

13:70-5.24 Liability

All the parties in any multiple ownership and each of them shall be jointly and severally liable for all stakes, forfeits and other obligations.

As amended, R.1982 d.183, effective June 21, 1982.

See: 14 N.J.R. 91(a), 14 N.J.R. 661(a).

"a partnership" deleted and "any multiple ownership" substituted.

is split in two or more divisions, horses in an "entry" shall be seeded in separate divisions insofar as possible but the divisions in which they compete and their post positions shall be drawn by lot.

As amended, R.1982 d.183, effective June 21, 1982.

See: 14 N.J.R. 91(a), 14 N.J.R. 661(a).

Section substantially amended.

Petition for Rulemaking.

See: 34 N.J.R. 3030(b), 3545(a).

SUBCHAPTER 6. ENTRIES AND SUBSCRIPTIONS

13:70-6.1 Qualified to start

A horse shall not be qualified to start in any race unless it has been and continues properly entered therein.

Case Notes

Racing Commission has not regulated the right of a licensed horse owner to race his horse at a given track; Commission not proper forum for owner's dispute with racetrack for barring his horse, as the action was not taken under color of State law or regulation. *Marzocca v. Ferone*, 186 N.J.Super. 483, 453 A.2d 228 (App.Div.1982) certification denied 91 N.J. 574, 453 A.2d 884, affirmed in part, reversed in part 93 N.J. 509, 461 A.2d 1133 (1985).

13:70-6.2 Application for license

No horse shall be qualified in any race unless its owner, trainer and jockey have submitted application for license to the Racing Commission except as heretofore stated in N.J.A.C. 13:70-4.14.

13:70-6.3 Racing secretary

For all races, the racing secretary is the person authorized to receive entries and declarations.

13:70-6.4 Written entries and declarations

Entries and declarations shall be made in writing, and signed by the owner of the horse, or by his authorized agent or some person deputed by him, and each association shall provide blank forms on which entries and declarations are to be made.

13:70-6.5 Coupled horses

All horses owned wholly or in part by the same owner or the spouse of any such owner, or trained by the same trainer, must be coupled and run as an entry. For purpose of this section "ownership" shall be construed to mean any person required to be licensed as an owner pursuant to these rules and in the instance of multiple ownerships, persons possessing at least a five percent commonality of interest in each of the respective horses. Provided however that when a trainer enters two or more horses in a stake, handicap, futurity or other special event under bona fide separate ownerships, the horse may, at the request of the association and with the approval of the Commission, be permitted to race as separate wagering entities. If the race

13:70-6.6 Entries or scratches

(a) Entries or scratches may be made by telephone, but must be confirmed promptly in writing should the stewards, racing secretary, or his assistants so request.

(b) Entries made by telegraph must be confirmed in writing.

(c) In case of omission, through error, of the name or weight of a horse entered, the omission shall be rectified by the racing secretary.

13:70-6.7 Persons with recorded interest

Any person having a recorded interest in a horse may enter that horse, unless prohibited by the terms of partnership papers registered with the Commission.

13:70-6.8 Joint subscriptions and entries

Joint subscription and entries may be made by any one or more of the owners; however all partners and each of them shall be jointly and severally liable for all fees and forfeits.

13:70-6.9 Horse entered for first time

If entered for the first time at a meeting, a horse shall be identified by stating its name, color, sex, age and the name of its sire and dam, as registered.

13:70-6.10 Unreported racing starts

A horse during the past calendar year that has started in a race which is not reported in the daily racing form monthly chart books, or a maiden which at any time has started in such a race, shall not be entered at a New Jersey track until all pertinent data relating to such race is available to the racing secretary.

Amended by R.1990 d.127, effective February 20, 1990.

See: 21 N.J.R. 3856(b), 22 N.J.R. 663(b).

Grammar and punctuation.

13:70-6.11 Denial of nominations or entries

The nominations or entries of any person, or the transfer of any nomination or entry, may be cancelled or refused provided that notice and reason therefore is given to any affected person or persons.

As amended, R.1979 d.250, effective June 20, 1979.

See: 10 N.J.R. 509(a), 11 N.J.R. 400(a).

13:70-6.12 Registered horses

No horse shall be allowed to enter or start in any flat race unless duly registered and named at the registry office of the New York Jockey Club; and no horse shall be allowed to enter or start in a steeplechase unless duly registered and named at the Jockey Club, or with the National Steeplechase and Hunt Association.

