

NOTE: Government Code section 11340.85 requires the Board to post all notices, initial statement of reasons and texts of rules noticed to the public until 15 days after the proposed regulations are filed with the Secretary of State by the Office of Administrative Law.

CALIFORNIA HORSE RACING BOARD
TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS

NOTICE OF PROPOSAL TO ADD
RULE 2073.1 ENTITIES TO GEO-LOCATE CALIFORNIA
RESIDENTS AT THE TIME OF WAGER
AND TO AMEND

RULE 2071. LICENSE TO CONDUCT ADVANCE DEPOSIT WAGERING BY A
CALIFORNIA APPLICANT,
RULE 2072. APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING BY AN OUT-
OF-STATE APPLICANT

The California Horse Racing Board (Board or CHRB) proposes to add and amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to add Rule 2073.1, Entities to Geo-Locate California Residents at the Time of Wager. The proposed new rule would require that all Advance Deposit Wagering (ADW) providers use geo-locating when California residents use their ADW accounts to place a wager using any electronic device, including but not limited to; mobile phones, tablets, and personal computers while physically present within a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility. Such data shall be delivered as part of the daily download of pari-mutuel data to California Horse Racing Information Management System (CHRIMS), the Board designated database as required pursuant to Business and Professions Code section 19604(c).

Furthermore, the Board proposed to amend Rule 2071, License to Conduct Advance Deposit Wagering by a California Applicant, and Rule 2072, License to Conduct Advance Deposit Wagering by an Out-of-State Applicant. These proposed amendments would revise the ADW application process for in-state and out-of-state applicants to require that they submit to the Board information, including an overview of the processes and technology they will use, to show how they will comply with the location tracking requirements established under proposed Rule 2073.1 through the term of their license.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., December 14, 2017**, or as soon thereafter as business before the Board will permit, at the **Los Alamitos Race Course, 4961 Katella Avenue, Los Alamitos, California 90120**. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on December 4, 2017**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

John R. McDonough
General Counsel
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6011
Fax: (916) 263-6022
E-mail: jmcdonough@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority: Sections 19440, 19590 and 19604, California Business and Professions Code.
Reference: Sections 19460 and 19604

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter (Chapter 4 Horse Racing Law). Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering; administration and enforcement of all law, rules and regulations affecting horse racing and pari-mutuel wagering. Business and Professions Code section 19590 sets forth that the Board shall adopt rules governing, permitting, and regulating wagering on horse racing and that pari-mutuel wagering shall only be conducted by entities licensed by the Board including those entities authorized by the Board to conduct advance deposit wagering. Business and Professions Code section 19460 requires that all licenses granted by the Board must be in writing, and are subject to rules, regulations and conditions prescribed by the Board, and shall contain such conditions as are necessary or desirable by the Board for the best interests of horse racing. Business and Professions Code section 19604 provides that the Board may authorize a racing association, racing fair, betting

system, or multijurisdictional wagering hub to conduct advance deposit wagering in accordance with section 19604.

Business and Professions Code section 19604 was enacted on January 1, 2002. The statute authorized the Board to regulate and license the conduct of Advanced Deposit Wagering (ADW) in California. Customers legally establishing accounts with licensed ADW companies were able to place wagers over the phone or internet. It was anticipated that ADW wagers would be made from a customer's home or office. At the time of enactment cellular and wifi technologies were, by today's standards, rudimentary. However, today, customers can wager from nearly anywhere via electronic devices, including but not limited to, mobile phones, tablets and personal computers, including placing wagers electronically at the racetrack. While this ability to place a wager via mobile phone or laptop while sitting in one's seat at the racetrack is an important customer convenience, it has had a detrimental effect on revenue streams, because wagers made on-track through tellers at the betting window or self-service machines located at the racetrack result in greater net revenue for purses and racetrack commissions than do wagers made via ADW.

The proposed addition of Rule 2073.1, Entities to Geo-locate California Residents at the Time of Wager, will require all ADW providers to collect the physical location of its account holders who are California residents each time such account holder uses their ADW accounts to place a wager using any electronic device, including but not limited to; mobile phones, tablets, and personal computers while physically present within a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility. Such data shall be delivered as part of the daily download of pari-mutuel data to the Board's designated database, California Horse Racing Information Management System (CHRIMS); this will allow the Board to distinguish those ADW wagers that are placed on track; from those that are placed from locations other than the race track. This information is useful in those instances when contractual compensation agreements that provide for varied distributions based on the location of the wager are entered in between licensed ADW providers and the racing associations or fairs pursuant to Business and Professions Code section 19604.

