

**CHAPTER 73****WORKERS' COMPENSATION INSURANCE  
COVERAGE FOR HORSE RACING  
INDUSTRY EMPLOYEES****Authority**

N.J.S.A. 34:15-129 et seq., specifically 34:15-133f.

**Source and Effective Date**

R.1999 d.443, effective December 20, 1999.  
See: 31 N.J.R. 2872(a), 31 N.J.R. 4288(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 73, Workers' Compensation Insurance Coverage for Horse Racing Industry Employees, expires on June 18, 2005. See: 37 N.J.R. 421(a).

**Chapter Historical Note**

Chapter 73, Workers' Compensation Insurance Coverage for Horse Racing Industry Employees, was adopted as R.1999 d.443, effective December 20, 1999. See: Source and Effective Date.

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**SUBCHAPTER 1. GENERAL RULES****13:73-1.1 Scope**

This chapter applies to all owners licensed or required to be licensed by the New Jersey Racing Commission who employ horse racing industry employees as well as their horse racing industry employees. These rules shall not apply to employees of an owner who are not horse racing industry employees. To the extent that a horse racing industry employee is also covered by duplicate coverage within this State procured pursuant to another policy of workers' compensation insurance, the coverage procured by the Board shall be considered primary.

Amended by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 2214(a), 33 N.J.R. 838(a).

Deleted references to trainers throughout.

**13:73-1.2 Purpose**

The Legislature has determined that it is in the public interest to ensure that workers' compensation insurance or self-insurance coverage is available to persons employed by owners of horses in the thoroughbred and standardbred horse racing industries in New Jersey by collectively securing coverage for their horse racing industry employees. Pursuant to N.J.S.A. 34:15-129 et seq., the purpose of this chapter is to effectuate that legislative objective.

Amended by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 2214(a), 33 N.J.R. 838(a).

Inserted "by owners of horses" following "persons employed"; substituted "their" for "all" following "coverage for".

**SUBCHAPTER 2. DEFINITIONS****13:73-2.1 Definitions**

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the New Jersey Horse Racing Injury Compensation Board Act, N.J.S.A. 34:15-129 et seq.

"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 or her charge.

"Board" means the New Jersey Horse Racing Injury Compensation Board established by the New Jersey Horse Racing Injury Compensation Board act, N.J.S.A. 34:15-129 et seq.

"Driver" means a person who drives horses in any race at a track, matinee fair or other non-extended pari-mutuel meeting.

"Driver-trainer" means a person who is licensed as a trainer of horses who also drives horses in any race at a track, matinee fair or other non-extended pari-mutuel meeting.

"Exercise personnel" means any person who is conducting a jogging or a work-out of a horse for the purposes of conditioning during training hours.

"Horse" means a filly, mare, colt, horse and gelding.

"Horse racing industry employee" means a jockey, jockey apprentice, or driver, engaged in performing services for an owner in connection with the racing of a horse in New Jersey. A trainer who otherwise would be considered an employee of the owner pursuant to N.J.S.A. 34:15-1 et seq. is a horse racing industry employee as defined in N.J.S.A. 34:15-131.

"Jockey" means a race rider, whether jockey or apprentice.

"Owner" means sole owner, part owner or lessee of a horse. An interest only in the winnings of a horse does not constitute part ownership.

"Stable employee" means a person who is employed by the trainer to perform duties such as hot walker or groom.

"State" means the State of New Jersey.

"Trainer" means a person licensed by the New Jersey Racing Commission to condition horses for races.

Amended by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 2214(a), 33 N.J.R. 838(a).

Rewrote "Horse racing industry employee".

i. Pursuant to N.J.S.A. 34:15-135 and 34:15-36, a horse racing industry employee shall be deemed to be in the employment of the Board and in the employment of all owners who are licensed or required to be licensed by the New Jersey Racing Commission at the time of any occurrence for which workers' compensation benefits are payable, pursuant to N.J.S.A. 34:15-1 et seq. as supplemented by the Act, and not solely in the employment of a particular owner and a horse racing industry employee shall not be deemed to be in the employment of the Board for any other purpose; and

ii. Pursuant to N.J.S.A. 34:15-135 and 34:15-36, the Board and all owners who are licensed or required to be licensed by the New Jersey Racing Commission shall be deemed the employer of a horse racing industry employee at the time of any event for which workers' compensation benefits are payable, pursuant to N.J.S.A. 34:15-1 et seq. as supplemented by the Act, and the Board shall not be deemed the employer of a horse racing industry employee for any other purpose;

2. Enter into contracts with other persons, entities or public bodies for any professional, administrative or other services, including legal counsel if approved by the Attorney General, as may be necessary to carry out the duties of the Board and the purposes of the Act;

3. Assess, collect and disburse all money due or payable to or by the Board, or authorize such collection and disbursement;

4. Invest moneys held in trust under any fund in investments which are approved by the State Investment Council for the investment of surplus moneys of the State;

5. Approve assessments, surplus, limits of coverage, limits of excess or reinsurance, coverage documents and other financial and operating policies of the Board;

6. Promulgate rules and regulations, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., necessary to effectuate the purposes of the Act; and

7. Take all actions necessary to carry out the provisions of the Act.

Amended by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 2214(a), 33 N.J.R. 838(a).

