

CHAPTER 70

HORSE RACING

Authority

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

Source and Effective Date

R.2000 d.34, effective December 22, 1999.
See: 31 N.J.R. 3047(b), 32 N.J.R. 321(d).

Executive Order No. 66(1978) Expiration Date

Chapter 70, Horse Racing, expires on December 22, 2004.

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: Source and Effective Date. See, also, section annotations.

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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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.

(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.