



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 04-019

AN ORDER to repeal Game 23.02 (2), relating to purses paid to greyhound owners who are residents of the State of Wisconsin.

Submitted by **DEPARTMENT OF ADMINISTRATION**

02-12-2004 RECEIVED BY LEGISLATIVE COUNCIL.

03-02-2004 REPORT SENT TO AGENCY.

RS:WF

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

**Proposed Order of the
Department of Administration**

The Department of Administration proposes an order to repeal Game 23.02(2), relating to purses paid to greyhound owners who are residents of the State of Wisconsin.

Analysis prepared by the Department of Administration:

Statutory Authority: ss. 16.004(1), 227.11(2)(a), 562.02(1)(a) and 562.065, Stats.

Statutes Interpreted: ss. 562.02 and 562.065, Stats.

Section Game 23.02(2) was created in the Department's rulemaking order (03-070). The Department proposes repealing this section due to the unforeseen hardship that it has created on the Wisconsin racetracks. This financial hardship presents itself in multiple ways. The racetracks rely on an outside vendor to compute the purses earned by all individuals. The vendor produces a similar system for most greyhound racetracks in the country. The purses are generated by the amount of money wagered on all races over a period of time. The current system does not provide for bonus purses to be paid out based upon the residency of certain owners. The current system would have to be reprogrammed at a significant cost to the racetracks. Although the bonus purses could be calculated and paid without a computer, it would create excessive clerical work that would also be costly to the racetracks.

Additionally, Geneva Lakes Greyhound Track committed to paying a minimum payout of purses to the greyhound and kennel owners that race in Delavan. Geneva Lakes Greyhound Track will supplement out of their own money any purse amount that does not exceed the minimum payout. As a result of paying the bonus purse to Wisconsin owned greyhounds, the variance between the actual purse and the minimum purse is increased and the financial liability to the racetrack is increased. Since this supplement is voluntary, the racetrack has indicated that it will probably have to cease the supplemental purses to the participants. This would result in reduced payments to the vast majority of the kennel owners and greyhound owners participating at the racetrack.

In creating this rule, the Department did not intend to create the disadvantages caused by this rule.

Initial Regulatory Flexibility Analysis:

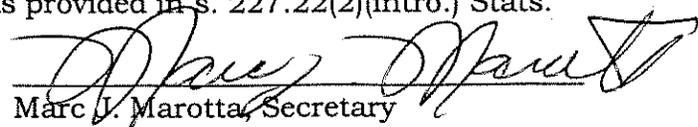
There will be no significant impact on small businesses.

TEXT OF RULE:

SECTION 1: Game 23.02(2) is repealed.

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative register as provided in s. 227.22(2)(intro.) Stats.

Date: 4-7-04


Marc J. Marotta, Secretary

Fiscal Estimate — 2001 Session

- Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number Game 23.03(2)

Subject

Repeal of Administrative Rule that pertains to paying a bonus purse to greyhound owners that reside in the state of Wisconsin.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- Increase Costs — May be possible to absorb within agency's budget.
 Yes No
 Decrease Costs

Local: No Local Government Costs

- | | |
|--|---|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |

5. Types of Local Governmental Units Affected:

- Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The repeal of the rule will not have any fiscal impact on any governmental entity.

Long-Range Fiscal Implications

There are no long term fiscal implications on state or local government.

Prepared By:	Telephone No.	Agency
Daniel J. Subach	608-270-2539	DOA - GAMING
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)



WISCONSIN DEPARTMENT OF
ADMINISTRATION

JIM DOYLE
GOVERNOR

MARC J. MAROTTA
SECRETARY

Office of the Secretary
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1741
Fax (608) 267-3842
TTY (608) 267-9629

Wisconsin Department of Administration
Public Hearing

On

Game 23.02(2) Repeal

DATE: March 16, 2004 – 1:00 PM

NAME: WILLIAM APGAR

ADDRESS: 5522 104th AVE.