13:70-6.13 Certificate and tattooing requirements

No horse shall be allowed to start unless a Jockey Club registration certificate is on file with the horse identifier, and unless it has been liptattooed, with the exception that the stewards may, in their discretion and for good cause, waive these requirements if the horse is otherwise properly identified. However, said horse shall be tattooed thereafter within a period of time that is reasonably practical.

13:70-6.14 Licensed trainer

No horse shall be permitted to enter or start unless it is in the care of and is saddled by a licensed trainer.

13:70-6.15 Horse to be fully identified

No horse shall be permitted to start that has not been fully identified.

13:70-6.16 Maiden horses; six years or older

No maiden over six years of age shall be permitted to enter a race at any thoroughbred track in the State of New Jersey without the express approval of the stewards, except in steeplechase or hunt races.

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.1981 d.489, effective December 21, 1981.

See: 13 N.J.R. 520(c), 13 N.J.R. 946(d).

Added "without . . . stewards,".

13:70-6.17 Person attempting establishment of horse's identity

Any person attempting to establish the identity of a horse or its ownership shall be held to account, the same as the owner, and shall be subject to the same penalty in case of fraud or attempted fraud.

Amended by R.1990 d.127, effective February 20, 1990.

See: 21 N.J.R. 3856(b), 22 N.J.R. 663(b).

Grammar.

13:70-6.18 Stabling

No horse shall be permitted to enter or start unless stabled on the grounds of the association or at a farm approved by the Commission, except with the permission of the racing secretary.

As amended, R.1982 d.183, effective June 21, 1982.

See: 14 N.J.R. 91(a), 14 N.J.R. 661(a).

"or at . . . Commission" added, "in stabling . . . association" deleted.

13:70-6.19 Ownership registered; true ownership

No horse shall be permitted to start whose name and true ownership is not registered with the racing secretary; and the entry of a horse must be in the name of its true ownership.

13:70-6.20 Filing of interests or changes in interests

All interests in a horse, except a trainer's percentage of its winnings, shall be filed with the racing secretary before the horse shall start, as also shall every change in interest thereafter during the meeting.

13:70-6.21 Limit on number of races per day

No horse may be entered for two races on a single day.

13:70-6.22 Partnerships

No horse involved in a partnership shall be permitted to enter or to start until the rules for the registration of partnerships have been complied with.

13:70-6.23 Eligibility

To compete in a race, a horse must be eligible at the time of starting that race.

13:70-6.24 Disqualified persons

A horse shall not be qualified to be entered, or to start in any race, if owned in whole or part, or if under the management, directly or indirectly, of a disqualified person.

13:70-6.25 Return of money; disqualified persons

If any entry from any disqualified person or of a disqualified horse is received, such entry shall be void and any money paid for such entry shall be returned if the disqualification is disclosed 45 minutes before post time for the race. Otherwise, any such money shall be paid to the winner.

13:70-6.26 Entering or starting disqualified horse

No horse, disqualified in any jurisdiction, shall be allowed to be entered or to start in any race without permission of the stewards.

13:70-6.27 Spouses

No entry shall be accepted from husband or wife, while either is disqualified; however, if a jockey is under suspension for a routine riding offense, his or her spouse may be permitted to continue to exercise the functions of whatever type of license he or she may have been granted.

13:70-6.28 Horses on starters, veterinarians or stewards lists

No horse on the starters, veterinarians, or stewards list in any racing jurisdiction shall be qualified to be entered or to start.

(e) Any information received in the process of obtaining a urine sample, including but not limited to medical information, the results of any urine test, and any reports filed as a result of attending a Supervisory Treatment Program shall be treated as confidential, except for their use with respect to a ruling issued pursuant to this rule, or any administrative or judicial hearing with regard to such a ruling. Access to the information received and/or reports of any positive

results and/or reports from a Supervisory Treatment Program shall be limited to the Commissioners of the New Jersey Racing Commission, the Executive Director and/or his designee, Counsel to the Racing Commission and the subject, except in the instance of a contested matter. In the instance of a contested matter, any information received and reports prepared shall not be disclosed without the approval of the Executive Director or his designee.



