

CHAPTER 70
HORSE RACING

Authority
N.J.S.A. 5:5-30.

Source and Effective Date
R.2005 d.233, effective June 17, 2005.
See: 37 N.J.R. 417(a), 37 N.J.R. 2696(a).

Chapter Expiration Date
In accordance with N.J.S.A. 52:14B-5.1c, Chapter 70, Horse Racing, expires on December 14, 2010. See: 42 N.J.R. 1486(a).

Chapter Historical Note
Chapter 70, Horse Racing, was filed and became effective prior to September 1, 1969.

Subchapter 31, Violations, was adopted as R.1976 d.292, effective September 16, 1976. See: 8 N.J.R. 250(c), 8 N.J.R. 483(a).

Subchapter 14A, Stimulation and Test, was adopted as R.1979 d.497, effective January 1, 1980. See: 11 N.J.R. 579(a), 12 N.J.R. 91(b).

Pursuant to Executive Order 66(1978), Subchapter 3, Racing Associations, Subchapter 14, Illegal Practices, Subchapter 15, Racing Officials, Subchapter 19, Other Officials, and Subchapter 29, Mutuels, 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 4, Licensing, was 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 6, Entries and Subscriptions, was readopted as R.1984 d.213, effective May 18, 1984. See: 16 N.J.R. 690(a), 16 N.J.R. 1361(a).

Pursuant to Executive Order No. 66(1978), Subchapter 2, Definitions, and Subchapter 14A, Stimulation and Test, expired on December 19, 1984.

Subchapter 2, Definitions, was adopted as new rules by R.1984 d.621, effective December 24, 1984. See: 16 N.J.R. 2976(a), 17 N.J.R. 204(b).

Subchapter 14A, Medication and Testing Procedures, was adopted as new rules by R.1985 d.59, effective February 19, 1985 (operative April 1, 1985). See: 16 N.J.R. 3180(a), 17 N.J.R. 468(a).

Pursuant to Executive Order No. 66(1978), Subchapter 12, 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 70, Horse Racing, was readopted as R.1990 d.127, effective January 25, 1990. See: 21 N.J.R. 3856(b), 22 N.J.R. 663(b).

Pursuant to Executive Order No. 66(1978), Chapter 70, Horse Racing, was readopted as R.1995 d.102, effective January 25, 1995. See: 26 N.J.R. 4742(a), 27 N.J.R. 733(a).

Pursuant to Executive Order No. 66(1978), Chapter 70, Horse Racing, was readopted as R.2000 d.34, effective December 22, 1999. See: 31 N.J.R. 3047(b), 32 N.J.R. 321(d).

Subchapter 32, "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 70, Horse Racing, was readopted as R.2005 d.233, effective June 17, 2005. See: Source and Effective Date.

Law Review and Journal Commentaries

Horse Drugging—The New Jersey Trainer Absolute Insurer Law. Luke P. Iovine, III, John E. Keefe, Jr., 1 Seton Hall J. Sport L. 61 (1991).

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4. Maintaining and improving this State's competitive position with regard to neighboring racing states.

(i) A permitholder may reject any or all of the racing dates allotted by the Commission.

1. If racing dates are rejected, any or all of the remaining permitholders may amend their applications to request the dates rejected.

2. Should more than one permitholder seek to obtain the same rejected dates, the allocation of such shall lie within the Commission's discretion as most appropriate for providing continuity of racing in the State and furthering the public interest.

3. The Commission shall not allocate any of the rejected racing dates to any permitholder, which has been determined to be in violation of the Racing Act, N.J.S.A. 5:5-22 et seq.

New Rule, R.2008 d.339, effective November 17, 2008.
See: 40 N.J.R. 4295(a), 40 N.J.R. 6620(a).

13:70-1.39 Waiver of the Commission's rules

(a) Any person or entity desiring a waiver or release from the express provisions of the Commission's rules in this chapter, N.J.A.C. 13:71, 13:72 and 13:74 shall submit a written request to the Commission, to the attention of the Executive Director, in accordance with the provisions below. Any such request shall set forth in detail all facts that support the necessity of the requested relief and identify all persons or entities who might be affected if the relief were granted.

(b) The Commission may, within its discretion, grant a waiver from specific provisions of its rules if it determines:

1. That such a waiver will benefit the horse racing industry in this State;

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.339, effective November 17, 2008.
See: 40 N.J.R. 4295(a), 40 N.J.R. 6620(a).

13:70-1.40 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.339, effective November 17, 2008.
See: 40 N.J.R. 4295(a), 40 N.J.R. 6620(a).

13:70-1.41 Representation by attorney

(a) In any matter before the Commission or its stewards prior to the determination that the matter is a contested case, a licensee may represent himself or herself or be represented by an attorney authorized to practice law in this State. A licensee which is a corporate entity must be represented by an attorney authorized to practice law in this State.

(b) An attorney from any other jurisdiction, of good standing there, or an attorney admitted in this State, of good standing, who does not maintain a bona fide office for the practice of law here, may, upon application to and at the discretion of the Executive Director, be admitted once per calendar year to appear pro hac vice in a matter pending before the Commission or its stewards.

1. Admission before the Commission pro hac vice shall be by motion of an attorney authorized to practice in New Jersey on the form prescribed by N.J.A.C. 1:1-5.2(a)1.

2. The motion seeking admission for the one occasion shall be served on all parties and have attached a supporting affidavit, signed by the attorney seeking admission, which, except for attorneys who are employees of and are representing the United States of America or a sister state, shall state that payment has been made to the New Jersey Lawyers Fund for Client Protection. The affidavit shall state how he or she satisfies each of the conditions for admission, including good cause, set forth in New Jersey Court Rule 1:21-2(a). He or she shall also agree in the affidavit to comply with the dictates of New Jersey Court Rule 1:21-2(b).

(c) In a matter pending before the Office of Administrative Law, the Deputy Attorney General representing the Commission shall not consent to the appearance of any attorney seeking admission pro hac vice, who has already appeared once before the Commission or its stewards pursuant to (b) above or at the Office of Administrative Law, in a matter involving the Commission in that calendar year.

New Rule, R.2008 d.339, effective November 17, 2008.
See: 40 N.J.R. 4295(a), 40 N.J.R. 6620(a).

SUBCHAPTER 2. DEFINITIONS**13:70-2.1 Definitions**

The following words and terms, when used in this chapter, and when used in N.J.A.C. 13:71 unless defined in N.J.A.C. 13:71-4.1(b), shall have the following meanings unless the context clearly indicates otherwise:

“Added money” means the money which in a stake race an association adds to the purse, the nominating and starting fees.

“Advance wagers” means any wager placed at least one race in advance of the current race.

“Age” of a horse means the time reckoned as beginning on the first of January in the year after the horse is foaled.

“Apprentice” means a jockey apprentice.

“Arrears” includes all money due for entrance forfeits, fees (including jockey fees), fines, subscriptions, purchase money in a claiming race and also any default in money incident to the rules.

“Assistant trainer” means a person who assumes the duties and responsibilities of a trainer while assisting the trainer or acting on behalf of the trainer in the training of the horses under his charge.

“Association” means a person or persons, partnerships or corporate body licensed by the commission to conduct a meeting where horse racing shall be permitted for any stake, purse or reward.

“Authorized agent” means a person appointed by a written instrument signed by the owner and filed in accordance with the rules.

“Breeder” of a horse means the owner of its dam at the time of foaling.

“Breeding place” means the place of a horse’s birth.

“Calendar day” means 24 hours ending at midnight.