PHONE: 262-657-8200

REPRESENTING: DAIRYLAND GREYHOUND PARK

Please check applicable statement(s):

- Appearing in favor.
 Appearing in opposition.
 Appearing for informational purposes.
 I wish to testify.

RECEIVED
DOA-GAMING

04 MAR 30 AM 10:42

600 E. Geneva St. • P.O. Box 650 • Delavan, WI 53115

March 26, 2004

Daniel Subach
Department of Administration
Division of Gaming
P.O. Box 8979
Madison, WI 53708-8979

RE: Game 23.02(2)

Dear Mr. Subach,

I am writing in support of repealing recently implemented rule Game 23.02(2).

This rule, if not repealed, will present undue hardships on personnel, computer program providers and racing department personnel. In addition it would provide for unfair competition and compensation to greyhounds not Wisconsin owned and based, and would seriously effect our ability to attract kennels from other jurisdictions.

First let me state that Wisconsin is the only racing jurisdiction which has proposed a rule that provides for an animal, dog or horse, owned by a resident of the state to receive extra compensation because he or she owns the animal. Other states provide for breeding and foaling incentives.

Because Wisconsin stands alone in this area, the out of state provider that we and other tracks use for updating our past performances, results, and who keep records of every registered greyhound in the country, would have to reprogram their software to provide this service to us at considerable cost in time and money.

This rule, if not repealed, would provide incentive for the unscrupulous to provide for fraudulent ownership of greyhounds in order to avail themselves of the extra compensation. Every dog racing in Wisconsin would have a Wisconsin owner even if the true owner were a resident of another state.

This rule was inconceived when first enacted and must be repealed.

Sincerely,

Milt Roth
Vice President / General Manager

SUMMARY OF PHONE MESSAGE RECEIVED BY DIVISION OF GAMING 3/23/04

At 6:53 a.m. on Tuesday, March 23, 2004, I received a voice mail from Robert Golden co-owner of the Golden Kennel which races at both Geneva Lakes Greyhound Track and Dairyland Greyhound Park. Mr. Golden made the following comment regarding the repeal of the rule.

He was unable to make the public hearing because he had to work in the kennel. He understands why the rule needs to be repealed. He does want money for any time that the rule was in place. Wants to be notified when the rule goes in front of the legislature. He stated that he planned to write a letter.

Mr. Golden also made other comments that were not related to the rule. As of today, March 30th, I have not received a letter from Mr. Golden on the issue.

TRANSCRIPT OF MARCH 16, 2004 PUBLIC HEARING ON GAME 23.02(2)

SAUNDERS: This is the Department of Administration public hearing on Game 23.02(2), Administrative Rule, purses paid to greyhound owners who are residents of the State of Wisconsin. Today is March 16, 2004. It's 1:05 p.m. My name is Mark Saunders, Deputy Legal Counsel for the Department of Administration. With me is Rich Pedersen, Rich your title?

PEDERSEN: Director of Racing and Charitable Gaming with the Department of Administration, Division of Gaming.

SAUNDERS: I'm going to read a statement, a prepared statement, into the record and then we will take any testimony from interested parties. The Department of Administration has set at this time and place a public hearing pursuant to ss. 16.004(1), 227.11(2)(a), 562.02(1)(a), and 562.065 of the Wisconsin Statutes, to consider amending rules relating to the purses paid to greyhound owners who are residents of the State of Wisconsin.

My name is Mark Saunders and I'm the Deputy Legal Counsel for the Wisconsin Department of Administration. With me is Richard Pedersen also from the Wisconsin Department of Administration, Division of Gaming.

In the February 29, 2004 issue of the Wisconsin Administrative Register, notice was given that a public hearing would be held on the rulemaking order proposed by the Department. Copies of the proposed rule have been provided to interested parties. In addition, copies of the hearing notice were hand-delivered to the Press Boxes located in Room 235, Southwest in the State Capitol Building on March 12, 2004.

