

SUBCHAPTER 14. CLAIMING

13:71-14.1 Restrictions: Claiming privileges

Claiming privileges, other than open claiming pursuant to N.J.A.C. 13:70-12.37, are restricted to those owners who have started a horse at the race meeting. Any licensed owner who has an interest in any starter shall thereafter be eligible to claim individually.

Amended by R.1987 d.421, effective October 19, 1987 (operative December 26, 1987).

See: 19 N.J.R. 1419(b), 19 N.J.R. 1911(b).

Added text "other than open claiming pursuant to N.J.A.C. 13:70-12.37,".

13:71-14.2 Claiming races: price and eligibility

In claiming races at any race meeting any horse is subject to claim for its entered price by any owner qualified under the terms of Rule 14.1. No trainer or agent shall be permitted to enter a horse in a claiming race unless written permission of the owner is filed by the race secretary.

13:71-14.3 Claimed horse

Wherever a horse has been claimed, that horse shall not leave the grounds of the meeting of the association where claimed for 30 days following the date of the successful claim unless permission to leave is granted by the Presiding Judge or that meeting ends prior to the expiration of the 30 day time limit.

13:71-14.4 Agents

A claim may be made by a licensed authorized agent, but an agent may claim only for the account of those for whom he is licensed as agent.

13:71-14.5 Claiming own horse

No person shall claim his own horse; or cause his own horse to be claimed, directly or indirectly, for his own account. No person shall claim a horse which he is driving in a race or which his trainer is driving in a race.

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

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

"No person . . . in a race." has been added.

13:71-14.6 Claimed horse: stabled

No claim horse shall remain in the same stable or under the care or management of the owner or trainer from whom claimed.

13:71-14.7 Number of claims

No person shall claim more than one horse in any one race. No authorized agent, although representing several owners shall submit more than one claim in any one race. No person shall place or cause to be placed more than one claim form in the claim box under any circumstances.

13:71-14.8 Form of claims

All claims must be made in writing, on forms and in envelopes furnished by the association. Both forms and envelopes must be filled out completely, and must be accurate in every detail, otherwise, the claim is void. For purpose of compliance with this rule the name of the horse as appearing in the program shall govern.

13:71-14.9 Stable claims

When a stable consists of horses owned by more than one person, trained by the same trainer, not more than one claim may be entered on behalf of such stable in any one race.

13:71-14.10 Agreements

No person shall offer, or enter into an agreement to claim or not to claim, or attempt to prevent another person from claiming any horse in a claiming race, and no owner or trainer shall make any agreement for the protection of each other's horses in a claiming race.

13:71-14.11 Intimidation

No person shall attempt by threat of bodily harm to prevent anyone from racing a horse in any claiming race for which it is entered.

13:71-14.12 Affidavits

The Judges and/or Steward may, at any time, at their discretion, require any person who has filed a claim to make affidavit in writing that he is claiming in accordance with the rules, and claims which are not made in keeping with the rules shall be void.

13:71-14.13 No money in claim box

No money or its equivalent shall be put in the claim box. For a claim to be valid the claimant must have a credit balance in his account with the association's horsemen's accountant of not less than the amount of the claim, plus New Jersey sales tax. No claimant shall deplete his account after entering a claim for any horse for a period of two hours from the time the said claim was entered.

13:71-14.14 Time: claims

Claims must be deposited in the claim box at least 30 minutes before post time of each race.

13:71-14.15 Irrevocability

Claims are irrevocable.

13:71-14.16 Opening claim envelopes

Prior to off-time, the Judges, or their appointed deputy, shall open the claim envelopes for each race, and thereafter check with the horsemen's accountant to ascertain whether the proper credit balance has been established with the

association. The association shall provide an agent who shall deliver the claim box to the Judge's stand.

13:71-14.17 Title in claimed horse

Every horse claimed shall race in all heats or dashes of the event in the interest and for the account of the owner who declared it in the event, but title to the claimed horse shall be vested in the successful claimant from the word "go" and said successful claimant shall become the owner of the horse whether it be alive or dead, sound or unsound, or injured during the race or after it.

13:71-14.18 Scratched horse

The successful claimant of a horse programmed to start may, at his option, acquire ownership of a claimed horse, even though such claimed horse was scratched and did not start in the claiming race from which it was scratched. Such option must be executed prior to off-time. Any horse drawn into a claiming race is eligible to be claimed. Horses entered in claiming races that have been cancelled by the New Jersey Racing Commission shall not be subject to claims.