In (a)1ii, deleted "or of all trainers, as appropriate," following "all owners"; in (a)1iii, deleted "or all trainers, as appropriate," following "all owners".

### SUBCHAPTER 3. ASSESSMENT AND COLLECTION

#### 13:73-3.1 Powers of the Board

(a) The Board shall secure workers' compensation insurance or self-insurance coverage for horse racing industry employees. Pursuant to N.J.S.A. 34:15-133, the Board shall have the power to:

1. Purchase and serve as the master policyholder for any insurance or self-insurance coverage pursuant to N.J.S.A. 34:15-77;

#### 13:73-3.2 Assessment; general

(a) Pursuant to N.J.S.A. 34:15-134, the Board shall assess and collect sufficient funds to pay the costs of the workers' compensation insurance or self-insurance coverage required by the Act and by the workers' compensation laws of this State. This assessment may also include sufficient funds to pay any additional costs necessary to carry out the Board's other duties. The Board shall ascertain the total funding necessary, establish the sums that are to be paid and determine the method of assessing and collecting these funds.

1. Assessments to pay the cost of insurance or self-insurance coverage for horse racing industry employees employed by owners may include, but shall not be limited to, deductions from that portion of gross overnight purses paid to owners, so long as such deductions do not exceed three percent of the owners' portion of such purses. Additional assessments may be collected from owners as needed.

2. Track owners shall not be included in the assessment by the Board for the cost of workers' compensation insurance or self-insurance coverage or for the benefits provided pursuant to the Act.

(b) Assessments for workers' compensation insurance or self-insurance coverage pursuant to the Act shall be calculated, allocated and collected separately for the thoroughbred and standardbred industries, based on their respective loss experience.

(c) No public funds, other than the moneys collected pursuant to N.J.S.A. 34:15-134(b), shall be used for the purpose of self-insurance or for paying the costs of workers' compensation insurance or workers' compensation benefits pursuant to the Act.

Amended by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 4412(a), 33 N.J.R. 838(a).

Rewrote the section.

### **13:73-3.3 Calculation of cost of workers' compensation insurance or self-insurance coverage for horse racing industry employees of owners**

(a) The cost of workers' compensation insurance or self-insurance coverage is based upon the total payroll of the horse racing industry employees of owners of thoroughbred and standardbred horses plus all additional costs necessary for the Board to carry out its duties pursuant to this chapter.

(b) In calculating the total payroll of horse racing industry employees of owners, the Board shall ascertain, to the extent possible, the number of horse racing industry employees of owners and the total salaries of these employees. The Board shall use information regarding the number of horse racing industry employees of owners and the total of their salaries from the 12 months prior to the date on which the assessment is being calculated.

1. In ascertaining the number of horse racing industry employees of owners, the Board may collect and utilize information from:

i. Information submitted to the Board by the New Jersey Racing Commission, including information regarding the number of licensed thoroughbred jockeys and standardbred drivers; and

ii. Any other information relevant to the number or salaries or horse racing industry employees of owners.

2. In estimating the salaries of owner employees, the Board may utilize, to the extent necessary, information

regarding the average or actual annual salaries of thoroughbred jockeys or jockey apprentices and standardbred drivers within the meaning of the definition of "horse racing industry employee" set forth in N.J.S.A. 34:15-131 and N.J.A.C. 13:73-2.1.

i. In estimating the average or actual annual salaries, the Board may utilize information obtained from the horsemen's bookkeeper at each racetrack concerning the actual payroll earned by jockeys, jockey apprentices and drivers pursuant to N.J.A.C. 13:70-3.46 and 13:71-6.31.

ii. In estimating the average or actual annual salaries, the Board may utilize information provided to the Board by the representative of the thoroughbred industry serving on the Board and by the representative of the standardbred industry serving on the Board regarding the thoroughbred and standardbred industry pay scales for horse racing industry employees of owners.

iii. The representatives of the thoroughbred and of the standardbred industries serving on the Board shall collect information regarding the industry pay scale for horse racing industry employees of owners from horsemen and horsemen associations within the horse racing industry, including the horsemen associations recognized by the New Jersey Racing Commission pursuant to N.J.A.C. 13:70-1.30 and 13:71-1.25.