The purpose of today's hearing is to give all interested persons or their representatives an opportunity to present facts, views or arguments regarding the proposed rule. In addition to today's testimony, the department will accept written comments or questions received by March 26, 2004. Please direct written comments to Donna Sorenson, Department of Administration, 101 East Wilson Street, P.O. Box 7864, Madison, Wisconsin 53707.

The statutes require that all persons present at this hearing have an opportunity to present their arguments and comments to the agency officer responsible for promulgating these rules. The Secretary of the Department of Administration has final responsibility for promulgation of this proposed rule. The Secretary has determined that argument to him should be made in writing rather than by oral argument. Consequently, a transcript of this hearing, along with your written comments will be provided to the Secretary so that your arguments and comments will be presented to him prior to promulgation as required by s. 227.18(3), Stats.

The Department proposes to repeal section 23.02(2), due to the unforeseen hardship that it has created on the Wisconsin racetracks. The racetracks rely on an outside vendor to compute the purses earned by all individuals. The vendor produces a similar system for most greyhound racetracks in the

country. The purses are generated by the amount of money wagered on all races over a period of time. The current system does not provide for bonus purses to be paid out based upon the residency of certain owners. The current system would have to be reprogrammed at significant cost to the racetracks. Although bonus purses could be calculated and paid without a computer, it would create excessive clerical work that would also be costly to the racetracks.

The proposed rule was submitted to the Wisconsin Legislative Council Clearinghouse on February 12, 2004, for their review, analysis and recommendations. On March 2, 2004, the Legislative Council issued a report with no comments relating to the Department's proposed rule amendment.

I'll now go through the appearance slips and see who wants to give testimony on this rule. When I call your name, please come forward to speak. The first person on the list is William Apgar, representing the Dairyland Greyhound Park. Mr. Apgar? And you're appearing in favor and wish to testify.

APGAR: Thank you. My name is William Apgar, I'm the general manager of Dairyland Greyhound Park in Kenosha, Wisconsin. We're in favor of repealing this section Game 23.02 based on the fact that it would create a financial hardship on the racetrack as stated in your narrative. We do use an outside vendor to compute the purses earned by all individuals; it's a very complex computer program. The vendor also produces this system for most of the racetracks around the country. The purses that are computed out of this program in the current system do not provide for the ability to pay bonus purses based on residency of certain owners. It would just be a tremendous undertaking, it would be very expensive for them to reprogram and then we would have to pay for that. We could also do it manually but that would be cost-prohibitive labor wise. So we are asking that the statute, or that Game 23.02 be repealed. Thank you.

SAUNDERS: Can I ask you a question? Do you know of any other jurisdictions in the country that uses this type of system where residency---

APGAR: I'm not aware of any system that has any, it's called a Rostat system, that does any type of breeder's awards anywhere else in the country. I'm not aware of that.

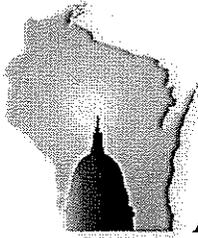
SAUNDERS: At this time there are no other individuals present at the hearing nor anybody that has submitted a hearing slip. We're going to go off the record. We'll remain here for approximately one hour and see if any other parties wish to come and testify.

Back on the record, Mr. Apgar wanted to make a clarification to his original testimony. Mr. Apgar?

APGAR: Thank you. I just wanted to clarify that we are not against the breeder's award because it comes out of the regular purse structure anyway. But as I said, it does cause an extreme hardship for us to implement it with the reprogramming of the computer program and doing it by hand.

SAUNDERS: Okay, the record is still open, we're just turning the tape off until any parties arrive to testify.

Back on the record, it is ten minutes to 2:00 p.m. We have been sitting in the hearing room since last on the tape and no other parties have shown and it's evident that no one else will likely show, so we are closing the hearing at this time. (End of transcript).