(f) Information received and reports prepared pursuant to this rule shall be stored in a locked secure area in the office of the Executive Director for a period of one year, after which time, they shall be destroyed. However, the Commission may maintain the information received and reports on individuals who have violated this rule for the purpose of recording the number of violations and the results of supervisory treatment, and for use should future violations occur.

Amended by R.1985 d.602, effective December 2, 1985 (operative January 1, 1986).

See: 17 N.J.R. 1640(a), 17 N.J.R. 2912(a).

Substantially amended.

Amended by R.1985 d.641, effective December 16, 1985.

See: 17 N.J.R. 2363(a), 17 N.J.R. 2996(a).

Amended by R.1991 d.75, effective February 19, 1991.

See: 22 N.J.R. 3451(a), 23 N.J.R. 611(a).

New (d)1.-4., added restrictions for individuals who have tested positive for a controlled dangerous substance or prescription medication without a valid prescription.

Case Notes

Regulation valid as reasonable under the Fourth Amendment; drug disclosure form did not violate jockeys' privacy interests; urinalysis test information use regulations must also be applied to breathalyzer test results; tests to be conducted privately. *Shoemaker v. Handel*, 619 F.Supp. 1089 (D.N.J.), affirmed 795 F.2d 1136 (3rd Cir.1986) certiorari denied 107 S.Ct. 577, 479 U.S. 986, 93 L.Ed.2d 580.

Preliminary injunction denied to jockeys who sought to halt implementation of Commission's breathalyzer and urine test regulations, as they did not establish a likelihood of success on the merits of their unconstitutionality claim; horse racing comes within a recognized "pervasively regulated business" exception to the administrative search warrant requirement. *Shoemaker v. Handel*, 608 F.Supp. 1151 (D.N.J. 1985).

SUBCHAPTER 15. RACING OFFICIALS

13:70-15.1 List of racing officials

(a) The racing officials shall include:

1. Three stewards, appointed by the Racing Commission and paid by the Association;
2. Three placing judges;
3. Clerk of the scales;
4. Three or more patrol judges;
5. Starter;
6. Paddock Judge;
7. Racing secretary, who may also be the handicapper;
8. Timer;
9. State Veterinarian and two or more Associate State Veterinarians;

10. A mutuel manager, general manager and all other managers and persons having administrative responsibility;

11. Chief State Veterinarian; and

12. Horse identifier.

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

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

As amended, R.1978 d.133, eff. April 19, 1983.

See: 10 N.J.R. 18(a), 10 N.J.R. 261(a).

As amended, R.1978 d.269, eff. August 1, 1978.

See: 10 N.J.R. 259(a), 10 N.J.R. 403(c).

As amended, R.1982 d.183, eff. June 21, 1982.

See: 14 N.J.R. 91(a), 14 N.J.R. 661(a)

(a)12 added.

Amended by R.1990 d.127, effective February 20, 1990.

See: 21 N.J.R. 3856(b), 22 N.J.R. 663(b).

Change from one to all three stewards to be appointed by Racing Commission.

Administrative Correction in (a)1.

See: 24 N.J.R. 2063(b).

13:70-15.2 Appointment

The stewards, a State Veterinarian and Associate State Veterinarians, and a supervisor of mutuels shall be appointed by the Racing Commission. One of the duly appointed State Veterinarians shall also be designated by the Racing Commission as the Chief State Veterinarian and shall so serve at the pleasure of the Racing Commission. All other racing officials listed in N.J.A.C. 13:70-15.1 shall be appointed by the association, subject to the approval of the Commission.

As amended, R.1978 d.133, eff. April 19, 1978.

See: 10 N.J.R. 18(a), 10 N.J.R. 261(a).

As amended, R.1978 d.269, eff. August 1, 1978.

See: 10 N.J.R. 259(a), 10 N.J.R. 403(c).

Amended by R.1990 d.127, effective February 20, 1990.

See: 21 N.J.R. 3856(b), 22 N.J.R. 663(b).

Change from one to all three stewards to be appointed by Racing Commission.

13:70-15.3 Submission of names of officials

At least 30 days prior to the first day of a race meeting, the association must submit in writing to the Racing Commission the names of those officials listed in section 1 of this subchapter and must furnish a resume of their qualifications. No racing official shall be approved to act until he has been approved by the Racing Commission.