The proposed amendments to Rule 2071, License to Conduct Advance Deposit Wagering by a California Applicant, and Rule 2072, License to Conduct Advance Deposit Wagering by an Out-of-State Applicant will revise the ADW application process for in-state and out-of-state applicants, to require that they submit to the Board information, including an overview of the processes and technology they will use, to show how they will comply with the location tracking requirements established under proposed Rule 2073.1 through the term of their license.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

Industry stakeholders proposed the addition of a rule that would require ADW providers to utilize Global Positioning Systems (GPS) tracking technology (i.e. geo-location technology) to identify those wagers placed by California resident account holders when they are physically present within a licensed California racing facility, simulcast wagering facility or mini-satellite wagering facility. Stakeholders expressed concern regarding the "growing issue of players wagering on track via their ADW accounts." They (stakeholders) were not attempting to prevent patrons from wagering in this manner. Their concern was that revenue from these wagers should be distributed at a rate

more favorable to horsemen and racetracks. The Horse Racing Law allows for contractual compensation rate agreements between licensed ADW providers and racing associations or fairs under Business and Professions Code section 19604; however recently, these parties have been negotiating alternative compensation rates based on the location of certain ADW wagers (e.g. wagers on-track versus wagers off-track). In order for the Board to adequately monitor and review these distributions, it is necessary for ADW providers to submit relevant location data for wagers made by California residents in this State.

Rule 2073.1, Entities to Geo-locate California Residents at the Time of Wager, requires ADW providers to collect the physical location of its California account holders each time such California resident places a wager through their account using any electronic device, including, but not limited to mobile phones, tablets and personal computer, while physically present at a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility; and as part of the daily download of pari-mutuel data, delivers such data to CHRIMS, the Board's designated database.

Requiring geo-location of ADW wagers of California residents placing wagers via ADW while physically located within a license California racing facility, simulcast wagering facility or mini-satellite wagering facility allows the industry to distinguish those ADW wagers that are placed on track; from those that are placed from locations other than the race tracks. This information is useful in those instances when contractual agreements regarding contractual compensation rates are entered in between a licensed ADW provider and the racing association as provided under Business and Professions Code section 19604.

Subsequent to the request for the proposed addition of Rule 2073.1, ADW providers' implemented geo-location of ADW wagers placed by California residents while physically located within a license California racing facility, simulcast wagering facility or mini-satellite wagering facility. Rule 2073.1 will codify and ensure current practice.

Benefits of the Proposed Action: The proposed regulation will directly benefit the financial well-being of California residents and businesses, as it will allow for a more accurate accounting for those California residents wagering within a racing venue which in turn will result in a more accurate and lucrative payment to horsemen and racetracks which should result in greater purses, and in turn, attract greater attendance to these venues by the public.

CONSISTENCY EVALUATION

During the process of developing these regulations and amendments, the CHRB has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed addition of Rule 2073.1, and the amendments to Rules 2071 and 2072 will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: none

Cost impact on representative private persons or businesses: No new costs for private businesses, because the proposed regulations will codify and ensure current existing practice.

Significant effect on housing costs: none.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed Rule 2073.1, and the amendments to Rules 2071 and 2072, will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The proposed addition of Rule 2703.1, and the amendments to Rules 2071 and 2072, do not benefit the health and welfare of California residents; the rule simply requires geo-location of ADW wagers.

Effect on small businesses: none. The proposal to add Rule 2073.1 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a) (13), the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

John R. McDonough
General Counsel
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6011
Fax: (916) 263-6022
E-mail: jmcdonough@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Andrea Ogden, Manager
Policy, Regulations and Legislation
Telephone: (916) 263-6033

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based on, may be obtained by contacting John R. McDonough, or the alternative contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of John R. McDonough at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of John R. McDonough at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

RULE 2073.1 Entities to Geo-Locate California Residents at the Time of Wager.

RULE 2071. License to Conduct Advance Deposit Wagering by a California Applicant.

RULE 2072. Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant.

SPECIFIC PURPOSE OF THE REGULATION

The Board proposes to add Rule 2073.1, Entities to Geo-Locate California Residents at the Time of Wager. “Advance Deposit Wagering” (ADW) is a form of pari-mutuel wagering in which an account holder residing within or outside California establishes an account with an ADW provider, licensed by the California Horse Racing Board, (Board) and allows the account holder to place wagers on horse racing using any electronic device, including, but not limited, mobile phones, tablets, and personal computers.

