

**CHAPTER 71
HARNESS RACING**

Authority

N.J.S.A. 5:5-30, 5:5-65.1 and 5:5-65.2.

Source and Effective Date

R.2005 d.234, effective June 17, 2005.
See: 37 N.J.R. 419(a), 37 N.J.R. 2696(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 71, Harness Racing, expires on December 14, 2010. See: 42 N.J.R. 1488(a).

Chapter Historical Note

Chapter 71, Harness Racing, was filed and became effective prior to September 1, 1969.

Subchapter 14, Claiming, was repealed and Subchapter 14, Claiming, was adopted as new rules by R.1980 d.95, effective February 27, 1980. See: 11 N.J.R. 463(a), 12 N.J.R. 208(c).

Subchapter 3, Appeals, was repealed and Subchapter 3, Appeals, was adopted as new rules, and Subchapter 24, Authorized Agents, Subchapter 25, Vendors, Subchapter 26, Illegal Practices, Subchapter 27, Mutuels, and Subchapter 28, Initial Track Application, were adopted by R.1982 d.109, effective April 5, 1982. See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).

Pursuant to Executive Order No. 66(1978), Subchapter 5, Tracks, Subchapter 9, Veterinarians and Veterinarians Certificates, Subchapter 21, Placing Conditions and Purses, and Subchapter 23, Stimulations and Tests, were readopted as R.1983 d.295, effective July 8, 1983. See: 15 N.J.R. 685(a), 15 N.J.R. 1256(a).

Pursuant to Executive Order No. 66(1978), Subchapter 7, Licensing, Subchapter 8, Officials, and Subchapter 17, Starting, were readopted as R.1984 d.103, effective March 19, 1984. See: 16 N.J.R. 221(a), 16 N.J.R. 742(a), 16 N.J.R. 1360(a).

Pursuant to Executive Order No. 66(1978), Subchapter 4, Definitions, expired on December 19, 1984.

Subchapter 4, Definitions, was adopted as new rules by R.1984 d.621, effective January 21, 1985. See: 16 N.J.R. 2976(a), 17 N.J.R. 204(b).

Subchapter 23, Stimulation and Tests, was repealed and Subchapter 23, Medication and Testing Procedures, was adopted as new rules by R.1985 d.58, effective February 19, 1985. See: 16 N.J.R. 3182(a), 17 N.J.R. 471(a).

Pursuant to Executive Order No. 66(1978), Subchapter 14, Claiming, was readopted as R.1985 d.137, effective February 25, 1985. See: 17 N.J.R. 57(a), 17 N.J.R. 710(c).

Pursuant to Executive Order No. 66(1978), Chapter 71, Harness Racing, was readopted as R.1990 d.126, effective January 25, 1990. See: 21 N.J.R. 3861(a), 22 N.J.R. 667(a).

Subchapter 29, Sulky, was adopted as R.1994 d.143, effective March 21, 1994. See: 26 N.J.R. 95(a), 26 N.J.R. 1357(a).

Pursuant to Executive Order No. 66(1978), Chapter 71, Harness Racing, was readopted as R.1995 d.103, effective January 25, 1995. See: 26 N.J.R. 4744(a), 27 N.J.R. 733(b).

Pursuant to Executive Order No. 66(1978), Chapter 71, Harness Racing, was readopted as R.2000 d.35, effective December 22, 1999. See: 31 N.J.R. 3050(a), 32 N.J.R. 322(a).

Subchapter 30, "Self-Exclusion List" Rules, was adopted as R.2004 d.399, effective October 18, 2004. See: 36 N.J.R. 2980(a), 36 N.J.R. 4828(a).

Chapter 71, Harness Racing, was readopted as R.2005 d.234, effective June 17, 2005. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL RULES