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

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

13:70-15.4 Certificates; vision

All persons approved in the capacity of steward, placing and/or patrol judge, starter and clerk of the scales must submit annually a certificate from a recognized oculist or optometrist to the effect that their vision in both eyes is 20/20 or corrected to that figure.

13:70-15.5 Weekly compensation

The compensation to be paid to those officials appointed by the Racing Commission shall be determined by the commission and shall be paid by the association on a weekly basis.

13:70-15.6 Horse ownership or interest; officials

No one interested in the result of a race, either because of ownership of any horse entered or of its sire or dam, or because of bets or otherwise, shall act as a racing official in respect to that race.

13:70-15.7 Restrictions

(a) No racing official or his assistants shall, at the meeting:

1. Wager money or any other chattel of value on any race;
2. Accept directly or indirectly any gratuity, reward or favor in connection with racing;
3. Sell or buy, for himself or another, any thoroughbred horse;
4. Write or solicit insurance on any horse;
5. Buy or sell any contract upon any jockey or jockey apprentice for himself or another.

13:70-15.8 Report of violations

Each racing official and his assistants shall report to the stewards all observed violations of the rules.

SUBCHAPTER 16. STEWARDS
13:70-16.1 Qualifications

Before being appointed or approved by the Racing Commission to serve in the capacity of steward, an applicant shall have been employed as steward, racing secretary, assistant racing secretary, starter, placing judge, patrol judge, paddock judge or clerk of the scales at a recognized meet or meetings for a period of not less than 60 racing days per year, during at least three of the five preceding calendar years; provided however, that if no applicant possesses the foregoing qualifications, whenever possible, the person or persons appointed or approved as steward should have had prior experience in some other branch of racing, such as owner, trainer, jockey, breeder or such other related experience as the Commissioner may deem sufficient.

Amended by R.1990 d.127, effective February 20, 1990.
See: 21 N.J.R. 3856(b), 22 N.J.R. 663(b).

~~Deleted reference to racing board.~~

13:70-16.2 Powers of stewards

The stewards shall have the power to determine all questions arising with reference to racing; and shall decide, in conformity with fairness and the established usage of the turf, all questions not specifically covered by the rules.

13:70-16.3 Steward's orders

In matters pertaining to racing, the orders of the stewards supersede the orders of the officers and directors of the association.

13:70-16.4 Governing conduct

The stewards shall have the power and it shall be their duty to regulate and govern the conduct of all racing officials and of all owners, trainers, jockeys, grooms and all other persons attendant on horses during, before, and after races, unless the power and the duty is vested in the Racing Commission.

13:70-16.5 Entries and declarations

All entries and declarations shall be under the supervision of the stewards.

13:70-16.6 Authority; extent

All questions pertaining to which their authority extends shall be determined by the majority vote of the stewards.

13:70-16.7 Punishment for violations

The stewards shall have the power to punish for violation of the rules any person subject to their control and in their discretion to impose fines or suspensions, or both, for infractions. The stewards may consider the prior record of any licensee for similar violations of the rules of this Commission or other racing commission or turf governing body in determining the extent of punishment to be imposed.

As amended, R.1982 d.183, effective June 21, 1982.
See: 14 N.J.R. 91(a), 14 N.J.R. 661(a).

13:70-16.8 Fines

The stewards may not impose a fine in excess of \$500.00. If it is deemed necessary that a larger fine be imposed, the stewards shall so recommend to the Racing Commission.

As amended, R.1982 d.183, effective June 21, 1982.
See: 14 N.J.R. 91(a), 14 N.J.R. 661(a).
"\$500.00" was "\$250.00".

13:70-16.9 Suspensions and disqualifications

The stewards may suspend a person or disqualify a horse.

(b) The operator of a handicapping contest shall distribute all of the entry fees as prizes to the winners of the contest. Nothing in this section shall preclude an operator from providing additional prizes or promotions.

(c) Operators must apply to and receive the approval of the New Jersey Racing Commission to conduct a handicapping contest in New Jersey. The operators must secure the Commission's written approval of the rules and the payment of prizes prior to the acceptance of any entry fees regarding said contest.

(d) The horse races that are the subject of the handicapping contest must be races on which the operator of the contest is authorized to conduct wagering.