The proposed Rule 2073.1 would require that all ADW providers use geo-locating when California residents use their ADW accounts to place a wager using any electronic device, including but not limited to; mobile phones, tablets, and personal computers while physically present within a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility. Such data shall be delivered as part of the daily download of pari-mutuel data to California Horse Racing Information Management System (CHRIMS), the Board designated database as required pursuant to Business and Professions Code section 19604(c). Rule 2073.1 will allow the Board to determine if a wager has been placed by an ADW California resident while physically present at a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility.

Furthermore, the Board proposes to amend Rule 2071, License to Conduct Advance Deposit Wagering by a California Applicant, and Rule 2072, License to Conduct Advance Deposit Wagering by an Out-of-State Applicant. These proposed amendments would revise the ADW application process for in-state and out-of-state applicants to require that they submit to the Board information, including an overview of the processes and technology they will use, to show how they will comply with the location tracking requirements established under proposed Rule 2073.1 through the term of their license. This will ensure that ADW provider applicants are able to meet the requirements of proposed Rule 2073.1 before they are licensed by the CHRB.

Industry stakeholders proposed the addition of a rule that would require ADW providers to utilize Global Positioning Systems (GPS) tracking technology (i.e. geo-location technology) to identify those wagers placed by California resident account holders when they are physically present within a licensed California racing facility, simulcast wagering facility or mini-satellite wagering facility. Stakeholders expressed concern regarding the growing issue of players wagering on track via their ADW accounts. They [stakeholders] were not attempting to prevent patrons from wagering in this manner. The concern was that revenue from these wagers should be distributed at a rate more favorable to horsemen and racetracks. By statute, wagers placed on track are distributed at a different rate than those wagers made via ADW. Horse Racing Law allows for contractual compensation rate agreements between licensed ADW providers and racing associations or fairs under Business and Professions Code section 19604; however to

negotiate fully informed, it is necessary that the parties know where ADW wagers are being placed.

Subsequent to the request for the proposed addition of Rule 2073.1, ADW providers implemented geo-location of ADW wagers placed by California account holders while physically located within a license California racing facility, simulcast wagering facility or mini-satellite wagering facility. Rule 2073.1 will codify and ensure current practice.

PROBLEM

Business and Professions Code section 19604 was enacted on January 1, 2002. The statute authorized the Board to regulate and license the conduct of ADW in California. Customers legally establishing accounts with licensed ADW providers were able to place wagers over the phone or internet. It was anticipated that ADW wagers would be made from a customer's home or office. At the time of enactment cellular and wifi technologies were, by today's standards, rudimentary. However, today, customers can wager from nearly anywhere via electronic devices, including but not limited to, mobile phones, tablets and personal computers, including placing wagers electronically at the racetrack. While this ability to place a wager via mobile phone or laptop while sitting in one's seat at the racetrack is an important customer convenience, it has had a detrimental effect on revenue streams, because wagers made on-track through tellers at the betting window or self-service machines located at the racetrack result in greater net revenue for purses and racetrack commissions than do wagers made via ADW.

The proposed addition of Rule 2073.1, Entities to Geo-locate California Residents at the Time of Wager, will require all ADW providers to collect the physical location of its account holders who are California residents each time such account holder uses their ADW accounts to place a wager using any electronic device, including but not limited to; mobile phones, tablets, and personal computers while physically present within a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility. Such data shall be delivered as part of the daily download pari-mutuel data to the Board's designated database, California Horse Racing Information Management System (CHRIMS); this will allow the Board to distinguish those ADW wagers that are placed on track; from those that are placed from locations other than the race tracks. This information is useful in those instances when contractual compensation agreements that provide for varied distributions based on the location of the wager are entered in between licensed ADW providers and the racing associations or fairs as provided under Business and Professions Code section 19604.

NECESSITY

Proposed Rule 2073.1 (a) deals with the need for accurately establishing a wagering customer's location. The section requires licensed ADW providers to geo-locate the physical location of its California account holders each time a wager is placed using any electronic device including, but not limited to, mobile phones, tablets, and personal computers, while physically present within a licensed racing facility. Because of GPS' worldwide tracking capability geo-location technology can now identify those wagers placed by ADW account holders when they are physically present within a California brick-and-mortar licensed racing facility and/or simulcast or mini-satellite

wagering facility. This will allow the Board to distinguish those ADW wagers that are placed on track; from those that are placed from locations other than the race tracks. This information is useful in those instances when contractual compensation agreements are entered in between licensed ADW providers and the racing associations or fairs as provided under Business and Professions Code section 19604.