- 13:71-1.1 General provisions
- 13:71-1.2 Owners and trainers
- 13:71-1.3 Race participants and patrons
- 13:71-1.4 Discharge of groom or attendant; notice
- 13:71-1.5 Notification to track security on discharge of groom
- 13:71-1.6 Language
- 13:71-1.7 Disturbing the peace
- 13:71-1.8 Handbooks
- 13:71-1.9 (Reserved)
- 13:71-1.10 Reciprocity
- 13:71-1.11 Unrecognized meetings
- 13:71-1.12 Suspended person or horse
- 13:71-1.13 Narcotic or drug convictions
- 13:71-1.14 Crimes regarding moral turpitude
- 13:71-1.15 Reinstatement of horses
- 13:71-1.16 Qualifications for reinstatement
- 13:71-1.17 Recision of penalties
- 13:71-1.18 (Reserved)
- 13:71-1.19 Stewards determination of fines
- 13:71-1.20 Authority to impose penalties; report; payment
- 13:71-1.21 Financial irresponsibility
- 13:71-1.22 Designation of Commission agents
- 13:71-1.23 Modification of penalties
- 13:71-1.24 Smoking prohibited
- 13:71-1.25 Horsemen associations
- 13:71-1.26 Commission employees/appointees; prohibited affiliations with permitted racetracks
- 13:71-1.27 Rules of practices and procedures
- 13:71-1.28 Liberal construction of rules of practice and procedure
- 13:71-1.29 Notice of proceedings before the Commission
- 13:71-1.30 Opportunity to submit information to the Commission
- 13:71-1.31 Requests to place issues on the meeting agenda for the Commission's consideration
- 13:71-1.32 Annual disbursement of Casino Simulcasting Special Fund monies
- 13:71-1.33 Annual allocation of race dates
- 13:71-1.34 Waiver of the Commission's rules
- 13:71-1.35 Procedure for modification of penalties
- 13:71-1.36 (Reserved)

SUBCHAPTER 2. VIOLATIONS

- 13:71-2.1 Liability
- 13:71-2.2 Attempt to violate
- 13:71-2.3 Penalties
- 13:71-2.4 Betting restrictions; owner, trainer and driver
- 13:71-2.5 Termination of indefinite suspension
- 13:71-2.6 Violations by track associations and penalties

SUBCHAPTER 3. APPEALS

- 13:71-3.1 Right of appeal
- 13:71-3.2 Imposition of penalty; Commission
- 13:71-3.3 Steward or Board of Judges hearing; finality of decision absent appeal
- 13:71-3.4 Appeal procedure
- 13:71-3.5 Hearings
- 13:71-3.6 Frivolous appeals
- 13:71-3.7 Hearing costs
- 13:71-3.8 Stay pending appeals
- 13:71-3.9 through 13:71-3.10 (Reserved)

SUBCHAPTER 4. DEFINITIONS

13:71-4.1 Definitions

SUBCHAPTER 5. TRACKS

13:71-5.1 Policing requirements
 13:71-5.2 Police reports
 13:71-5.3 Persons ejected; reports
 13:71-5.4 Complaints in writing
 13:71-5.5 Attendance reports
 13:71-5.6 Badges of admission
 13:71-5.7 Offices and parking; Racing Commission use
 13:71-5.8 Free access to grounds by employees of commission
 13:71-5.9 Photographic device for finishes
 13:71-5.10 Numbers for horses
 13:71-5.11 Betting prohibited on grounds
 13:71-5.12 (Reserved)
 13:71-5.13 Handbooking prohibited on grounds
 13:71-5.14 Gambling device
 13:71-5.15 Petty games of chance
 13:71-5.16 Disqualified personnel kept off grounds
 13:71-5.17 Ejected personnel; readmission; notice
 13:71-5.18 Age limits
 13:71-5.19 Weekly reports on employees
 13:71-5.20 State Police; reports

SUBCHAPTER 6. ASSOCIATIONS

13:71-6.1 Employee compensation insurance
 13:71-6.2 Judge's stand
 13:71-6.3 Bona Fide contests
 13:71-6.4 Default in payment of premiums
 13:71-6.5 through 13:71-6.6 (Reserved)
 13:71-6.7 Awards
 13:71-6.8 Paddock
 13:71-6.9 Photo finish; head numbers; saddle pads; starting gate
 13:71-6.10 Interference with race officials
 13:71-6.11 Driver's stand
 13:71-6.12 Paddock rules
 13:71-6.13 Admission to paddock
 13:71-6.14 Leaving of paddock
 13:71-6.15 Returning to paddock
 13:71-6.16 Two members of a stable admitted to paddock on one day
 13:71-6.17 Blacksmith provided by association
 13:71-6.18 Extra equipment provided
 13:71-6.19 (Reserved)
 13:71-6.20 Supervision of the paddock
 13:71-6.21 Required time drivers should be present in paddock prior to race
 13:71-6.22 Post parade from paddock
 13:71-6.23 Ambulances
 13:71-6.24 Track entrance; Coggins test requirement for horses, ponies or equine mascot
 13:71-6.25 Ownership approval
 13:71-6.26 Annual listing of shareholders
 13:71-6.27 Application forms; approval
 13:71-6.28 Investigation
 13:71-6.29 Review of application approval
 13:71-6.30 Application denials; notice
 13:71-6.31 Horsemen's bookkeeper account