(e) The operator of a handicapping contest must apply to the Racing Commission for approval of each and every contest.

(f) An entrant must personally place all wagers. No person shall directly or indirectly act as a transmitter, intermediary, or agent in placing wagers for the entrant.

(g) Winners of wagers where taxes apply are solely responsible for the reporting, signing and deductions made to the appropriate State or Federal tax agencies.

(h) Employees or their families of the venue conducting a handicapping contest are not eligible to participate in any tournament.

(i) Denominations of wagers and types of pools wagered must be agreed to in contract form between the contest venue and the racetracks participating in a handicapping contest.

(j) Racetracks, for the purpose of this section, are defined as both in and out-of-State.

(k) All track rulings are official in the event of scratches and disqualifications.

New Rule, R.2003 d.211, effective May 19, 2003.
See: 34 N.J.R. 3924(a), 35 N.J.R. 2250(a).

SUBCHAPTER 30. INITIAL TRACK APPLICATION

13:70-30.1 Permit to hold race meetings

(a) No license or permit shall be transferable or assignable in any manner or in any particular.

(b) An application for a permit to conduct a horse race meeting shall be filed on form R-1 in the case of harness races and on form R-2 in the case of running races, which forms shall be prescribed and furnished by the commission. The commission may require from time-to-time additional information which shall be attached to, and made a part of, and filed with the application. The application and additional information shall be submitted in affidavit form, sworn to and subscribed before a person legally competent to take oaths. The application shall be filed with the commission prior to August 1, of any year.

(c) The applicant shall furnish, at his expense, such data as the commission shall require to enable it to carry out fully and effectually all the provisions and purposes of the law which may include, but shall not be limited to, the following:

1. Blueprints and specifications of the track and its surface, and blueprints and specifications of buildings and grandstands; and
2. Surveys, studies and analyses by competent and qualified experts which may be required by the commission to ascertain such factors as proposed attendance, traffic flow, income or any and all matters necessary for the commission to make a determination with respect to the matter of the application.

(d) When, in the judgement of the commission, the services of special legal counsel are necessary to carry out fully and effectually all the provisions and purposes of the law and to serve the public interest, the commission may request the Attorney General to appoint such counsel and the applicant shall pay the reasonable expenses to his services. Special counsel shall submit, in affidavit form, a detailed accounting of his services to the Attorney General, who shall certify said accounting to the commission upon being satisfied that it is reasonable and necessary to carry out fully and effectually the purposes of this act. The commission shall, in no event, require payment for such services without the said approval of the Attorney General.

(e) In any case where the commission may require expenses by the applicant, pursuant to this request, the commission may, in its discretion, require the applicant to give bond or other satisfactory security to guaranty payment of the aforesaid expenses.

(f) The application for a permit to hold or conduct horse race meetings within the State of New Jersey shall include, but not be limited to, the following information:

1. The name of the person, association or corporation making such application;
2. Post office address of the applicant;

3. If the applicant is a corporation or an association, the names and addresses of the officers and directors thereof and the name and address of each owner or holder, directly or indirectly, of any share of stock or certificate or other evidence of ownership of any interest in such corporation or association;

4. If the applicant is a partnership, it shall furnish the names and addresses of all general and limited partners;

5. In the case of a corporate applicant, the date of incorporation, name of the state in which incorporated, and a copy of the original certificate of incorporation and of any amendments thereto;

6. The dates on which it is intended to conduct or hold such horse race meeting and the hours of each racing day between which it is intended to hold or conduct horse racing at such meeting;

7. The location of the place, track or enclosure where it is proposed to hold or conduct such horse race meeting;

8. Detailed information and specifications of the track, buildings and grandstand possessed or to be constructed by the applicant, including a blueprint of the track and specifications of the construction and of the surface of same; and blueprints and detailed architect's specifications of the construction of any buildings and grandstands of the applicant. The commission reserves the right to reject inadequate or unsatisfactory specifications or to demand additional information and specifications from the applicant;

9. A financial statement of the applicant, certified by a certified public accountant of New Jersey;

10. A statement by a certified public accountant of New Jersey showing details of all financing arrangements made or contemplated by the applicant in connection with the construction of the race track buildings and grandstand;

11. Any other information which is set forth on form R-1 or form R-2 or as may be required by the commission.

(g) The application, if made by an individual, shall be signed and verified under oath by such individual, and, if made by two or more individuals or a partnership shall be signed and verified under oath by all of the individuals or by all of the members of the partnership, whether general or limited, as the case may be. If the application is made by an association or corporation, it shall be signed by the president or vice president thereof and attested by the secretary or assistant secretary under the seal of such association or corporation, if it has a seal, and shall be verified under oath by one of the officers signing the same.