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

JIM DOYLE
GOVERNOR

MARC J. MAROTTA
SECRETARY

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TTY (608) 267-9629

April 7, 2004

Honorable Alan J. Lasee, President
Wisconsin State Senate
Room 219 South, State Capitol
Madison, WI 53707-7882

Honorable John Gard, Speaker
Wisconsin State Assembly
Room 211 West, State Capitol
Madison, WI 53708

RE: Clearinghouse Rule No. 04-019

Dear Senator Lasee and Representative Gard:

Enclosed in final draft form is an order to repeal Game 23.02(2), relating to purses paid to greyhound owners who are residents of the State of Wisconsin. The fiscal estimate is also enclosed.

The Department proposes to repeal this rule section due to the unforeseen hardship that it has created on the Wisconsin racetracks. The racetracks rely on outside vendors to compute the purses earned by all individuals. The purses are generated by the amount of money wagered on all races over a period of time. The current system does not provide for bonus purses to be paid out based upon the residency of certain owners and would need to be reprogrammed at a significant cost to racetracks. Although the bonus purses could be calculated and paid without a computer, it would create excessive clerical work that would also be costly to the racetracks.

Enclosed is a copy of the Legislative Council Rules Clearinghouse report, which did not provide any comments on the proposed rule. A public hearing was held on the proposed rule March 16, 2004, in Burlington, Wisconsin. The name of the one individual who appeared at the hearing is provided on the enclosed hearing registration form. Also enclosed are copies of the hearing transcript and the comments received by the Department in response to the proposed rule.

April 7, 2004
Page 2

We respectfully request submittal of the rule to the appropriate standing committees for review.

Sincerely,



Marc J. Marotta
Secretary

cc: Revisor of Statutes
Joint Committee for Review of Administrative Rules



Wisconsin State Senator

Ron Brown

District 31

TO: Members of the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform

FROM: Sen. Ron Brown, Chair

DATE: April 16, 2004

RE: Referral of Clearinghouse Rule 04-019

The following Clearinghouse Rule has been referred to the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform:

- **Clearinghouse Rule 04-019**, relating to purses paid to greyhound owners who are residents of the State of Wisconsin.

An electronic copy of this rule is available on Folio. If you would like a hard copy of CR 04-019, or if you have questions about the rule or wish to request a hearing, please contact Melissa Gilbert in my office at 266-8546. The committee's 30-day review period for this rule expires on **May 14**.

Thank you for your attention to this matter.

OFFICE OF SENATOR RON BROWN

TO: RON
FROM: MISSY
SUBJECT: CLEARINGHOUSE RULE 04-019
DATE: 05/11/2004
CC:

PURPOSE OF RULE:

Repeal Game 23.02(2), relating to purses paid to greyhound owners who are residents of Wisconsin.

CURRENT LAW (ADMINISTRATIVE CODE):

Requires a race association to pay an additional point to Wisconsin-owned greyhounds that finish in the top four places in a purse race (not including stakes or sweepstakes races).

REASON FOR CHANGE:

Racetracks rely on outside vendors to compute purse amounts. Since the same software is used in multiple jurisdictions, the system used would need to be reprogrammed at considerable expense to racetracks to calculate extra earnings for Wisconsin owners. Computing the bonus purses separately likewise would create excessive clerical work and additional costs for racetracks.

PROponents:

William Apgar, Dairyland Greyhound Park
Milt Roth, Geneva Lakes Greyhound Track

OPponents:

None known.

FOR INFORMATION ONLY:

Robert Golden, Golden Kennel – Understands reason for repeal but still wants money for time rule was in place.

- According to Dan Subach from Division of Gaming, agency will calculate bonus payments under existing rule, convey that information to racetracks and follow up to make sure Wisconsin owners received money owed.

COMMITTEE JURISDICTION EXPIRES:

May 14, 2004