SUBCHAPTER 7. LICENSING

13:71-7.1 Persons required to have licenses; fingerprints and photographs
 13:71-7.2 False or misleading statements
 13:71-7.3 Refusal to issue or renew license
 13:71-7.4 Age requirements
 13:71-7.5 Items requiring registration
 13:71-7.6 Fees
 13:71-7.7 Applications
 13:71-7.8 Liable for all penalties
 13:71-7.9 Changes in identities

13:71-7.10 Notice to the Racing Commission
 13:71-7.11 Changing of stable name
 13:71-7.12 Existing stable name
 13:71-7.13 Registered stable; member
 13:71-7.14 Distinguished name
 13:71-7.15 Transfer of name
 13:71-7.16 Corporations
 13:71-7.17 Multiple ownership
 13:71-7.18 Multiple ownership; applications
 13:71-7.19 Alteration in a multiple ownership
 13:71-7.20 Liability
 13:71-7.21 Employment application blank
 13:71-7.22 Nonresident defined
 13:71-7.23 (Reserved)
 13:71-7.24 Loss of identification card
 13:71-7.25 Application for driver's license
 13:71-7.26 Requirements; farms or licensed tracks
 13:71-7.27 Trainers; application for license
 13:71-7.28 Grooms; application for license
 13:71-7.29 Suspension or revocation of drivers—trainers or grooms licenses
 13:71-7.30 Owners' application for license
 13:71-7.31 Qualification for owner's license
 13:71-7.32 Suspension or revocation of owner's license
 13:71-7.33 Reinstatement of owner's license
 13:71-7.34 Reinstatement of license of driver, trainer and groom
 13:71-7.35 Badges
 13:71-7.36 Written agreements between owners and trainers
 13:71-7.37 Collection and dissemination of Social Security numbers
 13:71-7.38 Multi-year license

SUBCHAPTER 8. OFFICIALS

13:71-8.1 Race Officials
 13:71-8.2 Required presence of officials in a race or performance against time
 13:71-8.3 Appointment of State Steward
 13:71-8.4 Licensing and approval of officials
 13:71-8.5 Judges and patrol judges
 13:71-8.6 Submission of names of racing officials
 13:71-8.7 Duties of the officials
 13:71-8.8 License revocation of an official
 13:71-8.9 Substitute official in case of emergency
 13:71-8.10 Access to course and grounds by officials
 13:71-8.11 Vision examinations for officials
 13:71-8.12 Reporting of protest and complaints by steward
 13:71-8.13 Punishment for violations
 13:71-8.14 Conflict of official's position
 13:71-8.15 Disqualification of an official
 13:71-8.16 Removal of official
 13:71-8.17 Breathalyzer tests for officials
 13:71-8.18 Classification of horses; conflict of interest
 13:71-8.19 Admission to judge's stand
 13:71-8.20 Decorum of officials
 13:71-8.21 Presiding judge
 13:71-8.22 Powers of judges
 13:71-8.23 Duties of judges
 13:71-8.24 Procedure of judges
 13:71-8.25 Duties of patrol judges
 13:71-8.26 Absent officials
 13:71-8.27 Starter
 13:71-8.28 Duties of starter
 13:71-8.29 Duties of the clerk of the course
 13:71-8.30 Duties of timer
 13:71-8.31 Duties of paddock judge
 13:71-8.32 Program director
 13:71-8.33 Executive Director of the Commission
 13:71-8.34 Photo finish
 13:71-8.35 Duties of race secretary
 13:71-8.36 Charter
 13:71-8.37 Setting and maintaining post time
 13:71-8.38 State Police; communication

2. That such a waiver is consistent with the intent of, if not the letter of, its rules; or

3. Where strict application of the rule would create an unnecessary hardship that is contrary to the legislative intent of the underlying statutes, the public interest or the integrity of the sport.