3. The Board may compel production of any information, including Internal Revenue Service documents, regarding the payroll of owner employees from any person, licensed or required to be licensed by the New Jersey Racing Commission.

4. The Board shall utilize procedures established by the Department of the Treasury pursuant to N.J.S.A. 52:27B-62 for the collection of premium quotations from insurers.

Amended by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 4412(a), 33 N.J.R. 838(a).

In (b)2 and (b)2i, inserted references to jockey apprentices.

### **13:73-3.4 Assessment of cost for horse racing industry employees of owners**

(a) The cost of workers' compensation insurance or self-insurance coverage for horse racing industry employees employed by owners of horses shall be assessed upon owners through a percentage deduction from that portion of gross overnight purses paid to owners which shall not exceed three percent. In calculating the amount of money which must be deducted from that portion of gross overnight purses paid to owners in order to ensure the collection of sufficient funds to pay the total cost of workers' compensation insurance or self-insurance coverage as well as any additional costs necessary to carry out the Board's duties pursuant to the Act, the Board shall base the assessment upon the amount of gross overnight purses paid to owners for any race, which falls under the jurisdiction and authority of the New Jersey Racing Commission, during the 12 months preceding the date on which the assessment is being calculated.

(b) Information regarding the actual gross overnight purses paid to owners shall be obtained from the New Jersey Racing Commission.

(c) Information regarding the method of calculating the cost which is assessed upon owners shall be provided at an Open Public Meeting of the Board.

### **13:73-3.5 Collection of assessment of cost for horse racing industry employees of owners**

(a) Pursuant to N.J.A.C. 13:70-3.29 and 13:71-6.1, every owner of horses shall establish a horsemen's bookkeeper account at each track association where horses owned by him or her have been or will be entered to race.

(b) The Board shall collect the assessment calculated in N.J.A.C. 13:73-3.4 from the horsemen's bookkeeper at each racetrack.

(c) Pursuant to N.J.A.C. 13:70-3.29 and 13:71-21.8, the horsemen's bookkeepers shall transmit on a weekly basis all monies collected pursuant to this chapter for the cost of workers' compensation insurance or self-insurance coverage to the New Jersey Racing Commission, which shall then deposit those monies in a separate account for the use of the Board.

### **13:73-3.6 (Reserved)**

Repealed by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 2214(a), 33 N.J.R. 838(a).

Section was "Calculation of cost of workers' compensation insurance or self-insurance coverage for horse racing industry employees of trainers".

### **13:73-3.7 (Reserved)**

Repealed by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 2214(a), 33 N.J.R. 838(a).

Section was "Assessment of cost for horse racing industry employees of trainers".

### **13:73-3.8 (Reserved)**

Repealed by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 2214(a), 33 N.J.R. 838(a).

Section was "Collection of assessment of cost for horse racing industry employees of trainers".

## **SUBCHAPTER 4. PURCHASE**

### **13:73-4.1 Purchase of workers' compensation insurance for horse racing industry employees of owners**

The Board shall review the quotations of premiums provided through the Department of Treasury for workers' compensation insurance coverage submitted by insurers and shall, within its discretion, select the type of coverage and insurer, pursuant to applicable State law.

Amended by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 2214(a), 33 N.J.R. 838(a).

## **SUBCHAPTER 5. (RESERVED)**

### **Subchapter Historical Note**

Subchapter 5, Penalties, was repealed by R.2001 d.83, effective March 5, 2001. See: 32 N.J.R. 2214(a), 33 N.J.R. 838(a).

## **SUBCHAPTER 6. APPEALS**

### **13:73-6.1 Appeal procedure**

(a) Any owner who has paid the cost of assessment pursuant to N.J.A.C. 13:73-3.5, who contests the calculation of the amount of gross overnight purses deducted from his or her horsemen's bookkeeper account, may request information from the Board regarding the calculation of the amount deducted. Within three days after receipt of the requested information, the owner may appeal to the Board and submit written documentation of an error in the calculation of the gross overnight purses. The Board, which may act through its Director or other designated staff, shall review the written submissions and determine if the calculation was in error and notify the owner of its decision.

Amended by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 2214(a), 33 N.J.R. 838(a).

Deleted former (a), recodified former (b) as (a), and deleted "or trainer" following "the owner".

### **13:73-6.2 Hearing**

Within 10 days after receipt of the Board's decision, the owner may request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and seek reimbursement for any assessment paid in error.

Amended by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 2214(a), 33 N.J.R. 838(a).

Deleted "or trainer" following "the owner".

### **13:73-6.3 No stay pending appeal**

All assessments pursuant to this chapter shall be paid when due. No owner shall be granted a stay of the payment of any assessment.

Amended by R.2001 d.83, effective March 5, 2001.  
See: 32 N.J.R. 2214(a), 33 N.J.R. 838(a).

Deleted "or trainer" following "No owner".