13:71-14.19 Delivery to claimant

Any horse that has been claimed shall, after the race has been run, be taken to the detention barn for delivery to the claimant.

13:71-14.20 Delivery; written authorization

A claimed horse shall not be delivered to the successful claimant until written authorization is given by the racing secretary, or his deputy.

14:71-14.21 Cooling the horse

A trainer whose horse has been claimed is responsible for cooling his horse out until after the collection of any blood and/or urine specimen and he shall sign for the witnessing thereof. Failure to comply shall be subject to penalty.

13:71-14.22 Required delivery

No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race, and furthermore, the horse in question is disqualified until delivery is made.

13:71-14.23 Title; more than one claim

If more than one claim is filed for the same horse, title to the horse shall be determined by lot under the direction or supervision of the Judges, or their appointed deputy.

13:71-14.24 Engagements

When a horse is claimed, the horse's engagements are included.

13:71-14.25 Liens

No person shall enter a horse against which there is a mortgage, bill of sale, or lien of any kind, unless the written consent of the holder of the claim shall be filed with the racing secretary of the association conducting such claiming race.

13:71-14.26 Right to claim

(a) An owner whose stable has been eliminated by claiming shall have the right to claim during the remainder of the meeting at which his stable was eliminated, or for 30 New Jersey racing days, whichever period is longer.

(b) If the 30 day period should extend into the next succeeding meeting, the owner must obtain a certificate from the Judges of the meeting at which he lost his last horse, and must present this certificate when filing a claim at the next meeting.

(c) Stables eliminated by fire or other hazards may also be permitted to claim under this rule at the discretion of the Judges.

13:71-14.27 Claiming price

The claiming price of each horse in a claiming race shall be printed in the official program, and all claims for said horse shall be for the amount so designated.

13:71-14.28 Sale of claimed horse

No horse claimed in a claiming race shall be sold or transferred, wholly or in part, to anyone within 30 days after the day he was claimed except in another claiming race.

13:71-14.29 Conflict of rules

A horse claimed at a recognized meeting under rules at variance with those contained in this subchapter, shall while racing in New Jersey, serve any additional penalty imposed by the rules of the State wherein claimed.

13:71-14.30 Sex of horse claimed

Notwithstanding any designation of sex appearing on the racing program or in any race publication, the claimant of a horse shall be solely responsible for determining the sex of the horse claimed.

13:71-14.31 Protests

A protest to the claim of a horse must be filed with the Judges within 48 hours of the claim. No protest will be accepted after that time.

13:71-14.32 Testing

A post race urine test shall be taken in full compliance with subchapter 23 from any horse claimed in a race. The claimant shall have the right to void said claim should the forensic analysis of the sample so taken be positive for any drug.

13:71-20.2 Driver's meeting

(a) Before the first heat or race at any meeting is contested the racing officials and the drivers shall meet at a time and place to be designated by the presiding judge. Notice of the time and place of such meeting shall be published on the bulletin board in the office of the race secretary at least 48 hours prior to the meeting, and shall be announced over the public address system one hour prior to the meeting.

(b) The officials will announce any special rules affecting the race meeting and shall construe such of the rules of racing as shall be requested. At the conclusion of such meeting, all drivers shall be presumed to be familiar with the rules of racing.

(c) Any driver failing to attend this meeting after being duly notified, may be fined a sum not to exceed \$100.00.

(d) No driver will be permitted to drive unless he shall have attended such meeting or has met with the officials.

13:71-20.3 Substitutions of driver

If the judges believe a driver is unreliable, unfit or incompetent to drive, or if he refuses to comply with the direction of the judges, or is reckless or unmannerly in his conduct, he may be removed and another driver substituted any time after the positions have been drawn in a race. Compensation of such substitute driver may be fixed in the discretion of the judges. No driver shall, without sufficient reason, decline to be substituted by the judge.

Case Notes

Horse driver who moved into another racing lane without sufficient clearance was fined and suspended. *Stafford v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 25.

13:71-20.4 Trainers' duty regarding racing of horses

A trainer is responsible for the timely attendance of his horse or horses when they are being raced, and he shall attend his horse in the paddock to supervise the preparation of such horse when it is racing.