(c) The Commission may waive application of any rule in an individual circumstance on its own motion upon finding that such relief is warranted by the factors set forth in (b) above.

(d) The Commission shall not grant a waiver of its rules where to do so would be contrary to or inconsistent with an applicable statute.

(e) All decisions on requests for waiver shall be made at a public meeting of the Commission.

New Rule, R.2008 d.340, effective November 17, 2008.
See: 40 N.J.R. 4300(a), 40 N.J.R. 6635(a).

13:71-1.35 Procedure for modification of penalties

(a) The Commission may modify any penalty or decision imposed by a racing official either on its own motion or when requested to do so by the Executive Director. The application of this rule applies to the modification of penalties prior to the transmittal of the matter to the Office of Administrative Law as a contested case. The Commission's modification of any penalty or decision recommended by the Administrative Law Judge in an initial decision shall continue to be governed by the applicable provision of the Administrative procedure Act, N.J.S.A. 52:14B-1 et seq.

(b) At least 15 days before the scheduled meeting at which the issue of modification will or may be addressed, the Commission shall notify the licensee involved and allow him or her to submit in writing any information he or she wishes the Commission to consider. All such submissions shall be filed with the Commission at least 5 days prior to the meeting.

(c) In deciding whether to modify such penalty or decision, the Commission shall consider factors, which may include:

1. Penalties imposed by the Commission in similar matters;
2. Whether the actions of the licensee placed the safety of other race participants at risk;
3. Whether the actions of the licensee had the potential to jeopardize the health of any race horse;
4. The extent to which the licensee's actions constituted conduct detrimental to the sport.
5. The extent to which the licensee's actions had a negative impact on the integrity of the sport.

6. Whether the actionable conduct of the licensee appears to be an isolated incident or a pattern of disregard of the Commission's rules.

(d) In deciding whether to modify such penalty or decision, the Commission shall consider the evidence before the racing official and any information submitted by the licensee pursuant to (b) above. In considering such evidence, the Commission may rely upon a staff summary and analysis of the evidence below.

(e) When modifying a penalty or decision, the Commission shall issue a written ruling setting forth the modification and the basis of its decision.

(f) Nothing in this section shall be interpreted as meaning that the Commission's authority to impose penalties is limited to licensees. The Commission's regulatory authority to issue penalties extends to all persons or entities engaging in conduct that requires licensure.

New Rule, R.2008 d.340, effective November 17, 2008.
See: 40 N.J.R. 4300(a), 40 N.J.R. 6635(a).

13:71-1.36 (Reserved)

New Rule, R.2008 d.340, effective November 17, 2008.
See: 40 N.J.R. 4300(a), 40 N.J.R. 6635(a).
Repealed by R.2010 d.246, effective November 1, 2010.
See: 42 N.J.R. 1334(a), 42 N.J.R. 2635(c).
Section was "Representation by attorney".

SUBCHAPTER 2. VIOLATIONS

Cross References

Judges and patrol judges, see N.J.A.C. 13:71-8.5.

13:71-2.1 Liability

Any person or association licensed by the Commission or any person or association subject to the jurisdiction of the Commission violating any of its rules or regulations shall be liable to the penalties herein provided, unless otherwise limited in and by the rules and regulations of the Commission.

13:71-2.2 Attempt to violate

Any attempt to violate the law or any of the rules and regulations of the Commission falling short of actual accomplishment shall constitute an offense and shall be punishable as if consummated.

13:71-2.3 Penalties

(a) The penalties for violation of the law or the rules of the Commission shall be as follows:

1. Denial, revocation or suspension of license;

2. Monetary fines not exceeding \$50,000 for each violation. The steward and board of judges may not impose directly a fine in excess of \$5,000.

3. Suspension from one or more activities at one or more tracks;

4. Expulsion from racing in New Jersey;

5. Forfeiture of purse;

6. In addition to the foregoing, the Commission may impose as a condition to licensing such conditions as it shall deem appropriate to secure compliance with the rules, regulations and directives of the Commission.

