises.

Rules of Attribution

In determining whether a person has a direct, indirect or beneficial interest in the primary licensee or whether a person owns ten percent or more of the stock of a primary licensee, the following rules of attribution shall be used:

1. **Individual.** An individual shall be considered as owning the stock of a corporation if the stock is owned directly or indirectly, by or for his family or by or for his partner. For purposes of this paragraph, the family of an individual includes his spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), his brothers and sisters whether by the whole or half blood), or his ancestors. Horse Racing Act 60-1-6.
2. **Persons other than Individuals.** Stock owned, directly or indirectly, by a person other than an individual (e.g. a corporation, partnership, estate, trust, etc.) shall be considered as being owned proportionately by its share holders, partners or beneficiaries. For example, every stockholder or a corporation which owns ten percent or more of the stock of a corporation which owns ten percent or more of the stock of a primary licensee must be licensed and so on. Horse Racing Act 60-1-6.
3. **Options.** If any person (see definition of person above) has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock. Horse Racing Act 60-1-6.

Lenders

All persons who lend to a primary licensee, or hold evidence of indebtedness, or to a secondary licensee must be individually licensed as secondary licensees prior to the actual advance of any money to the primary or secondary licensee. For example, a bank lending money to a corporation which owns ten percent or more of the stock of a corporation which is licensed to conduct a horse race meet in this state must be individually licensed. Horse Racing Act 60-1-6C.