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SUBCHAPTER 32. "SELF-EXCLUSION LIST" RULES

- 13:70-32.1 "Self-exclusion list" rules incorporated herein by reference

SUBCHAPTER 1. GENERAL RULES

13:70-1.1 Applicability

These rules are to apply to all tracks, all race meetings and to all persons and all matters within the jurisdiction of the New Jersey Racing Commission.

Case Notes

Suspension of wife's license due to husband's criminal conviction upheld; rule not assailable on equal protection grounds; full constitutional safeguards observed in suspension. *Niglio v. New Jersey Racing Commission*, 158 N.J.Super. 182, 385 A.2d 925 (App.Div.1978).

13:70-1.2 Gender

The definitions and interpretations of racing terms, as well as the Foreword, are to be considered in connection with the rules and as part of them. Wherever "he" is used, it shall be construed to mean "he" or "she".

13:70-1.3 Scope; authority of Executive Director

(a) The rules, regulations and conditions under which all horse racing shall be conducted in the State of New Jersey are prescribed by the racing law (N.J.S.A. 5:5-22 et seq.) and by the New Jersey Racing Commission.

(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).

Public Notice: Receipt of Petition for Rulemaking: Handicapping Contests.

See: 38 N.J.R. 850(a).

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;

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

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 \$50,000 for each violation. The stewards 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) 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."

Amended by R.2004 d.155, effective April 19, 2004.

See: 35 N.J.R. 4182(a), 36 N.J.R. 1952(a).

In (a)2, increased the fine amounts.

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.

SUBCHAPTER 32. "SELF-EXCLUSION LIST" RULES

13:70-32.1 "Self-exclusion list" rules incorporated herein by reference

The Racing Commission rules, at N.J.A.C. 13:74A, Self-Exclusion List, set forth rules and procedures allowing for individuals to voluntarily place themselves on a list of persons to be: excluded from thoroughbred racetracks licensed pursuant to this chapter (N.J.A.C. 13:70, Horse Racing); excluded from standardbred or harness racetracks licensed pursuant to N.J.A.C. 13:72, Harness Racing; excluded from off-track wagering facilities licensed pursuant to N.J.A.C. 13:74; and excluded from opening or maintaining a wagering account with the account wagering licensee as authorized pursuant to N.J.A.C. 13:74. All rules in N.J.A.C. 13:74A are applicable to this chapter and are incorporated herein by reference.