(b) Any penalty of suspension from driving shall commence after a hearing before the judges and shall be served on a continuing basis. Where the term of suspension equals or is less than the normal number of scheduled live race days during a week at the track association where the infraction occurred, the continuous suspension shall be imposed as soon as practical following the hearing and on dates where live racing there occurs. Where the term of suspension exceeds the normal number of scheduled live race days during a week at the track association where the infraction occurred, the continuous suspension shall be imposed as soon as practical following the hearing and on dates so as to encompass the maximum number of live race days there possible. However, where the term of suspension cannot be imposed consistent with the formulas set forth in this subsection due to the suspension of racing at the track where the infraction occurred, or where the judges determined that the application of such formulas would otherwise not be practical, the judges shall, in their discretion, determine the continuous dates over which the suspension is to be served. There shall be exceptions for stakes, futurities, early closures or feature races during the period of suspension as set forth below:

1. The board of judges may permit a driver serving a suspension of 10 days or less to drive in a designated race during the suspension if:

i. The race has been specified as a designated race by the racing secretary of the association before the inception of the race meeting at the association;

ii. The race has been approved as a designated race by the board of judges officiating at the meeting;

iii. The driver, before the beginning of the suspension, satisfactorily demonstrates to the board of judges that the driver is scheduled to drive a horse in the designated race; and

iv. The driver agrees to serve an additional racing day of suspension in place of the day on which the driver drives in the designated race.

(c) The penalties provided above, where applicable, shall be exacted from all persons, whether licensed by the Commission or not.

As amended, R.1976 d.125, effective April 22, 1976.

See: 8 N.J.R. 47(b), 8 N.J.R. 308(a).

As amended, R.1976 d.292, effective September 16, 1976.

See: 8 N.J.R. 250(c), 8 N.J.R. 483(a).

As amended, R.1982 d.109, effective April 5, 1982.

See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).

Amended by R.1993 d.484, effective October 4, 1993.

See: 25 N.J.R. 2647(b), 25 N.J.R. 4600(c).

Amended by R.2001 d.250, effective July 16, 2001.

See: 33 N.J.R. 1338(a), 33 N.J.R. 2493(c).

In (b), inserted "as set forth below:" at the end of the introductory paragraph, and added 1.

Amended by R.2004 d.156, effective April 19, 2004.

See: 35 N.J.R. 4183(a), 36 N.J.R. 1952(b).

Rewrote (a)2.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 756) adopted, which determined that appropriate penalty for positive drug test (for Propranolol Bromide) was suspension of 90 days and fine of \$2,500, not the increased penalty of \$5,000 and one year imposed by the Racing Commission. *Synnefias v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 3520-06, 2008 N.J. AGEN LEXIS 1116, Final Decision (October 7, 2008).

Initial Decision (2008 N.J. AGEN LEXIS 756) adopted, which determined that the Racing Commission's authority to modify penalties is not absolute. *Synnefias v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 3520-06, 2008 N.J. AGEN LEXIS 1116, Final Decision (October 7, 2008).

Initial Decision (2006 N.J. AGEN LEXIS 819) adopted, which concluded that denial of owner/driver/trainer license application was appropriate; although applicant's ongoing efforts to remain drug free should be commended, applicant had been in violation of several regulations since the 1993 revocation of his licensure, including transporting race horses, working at an unlicensed farm and training facility, and, most notably, training and racing horses under his sister's name. *Parolari v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 8920-05 (RAC 6170-03 On Remand), Final Decision (November 20, 2006).

Racing Commission has the authority to issue a suspension regardless of if the trainer's license has expired; N.J.A.C. 13:71-2.3 crystallizes the Commission's broad authority in regulating people in the racing industry regardless of license status. *Colasanti v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 0716-04, 2005 N.J. AGEN LEXIS 1331, Final Decision (November 21, 2005).

First driver pulling in front of second horse and causing second driver to take evasive action constituted interference; suspension ordered. *LaChance v. New Jersey Racing Commission*, 93 N.J.A.R.2d (RAC) 13.

Veterinarian's use of non-FDA-approved drug for his own horse at his own farm in another state; not conduct detrimental to racing. *Chovanes v. New Jersey Racing Commission*, 93 N.J.A.R.2d (RAC) 5.

13:71-2.4 Betting restrictions; owner, trainer and driver

No owner, trainer or driver of a horse entered in a race shall bet or cause any other person to bet on his behalf on any horse other than his own horse. In the case of exotic pools all tickets purchased by an owner, trainer or driver must include his horse entered to race.

R.1976 d.125, effective April 22, 1976.

See: 8 N.J.R. 47(b), 8 N.J.R. 308(a).