Proposed Rule 2073.1 (b) requires that all licensed ADW providers shall provide an accounting of all wagers placed by California residents using their ADW accounts while physically present within a licensed California racing or wagering facility. Such data shall be delivered as part of the daily download of pari-mutuel data to California Horse Racing Information Management System (CHRIMS), the Board designated database as required pursuant to Business and Professions Code section 19604(c). This is consistent with current practice; as all California racetracks, simulcast facilities, mini-satellite wagering facilities and advance wagering providers currently participate in such a data interface. This delivery of information required pursuant to section 2073.1(b) will allow the Board to distinguish those ADW wagers that are placed on track; from those that are placed from locations other than the race tracks. This information is useful in those instances when contractual compensation agreements that provide for varied distributions based on the location of the wager are entered in between licensed ADW providers and the racing associations or fairs as provided under Business and Professions Code section 19604.

Proposed Rule 2073.1 (c) requires that any ADW provider must, as part of its application process, provide the Board, “with detailed information, including an overview of the processes and technology they will use to show how they will comply with the location tracking requirements of this section.” Technology has made significant strides regarding its ability to geo-locate a California resident placing a wager since ADWs were authorized. Enhanced technological capabilities have made placing a wager easier and more versatile. To ensure the proper capture and division of the handle (revenue) of each and every wager, compatible geo-locating technology must also be implemented by requiring that every authorized ADW provider describe and provide information regarding the system(s) and processes it hopes to use to accomplish geo-location, the Board can ensure continuity and compliance.

Section 2073.1 (d) provides that ADW providers retain all data collected, pursuant to Rule 2073.1 for two years. Further, the rule mandates that the Board, or its designees, shall be given access for review and audit of all such records and that the Board may initiate investigations and/or inspections to ensure compliance. This provision explicitly gives the Board the authority to verify that the ADW providers are complying with the requirements of Rule 2073.1.

Section 2073.1 (e) requires that any ADW provider, when contracting with a racing association or fair under Business and Professions code section 19604 shall identify a unique contractual compensation rate for wagers placed by California residents using their ADW accounts while physically present within a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility. Thus all ADW providers are obligated under all wagering situations to be in full and identical compliance, ensuring uniformity and transparency.

Proposed amendment to Rule 2071(d) provides that California ADW operator applicants shall also submit to the Board information, including an overview of the processes and technology they will use, to show how they will comply with the location tracking requirements established under Rule 2073.1 through the term of the license. This is necessary to ensure that California ADW provider applicants are able to meet the requirements of proposed Rule 2073.1 before they are licensed by the CHRB.

Proposed amendment to Rule 2072(d) provides that out-of-state ADW operator applicants shall also submit to the Board information, including an overview of the processes and technology they will use, to show how they will comply with the location tracking requirements established under Rule 2073.1 through the term of the license. This is necessary to ensure that out-of-state ADW provider applicants are able to meet the requirements of proposed Rule 2073.1 before they are licensed by the CHRB.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

It is anticipated that implementation of this addition will result in a more accurate reporting of revenue derived from ADW wagers placed by California residents while physically present at brick and mortar horse racing venues. Rule 2073.1 will capture more accurate information needed by stakeholders and the Board when contractual compensation agreements that provide for varied distributions based on the location of the wager are entered into between licensed ADW providers and the racing associations or fairs as provided under Business and Professions Code section 19604.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS

The Board did not rely on any other technical, theoretical, and/or empirical study, reports or documents in proposing the addition and amendment of regulations.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The results of the Board's Economic Impact Assessment as required by Government Code Section 11346.3(b) are as follows:

- The proposed regulation will not impact the creation or elimination of jobs within the State of California.
- The proposed regulation will not have an impact on the creation of new businesses or the elimination of existing businesses in the State of California.
- The proposed regulation will not have an impact on the expansion of existing businesses in the State of California, but will codify business practices already taking place.
- The proposed regulation will benefit California by providing more accurate data associated with ADW wagers and will benefit the state's economic environment.