13:71-20.5 Absence of trainer-notice-substitute trainer

If any licensed trainer is to be absent from the track where employed, the presiding judge shall be immediately notified in writing and at that time a licensed substitute trainer, acceptable to the presiding judge, shall be appointed to assume responsibility for the horse or horses racing during the absence of the regular trainer. The name of the substitute trainer shall appear on the program if possible. The presiding judge shall be advised immediately when the regular trainer is present and resumes his duties.

13:71-20.6 Racing and track rules; driving procedures

(a) Although a leading horse is entitled to any part of the track except after selecting his position in the home stretch,

neither the driver or the first horse nor any other driver in the race shall:

1. Change either to the right or left during any part of the race when another horse is so near him that in altering his positions he compels the horse behind him to shorten his stride, or causes the driver of such other horse to pull him out of his stride;

2. Jostle, strike, hook wheels or interfere with another horse or driver;

3. Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers;

4. Swerve in and out or pull up quickly;

5. Crowd a horse or driver by "putting a wheel under him";

6. "Carry a horse out" or "sit down in front of him", take up abruptly in front of other horses so as to cause confusion or interference among the trailing horses;

7. Let a horse pass inside needlessly, or do any other act which constitutes what is popularly known as helping;

8. Commit any act which impedes the progress of another horse or causes him to "break";

9. Change course after selecting a position in the home stretch and swerve in or out, or bear in or out, in such manner as to interfere with another horse or cause him to change course or take back;

10. To drive in a careless or reckless manner;

11. Laying off a normal pace and leaving a hole when it is well within the horse's capacity to keep the hole closed;

12. Drivers must set and maintain a pace comparable to the class in which they are racing. Failure to do so by going an excessively slow quarter or any other distance that changes the normal pattern, overall timing, or general outcome of the race, or allowing his horse to go on an unrestrained break will be considered a violation of this section and the judges may impose a penalty which can be a fine, suspension or both.

(b) With the approval of the Racing Commission, a track may extend the width of its homestretch up to 10 feet inward in relation to the width of the rest of the racetrack. In the event the homestretch is expanded pursuant to this subsection, the following shall apply:

1. No horse shall use the extended inside lane except when entering the final homestretch run;

2. The lead horse in the homestretch shall maintain as straight a course as possible while allowing trailing horses full access to the extended inside lane; and

3. Judge's discretion shall prevail in all instances regarding the open stretch.

As amended, R.1982 d.109, effective April 5, 1982.
 See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).
 "or allowing . . . break", added.
 Amended by R.1992 d.268, effective July 6, 1992.
 See: 24 N.J.R. 686(a), 24 N.J.R. 2462(a).
 Added (b).

Case Notes

Disqualification of first place horse for violation of N.J.A.C. 13:71-20.6(a)8 affects the second and third place horses' owners, entitling them to a hearing before the Commission upon adequate notice; one-day mailgram notice of hearing from Commission is inadequate; one-sentence decision by Commission lacked required findings and conclusions. *Pitts v. Div. of New Jersey Racing Commission*, 185 N.J.Super. 190, 447 A.2d 1348 (App.Div.1982), certification denied.

Racing over passing lane during open stretch supported race horse=—disqualification from first place finish. *Vacca v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 20.

Impeding another driver's forward progress during race justified three-day suspension for horse driver. *Smith v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 19.

Jockey suspended for causing interference or confusion among trailing horses in race. *McNichol v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 1.

Suspension of horse driver, impeding progress of other horses. *New Jersey Racing Commission v. Morrill*, 95 N.J.A.R.2d (RAC) 1.

Suspension of harness driver; interference with other drivers. *New Jersey Racing Commission v. Patterson*, 94 N.J.A.R.2d (RAC) 13.

Slowing of horse constituted interference; finish placement changed. *New Jersey Racing Commission v. Stein*. 93 N.J.A.R.2d (RAC) 29.

Hooking wheels; five day suspension. *Allen v. New Jersey Racing Commission*. 93 N.J.A.R.2d (RAC) 27.

Harness driver's conduct made inevitable horse's hoof getting caught in another driver's wheel assembly; careless driving; suspension. *Parker v. New Jersey Racing Commission*, 93 N.J.A.R.2d (RAC) 19.