(h) In addition to the above requirements the applicant shall comply with the following:

1. Every applicant shall furnish to the Commission, under oath, a list of the names, addresses and dates of birth of every person, entity or organization who or which has any interest whatsoever in the applicant, the proposed race track, or the proposed horse race meetings, and a detailed account of the nature and extent of said interest. Each such person, entity or organization who or which has such an interest shall furnish a statement, under oath, to the Commission, setting forth that he is acting solely in his own behalf and is a real party in interest, or if he is acting jointly with or solely on behalf of any person, entity or organization, or if he is not a real party in interest, then he shall state the name, address and date of birth of the real property or other party or parties in interest for whom he is acting. In the event that the application and its attachments do not identify any person, entity or organization who or which has any direct or indirect interest in the applicant, proposed race track or proposed horse race meetings, the application may be denied.

2. Every applicant member, partner, officer, director, stockholder and person having any direct or indirect interest in the applicant and every real party in interest in the applicant shall furnish a detailed statement, under oath, of his experience and background in racing and of his business and financial background including a financial statement.

3. Every applicant shall furnish with its application the fingerprints of each applicant member, partner, officer, director, real party in interest, stockholder and of every person who has any direct or indirect interest whatsoever in the applicant, on forms provided by the Commission.

4. Every applicant member, partner, officer, director, real party in interest and stock holder shall furnish a statement, under oath, to the Commission, describing any and all direct or indirect interests that he presently has, or previously had, in any other racing organization, association or race track, presently existing or which has been in existence in any part of the world.

(i) If there is any false statement or omission of any material fact in the application or in the additional information required by these rules or by the Commission, the application may be denied.

(j) The Commission shall designate a certified court reporter to take and record the proceedings at the public hearing on the application. Within ten days following the date of the public hearing the applicant shall, at its own expense, furnish to the Commission an original and four copies of a transcript of the record of the proceedings.

(k) Within 15 days after the filing of an original application, the Commission shall determine whether the same is in due form and upon being satisfied thereof shall set a date not later than September 15 next when a public hearing shall be held on such application.

(l) The public hearing shall be held in the county wherein it is proposed to conduct the race meeting for which the permit is sought, at such place as may be designated by the Commission in writing to the applicant. Notice of the time and place of the hearing shall be served on the applicant by the Commission by mailing the same postage paid by certified mail to the applicant at the address indicated in the application.

(m) The Commission shall cause a display advertisement approximately 11 inches by 8 inches in size to be published at least once in a daily newspaper and at least once in a weekly newspaper published or circulated, if none be published, in the county wherein it is proposed to conduct the race meeting for which the permit is sought. Such advertisements shall be published at least 15 days before the date of such public hearing and shall contain the following:

1. The name and address of the applicant;
2. The time and place of the hearing;

3. The nature of the permit applied for;

4. A statement to the effect that the purpose of the hearing is to assist the Racing Commission in making a determination whether or not it shall grant a permit to conduct a horse race meeting during the times and at the place indicated in the application;

5. Such other information as is determined to be necessary by the Commission in order to apprise the public as to the purpose of the hearing.

(n) The advertisements for the public hearing shall be prepared and placed by the Commission, but shall be paid for by the applicant prior to the time of the public hearing. The applicant shall produce proof to the Commission prior to the hearing that it has paid for the advertisements.

(o) The hearing shall be recorded by a certified court reporter of the State of New Jersey, who shall be sworn by the Chairman of the Racing Commission at the beginning of the hearing.

(p) The public hearing shall be held before the Racing Commission. A majority of the Commission shall constitute a quorum for the purpose of the hearing. The Chairman of the Commission shall conduct the hearing, or may designate the counsel assigned to the Racing Commission by the office of the Attorney General to conduct the hearing.