The Board has made the initial determination that the proposed addition of Rule 2073.1, and the amendments to Rules 2071 and 2072, will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Proposed Rule 2073.1 (b) requires that all licensed ADW providers shall use geo-locating when California residents use their ADW accounts to place a wager using any electronic device, including but not limited to, mobile phones, tablets, and personal computers while physically present within a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility. Further, such data shall be delivered as part of the daily download of pari-mutuel data to California Horse Racing Information Management System (CHRIMS), the Board designated database as required pursuant to Business and Professions Code section 19604(c). This is consistent with current practice; all California racetracks, simulcast facilities and advance wagering providers participate in such a data interface. This rule will allow the industry the ability to distinguish those ADW wagers that are placed on track; from those that are placed from locations other than the race tracks. This information is useful in those instances when contractual compensation agreements are entered in between licensed ADW providers and the racing associations or fairs as provided under Business and Professions Code section 19604.

Purpose:

The proposed addition of Rule 2073.1, and the amendments to Rules 2071 and 2072, will require that all Advance Deposit Wagering (ADW) providers use geo-locating when California residents use their ADW accounts to place a wager using any electronic device, including but not limited to, mobile phones, tablets, and personal computers while physically present within a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility. Such data shall be delivered as part of the daily download of pari-mutuel data to California Horse Racing Information Management System (CHRIMS), the Board designated database as required pursuant to Business and Professions Code section 19604(c). This rule will allow the industry the ability to distinguish those ADW wagers that are placed on track from those that are placed from locations other than the race tracks. This information is useful in those instances when contractual compensation agreements that provide for varied distributions based on the location of the wager are entered into between licensed ADW providers and the racing associations or fairs as provided under Business and Professions Code section 19604.

The Creation or Elimination of Jobs within the State of California

The CHRB has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California.

The Creation of New Businesses or the Elimination of Existing Businesses within the State of California

CHRB has determined this regulatory proposal will not have an impact on the creation of new businesses or the elimination of existing businesses in the State of California.

The Expansion of Businesses Currently Doing Business within the State of California

The proposed addition of Rule 2073.1, and the amendments to Rules 2071 and 2072, will affect only ADW providers and ultimately the industry stakeholders as more accurate information related to ADW wagers will be captured via geo-location of wagers placed by California residents while physically located at a racetrack, simulcast racing facility or mini-satellite wagering facility. Therefore, the CHRB has determined that the proposed regulatory action is not relevant to the expansion of businesses currently doing business in the State of California.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed addition of Rule 2073.1, and the amendments to Rules 2071 and 2072, are a benefit to California because they will allow the industry the ability to distinguish those ADW wagers that are placed at the track; from those that are placed from locations other than the race track. Rule 2073.1 will require that all Advance Deposit Wagering (ADW) providers use geo-locating when California residents use their ADW accounts to place a wager using any electronic device, including but not limited to, mobile phones, tablets, and personal computers while physically present within a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility. Such data shall be delivered as part of the daily download pari-mutuel data to California Horse Racing Information Management System (CHRIMS), the Board designated database as required pursuant to Business and Professions Code section 19604(c).

While the ability to place a wager via mobile phone or laptop while sitting in one's seat at the racetrack is an important customer convenience, it has had a detrimental effect on revenue streams, because wagers made on-track through tellers at the betting window or self-service machines located at the racetrack result in greater net revenue for purses and racetrack commissions than do wagers made via ADW. Identifying the location of ADW wagers placed while physically present at the racetrack provides information that is useful in those instances when contractual compensation agreements that provide for varied distributions based on the location of the wager are entered in between licensed ADW providers and the racing associations or fairs as provided under Business and Professions Code section 19604. ADW providers are currently geo-locating when California residents use their ADW accounts to place a wager using any electronic device, including but not limited to; mobile phones, tablets, and personal computers while physically present within a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility. Rule 2017.3 codifies this practice and serves to ensure that geo-location of wagers placed by California residents via ADW, while physically present at the racetrack. These regulations do not benefit the state's environment.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES

The Board has determined that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

The proposed addition of Rule 2703.1 was discussed at the Regular Board meeting held on October 20, 2016. No alternatives to the recommendation were proposed by the Board or by any other individual or entity at the meeting. No subsequent alternative recommendations were made prior to the notice. The Board invites any interested party to submit comments which offer any alternative proposal.