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.

Abrupt slowing by sulky driver warranted disqualification of horse. *Biada v. New Jersey Racing Commission*, 92 N.J.A.R.2d (RAC) 1.

Finding that driver impeded the progress of another horse and caused him to "break." *Gillis v. New Jersey Racing Commission*, 1 N.J.A.R. 78 (1980).

13:71-20.7 Complaints by drivers; judge's stand

All complaints by drivers of any foul driving or other misconduct during the race or heat shall be made at the termination of the race or heat unless the driver is prevented from doing so by an accident or injury. At the conclusion of each race or heat, any driver desiring to enter a claim of foul or other complaint of violation of the rules must, before dismounting, indicate to the patrol judge his desire to enter such claim or complaint immediately after the race and, upon dismounting, shall proceed to the nearest telephone and advise the judges of the complaint or foul involved. The judges shall not cause the official sign to be displayed until such complaint shall have been entered and considered. All drivers must return to the paddock and remain there until the race is made official. The judges will not consider any claim of foul instituted after the race has been made official.

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

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

13:71-20.8 Violations involving entries, complaints, penalties

If any of the violations in N.J.A.C. 13:71-20.7 are committed by a person driving a horse coupled as an entry in the betting, the judges may set both horses back, if, in their opinion, the violation may have affected the finish of the race. Otherwise, penalties may be applied individually to the drivers of any entry.

Administrative correction.
 See: 29 N.J.R. 585(a).

13:71-20.9 Placing offending horse

In case of interference, collision or violation of any of the rules, the offending horse may be placed behind all the unoffending horses in that heat or dash, and in the event such collision or interference prevents any horse from finishing the heat or dash, the offending horse may be disqualified from receiving any winnings and the driver may be penalized.

13:71-20.10 Fraudulent or unsatisfactory driving

(a) Every heat in a race must be contested by every horse in the race and every horse must be driven to the finish. If the judges believe that a horse is being driven, or had been driven, with design to prevent his winning a heat or dash which he was evidently able to win, or is being raced in an inconsistent manner, or to perpetrate or to aid a fraud, they shall consider it a violation and the driver, and anyone in concert with him to so affect the outcome of the race or races, may be penalized. The judges may in such cases substitute a driver. The substitute driver shall be paid at the discretion of the judges and the fee retained from the purse money due the horse, if any.

(b) In the event a drive is unsatisfactory due to lack of effort, carelessness, misjudgment, or demonstrated lack of judgment in performance, and the judges believe that there is no fraud, gross carelessness, or a deliberate inconsistent drive, they may impose a penalty similarly under this subsection.

(c) The length of suspension of a driver may be increased by the judges, stewards or Racing Commission if said driver is guilty of the same infractions of the rules of racing two times or more during any calendar year.

As amended, R.1976 d.125, effective April 22, 1976.
 See: 8 N.J.R. 47(b), 8 N.J.R. 308(a).

Case Notes

Executive Director's improper ex parte communication with Board of Judges specifying exceptionally harsh and excessive sanction for licensee's lack of effort or carelessness in course of race tainted final determination of Racing Commission where sanction specified by Executive Director was eventually imposed by Board and affirmed by Commission. *New Jersey Racing Com'n v. Silverman*, 303 N.J.Super. 293, 696 A.2d 771 (N.J.Super.A.D.1997).

Suspension for violation in driving in unsatisfactory manner as a result of lack of effort, carelessness, misjudgment or demonstrated lack of judgment in performance (also cited as N.J.A.C. 13:17-20.10). *DeVitis v. New Jersey Racing Commission*, 202 N.J.Super. 484, 495 A.2d 457 (App.Div.1985), certification denied 102 N.J. 337, 508 A.2d 213 (1985).

Racehorse driver's license was suspended for 45 days for holding horse back during race. New Jersey Racing Commission v. Silverman, 96 N.J.A.R.2d (RAC) 7.

13:71-20.11 Removal and substitution of unfit or incompetent drivers

If in the opinion of the judges a driver is for any reason unfit or incompetent to drive or refuses to comply with the directions of the judges, or is reckless in his conduct and endangers the safety of horses or other drivers in the race, he may be removed and another driver substituted at any time after the positions have been assigned in a race, in which case, the offending driver may be penalized. The substitute driver shall be properly compensated.