(q) The Commission may continue such hearing from time to time if it deems it to be necessary in the public interest, or for purposes of a more thorough investigation of the application. In conducting the hearing the Commission shall not be bound by technical rules of evidence, but all evidence offered before the Commission shall be reduced to writing and shall, with the petition and exhibits, if any, and the findings of the Commission, be permanently preserved and shall constitute the record of the Commission in the matter of the pending application. Any of the parties affected by such hearings may be represented by counsel and shall have the right to introduce evidence.

(r) Each member of the commission shall have power to administer oaths and examine witnesses and shall have the power to issue subpoenas to compel the attendance of witnesses and the production of all necessary reports, books, papers, records, correspondence and other evidence at the designated place of hearing. Such subpoena shall be authenticated by the seal of the commission and any parties to a proceeding before the commission may secure from its subpoenas without charge. Misconduct on the part of a person attending a hearing, or the failure of a witness, when duly subpoenaed, to attend, give testimony or produce any records, shall be punishable in accordance with law by the county court of the county wherein the offense is committed. The commission shall certify such misconduct, failure to attend or produce records, to such county court.

(s) The commission, or any member thereof, or any applicant, may in connection with any hearing before the commission cause the deposition of witnesses within or without the State to be taken on oral or written interrogatories in the manner prescribed by statute for depositions in suits at law in the courts of record in this State.

(t) The commission, or a majority thereof, shall determine whether a permit to hold or conduct a running race meeting or harness race meeting, as the case may be, is provisionally granted pending approval thereof by the legal voters of the county and of the municipality in which it is proposed to hold or conduct such race meeting. The commission shall make its determination not less than 30 days before the next ensuing general election following the date of public hearing. If the commission acts favorably on such application, it shall in writing certify to the county clerk of the county in which it is proposed to hold or conduct such horse race meeting that such permit has been provisionally granted.

(u) The actual costs and expense of the commission incurred in connection with any such hearing or investigation of the application shall be paid by the applicant upon the commission's delivering to the applicant a statement thereof. The commission, in its discretion, may require the applicant, before the hearing as hereinbefore provided, to give a surety bond or other satisfactory assurance that such applicant will pay all costs of such hearing.

SUBCHAPTER 31. VIOLATIONS

13:70-31.1 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. The penalties provided herein are in addition to those which may be imposed under N.J.A.C. 13:70-1, 3, 16, and 23.

Case Notes

Jockey breathalyzer and urine test regulations valid as reasonable under the Fourth Amendment; penalties for violation. *Shoemaker v. Handel*, 619 F.Supp. 1089 (D.N.J.1985), affirmed 795 F.2d 1136 (3rd Cir.1986) certiorari denied 107 S.Ct. 577, 479 U.S. 986, 93 L.Ed.2d 580.

13:70-31.2 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 and shall be punishable as if consummated.

13:70-31.3 Penalties

(a) The penalties for violation of the law, the rules and regulations or the directives of the commission shall be as follows:

1. Denial, revocation or suspension of license;
2. Monetary fines not exceeding \$5,000 for each violation. The stewards may not impose directly a fine in excess of \$500.00;
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) The penalties provided above, where applicable, shall be extracted from all persons and/or associations, whether licensed by the commission or not.

As amended, R.1982 d.183, effective June 21, 1982.

See: 14 N.J.R. 91(a), 14 N.J.R. 661(a).

(a)2 "\$5,000" was "\$2,000"; "\$500.00" was "\$250.00."

Case Notes

Owner/driver/trainer's license suspended; failure to report suspicion that veterinarian "milkshaked" horse. *Telymonde v. New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 42.

Parimutuel clerks had their licenses suspended and were subjected to fines for punching or accessing winning tickets. *Sauter v. New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 38.

Horse trainer fined for employing farmhand who had been indefinitely suspended. *New Jersey Racing Commission v. Wendling*, 94 N.J.A.R.2d (RAC) 35.

Veterinary horse doctor suspended; failure to testify as to what substance he injected into a horse. *New Jersey Racing Commission v. Kates*, 94 N.J.A.R.2d (RAC) 29.

Horse trainer license suspended upon his first offense. *Montgomery v. New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 27.

Foreign substance in horse's system; 30 day suspension of trainer's license. *Fusco v. New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 15.

Evidence failed to support suspension of jockey. *Charis v. New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 6.

Horse trainer properly suspended when horse tested positive for caffeine. *Campitelli v. New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 2.