California Horse Racing Board
October 10, 2017

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 26. ADVANCE DEPOSIT WAGERING
RULE 2073.1. ENTITIES TO GEO-LOCATE CALIFORNIA RESIDENTS
AT THE TIME OF WAGER

2073.1. Entities to Geo-Locate California Residents at the Time of Wager

(a) Every licensed ADW provider shall collect the physical location of its account holders who are California residents each time such account holder places a wager through their account using any electronic device, including, but not limited to, mobile phones, tablets, and personal computers, while physically present within a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility in the State of California.

(1) An account holder's location shall be accurately recorded using the processes and technology identified in the ADW provider's application pursuant to subsection (c) of this regulation.

(b) Using the location data collected pursuant to subsection (a), licensed ADW providers shall provide an accounting of all wagers placed by California residents using their ADW accounts while physically present within a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility. Such data shall be delivered as part of the daily download of pari-mutuel data required pursuant to Business and Professions Code section 19604(c).

(c) Applicants submitting an application for license to conduct advance deposit wagering shall provide the Board with information, including an overview of the processes and technology they will use, to show how they will comply with the location tracking requirements of this section through the term of the license.

(d) Licensed ADW providers shall retain all data collected pursuant to this regulation for two years. The Board, or its designee, shall be given access for review and audit of all such records.

The Board may also conduct investigations, inspections, or request additional information to ensure the requirements of this section are being complied with.

(e) Any contractual agreement entered into between a licensed ADW provider and racing association or fair under the provisions of Business and Professions Code section 19604 shall identify the contractual compensation rate for wagers placed by California residents using their ADW accounts while physically present within a licensed California racing facility, simulcast wagering facility, or mini-satellite wagering facility.

Authority: Sections 19440 and 19604,
Business and Professions Code.

Reference: Section 19604,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 26. ADVANCE DEPOSIT WAGERING
2071. LICENSE TO CONDUCT ADVANCE DEPOSIT WAGERING
BY A CALIFORNIA APPLICANT

2071. License to Conduct Advance Deposit Wagering by a California Applicant.

(a) Prior to an Account being established or wagering being conducted the Applicant located in California must be licensed by the Board. All licenses granted shall be subject to the provisions of Business and Professions (B&P) Code Section 19460 et. seq.

(b) An Applicant for license shall complete an Application for License to Conduct Advance Deposit Wagering, CHRB-132 (New 9/01), hereby incorporated by reference, which is available at the Board's administrative office. The Application must be filed not later than 90 days in advance of the scheduled start date of operation. A bond from a surety company admitted in the state of California or other form of financial security in the amount of \$500,000 must accompany the Application. The term of the license shall be two years from the date the license is issued.

(c) Applicants shall establish security access policies and safeguards pursuant to B&P Section 19604.

(d) Applicants that accept wagers from California residents shall provide a full accounting and verification of the source of the wagers, and a detailed wagering information file that includes, but is not limited to, dollar amount wagered, pool on which the wager was placed, race number and racing venue, zone, breed, zip code of the Account Holder, time wagering stopped, and time of the wager in the form of a daily download of pari-mutuel data to the Board designated database, California Horse Racing Information Management System, that is compatible with a Comma Delimited Text File. Applicants shall also submit to the Board information, including an overview

of the processes and technology they will use, to show how they will comply with the location tracking requirements established under Rule 2073.1 through the term of the license.

(e) Applicants shall provide financial information that demonstrates the financial resources to operate Advance Deposit Wagering and provide a detailed budget that shows anticipated revenue, expenditures and cash flows by month projected for the term of the license.

(f) The Board may conduct investigations, inspections or request additional information from the Applicant as it deems appropriate in determining whether to approve the license.

(g) The Board, or its designee, shall be given access for review and audit of all records. The Applicant shall, at their location during hours of operation, make such information available. The Board may require the Applicant to annually submit audited financial statements.

(h) All advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization.

(i) Applicants shall enter into a written contractual agreement with the bona fide labor organization that has historically represented the same or similar classifications of employees at the nearest horse racing meeting.

(j) The Board shall notify the Applicant in writing within 30 calendar days from the receipt date by the Board's administrative office if the Application is complete or deficient. If the Application is deficient, the notice shall include:

(1) Instructions as to what is required of the Applicant to complete the Application.

(2) Instructions for requesting additional time to satisfy the requirements listed in the notification, if needed.

(k) The Board shall approve or deny an Application within 90 calendar days from the receipt date by the Board unless the Applicant requests and is granted additional time to supply information.

