

**ASSEMBLY CONCURRENT
RESOLUTION No. 194**

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED OCTOBER 8, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

SYNOPSIS

Invalidates or prohibits adoption of rule by New Jersey Racing Commission requiring permitholder to submit advance written notice and list of qualified personnel to continue operations during failure to enact annual appropriation law.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/8/2020)

1 **A CONCURRENT RESOLUTION** concerning legislative review of
2 rules and regulations pursuant to Article V, Section IV,
3 paragraph 6 of the Constitution of the State of New Jersey and
4 invalidating or prohibiting the adoption of a rule by the New
5 Jersey Racing Commission requiring a permitholder to submit to
6 the commission advance written notice and a list of qualified
7 personnel who will fill regulatory positions in order to continue
8 operations for up to seven days due to the failure to enact an
9 annual appropriation law.

10

11 **WHEREAS**, Pursuant to Article V, Section IV, paragraph 6 of the
12 Constitution of the State of New Jersey, the Legislature may review
13 any rule or regulation adopted or proposed by an administrative
14 agency to determine if it is consistent with the intent of the
15 Legislature, and invalidate an adopted rule or regulation or prohibit
16 the adoption of a proposed rule or regulation if it finds that the rule
17 or regulation is not consistent with legislative intent; and

18 **WHEREAS**, Upon finding that a rule or regulation, either proposed or
19 adopted, is not consistent with legislative intent, Article V, Section
20 IV, paragraph 6 provides that the Legislature shall transmit its
21 findings in the form of a concurrent resolution to the Governor and
22 the head of the Executive Branch agency which promulgated, or
23 plans to promulgate, the rule or regulation, and the agency shall
24 have 30 days from the time the concurrent resolution is transmitted
25 to amend or withdraw the rule or regulation; and

26 **WHEREAS**, If the agency does not amend or withdraw the existing or
27 proposed rule or regulation, Article V, Section IV, paragraph 6
28 provides that the Legislature may invalidate or prohibit the adoption
29 of the proposed rule or regulation, following a public hearing held
30 by either House on the invalidation or prohibition, the placement of
31 a transcript of the public hearing on the desks of the members of
32 each House of the Legislature in open meeting followed by the
33 passage of at least 20 calendar days, and a vote of a majority of the
34 authorized membership of each House in favor of a concurrent
35 resolution invalidating or prohibiting the adoption of the rule or
36 regulation; and

37 **WHEREAS**, N.J.S.A.5:5-22.3 permits racetracks and off-track wagering
38 facilities to continue operations for up to seven days if a state of
39 emergency is declared due to the failure to enact an annual
40 appropriations law by July 1st of any year; and

41 **WHEREAS**, The New Jersey Racing Commission adopted a new rule,
42 N.J.A.C.13:70-1.42, providing that a permitholder who wishes to
43 continue operations during that seven-day period must provide
44 written notice to the commission on or before June 1st along with a
45 list of all qualified persons who will be hired to fill necessary
46 regulatory positions; and

47 **WHEREAS**, The application of a statute should not be negated by the
48 technical failure to provide notice and a list and requiring this by

1 regulation is an overreach that defeats the purpose and scheme of
2 the statute to permit seven days of operation following an
3 emergency resulting from the failure to enact an annual
4 appropriation law; and

5 **WHEREAS**, That regulation is contrary to the spirit and intent of the
6 Legislature as expressed in the language of the statute which the
7 rule is intended to implement; and

8 **WHEREAS**, The Legislature finds that N.J.A.C.13:70-1.42 is not
9 consistent with legislative intent and transmits this finding by this
10 concurrent resolution to the Governor and the head of the New
11 Jersey Racing Commission and that agency shall have 30 days to
12 amend or withdraw that rule or regulation; now, therefore,

13
14 **BE IT RESOLVED** by the General Assembly of the State of New
15 Jersey (the Senate concurring):

16
17 1. The Legislature finds that N.J.A.C.13:70-1.42 is not
18 consistent with legislative intent as expressed in the language of
19 N.J.S.A.5:5-22.3 and transmits this finding by this concurrent
20 resolution to the Governor and the head of the New Jersey Racing
21 Commission and that agency shall have 30 days to amend or
22 withdraw that rule or regulation.

23
24 2. The Secretary of the Senate or the Clerk of the General
25 Assembly shall transmit a copy of this concurrent resolution to the
26 Governor, the New Jersey Racing Commission, and the Office of
27 Administrative Law.

28

29

30

STATEMENT

31

32 In this concurrent resolution the Legislature finds that
33 N.J.A.C.13:70-1.42, a rule of the New Jersey Racing Commission
34 requiring permitholders to submit certain information more than 30
35 days prior to a State shutdown due to the failure to enact an annual
36 appropriation act in order to remain open for seven days during
37 such a shutdown, is not consistent with legislative intent as
38 expressed in the language of N.J.S.A.5:5-22.3 and transmits this
39 finding by this concurrent resolution to the Governor and the head
40 of the New Jersey Racing Commission and that agency shall have
41 30 days to amend or withdraw that rule or regulation.