(l) If the Board denies an Application, the Applicant has 30 calendar days, from the receipt date of the Board's denial notification, to request a reconsideration of the Board's decision. The request must be in writing and sent to the Board's administrative office. The Board shall respond in writing to the reconsideration request within 30 working days from the receipt date of the request. If reconsideration is denied, the Applicant may file for judicial review in accordance with Section 11523 of the Government Code.

(m) Subsequent to the issuance of a license to conduct Advance Deposit Wagering under this article, changes or amendments to information or operating procedures contained in an Application will be permitted by order of the Board or by Board approval of a request submitted in writing by the Applicant.

NOTE: Authority cited: Sections 19440, ~~and 19590~~, and 19604, Business and Professions Code.
Reference: Sections 19460 and 19604, Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 26. ADVANCE DEPOSIT WAGERING
2072. LICENSE TO CONDUCT ADVANCE DEPOSIT WAGERING
BY AN OUT-OF-STATE APPLICANT

2072. Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant.

(a) Prior to an Account being established or wagering being conducted the Applicant located out-of-state must be Board-approved. All approvals granted shall be subject to the provisions of Business and Professions (B&P) Code Section 19460 et. seq.

(b) An out-of-state Applicant shall complete an Application For Approval to Conduct Advance Deposit Wagering, CHRB-133 (New 9/01), hereby incorporated by reference, which is available at the Board's administrative office. The Application must be filed not later than 90 days in advance of the scheduled start date of operation. A bond from a surety company admitted in the state of California or other form of financial security in the amount of \$500,000 must accompany the Application. The term of approval is two years from the date the approval is issued.

(c) Out-of-state Applicants shall establish security access policies and safeguards pursuant to B&P Section 19604.

(d) Out-of-state Applicants that accept wagers from California residents shall provide a full accounting and verification of the source of the wagers, and a detailed wagering information file that includes, but is not limited to dollar amount wagered, pool on which the wager was placed, race number and racing venue, zone, breed, zip code of the Account Holder, time wagering stopped, and time of the wager in the form of a daily download of pari-mutuel data to the Board designated database, California Horse Racing Information Management System, that is compatible with a Comma Delimited Text File. Applicants shall also submit to the Board information, including an overview of the processes and technology they will use, to show how they will comply

with the location tracking requirements established under Rule 2073.1 through the term of the license.

(e) Out-of-state Applicants shall provide financial information that demonstrates the financial resources to operate Advance Deposit Wagering and provide a detailed budget that shows anticipated revenue, expenditures and cash flows by month projected for the term of the approval.

(f) The Board may conduct investigations, inspections or request additional information from the out-of-state Applicant as it deems appropriate in determining whether to approve the Application.

(g) The Board, or its designee, shall be given access for review and audit of all records. The out-of-state Applicant shall, at their location during hours of operation, make such information available. The Board may require the out-of-state Applicant to annually submit audited financial statements.

(h) All advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization.

(i) The Board shall notify the out-of-state Applicant in writing within 30 calendar days from the receipt date by the Board's administrative office if the Application is complete or deficient. If the Application is deficient, the notice shall include:

(1) Instructions as to what are required of the out-of-state Applicant to complete the Application.

(2) Instructions for requesting additional time to satisfy the requirements listed in the notification, if needed.

(j) The Board shall approve or deny an Application within 90 calendar days from the receipt date by the Board unless the out-of-state Applicant requests and is granted additional time to supply information.

(k) If the Board denies an Application, the out-of-state Applicant has 30 calendar days, from the receipt date of the Board's denial notification, to request a reconsideration of the Board's decision. This request must be in writing and sent to the Board's administrative office. The Board shall respond in writing to the reconsideration request within 30 working days from the receipt date of the request. If reconsideration is denied, the out-of-state Applicant may file for judicial review in accordance with Section 11523 of the Government Code.

(l) Subsequent to the issuance of an approval to conduct Advance Deposit Wagering under this article, changes or amendments to information or operating procedures contained in an Application will be permitted by order of the Board or by Board approval of a request submitted in writing by the Applicant.

(m) As a condition of approval the out-of-state Applicant shall designate a California agent for receipt of service of process.

(n) By submitting the Application the out-of-state Applicant consents to the jurisdiction of California courts and the application of California law as to all California wagers and operations.

NOTE: Authority cited: Sections 19440, ~~and 19590~~, and 19604, Business and Professions Code.

Reference: Sections 19460 and 19604, Business and Professions Code.